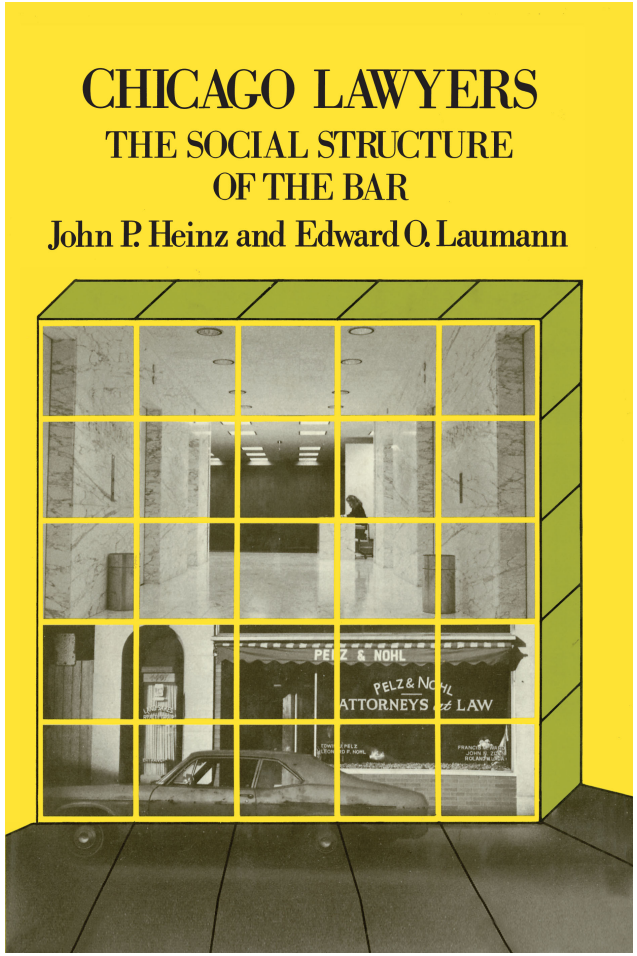
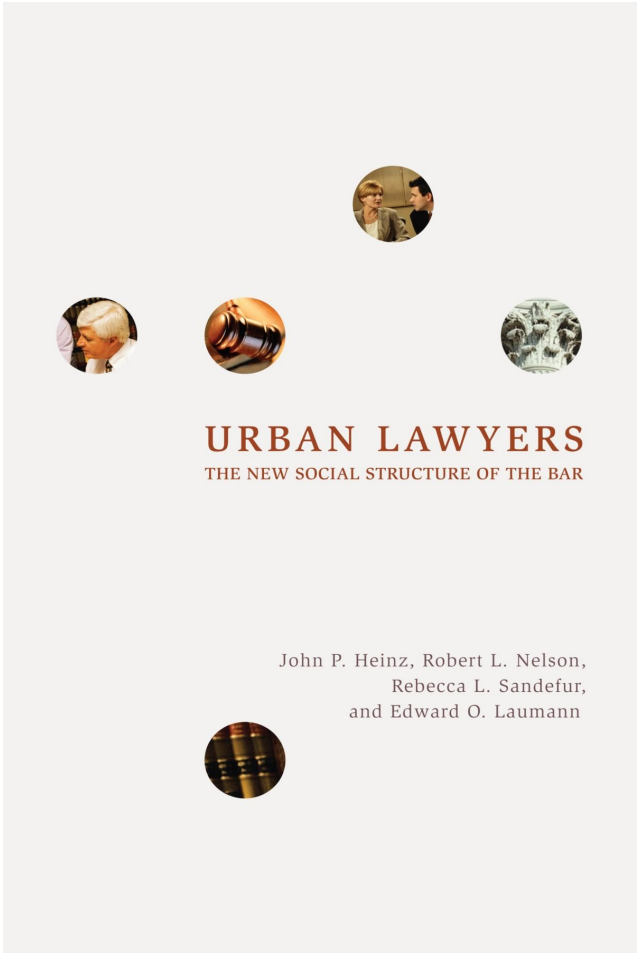
Accessible Professionalism: Personal Plight Legal Practice

Noel Semple
University of Windsor Faculty of Law

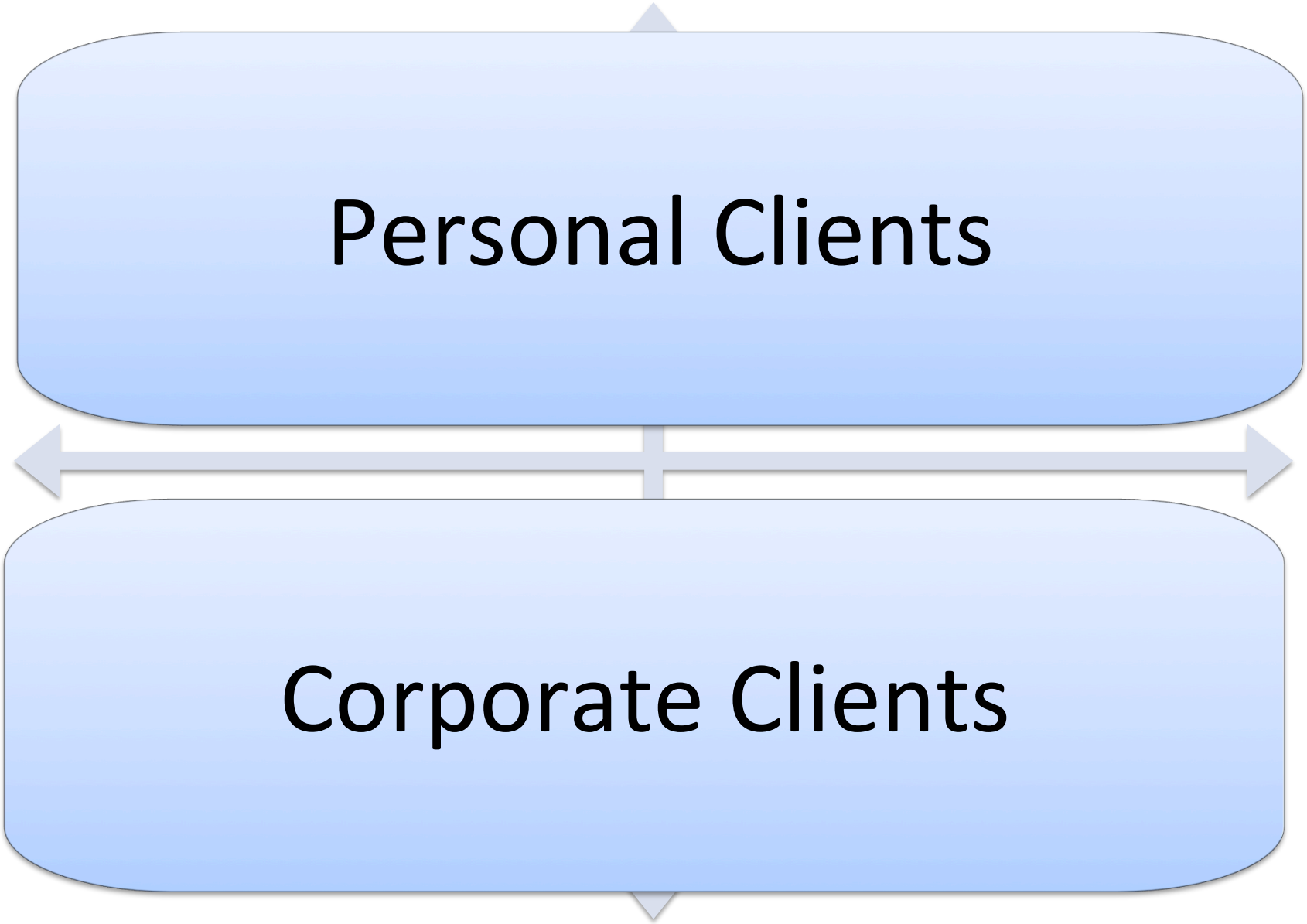
Law and Society Association
May 31, 2014

