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THE QUANDRY OF SERVING MULTIPLE MASTERS:  
AN INSTITUTIONAL EXPLORATORY ANALYSIS OF  
PUBLISHING IN BUSINESS LAW \*

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### **I. Introduction**

The legal environment is increasingly a significant force impacting critical decision-making processes within many business enterprises. As a consequence, business law is experiencing an increasing curricular importance in business schools relative to the other major business disciplines such as economics, finance, marketing, management, accountancy, operations management and management information systems (MIS). One of the noteworthy developments that has taken place within all of these traditional business disciplines has been an evolving self-assessment process that includes the evaluation of each discipline's substance of and outlets for research and scholarship. In order to afford business law faculty equivalent professional status in their educational institutions, it is critical to offer equivalent means of evaluation.

In the competitive and evaluation-oriented milieu of higher education, the concept of "publish or perish" is not simply a melodramatic description of professional life only found in the most highly regarded institutions. Instead, this admonition rings true for colleagues at educational

institutions of almost any type, mission, focus or professional direction. However, in most disciplines, it is often the publication *outlet* that is evaluated rather than the publication itself; “publish” tends to imply “publish in an outlet acceptable and highly regarded by your peers.” In an effort to remove the arbitrariness and uncertainty from this implication, and from the professional future that dangles in its grasp, scholars in many academic disciplines have sought to develop processes by which to assess journals or otherwise identify acceptable journals in which scholars in that discipline should publish.

Notwithstanding published articles on the nature and quality of research and scholarship in practically every other business discipline, to date there has been little systematic evaluation of relevant journals in the business law discipline. This deficiency is due, in part, to the fact that business law may still be described as a developing discipline. Thus, the focus of this article is on delineating the nature of research and scholarship within the business law discipline. Specifically, the publishing practices of business law faculty from academic institutions that were members of the Association to Advance Collegiate Schools of Business (AACSB International), the premier international accrediting body for schools of business, were examined. The comparative perspective developed in this study provides a wide-ranging view of factors related to both the qualitative and quantitative aspects of research and scholarship among business law scholars.

## **II. Background**

Multiple articles considering scholarship in various business disciplines have addressed the relative prestige and reputation of journals in those disciplines, as well as the productivity of business faculty.<sup>1</sup> Of course, the assessment of journals and other publication outlets determines the effectiveness of decisions that are made based upon these assessments; a process that has considerable variability across and within disciplines. For example, some research in this arena has focused on survey data collected from current scholars or other experts in a particular field. Barman et al. assessed the perceived relevance and quality of production and operations management (POM) journals by determining the preferences of members of a professional organization who listed POM as their primary area of interest.<sup>2</sup> In another instance, Coe and Wienstock surveyed chairs of Management Departments for similar perceptions.<sup>3</sup> These, survey-based approaches often perpetuate the subjectivity and unpredictability that is habitually found in retention, promotion and tenure evaluations since it is necessarily based on perception-based analyses. For instance, Barman et al. found an unexplained incongruity between perceptions of journal quality and perceptions of journal relevance to the field.<sup>4</sup> While the preceding line of assessment has inherent limitations, a variety of alternate techniques and focal points have emerged within the various business disciplines.

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<sup>1</sup> R. Coe & I. Wienstock, *Evaluating Journal Publications: Perception versus Reality*, 1 AACSB Bull. 23 (1969); S. Liebowitz & J. Palmer, *Assessing the Relative Impacts of Economic Journals*, 22 J. Econ. Lit. 77 (1984); W. Moore, *The Relative Quality of Economic Journals: A Suggested Rating System*, 10 Western Econ. J. 156 (1972); A. Sharplin & R. Mabry, *The Relative Importance of Journals Used in Management Research: An Alternative Ranking*, 38 Hum. Rels. 139 (1985).

<sup>2</sup> Samir Barman et al., *An Empirical Assessment of the Perceived Relevance and Quality of POM-Related Journals by Academicians*, 10 J. Ops. Mgmt. 194 (April, 1991).

<sup>3</sup> R. Coe & I. Wienstock, *Evaluating the Management Journals: A Second Look*, 27 Acad. Mgmt. J. 660 (1984).

<sup>4</sup> See Barman et al., *infra* n. 2.

Those individuals involved in the academic discipline of finance have undertaken a wide-ranging evaluation of its research and scholarship. Borokhovich et al. examined publication levels within 661 academic institutions over a 5 year period.<sup>5</sup> Zivney and Bertin tracked the publication activities of finance doctorates over a 25-year period.<sup>6</sup> A third study by Chan et al. examined levels of institutional productivity within 16 core journals.<sup>7</sup> Together these studies create a framework to systematically appraise the performance in the academic discipline of finance, albeit each study with a different focal point.

Scholars in accountancy have explored the relationship of research productivity and teaching effectiveness,<sup>8</sup> as well as the levels of productivity among promoted faculty.<sup>9</sup> In addition to a continuing stream of survey analyses,<sup>10</sup> faculty in operations management have examined the publication output of individuals and business schools,<sup>11</sup> and also ranked journals by means of citation analysis.<sup>12</sup> Grover et al. addressed similar issues in MIS by looking at institutional

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<sup>5</sup> Kenneth A. Borokhovich et al., *Finance research productivity and influence*, 50 J. Fin. 1691 (1995).

<sup>6</sup> Terry L. Zivney & William J. Bertin, *Publish or Perish: What the Competition Is Really Doing*, 47 J. Fin. 295 (1992).

<sup>7</sup> Kam C. Chan et al., *Production in the Finance Literature, Institutional Reputation, and Labor Mobility in Academia: A Global Perspective*, 31 Fin'l. Mgmt. 131 (2002).

<sup>8</sup> Timothy B. Bell et al., *The Relation between Research Productivity and Teaching Effectiveness: Empirical Evidence for Accounting Educators*, 7 Acctg. Horizons 33 (1993).

<sup>9</sup> Ted D. Englebrecht et al., *An empirical investigation of the publication productivity of promoted accounting faculty*, 8 Acctg. Horizons 45 (Mar 1994).

<sup>10</sup> A.C. Soteriou et al., *Assessing Production and Operations Management Related Journals: The European Perspective*, 17 J. Ops. Mgmt. 225 (Mar 1999); Samir Barman et al., *Perceived Relevance and Quality of POM Journals: A Decade Later*, 19 J. Ops. Mgmt. 367 (2001).

