
BIG LAW'S IMMIGRATION ADVOCATES

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This study examines lawyers working in the federal appellate courts who represent immigrants seeking relief from deportation. By analyzing over 23,000 appellate cases during the Trump and Obama Administrations, the research here uncovers crucial findings. To begin, there was a statistically significant difference in the win rates of lawyers working pro bono and coming from the largest and most profitable corporate “Big Law” firms compared to lawyers based in other, typically more specialized immigration practice settings. Specifically, during the Trump Administration, Big Law lawyers won at nearly three times higher a rate than non-Big Law lawyers in the federal appellate courts. During the Obama Administration, Big Law lawyers won over three times more often.

To supplement these quantitative results, interviews with Big Law and non-Big Law lawyers were conducted. As this study makes clear, it is not that those from Big Law firms are necessarily smarter or better at understanding immigration than non-Big Law practitioners. Indeed, there are certainly those lawyers in the latter cohort who do well in the appellate courts. Still, because of their enormous resource advantages, Big Law lawyers, on average, perform better because they have the luxury of selecting cases they believe are more likely to win. Additionally, Big Law firms have appellate specialists. They also have available personnel who can readily assist on these cases, as well as access to diverse research technologies and a keen familiarity with the federal courts' norms—all of which are vital in preparing Big Law lawyers during the appeals process.

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Of course, Big Law firms are only involved in a fraction of federal appellate deportation cases. Nevertheless, their relatively high win rate, and the reasons behind it, have serious implications for how immigrants who do not have this type of representation are able to obtain justice. Otherwise put, Big Law's greater success rates sadly perpetuate the already existing inequalities within our immigration system and highlight the unfortunate reality that firms with resources are able to procure advantages and benefits that others may not be able to enjoy.

TABLE OF CONTENTS

I.	INTRODUCTION	448
II.	FRAMING THE ARGUMENT: DRAWING UPON THE PREVIOUS RESEARCH.....	454
	A. <i>The Role of Resources and Specialization</i>	454
	B. <i>The Benefits of Prestige and Strong Reputation</i>	455
III.	THE IMMIGRATION ISSUES AT STAKE AND THE METHODOLOGY EMPLOYED	457
	A. <i>Discretionary Relief Petitions in the Deportation Context</i>	457
	B. <i>The Project's Methodology for the Trump Years</i>	458
IV.	THE RESULTS	459
	A. <i>The Aggregate Data During the Trump Years</i>	459
	B. <i>The Qualitative Interviews</i>	465
	1. <i>Resources</i>	465
	2. <i>Case Selection</i>	468
	3. <i>The Importance of Appellate Specialization</i>	471
	4. <i>The Halo Effect</i>	473
V.	CONCLUSION—WHAT THE OBAMA DATA REVEAL.....	477
	APPENDIX A	480
	APPENDIX B	483
	APPENDIX C PART I.....	484
	APPENDIX C PART II	485
	APPENDIX D	490
	APPENDIX E.....	499
	APPENDIX F.....	501
	APPENDIX G	501
	APPENDIX H PART I.....	505
	APPENDIX H PART II	509

I. INTRODUCTION

For those who focus on the rights of immigrants, January 2017 is one month that few will forget. Just weeks after taking office, then-President Donald Trump signed Executive Order 13769, which was the first of his administration's three

attempts to restrict mobility into the United States by people coming from Muslim-majority countries.¹ Those who had been approved to enter from abroad saw their visas revoked.² Others who had arrived were detained at airports, with many told that they had to return home.³

The response by immigrant rights advocates was immediate. An open letter, for example, by the International Refugee Assistance Project, pleaded for lawyers to assist those in airport detention; the result was that “well over a thousand people”⁴ volunteered their time to provide legal representation. The lawyers who came to help were from a range of practice settings: nongovernmental organizations (“NGOs”), law school clinics, and specialized immigration law firms.⁵ Another group of volunteers emerged as key players as well—namely, lawyers from several of the most profitable American corporate law firms.⁶ As Avi Gesser, who was then a partner at Davis Polk & Wardwell, stated at the time, “Our firm has a lot of people in it who were not born in the United States . . . [and] were being detained [and] needed legal representation. And that’s something we do very well.”⁷

Of course, this notion of “Big Law” firms engaging in pro bono work is not something that started during the Trump Administration. Professor Scott Cummings, a leading scholar who has studied such volunteerism, has written extensively on how pro bono services have evolved within the American legal

1. See Exec. Order No. 13769, 82 Fed. Reg. 8,977 (Feb. 1, 2017). The order, additionally, reduced the number of refugees to be admitted. It specifically targeted Syrian refugees by banning them from entering indefinitely and placed on hold, for three months, the U.S. Refugee Admissions Program. The countries that were listed as the focal points of the ban were: Iran, Libya, Somalia, Sudan, Syria, and Yemen. See *id.* Noteworthy is that two different agencies of the federal government had conflicting figures on how many visas were revoked following the issuance of the order. The Justice Department claimed it was 100,000, while the Department of Homeland Security stated that it was “roughly 60,000.” See Rebecca Hersher, *Federal Judge Stays Trump Travel Order, but Many Visas Already Revoked*, NPR (Feb. 3, 2017, 4:42 PM), <https://www.npr.org/sections/thetwo-way/2017/02/03/513306413/state-department-says-fewer-than-60-000-visas-revoked-under-travel-order> [<https://perma.cc/6NQD-PR5Y>].

2. See Hersher, *supra* note 1.

3. *Id.*; see also Michael D. Shear & Helene Cooper, *Trump Bars Refugees and Citizens of 7 Muslim Countries*, N.Y. TIMES (Jan. 27, 2017), <https://www.nytimes.com/2017/01/27/us/politics/trump-syrian-refugees.html> [<https://perma.cc/U42L-3JZG>]; Jonah Engel Bromwich, *Lawyers Mobilize at Nation’s Airports After Trump’s Order*, N.Y. TIMES (Jan. 29, 2017), <https://www.nytimes.com/2017/01/29/us/lawyers-trump-muslim-ban-immigration.html> [<https://perma.cc/EW3W-H47K>].

4. See Bromwich, *supra* note 3 (citing Betsy Fisher, IRAP’s policy director, who placed this open call for assistance).

5. *Id.*

6. *Id.*; see also Debra Cassens Weiss, *BigLaw Pro Bono Efforts Challenge Trump Administration on Immigration*, A.B.A. J. (Nov. 27, 2018, 9:47 AM), https://www.abajournal.com/news/article/biglaw_pro_bono_efforts_challenge_trump_administration_on_immigration [<https://perma.cc/2XKH-5QQH>]; Sam Reisman, *BigLaw Directs Pro Bono Efforts at Trump Admin Policies*, LAW360 (Nov. 6, 2017, 7:09 PM), <https://www.law360.com/articles/981712/biglaw-directs-pro-bono-efforts-at-trump-admin-policies> [<https://perma.cc/X7XF-ZXV3>].

7. See Bromwich, *supra* note 3 (quoting Avi Gesser). Gesser is now a Partner at Debevoise & Plimpton. See Avi Gesser, LINKEDIN, <https://www.linkedin.com/in/avi-gesser/> (last visited Nov. 20, 2023) [<https://perma.cc/WK3J-G64E>].

profession, including within corporate law firms.⁸ In 2022, Professor Atinuke Adediran published an important article on the ways that lawyers and managers of pro bono projects in Big Law firms “navigate”⁹ these office environments as they look to achieve their objectives.¹⁰

Yet the Trump travel ban ignited a distinct reaction among many corporate law firm lawyers. The American Bar Association highlighted this point in a paper it published in 2018. It observed that Big Law lawyers were “stepping up”¹¹ to represent immigrants who were seeking to stave off deportation.¹²

So how successful were these Big Law efforts? The purpose of this study is to evaluate this question in an empirical manner. To be sure, Big Law lawyers who perform pro bono immigration work engage in a range of tactics.¹³ But the focus of this Article is to evaluate the effectiveness of Big Law pro bono representation in one key arena—the federal circuit courts of appeals. Why?

The reason is that immigration adjudication in the United States is structured in a particular fashion where the courts of first resort and then the higher, sole appellate body—the Board of Immigration Appeals (“BIA”)—are located

8. See, e.g., Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 3 (2004); see also Scott L. Cummings & Rebecca L. Sandefur, *Beyond the Numbers: What We Know—and Should Know—About American Pro Bono*, 7 HARV. L. & POL’Y REV. 83, 84 (2013); THE PARADOX OF PROFESSIONALISM: LAWYERS AND THE POSSIBILITY OF JUSTICE 7 (Scott L. Cummings ed., 2011).

9. See Atinuke O. Adediran, *Negotiating Status: Pro Bono Partners and Counsels in Large Law Firms*, 47 LAW & SOC. INQUIRY 635, 636 (2022).

10. *Id.* at 655. For a study that has examined the potential conflicts between Big Law engagement with pro bono work and the relationship that exists between public interest groups that refer this work to the firms, see Malka Herman, Note, *Creating a “Great Pro Bono Practice,”* 109 CALIF. L. REV. 701, 702 (2021). For another study that has focused on how an NGO worked with big law firms to take on pro bono immigration cases, see Susan Bibler Coutin, *Falling Outside: Excavating the History of Central American Asylum Seekers*, 36 L. & SOC. INQUIRY 569, 579 (2011).

11. See Hannah Hayes, *Answer the Call: Pro Bono Lawyers Respond to the Immigration Crisis*, A.B.A. (Aug. 31, 2018), <https://www.americanbar.org/groups/diversity/women/publications/perspectives/2018/summer/answering-call-pro-bono-lawyers-respond-the-immigration-crisis/> [https://perma.cc/RD9B-7C3D].

12. *Id.*; see also Samantha Stokes, *Facing Down a Crisis, Big Law’s Pro Bono Departments Prepare to Do Their Part*, AM. LAW. (July 6, 2020), <https://www.law.com/americanlawyer/2020/07/06/facing-down-a-crisis-big-laws-pro-bono-departments-prepare-to-do-their-part/> [https://perma.cc/Q88X-7XVT]. And for a different configuration of “big immigration advocacy,” see Stephen Manning & Juliet Stumpf, *Big Immigration Law*, 52 U.C. DAVIS L. REV. 407, 413 (2018) (noting that such advocacy involves “construction of new system designs that employ human advocacy networks, technology, and data to make the most of limited resources”).

13. See Hayes, *supra* note 11. For example, some gave their time by volunteering in legal aid clinics or offering no-charge legal advice through telephone hotlines or public seminars. Others were focused on helping immigrants naturalize. Still others helped immigrant victims of crime obtain U visas. Lawyers also played a role in assisting those receiving Deferred Action for Childhood Arrivals (“DACA”) protection. Some immigrants also benefitted by Big Law lawyers assisting in the following ways: 1) prepping them for asylum hearings with Department of Homeland Security officers; 2) appearing on their behalf in immigration court; or 3) facilitating ways to gain them temporary protective status. *Id.*; see also, e.g., *Pro Bono*, JONES DAY, https://www.jonesday.com/en/firm/pro-bono?tab=globalinitiatives#anchor_1607452739845 (last visited Nov. 20, 2023) [https://perma.cc/7D8N-RLE2] (“In 2014, Jones Day launched the Unaccompanied Children Project (“UAC”) representing migrant minors and mothers with their children, many of whom were detained by the U.S. government after fleeing life-threatening, gender-based gang violence in their home countries.”).

within the Department of Justice (“DOJ”).¹⁴ From there, cases at the BIA go to the federal appellate court for the circuit from where the initial immigration hearing occurred.¹⁵ Certainly, some courtroom work by Big Law lawyers takes place on behalf of immigrants within these DOJ forums.¹⁶ But often when these lawyers enter the litigation picture, it is at the federal circuit court level.¹⁷

To that end, this study systematically examines the universe of cases involving immigrants petitioning a federal circuit court of appeals for relief from deportation.¹⁸ The data that were collected spanned discrete but connected moments in time: from early January 2017, when President Trump was inaugurated, up until January 6, 2021, when President Biden’s victory was formalized, as well as the two terms of President Barack Obama.¹⁹ It was important to cover this extended period because, as one Big Law lawyer stated, immigration matters “can be in the pipeline for a while.”²⁰ Thus, a case that might have begun during the Obama Presidency could have made it to the federal appellate level during the Trump Years. In total, over 23,000 cases were analyzed for this project, yielding particularly noteworthy results.²¹

First, the overall win rate for immigrants at the federal circuit level was 15.55% during the Trump Administration and 13.92% during the Obama

14. For a discussion of this point, see Jayanth K. Krishnan, *Facts Versus Discretion: The Debate over Immigration Adjudication*, 37 GEO. IMMIGR. L.J. 1, 4 (2022) [hereinafter *Facts Versus Discretion*]; Jayanth K. Krishnan, *Overstepping: U.S. Immigration Judges and the Power to Develop the Record*, 2022 WISC. L. REV. 57, 59 (2022).

15. *Facts Versus Discretion*, supra note 14, at 4 n.19.

16. See Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. PA. L. REV. 1, 2 (2015) (noting, however, that in these DOJ venues “[o]nly 2% of immigrants obtained pro bono representation from nonprofit organizations, law school clinics, or large law firm volunteer programs” (emphasis added)); see also *id.* at 26–27 (highlighting the very small percentage of cases taken on by large law firms in immigration court and noting “that the lion’s share of immigration representation was handled by small firms and solo practitioners”).

17. This point was confirmed to the first author in interviews conducted with Big Law lawyers during the course of this study. There will be further discussion of this point in Section IV.B. For a separate, important study on immigration appeals, see David Hausman, *The Failure of Immigration Appeals*, 164 U. PA. L. REV. 1177, 1179 (2016) (finding that orders of deportation by “harsher [immigration] judges” are no more likely to be overturned by the BIA or a circuit court of appeals than less harsh judges).

18. A detailed methodology of how this study was conducted is discussed in both Section IV.B. as well as in the Appendices. Note, the type of relief from deportation, which will also be discussed in detail in Part IV, primarily consisted of adjustment of status, asylum, cancellation of removal, and voluntary departure. Additionally, one question that may arise is why the foundational claim of an immigrant’s removability was not included as part of the analysis. As will be explained in Part IV, there were two reasons. First, devising specific search parameters to capture these types of cases in the Westlaw database was extremely difficult. Second, interview respondents noted that at the federal appellate level, the main goal, more often than not, was to seek discretionary relief, which given the 23,000-plus cases that were part of the dataset supports this position. Great thanks to Ingrid Eagly for raising this point with us.

19. It should be noted that Donald Trump had proposed his travel ban policy even before he was elected president. See Jessica Taylor, *Trump Calls for ‘Total and Complete Shutdown of Muslims Entering’ U.S.*, NPR (Dec. 7, 2015, 5:49 PM), <https://www.npr.org/2015/12/07/458836388/trump-calls-for-total-and-complete-shutdown-of-muslims-entering-u-s> [https://perma.cc/TH7S-U72X].

20. Interview with Big Law Lawyer A (Oct. 7, 2022).

21. The methodology and results for the Obama Years will be presented in Part V.

Administration.²² Second, however, Big Law firms that engaged in pro bono representation of immigrants won their cases more often than non-Big Law lawyers, and, crucially, this difference was statistically significant.²³ As the data shows, the win rate for Big Law firms was 40.66% during the Trump Years, compared to a win rate of 14.48% by non-Big Law lawyers.²⁴ During the Obama Years, the win rate for Big Law firms was 44.62% compared to a non-Big Law win rate of 13.37%.²⁵ (For this study, Big Law firms are defined as those that appear in the *American Lawyer's* Top 200 ranking of firms by gross revenue.²⁶)

The immediate question that arises is what accounts for this noticeable discrepancy. After all, does it not seem surprising that lawyers who focus on corporate work are outperforming those who are experts in the complicated area of immigration law? Building off two separate research literatures that have influenced the study of the legal profession, as well as relying on semi-structured, qualitative interviews with Big Law and non-Big Law lawyers alike,²⁷ this study proposes a framework to explain the comparatively higher success rates.

Namely, Big Law lawyers who provide immigration pro bono services have enormous resource advantages, which gives them the luxury of selecting cases that they believe are more likely to win.²⁸ Additionally, Big Law firms often have specialists who focus on appellate practice.²⁹ They also have available personnel who are readily willing to assist on these appeals, as well as access to diverse research technologies and a keen familiarity with the norms of how the federal appellate courts operate.³⁰

At this point, we wish to make an unequivocal statement: that all of these factors are vital in preparing Big Law lawyers during the appeals process is by no means an assertion that non-Big Law lawyers are unimportant or insignificant professionals in the immigration system. In fact, it is quite the opposite. In the lower-level immigration courts, existing data show that immigrants benefit

22. A detailed discussion of the win rate and how it was calculated is provided in Section III.B and Appendices A-H. “Win” was defined, as will be explained in these sections, as having the immigrant’s petition for a BIA-rehearing granted by the federal circuit court. *See infra* app. A.

23. The details of this point are discussed in Section IV.A. Also, relying on Eagly and Shaffer’s landmark study, this study follows the same premise as theirs, which is that Big Law firms engaging in this type of immigration work do so in a pro bono manner. *See Eagly & Shaffer, supra* note 16, at 27 n.113. As they note, the [f]actors that lead us to categorize large firm work as pro bono include the absence of immigration law as a practice area on the website of most of the large law firms, the presence of organized pro bono programs within these firms, and the frequent occurrence of immigration case transfers to these firms from nonprofit organizations within our data.

Id.; *see also* Cummings, *The Politics of Pro Bono, supra* note 8, at 1.

24. *See infra* notes 84–85 and accompanying text.

25. *See infra* note 232 and accompanying text.

26. The study relies on the Am Law gross revenue rankings from 2021. *See The 2021 Am Law 100: Ranked by Gross Revenue*, AM. LAW. (Apr. 20, 2021, 9:30 AM), <https://www.law.com/americanlawyer/2021/04/20/the-2021-am-law-100-ranked-by-gross-revenue/> [<https://perma.cc/8PX4-KTLC>].

27. The details of who was interviewed are provided in Section IV.B.

28. *See infra* notes 157–59 and accompanying text. *See also* Lily Yu, *A “Good Fit”: Client Sorting among Nonprofit, Private, and Pro Bono Immigration Attorneys*, 57 LAW & SOC’Y REV. 141 (2023)

29. *See infra* notes 162–63 and accompanying text.

30. *See infra* notes 219–21 and accompanying text.

tremendously when they are represented by lawyers—most of whom are from non-Big Law settings.³¹

Our study, however, focuses on a forum that has yet to receive this type of scholarly attention.³² In just twelve years, 23,000 cases have been decided at the federal appellate level involving immigrants seeking what might be their last reprieve.³³ We believe such a situation demands its own rigorous analysis. That the findings ultimately reveal a wide discrepancy in the win rates between Big Law lawyers and non-Big Law lawyers, *at this appellate stage only*, should not be interpreted as a normative endorsement of the former somehow being better overall lawyers than the latter. Rather, Big Law's greater success rates sadly appear to perpetuate the already existing inequalities within our immigration system and highlight the unfortunate reality that firms with resources are able to procure advantages and benefits that others may not be able to enjoy.³⁴

This study will proceed in the following manner. Part II will briefly discuss the previous research upon which our theory draws. Part III lays out the immigration issues that are of focus in our dataset, along with providing an overview of this study's methodology. Part IV then moves to the findings during the Trump era, laying out our evidence—both quantitatively and qualitatively. Finally, Part V covers the Obama data. This Article concludes by noting that the relatively high win rate for Big Law firms, and the reasons behind it, have serious access-to-justice implications for immigrants who do not receive this type of representation.

31. For crucial data on this point, see INGRID EAGLY & STEVEN SHAFER, AM. IMMIGR. COUNCIL, ACCESS TO COUNSEL IN IMMIGRATION COURT 2–3 (Sept. 28, 2016), <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court> [<https://perma.cc/MC5S-GW7A>]:

Represented immigrants in detention who had a custody hearing were four times more likely to be released from detention (44 percent with counsel versus 11 percent without). Represented immigrants were much more likely to apply for relief from deportation. Detained immigrants with counsel were nearly 11 times more likely to seek relief such as asylum than those without representation (32 percent with counsel versus 3 percent without). Immigrants who were never detained were five times more likely to seek relief if they had an attorney (78 percent with counsel versus 15 percent without). Represented immigrants were more likely to obtain the immigration relief they sought. Among detained immigrants, those with representation were twice as likely as unrepresented immigrants to obtain immigration relief if they sought it (49 percent with counsel versus 23 percent without). Represented immigrants who were never detained were nearly five times more likely than their unrepresented counterparts to obtain relief if they sought it (63 percent with counsel versus 13 percent without).

