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A LONGITUDINAL ANALYSIS OF THE *U.S. NEWS* ACADEMIC REPUTATION SCORES BETWEEN 1998 AND 2013

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ROBERT L. JONES[*]

ABSTRACT

   This Article summarizes the results of a longitudinal study of the U.S. News *academic reputation scores ("peer assessment scores") for 172 law schools between 1998 and 2013. Among other things, the study reveals that there has been a significant downward trend in the academic reputation scores of law schools since 1998. Over 60% of the law schools in the data set finished the sixteen-year period with academic reputation scores that were lower than the ones with which they began in 1998. Less than 20% of the law schools in the data set managed to finish the period with academic reputation scores that were higher (even by .1) than the ones with which they began in 1998. In addition, the study found that the declines in academic reputation scores tended to be inversely correlated to the strength of the schools' academic reputation scores and* U.S. News *ranks. The schools that started the period with the highest academic reputation scores posted the largest declines as a group while the law schools that started with the lowest academic reputation scores experienced the most success in maintaining their scores. These trends strongly suggest that the* U.S. News *rankings themselves are influencing the way academics evaluate their competing institutions in the survey process, a fact that raises important normative questions about whether the academic reputation scores should figure so prominently in the* U.S. News *methodology.*

   As part of the study, furthermore, the law school academic reputation scores for the sixteen-year period were analyzed to determine whether there has been an "echo effect" between the law schools' academic reputation scores and their overall U.S. News *ranks. The empirical analysis suggests that a law school's* U.S. News *rank does tend to influence its academic reputation score, particularly in instances where a law school is consistently "under-" or "over-" ranked" relative to its academic reputation score. The Article concludes with an identification of those law schools whose academic reputation scores have improved or declined the most during the sixteen-year period, along with a brief discussion of some potential causes for those changes.*

I. INTRODUCTION & METHODOLOGY

The *U.S. News & World Report* ("*U.S. News*") began its current practice of ranking law schools in 1990.[1] Despite many criticisms from legal academics that the rankings are misleading and counter-productive,[2] it is undeniable that the *U.S. News* rankings now play a

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1. The *U.S. News & World Report* first generated a ranking for law schools in 1987. Richard Schmalbeck, *The Durability of Law School Reputation*, 48 J. LEGAL EDUC. 568, 588 (1998). In its initial foray into the rankings effort, however, the magazine relied exclusively on a survey of law school deans and relegated its list to the top twenty schools. *Id.* The magazine's 1990 ranking constituted its first effort to utilize multiple criteria based on its own ranking system. Hyla Bondareff, *U.S. News and World Report Ranking Methodology: The Devil is in the Detail* 4 (Wash. Univ. in St. Louis Sch. of Law, Legal Studies Research Paper Series, Paper No. 10-08-01, 2010), *available at* http://ssrn.com/abstract=1658139. For a history of the various permutations of the magazine's methodology regarding law schools, see *id.* For a helpful analysis on the *U.S. News* methodology, see generally Theodore P. Seto, *Understanding the* U.S. News *Law School Rankings*, 60 SMU L. REV. 493 (2007); Tom W. Bell, Search Results for Law School Rankings, AGORAPHILIA, http://agoraphilia.blogspot.com/search/label/law%20school%20rankings (last visited June 5, 2013) (aggregating numerous blog posts under search term "law school rankings"). For a greater understanding of the 1987 *U.S. News* ranking and its limitations, see Richard Schmalbeck, *supra*, at 588.

2. For critical assessments of the *U.S. News* rankings and their effects on legal academia, see generally Alex M. Johnson, Jr., *The Destruction of the Holistic Approach to Admissions: The Pernicious Effects of Rankings*, 81 IND. L.J. 309 (2006); Brian Leiter, *How to Rank Law Schools*, 81 IND. L.J. 47 (2006); Louis H. Pollak, *Why Trying to Rank Law Schools Numerically is a Non-Productive Undertaking: An Article on the* U.S. News & World Report *2009 List of the "Top 100 Schools,"* 1 DREXEL L. REV. 52 (2009); Nancy B. Rapoport, *Ratings, Not Rankings: Why* U.S. News & World Report *Shouldn't Want to be Compared to* Time *and* Newsweek—*or* The New Yorker, 60 OHIO ST. L.J. 1097 (1999); Michael Sauder & Wendy Nelson Espeland, *Rankings and Reactivity: How Public Measures Recreate Social Worlds*, 113 AM. J. SOC. 1 (2007); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229 (2006). *But see* Russell Korobkin, *Harnessing the Positive Power of Rankings: A Response to Posner and Sunstein*, 81 IND. L.J. 35, 45 (2006) ("Rankings have inherent value to students who use them for coordination purposes and therefore to institutions that compete for students."); Paul L. Caron & Rafael Gely, *What Law Schools Can Learn from Billy Beane and the Oakland Athletics*, 82 TEX. L. REV. 1483, 1522 (2004) (reviewing MICHAEL LEWIS, MONEYBALL: THE ART OF WINNING AN UNFAIR GAME (2003)) (observing with approval that *"U.S. News & World Report* rankings, and the other rankings that have followed in its wake, are responding to a market demand for greater information about law schools").

The limitations of the *U.S. News* rankings have led a number of scholars to propose alternative methods for ranking. Brian Leiter, of the University of Chicago Law School, has conducted a thoughtful array of single factor comparisons between law schools based on a range of different criteria related to scholarly productivity, the placement success of the schools with respect to private employers, academia, and clerkships, and the academic qualifications of the schools' student bodies. *See* BRIAN LEITER'S LAW SCH. RANKINGS (last visited June 29, 2013), http://www.leiterrankings.com; *see also* Bernard S. Black & Paul L. Caron, *Ranking Law Schools: Using SSRN to Measure Scholarly Performance*, 81 IND. L.J. 83 (2006) (arguing that SSRN-based measures offer useful mechanism for evaluating

substantial role in shaping the way American law schools are evaluated by students, alumni, employers, and even many faculty.[3]

Since their inception, the single most important component of the *U.S. News* rankings has been the "peer assessment" score by academics.[4] Constituting 25% of each law school's overall *U.S. News* ranking, the peer assessment scores (hereinafter referred to as "academic reputation scores") are compiled from questionnaires sent to four faculty members at each ABA accredited law school in the country.[5] Approximately 60% to 70% of the surveys are returned each year to *U.S. News* with numeric ratings for individual law schools on a scale between one and five, with a score of one denoting a "marginal" institution and a score of five denoting an "outstanding" institution.[6]

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scholarly production of law school faculties); Theodore Eisenberg & Martin T. Wells, *Ranking and Explaining the Scholarly Impact of Law Schools*, 27 J. LEGAL STUD. 373 (1998) (utilizing statistical methods to rank thirty-two law schools based on citations to their faculty's publications). Jeffrey Stake, of Indiana University Maurer School of Law, maintains a website that allows visitors to customize the rankings to their own preferences. *See* Jeffrey E. Stake, *The Law School Ranking Game*, IND. U. MAURER SCH. L., http://monoborg. law.indiana.edu/LawRank/index.html (last visited June 29, 2013).

3. *See, e.g.*, William D. Henderson & Andrew P. Morriss, *Student Quality as Measured by LSAT Scores: Migration Patterns in the* U.S. News *Rankings Era*, 81 IND. L.J. 163, 165 (2006) ("[W]hether one defends or attacks the *U.S. News* ranking or its methodology, virtually everyone within the legal academy agrees that the advent of rankings has dramatically affected how law schools admit students and allocate resources."); Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of* U.S. News & World Report *Rankings on the Admissions Process of Law Schools*, 40 LAW & SOC'Y REV. 105, 105 (2006) (concluding from empirical analysis of admissions data that *U.S. News* rankings had "significant effects" on decisions of prospective students on where to matriculate as well as on decisions by law schools on which students to admit); Michael Sauder & Wendy Nelson Espeland, *Strength in Numbers? The Advantages of Multiple Rankings*, 81 IND. L.J. 205, 211 (2006) ("[Rankings] have profoundly altered the terms under which law schools are accountable to their constituents; they influence a broad range of decisions; and they have changed how many in the legal community make sense of the identity of their own and others' schools."). For helpful discussions of the myriad ways in which law schools have altered their practices and priorities in response to the *U.S. News* rankings, see BRIAN Z. TAMANAHA, FAILING LAW SCHOOLS 71-103 (2012); Stake, *supra* note 2, at 232-42.

4. For a discussion of the importance of the academic reputation scores to the *U.S. News* methodology, see, for example, Seto, *supra* note 1, at 515-16.

5. The academic reputation score has accounted for 25% of the overall *U.S. News* methodology since 1995. *See* Bondareff, *supra* note 1, at 1. The year 1995 also marked when *U.S. News* began sending the questionnaires to four members of each ABA accredited faculty. *See id.* at 3 (noting that only two members of each law school were polled in the surveys conducted from 1990 to 1994). Since 1995, the four faculty members selected to receive the questionnaires have been the dean, the associate dean of academic affairs, the chair of the appointments committee, and the most recently tenured faculty member. *See* Seto, *supra* note 1, at 497 & n.26. In the surveys themselves, the evaluators are asked to "rate the academic quality" of the institutions based on "**all** factors that contribute to or give evidence of the excellence of the school's J.D. program, for example, curriculum, record of scholarship, quality of faculty and graduates." *See* U.S. NEWS & WORLD REPORT, BEST GRADUATE SCHOOLS ANNUAL ASSESSMENT OF LAW SCHOOLS (2012) (emphasis in original).

6. The 1998 survey was the first to employ the one-to-five scale, with a score of one intended to denote a "marginal" institution and a top score of five to denote a "distinguished" institution. S*ee* Bondareff, *supra* note 1, at 3. In 2002, *U.S. News* replaced the

In light of their central place in the *U.S. News* methodology, any effort to understand (or influence) the *U.S. News* rankings for law schools requires an appreciation for how the academic reputation scores function.[7] Law schools have expended substantial amounts of time and money over the last sixteen years to improve their academic reputation scores.[8] Have these resources been well spent? Is it reasonable for a law school to think that its academic reputation score can be improved over time? If so, how much improvement can a school reasonably expect to achieve over an extended period? What kinds of factors might influence the scores and contribute to their

term "distinguished" with "outstanding." *See id.* The descriptions for the other numeric scores currently are: "Adequate" (two); "Good" (three); and "Strong" (four). *U.S. News* has confirmed that these three descriptions have not changed since, at least, 1999. *See* Author's Telephone Interview with Samuel Flanigan, Deputy Director of Data Research, *U.S. News & World Report* (Sept. 11, 2012). In addition to the one-to-five scale, survey respondents are given the option of responding "Don't Know" for each institution. In terms of response rates, *U.S. News* reported an overall response rate of 63% for the 2013 rankings (referred to by *U.S. News* as the "2014" rankings). Robert Morse & Sam Flanigan, *Methodology: Law School Rankings*, U.S. NEWS & WORLD REPORT (Mar. 11, 2013), http://www.usnews.com/ education/best-graduate-schools/top-law-schools/articles/2013/03/11/methodology-best-law-schools-rankings. The 2013 response rate was relatively low. In prior years, it has been as high as 71%. *See, e.g.*, Robert Morse, *The Law School Rankings Methodology*, U.S. NEWS & WORLD REPORT (Apr. 23, 2009), http://www.usnews.com/education/articles/2009/04/22/law-school-rankings-methodology (describing a response rate of 71%). The response rate has been as low as 62%. *See Law: Methodology*, U.S. NEWS & WORLD REPORT, http://web.archive.org/web/19990427115459/http://www2.usnews.com/usnews/edu/beyond/ gradrank/gblawmet.htm (last visited June 29, 2013) (describing the methodology for the *U.S. News* rankings published in 1999).

   7. In his statistical analysis of the top fifty law schools for the period between 1998 and 2004, Richard Posner ascertained that the *U.S. News* ranks were more closely correlated to the reputation scores (academic as well as non-academic) than to other factors such as LSAT scores and GPA. *See* Richard A. Posner, *Law School Rankings*, 81 IND. L.J. 13, 15 (2006) (reporting correlation coefficient of .93 for *U.S. News* rank and academic reputation); *see also* Brian Leiter, *An Open Letter to Bob Morse of* U.S. News, BRIAN LEITER'S LAW SCHOOL REPORTS (Mar. 10, 2010), http://leiterlawschool.typepad.com/leiter/2010/03/an-open-lette-1.html ("[I]t is clear to me, and I imagine any other informed observer of school evaluations, that the reputational surveys are the one component of the U.S. News ranking that actually keeps the results tethered to reality.").

   8. *See, e.g.*, Seto, *supra* note 1, at 515 ("*U.S. News's* reputational surveys are the bane of every law dean's existence. Collectively, law schools spend millions each year on attempts to influence survey outcomes."); Larry Cunningham, *The Effect of Law School Marketing Materials on* U.S. News & World Report *Rankings* (St. John's Univ. Sch. of Law, Legal Studies Research Paper Series, Paper No. 12-0019, 2012), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2133395. *See also* Patrick T. O'Day & George D. Kuh, *Assessing What Matters in Law School: The Law School Survey of Student Engagement*, 81 IND. L.J. 401, 404 (2006) (citing John Kirk, *Magazines' Rankings Rankle; Marketing Tool Draws Fire*, CHI. TRIB., Mar. 1, 1998, at B1) (reporting some law schools' spending in excess of $100,000 per year in marketing materials related to the rankings); Nancy B. Rapoport, *Eating Our Cake and Having It, Too: Why Real Change Is So Difficult in Law Schools*, 81 IND. L.J. 359, 374 (2006) ("The rankings have given law schools some reasons to want to change, and, certainly, law schools have already changed in response to the rankings. We send out more written materials, and our publications are timed to coincide with the *U.S. News* ballots.").

rise and fall? More fundamentally, are the academic reputation scores even a legitimate basis upon which to construct a ranking methodology?

To address these questions and increase understanding of the ways in which the scores function, the author conducted a longitudinal study of the academic reputation scores for the sixteen-year period between 1998 and 2013.[9] The year 1998 was selected for the start of the study because the current one-to-five scale was adopted by *U.S. News* at that time.[10] For analysis purposes, a data set was created for all those law schools that received an academic reputation score for every year during the sixteen-year period (there were 172 such schools). That complete data set is entitled Appendix A.[11] Those schools that did not receive an academic reputation score for every year during the period between 1998 and 2013 were not included in the analysis but a table for those schools' academic reputation scores during the period is included at the end of Appendix A.[12] For the reader's convenience, a shorter table containing just the 1998 and 2013 academic reputation scores for the law schools in the data set is included in Appendix B.[13]

The results of the study are set out in the following manner. Part II contains an empirical analysis regarding the volatility of the academic reputation scores and a discussion of the most notable patterns that characterized the movements of the scores between 1998 and 2013. Part III addresses whether there is a discernible "echo effect"

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9. Note that this study refers to the rankings by the years in which they were *published* by *U.S. News*, rather than employing the *U.S. News* practice of naming the rankings in reference to the subsequent year. When this study refers to the "2013 rankings," therefore, the reference is to the most recent rankings that were published in March of 2013. Under the *U.S. News* nomenclature, by contrast, the "2013 rankings" refers to the rankings published in March of 2012, and the rankings published in March of 2013 are referred to as the "2014 rankings."

10. Prior to 1998, respondents to the *U.S. News* survey were asked to rank law schools in quartiles. *See* Bondareff, *supra* note 1, at 3. The previous *U.S. News* methodology for the reputation scores was so dissimilar that any comparisons between the two periods would be problematic. For a more complete description of the pre-1998 methodology for the *U.S. News* surveys and some the challenges of cross-comparisons, see Schmalbeck, *supra* note 1, at 575 n.15, 589-90.

11. *See* Appendix A, *available at* http://www.law.fsu.edu/journals/lawreview/ (select Issues, Past Issues, Vol. 40, Summer 2013).

12. There were twenty-three law schools in this category. The majority of these schools secured (or re-secured) ABA accreditation during the period of the study. One law school, St. Thomas University (in Florida), failed to receive an academic reputation score in 2004 as a result of an error by *U.S. News*. *See Schools of Law, America's Best Graduate Schools 2004*, U.S. NEWS & WORLD REPORT (Apr. 12, 2004), http://web.ebscohost.com/ehost/detail?sid=efefe7d4-ab49-4700-98df-fc3fc171bf2e%40sessionmgr110&vid=4&hid=123&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#db=a9h&AN=12709625 (describing the methodology for the "2005 America's Best Graduate Schools" edition).

13. *See* Appendix B, *available at* http://www.law.fsu.edu/journals/lawreview/ (select Issues, Past Issues, Vol. 40, Summer 2013).

between a law school's academic reputation score on the one hand and its overall *U.S. News* rank on the other, as has been hypothesized by some academics.[14] The study concludes in Part IV with an identification of those law schools whose academic reputation scores have changed most significantly since 1998, along with a brief discussion of some of the factors that likely contributed to the changes for those law schools.

II. GENERAL FINDINGS

A. *Volatility of Academic Reputation Score*

The data reveals that the academic reputation scores of most law schools did not change dramatically between 1998 and 2013.[15] In order to measure the volatility of the academic reputation scores, the author computed the standard deviation for each school's score during the sixteen-year period. In other words, the mean academic reputation score for each law school was determined and then the standard deviation was calculated to provide a measure for the extent to which that school's score tended to vary from its mean. The average absolute variation was also computed for each school to provide an alternative measure for the extent to which each law school's score varied from its mean. The standard deviation and the average absolute variation for each school are included in Appendix A.

The standard deviations and average absolute variations both indicate that law schools generally did not experience significant changes to their academic reputation scores between 1998 and 2013. The average standard deviation for all the law schools in the data set during the studied period was a very modest .074.[16] The average absolute variation for the schools was only .061.[17] In fact, the average range of movement for the academic reputation scores of the law schools in the data set throughout the sixteen-year period was only

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14. *See infra* Part III.

15. This conclusion is consistent with the findings of another extensive empirical study of the scores, which was conducted in 1998. *See* Schmalbeck, *supra* note 1, at 586 ("The predominant impression formed in working with the data on the several *U.S. News* studies was noted at the outset: that law school reputations are extremely durable.").

16. *See* Appendix A, *supra* note 11.

17. *Id.* With respect to both the standard deviations and the absolute variations, the data does not reveal any significant discrepancies between the law schools based on their reputation levels. Categorizing the schools by their 1998 academic reputation scores, the data reveals that the schools that began the period with academic reputation scores above 4.0 possessed an average standard deviation of .072. *See id.* Those schools that began with scores between 3.0 and 3.9 possessed an average standard deviation of .077. *Id.* Those schools that began the period between 2.5 and 2.9 possessed an average standard deviation of .079. *Id.* The schools that began with scores between 2.0 and 2.4 possessed an average standard deviation of .074. *Id.* Finally, those schools that began the period with scores between 1.3 and 1.9 possessed an average standard deviation of .067. *Id.*

.248.[18] On average, in other words, each law school in the data set moved a total of .248 (both up and down) during the period between 1998 and 2013.

Chart A illustrates the general lack of volatility for the academic reputation scores.

