

# Engineering, Ethics & Society: Engineering Ethics 2 - Philosophies

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Engineering 183EW, UCLA SEAS  
Lecture 3

# Lecture Contents

- Introduction
- 5 Key Ethical Philosophies
  - Rights Ethics & Case Studies 1-7
  - Duty Ethics & Case Study 8
  - Virtue Ethics & Case Study 9
  - Utilitarianism & Case Study 10
  - Pragmatism & Case Study 11
- Use Examples: Case Studies 12 & 13
- Alternative Ethical Frameworks
- Conclusion

# Ethical Philosophies



Ethical philosophies provide ways to systematize, rationalize, and prescribe societal and personal ethical choices.

We will review five major philosophies:

- Rights Ethics
- Duty Ethics
- Virtue Ethics
- Utilitarianism
- Pragmatism

"The most important human endeavor is the striving for morality in our actions. Our inner balance and even our very existence depend on it. Only morality in our actions can give beauty and dignity to life." - Albert Einstein

# Rights Ethics

- Fundamental Concepts
  - Human rights are basic
  - Respect for rights is obligatory
- Two Types of Rights
  - Liberty Rights:
    - Individuals are the focus
    - Non-interference and property protection
  - Welfare Rights
    - Communities are the focus
    - Promises, covenants and benefits



# Rights Origins and Issues

- Where Do Rights Come From?
  - Outside Sources: God, Nature, *Natural Law*
  - Inside Sources: History, Precedent, *Reason*
  - Wrongs: Bad Experiences + Moral Thinking<sup>1</sup>
- How Do Rights Differ from Preferences?
  - Related mainly to governments
  - Extend morals and ethics into law
  - “Super preferences” superseding minor preferences
- Why are Rights Important?
  - Restrict the actions of government
  - Protect minority opinions and safety
  - *Illuminate society’s essential values*

<sup>1</sup>Allan Dershowitz (2004), “*Rights from Wrongs*,” Basic Books, New York

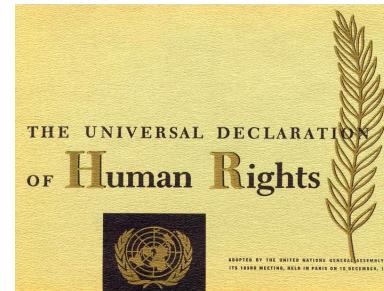
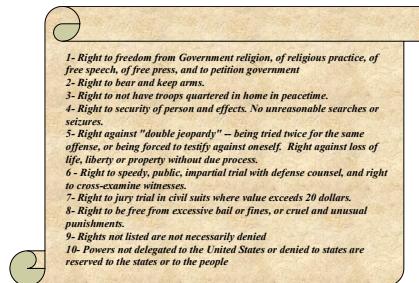
# Rights Ethics

- Fundamental Concepts
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  - Welfare Rights
    - Communities are the focus
    - Promises, covenants and benefits
- Origins and Issues
- Examples
  - Modern Rights
  - American Foundational Rights
    - Declaration of Independence
    - Constitution and *Bill of Rights*
  - Rights in Opposition and Application



# Sample Classes of Modern Rights

- U.S. Constitutional Rights
- Universal Human Rights
- Digital Citizenship Rights



# Constitutional Rights: Declaration of Independence

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another,  
and to assume among the powers of the earth, the separate and equal station **to which the Laws of Nature and of Nature's God entitle them**,  
a decent respect to the opinions of mankind requires that they should declare the causes which impact them to the separation.

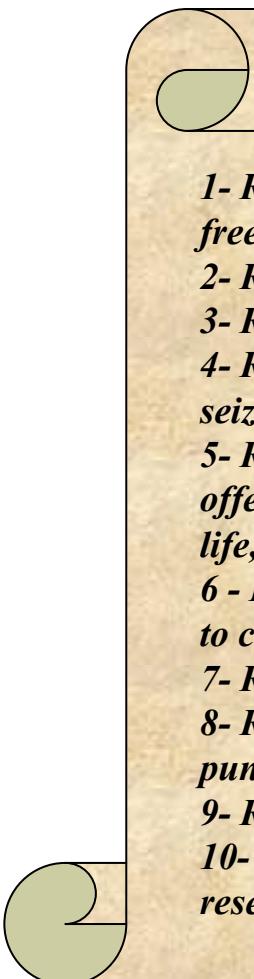
We hold these truths to be self evident

- That all men are created equal
- That they are endowed by their Creator with certain inalienable Rights
- That among these are Life, Liberty and the Pursuit of Happiness

That **to secure these rights, governments are instituted** among Men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers such form, as to them shall seem most likely to effect their Safety and Happiness.

# The United States Bill of Rights

Rights guaranteed by the first 10 amendments to the Constitution:

- 
- 1- Right to freedom from Government religion, of religious practice, of free speech, of free press, and to petition government**
  - 2- Right to bear and keep arms.**
  - 3- Right to not have troops quartered in home in peacetime.**
  - 4- Right to security of person and effects. No unreasonable searches or seizures.**
  - 5- Right against "double jeopardy" -- being tried twice for the same offense, or being forced to testify against oneself. Right against loss of life, liberty or property without due process.**
  - 6 - Right to speedy, public, impartial trial with defense counsel, and right to cross-examine witnesses.**
  - 7- Right to jury trial in civil suits where value exceeds 20 dollars.**
  - 8- Right to be free from excessive bail or fines, or cruel and unusual punishments.**
  - 9- Rights not listed are not necessarily denied**
  - 10- Powers not delegated to the United States or denied to states are reserved to the states or to the people**

# Rights Not Limited Under the Constitution

*The Ninth Amendment says:*

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*The Tenth Amendment says:*

Powers not delegated to the United States or denied to states are reserved to the states or to the people.

This means that just because a right is not mentioned in the Constitution, that right may still belong to the people, and it is not denied or criticized.

# New Rights are Asserted...



...and Are Opposed...



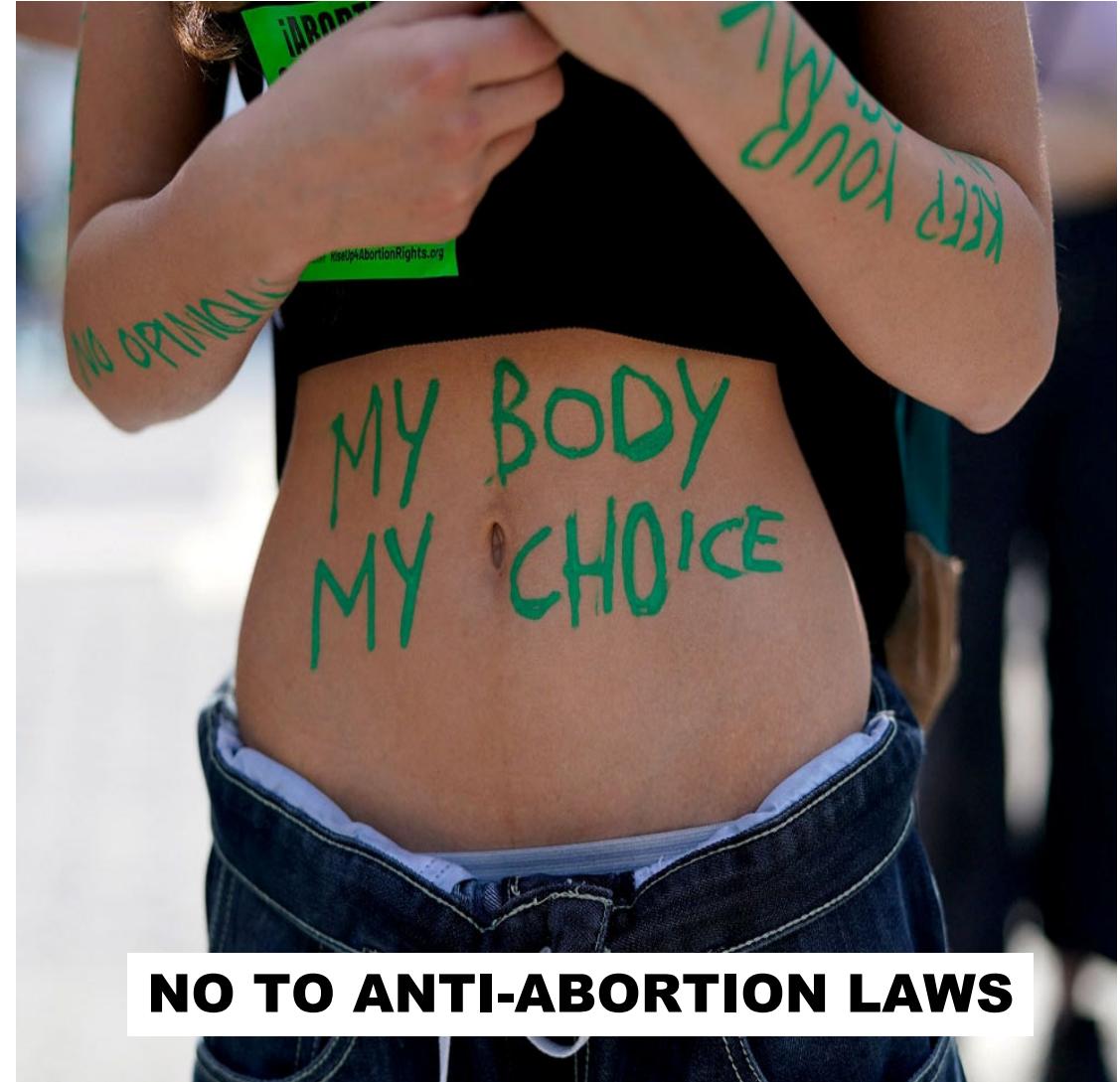
...Are Asserted...



## ...and Are Opposed...



## ...Sometimes Positions Overlap



# Rights are Often In Opposition

Right	Opposing Right
■ Freedom of speech	vs. ■ A non-hostile environment
■ Religious freedom	vs. ■ Acceptance and opportunity
■ Keep and bear arms	vs. ■ Societal safety and security
■ Of defendants	vs. ■ Of victims and society
■ Public health	vs. ■ Personal independence
■ Medical treatment	vs. ■ Religious opposition to treatment
■ Clean environment	vs. ■ A profitable business
■ Abortion as choice	vs. ■ Fetus to life
■ Personal property	vs. ■ Society's needed resources
■ Etc.	■ Etc.
■ Etc.	vs. Etc.