32. See generally sources cited *infra* notes 40–43.

33. See *supra* notes 18–21 and accompanying text.

34. See *supra* notes 22–26 and accompanying text.

II. FRAMING THE ARGUMENT: DRAWING UPON THE PREVIOUS RESEARCH

A. *The Role of Resources and Specialization*

Perhaps the most significant study on the role resources play in litigation is Marc Galanter's 1974 article, "Why the 'Haves' Come Out Ahead."³⁵ The lessons of Galanter's research are famous: those who have wealth, talented representatives advocating for them, connections with decision-makers, and social capital within the community—the "haves"—tend to win more than "have-not" actors who lack these advantages.³⁶ Furthermore, the "haves" can use litigation frequently and when they wish, thereby eventually becoming specialists and "repeat players,"³⁷ which is greatly beneficial when facing more novice opponents in court.³⁸

Numerous studies have dissected this Galanter "classic" and applied it to a diverse array of settings.³⁹ Two decades ago, Herbert Kritzer and Susan Silbey published an important volume that featured a range of contributors who tested the applicability of the "haves" thesis in different contexts.⁴⁰ One group of authors relevant to our project here was Donald Songer, Reginald Sheehan, and Susan Brodie Haire, who examined cases in the federal circuit courts from 1925 to 1988.⁴¹ As they found, the patterns were consistent over time: "haves" parties "compiled an impressive record in these courts by dominating opposing litigants over the 64-year period of analysis."⁴²

Kritzer's own contribution to this volume complements this appellate court chapter.⁴³ He notes that albeit "[w]ith some exceptions,"⁴⁴ several other studies have confirmed that litigants with "resources and experience"⁴⁵ fare better than

35. See generally Marc Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC'Y REV. 95 (1974).

36. *Id.* at 124–25.

37. *Id.* at 100–03.

38. See *id.*

39. See *infra* notes 40–42 and accompanying text.

40. See generally IN LITIGATION: DO THE "HAVES" STILL COME OUT AHEAD? (Herbert M. Kritzer & Susan S. Silbey eds., 2003) [hereinafter IN LITIGATION].

41. See Donald R. Songer, Reginald S. Sheehan & Susan Brodie Haire, *Do the "Haves" Come Out Ahead over Time? Applying Galanter's Framework to Decisions of the U.S. Court of Appeals, 1925-1988*, 33 LAW & SOC'Y REV. 811 (1999), reprinted in IN LITIGATION, *supra* note 40, at 85–107.

42. *Id.* at 811.

43. See Herbert M. Kritzer, *The Government Gorilla: Why Does the Government Come Out Ahead in Appellate Courts?*, in IN LITIGATION, *supra* note 40, at 342–70.

44. *Id.* at 342–343 (citing *e.g.*, Reginald S. Sheehan, William Mishler & Donald R. Songer, *Ideology, Status, and the Differential Success of Direct Parties Before the Supreme Court*, 86 AM. POL. SCI. REV. 464, 464–71 (1992); Donald J. Farole Jr., *Reexamining Litigant Success in State Supreme Courts*, 33 LAW & SOC'Y REV. 1043, 1043–58 (1999); Stanton Wheeler, Bliss Cartwright, Robert A. Kagan & Lawrence M. Friedman, *Do the "Haves" Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970*, 21 LAW & SOC'Y REV. 403, 403–46 (1987) (finding that the advantages of the "haves," for a century after 1870, while mattering, were not as significant as expected)). *But cf.* Stacia L. Haynie, *Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court*, 56 J. POL. 752, 769–70 (1994) (finding that those with less resources were more likely to prevail before the Supreme Court of the Philippines).

45. See Kritzer, *supra* note 43, at 342–43.

those who are lacking in these areas.⁴⁶ But his analysis focuses on a particularly powerful “haves”-player—the government.⁴⁷ As he argues, when the government is a litigant, it has enormous advantages because it is able to set “the rules, which the courts in turn enforce.”⁴⁸ In addition, while judges are not beholden to the government when deciding cases involving it, because they are part of the public apparatus, it is conceivable that they might act with a proclivity towards the government in cases that are not clear-cut.⁴⁹ Perhaps for this reason, as another report has noted, in the immigration context it is not surprising that more than “80% of all immigration judges are more likely to deny an asylum case than to grant one.”⁵⁰

B. *The Benefits of Prestige and Strong Reputation*

Dating back decades, a strand of scholarship in the social sciences literature has focused on how those with resources and power—namely societal “elites” often also have great prestige, a strong reputation, and significant social capital.⁵¹ As it applies to the legal profession, Yves Dezalay and Bryant Garth have written extensively on how established, elite lawyers are able to wield their influence on both state and societal institutions by leveraging their capital to advance the interests of their clients.⁵² They have described this dynamic playing out in the international arbitration context.⁵³ Transnational legal practitioners who hold high prestige are able to carry sway among decision-making arbitrators and shape doctrinal developments in the field.⁵⁴

In their work, Mitt Regan and Lisa Rohrer document how, throughout the 2000s, elite U.S. law firms continued to focus intensively on maximizing profits and catering to business needs as a primary objective.⁵⁵ They hasten to point out,

46. *Id.*

47. Kritzer, *supra* note 43, at 343.

48. *Id.*

49. *Id.* (citing MARTHA A. DERTHICK, UP IN SMOKE: FROM LEGISLATION TO LITIGATION IN TOBACCO POLITICS 83, 218 (2002); GERALD N. ROSENBERG, THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE 14–15 (1991)).

50. See *Asylum Success Varies Widely Among Immigration Judges*, TRAC, <https://trac.syr.edu/immigration/reports/670/> (last visited Nov. 20, 2023) [<https://perma.cc/PS7G-8D3S>] (“[T]he majority of Immigration Judges (60%) have an asylum denial rate of 70 percent or higher. More than one in five have an asylum denial rate of over 90 percent, while just two percent (9 judges total) have a denial rate of less than 10 percent.”).

51. The literature on this subject is vast. For a sample of these works as they relate to this project, see generally FLOYD HUNTER, COMMUNITY POWER STRUCTURE: A STUDY OF DECISION MAKERS (1953); CHARLES WRIGHT MILLS, THE POWER ELITE (5th ed. 1956); ROBERT D. PUTNAM, THE COMPARATIVE STUDY OF POLITICAL ELITES (Joseph LaPalombara, ed. 1976).

52. See YVES DEZALAY & BRYANT G. GARTH, THE INTERNATIONALIZATION OF PALACE WARS: LAWYERS, ECONOMISTS AND THE CONTEST TO TRANSFORM LATIN AMERICAN STATES 47–51 (2002). Also, for their other work on this point, see generally YVES DEZALAY & BRYANT GARTH, ASIAN LEGAL REVIVALS: LAWYERS IN THE SHADOW OF EMPIRE (2010).

53. See generally YVES DEZALAY & BRYANT G. GARTH, DEALING IN VIRTUE: INTERNATIONAL COMMERCIAL ARBITRATION AND THE CONSTRUCTION OF THE TRANSNATIONAL LEGAL ORDER (1996).

54. *Id.* at 18–29.

55. See, e.g., MILTON C. REGAN & LISA H. ROHRER, BIGLAW: MONEY AND MEANING IN THE MODERN LAW FIRM 6 (2021).

however, that these firms also had other purposes in mind, including being cognizant of how the profession is viewed by the public as well as wanting to be seen as responsible organizational citizens.⁵⁶ To that end, engaging in and promoting pro bono work helped satisfy this goal.⁵⁷ In fact, because these firms possessed a type of “halo effect,”⁵⁸ they were able to use their powerful reputation for the benefit of those whom they represented.⁵⁹

Then there are others who talk about social capital and lawyers in slightly different ways.⁶⁰ Swethaa Ballakrishnen and Carole Silver have found that for students coming from abroad to the U.S. for their legal education, one of the motivations is to earn an American law degree that will help them reputationally in their legal careers.⁶¹ David Wilkins and his team of researchers have focused on the manner in which prestigious law firms—beyond the U.S.—have been able to deploy their social capital to affect not just judicial decisions but business policies within the corporate sector.⁶² And there has been careful work done on how lawyers who have ample social capital and high professional standing can be more selective in deciding which cases to take compared to lawyers who lack this type of prestigious reputation.⁶³

The above-mentioned studies are connected to one another because—whether it be intentional or not—they touch upon a Bourdieu-based notion that social capital opens up opportunities that otherwise would not be available if it were absent.⁶⁴ In the context of our project, this situation can occur where the lawyers themselves have established such prominence that their sheer presence inside the firm helps raise the profile of the pro bono work being done on behalf of the immigrant’s case.⁶⁵ Alternatively, the firm itself, organizationally, can

56. *Id.* at 3, 13–14.

57. *See, e.g., id.* at 10.

58. *Id.* at 102.

59. *See, e.g., id.* at 7, 101–02.

60. *See, e.g., Swethaa S. Ballakrishnen & Carole Silver, A New Minority? International JD Students in U.S. Law Schools*, 44 *LAW & SOC. INQUIRY* 647 (2019).

61. *Id.* at 668.

62. For a sample of these works, see generally *THE INDIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION* (David B. Wilkins, Vikramaditya S. Khanna & David M. Trubek eds., 2017); *THE BRAZILIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION: THE RISE OF THE CORPORATE LEGAL SECTOR AND ITS IMPACT ON LAWYERS AND SOCIETY* (Luciana Gross Cunha, Daniela Monteiro Gabbay, José Garcez Ghirardi, David M. Trubek & David B. Wilkins eds., 2018); *see also Globalization, Lawyers and Emerging Economies (GLEE)*, HARV. L. SCH. CTR ON THE LEGAL PRO., <https://clp.law.harvard.edu/clp-research/globalization/> (last visited Nov. 20, 2023) [<https://perma.cc/2UG7-8K7X>].

63. For the most notable scholar who has worked on this issue, we return to Kritzer. *See* HERBERT M. KRITZER, *RISKS, REPUTATION, AND REWARDS: CONTINGENCY FEE LEGAL PRACTICE IN THE UNITED STATES* 45–95 (2004); HERBERT M. KRITZER & NEIL VIDMAR, *WHEN LAWYERS SCREW UP: IMPROVING ACCESS TO JUSTICE FOR MALPRACTICE VICTIMS* 65–93 (2018); *see also* Herbert M. Kritzer & Jayanth K. Krishnan, *Lawyers Seeking Clients, Clients Seeking Lawyers: Sources of Contingency Fee Cases and Their Implications for Case Handling*, 21 *LAW & POL’Y* 347, 365–67 (1999); STEPHEN DANIELS & JOANNE MARTIN, *TORT REFORM, PLAINTIFFS’ LAWYERS, AND ACCESS TO JUSTICE* 140–204 (2015).

64. *See generally* Pierre Bourdieu, *The Social Space and the Genesis of Groups*, 14 *THEORY & SOC’Y* 723 (1985); Pierre Bourdieu, *The Forms of Capital*, in *HANDBOOK OF THEORY AND RSCH. FOR THE SOCIO. OF EDUC.* 241, 248–58 (John Richardson ed., 1986).

65. This point is highlighted in Subsection IV.B.4.

have such high prestige that whoever the lawyers are within it, there is a presumption that the immigrant's case will have merit.⁶⁶ The point worth noting is that social capital can indeed play a key role in the lawyer's quest to provide assistance to the immigrant.⁶⁷

III. THE IMMIGRATION ISSUES AT STAKE AND THE METHODOLOGY EMPLOYED

A. *Discretionary Relief Petitions in the Deportation Context*

For this study, four forms of discretionary relief from deportation were of focus: asylum, adjustment of status, cancellation of removal, and voluntary departure. As it relates to the first two, if granted, both offer an opportunity for the immigrant to eventually find a way to achieve lawful permanent residency and then, ultimately, citizenship.⁶⁸ For asylum, the typical situation arises where the noncitizen comes to the border, or is living within the U.S. itself, and requests to remain because the conditions in the home jurisdiction make it unsafe to return.⁶⁹ For adjustment of status, a petition of this nature typically occurs for those noncitizens who seek to transform their current, lawful but temporary status into one that enables them to stay permanently.⁷⁰

There is then cancellation of removal. Under this relief mechanism, the immigration judge may allow both lawful permanent residents and those who are temporarily in the country to remain.⁷¹ Finally, there is voluntary departure.

66. See *infra* Subsection IV.B.4.

67. See *infra* Subsection IV.B.4.

68. See Jayanth K. Krishnan, *The Immigrant Struggle for Effective Counsel: An Empirical Assessment*, 2022 U. ILL. L. REV. 1021, 1024 n.27.

69. See 8 U.S.C. § 1158. Note, this type of individual is referred to as an asylee, which is distinct from someone who is a refugee. For the latter, this is an individual who petitions to come to the U.S. from abroad, typically at a U.S. embassy or consulate. See Jaya Ramji-Nogales, Andrew I. Schoenholtz & Philip G. Schrag, *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295, 301–02 (2007); JAYA RAMJI-NOGALES, ANDREW I. SCHOENHOLTZ & PHILIP G. SCHRAG, *REFUGEE ROULETTE: DISPARITIES IN ASYLUM ADJUDICATION AND PROPOSALS FOR REFORM 11* (2009). Also, to qualify for either refugee or asylee status, the applicant must show that they cannot stay in the home country because of “persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion . . .” 8 U.S.C. § 1101(a)(42)(A).

70. *But see* Immigration and Nationality Act, 8 U.S.C. § 1255(a)(2) (allowing for adjustment without having lawful status). For the earlier point, though, see 8 U.S.C. § 1255(a):

The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification as a VAWA self-petitioner may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

71. See 8 U.S.C. § 1229 (noting that for permanent residents, cancellation of removal may be granted if the noncitizen: “(1) has been . . . lawfully admitted for permanent residence for not less than 5 years, (2) has resided in the United States continuously for 7 years after having been admitted in any status, and (3) has not been convicted of any aggravated felony.” By contrast, a nonimmigrant may receive this form of relief who: “(A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application; (B) has been a person of good moral character during such period;

Often characterized as a “privilege” that the noncitizen is receiving from the immigration judge,⁷² this form of relief offers the possibility of one day returning to the U.S. if the individual assumes the costs of exiting the country within an accelerated period of time.⁷³

These petitions have been the main types of claims brought by lawyers on behalf of those looking to avoid deportation for more than a decade.⁷⁴ But there has been a recent spate of rulings by the Supreme Court, which has made it all that more difficult to gain discretionary relief.⁷⁵ Lawyers working on these cases thus recognize, especially in this moment, how vital it is that noncitizens have vigorous and effective legal representation in order for them to have a chance of being able to stay in the country.⁷⁶

B. *The Project’s Methodology for the Trump Years*

To capture the full universe of discretionary relief cases heard by the federal appellate courts during the Trump Presidency, the authors employed a series of steps. (The methodology used for the Obama Presidency is explained in Part V.) To begin, by working with three different Westlaw reference attorneys, the authors relied on specific search parameters to arrive at a dataset of 6,005 cases.⁷⁷ From there, the authors went through these cases and removed those that were not appealed from the BIA directly or where the immigrant went pro se, which resulted in a reduced dataset of 5,904 cases.⁷⁸

(C) has not been convicted of an offense under section 1182(a)(2), 1227(a)(2), or 1227(a)(3) of this title. . . ; and (D) establishes that removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.”)

72. See AM. IMMIGR. COUNCIL, PRACTICE ADVISORY, VOLUNTARY DEPARTURE: WHEN THE CONSEQUENCES OF FAILING TO DEPART SHOULD AND SHOULD NOT APPLY 11 (2017).

73. See 8 U.S.C. § 1229(c); see also FLORENCE PROJECT, HOW TO APPLY FOR VOLUNTARY DEPARTURE, U.S. DEP’T OF JUST., <https://www.justice.gov/sites/default/files/eoir/legacy/2013/01/22/Voluntary%20Departure%20-%20English%20%2813%29.pdf> [https://perma.cc/8KE2-9DEZ] (Oct. 2011) (noting the various periods of time outside the U.S. that the noncitizen must spend, depending on the circumstances of the voluntary departure granted.). But see Ingrid V. Eagly, *Remote Adjudication in Immigration Matters*, 109 NW. U.L. REV. 933, 938 n.23 (taking the perspective held by the Executive Office of Immigration Review that because the immigrant must depart it is not “a form of relief”). Because the decision on whether to grant voluntary departure is within the discretion of the immigration judge, we retain it as part of the analysis for this study, although in the petitions to the federal appellate court, lawyers frequently invoke this claim as supplemental to one of the other three cited above.

74. See Krishnan, *supra* note 68, at 104 n.27.

75. See Ayelet Parness, *Recent Supreme Court Decisions Erode Migrants’ Rights*, HIAS (June 27, 2022), <https://hias.org/news/recent-supreme-court-decisions-erode-migrants-rights/> [https://perma.cc/YRJ6-GRJP].

76. Interview with Non-Big Law Lawyer A (Oct. 20, 2022).

77. See *infra* app. A. Namely, the Federal Courts of Appeals database was exclusively searched, and the terms used were: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary de-parture” & DA(searching after 1/1/2017 & before 1/6/2021).

78. See *id.* Thirty-two of the cases in this dataset were pro se cases. In all thirty-two instances, the immigrant lost. Sixty-nine of the 6,005 cases were removed because the original search captured matters, for example, that came from the Department of Homeland Security or from cases where President Trump was sued directly. These cases thus originated in a federal district court and were not relevant to our study here. Because of space limitations in this footnote, please see app. A for the precise search terms used on how we arrived at 5,904 cases on Westlaw.

Next, and again working with the Westlaw reference attorneys, the authors constructed a second set of search parameters to pull out the “immigrant wins” from within the above universe of 5,904 cases.⁷⁹ The total number of these wins was 918.⁸⁰ A randomized sample of 200 cases from the 5,904 total was taken to test whether these win results were accurate estimations. The error rate was 0.01, giving us great confidence that our search parameters were highly accurate.⁸¹

Next, from within the 5,904 cases, we tabulated the number of those where a Big Law firm participated. That number was 241.⁸² Subsequently, because we were able to establish that 241 cases of the 5,904 involved a Big Law firm, we also were able to determine that the total number of non-Big Law cases was 5,663.⁸³

The next Section lays out in detail the findings of our empirical analysis, both from a quantitative and qualitative perspective.

IV. THE RESULTS

A. *The Aggregate Data During the Trump Years*

To begin, the authors went through the 241 Big Law cases by hand and found that immigrants who had Big Law lawyers representing them at the federal appellate level won 40.66% of the time.⁸⁴ Tellingly, this win rate was nearly three times greater than for immigrants who were not represented by Big Law lawyers. The win rate for the latter was 14.48%.⁸⁵ Table 1 provides the specific information regarding these data.

TABLE 1: PERCENTAGE WIN-LOSS RATE

Firm	Loss (%)	Win (%)	Total (N)
Non-Big Law Cases	85.52	14.48	5,663
Big Law Cases	59.34	40.66	241
Overall Case Total	84.45	15.55	5,904

79. *See id.*

80. To arrive at 918 on Westlaw, see *id.*

81. The statistical software, STATA, was used to generate the randomized sample, and the commands employed are available upon request from the authors. *See* STATA, <https://www.stata.com> (last visited Nov. 20, 2023) [<https://perma.cc/K9W2-RRGW>].

82. On this point, because of the length of the discussion involving the 200 *American Lawyer* law firms, see *infra* app. B.

83. The non-Big Law case total was calculated by subtracting the 241 Big Law cases from the total sum of 5,904. *See id.*

84. To calculate the Big Law win rate, we took the total number of wins by Big Law, which was ninety-eight, and divided that by the total number of Big Law cases, which was 241.

85. This calculation was done by returning to the 918 overall wins, subtracting the ninety-eight wins that Big Law firms had, which left a sum of 820 wins – out of 5,663 cases in which non-Big Law lawyers were involved. The percentage win rate for non-Big Law lawyers was 14.48%. *See infra* Table 2.

The authors then did a simple chi-square calculation,⁸⁶ and Table 2 provides the results.

