Unnatural Wills: Estate Litigation and Inequality

Abstract
Inheritance disputes are a canonical form of relational work mismatch. But relational work mismatches, and the complex ties between relational work and inequality, remain undertheorized. In this paper, I examine all known inheritance disputes in Dallas from 1895-1945 as a theory-building exercise. I show that disputes disproportionately emerged in non-normative configurations of intimate economic ties: queer testators seem to be vastly overrepresented in the collection of disputes. Courts tended to resolve disputes by reinscribing moralized distinctions between gendered, racialized, and classed social categories. Disputes over upper-class wills were much more likely to make it to multiple rounds of trial, and have been more frequently cited in court cases and legislation up to the present day. Overall, these inheritance disputes suggest that relational work mismatches have a multiplex relationship to inequality: they arise unequally, are settled unequally, and are unequal in their consequences.

Keywords: Inheritance, inequality, relational work, families

INTRODUCTION

Jessie (?-?) said she was George's (1852-1906) wife, entitled to a wife's inheritance, but the court said that was simply impossible. No one really disputed that they met the usual qualifications for common-law spouses in Texas at that time: they were a heterosexual, same-race (white) couple who called each other husband and wife in front of many witnesses. Indeed, those basic facts propelled *Grigsby v. Reib* all the way to the Texas Supreme Court, where it became the most-cited Dallas inheritance dispute of the twentieth century. From the judges' perspective, the problem was that Jessie and George's categorical social statuses were too different: Jessie was a sex worker, and George was a respected railroad tycoon. To call them married would be "an enthronement of lewdness" "inconsistent with the sanctity of the marriage relation." It would encourage other sex workers to demand bequests from rich men's estates; innocent tycoons' fortunes would become "the prey of the bawd and the adventuress," and rightful heirs would be left destitute. The chief justice's opinion even drew on the Bible, arguing that "when God created Eve, she was a wife to Adam," which meant to him that Jessie could not be George's wife because "marriage was not originated by human law;" it was "a status ordained by God, the foundation and support of good government, and absolutely necessary to the purity and preservation of good society-" and God, apparently, did not believe sex workers and millionaires could marry. His words are still quoted today by conservative political actors who want to outlaw same-sex marriage. The justices were so intent on distinguishing Jessie and George's tie from a legitimate union that their ruling constituted "a definite change in stance" on the definition of common-law marriage; after *Grigsby v. Reib*, Texas courts operated under the assumption that couples had to live together full time to qualify as husband and wife (Lind 2008:500). Jessie, in contrast, framed her case in simple, personal terms. She explained that "I tried to make a living for myself off of my house the best way I could;" that she loved George very much; that she had married twice before with the usual formal ceremonies, but those marriages hadn't been "successful." With George, she said, "I wanted to try it a new way."

Inheritance disputes like *Grigsby v. Reib* are canonical relational work mismatches, involving competing moralized claims of the proper matches between relations, economic transactions, and media (Zelizer 2005, 2012). They are rare, but highly illustrative of local norms of intimacy and money; we can think of them as “exceptional cases,” “[magnifying] relational patterns that in more mundane contexts lack visibility” (Ermakoff 2014:223). In this paper, I empirically examine all such disputes in one population as a theory-building exercise, working to understand the social patterning of relational work mismatches, particularly as they relate to inequality. I broadly argue that mismatches arise unequally, are settled unequally, and are unequal in their consequences. Spots in the local network of intimate ties that violated norms of gender, sexuality, race, and kinship – places where people “wanted to try it a new way” – were particularly likely to generate disputes. Courts resolved disputes in ways that entrenched hierarchical, moralized categorical distinctions by race, gender, class, and other forms of social difference, such as the one between virtuous wives and greedy sex workers. They did this perhaps especially because in a continuous, intersectional sense, inequalities between competing sides tended to be more evenly matched than they may have appeared on the surface. In *Grigsby v. Reib,* Jessie was the wealthiest, highest-status form of sex worker – the owner of a brothel catering to upper-class men. Her competitor, George’s sister Eliza, was especially low status within the category of “virtuous,” wealthy white women, being a poor tenant farmer suddenly enriched by her brother’s death. As I will argue, truly lopsided mismatches almost never made it to court. Among those cases that did make it to multiple rounds of trial, upper-class estates like George’s have been disproportionately influential, in that they been cited much more often in subsequent cases and laws. This is yet another form of inequality. Even the catastrophes of the rich and powerful have a disproportionate impact on the rest of us.

The paper will proceed as follows. First, I situate inheritance disputes as relational work mismatches, and briefly review the historical relationship between inheritance disputes and inequality. I describe the context and data. Then I move through a series of case studies to make the three points I have introduced: inheritance disputes arise unequally, are settled unequally, and are unequal in their consequences. I conclude with thoughts on future directions for work on inheritance disputes as relational work mismatches.

THEORETICAL BACKGROUND

Inheritance disputes as relational work mismatches

Zelizer (2005, 2012) developed the concept of "relational work" to explain how people engage in economic activity. She argues that "in all economic action," people draw boundaries around categories of relationships, "designate certain sorts of economic transactions as appropriate for the relation, bar other transactions as inappropriate, and adopt certain media for reckoning and facilitating economic transactions within the relation" (2012:1). Sometimes, relational work spawns a "mismatch" – a disagreement over "how those elements are defined and matched" (Zelizer 2005:53). Relational work has successfully explained economic life in myriad settings and levels of analysis, from nation-states (Bandelj 2007) to siblings (Wigen 2023). Mismatches have outlined mechanism through which people consent to their own exploitation (Mears 2015) and make gendered economic decisions in heterosexual-headed households after job loss (Rao 2022). Bandelj's (2020:266) recent review of relational work in the economy argued that researchers need to further explore (a) the interaction between relational work and inequality, and (b) "why, and when, relational work leads to mismatches." Because inheritance has a clear connection to inequality, and because inheritance disputes are a form of mismatch, a set of inheritance disputes is perfectly positioned to do both.