# Morals, Ethics, the Law and Constitutional Rights

## Protection of Rights



Laws are particularly relevant to rights, and....laws are changeable!

# Legal Enforcement of Constitutional Rights

- Federal Government
  - Broadest level of enforcement even when rights are controversial
- State and Local Governments/Universities/Schools/Institutions
  - Generally match Federal rights, but are more discretionary and dependent on special local situations
- Corporations/Businesses
  - Most specialized and permit more restrictions on rights of employees

The courts are most often the arbiters of how rights are legally enforced.

# Case Study 1: The Majority vs. the Courts

## California's Rumford Fair Housing Act [1963]

Purpose was to *outlaw* racial discrimination by property owners and landlords. The Act provided that landlords could not deny people housing because of ethnicity, religion, sex, marital status, physical handicap, or familial status.

**The welfare rights of the buyers and renters were paramount.**

## California's Proposition 14 [1964]

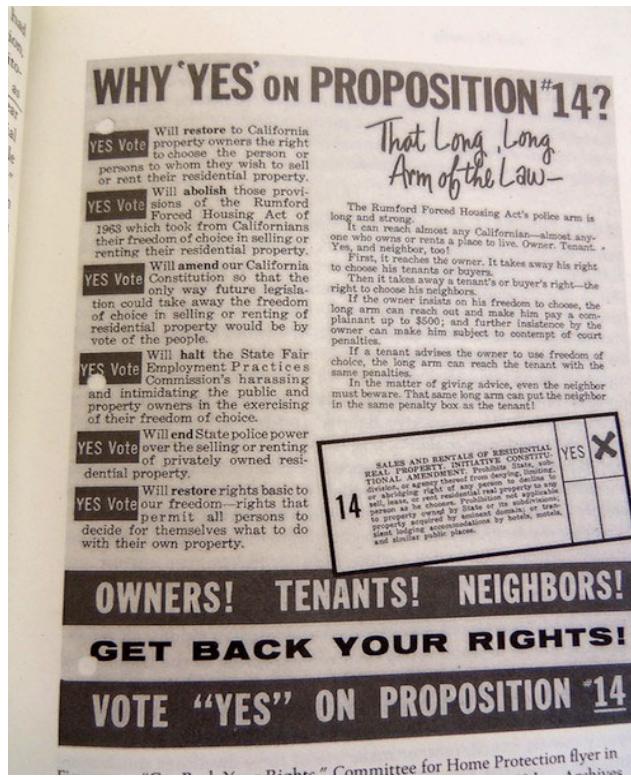
Objective was to *overturn Rumford and restore* racial discrimination by property owners and landlords. Proposition 14 stated:

*"Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses."*

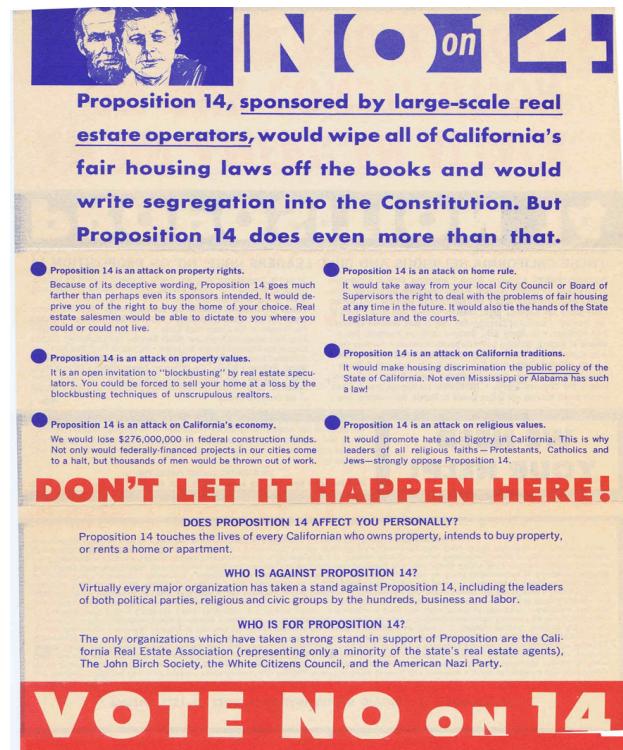
**The liberty rights of the owners were paramount.**

# Case Study 1: The Majority vs. the Courts

## Property Rights



## Civil Rights



California voters approved Proposition 14 by 65% to 35%. But the State and Federal Supreme Courts ruled that the majority vote violated the Constitutional Rights of California citizens. The Rumford Fair Housing Act stood, and it became the template for fair housing rights in the entire USA.

# An Important Amendment

*The First Amendment to the US Constitution succinctly says:*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

The constitutional prohibition is against Congress restricting the right to practice of religion, freedom of speech and the press, or of peaceable assembly. But these constitutionally recognized rights generally pass down to state and local governments. At other societal levels, their interpretation depends strongly on the particular situation, and they can affect engineering practice in a variety of ways.

## Case Study 2: Religious Rights – Ten Commandments



*The United States Supreme Court said in 2005:*

Framed copies of the Ten Commandments hanging in two Kentucky courthouses *violate* the separation of church and state established in the First Amendment.

However

A 6-foot granite monument of the Ten Commandments could remain standing *on the grounds* of the Texas capitol, but not *inside the building*.

Pam Shepard, [www.answersingenesis.org](http://www.answersingenesis.org)

The conclusion is that each display of the Commandments should be scrutinized to determine if it goes too far in promoting a religion or if it neutrally and fairly presents the nation's legal history. Similar tests have been applied to other specifically identified religious symbols such as crosses.

## Case Study 3: Religious Rights - Institutional



Fontbonne Academy, a Catholic girls high school in Milton, Mass., offered the position of food services director to Matthew Barrett, who accepted. When Barrett listed his husband as the emergency contact, Fontbonne withdrew the offer. Its stated reason was the Catholic Church's religious objection to same sex marriage and its right to "expressive association." Barrett sued the Academy under a Massachusetts law prohibiting discrimination on the basis of sexual orientation.

## Case Study 3: Religious Rights - Institutional



Fontbonne Academy, a Catholic girls high school in Milton, Mass., offered the position of food services director to Matthew Barrett, who accepted. Fontbonne then withdrew the offer after Barrett listed his husband as the emergency contact. Its stated reason was the Catholic Church's religious objection to same sex marriage and its right to "expressive association." Barrett sued under a Mass. law prohibiting discrimination on the basis of sexual orientation.

A Massachusetts court said in 2015 that Fontbonne was discriminating on the basis of sexual orientation, noting:

- *There was no evidence that Barrett had engaged in "advocacy of same sex marriage" in contradiction of the Church's teaching,*
- *Most important, Barrett's duties as food services director were separate from any need to formally present the teachings of the Catholic Church.*

While there are situations in which religious freedom can override laws against discrimination, these cases have usually involved persons clearly within the religious organization itself.

# A Recent Ruling On Church Teachers (and Others?)

A6 THURSDAY, JULY 9, 2020

Los Angeles Times

LATIMES.COM

## Supreme Court rules for church schools

[High court, from A1]  
and firing of teachers.

The decision effectively closes the courthouse door to tens of thousands of teachers nationwide in religious and parochial schools who encounter workplace discrimination based on their race, gender, age, disability or sexual orientation that would otherwise be impermissible.

It is also written broadly enough that it could include many other types of workers at the schools, such as counselors, nurses, coaches and office workers.

In the past, the Supreme Court has recognized an implied "ministerial exemption" that shields churches, synagogues or other religious bodies from being sued by priests, pastors and other ministers. The issue in the pair of cases from Southern California was whether that exemption extended more broadly to teachers in a church-run school whose primary duty was not necessarily religious instruction.

"The 1st Amendment protects the right of religious institutions to decide for themselves, free from state interference, matters



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LUIS SINCO Los Angeles Times

**FORMER TEACHERS** at St. James Catholic School in Torrance, above, and Our Lady of Guadalupe School in Hermosa Beach filed discrimination lawsuits which won't be allowed to proceed under the justices' ruling.

forsed to other private schools. There, the court said the Constitution required equal treatment for religion, overriding state constitutions that barred any taxpayer money from going to religious institutions.

And also Wednesday, the justices agreed with the Trump administration and Catholic charities that employers with religious or moral objections to birth control have a right to be exempted from the part of Obamacare that requires them to provide contraceptives to their female employees.

In the case involving Catholic school teachers, the court rejected the notion of equal treatment for religion — central to the Montana decision — when it came to churches as employers. Instead, religious employers were given a special shield from federal discrimination laws.

The Archdiocese of Los Angeles welcomed the ruling. "Religious schools play an integral role in passing the faith to the next generation of believers," said Adrian Alarcon, spokesperson for Los Angeles Catholic Schools. "We are grateful

# Case Study 4: Employees' Rights -- LGBTQ Protection



Aimee Stephens served as a male funeral director in Michigan; she was fired immediately after she transitioned to a woman for the reason “A man should look like a man...a woman like a woman.”



Donald Zarda was a successful skydiving instructor in New York; he was fired immediately after he told a student he was gay in order to make her feel more at ease in a tandem jump situation.



Gerald Bostock was a children's advocate in a Georgia juvenile court until his employers learned that he was playing in a gay softball league; he was then fired.

The Supreme Court heard these three cases to decide if the 1964 Civil Rights Act covers LGBTQ issues or only male and female rights.

The issue was essentially how to interpret the Act's 1964 reference to 'sex.'

## Case Study 4: Employees' Rights -- An Important Ruling



On June 15, 2020 Supreme Court ruled 6-3 for the plaintiffs – gay and trans – saying that the 1964 Act covers sexual orientation and identity. Justice Neil Gorsuch wrote:

**“An employer who fires an individual merely for being gay or transgender defies the law”**  
This invalidated laws in over half the states that said such firing was legal.

# Case Study 4: Employee Rights – Accommodation



In June 2023 the Supreme Court ruled UNANIMOUSLY that an employer must accommodate employees' religious needs UNLESS THIS SEVERELY DAMAGES THE BUSINESS' OPERATIONS.

# Case Study 5: Business Rights – Non-Accommodation

## Free speech trumps bias claims

High court says business has right to refuse services for same-sex marriages.

