Student Quality as Measured by LSAT Scores: Migration Patterns in the *U.S. News* Rankings Era

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This study examines the change in entering-class median LSAT score, a key input into the U.S. News & World Report *("U.S. News") rankings, between 1993 and 2004. Using multivariate regression analysis, the authors model several factors that can influence the direction and magnitude of this change. The study presents six specific findings: (1) the market for high Law School Admission Test (LSAT) scores is divided into two segments that operate under different rules; (2) initial starting position is a strong predictor of the future gain or loss in LSAT scores; (3) the allure of the high-end corporate law firms appears to cause a significant portion of students to discount the importance of rankings in favor of locational advantages related to the regional job market; (4) students will pay a tuition premium to attend elite law schools but, when deciding among non-elite schools, are willing to forgo a higher-ranked school for lower tuition; (5) there is little or no association between change in lawyer/judge and academic reputation and median LSAT scores; and (6) two well-known gaming strategies for driving up median LSAT scores appear to work.*

Drawing upon these results, the authors suggest that the current rankings competition among law schools has all the hallmarks of a "positional arms race" that undermines social welfare. The authors outline the emerging equilibrium in which non-elite schools engage in costly strategies to boost their reputations while elite law schools are able to further leverage their positional advantage. Because this dynamic spawns rapidly escalating costs in the form of higher tuition, continuation of the ranking tournament threatens the long-term viability of the current model of legal education. The authors conclude with four specific recommendations to law school deans and the editors of U.S. News.

INTRODUCTION

The annual ranking of law schools by *U.S. News & World Report* ("*U.S. News*") is a topic that regularly generates considerable controversy. While some commentators have praised the signaling and market-clearing functions the *U.S. News* rankings provide law students and legal employers,[1] others lament how the rankings have

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1. *E.g.*, Mitchell Berger, *Why the* U.S. News and World Report *Law School Rankings Are Both Useful and Important*, 51 J. LEGAL EDUC. 487, 496–98 (2001) (arguing that *U.S. News* rankings serve a useful function because they supply students with relevant information, such as law school reputation, bar passage rates, and faculty-student ratios, in a form that facilitates comparisons and further noting that such information can "promote accountability and positive change" among law schools); Russell Korobkin, *In Praise of Law School Rankings: Solutions to Coordination and Collective Action Problems*, 77 TEX. L. REV. 403, 404, 407–14 (1998) (positing that the primary purpose of the *U.S. News* rankings is to provide a signal to students

obscured the emphasis on "true" educational quality.[2] Yet, whether one defends or attacks the *U.S. News* ranking or its methodology, virtually everyone within the legal academy agrees that the advent of rankings has dramatically affected how law schools admit students and allocate resources.

Although *U.S. News* relies upon a methodology that encompasses a variety of substantive factors, including faculty reputation, library resources, faculty-student ratios, and bar passage, student Law School Admission Test (LSAT) scores have assumed (albeit inadvertently) an importance far greater than their current, direct 12.5% weighting.[3] According to a 1998 study commissioned by the Association of American Law Schools (AALS), "90% of the overall differences in ranks among schools can be explained solely by the median LSAT score of their entering classes."[4] Not surprisingly, during the last several years, law schools have attempted a wide variety of strategies in the hope of raising their median LSAT score.[5] As noted by one

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and legal employers that coordinates the market for entry-level lawyers and defending the rankings as an efficient solution to a collective action problem).

2. *E.g.*, Paul D. Carrington, *On Ranking: A Response to Mitchell Berger*, 53 J. LEGAL EDUC. 301, 301 (2003) (conceding Mitchell Berger's point that the *U.S. News* rankings supply "useful" information to prospective students but arguing that "even that information has an unfortunate tendency to gain unwarranted importance when it is put in quantified form"); Nancy B. Rapoport, *Ratings, Not Rankings: Why* U.S. News & World Report *Shouldn't Want to be Compared to* Time *and* Newsweek—*or* The New Yorker, 60 OHIO ST. L.J. 1097, 1099 (1999) (lamenting that "objective" input factors used by the *U.S. News* rankings, such as grade point average (GPA) and LSAT scores, are not "good indicator[s] of *quality*" because "[t]hese numbers don't reflect how well the law school teaches, how cutting-edge its research is, or whether the law school community is cutthroat or supportive") (emphasis in original); David A. Thomas, *The Law School Rankings Are Harmful Deceptions: A Response to Those Who Praise the Rankings and Suggestions for a Better Approach to Evaluating Law Schools*, 40 HOUS. L. REV. 419, 422 (2003) (arguing that the prominence and influence of the *U.S. News* rankings is misplaced because "the magazine does not publish all the relevant data, does not describe all the measures it takes to ensure the accuracy of the data, and does not describe its methodology in enough detail to enable anyone to actually check the results or to isolate and identify the influence of individual factors on the rankings"); LAW SCHOOL DEANS SPEAK OUT ABOUT RANKINGS (Law School Admission Council 2005), *available at* http://www.lsac.org/pdfs/2005-2006/RANKING2005-newer.pdf [hereinafter DEANS SPEAK OUT] (letter endorsed by over 100 law school deans that condemns the *U.S. News* rankings as "inherently flawed").

3. To the extent that the LSAT measures "quality" among the entering class, or at least characteristics that have a positive impact on other characteristics such as bar exam passage, increasing median LSAT may also have an indirect impact through effects on other components of the *U.S. News* formula. *See, e.g.*, Richard Sander, *A Systemic Analysis of Affirmative Action in American Law Schools*, 57 STAN. L. REV. 367, 443–45 tbl.6.1 (2005) (using logit regression to model factors associated with bar passage and finding that LSAT scores are moderately predictive of bar passage, even after controlling for law school grades).

4. STEPHEN P. KLEIN & LAURA HAMILTON, THE VALIDITY OF THE U.S. NEWS AND WORLD REPORT RANKING OF ABA LAW SCHOOLS (1998), http://www.aals.org/validity.html.

5. *See, e.g.*, Jay Conison, *Financial Management of the Law School: Costs, Resources, and Competition*, 34 U. TOL. L. REV. 37, 37–38 (2002) (quoting dean at Valparaiso who stated that "many more schools are investing far more money—through scholarships and other means—to recruit students with high LSATs"); Howard O. Hunter, *Thoughts on Being a Dean*, 31 U. TOL. L. REV. 641, 643 (2000) (quoting dean at Emory who noted that LSATs "tie in closely with scholarships"). Scholarship money is perhaps the only strategy that law school

commentator, *U.S. News* has produced an LSAT "arms race" among law schools.[6] Although effective law school administration undoubtedly has an effect on the direction and magnitude of changes in LSAT median scores, this study suggests that the competition among law schools occurs on a playing field that strongly favors some participants and strongly disadvantages others regardless of an individual school's strategies. In other words, in terms of attracting students with higher LSAT scores, there is only so much a skillful dean or admissions office can accomplish.

The purpose of this Article is to develop a model of the market for high-LSAT students. Using multivariate regression analysis, we explore how gains and losses in median LSAT scores during the *U.S. News* rankings era have been influenced by a variety of factors, such as initial starting position, a law school's geographic proximity to large legal markets, gaming strategies, and average student debt. The main thrust of this Article is empirical rather than normative. Part I frames the research question and provides a brief literature review. Part II summarizes our data set and project methodology. Part III presents the project results. Finally, Part IV discusses the implications of this study, including recommendations based on our results for law school administrators and faculties.

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administrators will discuss in polite company. For example, one purportedly widespread strategy is to spread out scholarship money for prospective candidates with LSAT scores at or slightly above the school's target LSAT median. Thus, instead of one $15,000 scholarship for a student with a 170 LSAT score, the school will offer $3,000 scholarships to five students with 160 LSAT scores. If a law school's target LSAT is 159, the five candidates with 160 LSAT scores will have a far greater impact than the one candidate with a 170 LSAT score. Another strategy, which we explore in this study, is to decrease the number of full-time students while simultaneously expanding the school's part-time program. Since part-time LSAT scores are excluded from the *U.S. News & World Report* ranking methodology, a law school can theoretically raise its median LSAT score, and hence its ranking, without significantly reducing its revenue from tuition.

6. Abiel Wong, Note, *"Boalt-ing" Opportunity?: Deconstructing Elite Norms in Law School Admissions*, 6 GEO. J. ON POVERTY L. & POL'Y 199, 239–40, 248 (1999); *see also* Deirdre Shesgreen, *Making the Grade: Schools Look at the 'Whole Person,'* LEGAL TIMES, Jan. 13, 1997, at 2 (reporting a "consensus" among conference participants that the *U.S. News* rankings had caused laws schools to "put too much weight on the LSAT in their admissions decisions").

I. RESEARCH QUESTION

A. Law School Competition and the Median LSAT

The first *U.S. News* story on law school rankings appeared in 1987.[7] The methodology was simplistic: *U.S. News* asked 183 law school deans to name the ten best law schools. The article then ranked the top twenty law schools based on their level of inclusion. Harvard and Yale, which appeared on 91.7% of all responses, were tied for number one. Wisconsin, which was mentioned on 5.2% of all responses, was ranked number twenty. In 1990 and 1991, *U.S. News* published more comprehensive rankings of the nation's twenty-five "best law schools," which included numerical rankings on a variety of criteria, including academic reputation, lawyer/judge reputation, admissions selectivity, placement success, graduation rate, instructional resources, average starting salary, and average LSAT scores.[8] The first *U.S. News* ranking of *all* ABA-accredited law schools (then 175 schools) appeared in 1992. The top twenty-five were ranked in order, with the remaining 150 schools listed alphabetically within four quartiles—a precursor to the present day "tier" format, which began in 1994.

Unfortunately, there are at least two obstacles that preclude a direct comparison of change in *U.S. News* rankings over time. First, *U.S. News* has altered its rankings methodology several times, including, excluding, and changing the weighting formula for various "input" variables.[9] Second, the ordinal ranking of law schools has gradually expanded from twenty-five (1990–1993) to fifty (1994–2002) to one hundred (2003–2005), with the remainder of law schools listed alphabetically in tier or quartile format. Because *U.S. News* only publishes a subset of the data it uses to produce its annual

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7. *See Brains for the Bar*, U.S. NEWS & WORLD REP., Nov. 2, 1987, at 72 (listing the top twenty law schools based on a survey of 183 law school deans that asked them to rank the nation's ten best law schools and reporting Yale and Harvard as tied for number one). A terminological note is necessary at this point. *U.S. News* rankings (beginning in 1990) appear in a spring issue of the magazine. The rankings are based on statistics drawn from several law school classes. For example, the 2004 rankings issue used data on the entering classes from fall 2003 and the graduating class of spring 2003, who would have primarily been students who entered law school in fall 2000. The spring 2004 issue of *U.S. News* would, of course, be primarily used by students anticipating entering law school in fall 2004. To be consistent we will refer to particular years of rankings based on the year the data appeared in *U.S. News* rather than by the law school class from which data was derived.

8. Ted Gest, *America's Best Graduate and Professional Schools*, U.S. NEWS & WORLD REP., Mar. 19, 1990, at 59 (ranking twenty-five best law schools and summarizing numerical scores in table form); Robert J. Morse & Elizabeth A. Wagner, *Best Graduate Schools*, U.S. NEWS & WORLD REP., Apr. 29, 1991, at 74 (same).

9. The most recent methodological change occurred this year when *U.S. News* switched from using median undergraduate GPA and LSAT scores to using averages of the 25th and 75th percentile scores. The magazine refers to this number as the "calculated median." *See Law Methodology*, in AMERICA'S BEST GRADUATE SCHOOLS 2006 (2005), http://www.usnews.com/usnews/edu/grad/rankings/about/06law_meth_brief.php (defining a median LSAT score as "[t]he calculated median of the scores on the Law School Admission Test of the 2004 entering class of the full-time J.D. program. The calculated median is the midpoint of the 25th and 75th percentile scores.").

rankings, and some of the data it uses (e.g., median LSAT and median GPA) are not available in published sources elsewhere, it is essentially impossible to calculate accurate ranking scores for all individual law schools for either current or past years.[10]

Notwithstanding these limitations, the *U.S. News* rankings provide some uniform data that permit a comprehensive comparison of quantitative measures of law schools over time. Since 1992, *U.S. News* has consistently published four input variables for all ABA-approved law schools: (1) reputation among academics, (2) reputation among lawyers and judges, (3) acceptance rate, and (4) student LSAT scores (median or 25th and 75th percentiles).[11]

This Article focuses on the changes over time of one *U.S. News* input variable—median LSAT scores. Our decision to focus only on LSAT scores requires some context. As a preliminary matter, we want to make clear that this study is the first part of a larger project on law school rankings and the nature of law school competition. We believe it is obvious to everyone within the legal academy that law school rankings have become "the 800-pound gorilla of legal education."[12] With important issues of resource allocation and educational policy hanging in the balance, a careful empirical analysis of the *U.S. News* rankings, including their ongoing influence on law schools, prospective employers, legal employers, and alumni donors, is long overdue. As a first step toward a comprehensive analysis of the impact of the *U.S. News* rankings on legal education, we begin with a look at the changes in median LSAT scores.

We decided to begin the larger project with an initial focus on median LSAT scores for two reasons. First, changes in median LSAT scores over time reflect, at least in part, the market preferences of prospective law students. Thus, changes in median LSAT scores provide a window into the relative importance of a variety of factors related to a student's enrollment decision, including law school prestige, the price elasticity of tuition, loan indebtedness, geographic location, and employment prospects upon graduation. Second, we believe that LSAT scores have achieved a rather peculiar and hallowed status among law school administrators and faculty. Unlike reputation among academics or practitioners, or even student selectivity, median LSAT score is a discrete annual benchmark that offers the hope (or fear) that it will produce a change in the *U.S. News* rankings. Each year, miniscule changes in median LSAT scores are causes for celebration or gnashing of teeth at dozens of reputable law schools

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10. Although *U.S. News* publishes its methodology each year, something for which it is to be commended, absent the relevant input data the publication of the *U.S. News* methodology has limited value for analysis of the rankings.

