

HEMISPHERES APART, A PROFESSION CONNECTED

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INTRODUCTION

Social scientists have long recognized the bifurcated and stratified nature of the American legal profession.¹ They describe a two-tiered profession: in the corporate hemisphere, high-status graduates of elite law schools overwhelmingly work in large law firms serving corporate clients;² in the personal-services hemisphere, graduates of less prestigious, local law schools work in smaller firms and serve individual clients.³ In the past twenty years, legal scholars have built on this model in valuable ways. They have studied the distinct ethical challenges of lawyering in each hemisphere and offered normative proposals to address those challenges.⁴ In drawing the two hemispheres apart, however, these scholars have overlooked the many links that tie them together.

Initially, scholars proposed heightened client and public protections in particular contexts.⁵ Today, many scholars propose to relax professional regulation in just one hemisphere. Some advocate a relaxation of unauthorized practice rules in the personal-services hemisphere to increase competition, decrease prices, and make legal services more accessible to all segments of the population.⁶ Others propose a relaxation of particular client protections in the corporate hemisphere to honor client autonomy and choice.⁷

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1. In their 1975 study of Chicago lawyers, sociologists Jon Heinz and Edward Laumann theorized that most of the differentiation they observed within the legal profession turned on one fundamental distinction—the type of client. *See* JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* (1982). They therefore theorized that the legal profession consisted of two distinct hemispheres: one serving corporate clients and one serving individuals. *Id.* at 127–75. Subsequently, social scientists (including Heinz and Laumann themselves) built upon this framework in many important ways, documenting the growing distance between the two hemispheres, and studied the different norms, cultures, and practices of lawyers working in each. *See infra* notes 15–26 and accompanying text.

2. *See* HEINZ & LAUMANN, *supra* note 1, at 192–93.

3. *Id.* at 193.

4. *See infra* notes 30–34 and accompanying text.

5. *See infra* notes 27–29 and accompanying text.

6. *See infra* notes 30–34 and accompanying text.

7. *See infra* notes 36–37 and accompanying text.

In this Article, I explore the unintended consequences of these proposals. I argue that although scholars advocating the two sets of changes have distinct goals and motivations, their proposals suffer from a common flaw—they fail to account for the extent and significance of links that connect the profession's two hemispheres. These links are forged through lawyers' common training and socialization, and common responsibility for the fairness and integrity of our legal system. They are also forged in a less recognized way—through countless daily interactions, ranging from basic consumer contracts to full-blown legal disputes, between clients of the two hemispheres. Drawing on these interactions, I argue that proposals to relax regulation along the profession's existing structural contours threaten to exaggerate and entrench wealth and power disparities in the profession and in society at large.

In Part I, I review both the social science literature that documents the profession's bifurcated structure and the legal scholarship that incorporates that bifurcated structure into proposals for context-specific regulation. I focus on recent proposals to loosen client protections in each hemisphere. In Part II, I argue that relaxing ethical standards in either hemisphere would have troubling system-wide ramifications. In the personal-services hemisphere, it would threaten to depress the quality of available legal services and to place individual clients at an even greater disadvantage vis-à-vis repeat-player corporate clients. In the corporate hemisphere, it would undermine professional independence and could allow corporate clients to use their lawyers to achieve aggressive and unethical ends. In both cases, relaxing ethical standards would threaten to exacerbate existing structural inequalities.

I conclude in Part III by suggesting that legal ethics scholars have an obligation to acknowledge and address the inequities that inhere in many interactions between the clients of the profession's two hemispheres. Rather than drawing these hemispheres apart, scholars should be accounting for their interconnectedness. We should do so by thinking creatively about a broader range of regulatory reforms than are currently under consideration—reforms that can expand the provision of competent legal services to a broader range of clients while strengthening the profession's independence from corporate clients.

I. THE STRATIFICATION OF THE PROFESSION

The structural division of lawyers into two distinct hemispheres is now widely accepted by scholars of the legal profession. But when John Heinz and Edward Laumann published *Chicago Lawyers* in 1982, the hemispheres theory was groundbreaking. I begin this Part by reviewing their initial study, their follow-up study twenty years later, and subsequent social science work building on their framework. I then turn to the normative and prescriptive work of legal scholars who propose a loosening of professional regulation to address salient problems in each of the profession's hemispheres. These include the need for increased access to quality

lawyering in the personal-services hemisphere and increased professional independence in the corporate hemisphere.

A. *Social Science Literature*

In 1975, Heinz and Laumann conducted face-to-face interviews with a random sample of 777 Chicago attorneys, who spanned a variety of practice areas and career stages.⁸ Based on their findings, they concluded that most of the differentiation within the legal profession—between lawyers’ backgrounds, training, incomes, and work life—turned on one fundamental distinction—the type of client being served.⁹ They observed that most lawyers serving corporations and other large organizations were members of high-status families and graduates of elite law schools, who worked in large, high-status firms.¹⁰ Lawyers who primarily served individuals, in contrast, tended to come from lower socioeconomic backgrounds and to be graduates of local law schools.¹¹ Overwhelmingly, they worked as solo practitioners or in small law firms. Many were racial or ethnic minorities.¹² Heinz and Laumann theorized that based on the different client bases, the late twentieth-century profession was stratified into a corporate hemisphere and a distinct personal-services hemisphere.¹³ Observing that practice in the corporate as opposed to personal-services hemisphere dictated higher salaries, greater prestige, and increased job security, they concluded that the profession’s bifurcated structure reinforced the class distinctions it reflected.¹⁴

In the decades following the 1970s, the profession’s hemispheres grew farther apart while fragmenting within. When Heinz, Laumann, and two new collaborators updated their study in the late 1990s,¹⁵ they concluded that, notwithstanding significant changes in the market for legal services (including declining racial, ethnic, and gender discrimination),¹⁶ the divide between the two classes of clients had endured.¹⁷ They observed that the lawyers serving each type of client continued to come from significantly different backgrounds and that socioeconomic status continued to be the

8. HEINZ & LAUMANN, *supra* note 1, at 10–13.

9. *Id.* at 320 (“Though there certainly are distinctions among lawyers that cut across the line between the two broad classes of clients, this fundamental difference in the nature of the client served appears to be the principal factor that structures the social differentiation of the profession.”).

10. *Id.* at 187–93.

11. *Id.* at 133–34, 193.