TABLE 2: CHI-SQUARE TEST OF SUCCESS RATE BY BIG LAW AND NON-BIG LAW FIRMS

Firm	Loss	Win	Total
Non-Big Law Cases	4,843	820	5,663
Big Law Cases	143	98	241
Total Cases	4,987	918	5,904

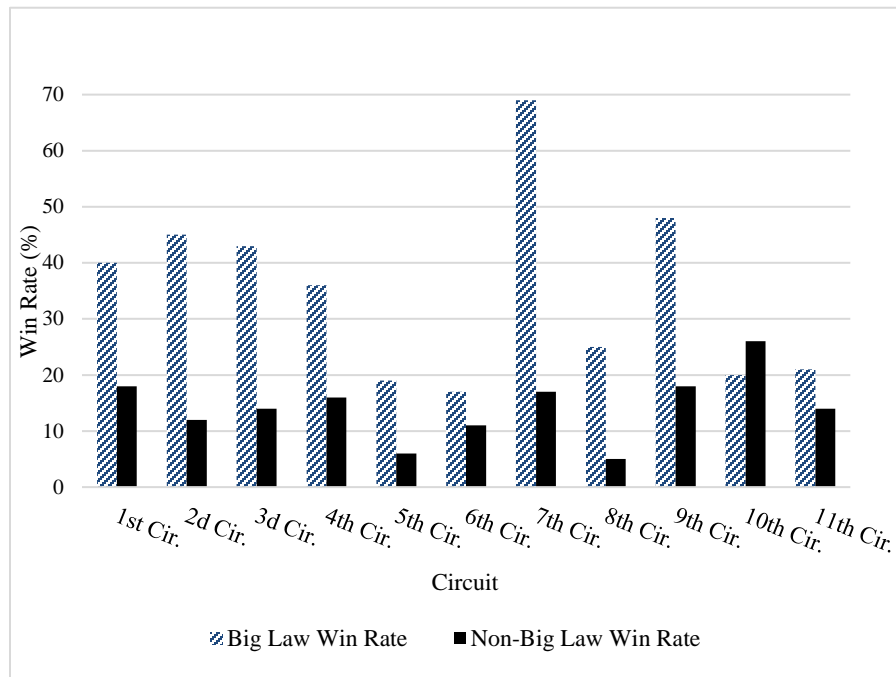
Note: Pearson $\chi^2(1) = 120.694$; $p < 0.001$.

The data reveal several different points. To begin, it should be acknowledged that of the total number of wins, non-Big Law lawyers accounted for 89% of these (820/918). But the data also show that there indeed was a statistically significant difference present between the win rate of Big Law versus non-Big Law lawyers, thus indicating that it does matter who represents the immigrant during a federal appellate proceeding.

From there, the authors examined the win rate circuit-by-circuit. The results are presented in the bar graph below.

86. See Avijeet Biswal, *What is a Chi-Square Test? Formula, Examples, & Application*, SIMPLILEARN (Aug. 29, 2023), <https://www.simplilearn.com/tutorials/statistics-tutorial/chi-square-test> [https://perma.cc/AT8M-H5K6] (discussing purpose and formula for the chi-square test).

FIGURE 1: WIN RATE BY TYPE OF LAW FIRM AND CIRCUIT



*Note: The D.C. Circuit Court of Appeals is not included as there is no immigration court in the District of Columbia. (See <https://trac.syr.edu/immigration/help/hearingloc-code.html>). Thus, it does not hear this study's discretionary relief issues from the BIA.

As is consistent with the overall data, the win rate per circuit, save one, illustrates that lawyers from Big Law firms were more successful than non-Big Law lawyers, with the margin of difference being especially stark in some circuits. Take, for instance, the Seventh Circuit. The overall win rate for all cases—Big Law and non-Big Law—was 24%.⁸⁷ But for immigrants who were represented by Big Law lawyers, the win rate was 69%, whereas for those who had non-Big Law lawyers, it was 17%.⁸⁸ Other noticeable disparities were present in the differences within the First Circuit, Second Circuit, Third Circuit, Eighth Circuit, and Ninth Circuit.⁸⁹

87. In the Seventh Circuit, there was a total of 118 cases, with twenty-eight wins and ninety losses. See *infra* apps. A–B.

88. In the Seventh Circuit, Big Law lawyers were involved in sixteen cases, and they prevailed in eleven of these. Non-Big Law lawyers were involved in 102 cases, and they prevailed in just seventeen of these. See *infra* apps. A–B.

89. In the First Circuit, Big Law lawyers won two of the five (40%) cases they litigated compared to non-Big Law lawyers who won sixteen out of eighty-seven (18%) cases. In the Second Circuit, Big Law lawyers won fifteen out of thirty-three (45%) cases compared to non-Big Law lawyers who won 117 out of 1,016 (12%) cases. In the Third Circuit, Big Law lawyers won ten of the twenty-three (43%) cases they litigated compared to non-Big Law lawyers who won fifty-three out of 381 (14%) cases. In the Eighth Circuit, Big Law lawyers won one

The Tenth Circuit was the one outlier. Here, we see that the win rate for non-Big Law lawyers was slightly higher than for Big Law lawyers.⁹⁰ But because the number of Big Law cases was so small ($N = 5$), it is hard to draw any real conclusions;⁹¹ after all, if one more of those five cases had been a win, the win rate for Big Law would have jumped to 40% compared to the non-Big Law win rate of 26%.⁹² One question that is worth considering is why there were so few Big Law cases in the Tenth Circuit. One explanation may be that the states within this jurisdiction (Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming) have relatively lower numbers of Big Law offices, and, thus, fewer Big Law lawyers present who are able to do such discretionary relief work.⁹³ Further research would need to be conducted to confirm this hypothesis.

There are other data worth noting as well. For example, of the 200 *American Lawyer* Big Law firms that we studied, Westlaw indicated that eighty-one of them participated in appellate relief litigation during the Trump Years. Appendix C lists each of these firms. We were interested in seeing *how* these firms engaged in litigation. Were they involved in these cases alone? Did they work with others?

To that end, we opted to examine the data in several discrete ways. First, we looked at how each participating firm performed when it litigated on its own. Table 3 provides the results.

TABLE 3: BIG LAW WIN RATES WHEN WORKING ALONE

Wins	63
Losses	100
Total Cases	163
Win Rate (%)	39%

of the four (25%) cases they litigated compared to non-Big Law lawyers who won ten out of 185 (5%) cases. And in the Ninth Circuit, Big Law lawyers won forty-three of the eighty-nine (48%) cases they litigated compared to non-Big Law lawyers who won 437 out of 2,496 (18%) cases. *See infra* apps. A–B.

90. Big Law lawyers were involved in five cases and only prevailed in one for a 20% win rate. Non-Big Law lawyers were involved in 116 cases and won thirty for a 26% win rate. When breaking down the data by circuit, no chi-square test was used because there was not sufficient statistical power to generate a reliable result. Otherwise put, given the number of cases involved per circuit, it was not possible to draw a chi-square test or other statistical inference techniques as to whether there was statistical significance present between the differences. (Recall that from Table 2, we did have enough data to do a chi-square test for the overall dataset because the number of cases were sufficient there.) But, descriptively, the above circuit-by-circuit discussion is relevant to flesh out how immigrants did, with respect to whether their lawyer was from Big Law or non-Big Law, which is why the presentation of this information is provided here. *See supra* Table 2; *see also infra* apps. A–B.

91. *See* Chris Deziel, *The Effects of a Small Sample Size Limitation*, SCIENCING (Mar. 13, 2018), <https://sciencing.com/effects-small-sample-size-limitation-8545371.html> [<https://perma.cc/DRJ6-J6HL>] (discussing the weaknesses of having a small sample size in research).

92. *See infra* apps. A–B. Great thanks to Ingrid Eagly for making this observation to us.

93. *See* Mike Robinson, *The Top Big Law Firms in 2023*, CLIO, <https://www.clio.com/blog/big-law-firms/> (last visited Nov. 20, 2023) [<https://perma.cc/EKH9-EPR5>].

As can be seen, there were 163 cases where a Big Law firm litigated by itself. In these situations, the win rate was 39%, or sixty-three wins out of the 163 cases. (Part two of Appendix C lists the 163 cases, the names of the respective participating firms, and each outcome.)

Next, as will be discussed shortly, Big Law firms frequently receive their pro bono immigration cases from outside third parties.⁹⁴ Occasionally, staff attorneys at the federal circuit courts will ask a Big Law lawyer to take on a case where the immigrant has no counsel at all.⁹⁵ More commonly, however, nongovernmental organizations, including clinics from law schools, will refer a client to a Big Law firm and work with the latter on the appeal.⁹⁶ Table 4 highlights the results when such a partnership occurs.

TABLE 4: BIG LAW WIN RATES WHEN PARTNERING WITH AN NGO

Wins	24
Losses	38
Total Cases	62
Win Rate (%)	39%

As can be seen, the win rate percentage is coincidentally identical to what we find in Table 3. Appendix D lists each of the sixty-two cases and notes with whom the Big Law firm partnered, as well as the outcome of each of these cases.

From our sample, we also examined those situations where a coalition supported the immigrant's petition for discretionary relief, which included two or more Big Law firms working with one or more NGOs. There were only fourteen cases where this type of partnership occurred. These coalitions won in nine of these cases for a win rate of 64%. (Appendix E lists each of these cases and the type of partnerships that were present respectively as well.) And, interestingly, of our entire sample, there were only two cases where Big Law firms partnered with one another *without* the presence of an NGO. In these two cases, the Big Law firms won in each. (Appendix F lists the details of these cases.)

There are two final questions that are likely to emerge. First, are applicants from certain countries more likely to prevail in the federal appellate courts than those from other countries? Second, if so, what role, if any, do lawyers from Big Law firms play in these win rates? Unfortunately, after exhaustive conversations with reference attorneys from Westlaw, the authors determined that there was not a set of search terms that would reliably identify the answers to these questions. There are adjacent data from the immigration courts themselves, however, that provide partial, relevant information. Table 5 highlights this material.

94. See *infra* notes 141–45.

95. See *infra* note 145 and accompanying text.

96. See *infra* note 141 and accompanying text; Eagly & Shafer, *supra* note 16, at 2.

TABLE 5:⁹⁷ INDIVIDUALS GRANTED ASYLUM BY COUNTRY OF NATIONALITY IN IMMIGRATION COURT

Country	Number (2019)	Percent (2019)	Number (2020)	Percent (2020)	Number (2021)	Percent (2021)
El Salvador	2,321	12.3	1,731	11.9	1,149	15.6
Guatemala	1,545	8.2	1,437	9.8	880	11.9
China, People's Republic	3,459	18.3	1,950	13.4	780	10.6
India	1,929	10.2	1,179	8.1	629	8.5
Honduras	1,291	6.8	1,016	7.0	603	8.2
Venezuela	501	2.6	890	6.1	472	6.4
Mexico	802	4.2	719	4.9	367	5.0
Nicaragua	357	1.9	364	2.5	163	2.2
Russia	299	1.6	245	1.7	156	2.1
Nepal	606	3.2	308	2.1	143	1.9
All other countries, including unknown	5,799	30.7	4,762	32.6	2,205	27.5
Total	18,909	100.0	14,601	100.0	7,367	100.0

These most recent data represent the activity from the last two years of the Trump Administration (2019 and 2020) and the first year of the Biden Administration (2021) at the immigration court level. For a key form of discretionary relief— asylum—China was the country where noncitizens won most frequently during these Trump Years—18.3% in 2019 and 13.4% in 2020.⁹⁸ In 2021, China fell to third, overtaken by El Salvador and Guatemala, respectively.⁹⁹ The open query, and one that deserves its own study, is whether the win rates per country at the immigration court track with what is happening at the federal court of appeals—and whether and to what extent Big Law advocacy matters in this regard. For now, we leave these questions for another day.

97. See RYAN BAUGH, ANNUAL FLOW REPORT: REFUGEES AND ASYLEES: 2021, DEP'T OF HOMELAND SEC. OFFICE OF IMMIGR. STAT. 11 tbl.9 (2022). Note that this Table 9 is entitled: "Individuals Granted Asylum Defensively by Country of Nationality: Fiscal Years 2019 to 2021." The term "defensively" is used because it is when the immigrant is placed in a removal proceeding and appears in front of an immigration judge that the *defense* of asylum is raised. What are called "affirmative" applications for asylum take place in front of a Department of Homeland Security United States Citizenship and Immigration Services asylum officer, where in these cases "[g]rants of asylum by asylum officers are not appealable." See T. ALEXANDER ALEINIKOFF, DAVID A. MARTIN, HIROSHI MOTOMURA, MARYELLEN FULLERTON, JULIET P. STUMPF & PRATHEEPAN GULASEKARAM, IMMIGRATION AND CITIZENSHIP: PROCESS AND POLICY 737 (9th ed. 2021). If the asylum officer rejects the application, the noncitizen can appeal to an immigration judge; often the asylum officer will just refer the matter to an immigration judge to review and decide the matter accordingly. See *id.* at 737–738.

98. RYAN BAUGH, *supra* note 97, at 11 tbl.9.

99. *Id.*

B. The Qualitative Interviews

1. Resources

For this study, twenty-two lawyers were interviewed who provided crucial information explaining what might account for the disparities in the win-loss rates between Big Law and non-Big Law lawyers. Of this group:

- thirteen had experiences in Big Law firms that engaged in pro bono work on behalf of immigrants,
- four lawyers were from non-Big Law practice settings where immigration was a central feature of the work done,
- three lawyers were from nongovernmental organizations that actively referred deportation cases to the private bar,
- and two lawyers who had experiences working in the federal appellate courts, where their respective courts would make similar types of referrals, were interviewed as well.¹⁰⁰

For each of these lawyers, perhaps not surprisingly, the number one factor that affected whether and to what extent immigrants were able to receive vigorous representation in the federal appellate courts revolved around the availability of resources. One of the *non-Big Law* interviewees acknowledged that while his firm does “pretty well,”¹⁰¹ it is nowhere near what the big firms earn in profits. As he stated, “even though we help a lot of people and love what we do, we always have to think about the bottom line.”¹⁰²

The notion that resources matter needs to be carefully unpacked because this commodity has many layers to it. For example, there is the amount of money that a firm possesses. Consider Table 6, which lists just the top ten law firms from *The American Lawyer* in terms of gross revenue for 2021.

100. The interviews were conducted by the first author of the paper, and each of the respondents was anonymized to protect their confidentiality. The interviews were drawn from outreach to existing, known colleagues and through the method known as referral sampling, or snowballing, where the first author contacted subsequent respondents based on recommendations made by already interviewed subjects. The first author received Indiana University's Institutional Review Board-Human Subjects approval to conduct a large-scale project on global pro bono lawyering in 2017. There were multiple stages to this protocol. Initially, it began with a study of pro bono lawyering by those who work abroad, mainly in West Africa. The project's protocol had a second and third phase to it, which expanded the study to look at this type of pro bono lawyering in other markets, including the United States.

101. Interview with Non-Big Law Lawyer A, *supra* note 76.

102. *Id.*

TABLE 6:¹⁰³ TOP 10 LAW FIRMS BY GROSS REVENUE, 2021

Firm	# of Lawyers	# of Equity Partners	Gross Revenue
1. Kirkland	3,025	490	\$6,042,000,000
2. Latham	3,078	550	\$5,488,778,000
3. DLA Piper	4,208	417	\$3,471,437,000
4. Baker McKenzie	4,795	676	\$3,127,729,000
5. Skadden	1,644	321	\$3,022,380,000
6. White & Case	2,464	363	\$2,869,800,000
7. Sidley	1,893	330	\$2,795,426,000
8. Ropes & Gray	1,372	268	\$2,674,046,000
9. Hogan Lovells	2,532	391	\$2,605,973,000
10. Morgan Lewis	1,992	746	\$2,577,770,000

To the unfamiliar, these data will appear staggering. The top firm, Kirkland, had a gross revenue well over two times that of the tenth-ranked firm, Morgan Lewis. Yet the latter still generated over \$2.5 billion in 2021. If we look at the *Am Law* 100 firms that ranked between #91 and #100, the average revenue there was nearly \$450 million.¹⁰⁴ And for those who were in firms ranked #101-200, “the average equity partner . . . [was] earning almost \$1 million a year.”¹⁰⁵

For those Big Law lawyers who were interviewed and worked in this environment, they were very aware of the privilege in which they were situated.¹⁰⁶ Certainly, the pressure to meet benchmarks—whether it be billable hours or bringing in new clients—was ever-present.¹⁰⁷ Nevertheless, as each respondent affirmatively stated, being in one of these firms provided opportunities to do more than just thinking about profits.¹⁰⁸

Take, for instance, the sentiments of a Big Law lawyer from the East Coast, who was part of a coalition that aided noncitizens detained at airports in 2017 following the Trump travel ban.¹⁰⁹ This individual was able to rely on junior lawyers, paralegals, and secretarial staff within his office to assist with the necessary research, filing of paperwork, and intake of client information, which he noted made his job “so much easier.”¹¹⁰ Another Big Law lawyer who also

103. See *The 2022 Am Law 100: Ranked by Gross Revenue*, AM. LAW. (Apr. 26, 2022, 10:01 AM), <https://www.law.com/americanlawyer/2022/04/26/the-2022-am-law-100-ranked-by-gross-revenue/> [https://perma.cc/LDF2-TXE9].

104. The specific average sum was \$449,912,500. This sum was calculated by averaging the gross revenue from the following firms: Husch Blackwell (\$476,726,000), Schulte Roth (\$471,363,000), Ballard Spahr (\$470,346,000), Fish (\$467,064,000), Jenner & Block (\$465,586,000), Kramer Levin (\$449,000,000), Loeb & Loeb (\$429,221,000), Dorsey (\$424,825,000), Steptoe (\$429,994,000), Taft Stettinius (\$415,000,000). *Id.*

105. See David Lat, *Say Hello to the 2022 Am Law 200 Rankings*, ORIGINAL JURISDICTION (July 15, 2022), <https://da-vidlat.substack.com/p/say-hello-to-the-2022-am-law-200> [https://perma.cc/5KCP-9WAA].

106. Interview with Big Law Lawyer C (Oct. 21, 2022).

107. Interview with Non-Big Law Lawyer A, *supra* note 76.

108. See source cited *infra* note 112.

109. Interview with Big Law Lawyer B (Sept. 29, 2022).

110. *Id.*

worked on these cases remarked that he did not worry about using legal research databases because the firm covered these costs.¹¹¹

There were additional examples. According to respondents, expenses related to lawyer or client travel were generally never an issue.¹¹² Where court fees were required, the firms took care of those as well.¹¹³ Also, when immigrant clients were asked to make court appearances or needed professional attire, firms assisted here.¹¹⁴ As one Big Law lawyer remarked, she and her firm “take these costs for granted—because we can.”¹¹⁵

There are then those resource advantages that Big Law firms have that might be viewed as more “macro” in nature. Recall what litigation in the federal appellate courts entails. To begin, if there is an oral argument scheduled, it is not unusual for the queries lobbed by the panel judges to be direct, hard-hitting, and sharply interrogative.¹¹⁶ Being at a Big Law firm means that there are many smart professionals present who can moot arguments, review briefs, and prep the representing lawyers before they make any submissions or step into the courtroom.¹¹⁷ As a mid-level Big Law associate who had left his firm stated, “it was great having these super smart colleagues literally down the hall from me.”¹¹⁸

There was one other key resource that a few Big Law respondents also cited. These lawyers, not surprisingly, have a wealthy, connected, and influential client base.¹¹⁹ A rare but noteworthy occurrence is that when such clients learn about the type of pro bono work these lawyers are doing, they occasionally want to find ways to help.¹²⁰ Sometimes that can be in the form of publicizing the immigrant’s cause to sympathetic press contacts.¹²¹ Sometimes it can be in terms of informally advising the lawyers themselves.¹²² And sometimes it can be by offering to serve as a conduit to relevant professional networks.¹²³

For lawyers who do not work within this Big Law space, they acknowledge, without much hesitation, their comparable resource disadvantages.¹²⁴ One such midwestern lawyer is an immigration specialist who admitted struggling against Big Law lawyers in federal court simply because he is short on staff, works

111. Interview with Big Law Lawyer C, *supra* note 106.

112. *See, e.g.*, Interview with Big Law Associate A (Sept. 27, 2022); Interview with Lawyer E (Oct. 27, 2022).

113. *See* sources cited *supra* note 112.

114. *See* sources cited *supra* note 112.

115. Interview with Big Law Associate A, *supra* note 112.

116. *See* Interview with Former Big Law Lawyer A (Sept. 30, 2022).

117. *Id.*

118. *Id.*

119. *See* sources cited *supra* note 112.

120. *See* sources cited *supra* note 112.

121. *See* sources cited *supra* note 112.

122. *See* sources cited *supra* note 112.

123. *See* sources cited *supra* note 112. For a discussion, see Janis M. Meyer, *No Good Deed Goes Unpunished: What to Do When Your Client Wants to Make a Bequest to Your Favorite Charity?*, BLOOMBERG L, (Dec. 28, 2016, 11:00 PM), <https://news.bloomberglaw.com/legal-ethics/no-good-deed-goes-unpunished-what-to-do-when-your-client-wants-to-make-a-bequest-to-your-favorite-charity> [<https://perma.cc/X78T-DPRQ>].

