

## **Pro Bono as an Elite Strategy in Early Lawyer Careers**

Abstract: This chapter will appear in the forthcoming book edited by Robert Granfield and Lynn Mather entitled *Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession* (Oxford University Press 2009). Drawing on the sociological theory of Pierre Bourdieu and data from the first wave of the After the J.D. Project, the chapter examines the way that pro bono reflects and reinforces professional hierarchies evident also in the construction of legal careers. Taking as a starting point Bourdieu's work on the "interest in disinterestedness," this chapter examines the social distribution of pro bono service by looking at the backgrounds of pro bono practitioners and their work settings. We also investigate the relationship between pro bono work and job satisfaction, finding that there is indeed a symbolic and tangible value to disinterestedness. Finally, the chapter also finds that orientations and dispositions towards pro bono work themselves reflect and reinforce the hierarchy of the profession.

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## **Introduction**

The conventional argument –from the organized bar and scholars alike – is that lawyers have a moral obligation to perform pro bono service. Pointing to the large unmet need for legal services, scholars argue that members of the bar must be enlisted as part of a moral commitment to serve people who otherwise cannot afford legal assistance (Rhode 2005). Others build a parallel argument that lawyers are obligated to provide pro bono legal services because of the monopoly they are granted over the provision of legal services (Christensen 1981; Sossin 2008). In other words, in order to sustain the legitimacy of the bar’s monopoly, lawyers must demonstrate a commitment to access to justice for disadvantaged individuals. From this vantage point, the goal is to encourage more lawyers to provide more pro bono services.

In contrast, a second literature recognizes pro bono as one aspect of market promotion (see Lochner 1975). This view posits pro bono work as a kind of “loss leader.” It introduces clients to the potential advantages that come from legal services at the same time as helping to sustain a network of referral business. This is most trenchantly highlighted in Richard Abel’s (1988) work that demonstrates how legal aid in England and in the United States helped to build the demand for legal services. And it is equally demonstrated by the fact that movement to document the unmet “legal needs” of ordinary American through systematic surveys (e.g. American Bar Association 1994) was part of an effort to build demand for lawyers as the key agents for solving problems that may have a legal component (c.f. Blankenberg 1999). Rather than focusing solely on the demand-side for pro bono legal services, work that emphasizes the beneficial economic

consequences of pro bono demonstrates that the enterprise of providing free legal services is not separate from the business of making money and serving powerful clients.

These two general approaches – legitimacy and demand creation – can be assimilated into a Bourdieusian perspective on the legal profession. This perspective is especially relevant to exploring the dynamics of semi-autonomous fields such as law – spaces of competition involving “players” who compete according to the “rules of the game” of the field. Of particular interest according to this perspective is the social construction of the rules of the game within a particular field, the kinds of capital that are valued in the field, and the behavior of those who compete for success. The voluminous literature on pro bono, which assiduously proclaims the goodness of those who do pro bono work, serves to build the field while re-enacting and supporting the behavior that the field encourages and rewards (see review in Rhode 2005).

Bourdieu’s 1998 lecture entitled “Is a Disinterested Act Possible?” provides a useful starting point to situate pro bono activity within the patterns of behavior of actors in the legal field. In contrast to the legal profession’s largely promotional and selfless view of pro bono, Bourdieu (1998) indicates that activity in a particular field may be *at the same time* interested (vs. disinterested) *and* altruistic. Within a Bourdieusian framework, then, one does not merely counterpose altruism to selfishness. Rather, an actor who has internalized the rules of the game of the field will orient his or her strategies according to those rules. This orientation implies a conscious or unconscious stake in the game, and a feel for what might advance their position within the game.

The “habitus” is what Bourdieu (1977) terms the behavior oriented toward the rules of the game of the field. It is not that the actor necessarily expects any reward, much

less a financial one, or that there is any rational cost-benefit calculation, but rather that the activity is part of the internalized game. In Bourdieu's (1998: 87) terms, "[i]n well-constituted societies of honor, there may be disinterested habitus, and the habitus-field relationship is such that, in the form of spontaneity or *passion*, in the mode of 'it is stronger than me,' disinterested acts can be carried out." There are those who passionately conform to what honor dictates with no expectation of reward. Such well-meaning lawyers are easy to locate in the world of pro bono legal services. It is not that all behavior is pure, however, "[w]ithout doubt the social universes within which disinterestedness is the official norm are not necessarily governed throughout by disinterestedness: behind the appearance of piety, virtue, disinterestedness, there are subtle, camouflaged interests..."