Inheritance is a form of relational work with a particularly clear connection to inequality (Zelizer 2005:27). When people write wills, when executors distribute properties, when heirs claim bequests, and when courts consecrate or intervene in the process, they are all doing relational work by defining and matching appropriate relations, transactions, and media. Inheritance is increasingly linked to inequality between families, as inherited wealth contributes to more and more of the global wealth gap (Piketty 2013; Beckert 2022). Inheritance can also exacerbate inequality between gender (Bessière and Gollac

2023), racial (Pascoe 2009), and other social categories, depending on socially patterned templates for the proper matching between portions, properties, and heirs. An extreme example is primogeniture, the inheritance system used by the British aristocracy for nearly a millennium. By mandating that landed estates pass wholesale and almost exclusively to the eldest male heir, primogeniture entrenched inequality between the upper class and everyone else, and ensured that within the upper class, most wealth was controlled by men (Starr 2019).

Inheritance disputes are a canonical type of relational work mismatch. In fact, Zelizer (2005: 7-9) begins *The Purchase of Intimacy* with an inheritance dispute: one that hinged on the definition of the relationship between a white testator and a Black heiress under slavery in Louisiana. Whereas the tie between inheritance and inequality is relatively clear, the relationship between inheritance disputes and inequality is murky, much like the relationship between mismatches and inequality more generally. Theoretically, they might mitigate inequality in some cases by spreading wealth more equally within families. But they also might exacerbate inequality, as more highly-resourced potential heirs have more power to launch and win court cases. The legal system adds another layer to the mismatch process, with its own relationship to inequality. As Zelizer (2005:63) explains, "lawyers, judges, and juries do relational work of a distinctive kind: they work hard to establish proper matching within legal categories." This process often begins before a case even comes to court, as intestacy laws – laws that determine where estates go when people die without wills – categorize and rank kin relations (Beckert 2008), matching them to proper portions of an estate, and leaving non-normative family structures especially vulnerable (Bea and Poppe 2021). When disputes make it to court, those courts resolve the mismatch by determining which competing distribution will win out. This continual process of contestation can lead to changes in the legal system (Zelizer 2005). We can think of a set of inheritance disputes in a population as a set of mismatches where the sociolegal setting and the type of transaction is held constant, and the relations and media are variously contested. Because it narrows the scope of variation within a highly heterogeneous category, such a collection of cases is an opportunity to systematically theorize about the ways that mismatches may variously mitigate or exacerbate inequality.

A brief overview of categorical inequality and inheritance disputes

To the extent that inheritance disputes are socially patterned, they are structurally consequential. In this, they are a quintessential example of micro-macro linkages, in which patterned intimate dramas reflect and affect larger-scale social structures. Inheritance disputes can be a site where relatively disadvantaged would-be heirs gain more access to family wealth. In contemporary Benin, Andreetta (2020) shows that women and younger siblings regularly launch inheritance disputes to get access to family property (8). In early modern Spain, nuns used inheritance disputes to exercise an economic control that was otherwise rare for women (Lehfeldt 2000). Hindu widows in colonial North India used inheritance disputes to assert their property rights, setting legal precedents that benefited widows at large (Prasad 2008). In the aggregate, the success of cases like those can help equalize the distribution and control of wealth within families and across gender categories.

More typically, and sometimes simultaneously, inheritance disputes reinscribe inequalities of race, gender, sexuality, age, family structure, and their intersections. In the U.S., inheritance disputes have played starring roles in the naturalization of racial categories and the heteropatriarchal nuclear family structure. In the U.S. under slavery and just after Emancipation, white enslavers occasionally willed property to Black heirs, but white families used estate litigation to block these bequests by characterizing the relationships as those between enslaver-enslaved rather than husband-wife or parent-child (Zelizer 2005:9; Friedman 2009: 96-97). Later, white families stole bequests using laws against interracial sexual intimacy, to the point that inheritance disputes formed as many as "one third…of all the instances in which miscegenation law arose in state appellate courts" (Pascoe 2009:136). Through inheritance law and estate litigation, white families have long worked to keep wealth and whiteness to themselves, and in the process, helped produce whiteness itself.

Estate litigation has also been used in the U.S. to redirect flows of wealth away from queer heirs toward straight families. For decades, queer twentieth-century people constructed wills leaving homes and other properties to their partners. Homophobic biological families were "remarkably successful in contesting such wills by charging that the homosexual partner had exerted 'undue influence' over their deceased son or daughter" (Chauncey 2006:100). Such contests became more frequent and more perilous during the AIDS crisis, when gay men died in droves, and increased stigmatization fueled courts' willingness to disinherit queer heirs (Rosenfeld 1998). The contests were so numerous that they became a central driver of the gay marriage movement, convincing queer activists that they needed the legal protections marriage offered to surviving spouses (Chauncey 2006). Just as inheritance practice on the micro scale determines the boundaries of a testator's own kin and chosen kin (Finch and Mason 2008), and just as inheritance and intestacy laws define the time- and context-varying rights that different types of kin have to estates (Beckert 2008), aggregated estate litigation can redirect resources towards white, heterosexual families, in the process, characterizing those family structures as uniquely "natural."

3. CONTEXT, DATA, AND METHODS

Legal context

When people die in legal contexts with total testamentary freedom, like the U.S., the U.K., and most of the U.K.'s other historic colonies, they can technically distribute their wealth however they'd like. But even in these contexts, testators still overwhelmingly give to their close kin, choosing distributions that align with social norms about the proper matching of properties to heirs. When they diverge from those norms, their estates become especially vulnerable to legal disputes.

The core laws around inheritance and inheritance disputes have mostly persisted in Texas for over a century. To contest a will, a person must have legal "standing" – meaning they must be named in the will, or they must inherit if the will is declared invalid (Friedman 2009: 83). Contestants must prove that (a) there is something wrong with the will – someone forced the testator to write it ("undue influence"), or the testator did not really understand what they were writing ("unsound mind"), or (b) something is wrong with the proposed set of relations and properties, in that the testator did not really own something, or a relation has been accidentally excluded.