Chart A

**Stability of Academic Reputation Scores
1998 - 2013**
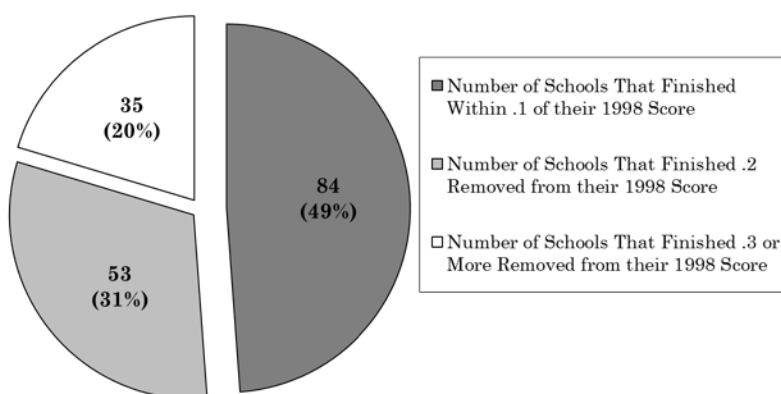
Chart A reveals that approximately one half of the law schools in the data set finished 2013 with academic reputation scores that were within .1 of the scores with which they began sixteen years earlier. Fifty-three law schools (31%) finished the sixteen-year period with scores that were only .2 removed from their original academic reputation scores. Only thirty-five out of the 172 law schools in the data set (20%) finished the sixteen-year period with scores that were more than .2 removed from their original 1998 academic reputation scores.

The fact that academic reputation scores tended to be stable during the period may not come as a surprise to those who tend to follow the scores of their own schools. What may be more surprising (and distressing) is the fact that most of the movement that did occur to the scores during the period was in a *downward* direction.[19] Equally surprising is the fact that, at least for most of the studied period, the

18.   *Id.*
19.   *See infra* Part II.B.

movement of a law school's academic reputation score tended to be *inversely* correlated to the strength of that school's *U.S. News* rank and academic reputation score.[20] Both of these trends will be discussed in more detail in the following subsections.

B. *Downward Trend in Academic Reputation Scores*

Despite the various efforts and resources law schools have devoted over the years to improving their academic reputation scores, the majority of schools experienced declines to their academic reputation scores between 1998 and 2013. Of the 172 law schools that received academic reputation scores for every year between 1998 and 2013, over 63% finished in 2013 with academic reputation scores that were lower than the scores with which they started in 1998.[21] Thirty-one law schools (18%) succeeded in finishing the sixteen-year period with the same academic reputation scores they possessed in 1998.[22] A mere thirty-three law schools in the data set (19%) were able to finish the sixteen-year period with academic reputation scores that were even .1 higher than the scores with which they began in 1998.[23] More than three times as many law schools suffered a decline during the period, therefore, than were able to improve their scores.[24] These results are demonstrated below in Chart B.

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20. *See infra* Part II.E.
21. *See* Appendix A, *supra* note 11.
22. *See id.*
23. *See id.*
24. *See id.*

Chart B

**Academic Reputation Score Changes
1998 - 2013**
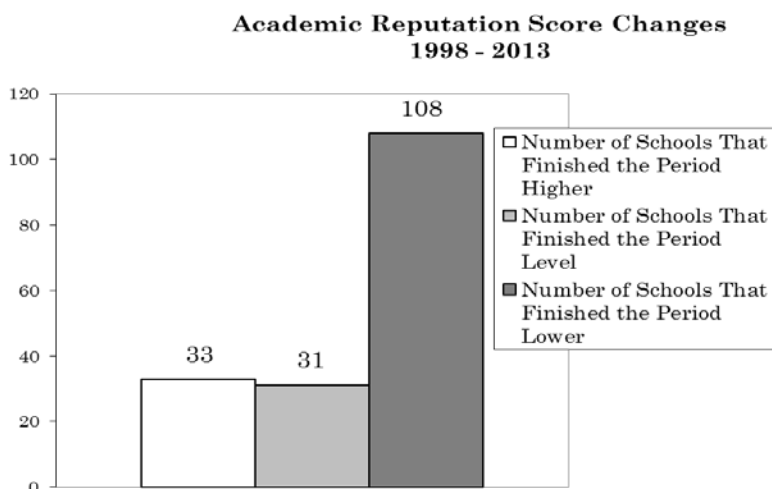
The data is particularly disheartening for law schools when one considers the number of schools that were able to improve their scores by more than a .1 margin. Presumably, law schools that have devoted large amounts of resources to improving their academic reputation scores were hoping for more than an increase of .1 over sixteen years. The reality, however, is that only eighteen institutions in the data set (10%) have been able to improve their academic reputation scores by more than .1 since 1998.[25] Only eight law schools (5% of the total) were able to raise their scores by more than .2 between 1998 and 2013.[26] A summary of all the academic reputation score changes for the period is provided in Table 1 below.

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25. *See* Appendix B, *supra* note 13.
26. *See id.* A list of those eight schools is provided in Part IV. *See infra* Table 11.

Table 1		
Academic Reputation Score Changes 1998 – 2013		
Number of Schools that Finished Period .3 or more Higher	**8**	**33**
Number of Schools that Finished Period .2 Higher	**10**	
Number of Schools that Finished Period .1 Higher	**15**	
Number of Schools that Finished Period Level	31	
Number of Schools that Finished Period .1 Lower	**38**	**108**
Number of Schools that Finished Period .2 Lower	**43**	
Number of Schools that Finished Period .3 or more Lower	**27**	
Total	172	

In contrast to the difficulty law schools encountered in improving their scores, Table 1 reveals that large numbers of law schools suffered significant declines. Seventy law schools, over 40% of the total in the data set, finished the period with a decline of .2 or more.[27] Twenty-seven law schools, over 15% of all schools in the data set, finished the period with a decline of .3 or more.[28] Chart C below depicts the results of Table 1 in a pie chart.

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27. *See id.*
28. *See id.* A list of those twenty-seven schools is provided in Part IV. *See infra* Table 10.

Chart C

Academic Reputation Score Changes 1998 - 2013
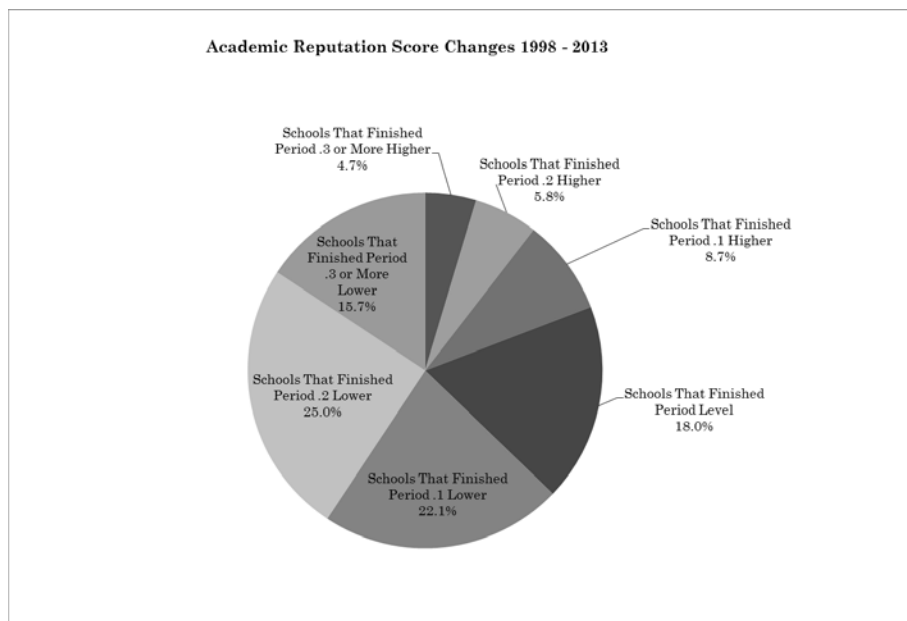
A graph of the aggregate movement for the academic reputation scores of all of the law schools in the data set is provided below as Chart D. As Chart D illustrates, the average academic reputation score for the law schools in the data set when the period began in 1998 was 2.630. By 2013, the average academic reputation score had declined to 2.541. In the aggregate, law schools lost 15.2 academic reputation points during the period.[29] The average change for the 172 law schools in the data set, therefore, was a decline of .088.[30] The median academic reputation score for all law schools in the data set was 2.5 when the period began in 1998.[31] The median reached its nadir of 2.3 in 2006 and finished at 2.4 in 2013.[32]

Chart D reveals that there was one particularly notable exception to the general trend downward for academic reputation scores between 1998 and 2012. For reasons that are difficult to explain, the academic reputation scores of law schools sharply increased in 2008. In that one year alone, the average for the 172 law schools in the data set improved from 2.543 to 2.604, representing an aggregate in-

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29.   *See* Appendix A, *supra* note 11.
30.   *See id.*
31.   *See id.*
32.   *See id.*

crease of 10.5 points.[33] An unprecedented ninety-seven law schools (56% of the total) saw their academic reputation scores improve in 2008.[34] By contrast, the average number of schools that improved each year during the overall period was only 32.53.[35] In fact, eighteen law schools saw their academic reputation scores jump .2 in 2008.[36]

Chart D
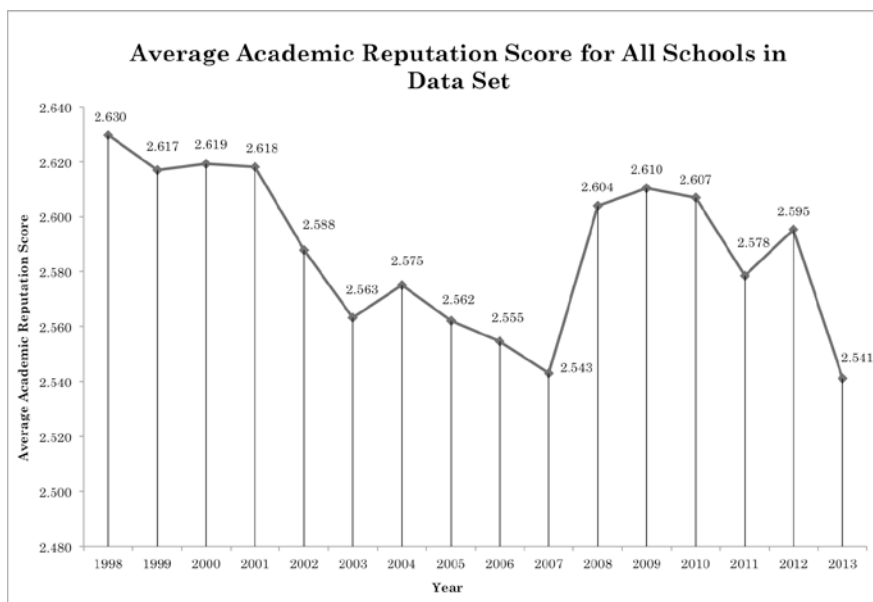
In light of the fact that the same number of law schools were able to gain .2 or more for the *entire 16 year period*, the 2008 data seems truly atypical.[37] A mere six schools, furthermore, experienced a decline in their academic reputation scores between 2007 and 2008.[38] The average number of schools that declined each year during the studied period was 42.07, more than seven times the number that declined in 2008.[39] Even in 2012, the year that included the next largest aggregate increase during the period, the figures were quite dissimilar to 2008. In 2012, the aggregate increase was only 2.9

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33. *See id.* (subtract column G:175 from H:175 in Appendix A to arrive at 10.5).
34. *See infra* Chart F.
35. *See id.*
36. *See* Appendix A, *supra* note 11.
37. *See id.*
38. *See infra* Chart E.
39. *See id.*

points.[40] A little more than half as many schools went up in 2012 as did in 2008 and only two schools increased by .2 or more in 2012.[41]

It is very difficult to explain why the voting patterns of academics changed so dramatically in 2008. *U.S. News* confirms that there were no methodological changes for that year's survey.[42] *U.S. News* polled the same four faculty positions, used the same labels to describe the scoring system, and used the same rounding methodology to compute the averages.[43] What is certain is that the downward trend in academic reputation scores for the sixteen-year period would have been even more pronounced had it not been for the enigmatic data from 2008.

C. *The Academic Reputation Score Results for 2013*

The results of 2013 were consistent with the general downward trend in academic reputation scores that prevailed during the period. In fact, as Chart D illustrates above, the results of 2013 constituted the largest annual decline in academic reputation scores during the studied period. In this one year, the academic reputation scores of law schools fell by 9.3 points in the aggregate.[44] That decline amounted to an average change of -.054 for each school. In no other year during the sixteen-year period was the decline so severe. The next largest decline for the studied period occurred in 2002. In that year, law schools declined by an aggregate of 5.2 points, representing an average change of -.030 per school.[45] The aggregate decline for law schools in 2013, therefore, was nearly twice that of the next largest decline during the period.

Chart E, below, represents the number of law schools that declined each during the studied period.

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40. *See* Appendix A, *supra* note 11.

41. *See id.*

42. Author's Telephone Interview with Samuel Flanigan, *supra* note 6.

43. *Id.*

44. *See* Appendix A, *supra* note 11.

45. *See id.*

Chart E

Number of Schools That Declined Each Year
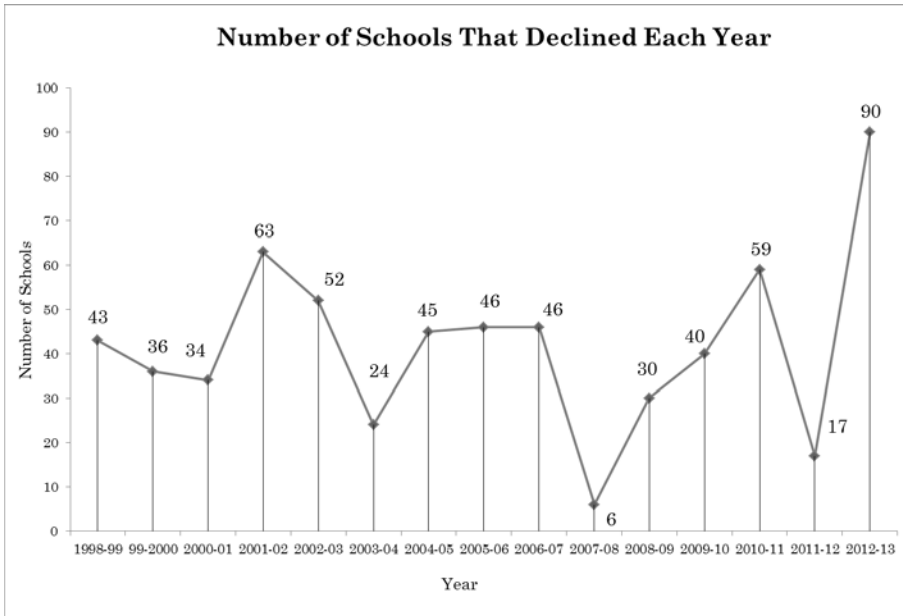
Chart E reveals that ninety law schools, 52% of the total number of law schools in the data set, experienced declines to their academic reputation scores in 2013. Never before in the studied period had so many law schools experienced a decline to their scores in one year. In fact, the number of law schools that declined in 2013 was more than twice the average (42.07) for the number of schools experiencing declines each year during the period.

Chart F, by contrast, represents the number of law schools that improved each year during the period.

Chart F

Number of Schools That Improved Each Year
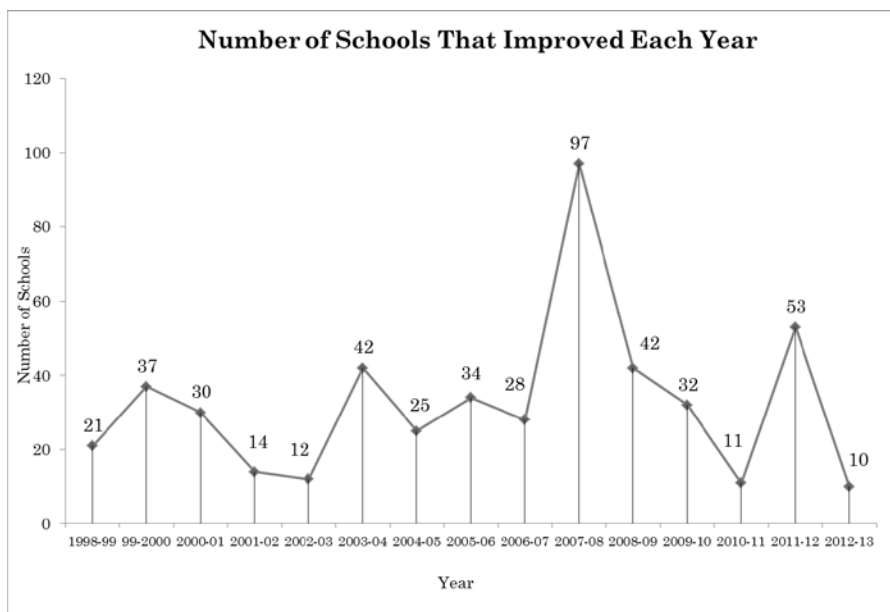
Chart F reveals that only ten law schools succeeded in improving their academic reputation scores in 2013. Only 6% of the law schools in the data set, in other words, were able to improve their academic reputation scores by even .1 in the year 2013. No other year during the period saw so few schools improve (although a mere 11 schools managed to improve in 2011). In fact, the number of schools that improved in 2013 was less than one-third the average number of schools that improved each year during the period (32.53).[46]

Another notably grim aspect of the 2013 figures for law schools was the number of institutions that experienced significant declines. Ten law schools lost .2 from their academic reputation scores in 2013 (George Washington University, Howard University, John Marshall Law School, Nova Southeastern University, New York Law School, New York University, University of Arizona, University of Missouri, University of Richmond (Williams), and William Mitchell College of Law).[47] One law school, St. Louis University, lost .4 from its academic reputation score in 2013.[48] Prior to 2013, no more than three law

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46.   The average number of schools in the data set retaining their same academic reputation score each year during the studied period was 97.40. *See id.* The fact that 57% of the law schools retained their same score each year (on average) is another indication of the general lack of volatility for the scores.

47.   *See id.*

48.   *See id.*

schools had ever suffered a decline of .2 or more to their academic reputation scores in the same year (three law schools suffered such margins in 2002, 2005, 2006, and 2012).[49]

As with 2008, therefore, the results of 2013 were exceptional in a number of respects. Unlike the 2008 data, however, the sharp decline in academic reputation scores in 2013 was consonant with the overarching downward trend that characterized the period as a whole. Why the overall trend was so accelerated in 2013 is an interesting question. Was the 2013 data simply an aberration (a natural correction, perhaps, for the results in 2012 where the academic reputation scores had actually gone up)? Or is the 2013 data a harbinger of things to come for the next several years? To address this question, we must consider why the academic reputation scores have been trending downward since 1998.

