

AN EMPIRICAL STUDY OF RACE AND LAW SCHOOL HIRING

Ming M. Zhu

TABLE OF CONTENTS

INTRODUCTION	1
DATASET AND METHODOLOGY.....	4
A. <i>The Study Population</i>	4
B. <i>Dependent and Independent Variables</i>	6
C. <i>Omitted Variables</i>	11
II. RESULTS – THE EFFECT OF RACE.....	12
A. <i>Dependent Variable: Hired</i>	12
B. <i>Dependent Variable: Prestige of Hiring School</i>	18
III. POTENTIAL EXPLANATIONS AND IMPLICATIONS.....	26
A. <i>Lack of Mentors and Networks at Top Schools</i>	26
B. <i>Candidate Self-Selection</i>	26
C. <i>Different Hiring Mechanisms</i>	27
D. <i>Greater Push for Diversity at Lower-Ranked Schools</i>	28
E. <i>Comparing Within Racial Groups</i>	28
F. <i>Self-Section in Accepting Offers</i>	29
G. <i>Inherent Preference for Whites</i>	30
H. <i>Racial Group Correlation with Omitted Variables</i>	30
I. <i>Different Hiring Criteria at Top Law Schools</i>	31
J. <i>Racial Disparities in Drop-Out Rates</i>	31
K. <i>Small Sample Size – Outlier Year</i>	32
IV. CONCLUSION.....	32
APPENDIX A - SUMMARY STATISTICS.....	34
APPENDIX B - 2005 U.S. WORLD & NEWS REPORT LAW SCHOOL PEER ASSESSMENT RANKINGS	35
APPENDIX C - LOGISTIC REGRESSION RESULTS ON FACTORS AFFECTING CANDIDATE’S LIKELIHOOD OF BEING HIRED.....	40
APPENDIX D - LINEAR REGRESSION RESULTS ON FACTORS AFFECTING CANDIDATE’S HIRING SCHOOL PRESTIGE: ALL LAW SCHOOLS	42
APPENDIX E - LINEAR REGRESSION RESULTS ON FACTORS AFFECTING CANDIDATE’S HIRING SCHOOL PRESTIGE: TIER 1 LAW SCHOOLS ONLY.....	44

Electronic copy available at:
<http://ssrn.com/abstract=1434402>Electronic copy available
at: <http://ssrn.com/abstract=1434402>Electronic copy
available at: <http://ssrn.com/abstract=1434402>Electronic
copy available at:
<http://ssrn.com/abstract=1434402>Electronic copy available
at: <http://ssrn.com/abstract=1434402>Electronic copy
available at: <http://ssrn.com/abstract=1434402>

* AN EMPIRICAL STUDY OF RACE AND LAW SCHOOL HIRING

†

Ming M. Zhu

Abstract

Does race matter in the law school hiring process? Do minority candidates benefit from affirmative action or are they hurt by racial discrimination? Is the lack of minority law professors the result of a lack of qualified minority candidates? And more broadly, what do law schools look for when making hiring decisions? These questions have been asked for decades; now, in this ground-breaking empirical analysis of law school hiring, some answers are finally offered. This paper takes an in-depth look at the candidates applying for law teaching jobs in the 2004-2005 academic year to measure how much a candidate's race affected his or her chances of being hired as a law professor. Two findings emerge, both surprising and thoughtprovoking. First, being a minority had a statistically significant positive effect on a candidate's chances of being hired, suggesting that affirmative action has a place in law school hiring. However, being a minority also had a statistically significant negative effect on where the candidate was hired, suggesting that discrimination is also present. In the realm of law school hiring, race appears to cut both ways. The article closes by reviewing potential explanations for these seemingly contradictory findings. Regardless of the why and how, it is clear that traditional qualifications and academic pedigree alone cannot explain law school hiring decisions.

INTRODUCTION

The impact of race on law school hiring has long been a topic of great interest to

scholars of all groups and ideologies. Some argue that minority- **T**
 ity candidates are the beneficiaries of affirmative action, others claim that minority candidates are discriminated against by hiring committees, still others say that law school hiring is entirely based on academic qualifications and is race-blind. Theories abound, but empirical proof has thus far been lacking.

This paper marks an important step in filling that void; this is the first comprehensive empirical study of the effect of a prospective candidate's qualifications and race on a law school's hiring decision. For the first time, extensive data is presented on law teaching candidates who participated in the Association of American Law Schools (AALS) recruiting proc-

* A draft of this paper was presented at CELS 2009, the Fourth Annual Conference on Empirical Legal Studies.

† Fellow, Lawyers' Committee for Civil Rights, 2009-2010; Law Clerk to the Honorable Harry T. Edwards of the Court of Appeals for the D.C. Circuit, 2010-2011 term; J.D., 2009, Harvard Law School; B.A., 2005, Stanford University. Thanks to Lynn Lopucki, Elizabeth Warren, Rick Sander, Ted Seto, Jeannie Suk, and Alfred Yen for their many helpful comments and to Gia Barboza, Ernest Sergenti, and Ian McGraw for their invaluable assistance.

Electronic copy available at:

<http://ssrn.com/abstract=1434402>Electronic copy available

at: <http://ssrn.com/abstract=1434402>Electronic copy

available at: <http://ssrn.com/abstract=1434402>Electronic

copy available at:
<http://ssrn.com/abstract=1434402>Electronic copy available
at: <http://ssrn.com/abstract=1434402>Electronic copy
available at: <http://ssrn.com/abstract=1434402>

2 MINORITY LAW SCHOOL HIRING

ess,¹ including where the candidate attended law school, their grades, clerkships, prior publications, prior teaching experience, gender, geographic restrictions, and race. By combining this information with data on whether and where each candidate was hired, we are finally able to shed light on the oft-discussed question: what does it take to become a law professor?

This paper is unique in that it is the first empirical study to analyze the qualifications of the entire pool of applicants, both those that were hired and those who were not. Previous empirical studies on law school hiring have focused on successful candidates only, using the characteristics of hired professors to retroactively draw conclusions about hiring criteria.³² For example, Deborah Jones Merritt and Barbara Reskin concluded that the lack of minority professors was due to prior experience and not race discrimination by comparing the profiles of minority and non-minority law professors who started teaching between the fall of 1986 and the spring of 1991, gathering their data from mailed survey responses and listed profiles within the Association of American Law Schools' *Director of Law Teachers*. Their conclusions, however, rely on the circular and self-predicting assumption that the candidates with the best credentials and the most experience were also the candidates who were hired; it fails to account for the possibility that minority candidates with superior experience were not hired at all. The better way to draw conclusions about hiring criteria is to compare the profiles and credentials of all candidates in the pool, including who were not hired.

¹ The AALS holds a Faculty Recruitment Conference (FRC) every year to streamline the interviewing and hiring process for all AALS member law schools. In order to participate at the FRC, candidates must complete an online informational form, covering everything from race and gender to past publications and work experience. The forms are then periodically compiled into a Faculty Appointments Registry (FAR) that is then sent to each AALS member school, which is used to decide whom to interview at the FRC. While a percentage of new law professors are hired through alternative means, the AALS hiring process is the most visible and well-traveled path towards a tenure-track job for aspiring law professors.

² See, e.g., Robert J. Borthwick & Jordan R. Schau, Note, *Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J. L. REFORM 191 (1991) (looking only at successful law professors by drawing data directly from the AALS *Directory of Law Teachers*); Pat K. Chew, *Asian Americans in the Legal Academy: An Empirical and Narrative Profile*, 3 ASIAN L. J. 7 (1996) (same); Richard Delgado & Derrick Bell, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV.

C.R. – C. L. L. REV. 349 (1989) (reporting evidence of racial discrimination based on survey responses from current law professors); Charles R. Lawrence III, *Minority Hiring in AALS Law Schools: The Need for Voluntary Quotas*, 20 U.S.F. L. REV. 429 (1986) (analyzing data from survey sent to AALS member schools about minority hires); Deborah Jones Merritt & Barbara Reskin, *Sex, Race, and Credentials: The Truth about Affirmative Action in Law Faculty Hiring*, 97 COLUM. L. REV. 199 (1997) (supplementing AALS *Directory* data with individual surveys mailed to current law professors); Richard E. Redding, "Where Did You Go to Law School?" *Gatekeeping for the Professoriate and its Implications for Legal Education*, 53 J. LEGAL EDUC. 594 (2003) (analyzing the credentials of current law professors based on data from the AALS *Directory*).

³ Merritt & Reskin, *supra* note 2, at 245. They noted that there were fewer minorities hired at the top law schools but concluded that this was more likely the result of differences in education credentials and prior work experience rather than overt race discrimination.

Electronic copy available at:

<http://ssrn.com/abstract=1434402> Electronic copy available at: <http://ssrn.com/abstract=1434402> Electronic copy

available at: <http://ssrn.com/abstract=1434402>Electronic
copy available at:
<http://ssrn.com/abstract=1434402>Electronic copy available
at: <http://ssrn.com/abstract=1434402>Electronic copy
available at: <http://ssrn.com/abstract=1434402>

Besides the inclusion of unhired candidates, this paper also improves upon past studies by including both grades and prior publications as independent variables, two characteristics that this study finds to be extremely significant in predicting a candidate's chances of being hired.⁵⁴ A further improvement is this study's examination of individual races; many previous studies had grouped all minorities into a single racial category, thus allowing for the possibility that different effects felt by different minority groups simply cancelled each other out. By combining individual race markers with all of the candidate qualification data, this study is able to test the impact of a specific race apart from characteristics that simply correlate with minorities in general.⁷⁶ Finally, this study serves as a much-needed update on research in law school hiring; the findings suggest that much has changed in the twenty years since the timeframe of the previous empirical studies. After analyzing the qualifications and eventual law school place-

ments of the nearly nine hundred individuals applying for law professor positions in the 2004-2005 hiring year, I can conclude that law school hiring decisions are not based on academic qualifications alone. Going further, I found that a candidate's racial identification *did* have a statistically significant effect on the candidate's likelihood of being hired. After controlling for the traditional credentials such as law school grades and law review membership, being a minority still had a significantly positive effect on a candidate's chances of getting a law teaching job, showing that traditional hiring credentials alone cannot predict success on the market. Put another

⁴ Merritt and Reskin explained their exclusion of these two variables as a lack of sufficient data, but also suggested that prior publications were questionable as an important variable for hiring decisions. *Id.* at 227 ("Traditionally, entry-level candidates for law school positions have published little beyond a single law review note and sometimes not even that. Some professors, moreover, believe that publications hurt candidates more than they help because published articles provide a ready target for acerbic faculty critics and because academics sometimes view practitioners' publications as narrow and mechanical analyses."). While this may have been true ten years ago when Merritt and Reskin conducted their study, professors today often see prior publications as *the* most important factor in a candidate's success on the hiring market.

