

Series: A Comic History of US Corporate Law

BREAKING

\$3

THE

CORPORATE VEIL!

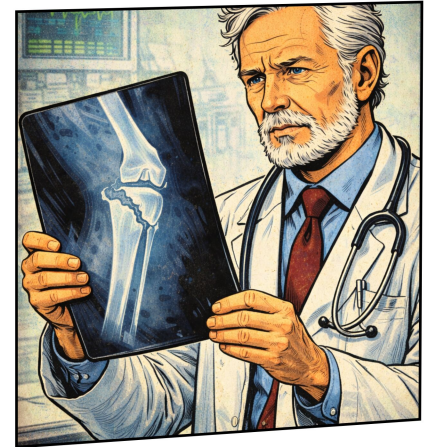


Story: Marco Ventoruzzo

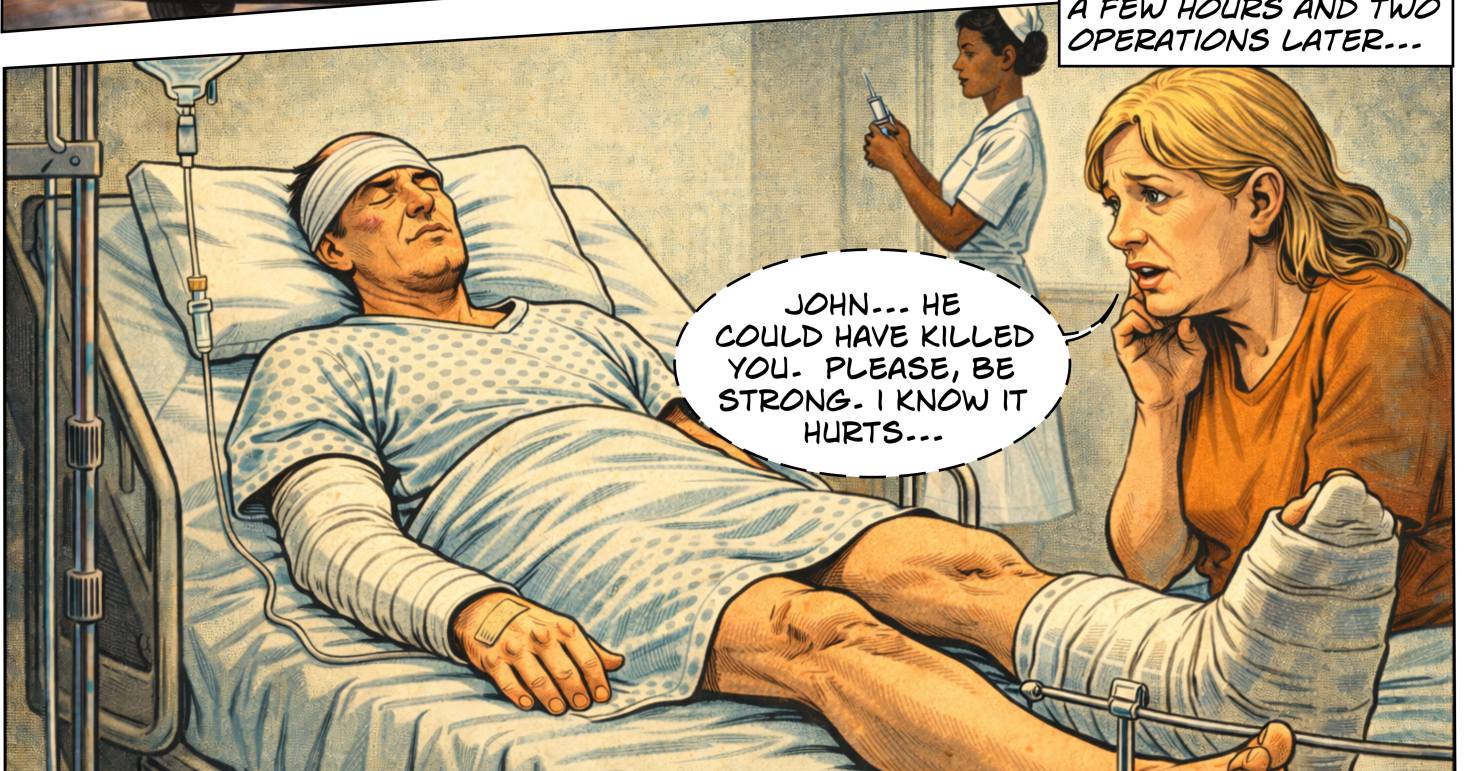
Drawings: ChatGPT

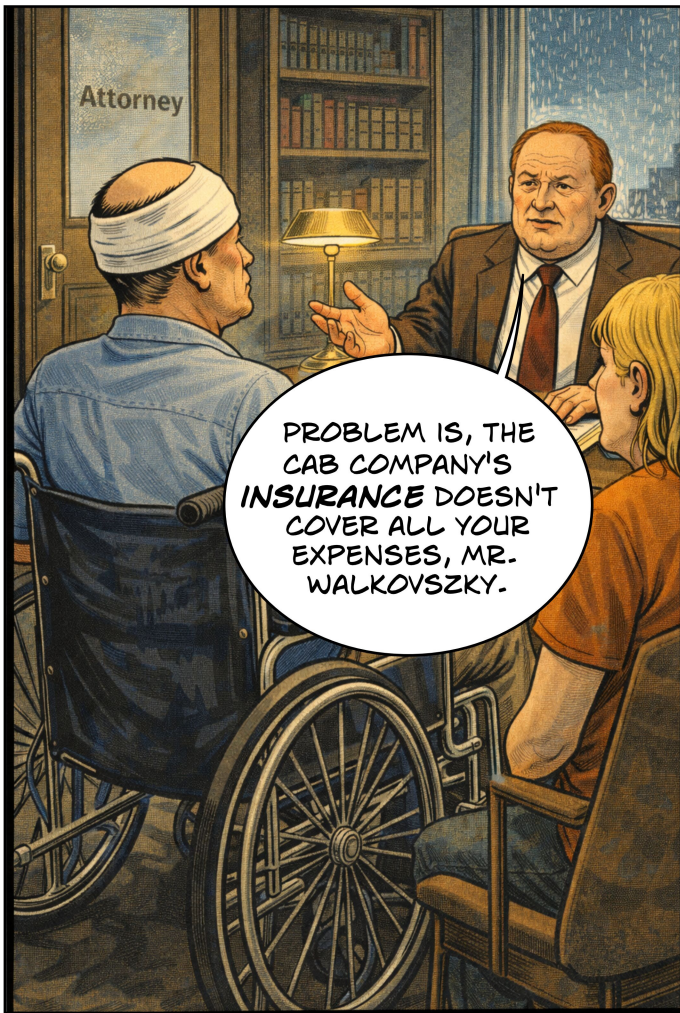