124. Interview with Non-Big Law Lawyer B (Oct. 14, 2022); Interview with Non-Big Law Lawyer A, *supra* note 76.

primarily alone, and is often seeking fee-paying clients.¹²⁵ Even research tools are limited because of the expensive costs of platforms like Lexis and Westlaw.¹²⁶

Much of this individual's practice occurs in the Justice Department's immigration courts or within the confines of United States Citizenship and Immigration Services ("USCIS")—environments that are not particularly hospitable to an immigrant's claims.¹²⁷ Even as a law student, this lawyer knew that going into immigration would not necessarily be a lucrative career path.¹²⁸ The reality hits home, especially during those times when the fees that are generated barely cover his monthly expenses, and then there is the ambient worry about the practice ultimately running at a loss.¹²⁹

Yet this lawyer opted to pursue this line of work because of a deep desire to help those who are among the neediest in society.¹³⁰ He believes that he and other colleagues who are in similar circumstances know the ins and outs of immigration better than their Big Law counterparts.¹³¹ Nevertheless, as he resignedly pointed out, the sad irony is that many within the bar will never view colleagues like him as "successful."¹³² Why? As this lawyer stated, "resources matter—and people like me just don't have a lot."¹³³

2. Case Selection

The preceding vignette leads to another way that resources affect win rates in the federal appellate courts. Our lawyer above does not have the same type of flexibility in turning down matters compared to Big Law lawyers who take on their immigration cases pro bono.¹³⁴ To be sure, non-Big Law lawyers do screen cases and decline to provide representation to some immigrants who seek services.¹³⁵

125. Interview with Non-Big Law Lawyer A, *supra* note 76.

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.* On this point about lawyers having the passion and commitment to the cause of their work (despite their own professional struggles), Susan Bibler Coutin has documented this type of immigration "cause lawyering." See Susan Bibler Coutin, *Cause Lawyering and Political Advocacy: Moving Law on Behalf of Central American Refugees*, in CAUSE LAWYERING AND SOC. MOVEMENTS 101, 101–19 (Austin Sarat and Stuart Scheingold eds., 2006); Susan Bibler Coutin, *Cause Lawyering in the Shadow of the State: A U.S. Immigration Example*, in CAUSE LAWYERING AND THE STATE IN A GLOB. ERA 117, 117–40 (Austin Sarat and Stuart Scheingold eds., 2001).

131. Interview with Non-Big Law Lawyer A, *supra* note 76.

132. *Id.*

133. *Id.* During the Trump Administration, an important article was published documenting how the story of our respondent was not an isolated case. See Marcia Brown, *The Loneliness of the Immigration Lawyer*, THE AM. PROSPECT, (Oct. 29, 2020), <https://prospect.org/justice/loneliness-of-the-immigration-lawyer/> [<https://perma.cc/FHJ6-L47L>] (detailing how the long hours, financial struggles of the lawyers and clients, and the brutality of experiences that the clients endure and that immigration lawyers have to hear about are resulting in "some [immigration lawyers needing to] reconsider the work altogether").

134. Interview with Non-Big Law Lawyer A, *supra* note 76.

135. *Id.* See also Yu, *supra* note 28 at 144–146, 153–155.

Unlike the Big Law firms, however, individual practitioners often do not generate revenue by providing legal services in other areas, which then can support taking on immigration clients who cannot pay but whose claims deserve representation.¹³⁶ Under these circumstances, being particularly selective regarding which clients to take has its limits.¹³⁷ Furthermore, immigrants with claims that are less than ideally meritorious—but who can pay—are clients that many struggling practitioners, like our midwestern lawyer above, may end up (reluctantly) representing.¹³⁸ Another respondent in a comparable situation indicated that she has engaged in an almost identical decision-making process as well.¹³⁹

Big Law lawyers, by contrast, face very different considerations. Above, Table 6 showed how Big Law firms earn vast amounts of revenue from their corporate work, which serves as the foundation of their wealth. Consequently, with rare exception,¹⁴⁰ these firms are not dependent upon an immigration clientele to sustain their practice.

For this reason, Big Law firms are able to be extremely selective in the pro bono cases that they take. Information gathered from different Big Law lawyers reveals that there are certain patterns relating to this type of selection. Many Big Law firms have within them a pro bono director whose responsibility is to sift through the immigration cases that come into the firm and determine which ones have a realistic chance of prevailing on appeal.¹⁴¹ As one Big Law lawyer who works in this role stated, “we tend to get these cases through a few different ways.”¹⁴²

For example, it could be that an NGO will have represented the noncitizen in the lower-level immigration courts and then, through its relationship with the pro bono director, requests assistance on a circuit court petition.¹⁴³ Or a local immigration specialist who is a solo practitioner or works for an immigration

136. See *The 2022 Am Law 100: Ranked by Gross Revenue*, *supra* note 103.

137. Interview with Non-Big Law Lawyer A, *supra* note 76.

138. *Id.*

139. Interview with Non-Big Law Lawyer C (Oct. 20, 2022).

140. One firm within the Am Law 200 that is such an exception is Fragomen. It describes itself in the following way: “At Fragomen, we are a firm of more than 6,000 immigration-focused professionals and staff spanning more than 60 offices worldwide. Immigration has been our sole focus for 70 years, and today we offer support in more than 170 countries.” *About Fragomen*, FRAGOMEN, <https://www.fragomen.com/about/about-fragomen.html> (last visited Nov. 20, 2023) [<https://perma.cc/5VZG-GTVU>]. As their website indicates, their work is mainly business-related immigration. *Id.* For a list of their services for individuals, see *Firmwide Services*, FRAGOMEN, https://www.fragomen.com/services.html?audience_type=117181 (last visited Nov. 20, 2023) [<https://perma.cc/J6EA-55LS>]. They also note that they provide services “for employers” and “by industry.” *Id.* Their presence and participation at the federal appellate court level within our dataset were limited. See *infra* app. D. For example, in June 2022, Fragomen received recognition from “the Political Asylum/Immigration Representation (PAIR) Project, . . . [which] honored the firm with its 2022 Pro Bono Detention Award.” *Fragomen Receives PAIR’s 2022 Pro Bono Detention Award*, FRAGOMEN (May 26, 2022), <https://www.fragomen.com/insights/fragomen-receives-pairs-2022-pro-bono-detention-award.html> [<https://perma.cc/58WD-W7LU>].

141. For important empirical background on this point, see Adediran, *supra* note 9, at 635. See also Interview with Big Law Lawyer A, *supra* note 20; Interview with Big Law Lawyer B, *supra* note 109. See also Yu, *supra* note 28 at 144–146, 153–155.

142. Interview with Big Law Lawyer A, *supra* note 20.

143. *Id.*; see also Interview with Non-Big Law Lawyer B, *supra* note 124.

boutique will refer the matter to the Big Law firm.¹⁴⁴ Or it may be that a staff lawyer at the circuit court will see different pro se litigants petitioning for appellate review and, as part of the court's effort to increase access to counsel, will contact the Big Law firm to represent these noncitizens.¹⁴⁵

Once the case arrives at the firm, the pro bono director evaluates the merits of the claims.¹⁴⁶ (Note, a number of Big Law lawyers stated that it would not be unusual for them to receive referrals directly from external colleagues, and in these circumstances they would generally send the files to the pro bono director for an assessment.¹⁴⁷) There were several factors that went into the director's decision-making process. First, assuming that the claims had a modicum of merit, the immediate question was whether it was likely an appeal would succeed.¹⁴⁸ To answer this query, the directors themselves, staff lawyers, paralegals, or summer associates will research the win rates of similar types of claims previously appealed to the circuit court.¹⁴⁹ If precedent appears to be on the noncitizen's side, then that would be viewed as a factor favoring taking the case.¹⁵⁰

This consideration is not the only one at play, however. Sometimes even when it is more uncertain as to how the appellate court might rule, the case may still receive pro bono representation.¹⁵¹ If the lawyers believe in the noncitizen's cause and they are looking to press the court to make new law on a particular issue, then that situation may prompt them to accept the matter.¹⁵²

In fact, one former Big Law associate stated that when he was practicing, he would occasionally receive requests from a local nonprofit to consider taking extremely difficult cases that had little hope of success.¹⁵³ Once in a while, he would say yes.¹⁵⁴ The factors affecting his decision would be the "pitch"¹⁵⁵ made by the nonprofit colleague or, alternatively, how ideologically and viscerally committed he felt toward the client's plight. Regardless, the decision would always be made easier where the nonprofit would have one of its lawyers assist in the preparation of the appeal.¹⁵⁶

144. Interview with Big Law Lawyer A, *supra* note 20.

145. *Id.*; *see also* Interview with Former Big Law Lawyer A, *supra* note 116.

146. *See* Adediran, *supra* note 9, at 637; *see also* Interview with Big Law Lawyer A, *supra* note 20; Interview with Big Law Lawyer B, *supra* note 109.

147. Of course, each of these lawyers stated that if they had time, they would review the file upon receipt. But the standard practice was to refer the case to the pro bono coordinator. Interview with Big Law Associate A, *supra* note 112; Interview with Former Big Law Lawyer B (Sept. 28, 2022).

148. Interview with Big Law Lawyer A, *supra* note 20; *see also* Adediran, *supra* note 9, at 649.

149. Interview with Big Law Lawyer A, *supra* note 20.

150. *Id.*; Interview with Big Law Associate A, *supra* note 112; Interview with Former Big Law Lawyer B, *supra* note 147.

151. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Former Big Law Lawyer A, *supra* note 116; Interview with Big Law Lawyer A, *supra* note 20.

152. *See* sources cited *supra* 151.

153. Interview with Former Big Law Lawyer B, *supra* note 147.

154. *Id.*

155. *Id.*

156. *Id.*; *see also* Interview with Big Law Associate A, *supra* note 112; Interview with Big Law Lawyer A, *supra* note 20.

Thus, while deliberations on the probability of success often drive whether to accept the request for representation, other factors can come into play.¹⁵⁷ But it is important to reiterate the key advantage held by these Big Law firms. They have greater control over which cases to take and which ones to reject because of the pre-existing resources they possess.¹⁵⁸ This luxury is simply not an option for many other non-Big Law practitioners.¹⁵⁹

3. *The Importance of Appellate Specialization*

Recall that an important resource that Big Law lawyers enjoy is having a range of colleagues with whom they are routinely able to share briefs for comments and moot arguments in front of before appearing in appellate court.¹⁶⁰ This point ties to a more structural advantage that exists.¹⁶¹ Namely, many Big Law firms take pride in their specialized appellate practice groups. Indeed, there are legal publications that rank which firms have the “best” appellate practices,¹⁶² and lawyers interviewed indicated that they value being named to those lists.¹⁶³ (For at least one lawyer whose firm has not made it, he hopes that his group will be recognized in the future.¹⁶⁴)

These appellate specialists can focus their work on litigation at the federal circuit level, as well as in the U.S. Supreme Court and state appellate and supreme courts.¹⁶⁵ Knowing how to draft briefs, make persuasive oral arguments, and focus on certain issues over others are skills that are developed and then honed by working in such an environment.¹⁶⁶

The lawyers who become part of these specialized groups do so from different routes. Some start their careers in the litigation departments of their firms and then rise through the ranks, eventually becoming key figures within this niche setting.¹⁶⁷ Others are recruited from competitor Big Law firms where they were known for their talents in appellate litigation.¹⁶⁸ Still others are hired

157. One noted work that has long made a similar argument is MICHAEL W. MCCANN, *RIGHTS AT WORK: PAY EQUITY REFORM AND THE POLITICS OF LEGAL MOBILIZATION* 173 (1994). See also Yu, *supra* note 28, at 144–146, 153–155.

158. See *supra* notes 134–40 and accompanying text. See also Yu, *supra* note 28, at 144–146, 153–155.

159. See *supra* note 134 and accompanying text.

160. See *supra* Subsection IV.B.1.

161. See *supra* Subsection IV.B.1.

162. See, e.g., *Best Law Firms by Practice Area*, VAULT, <https://firsthand.co/best-companies-to-work-for/law/best-law-firms-in-each-practice-area/appellate-litigation> (last visited Nov. 20, 2023) [<https://perma.cc/YYW9-GM3F>]; *USA—Nationwide Appellate Law*, CHAMBERS AND PARTNERS, <https://chambers.com/legal-rankings/appellate-law-usa-nation-wide-5:858:12788:1> (last visited Nov. 20, 2023) [<https://perma.cc/24R3-MZJT>].

163. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Lawyer E, *supra* note 112.

164. Interview with Big Law Lawyer F (Oct. 26, 2022).

165. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Big Law Lawyer D (Oct. 2, 2022); Interview with Lawyer E, *supra* note 112.

166. See sources cited *supra* note 165.

167. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Lawyer E, *supra* note 112.

168. Interview with Big Law Lawyer D, *supra* note 165.

laterally from the government or from litigation boutiques where they developed their skills and reputations for this practice.¹⁶⁹

What is critical to note here, however, is that most of these Big Law appellate experts are *not* immigration specialists.¹⁷⁰ In fact, several explicitly stated that they found the technicalities of immigration law to be overwhelming. “There are so many jargony things [about immigration law],”¹⁷¹ one lawyer said, which make his “head spin.”¹⁷² Another lawyer stated that she does not “have time to be an expert in immigration” because she is “too busy being a corporate lawyer.”¹⁷³

Nevertheless, such appellate lawyers do take on immigration cases on a pro bono basis—and win. Respondents noted that there is a standard skill set of *how* to litigate in the circuit courts that is transferrable from one area of the law to another.¹⁷⁴ In other words, while the substance of business law and business litigation will be different than immigration, there are ways to make a persuasive case and present the issues to the judges that are not subject-area specific.¹⁷⁵

For example, consider how much of immigration law is based on statutes and regulations.¹⁷⁶ Understanding the history of how a law or administrative rule came into existence, as well as having familiarity with the manner in which past cases have addressed relevant issues, are skills that cut across practice areas.¹⁷⁷ At the core of being a good appellate lawyer, one respondent stated, was being able to study, comprehend, and interpret the law in a careful manner, and then from there to craft a compelling story that can move a panel of judges to the lawyer’s side.¹⁷⁸ Another respondent affirmed this point and noted, “That’s how we litigate—whether it’s a corporate or immigration case.”¹⁷⁹

There is also another enormous advantage that involves relationships.¹⁸⁰ For many of these professionals, they have served as judicial clerks within the circuit courts in which they litigate.¹⁸¹ They know the culture of the court; they know the judges’ tendencies, preferences, and even attitudes.¹⁸² They are able to develop their briefs, arguments, and cases in ways that best provide their

169. Interview with Big Law Lawyer B, *supra* note 109.

170. Interview with Big Law Lawyer F, *supra* note 164.

171. Interview with Former Big Law Lawyer A, *supra* note 116.

172. *Id.*

173. Interview with Big Law Lawyer F, *supra* note 164.

174. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Big Law Lawyer D, *supra* note 165; Interview with Lawyer E, *supra* note 112.

175. See sources cited *supra* note 174.

176. See, e.g., T. ALEXANDER ALEINIKOFF, DAVID A. MARTIN, HIROSHI MOTOMURA, MARYELLEN FULLERTON, JULIET P. STUMPF & PRATHEEPAN GULASEKARAM, IMMIGRATION AND NATIONALITY LAWS OF THE UNITED STATES: SELECTED STATUTES, REGULATIONS, AND FORMS (2020).

177. Interview with Big Law Lawyer B, *supra* note 109; Interview with Big Law Lawyer F, *supra* note 164; Interview with Lawyer E, *supra* note 112.

178. Interview with Big Law Lawyer D, *supra* note 165.

179. Interview with Former Big Law Lawyer A, *supra* note 116.

180. See Interview with Former Big Law Lawyer B, *supra* note 147.

181. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Big Law Lawyer D, *supra* note 165; Interview with Big Law Lawyer F, *supra* note 164; Interview with Lawyer E, *supra* note 112.

182. See sources cited *supra* note 181.

immigrant-clients a chance to receive a close review of the petition—perhaps then an oral argument—and, even better still, a favorable outcome.¹⁸³ Moreover, even if the lawyer has not had experience in that particular circuit court, they can still draw upon their own clerkship experiences, and frequently they have colleagues, friends, and other networks they can lean on to determine what strategies might work best in ensuring their client's success.¹⁸⁴

Those lawyers who lacked these advantages clearly were aware of it.¹⁸⁵ One such senior, non-Big Law lawyer half-jokingly put it like this: “Before things went online, I wondered if those [Big Law] lawyers submitted their briefs on better [quality] paper than I did.”¹⁸⁶ Greater opportunities for Big Law lawyers to become specialized once again undoubtedly trace back to having greater resources.¹⁸⁷ But it is the particularity of specialization itself that appears to contribute to the higher win rates in court.

4. *The Halo Effect*

The literature is replete with studies that discuss how lawyers can make a substantive, positive difference for clients seeking to receive favorable outcomes.¹⁸⁸ There is then a subset of research that has asked a more focused question: does the professional status of the lawyer affect judicial decision-making?¹⁸⁹ On this point, the research is mixed.¹⁹⁰ Some studies have found that lawyers who have prestigious designations or affiliations are not necessarily more successful at advancing their clients' interests in court.¹⁹¹ By contrast, other

183. See sources cited *supra* note 181.

184. See sources cited *supra* note 181.

185. Interview with Non-Big Law Lawyer B, *supra* note 124; Interview with Non-Big Law Lawyer A, *supra* note 76.

186. Interview with Non-Big Law Lawyer B, *supra* note 124. For an article that has examined nuances related to this point, see Elizabeth Tippett et al., *Does Lawyering Matter? Predicting Judicial Decisions from Legal Briefs, and What That Means for Access to Justice*, 100 TEX. L. REV. 1157, 1193 (2022).

187. See *supra* Subsection IV.B.I.

188. See, e.g., Tippett et al., *supra* note 186, at 1157; STUART A. SCHEINGOLD & AUSTIN SARAT, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM, AND CAUSE LAWYERING 2 (2004); Susan Sterett, *Caring about Individual Cases: Immigration Lawyering in Britain*, in CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 293–316 (Austin Sarat & Stuart Scheingold eds., 1998); Eagly & Shafer, *supra* note 16, at 1; see generally CHARLES R. EPP, THE RIGHTS REVOLUTION: LAWYERS, ACTIVISTS, AND SUPREME COURTS IN COMPARATIVE PERSPECTIVE (1998) (discussing the right to a lawyer); Krishnan, *supra* note 68, at 1025; Marisol Orihuela, *Crim-Imm Lawyering*, 34 GEO. IMMIGR. L.J. 613, 662 (2020); Victor D. Quintanilla, Rachel A. Allen & Edward R. Hirt, *The Signaling Effect of Pro Se Status*, 42 LAW & SOC. INQUIRY 1091, 1091 (2017); Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 PEPP. L. REV. 881, 885 (2016).

189. See John Szmer, Susan W. Johnson & Tammy A. Sarver, *Does the Lawyer Matter? Influencing Outcomes on the Supreme Court of Canada*, 41 LAW & SOC'Y REV. 279, 279 (2007); TIANWANG LIU & DAVID HAO ZHANG, DO JUDGE-LAWYER RELATIONSHIPS INFLUENCE CASE OUTCOMES? 1 (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3711873 [<https://perma.cc/3ZMD-DGS8>].

190. Szmer, Johnson & Sarver, *supra* note 189, at 293 (finding that lawyer status in Canada did not have an effect on outcomes); see Marc Galanter & Nick Robinson, *India's Grand Advocates: A Legal Elite Flourishing in the Era of Globalization*, 20 INT'L J. LEGAL PRO. 241, 241 (2013).

191. See Szmer et al., *supra* note 189, at 293 (finding that having the designation of Queen's Counsel in Canada did not affect a lawyer's ability to advance client interests).

work has found that professional status does matter, especially if the lawyer is seen as having a renowned reputation in the field.¹⁹² Still, separate studies note that sometimes a lawyer's affiliation with a particular organization can have a positive impact;¹⁹³ conversely, there is different research finding that organizational lawyers can be a drag on a movement's cause.¹⁹⁴

For our study, it was admittedly difficult to determine the precise manner in which a Big Law firm's reputation made a difference in the outcome of a noncitizen's claims. Judges and clerks are understandably unwilling to say that judicial decisions can be affected by anything aside from the merits of the case.¹⁹⁵ Nevertheless, from the interviews with lawyers from both Big Law and non-Big Law firms alike, there was consensus that being part of the former had, at least in part, an intangible and beneficial effect for a few reasons.¹⁹⁶

First, the relationships that exist between lawyers in many Big Law firms and the federal courts can often have a long and deep history.¹⁹⁷ As stated above, it is not uncommon for federal clerks to move into a Big Law firm upon completion of their clerkships.¹⁹⁸ According to certain Big Law lawyers, invariably networks develop whereby judges know the smarts and reputations of the lawyers who are filing appeals in their courts.¹⁹⁹ Thus, it is not unreasonable to believe that presumptively favorable impressions of lawyer-quality are made by these judges (and their current clerks) when these petitions are submitted.