12. *Id.* at 127, 158–59.

13. *Id.* at 319.

14. *Id.* at 196–97, 373–79.

15. JOHN P. HEINZ ET AL., *URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR* (2005).

16. Among other things, they observed that women and minorities were better represented in the profession, *id.* at 20–23, and that ethnoreligious background had fallen away as a determinant of law school and career path, *id.* at 60–62. But the new groups entering the profession were largely excluded from the large-law corporate law firms of the corporate hemisphere. *Id.* at 72–73.

17. *Id.* at 7.

critical differentiator.¹⁸ Even more so than before, lawyers serving corporate entities were rewarded with significantly higher levels of income, wealth, and prestige than lawyers serving individuals. Observing that the lawyers of the corporate hemisphere took home a disproportionately high percentage of lawyers' overall earnings, Heinz and his co-collaborators concluded that the term "hemispheres," suggesting equal sizes, had become somewhat misleading.¹⁹

They also observed that legal practice had become more specialized within each hemisphere, and particularly within the corporate hemisphere.²⁰ Whereas many lawyers had once been generalists, providing full-service practices, Heinz and his collaborators observed an increasing number of corporate lawyers who chose a specific practice area early in their careers. This, in turn, pushed the two hemispheres ever further apart. It led many large firms to "shed the smaller clients and full service practices that previously allowed them to dabble in work that more closely resembled the work done by their brethren in the personal plight hemisphere of the bar."²¹ Large firms sought to perform only "premium work for premium clients,"²² bringing in greater revenues and further increasing the income and wealth inequities between hemispheres.

In recent years, sociologists of the legal profession have built on Heinz and Laumann's work in a number of ways. Some have studied the cultures, pressures, and practices of particular practice areas within each hemisphere.²³ Others have continued to study profession-wide trends using

18. They found that socioeconomic status, as measured by father's occupation, remained a reliable predictor of law school attended, and law school attended remained the critical gatekeeper to the more lucrative world of corporate practice. *See id.* at 58 tbl.3.1; *see also id.* at 66–67 ("Given the correlation between father's occupation and type of law school attended, and the further relationship between law school and practice context, income, and the likelihood of partnership, we should expect there to be a strong relationship between social background and the hierarchy of career opportunities in the legal profession."); Rebecca L. Sandefur, *Staying Power: The Persistence of Social Inequality in Shaping Lawyer Stratification and Lawyers' Persistence in the Profession*, 36 SW. U. L. REV. 539, 543 (2007) ("While the profession opened up to women and racial minorities, it did not see an increasing representation of the children of the non-professional classes. Lawyers whose fathers had worked in professional or technical occupations composed 32% of the practicing Chicago bar in 1975 and 57% in 1995.").

19. John P. Heinz et al., *The Changing Character of Lawyers' Work: Chicago in 1975 and 1995*, 32 LAW & SOC'Y REV. 751, 766–67 (1998).

20. *Id.* at 37.

21. David Wilkins, *Some Realism about Legal Realism for Lawyers*, in *LAWYERS IN PRACTICE: ETHICAL DECISION MAKING IN CONTEXT* 29–30 (Leslie C. Levin & Lynn Mather eds., 2012).

22. *Id.*

23. *See, e.g.*, MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* (1991); LYNN MATHER, CRAIG A. MCEWEN & RICHARD J. MAIMAN, *DIVORCE LAWYERS AT WORK: VARIETIES OF PROFESSIONALISM IN PRACTICE* (2001); MILTON C. REGAN JR., *EAT WHAT YOU KILL: THE FALL OF A WALL STREET LAWYER* (2004); Stephen Daniels & Joanne Martin, "The Impact That It Has Had Is Between People's Ears": *Tort Reform, Mass Culture, and Plaintiffs' Lawyers*, 50 DEPAUL L. REV. 453 (2000); Herbert M. Kritzer, *The Fracturing Legal Profession: The Case of Plaintiffs' Personal Injury Lawyers*, 8 INT'L J. LEGAL PROF. 225 (2001).

data from the American Bar Foundation's *After the JD* study.²⁴ Overwhelmingly, they have concluded that while overt discrimination based on gender, race, and religion has significantly decreased within the legal profession,²⁵ socioeconomic status continues to play a determinative role in many lawyers' career paths.²⁶ Accordingly, the stratified structure of the legal profession continues to mirror the stratification of society at large.

B. Legal Literature

Like their colleagues in social science departments, legal scholars studying the profession have long appreciated and built upon Heinz and Laumann's work. In a series of seminal articles in the early 1990s, David Wilkins critiqued the profession's singular and unified regulatory model for failing to address the existence of, and differentiation between, the profession's hemispheres.²⁷ Citing the varied realities of legal practice described by Heinz, Laumann, and others, he advocated a system of "middle-level rules" to address the different work and ethical challenges of different lawyering contexts.²⁸ Many legal ethicists agreed. Following

24. RONIT DINOVIETZ ET AL., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* (2004). The *After the JD* study (AJD), a national longitudinal survey of law graduates administered by the American Bar Foundation, is based on a representative sample of 4,000 lawyers who graduated from law school between June 1998 and July 2000 and were admitted to the bar in 2000. *Id.* at 14. While the survey focused on participants' early career trajectories, it also asked questions about participants' families, background, and education, including questions about the education of both parents. *Id.* at 17–20.

25. See, e.g., Richard H. Sander, *Class in American Legal Education*, 88 DENV. U. L. REV. 631, 633 (2011).

26. The first wave of AJD data showed that very few individuals from poor and disadvantaged backgrounds were attending law school at all. Joyce Sterling et al., *The Changing Social Role of Urban Law Schools*, 36 SW. U. L. REV. 389, 405 (2007). The overwhelming majority of law students, and particularly students at the most prestigious schools, came from relatively privileged backgrounds. Sander, *supra* note 25, at 632 ("The vast majority of American law students come from relatively elite backgrounds; this is especially true at the most prestigious law schools, where only five percent of all students come from families whose [socioeconomic score] is in the bottom half of the national distribution."). The AJD data also established a correlation between father's educational attainment and law school attended, see Sterling et al., *supra*, at 404, and between law school attended and the subsequent practice setting in which a lawyer worked. While a majority of elite law school graduates went into practice in large corporate firms, only 15 percent of graduates of nonelite schools worked in firms of over 100 lawyers. *Id.* at 406. A substantial portion of those graduates worked in solo or small-firm practice. *Id.* at 405. Independent of law school attended, Sterling and her colleagues also established a correlation between socioeconomic status and practice setting. *Id.* at 409. Rebecca Sandefur, one of the authors on the updated Chicago study, drew similar conclusions from the AJD data. Sandefur, *supra* note 18, at 547.