There is little reason to think that the academic enterprise itself has suffered at law schools since 1998. To the contrary, law schools have been acquiring more and more academics, have increasingly focused on academic credentials in the hiring process, and have devoted more and more resources to facilitating scholarship and the exchange of ideas between individuals and institutions.[50] The decline in academic reputation scores for the majority of schools over the past sixteen years probably cannot be attributed, therefore, to an actual decline in the academic qualifications or performances of the 108 law schools that finished the period lower than when they began. Instead, it seems more likely that the declines to the scores are a reflection of the way academics have been evaluating and grading each other in the *U.S. News* ranking process. More than anything, the downward trend in academic reputation scores reveals that the grading scale itself has "tightened" over the last sixteen years as the academics completing the *U.S. News* surveys have gradually employed more and more stringent standards to evaluate their fellow institutions.

What could account for this change in the way academics are evaluating each other in the *U.S. News* surveys? The most likely explanation for the downward trend stems from the zero-sum nature of the *U.S. News* rankings themselves and the increasing importance of those rankings with respect to student and faculty recruiting, alumni relations, and fundraising.[51] The academics who complete the surveys each year undoubtedly understand that the success of their institution in the rankings (as well as the success of their alma mater in the rankings) must ultimately come at the expense of its competitors.

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49. *See id.*

50. *See, e.g.*, TAMANAHA, *supra* note 3, at 54-61 (summarizing some ways in which the orientations of many law schools have become more rigorously academic).

51. *See supra* note 3 and accompanying text.

This fact gives all academics a powerful incentive to employ increasingly stringent standards in their evaluations of competing institutions, particularly with respect to those institutions that pose the greatest obstacle to their own school's advancement.[52] The acceleration of the downward trend in scores in 2013, therefore, could be a reflection of the increased competition law schools face as a result of the recent drops in applications and the importance applicants seem to be placing on the rankings in their matriculation decisions.[53] If true, we may see several more years of precipitous declines like those experienced in 2013 while law schools attempt to weather their current difficulties.

D.   *Comparison of Academic Reputation Scores to Reputation Scores Formulated by Lawyers and Judges*

In sharp contrast to the academic reputation scores, the *U.S. News* reputation scores derived from lawyers and judges have substantially improved over the course of the last sixteen years. This fact provides additional support for the proposition that academic reputation scores were influenced by strategic considerations during the studied period.

A table of the 1998 and 2013 reputation scores from lawyers and judges is included as Appendix C.[54] The data reveals that 142 of the 172 law schools in the data set finished with lawyer/judge reputation scores that were higher in 2013 than the scores with which they began in 1998.[55] In contrast to the paltry 19% of the schools that were able to improve their reputation scores among their fellow academics, the period saw 83% of the law schools succeed in improving their reputation scores among lawyers and judges.

These improvements in the lawyer/judge reputation scores, furthermore, were often substantial. Eighty-three law schools (48% of the data set) were able to improve their lawyer/judge reputation scores by .3 or more during the period.[56] Recall that only eight law schools were able to improve their academic reputation scores by .3

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52.   The fact that this incentive exists, of course, has already been recognized by other commentators. *See, e.g.*, Seto, *supra* note 1, at 516 (recognizing danger that reputation scores could be subject to "gaming" by respondents). This study now provides empirical evidence that the incentive is in fact affecting (consciously or unconsciously) the voting patterns of the survey respondents.

53.   Ethan Bronner, *Law Schools' Applications Fall as Costs Rise and Jobs Are Cut*, N.Y. Times (Jan. 30, 2013), http://www.nytimes.com/2013/01/31/education/law-schools-applications-fall-as-costs-rise-and-jobs-are-cut.html?_r=0 (reporting dramatic decline in law school applications since 2010).

54.   *See* Appendix C, *available at* http://www.law.fsu.edu/journals/lawreview/ (select Issues, Past Issues, Vol. 40, Summer 2013).

55.   *See id.*

56.   *See id.*

or more during the studied period. Equally significant is the fact that only thirteen law schools (8%) suffered a decline to their lawyer/judge reputation scores during the period, in contrast to the 108 law schools (63%) that suffered declines to their academic reputation scores.[57] Overall, the average change for all law schools during the period with respect to their lawyer/judge reputation scores was a gain of .256.[58] The average change for all law schools during the period with respect to their academic reputation scores, by contrast, was -.088. To help illustrate the disparities between the academic and lawyer/judge reputation scores, Charts B and C are repeated alongside the analogous data for the lawyer/judge reputation scores, as represented in Charts G and H.

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57. *See id.*
58. *See id.*

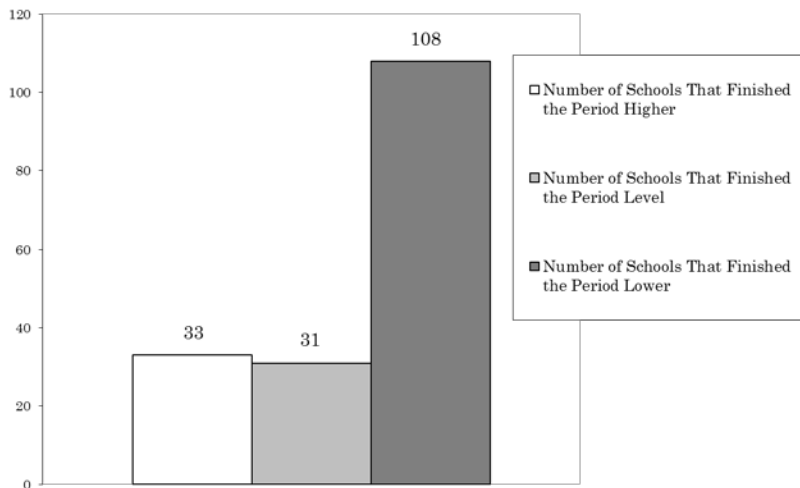# Chart B

Academic Reputation Score Changes 1998 - 2013

Chart C
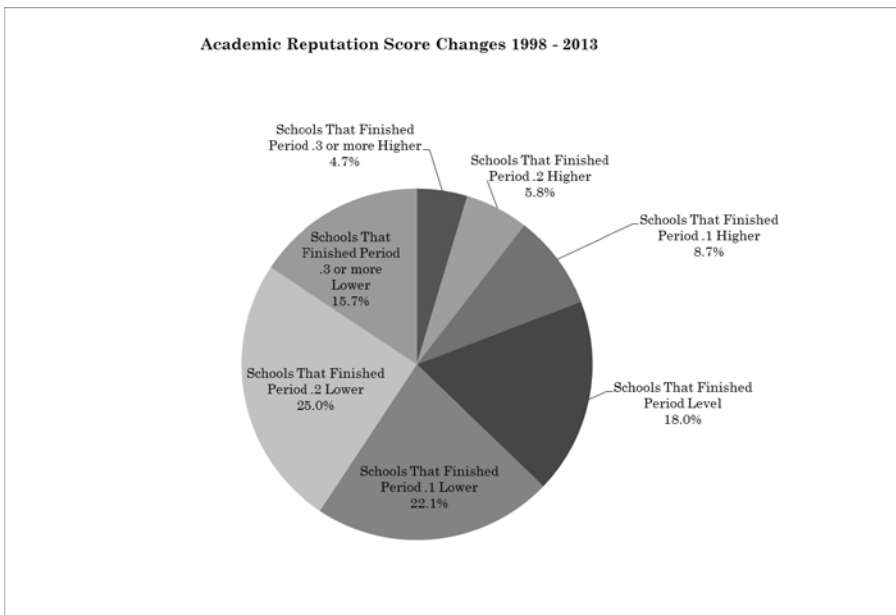
Chart G

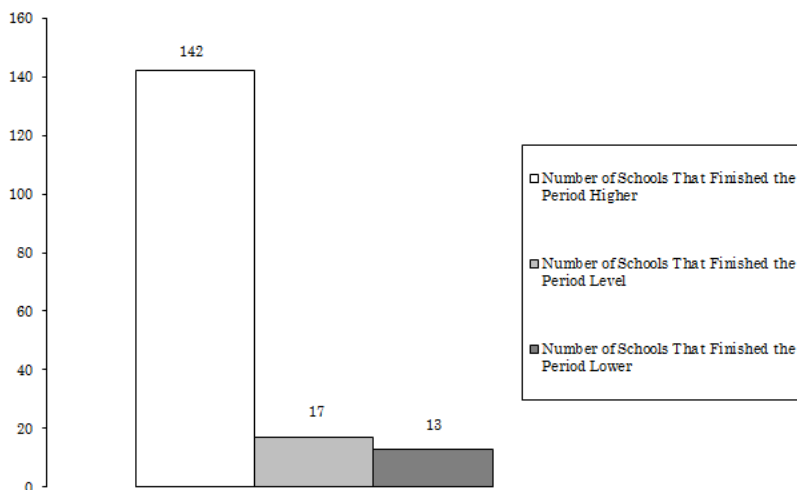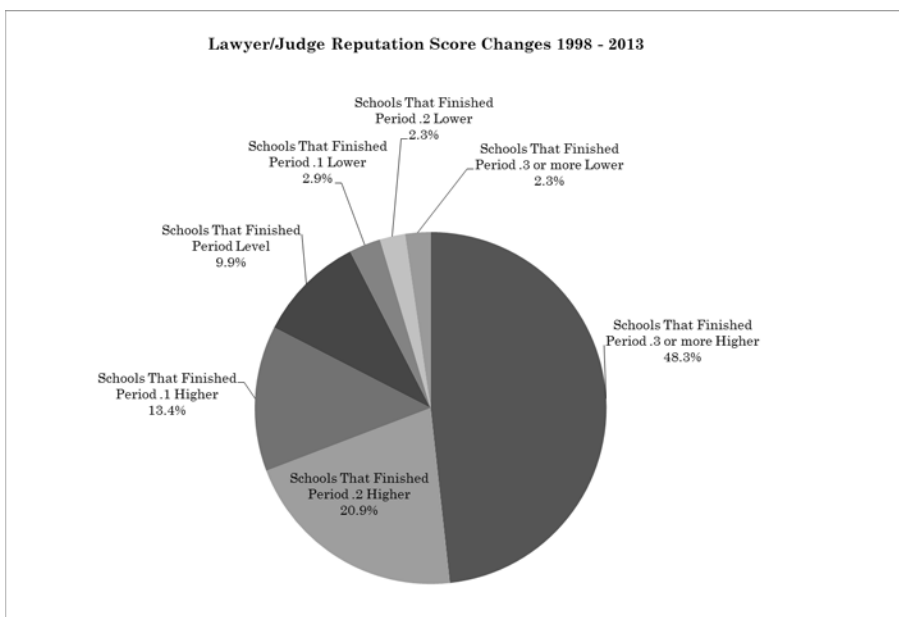**Lawyer/Judge Reputation Score Changes**
1998 - 2013

Chart H

Between the two types of scores, the lawyer/judge reputation scores would seem to be more rationally connected (in the aggregate) to the developments of the last sixteen years. Law school tuition increased substantially over the last two decades to allow law schools to upgrade their facilities, hire additional academics, share the results of their research and scholarship, and promote their brands.[59] It stands to reason that some of these endeavors would have had a positive impact on the ways in which law schools are perceived as academic institutions. The improvements in the lawyer/judge reputation scores, therefore, seem more congruent with recent developments than the substantial declines law schools suffered to their academic reputation scores.

The downward trend in academic reputation scores is highly problematic, therefore, because it appears to have been caused (at least in large part) by the influence of the *U.S. News* rankings themselves. The influence of strategic considerations on the voting process constitutes a significant methodological problem for the rankings because such influences are fundamentally inapposite to the function of the scores as measures of performance. To the extent that strategic considerations influence the scores, the scores cease to be rational reflections of meaningful criteria.

The fact that strategic considerations might be affecting all schools *to some degree* does not mitigate the problem. Once the scores cease to be reflections of meaningful criteria, there simply is no reason to think that strategic considerations will affect all schools *to the same degree*. In fact, there is every reason to think that strategic considerations will affect law schools in very unequal ways. Every law school occupies its own place in the *U.S. News* hierarchy. As a result, the influence of strategic considerations is likely to impact disproportionately those schools that are perceived as the greatest obstacles to the advancement of other schools. This fact most likely accounts for the results discussed in the next subsection.

E.   Correlation Between Downward Trend in Academic Reputation Scores and Strength of U.S. News Ranks and Academic Reputation Scores

The downward trend for academic reputation scores between 1998 and 2013 was most pronounced for those law schools that enjoyed the highest ranks and academic reputation scores at the start of the period. Table 2 charts the changes in academic reputation scores for the law schools that possessed the twenty-five highest academic reputation scores when the period began in 1998. Twenty-seven institutions

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59.   TAMANAHA, *supra* note 3, at 126-34 (describing tuition increases and their causes).

are included in this definition since there was a tie for the twenty-fifth highest score.

			Table 2
Academic Reputation Score Changes for the Twenty-Seven Law Schools With the Top Academic Reputation Scores in 1998			
Institution	1998 Reputation Score	2013 Reputation Score	Change in Reputation Score for Period
Harvard University	4.9	4.8	-0.1
Yale University	4.9	4.8	-0.1
Columbia University	4.8	4.6	-0.2
Stanford University	4.8	4.8	0.0
University of Chicago	4.8	4.6	-0.2
University of Michigan – Ann Arbor	4.7	4.4	-0.3
New York University	4.6	4.4	-0.2
University of California – Berkeley	4.6	4.4	-0.2
University of Pennsylvania	4.5	4.3	-0.2
University of Virginia	4.5	4.4	-0.1
Cornell University	4.4	4.2	-0.2
Duke University	4.3	4.2	-0.1
Northwestern University	4.3	4.1	-0.2
Georgetown University	4.2	4.1	-0.1
University of Texas – Austin	4.2	4.1	-0.1
University of California – Los Angeles	4.1	3.9	-0.2
Vanderbilt University	3.9	3.8	-0.1
University of Minnesota – Twin Cities	3.8	3.5	-0.3
University of Southern California (Gould)	3.8	3.6	-0.2
University of Wisconsin – Madison	3.8	3.4	-0.4
University of North Carolina – Chapel Hill	3.7	3.5	-0.2
University of Illinois – Urbana-Champaign	3.6	3.1	-0.5
University of Iowa	3.6	3.3	-0.3
Boston University	3.5	3.4	-0.1
Emory University	3.5	3.5	0.0
George Washington University	3.5	3.4	-0.1
University of California (Hastings)	3.5	3.2	-0.3

As Table 2 reveals, not a single one of these top schools was able to improve its academic reputation score during the studied period. In fact, only two of these twenty-seven law schools were even able to maintain their academic reputation scores at the level at which they began in 1998. As a result, twenty-five of the top twenty-seven law schools (93%) saw their academic reputation scores suffer a decline during the period.[60] Many of these declines, furthermore, were significant. The average result for these top law schools was a decline of .185, more than twice the decline suffered by law schools generally during the period.[61]

A broader analysis of the data confirms that the movement in academic reputation scores for the period tended to be *inversely* correlated to the strength of the law schools' academic reputation scores when the period began; that is, the higher a law school's academic reputation score in 1998, the more likely its academic reputation score suffered a decline during the period. Chart I illustrates the phenomenon.

Chart I

Academic Reputation Score Changes by Reputation Group
1998 - 2013

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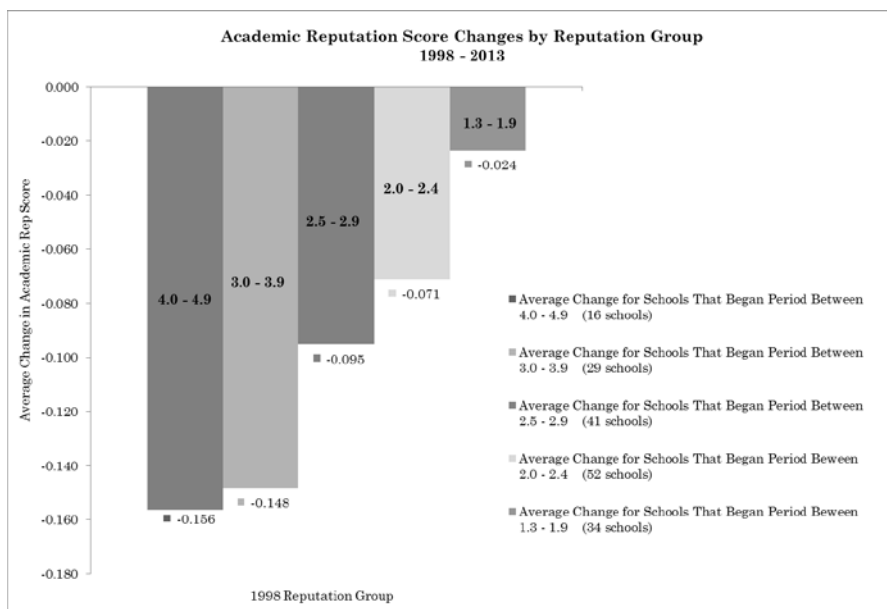
60.   Again, this categorization of the schools is based solely on their 1998 academic reputation scores. A similar analyses based on *U.S. News* ranks can be found *infra* notes 66-69 and accompanying text.

61.   The average decline for all 172 schools in the data set was .088. *See supra* notes 29-30 and accompanying text.

For Chart I, the 172 law schools in the data set are broken down into five groups based on their 1998 academic reputation scores. Chart I reveals that the group that began the period with the highest academic reputation scores (those between 4.0 and 4.9) suffered the largest average decline during the period while the group with the second-highest category of academic reputation scores (those between 3.0 and 3.9) suffered the second-worst average decline. The groups that started the period in the third and fourth highest categories of academic reputation scores finished the period with the third- and fourth-worst average declines, respectively. Finally, the group of schools that started the period in the lowest category of academic reputation scores finished the period with the best result, that is, the smallest average decline.

With respect to the law schools whose academic reputation scores moved the most during the period, the data similarly reveals that the higher-ranked schools tended to fare worse than their lower-ranked counterparts. As previously mentioned, there were seventy law schools that suffered declines of .2 or more during the sixteen-year period.[62] The average 1998 academic reputation score for those seventy schools was a relatively high 2.819.[63] In contrast, the average 1998 academic reputation score for the eighteen law schools that managed to raise their academic reputation scores by .2 or more during the period was only 2.300.[64] Recall that the overall average academic reputation score in 1998 was 2.630.[65]

Chart J below utilizes the 1998 *U.S. News* ranks to categorize the eighteen schools that improved by .2 or more. Chart K represents the same data for the seventy schools whose academic reputation scores declined by .2 or more during the period.

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62. *See supra* Table 2.
63. *See* Appendix A, *supra* note 11.
64. *See id.*
65. *See supra* Chart D. Note that the average academic reputation score for second tier schools in 1998 (i.e., those ranked between fifty-two and ninety) was 2.605 and the average academic reputation score for schools ranked in the third tier in 1998 (i.e., those ranked between ninety-one and 136) was 2.180. *See* Appendix A, *supra* note 11.