Second, the vast majority of opinions delivered by the federal circuits are categorized as unpublished, which means that they are decisions applicable only to the parties at bar and deemed not to be precedent-worthy.²⁰⁰ In the Ninth

192. See Galanter & Robinson, *supra* note 190, at 241; Jayanth K. Krishnan, *Lawyering for a Cause and Experiences from Abroad*, 94 CALIF. L. REV. 575, 578 (2006).

193. See, e.g., MCCANN, *supra* note 157, at 108; EPP, *supra* note 188, at 45; Krishnan, *supra* note 192, at 602.

194. For the classic work on this front, see Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470, 470 (1976). See also Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049, 1054 (1970). See also generally JACK KATZ, POOR PEOPLE'S LAWYERS IN TRANSITION (1982) (discussing the tensions between organizational lawyers and the causes they represent); JOEL F. HANDLER, SOCIAL MOVEMENTS AND THE LEGAL SYSTEM: A THEORY OF LAW REFORM AND SOCIAL CHANGE 33 (1978); GERALD P. LÓPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE 2 (1992).

195. Timothy J. Capurso, *How Judges Judge: Theories on Judicial Decision Making*, 29 UNIV. BALT. L.F. 5, 11 (1998).

196. See *infra* notes 197–215 and accompanying text.

197. Interview with Former Big Law Lawyer A, *supra* note 116. Judicial clerks are not infrequently given special bonuses when joining and even are brought into the firm through a privileged hiring track. *Overview of Judicial Clerkships*, UIC L., <https://law.uic.edu/student-support/career-services/judicial-clerkship-overview/> (last visited Nov. 20, 2023) [<https://perma.cc/Y37F-VARH>].

198. See sources cited *supra* note 181 and accompanying text.

199. See Interview with Former Big Law Lawyer A, *supra* note 116; Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Big Law Lawyer D, *supra* note 165.

200. See Katrin Marquez, *Are Unpublished Opinions Consistent with the Right to Access?*, MFIA: CASE DISCLOSED (Nov. 19, 2018), <https://law.yale.edu/mfia/case-disclosed/are-unpublished-opinions-inconsistent-right-access> [<https://perma.cc/8MGV-DTQF>] (“[T]he vast majority (an estimated 80%) of federal court decisions remain unpublished. Unpublished opinions are generally shorter than published opinions and contain only brief

Circuit, where the highest number of immigration cases are heard, these rulings are referred to as *memoranda dispositions*.²⁰¹ (Note, even when these judgments are unpublished, many still appear on legal databases such as Westlaw or Lexis.²⁰²) Different Big Law respondents observed that judicial clerks play an even more important role here because, administratively, they are the ones who often primarily review and then recommend to the judge how the case should be resolved.²⁰³ The reputational and social capital that Big Law firms have vis-à-vis the clerks are especially pronounced in these circumstances.²⁰⁴

Third, there is then what one lawyer called the “sympathy benefit” that Big Law lawyers, he believes, receive when taking on a pro bono immigration case.²⁰⁵ Other lawyers confirmed this impression, and the idea is that Big Law lawyers are viewed in a positive light for engaging in work that is not fee-driven and instead done to provide representation for under-served immigrant clients.²⁰⁶ The particular lawyer who mentioned this sympathy component hastened to say that “the case still has to be strong in order to win.”²⁰⁷ But there is at least a self-perception here that Big Law lawyers are appreciated for coming into court and doing this service for free.²⁰⁸

Fourth, according to two Big Law respondents, the work they do in the federal appellate courts can redound to their benefit in another arena: the lower immigration courts.²⁰⁹ Indeed, there are Big Law lawyers who do engage in pro bono work at the immigration trial level.²¹⁰ As one such respondent stated, this is where the “nitty-gritty” of immigration law is litigated.²¹¹

By working in the immigration courts, these lawyers can meet their clients directly, become familiar with their claims, and passionately advocate for them in a more personal manner than they would in the appellate courts.²¹² Moreover, at the immigration trial level, these lawyers can sometimes include cases from the circuit courts—which they or their firm worked on—as part of their

explanations of the court’s reasoning—usually no more than a couple paragraphs.”). The author then goes on to state that “[m]any unpublished opinions are available in the Federal Appendix—a reporter dedicated to unpublished, non-precedential opinions—or on Westlaw or Lexis.” *Id.* See also Michael Hannon, *A Closer Look at Unpublished Opinions in the United States Courts of Appeals*, 3 J. APP. PRAC. & PROCESS 199, 201 (2001) (“[M]ore than 79 percent of federal circuit court opinions are unpublished.”).

201. See Benjamin G. Shatz, *Memo-Dispo No-No*, DAILY J. (Nov. 2, 2021), <https://www.dailyjournal.com/mcle/1046-memo-dispo-no-no> [<https://perma.cc/GS2Z-FZKN>].

202. On Westlaw, for example, a typical disclaimer will state: “This case was not selected for publication in the Federal Reporter.”

203. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Former Big Law Lawyer A, *supra* note 116.

204. See sources cited *supra* note 203.

205. Interview with Big Law Lawyer A, *supra* note 20.

206. *Id.*; Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Former Big Law Lawyer A, *supra* note 116.

207. Interview with Big Law Lawyer A, *supra* note 20.

208. *Id.*

209. *Id.*; Interview with Lawyer E, *supra* note 112.

210. Interview with Big Law Lawyer C, *supra* note 106 (noting that his firm has other colleagues who work in these lower court forums as well).

211. Interview with Big Law Lawyer A, *supra* note 20.

212. *Id.*

advocacy.²¹³ To be sure, immigration trial cases typically involve specific provisions of the Immigration and Nationality Act or a bureaucratic regulation.²¹⁴ However, having these relevant circuit rulings at their fingertips has resulted in certain presiding immigration judges giving high praise to those Big Law lawyers for being thorough and comprehensive in their representation.²¹⁵

Given the above discussion, some may naturally ask whether Big Law lawyers are simply better, overall, when it comes to representing noncitizens than those who come from other practice backgrounds. Truthfully speaking, in the interviews conducted, this sentiment was expressed by a small number of Big Law lawyers.²¹⁶ They noted that to be hired in a Big Law firm, an individual typically needed to have attended an elite law school, done exceedingly well as a student, been on law review, and the like.²¹⁷ One respondent even went so far as to say, “only the smartest make it into our [Big Law] firm.”²¹⁸ The implication, of course, is that their counterparts outside of the Big Law orbit are less smart and less capable.

We, however, are adamant not to draw such a conclusion. Instead, what the evidence suggests is that lawyers who work in Big Law firms have decisive advantages when litigating matters in the federal appellate courts,²¹⁹ which contributes to higher win rates relative to other non-Big Law lawyers.²²⁰ Herbert Kritzer has discussed how such “insider knowledge,” specialist skills, and fluency in both substantive and process norms can be enormously beneficial to lawyers.²²¹ That clearly is the case here. And lawyers from the non-Big Law cohort did not say otherwise, noting that they struggle in this particular venue because, yes, they often did lack resources, the ability to case-select, appellate specialization, and an elite law firm name backing them.²²²

At the same time, though, these non-Big Law lawyers rightly refused to concede that they were somehow less intelligent or less competent than their Big Law counterparts.²²³ The forums that they primarily work in are the trial-level immigration courts, the BIA, and USCIS, where we know that Big Law lawyers

213. *Id.*; see also Interview with Big Law Lawyer C, *supra* note 106 (noting that his familiarity with the appellate courts helps when it comes to contemplating which issues to preserve on appeal from the lower-level immigration courts).

214. For an important text that highlights this point, see MARIA-BALDINI POTERMIN, IMMIGRATION TRIAL HANDBOOK (2022).

215. Interview with Big Law Lawyer A, *supra* note 20.

216. Interview with Big Law Associate A, *supra* note 112; Interview with Former Big Law Lawyer B, *supra* note 147.

217. See sources cited *supra* note 216. See also Interview with Former Big Law Lawyer A, *supra* note 116.

218. Interview with Former Big Law Lawyer B, *supra* note 147.

219. See *supra* Subsections IV.B.1–4.

220. See *supra* Subsection IV B.1.

221. See HERBERT M. KRITZER, LEGAL ADVOCACY: LAWYERS AND NON-LAWYERS AT WORK 14–15 (1st ed.1998).

222. Interview with Non-Big Law Lawyer B, *supra* note 124; Interview with Non-Big Law Lawyer A, *supra* note 76.

223. See sources cited *supra* note 222.

participate far less frequently.²²⁴ Furthermore, the empirical reality is that legal representation in these forums *does* matter in terms of success rates for immigrants.²²⁵ Non-Big Law lawyers, thus, are extremely effective—but just in different venues.²²⁶ In light of the precarious political context in which many noncitizens find themselves, it is imperative that good lawyers are present in a range of legal forums across the judicial system.

V. CONCLUSION—WHAT THE OBAMA DATA REVEAL

To recap, immigrants who sought relief from deportation in the federal appellate courts were more likely to succeed if the representing lawyer was from a Big Law firm compared to if the lawyer was not. The qualitative interviews shed light on how Big Law's possession of resources serves as a driving factor that explains this discrepancy. These resources enable Big Law lawyers the flexibility to select the "right" type of pro bono case to take on, as well as allow for them to hone their appellate skills and to draw upon specialist colleagues to assist in their circuit court appeals. Being a wealthy firm also appears to provide a "halo benefit" that is perceived to make a difference to some lawyer-respondents.

The focus of this study thus far has been on the Trump Administration Years. Immigrants were clearly a target of the former president, and, as stated above, he enacted policies that were intended to increase deportations and reduce the procedural options available for staving off removal from the country.²²⁷ The one question that is likely to be asked is whether Big Law lawyers had similar advantages in the appellate courts prior to President Trump taking office. To answer this question, we decided to examine the eight years of President Barack Obama's tenure. President Obama was intensely criticized in certain immigration quarters for his policies on noncitizen removal.²²⁸ In fact, he was derisively referred to by some as the "Deporter-in-Chief."²²⁹

We conducted a similar type of analysis of discretionary relief cases that appeared in the federal appellate courts between 2009 and 2017. (We provide the details of our methodology in Appendix G.) Our quantitative findings are remarkably parallel to what we discovered during the Trump Presidency, which suggests that our explanatory framework for why Big Law lawyers fare better than their counterparts applies over time.

224. See Eagly & Shafer, *supra* note 16, at 75 (noting that "only 2%" of immigrants in immigration courts receive legal representation from "legal services attorneys, law school clinical programs, and pro bono volunteers" from law firms).

225. *Id.* at 75–77; see also Hausman, *supra* note 17, at 1179.

226. See Eagly & Shafer, *supra* note 16, at 75–77.

227. See *supra* Part I.

228. *Obama Leaves Office as 'Deporter-in-Chief,'* NPR (Jan. 20, 2017, 3:04 PM), <https://www.npr.org/2017/01/20/510799842/obama-leaves-office-as-deporter-in-chief> [<https://perma.cc/7Z3V-LX3B>].

229. *Id.* For a rebuttal to this point, see Muzaffar Chishti, Sarah Pierce & Jessica Bolter, *The Obama Record on Deportations: Deporter in Chief or Not?*, MIGRATION POL'Y INST. (Jan. 26, 2017), <https://www.migration-policy.org/article/obama-record-deportations-deporter-chief-or-not> [<https://perma.cc/ZEF2-N9XM>].

To begin, there were 17,843 cases heard in the federal appellate courts while President Obama was in the White House.²³⁰ Out of this total, Big Law firms participated in 316 cases, while non-Big Law lawyers were involved in the remaining 17,527.²³¹ Reflecting the trend we found during the Trump Years, the Big Law win rate was 44.62%, while the non-Big Law win rate was 13.37%.²³² (The overall number of wins—Big Law and non-Big Law—was 2,487 out of the 17,843 cases.²³³) Table 7 provides a visual presentation of these data.

230. Per the methodology used in Section III.B, the Federal Courts of Appeals database was exclusively searched, and the terms used were: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2009 & bef 1/6/2012). This was done for the first search, which produced 9,457 cases. A second search was done using the exact same terms with the following dates: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/5/2012 & bef 1/6/2013). This search generated 2,053 cases. A third search was then done using the same terms with the following dates: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2013 & bef 1/6/2017). This search generated 6,571 cases for a total of 18,081 cases. Note, the search had to be broken up in this manner, because running it for the eight years President Obama was in office produced 10,000+ results on Westlaw. Therefore, in order to gain an accurate count, the search was divided into this three-fold manner. One other point: the authors took careful note not to double-count any case that may have overlapped from one set of search parameters to another. We found thirteen such cases. These were subtracted from the total to produce 18,068 cases. From there, we then had to subtract cases that were not appealed from the BIA and that were pro se in nature. (We place our search terms to eliminate those cases in app. G). The result was 17,843 cases.

231. To see how we arrived at this number, please see app. H, which details the steps taken. Initially, the results generated 495 cases where Big Law firms appeared to be participants. The authors then went through each of these cases to verify the accuracy of this count and found that, in fact, the number was 316 cases, as 179 cases were deemed “false positives.” Many of these false positive cases would have the name of a lawyer, who was not part of Big Law that was the same as a name in a Big Law firm. Or the firm was mentioned as a reference by the court in a case being cited. Or, alternatively, for several of these cases, Michael Mukasey, the former Attorney General under President George W. Bush, was named in the case together with his firm Debevoise & Plimpton. These cases were redacted because Mukasey, in his capacity as a lawyer at Debevoise, was supporting the government’s position, rather than serving as a representative of the petitioning immigrant. Presumably, the Obama Administration enlisted his assistance because the case being heard first originated with him named as a defendant during his time as Attorney General. We then subtracted this number, 316, from that of the total sum, 17,843, to arrive at a sum of 17,527 non-Big Law cases.

232. To arrive at these figures, the authors found that 141 of the 316 cases were wins, as defined by a case being remanded or sent back (in full or in part) to the BIA, and 175 were losses, as defined by a case where the federal appellate court affirmed the ruling of the BIA, thereby denying the immigrant’s petition. To arrive at the non-Big Law win rate, the authors took the total number of wins, 2,487, and subtracted from it 141 (the total number of Big Law wins) to arrive at a sum of 2,346. This total number of non-Big Law wins then was divided by the total of non-Big Law cases (17,527), rendering a non-Big Law win percentage of 13.37%.

233. This number of wins was tabulated similarly to what was done above in Section III.B. Namely, the following search was conducted within the “search within results” function of the 17,843 case total: “petition granted” (“we grant” +3 petition) (petition +s “granted #in part”) (“granted in part”) (“remanding to the BIA”) (“remanded to the BIA”) (“remanded in part”) (“Motion granted in part and denied in part”) (“Petition for review granted”) (“Petition for review is granted”) (“vacated and remanded”) (“stay granted”) (“reversed and remanded”) (“request for remand is granted”) (“we remand”). The search had to be run three times, using the three different date parameters, per the discussion *supra* note 230, and care was given not to double-count. The initial results of this search were 2,489 wins. But, two cases were false positives and could not be considered wins because they were pro se, which brought the number down to 2,487. From there, a randomized sample of 200 cases from the 17,843 total was taken to test whether these predicted win results were accurate estimations. The error rate was 0.015, giving us great confidence that our search parameters were highly accurate. The statistical software, STATA, was used to generate the randomized sample, and the commands employed are available upon request from the authors.

TABLE 7: PERCENTAGE WIN-LOSS RATE DURING OBAMA YEARS

Firm Type	Loss (%)	Win (%)	Total (N)
Non-Big Law Cases	86.63	13.37	17,527
Big Law Cases	55.38	44.62	316
Overall Total Cases	86.08	13.92	17,843

We once again did a chi-square calculation.²³⁴ Similar to the findings from when President Trump was in office, of the total number of wins, non-Big Law lawyers accounted for a large percentage of these: 94%. (See Appendix H.) But, importantly, there was a statistically significant difference *between* the win rate of Big Law versus non-Big Law lawyers.²³⁵

Several of the lawyers interviewed for this study were engaged in pro bono work during the Obama Years as well.²³⁶ Resources, the ability to select favorable cases, specialization advantages, and perceived reputational benefits of being part of an elite network all were viewed as major reasons accounting for this difference.²³⁷

Ultimately, this study thus confirms the point that lawyers can matter—and that they can matter greatly. Past research has highlighted the effectiveness of immigrants having lawyers in the lower-level immigration courts.²³⁸ This study builds upon that work by showing how in another crucial venue—the federal circuit courts—immigrants do better when they have lawyers who are familiar with the appellate terrain.

Of course, from our perspective, the ideal situation would be that immigrants would have cost-free, quality legal representation throughout the immigration adjudication process, including during their first appeal in the federal circuit court. This way they could present their claims in the most effective manner possible.²³⁹ To that end, we join the chorus of voices that have long called for immigrants to have a right to government-appointed counsel in immigration proceedings.²⁴⁰

234. See Biswal, *supra* note 86.

235. For a visual presentation of the chi-square analysis, see *infra* app. H.

236. Interview with Former Big Law Lawyer B, *supra* note 147; Interview with Big Law Lawyer B, *supra* note 109; Interview with Lawyer E, *supra* note 112.

237. See sources cited *supra* note 236.

238. See Eagly & Shafer, *supra* note 16, at 76; see also Hausman, *supra* note 17, at 1179.

239. In the criminal context, defendants are not just provided a Sixth Amendment right to counsel at trial but on their first appeal as a matter of their Sixth Amendment right as well. See *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) (noting that the Supreme Court's "cases establish that the right to appointed counsel extends to the right of first appeal, and no further"). To that end and following up on past research that calls for greater protections for immigrants in the adjudication process, this study advocates for providing immigrants with counsel for their first appeal to the federal courts out of the BIA. For a need to have more enhanced immigrant rights protections generally, see Jayanth K. Krishnan, *Facts Versus Discretion: The Debate over Immigration Adjudication*, 37 GEO. IMMIGR. L.J. 1, 2 (2022).

240. See, e.g., Eagly & Shafer, *supra* note 16, at 3; *Access to Counsel*, NAT'L IMMIGRANT JUST. CTR., <https://immigrantjustice.org/issues/access-counsel> (last visited Nov. 20, 2023) [<https://perma.cc/7Q8C-2WGZ>]; ANDREA BLACK & JOAN FRIEDLAND, NATIONAL IMMIGRATION LAW CENTER, *BLAZING A TRAIL: THE FIGHT FOR*

Yet we recognize that this change is unlikely to occur any time soon. Therefore, our wish is that for those who consider the research done here, they reflect on perhaps the most important takeaway of this study: while Big Law’s work to date has been laudable and life-changing for those immigrants who have prevailed, there is the exciting possibility for lawyers from these firms to do even more. If they can further coordinate with other members of civil society,²⁴¹ there is an opportunity to be on the cutting edge of expanding access to justice pathways and shaping one of the most pivotal policy issues of our time. As we have seen, there is a deep desire among many Big Law lawyers to help. The hope is that this aspiration will be scalable so that immigrants who are currently languishing with futures that appear both bleak and uncertain can receive the legal assistance they so desperately need—sooner rather than later.

APPENDIX A

Within Westlaw’s federal appellate courts database, and relating to footnote 78, these were the search parameters used within the “search within results” field of the 6,005 cases.

(“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2017 & bef 1/6/2021) % CI(“2017 WL 1325273” “2017 WL 2230231” “2017 WL 3399882” “2017 WL 3775279” “2017 WL 3911055” “2017 WL 510454” “2017 WL 5192366” “2017 WL 527897” “2017 WL 5985579” “2017 WL 6542796” “2017 WL 65562” “2017 WL 765791” “2018 WL 1320585” “2018 WL 2093312” “2018 WL 2306595” “2018 WL 296866” “2018 WL 3433760” “2018 WL 3454409” “2018 WL 3599376” “2018 WL 3635229” “2018 WL 3763524” “2018 WL 3848507” “2018 WL 4086975” “2018 WL 4608970” “2018 WL 5291039” “2018 WL 6428204” “2018 WL 6627692” “2018 WL 6722734” “2018 WL 8807133” “2019 WL 1065027” “2019 WL 117084” “2019 WL 1262257” “2019 WL 2454840” “2019 WL 2513637” “2019 WL 2762341” “2019 WL 3209956” “2019 WL 3727828” “2019 WL 3820463” “2019 WL 4267057” “2019 WL 5078367” “2019 WL 5885003” “2019 WL 5938025” “2019 WL 6224421” “2019 WL 7286690” “2019 WL 73988” “2019 WL 7503025” “2020 WL 1329660” “2020 WL 1482393” “2020 WL 2465208” “2020 WL 2530824” “2020 WL 3455856” “2020 WL 3477190” “2020 WL 3529571” “2020 WL 3536277” “2020 WL 370356” “2020 WL 425400” “2020 WL 4457951” “2020 WL 4664820” “2020 WL 5033408” “2020 WL 549009” “2020 WL 5509699” “2020 WL 5588644” “2020 WL 6390233” “2020 WL

RIGHT TO COUNSEL IN DETENTION AND BEYOND 1 (2016), <https://www.nilc.org/wp-content/uploads/2016/04/Right-to-Counsel-Blazing-a-Trail-2016-03.pdf> [<https://perma.cc/53BT-N8PT>]. For one study that has challenged this idea that more federal funding for government-appointed lawyers in immigration court would be a positive development, see Angélica Cházaro, *Due Process Deportations*, 98 N.Y.U. L. REV 407 (2023).