<sup>11</sup> Scott T. Young et al., *POM Research Productivity in U.S. Business Schools*, 14 J. Ops. Mgmt. 41 (Mar 1996).

<sup>12</sup> R.J. Vorkurka, *The Relative Performance of Journals used in Operations Management Research: A Citation Analysis*, 14 J. Ops. Mgmt. 345 (1996); C.H. Goh et al., *Evaluating and Classifying POM Journals* 15 J. Ops. Mgmt. 123 (1997).

productivity;<sup>13</sup> and Hu and Gill have assessed the impact of organizational factors such as teaching load and rank on publishing performance in MIS.<sup>14</sup>

Like the preceding disciplines, management has viewed research and scholarship in terms of the level of publishing in leading journals by institution<sup>15</sup> and research performance measured against the perception of MBA program performance.<sup>16</sup> Jarley et al. identified the relationships of specific top tier journals to particular sub-disciplines within management<sup>17</sup> and Long et al. have demonstrated the link between research productivity, academic origin and affiliation.<sup>18</sup> In addition to assessing basic relationships, several other studies examined publishing and organizational characteristics. Specifically, studies examined the relationship of pay<sup>19</sup> and wage dispersion<sup>20</sup> on publishing productivity as well as the influence of pay on productivity in leading journals.<sup>21</sup>

Arguably the discipline with the longest track record of self-assessment has been economics, which has been subject to systematic self-examination of their discipline for at least three

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<sup>13</sup> Varun Grover et al., *An Assessment of Institutional Research Productivity in MIS*, 23 ACM SIGMIS Database 5 (Fall 1992).

<sup>14</sup> Qing Hu & T. Grandon Gill, *IS Faculty Research Productivity: Influential Factors and Implications*, 13 Info. Resources Mgmt. J. 15 (2000).

<sup>15</sup> Michael J. Stahl et al., *Publication in Leading Management Journals as a Measure of Institutional Research Productivity*, 31 Acad. Mgmt. J. 707 (1988).

<sup>16</sup> James Trieschmann et al., *Serving Multiple Constituencies in the Business School: MBA Program vs. Research Performance*, 43 Acad. Mgmt. J. 1130 (2000).

<sup>17</sup> Paul Jarley et al., *Are We Playing The Same Game?: Publishing Task Environments and Research Productivity among Management Specialists*, 51 Hum. Rels. 799 (1998).

<sup>18</sup> Rebecca Long et al., *Research Productivity of Graduates in Management: Effects of Academic Origin and Academic Affiliation*, 41 Acad. Mgmt. J. 704 (1998).

<sup>19</sup> Alison M. Konrad & Jeffrey Pfeffer, *Do You Get What You Deserve? Factors Affecting the Relationship Between Productivity and Pay*, 36 Admin. Sci. Q. 258 (1990).

<sup>20</sup> Jeffrey Pfeffer & Nancy Langton, *The Effect of Wage Dispersion on Satisfaction, Productivity and Working Collaboratively: Evidence from College and University Faculty*, 38 Admin. Sci. Q. 382 (1993).

<sup>21</sup> Luis R. Gomez-Mejia & David B. Balkin, *Determinants of Faculty Pay: An Agency Theory Perspective*, 35 Acad. Mgmt. J. 921 (1992).

decades from varying perspectives.<sup>22</sup> Hogan evaluated research and scholarship within institutions having Ph.D. programs;<sup>23</sup> Trembley, et al., explored various economic subdisciplines by institution;<sup>24</sup> Hartley, et al. addressed research productivity in non-traditional outlets;<sup>25</sup> and Formby and Hoover investigated scholarship relative to its impact on pay.<sup>26</sup>

Similar to the business disciplines, law has also undertaken a continuing examination of its research and scholarship. Specifically, scholarship in leading law journals has been assessed on a systematic basis<sup>27</sup> and by individual and institution.<sup>28</sup> Swygert and Gozansky explored the publishing patterns of senior faculty (full professors with tenure) in all accredited United States law schools, finding that nearly 50% failed to produce any publications at all during the studied period. Gumm reported that she found a great deal of interest in quantifying the productivity of law school faculty and then proceeded to rank every student-edited general interest law journal in the country, followed by Cullen and Kalberg in 1995 conducting the same review. They each

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<sup>22</sup> R.G. Hawkins et al., *What Economists think of their Journals*, 81 J. Polit. Econ. 1017 (1973); George J. Stigler & Clair Friedland, *The Citation Practices of Doctorates in Economics*, 83 J. Polit. Econ. 477 (1975).

<sup>23</sup> Timothy D. Hogan, *The Publishing Performance Of U.S. Ph.D. Programs In Economics During The 1970s*, 21 J. Hum. Res. 216 (1986).

<sup>24</sup> Carol Horton Tremblay et al., *Field Publishing Performance of U.S. Economics Departments*, 18 Atlantic Econ. J. 37 (1990).

<sup>25</sup> James E. Hartley et al., *Economists' Publication Patterns*, 45 Amer. Econ. 80 (Spring 2001).

<sup>26</sup> John P. Formby & Gary A. Hoover, *Salary Determinants of Entry-Level Academic Economists and the Characteristics of Those Hired on the Tenure Track*, 28 Estrn. Econ. J. 509 (2002); Bernt Bratsberg et al., *Negative Returns to Seniority: New Evidence in Academic Markets*, 56 Ind. & Lab. Rel. Rev. 306 (2003).

<sup>27</sup> Trends in legal publishing have been steadily tracked during the past decade by Michael I. Swygert & Nathaniel E. Gozansky, *Senior Law Faculty Publication Study: Comparisons of Law School Productivity*, 35 J. Leg. Ed. 373 (1985); Janet M. Gumm, *Chicago-Kent Law Review Faculty Scholarship Survey*, 66 Chi.-Kent. L. Rev. 509 (1990); Colleen M. Cullen & S. Randall Kalberg, *Chicago-Kent Law Review Faculty Scholarship Survey*, 70 Chi.-Kent. L. Rev. 1445 (1995).

