

AN UPDATE ON LEGAL EMPLOYMENT TRENDS FOR LAW SCHOOL GRADUATES: GROWING SALARY GAP IS A CONCERN

by James G. Leipold

Author's Note: The following provides an update to my May 2005 article in THE BAR EXAMINER, "After the Bar Exam: Legal Employment Trends for Law School Graduates." It is based upon data collected for and reported in JOBS AND J.D.'s, NALP's annual report on employment and salaries of new law graduates. Unless otherwise noted, the data are for the most recent graduating class available—the class of 2007. These statistics reflect data submitted by 186 ABA-accredited law schools on 93% of the graduates of the class of 2007. Additional data come from analyses of the 2008–2009 NALP DIRECTORY OF LEGAL EMPLOYERS, the 2008 PUBLIC SECTOR AND PUBLIC INTEREST ATTORNEY SALARY REPORT, and the 2008 ASSOCIATE SALARY SURVEY. All NALP publications and research reports may be purchased at www.NALP.org. NALP's Director of Research, Judy Collins, as well as other NALP staff members, contributed to this article.

The legal employment market for new law school graduates has changed considerably in the last four years, even as many of the fundamentals have stayed the same. Most notable, perhaps, have been the persistent growth of the overall employment rate and the run-up of starting salaries in the private sector, coupled with a growing gulf between large law firm salaries and almost all other starting salaries. The result is that law school graduates today face two very different job markets, one with a prevailing starting salary of approximately \$160,000, and another in which most salaries hover between \$40,000 and \$60,000.

EMPLOYMENT RATE REACHES 20-YEAR HIGH

Incongruous as it may seem to be reporting this phenomenon during the current economic downturn, a higher percentage of the members of the class of

2007 reported being employed nine months after graduation than did the members of any class since 1988. In fact, the employment market for new law school graduates has remained relatively strong and remarkably steady for the last 10 years. The vast majority of class of 2007 law school graduates—91.9% of those for whom employment status was known—were employed as of February 15, 2008. This rate increased for the third year in a row and was at its highest in 20 years. Moreover, it was the first time since 2000 that the employment rate exceeded 91%.

Slightly more than three-quarters (76.9%) of the class accepted jobs for which bar passage is required, while 5.1% were in professional positions not directly involved in the practice of law. An additional 7.7% obtained jobs for which a J.D. is preferred. These figures include both full-time and part-time jobs.

Since 1997, the employment market for new law graduates has stood close to or above an 89% employment rate. This contrasts sharply with the early and mid 1990s, when employment rates were in the 84% to 85% range—for the classes of 1992 and 1993 NALP reported employment rates of 83.5% and 83.4%, respectively. More recently, employment rates have been consistent with the overall strength and growth of the private sector legal economy, which, by virtually every measure, through the second quarter of 2007 had shown steady growth for seven years. (This was the period that followed the dot-com bust and 9/11, events which triggered the last significant slowdown in the legal economy.)

Beginning in the third quarter of 2007, however, the legal economy began to slow, and that slowdown has accelerated considerably through October 2008. The full extent of the impact of that slowdown on the employment rate for new law school graduates remains to be seen, and as this article goes to press, financial markets remain volatile. At least one major law firm has faced dissolution, and associate layoffs have been reported at a number of law firms across the country. The fall recruiting season that is currently under way has seen law firms proceed with caution and law students proceed with no small amount of anxiety. Members of the classes of 2008 and 2009 certainly face a less robust legal hiring market than the members of the classes that immediately preceded them.

The employment rate for new law school graduates is measured as of February 15 of the year following graduation from law school, to allow for bar passage and subsequent employment. However, because so much legal recruiting and hiring happen during the second year of law school, many members of the class of 2007 would have received

offers for full-time employment in 2006, when the legal economy was still quite strong. The employment rate for the class of 2008 will be measured as of February 15, 2009, and reported in July of 2009. Because it will reflect many law firm offers made in August 2007, just as the economy was starting to slow, it will almost certainly show some softening. And while it is premature to have any sense of future numbers or trends, we are most likely to see the full impact of the current slowdown in the employment figures for the classes of 2009 and 2010. (Keep in mind that members of the class of 2009 completed second-year summer associate positions in August 2008, when many of them would have received offers to come back as full-time associates after graduation, and members of the class of 2010 participated in on-campus interviews in August and September 2008 for summer positions in 2009.)