11. In its 1990 and 1991 ranking issues, *U.S. News* used average LSAT scores. However, since the publication of its first full ranking issue of all ABA-approved law schools in 1992, *U.S. News* has calculated its rankings using median LSAT scores. *See, e.g., Law Schools*, U.S. NEWS & WORLD REP., Mar. 23, 1992, at 78. Unfortunately, over the last several years, both *U.S. News* and the *ABA-LSAC Official Guide to Law Schools* have only published law school LSAT and undergraduate GPA statistics in 25th and 75th percentile intervals. *See e.g.*, LAW SCHOOL ADMISSION COUNCIL & AMERICAN BAR ASSOCIATION, ABA-LSAC OFFICIAL GUIDE TO ABA-APPROVED LAW SCHOOLS (Wendy Margolis et al. eds., 2005 ed. 2004); *Schools of Law*, U.S. NEWS & WORLD REP., Mar. 29, 1999, at 94. This lack of transparency exacerbates the sense of gamesmanship that already surrounds the rankings process.

12. Leigh Jones, *Law Schools Play the Ranking Game*, NAT'L L.J., Apr. 18, 2005, at 10 (quoting Indiana University law professor Jeffrey Stake).

populated by otherwise sensible faculty and administrators.[13] Yet it is hard to believe that a one- or two-point change in median LSAT has any appreciable impact on either student body quality[14] or overall program quality. In other words, we are beginning our ranking project with the LSAT because we believe it is the most provocative input variable and that studying it will garner support for additional empirical work on law school rankings. Our specific research objective is to (a) identify the relative winners and losers over time in the competition for the finite number of high-LSAT students, and (b) examine, through multivariate regression analysis, factors that can explain, at least in part, the underlying pattern in the movements of LSAT scores at law schools.

B. Literature on Rankings

Although the *U.S. News* rankings have attracted the attention of several legal commentators,[15] there is a paucity of empirical research on how rankings actually affect law schools (the subject of the rankings) vis-à-vis prospective law school students (the target audience and ultimate rankings consumers).[16] However, in 1998 the Law School Admission Council (LSAC) published two research monographs by the late Charles Longley, a renowned pre-law advisor at Bucknell University, that provided some preliminary evidence on factors that influence the market for law school applicants. Specifically, Longley's studies focused on how the broad systemic fluctuations in law school applications from the mid-1980s to the mid-1990s affected

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13. Changes in undergraduate GPA, a factor with almost as large an impact on the rankings, seem to draw less attention from faculties, although we are unsure why this is so.

14. We wish to make clear that the *ranking process* uses LSAT seores as a measure of quality; it is not a normative statement on our part. We believe that skilled admissions officers routinely make correct choices on student quality when they reject some candidates with high LSAT scores in favor of other candidates who present more impressive, but less tangible, indices of quality (e.g., volunteer, leadership, business, or military experience). Unfortunately, the need to set target LSAT scores to nail down an acceptable median for ranking purposes limits their ability to make these tradeoffs.

15. *See generally* Berger, *supra* note 1; Carrington, *supra* note 2; Korobkin, *supra* note 1; Rapoport, *supra* note 2; Thomas, *supra* note 2; DEANS SPEAK OUT, *supra* note 2; *see also* R. Lawrence Dessem, *U.S. News U.: Or, the Fighting Volunteer Hurricanes*, 52 J. LEGAL EDUC. 468 (2002); David C. Yamada, Review Essay, *Same Old, Same Old: Law School Rankings and the Affirmation of Hierarchy*, 31 SUFFOLK U. L. REV. 249 (1997).

16. Two recent studies, which pursue different research questions than those examined here, do an excellent job of filling this gap. *See* Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of* U.S. News & World Report *Rankings on the Admissions Process of Law Schools*, 40 LAW & SOC'Y REV. (forthcoming 2006) (manuscript at 30–31, on file with the Indiana Law Journal) (using regression analysis to show that changes in rankings are closely associated with the volume of applications to law schools, especially among high-LSAT candidates, thus affecting school selectivity—another rankings input—and ultimately influencing the size and direction of any subsequent changes in the *U.S. News* rankings); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputation, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229, 250–51 (2006) (using regression analysis to demonstrate how changes in overall rankings subsequently are associated with statistically significant increases in reputation scores the following years, thus suggesting that rankings themselves may ultimately drive the direction of important input variables).

the numerical credentials of law school entering classes[17] and what characteristics of individual law schools explained proportionately large (or small) changes in application volume.[18]

Longley's first study documented the fairly intuitive proposition that the ebb and flow of law school applicants produces corresponding changes in acceptance rates, median undergraduate GPA (UGPA), and median LSAT scores. Longley observed that during the ten-year span between 1985 and 1995, applications to ABA-approved law schools started at a low of 231,952 in 1985, steadily rose to a peak application volume of 426,173 in 1992, and then tapered off to 361,726 by 1995.[19] Longley found that during both the "cycle of increase" and the "cycle of decrease" changes in application volume were strongly correlated with changes in acceptance rates for both public and private law schools.[20] Longley found a corresponding relationship between changes in application volume and the increase or decrease in the median UGPA and LSAT scores of entering students, although the statistical relationship was much weaker for UGPA than for the LSAT scores.[21] Further, Longley noted that while application volume had a virtually identical effect on public versus private law schools in terms of acceptance rate and median LSAT scores, the relationship between application volume and median UGPA was statistically significant only for private law schools,[22] thus causing Longley to conclude that "private law schools may be more subject to the ebb and flow of the application market."[23]

One of the most interesting questions lurking within the data of Longley's first study is why some law schools failed to benefit from the overall growth in the law school applicant pool. For example, for the 1985 to 1992 time period, when the total number of law school applicants increased by over 83%, over one-fifth of all law schools

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17. *See* CHARLES LONGLEY, LAW SCHOOL ADMISSIONS, 1985 TO 1995: ASSESSING THE EFFECT OF APPLICATION VOLUME (1998).

18. *See* CHARLES LONGLEY, WHO GETS THE APP? EXPLAINING LAW SCHOOL APPLICATION VOLUME, 1993 TO 1996 (1998).

19. LONGLEY, *supra* note 17, at 1–2 tbl.1 (noting that "[o]ur analysis focuses on two distinct periods: a cycle of application increase from 1985 to 1992, and cycle of decline from 1992 to 1995").

20. *Id.* at 9–10 tbls.14 & 15 (reporting that relative change in application volume was negatively correlated with acceptance rate at $-.4854$, $p < .01$ during the 1985 to 1992 period of increase and negatively correlated at $-.5627$, $p < .01$ during the 1992 to 1995 period of decline; further disaggregating correlation coefficients for public and private law schools).

21. *Id.* at 10 tbls.14 & 15 (discussing and comparing correlation coefficients for UGPA and LSAT scores and noting that the relationship between application volume and UGPA was only statistically significant for private law schools, whereas the relationship between application volume and LSAT scores was highly significant for both public and private law schools). Longley's findings corroborated a similar study conducted a decade earlier. *See* David H. Vernon & Bruce I. Zimmer, *The Size and Quality of the Law School Applicant Pool: 1982–1986 and Beyond*, 1987 DUKE L.J. 204, 217–19 (observing declines in the average LSAT/UGPA admission index as application volume dropped between 1982 and 1985 and noting that the drop-off appeared to be the least significant at law schools with generally higher entering credentials).

22. LONGLEY, *supra* note 17, at 9.

23. *Id.* at 11.

experienced a *decline* in their median UGPA.[24] Longley's study also documented similarly large disparities in how application volume affected median LSAT scores. Specifically, even though virtually all law schools experienced an increase in their median LSAT scores between 1985 and 1992, this increase was one point or less at twenty-six law schools (16%) while forty-eight law schools (30%) gained five or more points.[25] Similarly, when total application volume to all ABA-approved law schools fell by over 15% from 1992 to 1995, the median LSAT scores actually increased at twenty-six law schools (15%). In other words, some law schools appeared to be struggling in a highly favorable admissions environment while other law schools thrived even when the total applicant volume dropped off significantly. It is these dynamics (i.e., the relative winners and losers in the competition for high-LSAT students, regardless of systemic market factors) that are the primary focus of our study.

Longley's second study used multivariate regression analysis to examine the relationship between a law school's application volume and three independent variables: institutional reputation, starting salary of graduates, and annual tuition.[26] Since higher applicant volume is closely associated with higher entering credentials, Longley's second study provides indirect evidence of what types of law schools are likely to fare better in terms of increasing median LSAT scores. During the 1993 to 1996 admission cycles, Longley found that approximately 70% of application variation between law schools could be explained by these three factors, but that "salary and reputation, respectively, are persistently the most important factors."[27]

With respect to tuition, Longley observed divergent patterns for public and private law schools. Although Longley found no statistically significant relationship (or, for one year, a slight negative relationship) between application volume and tuition at public law schools, his data showed a fairly robust *positive* coefficient for tuition at private law schools—in other words, the higher the tuition, the greater the volume of applicants—even when controlling for reputation and starting salary.[28] Longley, who worked for over two decades as a pre-law advisor, attributed this seemingly anomalous

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24. *Id.* at 7 tbl.10 ("In Table 10 we note that not all law schools enjoyed a rise in the GPA between 1985 and 1992; indeed, about a fifth (36) of the programs saw their entering class median GPA drop.").

25. *Id.* at 8 tbl.12.

26. LONGLEY, *supra* note 18, at 1–2.

27. It is worth noting that law school reputation may translate into goods that go beyond starting salary, such as access to more prestigious law firms or government employment. *Cf.* Korobkin, *supra* note 1, at 412–14 fig.3 (examining the high correlation between law school rank and number of on-campus interviews conducted by legal employers, especially among *American Lawyer* magazine's list of top 100 law firms ("Am Law 100") and arguing that it is rational for students to closely watch rankings if "the primary concern" is to "maximize their chances of securing prestigious employment opportunities").

28. LONGLEY, *supra* note 18, at 5 ("The role of tuition in explaining volume at private schools is particularly noteworthy. . . . [U]nlike the pattern at public schools, an increase in fees results in an *increase* in application volume. For every $100 more in charges, between 11 and 21 more applications were filed.") (emphasis in original). Something not controlled for in Longley's study was the correlation between schools in popular locales also being in high cost-of-living locales, which itself suggests a reason for a positive correlation between tuition and application volume.

finding to the "Chivas Effect" in which students believe that "if it costs more, it must be worth it."[29]

Another possibility, which Longley apparently overlooked, is that most elite law schools, which generally have higher published tuition rates,[30] are also the most generous in terms of providing financial aid to highly qualified applicants. High-LSAT students, after all, have become a coveted good. Their education can be subsidized by students with lower entering credentials who are willing and able (at least, with the help of loans) to pay the full published tuition.[31] In contrast, public law schools may lack the resources and flexibility to effectively utilize this strategy.[32] Longley also did not control for local market conditions, something we found to be an important part of explaining the quality of applicants and, therefore, something that we believe would also be an important part of explaining the quantity of applications.

Finally, it is worth noting the various ways in which Longley constructed his reputation variable. Longley initially used a simple average of academic and lawyer/judge reputation scores for each law school as reported in the prior year's *U.S. News* rankings.[33] He marginally improved the predictive validity of his model by using the mathematical log of this reputation variable, which accounts for the possibility that highly ranked law schools may be "hyperattractive[]" to prospective law students.[34] Reacting to criticisms that the *U.S. News* reputation variables are too subjective or based on unrepresentative samples, Longley constructed a reputation variable based on various published objective inputs such as a law school's median LSAT, median GPA, student-faculty ratios, and volume of library holdings. Regardless of whether Longley utilized the *U.S. News* reputation variable, his objective index of reputation, or some combination of both, all of his models had virtually identical predictive power.[35]

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29. *Id.* at 6 n.18.

30. *See infra* Part IV.A & tbl.8.

31. Indeed, following the trend at the undergraduate level, tuition at many private law schools has essentially become an individually negotiated item between the law school and the applicant, with highly desirable candidates having the most bargaining leverage. *Cf.* Kim Clark, *Decision Time*, U.S. NEWS & WORLD REP., Apr. 19, 2004, at 53 (reporting the dynamics of appealing financial aid packages and observing that "[p]ublic schools have little discretionary money. And the top schools don't need to bid [to attract top students]. But small private second- and third-tier schools are likely to up an award from [sic] a student whose GPA and test scores are significantly higher than those of the average student at the college.").

32. Of course, a full scholarship costs less to award at a school with lower tuition, so public schools have a compensating advantage in that respect.

33. LONGLEY, *supra* note 18, at 2 n.2 (noting that "[t]he data for the class entering fall 1993 are taken from the March 1992 issue, for the fall 1994 the data are from the March 1993 issue, and so forth. This assignment was made in appreciation of the timing that associates with the application cycle."). We are particularly skeptical of the averaging approach.

34. *Id.* at 3 & tbls.1 & 2.

35. *See id.* at 6–8. Longley notes that he dropped faculty-student ratio from the objective measure of law school reputation because it "tends to decrease the impact of [reputation] rank on application volume." *Id.* at 7 n.23. The seemingly indiscriminate dropping of purportedly objective measures of quality in order to achieve marginally higher correlation coefficients casts some doubt on whether Longley's objective index of reputation is theoretically superior to the *U.S. News* reputation scores.

For the purposes of our study, the most important aspect of Longley's findings on reputation and application volume is that some hierarchy of reputation or ranking has a positive effect on application volume and so, by extension, on median LSAT scores. Delineating the precise contours of this reputation construct is a difficult undertaking. It is unclear whether the annual *U.S. News* rankings merely reflect true estimations of reputation, or whether the ranking itself has become its primary determinant for future years.[36] That said, Longley's findings are strong support for concluding that a law school's starting position has a significant effect on its ability to effectively compete for highly qualified students.

II. SAMPLE, VARIABLES, AND METHODOLOGY

A. Law Schools in Sample

For the purposes of this study, we assembled a data set of all published information included in the *U.S. News* rankings since the appearance in 1992 of the first comprehensive list of all ABA-accredited law schools. The overwhelming majority of U.S. law schools are comparable in the dimensions examined here. However, for a variety of reasons, we eliminated some law schools from the data set and excluded a handful of other law schools from some or all of our statistical tests.

First, we excluded the three law schools in Puerto Rico (Pontifical Catholic University, University of Puerto Rico, Inter American University) from our data set despite their ABA-accredited status because we do not consider them to be competing in the same market as other U.S. law schools.[37]

Second, there are a number of schools accredited only in a single state (nineteen in California alone), unaccredited (fifteen in California alone), or with some sort of provisional accreditation.[38] The graduates of these schools are generally allowed, if they fulfill certain other requirements, to take the bar exam in the state where the school is located, but are unable to sit for the bar in other states.[39] These schools are not ranked by *U.S. News* and therefore could not be included in our analysis.