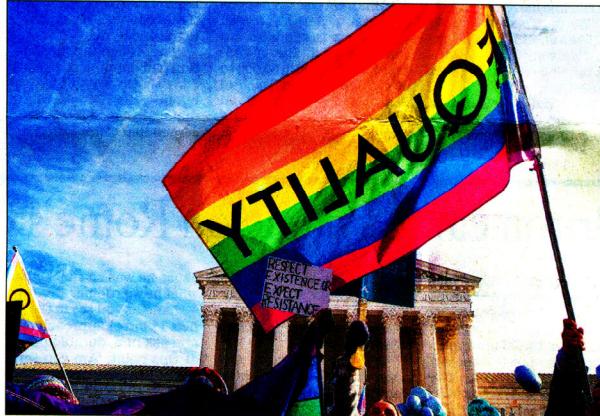
By DAVID G. SAVAGE

WASHINGTON — The Supreme Court ruled Friday that conservative Christians have a free-speech right to refuse to provide some business services for same-sex marriages, even in states like California, where civil rights laws forbid discrimination based on sexual orientation.

The justices, in a 6-3 vote, sided with a graphic artist in Colorado who said she wants to expand her business to design custom websites for weddings, but not for same-sex couples. She cited her belief as a Christian that marriage is limited to a man and a woman.

"The 1st Amendment prohibits Colorado from forcing a website designer to create expressive designs speaking messages with which the designer disagrees," Justice Neil M. Gorsuch wrote in the majority opinion.

Lorie Smith, the graphic artist, sued Colorado in federal court and sought a 1st Amendment ruling that would protect her freedom of speech — which, her attorney



LGBTQ+ advocates rally Dec. 5 as the Supreme Court hears arguments in the case of a graphic artist who refused to create websites for same-sex weddings.

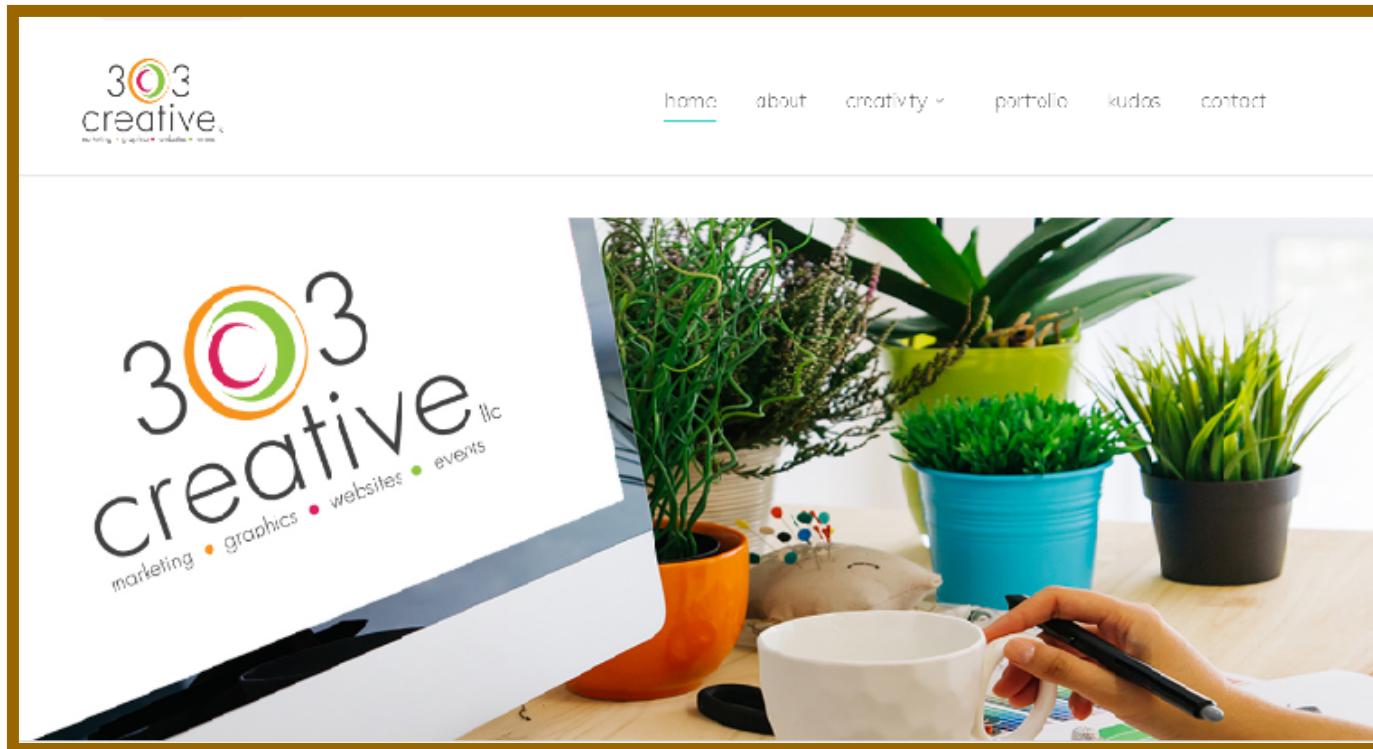
'The court, for the first time in its history, grants a business open to the public a constitutional right to refuse to serve members of a protected class.'

— JUSTICE SONIA SOTOMAYOR

In June 2023 the Supreme court ruled 6-3 that a Colorado web business could refuse to provide a website for a same sex wedding because of the web designer's religious beliefs.

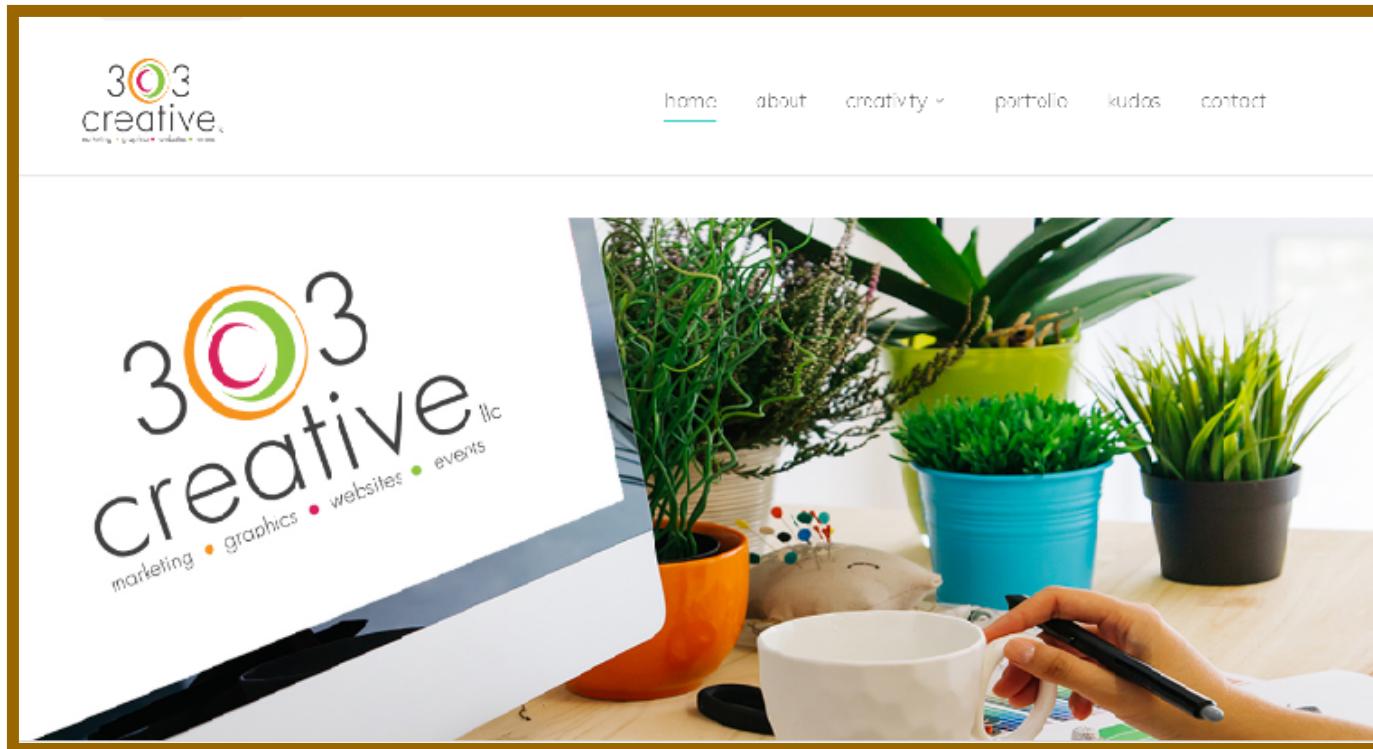
Protected classes include Race, Color, Religion, National Origin/Ancestry, Sex, Pregnancy, Disability, Sexual Orientation, Transgender Status, Age, Marital Status, and Familial Status.

# Case Study 5: The Court's Reasoning



The SCOTUS majority said that custom websites were a personal expression rather than a product, and thus a form of speech protected by the “non-abridgement” clause of the 1<sup>st</sup> Amendment, which supersedes Colorado’s civil rights laws. In other words, the web designer had a Constitutional Right not to speak what she did not believe.

# Case Study 5: A Counter Argument



The counter argument is that web site design is a service, and refusal to perform that service for members of a Protected Class violates those individuals' Constitutionally guaranteed right to equal protection, and also a major obligation to American society.

# The Historical Concern with Religious Justifications



SHALL WE HAVE  
**CHINESE**  
NO! NO! NO!

American slavery, segregation and exclusion were often justified by religious organizations.

