THE POWER OF LAW FIRM PARTNERSHIP:  
WHY DOMINANT RAINMAKERS WILL IMPEDE THE IMMEDIATE, WIDESPREAD IMPLEMENTATION OF AN AUTOCRATIC MANAGEMENT STRUCTURE

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I. INTRODUCTION

Consultants and commentators have suggested that law firms would benefit from the implementation of effective business management practices. \(^1\) These individuals assert that in failing to implement management plans similar to the plans employed by their corporate clientele firms have effectively left money on the table. These commentators also assert that firms utilizing basic business methods are likely to experience tremendous gains. \(^2\) In fact, one commentator went so far as to claim that “no one factor is as important to the success of a law firm as strong leadership at the top.” \(^3\) The majority of law firms, however, have failed to take note of this and “in firm after firm, either the partners will not give real authority to anyone to lead the firm, or no partner is considered capable of assuming the role of strong leader. This void leads firms to drift at best and fail at worst.” \(^4\)

Despite the tremendous potential for gain, this Article asserts that the current arrangement of power in large American law firms poses a significant barrier preventing an extensive, dramatic, and immediate shift in the management structure of the legal profession. More specifically, a structural conflict exists between the interests of the firm and those of the rainmaking partners, at least in part because the dominant rainmakers are both mobile and the most powerful actors within law firms, and for the new model to be successful, these partners must surrender a significant amount

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1. See Deborah K. Holmes, Learning from Corporate America: Addressing Dysfunction in the Large Law Firm, 31 GONZ. L. REV. 373, 404 (1996); see also Ward Bower, Law Firm Economics and Professionalism, 100 DICK. L. REV. 515, 516 (1996) ("Effective management and good business practices are not inconsistent with traditional 'professional' lawyering. To the contrary, they are essential in today's complex economic environment and will be even more essential in the future.").

2. See Frederick L. Trilling, The Strategic Application of Business Methods to the Practice of Law, 38 WASHBURN L.J. 13, 15 (1998) ("[M]ost lawyers presently use few if any business methods in their practices, so that even a small effort can make a big difference.").


4. Id.
Further, the new model requires that power shift from rainmaking partners to a centralized leader, making this shift unlikely to occur because dominant partners will not easily relinquish the authority and influence they currently possess. Consequently, those attempting to modify a firm’s management structure and the distribution of power have the arduous task of garnering the approval of the firm’s rainmakers since those lawyers are in a position to thwart any proposed transformation.

While this Article argues there is a structural conflict between the best interests of the law firm and the personal and economic interests of the firm’s powerful rainmaking partners, this theory likely does not apply to every firm in the AmLaw 200—America’s “top 200 highest grossing law firms.” In particular, the most elite and prestigious firms—those comprising the top twenty spots on The American Lawyer’s annual list—are generally immune from this phenomenon. In fact, the application of this theory is likely limited to firms operating under a two-tier partnership of “equity” and “non-equity” partners. As has been observed, the conventional explanation for the growth of the two-tier—or, conversely, the abandonment of the single-tier—partnership is that it produces higher profits per [equity] partner (PPP), thus solidifying the prestige of the law firm and improving its ability to attract the best legal talent. The most prestigious firms, however, need not gravitate toward the two-tier model because the prestige and profitability of these firms have long been established. Consequently, the prestigious, elite firms of the world have little trouble attracting top-notch legal talent and the most sophisticated legal matters. The “have-not” firms, those not recognized within the legal profession as the very best of the best, have migrated towards a two-tier structure primarily to gain a competitive edge and retain their most profitable partners. However, by bestowing more power on their rainmakers in an attempt to retain their valuable services, these firms are


6. See generally Leonard, supra note 3 (discussing the struggle to shift toward centralized firm management).

7. See infra notes 47–49 and accompanying text.


9. Henderson, supra note 8, at 1694–95 (explaining the operation of a two-tier partnership structure within a law firm).

10. Id. at 1697.
susceptible to the problems identified throughout this Article. In addition, firms that rely too heavily on rainmaking partners will likely experience resistance if they attempt to implement a corporate management structure.

Part II of this Article provides a brief overview of Robert L. Nelson’s study of the organizational structure and power within four Chicago law firms. Although Part II concentrates exclusively on Nelson’s study, due to the importance of his work, the rest of this Article also draws extensively from Nelson’s findings. Part III builds upon Nelson’s study and highlights the current structure and allocation of power within law firms. Part IV describes a “new model” for law firm management. This model aims to maximize firm efficiency and profitability, and has gained favor among law firm consultants and legal commentators precisely for these reasons. Additionally, Part IV details the prominent flaws that plague the traditional partnership model and the impetus behind the transition to the corporate management model. Finally, Part V details the difficulties that law firms face in immediately implementing this new model. Specifically, Part V focuses on the legal profession’s general aversion to change, the myriad of reasons why dominant rainmakers are likely to oppose an autocratic structure, and why their opposition is likely fatal to such a dramatic shift in firm structure.

II. OVERVIEW OF NELSON’S STUDY

In his insightful book about power and the social transformation of large firms, Robert L. Nelson asserts that the organizational structure within large American law firms has shifted dramatically in recent decades. Since their formation, large law firms have operated under “traditional conceptions of the professional partnership in which all partners [were] in some sense peers, ‘a company of equals.’” Recently,
however, law firms are gravitating toward a bureaucratic organizational structure characterized by “specialization, departmentalization, and increasing stratification in the earnings and authority of partners.”

Because of this shift, firms have become more efficient and the distribution of power within the firm has undergone a notable transformation.

In his book, Nelson analyzed the organizational structure of four Chicago law firms. Of these firms, two shifted to a bureaucratic structure while two continued to adhere to the traditional partnership structure. Nelson’s study revealed that the two bureaucratically organized firms benefited from increased efficiency and productivity. According to Nelson, the increase in efficiency is directly attributable to specialization. Specialization in law firms is largely characterized by lawyers working in specific departments. Nelson argued that “departmentally organized work-group structures place lesser demands on lawyers’ time than do ill-defined collections of case teams and office specialties.” In fact, according to Nelson, “to compete with inside counsel and other firms, the large law firm must become a bureaucratic work apparatus that maximizes efficiency by coordinating the activities of diverse groups of technical specialists or by assembling work teams capable of handling large-scale projects.” After analyzing the different organizational structures utilized by the firms in his sample, Nelson concluded that “[t]he relative efficiency of departmental work structures suggests that bureaucratically organized firms may have a competitive advantage in the market for corporate legal services.”