Intestacy laws determine where estates go when people die "intestate," meaning they did not leave a will, or their will is declared invalid. Texan intestacy laws have generally dictated that estates should go to a surviving spouse, and/or to children, with equal amounts to each child. When people died without spouses or children, their estates passed to parents and siblings, and failing that, to siblings' children. These laws are largely based on a persistently normative kinship structure. This structure assumes that adults are in "heteropatriarchal (heterosexual, male-headed), nuclear (e.g., two-parent, stably married, cohoused) families (hereafter HNF) who have all of their children in common" (Cross et al. 2022: 484). Of course, families in the United States have never completely conformed to the HNF ideal, and conformity itself is associated with wealth and whiteness, which means that families have never equally been captured by the default intestacy law. Even today, Bea and Poppe (2021) found that more than 21% of U.S. families are structured in ways marginalized by intestacy classifications, and those families are disproportionately poor and of color.

Data and Methods

This paper analyzes 79 will contests covering 68 distinct estates, which represent all known cases of estate litigation in Dallas between 1895-1945. I have also examined numerous qualitative accounts of inheritance from memoirs and local histories. I searched through every court case in *Nexis Uni* that took place in Texas between 1895-1945 and included the words "probate," "contested," and "Dallas." I also searched for disputes systematically in the *Dallas Morning News* and *Newspapers.com,* using terms like "contested the will," "submitted for probate," "unsound mind," "testamentary capacity," and "undue influence." Finally, I read all the Dallas probate records from 1895-1908 digitized in the *Portal to Texas History,* which represent every probated estate in Dallas County during those years. The collection of disputes represents nearly all cases of estate litigation in 1895-1945 Dallas that made it to more than one round of trial, and an unknown, but likely significant proportion of estates that were ever contested.

I situate those disputes within richly documented demographic and social data for the full population of the Dallas white upper class from 1895-1945, as measured by their listing in the social registers (n = 12,323), a relatively standard measure of upper-class status in the U.S. at this time, alongside 6,079 other elites and kin in Dallas, all available social and demographic information for participants in will contests outside the Dallas upper class, and all known kin ties between everyone involved. By situating a full collection of inheritance disputes within multidimensional demographic and network data, I can look beyond group-based measures of inequality into the complex, continuous, multidimensional nature of inequality within and between cases (Monk 2022).

THE DISPUTES

Unnatural wills

Placed in the context of the general population, it seems that the estates of people who lived non-normative intimate economic lives were especially likely to spawn disputes. While hand-constructing a prosopographical dataset of thousands of intertwined lives in the Dallas upper class, I have identified at least 63 (.3%) people who, based on their intimate economic lives, appear queer. Some of them publicly came out or were outed by others in later years. Most simply seem queer in the context of local norms, in the senses that they never married or had children, they were often closely connected to one another in same-gender social networks, and they typically led gender non-normative economic lives – women working for pay, men working in the arts, and often, same-gender pairs forming households as "partners." Tellingly, their estates are vastly overrepresented among the inheritance disputes. More than a tenth (11.4%) of disputes were fought over the estates of people on this list, which means that these upper -class, queer-seeming testators were *34 times more common* in the disputes data, which is not exclusive to the upper class, than in the upper class overall.

A particularly clear example is *Harmon v. Ketchum,* a fight between Clara Gilmer's siblings and her former lover over her Dallas land. Clara Gilmer (1878-1922) was a never-married teacher who left her entire estate to Miss Adele Ketchum, the first woman to graduate from the University of Illinois law school. This was intensely meaningful and highly unusual: a wholesale bequest of an entire estate was almost always reserved for spouses, and Adele was another unmarried woman. Clara's three siblings, who would have inherited everything under the normative regime of intestacy law, launched a dispute, claiming that Adele had exerted "undue influence" to receive this spouse-sized bequest. What was the nature of this "undue influence?" Sometime around 1903, when Clara and Adele were teaching in Peoria, Illinois, they became roommates. Clara's siblings began to "resent their intimacy," and "endeavored to break it up." Clara's older sister Lucy wrote Adele's mother a letter, claiming that Adele had used "a species of hypnotism" on Clara, who only a year before, had been "a good, pure-minded girl." She emphasized that "especially I do not want them to sleep together." Adele sued Lucy for slander. But Lucy doubled down, telling juries that Clara even "broke off an engagement to marry her third cousin because she loved Miss Ketchum more" (*The Dispatch* 1903). Clara left Illinois to escape the scandal, teaching in various schools at the edges of the American empire before taking her own life in the Philippines in 1922. She never saw Adele again "from the time she left Illinois until the day she died." But she was intent on leaving her wealth to Adele, and *not* her siblings, writing in her will that "not one article of the most minute value… shall ever be allowed to fall into the possession of" her siblings, but that "Adele Ketchum, or her heirs, shall derive full benefit of all I possess." Multiple Texas courts heard Clara's siblings' claims of undue influence, but ultimately, ruled in Adele's favor, noting that the pair hadn't seen each other in nearly twenty years, making it difficult for Adele to exert "undue influence." Clara wrote one last letter to Adele before she died, telling her that she would inherit her property, and concluding, "my love is with you always."

It is telling that the court accepted Clara's "unnatural" will not because her "intimacy" with Adele was considered legitimate, but because she had physically separated herself from Adele for more than a decade. The fact that the suit got through multiple rounds of trial is a testament to how vulnerable queer wills were, even when testamentary freedom was supposedly total, even when lovers were separated by decades and oceans, and even when the testator was white, upper-class, and produced a crystal-clear will.