Chart J

Breakdown by 1998 *U.S. News* Rank for Schools that Improved by .2 or More

Ranked 1 - 25
5.6%

Ranked 30 - 50
11.1%

Fourth Tier
22.2%

Second Tier
27.8%

Third Tier
33.3%
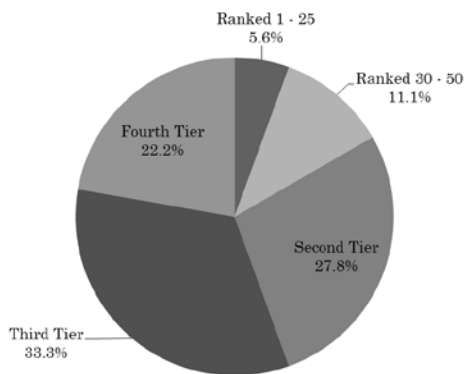
Chart K

Breakdown by 1998 *U.S. News* Rank for Schools that Improved by .2 or More

Ranked 1 - 25
5.6%

Ranked 30 - 50
11.1%

Fourth Tier
22.2%

Second Tier
27.8%

Third Tier
33.3%
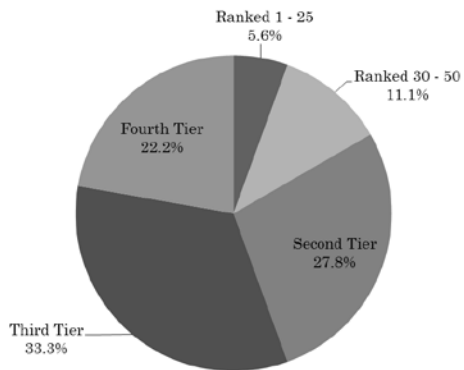
The differences between Charts J and K are notable. As Chart J reveals, a very small percentage of the law schools that improved their academic reputation scores by .2 or more came from the top fifty in the *U.S. News* rankings. Only one law school in the top twenty-five of the 1998 *U.S. News* rankings was able to improve its academic reputation score by more than .1 during the period (Fordham, at number twenty-five in the 1998 rankings) and only two law schools with 1998 *U.S. News* ranks between thirty and fifty-one were able to improve their scores by more than .1 (Washington University, with a 1998 rank of thirty, and the University of Hawaii, with a 1998 rank of fifty).[66]

In contrast to their negligible presence among the schools that significantly gained in academic reputation, Chart K demonstrates that law schools ranked in the top fifty of the 1998 *U.S. News* rankings were well represented in the list of schools that significantly declined during the period. In contrast to the lone top twenty-five school in the list of schools that improved by .2 or more, there were fifteen law schools ranked in the top twenty-five of the 1998 *U.S. News* rankings that lost at least .2 from their academic reputation scores during the period (constituting 21% of the total for schools that declined by that margin).[67] Similarly, there were eight law schools ranked between thirty and fifty-one in the 1998 *U.S. News* rankings that declined by at least .2, in contrast to the two schools in this category that were able to improve by that margin.[68]

Another prominent difference between the two charts relates to the fourth tier schools. Whereas fourth tier schools constituted a healthy 22% of the law schools that gained by .2 or more, they constituted a mere 9% of the schools that significantly declined during the period. In a variety of ways, therefore, the data demonstrates that the movement in academic reputation scores tended to be inversely correlated to the strength of the law schools' academic reputation scores and *U.S. News* ranks at the beginning of the period, with the higher-ranked schools experiencing the greatest difficulties in maintaining or improving their scores and the lower-ranked schools experiencing the greatest successes.

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66. *See* Appendix A, *supra* note 11. Note that there were five law schools tied for the twenty-fifth spot in the 1998 *U.S. News* rankings, which accounts for the gap in the pie chart between the category of schools ranked one to twenty-five and the category for schools ranked thirty to fifty.

67. *Id.* Note that this list is slightly different from the one in Table 3 because that list was based on the top twenty-five academic reputation scores rather than the overall *U.S. News* ranks. Also note that there were twenty-nine schools in the top twenty-five for the *U.S. News* rankings in 1998 by virtue of a five way tie for the twenty-fifth spot.

68. *See id.*

In an effort to understand the relationship between *U.S. News* ranks and academic reputation scores further, the author calculated the annual movement of the law schools' academic reputation scores based on the *U.S. News* ranks possessed by those law schools in the year preceding the movement. To accomplish this, the author categorized all the law schools in the data set into five groups based on their *U.S. News* ranks for each year.[69] With respect to every year in the period, the author then computed the average change for the law schools in each category based on the *U.S. News* ranks that the schools possessed in the prior year. Chart L summarizes the results of this inquiry for the first twelve years of the studied period, that is, between 1998 and 2009.

Chart L
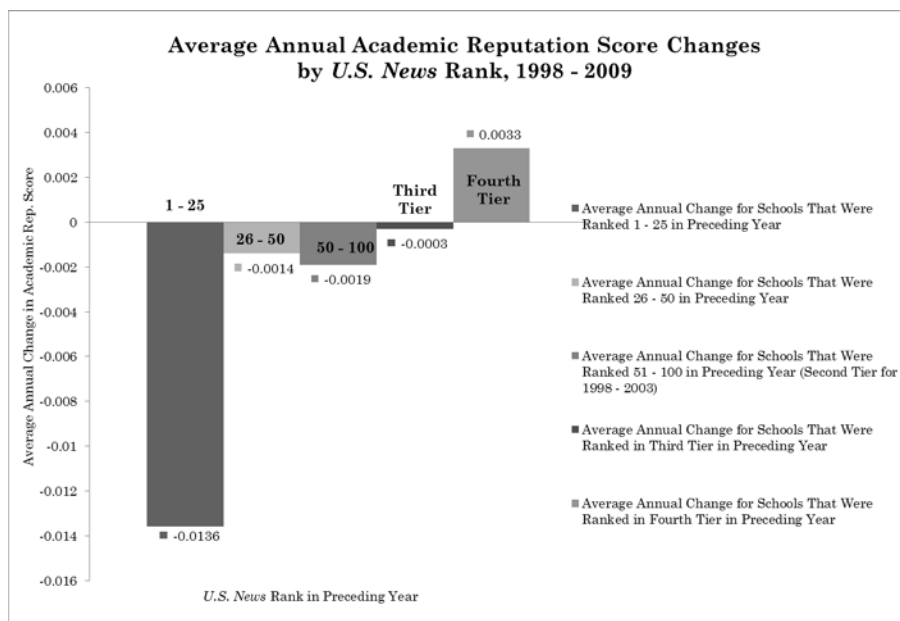
69. For 2012 and 2013, the five categories encompassed schools ranked one to twenty-five, twenty-six to fifty, fifty-one to 100, 101 to 145, and in the fourth tier. The categorization was complicated by the fact that *U.S. News* altered its own ranking categories twice during the studied period. From 1998 until 2002, *U.S. News* utilized a "second tier" to demarcate schools ranked approximately between fifty-one and ninety and a "third tier" to demarcate schools ranked approximately between ninety-one and 135. *U.S. News* abandoned the "second tier" category in 2003 and abandoned the "third tier" category in 2011. *See* Bondareff, *supra* note 1, at 2 (summarizing *U.S. News* methodologies between 1998 and 2010); *Best Law Schools*, U.S. NEWS & WORLD REPORT (2011), http://web.archive.org/web/20110504010814/http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings (reflecting methodological change that began in 2011). For the years between 1998 and 2003, therefore, the author utilized five categories that encompassed schools ranked one to twenty-five, twenty-six to fifty, in the second tier, in the third tier, and in the fourth tier. For the years between 2004 and 2011, the categories encompassed schools ranked one to twenty-five, twenty-six to fifty, fifty-one to 100, in the third tier, and in the fourth tier.

With respect to the majority of the studied period, Chart L reveals a generally inverse correlation between a law school's *U.S. News* rank and the movement in that school's academic reputation score during the subsequent year. Chart L reveals that law schools ranked in the top twenty-five in the *U.S. News* rankings were far more likely to suffer declines to their academic reputation scores between 1998 and 2009 than law schools that were ranked below them. If a school was ranked in the top twenty-five during this period, it could expect that its academic reputation score would decrease by an average of .0136 in the immediately following year. Stated another way, the top twenty-five schools were declining at a rate of .136 every ten years during the first twelve years of the studied period. This rate of decline was ten times worse than the rate of decline experienced by schools ranked between twenty-five and fifty, seven times worse than the law schools ranked between fifty-one and 100, and forty-five times worse than the schools ranked in the third tier (approximately 101 to 145) during the year preceding the decline.

In sharp contrast to all the schools ranked above them, law schools ranked in the fourth tier typically experienced an improvement to their academic reputation scores between 1998 and 2009. For each year during this period, the average change for law schools that had been ranked in the fourth tier during the preceding year was an increase of .0033.

Arguably, the lower-ranked schools had more success raising or maintaining their academic reputation scores over this period because, quite simply, they had more opportunities to improve.[70] By the same token, however, one would think that the lower-ranked schools would have faced the greatest difficulties in gaining the attention of other academics and in overcoming the negative connotations associated with a lower *U.S. News* ranking. A dean of a lower-ranked school, for example, once described its school's status in the third tier as "a self-fulfilling nightmare."[71]

Interestingly, third and fourth tier law schools have not been as successful in maintaining their academic reputation scores over the last few years. Since 2010, the data for the year-to-year changes in law school rankings have not reflected the inverse correlation between *U.S. News* ranks and academic reputation score movements that pervaded the first twelve years of the studied period. As with Chart L, Chart M below demonstrates the average year-to-year changes for law schools based on their *U.S. News* rankings during

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70. The addition of a few highly regarded lateral or entry level faculty, for example, might have a relatively stronger impact to the academic reputation of a lower-ranked school than it would at a school with an existing base of well-established scholars.

71. Sauder & Espeland, *supra* note 2, at 13.

the prior year. Unlike Chart L, however, Chart M is limited to the last four years.

Chart M

Average Annual Academic Reputation Score Changes
by *U.S. News* Rank, 2010 - 2013
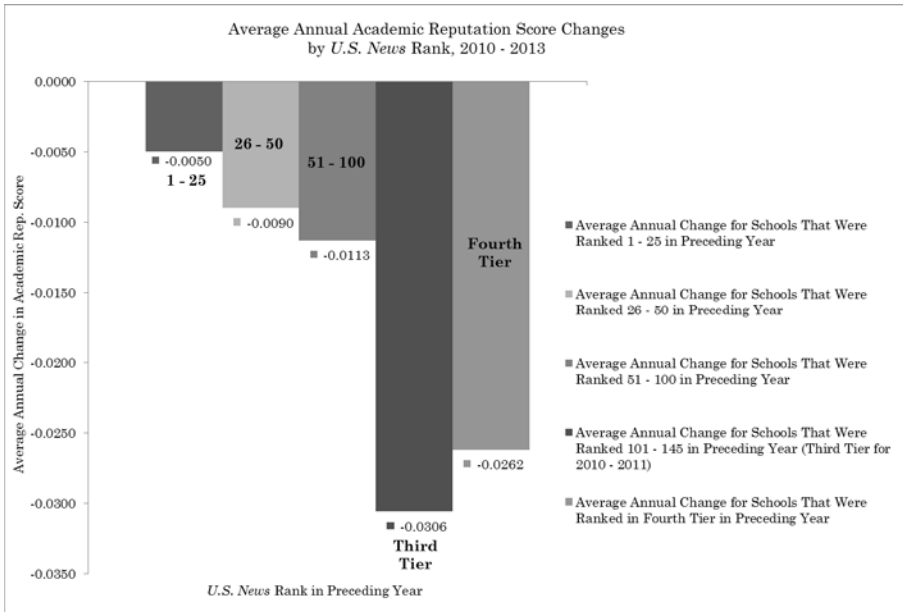
Chart M demonstrates that the last four years have not been characterized by the same pattern that prevailed during the first twelve years of the studied period. In fact, the lowest-ranked schools have suffered the greatest declines during the last four years while the higher-ranked schools have suffered the smallest declines.

It is not yet clear whether the data from the last four years represents a shift in the grading patterns of voting academics or whether the last few years simply constitute a statistical anomaly. In certain respects, the pattern exhibited in Chart M would seem more logical than the pattern that prevailed over the first twelve years. As stated previously, one would think that the lowest-ranked schools would experience the most difficulties in positively influencing their reputations. The higher-ranked schools would appear to be in a far better position to generate positive impressions about their reputations, to fund scholarship by their faculty, and to lure away attractive lateral candidates from the schools ranked below them (practices that would, presumably, positively impact a school's academic reputation). In other contexts related to the *U.S. News* rankings, such as improving the median LSAT figures for their incoming classes, the higher-ranked schools have in fact been able to leverage their positions

atop the rankings to further distance themselves from the lower-ranked schools.[72]

So why were the last four years the exception rather than the norm during the period as a whole? Why was the studied period as a whole characterized by a strong inverse correlation between *U.S. News* ranks and academic reputations on the one hand and movements to academic reputation scores on the other? As stated previously, not a single one of the law schools that began the period with a top twenty-five academic reputation score was able to improve that score by the end of the period. In fact, twenty-five of the twenty-seven law schools with the highest academic reputation scores in 1998 ended up suffering a decline to their academic reputation scores over the course of the period.[73] As a group, those top schools suffered a decline of more than twice the overall average. In terms of *U.S. News* ranks, fifteen law schools ranked in the top twenty-five of the 1998 *U.S. News* rankings ended up losing .2 or more from their academic reputation scores during the studied period. Eight law schools ranked between thirty and fifty-one in the 1998 *U.S. News* rankings declined by at least .2 during the period.[74] In contrast, only one law school from the top twenty-five of the 1998 *U.S. News* rankings was able to improve its academic reputation score by more than .1 during the period and only two law schools ranked between thirty and fifty-one in 1998 were able to improve their scores by more than .1 by the end of the period.[75]

Conversely, fourth tier law schools enjoyed far more success during the period as a whole than their higher-ranked competitors. Law schools that began the period in the fourth tier constituted 22% of all the law schools that gained .2 or more to their academic reputation scores during the period whereas those schools constituted only 9% of the law schools that lost .2 or more during the period. For the first twelve years of the period, furthermore, fourth tier schools were the only group that actually succeeded in improving their academic reputation scores, on average, from year to year.

It is very difficult to explain the inverse correlation that prevailed for the majority of the period, therefore, without reference to the strategic considerations that likely caused the downward trend in academic reputation scores generally. The inverse correlation between a law school's reputation and rank on the one hand, and the

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72. *See* Henderson & Morriss, *supra* note 3, at 187 (demonstrating through empirical analysis that highly ranked law schools had the most success in improving the LSAT scores of their matriculates).

73. *See supra* notes 60-72 and accompanying text.

74. *See supra* notes 60-72 and accompanying text.

75. *See supra* notes 60-72 and accompanying text.

movement of that school's academic reputation score on the other, is likely attributable to the fact that the higher-ranked schools present-ed the greatest obstacle to the advancement of the other law schools in the rankings. Many academics could afford to employ a more gen-erous grading standard for the lowest-ranked schools, by contrast, because those schools did not pose a similar threat with respect to the rankings. The higher a law school was ranked, the greater the number of competing schools that looked up at it in the *U.S. News* hierarchy. In light of the fact that the top law schools dominate the ranks of academia, furthermore, faculty at all levels may well have been influenced by their desire to enhance their alma maters' posi-tions vis-à-vis the other top schools.[76]

Does the data from the last four years suggest that strategic con-siderations are now playing a less pervasive a role in the voting? There are several reasons to doubt such a hypothesis. First, it is diffi-cult to point to any developments in the last four years that would have diminished the influence of strategic considerations. Competi-tion among law schools with respect to the *U.S. News* rankings ap-pears to be just as intense today as it was between 1998 and 2009. The voting population of academics filling out the surveys, further-more, does not seem to have changed appreciably since 2010.

It is important to remember that the downward trend in academic reputation scores has accelerated since 2010. This fact suggests that the influence of strategic considerations may be increasing at the current time. The 2013 rankings constituted the single largest de-cline in academic reputation scores for the entire period. When com-bined with the substantial drop that occurred in 2011, the period be-tween 2010 and 2013 represented the worst four-year period for law schools during the entire studied period.[77] In all likelihood, therefore, the last four years represent a temporary anomaly in the data or, at most, a shift in the way strategic considerations are influencing the voting.

To be clear, this Article is not asserting that anyone has voted in bad faith in the context of the *U.S. News* rankings. The fact that strategic considerations have influenced the voting process does not

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76. Statistics regarding entry level hiring at law schools have been tabulated for the last three years by Sarah Lawsky and Dan Markel at Prawfsblawg. *See* Sarah Lawsky, *Entry Level Hiring: The 2013 Report – Call for Information*, PRAWFSBLAWG (Feb. 27, 2013, 3:24 PM), http://prawfsblawg.blogs.com. Prior to 2011, Lawrence Solum tabulated similar statistics at the Legal Theory Blog. *See, e.g.*, Lawrence Solum, *2009 Entry Level Hiring Report*, LEGAL THEORY BLOG (Apr. 26, 2009, 7:59 PM), http://lsolum.typepad.com.

77. *See supra* Chart D. Between 2010 and 2013, the average law school academic rep-utation score declined by .066 (from 2.607 to 2.541). *Id.* The second worst four-year period for law schools occurred between 2001 and 2004, when the average law school academic reputation score declined by .043 (from 2.618 to 2.575). *Id.*

necessarily imply that any of the voting has been disingenuous. The data demonstrates, however, that the voting academics are employing increasingly stringent standards in their evaluations and, perhaps most importantly, the data strongly suggests that the voting academics are particularly stringent in their grading with respect to those schools that pose the greatest obstacles to the advancement of the institutions with which they are associated.

The essential point is that the success of the *U.S. News* rankings has itself changed the way the rankings are being computed. That in turn raises important normative questions about whether the current method of faculty polling is the most appropriate or objective way to conduct the surveys. Some commentators have analogized the function of the *U.S. News* rankings to *Consumer Reports,* in that the rankings are intended to help prospective law students make informed decisions about where to purchase their legal educations.[78] But *Consumer Reports* would never dream of publishing a review of a manufacturer's product that was based primarily on evaluations from that manufacturer's competitors. For obvious reasons, the definitive assessment of Ford's new automobile is not entrusted to GM and Toyota. Why is that method being employed so pervasively for law schools? The extensive influence of the *U.S. News* rankings now requires voting academics to disassociate themselves from powerful considerations of self-interest. The time may have come for the academic reputation scores to be eliminated from the *U.S. News* methodology. At the very least, the *U.S. News* methodology should be altered in order to mitigate the ways in which these strategic considerations are compromising the results.[79]

F. *Disparity Between Public and Private Law Schools*

An empirical analysis of the data reveals that private law schools had slightly more success than their public counterparts in maintain-

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78. A particular reference along these lines, for example, comes from an interview with a law school dean conducted by Michael Sauder and Wendy Espeland: "Our job and our career goals haven't changed, but now we have metrics. I think it's just like *Consumer Reports* for cars. You can quarrel with individual things, you can quibble with the formula, but we have a wonderful product and it's good for people to know." Sauder & Espeland, *supra* note 3, at 212.