⁵ *See id.*, at 221 (acknowledging the study's inability to separate out racial groups due to the insufficient number of minorities for a multivariate regression). Indeed, the possibility that combining minority groups had the effect of cancelling out contrasting trends is supported by the results of Fred Yen's study on affirmative action hiring, *see generally* Alfred C. Yen, *A Statistical Analysis of Asian Americans and the Affirmative Action Hiring of Law School Faculty*, 3 *ASIAN L. J.* 39 (1996) (finding that African American candidates benefited from affirmative action while Asians experienced negative effects).

⁶ For example, the differing success rates of racial groups could be explained if racial groups have stronger or weaker credentials in the aggregate. *See id.* at 48 (acknowledging that something other than race could explain the preference for Latino and African American candidates). Though Professor Yen attempts to discredit this hypothesis by pointing to the strong credentials of current Asian law professors, the past existence of strong candidates cannot confirm the strength of future candidates. *Id.* at 49.

⁷ Almost all of the previous empirical studies on law school hiring were published in the late 1990s based on data collected over the preceding decades.

way, the candidates hired were not the ones with the best traditional credentials – something was giving minority candidates a boost in their chances.

The full story, however, had more complications. While being a minority resulted in a positive bump in getting a tenure-track law teaching job, minority status also had a statistically significant *negative* effect on the prestige of the hiring law school. As an anecdote, every single hire made by the top 16 schools from the FAR of 2004-2005 was of a white candidate; not a single minority candidate was hired by any of the top 16 law schools. Based on these findings, race only seems to help if the minority candidate is willing to teach in a lower-ranked school. One could imagine that minority status is simply a proxy variable that is masking one a host of other factors, but regardless of the explanation, it is clear that traditional law school hiring credentials and academic pedigree alone are unable to predict a candidate's success or failure on the law teaching market. Race, or some set of factors that happen to align with race, is a definite factor in law school hiring decisions.

Part I of the paper describes the data and the analytical methods used within the study, also explaining certain limitations on the dataset. Part II outlines the empirical results, highlighting the contradictory effects of a candidate's race on his or her chances of being hired and on hiring school prestige. Part III concludes by discussing potential explanations for the study's main findings and highlighting the study's implications for the ongoing debate about race and law school hiring.

I. DATASET AND METHODOLOGY

A. *The Study Population*

⁸The subjects of this study were the participants in the AALS Faculty Recruitment Conference (FRC) from the 2004-2005 academic hiring year. The AALS holds a Faculty Recruitment Conference (FRC) every year to streamline the interviewing and hiring process for all AALS member law schools. In order to participate at the FRC, candidates must complete an online informational form, covering everything from race and gender to past publications and work experience. The forms are then periodically compiled into a Faculty Appointments Registry (FAR) that is then sent to each AALS member school, which is used to decide whom to interview at the

⁸ The first batch was released on August 20th, 2004, the second batch was released on September 10th, 2004, and the third batch was released on September 24th, 2004. There are currently 198 AALS member and non-member fee-paid schools. More information on AALS membership, the FAR, and the FRC is available on the AALS website at <http://www.aals.org> (last accessed March 16, 2010).

FRC.⁹ I personally entered each candidates' FAR information into a secure database; for candidates that submitted more than one form in the 2004-2005 year, the latest form was used. Applicant names, publication names, past employers, and individual comments were not recorded to protect anonymity.

It is important to note that the FRC is not the only avenue through which law schools hire new professors.¹¹¹⁰ Law schools can and often do recruit law professors directly from government or private practice. As a result, the conclusions of this study are not absolute; it is possible that race and other factors have a different effect in the hiring of non-FRC candidates.¹² However, even if the AALS recruitment process isn't the sole source of entry-level hires, it remains the primary and most visible means of entry for individuals interested in academia.¹³ Furthermore, we have no reason to believe that the story outside of the FRC process is one where race matters any less, especially given that employment hiring based on personal networking and informal processes arguably disadvantages minorities. It is also important to acknowledge that the study sample is con-

finied to candidates applying in a single year and that any conclusions are therefore qualified by the possibility that the 2004-2005 hiring year was

⁹ I obtained a complete set of the FAR forms for the 2004-2005 academic year from UCLA Law Professor Rick Sander. The forms were released to me under a strict confidentiality agreement and following review from the Harvard and UCLA Institutional Review Boards.

¹⁰ In fact, since the AALS began collecting data in 1992, roughly one-half of all law professors hired each year were not listed in the FAR. Association of American Law Schools, Statistical Report on Law School Faculty and Candidates for Law Faculty Positions, Tables: 2005-2006 [hereinafter 2005 AALS Tables], available at http://www.aals.org/statistics/0506/0506_T14A_E_14yr-7yr.html (last accessed March 16, 2010). The most likely explanation is that roughly half of all law professors hired are lateral hires from other law schools and therefore were not listed in the previous years' FAR.

¹¹ It's been alleged that minority professors are more likely to have been hired outside of the FRC process than their non-minority counterparts. See Merritt & Reskin, *supra* note 2, at 231; but see 2005

AALS Tables, *supra* note 10 (57.4% of minority professors were listed in the previous year's FAR as compared to only 47.9% of non-minority professors). However, based on rough research of the new

professors hired from the top 20 law schools, only 5 of the 30 new professors were hired outside of the FAR. Of those 5, only 1 was a minority. This undermines both the argument that the FAR does not capture the majority of the law school hires and the argument that minority candidates are vastly more successful outside of the FAR process.

¹² See, e.g., Jeffrey M. Lipshaw, *Memo to Lawyers: How Not to "Retire and Teach"*, 30 N. C. CENT. L.

REV. 151, 154 (2008) (describing the AALS as the process for all candidates except the very few superstars with credentials so exceptional that they are individually recruited); Paul M. Secunda, *Tales of a Law Professor Lateral Nothing*, 39 U. MEM. L. REV. 125, 132 (2008) (calling AALS the "obvious" way to get hired as a entry-level professor); Kent D. Syverud, *The Dynamic Market for Law Faculty in the United States*, 51 J. LEGAL EDUC. 423, 423-24 (2001) (describing the AALS market as the primary means of securing a tenure-track entry-level position). See also *supra*, note 11 (only 5 of the 30 new professors hired at the top 20 schools were hired outside of the FAR).

¹³ The argument would be that the low numbers of minorities currently teaching in law schools results in sparser networks and fewer connections for minority hopefuls. See, e.g., Richard O. Lempert, David L. Chambers, & Terry K. Adams, *Michigan's Minority Graduates in Practice: Answers to Methodological Queries*, 25 LAW & SOC. INQUIRY 585, 593 (2000) (noting that smaller minority communities in law schools may have a negative effect on careers after law school).

unique or that the landscape has changed in the five years since. The candidates themselves may have been unusually accomplished or lackluster. Especially in the case of the Asian candidates, who numbered only 35 in total, a few superstars or lack thereof could have had a large effect on the results. The law schools as a whole could have been experiencing a year of fewer vacancies or perhaps a recent spate of minority hires caused hiring committees to look extra closely, or extra casually, at the minority candidates of 2004-2005. I acknowledge these possibilities and the resulting limitations on the study's findings. The reason the study is restricted to a single year is not by design or choice, but rather by necessity and availability; if the AALS were willing to release additional years of FAR data, I would be most eager to conduct a more comprehensive analysis.

B. Dependent and Independent Variables

There were two dependent variables in the study, both a measurement of candidate success. The first variable was dichotomous and applied to all individuals in the study, simply marking whether the candidate was hired or not. The second was a continuous variable and applied only to those candidates who were hired; it measured the prestige of the hiring law school. A large number of independent and control variables were included within the study, each having a potential effect on an individual's chances of being hired. Summary statistics on each of the independent variables are listed in Appendix A.

1. *Hired* - To determine whether and where a candidate was hired, I turned to the annual AALS Directory of Law Teacher publications. Though the AALS publishes statistical data on the aggregate number of successful minority candidates, a regression on credentials requires individual-level data. As a result, I looked up every individual listed in the FAR within the 2005-2006 Directory of Law Teacher publications.¹⁵¹⁴ I coded candidates as hired if they appeared in a tenure-track position in the 2005-2006 year. If the candidate did not appear in the 2005-2006 year or if they appeared only in a non-tenure track position, they were coded as not hired. Non-tenure track positions included visiting professors, adjunct professors, and acting professors. Clinical tenure-track professorships were counted as hired. Since candidates do not always submit their profiles to the AALS in time to be included in that year's directory, I also looked for each candidate within the 2006-2007 and 2007-2008 directories. If an individual did not appear in the 2005-2006 directory but did appear in the 2006-2007 or 2007-2008 di-

¹⁴ Of the 889 candidates, 255 were hired in a tenure-track position in 2005.

¹⁵ Attempts were made to account for schools that routinely label tenure-track positions with these nontraditional names or vice versa.

rectories, I ran an internet search to look for individual resumes or law school websites to confirm their exact starting year.