BIMODAL DISTRIBUTION OF STARTING SALARIES

The class of 2007 also reported higher starting salaries than any class that came before it, with the median salary of \$65,750 representing a jump of \$3,750 over the median salary of \$62,000 reported by the previous class. (As shown in Figure 1, however, the median and mean salaries have become increasingly meaningless in describing what salary new law school graduates might reasonably expect to earn.) That jump was driven almost entirely by increases in starting salaries at the largest firms. However, a strong employment market does not mean that every new graduate started work at a large firm at one of the heavily publicized \$160,000 salaries. In fact, just 16% of beginning salaries were \$160,000. Far more graduates, 38%, took positions at salaries of \$55,000 or less. Many more graduates started work in small firms of 50 or fewer lawyers or in non-firm settings

(72% of those employed) than at firms of more than 100 lawyers (just 22% of those employed).

Because of the prevalence of high salaries in large law firms, in concert with the relatively stable salaries among other employers, the salary distribution for new law school graduates has two distinct peaks, as shown in Figure 1. The first peak in the graph reflects salaries of \$40,000 to \$60,000, with salaries of \$40,000 and \$50,000 each accounting for about 10% of salaries. Collectively, salaries in the \$40,000 to \$60,000 range (approximately the total area reflected under the left peak) accounted for 42% of salaries. Salaries reflected under the right peak, including the smaller bulge over \$145,000, accounted for 22% of salaries. The median salary for the class, at \$65,750, falls to the right side of the first peak, at the far side of the downward slope, and the mean salary for the class, at \$86,400, falls squarely in the valley between the two peaks, a salary that very few recent graduates actually earn.

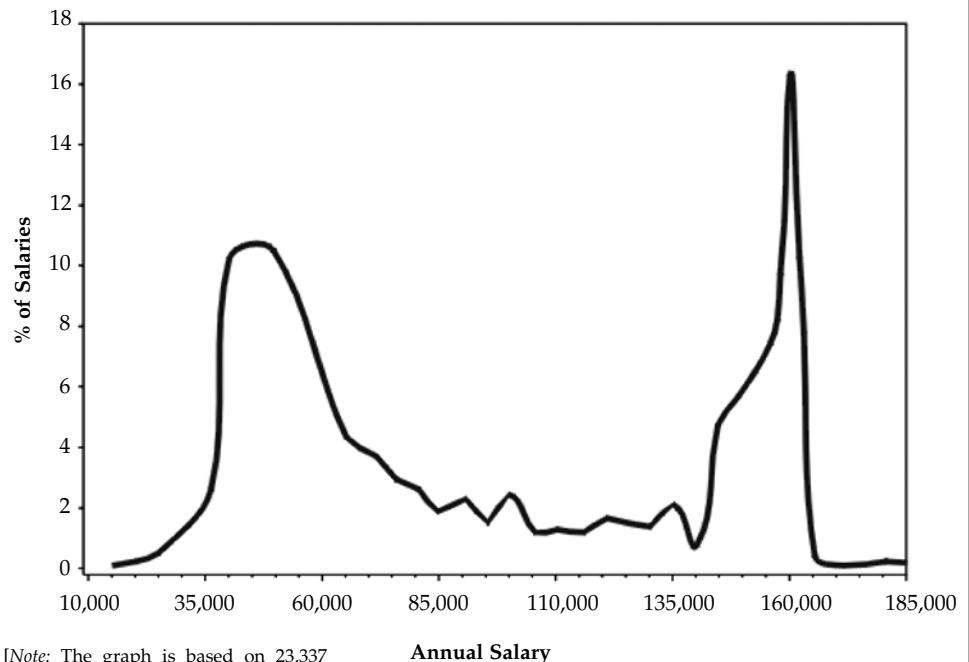
This bimodal distribution of starting salaries for law school graduates was not always the case, however. As recently as 1999, starting salaries for law school graduates assumed a much more normal bell-shaped curve. That shape changed dramatically in 2000 as large firms increased their starting salaries to \$125,000 from what had been a prevail-

ing salary of about \$90,000. Beyond just the amount of the increase, of more consequence for the salary distribution was how widespread the increase was. Suddenly, nearly 14% of salaries were reported at \$125,000, a proportion that can mostly be explained by an increasing percentage of jobs taken in large firms and the emergence of \$125,000 as the prevailing starting salary at those large firms. The result was, for the first time, two peaks, with the first one encompassing the \$30,000 to \$50,000 range. Thus, even though the peak to the left was fatter and accounted for more salaries—48% versus the 14% at \$125,000—never before had a single salary so dominated the landscape. The \$125,000 peak remained through 2005.