Not only do law firms realize gains in efficiency through the establishment of distinct practice departments, they also benefit from the unique division of labor within the firm. Within each department and, indeed, throughout the entire firm, the division of labor is critical to

19. Id.
20. See id. at 7–12.
21. Id. at 86–124.
22. Id. at 88.
23. See id. at 89.
24. Id. at 26 (“Specialization is the primary means for achieving greater efficiency. Given a sufficient volume of demand for a particular service, a large firm will develop standard forms and standardized processing.”).
25. Id. at 25–26.
26. Id. at 187.
27. Id. at 159.
28. Id. at 187.
29. See id. at 170–72.
maximizing efficiency.\textsuperscript{30} Nelson noted that “the organization of work in the law firm is fundamentally different from that in the industrial organization.”\textsuperscript{31} He continued:

The law firm retains a status-based division of labor in which the senior partners use the skill, commitment, and professionalism of junior partners and associates. Rather than seeking to reduce the level of skill in legal work, the elite of firms have actively sought to cultivate the specialized skill base necessary to attract the business of corporate clients in a rapidly changing and uncertain legal environment.\textsuperscript{32}

Efficiency is not the only by-product of an internal organizational shift. As Nelson also noted, “[t]he resulting ‘new structure’ of firms is marked by the emergence of a distinctive managerial elite and increasing disparities in the status and income of partners.”\textsuperscript{33} Instead of a company of equals, firms are now comprised of partners with varying degrees of power, based in large part on the size of a lawyer’s book of business.\textsuperscript{34} Consequently, Nelson maintains that “a position of managerial authority in the firm, whether it be membership on the governing committee, a position at the head of a department, or managing partner, will always be subordinate to the power of the lawyers controlling the largest bloc of clients.”\textsuperscript{35} In addition to the disparities among partners, firms operating under a bureaucratically organized system have a “new managerial ideology, which sanctions efforts to attract clients and notable attorneys, actions that would have been thought ‘unprofessional’ only a few years ago, and which seeks to reorganize the firm internally by improving efficiency and providing additional rewards for those lawyers bringing business to the firm.”\textsuperscript{36} This new ideology makes clear the power of the client-controlling lawyers.

Overall, Nelson recognized that the internal structure of firms has undergone a dramatic organizational shift, and as a result of this shift, firms are now more efficient.\textsuperscript{37} One factor responsible for the increase in

\begin{itemize}
\item \textsuperscript{30} See id.
\item \textsuperscript{31} Id. at 171.
\item \textsuperscript{32} Id.
\item \textsuperscript{33} Id. at 38.
\item \textsuperscript{34} See id. at 28.
\item \textsuperscript{35} Id. at 224.
\item \textsuperscript{36} Id. at 38.
\item \textsuperscript{37} See id. at 10 (noting that although firms are now more efficient, many in the legal profession are wary of the effect these changes will have on the traditional values of professionalism).
\end{itemize}
efficiency is the bureaucratic organizational structure, which is characterized by a hierarchical division of labor between three general categories: attorneys responsible for “finding” clients, attorneys responsible for “minding” the needs of those clients, and attorneys responsible for “grinding” out the actual work for these clients.38 According to Nelson, “[i]t is this status-based hierarchy that is the most prominent feature of the organization of work [within the law firm].”39

In the nearly twenty years since Nelson’s study, “specialization, departmentalization, and increasing stratification in the earnings and authority of partners”40 among law firms has become the rule, not the exception. Consequently, his study is germane to the issues presented and serves as a solid foundation for the arguments made in this Article.

III. THE STRUCTURE OF LARGE AMERICAN LAW FIRMS

A. Composition of the Large Law Firm

1. Partners and Associates

To understand the importance and relevance of Nelson’s study, it is necessary to explain more fully the basic relationship between the actors within law firms and their roles in maximizing efficiency. The base of the law firm pyramid is comprised of the grinders—typically young partners and associates.41 According to Nelson, “[l]eaders of firms readily admit that they buy associates’ time ‘wholesale and sell it retail,’ making the work of associates an important source of surplus for the partnership.”42 At the top of the pyramid are the finders.43 These are the rainmakers responsible for attracting new clients.44 These lawyers are the dominant partners in the firm, typically able to dictate the ideology by which the firm is governed.45 Hence, for obvious reasons, the quest among associates to become a partner is exceedingly competitive.46

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38. Id. at 188.
39. Id.
40. Id. at 4.
41. Id. at 75.
42. Id. at 77.
43. Id. at 70.
44. See, e.g., Freeborn, supra note 5, at 231.
45. See NELSON, supra note 13, at 79–80.
46. See generally Marc S. Galanter & Thomas M. Palay, Why the Big Get Bigger: The Promotion-to-Partner Tournament and the Growth of Large Law Firms, 76
a. **Internal Pressures and Rewards.** Unlike previous decades, a young lawyer cannot simply work hard and expect to succeed by rising through the ranks of a large law firm. Associates who employ such a strategy will undoubtedly exit the firm before becoming partner. To actually make partner, it is imperative that young associates develop their own clients.\(^\text{47}\) Increasingly, law firms are placing more emphasis on client development in making partnership decisions.\(^\text{48}\) In fact, those who fail to cultivate their own relationships with clients can expect to be a casualty of the “up-or-out” system.\(^\text{49}\)

Even if an associate is fortunate enough to make partner, the pressures and demands are not likely to cease. A prominent example of the continued stress that accompanies one to partnership is the demotion of almost ten percent of Sidley & Austin’s partners in late 1999.\(^\text{50}\) In an effort to improve profits, Sidley’s management team demoted approximately thirty-five partners who failed to perform at past levels.\(^\text{51}\) The unexpected demotion of so many partners sent a clear message to the remaining partners and associates: “Pull your weight, or you’ll lose your heft. And that means the demotions achieved at least one goal, by jump-starting all the attorneys.”\(^\text{52}\)

To avoid a similar fate, partners and associates must develop their own book of business because “[i]n the law firm the power of the dominant colleagues derives from their relationships with clients.”\(^\text{53}\) Thus, a lawyer lacking a significant book of business is subject to the whims of the most powerful partners.

Aside from job security, client control plays a considerable role in determining compensation within the firm. Nelson discovered that “[t]he

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\(^{48}\) See id. at 30 (noting that in the 1960s and early 1970s “[p]artners were chosen for proficiency, hard work, and ability to relate to clients. But in many cases there was some consideration of the candidate’s ability to attract business . . . .” (footnote omitted)).

\(^{49}\) See id. at 28 (“One of the basic elements of the big firm is the ‘up-or-out’ rule, which prescribes that after a probationary period the young lawyer will either be admitted to the partnership or will leave the firm.”).

\(^{50}\) Amanda Ripley, Seniority Complex, THE AM. LAW., June 2000, at 84, 84.

\(^{51}\) See id.

\(^{52}\) Id. at 112.

\(^{53}\) NELSON, supra note 13, at 227.
distribution of income follows a strikingly common pattern across the four firms [analyzed in his influential book]: the overwhelmingly powerful predictors of income differences are seniority and client responsibility."

In fact, this has become even more true as law firms have shifted toward a compensation structure that increasingly rewards a lawyer’s ability to bring in new clients and create business over other factors. Because of the incentives to bring in business, lawyers are encouraged to concentrate a substantial amount of effort toward rainmaking activities. As managerial power and client responsibility are positively correlated, a lawyer with a substantial book of business is best positioned to succeed within the firm—whether as a partner or as an associate.