¹⁶2. *Prestige of Hiring School* – For each individual that was coded as hired above, I looked up their hiring law school on the *U.S. News & World Report Magazine* rankings. Every AALS member law school was ranked in the spring of 2005 by the *U.S.* and given an academic prestige score. The score is based on survey responses from law school deans, deans of academic affairs, the chair of the faculty appointments committee, and the most recently tenured faculty members, ranking the quality of each school on a scale of 1 (marginal) to 5 (outstanding). The top two schools, Yale and Harvard, each had a score of 4.8. The top 50 law schools are collectively labeled the “Tier 1” law schools, with schools numbered 51 to 100 comprising “Tier 2,” 101 to 140 as “Tier 3,” and 141 to 185 as “Tier 4.” Many also find it helpful to break out the top 14 law schools into their own category. The study included three dummy variables for hiring school prestige, for Top 14 schools, Tier 1 schools, and Tier 3 and 4 schools. Schools that have not yet been listed within the *U.S. News & World Report* due to their recent formation or lack of ABA accreditation received a prestige score of 1.0.¹⁹¹⁸ 3. *Gender* – Gender was coded as a dummy variable,¹⁷²⁰ with 1 for all candidates who listed themselves as female and 0 for those who listed themselves as male. It should be noted that of the 889 candidates in the FAR, 51 declined to list a gender. These candidates were coded as missing in the gender dummy and were dropped from the regression analysis.

4. *Race* – Information on race was collected based on each candidate’s self-selection on the FAR forms, which included the following options: Asian, African American, Chicano, Native American/Alaskan American, Other Hispanic-American, Pacific Islander, Puerto Rican, White, and Other. Those who marked themselves as “white” and another category were considered to be members of the non-white category while those who

¹⁶ Though many still question the validity of the *U.S. News & World Report* results as a measurement of merit, the use of the academic prestige score instead of the overall ranking may alleviate some of these concerns. See generally Theodore P. Seto, *Understanding the U.S. News Law School Rankings*, 60 S.M.U. L. REV. 493 (2007) (a comprehensive analysis of the variables included and calculation methods of the rankings).

¹⁷ See, e.g., Gregory L. Acquaviva & John D. Castiglione, *Judicial Diversity on State Supreme Courts*, 39 SETON HALL L. REV. 1245, n. 205 (2009) (explaining that the “T14” refers to the remarkably consistent top 14 schools at the top of the *U.S. News and World Report* Rankings); Andrew Bruck & Andrew Canter, *Supply, Demand, and the Changing Economics of Large Law Firms*, 60 STAN. L. REV. 2087, n.8 (2008) (referencing the top 14 schools in characterizing “elite” law schools).

¹⁸ A score of 1.0 was chosen for the 8 schools not listed in the 2005 *U.S. World & News Report* to reflect the prestige distance between these schools and the schools listed on the rankings. As of the 20082009 hiring year, none of the ten schools who fell into this category had yet to be accepted as full members of the AALS either.

¹⁹ I use the term “dummy variable” and “dichotomous variable” interchangeably – both refer to a variable that had two possible entries: 1 and 0.

²⁰ 280 of the candidates marked themselves as women while 558 of the candidates marked themselves as men.

²¹marked themselves as “other” and a listed minority racial group were considered to be a member of the listed racial group. Those who marked themselves as “white” and “other” were considered “other.” For the rest of the multiple-race candidates, I coded the candidate based on the following preference hierarchy: Black, Latino, Asian. For the regression analysis, three dummy variables were created based on race, namely Asian, Latino,²⁴²²²³ and Black. 5. *Prestige of J.D. Law School* – Employing the same *U.S. News &*

²⁵*World Report* scoring system that was used to calculate the prestige of the hiring school, candidates’ law schools were coded as a continuous variable based on their ranking. Candidates who graduated from a foreign law school or who did not list the possession of a law degree received a 0 for their graduating law school prestige score.²⁷²⁶ A separate dummy variable is created for graduation from a top 3 law school, with graduates of Yale, Harvard, and Stanford Law School given a 1 and all other candidates notated as a 0. 6. *Journals and Law Review* – Candidates were invited to list all

²⁸journals that they participated in and their positions on each. This information was then recorded and coded into a single variable for regression purposes, a dichotomous variable on law review membership. It was assumed that journals with the words “Law Review” in their title without any additional subject matter terms were the main law review. For journals that included the words “Law Journal” in their title without additional subject matter terms, an internet search was conducted to ascertain whether the journal

²¹ The rationale behind such an ordering was well explained in Alfred Yen’s previous study on minorities in law school hiring, drawing upon societal views about affirmative action and the extent to which

certain racial groups are viewed as minorities. See Yen, *supra* note 5, at 43 n. 21.

²² Candidates who marked themselves as Pacific Islander were coded as Asian.

²³ Candidates who marked themselves as Chicano, Puerto Rican, or Hispanic American were all coded as “Latino.”

²⁴ Within the 889 candidates, 35 were coded as Asian, 78 were coded as Black, 24 were coded as Latino, 4 were American Indian, 622 were coded as White, 32 were coded as Other, and the 94 candidates who declined to identify their race were coded as missing and dropped from the regression analysis.

²⁵ See *supra* for discussion of hiring school score.

²⁶ 85 of the candidates did not list a law school. It is possible that such coding overly discounts foreign candidates and, as a result, minority candidates; indeed, minority candidates comprised 24 percent of those without a J.D. degree, as compared to only 17 percent of those with a J.D. They were nonetheless given a score of 0 since no alternative coding was available that seemed more equitable and justifiable.

²⁷ Many scholars have previously noted that a large percentage of law professors seem to graduate from the top 3 law schools. See, e.g., Redding, *supra* note 2, at 607 (“the trend toward hiring graduates from Harvard or Yale has increased in recent years”); Sara K. Stadler, *The Bulls and Bears of Law Teaching*, 63 WASH. & LEE L. REV. 25, 30 (“I reached the shocking conclusion that most law professors graduated from the three top law schools in the United States: Yale, Harvard, and Stanford (in that order).”

²⁸ A dichotomous variable was also created for participation in a non-law review journal membership and for editor-in-chief and articles editor positions. These variables were eventually discarded in favor of the law review variable as the others never produced a significant effect on either of the dependent variables.

was truly the main law review.³⁰²⁹ Unfortunately, data entry was unable to account for any main law reviews without either “Law Journal” or “Law Review” in their titles. 7. *Grade-based Honors* – The FAR included information on whether

the applicant had graduated magna cum laude or with other similar gradebased honors (i.e. with distinction, cum laude). The information was coded into a single dichotomous variable for magna-level honors.³²³¹ This category includes candidates who noted having graduated magna cum laude, Order of the Coif, and all those who listed themselves as graduating within the top 10 percent of their law school class. 8. *Other Advanced Degrees* – Candidates listed previous doctorates,

³³masters, and LLM degrees, along with their respective graduation dates and subjects. Though all of the information was recorded, the regression analysis only included possession of a non-law PhD degree, coded as a dichotomous variable. The relative academic prestige of the graduate schools was not coded due to the lack of a single uniform scoring system across all graduate fields.

³⁴9. *Undergraduate School Score* – Similar to the hiring school score and law school score variables, candidates’ undergraduate schools were measured for prestige through the rankings of the 2005 *U.S. News & World Report Magazine*, which takes into account the schools SAT scores, high school GPAs, student:faculty ratios, matriculation rates, graduation rates, and more. A dichotomous variable was created for graduation from one of the top 20 undergraduate schools. 10. *Prestige of Prior Law Teaching Job* -- Candidates were asked to

list any prior law teaching experience, along with the specific position.³⁵ Using the same *U.S. News & World Report* scoring system that accounted for the hiring school score and graduating law school score, the prestige of candidates’ previous teaching experience were coded as a continuous vari-

²⁹ Of the 889 candidates, 279 were editors of the law review.

³⁰ The small number of such journals would suggest that such errors were not significant towards the overall findings.

³¹ A dichotomous variable was also created for all grade-based honors, but this was eventually discarded in favor of the magna-level honors variable as the all grade-honors variable never had a significant effect on either of the dependent variables.

³² Of the 889 candidates, 263 were coded as having graduated magna cum laude.

³³ None of the other degrees or specific degree subjects produced any significant effects on any of the regression tests. 202 of the candidates were coded as having a non-law PhD degree.

³⁴ Of the 889 candidates in the 2004-2005 FAR, 251 graduated from a top 20 undergraduate school. Specifically, this includes Harvard University, Princeton University, Yale University, University of Pennsylvania, Duke University, Stanford University, California Institute of Technology, Columbia University, Dartmouth College, Washington University in St. Louis, Northwestern University, Cornell University, Johns Hopkins University, Brown University, University of Chicago, Rice University, University of Notre Dame, Vanderbilt University, Emory University, and University of California-Berkeley.

³⁵ Responses included associate professor, assistant professor, adjunct, acting professor, visiting professor, fellow, clinical professor, administrative, instructor, tutor, legal writing professor, lecturer, practitioner-in-residence, and teaching assistant.

able based on the ranking of the school.³⁶³⁷ Candidates who did not have any prior law teaching experience received a score of zero for this variable. 11. *Geographic Freedom* – Candidates were invited to list any geographic location they would not accept or whether they would only accept positions in certain geographic areas. I coded both types of preferences as a lack of geographic freedom. 12. *Prior Work Experience* – Candidates were invited to list any previous work experience, including the dates of employment, the type of employment, and their job title. The form provided the following categories: Government, Non-profit/Public Interest, Non-Law Teaching, Private Industry, Private Practice, and Other. Dichotomous variables were created for each of these categories except for Other. 13. *Clerkship Experience* – Though the FAR form did not have a specific question about clerkship experience, candidates were invited to list clerkships within their work experience.⁴¹⁴⁰ Their responses were separated into clerkships with the U.S. Supreme Court, Federal Circuit Court, Federal District Court, State Supreme Court, State Lower Court, International Court, and Other Courts.⁴² For the regression analysis, three dichotomous variables were created, U.S. Supreme Court, Federal Circuit Court, and Federal District Court. 14. *Prestige of Prior Journal Publication* – Candidates were invited to list up to 3 recent publications.⁴³ To screen out student notes and student journal case comments, publications that were published prior to the candidate's graduation from law school were not included.⁴⁵⁴⁴ To measure for prior publication prestige, scores for the two most recent publications for each candidate were taken from the Washington and Lee University School of Law journal combined rankings. The score was calculated through a

³⁶ See *supra* for a discussion of the hiring school score.