# Current Concern with the Court's Ruling



The decisions of engineers, architects, illustrators, and other creative businesses to serve everybody regardless of sex, race, ethnicity, etc. **may now be an ethical choice.**

## Case Study 6: Speech Rights – Public Hate

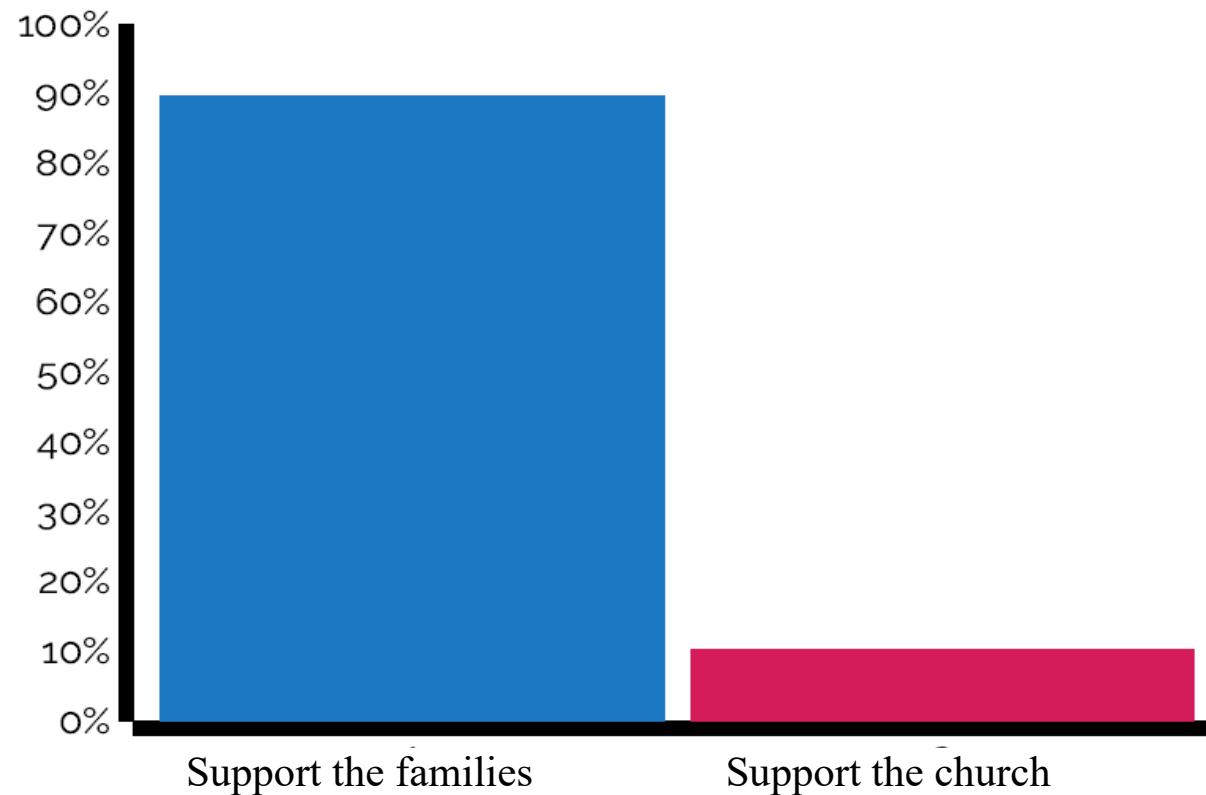


The small Westboro Baptist Church of Topeka, Kansas has demonstrated in support of its crusade against gay rights, same sex marriage, and other societal actions they believe are against God. They were sued by families for inflicting emotional distress at soldiers' funerals.

- Log on to UCLA\_WIFI
- Go to <https://onlinepoll.ucla.edu>
- Find [Engr183EW-Westboro](#)
- Password 1234
- Answer the Question:  
“Should the courts support the grieving families or the Westboro Baptist Church?”

# Case Study 6: Students Vote for the Families

Should the courts support the grieving families or the Westboro Baptist Church?



The class' response was usually great, with its heart in the right place, but not in accord with the Court, which sided with Westboro Baptist despite the families' pain.

## Case Study 6: The Court Votes for Free Speech



The small Westboro Baptist Church has demonstrated widely in support of their crusade against abortion, same sex marriage, LGBT, and America. They were sued by some families for inflicting emotional distress at soldiers' funerals.

The US Supreme court said in overturning an 2011 verdict against the Westboro Baptist Church:

*“Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow and – as it did here – inflict great pain. On the facts before us, we cannot react to that pain by punishing the speaker. As a Nation we have chosen a different course – to protect even hurtful speech on public issues to ensure that we do not stifle public debate.*

When it comes to public speech, courts tend to support the rights of speakers against those of the offended parties.

# Case Study 6: UCLA Supports Relevant Speech



*The UCLA Faculty Code of Conduct says the faculty's rights include:*

- Free inquiry and exchange of ideas;
- Enjoyment of constitutionally protected freedom of expression;
- Presentation of controversial material relevant to a course of instruction.

<http://www.specialevents.ucla.edu/img/frl-image-05.jpg>

When it comes to faculty, the right of free speech is well defined, and takes its basis in constitutional protection as applied to the academic workplace.

# Case Study 6: Universities Debate Speech Limits

Students' desires for a supportive environment



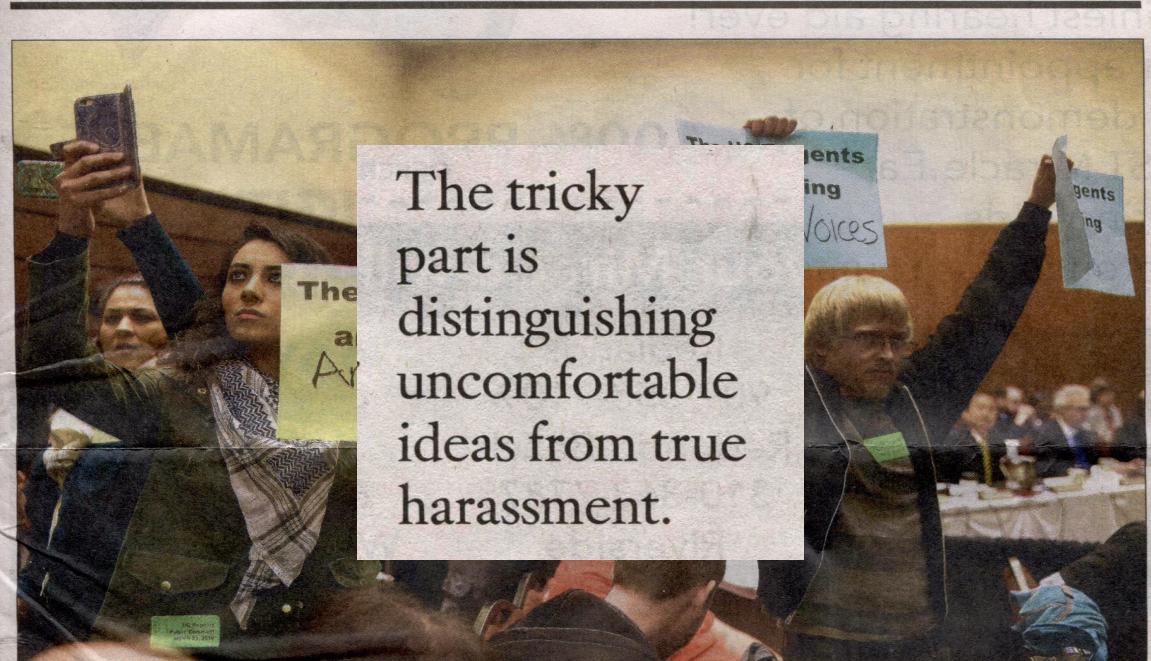
Opposed by charges of cuddling and violation of First Amendment rights



When it comes to students, the basic right of free speech is less well defined, and is also being debated by groups in fundamental opposition.

# Case Study 6: Universities Debate Speech Limits

Los Angeles Times, October 25, 2016



The tricky part is distinguishing uncomfortable ideas from true harassment.

**STUDENTS** protest at a UC Board of Regents meeting in March. Uncomfortable ideas are not just welcome, but also necessary.

**ERIC RISBERG Associated Press**

## Free speech under siege

By Saree Makdisi

because they are members of student groups that dare to

straining, and inimical to creativity."

customers in a shop, paying for "good service" and "satisfaction"

UC Berkeley is a good example of a campus where the balance between unrestricted -- even hateful -- speech and a desirable learning environment is still being debated.

## Case Study 6: High Schools Limit Classroom Speech



CHRIS PIZZELLO Associated Press  
**GREGORY SALCIDO**, a teacher and Pico Rivera councilman, addresses calls for his resignation at a City Council meeting last month.

### Teacher fired over military rant

This March 22, 2018 news item from the Los Angeles Times shows that lower level schools can fire employees on the basis of their speech in the classroom.

# Case Study 6: Teachers and Students Fight Back

## Arkansas teacher, students sue over ban on critical race theory

ASSOCIATED PRESS

LITTLE ROCK, Ark. — A high school teacher and two students sued Arkansas on Monday over the state's ban on critical race theory and "indoctrination" in public schools, asking a federal judge to strike down the restrictions as unconstitutional.

The lawsuit by the teacher and students from Little Rock Central High School, site of the historic 1957 racial desegregation crisis, stems from the state's decision last year that an Advanced Placement course on African American studies would not count toward state credit.

The lawsuit argues the restrictions, which were among a number of education changes that Republican Gov. Sarah Huckabee Sanders signed into law last year, violate free speech protections under the 1st Amendment and the equal

protection clause of the 14th Amendment.

"It absolutely chills free speech" and "discriminates on the basis of race," the lawsuit said.

"Indeed, defendants' brazen attack on full classroom participation for all students in 2024 is reminiscent of the state's brazen attack on full classroom participation for all students in 1957," the lawsuit says.

Arkansas and other Republican-led states have placed restrictions in recent years on how race is taught, including prohibitions on critical race theory, a higher-education framework dating to the 1970s that centers on the idea that racism is embedded in the nation's institutions.

Arkansas' ban does not define what it considers to be critical race theory.

The lawsuit argues that the definition the law uses for prohibited indoctrination is overly broad and vague.

Educators in Tennessee filed a similar lawsuit last year challenging that state's sweeping bans on teaching certain concepts of race, gender and bias in the classroom.

Arkansas' restrictions mirror an executive order Sanders signed on her first day in office last year.

In a statement, the Republican governor defended the law and criticized the lawsuit.

"In the state of Arkansas, we will not indoctrinate our kids and teach them to hate America or each other," Sanders said. "It's sad the radical left continues to lie and play political games with our kids' futures."

Florida Gov. Ron DeSantis, also a Republican, has blocked high schools in his state from teaching the AP African American studies course.

The College Board released the latest updated framework for the course in December, months after ini-



Associated Press

**CENTRAL HIGH** in Little Rock, Ark., the site of 1957's historic desegregation crisis, is now the source of a lawsuit over an AP African American studies class.

tial revisions prompted criticism that the nonprofit was bowing to conservative backlash over the class.