241. For example, two such groups that might be part of this coalition would be immigrant-rights NGOs and members of the immigration bar.

7052286” “2020 WL 728629” “2020 WL 962336” “2020 WL 964402” “2021 WL 28536” “2020 WL 4032652”)

Note: The WL citations are the 69 cases that we redacted because they did not come from the BIA to the circuit courts. This redaction brought the number down from 6,005 to 5,936 cases. From there, the following search terms were used within the “search within results” field to identify the pro se cases from within the 5,936 number:

“Petitioner Pro Se”

This phrase was the standard one used to denote when the immigrant appeared without a lawyer. The results of this search yielded thirty-three cases, which the authors went through by hand. Thirty-two of them were, in fact, pro se cases, and they were deleted. (One case was not and that was left in the set.) That then left the total sum to be 5,904 cases.

The Westlaw citations for these thirty-two cases were:

“2020 WL 7396342” “2020 WL 8922180” “2020 WL 6342706” “2020 WL 5422420” “2020 WL 5089513” “2020 WL 5036371” “2020 WL 3167642” “2020 WL 2315910” “2020 WL 1672807” “2020 WL 1481603” “2020 WL 1079236” “2020 WL 57878” “2019 WL 4271960” “2019 WL 4130957” “2019 WL 2305499” “2019 WL 11863645” “2018 WL 6720700” “2018 WL 11301537” “2018 WL 5734511” “2018 WL 4382039” “2018 WL 4057223” “2018 WL 2277870” “2018 WL 2064798” “2018 WL 2059515” “2018 WL 1602844” “2018 WL 1285528” “2018 WL 259216” “2017 WL 5197403” “2017 WL 4286147” “2017 WL 3411873” “2017 WL 1531586” “2017 WL 89022”

Returning to the 6,005 cases, and in order to get to the accurate number of “immigrant wins” in the federal appellate courts database, the following search was conducted:

(“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2017 & bef 1/6/2021) % CI(“2017 WL 1325273” “2017 WL 2230231” “2017 WL 3399882” “2017 WL 3775279” “2017 WL 3911055” “2017 WL 510454” “2017 WL 5192366” “2017 WL 527897” “2017 WL 5985579” “2017 WL 6542796” “2017 WL 65562” “2017 WL 765791” “2018 WL 1320585” “2018 WL 2093312” “2018 WL 2306595” “2018 WL 296866” “2018 WL 3433760” “2018 WL 3454409” “2018 WL 3599376” “2018 WL 3635229” “2018 WL 3763524” “2018 WL 3848507” “2018 WL 4086975” “2018 WL 4608970” “2018 WL 5291039” “2018 WL 6428204” “2018 WL 6627692” “2018 WL 6722734” “2018 WL 8807133” “2019 WL 1065027” “2019 WL 117084” “2019 WL 1262257” “2019 WL 2454840” “2019 WL 2513637” “2019 WL 2762341” “2019 WL 3209956” “2019 WL 3727828” “2019 WL 3820463” “2019 WL 4267057” “2019 WL 5078367” “2019 WL 5885003” “2019 WL 5938025” “2019 WL 6224421” “2019 WL 7286690” “2019 WL 73988” “2019 WL 7503025” “2020 WL 1329660” “2020 WL 1482393” “2020 WL 2465208” “2020 WL 2530824” “2020 WL 3455856” “2020 WL 3477190” “2020 WL 3529571” “2020 WL 3536277” “2020 WL 370356” “2020 WL 425400” “2020 WL 4457951” “2020 WL 4664820” “2020 WL 5033408” “2020 WL 549009”

“2020 WL 5509699” “2020 WL 5588644” “2020 WL 6390233” “2020 WL 7052286” “2020 WL 728629” “2020 WL 962336” “2020 WL 964402” “2021 WL 28536” “2020 WL 4032652” “2020 WL 7396342” “2020 WL 8922180” “2020 WL 6342706” “2020 WL 5422420” “2020 WL 5089513” “2020 WL 5036371” “2020 WL 3167642” “2020 WL 2315910” “2020 WL 1672807” “2020 WL 1481603” “2020 WL 1079236” “2020 WL 57878” “2019 WL 4271960” “2019 WL 4130957” “2019 WL 2305499” “2019 WL 11863645” “2018 WL 6720700” “2018 WL 11301537” “2018 WL 5734511” “2018 WL 4382039” “2018 WL 4057223” “2018 WL 2277870” “2018 WL 2064798” “2018 WL 2059515” “2018 WL 1602844” “2018 WL 1285528” “2018 WL 259216” “2017 WL 5197403” “2017 WL 4286147” “2017 WL 3411873” “2017 WL 1531586” “2017 WL 89022”)

(This search is the combination of the two searches above that yielded the 5,904 cases.) From there, and in consultation with the Westlaw reference attorneys, the authors used the below search parameters to generate our “immigrant wins” within the “search within results” box:

“petition granted” (“we grant” +3 petition) (petition +s “granted #in part”) (“granted in part”) (“remanding to the BIA”) (“remanded to the BIA”) (“remanded in part”) (“Motion granted in part and denied in part”) (“Petition for review granted”) (“Petition for review is granted”) (“vacated and remanded”) (“stay granted”) (“reversed and remanded”) (“request for remand is granted”) (“we remand”).

The initial results of this search were 926 wins. However, eight cases of the 926 were false positives and could not be considered wins. We were able to make this determination because they all involved Big Law firms, and as part of our check, we went through every case in our dataset where a Big Law firm was involved. In these eight cases, as stated, the result was actually that the immigrant lost, and so we reduced the win rate from 926 to 918.

APPENDIX B

Relating to footnotes 81 and 82, to arrive at the total number of Big Law cases on Westlaw, the following search was conducted within the “search within results” function of the 5,936 (see Appendix A) case total. (Note, we did not exclude petitioner pro se cases, because in some instances, Big Law assisted on such cases on appeal.) (“Kirkland Ellis” “Latham Watkins” “DLA Piper” “Baker McKenzie” “Skadden” “Sidley Austin” “Morgan Lewis” “White Case” “Hogan Lovells” “Jones Day” “Ropes Gray” “Gibson Dunn” “Norton Rose” “Simpson Thatcher” “Davis Polk” “Greenberg Traurig” “Weil Gotshal” “Sullivan Cromwell” “Cooley” “Paul Weiss” “King Spaulding” “Mayer Brown” “Goodwin Procter” “McDermott” “Covington” “Reed Smith” “Paul Hastings” “Quinn Emanuel” “Wilmer” “Milbank” “Debevoise” “Clearly Gottlieb” “Akin Grump” “Morrison Foerster” “Orrick” “Wilson Sonsini” “Dechert” “Holland Knight” “Squire Patton” “K&L Gates” “Wachtell” “Perkins Coie” “Proskauer” “Willkie” “Winston Strawn” “Arnold Porter” “Faegre Drinker” “Foley Lardner” “Troutman Pepper” “Sheppard Mullin” “Shearman Sterling” “Bryan Case” “Alston Bird” “O’Melveny” “McGuireWoods” “Cravath” “Baker Hostetler” “Fragomen” “Vinson Elkins” “Fried Frank” “Hunton Andrews” “Pillsbury” “Seyfarth” “Baker Botts” “Venable” “Lewis Brisbois” “Katten” “Polsinelli” “Littler” “Fox Rothschild” “Nelson Mullins” “Fenwick” “Olgetree Deakins” “Cozen O’Connor” “Duane Morris” “Jackson Lewis” “Crowell Moring” “Barnes Thornburg” “Mintz Levin” “Kilpatrick Townsend” “Nixon Peabody” “Blank Rome” “Locke Lord” “Womble Bond” “Cadwalader” “Akerman” “Fish” “Jenner Block” “Davis Wright” “Schulte Roth” “Cahill” “Gordon Rees” “Haynes Boone” “Ballard Spahr” “Husch Blackwell” “Dorsey” “Steptoe” “Kramer Levin” “Loeb Loeb” “Baker Donelson” “Taft Stettinius” “Shook Hardy” “Wilson Elser” “Williams Connolly” “Lowenstein Sandler” “Manatt” “Arent Fox” “Bradley Arant” “Clark Hill” “Finnegan” “Jackson Walker” “Buchanan Ingersoll” “Bracewell” “Dinsmore” “Snell Wilmer” “Munger Tolles” “Quarles Brady” “Hughes Hubbard” “Choate Hall” “Holland Hart” “Kutak Rock” “Stinson” “Stroock” “Stoel Rives” “Honigman” “Dickinson Wright” “Vedder Price” “McCarter English” “Fisher Phillips” “Boies Schiller” “Frost Brown” “Winstead” “Saul Ewing” “Thompson Hine” “Knobbe Martens” “Foley Hoag” “Moore and Van Allen” “Chapman Cutler” “Marshall Dennehey” “Wiley Rein” “Kelley Drye” “Kasowitz” “Ice Miller” “Brown Rudnick” “Brownstein” “Butler Snow” “Patterson Belknap” “Buchalter” “Thompson Coburn” “Lathrop GPM” “Kobre Kim” “Dykema” “Burr Forman” “Vorys” “Goulston Storrs” “Thompson Knight” “Carlton Fields” “Robins Kaplan” “Shutts Bowen” “Waller” “Allen Matkins” “Hinshaw” “Schiff Hardin” “Benesch” “Cole Scott Kissane” “Day Pitney” “Goldberg Segalla” “Eckert Seamans” “Michael Best” “Lewis Roca” “Spencer Fane” “Morris Manning” “Gray Robinson” “Armstrong Teasdale” “Williams Mullen” “Phelps Dunbar” “Cole Schotz” “Greenspoon Marder” “Smith Gambrell” “Buckley” “Pryor Cashman” “Porter Wright” “Irell” “Robinson Cole” “Adams Reese” “Procopio Cory” “Shumaker” “Hanson Bridgett” “Arnall Golden” “Miles Stockbridge” “Offit Kurman” “Curtis” “Sherman Howard”

“Rutan Tucker” “Hodgson Russ” “Sullivan Worcester” “Bond Schoeneck” “*Fisherbroyles*” “Herrick” “Hinckley Allen”)

The initial result was 284 cases. From there, we went through each case individually and found forty-three that needed to be removed because they did not involve a Big Law firm. Instead, for example, a judge’s name or a lawyer’s name contained a Big Law firm name, which is why the case was included in the initial output of results. After cleaning the data in this manner, our final sum was 241 cases that involved Big Law.

APPENDIX C PART I

Akerman	Fragomen	Orrick
Akin Grump	Gibson Dunn	Patterson Belknap
Alston Bird	Goodwin Proctor	Paul Weiss
Arent Fox	Greenberg Traurig	Perkins Coie
Arnold & Porter	Hanson Bridgett	Porter Wright
Baker & Hostetler	Holland & Knight	Pryor Cashman
Baker Botts	Hodson Russ	Proskauer
Baker Donelson	Hogan Lovells	Quinn Emanuel
Baker Hostetler	Hughes Hubbard	Reed Smith
Baker McKenzie	Irell & Manella	Ropes & Gray
Ballard Spahr	Jenner & Block	Seyfarth
Blank Rome	Jones Day	Shook & Hardy
Brownstein	K&L Gates	Sidley Austin
Cooley	Kirkland & Ellis	Skadden
Covington	Kramer Levin	Snell & Wilmer
Cozen O'Connor	Latham Watkins	Stinson
Cravath	Lewis Brisbois	Stoel Rives
Crowell & Moring	Manatt	Sullivan & Cromwell
Davis Polk	Mayer Brown	Vinson & Elkins
Day Pitney	McCarter & English	Weil Gotshal
Dechert	McDermott	Wiley Rein
DLA Piper	Morgan Lewis	Willkie
Duane Morris	Morrison & Foerster	Wilmer
Faegre Drinker	Munger Tolles	Wilson Sonsini
Fish & Richardson	Nixon Peabody	Winston & Strawn
Foley & Lardner	Norton Rose	Womble Bond
Fox Rothschild	O'Melveny	Williams & Connolly

APPENDIX C PART II

Case Name	WL Citation	Firm Name	Outcome
Alvarez-Eraza v. U.S. Attorney General	2018 WL 6720629	Akerman	Loss
Cruz v. Sessions	2017 WL 977030	Akin Grump	Win
Maravilla v. Sessions	2017 WL 3498626	Alston & Bird	Loss
Matheus v. U.S. Attorney General	2018 WL 6329697	Alston & Bird	Loss
Castanon-Castanon v. Barr	2019 WL 3026778	Alston & Bird	Loss
Issifi v. Barr	2019 WL 4455071	Alston & Bird	Loss
Corona Salano v. Barr	2019 WL 6699785	Alston & Bird	Loss
Gonzalez Arnet v. U.S. Attorney General	2020 WL 3468285	Alston & Bird	Loss
Ngana v. U.S. Attorney General	2020 WL 5032445	Alston & Bird	Loss
Cornejo v. Barr	2020 WL 6445844	Alston & Bird	Loss
Igiebor v. Barr	2020 WL 7134460	Alston & Bird	Loss
Cordero Frances v. Barr	2020 WL 7054274	Alston & Bird	Win
Quijano Serrano v. Barr	2020 WL 7238438	Alston & Bird	Win
Cau v. Barr	2020 WL 7624924	Arent Fox	Loss
Jima v. Barr	2019 WL 5849501	Arnold & Porter	Loss
De La Rosa v. Sessions	2017 WL 1806517	Baker & Hostetler	Win
Pierre-Paul v. Barr	2019 WL 3229150	Baker Botts	Loss
Vetcher v. Barr	2020 WL 1303911	Baker Botts	Loss
Mohamed v. Barr	2020 WL 290426	Baker Donelson	Loss
Myrie v. Attorney General United States	2017 WL 1526272	Baker Donelson	Win
Rogel-Rodriguez v. Barr	2020 WL 4464451	Baker Hostetler	Loss
Blanco v. Attorney General United States	2020 WL 4249440	Baker Hostetler	Win
Diaz-Rivas v. U.S. Attorney General	2019 WL 1755642	Baker McKenzie	Loss
Ramirez Escobar v. Barr	2020 WL 1673077	Ballard Spahr	Loss
Assagou v. Whitaker	2018 WL 6433583	Blank Rome	Loss
Iraheta v. Barr	2019 WL 2465489	Brownstein	Loss
Diaz Ortiz v. Barr	2020 WL 2508017	Cooley	Loss
Forsythe v. Sessions	2017 WL 5952687	Covington	Loss
Osorio-Zacarias v. U.S. Attorney General	2018 WL 3857081	Covington	Loss
Fabian-Soriano v. Barr	2019 WL 2314383	Covington	Loss

Johnson v. Attorney General of United States	2019 WL 6522875	Covington	Loss
Hernandez v. Barr	2020 WL 6059692	Covington	Win
Adejimi v. Attorney General United States	2019 WL 3335186	Cozen O'Connor	Loss
Guzman Orellana v. Attorney General United States	2020 WL 1898251	Cravath	Win
Dong Ji v. Sessions	2018 WL 2263652	Crowell & Moring	Loss
Mohamed v. Attorney General United States	2017 WL 3635521	Crowell & Moring	Win
Exaveau v. Barr	2020 WL 4037955	Crowell & Moring	Win
Rodriguez v. Barr	2020 WL 5580446	Davis Polk	Loss
Manning v. Barr	2020 WL 1522821	Davis Polk	Win
Garcia v. Sessions	2018 WL 497201	Day Pitney	Win
Lopez v. Sessions	2018 WL 1773150	Dechert	Loss
Martinez v. Sessions	2017 WL 3083135	Dechert	Win
Martinez v. Sessions	2017 WL 4552543	Dechert	Win
Mohammed v. Sessions	2018 WL 5733066	DLA Piper	Win
Gebrenigus v. U.S. Attorney General	2019 WL 1958002	Duane Morris	Loss
Martinez-Nieto v. Attorney General of United States	2020 WL 1487688	Duane Morris	Loss
Wright v. Attorney General United States	2020 WL 6112281	Faegre Drinker	Loss
Chavez v. Sessions	2018 WL 345037	Fish & Richardson	Loss
Zelaya Mendez v. Barr	2020 WL 1314400	Fish & Richardson	Win
Lopez Sosa v. Barr	2019 WL 3206687	Foley & Lardner	Loss
Debnath v. Attorney General of United States	2018 WL 5881527	Fox Rothschild	Loss
Molina-Avila v. Sessions	2018 WL 5292058	Gibson Dunn	Loss
Jimenez-Becerril v. Sessions	2018 WL 934926	Gibson Dunn	Loss
Maling v. Whitaker	2019 WL 102478	Gibson Dunn	Loss
Schroeter v. Whitaker	2019 WL 123187	Gibson Dunn	Loss
Pereira v. Barr	2019 WL 2537734	Gibson Dunn	Loss
Moore v. Barr	2020 WL 3526369	Gibson Dunn	Loss
Castendet-Lewis v. Sessions	2017 WL 1476649	Gibson Dunn	Win
Sandoval v. Sessions	2017 WL 4547372	Gibson Dunn	Win
Coronado v. Sessions	2018 WL 1573562	Gibson Dunn	Win
Garcia-Gonzalez v. Sessions	2018 WL 3523698	Gibson Dunn	Win
Monteon-Camargo v. Barr	2019 WL 1198105	Gibson Dunn	Win

Ruderman v. Whitaker	2019 WL 349413	Gibson Dunn	Win
Jasso Bernal v. Barr	2020 WL 30394	Gibson Dunn	Win
Ming Dai v. Barr	2019 WL 5386315	Goodwin Proctor	Loss
Nduwimana v. Barr	2020 WL 5507843	Goodwin Proctor	Loss
Mendez v. Barr	2020 WL 2755687	Goodwin Proctor	Win
Mei Yuen Huang v. Barr	2019 WL 1373183	Greenberg Traurig	Win
Bonilla de Ibarra v. Sessions	2017 WL 1629072	Hanson Bridgett	Loss
Sicat v. Sessions	2018 WL 3322259	Hanson Bridgett	Win
Hechavarria v. Barr	2019 WL 5541485	Hodson Russ	Loss
DeJesus v. Attorney General United States	2020 WL 4717967	Hogan Lovells	Loss
Hirsi v. Barr	2020 WL 2530171	Hughes Hubbard	Win
Scarlett v. Barr	2020 WL 2046544	Hughes Hubbard	Win
Munoz-Ventura v. Barr	2020 WL 1316369	Irell & Manella	Loss
Rodriguez Aroche v. Barr	2020 WL 5544290	Jenner & Block	Loss
Fuller v. Whitaker	2019 WL 290267	Jenner & Block	Win
Blanco-Santa Maria v. Sessions	2017 WL 6388860	Jones Day	Loss
Gonzales-Veliz v. Barr	2019 WL 4266121	Jones Day	Loss
Avelar-Oliva v. Barr	2020 WL 1650853	Jones Day	Loss
Sanchez v. Sessions	2017 WL 2263015	Jones Day	Win
Sanchez v. Sessions	2018 WL 3285780	Jones Day	Win
Bin Feng v. Sessions	2018 WL 732134	Jones Day	Win
Kassim v. Barr	2020 WL 1647221	Jones Day	Win
Vargas-Argeta v. Attorney General of United States	2019 WL 1483800	Kirkland & Ellis	Loss
Perez v. Sessions	2018 WL 2035302	Kirkland & Ellis	Win
Meridor v. U.S. Attorney General	2018 WL 2728061	Kirkland & Ellis	Win
Marroquin v. Whitaker	2019 WL 141220	Kirkland & Ellis	Win
Matadi v. Barr	2020 WL 3966964	Kramer Levin	Loss
Bravo-Cocco v. Sessions	2018 WL 455859	Latham & Watkins	Loss
Ayala v. Sessions	2017 WL 1541961	Latham & Watkins	Win
Linares-Urrutia v. Sessions	2017 WL 894453	Latham & Watkins	Win
Escobar-Lopez v. Attorney General United States	2020 WL 6375413	Latham & Watkins	Win
Matute-Canales v. Barr	2019 WL 2621822	Lewis Brisbois	Loss