³⁷ Of the 889 candidates, 466 had previously taught a course at a law school.

³⁸ 107 of the candidates listed a geographic restriction, 38 listing areas they would not accept and 78 listing geographic areas they would only accept.

³⁹ 130 of the candidates had previously been employed in a governmental job, 118 in a non-profit/public interest job, 74 in a non-law teaching job, 80 in private industry, and 498 in private practice.

⁴⁰ 330 of the candidates listed a judicial clerkship on their FAR form.

⁴¹ 12 had clerked on the U.S. Supreme Court, 159 candidates had clerked on a federal appellate court, 76 had clerked on a federal district court, 32 had clerked for a State Supreme Court, 13 had clerked for a lower state court, 26 had clerked in an international court, and 12 others had clerked on local, bankruptcy, tax, or veterans courts.

⁴² A fourth dichotomous variable was tested for state-level clerkships, but the variable was always dropped from the regression analysis due to collinearity.

⁴³ 703 candidates listed at least one publication, 127 of those were in a non-legal field.

⁴⁴ This was done to offset the boon that a student on a Law Review would receive from any guaranteed publication spots. While this may unfairly hurt those candidates who sought article publication prior to graduating from law school, it is generally acknowledged that such publications are usually given less weight within the hiring process.

⁴⁵ The Washington & Lee rankings were used as they were the only available ranking system that included secondary journals and foreign law journals along with main law reviews. Given the relatively

⁴⁶combination of citation counts and impact-factor and then normalized on a scale of 0 to 100, with 0 indicating no prestige value for the purposes of this study.⁴⁷ Candidates who did not list any law journal publications were given a score of 0 as well. 15. *Number of Prior Journal Publications* – This was coded as an ordinal variable ranging from 0 to 2. Candidates who had published one article were given a 1, candidates with 2 or more publications were given a 2 and candidates without any publications were given a 0.

⁴⁸16. *Bar Membership* – Candidates were invited to list all bar memberships. A single dichotomous variable was created to cover any state bar membership. C. *Omitted Variables* – There are several categories of variables that were omitted from the study due to a lack of data.

1. *Grades* - While candidates were invited to list class rank and law school GPAs on their FAR forms, this information was not included within the regression models due to the lack of standardization amongst law schools in calculating and reporting such figures.⁵⁰⁴⁹ However, as noted above, academic performance was accounted for in the form of the gradebased honors variable. 2. *References* – Though candidates were invited to list references on their FAR forms, this information was not included due to the difficulty of quantifying such information. While strong support from a prominent scholar in the field is undoubtedly helpful to a candidate's hiring chances, there was no way to gauge the strength of a reference based on a listed name alone. Furthermore, I believe that the impact of a candidate's references is somewhat accounted for by the inclusion of past publications, past clerkships, and past teaching experience. Given that most clerkships and nontenure track teaching positions are also heavily reliant on faculty recommendations, and that successful law review publications generally involve a good deal of faculty input and supervision, candidates who performed well

large number of candidates publishing in secondary journals and foreign journals, their inclusion was critical.
⁴⁶ A more detailed explanation can be found online at <http://lawlib.wlu.edu/LJ/method.asp#methodology> (last accessed March 16, 2010).

⁴⁷ Though such coding may be unfair to candidates with publications in other non-law fields, there was no way to normalize the relative prestige of non-law journals with those of law journals.

⁴⁸ 827 of the 889 candidates reported bar membership.

⁴⁹ For example, Harvard Law School does not give its graduates specific class rank or GPA information.

⁵⁰ As noted in the previous section, the grade honors variable includes those candidates graduating Order of the Coif, magna cum laude, or within the top 10% of their graduating class.

in these regards would likely also have strong references from professors, judges, and academic colleagues.

⁵¹3. *Job Talk/Interview Performance* – This may be the most significant omitted variable; though it’s unlikely that an amazing interview will compensate for an lackluster resume, a horrible job talk or FRC interview could easily outweigh impressive paper credentials. Unfortunately, short of sitting in on every candidate’s interview and job talk, there is no way of collecting data on this variable. As previous researchers have noted, however, any differences accounted for through the inclusion of such variables may simply be reflecting existing race bias, for example, by quantifying the perception that minorities perform badly in interviews. 4. *Teaching and Research Interests* – Though candidates listed their

⁵²teaching interests on their FAR forms, these were not included in this study. It is worth noting, however, that attempts to run regressions or other statistical analysis based on teaching and research interests did not alter the race related findings of the study.

II. RESULTS – THE EFFECT OF RACE

A. *Dependent Variable: Hired*

⁵³1. *Who is Hired?* Of the 889 law teaching candidates included in this study, 191, or 21.5 percent, were hired by the 2005-2006 academic year. Of those hired, 15, or 7.9 percent, were Asian, 19, or 9.9 percent, were Black, and 7, or 3.7 percent, were Latinos. These numbers might seem low when compared to the 133 White candidates hired; but when placed against the racial breakdown of the candidate pool, the racial minorities were actually more successful than the white candidates. In addition, in a complete flip of the findings in Alfred Yen’s earlier study, Asian candidates did not suffer a lower success rate than the other minority groups; in fact, Asians were hired at the highest overall rates of all racial groups, including Whites.

⁵¹ As Merritt and Reskin note, there is little evidence that factors such as interview performance or personality differ based on racial lines. See Merritt & Reskin, *supra* note 2, at 228-29. As a result, the omission of job talk/interview performance should not affect the findings of this study with respect to race.

⁵² The reason for this omission is data overload, particularly since the focus of this article is the effect of race on law school hiring. For those interested in the effect of teaching and research interests on a candidate’s likelihood of being hired and resulting placement, please see Ming M. Zhu, *Are Women Hired More?: An Empirical Analysis of Gender and Law School Hiring*, unpublished manuscript (on file with author).

⁵³ See Yen, *supra* note 5, at 45-46 (finding Asian-American applicants to be the least successful of all minority groups in the 1990-1993 hiring years and, in one year at least, to be less successful than white applicants as well).

Number of Candidates 35 24 78 622 130 889 Number
Hired 15 7 19 133 17 191

Percent Successful 42.9 29.2 24.4 21.4 13.1 21.5 The difference in percent hired between Asians and Whites as well as between Asians and all

hires was significant at the $p < 0.01$ level, the difference in percent hired between Asians and Blacks was significant at the $p < 0.05$ level.

54 Taken alone, these results seem like a good sound-byte for the argument that minorities are being preferred in faculty hiring. Since the time of Yen's study, the Asian success rate in particular has dramatically increased. Further extrapolations or inferences, however, would be irresponsible. Without additional data on candidate qualifications, there is no way of knowing if the increase in minority success rates is due to affirmative action or to a stronger candidate pool. The Asian success rate could be due to an increased focus on Asian hires, but it could also reflect a stronger generation of Asian candidates. In fact, if the credentials of Asian candidates were excessively stronger, the data above could even be used to support dis-

54 Some might protest that this study's higher Asian success rates are simply an anomaly resulting from a fluke year. Indeed, Yen's study does indicate that the success rates of Asian candidates fluctuate from year to year. However, his data placed their success rates at the lowest of all the minority races in each year, a result that clearly has changed in comparison to the highest Asian success rates in the current study.

Fig. 1

Asian
Other

Latino
Overall

black

white

crimination, in an argument that Asians should have been hired even more than they were.

⁵⁵ 2. *Why are Candidates Hired?* Therefore, in order to provide more responsible analyses and supportable conclusions about the increased minority candidate success, I created three logistic regression models, using the dichotomous hired variable as the dependent variable. The models calculate the likelihood of a candidate success while controlling for individual characteristics and credentials like law school grades, prior publications, completion of a federal clerkship along with gender, geographic restrictions, and bar membership, thus calculating the relative effect of each variable on the candidate's hiring school prestige. Model 1 served as the baseline, testing for factor significance without the consideration of the candidate's race. Model 2 included a variable for race by aggregating all minority groups into a single category, and Model 3 separated out the effects of individual racial groups.⁵⁶ The following table lists those independent variables that were statistically significant; at least for the 2004-2005 AALS hiring year, these are the factors that affected an individual's likelihood of being hired.

⁵⁵ The full results of the logistic regression, including the independent variables that were not significant, are available in Appendix C.

⁵⁶ It is important to differentiate between the statistical and everyday meaning of "significant." In this study, variables are considered significant if they reach a probability value of 0.1 or lower, meaning that there is less than a one-in-ten chance that the result occurred by random chance. While such results are statistically significant, they may carry little practical effect; in other words, the fact that an independent variable was statistically significant does not necessarily mean that it will have a large actual impact on the candidate's likelihood of being hired. For a measure of the variable's impact, we look at the odds ratio and the accompanying standard error.