Lettering: MV through ComicLife





A FEW HOURS AND TWO OPERATIONS LATER...

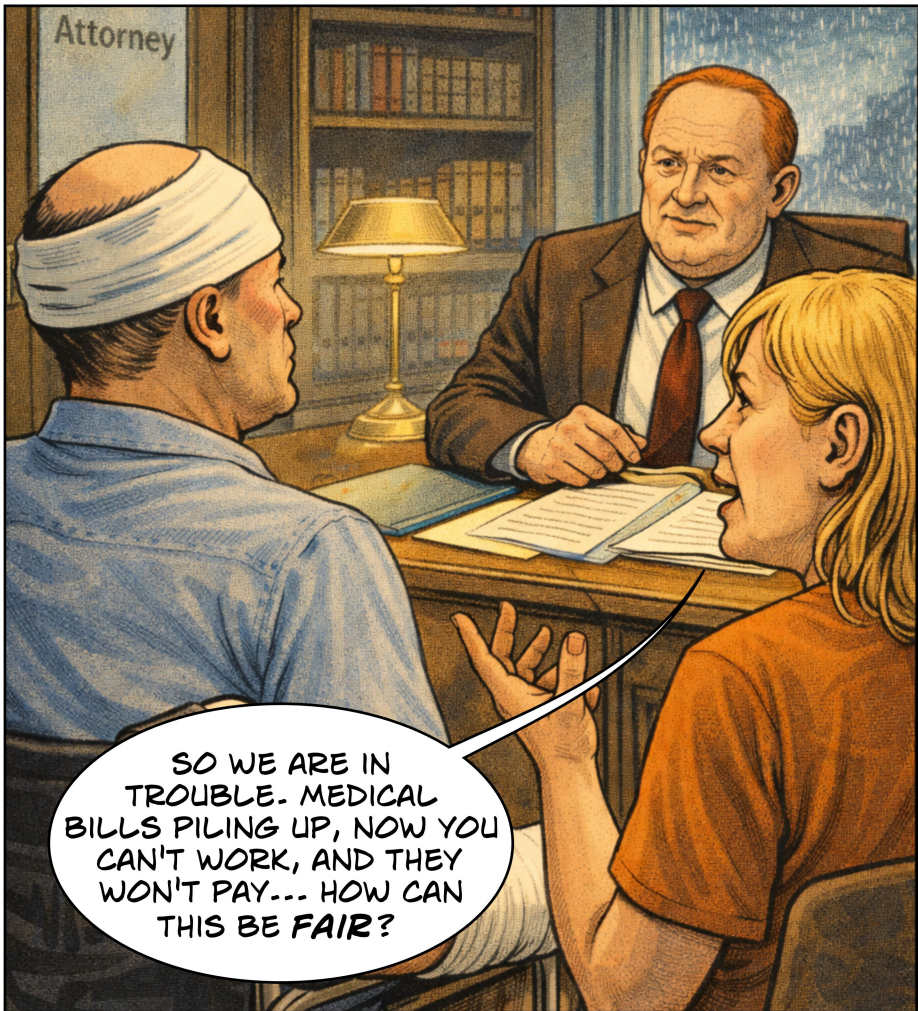




PROBLEM IS, THE CAB COMPANY'S **INSURANCE** DOESN'T COVER ALL YOUR EXPENSES, MR. WALKOVSKY.