Most "queer wills" were queer not because the testators left their entire fortunes to their alleged lovers, but because they gave kin-sized bequests to their chosen family. The much-disputed estate of Louis Antonio Pires (1841-1922) is a good example of this genre. Louis had an unusual experience with kinship from childhood. When he was eight, he boarded a ship with his parents and brother Emanuel to immigrate to the U.S. from the Madeira Islands. Their parents died of cholera on the journey, and Louis and Emanuel were sent to an orphanage. Emanuel wound up in the North, where he became a minister, married a Madeiran woman, and had seven children. Pires wound up in South, where he fought in the Confederate army, moved to Dallas, and became a millionaire insurance executive. He never married, and was intensely socially active; according to the local Society magazine, he was "chic and handsome and loquacious," frequently "cutting a wide swath and [was] a general favorite" with Society women (*Beau Monde* Sep 1899). He lived in the Dallas Club with other lifelong bachelors, including his close friend and longtime travel companion Charles C. Cobb, whose will was also disputed. Two of Louis's business partners and closest friends, J. T. Trezevant and Peter Youree, married and had daughters, Eva Trezevant and Rose Youree, and Pires lavished them with gifts; they called him "Uncle Pie." He was also evasive and mysterious. Trezevant said of him, "Pie was the closest mouthed man in the world. You'd meet him at a railroad station and ask, 'Where are you going, Pie?' and he would answer, 'Oh, down the road a piece'" (Rogers 1952:162). When he had a mental break in his forties on a business trip to New York, it was Trezevant, and not his brother Emanuel, who brought Pires home from Bellevue Hospital. His friends were so much like family that when Pires died, Rose Youree hosted his funeral. Pires left a will that gave identical portions to Rose Youree, Eva Trezevant, and the surviving children of his brother Emanuel. These matching bequests positioned Rose and Eva as his nieces, and by extension, their fathers as his brothers. The rest of his fortune went to Dallas orphanages, hospitals, and fraternal organizations. His brother's children, outraged, launched at least two will contests, characterizing the will as "unnatural" and Pires's mind as "unsound." They believed that as his surviving biological relatives, they, and not friends' daughters or charities, had a right to Louis's estate. They came to a settlement behind closed doors, which likely meant that in the end, Louis's biological kin inherited more than his chosen family. They made his queer will more normative.

Identifying sexual orientation in historical figures is a fraught business (Bronski 2011). But in terms of the way they structured their intimate economic lives, Clara, Louis, and the seven other testators who never married and left supposedly "unnatural wills" certainly appear queer. The fact that their wills were so often litigated anticipated the vulnerability of queer wills that would, decades later, fuel the marriage equality movement (Chauncey 2005). They vividly demonstrate the idea that there was a general social template for relational work in estate distributions, shared and reinforced by the legal structure, that made technically total testamentary freedom limited in practice, even for the white upper class. More broadly, they suggest that relational work mismatches may be especially likely when people live non-normative intimate lives – a constitutive feature of the queer experience. In this way, mismatches may *arise unequally:* they are concentrated in non-normative webs of intimate economic exchange.

Model marriages

Inheritance disputes were also *resolved unequally*, in the sense that they tended to reinscribe gendered, raced, and classed categorical distinctions. Most disputes that centered on a couple, like *Grigsby v. Reib,* worked to distinguish and elevate one type of pair above all others - a white heterosexual married couple, marked by a wife's sexual chastity and perceived economic passivity. When courts decided on the nature of a tie, they used evidence of economic transactions, including financial support, cohabitation, care work, sex work, and real estate purchases, to distinguish between sex workers, secretaries, wives, and ex-wives. They then matched that tie to appropriate estate distributions. Usually, that meant that wealth stayed in the white, upper-class family. Almost always, it involved the re-inscription of moralized distinctions between chaste, sacred wives and all other women.

One of the most dramatic such disputes was *Craycroft v. Crawford,* which grew so heated it spawned a murder. On September 11 in 1924, Lester Crawford (1897-1988) grabbed a shotgun, drove downtown, and repeatedly shot his half-sister's lawyer Paul O'Day "until he fell dead" in the lobby of a bank. "You can't insult my mother," he explained (*Ex parte W. L. Crawford* 1924). O'Day's murder was a dramatic crescendo in a yearslong legal fight between Lester's mother Kate (1861-1947) and his half-sister Lucy (1866-1953) over their father's fortune. Wealthy lawyer W. L. Crawford Sr. (1839-1920) had died four years before, leaving his entire estate to Kate, his second wife, and disinheriting his daughter

Lucy from a first marriage. Lucy's legal team contended that this "unnatural" will was a product of Kate's "undue influence;" Kate's legal team contended it was the product of "natural" love of a husband for his wife. But what did O'Day's insult have to do with an inheritance dispute? O'Day had just submitted a legal brief saying that Lester's parents had a relationship "of a different and less honorable and conventional character than those which usually precede the marriage of an honorable man and an honorable woman." Kate had seduced Crawford with mint juleps and premarital sex, he argued, and these "unconventional relations," were "probative" of Kate's "undue influence" over her husband's will. By questioning her status as a properly chaste wife, O'Day also called into question the legitimacy of her inheritance. The Supreme Court of Texas eventually found that Kate *had* exerted undue influence over her husband, nullified the will, and forced her to share the fortune with Lucy. After the scandal, Kate and Lester were never listed in the Dallas social registers – like a *Who's Who* of the upper class- again. But at the urging of Dallas bigwigs, the Governor of Texas, Miriam "Ma" Ferguson, pardoned Lester for murder, declaring, "When men are denied the right to defend the virtue of their mothers this Government will fall." Their status and wealth were lessened, though certainly not obliterated; Lester got away with murder; and the case has been cited as recently as 2022 in similar will contests, usually as evidence that alcohol can make someone temporarily lose their capacity to write a legitimate will.

Craycroft v. Crawford, like *Grigsby v. Reib,* explicitly tied a particular transaction and relation – a wife's inheritance – to sexual chastity and economic passivity. Judges and lawyers questioned Kate's deservingness as a wife-heiress not only because she may have had premarital sex with her husband, but also because she, on multiple instances, expressed opinions about how the family wealth should be used, violating the gender norm that women were not supposed to participate in the rough-and-tumble world of the market. The Supreme Court justices contrasted this gender non-normative behavior with the behavior of her disinherited stepdaughter Lucy, who had apparently been a model of feminine economic passivity. She gratefully collected gifts of land and money from her father for being "the embodiment to [him] of all that is beautiful sweet and delicate." Kate, in contrast, insisted that her husband disentangle his fortune from his brother's wealth. Allegedly, she even went so far as to deliberately become a wife and mother so she could inherit. Her sister-in-law testified to a scandalized Supreme Court that Kate had "been advised by friends in Washington to leave her husband and come to Dallas to catch Colonel Crawford," and that after catching him, she gave him only one child, the murderous Lester, because one child was all that was necessary for the "purpose of obtaining…a mother's and a wife's inheritance." Because Kate did not conform to gendered socioeconomic norms, the court ruled she had exerted "undue influence" over her husband, and must split the fortune with her stepdaughter. In the process, the justices reinforced the categorical distinction between virtuous wives and daughters and immoral gold-diggers.