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36. Sauder & Lancaster, *supra* note 16 (manuscript at 31–32) (examining how rankings affect applications by students and selectivity by schools, which in turn affects future rankings movements); Stake, *supra* note 16 (examining "echo effect" of U.S. News rankings).

37. One indicator that this is true is that all three schools report that virtually all of their students are Puerto Ricans. In 2004, 100% of the J.D. student body at Inter American University and Pontifical Catholic University were reported to be Puerto Ricans. At University of Puerto Rico, 673 of the 679 J.D. students were Puerto Ricans, with five of the remaining six students listed as "Hispanic." LAW SCHOOL ADMISSION COUNCIL & AMERICAN BAR ASSOCIATION, *supra* note 11, at 358, 562, 566. All three schools also require the *Prueba de Admision para Estudios Graduados* test as well as the LSAT for admission. *Id.* at 360, 564, 568. This effectively rules out non-Spanish speaking applicants.

38. For a breakdown of these schools in California, see State Bar of California, Law Schools, http://www.calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=10115&id=5128 (last visited June 27, 2005).

39. *See, e.g.*, State Bar of California, Summary of Educational Requirements to Take the California Bar Examination, http://www.calbar.ca.gov/state/calbar/calbar_home.jsp (enter "educational requirements bar exam" into Search Calbar Site; follow "Educational Requirements to Take Bar Exam" hyperlink) (last visited Sept. 15, 2005) (summarizing various

Third, several law schools began operation during the period covered by our data set (1992 to 2004), including Appalachian School of Law, Ave Maria University School of Law, Barry University School of Law, Florida A&M, Florida Coastal, Florida International University, University of Nevada School of Law, and University of St. Thomas School of Law. Obviously, we could not include these schools for analyses that required data for years before they were in existence and so each is excluded from some or all of the statistical analyses, depending on the availability of data.

Finally, Widener University operates two campuses (Harrisburg, Pennsylvania and Wilmington, Delaware) but reports consolidated data. We considered the two Widener campuses as separate law schools since they are located in two different Metropolitan Statistical Areas (MSAs) and some important independent variables in our model are dependent on location. For variables derived from sources using Widener's consolidated data, however, we were forced to use the same values for both campuses.

B. Dependent Variable

Our dependent variable is change in a law school's median LSAT score between the 1992 entering class (the first year the LSAT was scored on a 180-point scale)[40] and the 2003 entering class. Stated mathematically, $\Delta_{LSAT} = \text{Median}_{2003} - \text{Median}_{1992}$. Since the inception of its full law school rankings in 1992, *U.S. News* has consistently used median LSAT scores to calculate its law school rankings. Unfortunately, beginning in 1998, it began publishing only 25th and 75th percentile LSAT and UGPA scores.[41] The median LSAT for the 2003 entering class was obtained as part of a survey

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ways to satisfy the educational requirements for taking the California Bar Examination, including less stringent standards for law schools accredited by either the ABA or the State Bar of California); State Bar of California, Rules Regulating Accreditation of Law Schools in California, http://calbar.ca.gov/state/calbar/calbar_home.jsp (follow "Attorney Resources" hyperlink; then follow "Bar Exam" hyperlink; then follow "Law Sehools in California" hyperlink; then follow "Rules Regulating Accreditation of Law Schools in California" hyperlink) (last visited Sept. 15, 2005) (summarizing standards of law school accreditation for California law schools); Alabama State Bar, Rules Governing Admission to the Alabama State Bar, http://www.alabar.org/public/admissions/RulesAdmissions2003.pdf, 13–14 (Apr. 2004) (summarizing educational requirements for admission by examination, including either graduation from an ABA-approved law school or "satisfactor[y] complet[ion] as a resident student [a program of legal studies] at Birmingham School of Law, Jones School of Law of Faulkner University or Miles College of Law").

40. Although we would have preferred to use the earliest median LSAT scores available to calculate our dependent variable, the median scores listed in the 1992 *U.S. News* rankings (published in spring 1992) were based on a forty-eight-point scale. Since the variations in median LSAT over time are typically very small, we decided to use the 1993 LSAT data (published in spring 1993) in order to calculate our LSAT-change variable based on a consistent 180-point scale. We are also assuming that schools reported median LSAT across years in a way that does not introduce bias into the analysis. For example, in the early years, many schools calculated median LSAT by using the highest score for students who took the LSAT multiple times; the reporting rules now require using an average LSAT score for multiple test takers.

41. *See supra* note 11.

conducted during the summer of 2004 by the admissions office of the Indiana University School of Law–Bloomington.[42]

Table 1. Aggregate statistics, by law school

Variable	Mean	Std. dev.	N
Change in median LSAT, 1993–2004	−0.34	2.27	168
Percent change in full-time 1L enrollment (FTE), 1992–2004	7.4%	26.9%	172
Percent change in part-time 1L enrollment (PTE), 1992–2004	14.3%	136.4%	190
Percent change in full-time 1L composition of law school, 1992–2004	−0.5%	6.8%	173
Number of Am Law 200 firms interviewing on campus, 2004	22.5	36.1	190
Average student loan debt	$63,495	$17,011	179

C. School-Specific Independent Variables

Our data set includes variables from a wide variety of sources. In addition to every published input variable from *U.S. News* since 1992, when the first ranking of all ABA-approved law schools was published, we collected school-specific data based on a number of factors we believed might influence the market for high-LSAT students. For example, during the last several years the authors have heard numerous anecdotal accounts of law schools altering the composition of their entering classes, shifting slots between full-time and part-time programs, or admitting smaller first-year classes and making up the revenue shortfall by actively recruiting transfer students from less prestigious law schools.[43] Because the LSAT and UGPA scores of part-time and transfer students do not count in the calculation of median numbers reported to *U.S. News*, these strategies may be an effective means to "game" these important *U.S. News* input variables. We therefore measured the change in the size of the full-time entering class as well as the change in composition between full-time and part-time students.

Drawing upon Charles Longley's findings that application volume is sensitive to starting salaries,[44] we also hypothesized that a law school's ability to successfully place students in full-time legal employment upon graduation (preferably high paying and high prestige) plays an important role in prospective students' choice of law schools. To measure this relationship, we gathered data on Am Law 200 firms that interviewed at various law schools using data from the 2005–06 directory of the National Association of Legal Placement (NALP).[45] Because some multi-office firms complete a

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42.   We would like to thank Dennis Long, Patricia Clark, and Mark Hilycord for supplying us with the 2004 median LSAT scores as well as other interesting and important data.

43.   *See, e.g.*, Dale Whitman, *Doing the Right Thing*, AALS Newsletter (Apr. 2002), *available at* http://www.aals.org/pmapr02.html (President of the American Association of Law Schools reporting a known example of recruitment of transfer students so that an elite law school "can maintain the overall student body size that fits the building and budgetary needs, while admitting a smaller and more selective first-year class").

44.   *See supra* notes 26–27 and accompanying text.

45.   The forms are available on NALP's website, www.nalp.org. We gathered the data from

separate NALP form for each office while others publish a single form that consolidates information for all branch offices, we counted a firm as interviewing at a law school if any of its offices listed the law school as a site for interviews.[46] We concentrated on Am Law 200 firms both to limit the size of the data collection process to a manageable size and because we believe pre-law students are likely to focus on large-firm recruiting presence at schools as a means of comparing schools since these firms generally pay the highest starting salaries.

Finally, in collecting data for this study, we also assumed that, all else equal (e.g., future employment prospects and earnings), the total cost of a legal education will be a relevant factor on where to apply and enroll. We theorized that students will generally favor law schools that offer them lower tuition and saddle them with fewer student loans.

D. Location-Specific Independent Variables

Although prospective law students are undoubtedly interested in attributes that are unique to each law school, it is likely that some students are willing to trade off attributes such as relative prestige and cost in order to attend a school in a specific geographic location (or type of location). Schools within the same metropolitan area share important locational attributes, such as weather, access to cultural and urban amenities, and geographic proximity to local legal markets. Indeed, it is plausible that some students utilize *U.S. News* rankings, but only to select among schools *within* certain metropolitan areas. Therefore, we collected U.S. Census data on Metropolitan Statistical Areas (MSAs) to generate a series of variables related to change in population and change in the workforce with a Bachelor's degree or higher. We included these variables because certain metropolitan areas have been growing much faster than the nation as a whole;[47] therefore, insofar as regional population of potential law school applicants expands or contracts, there may be a measurable effect on entering LSAT scores.

In addition to broad demographic patterns that reflect the growth (or stagnation) of the regional economy as a whole, there may be important variations in the *legal* job market. Therefore, we also included variables measuring the change in number of lawyers, offices, and firms among Am Law 200 law firms.[48] We theorized that law students would gravitate toward law schools that provided an entrée into employment markets where the number of Am Law 200 jobs, which generally offer the highest

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the forms in May and June 2005. Thus, there are likely some minor differences between our data and which firms interviewed on particular campuses during the years under study because we did not have access to the pre-2005 forms.

46. In future work we plan to explore additional issues about placement using this data.

47. *See, e.g.*, EDWARD L. GLAESER & JESSE M. SHAPIRO, CITY GROWTH AND THE 2000 CENSUS: WHICH PLACES GREW, AND WHY (Brookings Institution Survey Series 2001) (presenting and analyzing large disparities in regional growth that emerged from 2000 U.S. Census).

48. The Am Law 200 firms used in this analysis were listed in the July and August 2004 editions of *The American Lawyer*. The locational data for most firms was derived from the 2004 and 1994 lists of the nation's largest law firms, published annually by the *National Law Journal*. When a firm was a product of one or more mergers, the locational data from 1994 for each firm was imputed to the current Am Law 200 law firm. To fill in gaps in the dataset, the number of attorneys for each firm location was obtained from the 1994 edition of the Martindale-Hubbell Directory of Lawyers.

associate starting salaries, was both large and expanding.[49] Moreover, in contrast to the number of Am Law 200 firms visiting a law school for on-campus interviews, the number and growth of Am Law 200 firms and lawyers within an MSA is arguably a good proxy for the overall health and vitality of the market for corporate legal work in that area. To provide a concrete example, between 1993 and 2003, the San Diego MSA added fourteen Am Law 200 offices and 613 Am Law 200 lawyers. In contrast, the Detroit MSA, which is larger in total population, added two offices (both in the suburbs) and 95 Am Law 200 lawyers. We posit that the legal market for mid-sized corporate law firms is therefore better in San Diego than it is in Detroit.

Table 2 presents descriptive statistics on the 90 MSAs containing at least one ABA-approved law school.[50]

Table 2. Descriptive statistics, by MSA

Variable	Mean	Std. dev.	N
Change in number of Am Law 200 lawyers, 1993–2003	398	1241	90
Change in number of Am Law 200 offices, 1993–2003	4.4	10.7	90
Change in MSA population, 1990–2000	274,306	406,836	89
Change in number of workers over 25 with B.A. or higher, 1990–2000	101,286	152,901	89
Number of law schools in MSA	1.93	2.13	90

NOTE: *N* in this table represents the number of discrete MSAs in the sample, *not* the number of law schools. Some MSAs contain several law schools (e.g., Chicago, New York, Los Angeles) and others contain only one (e.g., Austin, Champaign-Urbana, Phoenix).

Sources: EDWARD L. GLAESER & JESSE M. SHAPIRO, CITY GROWTH AND THE 2000 CENSUS: WHICH PLACES GREW, AND WHY (Brookings Institution Survey Series 2001); *NLJ 250*, NAT'L L.J., Nov. 15, 2004, at S15; *The Am Law 100 2004: A Special Report*, THE AM. LAW., July 2004, at 91; *The Am Law 200 2004: A Special Report*, THE AM. LAW., Aug. 2004, at 83; Martindale-Hubbell Law Directory, http://www.martindale.com (last visited Nov. 12, 2005).

E. Methodology

This study utilizes multivariate linear regression to model change in median LSAT scores between 1993 and 2004. Obviously, there are multiple categories of influences on a law school's median LSAT. To delineate these influences, we grouped our variables into five analytical categories: (1) initial starting position of the law school, (2) school-specific attributes, (3) locational differences, (4) gaming strategies employed by law school administrators, and (5) changes in reputation.

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49. As we explain in more detail below, the highest-ranked law schools provide access to a national job market in Am Law 200 firms; lower-ranked schools provide more limited access, primarily to Am Law 200 firms located near their campuses. *See infra* Part III.A.

50. Twelve law schools in our sample are not located in an MSA: Cornell (NY), Campbell (NC), Franklin Pierce (NH), Ohio Northern, Southern Illinois, University of Idaho College of Law, University of Mississippi School of Law, University of South Dakota, University of Wyoming, Vermont Law School, Washington & Lee (VA), and West Virginia.

1. Initial Starting Position

Long-term trends in each of the areas we examine obviously influenced law schools' positions at the beginning of the period of study. To predict the median LSAT in any given year, it would thus be critical to include a relevant measure of the school's initial position to ensure that we measured change in position from the start to the end of the study period (e.g., median LSAT in 1993 to predict LSAT scores in 2004). To isolate the impact of changes in the past decade, we opted to examine the change in median LSAT rather than the level. Although using change variables eliminates the variation due to initial level in each variable, we were still concerned that there would be effects of initial position common to schools. The importance of starting position is evident from the remarkable stability in the very top of the *U.S. News* hierarchy;[51] there is no school ranked in the top 16 in 2004 that was not also ranked in the top 16 in the first *U.S. News* ranking in 1987.[52] (See Appendix 1). Moreover, as seen in table 3, which summarizes several key variables by 1992 "quartile" status (the first year that *U.S. News* ranked all ABA-approved law schools), relative gains in LSAT scores are closely associated with a school's relative starting position.[53]

Based on these observations, we theorized that the market is segmented by relative prestige into "national" and "regional" markets that roughly corresponds to *U.S. News* "Tier 1" status.[54] Therefore, after specifying each regression model, we routinely split our sample into two subsets (1992 Quartiles 2–4, and 1992 Quartile 1) for analysis.

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51. This hierarchy began to take shape in 1987 when *U.S. News* published its first law school rankings. However, it was initially limited to the top 25 law schools. Beginning in 1992, *U.S. News* began ranking all ABA-approved law schools. The top 25 law schools were given an ordinal rank with the remaining 150+ law schools divided into first, second, third, and fourth quartiles. The first quartile consisted of the top 25 law schools plus 19 law schools with no ordinal ranking.