Chicago Lawyers Studies (1982; 2005)

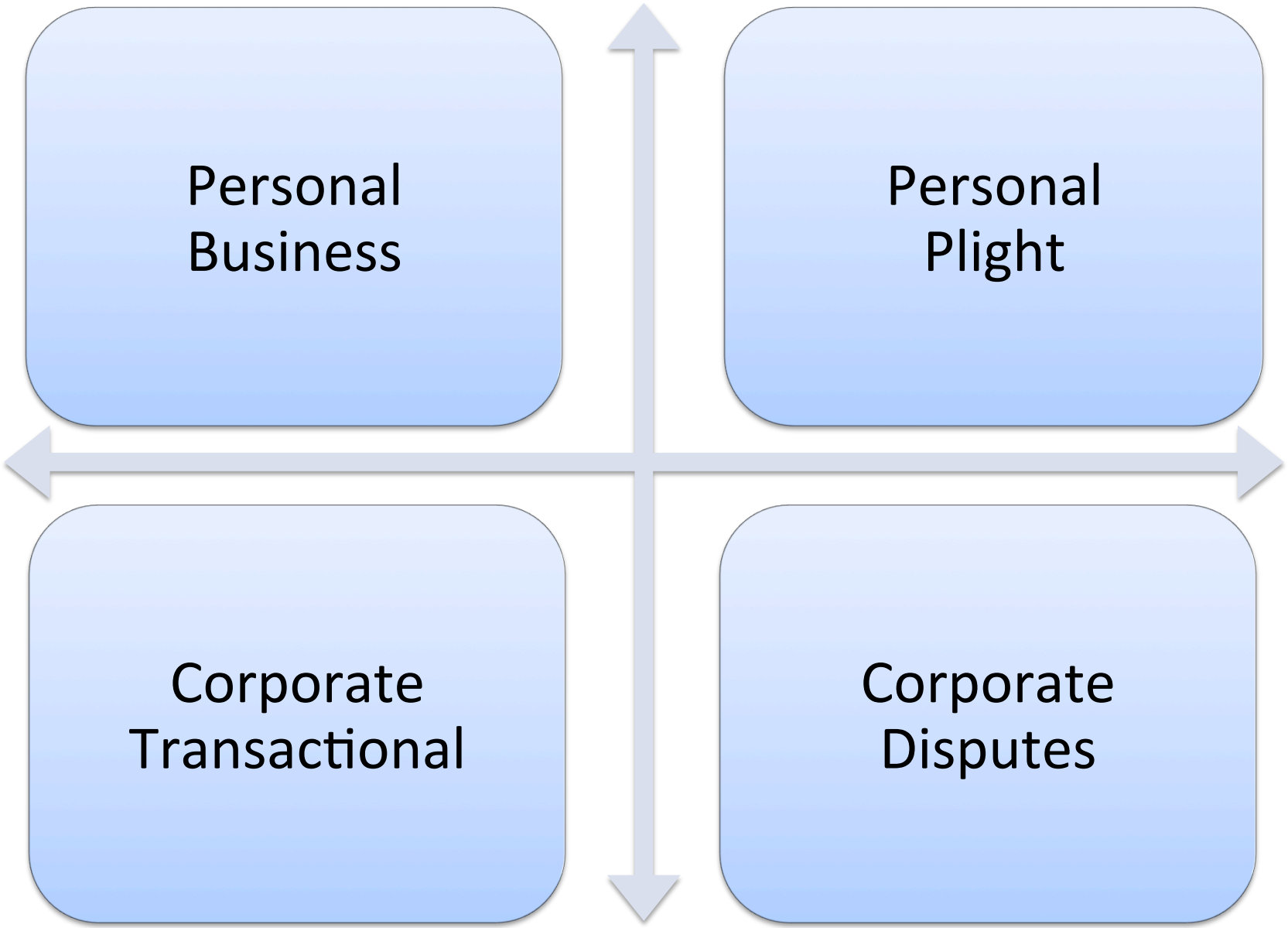




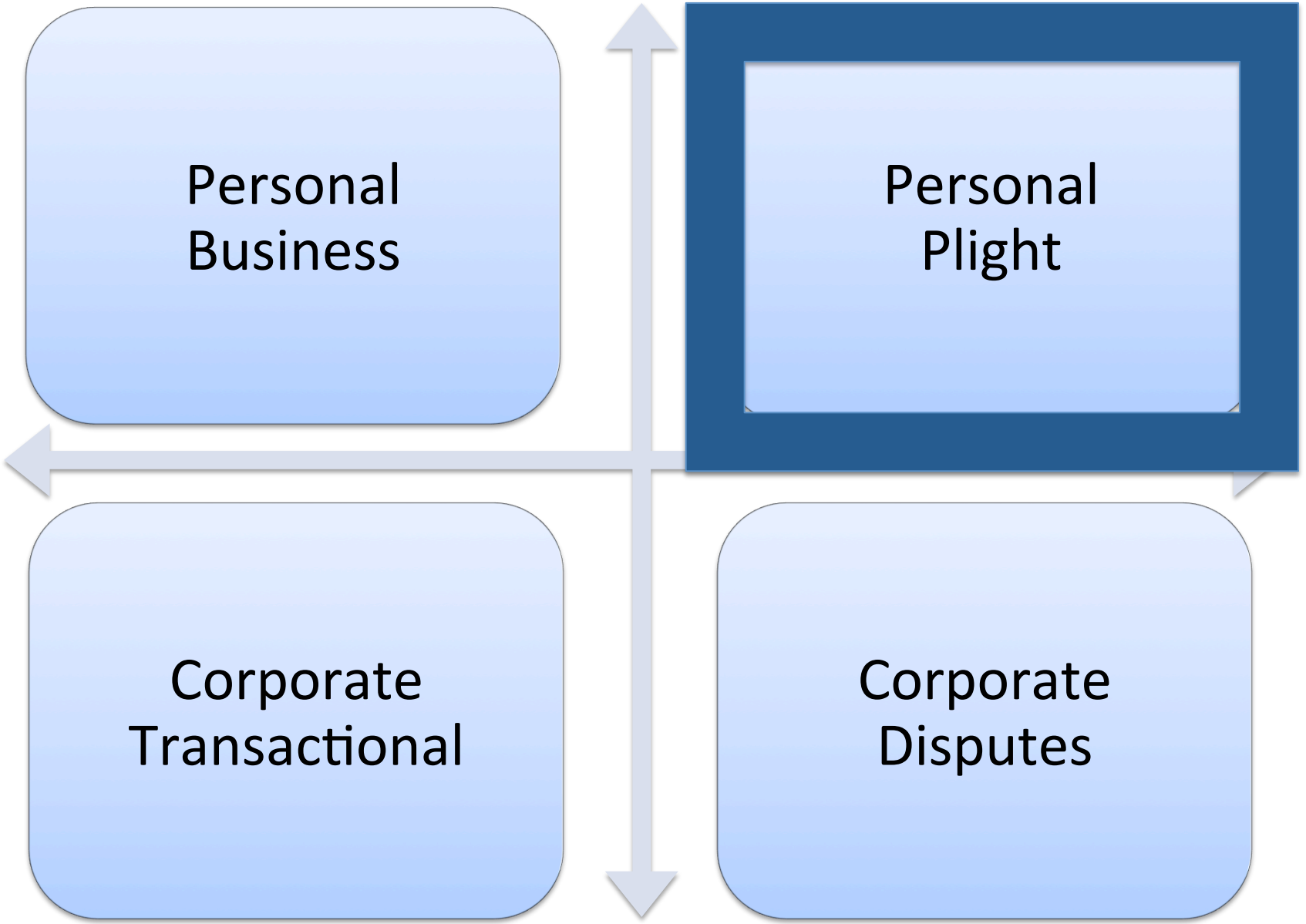
A Map of the Bar