The notion of a field which makes disinterestedness a norm leads to the question of how that norm relates to the structure of rewards within the field. Again, in Bourdieu's (1998:88) terms, "[i]f disinterestedness is sociologically possible, it can be so only through the encounter between habitus predisposed to disinterestedness and the universes in which disinterestedness is rewarded." More concretely, based on an empirical examination of individuals who acted according to the norm of disinterestedness fostered within the field, Bourdieu notes that "[b]y 'getting into line' with the official norm, they managed to add profits provided by conformity with the universal to profits that an 'interested strategy provides" (89). They actually gained more economic reward than they would have if they had failed to act in a disinterested fashion. It might therefore be hypothesized that in certain fields "it is better to seem disinterested, as generous and altruistic rather than egotistical..." (89).

We wish to draw on this theoretical perspective to better understand pro bono work in the legal field. First, as suggested in the preceding paragraphs, the legal field tends to be structured in order to reward those who work to sustain the legitimacy of the field as a whole. That means, to simplify a point that we will not develop here, pro bono generally helps to legitimate a system whereby the overwhelming amount of resources work to sustain corporate power and clients with substantial economic means (Dezalay and Garth 2004; Gordon 2008). The rewards to altruism may be material or symbolic. They may accrue to those who have internalized the norms of the field or to those who hypocritically advance by pretending to embody the universal norm.

Second, drawing on more general applications of Bourdieu's theory to the sociology of law, we posit that there is a division of labor within the legal field such that elites take the lead in promoting the ideals of the profession while also reaping the profits that come from those ideals (Dezalay and Garth 2004). They and their law firms, for example, compete to gain recognition for pro bono activity and public service (e.g. Cummings 2004). Third, the rank and file of the profession typically does not have quite the same orientation to those ideals, since ordinary practitioners have to survive and make a living. They need in the first place to build a demand for their services. They are judged within the profession as a whole, however, according to a definition of pro bono that makes more sense in legitimating legal services to large corporate entities.

Fourth, the division of labor within the legal field tends to reinforce social advantage and disadvantage (Heinz and Laumann 1982). The strategy of investment in professional virtues is relatively more available to those who are socialized in the virtues of noblesse oblige and are in a position to implement the strategy (Garth 2004). Elite

status is confirmed in part because of the enactment of legal virtue – and the apparent distance it provides from the pure commerce of providing legal services.

It is not just a matter then of seeing what the incentives are for pro bono in different legal environments. Of course, as scholars have shown, large law firms with substantial resources and programs for the encouragement of pro bono are bound to generate more pro bono than firms that have no such programs (Cummings 2004; Boutcher 2008). Similarly, the “pro bono” that takes place among solo and small firm practitioners is more likely to be loss leader marketing than pro bono in the large firm sense, even though it still provides service to individuals who cannot afford them (Levin 2008; Lochner 1975; Seron 1996). The data we describe below certainly confirm these general findings. Following our Bourdieusian approach, the further questions we wish to explore involve who invests in pro bono, whether it is rewarded (or whether there is evidence of such rewards early in careers), and how that investment may relate to structures of hierarchy in the profession and society as a whole.

These questions can be loosely formulated into the following hypotheses:

1. Lawyers in larger corporate law firms will be more encouraged to do pro bono;
2. Those from higher socioeconomic backgrounds or its proxy, elite schools, will be more likely to do pro bono;
3. Pro bono is a career strategy that is rewarded materially and symbolically.

## **Data and Methods**

This paper relies on the first wave of data from the After the JD (AJD) study, a national longitudinal survey of law graduates (Dinovitzer et al. 2004). The study is based

on a sample representative of the national population of lawyers who were admitted to the bar in 2000 and graduated from law school between June 1998 and July 2000. The sampling design used a two stage process. In the first stage, the nation was divided into 18 strata by region and size of the new lawyer population. Each stratum was then divided into primary sampling units (PSU), comprised of a metropolitan area, portion of a state outside large metropolitan areas, or entire state, and one PSU was chosen within each stratum. The PSUs included all four “major” markets, those with more than 2,000 new lawyers (Chicago, Los Angeles, New York, and Washington, DC); five of the nine “large” markets, those with between 750 and 2,000 new lawyers (Boston, Atlanta, Houston, Minneapolis, San Francisco); and nine of the remaining, smaller markets (CT, NJ remainder, FL remainder, TN, OK, IN, St Louis, UT, OR). In the second stage, individuals were sampled from each of the PSUs at rates that would, combined, generalize to the national population. In addition, the study included an oversample of 1,465 new lawyers from minority groups (Black, Hispanic, and Asian American). For purposes of the present analysis, we analyze data from the sample that combines the nationally representative sample of lawyers and the oversample of minority lawyers. These responses were weighted according to their appearance in the particular geographic region from which they were sampled.

The final sample included 9,192 lawyers in the 18 PSUs. Data collection was based on a mail questionnaire initially fielded in May 2002, with nonrespondents followed up by mail and phone (with the telephone survey using a somewhat abridged version of the mail questionnaire). Unfortunately, about 20% of sample members could not be located and another 8% were not eligible for the study; but of the original sample

members who were located and who met the criteria for inclusion in the study, 71% responded either to the mail questionnaire or to a telephone interview, for a total of 4,538 valid responses.