52. During this period there has been temporary and brief movement in and out of the top 16. For example, University of Texas was ranked 15th in 1993, 21st in 1994, 18th in 1996 and 1997, 29th in 1998 and back to 15th in 1999, where it has remained for the last several years; from 1996 to 1998, University of Southern California was ranked fifteenth. *The Top 25*, U.S. NEWS & WORLD REP., Mar. 22, 1993, at 62; *The Top 25 Law Schools*, U.S. NEWS & WORLD REP., Mar. 21, 1994, at 72; *The Top 25 Law Schools*, U.S. NEWS & WORLD REP., Mar. 18, 1996, at 82; Ted Gest, *Top Schools: No. 1: Yale University*, U.S. NEWS & WORLD REP., Mar. 10, 1997, at 76; *Schools of Law*, U.S. NEWS & WORLD REP., Mar. 2, 1998, at 78; *Schools of Law*, U.S. NEWS & WORLD REP., Mar. 29, 1999.

53. These figures are entirely consistent with the reflectivity theories advanced by Jeffrey Evans Stake, Michael Sauder, and Ryon Lancaster. *See supra* note 16 (citing sources by these authors).

54. The "tier" terminology is now widely used within the law school environment. However, in order to accurately capture initial starting position, we subdivided our sample using the 1992 "quartile" format. As noted earlier, the quartile format was a precursor to the present-day tier format. Of the 44 schools in the top quartile in 1992, only two law schools (Case Western Reserve University and Tulane) were not categorized as "Tier 1" in 2004, and both returned to "Tier 1" status in 2005. *See America's Best Graduate Schools: Schools of Law*, U.S. NEWS & WORLD REP. (SPECIAL ISSUE) 28 (2004); *The Top 25*, U.S. NEWS & WORLD REP., Mar. 23, 1992, at 78–80. Note that the concept of a national versus a regional or local law school is an old one. *See, e.g.*, Harry W. Jones, *Local Law Schools vs. National Law Schools: A*

Table 3. Aggregate statistics by initial starting position

Variable	1992 *U.S. News* rank	Mean	SE of mean	Median	Std. dev.	Valid *n*
U.S. News median LSAT 1993	Top 16	166.50	0.57	166.50	2.28	16
	Rest of first quartile	162.00	0.32	162.00	1.70	28
	Second quartile	158.05	0.33	158.50	2.17	44
	Third quartile	156.59	0.32	156.00	2.15	44
	Fourth quartile	153.13	0.48	154.00	3.02	40
Change in median LSAT 2004–1993	Top 16	1.69	0.42	2.00	1.66	16
	Rest of first quartile	0.46	0.31	0.50	1.62	28
	Second quartile	0.45	0.31	0.00	2.04	42
	Third quartile	−1.56	0.32	−2.00	2.12	43
	Fourth quartile	−1.34	0.35	−1.00	2.15	38
2004 median LSAT	Top 16	168.19	0.48	168.50	1.91	16
	Rest of first quartile	162.46	0.36	162.00	1.90	28
	Second quartile	158.50	0.41	159.00	2.67	42
	Third quartile	155.09	0.45	154.00	2.93	43
	Fourth quartile	151.85	0.49	152.00	3.07	39

Sources: EDWARD L. GLAESER & JESSE M. SHAPIRO, CITY GROWTH AND THE 2000 CENSUS: WHICH PLACES GREW, AND WHY (Brookings Institution Survey Series 2001); *NLJ 250*, NAT'L L.J., Nov. 15, 2004, at S15; *The Am Law 100 2004: A Special Report*, THE AM. LAW., July 2004, at 91; *The Am Law 200 2004: A Special Report*, THE AM. LAW., Aug. 2004, at 83; Martindale-Hubbell Law Directory, http://www.martindale.com (last visited Nov. 12, 2005).

2. School-Specific Attributes

Some law schools may be limited in their ability to respond to market changes due to certain inflexible attributes. For example, public law schools are more resource-constrained than private law schools (but they also have the benefit of state subsidies, which are generally on the wane).[55] Similarly, religiously affiliated schools have a potentially different market for students, since students with the school's religious orientation will be more likely to prefer the religious school to a secular competitor than will students with a different religious orientation. Annual giving and student indebtedness are also indicators of how dependent a law school is on tuition revenues.

Comparison of Concepts, Functions and Opportunities, 10 J. LEGAL EDUC. 281, 285–86 (1958) (delineating four criteria to distinguish a national from a local law school, including selectivity of admissions and likelihood that a graduate will obtain employment as a corporate lawyer in a metropolitan center).

55. A public subsidy is not an unambiguous good. In recent years, elite public law schools have obtained greater financial autonomy from the state by successfully raising funds from private donors. *See, e.g.*, Warren Lutz, *Boalt Hall Looks to Private Funds*, NAT'L L. J., Jan. 24, 2005, at 4 (discussing plan by dean at UC Berkeley School of Law to raise substantial private funds to compensate for declining state support, noting that public law schools at the Universities of Michigan and Virginia "have relied heavily on private money for more than a decade," and reporting that the de minimis 4% subsidy at Michigan permits the law school "to set its own financial agenda").

We tested for the impact of these factors both through dummy variables for status (e.g., public and religious) and with continuous variables that measured the impact of this dependence (e.g., average student loan debt as a measure of cost).

3. Locational Differences

Our model attempts to capture the impact of regional economic growth generally and legal employment market growth in particular. Between the early 1990s and 2004, different regions experienced different rates of overall economic and population growth. We theorized that greater economic growth boosts law schools' relative positions by attracting people to the area. Independently of general economic growth, regions experienced differences in the growth of law firm jobs. For example, both northern California and the Seattle area experienced significant high-tech economic growth in the 1990s,[56] but northern California's law market grew more rapidly than did Seattle's. Between 1993 and 2003, the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area (CMSA) added 786,051 new residents, which is roughly comparable to 644,627 added in the Seattle-Tacoma-Bremerton CMSA, but the San Francisco region added 2937 Am Law 200 lawyers while the Seattle region added only 432. Overall, the increase in the number of Am Law 200 lawyers was strongly (but far from perfectly) correlated with change in total MSA population ($.634, p < .000$) and change in number of workers with a Bachelor's degree or higher ($.647, p < .000$).[57]

4. Gaming

As the influence of the *U.S. News* rankings has climbed, schools have clearly adopted strategies unrelated to educational quality in order to improve (or, more accurately, manipulate) their rankings.[58] Building upon our earlier theory on market

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56. *See* ROBERT D. ATKINSON & PAUL D. GOTTLIEB, THE METROPOLITAN NEW ECONOMY INDEX 7 (2001) (ranking the San Francisco and Seattle CMSAs as the number one and three metropolitan areas in the nation, out of fifty, in terms of economic growth in new economy industries).

57. The following are the MSAs that experienced the largest growth in the absolute number of Am Law 200 jobs: New York-Northern New Jersey-Long Island CMSA (9920), Washington, D.C.-Baltimore-Northern Va. CMSA (4616), San Francisco-Oakland-San Jose CMSA (2937), Los Angeles-Riverside-Orange County, CMSA (2256), Chicago-Gary-Kenosha CMSA (1986), Boston-Worcester-Lawrence CMSA (1808), Atlanta, Ga. MSA (1487), Dallas-Fort Worth, Tex. CMSA (1072), Houston-Galveston-Brazoria CMSA (1046), and Philadelphia-Wilmington-Atlantic City CMSA (996). In contrast, some of the MSAs with the largest population growth are missing from this list. For example, the metropolitan areas of Orlando, Denver, Seattle, Miami, Las Vegas, and Phoenix all added more new residents from 1990 to 2000 than the Boston CMSA, yet the Boston region gained over 1200 more Am Law 200 lawyers than any of these higher growth cities. Similarly, the Philadelphia CMSA, which lost over 30,000 residents between 1990 and 2000, significantly out-gained these same cities by at least 400 Am Law 200 lawyers.

58. *See, e.g.*, Whitman, *supra* note 43, at 1–4 (detailing president of AALS six strategies utilized by actual law schools to boost *U.S. News* rankings, including two specifically designed to increase median LSAT and UGPA scores).

segmentation, we hypothesized that the effectiveness of a particular gaming strategy may vary depending upon a school's relative position within the *U.S. News* hierarchy.

For Quartiles 2–4, we attempted to capture a well-known strategy by which schools increase the admission standards for their full-time programs while diluting their standards for part-time candidates. In theory, this shunting strategy (a) bumps up LSAT and UGPA scores reported to *U.S. News* (since the rankings are calculated using the credentials of full-time entering students), and (b) is revenue-neutral.[59] We theorized, therefore, that a decline in the proportion of full-time to part-time students would be associated with a rise in a school's reported median LSAT score.

The shunting strategy is unlikely to be a significant factor within Quartile 1 because only three of these schools (out of forty-four) operated part-time programs between 1993 and 2004. Therefore, for regression models run on this relatively elite cohort, we substituted an alternative gaming strategy we believed would have a similar effect. Based on several anecdotes we had heard over the years, we suspected that some top law schools were shrinking their entering classes, and thus getting a credentials bump from greater selectivity and higher entering credentials, while simultaneously making up the loss in revenues by admitting more transfer or LL.M. students. We used the change in entering 1L enrollment between 1992 and 2004 to model this strategy.[60]

5. Academic and Lawyer/Judge Reputation

If the *U.S. News* rankings have ushered in a new era of law school competition over the academic quality of law school programs, as some commentators have claimed, we should see a positive relationship between *U.S. News* measures of academic and lawyer/judge reputations and entering class statistics, including median LSAT scores. The optimistic assessment is that more productive faculty members and substantial curricular improvements are duly noted by *U.S. News* respondents (law professors, deans, judges, and practitioners) and ultimately filter down to prospective law students through the improved position gained by a school whose reputation scores increase. An alternative, more pessimistic interpretation, which enjoys empirical support from Professor Stake's innovative study, is that changes in academic and lawyer/judge reputation are primarily a function of the previous year's *U.S. News* rankings.[61] Because the reputational scores were reported on different metrics in 1992 and 2004, we standardized all reputation scores to make the mean zero and the standard deviation one for both years. We then generated our change variables by subtracting the 1992 standardized score from the 2004 standardized score.

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59. Permissive policies for switching to the full-time program after the first year also reduce the burden on the faculty to actually teach evening classes.

60. The ideal way to test this gaming strategy is to have longitudinal data for both entering class size and full-time J.D. enrollment. Unfortunately, we were unable to locate a reliable source for full-time J.D. enrollment. Nevertheless, change in 1L class size is still a theoretically valid, but less precise, measure of this strategy. The credential bump comes from the greater admissions selectivity applied to the 1L class; more liberal admissions of transfer and LLM students are used to make up losses in revenues.

61. *See* Stake, *supra* note 16, at 250.

III. RESULTS

Our results are summarized in Regression Models 1 through 3. We have six specific findings on change in median LSAT scores that merit discussion. These findings fall into the following categories: (1) market segmentation, (2) effect of initial position, (3) cost as measured public affiliation and average student indebtedness, (4) the impact of regional labor markets, (5) the effectiveness of gaming, and (6) the influence of academic and lawyer/judge reputation.

A. Result 1:
There Is a Clear Difference in the Market for Students
Between "Tier 1" and the Rest of the Law School World.

The results of this study strongly support our initial hypothesis that the market is segmented into a national market, which roughly corresponds to the current "Tier 1" designation, and a regional market, which encompasses the rest of the law school hierarchy. In every regression model we specified, the measures of goodness-of-fit (e.g., adjusted r^2) for predicting changes in median LSAT scores significantly increased when we divided the sample into two groups based on their 1992 *U.S. News* quartile rankings.[62] We examined a number of other possible breakpoints in the data, but the Quartile 1/Non-Quartile 1 distinction was the only one that was both theoretically sound and empirically supported. The theoretical rationale for distinguishing between Quartile 1 and the others is that it reflects a distinction based on *U.S. News's* practice of ranking schools by placing them into quartile (and tiers beginning in 1994).[63] It also comports with market evidence that law firms rely upon the *U.S. News* rankings to direct their recruiting efforts.[64] We used 1992 Quartile 1 (as opposed to 2004 Tier 1) as the breakpoint in order to avoid a "winner's bias" in our results.[65]

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62. Goodness-of-fit refers to the predictive power of the model specified after adjusting for sample size. In regression models 1–3, the goodness-of-fit measure is the adjusted r^2 value, which reflects the amount of variance in the dependent variable (change in median LSAT score from 1993 to 2004) explained by the independent variables specified. In general, dividing a sample in the two groups will lower the adjusted r^2 except, as here, when the two groups are affected by the independent variables in different ways.

63. As noted in Part I.A, before 1994 *U.S. News* reported ranked results for either the top 25 (1990–1992) or the top 20 (1987–1989) and after 2003 it reported ranked results for the top 100.

64. For example, one of the leading attorney recruiting firms, BCG Attorney Search, has created a detailed guide for evaluating law school transcripts, academic honors, and law review membership at the nation's "Top 50 Law Schools." The "Top 50" is based on 2004 *U.S. News* rankings. *See* BCG ATTORNEY SEARCH GUIDE (2004), *available at* http://www.bcgsearch.com/bcgguide.pdf.

65. The hreakpoint should reflect the starting point rather than the ending point. Obviously, higher-ranked schools in 2004 are much more likely to have increased their median LSAT scores over time.

Table 4. Regression model 1

Panel A. Quartile 1

Influence	Metric	β	Std. error	Std. beta	p
	(Constant)	1.003	0.461		.036
Starting position	Top 16	1.059	0.537	0.299	.056
Cost	Public law school	−0.717	0.531	−0.210	.185
Location	Chg. in Am Law 200 lawyers (1000) in MSA, 1993–2003	0.017	0.095	0.028	.861
Gaming	% Chg. in 1L FTE, 1992–2004	−3.778	2.153	−0.248	.087
	N	44			
	Adj. r^2	.162			

Panel B. Quartiles 2–4

Influence	Metric	β	Std. error	Std. beta	p
	(Constant)	−2.151	0.289		.000
Starting position	*U.S. News* Quartile 2 1992	1.518**	0.394	0.318**	.000
Cost	Public law school	1.173**	0.381	0.258**	.003
Location	Chg. in Am Law 200 lawyers (1000) in MSA, 1993–2003	0.163*	0.067	0.201*	.017
Gaming	% Chg. in proportion of 1L FT to 1L FT & PT, 1992–2004	−6.045**	2.280	−0.210**	.009
	N	123			
	Adj. r^2	.245			

NOTE: * denotes significant at 5% level; ** denotes significant at 1% level.