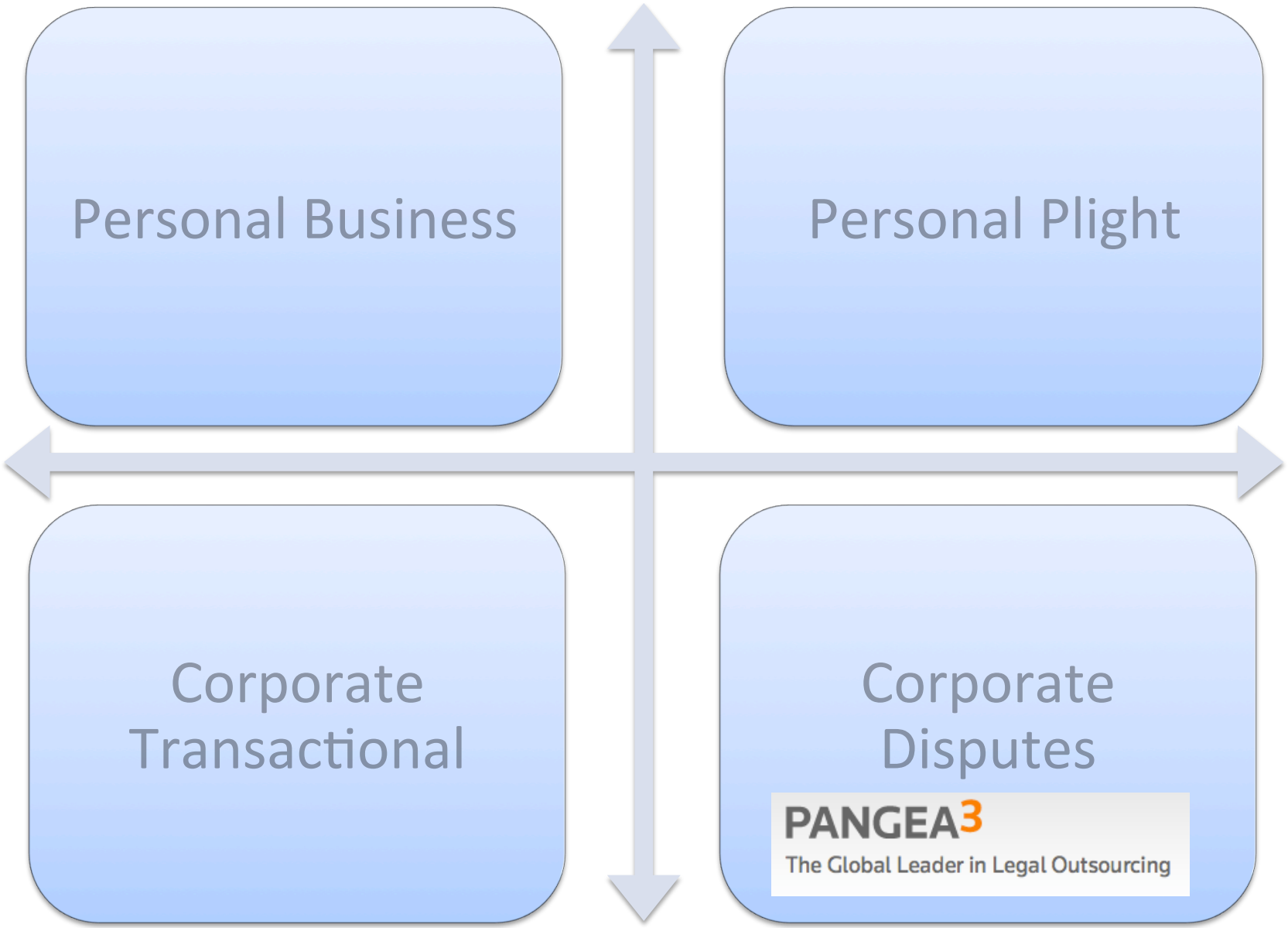
A Map of the Bar



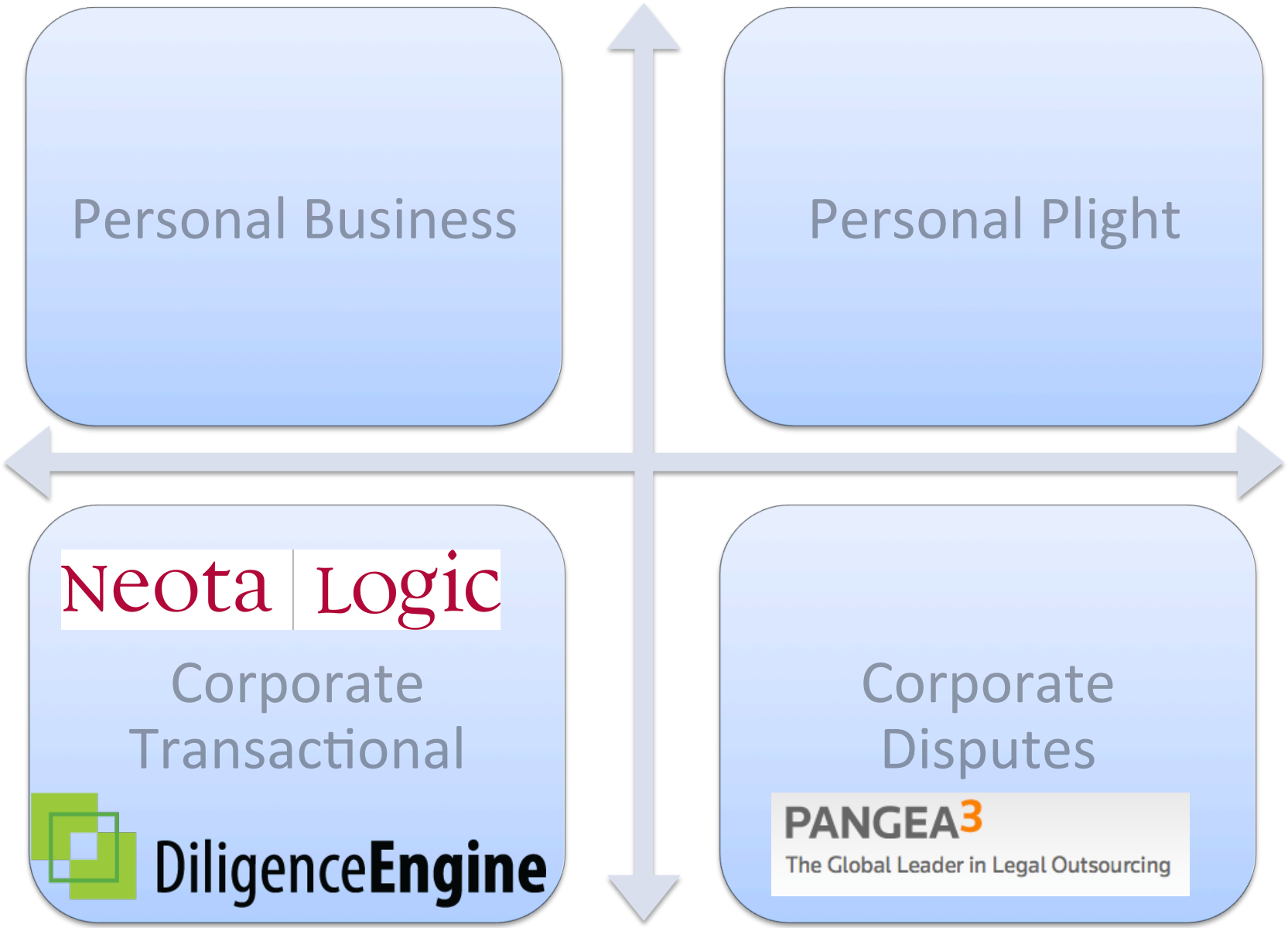
Personal Plight: Epicentre of A2J Problem