27. See generally David B. Wilkins, *Legal Realism for Lawyers*, 104 HARV. L. REV. 468 (1990) [hereinafter Wilkins, *Legal Realism for Lawyers*]; David B. Wilkins, *Making Context Count: Regulating Lawyers After Kaye, Scholer*, 66 S. CAL. L. REV. 1145 (1993) [hereinafter Wilkins, *Making Context Count*]; David B. Wilkins, *Who Should Regulate Lawyers?*, 105 HARV. L. REV. 799 (1992) [hereinafter Wilkins, *Who Should Regulate Lawyers?*].

28. Wilkins referred to these rules as "middle-level rules" to clarify that he was not advocating a contextual approach taken to an extreme—with each case taken entirely on its

Wilkins' lead, they proposed rules and enforcement mechanisms tailored to particular practice areas and client types.²⁹

Today, scholars of the legal profession are proposing to account for the profession's two-tiered structure in a new way. Two groups of scholars—albeit with very different goals and motivations—are proposing to address the growing stratification of the legal profession through efforts to loosen, rather than tighten, regulation.

The first group is focused on problems of unmet legal needs in the professional-services hemisphere.³⁰ Reasoning that some legal services are better than none, and that many of the needed services are simple and routine, these scholars propose relaxation of the unauthorized practice of law rules.³¹ Early proponents argued for the lay provision of legal services.³² Today, most proponents support a limited licensing scheme. Much like a program recently adopted in the state of Washington,³³

own facts and circumstances. Instead, he was proposing a “a set of ‘middle-level’ principles that both isolate and respond to relevant differences in social and institutional context while providing a structural foundation for widespread compliance in the areas where they apply.” Wilkins, *Legal Realism for Lawyers*, *supra* note 27, at 516.

29. See Roberta K. Flowers, *A Code of Their Own: Updating the Ethics Codes To Include the Non-adversarial Roles of Federal Prosecutors*, 37 B.C. L. REV. 923 (1996); Bernard P. Ingold, *An Overview and Analysis of the New Rules of Professional Conduct for Army Lawyers*, 124 MIL. L. REV. 1 (1989); David J. Moraine, *Loyalty Divided: Duties to Clients and Duties to Others—The Civil Liability of Tax Attorneys Made Possible by the Acceptance of a Duty to the System*, 63 TAX LAW. 169 (2009); Scott R. Peppet, *Lawyers' Bargaining Ethics, Contract, and Collaboration: The End of the Legal Profession and the Beginning of Professional Pluralism*, 90 IOWA L. REV. 475, 513 (2005); Nancy B. Rapoport, *Our House, Our Rules: The Need for a Uniform Code of Bankruptcy Ethics*, 6 AM. BANKR. INST. L. REV. 45 (1998); Stanley Sporkin, *The Need for Separate Codes of Professional Conduct for the Various Specialties*, 7 GEO. J. LEGAL ETHICS 149 (1993); see also Acad. of Fam. Mediators, *Standards of Practice for Family and Divorce Mediation*, in CODES OF PROFESSIONAL RESPONSIBILITY (Rena A. Gorlin ed., 3d ed. 1994); Am. Arb. Ass'n, *The Code of Ethics for Arbitrators*, in CODES OF PROFESSIONAL RESPONSIBILITY, *supra*.

30. See, e.g., Quintin Johnstone, *An Overview of the Legal Profession in the United States, How That Profession Recently Has Been Changing, and Its Future Prospects*, 26 QUINNIPIAC L. REV. 737, 770–71 (2008); Deborah Rhode, *Access to Justice: Connecting Principles to Practice*, 17 GEO. J. LEGAL ETHICS 369, 371–72 (2004).

31. See, e.g., Benjamin H. Barton, *Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation*, 33 ARIZ. ST. L.J. 429, 457 (2001); Barlow F. Christensen, *The Unauthorized Practice of Law: Do Good Fences Really Make Good Neighbors—or Even Good Sense?*, 1980 AM. B. FOUND. RES. J. 159, 209–12; Roger C. Cramton, *Delivery of Legal Services to Ordinary Americans*, 44 CASE W. RES. L. REV. 531, 615 (1994); George C. Leef, *Lawyer Fees Too High? The Case for Repealing Unauthorized Practice of Law Statutes*, REGULATION, Winter 1997, at 33; Rhode, *supra* note 30, at 410; Deborah L. Rhode, *Professionalism in Perspective: Alternative Approaches to Nonlawyer Practice*, 22 N.Y.U. REV. L. & SOC. CHANGE 701, 709–13 (1996); Christina L. Underwood, *Balancing Consumer Interest in a Digital Age: A New Approach to Regulating the Unauthorized Practice of Law*, 79 WASH. L. REV. 437, 442 (2004).

32. See, e.g., Deborah Rhode, *Policing the Professional Monopoly: A Constitutional and Empirical Analysis of Unauthorized Practice Prohibitions*, 34 STAN. L. REV. 1, 38 (1981).

33. In June 2012, the State of Washington, through its supreme court, approved and adopted regulations for “Limited License Legal Technicians.” Order at 1, *In re Adoption of New APR 28—Limited Practice Rule for Limited License Legal Technicians*, No. 25700-A-1005 (Wash. June 15, 2012), available at <http://www.courts.wa.gov/content/publicUpload/>

individuals with some training but not a full law degree would be able to register with the state to perform specified, routine tasks.³⁴ Proponents contend that either change would increase competition, decrease prices, and make legal services more accessible to all segments of the population. Noting an absence of empirical evidence that lay providers or limited license providers would harm either individual consumers or the public at large, they argue that the downsides would be minimal.³⁵

The second group of scholars focuses on the corporate hemisphere. Observing that most corporate clients are sophisticated consumers of legal services who do not suffer from significant information asymmetries, these scholars argue that corporate clients should be afforded greater autonomy, flexibility, and choice than the profession's codes of conduct permit.³⁶ They therefore propose that sophisticated corporate clients be permitted to contract around the protections of the ethical codes. They bolster their argument by noting that, as compared to individual clients, corporate clients are less likely to suffer irreversible harm as a result of incompetent lawyering and more likely to be compensated adequately by money damages in malpractice suits.³⁷ Their proposals are not without precedent.