B. Client Control: The Source of Financial and Managerial Power

For better or for worse, virtually all power within a law firm derives from client control. This is a prominent theme throughout Nelson’s book. Nelson observed that “[a]t the top of the decision-making pyramid on any case or matter is the colleague with the strongest links to clients.” The decision-making pyramid solidifies the firm’s internal hierarchy by allocating a great amount of power and a major portion of the profits to the lawyers with substantial client responsibility. Consequently, even a

54. Id. at 191.
55. Altman Weil, Report to Legal Management: Partner Compensation Systems—How Firms Distribute Owner Profits (James Wilber ed. 2000) (noting that business organization and client responsibility are two of the most important factors considered by firms when making compensation decisions).
56. See Martha Neil, The Rainmaker Within, A.B.A. J., July 2006, at 26, 26 (observing that “in an increasingly competitive market for legal services, law firms are” relying on associates to enhance client development efforts).
57. See Nelson, supra note 13, at 227 (noting that “[i]n the law firm the power of the dominant colleagues derives from their relationship with clients”).
58. See id. at 217 (“Attaining client responsibility is viewed as a professional achievement.”); see also id. at 224 (“Bureaucratization in the law firm will always be subject to the prerogatives of the client-responsible elite.”); Robert W. Hillman, Professional Partnerships, Competition, and the Evolution of Firm Culture: The Case of Law Firms, 26 J. CORP. L. 1061, 1067 (2001) (recognizing that firms are reallocating “income in favor of partners with loyal client bases, an event that often is combined with a consolidation of management in the hands of these same lawyers”).
59. See generally Nelson, supra note 13, at 208 (explaining that “[t]he firm is a kingdom; the lords are those who control clients”).
60. Id. at 227.
61. See id. at 275 (explaining that “[w]ether recognized formally by changes in the partnership agreement or not, many firms consist of a dual partnership in which lawyers with substantial client responsibility run the firm and take home a major
cursory examination of the power structure of law firms reveals the significance of client control.

Precisely because rainmakers are the most dominant actors in large law firms, commentators suggest that young associates should treat their careers like a small business and develop methods to attract clients.62 This causes the competition among young lawyers to escalate. This is even true for older partners who realize that if they fail to develop the skills necessary to attract and maintain business, they are likely to find themselves constrained at best, and jobless at worst. Lawyers who can establish and cultivate relationships with clients acquire more power than their non-client-controlling colleagues due to increased mobility. As a result, “over the last two decades, aggressive application of the principle of client choice has greatly enhanced lawyer mobility and made lateral movement of lawyers among firms an accepted part of the culture of the legal profession.”63 The trend toward lateral hiring is no longer confined to associates—it now applies to all levels of partnership.64 This has had an incredible effect on the profession because it has radically amplified competition among law firms.65 In addition, “[i]ncreasingly, competition is internalized as firms recognize that their current partners pose a significant competitive threat for the future.”66 The intensity of the internal competition is so fierce because, as Michael D. Freeborn, a named partner in a large Chicago law firm, noted, firms tend to “deify their so-called

portion of the profits while other lawyers function as little more than salaried staff”).

62. See Holmes, supra note 1, at 408–09 (noting that “Martha Fay Africa, a principal of one of the largest legal recruiting firms in the country, counsels new lawyers to concentrate on becoming rainmakers, because doing so will give them the greatest flexibility—initially within their firms and, later, elsewhere”).

63. Hillman, supra note 58, at 1062 (indicating that client choice “allows clients to change lawyers or law firms at any time, with or without good reason”).

64. See Robert W. Hillman, Hillman on Lawyer Mobility § 1:1 (2d ed. 1999); see also Leigh Jones, Firms Act to Keep Partners from Jumping Ship, NAT’L L.J., June 19, 2006, at 1, 10 (noting the growing trend toward lateral movement among partners).

65. Hillman, supra note 64, § 1.1.

66. Hillman, supra note 58, at 1062. For an insightful view on internal competition among senior associates, see Adam Smith, Esq., The Law Breeds Immature Business People, http://www.bmacewen.com/blog/archives/2004/08/the_law_breeds.html (Aug. 9, 2004, 09:35 EST) (“The economic logic is simple: Senior associates who develop a loyal book of business are in a vastly superior bargaining position vis-a-vis their firm than their client-less peers. They can, without boasting, let it be known they could take their business elsewhere if they aren’t anointed partners.”).
According to Freeborn, “[a] week does not go by without some headhunter calling me to say that he knows of a rainmaker in another firm, interested in moving.” Consequently, an unhappy lawyer with a “portable practice” can leave with her clients in search of greener pastures.

For all of the foregoing reasons, dominant rainmakers have been able to exert a tremendous amount of influence on issues relating to firm management. Specifically, dominant rainmakers have been able to reallocate firm income in their favor and dictate firm governance. Indeed, the partners who control the most important clients are well-positioned to continue to wield a colossal amount of influence on virtually all aspects of the firm. Because the firm relies so heavily on the clients these partners control and the revenue they generate, it is unlikely that a firm could undertake a significant managerial shift without the endorsement and cooperation of these powerful partners.

IV. LAW FIRM MANAGEMENT: THE “NEW MODEL”

Although increased efficiency was a result of the shift to a bureaucratic organizational structure, some critics claim that a more dramatic transformation is necessary if firms wish to maximize efficiency. The general critique is simple: the partnership model is outdated and inefficient. One observer noted that “when a partnership comprises

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67. See Freeborn, supra note 5, at 231.
68. Id. (footnote omitted).
69. See Hillman, supra note 64, § 1:1 (“[I]ncreased mobility has permitted lawyers with the ability to transport clients and revenues to demand a larger share of firm income. Bolstering the unsatisfied partner’s demands is the ever-present threat of the lawyer’s leaving and grabbing what many regard as the firm’s assets—its clients.”) (footnotes omitted).
70. See Hillman, supra note 58, at 1067.
71. See Nelson, supra note 13, at 79–80 (“The dominant colleagues, the ‘finders,’ typically can dictate the ideology by which the organization is governed.”).
72. See id. at 224.
73. See id. at 80.
74. See Holmes, supra note 1, at 375 (arguing that to increase efficiency, “firms should break new ground by replacing partnership with a more rational management structure and changing (and lowering) attorney compensation”).
75. See Jay W. Lorsch & Thomas J. Tierney, Aligning the Stars 50 (2002) (“In a rapidly changing environment, yesterday’s strategy is seldom the answer to tomorrow’s problems. This is obvious, yet time and again firms maintain the status quo (or make half-hearted efforts at strategic change), even in the face of large-scale upheaval in client needs or competitive dynamics.”); see also Holmes, supra note 1, at
hundreds of people, many of whom barely know one another, the partnership model of management has most likely been stretched beyond its useful limits. Thus, to succeed, large law firms should discard the traditional partnership model, which is based on consensus, not efficiency, and employ a corporate model of management. This, observers claim, will allow firm leaders to establish the vision and general direction of the firm, thereby increasing overall efficiency and productivity. Further, many commentators maintain firms that fail to recognize the benefits of the new model will likely discover their strategic misfortune only after it is too late. Although sound in theory and certainly not impossible to implement, this Article cautions that such a dramatic shift in the management structure of the large law firm will be a difficult and arduous task, in part because firms rely so heavily upon the clients these partners control and service. Accordingly, in an effort to appease and retain their most important lawyers, firms have bestowed upon these individuals significant power and autonomy. This power and autonomy makes it extremely unlikely that the partners will quickly and easily surrender these hard-earned benefits.

A. Forces Driving the Change

Initially, it is helpful, and almost certainly necessary, to detail the forces driving the need for law firms to abandon the traditional partnership model and adopt the corporate model. Although not an all-encompassing list, these factors are arguably the most prominent.