1.303
(0.196)

1.304***
(0.072)

1.011*
(0.005)

2.021***
(0.434)

1.852**
(0.420)

1.309***
(0.076)

770
Levels of Significance
1
0
6
0
5
)

Female 2.314*** (0.480) 2.038*
Top 20 Undergraduate School 1.863** (0.411) 1.857**

0.2414 0.2442 0.2

* p = 0.05

J.D. Law School Prestige
(continuous variable)

1.542***
(0.161)

1.549***
(0.164)

1.551***
(0.165)

Number of Prior Publications
(ordinal variable)

1.359*
(0.211)

Prior Law Teaching Prestige
(continuous variable)

Prior Publication Prestige
(continuous variable)

Pseudo r²

⁵⁹that though the odds ratios for prior law teaching prestige, prior publication prestige, and J.D. law school prestige seem low, they are actually much greater due to their status as a continuous variable. For example, the regression results indicate that each additional point in a candidate's graduating law school score increases the odds of getting hired by a magnitude of 1.551. So comparing a candidate who graduated from Yale Law School, which has a prestige score of 4.8, and a candidate who graduated from Fordham Law School, with a prestige score of 2.8, the odds of the Yale Law graduate getting hired are 2.406 times larger than the odds of the Fordham Law graduate. It is worth noting that the only variable with a negative effect approaching statistical significance was prior work experience in private industry, in the form of in-house counsel work, legal consultant jobs, and such.⁶¹ At the same time, experience working in a governmental job brought a significant positive effect, the highest of all the dichotomous variables in the model. This finding contradicts the theory that law schools are in need of more private law professors. When read alongside the positive effect associated with being less than 3 years out of law school,^{63,62} the negative effect of prior private industry experience suggests that law schools are still following the advice first articulated by Harvard Law School Dean Christopher Langdell: that law professors should be primarily teachers and scholars, as opposed to practitioners of law.

⁵⁹ Mathematically speaking, the calculation of the odds is $4.8 - 2.8 = 2$, $1.551^2 = 2.406$.

⁶⁰ See Appendix. Variables with odds ratios lower than 1.0 indicate a negative effect on the likelihood of being hired. The full regression results also include deep negative effects for clerking at a federal district court, having a non-legal PhD degree, and being more than 10 years out of law school, but none at statistically significant levels. Though the federal district clerkship may seem like a positive credential, it may actually be serving as a proxy for candidates who were unable to obtain a federal circuit clerkship. The explanation for the negative effect of a PhD may be a combination of candidates with unhelpful PhD degrees from foreign institutions or fields that cannot be linked to law and the possibility that many PhD-holding candidates are hired outside of the FAR process, thus causing law schools to hire fewer "law and" candidates within the FRC. Finally, the negative effect of being more than 10 years out of law school correlates with the common opinion that law schools look down upon excessive work experience as candidates are then too removed from legal theory and the doctrinal instruction of law.

⁶¹ Merritt and Riskin, for example, include a regression testing for race and gender effects on teaching corporations and tax due to those subjects' status as "difficult to fill." See Merritt & Riskin, *supra* note 2.

⁶² Given the amount of time that has passed since their study, however, it could be that law schools have since experienced changes faculty needs.

⁶³ See Appendix.

⁶⁴ See generally Bruce A. Kimball, *The Principle, Politics, and Finances of Introducing Academic Merit as the Standard of Hiring for "The Teaching of Law as a Career," 1870-1900*, 31 LAW & SOC. INQUIRY

617 (2006) (detailing the history of Langdell's push for a faculty of scholars). Previous studies have already noted that having more practice experience may actually be harmful for a candidate's hiring chances. Cf. Redding, *supra* note 2, at 605 (finding a negative correlation between the academic reputation of a professor's home school and the number of years of law practice). For a discussion of the benefits and drawbacks created by this preference for legal scholars as professors, see Amy B. Cohen, *The Dangers of the Ivory Tower: The Obligation of Law Professors to Engage in the Practice of Law*, 50 LOY. L. REV. 623 (2004).

The variable with the highest positive effect, however, was not actually an academic or experience-based credential, but rather the candidate's willingness to accept a position in any geographic location. Candidates without geographic restrictions were much more likely to get a job, confirming the results from Merritt and Riskin's study.⁶⁵⁶⁴ Being a woman also had a significant positive effect on a candidate's chances of being hired, which goes against previous allegations of discrimination against women in law school faculty hiring; the women in this study were much more likely to be hired than male counterparts with similar credentials.⁶⁷⁶⁶ In line with the previous findings of Merritt and Reskin, however, the positive benefit associated with being female was more pronounced when race was not considered, suggesting that benefits associated with being a minority and being female may sometimes be cancelling each other out. Shifting the emphasis back to the effect of race, the following table separates out the racial coefficients in Models 1 and 2.

Variable	Odds Ratio	(Standard Error in Parenthesis)
Model 2 - Minority vs. Non-Minority Model 3 - Individual Races		
Any Minority Race	2.223**	(0.618)
Asian	2.858*	(1.299)
Latino	2.276	(1.141)
Black	1.848	
2 (0.735) Pseudo r ² 0.2442 0.2450 # of Observations 770 770		
Levels of Significance	* p = 0.05	** p = 0.01 ***p = 0.001

⁶⁴ Merritt & Riskin, *supra* note 2, at 241-42.

⁶⁵ See, e.g., Marina Angel, *Women in Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMPLE L. REV. 799 (1988); Mary Elizabeth Basile, *False Starts: Harvard Law School's Efforts Toward Integrating Women Into the Faculty*, 28 HARV. J. L. & GENDER 143 (2005); Deborah Jones Merritt, *The Status of Women on Law School Faculties: Recent Trends in Hiring*, 1995 U. ILL. L. REV. 93 (1995); Norman Redlich, *Law School Faculty Hiring Under Title VII: How a Judge Might Decide a Disparate Impact Case*, 41 J. LEGAL EDUC. 135 (1991).

⁶⁶ For further analysis of the effects of gender on the hiring of law teaching candidates, see Zhu, *supra* note 52.

⁶⁷ Specifically, Merritt and Reskin asserted that the advantages of affirmative action for gender and race negate each other when considering minority women. See Merritt & Riskin, *supra* note 2, at 290-91 (describing uniquely disadvantaged position of minority women as compared to white women and minority men).

Fig. 3 – Significance of Candidate's Race on Getting Hired

Model 2 in the figure reports minority status as a significantly positive factor in the prediction of whether a candidate is hired. Controlling for credentials, a minority was 2.223 times as likely to be hired as compared to a non-minority candidate. When Asian, Black, and Latino candidates were separated out in Model 3, being Asian produced an odds ratio of 2.858 and was significant at the 95% level. In other words, being Asian increased a candidate's odds of being hired by 2.858 times, with only a 5% likelihood that such a result would have occurred by random chance. Put in practical terms, the numbers suggest that as between an Asian candidate who did not graduate in the top 10 percent of their law school class and a White candidate who did, assuming that the two candidates were identical in every other category, the Asian candidate would have had a higher likelihood of being hired than the White magna cum laude graduate.

Though neither the Black or Latino variables were statistically significant, two factors weigh in favor of attaching some interpretive value to their values. First, the Black variable had a p-value of 0.123 and the Latino variable had a p-value of 0.101, meaning that there was only a 12 percent and 10 percent chance, respectively, that these results could have occurred by random chance. Second, the Model 2 regression run with all racial minorities combined into a single independent variable resulted in a greater level of statistical significance, suggesting consensus effects amongst the three individual racial groups.

B. Dependent Variable: Prestige of Hiring School

⁶⁸1. *Who Places Well?* The logistic regression results reported in the previous section show that minority candidates are more likely to be hired, even after controlling for the traditional hiring criteria; the next logistical step is to look at *where* these minorities are being hired. Examining the placement of the hired candidates, it is immediately clear that minorities do considerably worse than non-minorities in terms of placement. This is not surprising; in Merritt and Riskin's 1997 study, the only area where minorities experienced a statistically significant negative effect was in the institutional prestige of the professor's first tenure-track hiring school. To get a rough picture of minority success in terms of hiring school prestige, Figure 4 below compares the range and distribution of each racial group's placement.

⁶⁸ *Id.* at 248-50.

Fig. 4 – Where Were They Hired? Range and Distribution of Law School Prestige Scores			
Race	Highest Hire	Lowest Hire	Mean Prestige Level*
White	4.8 (Stanford)	1.1	2.61
Black	3.7 (U.S.C.)	1.1	2.12
Latino	3.2 (Notre Dame)	1.5	2.34
Asian	3.1 (Fordham)	1.1	2.17

* The difference in prestige scores between Asians and Whites as well as Blacks and Whites was statistically significant at the $p < 0.05$ level.

⁶⁹ In the 2004-2005 hiring year, the highest placing white candidate was hired by Harvard Law School, a school with a prestige score of 4.8. The highest placing African American candidate ended up at the University of Southern California, ranked eighteenth with a prestige score of 3.7. The highest Latino hire placed at the University of Notre Dame Law School, ranked thirty-third with a prestige score of 3.2. The highest ranked school of any Asian American hire was Fordham Law School, ranked thirty-sixth in the 2005 law school rankings with a prestige score of 3.1. The mean prestige score of White candidate placements was 2.61, with the mean prestige scores of every minority group falling below that, with Latinos at 2.34, Asians at 2.17 and Blacks at 2.12. The difference between a prestige score in the 2.1-2.3 range and a prestige score of 2.6 is quite substantial. When placed within a cumulative graph, the disparity becomes even more noticeable.

⁶⁹ Given the extremely low number of Latino candidates within the study population, this number and all other numbers associated with the Latino category should be taken with a certain amount of caution. It is quite plausible that a larger study population would result in a Latino mean that is closer to the Asian and Black levels.

The graph above, read from left to right, is a cumulative graph of each individual candidate hire, by race. The x-axis measures the prestige of the hiring school, with most the prestigious school at the left ($x=5.0$) and the least prestigious school at the right ($x=1.0$). Each line's starting point on the x-axis thus represents the highest school placement within that racial group; each movement along the line represents each additional hire.

⁷⁰Overall, the graph illustrates higher percentages of overall Asian, Latino, and African American hires but better law school placement for Whites hires. As an example, the dotted line representing White candidate hires begins at $x=4.8$ and ends around $y=20$, indicating that the highest placement for a White candidate was at a school with a prestige score of 4.8 and that 20 percent of the white candidates were eventually hired. In comparison, the solid black line representing Black candidate hires begins at $x=3.7$ and ends around $y=25$ or so, indicating that the highest placement for an Black candidate was at a school with a prestige score of 3.7 and that about 25 percent of the Black candidates were eventually hired. The sharp jump in the Asian and Black lines at the far right of the graph represents the individuals hired by non-ranked or non-ABA-accredited law schools, indicating that minorities were more successful in getting a job at these often newly-formed institutions. Two observations jump out from the graph as particularly noteworthy: first, Asian candidates had the highest percentage of overall hires, but their top placement was the lowest of all the racial groups; second, White candidates seem to hold a monopoly on hiring at the nation's top law schools. In fact, every hire made by the top 16 law schools in the study was of a white candidate; put another way: not a single minority hire was made by any of the top 16 schools. These findings thus support Merritt and Reskin's assertion that top schools seem to preferentially hire whites.