Press%20Releases/25700-A-1005.pdf. The Washington technicians are permitted, among several other things, to investigate factual issues and explain their relevance to clients, inform clients about legal procedures and deadlines, and review documents received by clients from opposing counsel and explain their impact. *See id.* at 15–16. But the technicians may neither represent clients in proceedings nor negotiate on their behalf. *See id.* at 18–19. Washington is the only state to have adopted this type of scheme, but other states are also actively exploring this option. *See* Wallace B. Jefferson, *Liberty and Justice for Some: How the Legal System Falls Short in Protecting Basic Rights*, 88 N.Y.U. L. REV. 1953, 1976–77 (2013).

34. *See* Rhode, *supra* note 30, at 409; *see also* David Barnhizer, *Profession Deleted: Using Market and Liability Forces To Regulate the Very Ordinary Business of Law Practice for Profit*, 17 GEO. J. LEGAL ETHICS 203, 260–61 (2004); Laurel A. Rigertas, *Stratification of the Legal Profession: A Debate in Need of a Public Forum*, 2012 J. PROF. LAW. 79; Meredith Ann Munro, Note, *Deregulation of the Practice of Law: Panacea or Placebo?*, 42 HASTINGS L.J. 203, 241 (1990).

35. *See, e.g.*, Herbert M. Kritzer, *The Future Role of “Law Workers”*: *Rethinking the Forms of Legal Practice and the Scope of Legal Education*, 44 ARIZ. L. REV. 917, 921 (2002); Rhode, *supra* note 32, at 38; Rhode, *supra* note 31, at 709–10; *see also* RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 4 cmt. c (2000) (noting that in the few states that have allowed extensive nonlawyer provision of legal services, there has been no indication of any significant risks to consumers).

36. *See, e.g.*, Audrey I. Benison, *The Sophisticated Client: A Proposal for the Reconciliation of Conflicts of Interest Standards for Attorneys and Accountants*, 13 GEO. J. LEGAL ETHICS 699, 733–34 (2000); John S. Dzienkowski & Robert J. Peroni, *Multidisciplinary Practice and the American Legal Profession: A Market Approach to Regulating the Delivery of Legal Services in the Twenty-First Century*, 69 FORDHAM L. REV. 83, 90 (2000); Sarah J. Lewis, *Charting the “Middle” Way: Liberalizing Multijurisdictional Practice Rules for Lawyers Representing Sophisticated Clients*, 22 GEO. J. LEGAL ETHICS 631, 636 (2009); *see also* David B. Wilkins, *Team of Rivals? Toward a New Model of the Corporate Attorney-Client Relationship*, 78 FORDHAM L. REV. 2067, 2079 n.47 (2010); *cf.* Gillian K. Hadfield, *Legal Barriers to Innovation: The Growing Economic Cost of Professional Control over Corporate Legal Markets*, 60 STAN. L. REV. 1689, 1730–32 (2008).

37. *See* Lewis, *supra* note 36, at 655; Wilkins, *Who Should Regulate Lawyers?*, *supra* note 27, at 831–32.

In recent years, the profession's conflicts rules have been tailored to the interests of sophisticated clients, permitting advance waivers where, among other things, "the client is an experienced user of the legal services involved and is reasonably informed regarding the risk that a conflict may arise."³⁸

These scholars' context-specific approaches to regulation are based on the critical insight that lawyers in different practice areas with different clients face significantly different pressures and ethical tensions. Meaningful and effective regulation must acknowledge and account for the variation. But there is a danger that, in focusing on what draws lawyers and their clients apart, it is easy to lose sight of the extent to which they are inextricably bound together. All contextual approaches to regulation risk losing sight of these connections, but as discussed next, proposals to loosen regulation along the profession's existing structural contours entail unique and particularly worrisome risks.

II. CONNECTIONS BETWEEN HEMISPHERES

The lawyers and clients of the profession's two hemispheres may live and work in different worlds, but they interact regularly. In this Part, I argue that these interactions constitute a principal way in which the profession's bifurcated structure reinforces inequities in society at large. I also argue that existing mechanisms of professional regulation play an important role in countering these inequities and balancing the playing field. Given this, proposals to relax professional regulation in either hemisphere threaten to reinforce and entrench existing inequities in the profession and in society at large.

A. Client Interactions

The clients of the profession's hemispheres interact with each other in myriad ways. Individuals rely on corporations for the products and services that sustain daily life (e.g., food, shelter, transportation, and medicine) as well as for a host of additional products and services that improve the convenience and quality of life (e.g., computers, insurance, credit cards, and banking services).³⁹ Corporations, for their part, actively market these products and services to all segments of society.

The resulting interactions have countless legal implications, often leading to full-blown legal disputes. Indeed, a majority of all court cases in the United States involve individual litigants on one side and corporate or organizational litigants on the other.⁴⁰ Some are initiated by corporate

38. See MODEL RULES OF PROF'L CONDUCT R. 1.7 cmt. 22 (2013).

39. Marc Galanter, *Planet of the APs: Reflections on the Scale of Law and its Users*, 53 BUFF. L. REV. 1369, 1370 (2006).

40. In a study of federal court litigation, Gillian Hadfield concluded that in the year 2000, a significant majority of federal cases were between individuals on one side and corporate entities on the other. Gillian K. Hadfield, *Exploring Economic and Democratic Theories of Civil Litigation: Differences Between Individual and Organizational Litigants in the Disposition of Federal Civil Cases*, 57 STAN. L. REV. 1275, 1298 (2005). Data does not exist for comprehensive conclusions regarding state courts, but a 1992 study concluded that

clients, who pursue individuals for matters such as debt collection or foreclosure; others are initiated by individuals, who pursue corporate clients to hold them liable for harm.