Arkansas education officials said last year that the AP African American studies class couldn't be part of the state's Advanced Placement course offerings because it was still a pilot program and had yet to be vetted by the state to determine whether it complied with the

law. Central High and the five other schools in the state with the class said they would continue to offer it as an elective, which would still count toward a student's GPA.

The lawsuit is the second challenge against Sanders' LEARNS Act, which also created a new school voucher program. In October, the Arkansas Supreme

Court rejected a challenge to the law that questioned the Legislature's procedural vote that allowed it to take effect immediately.

"The LEARNS Act has brought much-needed reforms to Arkansas," said state Atty. Gen. Tim Griffin. "I have successfully defended [the law] from challenges before, and I am prepared to vigorously defend it again."

This case is reminiscent of the famous "Monkey Trial" of 1925, in which teacher John Scopes sued Tennessee after he was fired for teaching the theory of evolution.

# Case Study 6: Business Bans Certain Speech Content

**CNN BUSINESS** Markets Tech Media Success Perspectives Videos LIVE TV Edition ▾  

## Facebook will ban Holocaust denial posts under hate speech policy

By Oliver Effron, CNN Business

Updated 2:11 PM ET, Mon October 12, 2020



**lendingtree®**

Mortgage Personal

Credit Cards

Loan Type	Rate	APR
30 yr fixed	2.25%	2.476%
15-yr Fixed	2.20%	2.392%
5/1 ARM	3%	2.676%

Loan Amount APR Payment

\$225,000 (5/1 ARM) 2.376% \$949/mo

Waiting for widget-pixels.outbrain.com...

Social media giant Facebook invokes its policies to ban undesired speech.

# Case Study 6: Business Restricts Employees' Speech

## AI ethicist says she was fired by Google

Timnit Gebru sent an email that was critical of the company after it asked her to retract a paper, she says.

BY DINA BASS,  
SHELLY BANJO  
AND MARK BERGEN

Timnit Gebru, a co-leader of the Ethical Artificial Intelligence team at Google, said she was fired for sending an email that management deemed "inconsistent with the expectations of a Google manager."

The email and the firing were the culmination of about a week of wrangling over the company's request that Gebru retract an AI ethics paper she co-wrote with six others, including four Google employees, that was submitted for consideration for an industry conference next year, Gebru said in an interview Thursday. If she wouldn't retract the paper, Google at least wanted the names of the Google employees removed.

Gebru asked Megan Kacholia, Google Research vice president, for an explanation and told her that without more discussion on the paper and the way it was handled she would plan to resign after a transition period.

Meanwhile, Gebru had chimed in on an email group for company researchers



TIMNIT GEBRU, second from left, takes part in a panel at TechCrunch Disrupt 2018 in San Francisco. She is a leading voice in the ethics of artificial intelligence and has spoken out against tech firms' lack of diversity.

'We are a team called Ethical AI, of course we are going to be

tal silencing,' Gebru said of Google's actions in regard to her paper. 'You can't even have your scientific voice.' Representatives for Mountain View, Calif.-based Google did not reply to multiple requests for comment.

pany told her this paper had not followed proper procedure. The report was intended for the ACM Conference on Fairness, Accountability, and Transparency in March, a conference Gebru co-founded

meant to send a message to the rest of Google's employees not to speak up.

Gebru disclosed the firing Wednesday night in a series of tweets, which were met with support from some of her Google co-workers

When Google was consid-

A year ago, Google fired four employees for what it said were violations of data-security policies. The dismissals highlighted already escalating tensions between management and activist workers at a company once revered for its open corporate culture. Gebru took to Twitter at the time to support those who lost their jobs.

For the web search giant, Gebru's alleged termination comes as the company faces a complaint from the National Labor Relations Board concerning unlawful surveillance, interrogation or suspension of workers.

Earlier this week, Gebru inquired on Twitter whether anyone was working on regulations to protect ethical AI researchers, similar to whistleblower protections.

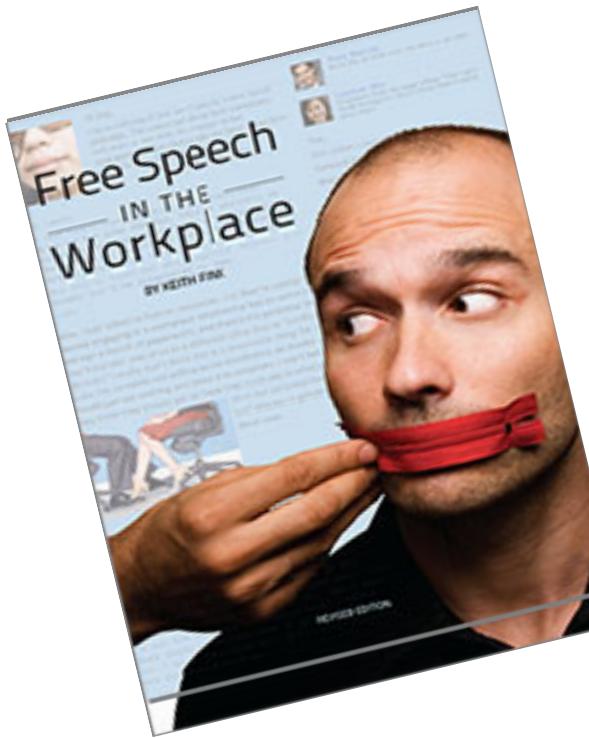
"With the amount of censorship and intimidation that goes on towards people in specific groups, how does anyone trust any real research in this area can take place?" she wrote on Twitter.

Gebru was a rare voice of public criticism from inside the company. In August, Gebru told Bloomberg News that Black Google employees who spoke out were criticized even as the company held them up as examples of its commitment to diversity. She recounted how co-workers and managers tried to police her tone, make excuses for harassing or racist behavior, or ignore her concerns.

Google firing of employees who published criticism of the company's policies shows that a company can also restrict speech in its work environment.

Los Angeles Times December 4, 2020

# Case Study 6: Business Restricts Employees' Speech



DOW 22,085.34 ▼ 33.08 | S&P 500 2,474.92 ▼ 5.99 | NASDAQ 6

# Free speech limit seen in Google case

Was memo writer's firing justified? Surprisingly, it's not a 1st Amendment issue.

BY TRACEY LIEN

SAN FRANCISCO — In a country known for its reverence of free speech, in a state strict with labor codes, in an industry steeped in libertarian and progressive ideals, if an employee has something to say, he should just be able to say it, right?

Not quite, as one Google employee learned the hard way when he was fired Monday after writing and internally circulating a memo in which he criticized the company's diversity efforts as unfair and discriminatory.

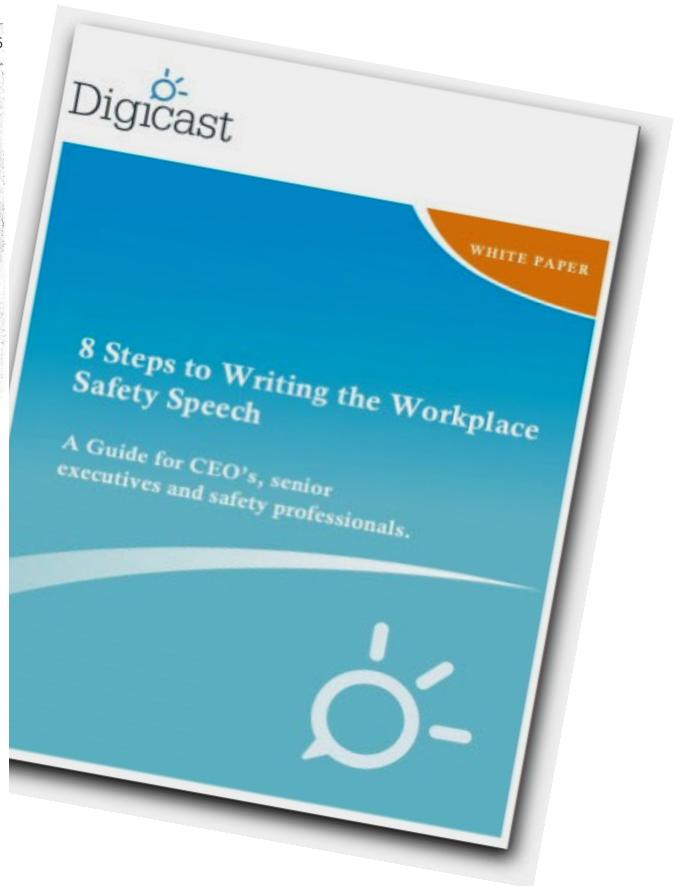
When the memo became public, women and underrepresented groups in tech decried it and Google denounced it. But by Monday night, after Google fired the engineer, claiming he'd vio-

lated the company's code of conduct, the conversation shifted. Some in tech were incredulous that someone could lose his job for expressing dissent. People took to Twitter: Whither free speech?

One thing many misunderstand about the 1st Amendment is that it only protects the public's right to free speech from government censorship — meaning it doesn't apply to the relationship between private employers and employees.

"The 1st Amendment is actually irrelevant because the language says, 'Congress shall make no law ... abridging the freedom of speech,' so it only restricts what Congress may do," said Matt Oster, an attorney with Wolf, Rifkin, Shapiro, Schulman & Rabkin. "An employer is pretty free to restrict what its employees may say, as long as it doesn't run afoul of other rules."