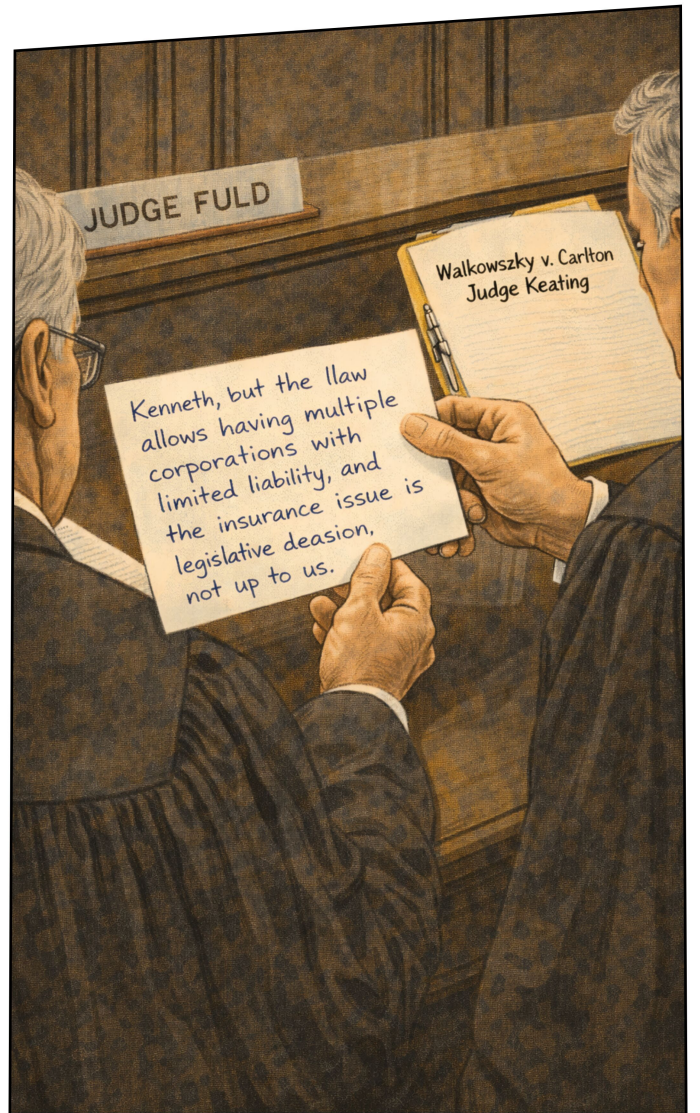
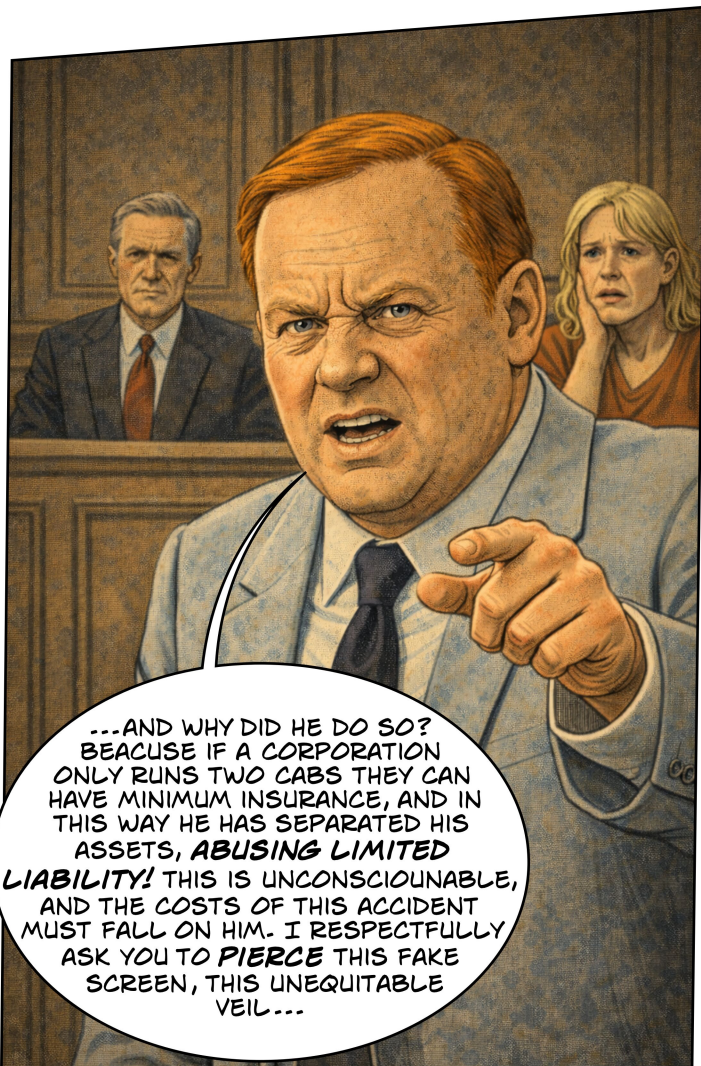
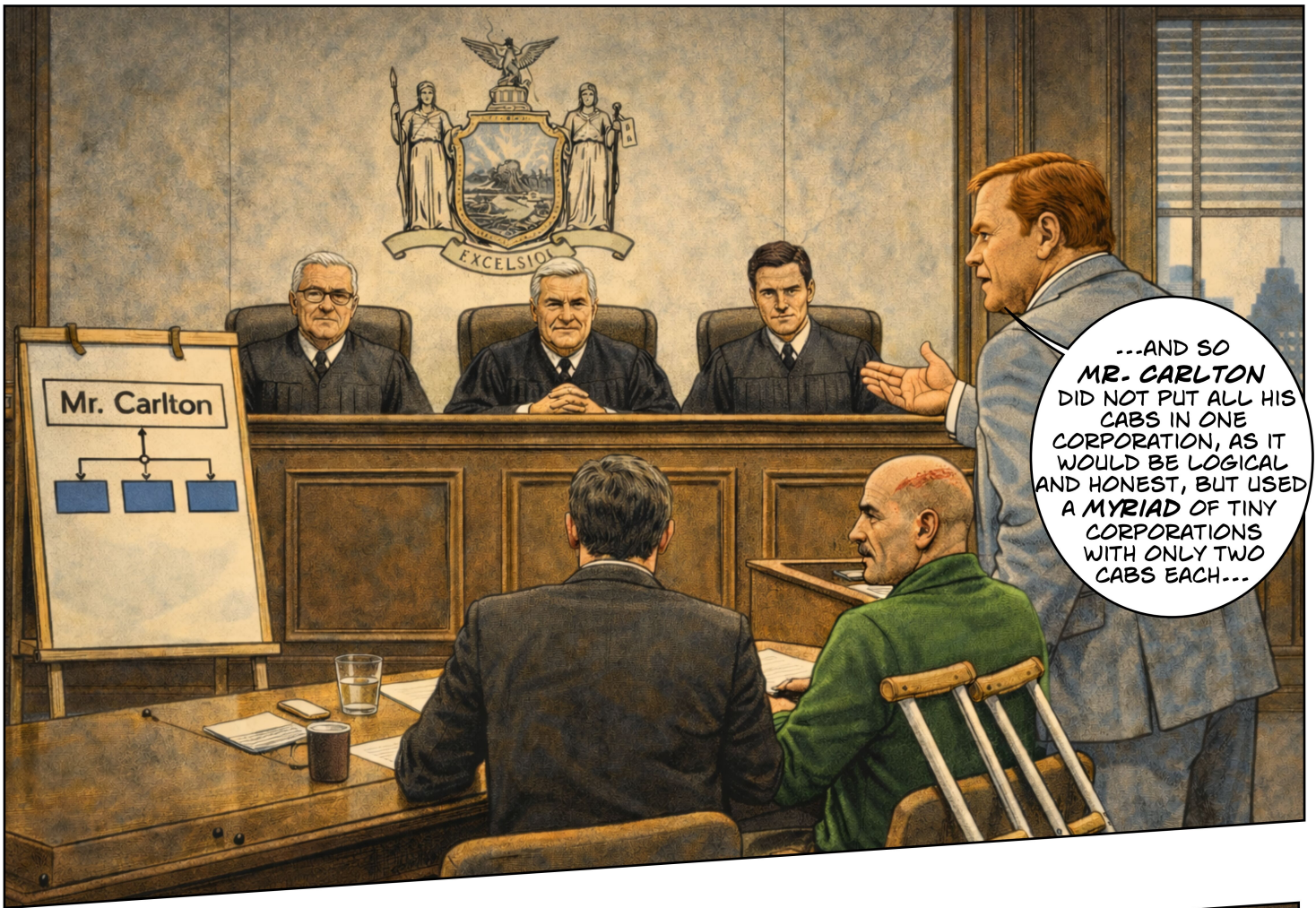
YOU SEE, THIS COMPANY OWNS ONLY TWO CABS. SO THE LAW REQUIRES IT TO CARRY ONLY MINIMUM INSURANCE. AND THE COMPANY ITSELF DOES NOT HAVE ENOUGH MONEY TO PAY YOUR DAMAGES. ---