<sup>28</sup> James Lindgren & Daniel Seltzer, *Symposium on the Trends in Legal Citations and Scholarship: The Most Prolific Law Professors and Faculties*, 71 Chi.-Kent. L. Rev. 781 (1996); Theodore Eisenberg & Martin T. Wells, *Ranking and Explaining the Scholarly Impact of Law Schools*, 27 J. Legal Stud. 373 (1998).

ranked the journals based on frequency of citation in other journals, top faculty producers by school, and pages published and articles published per faculty member in top twenty journals.

In their research, Lindgren and Seltzer presented data on the most-cited law reviews, the most prolific law faculties publishing in those reviews, and the most prolific individual faculty publishers. The study found substantial gender differences in this group and that laterally-appointed faculty members make up a disproportionate number of the most productive publishers in the legal academy, including nineteen of the twenty-five most prolific individual publishers in major law reviews. Eisenberg and Wells, in measuring 32 law schools' academic reputations by citations to their faculties' works, found no substantial evidence of male-female differences. They did however find some evidence of lower citations for minority females, but this difference was largely explained by a lower average seniority in the field for those individuals.

The relationship of law school-based publishing to other organizational attributes has also been examined. In particular the linkage of publishing to salaries and teaching has been studied.<sup>29</sup> Fisher and Bowen considered law school faculty salaries at three state law schools in the United States, finding that university resources directly correlate with productivity, and that scholarship diminished at all three schools post-tenure as compensation was directly tied to seniority rather than productivity.

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<sup>29</sup> Bruce D. Fisher & Paul Bowen, *The Law School Compensation Systems at Three Top Quartile State Law Schools: Factors Correlating With Law Professors' Salaries and Suggestions*, 19 N. Ill. U. L. Rev. 671 (1999); Deborah Jones Merritt, *Symposium on the Relation Between Scholarship and Teaching: Research and Teaching on Law Faculties: An Empirical Exploration*, 73 Chi.-Kent. L. Rev. 765 (1998).



The preceding body of analysis has considered relatively homogeneous groupings of faculty who examine relatively similar criteria in making their assessments. In contrast, business law scholarship represents a fusion of both legal and business perspectives. As a consequence, assessing scholarship quality becomes a more complex task. Among other questions, should the background and training of the subject being evaluated (traditionally, law) dominate how her or his performance is assessed or should the individual's current academic disciplinary venue (business) dictate the criteria? Against what evaluation scheme should business law faculty be compared?

Only one primary study attempts to examine the publishing practices among business law faculty. Fisher and Fox evaluate the relationship of business law publishing to salaries.<sup>30</sup> The study surveyed activities of randomly selected members of the American Business Law Association (now d/b/a the Academy of Legal Studies in Business). Extrapolating their findings to a seven year timeframe, corresponding to the traditional tenure clock, median levels of publishing over the seven year period for full professors was 0.23 articles, for associate professors was 2.78 articles, and for assistant professors was 1.09 articles. While creating benchmark data, the findings suffer from several shortcomings. First, the level of confidence for the findings was not reported for the level of publishing that was reported. In addition, response bias (i.e., characteristics of those responding versus those not responding to the survey) may have been present but was not evaluated (the response rate to the survey was approximately 25%). Finally, all of the publishing data are self-reported so the accuracy of the data relative to actual publishing performance is not known.

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<sup>30</sup> Bruce D. Fisher & Dale Fox, *An empirical analysis of the research productivity and the basis of salary rewards for American Business Law Association members*, 10 J. Leg. Stud. Ed. 1 (1992).

Although discipline-specific assessments in each of these disciplines have helped to enlighten faculty about the variety of relationships associated with research and scholarship, there appear to be two common approaches that have emerged from these evaluative mechanisms as a whole. One approach has been to identify the level of faculty *productivity* within the discipline. A second avenue explores the *quality* of the journals in terms of their contribution to the growth of the discipline. Both of these types of information provide essential benchmarks within an individual discipline that allows for an assessment of changes over time.

The current study seeks to suggest a process by which institutions of higher education can effectively evaluate business law faculty in a manner similar to that suggested by earlier research in other disciplines and one which strives to respond to the limitations of the Fisher and Fox study. By exploring the publication streams and records of business law faculty, information about individual performance as well as directions of the discipline can be ascertained. With the dearth of information on business law publishing, the distinctions that are being drawn between business law and other business disciplines, and in satisfaction of the university's end objective to maintain reasonable productivity standards given available resources, a discipline-based research and scholarship assessment process provides both an appropriate and independent source of professional assessment.

### **III. Methodology**

The current study progressed in several stages. In the first stage, we sought to define the group of academic institutions to be examined. Next, we identified the specific faculty within the selected institutions who served as the specific sample for this study. Finally, we attempted to quantify the levels of research and scholarship for the faculty members included in the study.

### **Study institutions**

The institutions used in this study consisted of universities and colleges representing a broad range of the membership within AACSB International. The study sought to include institutions representing geographic locations throughout the United States. In addition we sought a relatively equal representation by institutional orientation, 51% public and 49% private, and by external ranking, 45% of the institutions were ranked among the top 50 business schools.<sup>31</sup> The final group of institutions used in this study consisted of 35 colleges and universities. The specific colleges and universities included in the study together with selected institutional characteristics are listed in Appendix A.

### **Sample**

From the institutions selected in the first stage, all full time, tenure-track faculty (assistant professor, associate professor, full professor) were identified from the academic institution's website. Individuals who were teaching business law courses within a college of business were selected to be included in the study sample, including those in a department specifically

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<sup>31</sup> The source of information was from the U.S News and World Report 2005 report on business school rankings. The information is available at:  
[http://www.usnews.com/usnews/edu/grad/rankings/mba/brief/mbarank\\_brief.php](http://www.usnews.com/usnews/edu/grad/rankings/mba/brief/mbarank_brief.php).

identified as “law,” a “business law” department or in a concentration/area with business law or law in its name. The total sample of faculty examined in the study consisted of 156 individuals. Adjunct faculty, instructors, lecturers, senior lecturers, clinical faculty and visiting faculty were excluded from the analysis. These non tenure-track faculty are typically not required to engage in research in their roles as faculty and thus do not address the goals of the present study.<sup>32</sup>