By 2006, the \$125,000 peak had disappeared, replaced by two smaller yet very distinct peaks at \$135,000 and \$145,000, which together accounted

Figure 1

**DISTRIBUTION OF FULL-TIME SALARIES,
CLASS OF 2007**



[Note: The graph is based on 23,337 salaries. A few salaries above \$200,000 are excluded for clarity.]

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for 17% of salaries. At the same time, salaries under the left-hand peak, between \$40,000 and \$60,000, were still more common (44%). As most large firms moved to a \$160,000 mark, the pattern for the class of 2007 shifted further still and the dramatic distribution shown in Figure 1 emerged. In fact, since 2000 the right-hand peak has marched steadily to the right, while the left-hand peak has remained more or less stationary.

This growing gap in starting salaries is of concern for many reasons, not the least of which is the fact that data on law student indebtedness suggest that students with starting salaries under both peaks graduate with about the same amount of student debt, and the overall amount of that debt continues to grow at a rate that far outpaces the average increase in starting salaries. (*See Law School Debt Among New Lawyers*, an *After the JD* monograph by Gita Wilder, January 2007, available as a free PDF download in the research section of NALP's website.)

WHERE DO LAW SCHOOL GRADUATES WORK?

The distribution of employment settings where new law school graduates find their first jobs has been remarkably steady over time. Private practice remains the most common destination, followed by the public service sector. In fact, for the entire 34 years that NALP has been tracking the legal employment of law school graduates, private practice has been the most common employment setting for new lawyers. For the class of 2007, more than half of employed graduates (55.5%) took jobs in private practice, and since 1993, this figure has ranged only between 55% and 58%.

Public service employment of some type continues to be the second-most-common destination.

Taken together, government jobs (including jobs in the military), judicial clerkships, and public interest jobs accounted for 27.3% of the jobs accepted by the class of 2007, which compares with 26.9% for the prior year. About one in ten employed members of the class of 2007 (9.8%) accepted judicial clerkships, with state court clerkships accounting for just over half of all clerkships. Jobs with public interest organizations specifically accounted for 5.8% of all jobs, up from 5.4% for the prior year. The number of graduates taking public interest jobs has gone up measurably in recent years.

The third most common destination was business and industry, which accounted for 14.1% of all jobs, a figure little changed from the 14.2% reported for the class of 2006. This figure, which includes jobs of all types, legal and non-legal, matches the previous high in this category set in 1996 and is roughly double the rate recorded in 1989. About 34% of graduates taking business jobs were in jobs requiring bar passage, 30% were in jobs for which a J.D. is preferred, and 27% were in other professional positions. Only about 14% of business and industry jobs were as in-house legal counsel. About 12% of business jobs were reported to be with legal temporary agencies. Other common destinations within this category include banking and finance, technology and e-commerce, accounting, management consulting, and insurance.

The remaining members of the class of 2007 took academic jobs of some sort (1.8%), including teaching jobs of all sorts and administrative jobs within all sectors of education, or jobs where the employer type was not known (1.2%). Since 1983, academia has accounted for 2% or fewer of all positions taken by law school graduates. Law faculty jobs or jobs as law school administrators account for just

16.4% of the academic jobs, or fewer than 40 actual jobs. (See Figure 2.)