### **Analysis**

We begin by offering an overview of the patterns of pro bono work in the AJD sample. Table 1 outlines the distribution of pro bono by practice settings. It is not surprising to find that across the profession, lawyers working in legal services and non profits report the highest average hours of pro bono work (261 hours and 80 hours, respectively), though the data suggest that some respondents count their regular work hours as pro bono work. Among those working in private law firms, the highest number of pro bono hours – as expected – are found among those working in the largest firms of over 251 lawyers, with about 70% of these lawyers engaging in some pro bono work. In these largest corporate law firms, lawyers performed an average of 73 hours of pro bono work in a 12 month period, which is a full 26 hours more than the amount of pro bono work in the settings with the next highest averages (firms of 101-250 lawyers and solo practice). In private law firms we find that pro bono hours decline as firm size declines, though it flattens out among the smaller firms of between 2-100 lawyers. Another constituency that reports fairly high levels of pro bono is solo practitioners, with almost 80% of these lawyers reporting that they do some pro bono work, and with the average solo practitioner engaging in 47 hours of pro bono service. As researchers have noted for some time, the nature of pro bono work for solo practitioners is quite different than that in corporate firms (Cummings 2004; Lochner 1975), but the AJD data do not differentiate across types of pro bono work.

Since the pressure to provide pro bono services is focused on lawyers in private practice (Boutcher 2008; Cummings 2004), and since some lawyers in the public sector do not differentiate between their regular work and pro bono work, or are limited in their ability to provide pro bono services (e.g. lawyers for government), the remainder of our analyses will focus on AJD lawyers who are working in solo practice and in private law firms. This narrowing of our focus will allow us to hold private practice setting constant, and to better explore who invests in pro bono and how that investment may relate to patterns of stratification in the profession.

We begin by considering the relationship between law schools and pro bono service. As we have shown elsewhere, there is a strong relationship between law school eliteness and the settings within which lawyers work, with graduates of the country's most elite law schools obtaining positions in large corporate law firms (Dinovitzer and Garth 2007). Our prior analyses also indicated that the rank ordering of law schools is step-graded, with status indicators such as parental occupational prestige, working in a corporate law firm and salary declining monotonically with law school rank. This pattern of stratification follows almost perfectly through into the arena of pro bono service. As indicated in Table 2, the average hours of pro bono peak at 90 hours for graduates of top ten schools and decline to a low of 31 hours for the U.S. News category of Tier 3 graduates; the anomaly is that graduates of U.S. News fourth tier law schools engage in more pro bono work than their counterparts from schools ranked 41-100. It may be that graduates of the fourth tier are more committed to pro bono work (and we will explore this possibility further below) and will find ways to engage in public service even if their work settings do not explicitly promote or reward it; alternatively, some may argue this

anomaly may be the result of market forces, with these graduates relying on pro bono to account for unpaid client bills or to build up their client base, or perhaps they are not getting as much responsibility and client work as they would like in law firm settings.

The patterns of pro bono work by gender and race reveal some expected and surprising patterns (Table 2): African American respondents engage in the most pro bono work (66 hours) and Hispanics (for no apparent reason) the least (37 hours), while women on average engage in about 4 more hours of pro bono work per year than men (48 vs. 44 hours). Since practice settings are such strong determinants of participation in pro bono work, we also stratified the race and gender results by practice settings. The data indicate that Black lawyers on average engage in more pro bono service, but only in particular settings; thus in larger law firms (and especially in the largest law firms) Black lawyers engage in more pro bono work than other lawyers (106 hours in firms of over 251 lawyers compared to 72 hours for white lawyers in these firms), but in small and solo practice the averages are much more similar. Stratifying by firm size also demonstrates that Hispanic lawyers report some of the highest pro bono hours in the largest law firms (76 hours), but that Hispanic respondents working outside of the largest firms report lower pro bono hours than the average lawyer. Thus the earlier finding of lower pro bono hours among Hispanic respondents seems to be due, in large part, to the settings within which they work. We speculate that the higher rates of pro bono for Black lawyers especially in large law firms may derive from a greater commitment to ‘helping others;’ alternatively it may be that Black lawyers do not expect to be staying in these settings, and are gaining the skills and experience necessary to move elsewhere. The data for

women, on the other hand, are much more consistent, with women reporting higher hours compared to men in all settings except for sole practice.

The patterns we identify above highlight a stratification in pro bono service, with more elite law school graduates and corporate lawyers in the largest firms more likely to engage in pro bono work. These patterns are closely related to, and in part derive from different orientations and dispositions towards engaging in pro bono work. As we show in Table 3, lawyers who perform the most pro bono work report that pro bono opportunities were an extremely important factor in their job choice: these lawyers report an average of 98.5 pro bono hours. In contrast, lawyers who rated pro bono as not at all important in their choice of first job reported an average of 34.5 pro bono hours. We also find that engaging in pro bono activities during law school is related to the number of pro bono hours lawyers perform once they are in the job market, with prior pro bono experience resulting in about 14 more hours of pro bono service. Finally, we analyze the patterns of pro bono based on respondents' ratings of their desire to help individuals as a goal in their decision to attend law school. The results in Table 3 indicate that while the average pro bono hours are almost identical regardless of their desire to help individuals, respondents who indicated a desire to help individuals are more likely to report engaging in some pro bono work compared to none (7.6% vs. 28.4%).