Sources: The Top 25, U.S. NEWS & WORLD REP., Mar. 23, 1992, at 78–80; *The Am Law 100 2003: A Special Report*, THE AM. LAW., July 2003, at 91; *The Am Law 200 2003: A Special Report*, THE AM. LAW., Aug. 2003, at 75; *The Am Law 100 1993*, THE AM. LAW., July/Aug. 1993, SPECIAL SECTION at 1.

Table 5. Regression model 2

Panel A. Quartile 1

Influence	Metric	β	Std. error	Std. beta	p
	(Constant)	−1.296	0.943		.177
Starting position	Top 16	0.845	0.537	0.239	.124
Cost	Avg. loan debt ($000)	0.031*	0.015	0.336*	.043
Location	Chg. in Am Law 200 lawyers (1000) in MSA, 1993–2003	−0.014	0.094	−0.024	.883
Gaming	% Chg. in 1L FTE, 1992–2004	−3.697	2.086	−0.242	.084
	N	44			
	Adj. r^2	.211			

Panel B. Quartiles 2–4

Influence	Metric	β	Std. error	Std. beta	p
	(Constant)	0.396	0.730		.588
Starting position	*U.S. News* Quartile 2 1992	1.704**	0.380	0.361**	.000
Cost	Avg. loan debt ($000)	−0.034**	0.011	−0.251**	.003
Location	Chg. in Am Law 200 lawyers (1000) in MSA, 1993–2003	0.167*	0.065	0.210*	.012
Gaming	% Chg. in proportion of 1L FT to 1L FT & PT, 1992–2004	−5.405*	2.219	−0.191*	.016
	N	120			
	Adj. r^2	.269			

NOTE: * denotes significant at 5% level; ** denotes significant at 1% level.

Sources: The Top 25, U.S. NEWS & WORLD REP., Mar. 23, 1992, at 78–80; *The Am Law 100 2003: A Special Report*, THE AM. LAW., July 2003, at 91; *The Am Law 200 2003: A Special Report*, THE AM. LAW., Aug. 2003, at 75; *The Am Law 100 1993*, THE AM. LAW., July/Aug. 1993, SPECIAL SECTION at 1.

Table 6. Regression model 3

Panel A. Quartile 1

Influence	Metric	β	Std. error	Std. beta	P
	(Constant)	−2.567	1.092		.024
Starting position	Top 16	2.500*	1.099	0.706*	.029
Cost	Avg. loan debt ($000)	0.046**	0.016	0.494**	.006
Gaming	% chg. in 1L FTE, 1992–2004	−3.521	2.013	−0.231	.088
Reputation	Chg. academic 1992–2004	2.848	1.409	0.819	.050
	Chg. lawyer/judge 1992–2004	−0.931	0.909	−0.264	.312
	N	44			
	Adj. r^2	.270			

Panel B. Quartiles 2–4

Influence	Metric	β	Std. error	Std. beta	P
	(Constant)	0.582	0.797		.467
Starting position	*U.S. News* Quartile 2 1992	1.766**	0.425	0.374**	.000
Cost	Avg. loan debt ($000)	−0.037**	0.012	−0.274**	.003
Location	Chg. in Am Law 200 lawyers (1000) in MSA, 1993–2003	0.160*	0.067	0.200*	.019
Gaming	% Chg. in proportion of 1L FT to 1L FT & PT, 1992–2004	−5.637*	2.271	−0.199*	.015
Reputation	Chg. academic 1992–2004	−0.246	0.574	−0.040	.669
	Chg. lawyer/judge 1992–2004	0.192	0.356	0.048	.592
	N	120			
	Adj. r^2	.259			

NOTE: * denotes significant at 5% level; ** denotes significant at 1% level.

The presence of a segmented market is readily illustrated by examining the relationship between average student loan debt and the change in median LSAT scores. Average student loan debt was the only independent variable that was unequivocally important for both the top (Quartile 1) and bottom (Quartiles 2–4) of the law school hierarchy. However, within these two markets, the relationship between debt and LSAT scores was completely different. For schools in Quartiles 2–4, lower student loan indebtedness was associated with gains in median LSAT. This relationship makes intuitive sense: all else being equal, students with marginally higher LSAT scores will prefer law schools that will saddle them with lower total debt. This gives schools with lower costs an advantage in recruiting these students. In contrast, in Quartile 1, higher student loan debt was associated with *increases* in median LSAT scores. This change probably reflects an underlying relationship between tolerance for debt and job prospects following graduation.[66] Because a degree from a law school at the top of the *U.S. News* hierarchy is almost a guarantee of the opportunity for a job in a major corporate law firm, the demand for these slots appears to be relatively price inelastic. As a result, elite law schools have the luxury of regularly raising their tuition without the worry that the increase will adversely affect their median LSAT scores (and hence their ranking). Indeed, students with marginally lower LSAT scores can be used to cross-subsidize students with marginally higher LSATs, who are more likely to be awarded "discounts" in the form of merit aid.[67]

B. Result 2:
Within Each Segment of the Market, a Higher Initial Starting Position Was Associated with Increases in Median LSAT Scores.

Efficient markets require the availability of product information at a relatively low cost. For the purposes of our study, 1992 is an important year because it represents the first time that prospective law school candidates and legal employers had access to a *U.S. News* rankings that published data on all ABA-approved law schools. Moreover, this information was formatted for the purpose of facilitating comparisons among similarly ranked schools. Therefore, beginning in 1992, we would expect students to prefer to enroll in the highest-ranked school to which they were admitted. Thus, schools that started in Quartile 2 would generally benefit (i.e., attract students with

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66. For a breakdown of starting law firm salaries and student debt based on law schools' *U.S. News* rankings, see RONIT DINOVITZER, BRYANT GARTH, RICHARD SANDER, JOYCE STERLING, & GITA WILDER, AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 75 fig.10.3 & tbl.10.3 (2004) [hereinafter AFTER THE J.D.]. These figures show that graduates of top ten law schools have the highest median salaries ($135,000) and the highest median debt loads ($80,000).

67. *See, e.g.*, Conison, *supra* note 5, at 37–38 (stating, as dean at Valparaiso, that "many more schools are investing far more money—through scholarships and other means—to recruit students with high LSATs"); Hunter, *supra* note 5, at 643 (quoting dean at Emory, noting that LSATs "tie in closely with scholarships").

marginally higher LSAT scores) at the expense of schools that started in Quartiles 3 or 4. Similarly, schools that started in the top 16 would generally benefit at the expense of other Quartile 1 schools. Further, insofar as legal employers began utilizing this information to make hiring decisions among candidates from less prestigious law schools (e.g., Quartiles 2–4), a student's decision to favor a higher-ranked school is certainly rational. Absent any other relevant factors affecting admission decisions (and there are several, which we model), we would expect this initial starting position dynamic to produce an LSAT distribution that at least roughly mirrors the initial starting position hierarchy.

The relative gains and declines in median LSAT scores over time strongly support our initial starting position hypothesis. As shown above in table 3, the median LSAT scores for schools in the top 16 schools have increased an average of 1.69 points on the 180 point scale. Similarly, schools that began this "competition" in Quartile 2 experienced a 0.45 increase in their median LSAT scores, whereas schools in Quartiles 3 and 4 experienced declines (−1.56 and −1.34, respectively).[68] The initial starting position hypothesis is also supported by the regression results. In all regression models specified for Quartiles 2–4, a Quartile 2 starting position was a highly significant variable associated with increases in median LSAT scores ($p \leq .000$). Within Quartile 1, a top 16 starting position was associated with similar gains in median LSAT scores. Although only one of the models results in a p value for top 16 starting position that was less than the standard 0.05 significance level, the p values for Quartile 1 need to be interpreted in light of the small sample size ($N = 44$). Given the small sample size, the p values for the top 16 starting position are relatively low for all three models specified, if not within conventional significance levels.

C. Result 3:
In Quartiles 2–4, Lower Cost Law Schools Appear to Have a Better Yield of High-LSAT Students, but in Quartile 1 Prestige Is More Important than Price.

As shown in regression model 1, status as a public law school in Quartiles 2–4 was associated with a 1.17-point gain in median LSAT scores ($p = .003$). To assess whether this relationship was driven by lower tuition offered to in-state students, we specified other models that utilized more precise measures of student cost, such as in-state tuition, out-of-state tuition, and average student debt upon graduation. All of these models corroborated our hypothesis that the change in a school's median LSAT is partially a function of price.[69] Model 2 substitutes average student debt for public law school status. We focused on student debt because it serves as a composite of several relevant factors, including the size of a state subsidy, scholarship aid, and the fiscal management of a law school. After controlling for starting position, gaming, and

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68. The slightly larger decline in Quartile 3 versus Quartile 4 may reflect a perception among students and employers that there is a negligible difference in prestige among schools in this range of the hierarchy. Hence, for students with lower LSAT scores, considerations of cost and geography, which we also modeled, may be predominant in the decisions of where to enroll.

69. For the sake of brevity, we have omitted summaries of these other models. However, to provide the reader with a concrete sense of the price-LSAT relationship, a $5,000 increase in in-state tuition was associated with a 0.28 decline in a school's median LSAT score ($p = .021$).

locational effects, a $10,000 increase in student loan debt is associated with a 0.34 decline in a school's median LSAT score ($p = .003$).[70]

As mentioned earlier in the narrative for Result 1, within Quartile 1 there is a positive relationship between price and change in median LSAT scores. One possible explanation for this finding is the "Chivas Effect" observed by Longley; that is a law school is perceived as better because it costs more.[71] However, this unusual linkage between price and LSAT scores makes more sense when we consider the interaction between relative prestige, tuition rates, and students' job prospects upon graduation. Specifically, within Quartile 1, *U.S. News* rankings are strongly correlated with tuition.[72] For a risk-averse student, admission to a higher-ranked (and typically higher-priced) law school can be viewed as an insurance policy. In most cases, the significant post-graduation risk of attending a lower-ranked school is not worth the savings in tuition. As a result, schools at the top of the law school hierarchy, by virtue of their favored status among large law firms, are well-situated to extract an economic rent from their students in the form of higher tuition. We will elaborate on this point in Part IV. The nexus between post-graduation job prospects and the market for high-LSAT students is further corroborated by Result 4, which deals with locational effects.

D. Result 4:
In Quartiles 2–4, Law Schools Located in Major Am Law 200 Markets Have a Significant Advantage in Attracting High-LSAT Students.

As Longley first observed, future employment and earnings is a key factor in determining where students apply to law school. We theorized that students would be attracted to law schools that feed into strong regional economies. Although we specified several models that included various measures of regional prosperity, such as population growth and the increase in the number of college graduates, the only variables that produced significant results (and they were remarkably stable and consistent) were the change in the number of Am Law 200 lawyers and the change in

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70. A better model would have controlled for changes in student debt over time. Unfortunately, we were unable to locate a source for this data. The importance of controlling for change is diminished somewhat because of the persistence of a large state subsidy for students at public law schools. For 2004, students at public law schools in Quartiles 2–4 had an average student debt of $48,150 versus $74,455 for students graduating from private law schools in the same cohort.

71. *See supra* note 28–29 and accompanying text. Since Longley served as a pre-law advisor for many years, we are cautious not to dismiss this theory too quickly. It is worth noting that the average socio-economic background of students moves in virtual lockstep with a law school's relative prestige. *Compare* AFTER THE J.D., *supra* note 66, at 20 (reviewing results of large national data set on recent law school graduates and noting that "[t]he more selective the law school, the more likely it is to educate the children of relative privilege, and the less selective law schools are notably more accessible to the less privileged"), *with* SEYMOUR WARKOV, LAWYERS IN THE MAKING 53–56 (1965) (large-scale national study finding that students from more affluent families are much more likely to attend more elite law schools as measured by median LSAT scores).

72. For example, for Quartile 1 schools, the correlation coefficient for 2004 *U.S. News* ranking and in-state tuition is -.576 ($N = 44, p \leq .000$). The coefficient for out-of-state tuition is even higher: -.618 ($N = 44, p \leq .000$).

the number of Am Law 200 offices. These results were somewhat surprising in light of the strong collinearity between the Am Law variables and the data on national demographic patterns.[73]

An illustration based on regression model 2 makes these results more concrete. For law schools in Quartiles 2–4, the addition of 1000 Am Law 200 jobs in a metropolitan area was associated with a 0.167 point gain in median LSAT scores. Obviously, this translates into a large competitive advantage for law schools located in large and growing legal markets. For example, between 1993 and 2003, the three metropolitan areas with the largest Am Law 200 growth (measured by number of lawyers) were New York City (9920), Washington, D.C. (4916) and San Francisco (2937). After controlling for initial starting position, cost, and gaming strategies, a regional law school located in these markets would be expected to respectively gain 1.65, 0.82, and 0.49 LSAT points compared to a school in an MSA without any growth in Am Law 200 jobs.

The robustness of the Am Law 200 variables caused us to speculate further on the relationship between high-LSAT students, who will generally have the most admissions offers, and the employment market for new associates. Beginning with the premise that students who attend more prestigious law schools are in higher demand at Am Law 200 law firms, we theorized that the number of Am Law 200 on-campus interviews is a function of (a) a law school's *U.S. News* ranking, (b) a law school's size (which affects competition from other firms), and (c) a law school's geographic proximity to markets with large numbers of Am Law 200 firms. In other words, on-campus interview (OCI) activity is driven by benefits relative to cost.

To test this theory, we specified a regression model in which the number of Am Law 200 firms who participated in the OCI process was the dependent variable, and the independent variables included: (1) status as a top 16 law school, (2) status as a 2004 Tier 1 law school, (3) 2004 median LSAT, (4) the size of the law school, and (5) number of Am Law 200 offices located in same MSA as the law school.[74] The model, which is summarized in table 7, is a remarkably strong predictor of OCI activity. It also corroborates our earlier findings on the importance of the regional labor market.