79. At least one commentator has already suggested a change in the *U.S. News* methodology to help address the influence of these strategic considerations. *See* Seto, *supra* note 1, at 555 (arguing that *U.S. News* should discard the highest and lowest 10% of the academic survey responses because "[d]iscarding the high and low extremes would reduce the effect of strategic responses, presumably therefore reducing the amount of such gaming, and increasing the validity of the resulting scores"). Brian Leiter has also recommended changes in the way the surveys are conducted, principally to address the echo effect. *See infra* note 89. This author proposes additional improvements to the *U.S. News* methodology *infra* in Part V.

ing their academic reputation scores during the sixteen-year period. On average, the seventy-five public schools in the data set averaged a decline of .100 during the sixteen-year period. The ninety-seven private schools, by contrast, averaged a decline of only .079. The data related to academic reputation score changes for public and private law schools is summarized below in Tables 3 and 4, respectively.[80] To facilitate the comparison between the two types of schools, Charts N and O were created to represent the same data in pie chart form.

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80. In order to categorize the law schools as public or private, the author relied exclusively on the capsule summaries of the law schools provided at the end of the *U.S. News* rankings.

	Table 3
Reputation Score Changes **For Public Schools, 1998 – 2013**	

Public Schools that Finished Period .3 or more Higher	**4**	
Public Schools that Finished Period .2 Higher	**3**	**13**
Public Schools that Finished Period .1 Higher	**6**	
Public Schools that Finished Period Level	**13**	
Public Schools that Finished Period .1 Lower	**16**	
Public Schools that Finished Period .2 Lower	**19**	**49**
Public Schools that Finished Period .3 or more Lower	**14**	
Total	75	
Average Change	-.100	

		Table 4
Reputation Score Changes For Private Schools, 1998 – 2013		
Private Schools that Finished Period .3 or more Higher	**4**	
Private Schools that Finished Period .2 Higher	**7**	**20**
Private Schools that Finished Period .1 Higher	**9**	
Private Schools that Finished Period Level	**18**	
Private Schools that Finished Period .1 Lower	**22**	
Private Schools that Finished Period .2 Lower	**24**	**59**
Private Schools that Finished Period .3 or more Lower	**13**	
Total	97	
Average Change	-.079	

Chart N

**Academic Reputation Score Changes
for Private Schools**

20.6%

18.6%

60.8%

■ Percentate of Private Schools
  That Finished the Period Higher

■ Percentage of Private Schools
  That Finished the Period Level

■ Percentage of Private Schools
  That Finished the Period Lower

Chart O

**Academic Reputation Score Changes
for Public Schools**

17.3%

17.3%

65.3%

■ Percentage of Public Schools That
  Finished the Period Higher

■ Percentage of Public Schools That
  Finished the Period Level
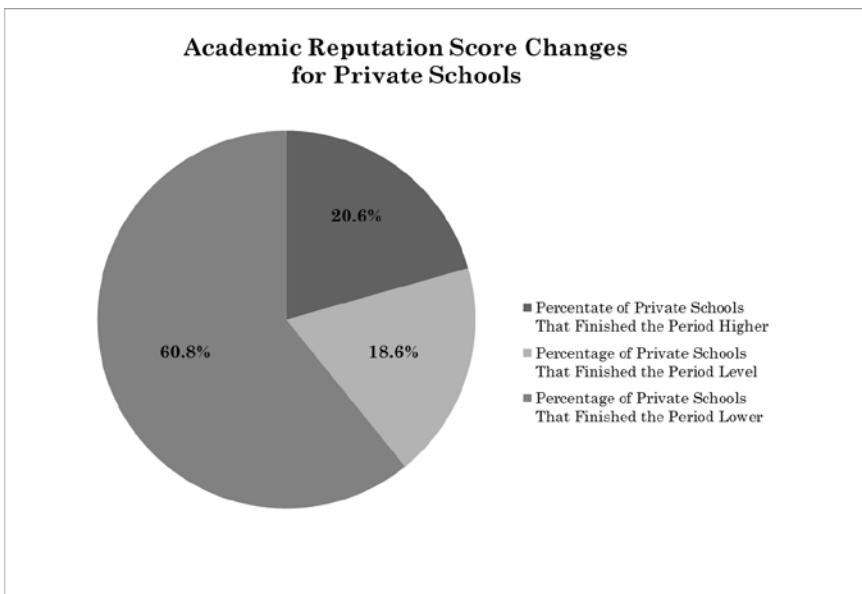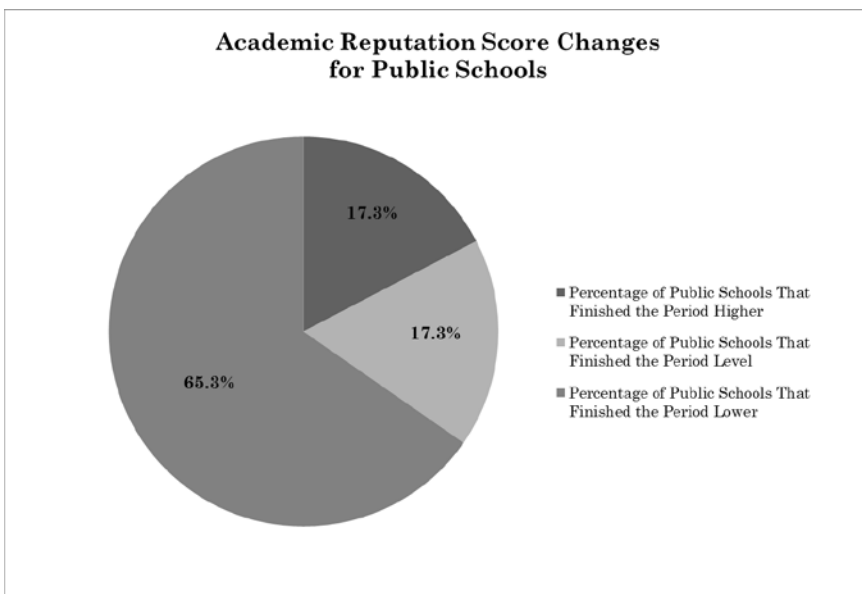
■ Percentage of Public Schools That
  Finished the Period Lower

As Charts N and O illustrate, a higher percentage of public law schools suffered a decline to their academic reputation scores during the period whereas a higher percentage of private law schools saw their academic reputation scores improve. It should be noted, however, that the disparity between public and private schools actually narrowed in 2013. As a group, the seventy-five public law schools in the data set averaged a decline of .040 in the year 2013.[81] The ninety-seven private schools, by contrast, averaged the more significant decline of .065.[82]

One potential explanation for the disparity between public and private law schools is the possibility that public law schools have not expended (on average) the same amount of resources on activities that could positively influence their academic reputation scores.[83] This explanation, however, is predicated on the assumption that law schools are capable of positively influencing their academic reputation scores through the strategic use of expenditures.[84] Another possibility is that private schools were able to utilize financial resources to positively impact their *U.S. News* ranks.[85] In light of the echo effect discussed in the next Part, such improvements could have positively influenced the private schools' academic reputation scores.

One purpose of this longitudinal study is to foster additional analysis about how law schools might be able to positively impact their own academic reputation scores. To that end, this Article will conclude by identifying the law schools that experienced the greatest changes to their academic reputation scores during the period and to

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81. *See* Appendix A, *supra* note 11.
82. *See id.*
83. Some have argued that the rankings are primarily a function of a school's finances. The former dean of a successful public law school (University of Houston), for example, recently argued that her school's struggles to improve in the rankings were primarily attributable to the financial disparities between her school and its competitors (many of whom were private). *See* Rapoport, *supra* note 8, at 361 n.6 (2006) ("Most of what they have that we don't is money, and lots of it. Many of them have private foundations with large endowments. That additional money enables them to pay larger salaries to professors, to buy more students with scholarship funds, to have larger library collections, to hold more conferences, etc."). Not all public schools, of course, operate at a comparative financial disadvantage. It is quite possible, however, that the median expenditures for public schools over the last two decades have been less than that of private schools. *See id.*
84. The pervasive view appears to be that such expenditures can be effective in influencing the rankings, at least to some extent. *See, e.g.*, *id.* (describing an informal study conducted by Rapoport that examined the correlation between rankings and endowment size for schools ranked in the top fifty of the *U.S. News* rankings and finding correlation to be very high, at .88).
85. There are a variety of ways in which financial resources might be utilized to impact the *U.S. News* ranks. One of the *U.S. News* ranking criteria, for example, is expenditures per student. *See* Morse & Flanigan, *supra* note 6. In addition, financial resources could be utilized to lower a faculty/student ratio and provide scholarships to attract incoming classes with higher numeric indicators.

a brief discussion of some potential causes for those changes. Before that final discussion, however, it is necessary to analyze in greater detail one particular factor that may have contributed to the changes studied in Part IV.

III. THE ECHO EFFECT

A number of scholars have opined that there is an "echo effect" between a law school's academic reputation score and its overall *U.S. News* rank.[86] According to this theory, the *U.S. News* rankings affect the academic reputation scores of law schools by influencing (at least subtly) the ways in which legal academics perceive their fellow institutions.[87] The echo effect theory postulates that a law school's rise in the *U.S. News* rankings would in effect "pull" that school's academic reputation score higher as legal academics take notice of the school's improvement in the rankings and then are influenced to view that school more favorably.[88] Similarly, the echo effect theory postulates that a decline in the *U.S. News* rankings would effectively pull a law school's academic reputation score down as the decline negatively influences the way legal academics perceive that institution.[89] Note that, if true, the echo effect would generate a certain inertial force of its own because academic reputation scores constitute the single most significant component of the *U.S. News* methodology (i.e., a rise

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86. This putative phenomenon was analyzed and studied by Richard Schmalbeck as early as 1998. *See* Schmalbeck, *supra* note 1, at 576-80. Several years later, Brian Leiter coined the phrase "echo chamber" to describe it. *See* Leiter, *supra* note 2, at 51 (concluding that "one of the many deficiencies of *U.S. News* is that its reputational surveys of academics are so poorly conducted that they have simply become echo chambers of the prior year's *U.S. News* ranking"). Jeffrey Stake then modified the term to "echo effect." *See* Stake, *supra* note 2, at 250 & n.28.

87. *See, e.g.*, Stake, *supra* note 2, at 250 ("Given this concern about the rankings and the lack of information from other sources, it would not be a shock to find that *U.S. News* has influenced how law schools were ranked by the law professors that it surveyed.").

88. *See, e.g.*, *id.* at 250 ("One would expect *U.S. News* to have pulled the reputation of a school among law teachers toward that school's previous ranking by *U.S. News*."). In fact, anecdotal evidence has been gathered to support the echo effect's existence. *See* Sauder & Espeland, *supra* note 2, at 13-14 (summarizing interviews with law school deans that supported notion that *U.S. News* rankings influence academic reputation scores).

89. Several commentators have argued that the echo effect undermines the validity of the *U.S. News* rankings. *See, e.g.*, Jeffrey Evans Stake & Michael Alexeev, *Who Responds to U.S. News & World Report's Law School Rankings?* 4 (Ind. Univ. Maurer Sch. of Law, Legal Studies Research Paper Series, Paper No. 55, 2009), *available at* http://ssrn.com/abstract=913427 ("Rankings will look more robust than they are if they appear to take into account lots of independent data while in reality being mostly a sum of echoes. The lower the ratio of dependent to independent criteria, the more misleading is their appearance."). Brian Leiter has argued that *U.S. News* should seek to minimize the echo effect by improving the methodology of the surveys themselves. *See* Leiter, *supra* note 7, at para. 5 (recommending that surveys be conducted online, that questions posed to recipients be more specific, and that information about each school be provided to the recipients of the survey).

in the academic reputation score in itself would help ensure that the *U.S. News* rank would continue to go up).[90]

This sixteen-year longitudinal study provided an opportunity to evaluate the validity of the echo effect theory in a number of ways. First, it should be noted that the study's general findings appear to be somewhat inconsistent with the underlying premise of the echo effect theory. As noted above, the movements in academic reputation scores during the period tended to be inversely correlated to the strength of the schools' *U.S. News* ranks and academic reputation scores. According to the echo effect, one would think that the law schools with the highest *U.S. News* ranks would be able to generate the most favorable impressions and therefore enjoy the most success with respect to their academic reputation scores. In fact, an extraordinarily robust interpretation of the echo effect would posit that a school's status in a particular tier of the *U.S. News* rankings would quickly become a self-fulfilling prophecy as legal academics were influenced to think of (and grade) that school strictly in accordance with the school's status in the *U.S. News* ranking hierarchy. But the data clearly demonstrates that there is no such overwhelming echo effect in operation. If legal academics are being influenced by the *U.S. News* rankings in terms of how they perceive and vote on their fellow institutions, the effect must be much more subtle. Indeed, the primary proponents of the echo effect theory themselves have argued that the echo effect is modest in nature.[91]

Scholars that have previously tested for the echo effect have reached disparate conclusions.[92] The most thorough studies have been conducted by Jeffrey Stake, whose regression analysis led him to conclude that there is a discernible echo effect between a law school's *U.S. News* rank and its subsequent academic reputation score.[93] Professor Stake's studies, however, focused on law schools that were highly ranked and excluded altogether those law schools

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90. The inertia would eventually dissipate as the difference between the *U.S. News* rank and academic reputation score decreased each year. *See, e.g.*, Stake, *supra* note 2, at 250-51 ("This echo effect would be expected to diminish over time. . . . Eventually, the system reaches equilibrium and when it does the *U.S. News* ranks will have no more ability to pull the reputations.").

91. *See* Stake & Alexeev, *supra* note 89, at 12 ("[T]he quantitative effect of the USN&WR rankings on the academic scores is not very large. . . . [I]n order to change the academic score by 0.1 . . . the rank would need to change by 20.").

92. Richard Schmalbeck, for example, concluded from his analysis that there was little support for the notion of an echo effect. *See* Schmalbeck, *supra* note 1, at 577 (arguing that analyzed data showed "little or no tendency for the academic reputation scores to gravitate toward the overall ranking").

93. *See* Stake, *supra* note 2, at 251 (concluding that "the *U.S. News* score was . . . a predictor of the new academic ranks"); Stake & Alexeev, *supra* note 89, at 12 (concluding that regression analysis of data provided "strong evidence that academics adapt their views of the schools in the direction of the overall USN&WR rankings").

that were ranked in tiers.[94] As a result, this author decided to test for the presence of the echo effect in ways not previously employed.

The echo effect's essential premise is that a relatively high *U.S. News* rank (i.e., a *U.S. News* rank that is high relative to that school's academic reputation score) will lift the school's academic reputation score and a relatively low *U.S. News* rank (relative to the school's academic reputation score) will drag the school's academic reputation score down. As a first step to testing the echo effect, therefore, the author sought to quantify the relationship between each law school's *U.S. News* rank and its corresponding academic reputation score for that year.[95] This was a relatively straightforward task with respect to law schools with specific ranks (i.e., law schools that were not ranked in "tiers"). For each of these law schools, the author ranked the law school according to its academic reputation score[96] and then compared that rank to the school's overall *U.S. News* rank.[97] That comparison provided a basis for assessing whether a law school was "over-" or "under-ranked" for each year during the sixteen-year period. In 2013, for example, the University of California at Los Angeles had the sixteenth-best academic reputation score in the country (3.9). Its overall *U.S. News* rank was seventeenth in the country.[98] UCLA's *U.S. News* rank was therefore one place lower

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94. *See* Stake & Alexeev, *supra* note 89, at 6 ("We used only the rank observations with precise USN&WR ranks. That is, we did not use the rank if only available datum was the quartile exceeded by the school in that year."). With respect to the echo effect, Richard Schmalbeck focused his analysis on the top twenty-five law schools. *See* Schmalbeck, *supra* note 1, at 577.

95. Notably, this was one of the techniques utilized by Professor Stake in his 2006 study. *See* Stake, *supra* note 2, at 251. As with his 2009 study, however, it appears that his 2006 study (at least this aspect of it) was relegated to schools with numeric ranks as opposed to those ranked in tiers.

96. In 1998, for example, the University of Michigan had the sixth highest academic reputation score at 4.7 and therefore was assigned the rank of sixth. In order to normalize the data and increase its accuracy, the author decided to average ties. In 1998, for example, Yale and Harvard were tied with the highest academic reputation score. As a result, they each received a reputation rank of 1.5. The author included all schools in these computations, including those schools that were not part of the 172-school data set. This represents a slight methodological improvement over the prior longitudinal study conducted by this author on the subject.

97. As with the academic reputation score ranks, all ties in the *U.S. News* ranks were averaged. If five schools were tied for tenth in the *U.S. News* rankings, for example, those five schools would all be listed with a rank of "12" in the data set rather than a rank of "10." Similarly, if four law schools were tied for tenth in the *U.S. News* rankings, all four schools would be listed with a rank of "11.5" rather than "10." This is the same method employed by Richard Schmalbeck in his study of the academic reputation scores in 1998. *See* Schmalbeck, *supra* note 1, at 569 n.5.

98. *See* Appendix D, *available at* http://www.law.fsu.edu/journals/lawreview/ (select Issues, Past Issues, Vol. 40, Summer 2013).

than its academic reputation rank and in the terminology of this Article the school was very slightly under-ranked for the year 2013.[99]

A very slight difference between an academic reputation score and a *U.S. News* rank might not be expected to influence the way academics perceive a particulate school. For the majority of schools, in fact, academic reputation scores and *U.S. News* ranks track each other reasonably closely. In light of the weight assigned to the academic reputation scores in the *U.S. News* methodology, one would generally expect such a result. In some cases, however, the difference between the *U.S. News* rank and the academic reputation score was more pronounced. In 2013, for example, the University of Oregon had an overall *U.S. News* rank of ninety-fourth (tied with one other school). Oregon's academic reputation score of 2.8, however, was quite high for a school with that *U.S. News* rank. Based solely on its academic reputation score, Oregon would have ranked fifty-first in the nation (tied with three other schools).[100] Using the terminology of this Article, Oregon was therefore significantly under-ranked. If the echo effect does in fact exist, one would expect that Oregon's relatively low *U.S. News* rank would exert a downward influence on its subsequent academic reputation scores.

For schools ranked in tiers, a different methodology had to be employed to compare the law school's *U.S. News* rank to its academic reputation score. For tiered schools, the author computed the average academic reputation score for all the schools in each particular tier for each particular year and then compared every law school's academic reputation score to the average academic reputation score for the schools in its tier for that year.[101] In 2012, for example, Valparaiso Law School was ranked in the fourth tier. Valparaiso's 1.9 reputation score in 2012, however, was .347 higher than the 1.553 average academic reputation score for all fourth tier schools in 2012. As a result, Valparaiso was significantly under-ranked in 2012.[102]

In order to test whether the academic reputation scores of law schools were in fact being dragged down by relatively low *U.S. News* ranks or being lifted up by relatively high *U.S. News* ranks, the au-

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99. Note that the terms over-ranked and under-ranked are not intended to be pejorative or to have normative implications of any kind. They are merely intended to convey the concept that a school's *U.S. News* rank was higher or lower than its academic reputation rank.

100. *See* Appendix D, *supra* note 98.

101. To compute these averages, the author included all law schools in the *U.S. News* rankings for that year, including those law schools that were not part of the 172-school data set.