1. Increased Competition for Clients

Despite decades of resistance, it is now recognized that the practice of law is, undoubtedly, a business. Much of the force behind this realization

406 (“Far better than the outdated partnership model would be a system of shared authority.”).
76. Holmes, supra note 1, at 405.
77. Id. at 405–06.
78. See id. at 407–08 (noting that the use of professional managers is likely to “yield a successful quality initiative—vision and overall direction provided at the top of the organization, with responsibility (and authority) for operating decisions delegated to smaller groups”).
79. LORSCH & TIERNEY, supra note 75, at 51 (explaining that “[t]he financial impact of strategic obsolescence may not be fully apparent for years”).
80. See generally id. at 18–20 (discussing professional relationships with clients).
has been in the intense competition for clients. Generally, the increased
competition is attributable to two principal factors: (1) intense competition
for lawyers; and (2) new competition from non-traditional providers of
legal services.

a. Competition for Lawyers. Over the past few decades, the
number of lawyers has grown dramatically. Consequently, there is
greater competition for clients. As the previous section explained, this
competition is also taking place inside the firm as “firms recognize that
their current partners pose a significant competitive threat for the future.”
There are two main factors that contribute to the fierce competition for
lawyers. First, in contrast to decades past, clients are no longer married to
a firm. As evidenced by the increase in lawyer mobility, client loyalties
run largely to individual lawyers, not the firms. Thus, lawyers with
substantial books of business are highly sought after by other law firms.
The second and more obvious reason that competition for lawyers is so
fierce is that “[t]alent is a [law] firm’s only sustainable source of
competitive advantage.” According to Jay W. Lorsch and Thomas J.
Tierney, within a law firm “[t]he people you pay are more important over
time than the people who pay you.” Consequently, to achieve and
maintain greatness, firms must attract and retain star lawyers, who in turn
attract and retain clients as well as other stars. This is an arduous task,
because “[b]uilding this talent begins with the competition for stars, which

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(“The contemporary practice of law may be best understood structurally as both a
competitive business practice and a noble profession.”).
82. See S. S. Samuelson, The Organizational Structure of Law Firms: Lessons
from Management Theory, 51 OHIO ST. L.J. 645, 653 (1990); see also S. S. Samuelson &
L.J. Jaffe, A Statistical Analysis of Law Firm Profitability, 70 B.U. L. REV. 185, 189
(1990) (“Between 1960 and 1985, the number of lawyers in the United States more
than doubled—from 285,933 to 655,191—increasing at almost twice the rate of the
general population.”).
83. See Samuelson, supra note 82, at 653.
84. Hillman, supra note 58, at 1062.
85. See Samuelson & Jaffe, supra note 82, at 188–90 (highlighting changes in
the legal industry including the fact that client loyalty has decreased dramatically).
86. See id.
87. See Hillman, supra note 58, at 1065–66 (noting that the competitive
atmosphere often compels firms to laterally recruit).
88. LORSCH & TIERNER, supra note 75, at 64–65 (“Star talent . . . is what can
create a firm’s enduring competitive edge.”).
89. Id. at 64. (emphasis omitted).
90. See id. at 65.
has seldom been fiercer.”\footnote{Id.; see also Chris Parsons, Law in Business: Talent Contest, (July 7, 2006) http://www.legalweek.com/ViewItem.asp?id=29781 (“[O]ver the past few years there has been a marked shift in the nature of the challenge. Just how do you ensure that top talent really does make it to partnership?”).}

Therefore, because a firm’s financial well-being depends on successfully attracting and retaining star lawyers, the most profitable firms will continue to devote considerable time and effort to this all-important task.\footnote{See Parsons, supra note 91, ¶1 (“Commercial firms have been fighting over the best available talent since time immemorial. Yet ensuring the best individuals make it up the partnership ladder has never been harder . . . .”).}

b. Emergence of “Nontraditional Competition.” In addition to the fierce competition for lawyers, the legal market in general has become more crowded. Not only must firms continue to compete for clients, they are now confronted with non-traditional competition from other professional service providers.\footnote{See Stephen P. Gallagher, How Should Law Firms Respond to New Forms of Competition?, 52 SYRACUSE L. REV. 1049, 1049–50 (2002); see also 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, 699 (2000) (“[L]awyers are being forced to react to external market pressures by non-lawyers offering quasi-legal services or multidisciplinary practices.”).}

This increased competition “has given the consumer the opportunity to shop among various professions for many services traditionally provided by attorneys.”\footnote{Gallagher, supra note 93, at 1050.}

Thus, the current market for legal services is undeniably a “buyer’s market,”\footnote{See F. Leary Davis, Back to the Future: The Buyer’s Market and the Need for Law Firm Leadership, Creativity and Innovation, 16 CAMPBELL L. REV. 147, 148 (1994) (explaining that in this buyer’s market “lawyers and most of the services they offer are plentiful, buyers have a wide range of choice, and prices should be low”).} in which “the client drives the price, delivery and efficiency of legal services.”\footnote{Gallagher, supra note 93, at 1051 (“Confronted with new competitive and market challenges, lawyers across the country face a critical choice: either wait and see what happens to demand for traditional legal services, or anticipate the changes certain to affect their future and act now to shape the direction of these new services.”).}

To survive in this market, firms must be innovative and have strong, competent leadership.\footnote{See Davis, supra note 95, at 148 (suggesting “law firms that are creative, innovative, and possess good leadership will prosper in comparison with other firms” (footnote omitted)); see also Gallagher, supra note 93, at 1051 (“Confronted with new competitive and market challenges, lawyers across the country face a critical choice: either wait and see what happens to demand for traditional legal services, or anticipate the changes certain to affect their future and act now to shape the direction of these new services.”).}
2. Increased Client Sophistication and Demands

As a result of the current buyer’s market, clients are well-positioned to demand better, cheaper service, in part because they are more sophisticated.\(^98\) In fact, “client sophistication has contributed to the growth of in-house law departments, which have considerably changed the relationship between lawyers and clients.”\(^99\) With the advent and proliferation of in-house legal departments and nontraditional legal service providers, clients are able to dictate the cost and manner in which legal services are delivered. Indeed, “[c]orporate clients, seeking to control the cost of legal services, regularly challenge the decisions of their law firms as to the requisite volume, quality and cost of legal resources.”\(^100\) Therefore, “partners in U.S. law firms are anxious about their economic prospects.”\(^101\)

E.I. DuPont de Nemours Company’s “DuPont legal model” is indicative of this new level of client sophistication.\(^102\) Essentially, DuPont, and other corporations that have mimicked DuPont’s practices, “use fewer law firms and other legal-related service providers, develop a close relationship and a detailed playbook with them, then measure results to determine best practices.”\(^103\) Before adopting this model, DuPont worked with more than 350 firms; “[n]ow, it uses just 41.”\(^104\) For DuPont, at least, the benefits are significant. The company enjoys increased control over the firms it employs, which translates to a better bottom line.\(^105\) By exerting dominion over price and how legal services are delivered, DuPont has saved an estimated $121.5 million in legal bills from the time of this model’s implementation through April of 2004.\(^106\)

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98. See Bower, supra note 1, at 520; Davis, supra note 95, at 148 (stating that “[t]oday lawyers practice in a ‘buyer’s market’

99. Bower, supra note 1, at 520.


101. Bower, supra note 1, at 519.

102. See Terry Carter, Do it the DuPont Way, A.B.A. J., Apr. 2004, at 27, 27 (“In just over 11 years, the DuPont legal model has become enshrined as the way to get value for money in legal services.”).

103. Id.

104. Id.

105. Id.

106. Id.
Collectively, these factors have contributed to a new legal marketplace in which the “[b]argaining power has shifted from law firms to clients and attorneys.”\textsuperscript{107} Hence, the need for competent leadership is greater than ever for firms that aspire to thrive in today’s competitive legal market because it is apparent they cannot “grow and prosper simply by engaging in ‘business as usual,’ nor can they ‘manage’ their way around the current challenges.”\textsuperscript{108}

The emergence of a buyer’s market for legal services renders partners with significant client contacts even more valuable to their firms than in the past. Because the competition for clients is so fierce, law firms can ill afford to lose lawyers who control a sizeable book of business. Consequently, unless the market reverts to a seller’s market, which, by all accounts, is extremely doubtful, the prospect of adopting the new model will become increasingly difficult.