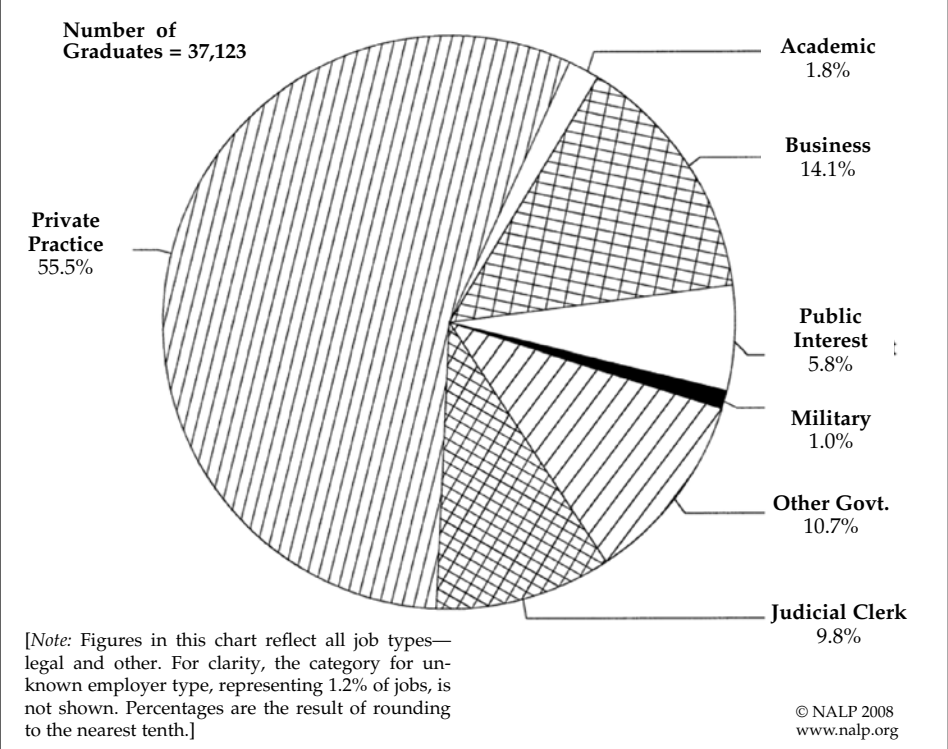
A FURTHER NOTE ON SALARIES

This article opened with the assertion that the gap between large law firm salaries and all other salaries has widened considerably and is continuing to widen. It is an assertion that bears a bit more exposition, starting with a further exploration of private practice salaries. Despite the publicity surrounding large law firms, of the eight firm-size categories tracked by NALP, jobs in very small firms of 2 to 10 lawyers were the most common, accounting for about

31.3% of law firm jobs taken by the class of 2007. For firms of 2 to 10 lawyers, the national median starting salary was \$52,800, whereas for firms of more than 100 lawyers, the two most frequently reported salaries were \$145,000 and \$160,000. Salary medians increased by \$3,000 or less from the previous year at firms of 50 or fewer lawyers, but by \$10,000 or more at larger firms. At the largest firms, nearly two-thirds of the starting salaries were \$160,000.

Nearly all starting salaries for all other sectors fall under the left-hand peak shown in Figure 1. The median starting salary for all government jobs was \$50,000, with jobs with the federal government paying the most and jobs with state governments paying the least. Judicial clerkship salaries were similar, with a national median of \$48,000, again with federal court clerkships paying slightly more and

Figure 2 INITIAL EMPLOYMENT BY TYPE OF EMPLOYER, CLASS OF 2007, AS OF FEBRUARY 15, 2008



state court clerkships paying slightly less. Salary figures for business and industry varied the most, reflecting the wide range of jobs captured in this category. Public interest employment brought with it the lowest starting salaries of all, with a national median of only \$42,000 and a compressed range in which ninety percent of all salaries fell between \$32,000 and \$65,000.

In addition to starting salary data from recent graduates entering public interest jobs, NALP conducts a biennial survey of public sector and public interest attorney salaries that provides attorney salary information by years of experience. NALP's 2008 PUBLIC SECTOR AND PUBLIC INTEREST ATTORNEY SALARY REPORT demonstrates that, in general, public sector and public interest salary medians have increased only modestly since 2004. It also makes

clear that practice experience brings with it relatively modest salary increases, particularly within civil legal services organizations. For example, the median entry-level salary for a civil legal services attorney is \$40,000; at 11 to 15 years of experience, the median is only \$60,000. Pay for public defenders and local prosecuting attorneys is somewhat higher, starting in the mid-40s and increasing to about \$75,000 for those with 11 to 15 years of experience. This report, taken in tandem with its law firm companion piece—NALP's 2008 ASSOCIATE SALARY SURVEY—highlights the stark distinctions between public sector/public interest salaries and law firm salaries. The median starting salary at a law firm of 50 or fewer attorneys is \$80,000, compared with the \$40,000 median starting civil legal services salary. More startling still, the \$160,000 starting salary now typical of big firms in big cities is beyond what even the most experienced attorneys can reasonably expect at a public interest/public sector organization.

WOMEN AND MINORITIES ENTERING THE PROFESSION

Perhaps not surprisingly, historically there have been measurable differences in the initial legal employment outcomes for women and minorities compared to their male and non-minority counterparts, although these gaps or disparities have steadily diminished over time. Beyond initial employment,

however, significant gaps in representation remain for women and minorities, particularly in the leadership ranks of the nation's law firms.