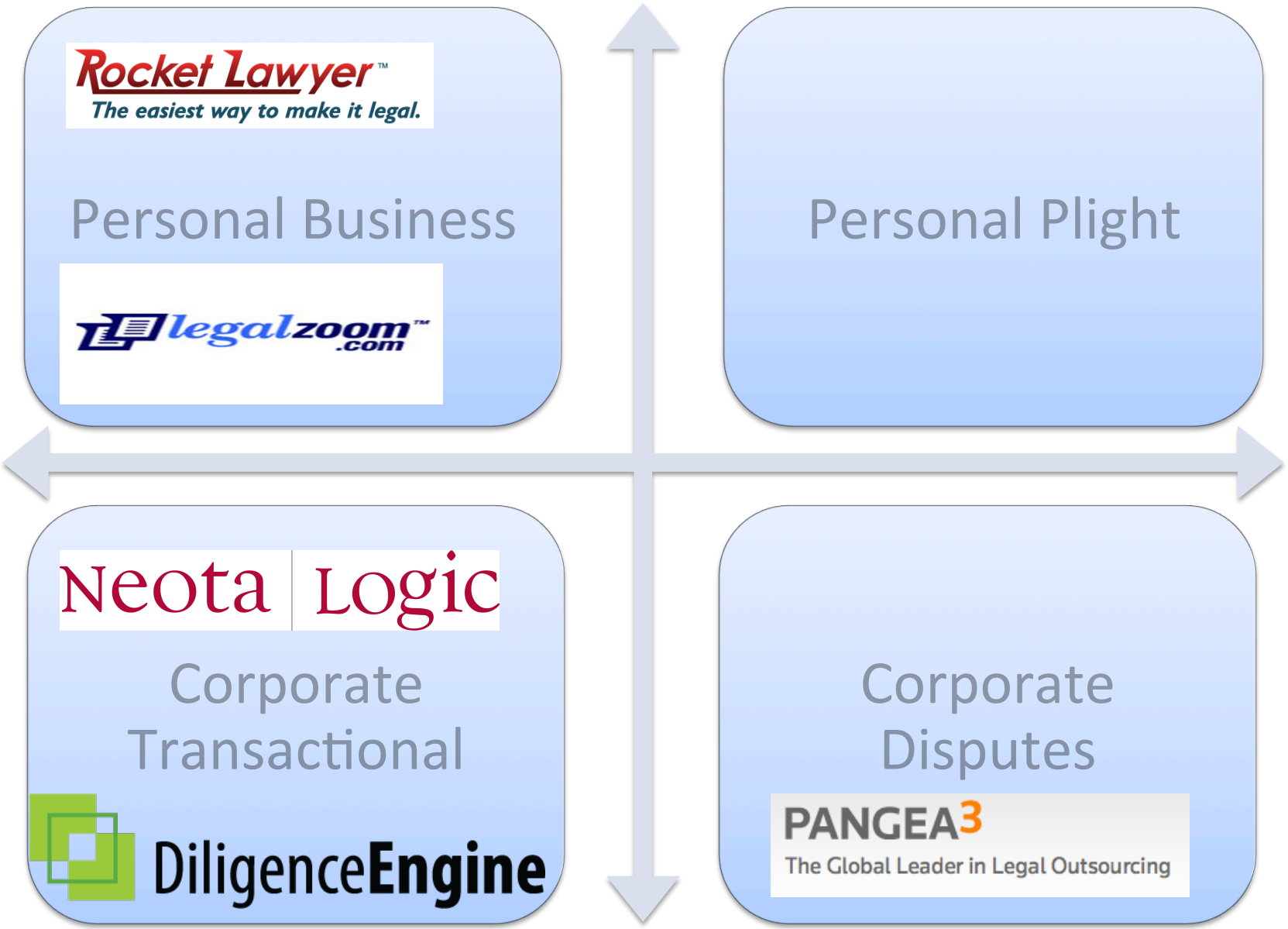
Technology and Outsourcing



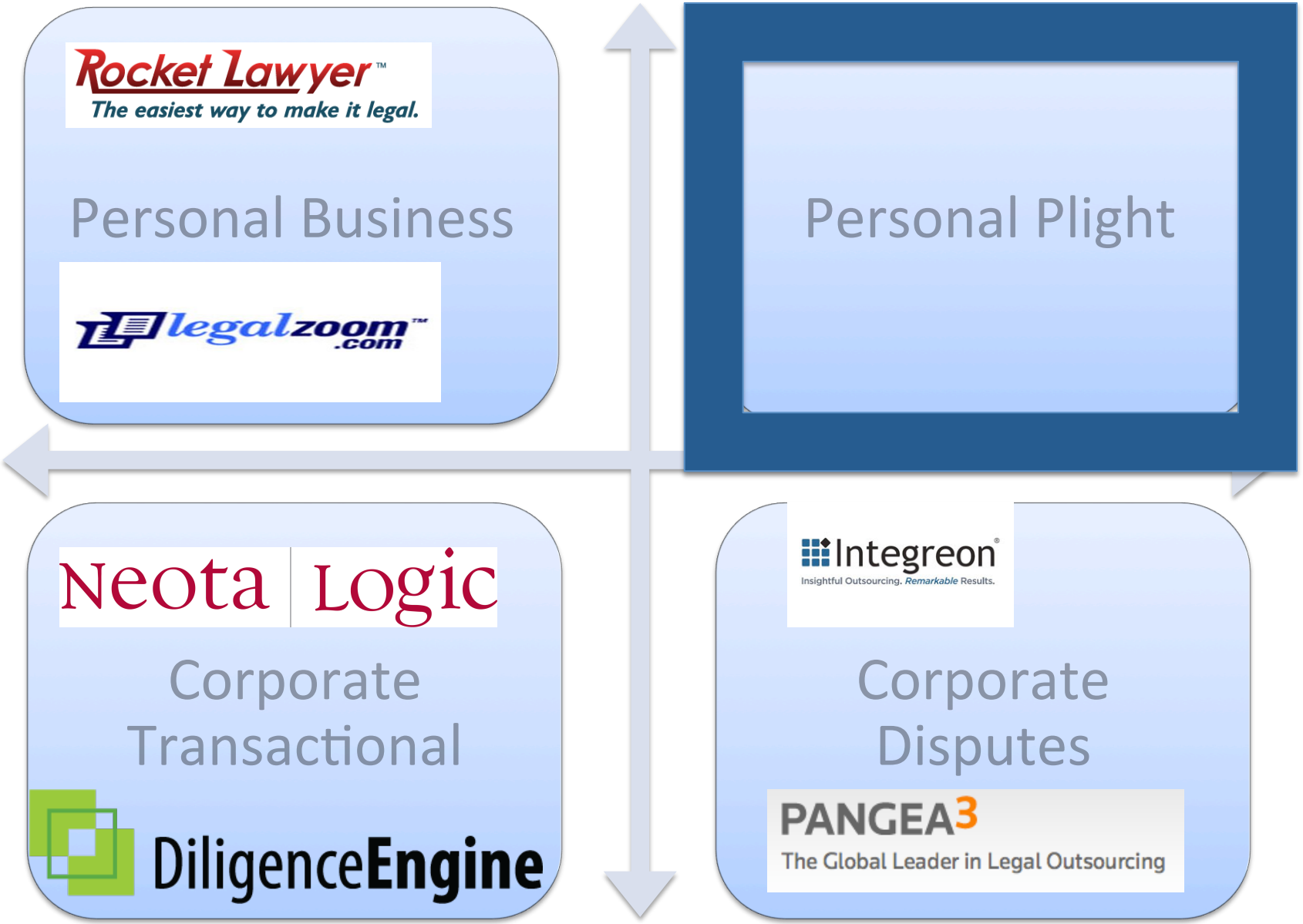
Technology and Outsourcing



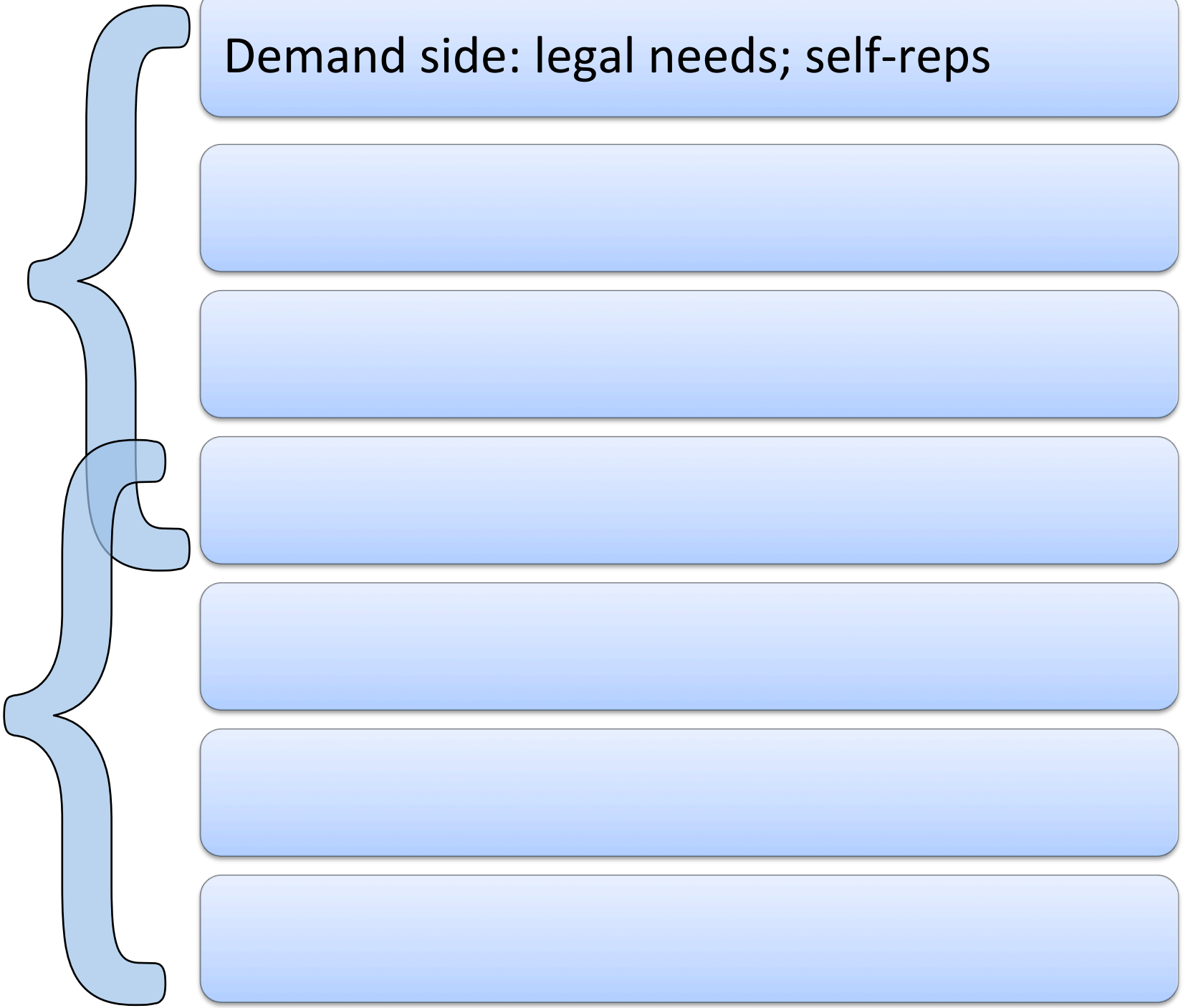
Technology and Outsourcing



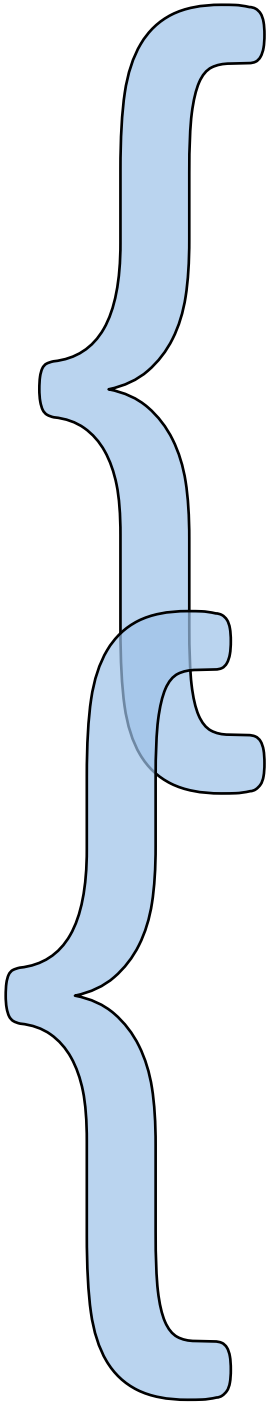
Technology and Outsourcing



A2J Research



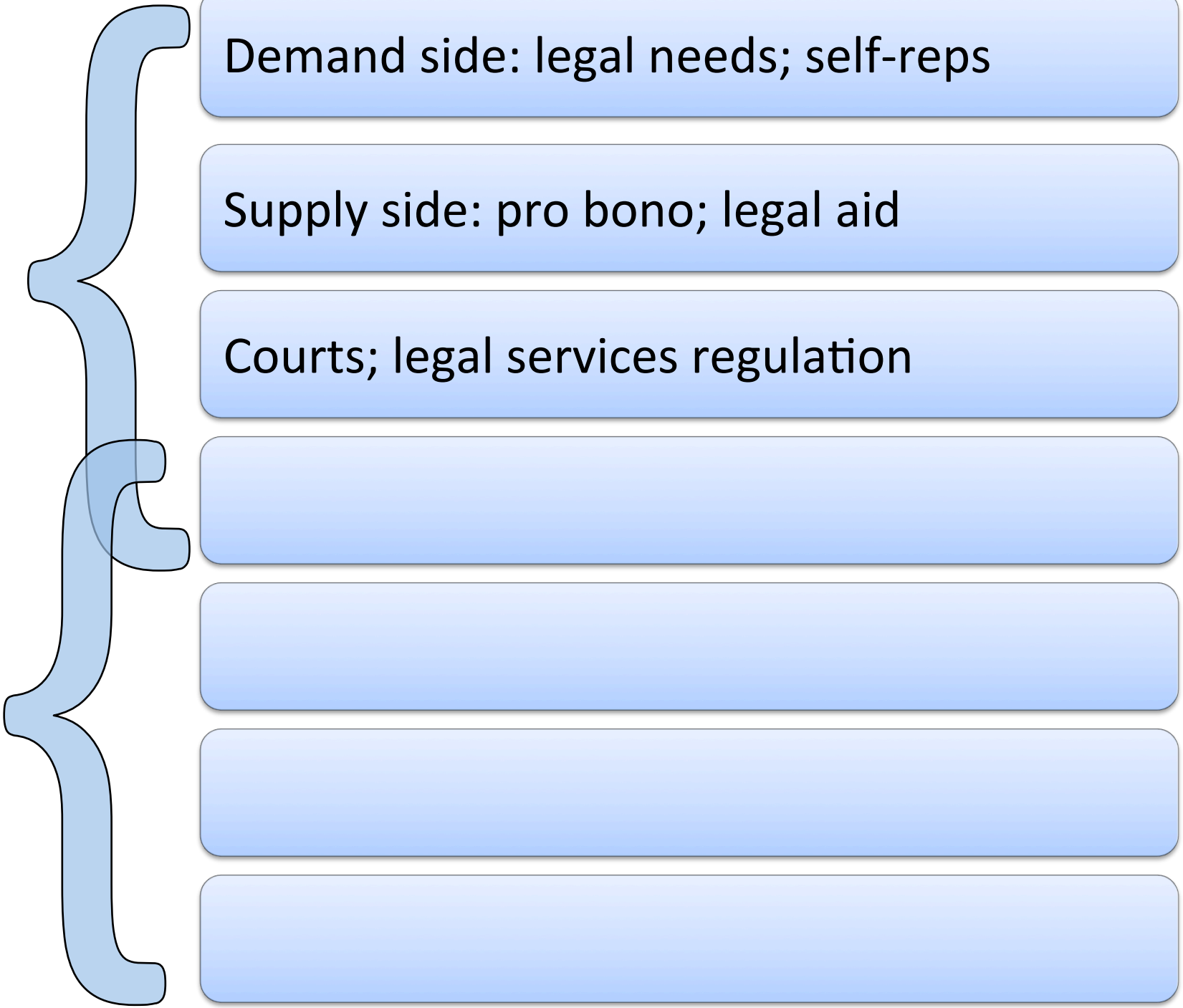
A2J Research



Demand side: legal needs; self-reps

Supply side: pro bono; legal aid

A2J Research



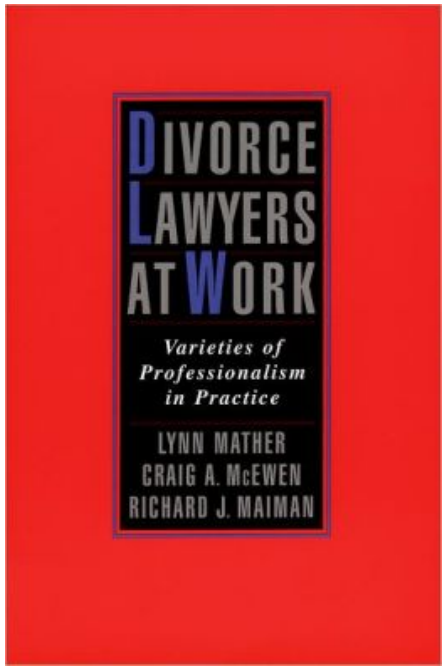
A2J Research
PPLP Research