SO WE ARE IN TROUBLE. MEDICAL BILLS PILING UP, NOW YOU CAN'T WORK, AND THEY WON'T PAY... HOW CAN THIS BE **FAIR**?



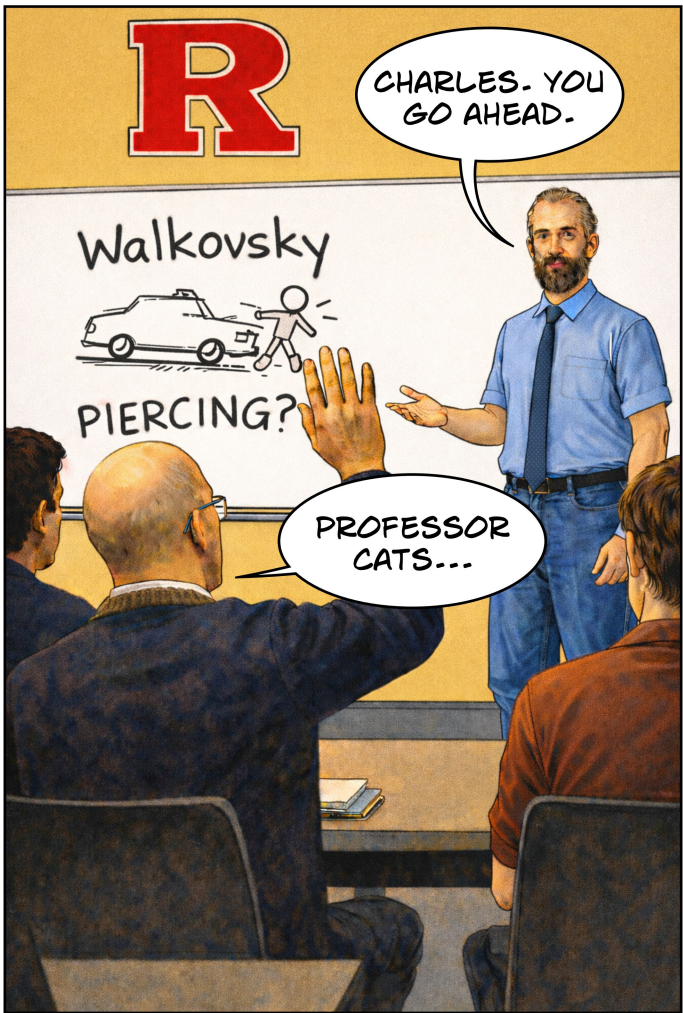
DO NOT DISPAIRE, MRS. WALKOVSKY. I HAVE AN **IDEA**... YOU, SEE, THE PERSON WHO OWNS OUR TAXI CORPORATION, IS A LITTLE TOO **CLEVER**...