## **Data**

The research and scholarship records for each faculty member identified in the previous stage of the study were defined to include all articles (excluding recurring or regular columns) and books published over a 7-year period from 1996 through 2002. Book reviews and letters to the editor were also excluded from the analysis. Given the distinctive nature of business law faculty (legal background and training though housed in a business school), publications of faculty needed to be compiled from wide-ranging topical areas, including: law, business, health, education, social science, science, and general audience sources. Consequently, a variety of databases was used to compile the data used for this study. The databases that were used to generate the publication data are shown in Table 1. The databases were chosen based on several factors. First, we sought to be as comprehensive as possible in defining the scope of faculty publishing. Second, using multiple databases allowed us to gain a more complete coverage of possible publication outlets. (Indeed, in our search we observed that, inexplicably, some volumes of journals were missing within some of the databases.) Third, the databases did not necessarily contain all of the same journals, even though some of the databases appeared to be functionally equivalent. Overall, 602

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<sup>32</sup> It should be noted that ten of the institutions that were also originally selected for inclusion in the study had to be excluded because there were no readily identifiable full time, tenure-track faculty in the business law area.

unique articles attributed to the 156 faculty members were identified by the databases employed in this study.

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Insert table 1 about here

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#### **IV. Analysis**

The analysis of the data consists of two aspects: a descriptive overview and detailed comparisons of the data. The descriptive overview provides a general overview of trends that are occurring within the discipline. The detailed comparisons provide a more in-depth, intensive assessment of individual and institutional characteristics and their relationship to faculty productivity.

##### **Descriptive Analysis**

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Insert figure 1 about here

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Initially, we were interested in identifying the overall publishing productivity of faculty during the seven-year period covering 1996 through 2002. As depicted in Figure 1, the number of publications by faculty ranged from zero to thirty articles over the course of seven years. For all business law faculty members, as seen in Table 2, there was a mean of 4.29 articles published (median = 3.00). Thus, it appears that typical productivity for business law faculty in the study institutions amounts to approximately one article every 1.5 to 2 years. About 26% of the faculty members did not write any articles or books during the study period. The results also show that public institutions and top rated institutions generated greater levels of publications than did other classes of institutions. Further, book writing seems to be a less common activity. Assistant professors in our study did not publish any books, while associate and full professors published, on the average, less than 1 book during the seven-year period. Of the 156 faculty members included in this sample, only 20 individuals published books, more than half of whom authored multiple books or multiple editions of a book.

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Insert table 2 about here

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In addition, we were interested in identifying the research areas that existed among the faculty included in the study. That is, we wanted to describe the particular focus of the research as defined by the journals targeted. A content analysis of publications, shown in Table 3, revealed 18 distinct categories or content areas of scholarship by business law faculty members. Five categories, however, accounted for over half (61%) of the total articles published. Approximately

one-quarter (25%) of all articles appeared in general law journals and reviews representing the largest single category for all publications. The next two largest content areas, accounting for 11.0% and 10.8% of the articles, appeared in journals focused on international law and ethics/societal issues respectively. The fourth and fifth highest categories were represented by business and corporate focused law journals and reviews (9.6%) and management focused journals and reviews (7.1%). All of the remaining content categories accounted for 6% or less of the articles published.

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Insert table 3 about here

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Finally, we wanted to identify whether there were patterns with respect to specific outlets in business law scholarship. All of the periodical titles that are listed in Table 4 had at least 5 articles published in them during the 7-year study period (approximately 1% of the total articles). The top five journals or reviews accounted for approximately one-fifth of all of the articles written. While certain journals and reviews had larger numbers of articles published in them, there was no one clearly dominant publishing outlet. The periodical with the most articles by business law faculty was the *American Business Law Journal*. Two journals in the area of business ethics (*Journal of Business Ethics* and *Business Ethics Quarterly*) accounted for 8.2% (50 articles combined) of the total articles published. Finally, *Business & Society Review* represented 2% (12 articles) of the total articles published. It is interesting to note that more than

one-third of the 19 most frequently used publishing outlets were to non-law journals and reviews.

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Insert table 4 about here

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### **Comparative Analysis**

The preceding descriptive analyses generalize across faculty at all institutions in the sample. We recognize, however, that certain institutional characteristics may factor heavily into faculty members' productivity. Thus, we sought to examine the relationship of publications by faculty rank relative to both institutional orientation (public vs. private) and the external ranking of the business school top 50 versus all others. Three basic research questions were examined in this aspect of the analysis. First, conventional wisdom would suggest that rank plays a role in faculty productivity. Logically, full and associate professors should have a higher number of publications than assistant professors based on time spent in the discipline. Yet, the one published study in business law shows professors as having the lowest publishing rates. Therefore, we tested for differences in publishing productivity based upon the rank of the faculty member. Second, anecdotal evidence might suggest that there are differences in the quality and quantity of resources that are available to faculty members depending upon whether one is in a private or a public institution. Thus, we tested whether differences existed in productivity



according to institutional orientation. Finally, organizational goals, processes and evaluation mechanisms are expected to differ based upon whether or not the business school was highly ranked. As a result, we compared performance levels of business law faculty in institutions that were in business schools ranked in the top 50 relative to business schools that were rated lower or were unranked as reported by the on-going research of the U. S. News & World Report.

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Insert table 5 about here

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Table 5 presents the results to assess the first research question. We utilized a One-Way Analysis of Variance (ANOVA) to test for differences in the quantity of articles published by faculty rank. With respect to faculty rank, the results indicated that there was a significant difference across rank in terms of publication productivity. It was found that tenured faculty had significantly more publications than did assistant professors ( $p < .00$ ), as one would logically expect. However, the difference between professors and associate professors was not significant, which differs greatly from Fisher and Fox's results. Interestingly, the standard deviations for all ranks increased proportionally (see Table 5). The standard deviation is a measure of how widely dispersed faculty members are in their level of publication. For example, the smaller standard deviation for assistant professors may suggest that as faculty progress in their careers, especially post tenure, productivity gaps widen as faculty maintain or de-emphasize publishing during the course of their academic careers.