Flores v. Barr	2019 WL 3294090	Lewis Brisbois	Loss
Henriquez v. Sessions	2018 WL 2106860	Mayer Brown	Loss
Navarro v. Sessions	2018 WL 4334148	Mayer Brown	Loss
Lasri v. Barr	2019 WL 1568696	Mayer Brown	Loss
Arej v. Sessions	2017 WL 1154943	Mayer Brown	Win
Arrazabal v. Barr	2019 WL 2864754	Mayer Brown	Win
Smith v. Attorney General of United States	2017 WL 2703590	McCarter & English	Loss
Martinez v. Larose	2020 WL 4282158	McDermott	Loss
Espino Jimenez v. Barr	2020 WL 3124364	Morrison & Foerster	Loss
Urie v. Barr	2020 WL 4037932	Munger Tolles	Win
Xue v. Lynch	2017 WL 370739	Munger Tolles	Loss
Martinez-Rodriguez v. Barr	2020 WL 527996	Munger Tolles	Loss
Guerra v. Barr	2020 WL 1023363	Munger Tolles	Win
Carreto-Escobar v. Barr	2020 WL 1934884	Munger Tolles	Win
Rivera-Montenegro v. Rosen	2020 WL 7663213	Munger Tolles	Win
Samet v. Attorney General of United States	2020 WL 7705641	Nixon Peabody	Loss
Romero-Mejia v. Sessions	2017 WL 3841579	Norton Rose	Loss
Chavarin v. Sessions	2017 WL 1906903	O'Melveny	Loss
Smatsorabudh v. Barr	2020 WL 2300540	O'Melveny	Loss
Perez-Rojas v. Sessions	2017 WL 1149506	O'Melveny	Win
Suradi v. Sessions	2017 WL 2992234	O'Melveny	Win
Manrique Yaruro v. Barr	2020 WL 1487843	O'Melveny	Win
Lucio-Rayos v. Sessions	2017 WL 5352678	Orrick	Loss
Adeniyeye v. U.S. Attorney General	2017 WL 6343510	Orrick	Loss
Perez Castillo v. Whitaker	2019 WL 541048	Orrick	Loss
Montero v. Barr	2019 WL 6998889	Orrick	Loss
Ortiz v. Barr	2020 WL 1231212	Orrick	Loss
Flores v. Barr	2019 WL 5566316	Orrick	Win
Xochihua-Jaimes v. Barr	2020 WL 3479669	Orrick	Win
Enoh v. Barr	2020 WL 41901	Orrick	Win
Pascual-Juan v. Barr	2020 WL 4746627	Orrick	Win
Tretiakov v. United States Attorney General	2020 WL 854799	Patterson Belknap	Loss

Tomaszczyk v. Whitaker	2018 WL 6055236	Paul Weiss	Loss
Bonilla Cruz v. Barr	2019 WL 4492801	Perkins Coie	Loss
Clavijo Cruz v. Barr	2020 WL 1550668	Perkins Coie	Loss
Santos-Alvarado v. Barr	2020 WL 4188118	Perkins Coie	Loss
Skripkov v. Barr	2020 WL 4048036	Perkins Coie	Win
Gonzalez Ruano v. Barr	2019 WL 1785492	Porter Wright	Win
Butera v. U.S. Attorney General	2018 WL 4631816	Proskauer	Loss
Romero-Larin v. Sessions	2018 WL 2110896	Quinn Emanuel	Loss
Fremont v. Barr	2020 WL 4873726	Quinn Emanuel	Loss
Urbina-Romero v. Barr	2019 WL 1224528	Quinn Emanuel	Win
Nguti v. Sessions	2018 WL 1136028	Quinn Emanuel	Win
Restrepo-Perez v. Sessions	2018 WL 1789766	Reed Smith	Loss
Chambers v. Sessions	2018 WL 3156924	Reed Smith	Loss
Osejo-Romero v. Sessions	2017 WL 2312855	Ropes & Gray	Loss
Romo v. Barr	2019 WL 3808515	Ropes & Gray	Loss
Enamorado-Rodriguez v. Barr	2019 WL 5588751	Ropes & Gray	Win
Boateng v. U.S. Attorney General	2020 WL 2049072	Seyfarth	Loss
Figueroa-Villeda v. Sessions	2017 WL 3616377	Seyfarth Shaw	Loss
Sanchez-Mendoza v. Sessions	2018 WL 1736034	Shook & Hardy	Loss
Somi Kongmasang v. Sessions	2018 WL 3454470	Sidley Austin	Loss
Arevalo-Callejas v. Whitaker	2018 WL 6242218	Sidley Austin	Loss
Liem v. Attorney General United States	2019 WL 1748142	Sidley Austin	Win
Villanueva-Vasquez v. Barr	2019 WL 2184932	Skadden	Win
Xuexiao Chen v. Barr	2019 WL 1601774	Snell & Wilmer	Loss
Rojas Alvarado v. Barr	2020 WL 7024487	Snell & Wilmer	Loss
Tanin v. Whitaker	2018 WL 6068650	Stoel Rives	Loss
Tobar v. Lynch	2017 WL 83476	Sullivan & Cromwell	Loss
Torres v. Whitaker	2019 WL 549024	Sullivan & Cromwell	Win
Berhe v. Barr	2020 WL 3421608	Vinson & Elkins	Loss
Berhe v. Barr	2020 WL 6852596	Vinson & Elkins	Win
Both v. Sessions	2017 WL 6014049	Wiley Rein	Win
Antunez-Blanco v. Whitaker	2018 WL 6505436	Willkie	Loss

Jobe v. Whitaker	2018 WL 6720777	Wilmer	Loss
Millan-Rodriguez v. Barr	2019 WL 2338526	Wilmer	Loss
Katambo v. Barr	2020 WL 6038685	Wilson Sonsini	Loss
Nkemkeng v. Barr	2020 WL 6441209	Winston & Strawn	Loss
Lopez Ordonez v. Barr	2020 WL 1879577	Womble Bond	Win

APPENDIX D

Case Name	Citation	Firm Name	Partners	Outcome
Szonyi v. Whitaker	915 F.3d 1228	Jones Day	Yes, American Immigration Lawyers Association	Loss
Szonyi v. Barr	942 F.3d 874	Jones Day	Yes, American Immigration Lawyers Association	Loss
Shakkuri v. Barr	780 Fed.Appx. 286	Stinson	Yes, American Immigration Lawyers Association, National Justice for Our Neighbors	Loss
Man v. Barr	773 Fed.Appx. 422	Davis Polk	Yes, Asian Pacific Institute on Gender-Based Violence, California Partnership to End Domestic Violence, Freedom Network USA, Her Justice, National Network to End Domestic Violence, New York State Coalition Against Domestic Violence, National Immigrant Justice Center	Loss
Murrillo v. Barr	799 Fed.Appx. 73	Sidley Austin	Yes, Asylum and Convention Against Torture Appellate Clinic, Cornell Law School	Loss
Ottey v. Barr	965 F.3d 84	Gibson Dunn	Yes, Brooklyn Defender Services, Brooklyn, New York, on the brief	Loss
Guillen v. Sessions	714 Fed.Appx. 290	Jenner & Block	Yes, CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION	Loss
Argueta v. Barr	970 F.3d 532	Morgan Lewis for Amicus	Yes, CAPITAL AREA	Loss

			IMMIGRANTS' RIGHTS (CAIR) COALITION	
Vasquez-Galdamez v. Barr	830 Fed.Appx. 97	Mayer Brown	Yes, CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION	Loss
Pastor v. Barr	830 Fed.Appx. 364	Orrick	Yes, Catholic Charities Community Service For amicus, Washington Square Legal Services—Immigrant Legal Services	Loss
Daoud v. Barr	948 F.3d 76	Fragomen	Yes, Catholic Legal Immigration Network, American Immigration Council and the Harvard Immigration and Refugee Clinical Program	Loss
Candela-Rios v. Sessions	737 Fed.Appx. 187	Wiley Rein	Yes, Catholic Legal Immigration Network, Incorporated, Asian Americans Advancing Justice	Loss
RSF v. Barr	787 Fed.Appx. 943	Gibson Dunn	Yes, Center for Gender and Refugee Studies, c/o UC Hastings College of the Law, Center for Gender & Refugee Studies, National Immigrant Justice Center	Loss
Solares Mijangos v. Barr	801 Fed.Appx. 588	Williams & Connolly	Yes, Center for Gender and Refugee Studies, c/o UC Hastings College of the Law, Harvard Immigration and Refugee Clinical Program	Loss
Hernandez v. Sessions	884 F.3d 107	Weil Gotshal	Yes, Central American Legal Assistance	Loss

Marinelarena v. Sessions	869 F.3d 780	Orrick	Yes, Certified Law Students-Southwestern Law School, Immigrant Defense Project, Immigrants' Rights Clinic, Mills Legal Clinic, Stanford Law School, American Immigration Lawyers Association, Asian Americans Advancing Justice-Asian Law Caucus, Community Legal Services in East Palo Alto, Detention Watch Network, Florence Immigrant and Refugee Rights Project, Heartland Alliance's National Immigrant Justice Center, Immigrant Legal Resource Center, National Immigration Law Center, National Immigration Project of the National Lawyers Guild, Northwest Immigrant Rights Project, Public Counsel, and U.C. Davis Immigration Law Clinic	Loss
M.M.M. v. Barr	831 Fed.Appx. 544	Wilkie	Yes, City Bar Justice Center	Loss
Ledezma-Cosino v. Sessions	857 F.3d 1042	Orrick,	Yes, Drug Policy Alliance, National Council on Alcoholism and Drug Dependence, and Phoenix House, ACLU Foundation Immigrants' Rights Project, ACLU Immigrants' Rights Project and National Immigration Project of the National Lawyers Guild	Loss
Morales-Gomez v. Sessions	722 Fed.Appx. 693	Hanson Bridgett	Yes, Hastings College of the Law	Loss
Santos v. Barr	764 Fed.Appx. 609	Hanson Bridgett	Yes, Hastings College of the Law	Loss

Clemente-Pacheco v. Sessions	732 Fed.Appx. 537	Munger Tolles	Yes, Immigrant Advocacy & Litigation Center, Harvard Law School Project on Disability, Harvard Immigration and Refugee Clinical Program; Mental Health Advocacy Services, Inc.; Disability Rights Legal Center; the Judge David L. Baezelon Center for Mental Health Law; and Disability Rights Education and Defense Fund, Inc.	Loss
Matthews v. Barr	927 F.3d 606	Goodwin Proctor	Yes, Immigration Law Unit- The Legal Aid Society, Immigrant Defense Project, Queens Law Associates, Neighborhood Defender Service of Harlem, The Bronx Defenders, Essex County Public Defender's Office, Monroe County Public Defender's Office, Immigrant Defense Project	Loss
Williams v. Attorney General United States	880 F.3d 100	Dechert	Yes, Legal Aid Society - Immigration Law Unit	Loss
Martinez v. Attorney General	906 F.3d 281	Paul Weiss	Yes, Legal Aid Society, Immigration Law Unit	Loss
Geffrard v. Barr	783 Fed.Appx. 741	Munger Tolles	Yes, Loyola Law School	Loss
Saleh v. Barr	795 Fed.Appx. 410	Stinson	Yes, Michigan Immigrant Rights Center, Michigan Poverty Law Program, American Immigration Lawyers Association, National Justice for Our Neighbors	Loss
Mejia v. Sessions	866 F.3d 573	Hogan Lovells	Yes, National Immigrant Justice Center	Loss
S.A.B. v. Boente	847 F.3d 542	Reed Smith	Yes, National Immigrant Justice Center	Loss

Mendez v. Barr	792 Fed.Appx. 466	Cooley	Yes, National Immigrant Justice Center	Loss
Medina-Moreno v. Barr	841 Fed.Appx. 72	Munger Tolles	Yes, National Immigrant Justice Center & Rocky Mountain Immigrant Advocacy Network	Loss
Mendoza v. Sessions	891 F.3d 672	Mayer Brown	Yes, National Immigrant Justice Center, American Immigration Council	Loss
Padilla-Ramirez v. Bible	882 F.3d 826	Cooley	Yes, National Immigration Project for the National Lawyers Guild, Boston, Massachusetts; for Amici Curiae National Immigration Project of the National Lawyers Guild, Detention Watch Network, Dolores Street Community Services, Immigrant Defenders Law Center, and Pangea Legal Services, Northwest Immigrant Rights Project	Loss
Man v. Barr	940 F.3d 1354	Davis Polk	Yes, Priv NonAmL, Stanford Law School, Community Legal Services in East Palo Alto, Asian Pacific Institute on Gender-Based Violence, California Partnership to End Domestic Violence, Freedom Network USA, Her Justice, National Network to End Domestic Violence, New York State Coalition Against Domestic Violence, and National Immigrant Justice Center	Loss
Estime v. Barr	811 Fed.Appx. 435	Manatt	Yes, public law center	Loss
De Leon v. Sessions	697 Fed.Appx. 310	Sidley Austin	Yes, Refugee & Immigrant Center for Education & Legal	Loss

			Services, National Immigrant Justice Center	
Lancaster v. Attorney General of United States	694 Fed.Appx. 76	Dechert	Yes, U Penn Law School	Loss
Sanchez v. Sessions	885 F.3d 782	Jenner & Block	Yes, UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW, American Immigration Council	Loss
Reyes-Romero v. Barr	832 Fed.Appx. 426	Jones Day	Yes, WVU U.S. Supreme Court Litigation Clinic	Loss
Villa v. Attorney General United States	742 Fed.Appx. 682	Duane Morris	Yes, American Civil Liberties Union of Pennsylvania	Win
Attipoe v. Barr	945 F.3d 76	Perkins Coie	Yes, American Immigration Council	Win
Andrews v. Barr	799 Fed.Appx. 26	Gibson Dunn	Yes, American Immigration Council	Win
Mauricio-Vasquez v. Whitaker	910 F.3d 134	Wiley Rein	Yes, CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION	Win
Gordon v. Barr	965 F.3d 252	Wiley Rein	Yes, CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION, NATIONAL IMMIGRATION PROJECT OF THE NATIONAL LAWYERS GUILD	Win
De Pena-Paniagua v. Barr	957 F.3d 88	Gibson Dunn (amicus)	Yes, Center for Gender and Refugee Studies, University of Pittsburgh School of Law Immigration Law Clinic, Hebrew Immigrant Aid Society, Leadership Conference of Women Religious, National Council of Jewish Women, and Unitarian Universalist Service Committee, Immigration Law Professors.	Win

Villavicencio v. Sessions	879 F.3d 941	Orrick	Yes, Certified Law Students-Ninth Circuit Appellate Project-Boston College Law School, Immigrants' Rights Clinic, Mills Legal Clinic, Immigrant Defense Project, American Immigration Lawyers Association, Asian Americans Advancing Justice-Asian Law Caucus, Community Legal Services in East Palo Alto, Detention Watch Network, Florence Immigrant and Refugee Rights Project, Heartland Alliance's National Immigrant Justice Center, Immigrant Legal Resource Center, National Immigration Law Center, National Immigration Project of the National Lawyers Guild, Northwest Immigrant Rights Project, Public Counsel, U.C. Davis Immigration Law Clinic, and Centro Legal de la Raza	Win
Espinoza-Orejel v. Barr	784 Fed.Appx. 999	Hanson Bridgett	Yes, Hastings College of the Law	Win
Coronel Resendiz v. Barr	810 Fed.Appx. 538	Munger & Tolles (amicus)	Yes, Immigrant Defenders Law Center, Harvard Law School Project on Disability, Harvard Immigration and Refugee Clinical Program, Mental Health Advocacy Services, Bazelon Center for Mental Health Law	Win
Lopez-Villa v. Barr	777 Fed.Appx. 897	Orrick	Yes, Immigrant Defense Project, American Immigration Lawyers Association	Win

Villavicencio v. Sessions	904 F.3d 658	Orrick	Yes, Immigrant Defense Project, American Immigration Lawyers Association, Asian Americans Advancing Justice-Asian Law Caucus, Community Legal Services in East Palo Alto, Detention Watch Network, Florence Immigrant and Refugee Rights Project, Heartland Alliance's National Immigrant Justice Center, Immigrant Legal Resource Center, National Immigration Law Center, National Immigration Project of the National Lawyers Guild, Northwest Immigrant Rights Project, Public Counsel, U.C. Davis Immigration Law Clinic, and Centro Legal de la Raza, Immigrants' Rights Clinic	Win
Harbin v. Sessions	860 F.3d 58	Sidley Austin	Yes, Immigration Law Unit, Legal Aid Society	Win
Garcia-Martinez v. Sessions	886 F.3d 1291	Gibson Dunn	Yes, Immigration Clinic - Western State College of Law, Ninth Circuit Appellate Program - Boston College Law School	Win
Marinelarena v. Barr	930 F.3d 1039	Orrick	Yes, long list - see case	Win
Jalloh v. Barr	794 Fed.Appx. 418	Kirkland & Ellis	Yes, National Immigrant Justice Center	Win
Barrera v. Barr	798 Fed.Appx. 312	Kirkland & Ellis	Yes, National Immigrant Justice Center	Win
Sow v. U.S. Attorney General	949 F.3d 1312	Munger Tolles	Yes, National Immigrant Justice Center	Win
Jack v. Barr	966 F.3d 95	Wilmer	Yes, Prisoners' Legal Services of New York,	Win

			Neighborhood Defender Service of Harlem	
Guerra Rocha v. Barr	951 F.3d 848	Greenberg Traurig	Yes, priv non AmL, NATIONAL IMMIGRANT JUSTICE CENTER, ASISTA IMMIGRATION ASSISTANCE, ASIAN PACIFIC INSTITUTE ON GENDER-BASED VIOLENCE, CASA DE ESPERANZA, FUTURES WITHOUT VIOLENCE, NATIONAL ALLIANCE TO END SEXUAL VIOLENCE, TAHIRIH JUSTICE CENTER.	Win
Torres v. Barr	976 F.3d 918	Wilmer	Yes, Priv NonAmL and National Immigrant Justice Center	Win
Cintron v. U.S. Attorney General	882 F.3d 1380	Orrick	Yes, Priv NonAmL, Stanford Law School	Win
Jinshi Jin v. Barr	794 Fed.Appx. 608	Willkie	Yes, Priv NonAmL	Win
Saravia v. Attorney General United States	905 F.3d 729	Dechert	Yes, University of Pennsylvania Law School	Win
Luziga v. Attorney General United States of America	937 F.3d 244	Dechert	Yes, University of Pennsylvania, School of Law	Win

APPENDIX E

Case Name	Citation	Firm Name	Partners	Outcome
S.E.R.L. v. Attorney General United States of America	894 F.3d 535	Gibson Dunn, Crowell & Moring	Yes, National Immigrant Justice Center, American Immigration Lawyers Association, Hastings College of the Law, Center for Gender & Refugee Studies, Center for Gender & Refugee Studies, and Hebrew Immigrant Aid Society PA, NIWAP Inc. and Pennsylvania Coalition Against Domestic Violence	Loss
C.J.L.G. v. Sessions	880 F.3d 1122	K&L Gates, Winston & Strawn, Morgan Lewis	Yes, ACLU Immigrants' Rights Project, Northwest Immigrant Rights Project, Public Counsel Law Center, National Immigration Project of the National Lawyers Guild, Center for Gender & Refugee Studies, Immigrant Legal Resource Center	Loss
N.Y.C.C. v. Barr	930 F.3d 884	Latham & Watkins, Winston & Strawn (Amicus)	Yes, NATIONAL IMMIGRANT JUSTICE CENTER, END DOMESTIC ABUSE WISCONSIN, IMMIGRANT JUSTICE CLINIC, LEGAL AID SOCIETY, NATIONAL IMMIGRANT WOMEN'S ADVOCACY PROJECT	Loss
Hernandez-Cabrera v. Barr	837 Fed.Appx. 148	Mayer Brown Winston Strawn, Gibson Dunn for amicus	Yes, National Immigrant Women's Advocacy Project, THE TAHIRIH JUSTICE CENTER, Rutgers Law School Immigration Clinic	Loss
Cantarero-Lagos v. Barr	924 F.3d 145	Sidley Austin, Cooley - both for amicus	Yes, Texas A&M School of Law - Immigrant Rights Clinic, Harvard Law School, Harvard Immigration & Refugee Clinical Program	Loss
C.J.L.G. v. Barr	923 F.3d 622	K&L Gates, Winston & Strawn, Morgan Lewis, Munger Tolles	Yes, Immigrant Legal Resource Center, Center for Gender & Refugee Studies, Former Federal Immigration Judges	Win