102. The under- and over-ranked computations for every law school in the data set (tiered and non-tiered) during the sixteen-year period are listed in Appendix D, *supra* note 98.

thor correlated the difference between each law school's academic reputation score and its *U.S. News* rank (i.e., the extent to which the law school was under- or over-ranked) with the change that occurred (or did not occur) to that law school's academic reputation score in the immediately following year.[103]

In assessing whether a law school's academic reputation score was more likely to go down when a school was under-ranked and more likely to go up when a school was over-ranked, the Pearson correlation coefficient was utilized to measure the correlation in the movements of the two variables (i.e., to measure the extent to which the academic reputation scores moved in tandem with the under- or over-ranked status of the law schools). The Pearson correlation coefficient is scaled between positive 1.0, meaning the two variables are perfectly correlated to one another in a positive manner, and negative 1.0, meaning the two variables are perfectly correlated to one another in an inverse manner. A score of 0.0 indicates there is no correlation between the two variables. The year-by-year results are summarized below in Table 5.

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103.   In this regard, the current study includes a methodological improvement from the prior longitudinal study conducted by this author on the subject. In the current study, the author excluded from the calculations those schools that were putatively over-ranked in the fourth tier, that is, those schools that possessed an academic reputation score that was relatively low for the fourth tier. The author decided that it was illogical to treat a school as over-ranked in the fourth tier, since there are no ranking categories below the fourth tier. In other words, it would illogical to expect a lifting influence for schools that were in the fourth tier with relatively low academic reputation scores.

Table 5

Year	2012		2011		2010		2009		2008	
Pearson's *r*	.253	.346	.232	-.083	.126	.084	.189	-.063	.274	.335
Category of Schools	Top 145	Tiered	Top 145	Tiered	Top 100	Tiered	Top 100	Tiered	Top 100	Tiered

Table 5 (continued)

Year	2007		2006		2005		2004		2003	
Pearson's *r*	.214	.207	.392	-.002	.122	.276	.128	.070	.047	.238
Category of Schools	Top 100	Tiered	Top 100	Tiered	Top 100	Tiered	Top 100	Tiered	Top 100	Tiered

Table 5 (continued)

Year	2002		2001		2000		1999		1998	
Pearson's *r*	.199	.390	.388	.288	-.046	.088	.133	.214	.000	-.002
Category of Schools	Top 50	Tiered	Top 50	Tiered	Top 50	Tiered	Top 50	Tiered	Top 50	Tiered

The results summarized in Table 5 suggest that there is a detectable correlation between whether a law school is under- or over-ranked and the probability that its academic reputation score will decline or improve the following year.

For each relevant year in the period, the Pearson correlation coefficient was calculated separately for schools that had specific ranks and schools that were ranked in tiers.[104] The result is that there were fifteen years in which two separate measures of correlation were calculated, providing thirty separate measures of correlation by which to assess the extent to which academic reputation scores were affected by whether a law school was under- or over-ranked in the prior year.

In twenty-four of the thirty measures (80%), there was a positive correlation between whether a law school's academic reputation score went up or down and whether the school had been under- or over-ranked in the prior year. There was a negative correlation in only five of the thirty measures (17%). In one of the measures, there was no statistical correlation to three decimal points. (When that coefficient was calculated to four decimal points, there was a slight positive correlation.[105]) The correlations were particularly evident in the context of the non-tiered schools, where there was only a single negative correlation out of the fifteen measures. The average correlation coefficient for the entire period for the two categories of schools is calculated below in Table 6.

	Table 6	
	1998 – 2013	
Pearson's *r*	**.177**	**.159**
Category of Schools	Non-tiered	Tiered

In summary, the data reveals that an over-ranked law school was statistically more likely to see its academic reputation score go up the following year than go down and an under-ranked law school was statistically more likely to see its academic reputation score go down the following year than up. This finding is consistent with the propo-

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104. It was necessary to calculate the coefficients separately for these two categories of schools because, as described above, the measures used to compare the schools' *U.S. News* ranks and reputation scores were different.

105. The figure was .0004.

sition that there is at least a slight echo effect between a law school's academic reputation score and its overall *U.S. News* rank.

The fact that the Pearson correlation coefficients are relatively small is not surprising in the context of the academic reputation scores. One would not expect a high correlation coefficient in light of the low volatility in academic reputation scores generally (that is, in any given year the vast majority of schools do not see any change to their academic reputation score) and in light of the large number of variables that can affect academic reputation scores over time.[106] What seems significant is the fact that the correlations were overwhelmingly positive. That fact suggests that *U.S. News* ranks exert at least a slight influence on academic reputation scores. It should also be noted that the Pearson correlation coefficients from the 2013 data were relatively high. Seven of the ten schools that were able to improve their academic reputation scores in 2013, for example, were over-ranked in 2012.[107]

In order to test for the echo effect still further, the author decided to isolate those instances where the phenomenon could be expected to operate with greatest force. To do this, the author identified those law schools that had exhibited the largest disparities between their *U.S. News* ranks and their academic reputation scores. In addition, the author posited that those disparities were most likely to affect the voting patterns of academics when the disparities were of a durable nature. If a voting academic were to repeatedly see a law school under- or over-ranked for a period of several years, this author posited that the disparity was more likely to influence the way the academic perceived the law school than if the disparity were more fleeting.

As a result, the author isolated a sub-set of law schools that were *significantly* under- or over-ranked for periods of at least four consecutive years. For purposes of the study, a significant disparity between the *U.S. News* rank and the academic reputation score was defined as one in which a non-tiered law school had an academic reputation score that was either ten places higher or ten places lower than its *U.S. News* rank.[108] For tiered schools, a significant disparity was defined as one in which the law school's academic reputation

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106.   The average number of schools each year that retained their same academic reputation score from the prior year was 97.40. *See supra* note 46.

107.   Those seven schools were: CUNY, Brigham Young University, University of Buffalo – SUNY, University of New Mexico, University of Notre Dame, University of Utah, and Villanova University. *See* Appendix D, *supra* note 98. The three under-ranked schools that managed to improve their academic reputation scores in 2013 were: the University of Denver, Santa Clara University, and the University of Hawaii – Manoa. *See id.*

108.   The figures were rounded so a disparity of 9.5 was characterized as "significant." All of the results can be viewed in Appendix D, *supra* note 98.

score was at least .3 greater or lower than the academic reputation score average for all schools in its tier.[109]

Table 7 below lists all those law schools in the data set that were significantly under-ranked for at least four consecutive years during the period. The table reveals there were twenty-one such law schools that experienced periods of four or more years where their academic reputation scores were significantly lower than their *U.S. News* rankings. For every year during these periods, the author examined what occurred to these schools' academic reputation scores in the subsequent year.[110] Two of the schools (University of Pittsburgh and University of Wisconsin – Madison) are listed twice in the table because they each had two non-consecutive four-year periods where their academic reputation scores were significantly lower than their *U.S. News* rankings.

All of the under-ranked schools listed in Table 7 below, according to the echo effect theory, would have faced the prospect of having their academic reputation scores "dragged" down by their relatively low *U.S. News* ranks. Academics looking at these schools in the *U.S. News* would have consistently seen these schools with relatively low *U.S. News* rankings (relative to their academic reputation scores) and therefore would have been (according to the echo effect theory) slightly more likely to give these law schools a lower academic reputation score that more closely matched their *U.S. News* rank.

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109. These figures were also rounded. *Id.*
110. Note that whether a law school was under-ranked in 2013 was irrelevant to the analysis because in those cases there was no subsequent year to consult for the correlation.

Table 7			
Law Schools that Were Under-Ranked for Four or More Consecutive Years Between 1998 – 2012			
School	Period of Consecu-tive Years Being Under-Ranked	Number of Years in Period	Change Related to Under-Ranked Period
Case Western Reserve University	1998 – 2002	5	-0.3
Catholic Univ. of America (Columbus)	2002 – 2010	9	-0.2
CUNY	2007 – 2010	4	0.1
Hamline University	2009 – 2012	4	-0.1
Hofstra University (Deane)	2005 – 2009	5	0.0
Indiana University – Indianapolis	2009 – 2012	4	0.0
Rutgers, State U. of New Jersey – Newark	2009 – 2012	4	-0.1
Santa Clara University	2003 – 2007	5	0.2
Southern Illinois University – Carbondale	2008 – 2011	4	-0.3
Syracuse University	2002 – 2009	8	0.0
University of California – Hastings	2001 – 2006	6	-0.3
University of Dayton	2007 – 2012	6	-0.1
University of Florida (Levin)	2007 – 2010	4	0.0
University of Miami	2002 – 2012	11	-0.1
University of North Carolina – Chapel Hill	2006 – 2012	7	-0.1
University of Oregon	1998 – 2012	15	-0.1
University of Pittsburgh	2008 – 2012	5	-0.1
University of Pittsburgh	1998 – 2001	4	-0.2
University of Tulsa	2002 – 2009	8	0.0
University of Wisconsin – Madison	2003 – 2007	5	-0.3
University of Wisconsin – Madison	1998 – 2001	4	-0.1
Valparaiso University	2007 – 2012	6	-0.1
Wayne State University	2002 – 2005	4	-0.1
Total		137	-2.3
Prorated Average			-0.230

The results of Table 7 are consistent with the existence of an echo effect. As Table 7 reveals, the twenty-one law schools that experienced extended periods of being significantly under-ranked did in fact suffer declines to their academic reputation scores that were considerably worse than the average declines experienced by law schools generally between 1998 and 2013. Table 7 reveals that the total aggregate loss by these schools during these periods was 2.3 points.[111] When one prorates that rate of decline for the entire sixteen-year period, the average decline would have been .230 per school.[112] That decline is almost three times greater than the .088 decline suffered by law schools generally during the period.

Table 8 below represents the same data for all those law schools that were significantly over-ranked for at least four consecutive years between 1998 and 2012.

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111.   Only two of these twenty-one under-ranked law schools (CUNY and Santa Clara) were able to raise their academic reputation scores during their periods of being under-ranked. *See supra* Table 7.

112.   With respect to prorating the results, one year was added to every period at issue because the under-ranked status was always correlated to the movement in the academic reputation score that occurred in the subsequent year. As a result, the number of years encompassed by the chart was calculated as 160. That figure was then divided by sixteen (the total number of years in the period) and the result (ten) was used as a divisor for the 2.3 aggregate decline.

		Table 8

Law Schools that Were Over-Ranked for Four or More Consecutive Years Between 1998 – 2012				
School	Period of Consecutive Years Being Over-Ranked	Number of Years in Period	Change Related to Over-Ranked Period	Change for **Other** Years
Baylor University	2003 – 2012	10	-0.1	-0.2
Brigham Young University (Clark)	1998 – 2006	9	-0.1	0.1
Campbell University	2000 – 2003	4	0.1	-0.2
George Mason University	2001 – 2012	12	0.1	0.0
Georgia State University	2007 – 2012	6	0.2	0.1
Lewis & Clark College (Northwestern)	2008 – 2012	5	0.1	0.0
Louisiana State University – Baton Rouge	2008 – 2012	5	0.0	0.0
Loyola University Chicago	2003 – 2006	4	0.0	0.0
Mercer University (George)	2003 – 2007	5	0.1	-0.1
Northern Illinois University	1998 – 2002	5	-0.1	0.0
Ohio Northern University (Pettit)	2008 – 2011	4	-0.1	0.1
Pennsylvania State University	2005 – 2009	5	0.3	-0.2
Pepperdine University	2005 – 2012	8	0.4	0.0
Southern Methodist University	2004 – 2012	9	-0.2	-0.2
St. John's University	2001 – 2005	5	0.0	-0.1
University of Alabama	2006 – 2009	4	0.3	0.0
University of Alabama	1999 – 2004	6	0.2	
University of Cincinnati	2005 – 2011	7	0.0	-0.2
University of Kentucky	2008 – 2012	5	0.0	0.0
University of Kentucky	2001 – 2005	5	-0.1	
University of Louisville (Brandeis)	1999 – 2005	7	0.2	0.0
University of Memphis (Humphreys)	1999 – 2002	4	0.0	0.0
University of Richmond (Williams)	2001 – 2009	9	0.2	-0.4
University of the Pacific (McGeorge)	2005 – 2008	4	0.1	-0.4
Washington and Lee University	1998 – 2003	6	-0.1	0.0
Total		153	1.5	-1.7
Prorated Average			.135	-.153

The results of Table 8 provide additional support for the existence of the echo effect. As demonstrated in Table 8, there were twenty-three law schools that were significantly over-ranked for at least four consecutive years between 1998 and 2012.[113] According to the underlying premise of the echo effect theory, one would expect that these relatively high *U.S. News* rankings would exert a lifting influence on the schools' academic reputation scores during these periods in which they enjoyed relatively high *U.S. News* rankings.

The results of Table 8 show that the academic reputation scores of these twenty-three schools did in fact tend to go up while the schools were enjoying their periods of relatively high *U.S. News* rankings. In stark contrast to the schools in Table 7, and in contrast to the general trend downward in academic reputation scores during the period, these twenty-three schools as a group managed to improve their academic reputation scores with relative success. Of the twenty-three law schools in Table 8, eleven were able to raise their academic reputation scores during their periods of relatively high *U.S. News* rankings while only seven of the law schools suffered declines during those periods. As a group, the twenty-three law schools listed in Table 8 managed to raise their academic reputation scores by an aggregate of 1.5 points during their periods of being over-ranked. When one prorates that rate of improvement for the entire sixteen-year period, the average improvement would have been .135 per school, a substantial difference from the .088 decline that prevailed among all law schools generally.[114]

Perhaps the most persuasive evidence of an echo effect can be found in what occurred to the twenty-three law schools listed in Table 8 during those years when they were not consistently over-ranked. The collective academic reputation scores of the twenty-three law schools in Table 8 actually went *down* in those years when they were not enjoying at least four consecutive years of relatively high *U.S. News* rankings. In fact, the prorated decline of these schools for the periods when they were not consistently over-ranked was -.153, a decline nearly twice the -.088 average that prevailed among law schools generally during the period.[115] This fact suggests that the academic reputation score movements for these schools were significantly related to whether the schools were enjoying periods of

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113. Again, whether a law school was over-ranked in 2013 was irrelevant to the analysis because in that case there was no subsequent year to consult for the correlation.

114. As with the under-ranked schools, one year was added to all of the relevant periods in order to prorate. The result was a total of 178 years. That figure was then divided by the sixteen years to arrive at 11.125. That figure was then used as a divisor for the 1.5 aggregate increase.

115. The same method of proration was utilized to calculate the decrease. *See supra* note 114.

consistently high *U.S. News* ranks relative to their academic reputation scores.

As a final inquiry, the author calculated the Pearson correlation coefficients for these significantly under- and over-ranked law schools listed in Tables 7 and 8. The coefficients were calculated only for those years when the schools experienced periods of relatively high or low *U.S. News* rankings. The results are listed below in Table 9.

	Table 9	
	Under- and Over-Ranked Schools During their Periods of Relatively High/Low *U.S. News* Rankings	
Pearson's *r*	**.194**	**.289**
Category of Schools	Non-tiered	Tiered

Note that these Pearson correlation coefficients are significantly higher than the coefficients that were calculated for all schools and all years.[116] In context, these coefficient figures seem large enough to substantiate a discernible echo effect whereby the *U.S. News* rankings exert an influence on the movement of law school academic reputation scores. This influence of the *U.S. News* rankings may be relatively slight when compared to the myriad other factors influencing academic reputation scores and the overarching tendency of academic reputation scores to remain stable. At least in cases where law schools experience durable periods of relatively high or low *U.S. News* rankings, however, the data suggests that those *U.S. News* rankings do tend to drag or lift the schools' academic reputation scores in ways that they might not otherwise move in the absence of the echo effect.

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116. *See supra* Table 6.

IV. LAW SCHOOLS THAT EXPERIENCED THE MOST SIGNIFICANT
CHANGES TO THEIR ACADEMIC REPUTATION SCORES DURING THE
STUDIED PERIOD

The last Part of the Article will be devoted to identifying those law schools whose academic reputation scores have improved or declined by the greatest margins during the studied period, along with a brief discussion regarding some of the factors that may have contributed to these changes.

A. *Law Schools that Experienced Most Significant Declines*

Table 10 below lists all those law schools whose academic reputation scores declined by .3 or more between 1998 and 2013.

Table 10

Laws Schools that Declined by .3 or More Between 1998 and 2013			
School	2013 Peer Assessment Score	1998 Peer Assessment Score	Change Between 1998 and 2013
University of Illinois – Urbana-Champaign	3.1	3.6	-0.5
Wayne State University	2.1	2.6	-0.5
Case Western Reserve University	2.7	3.1	-0.4
Illinois Institute of Technology (Chicago-Kent)	2.5	2.9	-0.4
New York Law School	1.9	2.3	-0.4
St. Louis University	2.0	2.4	-0.4
St. Mary's University	1.6	2.0	-0.4
Southern Methodist University (Dedman)	2.5	2.9	-0.4
University of Wisconsin – Madison	3.4	3.8	-0.4
Villanova University	2.3	2.7	-0.4
Baylor University	2.3	2.6	-0.3
Duquesne University	1.8	2.1	-0.3
New England School of Law	1.6	1.9	-0.3
Rutgers, State U. of New Jersey – Camden	2.4	2.7	-0.3
Rutgers, State U. of New Jersey – Newark	2.5	2.8	-0.3
Tulane University	3.0	3.3	-0.3
University of California (Hastings)	3.2	3.5	-0.3
University of Iowa	3.3	3.6	-0.3
University of Kansas	2.6	2.9	-0.3
University of Michigan – Ann Arbor	4.4	4.7	-0.3
University of Minnesota – Twin Cities	3.5	3.8	-0.3
University of Nebraska – Lincoln	2.4	2.7	-0.3
University of Pittsburgh	2.7	3.0	-0.3
University of the Pacific (McGeorge)	2.0	2.3	-0.3
University of South Dakota	1.8	2.1	-0.3
University of Washington	3.1	3.4	-0.3
Whittier College	1.3	1.6	-0.3

There is little mystery regarding the decline of two of the law schools listed in Table 10. In 2012, the University of Illinois and Villanova University each dropped .4 points in their academic reputation scores. Undoubtedly these precipitous drops were related largely, if not entirely, to the schools' recent misconduct in reporting their student admission numbers.[117] In the absence of those scandals, it is extremely unlikely that either of the schools would have been in Table 11. As of 2011, the academic reputation scores for both schools were just .1 below their 1998 figures. Similarly, St. Louis University's presence on the list is attributable entirely to the .4 plunge it endured to its academic reputation score in 2013. In the case of St. Louis University, the sudden drop was almost certainly related to the discord experienced in 2012 between the institution's law school and university administrations.[118]

It should be noted that the sudden declines for these three institutions were unprecedented for the period. Prior to 2012, no other law school had dropped by such a large margin in a single year. The only other instance between 1998 and 2013 where a law school's academic reputation score fell by more than .2 in a single year occurred in 2009, when Loyola Marymount's name was reported differently on the *U.S. News* survey and the school's score dropped .3 points.[119] Loyola regained that entire loss to its academic reputation score in the very next year, however, when the nomenclature was clarified.[120]

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117.   Officials from Villanova Law School admitted in early 2011 that the school had submitted false admissions numbers to the ABA and *U.S. News* for several prior years. *See* Letter from John Y. Gotanda, Dean, Villanova Law School, to Villanova Law School Alumni, *reprinted in* Elie Mystal, *Villanova Law 'Knowingly Reported' Inaccurate Information to the ABA*, ABOVE THE LAW (Feb. 4, 2011, 3:34 PM), http://abovethelaw.com/2011/02/ villanova-law-school-knowingly-reported-inaccurate-information-to-the-aba/   [hereinafter Gotanda Letter]. An internal study at the University of Illinois revealed that the school had reported false admissions numbers in six of the seven class years between 2008 and 2014. *See* Jodi S. Cohen, *A University of Illinois Law Dean Resigns after Report Details Manipulations of Admissions Data*, CHI. TRIB. (Nov. 8, 2011), http://articles.chicagotribune.com/2011-11-08/news/ct-met-u-of-i-law-school-1108-20111108 _1_lsat-score-test-scores-data-analysis. For a discussion of both transgressions, see Karen Sloan, *Law Schools' Credibility at Issue*, NAT'L L.J. (Sept. 19, 2011), *available at* http://www.law.com/   jsp/nlj/PubArticleNLJ.jsp?id=1202514708103&slreturn=1   (LexisNexis subscription required to access the full article).

