Beyond *Buckley*

Corporate Political Spending on the Governors Assocations as a Function of Corporate Law and Power

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About the Critical Corporate Theory Collection

The Critical Corporate Theory Collection is part of the *Systemic Justice Journal*, published by the Systemic Justice Project at Harvard Law School. The Collection is comprised of papers that analyze the role of corporate law in systemic injustices. The authors are Harvard Law students who were enrolled in Professor Jon Hanson's Corporations course in the spring of 2021.

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ABSTRACT

The problem of corporate political spending through the Governors Associations (GAs) has often been viewed exclusively as a problem of federal campaign finance law. By this account, abundant corporate GA spending represents one consequence of a permissive federal campaign finance regime entrenched by *Buckley* and *Citizens United*.

The conventional focus on federal campaign finance law fails to adequately explain why corporate GA spending persists amid mass public disapproval of corporate PAC spending and why the GAs can operate only in certain states.

To refine the conventional account, this paper proposes that the spending continues because two groups—state judges and shareholders at donating corporations—permit it to continue under the influence of corporate power and the constraints of corporate law. State judges play a large role in determining whether the GAs can operate in their states and may themselves be overly influenced by corporate contributions in their permissive interpretations of applicable state campaign finance law. Moreover, shareholders, in general, may not (1) share in the public disapproval of corporate PAC spending, (2) know about the spending, or (3) be incentivized or legally permitted to control the spending.

Shareholders may still be capable of controlling the spending by conditioning spending categories on their authorization or demanding greater disclosures from management. Consumers have also shown promise as stakeholders capable of successfully pressuring corporations to curtail PAC spending. To mobilize consumers, further work would likely have to be done to publicize and concretize links between corporate GA donations and harmful policymaking.

Beyond *Buckley*

Corporate Political Spending on the Governors Associations as a Function of Corporate Law and Power

INTRODUCTION

The Problem of Corporate Political Spending on the Governors Associations

In October 2014, Larry Hogan, the Republican candidate in Maryland's gubernatorial election, was in a tight spot. He was in a close and fast-closing race with his Democratic contender, Lieutenant Governor Anthony Brown. Hogan needed an eleventh-hour boost to win, and Republicans were eager to avenge the fourteen-point drubbing the Democrats dealt them in the state's last run for governor.[1]

The Republican Governors Association (RGA), the national political action committee (PAC) dedicated to assisting Republican governor candidates, had taken note of Hogan's situation. It proposed a $500,000 ad campaign to help. By late October, the RGA had begun its ambitious ad campaign in the state. In early November, Hogan prevailed.[2]

The ad campaign's principal financial support did not come from individual donors or even Marylanders. It was the giant poultry corporation Mountaire, called on by the RGA, that provided $250,000 on October 31. While Mountaire did not explicitly designate the funds for the campaign, its stake in the election was obvious. It raises millions of chickens in Maryland and faced strict environmental regulations in the state, regulations Hogan had publicly criticized. On inauguration day, Hogan blocked certain environmental regulations opposed by the poultry industry and later approved more favorable rules.[3]

Successful election-influencing efforts by the RGA and its Democrat counterpart, the Democratic Governors Association (DGA), are often cited as antidemocratic injustices enabled by corporate political spending through the Governors Associations (GAs).[4]

American voters disapprove of and are discouraged by such efforts. There exists a broad bipartisan consensus among American voters that corporate PAC spending leads to political corruption. Nearly seven in ten American voters want super PACs to be illegal. And this perception comes with real consequences for the functioning of American democracy. As a result of their views on corporate PAC contributions, Americans report lower levels of trust in government and lower likelihoods to vote.[5]

The perception that corporate money corrupts lawmakers is not misplaced. That perception has specifically been reinforced by actions of governors that followed generous corporate GA contributions. In 2014, for example, pharmaceutical corporation Centene donated more than $150,000 to the DGA, which spent $500,000 on Democratic incumbent Maggie Hassan's reelection campaign. After she was reelected, Governor Hassan worked to approve a multimillion-dollar state contract with Centene, which would also assist in a state-run insurance program under Hassan. That same election season, on the Republican side, Wynn Resorts gave $2,000,000 to the RGA, which then relayed an even greater sum to a PAC supporting the election of Charlie Baker as Massachusetts governor. Wynn Resorts was depending on the defeat of a state anti-gambling referendum to execute its plan to build a Massachusetts casino; the referendum was defeated after Baker was elected.[6]