### **Multivariate models**

The findings thus far provide a glimpse into the potential relationships between pro bono and the stratification of legal services. Further analyses are required to better determine both the sources of capital that drive pro bono service as well as the sources of capital that pro bono may produce. We begin with an analysis of the determinants of pro

bono service. Respondents in the AJD survey were asked to report the number of pro bono hours they performed during the last 12 months; almost 40% reported that they performed no pro bono hours in this time period. As a result, the variable for pro bono hours is left censored, with a large proportion of 0 responses. In order to adjust for the skewness of this variable we employ a Tobit regression. This technique provides us with both an estimate of the probability that an individual will engage in any amount of pro bono work (a nonzero result) and an estimate for the predictors of the number of pro bono hours for those who report any pro bono service. Finally, since there were a number of outliers (n=8) in the respondents' reports of pro bono hours, we top coded pro bono at 400 hours.

We approach our analysis with a series of nested models, adding the explanatory variables in stages. In the first model we control only for demographic characteristics (gender, race and father's occupational status); the second model introduces dummy variables for law school eliteness (relying on rankings published in the US News and World Report 2003) and law school GPA; the third model introduces variables for work hours and law firm size; and the fourth model introduces a range of variables that represent mechanisms that may lead some individuals to engage in more pro bono work than others. These include a dummy variable representing whether respondents were engaged with pro bono work while in law school; a variable that represents respondents' ratings of whether they attended law school in order to help individuals (rated as 1=irrelevant through 5=very important); a variable that represents whether respondents' law firm allows them to count their pro bono hours as billable time; and an interaction term that represents top ten law graduates who work in the largest law firms. This

interaction term is an important test of our hypothesis that engagement in pro bono is not merely the result of working in settings that facilitate pro bono, but rather is also produced by a particular orientation that is found among a subset of lawyers – in this case, elite law school graduates working in large law firms. The results are presented in Table 4.

The first model shows that despite the bivariate relationship seen earlier between race, gender and pro bono hours, in the multivariate context we find only a weak significant effect for Hispanic respondents who engage in fewer pro bono hours. The second model, as expected, shows a positive and significant effect for top ten and top twenty law school graduates, who engage in significantly more pro bono hours than graduates of fourth tier law schools. We also find a strong positive and significant effect for law school GPA, with higher GPAs corresponding to an increase in pro bono service. In this model, once we control for practice settings and GPA, we find a positive and significant (though weak) effect for Black respondents, who engage in significantly more pro bono hours than their white counterparts. The third model introduces practice settings. As expected, respondents working in the largest law firms (of 251+ lawyers) engage in significantly more pro bono work compared to their counterparts working in solo or small law firms; in contrast, those working in medium firms of 21-100 lawyers engage in significantly less pro bono than their solo and small firm counterparts.

The fourth and final model introduces the range of mechanisms that might help further contextualize the relationship between social position, dispositions, and pro bono hours. We find strong evidence that the trajectories that lead people to the most prestigious positions are strongly related to pro bono work, and that these trajectories are

set quite early in lawyers careers. First, we find that the more strongly respondents identify helping individuals as an important goal in their decision to attend law school, the more pro bono hours they perform. This finding is in keeping with prior research (Granfield 1992; Erlanger 1996) that identifies the relationship between an initial commitment to public interest and the likelihood that law graduates will pursue public interest jobs. We also find that new lawyers who engaged in pro bono work during law school perform more pro bono hours once they are in practice. While these two findings support our contention that engagement in pro bono work is part of a broader orientation that is cultivated before lawyers enter the labor market, we also find that law firm programs themselves are important facilitators of pro bono work -- respondents who work in firms where their pro bono hours count towards their billable hours engage in significantly more pro bono work compared to respondents who do not have such programs available. Thus while an orientation to pro bono service is an important predictor of taking up this work, we do find evidence that, independent of this orientation, external programs that facilitate pro bono work are an important part of the story.

Finally, we consider the effect of the interaction term representing top ten law graduates working in the largest corporate law firms, which is positive and significant ( $p < .10$ ). This interaction effect suggests that pro bono service is not merely the result of working in large corporate law firms, where the average pro bono hours are higher than in other settings. What we instead find is that elite law graduates working in the largest corporate law firms engage in significantly more pro bono work than their peers: this

suggests that there is a structure to pro bono work that reflects the hierarchy of the profession, with elite law graduates bestowed with the role of noblesse oblige.

