Career Path: Corporations are People Too

Litigation and Dispute Resolution

Career Development

Corporate, Securities, and Governance

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Effective in-house counsel help their companies address many risks facing their businesses. Today, a key risk is societal doubt about the benefits of corporations themselves. If we want our companies to be free to pursue business without intrusive regulation, then we need to think carefully about corporate reputations. In-house lawyers can play a critical role in this evaluation.

“Greedy corporations!” We hear this so often it is almost a reflexive response. Or how about, “All corporations are evil,” a Hollywood refrain so common it has led to many young people believing it as a matter of fact. Certainly executives of large companies are inherently suspect, the original “fat cats,” paying themselves obscene amounts of money.

If you work for a large company, it is easy to dismiss these complaints. After all, you, personally, are a good person, and just about everyone you work with is as well. You see occasional incompetence, true, perhaps a touch of arrogance, but certainly no evil. Of the many thousands of corporations, a tiny number end up committing malfeasance.

Because of this, it is typically only people who don’t work for large companies who hold such derogatory views of them.

The good, the bad

What we sometimes underestimate, however, is how many people do not work for large companies. This makes our ignoring the phenomenon risky. We may know that the blanket criticisms of corporations are not based in fact, but when a majority of the public believes the bad press, we better watch out.

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And it is not just investment banks, oil companies, or cigarette manufacturers. Politicians and the media focus a roving spotlight on the particular villains of the day, but no one is safe from their harsh gaze. The scope of environmental, social, and governance (ESG) stakeholder interests is so broad that virtually every corporation may fall victim to a negative influence campaign at some point.

Critics and defenders

Is there anyone who will speak out on behalf of corporations? Each individual company has a strong incentive to stay silent. Why draw attention to yourself? Better to be quiet and hope that the news cycle will turn to another victim.

Milton Friedman spoke eloquently in 1970 about the social responsibility of business. His point then was that businesses brought about the greatest good for society when they focused on increasing their profit.

Academics and advocates are questioning the past five decades of shareholder primacy in the stakeholder v. shareholder debate. But this debate glosses over the most important point about the role of corporations: Far from being greedy or evil, corporations have been a steady source of significant good in society. When did we all lose the script?

Corporations are strongholds

One of the most amazing features of corporations is their potential for indefinite life. This is because while a corporation is comprised of the people who work for it at any given moment, it has separate, independent existence. For legal purposes, corporations are people too. The individuals who serve in various functions come and go, but the corporation itself continues on.

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I worked for a company with a more than 100 years of history. No one involved at the time our company was formed is alive today. Of course the company evolved over this time. But the company still is involved in recognizably the same business, selling products meeting a similar need, albeit with vastly improved technology and performance. I sometimes marveled at how many people worked at my company over the years. How many livelihoods we supported, and how much influence our products had on the world.

Yes, corporations are people too, and what people they are! Capable of coordinating the collective

efforts of tens and thousands of people across decades and centuries. Corporations preserve humankind's know-how and encourage steady improvements in products and services. This has brought untold prosperity and better living conditions to many millions of people across the world.

In most other areas of life we celebrate the power of collective human action: from a simple employee union that brings negotiation power to a group of individuals, to massive research efforts (think of the remarkable effort to develop COVID vaccines in record time), to even greater scientific feats of human achievement, such as the moon landings or the deployment of the James Webb Space Telescope.

Rights

But also on the individual level, Western society has thrived on the principle of protection of individual rights. We allow people to pursue their self-interest unreservedly, subject only to operating within the law. We incentivize risky exploration by allowing people to reap the benefit of their individual efforts. Many ventures fail, but when an individual succeeds, they can become wildly successful. Allowing and encouraging people to pursue their self-interest benefits all of society.

The rule of law undergirds this system: If you play within the rules, society will protect your person and your property. There is nothing more fundamental than protecting personal property from predations by other people or the government itself. What you accumulate through your efforts belongs to you.

If corporations are people too, what possible reason can justify changing the rules to apply, for example, an "excess profits" tax? What undermining of the rule of law warrants telling successful people that, although they played by the rules of the game, they have been too successful?

For every corporation you secretly cheered getting grilled by a grandstanding member of US Congress remember this: It's not just corporations that are people. You are too. What we do to corporations can just as easily be done to us.

Be well.

Question, comment? Contact Career Path columnist James Bellerjeau.

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