THESE DAYS...

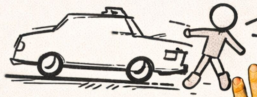


WHO WANTS TO VOLUNTEER AND WALK US THROUGH THE MAJORITY'S REASONING IN THIS CASE?



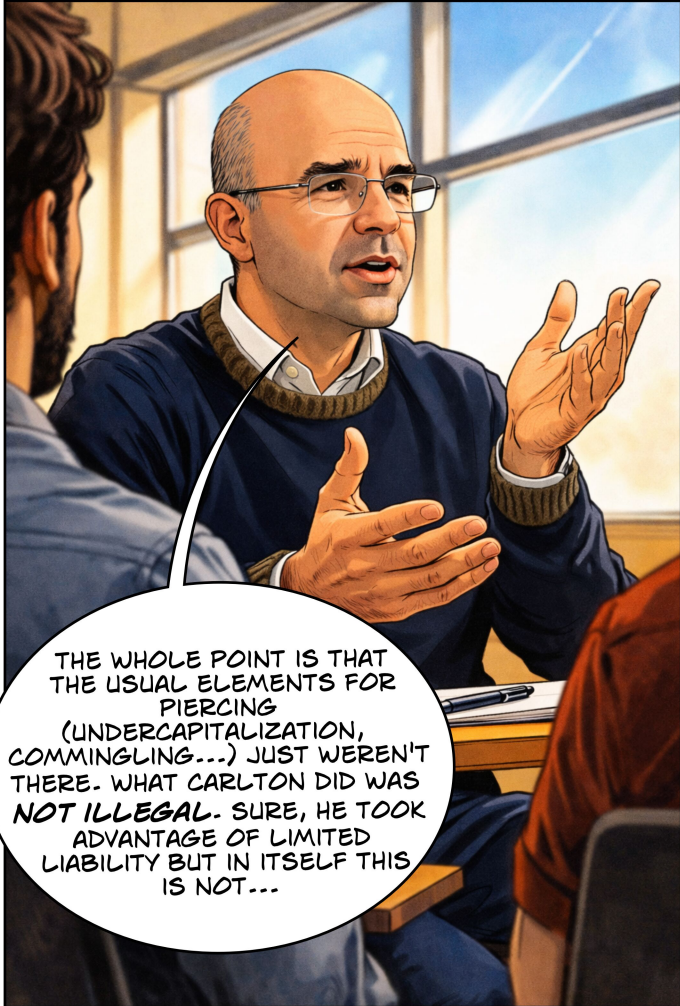
CHARLES. YOU GO AHEAD.

Walkovsky

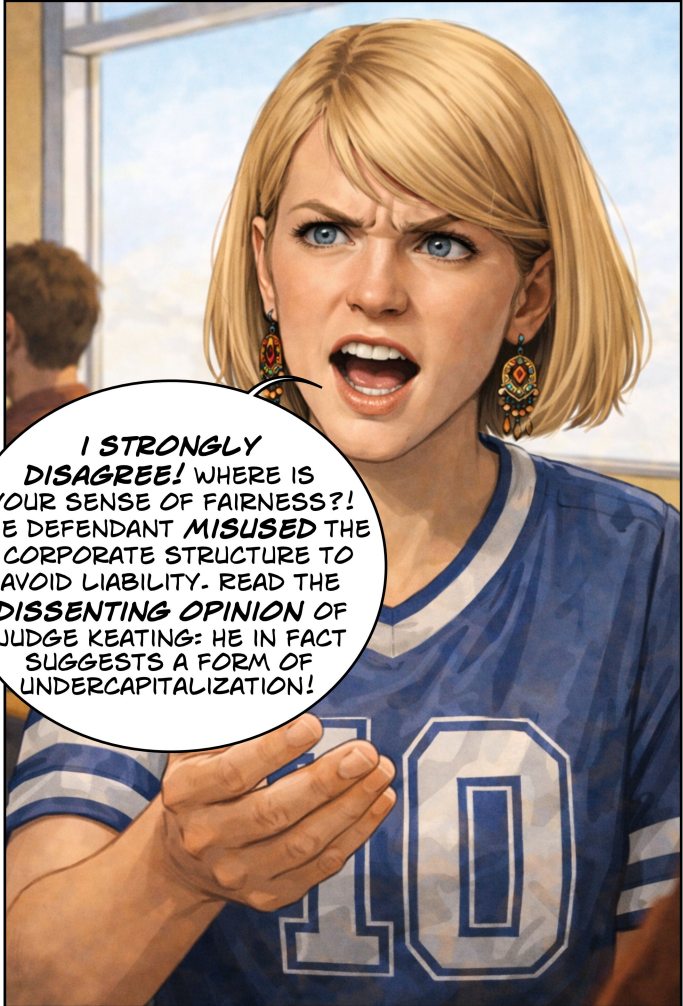


PIERCING?


PROFESSOR CATS...



THE WHOLE POINT IS THAT THE USUAL ELEMENTS FOR PIERCING (UNDERCAPITALIZATION, COMMINGLING...) JUST WEREN'T THERE. WHAT CARLTON DID WAS NOT ILLEGAL. SURE, HE TOOK ADVANTAGE OF LIMITED LIABILITY BUT IN ITSELF THIS IS NOT...



I STRONGLY DISAGREE! WHERE IS YOUR SENSE OF FAIRNESS?! THE DEFENDANT MISUSED THE CORPORATE STRUCTURE TO AVOID LIABILITY. READ THE DISSENTING OPINION OF JUDGE KEATING: HE IN FACT SUGGESTS A FORM OF UNDERCAPITALIZATION!