To this point we have considered the structural positions and dispositions that relate to engaging in pro bono work. Yet to fully flesh out Bourdieu's perspective we need to also document whether the orientations and dispositions towards pro bono work themselves reflect and reinforce the hierarchy of the profession. As Bourdieu (1998) notes, dispositions – in this case attitudes towards pro bono – both reflect and legitimate social differentiation. The AJD survey contained a question asking respondents to rate the importance of pro bono work in their job choice. An analysis of responses to this question can help us to differentiate whether the responses reflect a social patterning that is consistent with our hypotheses. Confirming Granfield's (2007) analysis of support for mandatory pro bono programs, we find a strong gender effect, with men significantly less likely than women to give high ratings to pro bono opportunities. With respect to our hypotheses, the results we present in Table 5 are remarkably clear: an OLS regression predicting the importance of pro bono as a factor in lawyers' job choice indicates that elite law graduates rate pro bono opportunities more highly than do graduates of lower tier law schools, independent of characteristics such as race and gender. These results suggest that for elite law graduates, an orientation to service is inculcated before they even enter the labor force. This orientation is produced at least in part by the law schools themselves: we find that 50% of respondents who attended top ten law school reported engaging in pro bono work while in law school compared to 23% of fourth tier graduates. While support for pro bono among elite students is likely due to the relative entrenchment of pro bono programs in elite law schools compared to non elite schools (AALS 2001),

elite law graduates carry these orientations with them into their job preferences and into their legal careers.

Taken together, our findings describe a system whereby an orientation towards pro bono service is especially inculcated, promoted and nurtured in particular law schools, with these elite graduates going on to work in the country's most prestigious and high paying corporate law firms. These firms themselves continue to promote noblesse oblige by allowing their associates to count their pro bono hours as part of their billable hours, and as a result the elite law graduates continue to engage in pro bono work while at the same time serving business.

### **Pro bono and its rewards**

An important part of our account is that pro bono service is not an end in itself. Engaging in pro bono work is part of the game of new lawyer careers, with pro bono service functioning to provide far more than free legal services to those who could not otherwise afford it. We hypothesize that for some lawyers in private practice, engaging in pro bono service allows them to provide a moral meaning (c.f. Lamont 2000) to their work in corporate law firms, with pro bono providing symbolic capital in the form of moral justification. For others, we expect that pro bono service can provide a more tangible form of capital, with pro bono serving as a form of training, giving new lawyers opportunities to meet with clients and go to court – opportunities which would not otherwise be available to junior associates in large law firms. And for others, pro bono may help to build stature and connections that lead to material and other career rewards over time. Either way, we posit that pro bono work is often translated into other forms of

capital, and analyzing these transformations can allow us to better understand the value of disinterestedness in new lawyer careers.

We explore these hypotheses by examining the relationship between pro bono work and four forms of job satisfaction, which we have described elsewhere (Dinovitzer and Garth 2007). The first form represents “job setting satisfaction,” consolidating ratings of recognition received at work, relationships with colleagues, control over the work, and job security. The second form is “work substance satisfaction,” which reflects the intrinsic interest of the work, including ratings of satisfaction with the substantive area of their work and opportunities for building skills, while the third form, “social value satisfaction,” concerns the reported relationship between work and broader social issues (workplace diversity, opportunities for pro bono work, and the social value of the work). The fourth form, “power track satisfaction,” is comprised of two items: satisfaction with compensation levels and satisfaction with opportunities for advancement. We again rely on the subsample of lawyers working in private practice to estimate four separate models of job satisfaction – one each for satisfaction with job setting, substance of work, the social index, and the power track; the results are displayed in Table 6.

The results for the model predicting satisfaction with their job setting suggest some patterns seen before (Dinovitzer and Garth 2007): lawyers working in the large corporate law firms are less satisfied with their job settings than are lawyers working in small and solo practice, as are lawyers working in the nation’s largest cities. On the other hand, we find that graduates of top ten law schools are more satisfied with their job setting (compared to graduates of fourth tier law schools), as are graduates of top 20, top 40 and top 100 law schools. Our main interest, however, is in examining the relationship

between pro bono work and job satisfaction. In this model, and in the subsequent three, we rely on two variables for pro bono work because of the skewed nature of this variable. We include a dichotomous variable to reflect the large proportion of individuals who do not engage in any pro bono work, and we include a continuous variable to measure the effect of the actual number of pro bono hours worked. The results indicate diverging effects for these two variables: we find a significant positive effect for respondents who perform any pro bono work, indicating that doing some pro bono work compared to none significantly increases satisfaction with job settings. In contrast, the variable representing the number of pro bono hours is negative and significant, indicating that as pro bono hours increase, satisfaction with job settings decreases. These diverging effects present an interesting paradox: while engaging in pro bono work as a general matter increases satisfaction, working more pro bono hours actually counters this positive effect. We return to this point below.