\textbf{B. The Structure of the New Model}

In their article about law firm management and democracy, David A. Bradlow and Murray Silverman “conclude that the traditional partnership form of organization is incompatible with the successful formulation and implementation of strategy.”\textsuperscript{109} According to Bradlow and Silverman, the partnership approach to decision-making within law firms is plagued by a multitude of significant flaws and inefficiencies.\textsuperscript{110} First, the partnership model is “cumbersome and plodding.”\textsuperscript{111} These authors discovered that “groups can take several months to decide [even] trivial matters” under this model.\textsuperscript{112} Additionally, “[g]roups tend to be political . . . [and often] strive for consensus more than for organizational efficacy.”\textsuperscript{113} Moreover, “[g]roup decision making is extremely costly.”\textsuperscript{114} This organizational structure is likely to stifle entrepreneurship, which “require[s] decisiveness, risk taking, creativity and intuition, all of which tend to be throttled in a

\begin{itemize}
  \item \textsuperscript{107} Kummel, supra note 100, at 379.
  \item \textsuperscript{108} James Jones & Carl Leonard, \textit{The Price of Leadership}, N.Y. L.J. (Sept. 10, 2002).
  \item \textsuperscript{110} \textit{Id.}
  \item \textsuperscript{111} \textit{Id.}
  \item \textsuperscript{112} \textit{Id.}
  \item \textsuperscript{113} \textit{Id.}
  \item \textsuperscript{114} \textit{Id. at 30.}
\end{itemize}
committee environment.” Overall, Bradlow and Silverman contend that the “lack of leadership [associated with the traditional partnership model] will result in uncoordinated efforts, factionalism and poor morale, all of which will impede the firm’s progress.”

The solution, they declare, is the centralization of a considerable amount of authority vested in one individual responsible for making important decisions regarding policy and strategy. This, they maintain, will allow the managing partner to provide prompt responses and enhance overall decision-making. As this Section will detail, Bradlow and Silverman are not alone in advocating for this organizational transformation.

Another commentator simply stated, “The partnership structure by which virtually all large law firms still are governed is outmoded. . . . Today, partnership often is an empty formalism which serves little purpose beyond helping to maintain the fiction that large law firms are professional associations, and not businesses.” This commentator, Deborah Holmes, suggested a new model, which calls for law firms to “replace their partnerships with a rational management structure designed to maximize efficient client service and lawyer satisfaction.” Like Bradlow and Silverman, Holmes has noted that the traditional managerial structure of large firms poses several dangers for firms and attorneys, “First, relegating management decisions to partners all but ensures the mediocrity of those decisions. Anticipating and solving problems, not strategic thinking, is attorneys’ stock-in-trade.” Second, firms fail to provide managing partners with training in management skills or time to manage “[b]ecause management takes up time that could be spent attracting clients and practicing law.” Therefore, firms that promote their “most experienced lawyers to management positions [which they most often do] means that instead of spending time on what they do best, these lawyers

115. Id.
116. Id.
117. Id.
118. Id.
119. Holmes, supra note 1, at 402 (footnote omitted).
120. Id.
121. Id. at 402–03 (asserting that “the partnership structure has marked negative effects on the firms’ effectiveness and the satisfaction of the attorneys who work there”).
122. Id. at 403.
123. Id. at 403–04.
will spend time on something for which they are likely to have no talent.”\textsuperscript{124}

Accordingly, Holmes argues that a law firm should ideally hire a professional executive administrator to make decisions that have firm-wide impact.\textsuperscript{125} This new model “would place responsibility and authority for setting the firm’s overall direction in the hands of someone who could be expected to provide leadership and vision.”\textsuperscript{126} “Moreover, under the suggested approach, authority for day-to-day decision-making would devolve down to the local level, where it belongs.”\textsuperscript{127}

Holmes also argues that “[d]elegating responsibility to professional managers will help to eliminate poor law firm management techniques.”\textsuperscript{128} Under this approach, the client-controlling partners would no longer dictate management decisions. Instead, a trained executive with significant decision-making authority would improve firm efficiency and the quality of life of partners by allowing those attorneys to do what they do best—practice law.\textsuperscript{129}

Due to the potential increases in efficiency and productivity that this model could provide, a number of consultants have already acknowledged the inherent benefits stemming from implementation of the new corporate model. One consultant, Carl Leonard, has observed that strong leadership in the top positions of a law firm is the most important factor to that firm’s success.\textsuperscript{130} He cautions, however, that lawyers are often poorly trained for these important positions because “[u]nfortunately, the very ingredients that go into making a great lawyer are the antithesis of the qualities found in successful business leaders.”\textsuperscript{131}

Similarly, Bruce MacEwen has dedicated a number of posts on his weblog to issues of firm management, and in particular to the benefits of the new, CEO-style model.\textsuperscript{132} According to MacEwen, the ever-increasing complexity and competitiveness of the legal profession compels law firms to pay considerable attention to issues of management.\textsuperscript{133} Firms can no

\begin{itemize}
  \item \textsuperscript{124} \textit{Id.} at 404.
  \item \textsuperscript{125} \textit{Id.} at 406 (noting that under this model the “practice groups [would] have authority to make all other decisions”).
  \item \textsuperscript{126} \textit{Id.}
  \item \textsuperscript{127} \textit{Id.}
  \item \textsuperscript{128} \textit{Id.} at 407.
  \item \textsuperscript{129} \textit{See id.} at 407–08.
  \item \textsuperscript{130} \textit{See Leonard, supra note 3.}
  \item \textsuperscript{131} \textit{Id.}
  \item \textsuperscript{132} \textit{See generally} Adam Smith, Esq., http://www.bmacewen.com/blog/.
  \item \textsuperscript{133} \textit{See generally id.} (discussing the changing landscape of the legal
\end{itemize}
longer afford to “be run by ‘enthusiastic amateurs’ (read: lawyers in their non-chargeable moments).”\(^{134}\)

In one post, MacEwen posits that clients will be the driving force behind the migration toward a corporate management structure.\(^{135}\) He explains “that the biggest single complaint clients have is that lawyers don’t really understand their business.”\(^{136}\) In addition, MacEwen speculates that client unhappiness is attributable to the structural problems that plague the legal profession.\(^{137}\) By structural, MacEwen means:

that the qualities that make for the creme de la creme of the legal profession—extraordinary thoroughness, a focus on spotting all the issues, exhaustive research, a high degree of risk aversion, an utter inability to risk being wrong—are pretty much a short catalog of all the qualities a successful businessperson will not embody.\(^{138}\)

However, according to MacEwen, the introduction of a central leader at the head of a law firm would alleviate these problems by forcing the executive “[t]o stop ‘thinking like a lawyer’ and to start thinking audaciously.”\(^{139}\) This, in turn, will allow “lawyers [to] be lawyers . . . [and] focus on what they do best, serving their clients . . . .”\(^{140}\)

A recent article detailing Bingham McCutchen’s merger strategy exposed some of the benefits that can result from the implementation of an autocratic management structure.\(^{141}\) At Bingham, there is no doubt that power lies with the firm’s chairman, Jay Zimmerman, and as a result, “Bingham McCutchen . . . is run as close to a corporate model as any Am

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\(^{136}\) Id.