Saros v. Strickland similarly centered on a couple, but this case mostly reinscribed distinctions between racial categories. The "controlling issue" was whether Annette Dougherty (1876-1938) was white or Black – if she was white, then the contestant Sam Saros could be her common-law husband and inherit a portion of her fortune, and if not, he got nothing. Annette was born in Louisiana to parents categorized by the U.S. Census alternately as "mulatto" or "Black," reflecting the shifting state categories of the time and region. According to her family, neighbors, and early employers, she lived all her childhood and early adulthood as a Black woman. She moved to Dallas with her first husband, lived in a segregated Black neighborhood, and worked for Black employers, generally going by the name Tina Long. In 1933, she traveled to Chicago for a fair and came back to Dallas with a new name, Anita Martinez, and a new partner, Greek immigrant Sam Saros. She moved with him to a poor white neighborhood, where she passed as marginally white. Referencing Du Bois, Black journalist O. J. Cansler described her as a woman "who lived within and without the 'the veil'" (Cansler 1938; Du Bois 1903). Five years later, she died without a will, leaving a modest fortune in real estate and jewelry. Sam notified her brother W. W. Dougherty, a businessman and Pullman Porter living in Kansas City. Then, realizing that miscegenation laws would legally bar him from any potential inheritance, Sam abruptly hired lawyers to argue that she was actually white "with some Mexican and Indian blood." At the trial, witnesses and legal documents demonstrated that even after she began living as a white woman, "she never severed her relations with her colored kin;" she had helped pay for a nephew's education at a Black college, and she inherited property from another brother. In the face of this overwhelming evidence, largely based on the history of her intimate economic life, the court categorized Annette as Black. Her body was moved from a white undertaker to a Black undertaker, her family buried her in a Black cemetery, and Sam inherited nothing. The white press in Dallas deliberately ignored the case, feeling that the real-life fuzziness of racial categories and pervasiveness of “interracial” sexual intimacy were too scandalous to acknowledge. But Black newspapers reported on it extensively, with often trenchant analysis of the logical incoherence of the system of racial classification. “As this strange travesty unfolds,” Casler (1938) wrote, “one wonders just what the Southern white man means when he talks about ‘racial purity’…when he says that ‘one drop of Negro blood makes one a Negro.’”

Saros v. Strickland was one of scores of inheritance disputes that took place throughout the U.S. for the first century after Emancipation, where heirs and would-be heirs used miscegenation law to block spousal bequests between interracial pairs. All such cases naturalized and reinscribed categorical distinctions by race and gender. Just as “miscegenation law was a kind of factory for the production of race, marriage was a kind of factory for the production of gender” (Pascoe 2009:11). This dispute was unusual, in that the property did not belong to a white man, and the property did not end up with a white family. But it was typical in that a white person launched a dispute to capture wealth from a family of color. As an anonymous editorial in the Black newspaper *The Pittsburgh Courier* (1938) observed of the case, “money, like adversity, it seems, has a way of making the whole world kin. At least, where large fortunes are involved, even southern white folk are not afraid of getting mixed up with their colored kin folks’ money.”

The cases that never were

So far, I have only discussed cases that made it to court. But many more mismatches erupted that never made it that far, often because the inequality between the competing sides was too extreme. In the corpus of extant court cases, the contests that appear most lopsided based on the contestants’ race, gender, and class categories – like *Grigsby v. Reib,* or *Saros v. Strickland* – were not actually as lopsided as they seem in a continuous (rather than group-based) sense of categorical inequality (Monk 2022). In *Saros v.*

Strickland, Annette and her siblings were enmeshed in the regional Black elite. That she had a modest fortune to fight over was remarkable for a Black woman in the South at that time. Her brother was well-connected enough to get one of the richest, most powerful Black men in Dallas, Henry Strickland, to administer the estate while he was in Kansas. And of course, Annette had the phenotypical characteristics and the money to pass as white when she wished. She was "tall, brown, with aquiline features, crinkly hair, kept in the latest fashion by frequent visits to beauty parlors…nails, skin in perfect condition" (Casler 1938). Sam Saros, in contrast, was on the margins of whiteness, phenotypically and socioculturally. He was short, dark-haired, dark-eyed, and dark-skinned, with a large mole on his right cheek (*WWII draft cards*). He had no fortune; he had a Greek accent; and he was not socially connected in any traceable way to the city's white elite. The court drew a firm line between Annette's Blackness and Sam's whiteness in part *because* Sam and Annette were both so far from racial prototypicality. Similarly, in *Grigsby v. Reib,* Jessie Grigsby was part of the sex worker elite, and likely knew many of Dallas's richest and most powerful men. She ran a high-priced brothel – the kind of house that, in the U.S. during this time, "doubled as clubs where the local political and economic elite met to exchange necessary information and informal deals" (Rosen 1984:87). Hers was a job that required not only beauty, but also financial skills and "a high degree of political tact and diplomacy" (Rosen 1982:87). Eliza Grigsby Reib, in contrast, was a tenant farmer from Kentucky who lived in poverty until her brother's death. When George died, she abruptly moved to Dallas with her husband and children and bought a large house, likely on credit, using the promise that she would soon inherit her brother's fortune. She had some social success, in part because it was generally understood that she would soon be a millionaire. She and her husband made it into the most lenient edition of the social registers (1909), but she never made it into any elite social club. As these two cases demonstrate, even when competing sides seemed highly lopsided via gendered, racialized, and classed categorical distinctions – distinctions the courts worked hard to reinforce – the sides were typically much more evenly matched than they appeared.

The truly lopsided cases never made it to court. There is a loud absence of suits between one ubiquitous, intimately entangled, high-inequality pair: rich white employers and Black domestic workers.