The second model predicts satisfaction with substance of work. Here we find a significant and positive effect for GPA, with satisfaction increasing alongside GPA. The law school effects are mostly not present in this model, except for the positive and significant ( $p < .10$ ) effect for graduates of top 40 law schools. We continue to find a negative effect for working in large cities, a surprisingly positive effect for work hours, and we again find that working in the largest law firms decreases satisfaction. The two pro bono variables display similar effects as before: engaging in some pro bono versus none increases satisfaction with the job setting, but the increase in pro bono hours produces a negative effect for this form of job satisfaction.

The model for satisfaction with the social index suggests that white respondents are more satisfied with this aspect of their job, but we continue to find negative effects for those working in large cities and large law firms – though this time we find a negative effect for those working in medium-sized firms as well. Considering that we are examining satisfaction with the social value of work, the effects of pro bono do not diverge. We find that engaging in any pro bono work compared to none significantly increases satisfaction with the social index, and while the variable for pro bono hours is positive, the effect is not significant.

The final model considers satisfaction with the power track – that is, satisfaction with compensation and opportunities for advancement. As expected, men are more satisfied with this aspect of their position. Satisfaction with the power track also increases along with GPA, with graduation from a top 20 and top 40 law school, and with increased work hours; satisfaction again decreases for those working in large cities. The effects of pro bono in this model are straightforward: engaging in any amount of pro bono compared to none increases satisfaction with the power track, while the number of pro bono hours does not have a significant relationship with this form of satisfaction.

Taken together, the four models of job satisfaction are instructive: engaging in some pro bono work (compared to none) provides a sense of satisfaction for respondents, regardless of how we measure satisfaction. But the models for setting and substance satisfaction suggest a more complex story: in both models, engaging in more pro bono hours significantly decreased satisfaction. The diverging effects of pro bono suggest that pro bono provides a symbolic good – it is not how much pro bono one does, but the fact of doing it that provides lawyers with job satisfaction. In this way, pro bono seems to

provide a veneer of doing good for lawyers working in private practice, a form of symbolic capital that new lawyers can draw on to assuage their (dis)satisfaction with their new careers. Our models also suggest that pro bono may also provide a more tangible form of capital: we find that engaging in pro bono work increases satisfaction with the substance of work, which includes ratings of satisfaction with training and with the substantive area of work. As such, pro bono may be providing a form of training and engagement with substantive issues that new lawyers may not otherwise have access to, and which allows them to make sense of their own careers and their workplaces. This engagement may be making palatable an otherwise unpleasant status quo in the work lives of young associates. Law firms do not give associates enough interesting and challenging work so that associates rely on pro bono work to fulfill their intellectual needs as well as their demands for more practical training.

Success in law firms, however, depends on an interaction between pro bono and serving paying clients. Too much pro bono may signal a lack of work from paying clients (or the partners who control access to them), or it may signal a perceived “lack of fit” with the business of the law firm that bodes poorly for the future. Some pro bono is consistent -- and even necessary -- with the fast track in the game of the legal profession, and the best players know just how much to do.

### **Discussion and Conclusion**

Following a Bourdieusian approach, this article seeks to situate pro bono work within the broader legal field and to recognize that pro bono work, as an altruistic act, may carry with it a particular social and symbolic value -- in Bourdieu’s terms, that there is an interest in disinterestedness. Our work is situated within a viewpoint that posits a

division of labor within the legal field, with elites more likely than the rank and file of the profession to both promote the ideals of the profession and to reap the profits that come from those ideals; the elites are more likely to compete to gain recognition for pro bono activity and public service, and they are rewarded for it. Their engagement in pro bono work is not necessarily, however, a rationally determined action calculated in advance as an act for which they will be rewarded. As Bourdieu notes, ideals such as pro bono become part of the set of orientations and dispositions – the habitus – that is part of the elite lawyers’ game. Some individuals with a head start to elite status or with outsider aspirations to join the elite may also come to the same behavior but from a different starting point. They may conclude opportunistically that professional success requires some investment in disinterestedness. Whatever their actual motives, the structure of the legal field leads them to act in a way that fulfills the ideals of the profession (and which at the same time legitimates the profession itself).

Our results provide support for this characterization of the legal profession. We find that while lawyers in large law firms engage in more pro bono work, not all large firm lawyers equally perform this altruistic work. Indeed, our results suggest that elite law school graduates working in the largest corporate law firms engage in significantly more pro bono work than their peers – and this is controlling for a full range of factors including the incentives that law firms offer (ie. counting pro bono work as billable time), work hours, and social background. We also find, in keeping with Bourdieu’s approach, that engaging in pro bono work is related to a set of orientations reported towards legal practice. We find that individuals who rate pro bono work as an extremely important

feature of their job engage in more pro bono hours, and we also demonstrate that elite law graduates are more likely than others to express this disposition.