According to the ABA, just over one in five (22.6%) members of the class of 2007 were minorities, marking a decade for which minority graduates have constituted one-fifth or more of the class.

By comparison, in 1984 less than 9% of graduates were minorities. Women continue to make up about half of the graduating class, as they have for nearly a decade, whereas in 1984 they made up only about 40% of the class.

Historically, relatively fewer women and minorities have entered private practice, compared with men and non-minorities. The class of 2007 was no exception. In 2007, 58.7% of employed men took jobs in private practice, compared with 55% of women. Over the years this differential has shrunk. In 1982, the figures were 60.4% for men and 54.2% for women; in 1998, the respective figures were 58.4% and 52.4%. Similarly, for the class of 2007, employment in private practice for minorities as a whole was 55% compared with 57.6% for non-minorities. Again, this differential has decreased over time. For example, the differential was 59.4% versus 43.5% in 1982, and 56.7% versus 49.3% in 1997. Compared with men, women going into private practice are somewhat more likely to enter large law firms of more than 100 attorneys—42.6% versus 40.6%.

The contrast between minorities and non-minorities is more pronounced. Of minorities going into private practice, half of them enter large law firms compared with 38.7% of non-minorities.

Other notable demographic differentials for the class of 2007, all of which are consistent with historic outcomes, include the following: A higher percentage of white and Asian/Pacific Islander graduates obtained jobs in private practice than did African American/Black graduates. About 48% of employed African American/Black graduates took jobs in private practice, compared to about 58% of employed white graduates and 59% of employed Asian/Pacific Islander graduates. Conversely, government jobs accounted for 15% of jobs taken by African Americans/Blacks, compared with 12% for white graduates. Hispanic, Native American, and African American/Black graduates were somewhat more likely to take public interest positions (8–9%), compared with white and Asian/Pacific Islander graduates (5–6%).

Overall, minority graduates were slightly more likely to be employed in public service positions than were non-minority graduates. About 29% of employed minority graduates and 28% of employed non-minority graduates accepted public service positions—government jobs, judicial clerkships, and public interest positions. In nearly all the years that NALP has been compiling graduate employment data, a higher proportion of minority than non-minority graduates have obtained public service positions, although the differential in general has been lessening over the years. The percentages for 2007 are a slight change from 2006, when for the first time the percentages for the two groups were about equal.

Finally, women more frequently took government, judicial clerkship, and public interest positions than did men. About 31% of employed women from the class of 2007 took these types of positions, compared with about 25% of employed men.

WOMEN AND MINORITIES AMONG THE RANKS OF ASSOCIATES AND PARTNERS

Leaving the graduating class behind, the demographics of the partnership and associate ranks of law firms provide another window through which differences by race and gender can be measured. Most startlingly, perhaps, minority women constitute just 1.88% of partners in the nation's major law firms, and there are many jurisdictions where law firms report no minority women partners. This group is thus particularly underrepresented in the partnership ranks, even more so than minority men, who account for just 4.21% of partners. The representation of minority women partners is only slightly higher, 2.27%, at the largest firms of more than 700 lawyers.

These data come from analyses of the 2008–2009 NALP DIRECTORY OF LEGAL EMPLOYERS (NDLE), the annual compendium of legal employer data published by NALP. The 2008–2009 NDLE includes attorney demographic information for about 138,000 partners, associates, and other lawyers in over 1,500 offices, and for more than 12,000 summer associates in over 1,100 offices nationwide.

During the 15 years that NALP has been compiling this information, law firms have made steady, albeit slow, progress in increasing the presence of women and minorities among their lawyers and summer associates. In 2008, minorities accounted for 6.09% of partners in the nation's major firms, and women accounted for 18.74% of the partners

in these firms. In 2007, the figures were 5.40% and 18.34%, respectively. In 1993, the first year for which NALP has comparable aggregate information, minorities accounted for 2.55% of partners and women accounted for 12.27% of partners. Looking at all lawyers represented, minorities now make up just over 12% of lawyers at these law firms, women make up just under one-third of lawyers at these same firms, and minority women make up just 6% of lawyers at these firms.