Demand side: legal needs; self-reps
Supply side: pro bono; legal aid
Courts; legal services regulation

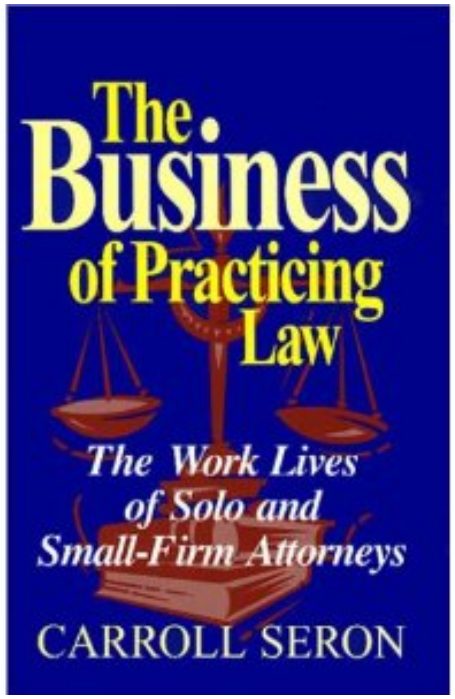
A2J Research
PPLP Research
Demand side: legal needs; self-reps
Supply side: pro bono; legal aid
Courts; legal services regulation
Stratification; gender; race

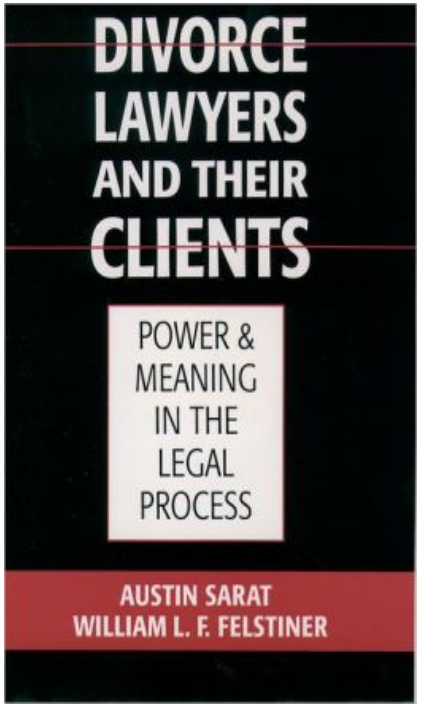
A2J Research
PPLP Research
Demand side: legal needs; self-reps
Supply side: pro bono; legal aid
Courts; legal services regulation
Stratification; gender; race