For a number of reasons, these cases are frequently resolved on an unbalanced playing field. The parties themselves bring different resources to bear, with those of the corporate litigants generally outstripping those of the individuals. Reinforcing this imbalance, the lawyers bring to bear the advantages and disadvantages of their respective hemispheres.⁴¹ Although excellent and experienced lawyers practice in both hemispheres (as do lesser quality and inexperienced lawyers), those practicing in the corporate hemisphere are often backed by greater power, wealth, and status than those of the personal-services hemisphere.⁴²

In at least three ways, this imbalance reinforces the social disparities that the profession's structure reflects. First, it leads to higher success rates for corporate clients in court. Empirical studies of federal court litigation reveal that corporate litigants win more frequently and lose less frequently than individuals.⁴³ Second, it empowers corporate clients to exert greater influence on the judicial agenda than individual clients. As Marc Galanter describes, corporate and organizational clients "make[] courts more future-oriented, more managerial, more utilitarian, and generally more 'legislative.'"⁴⁴ This forward-looking, regulatory view, in turn, confers significant advantages on the repeat players of the corporate hemisphere, who can invest and plan accordingly. Corporate litigants may also draw judicial attention away from smaller disputes between individuals. Galanter explains, "Mirroring the prestige structure of the bar, many judges think

in the seventy-five most populous counties in the country, 60 percent of civil jury trials involved an individual plaintiff suing an organizational defendant. CAROL J. DEFRANCES ET AL., U.S. DEP'T OF JUSTICE, CIVIL JUSTICE SURVEY OF STATE COURTS, 1992: JURY CASES AND VERDICTS IN LARGE COUNTIES 3 tbl.4 (1995).

41. It will not be in every matter that the lawyers on both sides of a case—even a case involving an individual on one side and an organization on the other—will come from different hemispheres. In many instances, such as run-of-the-mill landlord-tenant cases, both parties will be represented by the solo practitioners and smaller firms of the personal-services hemisphere even if the landlord is formally organized as a corporate entity. In a significant number of cases involving an individual litigant on one side and a corporate litigant on the other, however, the opposing lawyers will, in fact, come from the two different hemispheres.

42. Gillian K. Hadfield, *The Price of Law: How the Market for Lawyers Distorts the Justice System*, 98 MICH. L. REV. 953, 998 (2000) ("[T]he market for lawyers . . . overwhelmingly allocates legal resources to clients with interests backed by corporate aggregations of wealth.").

43. Galanter, *supra* note 39, at 1389–90 (citing Terence Dunworth & Joel Rogers, *Corporations in Court: Big Business Litigation in U.S. Federal Courts, 1971–1991*, 21 LAW & SOC. INQUIRY 497, 557 (1996)); see also Kevin M. Clermont & Theodore Eisenberg, *Do Case Outcomes Really Reveal Anything About the Legal System? Win Rates and Removal Jurisdiction*, 83 CORNELL L. REV. 581, 605 tbl.5 (1998); Theodore Eisenberg & Henry S. Farber, *The Litigious Plaintiff Hypothesis: Case Selection and Resolution*, 28 RAND J. ECON. S92, S103 tbl.2 (1997); Hadfield, *supra* note 40. That a vast majority of cases settle out of court does not diminish the significance of these in-court win/loss rates, as cases settle in the shadow of litigation.

44. Galanter, *supra* note 39, at 1400–01.

that big dollar commercial cases are what properly deserve the attention of courts and the routine matters of individuals are ‘junk cases’ that should be addressed elsewhere.”⁴⁵

Third and relatedly, the imbalanced playing field affords corporate parties enhanced power to shape the substantive law. Backed by the lawyers and resources of the corporate hemisphere, corporate clients can engage in legislative and litigation-reform campaigns, often with success. Examples include efforts to limit the availability of punitive damages⁴⁶ and to exclude certain classes of individual claims from court, subjecting them to binding arbitration instead.⁴⁷

In the aggregate, interactions between the clients of the two hemispheres match lawyers of greater resources, power, and prestige (representing corporate clients) against lawyers of lesser resources, power, and prestige (representing individual clients). More often than not, the corporate clients emerge victorious, ensuring in yet another way that the profession’s bifurcated structure reinforces the social stratification it reflects.⁴⁸

B. Loosening Professional Regulation

As just described, structural imbalances between the profession’s hemispheres have troubling implications for the equity of our legal system. The situation would be far worse, however, without the protections of professional regulation—if, for example, we loosened or eliminated them pursuant to many scholars’ proposals.

1. Relaxing Regulation in the Personal-Services Hemisphere

The foundational purpose of professional licensure is to ensure the quality and competency of professional services. The legal profession pursues these goals in a number of ways—by requiring law school training, bar passage, and continuing legal education; and by conditioning conduct through character and fitness requirements and ethical codes backed by the threat of license revocation.⁴⁹ The profession’s system of licensure and regulation is not nearly as effective as we would like it to be, but it does

45. *Id.* at 1405.

46. *See, e.g., id.* at 1398 (citing STEPHEN DANIELS & JOANNE MARTIN, *CIVIL JURIES AND THE POLITICS OF REFORM* (1995)); Michael L. Rustad, *The Closing of Punitive Damages’ Iron Cage*, 38 *LOY. L.A. L. REV.* 1297, 1368 (2005) (“Tort reform in the states is a victory of the ‘haves’ over the ‘have-nots’ achieved through a disinformation campaign whose watchword is tort reform.”); *see also* Lauren B. Edelman & Mark C. Suchman, *When the “Haves” Hold Court: Speculations on the Organizational Internalization of Law*, 33 *LAW & SOC’Y REV.* 941, 941–42 (1999).

47. *See* Bryant G. Garth, *Tilting the Justice System: From ADR As Idealistic Movement to a Segmented Market in Dispute Resolution*, 18 *GA. ST. U. L. REV.* 972, 930, 932 (2002).

48. *See supra* notes 44–47 and accompanying text.

49. *See* Joseph R. Julin, *The Legal Profession: Education and Entry*, in *REGULATING THE PROFESSIONS, A PUBLIC-POLICY SYMPOSIUM* 201, 204 (Roger D. Blair & Stephen Rubin eds., 1980); Alan D. Wolfson et al., *Regulating the Profession: A Theoretical Framework*, in *OCCUPATIONAL LICENSURE AND REGULATION* 180, 190–200 (Simon Rothenberg ed., 1980).

ensure baseline levels of knowledge, training, and competence among all lawyers.⁵⁰

If licensure were eliminated as a requirement for providing legal services, it is not likely that the quality or cost of legal services would change significantly at the top of the market.⁵¹ Wealthy clients will always be willing and able to pay a premium for the best legal services available. Even if entry barriers were relaxed, therefore, it is not likely that new entrants would compete with or displace established large-firm lawyers.⁵² It is similarly unlikely that competition from lower quality service providers would exert greater downward pressure on fees than already exists from significant competition for clients among large firms.