Table 7. Model for predicting the number of Am Law 200 firms participating in OCI

Metric	β	Std. error	Std. beta	p
(Constant)	−252.120	55.188		.000
Top 16 law school	68.851**	5.014	0.537**	.000
2004 median LSAT	15.923**	3.840	0.197**	.000
U.S. News Tier 1, 2004	1.609**	0.355	0.242**	.000
Total enrollment	0.032**	0.010	0.111**	.001

73. *See supra* note 57 and accompanying text.

74. Inclusion of actual *U.S. News* rankings as an independent variable would have reduced our sample size because only Tiers 1 and 2 (100 law schools) are numerically ranked. Median LSAT, however, is a fairly accurate proxy for *U.S. News* rank. *See* KLEIN & HAMILTON, *supra* note 4, at 12.

Metric	β	Std. error	Std. beta	p
Am Law 200 offices in MSA, 2003	0.089**	0.021	0.146**	.000
N	174			
Adj. r^2	.840			

NOTE: ** denotes significant at 1% level.

Sources: America's Best Graduate Schools: Schools of Law, U.S. NEWS & WORLD REP. (SPECIAL ISSUE) 28 (2004); *The Am Law 100 2003: A Speeial Report,* THE AM. LAW., July 2003, at 91; *The Am Law 200 2003: A Special Report,* THE AM. LAW., Aug. 2003, at 75.

Although *U.S. News* rankings, LSAT scores, and law school size are important determinates of OCI activity by Am Law 200 law firms, location in a large corporate market also plays a significant role. This effect can be seen quite clearly when comparing the OCI activity of highly ranked law schools in small market locations to lower-ranked schools in large corporate markets. Consider the following:

- 34th-ranked Fordham Law School in New York City has ninety-one Am Law 200 OCI visits versus ninety-three for 12th-ranked Cornell.
- 56th-ranked American University in Washington, D.C., has forty-five Am Law 200 OCI visits versus thirty-one for 23rd-ranked Iowa.
- 94th-ranked Santa Clara, which is located near Silicon Valley in the San Francisco MSA, has thirty-three Am Law 200 OCI visits versus eighteen for 34th-ranked Brigham Young University.
- Tier 3 New York Law School and DePaul (Chicago) both attracted fourteen Am Law 200 law OCI visits versus four for 40th-ranked University of Alabama and three for 50th-ranked University of Kentucky.

Obviously, if the objective is to obtain employment with a large, sophisticated law firm in a major market, a high-LSAT student who was not admitted to a national law school—and "national" may be a fairly narrow group[75]—should favor law schools in large and healthy legal markets.[76] Remarkably, our data provides strong empirical support that many students are indeed following this strategy.

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75. The number of Am Law 200 firms interviewing at top 16 law schools ranged from 161 (14th-ranked Georgetown) to seventy-eight (15th-ranked Texas). A total of nineteen schools attract at least seventy-eight Am Law 200 OCI visits. One school in this group is Howard, which is a historically black law school located in Washington, D.C. Although it is ranked in Tier 3, 114 Am Law 200 law firms participate in its OCI process—more than Yale (100) and Stanford (105)! In general, our data suggests that the historically black law schools do very well in attracting Am Law 200 law firms. Tier 4 North Carolina Central has five Am Law 200 OCI visits versus four for 40th-ranked University of Alabama, and Tier 4 Southern Texas (Thurgood Marshall) had nine, which is the same number for 48th-ranked University of Utah.

76. The locational data used in this study provides a remarkable window on how the shift from an industrial to a high-tech information economy has affected the dispersion of Am Law 200 lawyers. For example, MSAs such as Cleveland, Milwaukee, and Detroit, which all had a relatively large base of Am Law 200 lawyers in 1993, added fewer than 100 lawyers each by 2003. In contrast, MSAs such as Austin, San Diego, Phoenix, and Denver, which started with a much smaller base, each added 300 or more lawyers. For a detailed account of these changes,

E. Result 5:
Gaming Works in Both Quartile 1 and Quartiles 2–4.

The *U.S. News* rankings are calculated using UGPA and LSAT statistics for each year's entering full-time 1L class. The statistics for transfer students or entering part-time students (even if they eventually switch into the full-time program) are irrelevant.[77] As discussed in Part 11.E, this methodology decision by *U.S. News* opens the door for various gaming strategies.

An obvious (and revenue-neutral) way to improve the reported median LSAT score is to shrink the school's full-time program and expand the part-time program, thus permitting a law school to become more selective in its full-time admissions. We tested this strategy for Quartiles 2–4 using a variable that measured the percentage change, between 1992 and 2004, in the ratio of full-time 1L enrollment to total 1L enrollment. As shown in regression models 1–3, this strategy appears to work. For example, in regression model 2, which controls for initial starting position and locational effects, a 10% shift of a 1L entering class from the full-time to part-time program was associated with a 0.54 gain in a school's median LSAT score. Only three of the forty-four Quartile 1 law schools have part-time programs. As a result, we tested an alternative gaming strategy that focused on change in total 1L full-time enrollment. We assumed that elite law schools were well-positioned to admit fewer entering 1L students, receive a credential bump, and make up any loss in revenues by admitting more transfer students who were anxious to improve the pedigree of their graduating institution. Despite the small sample size ($N = 44$), the predicted relationship emerges with p values below the .10 significance level. For example, after controlling for initial starting position, cost, and the number of Am Law 200 lawyers in the MSA, a 10% decline in the 1L class was associated with a 0.37 gain in the law school's reported median LSAT score.

F. Result 6:
In Quartiles 2–4, Changes in Lawyer/Judge and Academic Reputations Are Unrelated to Change in Median LSAT Scores. In Quartile 1, an Increase in Academic Reputation Is Associated with Higher LSAT Scores.

In Model 3, we tested whether change in the lawyer/judge or academic reputation variables was associated with changes in median LSAT scores. In theory, these two reputation variables reflect two plausible strategies for recruiting higher quality students: a law school can (1) improve its stature among judges and lawyers by developing curriculum that specializes in a substantive area of law or emphasizes skills-based training (e.g., law clinics, courses in negotiations, or trial advocacy);[78] or

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see William D. Henderson, *An Empirical Study of Single-Tier Versus Two-Tier Partnership in the Am Law 200*, 84 N.C. L. REV. (forthcoming 2006).

77. This may be about to change. *See* Alex Wellen, *The $8.78 Million Maneuver*, N.Y. TIMES, July 31, 2005, § 4A, at 18 (noting that in response to our suggestion, *U.S. News* is considering such a change).

78. More and better skills-based courses was one of the key recommendations that emerged from an exhaustive report issued by the American Bar Association in 1992. *See* SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, A.B.A., REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE LEGAL PROFESSION, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—

(2) improve its stature among law professors by producing more and better legal scholarship. In Quartiles 2–4, neither of these strategies appeared to be effective. It is worth noting that within this range of the law school hierarchy, change in lawyer/judge and academic reputations were only minimally correlated with each other ($r = .121$, $n = 129$, $p = .086$). Thus, we are confident that our insignificant results are not the product of multicollinearity.[79]

When we ran regression model 3 for Quartile 1, we deleted the variable for change in Am Law 200 lawyers because our earlier results suggested that the local market for new associates was not a significant factor for students choosing among Quartile 1 (i.e., top 44) law schools. Surprisingly, despite the smaller sample size, improvement in *U.S. News* academic reputation was associated with gains in median LSAT scores, even after controlling for initial starting position, top 16 status, gaming, and lawyer/judge reputation. In contrast to Quartiles 2–4, we were concerned about multicollinearity because of the high correlation between changes in lawyer/judge and academic reputation in Quartile 1 ($r = .826$, $n = 44$, $p = .000$). Yet, despite this close linear relationship, changes in academic reputation emerged as a significant variable.[80]

Of course, these results leave open the causal question of whether improvements in *U.S. News* academic reputation are attracting students with higher LSAT scores or vice versa. An alternative theory, modeled by Professor Stake, is that academic reputation is driven by changes in *U.S. News* rankings.[81] Law professors are likely to be more obsessed with *U.S. News* rankings than judges or practicing lawyers; thus, they are more likely to notice minute changes. After all, the prestige of their respective law school, or the law school that might make them a lateral job offer, represents non-monetary compensation. Further, there is at least strong anecdotal evidence that rankings influence placement opportunities for faculty scholarship.[82] Therefore, as schools with higher LSAT scores climb up the *U.S. News* rankings, so does their academic reputation. Professor Brian Leiter, a leading expert on the academic reputation of law schools, who assiduously tracks movement among law school faculty on his weblog, has referred to this dynamic as the "echo chamber" effect.[83]

AN EDUCATIONAL CONTINUUM 233–36 (1992). In legal circles, this document is commonly referred to as the MacCrate Report.

79. Multicollinearity refers to the estimation problems that occur in multivariate regression when two or more independent variables are highly correlated with each other. *See* PETER A. KENNEDY, A GUIDE TO ECONOMETRICS 205–06 (5th ed. 2003).

80. The most common estimating error associated with multicollinearity is that the regression coefficients for the two collinear variables will not be statistically significant even though at least one of the variables has important predictive power. *See* KENNEDY, *supra* note 79 at 208–09. That situation, however, was not present here.

81. *See* Stake, *supra* note 16, at 250.

82. We are now engaged, together with Professors Olufunmilayo Arewa and Kenneth Dau-Schmidt, in an empirical analysis of legal scholarship that will provide evidence to evaluate this effect. In the meantime we can attest to numerous anecdotes that support such a claim, ranging from a phone call to a colleague from an articles editor apologizing for summarily rejecting a submission because the author's school had been misclassified as a lower tier school to several professors' informal experiments of sending out manuscripts with cover letters on different law schools' stationary and getting markedly better results with the higher-ranked school's stationery.

83. *See* Brian Leiter, More on the *US News* Echo Chamber, Leiter Updates (weblog) (April I, 2005), http://leiterreports.typepad.com/blog/2005/04/more_on_the_us_.html (reviewing the

IV. DISCUSSION

Beginning with the first full rankings of ABA-approved law schools in 1992, *U.S. News* set in motion a competitive cycle that has, over time, produced relative winners and losers. Part of this competition, obviously, is attracting high-LSAT students. The results of this study identify several factors that affect the direction of this market. In this final Part, our discussion is divided into two topics. In Section A, we briefly explore some of the features of the equilibrium that has begun to emerge. The endpoint of this competitive landscape is not particularly attractive. In Section B, we draw upon our results to identify several strategies that could be adopted by law school administrators depending upon their school's current market position. We also make one recommendation to the editors of *U.S. News*, which addresses the gaming loophole.

A. Equilibrium in the Market for High-LSAT Students

In the *U.S. News* rankings era, one fact is unavoidably clear: the rich have gotten richer. In terms of attracting high-LSAT students, law schools in the top half of the law school hierarchy have generally benefited at the expense of those schools at the bottom.[84] Schools in the elite top 16 have done particularly well, their median LSAT scores having increased by an average of 1.69 points.[85] Russell Korobkin has argued persuasively that the primary purpose of the *U.S. News* is to provide a market-clearing device for legal employers and law students.[86] Thus, students with good entering credentials, such as a strong undergraduate record and a high LSAT score, can signal these attributes to the market by accepting admission at a highly ranked law school. Law firms also adjust their expectations for new associates depending upon their relative standing in the market.[87] Our study provides limited empirical support for Korobkin's theory: students obviously make enrollment decisions with an eye toward their future employment prospects, but in many cases this will require them to discount law school rank in favor of (a) law school location or (b) law school cost.[88]

2005 *U.S. News* rankings and observing, "What I'm particularly struck by is the "echo chamber" effect . . . namely, that the academic reputation rank of at least the top schools is basically gravitating towards the typical overall *U.S. News* rank of the school—a rank that is, itself, based in large part on that reputation!").

    84. *See supra* tbl.3.
    85. *Id.*
    86. Korobkin, *supra* note 1, at 407–14.
    87. For example, an elite firm may concentrate their efforts at top 10 law schools, while a regional mid-sized firm will not waste its time trying to lure students from Harvard.
    88. *See supra* Part III.C–D. Regarding the dominant effect of rankings on student enrollment decisions, Professor Leiter has disputed the claim of *U.S. News* editors that law students actually pay attention to individual input variables, observing through his own discussions with prospective students that "students appear to be obsessed with overall rank and only that." Brian Leiter, *Measuring the Academic Distinction of Law Faculty*, 29 J. LEGAL STUD. 451, 452 n.2 (2000). That may be true for the relatively elite cohort in the running for admission to the University of Texas Law School, where Leiter teaches. But it is probably not true for students with less impressive numerical credentials who nonetheless want to maximize their future career options—and that group comprises the majority of the law school population.

So what is the equilibrium endpoint of this process—can the rich get any richer? The answer appears to be yes. Schools near the top of the *U.S. News* hierarchy continue to have one enormous competitive advantage: they provide an unfettered entrée to the Am Law 200 marketplace. Even if an elite law degree is sought for the purpose of securing a coveted job in government, academia, or a public interest organization, it also offers the "safety net" of a high-paying job with a corporate law firm. And, at least anecdotally, a degree from a prestigious law school can play a major role in securing government, academic, and public interest jobs. Not surprisingly, our results clearly show that students are willing pay a premium (i.e., incur more debt) to obtain this attractive bundle of employment options.

Table 8. Tuition, tuition increases, and student debt by 1992 *U.S. News* quartile

1992 Rank	Non-resident tuition, 2003		Chg. in non-resident tuition, 1993–2003		Average student indebtedness, 2003	
	Mean	Std. dev.	Mean	Std. dev.	Mean	Std. dev.
Top 16	$31,670	$3387	$15,616	$1431	$76,143	$17,876
Rest of first quartile	$25,805	$5119	$13,320	$2898	$61,283	$16,882
Second quartile	$23,561	$4921	$11,999	$2408	$59,672	$16,225
Third quartile	$22,778	$4313	$11,545	$1982	$63,606	$15,842
Fourth quartile	$20,486	$4659	$10,089	$2531	$65,067	$17,434

As the market for new law firm associates has matured with the aid of *U.S. News* rankings, elite law schools have arguably emerged as oligopolists who enjoy a fair degree of market power. Conventional economic theory predicts that market power will be used to increase price above marginal cost.[89] The breakdown presented in table 8 suggests that elite law schools have, in fact, levied larger tuition increases than the rest of the law school marketplace. The average nonresident tuition at a top 16 law school increased by $15,616, which is approximately $2300 more than the remainder of Quartile 1, $3600 more than Quartile 2, $4000 more than Quartile 3, and $5500 more than Quartile 4. Of course, law schools do not always charge students the full published tuition. Elite law schools have the advantage of offering merit scholarships (i.e., tuition discounts) to students who help the school's LSAT and UGPA statistics; in turn, any revenue shortfall can be made up by charging full tuition to students with lesser credentials.[90] Further, high-ranking law schools are also perennially successful in raising funds from outside donors, which further reduces any potential financial pressure.[91]

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89. *See, e.g.,* JEAN TIROLE, THE THEORY OF INDUSTRIAL ORGANIZATION 65 (1988).