It's a different story for government workers, who get 1st Amendment protection. [See Google, C4]



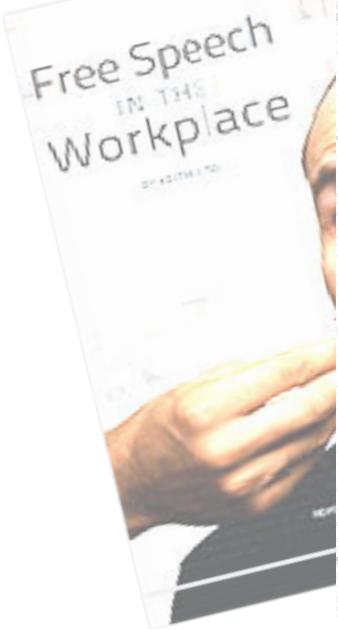
Los Angeles Times, 8/9/17

# Case Study 6: Business Restricts Employees' Speech

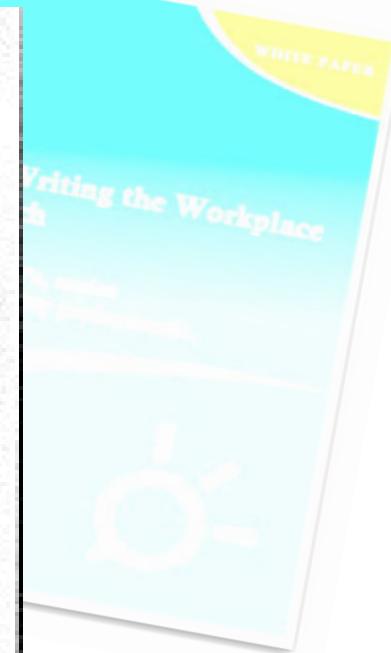
DOW 22,085.34 ▼ 33.08 | S&P 500 2,474.92 ▼ 5.99 | NASDAQ 6

## Free speech

One thing many misunderstand about the 1st Amendment is that it only protects the public's right to free speech from government censorship — meaning it doesn't apply to the relationship between private employers and employees.



Digicast



Free speech in the workplace is generally not protected by the 1<sup>st</sup> Amendment, but rights to ideas and association are recognized for a variety of reasons.

day after writing and internally circulating a memo in which he criticized the company's diversity effort.

what Congress may do," said Matt Oster, an attorney with Wolf, Rifkin, Shapiro, Schul-

right, after Google fired the engineer, claiming he'd vio-

government workers, who get 1<sup>st</sup> Amendment protec- [See Google, C4]

Los Angeles Times, 8/9/17

# Case Study 6: Some Employee Speech is Protected

## Tesla can't ban pro-union shirts, NLRB says

The carmaker's policy at its Fremont factory is illegal, the agency rules, overturning a Trump-era precedent.

By JOSH EIDELSON

Tesla Inc. violated labor law by restricting Fremont, Calif., factory workers from wearing pro-union shirts, the National Labor Relations Board ruled, overturning a Trump-era precedent that took a narrower view.

"Wearing union insignia, whether a button or a t-shirt, is a critical form of protected communication," NLRB Chairman Lauren McFerran said in a statement Monday after the 3-2 ruling by the board's Democratic majority.

"For many decades, employees have used insignia to advocate for their workplace interests — from supporting organizing campaigns, to protesting unfair conditions in the workplace — and the law has always protected them," McFerran said.

The electric-car maker required production workers at its Fremont car as-

sembly plant to wear black shirts with the Tesla logo or, occasionally, all-black shirts when a supervisor gave permission, according to the ruling. The majority said the policy interferes with workers' rights.

The company didn't immediately respond to a request for comment. Tesla had argued that its dress code was meant to prevent clothing from damaging cars and that employees were free to display other union insignia on the job.

But during a 2018 hearing in the case, former Tesla workers testified that man-

agers told them to remove T-shirts supporting the United Auto Workers union, even though co-workers wore shirts supporting sports teams without incident.

Monday's ruling orders Tesla to change its dress code to allow employees to wear black union shirts.

NLRB rulings can be appealed in federal court, as Tesla has already done with a 2021 ruling telling the automaker to offer reinstatement to a fired activist. That ruling also said that Tesla Chief Executive Elon Musk illegally threatened employees via Twitter that they

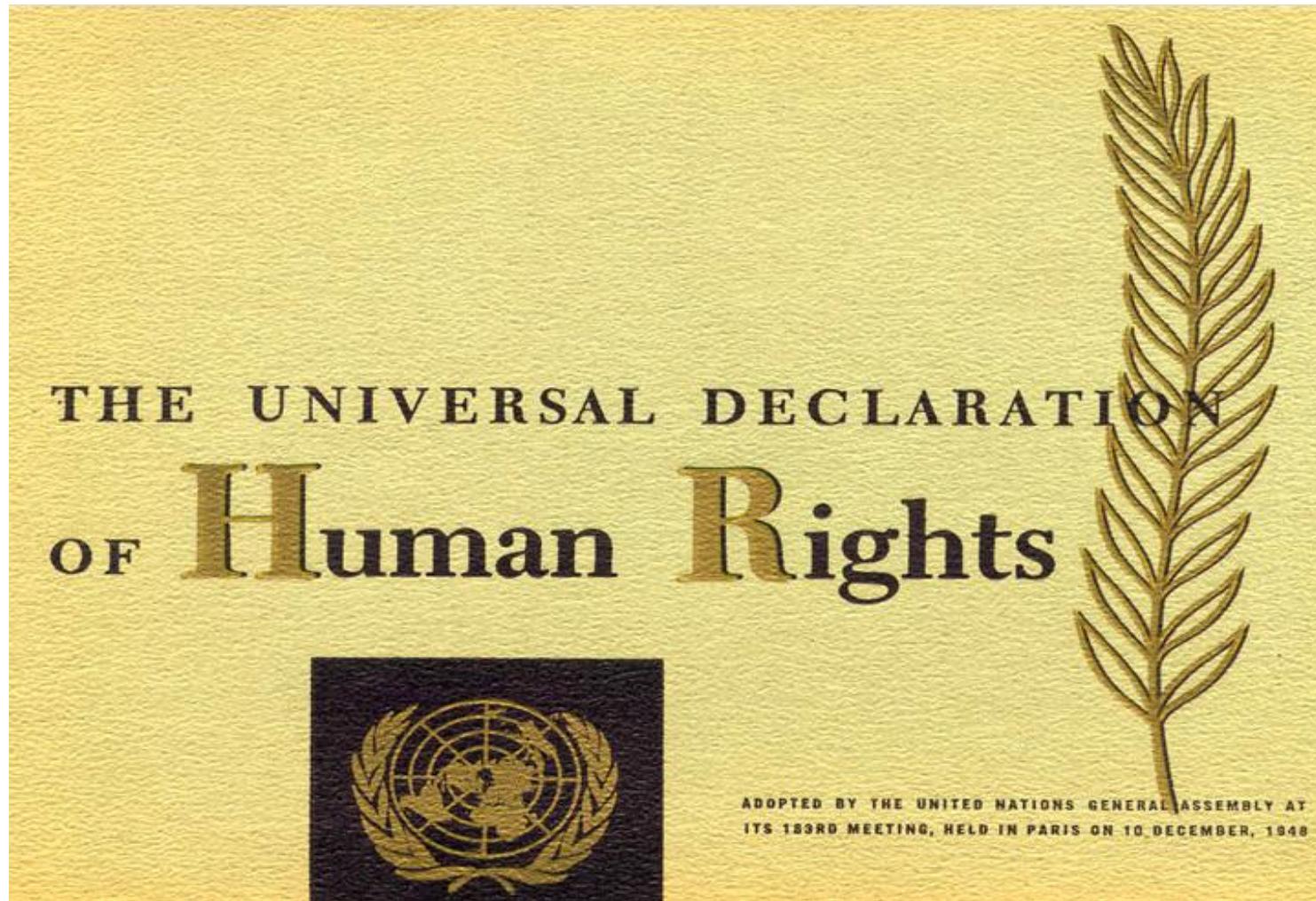
would lose their Tesla stock options if they voted in favor of a union and illegally imposed a gag order on employees that could interfere with their union organizing.

In their dissent, the board's Republican members accused the majority of "distorting decades of precedent" and said the ruling "effectively declares illegitimate any employer uniform policy or dress code that prohibits employees from substituting union apparel for required clothing."

Eidelson writes for Bloomberg.

**"Wearing union insignia, whether a button or a t-shirt, is a critical form of protected communication"** said the Chairman of the National Labor Relations Board.

# Universal Human Rights: A Product of World War II



Former First Lady Eleanor Roosevelt led the adoption of the Declaration by the UN

# Universal Human Rights

Article 1 Right to Equality

Article 2 Freedom from Discrimination

Article 3 Right to Life, Liberty, Personal Security

Article 4 Freedom from Slavery

Article 1

All human beings are **born free and equal in dignity and rights**. They are **endowed** with reason and conscience and should act towards one another in a spirit of **brotherhood**.

Article 9 Freedom from Arbitrary Arrest and Exile

Article 25

All people have a **right to an adequate standard of living**, including adequate water, sanitation, food, clothing, housing, and medical care, as well as social protection covering situations beyond one's control.

Article 15 Right to a Nationality and the Freedom to Change It

Article 30 Freedom from State or Personal Interference in the above Rights

# Case Study 7: Flint MI – A Human Rights Failure



- In 2014 the city council of Flint, Michigan decides to switch its water supply from the Detroit source to the Flint River because of severe budget problems
- The council makes no provisions for the introduction of this risky water into an old and decrepit city water system
- Flint residents immediately notice that the water is discolored and smells bad
- Subsequent tests find high levels of lead as well as other contaminants in the water, **but the tests are buried by the authorities**
- The situation finally rises to crisis level and the State steps in to restore a safe supply

The Flint case has been described as an ethical failure due to corrupt “tone-from-the-top” that permeated the entire technical/societal system.

# Digital Citizenship Rights

*“Digital citizenship can be defined as the norms of appropriate, responsible behavior with regard to technology use.”<sup>1</sup>*

1. Digital Access: Full electronic participation in society.
2. Digital Commerce: Electronic buying and selling of goods.
3. Digital Communication: Electronic exchange of information
4. Digital Literacy: Teaching and learning about technology and its use
5. Digital Etiquette: Electronic standards of conduct or procedure.
6. Digital Law: Electronic responsibility for actions and deeds
7. Digital Rights & Responsibilities: Those freedoms extended to everyone
8. Digital Health & Wellness: Physical and psychological well-being.
9. Digital Security: Electronic precautions to guarantee personal safety.