Insert tables 6 and 7 about here

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With respect to institution type, the second research question, we found only marginally significant ( $p < .10$ ) differences in publishing across public and private institutions in aggregate (see Table 6). Although business law faculty at public institutions published 1.21 more articles, on the average, during the seven-year period studied compared to faculty at private institutions, it is not a definitive relationship. With respect to book publishing there were no differences found across institution type. When viewing article publishing by faculty rank at public and private institutions, no differences are observed through any of the faculty ranks (see Table 7). Overall, though resources and requirements may vary, business law faculty at both public and private institutions do not seem to differ greatly in their publishing productivity.

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Insert table 8 about here

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The final research question explored differences between business schools ranked among the top 50 business schools and those that were ranked lower or were unranked. U. S. News & World Report conducts an annual survey ranking MBA programs of business schools based upon several criteria, including: external quality assessments, placement success of graduates and student selectivity by the school. With respect to business school rankings, statistically

significant differences for both articles ( $p < .00$ ) and books ( $p < .05$ ) were found between the top ranking schools and those that were ranked lower, as is shown in table 8. In addition, statistically significant differences were also found between both assistant professors and professors in terms of publishing at those institutions (see Table 9). Assistant professors and professors in business law at the schools ranked among the top 50 business schools published more articles during the seven-year study period than did their counterparts at the other institutions. While the associate professors in business law at the schools ranked among the top 50 business schools published at greater rates than associate professors at the other institutions, the difference was only marginally significant.

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Insert table 9 about here

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## **V. Discussion**

The present study sought to examine the scholarly activity of 156 faculty members within the business law discipline. Using archival data drawn from 16 databases, the results indicated that the variation in business law publishing is quite large both in content and quantity. In terms of content, business law faculty members appear to demonstrate a wide range of interests. Also, when viewing the most popular publication outlets, approximately one-third of the publications in this study were in non-law journals, thus illustrating the dual perspective that exists for many

faculty members in this discipline. Business law faculty members' scholarship addresses not only purely legal issues but also the impact of legal issues from a functional business perspective. In fact, some of the highest volume categories appearing in table 3 seem to mirror areas of general business school interests, such as an international perspective, ethical impacts and societal considerations.

The study also examined the impact of institutional characteristics in relation to the level of publishing. In terms of faculty rank, only assistant professors showed significantly fewer publications than the faculty at other ranks in the aggregated data. Associate professors and professors tended to show similar publishing patterns, in stark contrast to the earlier study of Fisher and Fox. Even though public institutions had more publications per faculty member than private institutions, the differences were only marginally significant and no differences were observed among the faculty ranks. This result seems to imply that further research is necessary to clarify more precise effects of institutional context. Finally, significant differences were observed in levels of publishing between schools ranked among the top 50 ranked schools and those that were not ranked as highly. Although differences in publishing existed at the professor and assistant professor ranks, associate professors only showed marginal levels of significance when viewing institutions by ranking.

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Insert table 10 about here

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The results of this study also allow some observations about the value or quality of the publications in business law. Using the quality management perspective, one generally accepted principle is that the person closest to the process is considered to be the expert.<sup>33</sup> If we view the publishing practices of business law faculty from the schools ranked among the top 50 business schools, we might expect that these individuals would seek out publishing outlets that maintain and enhance the prestige of their business school. That is, these individuals are “experts” in determining the quality of a publishing outlet. From this perspective, several remarks can be made relative to the results. The faculty members in the schools ranked among the top 50 make up about 45% of the total number of individuals included within the sample. Yet, this group was responsible for 72% of the articles in the general law journals and reviews. When viewing the leading publication outlets, the same group was responsible for 73% of the publications, although not all of the journals had equal publication levels. Table 10 provides a comparison of the articles of faculty from the schools ranked among the top 50 relative to the aggregate number of articles published. The function of table 10 is not to provide a list of leading journals but rather by observing where individuals choose to publish, that is those journals that are perceived by their authors to contribute value, essentially define the boundaries of the discipline of business law. With a more encompassing study, other journals that are of equal value may be used to create a more complete picture.

Although the results that were identified in this study were meant to provide a general overview of business law as a discipline, some limitations do exist relative to the data presented in this

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<sup>33</sup> A discussion on this particular viewpoint is presented by Richard B. Chase et al., *Operations Management for Competitive Advantage* 307 (2001) and Marc J. Schneiderjans & John R. Olson, *Advanced Topics in Just-in-Time Management* 129 (1999).

article. Even though a variety of databases were used in gathering the information used in this study, it is likely that not all publications were identified for several reasons. 1) A new journal might not necessarily have been listed at the time of this research. 2) A journal that has a very low circulation, notwithstanding perhaps significant impact, may also have escaped the notice of the databases used. 3) Author names are not always spelled correctly within a database. 4) Some databases only list a certain number of author names. When the maximum number of authors is reached, the remaining authors are combined under the general term *and others* or *et al.* 5) In general, foreign journals, even though achieving greater acceptance, are less frequently archived in American databases. 6) Only general technical and medical databases were used in this study. Thus, individuals doing highly specialized writing in these areas may not be recognized. Considering the database limitations as a whole, it is possible that publications were underreported for certain faculty.

## **VI. Implications**

The authors intended this process to be didactic in nature such that it demonstrated a straightforward, systematic process that can be used to establish benchmarks for performance. For example, members of AACSB International are required to identify competitive institutions, peer institutions and aspirational peer institutions. The institutions defined by the member business schools can then be used in a fashion similar to the process used in this article to provide for the establishment of realistic, yet also challenging goals for business law faculty scholarship. In addition, this line of inquiry would provide essential data to supplement what is

otherwise a largely anecdotal discussion within many institutions. That is, these data serve to inform key decision makers regarding what is *actually* occurring in the discipline (relative to some relevant reference group or groups) with respect to faculty scholarship.

In striving to analyze scholarly outlets in the particular academic discipline of business law, it may be valuable to consider the experience of another branch of scholarship: business ethics (including social issues in management, corporate social responsibility, business & society, among other topics under this umbrella). Although those involved in its exploration might appropriately point to its origins in traditional philosophy which would instead categorize it as one of the oldest and most grounded disciplines historically, when viewed in terms of its inclusion in curricula as well as its stand-alone publications, it could be equally considered to be “emerging.” Similar to business law, for instance, issues of business ethics are often integrated in publications of other disciplines by way of explanation, analysis or implication.

