

## Corporations are people too | Marcel Strigberger

By **Marcel Strigberger**

Law360 Canada (July 29, 2022, 2:34 PM EDT) -- Fie on the company!

I am reflecting on what about the legal system bugs me. High on the list is the concept that a company is a person with its own independent status. I see no reason why there should be a corporate veil protecting a company's owners from personal liability.

There is rhyme and reason to my position.

My first concept of a corporation dates back to childhood, shopping with my mother at Steinberg's, a now defunct chain supermarket in Montreal. Steinberg's used to issue trading stamps called "Pinky," redeemable for gifts. During one visit my mother got into a dispute with the cashier about the number of Pinky stamps we should get. We all got a bit vocal, and the store manager charged over. My mom asked him to summon Mr. Steinberg. He looked at us smugly and said, "This has nothing to do with Mr. Steinberg. It's company policy."



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This experience soured my concept of corporate status. Why should the owner wiggle out of responsibility? My mom and I were tempted to barge through that "employees only" door where we were sure Mr. Steinberg was comfortably settled counting his profits (and likely his Pinky stamps). We expected him, as owner, to resolve the issue with us. We left disgruntled.

I now think of a comment by the 18th century Lord Chancellor, Edward, First Baron Thurlow, who said, "Did you ever expect a corporation to have a conscience when it has no soul to damn and no body to kick."

That day while arguing with the manager my mom and I certainly would have liked to have Mr. Steinberg in front of us, thereby giving us the option to consider doing what the lord chancellor said cannot be done to a company.

I now think about that scene in Shakespeare's *Julius Caesar* where after Caesar's assassination, an angry mob descends upon the streets of Rome hunting for the conspirators. One of the conspirators is a politician Cinna. While the lynch mob is out looking for the culprits, they come across Cinna the poet. Unfortunately for this Cinna, the collective finds the name match is good enough to constitute guilt. Quoting:

Third Citizen  
Your name, sir, truly.

CINNA THE POET  
Truly, my name is Cinna.

First Citizen  
Tear him to pieces; he's a conspirator.

CINNA THE POET  
I am Cinna the poet, I am Cinna the poet.

Fourth Citizen

Tear him for his bad verses, tear him for his bad verses.

CINNA THE POET

I am not Cinna the conspirator.

Fourth Citizen

It is no matter, his name's Cinna; pluck but his name out of his heart and turn him going.

To my mom and I Mr. Steinberg and Steinberg's was close enough.

No doubt however we would have been much kinder to Mr. Steinberg. All we wanted was what was owing to us, namely those short-changed Pinky stamps.

The landmark case of *Salomon v. Salomon*, decided in 1897 by the House of Lords, affirmed this unjust and egregious corporate immunity principle. Creditors sued the company's principals for its debts. However, the court unanimously held that, as the company was an independent person with rights and liabilities of itself, and that "the motives of those who took part in the promotion of the company are absolutely irrelevant in discussing what those rights and liabilities are.

Thus, the legal fiction of "corporate veil" between the company and its owners was firmly established by the *Salomon* case. As Shakespeare might say, fie on the creditors.

The fallout of this ridiculous ruling has resulted in inestimable losses and damage to good people. It cost us a few well-deserved Pinky stamps.

One may ask what should be the responsibility owners in large corporations? I am talking public companies. I see little difference. All corporations have no soul to be damned nor a body to be kicked. I say the shareholders should always be responsible. For example I own a number of Apple shares. This makes me a part owner no doubt. I will say I do not flaunt my ownership status. I recently visited an Apple Store to have my cracked iPhone cover replaced. I did not say to the associate something like, "Ahem, I'm one of your bosses. I'll just help myself to that orange one there."

Yet if anybody were to make a claim against Apple, I consider looking to me for relief as fair ball. I don't have a double standard. I would never think of saying anything like, "ey. You can't sue me. Uh uh. Remember *Salomon v Salomon*."

My obligation should be proportional to my stake in Apple. And so if there is some class action resulting in a large judgment, I have no problem entertaining a notice from the corporation's lawyer saying, "Sorry but we got hammered. Please remit the amount of 17 cents."

This makes sense to me. I own up to my responsibilities. How I do my e-transfer.

It's been many decades since I had that childhood supermarket experience. Steinberg's is long gone. And we know it did not have a conscience. No company does. However, this simple matter could readily have been resolved satisfactorily had we as we should have, had an audience with Mr. Steinberg.

I did say I had a rhyme and reason for my just position.

Fie on the company. And on those Pinky stamps.

*Marcel Strigberger retired from his Greater Toronto Area litigation practice and continues the more serious business of humorous author and speaker. His book Boomers, Zoomers, and Other Oomers: A Boomer-biased Irreverent Perspective on Aging is now available in paper and e-book versions where books are sold. Visit [www.marcelshumour.com](http://www.marcelshumour.com). Follow him @MarcelHumour.*

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