Vignettes like these may seem like lurid but exceptional instances of corporate influence through the GAs—one-off stories fit for sensationalist newspapers pieces. Statistical realities, however, suggest this avenue of corporate influence is entrenched, spread across states, and truly substantial. See, for example, the shares of corporations among top GA donors and the sums of money involved. In 2018, fifteen of the top twenty donors to the RGA were corporations, contributing more than $25,000,000 to the organization. That same year, nine of the DGA's top twenty donors were corporations, together contributing more than $7,000,000.[7] Both organizations, in turn, lavish millions on gubernatorial races nationwide.[8] In 2010, for instance, the DGA or RGA was the largest or second largest spender in ten states' gubernatorial elections.[9]

Governors have far-reaching power to influence policy in critical areas as diverse as criminal justice, education, and public health. Further, at that state level—and as a general, empirical matter—corporate campaign contributions can induce lawmakers to adopt policies that benefit corporations at the expense of individual citizens. Rent-seeking corporations exchange campaign contributions for favorable state government contracts and tax treatment, leading to an inefficient allocation of taxpayer money. Corporate contributions are withheld from candidates or spent on competitors to discourage public-health statements and policies beneficial to individual health but injurious to bottom lines of tobacco, alcohol, and food corporations. Whatever their climate-conscious public statements suggest, corporations give more money to elected officials obstructing Earth-conserving and profit-decreasing environmental policies than those pushing green agendas protecting natural resources and natural persons.[10]

Continued corporate GA spending bears a two-part bottom line for American society and democracy. If one accepts that state policies preferred by corporations may not be preferable for individuals, abundant corporate political spending through the GAs is a significant societal problem. If GA spending confirms or exacerbates broader, voter-held views on corporate PAC spending that discourage civic trust and participation, it is also a significant problem for America democracy.

THE CONVENTIONAL EXPLANATION

Corporate Spending on the Governors Associations as a Problem of Federal Campaign Finance Law

The problem of excessive corporate influence through GA contributions has often been viewed primarily, if not exclusively, as the unfortunate creature of federal campaign finance law post-*Citizens United*. That view crops up in the news, is assumed at think tanks, and has guided scholarship on the issue.[11] According to that essentially legal account, corporate spending through the GAs represents one pernicious effect attributable to two ultimate causes: the two Supreme Court campaign finance cases *Buckley v. Valeo* (1976) and *Citizens United v. FEC* (2010).

The gist of the legal account goes as follows. In 1976, *Buckley* did away with limits on political campaign expenditures as unconstitutional constraints on free speech. The Court's decision in *Buckley* did place limits on contributions to political committees, organizations "the major purpose of which is the nomination or election of a candidate."[12] However, as discussed at greater length below, it remains unsettled whether the GAs always meet that definition in individual states. Later, the Court decided in *Citizens United* that bans on corporate political spending should be nixed on First Amendment grounds.[13] The upshot of the conventional account follows straightforwardly. *Citizens United* lets corporations spend with abandon on the GAs; *Buckley* lets the GAs generously fund governor candidates and the organizations supporting them.

When the causal attribution of GA spending rests so completely on *Buckley* and *Citizens United*, many solutions appear unworkable until the Supreme Court overturns or deeply modifies the cases' holdings. This focus on Supreme Court precedent is a discouraging schema, too, because it leaves little room for democratic or grassroots solutions.