Our work also explored the contention that there is a value to disinterestedness by investigating the relationship between pro bono work and job satisfaction. Again, our results suggest that engaging in pro bono work brings with it important symbolic and tangible capital for new lawyers. We find that engaging in some pro bono work versus none increases all forms of job satisfaction, but that increasing pro bono hours either decreases or has no effect on job satisfaction – this combination suggests that pro bono provides a symbolic form of capital that is divorced from how much pro bono work one actually does. The data also suggest that pro bono work likely functions in a more concrete way to increase lawyer satisfaction by offering new lawyers opportunities to engage with clients and substantively interesting work, features that are otherwise largely absent from their private law settings. While we cannot delineate how pro bono relates to partnership decisions and attrition at large law firms since we are examining the early careers of lawyers, future analyses will be able to draw on the AJD study as it continues to follow lawyers. Thus while three years into a career is early to see material results of what are by definition long-term strategies, the data indeed suggest that some differentiation is already occurring.

Our analysis is of course incomplete in some respects as well. There is no doubt that for many new lawyers, pro bono work can serve other ends that we have not yet examined. Pro bono may be a strategy for those who are more marginal, for those who are looking to leave their settings, or for those who know their futures in the corporate sector are limited. Thus while the power strategy requires corporate success and pro bono

work, this is only one side of the story. We know too that not all pro bono work is equal, with some forms of pro bono providing more prestige than others, even within the large corporate firms (Garth 2004; Heinz et al. 2005). Paralleling Garth's (2004:100-101) argument in the context of public service, high prestige pro bono work is not equally available to all lawyers, and thus pro bono cannot equally bring prestige to all lawyers. Unfortunately, the AJD data do not allow us to sort and identify these different forms of pro bono work in our analyses.

Finally, despite documenting the value of disinterestedness, we must clearly also acknowledge that pro bono work provides a good in and of itself, regardless of the secondary value that it might bring to the lawyers who provide it. Thus we are not arguing that simply because there is an interest in disinterestedness that pro bono work is all a "shuck." What we are positing is that it is important to recognize the value of pro bono so that we can better understand positions of power within the legal profession and how that professional hierarchy is structured and maintained.

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**Table 1. Pro Bono Hours by Setting**

	Pro Bono Hours (0=missing)		Any Pro Bono	
	Mean	Median	Worked some pro bono	Worked 0 Pro bono
Solo	46.58	30	79.60%	20.40%
Private firm 2-20	30.29	20	56.00%	44.00%
Private firm 21-100	29.39	16	47.10%	52.90%
Private firm 101-250	47.29	25	62.50%	37.50%
Private firm 251+	73.27	40	69.80%	30.20%
Govt	20.21	10	16.90%	83.10%
Legal services or PD	261.15	20	23.10%	76.90%
Public Int	28.51	20	21.30%	78.70%
Non Profit or Educ	80.18	30	41.40%	58.60%
Business	21.32	20	50.50%	49.50%
Other	10	10	46.90%	53.10%

**Table 2. Pro Bono hours by law school tier (private practice lawyers only)**

	Pro Bono Hours (0=missing)		Any Pro Bono	
	Mean	Median	Worked some pro bono	Worked 0 Pro bono
<b>Law school tier</b>				
Ranked 1-10	89.58	50	71.00%	29.00%
Ranked 11-20	59.33	40	68.30%	31.70%
Ranked 21-40	45.71	20	57.80%	42.20%
Ranked 41-100	37.17	20	60.60%	39.40%
Tier 3	31.42	20	55.40%	44.60%
Tier 4	41.3	20	54.70%	45.30%
<b>Race</b>				
Black	65.7	30	71.40%	28.60%
Hispanic	36.91	20	50.30%	49.70%
Asian	51.06	30	51.90%	48.10%
White	45.22	20	61.00%	39.00%
<b>Gender</b>				
Female	48.25	25	60.70%	39.30%
Male	43.58	20	59.80%	40.20%

**Table 3. Pro bono hours by importance of pro bono hours to job choice, engagement in pro bono during law school, and desires to help individuals (private practice lawyers only)**

	<b>Pro Bono Hours (0=missing)</b>	<b>Any Pro Bono Worked some pro bono</b>
	<b>Mean</b>	
Pro Bono not at all important in job choice	34.49	26.10%
Pro Bono extremely important in job choice	98.53	4.10%
Did not engage in pro bono work in law school	40.32	63.10%
Performed pro bono work while in law school	54.2	36.90%
Desire to help individuals as a lawyer rated as "irrelevant"	48.04	7.60%
Desire to help individuals as a lawyer rated as "Very Important"	48.73	28.40%