<sup>1</sup> World Association for Christian Communication (WACC), Nine elements of digital citizenship, 13 May 2017

# Duty (Deontological) Ethics: Definitions

- Fundamental Concepts
  - The ***action*** determines the *ethical content*
  - **Required Duties** are actions that reflect basic moral or ethical principles as well as societal standards
  - *Duties mirror Rights* -- For rights there are associated duties
- Examples
  - The 10 Commandments
  - Code of Chivalry
  - Cadet Honor Code
  - Professional Codes
- Related Issues
  - Unification principles
    - Autonomy – Man determines morality through reason
    - Universality – Principles apply equally to all people
    - Reciprocity -- Respect for others' desires, needs, efforts
  - *Kant's Categorical Imperative*

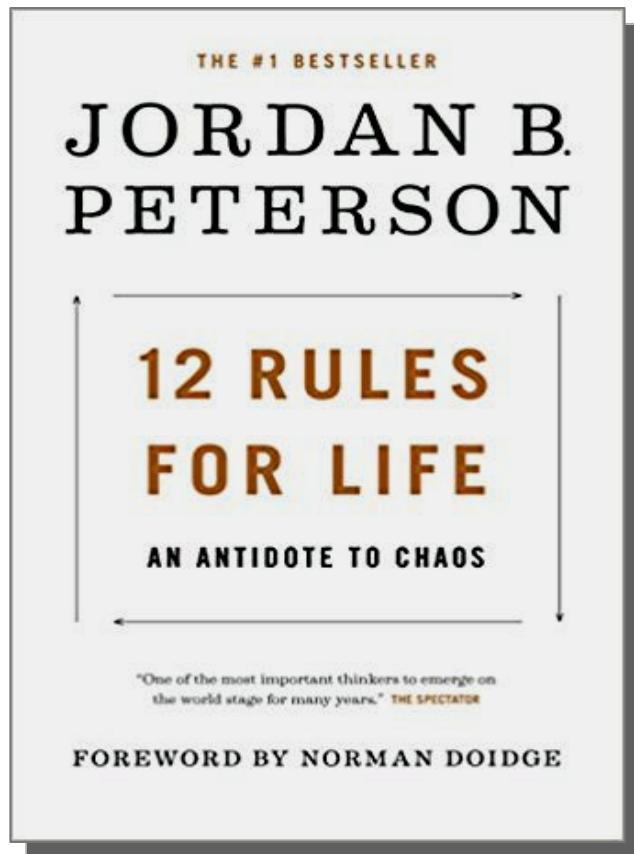
# The Categorical Imperative

- First formulation (The Universal Law):  
*Act only according to that maxim whereby you can, at the same time, will that it should become a universal law.*
- Second formulation (The End in Itself)  
*So act that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means.*



Immanuel Kant, *Groundwork of the Metaphysics of Morals*, 1785

# Modern Duties : From a Personal Standpoint



1. Stand up straight with your shoulders back
2. Treat yourself like someone you are responsible for helping
3. Make friends with people who want the best for you
4. Compare yourself to who you were yesterday, not to who someone else is today
5. Do not let your children do anything that makes you dislike them
6. Set your house in perfect order before you criticize the world
7. Pursue what is meaningful (not what is expedient)
8. Tell the truth – or at least, don't lie
9. Assume that the person you're listening to might know something you don't
10. Be precise in your speech
11. Don't try to dispense with risk and danger
12. Learn to take the bad with the good

Peterson's focus is on *personal responsibility*, on first “*sorting yourself out*” in order to then cure the world; Peterson’s philosophy has resonated particularly with young men.

# Modern Duties: For Engineers Specifically



The National Society of Professional Engineers says that engineers, in the fulfillment of their professional duties, shall:

- Hold paramount the safety, health and welfare of the public
- Perform services only in the area of their competence
- Issue public statements only in an objective and truthful manner
- Act for each client or employer as faithful agents or trustees
- Avoid deceptive acts
- Conduct themselves honorably, responsibly, ethically and lawfully
- Enhance the honor, reputation and usefulness of the profession

Other engineering societies, for civil engineers, mechanical engineers, software engineers, etc., have very similar codes of professional duties.

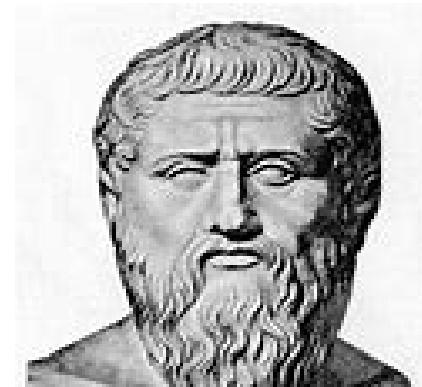
# Case Study 8: Chernobyl – Duty Ethics Minus and Plus

- April 26, 1986, nuclear reactor #4 in the Chernobyl Power Plant, Ukraine, explodes:
  - Major disaster involving 500,000 people
  - Widespread area of contamination.
- Planned safety test on steam turbine:
  - Test ran into problems
  - Work continued over several shifts.
- *Derelictions* of engineering duty:
  - Design of the reactors
  - Lack of adequate test instructions
- *Attention* to engineering duty:
  - Technicians and engineers go into the power plant to contain the disaster
  - They know that their radiation exposure is highly dangerous and likely lethal.



# Virtue Ethics: Definitions

- Fundamental Concepts
  - Virtues are:
    - Motives, attitudes and emotions
    - Guides to conduct
  - Goal is to be a virtuous person
- Examples
  - Religious precepts
  - Asian Warriors' Code
  - Boy Scout Oath
  - Modern Virtues
- Related Ideas
  - Plato's "Cardinal Virtues"
  - Aristotle's "Golden Mean"



Plato, 427-347 BC



Aristotle, 384-322 BC

# Cardinal Virtues: Historical Evolution

- Wisdom
- Courage
- Temperance
- Justice
- Wisdom
- Greatness of Spirit
- Decorum
- Justice
- Liberality
- Wisdom
- Courage
- Temperance
- Justice
- Faith
- Hope
- Love

Greek “Cardinal” virtues of Plato and Aristotle were mainly intended for wealthy, land-owning males

Roman virtues of Cicero were intended for civic leaders of the more expansive and militant Roman Empire

Christian fundamental virtues are intended for all believers and have transcendental and historical roots

**Virtues are values expressed as permanent modes of behavior.**

Prof. Nathan Rotenstreich, Hebrew University, Jerusalem

# Aristotle's Highest Virtue



The virtue of “sophia”

Usually translated as “wisdom,” but more recently understood by University of Pennsylvania philosopher Susan Suave Meyer in a “restricted technical sense” to mean “scientific learning.” Aristotle says “being sophos is not only knowing the principles of a science, but understanding the truth of the principles.”

Nikhil Krishnan  
The New Yorker  
July 3, 2023

Nice to know that modern university students are naturally able to practice this highest virtue.

# The Golden Mean

## Moral Virtues – Examples

Vice of Deficiency	Virtuous Mean	Vice of Excess
Cowardice	Courage	Rashness
Insensibility	Temperance	Intemperance
Illiberality	Liberality	Prodigality
Pettiness	Munificence	Vulgarity
Humble-mindedness	High-mindedness	Vaingloriness
Want of Ambition	Right Ambition	Over-ambition
Spiritlessness	Good Temper	Irascibility
Surliness	Friendly Civility	Obsequiousness
Ironical Depreciation	Sincerity	Boastfulness
Boorishness	Wittiness	Buffoonery
Shamelessness	Modesty	Bashfulness
Callousness	Just Resentment	Spitefulness

Aristotle taught that while virtues are good, a *deficiency* in a virtue would be a vice and an *excess* of that virtue would also be a vice.

# The Golden Mean

## Moral Virtues – Examples

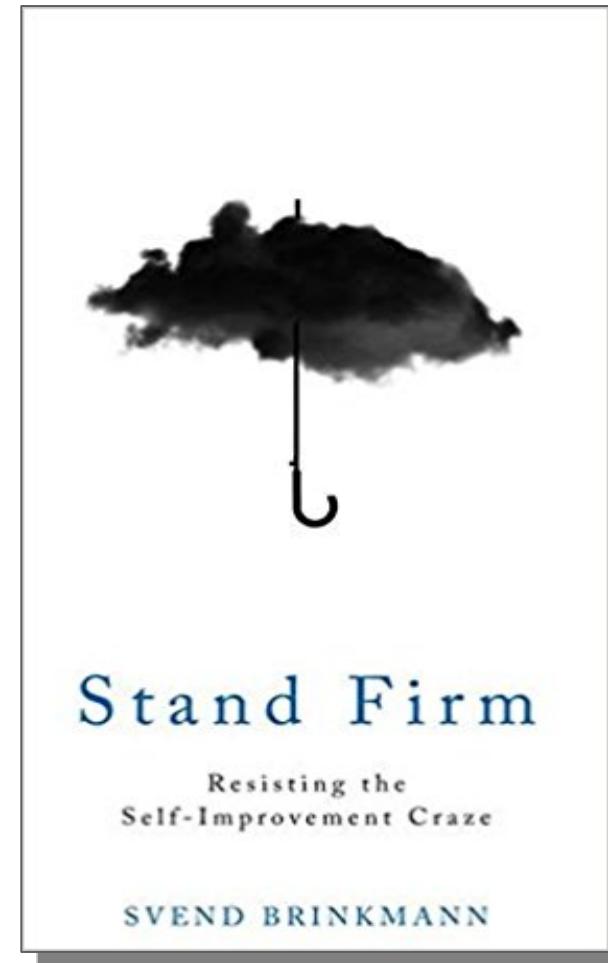
Vice of Deficiency	Virtuous Mean	Vice of Excess
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Spiritlessness	Good Temper	Irascibility
Depreciation	Sincerity	Boastfulness
Boorishness	Wittiness	Buffoonery
Shamelessness	Modesty	Bashfulness
Callousness	Just Resentment	Spitefulness

Aristotle taught that we learn acquire these essential qualities of character, or of our disposition, “from our regular practice.” I.e., existentially.

# Modern Virtues: For World Citizens

Danish writer Svend Brinkmann advocates a return to old-fashioned virtues, including:

- Integrity
- Self-control
- Character
- Dignity
- Loyalty
- Rootedness
- Adherence to Obligation
- Respect for Tradition



<https://www.mindinspirations.com/2008/03/17/5-most-important-virtues-for-an-engineer/>

# Modern Virtues: For Engineers Specifically

An IT engineer who bloged under the name Shiva<sup>1</sup> suggests that the five most important virtues for engineers are:

- Openness
- Acceptance of Limitations
- Honesty
- Deciphering Criticism in the Right Way
- Proactive Thirst for Learning
- Willingness to Take Risks



Other authors may have other favorite virtues, but most agree that virtue ethics provides a useful way of addressing engineering problems, and that both the engineers and those around them benefit from its application.