The *Buckley-Citizens United* schema is an illusion and a distraction. Primarily treating corporate political spending through the GAs as a federal campaign finance law problem tells us what makes the problem legally possible. The campaign finance lens is not as useful, however, in telling us why the problem persists. The fixation on *Citizens United* and *Buckley* does not immediately tell us why the GAs, as national PACs, are able to legally operate, spend, and influence elections in some states but not others. Nor does simple legal permissiveness post-*Citizens United* explain why the spending continues despite overwhelming public disapproval of corporate money in politics and corporate spending on PACs.[14]

This paper seeks to better explain the problem's persistence. It does so by broadening the analytical lens to scrutinize three possible and overlooked sources of influence over continued corporate GA spending: the state judiciary, shareholders of corporations who give money to the GAs, and the non-shareholding consumers buying from those corporations. Each possible source will be addressed in turn with an eye towards (1) how corporate law and power shape its influence on GA spending and (2) its potential to be a source of solutions to the spending.

CORPORATE SPENDING ON THE GOVERNORS ASSOCIATIONS AS A FUNCTION OF CORPORATE LAW AND POWER

The State Judiciary's Captured Role in Permitting Corporate Spending on the Governors Associations

State legislators may bear the primary responsibility for defining state campaign finance law, including its state PAC definitions and corporate contribution limits. But state judges' interpretation of this law determines whether the GAs qualify as state PACs and can relay corporate contributions to campaigns in a given state. In fact, state judges, not state legislators, have been the only state officials to have addressed, head-on, the state PAC status of the GAs.[15]

A persistent circuit split on the applicability of *Buckley* has given certain states' judges little guidance—and great responsibility—in determining whether organizations like the GAs are PACs. The split essentially rests on judicial disagreement over the "major purpose" language in *Buckley*—that is, whether election advocacy needs to be *the* or just *a* major purpose of an organization to warrant its regulation as a PAC. The GAs are harder to regulate as PACs in states belonging to circuits that espouse the latter, less-restrictive interpretation.[16]

Considering the pivotal implications of the circuit split, it is surprising that the state judiciary has been overlooked as a facilitator of corporate GA spending.

The oversight is all the more surprising given the notoriety of another avenue of corporate political spending: abundant corporate contributions to candidates in state judicial elections, the method of judge selection in the vast majority of states. If it is easy to accept causal links between corporate GA contributions and capture in state executive decisions, it should also be easy to accept capture of state judicial decisions through corporate contributions.

The ease of that inference rests on a robust theory supported by ample data. The vast majority of state judges are selected by election, and, as noted in a seminal Brennan Center study on corporate money in judicial elections post-*Citizens United*, corporate spending on judicial elections is widespread, enormous, and affects the ability of elected judges to remain impartial and independent on the bench.[17] Nor has the flow of corporate money in judicial elections showed signs of slowing. Across the country, state judicial elections in 2020 saw record-pushing amounts of special interest and corporate spending.[18]

Critically, it is not a merely theoretical possibility that elected judges would be more likely to make decisions favorable to those who contributed to their campaigns. Numerous empirical studies suggest that elected judges do, in fact, engage in contributor-skewed decision-making. And evidence specifically shows that judges who accept significant corporate campaign money tend to make decisions favorable to corporations once on the bench.[19]

Corporate spending on judicial elections, at least in theory, gives itself to a self-reinforcing and difficult-to-break loop of influence on campaign finance law. Corporations give money to judicial candidates. Successful candidates, whose reelection or retention campaigns will depend on corporate money, make decisions protecting corporate political spending. Contenders in subsequent judicial elections depend on and solicit corporate money to mount viable challenges. Contenders who end up winning hope to remain on the bench and engage in the same pro-corporation decision-making in campaign finance law cases. The next election approaches, candidates face unchanged incentives, and the cycle repeats.

Corporations collectively face no incentive to curtail political spending on judicial elections, and judicial candidates individually face no incentive to deny corporate campaign contributions. So from what societal corner might a cycle-breaker come, to restrict contributions to both judicial campaigns and the GAs?

Shareholders' Incentives and Abilities to Rein in Corporate Spending on the Governors Associations

Of all stakeholders, shareholders appear to be in the best and most privileged position to rein in GA political spending at contributing corporations. Whatever the GAs' legal status as PACs in individual states, shareholders are the principals immediately involved and have the power to revoke authorization of political spending or at least demand its curtailment.