Ethics in practice; communities of practice

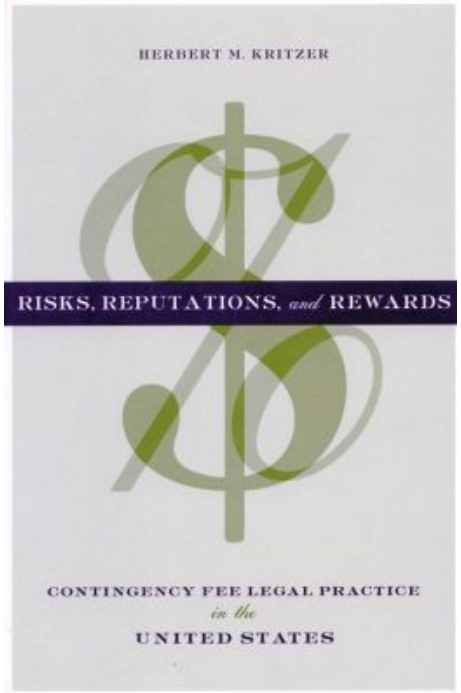
A2J Research
PPLP Research
Demand side: legal needs; self-reps
Supply side: pro bono; legal aid
Courts; legal services regulation
Stratification; gender; race
Ethics in practice; communities of practice
Business vs. profession

Law and Society Studies: Personal Plight Practice

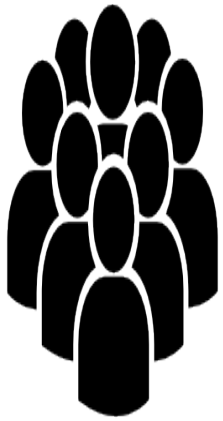








A2J Research
PPLP Research
Demand side: legal needs; self-reps
Supply side: pro bono; legal aid
Courts; legal services regulation
A2J Analysis of Personal Plight Practice
Stratification; gender; race
Ethics in practice; communities of practice
Business vs. profession



People with unmet legal needs

Personal plight legal practit-ioners

People with unmet legal needs

Cost

Cost structure

Legal unconsciousness

Old-fashioned service models

Personal plight legal practit-ioners

Cost

Questions for Practitioners

- How much do you charge?
- Same price for everyone?
- Do you discount your bills, and for what reason?