Stand-alone publications accordingly might present some evidence of a discipline’s materialization and perhaps peer acceptance. As scholar Karen Paul notes, “the very existence of an academic field is defined, to some extent, by the presence of peer-reviewed academic journals.”<sup>34</sup> In her article, Paul compared the impact that each of several journals had by engaging in a citation analysis. Paul found that an argument could be made for ranking any of the three top journals in the field as premier, “depending on criteria used for judgment and the definition of the universe being influenced.”<sup>35</sup> As many faculty – whether in business ethics or

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<sup>34</sup> Karen Paul, *Business and Society and Business Ethics Journals: A Citation and Impact Analysis*, J. Schol. Publ. 103, 103 (Jan. 2004).

<sup>35</sup> The journals included in Paul’s “top three” were *Business Ethics Quarterly*, *Journal of Business Ethics* and *Business & Society*.

business law – are aware, the criteria for judgment and evaluation for promotion and tenure in these fields are somewhat unclear, as is the intended universe of influence. For instance, should a business law professor’s primary area of intended influence be in the academic and/or professional legal community, the academic and/or professional business community (and which one? management, marketing, accounting, real estate, or some other field?), or only the small arena in which these two converge as business law? These questions become all the more important as an untenured business law faculty member tries to decide where to submit his or her next article for publication. Moreover, business law is seldom in its own department within a business school. Hence, the “serving multiple masters” quandary is increased by the need to satisfy the criteria of one’s “home” department, notwithstanding the likelihood that the department’s main emphasis is not necessarily that of the faculty member’s.<sup>36</sup>

From Appendix A, it can be seen that Business Law designated as a named department, concentration or area exists in only about one-half of the study institutions. Business law faculty members, of course, are not the only ones impacted by melting pot departments, such as management departments, among others. In their research, authors Jarley et al. note that this issue is not new.<sup>37</sup> In particular, they suggest that “the simplest way to control for these differences [between discipline or sub-disciplines] is to base evaluations of research performance on the parochial standards of the colleague’s home area. Thus, a “strategy type” should be evaluated relative to other strategy faculty at similarly prestigious institutions.”<sup>38</sup> However, the

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<sup>36</sup> In other words, a business law faculty member housed in a management department may be expected to publish in that department’s top-rated journals, as well as top-rated business law journals and perhaps even top-rated law journals.

<sup>37</sup> Paul Jarley, Timothy Chandler & Larry Faulk, *Are we playing the same game? Publishing Task Environments and Research Productivity Among Management Specialists*, 51 *Hum. Rels.* 799 (1998).

<sup>38</sup> *Ibid* at 799.



authors also caution about the risks of this particularized approach. There is a potential for perceived inequity based on varying standards within the same department; there is a risk of “area atrophy” from a lack of healthy competition; and a possible risk of disparate treatment based on unclear and field-specific evaluation mechanisms which could be perceived as pretext, the authors suggest, for inappropriate motives.<sup>39</sup> The research plan implemented in the current article strives to address this issue by creating a credible and objective process by which to measure research quality and productivity against peers in similar environments, and to prevent individual perceptions, subjectivity and/or motives from entering into that judgment.

The identification and acceptance of a standard process for evaluating the quality of business law publication outlets is critical. These faculty and their publications seem to be subject to a number of distinctions from other business school faculty, thus engendering suspicion and uncertainty regarding the quality of their publications. Paul’s comment that an academic field may depend on the presence of *peer-reviewed* academic journals may be antithetical however to law scholarship.<sup>40</sup> In fact, some of the best legal journals in the world are *not* peer reviewed but instead are student-edited. Similarly, scholars in traditional business disciplines may submit an article to one journal at a time. Until a publication decision has been reached, most journals will prohibit submissions to other publication outlets. To the contrary, however, it is well-accepted that authors hoping to publish in law journals may submit articles to several journals or reviews at a time with impunity. The distinction may soon become much more tangible since the AACSB International met in April 2004 in part to discuss whether faculty who hold a *juris doctor* should be considered to be a different class of professor than ones who hold Ph.D.’s.

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<sup>39</sup> *Ibid* at 800.

<sup>40</sup> Karen Paul, *infra* n. 27 at 103.

As Jarley, et al. note in discussing relative evaluation standards in their study on cross-discipline research productivity, “specialists publish in different journals, these journals exhibit different characteristics, and productivity differences exist across management specialties. . . . People from different areas publish at different rates and concentrate their output in journals with different characteristics.”<sup>41</sup> Certainly a process that allows universities to compare the publishing records of their business law faculty to that of the university’s peer institutions will offer both appropriate criteria for judgment and evaluation as well as an intended universe of influence against which to evaluate its business law faculty.

In assessing the scholarship of their faculty members, academic institutions are encouraged to consider not only the actual quantifiable results reported in this study but also the process by which they were gathered. That is, we caution institutions from making hasty comparisons without considering their own context. For instance, comparing the output or productivity of a faculty member who teaches five to seven courses on a semester system with little if any research support or assistance to someone who teaches one or two courses over the course of a year with research funding and a graduate student to assist with their research is simply irrelevant to any evaluative determination. Simply put, it is essential in faculty assessment or development to compare faculty of like institutions with like expectations and like faculty/scholarly support and resources. To that end, we hope the process and results described here contribute to a burgeoning literature focused on business law faculty scholarship.

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<sup>41</sup> Paul Jarley et al., *infra* n. 30 at 820-21. See also Douglas Rebne & Naomi Berger Davidson, *Understanding Patterns of Publishing Activity in Academic Research Occupations*, 23 Dec. Sci. 944 (1992).