Aguilar-Rodriguez v. Sessions	694 Fed.Appx. 531	Morrison & Forrester, Cooley	Yes, Nonprofit Legal Services Organizations and Law School Immigration Clinics	Win
W.G.A. v. Sessions	900 F.3d 957	Sidley Austin, Cooley (amicus)	Yes, National Immigrant Justice Center, Law School Immigration Clinic Directors	Win
Bringas-Rodriguez v. Sessions	850 F.3d 1051	Snell & Wilmer, Holland & Knight, Williams & Connolly	Yes, many - see case	Win
Diaz-Reynoso v. Barr	968 F.3d 1070	Williams & Connolly, Gibson Dunn both for amicus	Yes, Certified Law Students; Hastings Appellate Project, Center for Gender & Refugee Studies U.C. Hastings College of Law, Harvard Immigration and Refugee Clinical Program, United Nations High Commissioner for Refugees	Win
Arellano Rodriguez v. Barr	816 Fed.Appx. 137	Williams & Connolly, Gibson Dunn both for amicus	Yes, Priv NonAmL, Harvard Immigration and Refugee Clinical Program, Center for Gender and Refuge Studies c/o UC Hastings College of the Law	Win
Fuentes Reyes v. Barr	816 Fed.Appx. 139	Williams & Connolly, Gibson Dunn both for amicus	Yes, Priv NonAmL, Harvard Immigration and Refugee Clinical Program, Center for Gender and Refuge Studies c/o UC Hastings College of the Law	Win
Velasquez-Banegas v. Lynch	846 F.3d 258	Winston & Strawn, Quinn Emanuel	Yes, National Immigrant Justice Center, Lambda Legal Defense & Education Fund, Incorporated	Win

Vigil v. Sessions	733 Fed.Appx. 166	Winston Strawn, Jones Day - both for amicus	Yes, National Immigrant Women's Advocacy Project, National Organization for Women Foundation, Americans for Immigrant Justice, National Immigrant Justice Center, Asian Law Alliance, California Coalition Against Sexual Assault, Missouri Coalition Against Domestic and Sexual Violence, Adjunct Justice, Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women, Community Law Group At the University of Arizona James E. Rogers College of Law	Win
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APPENDIX F

Case Name	Citation	Firms Partnering	Other Partners	Outcome
Quinteros v. Attorney General of United States	945 F.3d 772	Kirkland & Ellis, Baker Donelson	No	Win
Lopez-Garcia v. Barr	838 Fed.Appx. 573	Pryor Cashman & Norton Rose	No	Win

APPENDIX G

Per footnote 230, to arrive at 17,843 cases from the 18,068 total, we had to remove extraneous cases that appeared in our original sum. The most common way to redact these cases involved scrolling through the 18,068 and highlighting where the Attorney General was not a defendant, because that then most likely meant that the case was coming from the federal district court rather than from the BIA. For example, where the party was:

Homeland Security, Napolitano, Postal Service, or USCIS and ICE as defendants, Jeh Johnson, Correctional facility, United States, Colvin, sealed respondent, U.S. v., Bureau, Citizenship, Immigration, or Jan Brewer,

those cases were removed. The specific way the search looked in Westlaw, for example, (for the Obama second term) was:

adv: ("board #of immigration appeals") & asylum "cancellation #of removal" "adjustment #of status" "voluntary departure" & DA(aft 1/1/2013 & bef 1/6/2017) % CI ("2016 WL 3648369" "2016 WL 736464" "2015 WL 4509350"

“2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL 409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011 WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010 WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442” “2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL 3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474” “2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL 1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009 WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009 WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179” “2012 WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL 174231” “2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009 WL 1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731” “2014 WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL 181494” “2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010 WL 565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919” “2009 WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL 2923016” “2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784” “2009 WL 2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL 2500730” “2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923” “2009 WL 2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL 1773414” “2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009 WL 230089” “2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010 WL 114970” “2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614” “2016 WL 3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL 3878166” “2014 WL 1814211” “2016 WL 3064664” “2013 WL 5434699” “2016 WL 4597301” “2016 WL 3080431” “2016 WL 3064743” “2016 WL 1729530” “2016 WL 1459676” “2016 WL 1425881” “2016 WL 1381906” “2016 WL 1104865” “2016 WL 1085420” “2016 WL 125146” “2015 WL 6600587” “2015 WL 6444688” “2015 WL 5025222” “2015 WL 4940820” “2015 WL 4068922” “2015 WL 2114599” “2015 WL 1323171” “2014 WL 3702585” “2014 WL 3511848” “2014 WL 3347567” “2014 WL 2978488” “2014 WL 4800292” “2014 WL 2723766” “2014 WL 1778152” “2014 WL 1623725” “2014 WL 1491866” “2014 WL 783352” “2013 WL 5508796” “2013 WL 3871002” “2013 WL 3854657” “2013 WL 674040” “2013 WL 174495” “2012 WL 5358867” “2012 WL 3024723” “2012 WL 2892415” “2012 WL 1436679” “2012 WL 592861” “2011 WL 3506442” “2011 WL 2259123” “2011 WL 693001” “2010 WL 4830004” “2010 WL 2352045” “2010 WL 2267058” “2009 WL 3929558” “2009 WL 1758730” “2014 WL 3029759”)

The symbol % CI translates into “but not” and the WL citations above represent all of those cases that were removed during the second term, which left a sum of: 6,517 cases.

We then repeated this “but not” phrase for Obama’s first term, using the parameters

DA(aft 1/5/2012 & bef 1/6/2013)

DA(aft 1/1/2009 & bef 1/6/2012)

Recall from footnote 230, we could not do the entire first term in one search because it yielded 10,000-plus results, so we had to break this up into two separate searches, and we made sure to avoid any double-counting that may have occurred. This resulted in the following two searches:

adv: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/5/2012 & bef 1/6/2013) % CI (“2016 WL 3648369” “2016 WL 736464” “2015 WL 4509350” “2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL 409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011 WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010 WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442” “2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL 3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474” “2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL 1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009 WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009 WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179” “2012 WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL 174231” “2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009 WL 1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731” “2014 WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL 181494” “2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010 WL 565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919” “2009 WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL 2923016” “2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784” “2009 WL 2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL 2500730” “2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923” “2009 WL 2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL 1773414” “2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009 WL 230089” “2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010 WL 114970” “2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614” “2016 WL 3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL 3878166” “2014 WL 1814211” “2016 WL 3064664” “2013 WL 5434699” “2016 WL 4597301” “2016 WL 3080431” “2016 WL 3064743” “2016 WL 1729530” “2016 WL 1459676” “2016 WL 1425881” “2016 WL 1381906” “2016 WL 1104865” “2016 WL 1085420” “2016 WL 125146” “2015 WL 6600587” “2015 WL 6444688” “2015 WL 5025222” “2015 WL 4940820” “2015 WL 4068922” “2015 WL 2114599” “2015 WL 1323171” “2014 WL 3702585” “2014 WL 3511848” “2014 WL 3347567” “2014 WL 2978488” “2014 WL 4800292” “2014 WL 2723766” “2014 WL 1778152” “2014 WL 1623725” “2014 WL 1491866” “2014 WL 783352” “2013 WL 5508796” “2013 WL 3871002” “2013 WL 3854657” “2013 WL 674040” “2013 WL 174495” “2012 WL 5358867” “2012 WL 3024723” “2012 WL 2892415” “2012 WL

1436679” “2012 WL 592861” “2011 WL 3506442” “2011 WL 2259123” “2011 WL 693001” “2010 WL 4830004” “2010 WL 2352045” “2010 WL 2267058” “2009 WL 3929558” “2009 WL 1758730” “2014 WL 3029759”)

Resulting in 2,043 cases, but recall that thirteen had to be removed because they were duplicates from above. Thus, the sum was 2,030 cases.

And

adv: (“board #of immigration appeals”) & asylum “cancellation #of removal” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2009 & bef 1/6/2012) % CI (“2016 WL 3648369” “2016 WL 736464” “2015 WL 4509350” “2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL 409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011 WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010 WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442” “2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL 3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474” “2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL 1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009 WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009 WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179” “2012 WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL 174231” “2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009 WL 1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731” “2014 WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL 181494” “2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010 WL 565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919” “2009 WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL 2923016” “2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784” “2009 WL 2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL 2500730” “2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923” “2009 WL 2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL 1773414” “2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009 WL 230089” “2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010 WL 114970” “2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614” “2016 WL 3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL 3878166” “2014 WL 1814211” “2016 WL 3064664” “2013 WL 5434699” “2016 WL 4597301” “2016 WL 3080431” “2016 WL 3064743” “2016 WL 1729530” “2016 WL 1459676” “2016 WL 1425881” “2016 WL 1381906” “2016 WL 1104865” “2016 WL 1085420” “2016 WL 125146” “2015 WL 6600587” “2015 WL 6444688” “2015 WL 5025222” “2015 WL 4940820” “2015 WL 4068922” “2015 WL 2114599” “2015 WL 1323171” “2014 WL 3702585” “2014 WL 3511848” “2014 WL 3347567” “2014 WL 2978488” “2014 WL 4800292” “2014 WL 2723766” “2014 WL 1778152” “2014 WL 1623725” “2014 WL 1491866” “2014 WL 783352” “2013 WL 5508796” “2013 WL 3871002” “2013 WL 3854657” “2013 WL 674040” “2013 WL 174495” “2012 WL 5358867” “2012 WL 3024723” “2012 WL 2892415” “2012 WL

1436679” “2012 WL 592861” “2011 WL 3506442” “2011 WL 2259123” “2011 WL 693001” “2010 WL 4830004” “2010 WL 2352045” “2010 WL 2267058” “2009 WL 3929558” “2009 WL 1758730” “2014 WL 3029759”)

Resulting in 9,377 cases

Our total then was:

17,924 cases.

Then for each of the three searches above, we had to remove the pro se cases. To do that, we worked with the “search within results” filter for each of the searches, where we typed in: “Petitioner Pro Se”

For the search that yielded 6,517 results, Petitioner Pro Se showed up thirty-four times. We went through them each and found that two were falsely identified as Petitioner Pro Se. So, the number redacted from here was thirty-two cases from the 6,517, for a total of **6,485**.

For the search that yielded 2,030 results, Petitioner Pro Se showed up fourteen times. We went through them each and found that zero were falsely identified as Petitioner Pro Se. So, the number redacted from here was fourteen cases from the 2030 (remember not 2,043, because of the duplication issue), for a total of **2016**.

For the search that yielded 9,377 results, Petitioner Pro Se showed up thirty-four times. We went through them each and found that one was falsely identified as Petitioner Pro Se. So, the number redacted from here was thirty-three cases from the 9,377, for a total of **9,344**.

For a total of 17,845. In this group, we found two cases that were designed as just “pro se,” which dropped our total to our final sum of 17,843 cases.

APPENDIX H PART I

In order to determine Big Law participation during the Obama Years, these were the steps taken and search parameters used. (Recall, per the discussion above, the search had to take place in three phases within the federal appellate courts database.)

The first search was:

adv: (“board of immigration appeals”) & asylum “cancellation of removal” “adjustment of status” “voluntary departure” & DA(aft 1/1/2013 & bef 1/6/2017)
% CI(“2016 WL 3648369” “2016 WL 736464” “2015 WL 4509350” “2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL 409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011 WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010 WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442” “2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL 3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474” “2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL 1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009 WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009 WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179” “2012

WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL 174231”
“2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009 WL
1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731” “2014
WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL 181494”
“2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010 WL
565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919” “2009
WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL 2923016”
“2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784” “2009 WL
2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL 2500730”
“2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923” “2009 WL
2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL 1773414”
“2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009 WL 230089”
“2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010 WL 114970”
“2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614” “2016 WL
3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL 3878166” “2014
WL 1814211” “2016 WL 3064664” “2013 WL 5434699” “2016 WL 4597301”
“2016 WL 3080431” “2016 WL 3064743” “2016 WL 1729530” “2016 WL
1459676” “2016 WL 1425881” “2016 WL 1381906” “2016 WL 1104865”
“2016 WL 1085420” “2016 WL 125146” “2015 WL 6600587” “2015 WL
6444688” “2015 WL 5025222” “2015 WL 4940820” “2015 WL 4068922”
“2015 WL 2114599” “2015 WL 1323171” “2014 WL 3702585” “2014 WL
3511848” “2014 WL 3347567” “2014 WL 2978488” “2014 WL 4800292”
“2014 WL 2723766” “2014 WL 1778152” “2014 WL 1623725” “2014 WL
1491866” “2014 WL 783352” “2013 WL 5508796” “2013 WL 3871002” “2013
WL 3854657” “2013 WL 674040” “2013 WL 174495” “2012 WL 5358867”
“2012 WL 3024723” “2012 WL 2892415” “2012 WL 1436679” “2012 WL
592861” “2011 WL 3506442” “2011 WL 2259123” “2011 WL 693001” “2010
WL 4830004” “2010 WL 2352045” “2010 WL 2267058” “2009 WL 3929558”
“2009 WL 1758730” “2014 WL 3029759”)

And then from there, in “search within results,” the firms from Appendix B
were entered. Yielded sum: 185 results

The second search was

adv: (“board #of immigration appeals”) & asylum “cancellation #of re-
moval” “adjustment #of status” “voluntary departure” & DA(aft 1/5/2012 & bef
1/6/2013) % CI(“2016 WL 3648369” “2016 WL 736464” “2015 WL 4509350”
“2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL
409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011
WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010
WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442”
“2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL
3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474”
“2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL
1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009
WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009

WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179”
“2012 WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL
174231” “2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009
WL 1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731”
“2014 WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL
181494” “2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010
WL 565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919”
“2009 WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL
2923016” “2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784”
“2009 WL 2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL
2500730” “2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923”
“2009 WL 2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL
1773414” “2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009
WL 230089” “2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010
WL 114970” “2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614”
“2016 WL 3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL
3878166” “2014 WL 1814211” “2016 WL 3064664” “2013 WL 5434699”
“2016 WL 4597301” “2016 WL 3080431” “2016 WL 3064743” “2016 WL
1729530” “2016 WL 1459676” “2016 WL 1425881” “2016 WL 1381906”
“2016 WL 1104865” “2016 WL 1085420” “2016 WL 125146” “2015 WL
6600587” “2015 WL 6444688” “2015 WL 5025222” “2015 WL 4940820”
“2015 WL 4068922” “2015 WL 2114599” “2015 WL 1323171” “2014 WL
3702585” “2014 WL 3511848” “2014 WL 3347567” “2014 WL 2978488”
“2014 WL 4800292” “2014 WL 2723766” “2014 WL 1778152” “2014 WL
1623725” “2014 WL 1491866” “2014 WL 783352” “2013 WL 5508796” “2013
WL 3871002” “2013 WL 3854657” “2013 WL 674040” “2013 WL 174495”
“2012 WL 5358867” “2012 WL 3024723” “2012 WL 2892415” “2012 WL
1436679” “2012 WL 592861” “2011 WL 3506442” “2011 WL 2259123” “2011
WL 693001” “2010 WL 4830004” “2010 WL 2352045” “2010 WL 2267058”
“2009 WL 3929558” “2009 WL 1758730” “2014 WL 3029759”)

And then from there, in “search within results,” the firms from Appendix B
were entered.

This search yielded thirty-six results.

The third search was:

adv: (“board #of immigration appeals”) & asylum “cancellation #of re-
moval” “adjustment #of status” “voluntary departure” & DA(aft 1/1/2009 & bef
1/6/2012) % CI(“2016 WL 3648369” “2016 WL 736464” “2015 WL 4509350”
“2014 WL 5327688” “2014 WL 3673441” “2013 WL 1276522” “2013 WL
409135” “2011 WL 5041784” “2011 WL 3849739” “2011 WL 1486197” “2011
WL 257336” “2011 WL 9573” “2010 WL 5373897” “2010 WL 4244136” “2010
WL 1254137” “2010 WL 962079” “2010 WL 323390” “2009 WL 3850442”
“2009 WL 3617784” “2009 WL 3617800” “2009 WL 3461921” “2009 WL
3389931” “2009 WL 3160538” “2009 WL 2634642” “2009 WL 2526474”
“2009 WL 1916921” “2009 WL 1850903” “2009 WL 1803419” “2009 WL

1762191” “2009 WL 1636144” “2009 WL 1009950” “2009 WL 835590” “2009 WL 649731” “2009 WL 481701” “2009 WL 382284” “2009 WL 180302” “2009 WL 59166” “2013 WL 617020” “2012 WL 5995444” “2012 WL 5992179” “2012 WL 3570723” “2011 WL 768077” “2010 WL 5157366” “2010 WL 174231” “2009 WL 2749779” “2009 WL 2383014” “2009 WL 2137192” “2009 WL 1607907” “2009 WL 1395836” “2012 WL 762950” “2010 WL 4739731” “2014 WL 7235076” “2016 WL 6775939” “2013 WL 6487377” “2012 WL 181494” “2010 WL 4840478” “2010 WL 2891440” “2010 WL 1461653” “2010 WL 565663” “2010 WL 336750” “2010 WL 279603” “2009 WL 4673919” “2009 WL 3863366” “2009 WL 3381002” “2009 WL 3004112” “2009 WL 2923016” “2009 WL 2500644” “2009 WL 2500559” “2009 WL 2501784” “2009 WL 2501834” “2009 WL 2500733” “2009 WL 2501403” “2009 WL 2500730” “2009 WL 2393101” “2009 WL 2393108” “2009 WL 2392923” “2009 WL 2381283” “2009 WL 1956168” “2009 WL 1911596” “2009 WL 1773414” “2009 WL 927997” “2009 WL 910408” “2009 WL 690243” “2009 WL 230089” “2009 WL 180299” “2009 WL 166540” “2009 WL 159269” “2010 WL 114970” “2014 WL 2979206” “2014 WL 407523” “2016 WL 5266614” “2016 WL 3361495” “2016 WL 3063299” “2016 WL 378918” “2016 WL 3878166” “2014 WL 1814211” “2016 WL 3064664” “2013 WL 5434699” “2016 WL 4597301” “2016 WL 3080431” “2016 WL 3064743” “2016 WL 1729530” “2016 WL 1459676” “2016 WL 1425881” “2016 WL 1381906” “2016 WL 1104865” “2016 WL 1085420” “2016 WL 125146” “2015 WL 6600587” “2015 WL 6444688” “2015 WL 5025222” “2015 WL 4940820” “2015 WL 4068922” “2015 WL 2114599” “2015 WL 1323171” “2014 WL 3702585” “2014 WL 3511848” “2014 WL 3347567” “2014 WL 2978488” “2014 WL 4800292” “2014 WL 2723766” “2014 WL 1778152” “2014 WL 1623725” “2014 WL 1491866” “2014 WL 783352” “2013 WL 5508796” “2013 WL 3871002” “2013 WL 3854657” “2013 WL 674040” “2013 WL 174495” “2012 WL 5358867” “2012 WL 3024723” “2012 WL 2892415” “2012 WL 1436679” “2012 WL 592861” “2011 WL 3506442” “2011 WL 2259123” “2011 WL 693001” “2010 WL 4830004” “2010 WL 2352045” “2010 WL 2267058” “2009 WL 3929558” “2009 WL 1758730” “2014 WL 3029759”)

And then from there, in “search within results,” the firms from Appendix B were entered

This search yielded 274 results

Total: 495 cases. From there, the authors went through each of these and removed the false positives, which totaled 179 cases, leaving a sum of 316 cases where Big Law firms participated.

APPENDIX H PART II

Firm Type	Loss	Win	Total (N)
Non-Big Law	15,184	2,343	17,527
Big Law	175	141	316
Overall Total	15,359	2,484	17,843
Note: Pearson $\chi^2(1) = 252.9951$; $p < 0.001$			

Per footnote 233, this table represents the chi-square test mentioned in the Conclusion, as it relates to the data collected during the Obama Presidency. The first point to note is that the overall total is 2,484 wins—rather than what was mentioned in the text, which was 2,487. The reason for there being a three-case discrepancy relates to further research conducted by the authors on the 2,487 presumed wins. We found that these presumed wins had three cases that were categorized as wins, but in reality were actually losses. We know this because these three wins were part of the 316 Big Law cases, which the authors checked by hand. For statistical purposes, these three mis-categorized cases do not affect the analysis because they are part of the entire 17,843 universe of cases, where the random sample analysis yielded an error rate of under 2% (0.015). But for complete accuracy, the authors report the overall total here as 2,484. Finally, for replication purposes, a detailed memo, including the STATA syntax, is available from the authors.