Cash bequests from white employers to Black domestic workers were an accepted practice. They were typically miniscule compared to bequests left to white kin, employees, and charities, but relative to the miserly wages white employers generally paid, they were significant, often amounting to several years' pay. They were also of a different form. Bequests to white kin typically came in the form of properties, trusts, or portions of the estate, and they could pass to the heirs of heirs if more immediate kin died first. In contrast, bequests to Black domestic workers explicitly marked them as workers. They were typically tied to years of service, and specified that they could only be paid out if workers were still in their employ. This is notable especially because Black domestic workers historically often *were* the biological kin of white employers. That was particularly true under slavery, but the practice continued well after Emancipation; as late as the 1930s in Dallas, for example, the Black woman who did laundry for the white upper-class Samuell-Williams family was their unacknowledged biological cousin (Beckett 1985). The only "inheritance" she received from her biological father was a job, explicitly marking her as a worker, not a daughter.

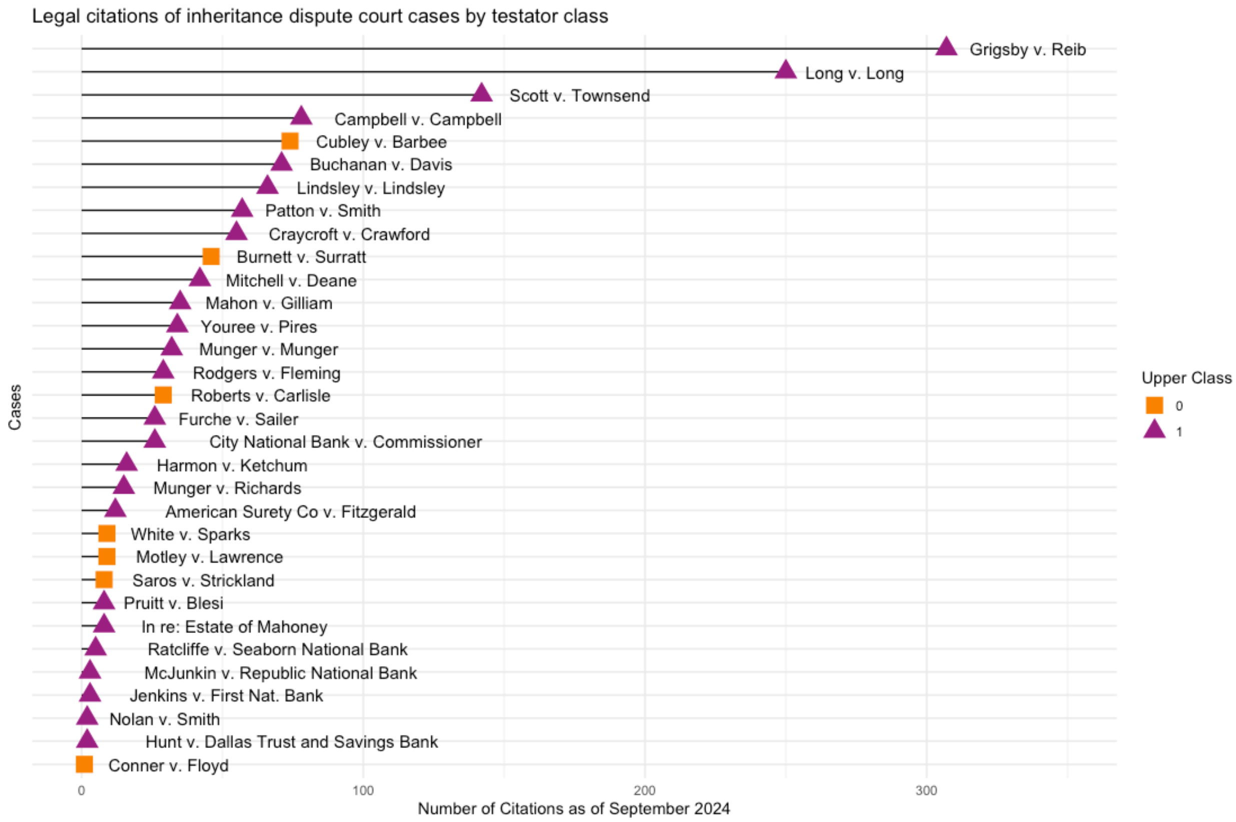
Whether or not there was any biological tie, white employers used promises of future bequests as mechanisms of control. Annie Mae Hunt (1909-2003), a Black woman who spent many years as a domestic worker for wealthy white families, remembered that one employer, Mrs. Norrell, unsuccessfully offered a potential bequest to prevent her from quitting. She "had me in her will, and I knew it. If I had stuck by her like I should have, I would have been *made whole*," meaning that she would have received a large enough bequest to make her economically secure (Hunt and Winegarten 1983:75). But even if Annie had complied and continued to work for the Norrells, there is no guarantee they would have left her the promised bequest, and she is unlikely to have been able to sue for one in court, given her extreme racialized disadvantage relative to the Norrells. White employers throughout the South routinely exploited, abused, underpaid, and refused to pay Black domestic workers (Hunter 1997); undoubtedly, some made promises about bequests to Black workers that they later backed out of, giving Black workers technical legal standing to sue. But there are no such cases in the record. In contrast, white elites launched this type of suit quite regularly, claiming that a testator had promised them a slice of their estate in return for some service or favor. At least four of the cases in the Dallas collection were of this type. Clearly, race, wealth, status, and power influenced the kind of estate litigation that was practically, and not just technically, possible.