In the personal-services hemisphere, however, the entry of new low-cost legal services would entail different ramifications. While it may or may not decrease cost for clients,⁵³ it would certainly decrease quality and competency. Already, the risk of harm from incompetent legal services is more significant in the personal-services hemisphere because of significant information asymmetries. In stark contrast to sophisticated corporate clients (who are well equipped to make informed decisions about the use and selection of legal services), individuals and small businesses frequently lack the knowledge, resources, and connections to evaluate lawyers' skills and qualifications.⁵⁴ There is a distinct risk, therefore, that if licensure were eliminated, clients and potential clients of the personal-services hemisphere would choose service providers based on cost alone, creating a race to the bottom.⁵⁵

Many clients of the personal-services hemisphere are also ill equipped to monitor their lawyers' work and, where appropriate, to hold their lawyers accountable for harm. Many lack the expertise to discern whether a mistake is actionable and the resources to pursue a malpractice claim.⁵⁶

On top of that, the extent of harm suffered by individuals who receive incompetent legal services tends to far outweigh that suffered by corporate clients. Unlike large and sophisticated corporate entities, individuals and

50. Barton, *supra* note 31, at 430.

51. Benjamin H. Barton, *Economists on Deregulation of the American Legal Profession: Praise and Critique*, 2012 MICH. ST. L. REV. 493, 509–10.

52. *Id.* at 510.

53. *But see* Munro, *supra* note 34, at 229 (questioning whether deregulation will cause prices to fall, even at the low end of the market).

54. Elizabeth Michelman, *Guiding the Invisible Hand: The Consumer Protection Function of Unauthorized Practice Regulation*, 12 PEPP. L. REV. 1, 21–22 & n.75 (1984); *cf.* Barton, *supra* note 31, at 440 (conceding information asymmetries are a major problem for such clients, but contending economic justifications nevertheless do not support entry barriers).

55. Rhode, *supra* note 31, at 710; *see also* Cramton, *supra* note 31, at 545–46 (“[P]roducers will not be compensated for the higher cost of high-quality service . . . result[ing] in a ‘market for lemon’ because producers are forced to make price and quality reductions that lead to the sale of only cheap products or low-quality service and the market shrinking.”).

56. Rhode, *supra* note 31, at 710; *see also* Wilkins, *Who Should Regulate Lawyers?*, *supra* note 27, at 829, 831.

small businesses cannot afford to treat judgments against them as mere “speeding tickets.”⁵⁷ A criminal defendant may forfeit her freedom because of bad lawyering.⁵⁸ A private client or small business may face financial ruin as a result of bad counseling, poor transactional work, or inadequate representation in litigation.⁵⁹ A deserving plaintiff may be unable to receive a just and full remedy for her injuries because of poor or unethical lawyering.

Proponents of deregulation contend that these risks and harms will not worsen if lay providers are permitted to provide legal services.⁶⁰ They emphasize that many legal transactions are routine, discrete, and easy to perform competently, and they claim that some legal services are better than none.⁶¹ But it is often impossible to know in advance whether a bankruptcy, divorce, or other legal interaction will be simple and straightforward, or whether it will implicate hidden and complicated legal issues. Lay providers, who lack training in the analytical skills of lawyering, are far less likely to spot and manage these issues and to minimize the accompanying risks.⁶²

Even if professional licensure at the bottom of the market is replaced by a limited licensing scheme (rather than entirely eliminated), these problems will persist. By ensuring some training and offering recourse for harmed consumers, a limited licensing scheme could address many of the more extreme problems of incompetent and unethical providers posed by complete deregulation.⁶³ But it would institutionalize a two-class profession, in which higher-quality and better-educated lawyers are available to the wealthier segments of society, while lower-quality legal technicians serve the poorer segments. Like proposals to deregulate, limited licensing schemes would therefore create greater imbalance in interactions between the clients of the profession’s two hemispheres.

57. Cf. George M. Cohen, *Posnerian Jurisprudence and Economic Analysis of Law: The View from the Bench*, 133 U. PA. L. REV. 1117, 1119 n.6 (1985) (explaining the “tradeoff” analysis completed by a motorist when weighing his ability to pay for a speeding ticket against how much he chooses to speed).

58. See Cramton, *supra* note 31, at 554–55; see also Barton, *supra* note 31, at 440 (“[S]ome potential harms, notably those involved in criminal defense work, are potentially irreparable and may justify regulation.”).

59. BARLOW F. CHRISTENSEN, *LAWYERS FOR PEOPLE OF MODERATE MEANS* 48 (1970) (“[T]he resolution of such questions may be far more important to the poor person or the person of moderate means than the actual economic value of the case.”); cf. Andrew F. Moore, *Fraud, the Unauthorized Practice of Law and Unmet Legal Needs: A Look at State Laws Regulating Immigration Assistants*, 19 GEO. IMMIGR. L.J. 1, 5–8 (2004).

60. See, e.g., Rhode, *supra* note 31, at 708–09.

61. See, e.g., Mary Helen McNeal, *Having One Oar or Being Without a Boat: Reflections on the Fordham Recommendations on Limited Legal Assistance*, 67 FORDHAM L. REV. 2617, 2618 (1999).

62. Cf. Kritzer, *supra* note 35, at 927 (explaining that the distinction between his new categories of legal service providers turns on the need for creativity in thinking about the law—“thus, the distinction between the legal processor and the legal consultant might be summed up by whether or not their cases call for what is sometimes labeled ‘creative lawyering’”).

63. See Rhode, *supra* note 30, at 409.

Represented by the highest quality lawyers and facing individuals with lawyers or lay providers of declining quality, corporate litigants would achieve even greater rates of success in court. They would exert even greater influence on judicial agendas and substantive law, and they would “play for the rules” even more so than they already do.⁶⁴ The interactions that link the two hemispheres together would therefore have the ironic effect of pushing them even further apart.