118.   *See* Resignation Letter from Annette E. Clark, Dean, St. Louis Univ. Sch. of Law, to Lawrence Biondi, President, St. Louis Univ. (Aug. 8, 2012), *available at* http://taxprof.typepad.com/taxprof_blog/2012/08/st-louis.html.

119.   *See* Appendix A, *supra* note 11. With respect to the impact of Loyola's name change in the *U.S. News* survey, see, for example, BRIAN LEITER'S LAW SCHOOL REPORTS (July 17, 2009), http://leiterlawschool.typepad.com/leiter/2009/07/why-did-loyola-law-school-falls-in-us-news-because-the-magazine-changed-the-schools-name-and-it-repu.html (summarizing effect of the name change and quoting statement from Dean of Loyola Law School).

120.   *See* Appendix A, *supra* note 11.

To put these sudden declines in perspective, consider the number of academics that would have been required to change their scores in order to drive the overall academic reputation scores down by the .4 margin. There were approximately 500 academics who returned surveys to *U.S. News* in 2012.[121] Utilizing the University of Illinois as our example, let us assume that 80% of the surveys returned in 2012 included a score for that institution.[122] Let us also assume, to simplify the illustration, that the University of Illinois had received 200 votes of "3" and 200 votes of "4" in 2011 (in order to receive its score of 3.5 for that year) and that the 200 academics who had given a score of "3" in 2011 decided to give the school that same score in 2012.[123] If all those assumptions were true, then 141 of the 200 academics (71%) who had previously given Illinois a score of "4" in 2011 would have had to lower their score to "3" in order to drive the school's average down to the reported 3.1.[124]

It is interesting to consider why so many academics voted differently for these three institutions in 2012 and 2013. With respect to the University of Illinois and Villanova University, it is possible that the voting academics interpreted the transgressions as institutional failings to some extent.[125] Another potential explanation for those two

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121. *U.S. News* generally sends surveys to law schools after they have been provisionally accredited. There were approximately 200 such schools in the summer/fall of 2011, when the surveys were distributed for the 2012 rankings. The response rate for the surveys in 2012 was 63%. *See* Robert Morse & Sam Flanigan, *Methodology: Law School Rankings*, U.S. NEWS & WORLD REPORT (Mar. 12, 2012), http://web.archive.org/web/20120414094419/http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2012/03/12/methodology-law-school-rankings. The total number of surveys used to calculate the 2012 reputation scores, therefore, was between 500 and 507.

122. This figure is complete speculation in light of the fact that *U.S. News* only reveals the total response rate for the surveys rather than the individual response rates for each law school. The fact that some law schools might be scored in only a small fraction of the total surveys returned is a potentially problematic aspect of the scores. I owe this observation to Brian Tamanaha.

123. This is not to suggest that this was the most likely voting scenario to cause the decline. One would think that the most likely scenario was that at least a few academics lowered Illinois' score all the way to 2. The particular scenario above was utilized because it illustrated most simply the type of voting alterations required to create changes of this magnitude.

124. Those figures would drive the score down to 3.148, which would be rounded to 3.1 by *U.S. News*.

125. One could argue that the scandals were reflections, at least to some extent, of their institutional contexts. *See* TAMANAHA, *supra* note 3, at 76-83 (discussing institutional setting that contributed to misreporting at University of Illinois); Sloan, *supra* note 117 (observing that "law school administrators feel extreme pressure to keep their ranking up"). It is important to note, however, that there is no evidence that law faculty participated in the misreporting at either institution. *See* TAMANAHA, *supra* note 3, at 83 (noting that internal investigation at Illinois placed "entire blame" for false reporting on admissions dean but concluding nonetheless that "institutional obsession with achieving ranking benchmarks had warped internal policies"); Gotanda Letter, *supra* note 117 (reporting that law faculty were responsible for uncovering and reporting transgression at Villanova).

institutions derives from the fact that the previous misreporting had misled academics about the qualifications of the student bodies at the two schools. Insofar as academic reputation scores reflect the academic qualifications of student bodies, the numerical corrections in this regard would be expected to drive the academic reputation scores downward to some extent. The controversies at the three institutions, however, would not appear to have had much effect on the other factors normally thought to influence academic reputation scores. Little turnover has occurred, for example, in the compositions of the faculties of the three institutions. The very same year that the University of Illinois and Villanova University suffered their precipitous drops in academic reputation scores, for example, Villanova maintained its reputation score among lawyers and judges and the University of Illinois actually gained .1 to its lawyer/judge reputation score.[126] Similarly, the lawyer/judge reputation score for St. Louis University did not decline in 2013.[127]

It is interesting to speculate, therefore, whether the sudden drops for the University of Illinois and Villanova University reflected to some extent an effort by the voting academics to deter similar misconduct in the zero-sum game of the *U.S. News* rankings.[128] Similarly, the drop in the score for the law school at St. Louis University might constitute, at least to some extent, an effort to deter universities from encroaching upon the autonomy of their law schools, as St. Louis University allegedly did to its law school in 2012. Perhaps the future will reveal more about the logic behind these three declines

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126. *See Best Law Schools*, U.S. NEWS & WORLD REPORT (2012), http://web.archive.org /web/20120430204533/http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools. The lawyer/judge reputation scores for both law schools remained at their same levels in the 2013 rankings. *See Best Law School Rankings*, U.S. NEWS & WORLD REPORT (2013), http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings (last visited June 29, 2013).

127. *See Best Law School Rankings*, U.S. NEWS & WORLD REPORT (2013), http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings (last visited June 29, 2013).

128. In fact, one could even maintain that the echo effect makes this type of punishment necessary. In light of the fact that the *U.S. News* rankings have the potential to lift academic reputation scores, a law school that improves its independent *U.S. News* variables through misrepresentation might not only secure an immediate improvement in its *U.S. News* rank but also might secure an additional gain down the road if that higher *U.S. News* rank lifts its academic reputation score through the echo effect. If so, merely returning the independent numbers to their correct levels would not adequately punish the transgressions because the school would still be left with the residual gain to its academic reputation score. According to the echo effect, the lowering of the independent variables would result in a drop in the school's *U.S. News* rank, which would then be expected to drag down the school's academic reputation score. Theoretically, however, the school would not be expected to return completely to its pre-transgression level solely by virtue of the corrections because of the inertial impact of the higher reputation score when it was rising (i.e., the "echoed" higher reputation score in itself lifted the *U.S. News* rank higher).

when subsequent surveys reveal the extent to which they are dura-
ble. In 2013, the University of Illinois failed to gain back any of its
2012 decline but Villanova University has already succeeded in re-
couping one-fourth of its decline.[129]

In terms of the other schools in Table 9, a wide variety of factors
may have contributed to the declines in academic reputation scores.
It seems quite possible, for example, that the echo effect contributed
to the losses suffered by some of these schools. Six of the law schools
in Table 9 were among the schools listed in Table 7 as being consist-
ently and significantly under-ranked in the *U.S. News* rankings
(Case Western Reserve University, Rutgers – Newark, University of
California (Hastings), University of Pittsburgh, University of Wis-
consin – Madison, and Wayne State University).[130] The academic
reputation scores for all of those schools, therefore, quite likely suf-
fered from their consistent status as under-ranked schools.

It should be noted that three of the law schools appearing in Table
10 were among those listed in Table 8 as consistently over-ranked
schools (Baylor University, Southern Methodist University, and the
University of the Pacific (McGeorge)).[131] That may appear to be an
anomaly according to the echo effect but note that a disproportionate
share of those three schools' declines occurred outside the periods
when they enjoyed their relatively high *U.S. News* rankings. In the
case of the University of the Pacific (McGeorge), for example, the law
school actually improved its academic reputation score by .1 during
the period when it was consistently over-ranked but appears in Table
10 by virtue of its .4 decline during those periods when it was not
consistently over-ranked.

B. Law Schools that Experienced Most Significant Gains

Table 11 reveals the eight law schools in the data set that man-
aged to improve their academic reputation scores by .3 or more dur-
ing the studied period.

Once again, the echo effect may be responsible for some of these
changes. Of the eight schools in Table 11, three were among the over-
ranked schools in Table 8 whose consistently high *U.S. News* rank-
ings (relative to their academic reputation scores) could be expected
to help lift their academic reputation scores. Those three law schools
were Georgia State University, Pepperdine University, and Universi-
ty of Alabama. Only one of the law schools in Table 11 was among
the consistently under-ranked schools found in Table 7 (CUNY).

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    129. *See* Appendix A, *supra* note 11.
    130. *See supra* Table 7.
    131. *See supra* Table 8.

Table 11

Laws Schools that Improved by .3 or More Between 1998 and 2013			
	2013 Peer Assessment Score	1998 Peer Assessment Score	Change Between 1998 and 2013
Michigan State University	2.3	1.8	0.5
University of Alabama	3.0	2.5	0.5
Pepperdine University	2.6	2.2	0.4
Seattle University	2.4	2.0	0.4
CUNY	2.1	1.8	0.3
Florida State University	2.9	2.6	0.3
Georgia State University	2.5	2.2	0.3
Gonzaga University	2.2	1.9	0.3

With respect to at least one of the schools in Table 11, furthermore, a name change may have contributed to the rise in the school's academic reputation score.[132] In April of 2004, the law school that had once been known as The Detroit College of Law officially changed its name to the Michigan State University College of Law.[133] Prior to 2005, the surveys sent to academics by *U.S. News* listed the school as Michigan State – Detroit College of Law.[134] Starting with the fall 2004 survey (incorporated into the 2005 rankings), the school's name on the surveys was listed simply as Michigan State University.[135] Chart P illustrates the apparent correlation.

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132. For a discussion of the relationship between state-named schools and *U.S. News* reputation scores, see Seto, *supra* note 1, at 518 ("The possibility that name recognition is a factor in the reputational surveys is bolstered by yet another finding: schools named after the state within which they are located, regardless of whether public or private, appear to be overranked nationwide, picking up an average of 1.26 overall score points as a result.").

133. Michigan State University, *MSU Law School Name Change Reflects Integration and Collaboration,* MSU TODAY (Apr. 16, 2004), http://msutoday.msu.edu/news/2004/msu-law-school-name-change-reflects-integration-and-collaboration/.

134. Author's Telephone Interview with Samuel Flanigan, *supra* note 6.

135. *Id.*

Chart P

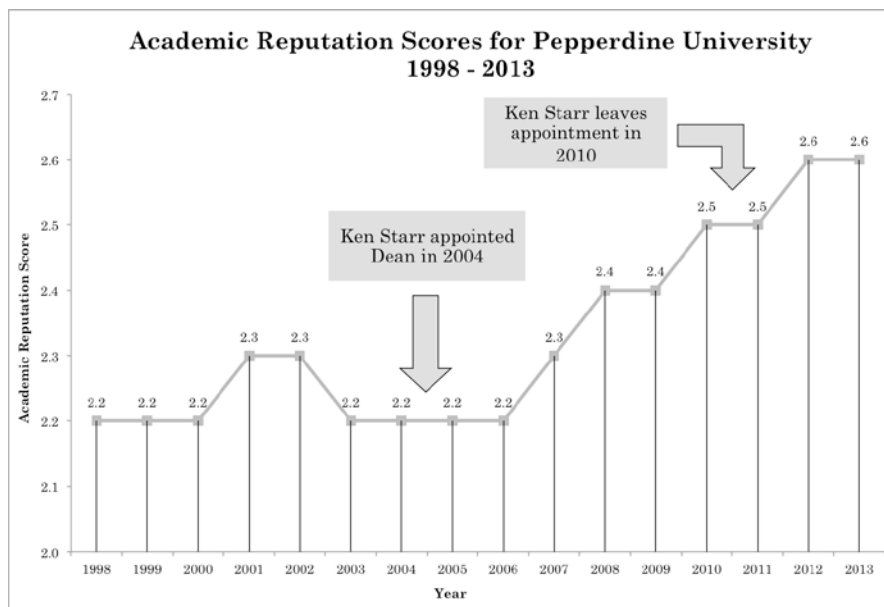Academic Reputation Scores for Michigan State University College of Law, 1998 - 2013
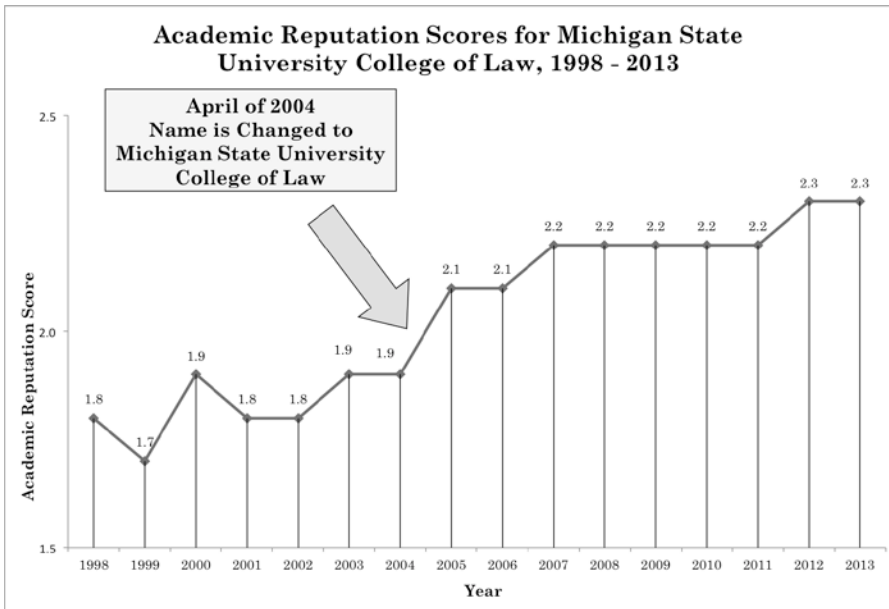
That is not to say that other factors did not contribute to Michigan State's improvement during the period. The timing reflected in Chart P suggests, however, that the decision by the school's leadership to officially partner with a major research institution, and to change the school's name to reflect that partnership, contributed to the rapid rise in the school's academic reputation score.

Undoubtedly there are a number of other ways in which a law school's administration can, at least under certain circumstances, significantly influence its school's academic reputation score. It is quite possible, for example, that Pepperdine University's substantial gains over the period (a rise of .4) could in some ways be related to the notoriety of that law school's dean (Kenneth Starr). Chart Q plots Pepperdine's academic reputation scores with the timing of Starr's arrival and departure at the school.[136]

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136. Kenneth Starr was announced as the new President of Baylor University in February of 2010, after having served as Dean of Pepperdine University School of Law since 2004. *See* Carol J. Williams, *Kenneth Starr to Leave Pepperdine to Become President of Baylor University*, L.A. TIMES (Feb. 16, 2010), *available at* http://articles.latimes.com/2010/feb/16/local/la-me-ken-starr16-2010feb16.

Chart Q

**Academic Reputation Scores for Pepperdine University
1998 - 2013**

Another potentially positive influence on the schools' academic reputation scores is the set of specialty rankings published by *U.S. News* in conjunction with the overall rankings. It is possible, for example, that Pepperdine University's and Seattle University's regular appearances at the top spot of the *U.S. News* rankings for dispute resolution and legal writing, respectively, could have contributed to their success in raising their academic reputation scores.[137] In fact, a number of other law schools that dominated the top positions of the specialty rankings succeeded in improving (or at least maintaining) their academic reputation scores. Stetson University, which finished in the top position (including ties) of the trial advocacy specialty on thirteen occasions during the studied period, finished the period

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137. Pepperdine University finished in the top position (including ties) for the dispute resolution specialty on twelve occasions during the sixteen-year period, including every year since 2005. The top position for every specialty ranking since 1998 has been compiled in Appendix E, *available at* http://www.law.fsu.edu/journals/lawreview/ (select Issues, Past Issues, Vol. 40, Summer 2013). *U.S. News* began compiling the specialty ranking for Legal Writing in 2005. In the nine years for which that specialty ranking has been in existence, Seattle University has finished in the top position (including ties) on six occasions. *See* Appendix E, *supra.* The other school which has most often garnered the top position in the dispute resolution specialty is the University of Missouri, which finished in the top position (including ties) on five occasions between 1998 and 2004. *Id.* The University of Missouri finished the studied period with an academic reputation score that was .2 lower than the score with which it began, although it should be noted that the school did not first fall below its 1998 baseline until three years after it occupied the top position in the specialty ranking. *See* Appendix A, *supra* note 11.

up .1.[138] Lewis & Clark College and Vermont Law School, the two schools appearing most often at the top of the environmental law ranking, finished the period with academic reputation scores that were up .1 and level, respectively.[139] Mercer University, often at or near the top of the legal writing specialty along with Seattle University, finished the period level.[140] A number of law schools at the top of the specialty rankings, therefore, managed to improve their academic reputation scores during the course of the period or at least to evade the .088 decline that prevailed among law schools generally.

It should be noted, however, that some of the law schools atop the specialty rankings did not fare as well. St. Louis University, often ranked number one in the health law specialty, fell precipitously in 2013 and is discussed in the prior subsection.[141] The three elite schools that consistently took top spots in the specialty rankings also fell during the course of the studied period. New York University (both international law and tax law) and the University of California at Berkeley (intellectual property law) both declined by .2 during the studied period.[142] Georgetown (clinical training) finished the period down by .1.[143]

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138. *See* Appendix A, *supra* note 11 (regarding the change in academic reputation); Appendix E, *supra* note 137 (regarding the specialty rankings). Temple University has also fared well in the trial advocacy ranking, finishing in the top position (including ties) on six occasions between 1998 and 2004. *See* Appendix E, *supra* note 137. Temple University finished the studied period with the same academic reputation score with which it began. *See* Appendix A, *supra* note 11.