WELL, GUYS: FOR SURE THE **VERY PURPOSE** OF LIMITED LIABILITY IS TO SHIELD SHAREHOLDERS. IN THIS RESPECT THE POLICY CHOICE IS TO POTENTIALLY TRASFER SOME COSTS OF BUSINESS ON THIRD PARTIES, UNLESS THERE ARE REASONS TO PIERCE. HOWEVER IF PIERCING WERE **TOO EASY**, IT WOULD DISCOURAGE BUSINESS. WHEN IS "USING TOO MANY CORPORATIONS" AN ABUSE? ISN'T SHIELDING ASSETS PRECISELY WHAT THE LEGISLATURE ALLOWS?

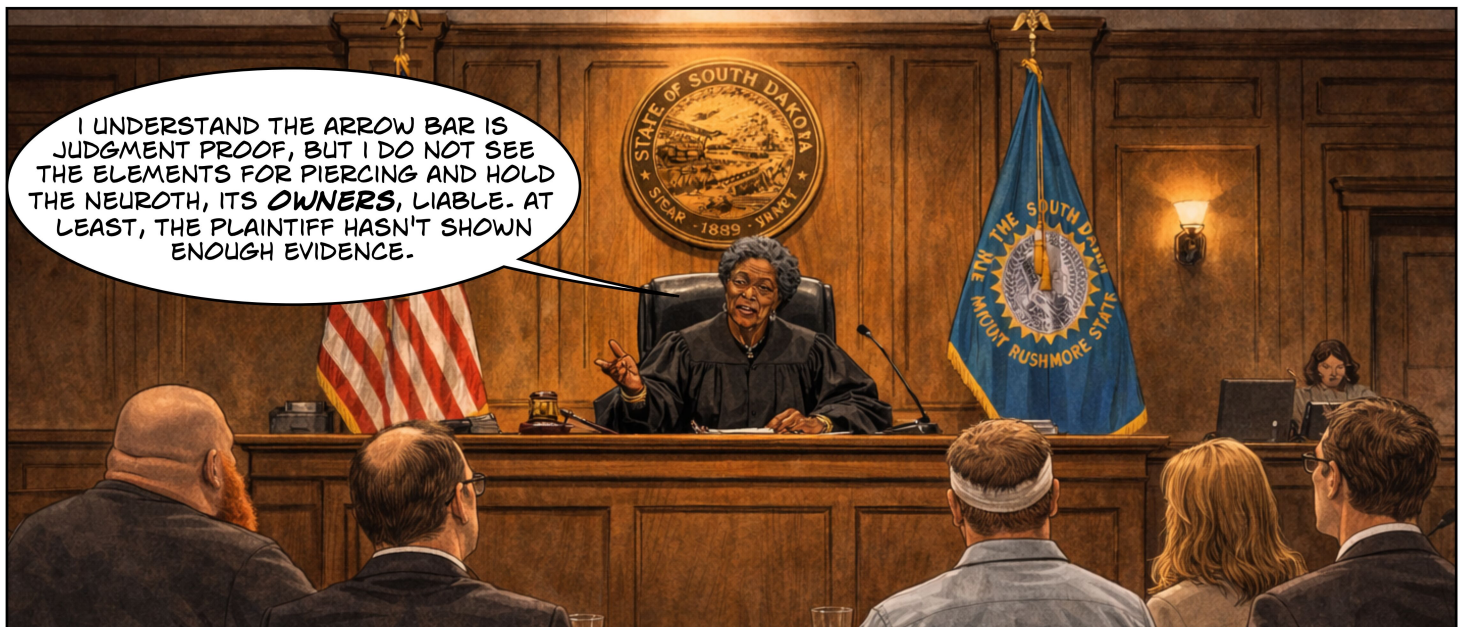
MANDATORY INSURANCE FOR RISKY ACTIVITIES CAN BE A SOLUTION. BUT HERE YOU SEE THE COURT'S POINT: IT IS A **POLICY** ISSUE.



OH YEAH, I READ THIS, IT'S MAYBE CALLED "ENTITY SHIELDING"...