**Table 1**  
**Databases Used to Acquire Information**

<b>Databases</b>
ABI/Inform: Academic Edition
Academic Search Elite
Applied Science & Technology Abstracts
Bowker's Books In Print
Business Source Elite
ERIC
Health Source: Nursing/Academic Edition
Humanities Abstracts
LegalTrac
Lexis-Nexis Academic: Legal Research
MAS Ultra - School Edition
Professional Development Collection
PsychInfo
Science Citation Index
Social Science Abstracts
Social Science Citation Index

**Table 2****Summary Statistics for Rank and Institution**

	<b>Articles Published</b>				<b>Books Published</b>		
	<b>N</b>	<b>Median</b>	<b>Mean</b>	<b>Std. Dev.</b>	<b>Median</b>	<b>Mean</b>	<b>Std. Dev.</b>
<b>Faculty Rank</b>							
Full	66	4.00	5.82	6.24	0.00	0.64	1.89
Associate	51	3.00	4.22	4.84	0.00	0.39	1.15
Assistant	39	0.00	1.79	2.32	0.00	0.00	0.00
Total	156	3.00	4.29	5.27	0.00	0.40	1.41
<b>Orientation</b>							
Public	72	2.00	3.44	4.35	0.00	0.42	1.31
Private	84	3.50	5.01	5.87	0.00	0.38	1.49
Total	156	3.00	4.01	5.27	0.00	0.40	1.41
<b>U.S. News &amp; World Report Ranking</b>							
Top 50	71	5.00	6.30	6.43	0.00	0.66	1.96
Lower than 50 or unranked	85	1.00	2.61	3.24	0.00	0.18	0.62
Total	156	3.00	4.29	5.27	0.00	0.40	1.41

**Table 3****Publishing Content Areas Based upon Journal Titles**

<b>Content Categories</b>	<b># of articles published</b>	<b>% of total publications</b>
General law journals and reviews	151	25.0
Internationally focused law journals and reviews	66	11.0
Ethics/society journals and reviews	65	10.8
Business/Corporate focused law journals and reviews	58	9.6
Management focused journals and reviews	44	7.3
All other business discipline focused journals and reviews	36	6.0
Assorted general periodicals	35	5.8
All other specialty law journals and reviews not within a classification provided	34	5.6
Labor/Employment focused law journals and reviews	19	3.2
Educational focused law journals and reviews	18	3.0
Technology/Environmental focused law journals and reviews	18	3.0
Real estate (including law) focused journals and reviews	18	3.0
Patents/Intellectual Property focused law journals and reviews	12	2.0
Public policy/Social policy focused law journals and reviews	10	1.7
Dispute resolution focused law journals and reviews	6	1.0
Marketing focused journals and reviews	6	1.0
Medicine/Health focused law journals and reviews	6	1.0
Bar Journals	4	<1.0

**Table 4****Most Frequent Publishing Outlets**

<b>Journal Title</b>	<b># of articles published</b>	<b>% of total publications</b>
American Business Law Journal	44	7.4
Journal of Business Ethics	31	5.1
Business Ethics Quarterly	19	3.2
Business & Society Review	12	2.0
Journal of Legal Studies Education	11	1.8
University of Pennsylvania Journal of International Economic Law	11	1.8
Vanderbilt Journal of Transnational Law	8	1.3
Journal of the Patent and Trademark Office Society	7	1.2
Labor Law Journal	7	1.2
National Law Journal	7	1.2
Real Estate Law Journal	7	1.2
Cornell International Law Journal	6	1.0
Business Horizons	5	1.0
CPA Journal	5	1.0
Journal of Corporation Law	5	1.0
Law and Contemporary Problems	5	1.0
Northwestern University Law Review	5	1.0
Public Policy and Marketing	5	1.0
Tax Adviser	5	1.0

**Table 5****Analysis of Variance for Articles and Books Published by Rank**

	<b>1</b>	<b>2</b>	<b>3</b>	
	<b>Assistant</b>	<b>Associate</b>	<b>Professor</b>	<b>F Statistic</b>
	<b>Professor</b>	<b>Professor</b>	<b>Professor</b>	<b>(n=156)</b>
	<b>(n=39)</b>	<b>(n=51)</b>	<b>(n=66)</b>	
<b>Articles Published</b>	(2,3)	(1)	(1)	
Median				
Mean	0.00	3.00	4.00	
Std. Dev.	1.79	4.22	5.82	7.82
	2.32	4.86	6.24	$p < 0.01$
<b>Books Published</b>				
Median				
Mean	0.00	0.00	0.00	
Std. Dev.	0.00	0.39	0.64	2.54
	0.00	1.15	1.89	$p < 0.08$

*Note:* Numbers in parentheses indicate the group numbers from which this group was significantly different according to Scheffe's pairwise comparison procedure. *F*-statistics and associated *p*-values are derived from a one-way ANOVA for both articles and books.

**Table 6****Analysis of Variance for Articles and Books Published by Institutional Orientation**

	<b>Public Institution</b> (n=84)	<b>Private Institution</b> (n=72)	<b>F Statistic</b>
<b>Articles Published</b>			
Median	3.50	2.00	
Mean	5.01	3.44	
Std. Dev.	5.87	4.35	3.49 <i>p</i> < 0.06
<b>Books Published</b>			
Median	0.00	0.00	
Mean	0.38	0.42	
Std. Dev.	1.50	1.32	.025 <i>p</i> < 0.88



**Table 7:****Analysis of Variance for Articles Published by Faculty Rank and Institutional Orientation**

<b>Faculty Rank</b>	<b>Public Institution</b>	<b>Private Institution</b>	<b>F Statistic</b>
<b>Assistant Professor</b>	(n=21)	(n=18)	
Mean	1.95	1.61	0.21
Std. Dev.	2.40	2.28	$p < 0.65$
Median	1.00	0.00	
<b>Associate Professor</b>	(n=26)	(n=25)	
Mean	3.15	5.32	2.64
Std. Dev.	4.02	5.42	$p < 0.11$
Median	1.00	4.00	
<b>Professor</b>	(n=25)	(n=41)	
Mean	5.00	6.32	0.69
Std. Dev.	5.46	6.68	$p < 0.41$
Median	3.00	4.00	

**Table 8:**

**Analysis of Variance for Articles and Books Published by U.S. News & World Report Ranking**

	<b>Top 50</b> (n=71)	<b>Lower than top 50 or unranked</b> (n=85)	<b>F Statistic</b>
<b>Articles Published</b>			
Median	5.00	1.00	
Mean	6.30	2.61	
Std. Dev.	6.43	3.24	21.41 <i>p</i> < 0.00
<b>Books Published</b>			
Median	0.00	0.00	
Mean	0.66	0.18	
Std. Dev.	1.96	0.62	4.68 <i>p</i> < 0.03