For shareholders to fill this role, a few assumptions must hold in reality and at the relevant corporations. First, a quorum of shareholders at GA-contributing corporations must share in the widespread public disapproval of corporate PAC spending. Second, disapproving shareholders must know their management is spending on GAs. Third, shareholders must be adequately incentivized to overcome—and actually overcome—common collective-action problems to successfully demand that management end or curtail the spending.

The first assumption—whether shareholders join in the public disapproval of PAC spending—seems unsure at first glance. No survey data exists to indicate whether shareholders of GA-contributing corporations disapprove of corporate spending on PACs in general or the GAs in particular. But social psychology and hard economic benefits suggest that they probably do not disapprove, at least where it counts (i.e., for their own management's GA spending).

Shareholders may approve of GA spending because they accept it—and accept corporate political spending generally—as legitimate. Authority underlies and legitimizes corporate political spending at each stage, from management authorization to election-season layouts. Corporate GA spending is legal. It is consistent with *Citizens United*, *Buckley*, and (often) state campaign finance law. It is duly authorized by duly elected corporate management. And social psychological research suggests that the spending's very compliance with rules set by recognized authorities and institutions has a "procedural justice effect" in the minds of observers, who are consequently more likely to view the spending as legitimate. A sense of legitimacy, in turn, gives observers a sense of personal obligation to defer to legitimate decisions.[20]

And even if shareholders disapproved of corporate GA spending as a general matter, a prevailing group commitment to increasing share value would make any one of them loath to voice her disapproval.

However unclear the relationship is between GA spending and share value, the general received wisdom is that corporate political spending boosts share value. To cite a landmark suggestion of that wisdom: In 2010, a trio of prominent business professors found a strong and positive correlation between corporations' spending on U.S. political campaigns and various measures of share value over a twenty-five-year period (1979-2004).[21] Further, the long and open persistence of corporate political spending implies some level of shareholder belief in this received wisdom and support for political spending's purported benefits.

Assume the increase of share value to be the primary group value of shareholders. If that assumption holds, then social psychology of groups hints that shareholders may be both insulated from the broader public disapproval of corporate PAC spending and less likely to express and act on disapproval they may actually possess. After all, sooner or later that approval would have to be brought out into the open in, for instance, a demand letter or annual general meeting to request that management stop or cut back on GA donations.

Psychologist Dale Miller's widely-cited study of values and group dynamics is instructive here—that is, in the case of corporate GA spending as a reflection of an in-group (i.e., shareholder) value openly disapproved of by out-group members (non-shareholders, the broader American public). The value here is an inferable shareholder commitment to profit at the cost of harms associated with corporate PAC spending. Miller's study suggests that the in-group may not react negatively by perceiving disrespect in an out-group's rejection of an in-group value. So broad out-group disapproval of PAC spending may not induce shareholders to reassess and retract support for the spending.

The script is critically flipped, however, when an in-group member contravenes an in-group value, especially a value affecting in-group resource allocation. If that happens—if one shareholder started hinting to others that the corporation should cut back on GA spending, a perceived tradeoff of profit for social responsibility—she can expect her views to be met with indignation and even anger.[22] In light of the psychological obstacles, many otherwise bold shareholder activists may decline to be the first to openly condemn GA spending.

Of course, talk of the possibility of GA-focused shareholder activism is putting the cart before the horse if it cannot be established that shareholders know about the spending. And among many of America's largest publicly traded companies, shareholders may not have access to adequate information to identify, let alone solve, a spending problem. At the time of writing, no federal law mandated corporate disclosure of political spending, and only about half of S&P 500 corporations disclosed some or all political spending. The number of corporations prohibiting contributions to PACs is increasing. But some of the principal corporate donors to the DGA (e.g., Centene and UnitedHealth Group) and RGA (e.g., Nike and Las Vegas Sands) score low on assessments of disclosures and policies on corporate political spending—that is, if these donors disclose GA contributions fully, consistently, or at all.[23]

The third assumption that must be fulfilled to count on shareholders—that they are adequately incentivized and organizationally capable of controlling GA political spending—also does not seem to reliably hold.