Cost Structure

Questions for Practitioners

- Time-based, contingency, or flat rate billing?
- Cash retainer required?

Questions for Practitioners

- Do you advertise and if so, how?
- How do your clients know that they need you?
- How do your clients come to you?

Old-fashioned service models

Questions for Practitioners

- If you could continue your practice in a larger firm, would you?
- How would you feel about practicing in an alternative business structure with a non-lawyer investor and/or manager?
- Your views on unbundled services
- Your view on “who’s in charge?”

THE NATIONAL SELF-REPRESENTED LITIGANTS PROJECT

Research, Resources, Dialogue & Collaboration

A Cost Structure Barrier: Lack of Unbundled Services?

"In interview after interview, SRLs described going systematically through the Yellow Pages and calling a dozen or more law offices asking: "Will you assist me with my case by (eg) reviewing my documents/ appearing with me at a hearing/ other task, and bill me only for the hours we agree that you spend on this assignment?" To their amazement, almost no lawyer said 'yes.' "

Julie MacFarlane,

The National Self-Represented Litigants Project

Why Not?

- “It’s the Culture, Stupid!” (MacFarlane)
- Service orientation / perfectionism
- Regulation makes it too risky?
- Regulation → monopoly → full caseload of more lucrative traditional retainers

A Service Model Barrier: Lack of Innovation?

"Everyone who can participate in providing legal services is trained in the same way, and spends most of their time interacting with professionals just like themselves. This limits the likelihood that new ideas will emerge. Imagining that it is likely that a process that involves lawyers talking only to other lawyers will give birth to fundamentally new means of accomplishing long-held objectives is like imagining that librarians, whose job after all is advising on how to find information, would have eventually invented Google."

Gillian Hadfield, *Innovating to Improve Access*

Methodology

- Mixed methods : survey plus interviews plus archival sources
- Surveys before interviews or vice versa?
- Draw interviewees from survey sample?
- Oversample innovators?

Comparison

Family Lawyers **Pers. Injury Lawyers**

Personal plight, private law practices
Clients confronting serious life challenges
Little or no state funding

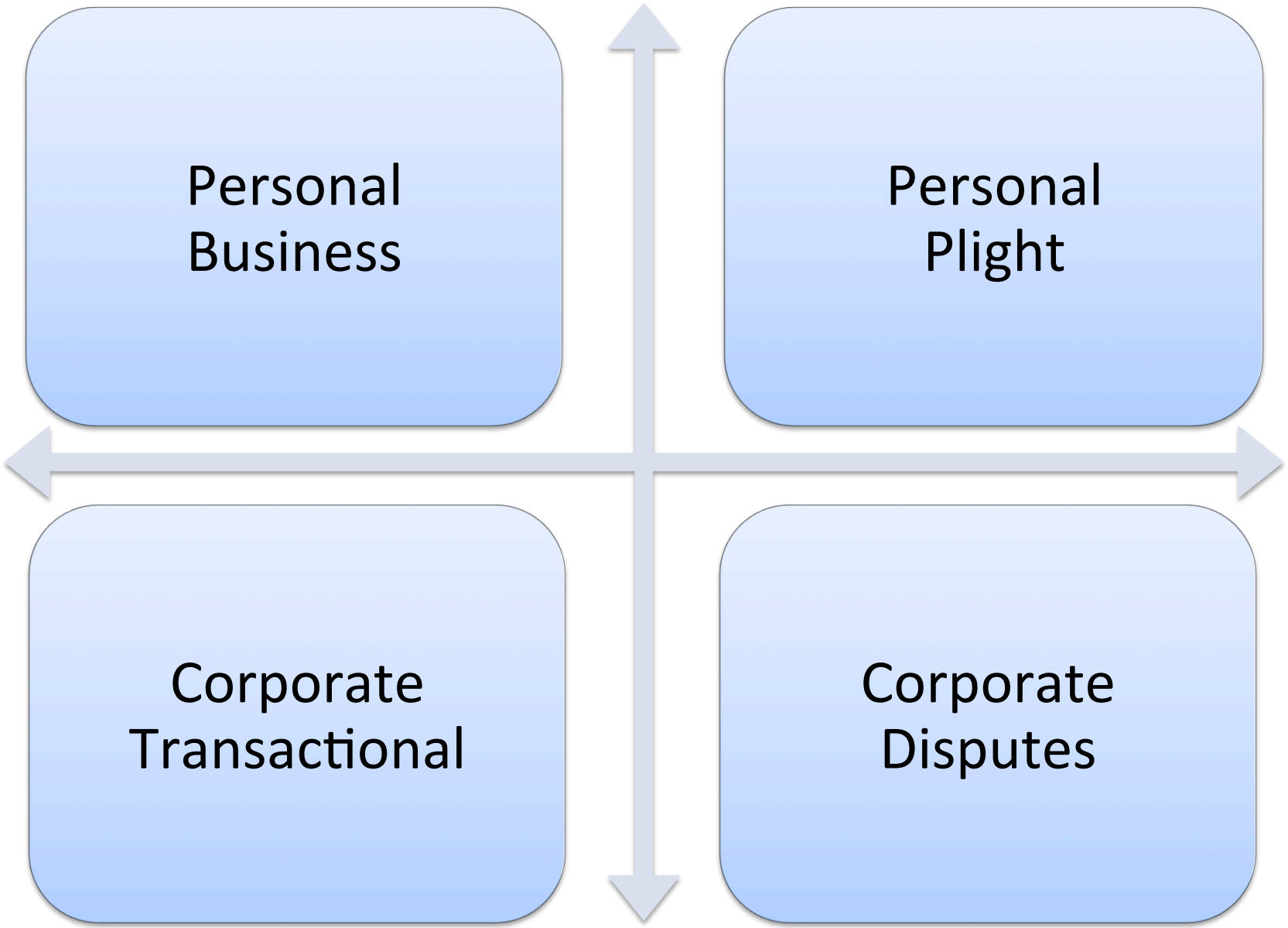
Comparison

Family Lawyers **Pers. Injury Lawyers**

Personal plight, private law practices
Clients confronting serious life challenges
Little or no state funding

time-based billing <----------> contingency billing

little / no advertising <----------> extensive advertising

Indvidual v. individual <----------> individual v. corporation

A Map of the Bar