Even if it was likely that a contestant could win a suit, many chose not to try because they believed it was not worth the potential social costs. One particularly socially risky type of suit was a woman's claim over an unrelated man's estate, because bequests from men to women were generally only supposed to take place within a family. When they took place outside a family, cross-gender transmissions of wealth called into question women's sexual morality. Mary Collet (1900-1986)'s almost-suit is instructive in this regard. Mary was connected through kin and social ties to the Dallas upper class, but her father had died young, leaving the family financially vulnerable. She spent most of her adulthood as the executive secretary for her father's acquaintance Edwin Kiest, a childless widower who owned the *Dallas Times Herald*. She was perpetually on call for Edwin, arranging every logistical aspect of his personal life and his business. Edwin assured her that in return, she would be well taken care of when he died – and since she maintained all his records, including the latest copies of his will, she believed him. The inheritance she felt increasingly entitled to would have allowed her to retire and join the elite women's clubs (all of which met during working hours) that she had always wanted to join. But two weeks before his death, he changed his will, leaving all the stock in the newspaper to eight male employees, and nearly everything else in trust for his sister and niece. Mary received nothing – not even the nominal cash bequest usually left to executive secretaries. She was devastated, and considered suing for "undue influence." She blamed two employees for convincing Kiest to cut her out of this will. If she had been able to produce evidence of the past wills, which seems probable given that she maintained and filed them herself, she would have legal grounds to sue. But she chose not to, fearing that the male employee-heirs "would have said I was [Kiest's] mistress," which would have "killed" her mother (Castleberry 1994:28). The charge would have likely also torpedoed her chances of acceptance in any elite women's clubs. But her decision to avoid social stigma was economically costly. As an aging Mary Collett told an interviewer, "Once I knew every prominent man in Texas. Now I'm living on bread and water" (Castleberry 1994:248). In this way, the intense moral scrutiny around the mingling of intimacy and money generally reinforced gendered wealth inequalities, in part by discouraging women from making certain types of inheritance claims in court.

The legal afterlife of estate litigation

Inheritance disputes were also *unequal in their consequences.* As Zelizer (2005:64) notes, "the law changes incrementally through an incessant process of contestation," which includes the kinds of relational work mismatches that make it to trial. But mismatches are unequal in their effects on law and policy. In the Dallas disputes data, the mismatches that made it to court and affected subsequent rulings were disproportionately upper class. Thirty out of 79 disputes ended up in the record of cases recorded in *Nexis Uni,* which calculates the number of times a case has been cited in subsequent court cases, legal briefs, and legislation. Figure 1 depicts the total number of citations for each court case as of September 2024, also indicating whether the estate belonged to someone in the upper class. Not only were upper class cases more likely to be litigated and make it to multiple rounds of trial – they have also been cited much more often in subsequent trials and legislation. Collectively, the upper-class cases have garnered 1,277 citations, compared to 176 for the middle- and lower-class cases – more than seven times as many. They have also been cited about three times more on average, with a median of 29 citations per upper class case and 9 citations outside of it. The wealth, power, and status monopolized by the upper class meant that even their catastrophes were disproportionately influential on the population as a whole.

Figure 1.



DISCUSSION AND CONCLUSION

In this paper, I analyzed the full collection of inheritance disputes in one population as a theory-building exercise, working to improve our understanding of relational work mismatches and their relationships to inequality. Using a series of illustrative case studies, I argued that mismatches arise unequally, are settled unequally, and are unequal in their consequences. First, I used cases of “queer wills” to argue that inheritance disputes are especially likely to spring from non-normative configurations in the intimate economic fabric. Second, I showed that courts settle inheritance disputes by reinscribing moralized boundaries between gendered, racialized, and classed categories of people. I then argued that this work of re-inscription is particularly impactful in estate litigation, because court cases featuring fights between people of different racialized, classed, and gendered social categories are often quite close to each other in continuous terms. Many more inheritance disputes never made it to court because the actual resources between competing sides were too lopsided. Finally, I looked at the citation counts for inheritance disputes, showing that inheritance disputes in the upper class have had vastly more impact on the legal system than inheritance disputes in other families.

Of course, inheritance disputes are only one form of relational work mismatch, which is a large, heterogeneous category of social processes. By holding constant the type of transaction and the sociolegal context, I can see some patterns more clearly, generating testable hypotheses about the ways mismatches might work in a population, and about they might relate to inequality. Based on these data, a reasonable hypothesis is that mismatches may be a particularly common experience for queer people, who, by definition, live non-normative intimate lives. This makes some sense. Adams (2007:6) observed that relational work as a concept can sometimes represent "social action as so subtle, so challenging in its multiple matching processes that we have to wonder whether people will need portable computers to make such complicated calibrations." They do not, she concludes, because "the actors…are working with categories and institutions that are indeed complex but also partly canned." The degree to which categories and institutions are canned depends on the social location. When people are living more normative intimate lives, they can do canned relational work, but people who want to "try it a new way" must get out their portable computers. It follows that people who are being more creative in their relational work will also be more prone to mismatches. Mismatches may even be a mechanism through which queer people drive cultural change.

It also seems that mismatches may frequently become sites where categorical, hierarchical distinctions between people are reinforced, particularly when they interact with the legal system. In the aggregate, inheritance in law and practice consecrates certain relational packages over others. Disputes are the places where disagreements about proper matching are explicitly worked out. Courts and families seem to do this by making moralized distinctions between types of relations, explicitly litigating channels for the passing on of wealth. Because all of this takes place at such an intimate level, relational work and relational mismatches have an immensely powerful naturalizing force.

Finally, inheritance disputes might be a general site for sociolegal change, and this may be especially true when they involve upper-class estates. The push to wipe miscegenation laws from the books in the United States came in part from inheritance disputes, which most commonly involved wealthy white men (Pascoe 2006). The sheer regularity of losses in estate litigation became a primary driver of the gay marriage movement, convincing activists that gay and lesbian couples needed the legal protection of government-sanctioned marriage (Chauncey 2005). This phenomenon is certainly not limited to the United States; in Austria, for example, the inheritance tax was abolished in 2008, when a wealthy family's inheritance dispute made its way to the country's constitutional court. What types of inheritance disputes are most common today? And does that tell us anything about possible future shifts in context-specific notions of the natural, moral way of distributing wealth across intimate ties?