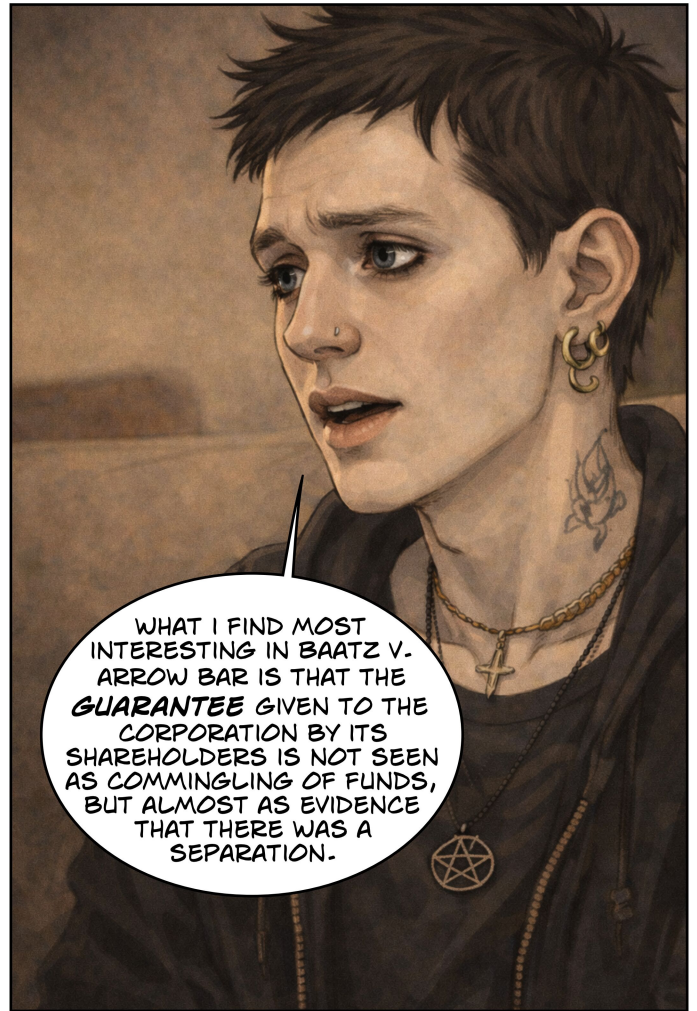
...ALSO:. CONSIDER THE PROTECTION OF OTHER INNOCENT CREDITORS. IF THE VEIL IS PIERCED, MR. CARLTON OR ANOTHER ONE OF HIS COMPANIES MIGHT HAVE TO PAY FOR THE ACCIDENT. WOULD **THIS** BE FAIR FOR A GOOD-FAITH CREDITOR WHO DID NOT KNEW HIS DEBTOR HAD A GROUP OF SMALL CORPORATIONS?

MORE OR LESS AT THE SAME TIME, AT A LAW SCHOOL ON THE WEST COAST...





THE BAR WAS LIABLE BECAUSE OF THIS "DRAM SHOP LAW" THAT SAYS YOU CAN BE RESPONSIBLE OF THE CONSEQUENCES IF YOU SERVE ALCOOL TO SOMEONE VISIBLY DRUNK! WE SHOULD BE CAREFUL WHEN WE HOST A PARTY...

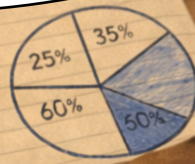
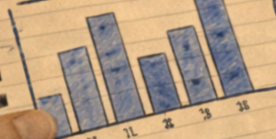


WHAT I FIND MOST INTERESTING IN BAATZ V. ARROW BAR IS THAT THE **GUARANTEE** GIVEN TO THE CORPORATION BY ITS SHAREHOLDERS IS NOT SEEN AS COMMINGLING OF FUNDS, BUT ALMOST AS EVIDENCE THAT THERE WAS A SEPARATION.



...AND LOOK AT THE **DATA** ON PIERCING. WHAT DO YOU THINK, IS IT MORE COMMON TO PIERCE THE VEIL WHEN YOU HAVE ONE OR FOUR SHAREHOLDERS? AND THIS IS EVEN COOLER: MORE PIERCING IF THE UNDERLYING CLAIM IS A **TORT**, OR A BREACH OF **CONTRACT**?