2. *What Affects Candidate Placement?* To test for the effects of race against traditional hiring criteria, I ran a series of linear regressions on the pool of hired candidates, using the academic prestige score of their placement school as the dependent variable.⁷²⁷¹ Model I again serves as the baseline, measuring the impact of each variable when race is not included as a factor. Model II includes a minority variable that aggregates all racial minorities and Model III breaks down the specific effects for Whites, Asians, Blacks, and Latinos. The following table reports results of statistical significance.

⁷⁰ Indeed, looking at the specific numbers involved, 20% of the minority hires were hired by a law school without ABA-accreditation (and thus without a US News ranking), as compared to only 2% of the non-minority candidates.

⁷¹ An alternate study might be drawn from the entire pool of candidates who interviewed at the top schools to ascertain the effect of credentials on the post-interview hiring decisions of top law schools.

Unfortunately, this study was not able to gather such data.

⁷² For a table reporting results for all independent variables, please see Appendix D.

Fig. 6 - Significant Factors Affecting A Candidate's Placement (All Law Schools)			
Variable	Model I - No Race	Model II - Minority vs. Non Minority	Model III - Individual Races
	(Robust Standard Error in Parentheses)		
Top 3 J.D. Law School	0.420* (0.176)	0.408* (0.176)	0.330 (0.170)
Federal Circuit Clerkship	0.301 (0.168)	0.329* (0.176)	0.343* (0.180)
Prior Publication Prestige (continuous)	0.007* (0.003)	0.008* (0.003)	0.008* (0.003)
	R-squared 0.269	0.302	0.313
	No. of Observations 183	176	176
	Significance Levels * p = 0.05	** p = 0.01	*** p = 0.001

⁷³Given that this is a linear regression, the magnitude of each variable's effect is measured by a coefficient instead of an odds ratio. The coefficient measures the increase in the prestige of the hiring school stemming from a one-unit increase in the independent variable. For example, a candidate who graduated from a top 3 law school would experience a 0.420 increase in his or her likelihood of being hired as compared to the candidate who did not graduate from a top 3 law school. Again, it must be noted that a direct comparison of the coefficients of dichotomous and continuous independent variables is misleading. Though the 0.007 coefficient associated with the prestige of a candidate's prior law review publication seems small, the difference between publishing in the Harvard Law Review, which has a prestige score of 100, and the Fordham Law Review, which has a prestige score of 50.2, results in a nearly 0.35 point increase. Given that the Fordham Law Review is still a top-20 law journal, the prestige of a candidate's prior publication clearly has a large effect on the candidate's hiring school.

While the previous logistic regression in Figure 2 included a number of significant factors, Figure 6 is left with only 3 statistically significant variables, namely, federal appellate clerkships, the prestige of prior law review publications, and graduation from a top 3 law school. Though other variables were significant in the determination of whether or not a candidate was hired, in the analysis of what factors affect the prestige of a candidate's first placement, grades, clerkships, and graduation from Harvard, Stanford, or Yale became the three factors that mattered.

To test for any differences particular to the top schools,⁷⁴ I re-ran the models after limiting the observations to hires made by the top 50, or

⁷³ $(100-50.2)*0.007 = 0.3486$.

⁷⁴ The hiring factors that are important to lower tiered schools could be quite different from those of the top schools. Cf. Redding, *supra* note 2, at 599-603 (finding professors at the top 25 law schools to be

Tier 1, law schools. Model IV reports the effect of various factors on the placement of candidates within Tier 1 schools when race is not included, Model V measures the effect felt by minorities as a whole, and Model VI measures the effect of individual races on hiring prestige.

Fig. 7 - Significant Factors Affecting A Candidate's Placement (Tier 1 Law Schools Only)			
	Coefficient	Model IV - No Race	Model V - Minority vs. Non-Minority
(Robust Standard Error in Parentheses)	Variable	Model VI - Individual Races	
	Top 3 J.D. Law School	0.337 (0.235)	0.576* (0.251)
	Grade Honors (top 10%)	-0.403† (0.223)	-0.468* (0.215)

R-squared 0.286 0.495 0.534 No. of Observations 58 53 54

Significance Levels * p = 0.05 ** p = 0.01 *** p = 0.001

The results in Figure 7 support theories that top schools have different hiring credentials; federal clerkships and prior law review publications are no longer significant and in the most surprising turn, high grades actually have a significant negative effect on a candidate's placement. In fact, graduation from a top 3 law school is the only variable that remains steady through all six models; it seems that while all else may change, the academy's preference for Yale and Harvard alums stays constant.⁷⁶ The true enigma, however, is the negative coefficient on law school grade honors; perhaps top law schools are able to look behind gatekeeper variables like grades to make exceptions for those truly stellar candidates on other, more substantive grounds.⁷⁵

more qualified in terms of the traditional hiring credentials like clerkships, J.D. alma mater, law review membership, and so on). Furthermore, it's been noted that the top schools are somewhat less successful, or less interested, in hiring minority professors. For example, several articles have highlighted the particular lack of Latino professors in the top schools. See, e.g., Luz E. Herrera, *Challenging a Tradition of Exclusion: The History of an Unheard Story at Harvard Law School*, 5 HARV. LATINO L. REV. 51 (2002) (focusing on Harvard's lack of Latino professors); Michael A. Olivas, *The Education of Latino Lawyers: An Essay on Crop Cultivation*, 14 CHICANO-LATINO L. REV. 117 (1994) (listing the top law schools without Latino faculty); see also Merritt & Jones, *supra* note 2, n. 42-43 and accompanying text, describing the theory that top law schools are less successful than other schools in hiring minority professors.

⁷⁵ Though the variable technically covers Stanford Law School as well, only 7 of the hired candidates graduated from Stanford, as compared to 86 from Harvard and 45 from Yale.

⁷⁶ For example, of the 9 candidates with more than 10 years out of law school hired by Tier 1 schools, only two had graduated magna cum laude, and only two had been on law review, but seven had prior law

Moving on to the race effects, the results reproduced in the table below clearly show the negative effects connected with racial minority status. All four regression models include negative coefficients on race; in other words, holding all other credentials constant, a minority's race had a significantly negative effect on where they were hired.

Fig. 8 - Effect of Race on Candidate's Placement				
Coefficient	All Law Schools	Tier 1 Law Schools	Law Schools Only	
(Robust Standard Error in Parentheses) Variable	0.302 0.313 0.4948	0.5343		
R-squared	0.176	0.176	0.53	0.54
# of Observations				
Levels of Significance * p = 0.05	** p = 0.01	*** p = 0.001		

The effect of racial variables at the Tier 1 schools was even greater than that at law schools overall; as shown in Models V and VI above, being a minority had almost double the negative effect on a candidate's placement within the Tier 1 schools. When the individual racial groups are broken down, Asian candidates in particular experienced significantly negative effects, though the other minority groups also bore negative coefficients. These results unfortunately support previous scholarly assertions that top law schools are particularly unsuccessful at hiring minority law professors. Though the cause of the problem is unclear, it does seem that the minority candidates with the best traditional credentials are not ending up at the top law schools.

To help illustrate the magnitude of these race-based effects, I plotted the predicted prestige values from Model III after off-setting the negative effect of race against the actual prestige scores of candidates' hiring

teaching experience, five had another graduate degree, and five had listed a commercial law subject as their primary teaching interest.

⁷⁷ See supra, note 74.

	Model II – Minority vs. Non-Minority	Model III – Individual Races	Model V – Minority vs. Non-Minority	Model VI – Individual Races
Any Minority Race	-0.343*	(0.160)	-0.771**	(0.274)
Asian	-0.578**	(0.212)		-1.018** (0.366)
Black	-0.274	(0.246)		
Latino	0.004	(0.255)		-0.514 (0.321) -0.516 (0.396)

24 *MINORITY LAW SCHOOL HIRING*

schools;⁷⁸⁷⁹ the difference between each candidate's predicted value and their actual prestige value is thus a rough proxy for the effect of race. The following figure plots these predicted and actual values. A line drawn at a 45 degree angle represents where candidates *should* have ended up; the horizontal distance between this line and each individual data point represents the amount by which the candidate over or under-performed. Data points that fall to the left of the line represent candidates who were hired at schools with a higher prestige level than would have been expected. Conversely, data points that fall to the right of the line represent candidates hired at schools with lower prestige levels than would have been expected given their academic credentials and other personal characteristics.

—



Though the graph can seem like an overload of information, two stories deserve greater attention. First, more white squares, representing White candidates, appear to the right side of the 45-degree line, indicating

⁷⁸ Given that the current linear regression was created to fit the actual placement values, running each individual's credentials whilst excluding the variable of race should result in an estimation of the placement values had the effects associated with race not been present. In practice, I essentially subtracted the individual racial group coefficients from the regression's predicted scores, or fitted values.

⁷⁹ In order to protect the anonymity of the individuals in the study, individual races are not separately identified due to the small numbers of Asian and Latino candidates. In a similar vein, noise was added to the graph by reproducing two extra points for each minority point, using two different randomized disturbance levels.