The assumption may not hold because of an unhappy combination of the numerical facts and unfriendly legal rules at play. The biggest GA-donating corporations have some of the biggest bodies of shareholders. Shareholders of these large corporations are both prone to ordinary principal-agent problems from management's political spending and less able to overcome collective-action problems to implement greater monitoring and authorization. Corporate law may also generally pose obstacles to greater shareholder visibility into and monitoring of political spending.

First, given that corporate political spending is generally and positively correlated with share value, does corporate GA spending really seem susceptible to principal-agent problems through conflicting management and shareholder interests? Despite often-deficient information on corporate GA spending, it does seem easy to accept in theory that corporate GA spending would give itself to principal-agent problems.

If one accepts the traditional notion that shareholders are uniquely vulnerable and uniquely in need of protection from self-dealing management, political spending through the GAs appears to present a case in point. Often unencumbered with disclosure, supported by shareholder beliefs that political spending generally increases share value, and enticed by the extent of political influence ready for capture in governors, management's decisions on GA spending seem ripe for principal-agency problems. Indeed, when political spending concerns election campaigns in particular, empirical work suggests that managers are more likely to spend in ways that will increase their own professional and political influence without regard to shareholder sentiment or company value.[24]

Fiduciary obligations are no perfect preventative to this self-dealing, especially when it appears that political spending is done in the shareholders' interest in boosted share value. Increased monitoring and tighter authorization controls are often trotted out as the best solutions to tighten the principal-agent leash. But the shareholders' "corporate democracy" may be hamstrung by collective-action problems, at least when it comes to shareholder demands for the disclosures required for enhanced monitoring.

Proactive shareholder activists must navigate costly and timeconsuming corporate procedures to formally propose action on management's political spending. And even after managing to create a proposal on spending and submit it for a vote, the activists must bear the costs of amassing sufficient support among other shareholders whose political preferences and commitment to share value may counsel against restricting management's GA contributions. This collective-action problem is exacerbated empirically by the size of the corporation and intuitively by the personal-political difficulties of curtailing spending on partisan organizations like the GAs.[25]

Yet mustering a sufficiently large coalition of shareholders to take action on GA spending may not be enough to mandate greater disclosure. In Delaware and many other jurisdictions, unless shareholders can present evidence that they have a "proper purpose" to access corporate records of GA spending, management can decline to disclose such records and expect courts to support them in that decision. The reason is that the "proper purpose" often must be to investigate wrongdoing or mismanagement. Management decisions on GA spending that do not clearly harm share value and bottom lines or raise conflict-of-interest issues would not justify disclosure, however unjust and societally harmful the spending may be.[26]

Legal, political, and economic obstacles may prevent shareholders from easily demanding greater disclosures of and control on management GA spending. Still, there are shareholder-based solutions that neither require specific foreknowledge of GA spending nor raise political, "proper purpose," or share-value concerns that may come with specifically targeting GA spending. To tighten the principal-agent leash and assert greater control, shareholders may just demand that all management political spending be subject to their authorization (or at least certain broad categories of that spending).

Even from a hard economic perspective, the authorization route is compelling as it would not require the diversion of so much of the corporation's resources to succeed—that is, run-ups of the classic "agency costs" involved in shareholders continually monitoring management's spending and management continually proving compliance to shareholders. That is because shareholders and managers can contractually agree, before any money leaves corporate coffers and without the agency costs of item-by-item authorization, certain categories of spending will be subject to shareholder authorization.

One notable variant of this approach is known as the shareholder proposal settlement, a contractual agreement by which shareholders exchange their right to put qualifying proposals up for shareholder votes for a social policy commitment from management. This approach is particularly promising because it has been shown to be specifically effective in prohibiting political spending by management on PACs like the GAs.

The proposal settlement route is also promising because, even if management publicly expresses opposition to shareholder proposal demands to refrain from certain political spending, management can be held to account as to the contents of their statement. For example, in a 2015 proxy statement, FedEx management included in its statement of opposition to a shareholder proposal demand that the corporation did not spending money on certain PAC activities. If it was later shown that that statement had been false, FedEx would be open to potential liability under a certain SEC disclosure rule.[27] The deterrent effect of this potential liability would at least lead management to be more forthcoming in its disclosures of political spending, disclosures that could be elicited by shareholder demands, as in the FedEx case.