**Table 9:**

**Analysis of Variance for Articles Published by Faculty Rank and U.S. News & World Report Ranking**

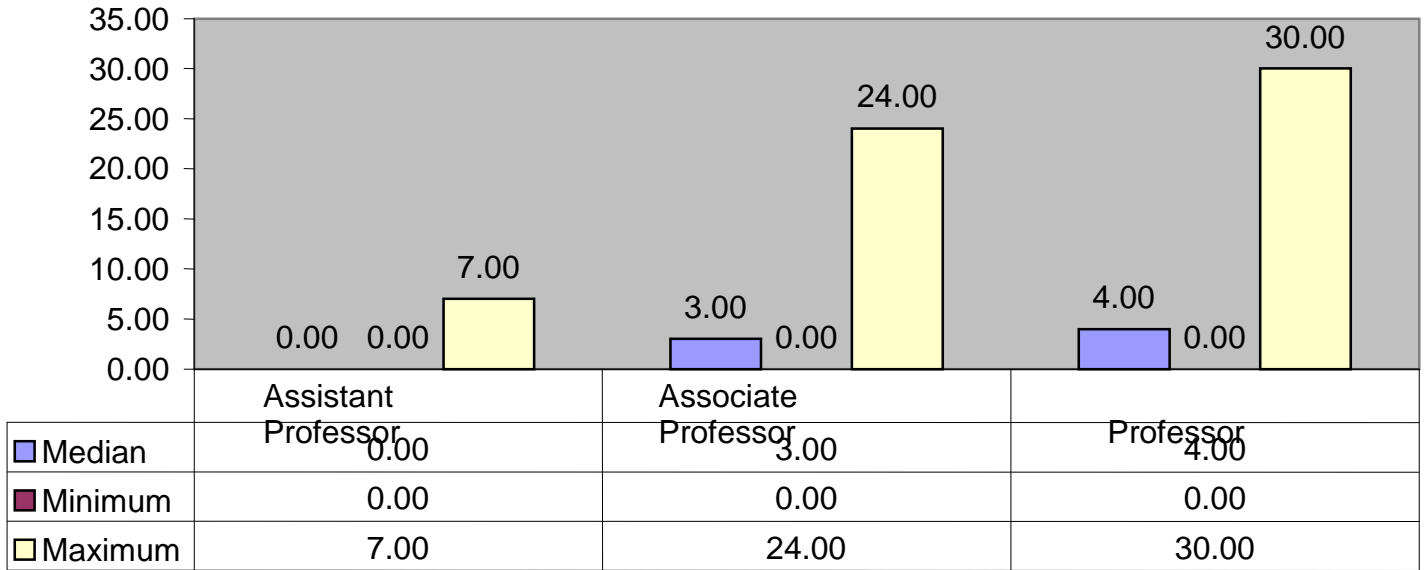
<b>Faculty Rank</b>	<b>Top 50</b>	<b>Lower than top 50 or unranked</b>	<b>F Statistic</b>
<b>Assistant Professor</b>	(n=11)	(n=28)	
Mean	3.64	1.07	12.61
Std. Dev.	2.58	1.78	$p < 0.00$
Median	4.00	0.00	
<b>Associate Professor</b>	(n=17)	(n=34)	
Mean	5.76	3.44	2.70
Std. Dev.	6.65	3.49	$p < 0.10$
Median	3.00	2.00	
<b>Professor</b>	(n=43)	(n=23)	
Mean	7.19	3.26	6.42
Std. Dev.	6.91	3.67	$p < 0.01$
Median	5.00	3.00	

**Table 10****Most Frequent Publishing Outlets**

<b>Journal Title</b>	<b># of articles published</b>	<b>% provided by faculty of the top 50 institutions</b>
American Business Law Journal	44	38
Journal of Business Ethics	31	21
Business Ethics Quarterly	19	19
Business & Society Review	12	11
Journal of Legal Studies Education	11	6
University of Pennsylvania Journal of International Economic Law	11	9
Vanderbilt Journal of Transnational Law	8	8
Journal of the Patent and Trademark Office Society	7	0
Labor Law Journal	7	7
National Law Journal	7	0
Real Estate Law Journal	7	6
Cornell International Law Journal	6	5
Business Horizons	5	3
CPA Journal	5	0
Journal of Corporation Law	5	5
Law and Contemporary Problems	5	5
Northwestern University Law Review	5	5
Public Policy and Marketing	5	1
Tax Adviser	5	0

**Figure 1**

**Number of Articles Published by Faculty Rank over a 7-Year Period**



**Ap**

## Appendix A:

### Listing of Colleges and Universities Included in the Study

University or College	Orientation	USN&WR Ranking	Department/Concentration
Arizona State University	Public	29	Supply Chain Management/Legal and Ethical Studies
Bentley University	Private		Law
Boston University	Private	47	Strategy & Policy
Boston College	Private	39	Business Law
CUNY Baruch College	Public		Law
DePaul University	Private		Management
Eastern Illinois University	Public		Law area
Fordham University	Private		Legal and Ethical Studies
George Mason University	Public		Management
Georgetown University	Private	33	Accounting & Business Law
Georgia State University	Public		Risk Management & Insurance
Hofstra University	Private		Accounting, Taxation & Legal Studies in Business
Indiana University	Public	23	Business Law
Marquette University	Private		Accounting
New York University	Private	14	Accounting
Pepperdine University	Private		Business Law
Rutgers University-Newark	Public		Business Environment
Saint Louis University	Private		Management
Syracuse University	Private		Law and Public Policy
Temple University	Public		Legal studies in business
University of Chicago	Private	5	Strategic Management
University of Colorado	Public		Accounting
University of Florida	Public		Management
University of Georgia	Public	42	Department of Insurance, Legal Studies & Real Estate
University of Illinois	Public	23	Business Administration/ Business Law
University of Iowa	Public	47	Management & Organization
University of Maryland	Public	33	Logistics, Business & Public policy
University of North Carolina	Public	21	Management /Legal studies
University of Michigan	Public	10	Law, History & Communication
University of Pennsylvania-Wharton	Private	3	Legal studies in business
University of Tennessee	Public		Accounting & Information Management
University of Texas	Public	23	Management Science/Information Systems
Villanova University	Private		Management Dept. & Marketing Dept.
Wake Forest University	Private	36	Business
Xavier University	Private		Accounting