2. Relaxing Regulation in the Corporate Hemisphere

In the corporate hemisphere, mechanisms of professional regulation combat the hemispheres’ structural inequities in a different but equally important way—by bolstering professional independence from clients. The profession’s codes of conduct do so by requiring lawyers to balance duties to clients with baseline duties to opponents, third parties, courts, and the general public. They prohibit a lawyer from engaging in certain conduct that corporate management might otherwise direct, such as interviewing corporate constituents without sufficient disclosures⁶⁵ and communicating directly with employees and third parties who are represented by separate counsel.⁶⁶ They impose affirmative duties on a lawyer to report corporate wrongdoing up the ladder to the board of directors.⁶⁷ These and other rules also stand as important justifications for lawyers to exercise their independent judgment in serving clients’ interests in ways that comport with the fairness and equity of the legal system—not only (or necessarily) because they want to, but also because they may otherwise lose their license.

Without the protections of professional regulation in the corporate hemisphere, the dangers of insufficient professional independence, long noted by scholars,⁶⁸ would be fully realized. There would be little to stop sophisticated corporate actors from co-opting lawyers into facilitating excessively aggressive or unethical business schemes.⁶⁹ At least some lawyers would engage in legal strategies and tactics that, while highly

64. See generally Marc Galanter, *Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change*, 9 *LAW & SOC’Y REV.* 95 (1974).

65. MODEL RULES OF PROF’L CONDUCT R. 1.13 cmt. 10 (2013) (requiring clarification that the lawyer represents the corporation and that the constituent may seek independent counsel).

66. *Id.* R. 4.2 (requiring a lawyer to communicate only with the lawyer of a represented individual).

67. Corporate counsel has a duty under section 307 of the Sarbanes-Oxley Act and Model Rule of Professional Conduct 1.13 to report corporate misconduct and wrongdoing “up the ladder” and eventually to the board of directors. Roger C. Cramton, George M. Cohen & Susan P. Kroniak, *Legal and Ethical Duties of Lawyers After Sarbanes-Oxley*, 49 *VILL. L. REV.* 725, 739–41 (2004).

68. See, e.g., Susanna M. Kim, *Dual Identities and Dueling Obligations: Preserving Independence in Corporate Representation*, 68 *TENN. L. REV.* 179, 253 (2001); Robert Eli Rosen, *Problem-Setting and Serving the Organizational Client: Legal Diagnosis and Professional Independence*, 56 *U. MIAMI L. REV.* 179, 184 (2001).

69. Dana Remus, *Out of Practice: The Twenty-First Century Legal Profession*, 63 *DUKE L.J.* 1243, 1263–73 (2014).

beneficial to their clients, would be harmful to society at large. For example, they might advise clients on ways of circumventing safety or environmental regulations that follow the text but not the spirit of the law, or recommend questionable tax strategies that would likely avoid detection.⁷⁰ Even worse, some lawyers might enable illegal and destructive behavior, as lawyers did in recent corporate scandals, such as Enron and KPMG.⁷¹

These examples highlight that it is not only in litigation practice, but also in counseling and transactional work, that the lawyers of one hemisphere can have significant and often harmful influence on the clients of the other. When corporate lawyers insert binding arbitration clauses in consumer contracts, it is individuals of the personal-services hemisphere who are excluded from court. When corporate lawyers help their clients evade tax liability, it is the public fisc that suffers. And as one corporate scandal after another has shown,⁷² when corporate lawyers facilitate their clients' excessively risky profit-maximizing strategies, it is the public at large that pays the price.⁷³ The protections of professional regulation are critical in these and countless other situations, not to protect clients from their lawyers, but to protect third parties, the public, and lawyers themselves from problematic ways in which savvy corporate clients can use their lawyers.

A loosening of professional regulation in either of the profession's hemispheres would therefore threaten harm to the integrity of the legal system as a whole. In the corporate hemisphere, it would allow savvy clients to manipulate their lawyers to unfair, unethical, or even illegal ends. In the personal-services hemisphere, it would depress the quality of legal services and perversely entrench existing and deep-seated inequities in the profession and in society at large.

We cannot, and perhaps should not, control fully for some disparities, such as the amount of resources individuals and entities have or choose to spend on legal matters.⁷⁴ But we can ensure a base level of competence,

70. Barton, *supra* note 31, at 474.

71. Remus, *supra* note 69, at 1243, 1273.

72. See Alexi Barrionuevo, *Two Enron Chiefs Are Convicted in Fraud and Conspiracy Trial*, N.Y. TIMES, May 26, 2006, at A1; *Corporate America's Woes, Continued*, ECONOMIST, Nov. 30, 2002, at 59; Andrew Ross Sorkin & Alex Berenson, *Tyco Admits Using Accounting Tactics To Inflate Earnings*, N.Y. TIMES, Dec. 31, 2002, at A1; Ken Belson, *Adelphia Proposes To Settle Federal Cases*, N.Y. TIMES (Dec. 29, 2004), <http://query.nytimes.com/gst/fullpage.html?res=9A07E5D81639F93AA15751C1A9629C8B63>; Simon Romero & Alex Berenson, *WorldCom Says It Hid Expenses, Inflating Cash Flow \$3.8 Billion*, N.Y. TIMES (June 26, 2002), <http://www.nytimes.com/2002/06/26/business/worldcom-says-it-hid-expenses-inflating-cash-flow-3.8-billion.html>.

73. See, e.g., Milton C. Regan, Jr., *Teaching Enron*, 74 FORDHAM L. REV. 1139, 1154–55 (2005) (describing the role of in-house and outside counsel in the Enron scandal); Zach Lowe, *Lawyer To Serve Six-and-a-Half Years in KPMG Tax Fraud Case*, AM. L. DAILY (Apr. 2, 2009, 11:30 AM), <http://amlawdaily.typepad.com/amlawdaily/2009/04/kpmg-lawyer.html>.

74. Rhode, *supra* note 30, at 373 (“Although there is broad agreement that the quality of justice should not depend on the ability to pay, there is little corresponding consensus on an alternative. How do we deal with disparities in incentives, resources, and legal ability? True

conduct, and independence among all lawyers. That our current system of professional regulation is not doing an adequate job is reason not to abandon it, but to improve it. In the next and final Part, I offer preliminary thoughts on how we might do so.