139. Vermont Law School has finished in the top position of the environmental law specialty on eleven occasions during the studied period. *See* Appendix E, *supra* note 137. Lewis & Clark College finished in the top position of the specialty on five occasions between 1998 and 2008. *Id.* With respect to the academic reputation scores of the two schools, see Appendix A, *supra* note 11.
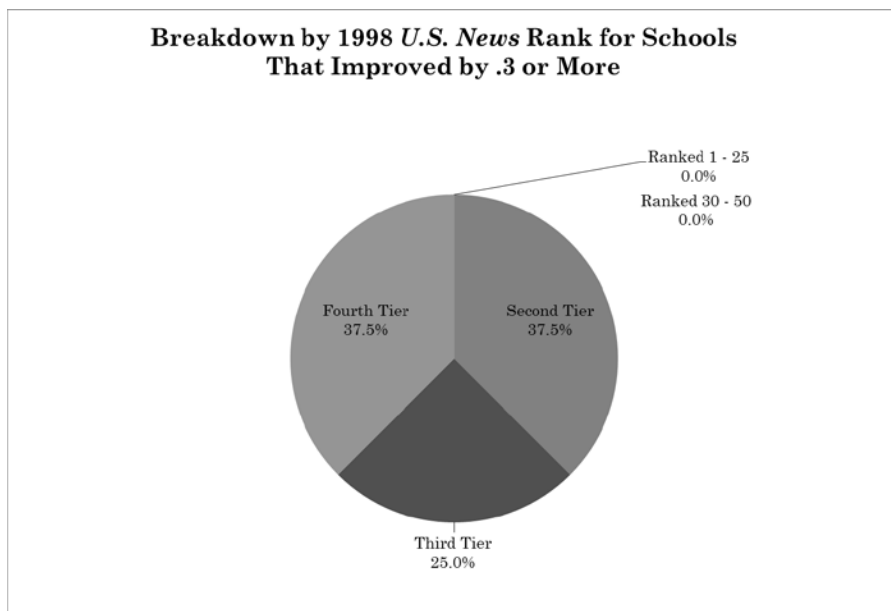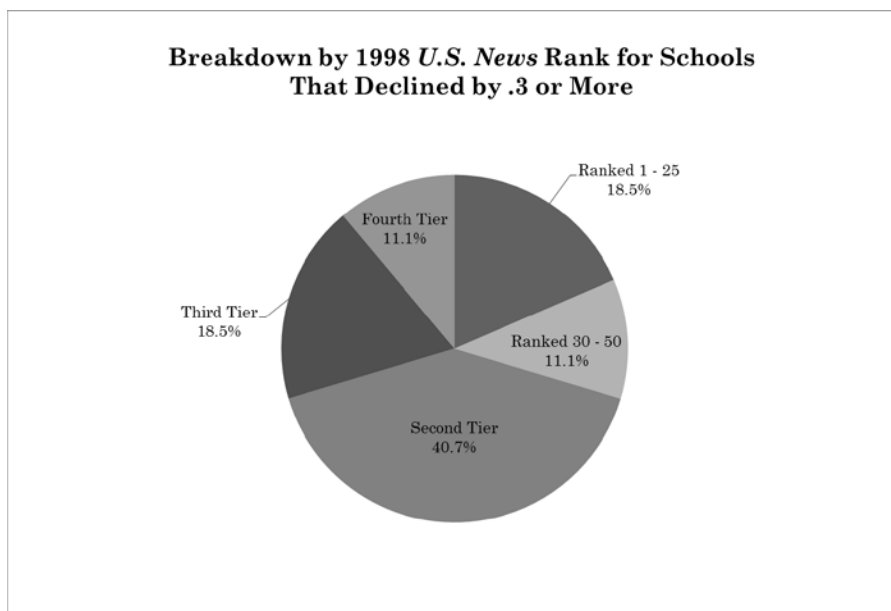
140. Mercer University has finished in the top position (including ties) of the legal writing specialty on five occasions since 2005. *See* Appendix E, *supra* note 137. With respect to the school's academic reputation score, see Appendix A, *supra* note 11.

141. St. Louis University finished in the top position of the health law ranking on eleven occasions during the studied period, including every year since 2004. *See* Appendix E, *supra* note 137. As discussed previously, the school's academic reputation score was level until its precipitous drop in 2013. *See supra* note 118 and accompanying text. The University of Houston finished in the top position of the health law ranking on five occasions between 1998 and 2003. The school finished the studied period with an academic reputation score that was .2 lower than the score with which it began. *See* Appendix A, *supra* note 11.

142. New York University finished in the top position of the tax law specialty every year during the studied period. *See* Appendix E, *supra* note 137. The school finished in the top position (including ties) of the international law specialty on fifteen occasions during the studied period. *Id.* The University of California – Berkeley finished in the top position (including ties) of the intellectual property law specialty on fourteen occasions during the studied period. *Id.* With respect to the schools' changes in academic reputation scores, see Appendix A, *supra* note 11.

143. Georgetown University finished atop the clinical training specialty on fifteen occasions during the sixteen year period. *See* Appendix E, *supra* note 137. With respect to the school's change in academic reputation score, see Appendix A, *supra* note 11.

In terms of the 1998 *U.S. News* ranks of the schools that improved and declined the most during the period, Charts R and S illustrate how the two groups of law schools compare.

Chart R

**Breakdown by 1998 *U.S. News* Rank for Schools
That Improved by .3 or More**

Ranked 1 - 25
0.0%

Ranked 30 - 50
0.0%

Fourth Tier
37.5%

Second Tier
37.5%

Third Tier
25.0%

Chart S

**Breakdown by 1998 *U.S. News* Rank for Schools
That Declined by .3 or More**

Ranked 1 - 25
18.5%

Fourth Tier
11.1%

Ranked 30 - 50
11.1%

Third Tier
18.5%

Second Tier
40.7%

As Chart S illustrates, the group of schools that declined by .3 or more was dominated by the higher-ranked schools. There were five law schools in that group that began the period with a *U.S. News* rank in the top twenty-five. Three additional law schools in the group began the period with a *U.S. News* rank in the top fifty. All told, over 70% of the law schools that lost .3 or more began the period with a *U.S. News* rank in the top ninety.

In contrast, Chart R reveals that not a single one of the law schools that improved by .3 or more was ranked at the beginning of the period in the top fifty by *U.S. News*. Over 60% of the law schools that improved by .3 or more, furthermore, began the period in the third or fourth tiers of the *U.S. News* rankings. This disparity is consistent with the generally inverse correlation between a law school's ability to improve its academic reputation score during the period and the strength of its *U.S. News* rank and academic reputation score.

In the end, there could be many factors that contributed to the changes in the academic reputation scores for the law schools listed in Tables 10 and 11. This Article has highlighted just a few of the factors that appear to have contributed to those changes (i.e., name recognition, specialty rankings, changes in administration, strength of *U.S. News* rank, and the echo effect). A litany of other factors, however, is also commonly thought to influence academic reputation scores. Among these are scholarly productivity, lateral and entry level hiring, student selectivity, and the various ways in which schools seek to promote their brands.[144] Further analysis and experimentation might tell us which of these other factors (if any) may have contributed to the successes and failures of the law schools listed in Tables 10 and 11. While that analysis is beyond the scope of this Article, the identification of the law schools that have experienced the greatest changes could help inform future efforts to develop a more comprehensive understanding of the factors that influence academic reputation scores.

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144. *See, e.g.*, Alfred L. Brophy, *The Emerging Importance of Law Review Rankings for Law School Rankings, 2003-2007*, 78 U. COLO. L. REV. 35 (2007) (analyzing potential correlation between the success of law reviews (in terms of citations) and the academic reputation scores of the institutions associated with those journals); Theodore Eisenberg, *Assessing the SSRN-Based Law School Rankings*, 81 IND. L.J. 285 (2006) (analyzing potential correlations between SSRN rankings and other rankings); *see also* Cunningham, *supra* note 8.

V. Conclusion

In light of the pivotal role the *U.S. News* rankings have come to play in American legal education today, the *U.S. News* academic reputation scores have taken on increased importance. Unfortunately for law school faculty and administrators, however, an analysis of the past sixteen years demonstrates that it is extremely difficult to improve those scores. Only eight law schools in the data set were able to improve their academic reputation scores by more than .2 points over the last sixteen years. Only eighteen law schools out of the 172 in the data set were able to improve their scores by more than .1 over the studied period. In light of how many resources were devoted during the period to the improvement of academic reputation scores, there is a cautionary quality to such statistics.

Do the findings of this study suggest that law schools should abandon their efforts to improve their academic reputation scores? The data certainly suggests that an obsession with academic reputation scores is counterproductive. The likelihood that a law school can significantly improve its academic reputation score is sufficiently low that one has to question whether all such efforts are justified from a cost-benefit standpoint.[145] On the other hand, one could argue (like the Red Queen from *Through the Looking Glass*) that large amounts of effort are required simply to stay in the same place.[146] It is difficult to test for such a hypothesis because there are so many ways in which law schools can attempt to alter their reputations among academics. It is conceivable, however, that the downward trend in academic reputation scores could have been more pronounced had the majority of schools not been expending so many resources to maintain their scores.

In all likelihood, few law schools are going to relent in their efforts to positively impact their academic reputation scores as long as the scores continue to play a central role in the *U.S. News* methodology.

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145. A similar conclusion was reached by another scholar who conducted an extensive empirical study of the scores:

> Perhaps those schools that appear to have decided that ceaseless self-promotion is the only way to maintain or improve their place in the pecking order can be reassured that the inertial forces acting on law school reputation are so powerful that they are unlikely to improve their ranks no matter how hard they try, but equally unlikely to lose ground if they simply continue (more quietly) to do what they do well.

Schmalbeck, *supra* note 1, at 587.

146. The Red Queen's full statement to Alice was, "Now, *here*, you see, it takes all the running *you* can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!" LEWIS CARROLL, THROUGH THE LOOKING GLASS AND WHAT ALICE FOUND THERE 50 (Phila., Henry Altemus Co. 1897).

The success of the handful of law schools that have significantly improved since 1998 provides a tantalizing lure. This study has therefore attempted to identify and isolate a few of the factors that are most likely to influence academic reputation scores. Among other things, the study has helped establish the likelihood that there is an echo effect between a law school's academic reputation score and its overall *U.S. News* rank, particularly in situations where a law school is significantly under- or over-ranked in *U.S. News* for several consecutive years. The implication is that law schools may be able to positively affect their academic reputation scores simply by improving (preferably for a period of several consecutive years) the other factors that contribute to their *U.S. News* rank. Schools that can improve their reputation score among lawyers and judges or the numeric indicators of their incoming classes, for example, may be able to positively impact their academic reputation scores simply by virtue of the echo effect. The study also identified name recognition, administration changes, and the *U.S. News* specialty rankings as additional factors that have the potential to improve academic reputation scores.

The important normative question raised by this study, however, is whether the academic reputation scores are even a valid basis for constructing the *U.S. News* rankings. The downward trend to the scores over the last sixteen years strongly suggests that strategic considerations are playing a significant role in the formulation of the scores. The notion that strategic considerations have skewed the results of the voting, furthermore, is supported by the fact that the studied period was characterized by an inverse correlation between academic reputation scores and *U.S. News* ranks on the one hand and the likelihood that academic reputation scores would improve on the other. It seems incongruent that we rely so heavily on a form of assessment for law schools that would be categorically dismissed as biased in any other business context. Perhaps the answer is that legal education is not simply a business. I certainly would like to think so. The very influence of the *U.S. News* rankings on the way legal education is provided today, however, suggests something to the contrary.

Perhaps the time has come for *U.S. News* to eliminate or reduce the weight assigned to the academic reputation scores in its ranking methodology. The echo effect undermines the notion that the academic reputation scores add something meaningful to the methodology. A reduction in the weight assigned to the scores might encourage law schools to expend their resources in more socially beneficial ways and might help mitigate the influence of strategic considerations in the voting.

If the academic reputation scores are to persist as a central feature of the *U.S. News* rankings, this author proposes four changes to the *U.S. News* methodology that would help improve the integrity of

the results and mitigate the influence of strategic considerations and implicit bias.[147] First, voting academics should be barred from ranking their own institutions in the survey. The fact that the surveys do not already contain this basic limitation suggests that the *U.S. News* methodology is premised on the unrealistic assumption that strategic considerations and implicit bias are not factors in the voting. Second, as has already been proposed by Theodore Seto, the very highest and lowest votes for each law school should be eliminated from the tabulations in order to control for outliers and the distorting effect they can have on the validity of the results.[148] A small number of voting academics should not be allowed to undermine the integrity of the overall results and the time has come to acknowledge that such distortions are a possibility.

My third proposal is that *U.S. News* should remove law school deans from the pool of voters. This recommendation is not intended to impugn in any way the integrity of the approximately 200 individuals who currently serve as deans at the nation's accredited law schools. Instead, the recommendation is based on the simple observation that it is unrealistic to expect law school deans to remain uninfluenced by the tremendous power the *U.S. News* rankings can exert over their own careers. The *U.S. News* rankings have come to shape and often dominate the way law school deans are evaluated by alumni, administrators, potential employers, students, and even faculty.[149] A decline in an institution's *U.S. News* ranking virtually guarantees that there will be negative repercussions of some kind for that institution's dean.[150] A rise in the *U.S. News* rankings, by contrast, is a

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147. In contrast to explicit bias, implicit bias consists of unconscious attitudes and viewpoints that nonetheless affect decisionmaking and behavior. For a convenient summary of some of the most important literature regarding implicit bias, see Jerry Kang, Mark Bennett, Devon Carbado, Pam Casey, Nilanjana Dasgupta, David Faigman, Rachel Godsil, Anthony G. Greenwald, Justin Levinson & Jennifer Mnookin, *Implicit Bias in the Courtroom,* 59 UCLA L. REV. 1124, 1126 (2012) ("Using experimental methods in laboratory and field studies, researchers have provided convincing evidence that implicit biases exist, are pervasive, are large in magnitude, and have real-world effects.").

148. *See supra* note 79 (discussing Professor Seto's recommendation that highest and lowest 10% of the votes should be excluded from tabulations).

149. *See, e.g.*, Leigh Jones, *Law School Deans Feel Heat from Rankings*, NAT'L L.J., May 3, 2006, at 6 (concluding that popularity of *U.S. News* rankings "means that deans can expect the ranking scorecard increasingly to serve as a measure of their individual job performance"); Sam Kamin, *How the Blogs Saved Law School: Why a Diversity of Voices Will Undermine the* U.S. News & World Report *Rankings*, 81 IND. L.J. 375, 377 (2006) ("[N]early all deans would prefer to live in a world in which the *U.S. News* rankings are given less importance by current and prospective law students, by alumni, faculty, and central administration. Yet no dean can afford to refuse to cooperate with a system that all of them detest.").

150. *See, e.g.*, Sauder & Espeland, *supra* note 2, at 23 (recounting dean's observations of "hysteria" that ensured at his/her institution from decline in *U.S. News* rankings); TAMANAHA, *supra* note 3, at 78 ("From 1990, when *U.S. News* began to issue a systematic

boon to a dean's position at his or her home institution and a potential source for lateral opportunities. Warranted or not, therefore, the central importance of the *U.S. News* rankings to the lives and careers of law school deans is a formidable challenge to the ability of these individuals to remain sufficiently objective about the surveys. In place of the deans, therefore, I propose that *U.S. News* broaden the pool of respondents and make an effort to include faculty who are less vested in the results of the rankings.[151] Junior faculty, for example, have been excluded altogether from the survey process.[152] While junior faculty may possess less knowledge about the range of institutions being ranked, they also might be less swayed by the types of strategic considerations that appear to be influencing senior faculty and deans. Clinical faculty and emeriti have also been largely excluded from the pool of respondents, despite the fact that they often possess an informed perspective on the academic quality of the institutions being surveyed. As a result, I would propose that *U.S. News* remove deans from the survey process and replace them with two or three additional faculty members to be chosen at random from the complete lists of faculty members at the nation's ABA accredited schools. The addition of these new respondents in the survey pool would diversify the results from year to year and likely mitigate some of the distorting influences imposed by strategic considerations.[153]

In order to improve the ability of all faculty to make meaningful assessments about the institutions being ranked, my fourth recommendation is based on a suggestion already offered by Brian Leiter. In an open letter to the director of data research at *U.S. News*, Professor Leiter recently proposed that the *U.S. News* survey process be converted to an online system in which a variety of objective criteria and information be included in the descriptions of the law schools.[154] This methodological improvement would increase the likelihood that the surveys would be based on meaningful assessments rather than emotional or intuitive factors. Among other things, voting faculty

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annual ranking, its influence over law schools has grown enormously. . . . Multiple deans have resigned after a drop in rank.").

151.   A similar query could be made as to whether the deans of academic affairs should remain permanent members of the voting population. On the one hand, these individuals are presumably knowledgeable about a significant number of institutions and less directly influenced than the deans by the results of the *U.S. News* rankings. As high ranking members of their law school's administration, however, it is likely that these individuals will be susceptible to at least some of the same pressures endured by deans.

152.   An academic is not eligible to receive a survey until they receive tenure. *See* Seto, *supra* note 1, at 497 & n.26.

153.   There are many ways in which the diversification of the survey pool could prove beneficial to the results. At the very least, the inclusion of more individuals in the survey process could help make the academic reputation scores reflective of a greater variety of potentially relevant measures and contemporary observations.

154.   *See supra* note 89.

could be provided basic information about the scholarly productivity of the faculty at each institution, the qualifications of the student bodies, and some indicia of the institution's success in teaching, such as bar passage rates and the nature and extent of clinical opportunities provided.[155] While there may be some disagreement about the precise information and criteria that should be included in the survey, the inclusion of any empirical data would seem to constitute an improvement over the current form of the surveys.

One could argue that these recommendations are unnecessary by virtue of the personal integrity of the legal academics being surveyed. To reiterate a prior point, however, these recommendations are not premised on the notion that anyone in legal academia has consciously manipulated the academic reputation scores for the purpose of institutional advancement. Such conscious manipulation has in fact occurred in other contexts related to the *U.S. News* rankings, but there is no evidence that legal academics have been directly involved in the scandals such as those at Illinois and Villanova and there is no evidence that anyone has ever consciously manipulated the academic reputation scores.[156] That being said, any survey of human beings must account for the influence of strategic considerations and the possibility of implicit or unconscious bias. The empirical data strongly suggests that strategic considerations have in fact influenced, however subtly or unconsciously, the formulation of the academic reputation scores over the past sixteen years. The irony is that the magnetic pull of the *U.S. News* rankings is itself the most likely cause for this distortion. The time has come, therefore, for the methodology of the *U.S. News* rankings to account for the current realities of the world of legal education that it helped us create.

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155. One starting place for considering the data that should be included in the surveys would be Brian Leiter's website. *See* Leiter, *supra* note 2. In his letter to *U.S. News*, for example, Leiter proposed including a list of prominent alumni for each law school. *See* Leiter, *supra* note 7, at para. 5. Note also that a voting faculty member's decision to consider bar passage rates or the numeric qualifications of the student bodies in their assessment of academic reputation would in itself constitute a form of the echo effect, since those criteria already figure significantly in the *U.S. News* ranking methodology. *See* Morse & Flanigan, *supra* note 6.

156. *See supra* note 125 and accompanying text.