**Table 4. Tobit model of pro bono hours**

	(Model 1)	(Model 2)	(Model 3)	(Model 4)
Male	-3.966 (5.774)	-3.547 (5.764)	-4.351 (6.282)	2.784 (5.793)
Black	30.73 (18.59)	33.00+ (18.24)	32.59+ (17.34)	28.25 (16.54)
Hispanic	-18.59+ (9.810)	-16.16 (9.642)	-17.15* (7.614)	-17.43* (7.869)
Asian	-10.30 (9.850)	-14.44 (11.01)	-16.35 (10.61)	-15.02 (9.709)
Father's occupational status	0.157 (0.221)	-0.0393 (0.214)	-0.105 (0.207)	-0.130 (0.181)
Top ten law school		34.22+ (16.80)	20.65 (18.65)	-11.25 (14.80)
Top 11-20 law school		14.24+ (8.181)	10.05 (7.379)	7.730 (7.546)
Top 21-40 law school		-0.580 (7.629)	-2.127 (7.962)	-0.161 (6.934)
Law School GPA		34.43*** (7.303)	26.69** (7.473)	23.40** (7.715)
Work Hours			0.463 (0.298)	0.461+ (0.242)
Private firm 21-100			-17.72** (5.004)	-13.14** (4.368)
Private firm 101-250			-9.843 (10.36)	-5.991 (8.890)
Private firm 251+			23.68* (10.17)	19.24+ (9.953)
Law School Pro bono work				23.09** (6.718)
Desire to help individuals				7.128** (2.186)
Pro Bono Hours as Billable				40.49*** (8.675)
Topten*firm250				37.14+ (19.68)
Constant	-3.996 (13.80)	-109.5** (33.02)	-101.5* (38.06)	-131.3** (39.74)
Constant	70.88*** (7.798)	68.49*** (7.139)	66.40*** (6.497)	63.87*** (5.983)
Observations	1266	1266	1266	1266

Standard errors in parentheses

+  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

**Table 5. OLS Regression predicting importance of pro bono opportunities in job choice**

	B
Male	-0.678*** (0.102)
Black	0.308 (0.222)
Hisp	0.653* (0.235)
Asian	0.032 (0.126)
Father's occupational status	0.006 (0.004)
Top ten law school	0.795** (0.243)
Top 11-20 law school	0.403* (0.184)
Top 21-40 law school	0.075 (0.185)
Top 41-100 law school	-0.059 (0.169)
Tier 3 law school	-0.0008 (0.167)
Constant	2.841*** (0.231)
Observations	2615
$R^2$	0.073

Standard errors in parentheses

Excluded category is Tier 4 law schools

+  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$

**Table 6. Four OLS models of Job Satisfaction**

	<b>Setting</b>	<b>Substance</b>	<b>Social Index</b>	<b>Power Track</b>
Male	0.636 (0.480)	-0.347 (0.296)	0.411 (0.247)	0.469** (0.160)
White	1.221 (1.050)	0.723 (0.499)	1.071* (0.380)	-0.0633 (0.301)
Father's occupational status	0.0173 (0.0159)	0.00869 (0.00789)	-0.00251 (0.00678)	0.00809 (0.00798)
Law School GPA	1.597 (0.921)	1.063* (0.467)	0.0754 (0.379)	1.793*** (0.287)
Top ten law school	3.343*** (0.843)	0.843 (0.592)	0.00921 (0.811)	0.573 (0.367)
Top 11-20 law school	2.141* (0.871)	0.482 (0.637)	0.00869 (0.578)	0.722+ (0.393)
Top 21-40 law school	3.430* (1.623)	0.951+ (0.536)	0.667 (0.493)	0.623* (0.266)
Top 41-100 law school	1.973* (0.701)	0.618 (0.520)	-0.0105 (0.542)	0.217 (0.405)
Tier 3 law school	1.982 (1.271)	0.472 (0.591)	-0.467 (0.484)	-0.111 (0.386)
Major Metro Area	-1.782* (0.722)	-1.203* (0.520)	-1.271*** (0.220)	-0.687+ (0.330)
Work Hours	0.0346 (0.0236)	0.0360* (0.0167)	0.00990 (0.00944)	0.0192* (0.00786)
Private firm 21-100	-2.034+ (1.048)	-1.028 (0.702)	-1.995*** (0.423)	-0.0275 (0.369)
Private firm 101-250	-4.027*** (0.961)	-1.451+ (0.710)	-2.078*** (0.446)	0.275 (0.550)
Private firm 251+	-3.688*** (0.766)	-1.362* (0.592)	-1.500** (0.475)	0.455 (0.393)
Pro Bono Hours	-0.0120* (0.00461)	-0.00690* (0.00311)	0.00445 (0.00305)	0.000103 (0.00119)
Any pro bono	1.700** (0.485)	0.748* (0.351)	1.556** (0.416)	0.394* (0.156)
Constant	23.49*** (2.530)	14.71*** (2.367)	11.15*** (1.130)	1.369 (1.251)
Observations	1204	1290	1181	1267
$R^2$	0.070	0.047	0.156	0.103

Standard errors in parentheses

+  $p < 0.10$ , \*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$