III. THE PATH AHEAD

To be effective, professional regulation must account not only for the differences and distance between the profession's two hemispheres, but also for the interactions that link them together. As discussed, these interactions are frequently characterized by significant power and wealth disparities that skew the playing field in and out of court. In this Part, I propose that the profession address these imbalances by moving beyond existing reform proposals and thinking creatively about new ways to target the principal problems of each hemisphere—the need for increased access and competency in the personal-services hemisphere and increased independence in the corporate hemisphere. After outlining the broad contours of reform, I briefly note a few proposals deserving of extended study.

In the personal-services hemisphere, the principal challenge is not just access, but access to competent services. Reform efforts should therefore aim to draw a greater number of qualified and competent lawyers into practice settings and areas that serve individuals. Given that the principal deterrent is low incomes, a central goal should be increasing funds to support legal aid and public-interest organizations. This could be accomplished through a new tax on law firm profits or through a new requirement that all licensed lawyers pay an annual sum to fund low-income lawyering. Given the number of licensed lawyers in the country, a requirement of even a single average billable hour could raise significant funds (if implemented in all states). Highly competent lawyers could also be drawn into the lower-income practice areas of the personal-services hemisphere through improved and expanded loan repayment programs.⁷⁵

In the corporate hemisphere, the principal challenge is to bolster lawyers' independence from their clients. Reform efforts should therefore aim to

equality in legal assistance would presumably require not only massive public expenditures but also the restriction of private expenditures.”).

75. Expanded loan repayment programs could incentivize entry into the lower income practice areas of the personal-services hemisphere. Currently, the federal government and twenty-four states have variations of these programs. *See* 20 U.S.C. § 1087ee (2012) (codifying provisions for the Federal Perkins Loan, which includes a public-service loan forgiveness provision); *State Loan Repayment Assistance Programs*, A.B.A., [http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/loan_repayment_assistance_programs.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/loan_repayment_assistance_programs/state_loan_repayment_assistance_programs.html) (last visited Apr. 26, 2014). But many offer very limited repayment. Recently, the ABA concluded that although the number of these programs has begun to increase, most of them “still do not meet most of the need of many attorneys who would like to work in the public interest.” *Loan Repayment Assistance Programs*, A.B.A., http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/loan_repayment_assistance_programs.html (last updated Sept. 21, 2012). States that do not have these programs should establish them, and existing programs should be expanded and publicized to gain additional support.

protect third parties, the public, and lawyers themselves from the ways in which clients can manipulate and use lawyers to facilitate problematic ends. New conduct rules could, for example, impose heightened reporting requirements and corresponding exceptions to the confidentiality rules.

A more drastic set of reforms targeted at heightened professional independence would acknowledge and account for the different pressures lawyers feel in different work settings. The independence of in-house counsel, for example, is inherently undermined by the reality that the client is also the employer.⁷⁶ One way to account for this would be to impose different obligations and protections on lawyers who employ themselves as opposed to those who are employed by their client.⁷⁷

The goals of increased competency and access in the personal-services hemisphere and increased independence in the corporate hemisphere interrelate in important ways. Competent lawyers serving individuals can police the independence of corporate lawyers by challenging and uncovering corporate wrongdoing that implicates or co-opts lawyers' services. Successful class-action attorneys can be particularly effective in this regard.⁷⁸ Independent corporate lawyers, for their part, can ameliorate the need for this type of policing by counseling corporate clients to follow the spirit as well as the letter of the law.

Independent corporate lawyers can also bolster access to competent services in the personal-services hemisphere by increasing both awareness and supply. By complying with their duties to advise corporate constituents to secure separate counsel⁷⁹ and by refraining from giving an impression of disinterestedness to unrepresented parties,⁸⁰ corporate lawyers can help individuals recognize when they have a legal issue with which a lawyer could help. Moreover, independent corporate lawyers are more likely to recognize and honor their duties to the state and society as well as to private clients—duties that require heightened efforts to represent underserved populations through pro bono and public interest work. When corporate lawyers comply with these duties by offering pro bono services to

76. In-house lawyers may become so involved in management's decisionmaking and so enmeshed in the corporate culture that their perspective becomes entirely aligned with corporate management, precluding the possibility of independent judgment. Deborah A. DeMott, *The Discrete Roles of General Counsel*, 74 FORDHAM L. REV. 955, 967–69 (2005).

77. A useful though inexact analogy is England's bifurcated structure of barristers and solicitors. One of the primary justifications for that structure is that barristers, who have minimal contact with their clients (since everything proceeds through the solicitor) can offer a more independent opinion, free from direct pressures from a client. Judith L. Maute, *Revolutionary Changes to the English Legal Profession or Much Ado About Nothing?*, 17 PROF. LAW., no. 4, 2006, at 1, 4.

78. See Adam S. Zimmerman & David M. Jaros, *The Criminal Class Action*, 159 U. PA. L. REV. 1385, 1416 (2011) (“[C]lass action rules were designed, in part, to ensure that individuals who enforce the law as ‘private attorneys general’ do so in the public interest.”).

79. MODEL RULES OF PROF'L CONDUCT R. 1.13 (2013) (requiring clarification that the lawyer represents the corporation and that the constituent should seek independent counsel).

80. *Id.* R. 4.3 (requiring a lawyer to refrain from giving an impression of disinterestedness when interacting with an unrepresented party).

individuals, they take important steps in addressing the insufficient supply of lawyers in the personal-services hemisphere.

No single reform or strategy will provide a quick fix for the pernicious effects of the profession's structural imbalances. But by pursuing multiple strategies at once with the goals of increasing access, competency, and professional independence, the profession can decrease wealth and power disparities between the lawyers and clients of the two hemispheres and work towards a more level playing field in and out of court.

CONCLUSION

Legal scholars have long sought to account for the structure of the legal profession in their regulatory proposals. They have generally done so by accepting the existence of the profession's two hemispheres and by treating each as a domain unto itself. I have argued that effective ethical regulation must account for the profession's structure in a much broader way—by seeking to understand the system-wide implications of its bifurcated structure. Understanding these implications, in turn, requires attention not just to the distance and differentiation between the profession's hemispheres but to the client connections that bind them together.

Tending to these connections reveals a critical way in which the stratified lawyers of the profession's hemispheres participate in reproducing the power disparities that they reflect. It also reveals that successful efforts to address inequitable access to legal services will have to address disparities between the profession's hemispheres. A critical starting point will be to increase competency and access in the personal-services hemisphere and independence in the corporate hemisphere.