90. Note that most students attending elite law schools come from relatively affluent families. *See* AFTER THE J.D., *supra* note 66, at 20.

91. Richard Matasar, who has served as dean at three different law schools, recently observed:

> [Law schools] with the most resources get the most resources. . . . They can attract
> new gifts form loyal graduates whose generosity is made more likely by the greater

However, as shown in table 8, even students at top 16 law schools rely heavily on student loans, which they intend to repay through the hefty salaries they will later earn at their large firm jobs. Although students of elite law schools have the highest average student debt, their expected post-graduation salaries remain significantly higher than that of graduates of lower-ranked law schools.[92] The result is an effective transfer from the large firms (and so from their clients) to elite and semi-elite law schools. Indeed, the ability to "sell" its graduates at a high price to large corporate law firms enables a highly ranked law school to engage in bidding wars for productive scholars in order to further burnish its prestige. It also finances lighter teaching loads to facilitate more faculty research.[93] The rich are in fact getting richer.

Because deans and faculty at non-elite law schools believe they must emulate the elite law school model of high salaries and light teaching loads in order to improve (or maintain) their current *U.S. News* ranking,[94] there will continue to be enormous upward

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opportunities they received as students at a school whose reputation ensured those opportunities. In short, this market [for fundraising] tracks others–prestige is rewarded. . . . It reinforces the strength of the strong in the market and underscores the precariousness of the position of lower-ranked institutions.

Richard A. Matasar, *The Rise and Fall of American Legal Education*, 49 N.Y. L. SCH. L. REV. 465, 488 (2004). Data obtained for the study corroborated this assessment. The average annual giving for alumni at top 16 law schools in 2003 was $6.6 million versus $847,000 for the rest of the law school hierarchy. The average for schools in Quartile 4 was $458,000.

92.   A law firm associate from a top 10 law school who passed the bar in 2000 has a median salary of $135,000 and a median student debt of $80,000; in contrast, an associate from a top 21–100 law school has a median salary of $73,500 and a median student debt of $65,000. (Note that in determining median student debt only those who had any debt at all were figured into the calculation, those with zero debt equaled 19% within the top 10, and 14% within the top 21–100.) AFTER THE J.D., *supra* note 66, at 75 fig.10.3.

93.   There is surely some irony in corporate America paying for the lifestyles of elite law school faculties, whose views are generally thought to be highly liberal and anti-corporate. The clear segmentation of the law school hierarchy, and the symbiotic relationship that exists between Tier One and the Am Law 200 law firms, is reminiscent of the famous "two hemisphere" theory of lawyers articulated by Heinz and Laumann. *See generally* JOHN P. HEINZ & EDWARD O. LAUMANN, CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR 46–52 (revised ed., Northwestern Univ. Press 1994) (1982). Based on a large empirical study of the Chicago bar, Heinz and Laumann observed that lawyers operated in one of two distinct hemispheres defined by the identify of their clients: those that serve organizational clients, like corporations, and those that provided personal legal services, such as personal injury and family law. Heinz and Laumann noted that these two hemispheres seldom overlapped. In essence, the present law school hierarchy corresponds to these two hemispheres in terms of the proportion of their graduates that end up in each sphere.

94.   *See* Matasar, *supra* note 91, at 482–83 (noting that faculty are "rankings driven," which causes law schools to "reduc[e] teaching loads to free time for scholars to write (and thereby requiring larger faculties or more adjunct hiring); hir[e] faculty who have interests that may be provocative, press-worthy, or attractive to university press and law review editors (and paying them premium salaries or giving them reduced teaching loads); encourag[e] faculty to travel (and supporting it generously); and promot[e] faculty to appear on television, write editorials, participate in national law reform or other social movements (with appropriate support and staff assistance)"); Harry First, *Competition in the Legal Education Industry*, 53 N.Y.U. L. REV. 311, 324 (1978) (theorizing that law faculty seek to maximize "elitist preferences," which include freedom from commercial pressures, such as the need to practice law, reduced teaching loads to

pressure on tuition costs. It is far from clear how law students benefit from these "competitive" forces. Moreover, it is not obvious that the upward spiral of tuition is sustainable in the long run. This study shows that approximately three-quarters of all law schools are already subject to a tradeoff between higher tuition costs and attracting higher LSAT scores.[95] As tuition continues to outpace inflation (or if interest rates on government-subsidized loans eventually go up), public law schools further up the law school hierarchy will probably be able to skim off more students with marginally higher entering credentials. In the coming decade, the highly uneven growth in the major Am Law 200 law firms, favoring a handful of major and mid-sized markets,[96] is likely to become more pronounced.[97] Lower-ranked law schools in high-growth locations will likely have an easier time recruiting candidates with marginally higher LSAT scores; and these gains will come at the expense of their rivals in low growth locations. Law schools without these endowments will find themselves tilting into ever greater headwinds in the market for better numerically qualified students.[98]

With no tangible institutional benefit for subsidizing faculty research,[99] we predict that the day is coming when cost pressures on low-ranked law schools will cause them to either close their doors or experiment with new models of legal education, such as distance learning or the aggressive use of law firm externships. Steep tuition discounts, made possible only through radical reconfiguration of the current law school model, will be the only way to level the playing field.[100] The specter of economic extinction may cause some low-ranked institutions to challenge the ABA accreditation standards, which mandate a number of items—such as number of full-time faculty, teaching loads, and library volumes—that drive up a law school's fixed overhead.[101] As Dean Matasar

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pursue non-classroom activities, and attracting the "best" students, who "provide greater intellectual challenge, and . . . may be easier to teach").

95. *See supra* Part III.C.

96. *See* Henderson, *supra* note 76.

97. At some point, this uneven growth may be mitigated by the arbitrage opportunities of major firms in large markets. *See, e.g.,* Bob Sherwood, *The Rise of the All-in-One Law Firm,* FIN. TIMES (London), July 28, 2005, at 9 (reporting that Orrick, Herrington & Sutcliffe, a large west-coast based law firm, has relocated "its entire global 'back office' functions . . . [to] an operations centre in Wheeling, West Virginia" and that the firm is "considering moving much of its fundamental legal research there" as well). Of course, the emergence of a commodity market for corporate legal services is not necessarily good news for law schools or law students.

98. There is a high correlation between entering credentials, law school grades, and bar passage. *See supra* note 75. Because of this, most law schools are unwilling to make ability-to-pay the primary admissions criteria.

99. *Cf.* Marin Roger Scordato, *The Dualist Model of Legal Teaching and Scholarship,* 40 AM. U. L. REV. 367, 369–70 (1990) (questioning whether production of scholarship necessarily produces better classroom instruction).

100. *See* Matasar, *supra* note 91, at 475 (quoting law school dean noting that "financial pressures may soon challenge the capacity of law schools to continue to raise their prices" and thus "undermine the current model for American legal education in non-prestigious, private, expensive law schools").

101. *See* AMERICAN BAR ASSOCIATION, STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS 2004–05 (2005), http://www.abanet.org/legaled/standards/standards.html. *See also* George B. Shepherd, *No African-American Lawyers Allowed: The Inefficient Racism of the ABA's Accreditation of Law Schools,* 53 J. LEGAL EDUC. 103, 133 (2003) (estimating the cost per student of complying with the library standard alone at more than $4000 based on spending by recently accredited schools).

recently observed, "we may be reaching the end of a golden era for law schools, beginning a period of decline, and putting many schools' survival at risk."[102]

B. Strategies and Recommendations

When the general manager of the Oakland Athletics, Billy Beane, committed himself to a process of detailed statistical analysis to measure how each player contributed to baseball's ultimate endgame—scoring more runs than your opponent— he identified inefficiencies in the market for talent.[103] Armed with this data, he bucked the conventional wisdom of baseball scouts and fielded a championship caliber team with one-third the budget of his large-market rivals. Similar to baseball, legal academia has an insider's culture that perpetuates certain folklore on how the rankings game ought to be played. But, like the scouts, most law professors are likely to generalize from their own experience, are unduly influenced by recent performances, and are overconfident in their own powers of observation.[104] In contrast, we actually have data.

Based on the results of our study, we offer three recommendations to law deans and faculties who are trying to respond ethically but realistically to the *U.S. News* rankings game. By extension, this encompasses the market for high-LSAT students. The fourth recommendation is directed at the editors of *U.S. News*.

1. Recommendation 1:
In a Price-Sensitive Environment, Non-Elite Law Schools Will Fare Better by Emphasizing Scholarships Over Scholarship

A law degree is a substantial financial investment that imposes a significant opportunity cost on students. The results of our study suggest that students tend to rationally approach this important career decision. Elite law schools enjoy inelastic demand for their services because the high tuition they charge is typically outweighed by the better employment options that their graduates enjoy upon graduation. However, this tradeoff changes dramatically as a student's best admissions offers come from law schools further the down the *U.S. News* hierarchy. In some cases, it makes more economic sense to forgo admission to a Tier 1 school in favor of a Tier 2 sehool that feeds into a vibrant legal market. Similarly, other students admitted to the same Tier 2 law school may forgo that option in favor a Tier 3 public law school that offers in-state tuition and a scholarship. In the eyes of that student, the prestige payoff of a Tier 2 school is just too speculative to justify additional student loans.

As the cost of legal education continues to rise relative to a student's expected starting salary, it is certainly foreseeable that these tradeoffs will become more pronounced. The quandary faced by law schools is whether additional tuition or annual-giving dollars should be applied to (a) student scholarships to attract or maintain target LSAT and UGPA scores, or (b) reputation-building activities—such as recruiting renowned scholars, sponsoring a speakers series, or reducing teaching loads

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102. Matasar, *supra* note 91, at 475.

103. *See* Paul L. Caron & Rafael Gely, *What Law Schools Can Learn from Billy Beane and the Oakland Athletics*, 82 TEX. L. REV. 1483, 1491–99 (2004) (summarizing how Billy Beane developed his statistics-driven management philosophy).

104. *Id.* at 1495.

to facilitate greater scholarly productivity, with the hope that a future rankings gain will change the price point of the students they are trying to recruit. From the perspective of law faculty, who govern most U.S. law schools, the latter strategy is preferred because it focuses on something about which faculties care a great deal—the relative position of their faculty vis-à-vis other law schools' faculties.[105] The result is what economists refer to as a "positional externality" because each law school has an incentive to allocate excessive resources on a contest that most of them, by definition, are destined to lose.[106]

Professor Russell Korobkin has argued that law school rankings "can serve a valuable social purpose by promoting the production of legal scholarship," which is a public good that would otherwise be "underproduced relative to its social optimum."[107] Although Korobkin may be right that the faculties of the pre-rankings era were less productive than faculties are today, we see the potential for inflation of the price of legal education with no clear social payoff as at least an equally likely outcome since there is now evidence that legal scholarship is worth considerably less than Korobkin assumes. For example, Professor Thomas Smith has commenced a massive citation study to model the network structure of American case law.[108] Smith reports that 43% of all legal commentary never garners a single citation by a court or another law journal article, based on preliminary results of a companion study focusing on legal scholarship.[109]

Perhaps faculty will feel impoverished when deans begin to scuttle the lecture series and conference travel to put more money into student scholarships. (And for law schools at the top of the *U.S. News* hierarchy, the day of reckoning may be a long way off.) If academic reputations are truly a function of a *U.S. News* echo chamber effect, however, there will be no fallout from shifting from faculty scholarship to student scholarships.[110] Faculty can at least console themselves that there is empirical evidence that median LSAT scores are now more likely to go up. Finally, students will be saddled with less debt, which should count for a great deal.[111]

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105. *See, e.g.*, Matasar, *supra* note 91, at 483 (noting that resources designed to enhance a law school's academic reputation provide only a "tangential relationship to the core education of law students" but have nonetheless become "essential in the arms battle for reputation").

106. *See* ROBERT H. FRANK, MICROECONOMICS AND BEHAVIOR 629–33 (1991) (discussing concepts of positional goods and positional externalities).

107. Korobkin, *supra* note 1, at 405.

108. Thomas A.C. Smith, *The Web of Law* (San Diego Legal Studies Research Paper No. 06-11, 2005) *available at* http://www.ssrn.com/abstract=642863.

109. Thomas A.C. Smith, *A Voice, Crying in the Wilderness, and Then Just Crying*, The Right Coast (weblog), July 13, 2005, http://therightcoast.blogspot.com/2005/07/voice-crying-in-wilderness-and-then.html.

110. *See supra* Part III.F.

111. *See* Shepherd, *supra* note 101, at 134 (noting that high cost of legal education "has closed the legal profession to most people with lower incomes.")

2. Recommendation 2:
Provide Legal Employers With Strong Empirical Evidence
That the Quality of Education Actually Matters

Legal employers play a key role in this market. When law firms rely upon the *U.S. News* rankings to set their hiring practices, they are basically concluding that the quality of educational inputs (entering credentials) is functionally the same as educational outputs (law school graduates).[112] This is remarkable, for they appear to believe that little that law schools do (or fail to do) during three years of instruction affects students' relative desirability in the job market.[113] In short, employers appear to operate on a model of "good quality in, good quality out." Although some law school administrators lament that legal employers are unimpressed by innovative teaching and curricular reforms—or at least not impressed enough to alter their hiring habits[114]—it is at least fair to ask whether law schools have made a strong enough case that legal employers should do so or whether law schools have innovated enough in their curricula to merit legal employers' attention to such details.[115]

For example, if a law school (a) developed a new curriculum that emphasized team work, presentation skills, and practical knowledge of business; and (b) tracked the career paths of program graduates over time and showed that they outperformed a control group of similarly credentialed students, legal employers might take notice.[116]

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112. Korobkin, *supra* note 1, at 408–10 (arguing that the rankings do not measure educational quality, but instead provide a coordinating function that permits the best students, as vetted by the most selective law school admissions, to match up with the most desirable legal employers); Leiter, *supra* note 88, at 454 (contemplating that Korobkin may, in fact, be right); Matasar, *supra* note 91, at 485 (concluding based on his experience as law school dean that legal employers gravitate to highly ranked schools because "they have the highest LSAT scores and the highest undergraduate grades. In short hand: they are the 'smartest.'"); David B. Wilkins & G. Mitu Gulati, *What Law Students Think they Know About Elite Law Firms: Preliminary Results of a Survey of Third Year Law Students*, 69 U. CIN. L. REV. 1213, 1220 (2001) (observing that "[elite] firms focus primarily on signals (such as law school status and grades) as opposed to substantive skills" as evidenced by the lack of substantive questioning during the interview process).