Area 2†
Area 1*

* Area 1 captures under-qualified candidates hired by the most prestigious law schools.
† Area 2 captures over-qualified candidates hired by less prestigious law schools.

that many White candidates are placing at schools better than what would be predicted from their traditional credentials. The white squares in Area 1 are those candidates who placed much better than would be expected and were hired by the most prestigious law schools. The fact that some of them reach as low as the $y=2.0$ level indicates that the top law schools were quite willing to hire individuals without traditionally strong credentials. In contrast, many colored circles appear to the left side of the 45-degree line, indicating that many Latino, Asian, and Black candidates are placing at schools worse than what would be predicted from their traditional credentials. Turning to Area 2 on the left side of the graph, these represent those candidates who were hired by lower ranked law schools even though their credentials would have predicted a higher placement. These are the candidates who possibly ended up accepting jobs at schools ranked lower than what they might have expected.

In order to provide some insight on the individual race level, trend lines were also plotted for each individual race, reproduced in the figure below.

⁸⁰ The length of the trend line represents the range of schools where those candidates were hired. The range of the y -values represents the range of the candidates' traditional qualifications. For example, the White line begins at $y=2.3$, which signifies that the least qualified White hire had credentials that would be expected at a 2.3-prestige score law school. Similarly, the Asian line reaches a high point of $y=3.5$, which signifies that the most

⁸⁰ Notice that the trend lines for the minority applicants appear to stop halfway across the screen -- this is because there were no minority applicants hired at schools with prestige scores above 3.7.

qualified Asian hire had credentials that would be expected at a 3.5-prestige score law school.

All four trend lines have positive slopes, indicating that a rise in predicted prestige was accompanied by a rise in actual prestige for all racial groups; more qualifications successfully predicts more prestigious placement. The white trend line, however, is noticeably lower than the trend lines of all other groups while the Asian trend line is noticeably higher. Looking specifically at the $x=3$ point, the White trend line's y -value is approximately 2.7, the Latino and Black trend line y -values are approximately 2.9, and the Asian trend line y -value is approximately 3.5. In practical terms, this suggests that at law schools with a prestige level of 3.0, the White candidates hired have credentials that one would expect at a 2.7-level school while the Asian candidates hired have credentials that one would expect at a 3.5-level school. The White candidate places better than expected while the Asian candidate places much lower than expected.

III. POTENTIAL EXPLANATIONS AND IMPLICATIONS

There are many different potential explanations for the results of this study. While it would be foolish to try and cover every possible theory, the following section explores those most worthy of further discussion.

A. Lack of Mentors and Networks at Top Schools Given the small numbers of minority professors at the nation's top law schools, it is quite possible that the negative effect experienced in terms of where the candidate is hired stems from a lack of minority networks.

⁸¹ The 2007-2008 AALS Directory of Law School Teachers reports that only 15% of law school professors marked themselves as a racial minority, with Asian Americans comprising 2.4% , African Americans 7%, and Latinos 3.1% of the entire legal academy. Especially at the nation's best law schools, the importance of strong fellow-faculty recommendations and prominent mentors willing to call up the hiring committees could be monumental.

B. Candidate Self-Selection It has previously been argued that minority candidates are more likely to consider academia and that minority candidates are more focused in tailoring their careers towards a career in academia as well. In contrast, many of the law teaching candidates are not actually bent on getting a law teaching job; many may be throwing their hat in the FAR ring just to see

what happens. As a result, minority candidates are able to outshine their non-minority counterparts as being more focused, more driven, and more dedicated to teaching, variables that cannot be accounted for through the traditional hiring criteria.

On the other hand, all candidates at the top end of the traditional hiring criteria range, with the high grades, the good clerkships, and the prestigious publications, are usually true candidates with real interests in legal academia. When the non-minority candidates in this group are just as focused in an academic career and similarly dedicated, driven, and wellpositioned, minority candidates lose their edge; thus explaining the lack of minority hires at the top schools.

The underlying basis of this theory is that hiring at top schools still reflects an inherent preference for non-minority candidates. This theory essentially says that minority candidates must work extra hard to separate themselves from the pack, but that such “extra” efforts only result in placements at mid-tier schools.

C. Different Hiring Mechanisms It has been argued that top law schools generally hire more of their

faculty through lateral-level moves, waiting for professors to establish themselves in a field and prove their scholarly merits in a lower-ranked school before taking the chance on making an offer. Given the fewer number of top schools, it is thus natural for more minorities to be hired at the lower-ranked schools and for top schools to recruit minorities through this base of existing professors.

⁸²Similarly, it is possible that top law schools are more likely to hire their minority professors through non-traditional avenues, perhaps by directly approaching attractive candidates who have not yet entered the AALS system. The results of the study could thus be the result of much minority hiring outside of the AALS system in the 2004-2005 hiring year, thus causing schools to hire fewer minorities within the AALS system. In essence, this theory suggests that because the law school has already hired several minorities through lateral hiring or non-AALS recruitment, they feel less compelled to hire the top minority candidates within the AALS market, even if those candidates possess many of the traditional hiring credentials. To test for this theory, I documented all of the entry-level hires for the 2005-2006 academic year.

⁸² The obvious problem with this theory, of course, is that it inherently suggests that law schools have a “minority hire” quota. The study results showed that holding all traditional hiring credentials constant, minorities were still hired at less prestigious schools. It’s true that top schools may be hiring outside of the AALS system, but that does not explain why these top schools would pass over the minority candidates for white candidates that possess equal traditional hiring credentials.

D. Greater Push for Diversity at Lower-Ranked Schools The 1980s and 1990s were marked by calls for more minority rep-

resentation in law school faculties, particularly in the nation's top law schools,⁸³ and as a result, many law schools openly practiced race-based affirmative action. Given their position at the top of the hiring chain, top law schools were best able to recruit top minority talent and may have now exhausted their need for minority hires. As a result, top minority talent is now turning to lower-ranked law schools, thus resulting in the disproportionately larger number of minority hires at lower-ranked schools.

While this theory might explain a lack of affirmative action benefits for racial minorities at top law schools, it does not explain the *negative* effect experienced by minorities at the top law schools; perhaps being a minority no longer grants you any additional affirmative action benefits, but it should not result in negative effects, regardless of how many minorities were recently hired. Such a result would be the equivalent of a minority quota of sorts or an acceptance that a school can be "maxed out" on minority hires.

E. Comparing Within Racial Groups

A less encouraging explanation is that schools are comparing candidates to other candidates within their individual racial groups. It is possible that because the overall pool of Asian candidates was significantly stronger, law schools became accustomed to the general stereotype of a highlyqualified Asian, thus making it harder for truly stellar Asian candidates to stand out. When a chi-squared test was run between Asian candidates and all other minority candidates on each of the qualifications deemed to be significant for being hired, the Asian group had the more favorable characteristics in every category. In a head to head comparison with white candidates, the Asian candidates again possessed more favorable variables in almost every category.

⁸³ Perhaps the most famous of scholarly protests of the lack of minority professors was that of Professor Derrick Bell against the lack of minority professors at Harvard Law School. Bell famously took an unpaid leave of absence to protest Harvard's refusal to hire a black female law professor, eventually resulting in his forced resignation from the faculty. See *Harvard Law Notifies Bell of Dismissal for Absence*, N.Y. TIMES, July 1, 1992, at A19. Today, Harvard has a single female Black professor and a single female Asian professor within its 100+ tenure and tenure-track faculty.

⁸⁴ See Yen, *supra* note 5, at 41 (alleging that law schools in the early 90s were freely and openly practicing affirmative action in their hiring of law faculty).

29

Fig. 11 - Comparison of Credentials: Asian vs. Other Minorities			
Percentage with Credential/Condition			
Credential/Condition Affecting Hire	Asians	Whites	Other Minorities
Federal Clerkship***	37.14	29.58	17.65
Prior Law Publication**	80.00	80.55	60.78
Prior Law Teaching Job**	57.14	53.70	38.24
Magna Cum Laude (J.D)*	11.43	9.49	0.98
Top 10 Law School	60.00	48.07	49.02
Top 25	42.86	33.76	34.31
Prior Government Job	11.43	13.43	10.78
Geographic Restriction	8.57	12.54	87.25
Levels of Significance * p = 0.05 ** p = 0.01 *** p = 0.001			

The higher overall qualifications of Asian candidates, even when compared against white candidates, thus contributes to the negative effect on Asian candidates in terms of their ability to stand out enough to warrant placement at the top law schools. Though many would strongly protest against the idea that individual candidates are compared to others within the same racial group, this is a phenomenon that has a historical precedent within highly competitive admissions programs. Furthermore, I am not claiming that law school hiring committees would have intentionally made such intra-racial comparisons; I suggest only that general stereotypes and unconscious assumptions would have been made.

F. Self-Section in Accepting Offers Given the less-than-stellar reputations of many top law schools in terms of their acceptance and treatment of minority professors,⁸⁶ it is possible that minority candidates are being offered positions at top law schools but that they are rejecting such offers in favor of schools that are less prestigious but perceived to be more welcoming and supportive. However, in speaking with minority law professors at schools of all prestige levels, most deny that such a phenomenon is occurring. In addition, they indicate that any such preferences that did exist were often reflected in geographic preferences. For candidates that had no geographic restrictions, the idea of turning down a higher-ranked law school because of its reputation for being less minority-friendly was repeatedly deemed unlikely.

⁸⁵ See, e.g., Daniel Gordon, *Is Admissions Bar Higher for Asians At Elite Schools?*, Wall St. J., Nov. 11, 2006, at A1.

⁸⁶ See, e.g., Delgado & Bell, *supra* note 2 (reporting many unhappy experiences of minority professors at the nation's top law schools).

If the results *are* indeed explainable through minority self-selection out of top law schools, this is a phenomenon that deserves further examination. If this were the case, top law schools should step back and investigate why minorities are choosing to turn down their offers. Law school deans should not simply accept the fact that minorities are choosing lower schools because they are a better fit elsewhere; they should question why those minority candidates deemed their school to be a bad fit in the first place.

G. Inherent Preference for Whites

It would be disingenuous to exclude the possibility that hiring decisions at top schools are simply reflecting an inherent racial discrimination against minorities. In practice, this can take many forms.