The major drawback to the shareholder proposal settlement route is that it has the potential to be ineffective during election times. The emerging standard on corporate disclosures secured by the settlement route is for disclosures on political spending to follow the corporate reporting cycle. The consequence is that critical political spending information on, say, a presidential election in November may not be disclosed until a corporation's year-end disclosures in late December.[28]

All things considered, counting on shareholders to control corporate GA spending may still seem too tricky legally and incentive-wise, too dependent on contingencies, and requiring too much faith in theory. Yet there is another set of stakeholders that comes backed by success stories in curtailing corporate PAC spending: consumers.

Consumers' Ability to Pressure Corporations to Curtail Spending on the Governors Associations

Where shareholders may accept the legitimate and legitimating authority of the corporate management they elected, consumers of GA-contributing corporations may not. As a result, they may not view GA spending as legitimate and may be the best bet to pressure corporations to rein in the spending. Legitimacy has been called a "system-level attribute," and if the system in which GA spending is legitimate is just internal to the corporation, then consumers may not be so deeply captured as shareholders.[29] The public opinion data showing a general public disapproval of corporate PAC spending seems to bear out that conclusion.[30] Further, non-shareholding consumers do not face shareholders' compelling economic incentive in boosted share value in pressuring corporations to cut back on GA spending.

Consumers have already proven an ability to successfully demand an end to corporate PAC spending. To cite one high-profile instance: In 2010, consumers organized a boycott against Target after the retailer gave $150,000 to the PAC MN Forward. That PAC's support for Tom Emmer was well known and notorious to Target consumers—Emmer was the Republican candidate in Minnesota's 2010 governor race and an open antagonist of same-sex marriage. In response to the boycott, Target's CEO Gregg Steinhafel issued a public apology (and Target presumably ceased spending on MN Forward).[31]

Placing hope in consumers is met with an obvious counterquestion. If there are already some corporations known to give hefty sums to the GAs, why have consumers never mobilized against them? Perhaps the reason is that, unlike the clearly traceable line between Target's PAC donation and a politician's support for an unpopular social policy, the links between corporate GA donations and unjust or harmful policies are just too attenuated, obscure, or unclear.

Notably but unsurprisingly, what little work has been done on links between GA donations and unjust policies can be spotty, speculative, and correlational.[32] The political favoritism that may follow donations is not corruption but is still not something to be broadcasted. So the assumption that corporate GA spending is harmful and problematic can only rest on (1) general empirical findings that corporate political spending promotes unjust policies in state governments and (2) attenuated accounts of large GA donations being followed by favorable but socially harmful actions from benefitting governors. If sunlight is the best disinfectant, then the challenge would be to do more investigative work to publicize and concretize the links between corporate GA spending, related corporate influence on governors, and the social harms that result.

CONCLUSION

The problem of corporate political spending through the GAs has often been viewed exclusively as a consequence of an overly permissive regime of federal campaign finance law. As this conventional account goes, after *Citizens United* and *Buckley* adjusted or removed restrictions on corporate contributions to PACs, abundant political spending through the GAs inevitably followed from corporations enticed by the substantial power to be captured in governors. By this account, many solutions appear unworkable until the Supreme Court strikes at the problem's root by overturning or modifying *Citizens United* and *Buckley*.

The problem with the conventional focus on federal campaign finance law is twofold: That account does not explain how corporate GA spending has persisted in the face of mass public disapproval of corporate PAC spending and why the GAs can operate in certain states but not others.

This paper proposes that the spending continues because two groups of actors—state judges and shareholders at donating corporations—permit it to continue under the influence of corporate power and the constraints of corporate law. State judges play a large role in determining whether the GAs can operate in their states and may themselves be overly influenced by corporate contributions in their permissive interpretations of applicable state campaign finance law. Moreover, shareholders, in general, may not share in the public disapproval of corporate PAC spending, know their management is spending on GAs, or be adequately incentivized or legally permitted to control GA spending.