\(^{137}\) Id.

\(^{138}\) Id.

\(^{139}\) Id.

\(^{140}\) Id.

Law 100 firm.”142 In fact, “[i]ts leader runs the firm like a CEO of a Fortune 500 company, and makes no apologies for it.”143 This model has worked extremely well for Bingham in recent years, as the firm’s “revenues more than tripled from 1999 to 2003,” and the firm has rocketed up the AmLaw 100 list.144 The new corporate model has allowed Bingham to operate in a decisive fashion, and avoid the pitfalls that often plague firms still operating under the partnership model.145 In fact, the corporate model was largely responsible for Bingham’s recent merger activity and impressive growth.146 Yet, Bingham is somewhat of an anomaly in that the firm was able to draw its chairman from its own ranks.147 Lawyers, however, are often considered ill-equipped to successfully manage a firm that uses the corporate model.148 Thus, the difficulty of finding and installing a successful CEO increases in law firm settings.149

In sum, consultants and commentators have embraced the new model as the management structure of the future. They assert that firms must implement this structure in order to better address client demands and succeed in today’s competitive legal market. According to some commentators, firms that adopt this structure will be best positioned to realize gains through strategic planning and efficiency,150 and those that do not risk becoming obsolete. As the next section will detail, firms that attempt to convert to the corporate model are likely to encounter substantial resistance on a number of fronts, the strongest of which will emerge from the faction of the lawyers who are absolutely central to the new model’s success—the firm’s rainmaking partners.

142. Id.
143. Id.
144. Id. (indicating that the firm has recently moved from “81 to 26 on the Am Law 100 list”).
145. Id. at 77–78.
146. Id. at 77–79.
147. Id. at 74–76.
148. See Maister, supra note 100, at 100 (noting that lawyers have a strange view of risk and when presented with new ideas are often skeptical).
150. See Holmes, supra note 1, at 402; see also Cutler & Daigle, supra note 81, at 199 (“Legal practitioners would benefit considerably by . . . applying lessons gained from corporate America.”).
This new model is not without flaws. Even Holmes acknowledges that significant challenges exist that might impede the adoption of such a system.\textsuperscript{151} Despite likely gains in efficiency and profitability, there are significant barriers to the widespread and immediate implementation. Specifically, the legal profession is highly resistant to change.\textsuperscript{152} Therefore, a drastic management transformation is bound to be difficult. Further, the new model is in direct conflict with the current distribution of power within most law firms, and powerful partners will have a strong incentive to oppose its adoption.

\textbf{A. Resistance to Change}

Overall, “[t]he legal profession has long embraced an ironic contradiction: lawyers help clients respond to or create change, yet at the same time lawyers steep themselves in tradition and pride themselves on professional stability.”\textsuperscript{153} Only recently have large firms altered this stance.\textsuperscript{154} Despite the resulting increase in efficiency that Nelson and others have attributed to the organizational transformation within some law firms, most firms are not dynamic organizations, and do not respond swiftly to changing market conditions.\textsuperscript{155} Although it is undeniable that large firms can become more efficient and more profitable by adopting a

\textsuperscript{151} See Holmes, supra note 1, at 408 (recognizing that “the implementation of this suggestion will entail significant challenges and require extensive discussion within firms”).

\textsuperscript{152} See, e.g., Maister, supra note 100, at 100 (noting that when lawyers are “[p]resented with a new business idea, the first thing they ask is, ‘Which other law firms are doing this?’”).


\textsuperscript{154} See generally Nelson, supra note 13, at xiii (discussing the author’s own study with regard to organizational change).

\textsuperscript{155} See S. S. Samuelson & Liam Fahey, \textit{Strategic Planning for Law Firms: The Application of Management Theory}, 52 U. \textit{PITT. L. REV.} 435, 439 (1991) (“Despite the momentous changes that have occurred in the environment of law firms over the past twenty years, modern firms are still drawn instinctively to strategies that were appropriate between 1870 and 1970—the great period of development in this industry.”); see also Lorsch & Tierney, supra note 75, at 50 (observing that professional service firms, including law firms, consistently maintain the status quo with respect to overall strategy “even in the face of large-scale upheaval in client needs or competitive dynamics”).
bureaucratic organizational structure, the potential for increased efficiency and profitability still exists. Nonetheless, the legal profession’s general aversion to change remains a serious impediment to the adoption of the corporate model.

One example of the profession’s resistance to change is its long history of refusing to recognize that the practice of law is a business. Although law firms have generally accepted this notion, they have been slow to employ comprehensive strategic business plans like their corporate clients. Scholars have blamed the legal profession’s aversion to change on the inherent characteristics of the profession:

“Lawyers spend a substantial portion of their training and working lives worshipping at the altar of precedent. It is hard, therefore, for them to appreciate the necessity of doing things differently from the way things have always been done.” Further, David Maister asserts that “[i]n a room full of lawyers, any idea, no matter how brilliant, will be instantly attacked.” As a result, “within a short time, most ideas, no matter who initiates them, will be destroyed, dismissed, or postponed for future examination.”

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156. See Nelson, supra note 13, at 187 (“The relative efficiency of departmental work structures suggests that bureaucratically organized firms may have a competitive advantage in the market for corporate legal services.”).
157. See Samuelson & Fahey, supra note 155, at 436–37 (observing that “[l]aw firms are big businesses operating in a confused environment”); see also Holmes, supra note 1, at 402 (“[T]he partnership structure has marked negative effects on the firms’ effectiveness . . . .”).
158. See Bradlow & Silverman, supra note 109, at 32 (noting that the “transition to the corporate model of management will be difficult for many law firms to accomplish . . . [because t]he prevailing partnership mode is branded into the professional consciousness”).
159. See Cutler & Daigle, supra note 81, at 200 (noting that many in the legal profession have strongly resisted the notion that law is a business).
160. Trilling, supra note 2, at 77–78 (“Law is a business as well as a profession, although some lawyers will probably continue to argue against that assertion even after they have gone out of business. . . . Denial of the business nature of the legal profession has caused lawyers to use relatively few business methods in their practices.”); see also Nelson, supra note 13, at 79 (As a lawyer interviewed for Nelson’s study noted, “‘[u]nless a firm is run like a business, you would have everyone contributing to a loss at the end of the year.’”).
161. Samuelson & Fahey, supra note 155, at 473; see also Maister, supra note 100, at 97 (“The ways of thinking and behaving that help lawyers excel in their profession may be the very things that limit what they can achieve as firms.”).
162. Maister, supra note 100, at 99.
163. Id.
In addition, the traditional configuration of the partnership model inhibits rapid change within the firm. According to Lorsch and Tierney, members of professional service firms, including lawyers in law firms, “tend to hang on to the comfort of past practices rather than venture into uncharted territory.” Compounding this problem is the fact that “a few progressive leaders cannot order the troops forward; instead, the troops themselves . . . must essentially vote with their feet to pursue a new strategic direction.” Lorsch and Tierney continue:

In most corporations . . . strategic change can be instigated from the top down. Not so at [professional service firms], where the top may be a partnership with dozens (or hundreds) of independent practitioners. Absent a crisis, the partners tend to stay on track and support only modest adjustments to the strategy. Innovative or aggressive strategies rarely emerge from people who are satisfied with the status quo.