Some have posited the theory that minority candidates fare less well in terms of their placement because of weaker interaction capabilities; put another way: minorities come across more socially-awkward and less confident in their job talks and hiring interviews because they are less able to connect with their white interviewers or because there was a pre-existing bias against minorities as being bad interviewees.

⁸⁷Similar pre-existing biases could be attributed to the strength of the candidate's scholarly work, the value of the candidate's prior work experience, or the weight of a candidate's references. For example, a statistically significant number of minority candidates ($p = 0.001$) reported research interests in race, civil rights, or anti-discrimination law, whilst a statistically significant number of non-minority candidates ($p = 0.01$) reported research interests in constitutional or administrative law. The latter subjects are generally considered to be more prestigious and influential than the prior. Similarly, a statistically significant number of minority candidates ($p = 0.001$) reported past work experience in the private sector, whilst a larger percentage of non-minority candidates, 16 percent compared to 11 percent, reported past work experience in government. The positive effect of a government job and the negative effect of experience in private practice thus caused disproportionate effects on minority candidates.

⁸⁸Finally, it's a noted psychological phenomenon that people tend to gravitate towards individuals that are similar to them; thus explaining why male principals tend to rate male job applicants more highly or why Harvard graduates tend to prefer hiring other Harvard graduates. Having few minority candidates currently at top schools thus results in fewer minority candidates being hired by top schools.

⁸⁷ See Deborah Jones Merritt, *Who Teaches Constitutional Law?*, 11 CONST. COMMENT. 145, 145 (1994) (noting widespread appeal, preference, and influence of Constitutional Law).

⁸⁸ Cf. Luz E. Herrera, *Challenging a Tradition of Exclusion: The History of an Unheard Story at Harvard Law School*, 5 HARV. LATINO L. REV. 51, 124 (2002) ("The Harvard Law School faculty has traditionally been a bastion of elite academics that place the highest value on experiences similar to their own.").

H. Racial Group Correlation with Omitted Variables It is possible that certain racial groups were inherently correlated with other factors not included within the study, thus falsely implying a race-based effect. For example, if Asian candidates happen to correlate with an interest in teaching commercial law, the results may be better explained by a preference for or against teaching commercial law instead of a candidate's Asian race. Along these lines, I would like to reiterate that the results of this study can only imply racial effects through correlation; the study at no point suggests that race has a *causal* effect on the candidate's hiring likelihood or placement school.

I. Different Hiring Criteria at Top Law Schools Top law schools may have different hiring criteria as compared to lower ranked law schools; as a result, the traditional hiring credentials used within this study are unable to account for the candidates that stood out to the top schools in an unusual or non-traditional way. For example, there was one candidate hired by a top 10 law schools in the study who did not have any prior law teaching experience or prior law review publications and who graduated nearly 15 years ago. However, the candidate did have a strong preference for research and teaching in taxation and its foreseeable that the candidate's strong credentials within tax, perhaps if he were known as a leader practitioner in the field or a known litigation superstar, two factors not specifically accounted for within the model, would have made him a more attractive hire than he might otherwise appear.

J. Racial Disparities in Drop-Out Rates Looking at the candidates who did not end up in a tenure-track teaching job, it is hard to imagine that all of these candidates were unable to secure a job offer. Instead, it seems extremely likely that many extremely qualified candidates chose not to accept any job offers and dropped out of the hiring process when they sensed that they might not get an offer one of the top schools. For example, there is an Asian candidate in the study who graduated magna cum laude from Harvard Law School, clerked in a federal appellate court, and had two publications in top 10 law reviews. Yet, he did not end up with a tenure-track law faculty position. Given the candidate's strong traditional hiring credentials, it is unlikely that none of the 185 law schools participating in the AALS hiring process thought him worthy enough to merit a job offer.

The results of the study in terms of overall hiring success rates could thus be explained by non-minority candidates dropping out of the process more than minority candidates. If very highly qualified white candidates chose not to accept any of their offers, their "unsuccessful" status combined with their many traditional credentials would create a misleading result that law schools are giving a preference in hiring to minorities; the actual story would be that law schools were behaving rationally without any racial pref-

erences, but that white candidates were accepting fewer of their offers. This would also explain why minority candidates seem to end up at lower tiered schools; perhaps white candidates who would have ended up at lower tiered schools are simply refusing to accept those offers. This theory thus suggests that minority candidates are more committed to a career in law teaching and are more likely to accept any job offer that comes their way.

K. Small Sample Size – Outlier Year Finally, it must be noted that the results of this study could be the direct result of an unusual hiring year. Given the small numbers of minority candidates in the study, namely, 35 Asian candidates, 24 Latino candidates, and 78 Black candidates, it is possible that the results would be much different in a different hiring year. Perhaps if 2 or 3 Asian candidates had placed in better schools that year, the results would be very different. Again, I would like to stress that the lack of additional years of observations was not due to study design but rather to a lack of available data.

⁸⁹ It should be noted, however, that though there is a small possibility that the results are truly unique to this single year of hiring, there are no immediate reasons to believe that the 2004-2005 year was distinctively unlike any other year. When looking at the AALS-reported overall racial group success rates for the last decade or so, the 2004-2005 year is not a significant outlier. For example, the Asian success rate was 31% in 2002-03 and 27% in 2003-04, as compared to 30% in 2004-05.

IV. CONCLUSION

Given the limited scope of this study, particularly in regards to the use of only one year of FAR data, one should be hesitant in drawing any hard conclusions. Nonetheless, the data shows that traditional academic credentials alone cannot predict either whether a candidate is hired or where a hired candidate will place. Race, or a set of factors correlating with race, is having a definite effect on a candidate's success in becoming a law professor.

As part of the literature on law schools and law school hiring, this study provides a heretofore missing comparative analysis of successful vs.

⁸⁹ AALS Statistical Report on Law School Faculty and Candidates for Law Faculty Positions, available online at <http://www.aals.org/documents/statistics/20052006statisticsonlawfaculty.pdf>. Discrepancies between the rates reported by the AALS and the rates from this study can be explained in several ways. The most plausible explanation is simply undercounting due to under-reporting. The AALS produces their numbers by comparing the racial composition of the previous year's FAR with the following year's Directory of Law Professors. If a professor did not submit their information in time, or if they neglected to identify with a racial group for the purposes of the directory, they would not be included for the success rate calculation. This study, in contrast, checks three years worth of directories to capture late respondents and counts hired professors as racial minorities even if they did not notate themselves as such within the AALS directory.

unsuccessful law teaching candidates and ventures into uncharted territory in comparing the effects of race on specific minority groups. Controlling for traditional qualifications, racial minorities are indeed more successful than white candidates in obtaining a tenure-track law teaching job; being a minority had a statistically significant positive effect in a candidate's likelihood of being hired. However, racial minorities were less successful than white candidates in obtaining jobs at highly prestigious law schools; being a minority had a statistically significant negative effect on the prestige of the hiring school. To return to the questions broached at the beginning of this article: is affirmative action occurring within law school hiring? Is there racial discrimination within law school hiring? Based on the results of this study, the answer would seem to be yes to both questions.

39

	167 Texas Wesleyan 1.5	174 Regent 1.4
	174 Thomas Jefferson 1.4	174 Thomas M. Cooley 1.4
	177 Florida Coastal 1.2	178 Appalachian 178 Ave Maria 178
	178 Barry 178 District of Columbia	178 Florida International 178 St. Thomas Florida
	178 U St. Thomas Minnesota	178 Western State

41	
Private Industry Experience	-0.566 -0.738 -0.757† (0.442) (0.453) (0.458)
Less than 3 years after J.D.	0.626† 0.485 0.496 (0.341) (0.384) (0.382)
More than 10 years after J.D.	-0.253 -0.252 -0.249 (0.231) (0.233) (0.234) Bar
Membership	0.523 0.583 0.606 (0.527) (0.568) (0.574) Women 0.833*** 0.704***
	0.696*** (0.207) (0.215) (0.215) Asian 1.035* (0.449) Black 0.616
	(0.401) Latino 0.820 (0.504) Any Minority Race 0.795** (0.278) Constant
	-6.870*** -7.063*** -7.067*** (0.808) (0.850) (0.857) Observations 838 770 770
Robust standard errors in parentheses	*** p=0.001, ** p=0.01, * p=0.05, †p=0.1

43	
	Non-Law Teaching Experience -0.260
-0.265 -0.341	
(0.300) (0.307) (0.305) Less than 3 years after J. D. 0.146 0.158 0.131	
(0.214) (0.211) (0.192) More than 10 years after J.D. -0.107 -0.112 -0.155	
(0.168) (0.168) (0.172) Bar Membership -0.642† -0.590 -0.415	
(0.388) (0.411) (0.416) Women 0.168 0.159 0.188 (0.136) (0.136) (0.135) Asian	
-0.578** (0.212) Black -0.274	
(0.246) Latino -0.00350	
(0.255) Any Minority Race -0.343*	
(0.160) Constant 2.582*** 2.536*** 2.220***	
(0.714) (0.723) (0.708) Observations 54 54 58 R-squared 0.558 0.522 0.306	
Robust standard errors in parentheses *** p=0.001, ** p=0.01, * p=0.05, †p=0.1	

45	
	Less than 3 years after J.D. 0.231 0.320
0.00240	
(0.512) (0.479) (0.492) More than 10 years after J.D. 0.591† 0.489 0.477	
(0.344) (0.311) (0.338) Bar Membership -0.375 -0.255 -0.183	
(0.380) (0.376) (0.480) Women -0.337 -0.330 -0.186	
(0.211) (0.215) (0.224) Asian -1.152** (0.367) Black -0.384 (0.456)	
Latino -0.472	
(0.312) Any Minority Race -0.776**	
(0.271) Constant 4.036*** 4.198*** 4.114***	
(0.658) (0.594) (0.678) Observations 54 54 58 R-squared 0.558 0.522 0.306	
Robust standard errors in parentheses ***	
p=0.001, ** p=0.01, * p=0.05, †p=0.1	