113. *Cf.* Wilkins & Gulati, *supra* note 112, at 1226 (reviewing results of student survey and finding that "beyond Grades and Eliteness, students do not believe that much happens in law school—neither the courses they take nor the impressions that they make on particular faculty members—is relevant to whether they are hired by elite firms").

114. *See* Matasar, *supra* note 91, at 485–86 (discussing incident where partners from major law firms praised the innovation of Chicago-Kent's legal writing program but explained their reluctance to hire more Chicago-Kent graduates, "We can always train smart people to get better, but we cannot train intelligence").

115. Baylor University is arguably the one law school that has fared well in the rankings by explicitly adopting a model that emphasizes teaching over scholarship. *See* Baylor Law Faculty & Curriculum, http://law.baylor.edu/faculty_curriculum/faculty_curriculum.htm (last visited Aug. 30, 2005) (stating that Baylor is "one of the only law schools in the nation in which the granting of tenure is primarily based on a professor's teaching effectiveness"). In 2004, when Baylor was ranked 50th by *U.S. News*, it had the largest differential between its lawyer/judges reputation versus academic reputation of any Tier 1 law school. Despite its relatively weak academic reputation, Baylor has an impressive placement rate with law firms.

116. UCLA, Vanderbilt and University of Tennessee have all recently developed formal

It is worth noting that several prestigious law firms now pay a substantial signing bonus for new associates with JD/MBA degrees.[117] Are these firms merely paying for a paper credential to burnish their self-image, or are they paying for valuable skill set that traditional law students lack? This is an empirical question worth exploring.[118] Law schools that provide better or more secure employment opportunities upon graduation than peer law schools will be rewarded with a better yield of highly qualified students and rise in the rankings. Such a strategy, however, requires a multiyear commitment by the school—to develop, implement, and verify the impact of the new curriculum—something a short-term focus on next year's *U.S. News* numbers does not allow. Our data clearly shows that something as simple as geography can confer a significant competitive advantage. We hold out the hope that providing a focused, relevant education ought to pay comparable dividends for law schools.

3. Recommendation 3:
Regional Law Schools Should Come to Grips With Long-term Trends in the Employment Markets for Their Graduates and Consider New (Even Radical) Ways to Overcome a Poor Location

Access to the most coveted legal jobs varies with geography. Students at non-Tier 1 law schools in fast-growing Am Law 200 locations often enjoy better access to corporate law opportunities than their peers at higher-ranked schools in small or dying markets. Not surprisingly, our data shows that students will trade down in reputation in order to get the superior employment options that accompany a large and growing metropolitan area. In order to maintain their current *U.S. News* rankings, geographically disadvantaged regional law schools need to minimize the relevance of location. Although many legal employers are reluctant to incur the time and expense to interview students at inconveniently located regional law schools, this situation can be countered by instituting placement programs that make it easy for prospective employers to conduct initial screening interviews. If the employers will not come to the students, bring the students to the employers. A half dozen thirty-minute interviews with coveted employers would, in many cases, justify a student's travel and lodging costs. Thereafter, regional law schools can expand their beachheads in these major markets and relentlessly promote their national networks to prospective students and alumni.

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business tracks for their law students. Based on anecdotal evidence from business law professors at two of these law schools, legal employers have shown a willingness to dig a little bit deeper into the class to hire a student who bonded himself by completing the program. These law schools would provide excellent case studies to measure whether these business tracks alter employer behavior.

117. *See* Mark Horvick & Corey Zarse, Indiana University's JD/MBA Program: Unlocking the Potential (Apr. 11, 2005) (PowerPoint presentation on file with authors) (reporting that Kirkland & Ellis, Latham & Watkins, and Milbank Tweed provide bonuses for new associates with JD/MBA degrees).

118. David Schizer, who was recently appointed dean at Columbia Law School, wants to place a big bet on curricular innovation: "Schizer envisions . . . creating special teaching chairs that faculty could apply for, allowing them to spend a year trying out new and, it is to be hoped, innovative, courses to teach. 'It would allow members of the faculty to spend a semester developing something that doesn't exist in the legal academy.'" Lindsay Fortado, *David Schizer, 36*, NAT'L L. J., May 2, 2005, at S15.

Regional law schools should also consider more radical options, such as relocation. The industrial economy that once fueled the legal market in the nation's heartland continues to dwindle. Over the last decade, the number of Am Law 200 lawyers has remained essentially flat in several formerly large legal markets.[119] To pick on just one state, none of Ohio's nine law schools in Ada, Akron, Cleveland, Cincinnati, Columbus, Dayton, and Toledo are in fast-growing legal job markets, and those markets are unlikely to turn around in the short (or possibly long) term. This severely hampers these schools in competition for highly qualified students. If even one of the four private law schools relocated to Phoenix, its graduates would enjoy significantly better job prospects (and the remaining law schools in Ohio would be better off).[120]

Merger is another possibility that struggling regional law schools should consider. Some synergies are obvious. An established law school with substantial resources is located in a declining market. As a result, the school's reputation with national law firms is poised to decline. An underfinanced regional law school in a major market lacks the cachet to effectively compete with several cross-town rivals. A merger delivers a brand name, necessary resources, and a market space that solves both schools' most pressing problems.

4. Recommendation 4:
The Editors of *U.S. News* Should Revisit Their Methodology and Eliminate the Incentives for the Legal Academy to Engage in Academically Unjustified Behavior

Since the advent of the rankings in 1992, the legal academy has consistently demonstrated that it cannot be trusted to provide consumers with honest, reliable data. Periodically, *U.S. News* has published the names of law schools that have submitted false or manipulated data.[121] Of course, all the scofflaws are not caught—indeed, there is a perception that undetection is rampant—which in turn increases the incentive of remaining law schools to innovate new ways of working the numbers. This pattern has caused the editors of *U.S. News* to rely on publicly available LSAT and UGPA scores submitted to the ABA rather than continuing to rely upon law school self-reporting.[122]

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119. *See supra* note 76.

120. University of Nevada's new law school (UNLV), which was founded in 1998, offers a remarkable example of how price and geography can affect a law school's fortunes. As a public law school in one of the fastest growing MSAs in the country, UNLV has catapulted itself into a secure Tier 2 status. Similarly, twenty-five years after its founding in 1980, George Mason University School of Law, which is a public law school on the border of Washington, D.C., now occupies a relatively secure position in Tier 1. GMU's success is, of course, due to more than its location, but we suggest that its success would not be as great if it had been located in Toledo or Wichita rather than Washington, D.C.

121. *See, e.g., LSAT Scores: Disturbing Discrepancies*, U.S. NEWS & WORLD REP., Mar. 20, 1995, at 82 (pointing out discrepancies between LSAT scores supplied to the ABA and those supplied to *U.S. News*, the great majority of which benefited the reporting schools); *LSAT Scores: Disturbing Discrepancies*, U.S. NEWS & WORLD REP., Mar. 18, 1996, at 81 (same); *Fine Tuning Law Ranking*, U.S. NEWS & WORLD REP., Mar. 10, 1997, at 75 (noting decline in the discrepancy of LSAT scores).

122. *See* Wellen, *supra* note 77 (reporting change in methodology to a calculated median based on the 25th and 75th percentiles and quoting *U.S. News* editor Bob Morse that "we heard that some schools weren't computing their median accurately" and that "[w]e wanted to go with

We are going to resist the temptation to heap righteous indignation on law school administrators. As Dean Alex Johnson of the University of Minnesota lucidly explained during his remarks at the Ranking Symposium, his highly principled views of the law school world were exposed as hopelessly simplistic once he was inside the dean's suite.[123] Everyone—students, faculty, alumni, and potential donors—wants higher rankings and there is hell to pay if a law school slips even one notch. Law school deans may despise the effects of the *U.S. News* rankings on legal education, but they simultaneously feel a duty to their constituents (and are under pressure from those constituents) to use every measure reasonably available to protect and improve their *U.S. News* rankings. And over time, the definition of "reasonable" gets stretched to the breaking point. We are indeed caught in a "positional arms race." [124]

This dynamic explains why many law schools are restricting admission to their full-time 1L class while simultaneously expanding their part-time program and/or admitting more transfer students.[125] These maneuvers have little obvious educational merit.[126] But the results of our study provide strong empirical evidence that they work to drive up the median LSAT scores. The deans cannot fix this problem, but *U.S. News* can by eliminating the part-time "loophole" and calculating LSAT and UGPA inputs based on scores for the entire first-year class. Also, they should work to obtain data on the number of transfer students who enter and leave each law school. Insofar as a law school admits more 2L and 3L visiting students than it loses through attrition in the 1L class, *U.S. News* should penalize schools in the rankings for engaging in such behavior by including a measure of net transfers in the rankings formula.

CONCLUSION

In this study we have explained a significant portion of the change in median LSAT scores during the *U.S. News* rankings era. We have six specific findings: (1) the market for high LSAT scores is divided into two segments that operate under different rules; (2) initial starting position is a strong predictor of the future gain or loss in LSAT scores; (3) the allure of the high-end corporate law firms causes a significant portion of students to discount the importance of rankings in favor of locational advantages related to the regional job market; (4) students will pay a tuition premium to attend elite law schools, but are likely to trade a higher ranking for lower tuition when deciding among non-elite schools; (5) neither change in academic reputation nor lawyer/judge assessment correlate significantly to change in LSAT scores; and (6) two well-known gaming strategies for driving up median LSAT scores appear to work. Although median LSAT score is only one of the components of the *U.S. News* ranking system, it is a highly visible one that is often seen by faculties as an important barometer of the efficacy of admissions offices. This use is misplaced as our

verifiable data").

123. *See* Alex M. Johnson, Jr., *Destruction of the Holistic Approach to Admissions: The Pernicious Effect of Ranking*, 81 IND. L.J. 309, 348–50 (2006).

124. *See* FRANK, *supra* note 106, at 630.

125. *See* Wellen, *supra* note 77 (discussing actual examples of both strategies).

126. One can justify part-time programs for weaker entering students as giving those students the opportunity to focus their efforts on fewer courses, and thus easing the transition to law school. It is, however, difficult to disentangle the academic motive from the rankings motive when a school dramatically expands such a program.

investigation suggests that many of the factors that influence the change in median LSAT scores are beyond the control of the admissions office. If a law school is going to improve its position in the rankings, its faculty is going to have to stop blaming the admissions office and start taking ownership of the problem.

The practical implication of our study, and other recent empirical work on rankings, is to echo the lessons of *Moneyball*,[127] which Paul Caron alluded to during his opening remarks to this Symposium. In *Moneyball*, Michael Lewis recounts how the market for baseball statistics grew first outside baseball management—a puzzle, since there should have been demand for it inside baseball management.

> Everywhere one turned in competitive markets, technology was offering the people who understood it an edge. What was happening to capitalism should have happened to baseball: the technical man with his analytical magic should have risen to prominence in baseball management, just as he was rising to prominence on, say, Wall Street."[128]

Not until Billy Beane, manager of the Oakland A's, grasped the potential of statistical analysis for baseball teams did anyone inside baseball systematically incorporate statistics into management. Just as in baseball in the 1980s, law school management (that is, faculties and deans) have not yet grasped the importance of looking at the right statistics. Old-style baseball scouts based their decisions on whether a player looked right; Billy Beane taught baseball that it was the statistical assessment of a player's performance and potential to contribute to winning games that mattered.

Law school prestige has always mattered to students, faculties, and employers. But the advent of *U.S. News* rankings has heightened the competition among schools by giving prospective students and employers a means of comparing law schools. Therefore, it should not be long before law schools begin to refine their admissions practices (and their strategic plans generally) through the aid of statistical techniques such as multivariate regression of a variety of performance measures.[129] And we predict that those who scoff at this suggestion will eventually pay a price in the *U.S. News* rankings. Although this process might, in the aggregate, damage the collective enterprise of legal education, deans and law faculty who stand on "principle" will do so at the expense of their constituents. Bringing the force of data to bear on legal education will be as difficult as it was to change baseball's attitude toward data—legal education, like baseball, is only quasi-competitive. (Baseball has its league offices; legal education has the AALS and ABA.) But, like it or not, change is on the way.

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127. MICHAEL LEWIS, MONEYBALL: THE ART OF WINNING AN UNFAIR GAME (2003).

128. *Id.* at 88.

129. For example, admissions offices can model whether candidates fitting a particular profile are likely to enroll, thus improving selectivity and other *U.S. News* inputs. Paul Caron and Rafael Gely have already constructed a simple model, identifying indices of future scholarly productivity, that debunks conventional theories relied on by appointment committees. *See* Caron & Gely, *supra* note 103, at 1539–44.

Appendix. *U.S. News* top 20 law schools, 1987 and 2004

School	1987 Position	2004 Position
Yale University	1	1
Harvard University	1	2
University of Michigan	3	7
Stanford University	4	3
Columbia University	4	4
University of Chicago	6	6
University of California, Berkeley	7	13
University of Virginia	8	9
New York University	9	5
University of Pennsylvania	10	7
University of Texas, Austin	11	15
Duke University	12	10
Georgetown University	13	14
University of California, Los Angeles	14	16
Cornell University	15	12
Northwestern University	16	10
University of Southern California	17	18
University of Illinois	17	27
University of Minnesota	19	19
University of Wisconsin	20	31
Vanderbilt University	—	17
George Washington University	—	20
Notre Dame University	—	20
Washington University	—	20

Sources: *Brains for the Bar*, U.S. NEWS & WORLD REP., Nov. 2, 1987, at 72; *America's Best Graduate Schools: Schools of Law*, U.S. NEWS & WORLD REP. (SPECIAL ISSUE) 28 (2004).