This predicament will almost certainly continue to beset large law firms. Until law firms recognize the benefits of the new corporate model, it is likely that their members will eschew any attempt at change in favor of the traditional and familiar partnership model.

B. The Legal Culture and Opposition to Non-Lawyer Professionals

Additionally, law firm culture poses a significant hindrance to the adoption of the new model. Although consultants and commentators generally agree that law firms are in desperate need of professional administrators, lawyers, quite simply, “do not respect professional

164. See id. at 99.

As a partner in an eminent U.S. firm pointed out: “Lawyers raised in the common-law tradition are trained to have a deep suspicion of overarching principles. The essence of the common-law approach is that decisions are made incrementally, always leaving open the possibility that the next case could be treated completely differently.”

Id. (emphasis added).

165. LORSCH & TIERNEY, supra note 75, at 50.

166. Id.

167. Id.

168. See Adam Smith, Esq., The First “Savvy Blawgers” Panel Challenge: Results, http://www.bmacewen.com/blog/archives/2004/12/the_first_savvy.html (Dec. 20, 2004 10:06 EST) (noting that “firms are realizing that they must bring in true administrators, not just assign whoever best counts beans to be the CFO”).
managers.”\textsuperscript{169} Accordingly, it is doubtful that lawyers will embrace a non-lawyer executive, even if such a manager can increase efficiency, due to the fact that “[i]n the highly polarized world of the large law firm, lawyers are in charge and everyone else is grouped together as non-legal personnel.”\textsuperscript{170} Therefore, if the legal profession adopts the new corporate model, the leaders are likely to be lawyers, not non-lawyer professionals. One reason is that the privileged status of the legal profession is instilled in lawyers while in law school. For example, it has been noted that:

In law school, lawyers are led to believe that what they are learning is very important, very difficult and very special. . . . By contrast, therefore, every other profession . . . becomes less important, less difficult and less special. This makes it difficult for lawyers to have respect for, or even consult with, professional managers.\textsuperscript{171}

In fact, “[a]ttorneys generally are far more comfortable with other lawyers at the helm of law firms. Non-lawyer managers often are suspected by firm members of being unable to understand the pressures of practicing law and, therefore, their mandates may be accorded little credence.”\textsuperscript{172} Indeed, the chairperson of one AmLaw 100 firm went so far as to say that the implementation of a non-lawyer at the head of a firm would be an “utter disaster.”\textsuperscript{173} Consequently, this general lack of respect for non-lawyer professionals will likely impede the implementation of the non-lawyer CEO in law firms.

Even if a non-lawyer CEO were to captain a large American law firm, they would likely find their efforts futile. Recently, renowned professional service firm consultant David Maister discussed whether law firms “inherent tendencies” render them unmanageable.\textsuperscript{174} He maintains that “[f]or firm managers, challenges occur not in spite of lawyers’ intelligence

\begin{itemize}
  \item \textsuperscript{169} Holmes, \textit{supra} note 1, at 402.
  \item \textsuperscript{170} \textit{Id.} Additionally, the legal profession is the only profession in which members categorize non-members in the negative. In short, lawyers refer to doctors and business people as “non-lawyers.” No other mainstream profession engages in this type of categorization.
  \item \textsuperscript{171} Daniel B. Evans, \textit{Why Lawyers Can’t Manage: Thoughts From a Frustrated Lawyer}, L. PRAC. MGMT., Oct. 1993, at 26, 32.
  \item \textsuperscript{173} Telephone interview with Chairperson of an AmLaw 100 law firm (Apr. 6, 2005).
  \item \textsuperscript{174} Maister, \textit{supra} note 100, at 97.
\end{itemize}
and training, but because of it.” 175 Specifically, “lawyers are professional skeptics: They are selected, trained, and hired to be pessimistic and to spot flaws.” 176 He further observes that “the combination of a desire for autonomy and high levels of skepticism make most law firms low-trust environments.” 177 The result, he explains, is firms comprised of “bands of warlords, each with his or her followers, ruling over a group of cowed citizens and acting in temporary alliance—until a better opportunity comes along.” 178 As is clear from Maister’s characterization, managing a large law firm is, more often than not, a disheartening and grim endeavor.

C. Opposition from Dominant Rainmakers

Finally, and most importantly, the likely failure of law firms to adopt the new model is attributable to the very composition of these firms. Because firms are comprised of powerful partners whose primary focus remains servicing their own big-ticket clients, there is little incentive to adopt a comprehensive, strategic business plan similar to that of their corporate clients. As rational actors, these powerful partners have every incentive to maintain the status quo. In fact, a shift from the current power and compensation structure to the new model would punish rainmaking partners because, under the new model, power is concentrated in one administrative executive—not the partners with the biggest bloc of clients.

In their book, Aligning the Stars, Lorsch and Tierney explore how successful professional service firms (including large law firms) can manage and organize their star performers “so that both the organization and its stars prosper and feel rewarded.” 179 They define stars as “the individuals who have the highest future value to the organization, the men and women in critical jobs whose performance is central to the company’s success.” 180 In the firm context, “the partners responsible for significant clients, practice areas, and offices are among the stars.” 181 But according to Lorsch and Tierney, an organization of stars does not alone guarantee success as “employing stars is necessary but insufficient. They must also be aligned; that is, they must behave in ways that move the firm toward its goals, even

175. Id.
176. Id. at 98.
177. Id.
178. Id. at 100.
179. LORSCH & TIERNEY, supra note 75, at 2.
180. Id. at 25.
181. Id.
if this is at their own expense.”182 This, however, is not an easy task.

As a result, “the balance of power between the firm and its accomplished professionals tilts sharply toward the [accomplished professionals, i.e., the partners]. . . . Unlike most corporations, [law firms] are highly dependent on the retention and productivity of their senior producers.”183 Not surprisingly, these senior producers dominate firm culture. These attorneys are capable of dictating management decisions184 and demand the highest compensation within the firm.185 These factors, combined with the fact that clients “often feel more loyalty to individual lawyers than to firms[,]”186 create a situation in which “lawyers with their own practices are freer to leave a firm than they ever have been before.”187 Consequently, unsatisfied rainmakers—upset with their compensation or the direction of the firm—can take their clients with them to another firm.188 Because “[t]he people you pay are more important over time than the people who pay you[,]”189 there is an incentive for the firm management committee—typically comprised of the dominant rainmakers—to adhere to the demands of these powerful attorneys.190