In general, inheritance disputes are empirical goldmines for any analyst of intimate economic life. Each of the 79 cases in these data is textured enough for its own article. Given the word and conceptual limits of one paper, I have excluded with much regret, for example, multiple murders, multiple forgeries, a kidnapping, a child musical prodigy, and an astronomy enthusiast who disinherited his kin to fund an observatory under "the insane delusion that some day astronomers would be able to see the gates of heaven, and…who was inside." I hope that this article might inspire more work on the many facets of inheritance disputes, continuing the tradition begun by Zelizer (2005). I especially hope that in this context of ever-rising inequality, it might motivate more work on inheritance from the relational work perspective. Such an approach neatly joins economic sociology and inequality – a union many economic sociologists have called for (Hirschman and Garbes 2021; Krippner and Flores 2024; Krippner 2024; Norris 2023; Tomaskovic-Devey et al. 2017). This is especially important because standard economic theory is not very good at explaining inheritance. Milton Friedman, the ultimate spokesman for neoliberal economic thought, said that even though he believed "the bequest motive is the foundation of free market capitalism," *why* people make bequests was a fundamental mystery (quoted in Cooper 2023). Relational work helps us see that with inheritance, as in economic life more generally, people are acting relationally. They categorize and match ties and transactions, in a "partly canned" but sometimes creative way. Understanding this varied and highly impactful social process – and especially what happens when it goes wrong – requires us to see our highly unequal economy as a textured, ever-changing, often lopsided, variously contested web of intimacy.

REFERENCES

Adams, Julia. 2007. "'Only Connect...': Connected Lives and Differentiated Transactions." *Accounts*, 4–6.

Andreetta, Sophie. 2020. "The Symbolic Power of the State: Inheritance Disputes and Litigants' Judicial Trajectories in Cotonou." *PoLAR: Political and Legal Anthropology Review* 43(1):5–20. doi:

Bandelj, Nina. 2020. "Relational Work in the Economy." *Annual Review of Sociology* 46(1):251–72.

Bea, Megan Doherty, and Emily S. Taylor Poppe. 2021. "Marginalized Legal Categories: Social Inequality, Family Structure, and the Laws of Intestacy." *Law & Society Review* 55(2):252–72.

Beckert, Jens. 2008. *Inherited Wealth*. Princeton, NJ: Princeton University Press.

Beckert, Jens. 2022. "Durable Wealth: Institutions, Mechanisms, and Practices of Wealth Perpetuation." *Annual Review of Sociology* 48:6.1-6.23.

Beckett, Hazael Williams. 1985. *Growing Up in Dallas.* Dallas, TX: New Hope Press.

Bessière, Céline, and Sibylle Gollac. 2023. *The Gender of Capital: How Families Perpetuate Wealth Inequality*. Cambridge, MA: Harvard University Press.

Castleberry, Vivian. 1994. *Daughters of Dallas: A History of Greater Dallas Through the Voices and Deeds of Its Women*. Dallas, TX: Odenwald Press.

Chauncey, George. 2005. *Why Marriage: The History Shaping Today's Debate Over Gay Equality*. New York, NY: Basic Books.

Craycroft v. Crawford, 285 S.W. 275 (1926).

Cross, Christina J., Paula Fomby, and Bethany Letiecq. 2022. "Interlinking Structural Racism and Heteropatriarchy: Rethinking Family Structure's Effects on Child Outcomes in a Racialized, Unequal Society." *Journal of Family Theory & Review* 14(3):482–501.

Ermakoff, Ivan. 2014. "Exceptional Cases: Epistemic Contributions and Normative Expectations." *European Journal of Sociology* 55(2):223–43.

Finch, Janet, and Jennifer Mason. 2000. *Passing On: Kinship and Inheritance in England*. London, UK: Routledge.

Friedman, Lawrence M. 2009. *Dead Hands: A Social History of Wills, Trusts, and Inheritance Law*. Palo Alto, CA: Stanford University Press.

Grigsby v. Reib, 105 Tex. 597 (1913).

Harmon v. Ketchum, 299 S. W. 682 (1927).

Hunt, Annie Mae, and Ruth Winegarten. 1983. *I Am Annie Mae: An Extraordinary Black Texas Woman in Her Own Words*. Austin, TX: University of Texas Press.

Lareau, Annette. 2022. "Downplaying Themselves, Upholding Men's Status: Women's Deference to Men in Wealthy Families." *RSF: The Russell Sage Foundation Journal of the Social Sciences* 8(7):112–31.

Lehfeldt, E. A. 2000. "Convents as Litigants: Dowry and Inheritance Disputes in Early-Modern Spain." *Journal of Social History* 33(3):645–64.

Mears, Ashley. 2015. "Working for Free in the VIP: Relational Work and the Production of Consent." *American Sociological Review* 80(6):1099–1122.

Monk, Ellis P. 2022. "Inequality without Groups: Contemporary Theories of Categories, Intersectional Typicality, and the Disaggregation of Difference." *Sociological Theory* 40(1):3–27.

Pascoe, Peggy. 2009. *What Comes Naturally: Miscegenation Law and the Making of Race in America*. New York, NY: Oxford University Press.

Prasad, Nita Verma. 2008. “The Litigious Widow: Inheritance Disputes in Colonial North India, 1875-1911.” Pp. 161–90 in *Behind the Veil*, edited by A. Ghosh. London: Palgrave Macmillan UK.

Rao, Aliya Hamid. 2022. “Relational Work in the Family: The Gendered Microfoundation of Parents’ Economic Decisions.” *American Sociological Review* 87(6):1094–1120.

Rosen, Ruth. 1982. *The Lost Sisterhood: Prostitution in America, 1900-1918.* Baltimore, MD: Johns Hopkins University Press.

Rosenfeld, Jeffrey P. 1998. “Will Contests.” in *Inheritance and wealth in America*, edited by R. K. Miller and S. J. McNamee. New York: Plenum Press.

Saros v. Strickland, 148 S.W.2d 865 (1941).

Wigen, Allison. 2023. “Negotiating Unequal Exchange: Relational Work in Cross-Class Sibling Relationships.” *Sociological Forum* 38(1):235–53.

Zelizer, Viviana. 2005. *The Purchase of Intimacy*. Princeton, NJ: Princeton University Press.

Zelizer, Viviana A. 2012. “How I Became a Relational Economic Sociologist and What Does That Mean?” *Politics & Society* 40(2):145–74.

Zelizer, Viviana, and Lauren Gaydosh. 2019. “Class on Campus.” *Princeton Alumni Weekly*. Retrieved September 3, 2024 (https://paw.princeton.edu/article/essay-class-campus).