Consumers have shown an ability to pressure corporations to curtail PAC spending. To mobilize consumers, further work would likely have to be done to publicize and concretize links between corporate GA donations and harmful policymaking.

ENDNOTES

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[12] *Buckley v. Valeo*, 424 U.S. 1, 79-80 (1976). In this paper, I use the terms "political committee," "political action committee," and "PAC" interchangeably and always in the *Buckley* sense.

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[15] In the majority of those (admittedly few) cases, state judges held that the GA in question could not be regulated as a state PAC. *See Republican Governors Ass'n v. N.C. Bd. of Elections*, No. 04 BOE 2051 (N.C. Office of Admin. Hearings, June 30, 2005) (holding that RGA did not satisfy federal "major purpose" test to qualify as state PAC); *Vermont v. Republican Governors Ass'n*, 2014 WL 5795281 (Vt. Super. Ct. 2014) (holding that state PAC contribution limits should apply to RGA because there was no functional difference between RGA and Vermont-focused PAC it funded); *Republican Governors Ass'n v. Bell*, 421 S.W.3d 42 (Tex. App. 2014) (reversing trial court judgment that RGA was not out-of-state PAC and was subject to state PAC requirements).

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[19] *See, e.g.,* Skaggs, *supra* note 17; *see also* Damon Cann, *Justice for Sale? Campaign Contributions and Judicial Decisionmaking*, 7 STATE POL. & POLICY QUARTERLY 3 (2007); Billy Corriher, *Big Business Is Still Dominating State Supreme Courts*, CTR. FOR AM. PROGRESS (Sept. 2016).

[20] *See* Tom R. Tyler, *Psychological Perspectives on Legitimacy and Legitimation*, 57 ANN. REV. PSYCHOL. 375, 376, 381-82 (2006).

[21] Michael J. Cooper, Huseyin Gulen, and Alexei V. Ovtchinnikov, *Corporate Political Contributions and Stock Returns*, 65 J. OF FIN. 687 (2010).

[22] Dale T. Miller, *Disrespect and the Experience of Injustice*, 52 ANN. REV. PSYCH. 527, 534-35, 539 (2001).

[23] S*ee generally 2020 CPA-Zicklin Index of Corporate Political Disclosure and Accountability*, CTR. FOR POL. ACCOUNTABILITY (Oct. 13, 2020). https://politicalaccountability.net/hifi/files/2020-CPA-Zicklin-Index.pdf.

[24] *See* Marina Amado Bahia Gama, *With other people's money: Campaign financing as an agency problem*, 45(1) J. OF GEN. MGMT. 40 (2019); *see also* Lucian Bebchuk and Robert Jackson, *Corporate Political Speech: Who Decides*? 124 HARVARD L. REV. 83, 90-91 (2010).

[25] Reilly S. Steel, *Corporate Political Spending and the Size Effect*, 118 COLUMBIA L.REV. F. 1 (2018).

[26] For a recent overview of the "proper purpose" test as applied and interpreted in Delaware, *see* Tod Northman and Lauren Lipsyc, *The Boundary of "Proper Purpose" for Corporate Books*, AM. BAR ASS'N (Feb. 6, 2020), https://www.americanbar.org/groups/business_law/publications/blt/2020/02/corp-books-records/.

[27] Sarah C. Haan, *Shareholder Proposal Settlements and the Private Ordering of Public Elections*, 126 YALE L.J. 262, 262-71, 297 (2016).

[28] *Id.* at 317-18.

[29] Tyler, *supra* note 20, at 380.

[30]*See National Survey: Super PACs, Corruption, and Democracy*, *supra* note 5; *see also* Cillizza and Blake, *supra* note 5.

[31] Jackie Crosby, *Target apologizes for giving to group backing Emmer*, STAR TRIBUNE (Aug. 6, 2010), https://www.startribune.com/target-apologizes-for-giving-to-group-backing-emmer/100051999/.

[32] *See, e.g.,* Pulliam and Brody, *supra* note 2.