Nationally, women and minorities continue to be much better represented in associate and summer associate ranks than in the partnership ranks. Women account for 45.34% of associates, minorities for 19.11% of associates, and minority women for 10.74% of associates. Each group lags in its representation by three to five percentage points compared to the population of recent law school graduates. Summer associate classes best reflect law school enrollment, with women comprising 45.42%, minorities 24.04%, and minority women 12.99% of summer associates in 2007. Minority representation in summer programs slightly exceeded the minority representation among law students for the fourth year in a row.

This suggests that law firms are doing a very good job on the front end, recruiting women and minorities into their summer programs. But what

these numbers confirm is what many other studies have shown—that women and minorities leave their law firm jobs at a higher rate than their male and non-minority colleagues. The real challenge in making more rapid change is improving the retention of female and minority lawyers. Unfortunately, NALP does not have similar data for women and minority

attorneys over time in public sector and business and industrial work settings.

IN THE END

Legal employment data collected by NALP in 2008 provides a mixed bag of good news and bad. First, it is clear that in the grand sweep of nearly 35 years of tracking the initial employment outcomes of law school graduates, we see the remarkably steady state of employment patterns, and more recently, certainly in the last 10 years, legal employment outcomes for each graduating class have become all but predictable. The actual employment rate can vary by several percentage points based on the

economy, but the patterns of job distribution of those who are employed vary little with time.

The legal economy follows the national economy for the most part, and the lag time with which law firms in particular react to economic slowdowns has diminished considerably in recent times. Thus, with the current downturn in the national and legal economies, we are likely to see some

DURING THE 15 YEARS THAT NALP HAS BEEN COMPILING THIS INFORMATION, LAW FIRMS HAVE MADE STEADY, ALBEIT SLOW, PROGRESS IN INCREASING THE PRESENCE OF WOMEN AND MINORITIES AMONG THEIR LAWYERS AND SUMMER ASSOCIATES. IN 2008, MINORITIES ACCOUNTED FOR 6.09% OF PARTNERS IN THE NATION'S MAJOR FIRMS, AND WOMEN ACCOUNTED FOR 18.74% OF THE PARTNERS IN THESE FIRMS. IN 2007, THE FIGURES WERE 5.40% AND 18.34%, RESPECTIVELY. . . . LOOKING AT ALL LAWYERS REPRESENTED, MINORITIES NOW MAKE UP JUST OVER 12% OF LAWYERS AT THESE LAW FIRMS, WOMEN MAKE UP JUST UNDER ONE-THIRD OF LAWYERS AT THESE SAME FIRMS, AND MINORITY WOMEN MAKE UP JUST 6% OF LAWYERS AT THESE FIRMS.

softening in the overall employment rate for law school graduates from the classes of 2008, 2009, and 2010, at least from the historic highs of the classes that have immediately preceded them. And, while it is impossible to say with any certainty what kind of marketplace future law school graduates will face, it is all but certain that for the foreseeable future, a majority of law school graduates will enter private practice, followed by a second large group that will enter public sector work, and a third that will make their way into business in a wide variety of settings.

Of much less certainty is what the economic outlook will be for graduates who enter the various sectors of legal employment. The recent trend toward wide disparities in starting salaries—with many new associates at large law firms making salaries fully four times those of their peers entering public interest work and more than three times those of their peers entering small firms—is troubling, particularly as overall student indebtedness continues to rise. At some point in the not-too-distant future, the return on investment for more than half of the graduating class will arguably cease to justify the cost of a legal education.

We can take some comfort in the fact that in general, many of the disparities in outcomes between women and minorities and their male and non-minority peers have diminished considerably over

time, while at the same time we should be worried that the representation of women and minorities in the leadership ranks of law firms in particular continues to lag far behind their representation in the law school classroom, and even farther behind their representation in American society in general. The most recent estimates from the U.S. Census Bureau indicate that minorities are expected to become the majority by as early as 2042. Law remains among the

least diverse of all the professions, and without dramatic and rapid change, the demographics of the private bar in particular will be increasingly out of sync with a very diverse nation. ■

THE RECENT TREND TOWARD WIDE DISPARITIES IN STARTING SALARIES—WITH MANY NEW ASSOCIATES AT LARGE LAW FIRMS MAKING SALARIES FULLY FOUR TIMES THOSE OF THEIR PEERS ENTERING PUBLIC INTEREST WORK AND MORE THAN THREE TIMES THOSE OF THEIR PEERS ENTERING SMALL FIRMS—IS TROUBLING, PARTICULARLY AS OVERALL STUDENT INDEBTEDNESS CONTINUES TO RISE.



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