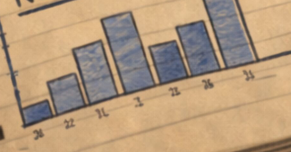
CASES PIERCED



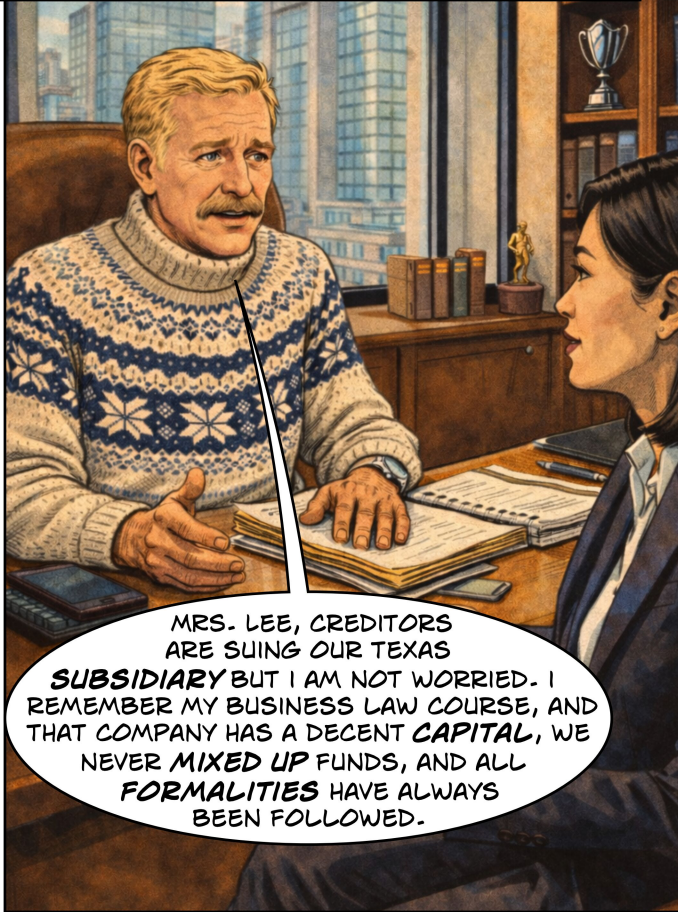
CLAIM: TORT



NUMBER SHAREHOLDERS



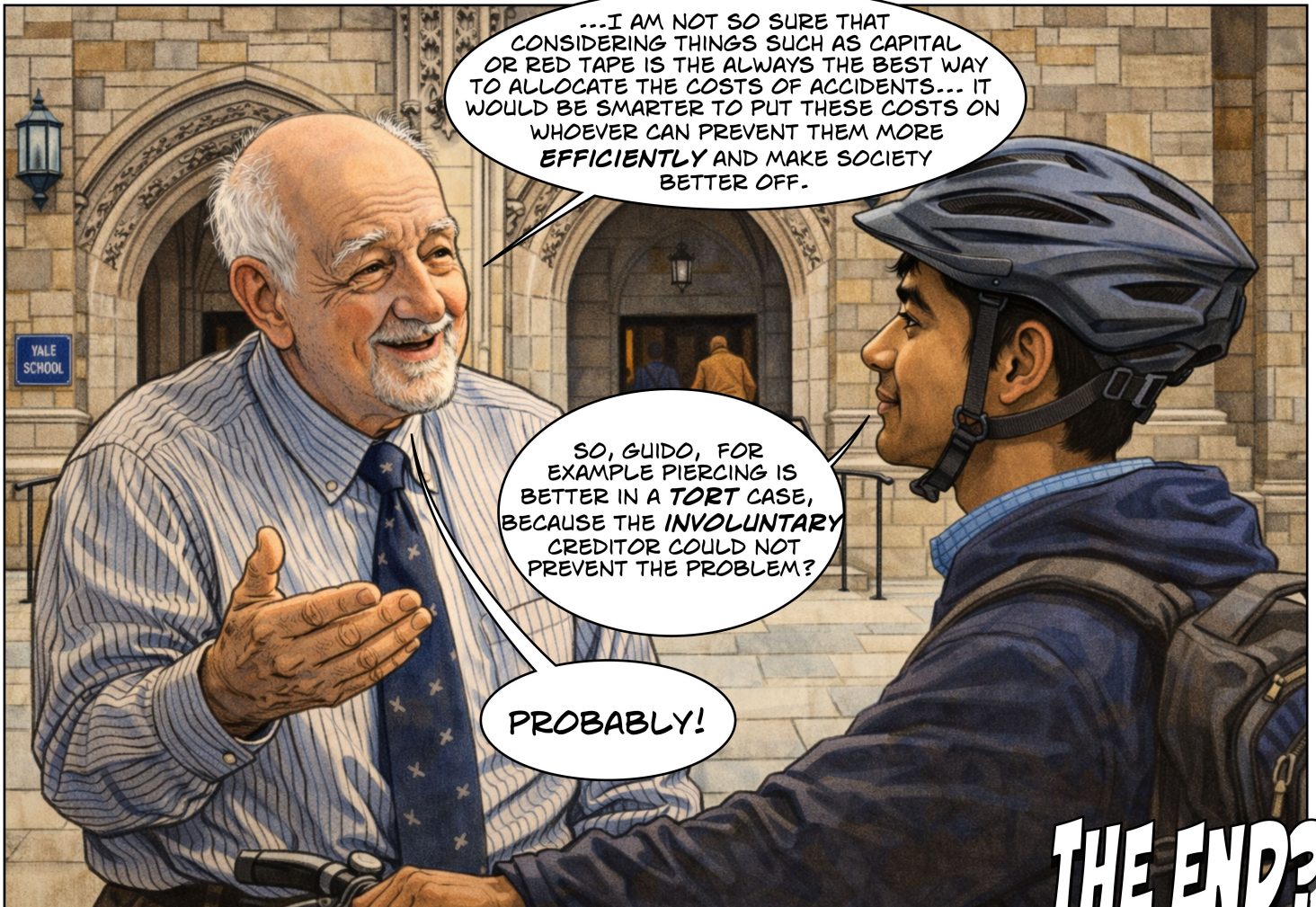
COURTS ARE RELUCTANT TO PIERCE THE VEIL, BUT YOU STILL HAVE TO BE CAREFUL. INCORPORATING IS EASY AND QUICK, BUT UNLIMITED LIABILITY IS ALWAYS LURKING...



MRS. LEE, CREDITORS ARE SUING OUR TEXAS **SUBSIDIARY** BUT I AM NOT WORRIED. I REMEMBER MY BUSINESS LAW COURSE, AND THAT COMPANY HAS A DECENT **CAPITAL**, WE NEVER MIXED UP FUNDS, AND ALL **FORMALITIES** HAVE ALWAYS BEEN FOLLOWED.



SORRY TO BREAK IT TO YOU, MR. RITTER, BUT THE TRADITIONAL TEST FOR PIERCING IS NOT ALWAYS ENOUGH. UNDER THE **ALTER EGO DOCTRINE**: IF THE HOLDING DOMINATED THE CONTROLLED ENTITY THAT HAD NO AUTONOMY, AND YOU CAUSED UNEQUITABLE DAMAGES, YOU MIGHT STILL BE IN TROUBLE. THIS IDEA ALSO EXISTS IN SOME EUROPEAN COUNTRIES AS A STATUTORY RULE.



...I AM NOT SO SURE THAT CONSIDERING THINGS SUCH AS CAPITAL OR RED TAPE IS THE ALWAYS THE BEST WAY TO ALLOCATE THE COSTS OF ACCIDENTS... IT WOULD BE SMARTER TO PUT THESE COSTS ON WHOEVER CAN PREVENT THEM MORE **EFFICIENTLY** AND MAKE SOCIETY BETTER OFF.

SO, GUIDO, FOR EXAMPLE PIERCING IS BETTER IN A **TORT** CASE, BECAUSE THE **INVOLUNTARY** CREDITOR COULD NOT PREVENT THE PROBLEM?

PROBABLY!

THE END?