182.  Id. at 26.
183.  Id. at 22.
184.  See Nelson, supra note 13, at 227 (finding that “the power of the dominant colleagues derives from their relationships with clients”).
185.  See id. at 202 (noting that “economic rewards are determined on the basis of seniority and client responsibility”).
186.  Samuelson & Fahey, supra note 155, at 457; see also Neil, supra note 56, at 27 (illustrating that “[c]ompanies hire lawyers, as opposed to law firms”).
187.  Samuelson & Fahey, supra note 155, at 457; see also Lorsch & Tierney, supra note 75, at 64–66 (noting the importance of utilizing professional service firms to attract and retain stars and recognizing that the competition for these stars has never been more fierce).
188.  See Hillman, supra note 64, § 1:1 (“[I]ncreased mobility has permitted lawyers with the ability to transport clients and revenues to demand a larger share of firm income. Bolstering the unsatisfied partner’s demands is the ever-present threat of the lawyer’s leaving and ‘grabbing’ what many regard as the firm’s assets—its clients.” (footnote omitted)); see also Jonathan Lindsey, Brian T. Davis & Janet Markoff, Lateral Partners: Compensation Is Key to Attracting and Retaining Rainmakers, 8 LAW FIRM PARTNERSHIP & BENEFITS REP. 1, 1 (2002) (“The movement of lateral partners has grown exponentially in the past 10 years. Partners rarely feel obligated to remain with a firm until death do they part, and any lingering stigma associated with switching firms has long since vanished.”).
189.  Lorsch & Tierney, supra note 75, at 64 (emphasis omitted).
190.  See generally Hillman, supra note 64, § 1:1 (discussing the prevalence of lateral hiring, the importance of being able to transport clients between firms, and the overall instability that currently exists in many law firms).
Therefore, because firms currently reward lawyers for cultivating personal relationships with clients, there is little incentive for lawyers to support a management change that deemphasizes the relationships they have spent years developing. In fact, the older, more senior rainmakers will be the group most affected by a management transformation. For these partners, this new model essentially changes the rules in the middle of the game. The powerful partners have spent their entire careers adhering to the theory that those who control the clients can, and usually do, dictate the direction and strategy of the firm. The implementation of the new model will, in all likelihood, destroy that reality. Unless firms can convince their dominant partners that a shift to an autocratic structure will provide measurable benefits, these partners are likely to oppose such a transition. In other words, the firm and its stars must align to effectively compete in the marketplace. But because the firm relies on the big-ticket clients that these rainmakers attract and control, it faces a tremendous challenge in attempting to undertake a complete and sudden shift in the organization of the firm.

To clarify, the reason that these partners are likely to oppose the new system is not solely attributable to compensation issues; if money were the only factor, it is certainly plausible that the new CEO and compensation committee could fashion a compensation structure that would adequately reward the superstar partners who control the big-ticket clients. However, powerful partners are likely to oppose the new structure because it will strip them of the enormous power they presently possess.

One might argue that this is a trivial justification which does not explain why a group of wealthy, well-educated professionals would oppose a shift that is likely to result in tremendous economic gains for their firm, and consequently, for them personally. Nonetheless, this is the most prominent obstacle to the immediate, widespread implementation of the corporate model. Rainmaking partners are driven, powerful, and successful men and women. Additionally, at least one observer has also argued that “[b]ig firm lawyers are, on the whole, a remarkably insecure and competitive group of people.” Within the firm, associates compete with each other to reach the coveted status of partner. For the winners of

191. LORSCH & TIERNEY, supra note 75, at 26–27. The authors indicate that an “aligned” firm will “win the majority of contests” against “unaligned” firms “[b]ecause the aligned firm is competing on the basis of its entire organization—its ‘team’—while the unaligned firm fields only individually motivated stars.” Id. at 27.

this ultra-competitive tournament, “promotion heightens (but doesn’t change) their fundamental need to seek fresh challenges or their equally strong distaste for being told what to do.”193 Consequently, the thrill of the game and the desire to compete and win largely explains why “sixty year old lawyers with millions of dollars in the bank still bill 2200 hours per year[.]”194 At that point in their careers, these lawyers are not competing over money. They are competing for status and power. Accordingly, any assault on their power—which took years of sacrifices to attain—is likely to be met with great resistance.

Bradlow and Silverman, however, suggest that any apprehension partners have “about losing influence over the affairs of the firm” is insignificant, because “[i]n reality, the majority of the partners already are excluded from the [firm’s] informal power structure.”195 While it is likely true that the majority of the partners have, indeed, been excluded under the informal power configuration of the traditional partnership model, the dominant partners are currently exerting their influence on virtually all issues of firm governance. While the majority of the partners are certainly important for the overall success of the organization, with respect to the implementation of the corporate model, law firms should be primarily concerned with the client-controlling partners who have shaped the direction of the firm and who are in a position to leave the firm and take their clients with them. These are the partners who pose a serious obstacle to the implementation of the corporate model,196 because in professional service firms, “power is attached to individuals as well as to positions.”197 Consequently, “power and influence are more widely distributed among the partners of a [law firm] than they are in a typical, large corporation with a more rigid, hierarchical structure,”198 thereby making a radical

193. LORSCH & TIERNEY, supra note 75, at 94 (“Autonomy is a key component of the value proposition for all professionals, and this is particularly true at the partner level, where the desire for independence tends to grow exponentially with career and client successes.”).
194. Schiltz, supra note 192, at 906; see also Marleen A. O’Connor, The Enron Board: The Perils of Grouptink, 71 U. CIN. L. REV. 1233, 1253–54 (2003) (noting that “[s]uccessful executives . . . continue to work hard long after making their millions” and their main motivation for doing so “is the excitement of ‘the game’ and the chance to test oneself as a ‘major player’”).
195. Bradlow & Silverman, supra note 109, at 34;
196. See LORSCH & TIERNEY, supra note 75, at 45 (“The personalities, emotions, and needs of a firm’s stars constrain its ability to design and implement strategy.”).
197. Id. at 118.
198. Id.
organizational transformation extremely challenging.

Thus, to successfully adopt the new corporate model, the firm must effectively appease the powerful rainmaking partners because collectively these partners are well-positioned to wield tremendous influence and, if they desire, defeat any plan that calls for a drastic shift in firm power and responsibility.

VI. CONCLUSION

The relatively recent structural transformation of law firms has had a significant effect on the efficiency of these organizations. Nelson has made clear that bureaucratically organized firms are more efficient than their traditionally organized competitors. Yet, this structure is far from efficient. Some claim that firms adhering to the basic partnership model fail to maximize client services and lawyer satisfaction. Thus, to achieve these goals, law firms should study and implement a management structure analogous to the structure applied in corporate America. Although this is sound in theory, it is unlikely that such a drastic transformation will soon occur. In their current form, law firms are constrained by a culture and history that is highly resistant to change. Therefore, it is doubtful that a group of professionals who have a tradition of distinguishing their noble profession from the operation of a business, and who have long “worship[ed] at the altar of precedent[,]” will discard their established partnership structure.

Further complicating this transition is the power large law firms have bestowed upon the dominant rainmakers. These lawyers are the most powerful actors in the firm, and a sudden shift to a CEO-style system threatens to strip them of both the power and high salaries they have worked so long to attain. Moreover, observers have long recognized that the prospect of managing hundreds of highly autonomous people, such as partners within a firm, is as difficult as “herding cats.” But as Lorsch and Tierney correctly recognize, “[i]f it is the so-called cats that have the power—the firm’s formal leader serves to a large extent at their
Therefore, it is likely that the rainmakers and powerful partners possess sufficient power and influence to prevent the adoption of an autocratic system in the immediate future. This is not, however, to say that such a management shift will not occur. In fact, many commentators feel that firms must adapt or risk losing their competitive edge. However, this Article cautions those in the legal profession that such a drastic shift will require extensive planning and effort because in the legal profession: “The firm is a kingdom; the lords are those who control clients.” Therefore, those who wish to successfully implement the new corporate model face the daunting task of conquering and ousting the law firm lords—the dominant rainmakers.

205. Id.

206. See Holmes, supra note 1, at 405–07; see also Cutler & Daigle, supra note 81, at 197–99 (arguing that legal practitioners would benefit considerably by applying lessons gained from corporate America); Samuelson & Fahey, supra note 155, at 461–62 (claiming that the competitive intensity of the industry will require firms to develop new strategies).

207. NELSON, supra note 13, at 208.