<sup>1</sup><https://www.mindinspirations.com/2008/03/17/5-most-important-virtues-for-an-engineer/>

# Case Study 9: Theranos Saga of Virtue Denied



Elizabeth Holmes  
enters Stanford



Elizabeth Holmes

Freshman Chemical Engineering student  
Aspiring Silicon Valley Entrepreneur

Elizabeth Holmes is a freshman Chemical Engineering student with a strong interest in blood testing and a strong desire to be a highly successful Silicon Valley entrepreneur.

# Case Study 9: The Vision – Revolution in Blood Testing

## Visionary Features

Painless  
Finger-Stick

100s of  
Blood Tests

Immediate &  
Low Cost Results

Diagnosis &  
Treatment

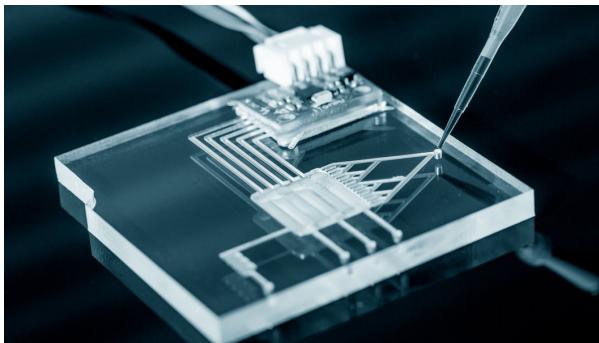
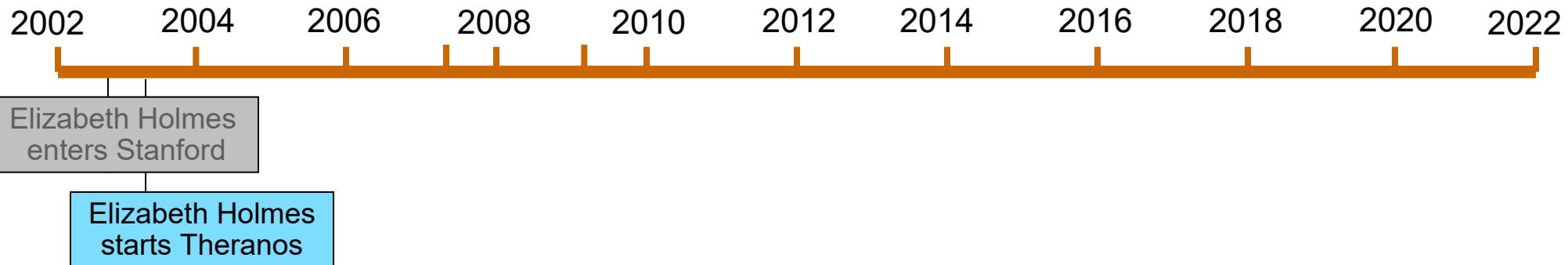
Home Use &  
Store Clinics

Epidemiological  
Prediction



The Vision:  
Micro Blood Samples

# Case Study 9: A Visionary Company is Formed



The Technology:  
Microfluidic Lab-on-a-Chip



Chief Operating Officer  
“Sunny” Balwani

With the endorsement of her engineering professor Dr. Channing Robertson and seed money from her family, Holmes secures about \$100M in venture funding and adds a volatile COO.

# Case Study 9: A Distinguished (Inexpert) Board



Elizabeth Holmes  
enters Stanford

Elizabeth Holmes  
starts Theranos

## Director

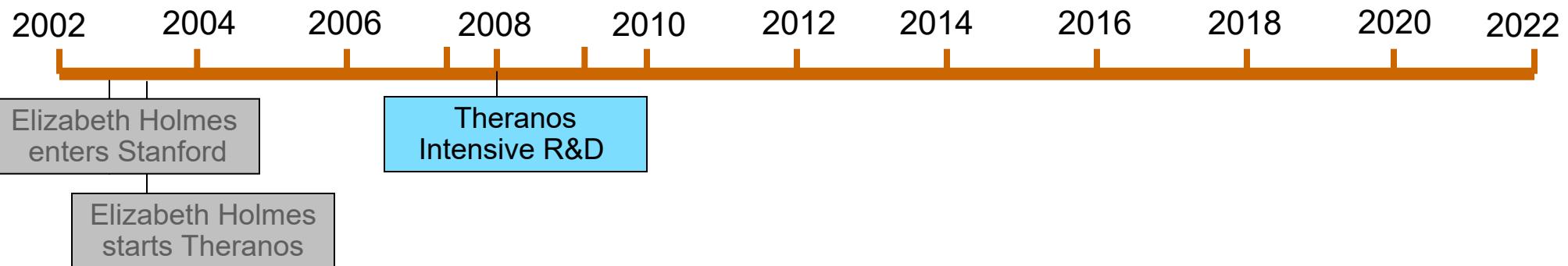
- George Shultz
- Dr. Henry Kissinger
- Dr. William Perry
- Gen. James Mattis
- Sam Nunn
- Riley Bechtel
- Richard Kovocovidich
- Bill First

## Former Position

- Secretary of State
- Secretary of State
- Secretary of Defense
- Secretary of Defense
- Chm. Senate Armed Services
- Chm of the Board, Bechtel
- CEO Wells Fargo Bank
- Senate Majority Leader

Theranos forms a distinguished Board of Director with no experts in blood testing/analysis. Holmes tells the Board *and everyone else* that Theranos is revolutionizing medical practice.

# Case Study 9: Intense & Restrictive R&D Environment



Theranos' R&D management is:

- Highly secretive & security minded
- Compartmentalized & competitive
- Arbitrary & disloyal
- Megalomaniac & egotistical
- Dishonest & untruthful
- Inspirational & dispiriting

Theranos' discourages criticism by:

- Appealing to idealistic vision
- Demanding absolute loyalty
- Frequent and rapid dismissals
- Non-disclosure agreements
- Threatening legal action
- Threatening financial retribution

Theranos under COO Balwani creates an R&D environment of work, secrecy and insecurity.

# Case Study 9: An Attempted Intermediate Solution

## Visionary Features

Painless  
Finger-Stick

100s of  
Blood Tests

Immediate &  
Low Cost Results

Diagnosis &  
Treatment

Home Use &  
Store Clinics

Epidemiological  
Prediction



The Vision:  
Micro Blood Samples



Edison  
Tester

Problems develop with the lab-on-a-chip, so R&D turns to limited tests from small samples via a device called the Edison that uses diluted samples, special cartridges, and a robot handler.

# Case Study 9: Solution Scales Upward



The Vision

## Visionary Features

- Painless Finger-Stick
- 100s of Blood Tests
- Immediate & Inexpensive
- Diagnosis & Treatment
- Home Use & Store Clinics
- Epidemiological Prediction

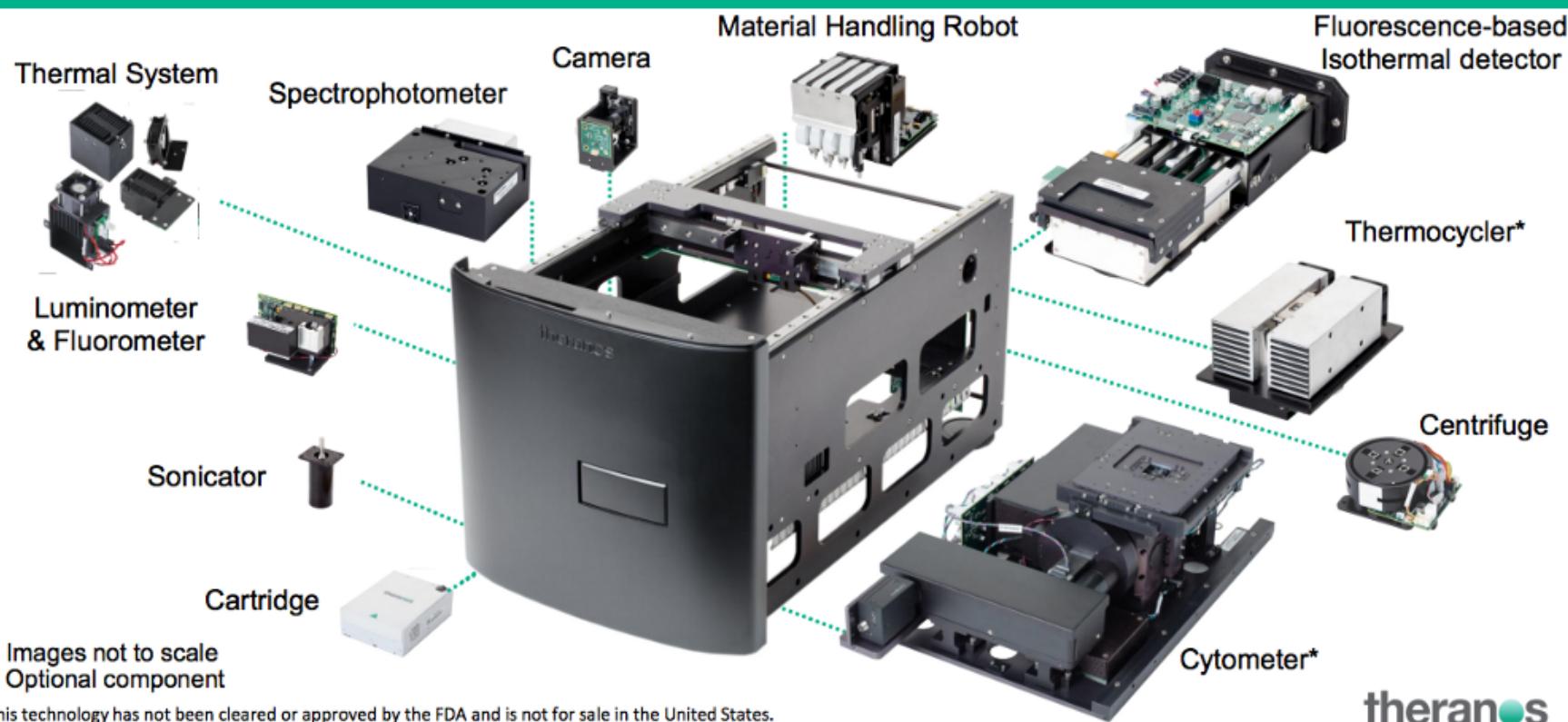
## Backend Computer



The limited Edison evolves to a MiniLab device able to do hundreds of standard blood tests and send signals to remote backend computers that will analyze them and distribute results.

# Case Study 9: A Blood Testing Laboratory in Miniature

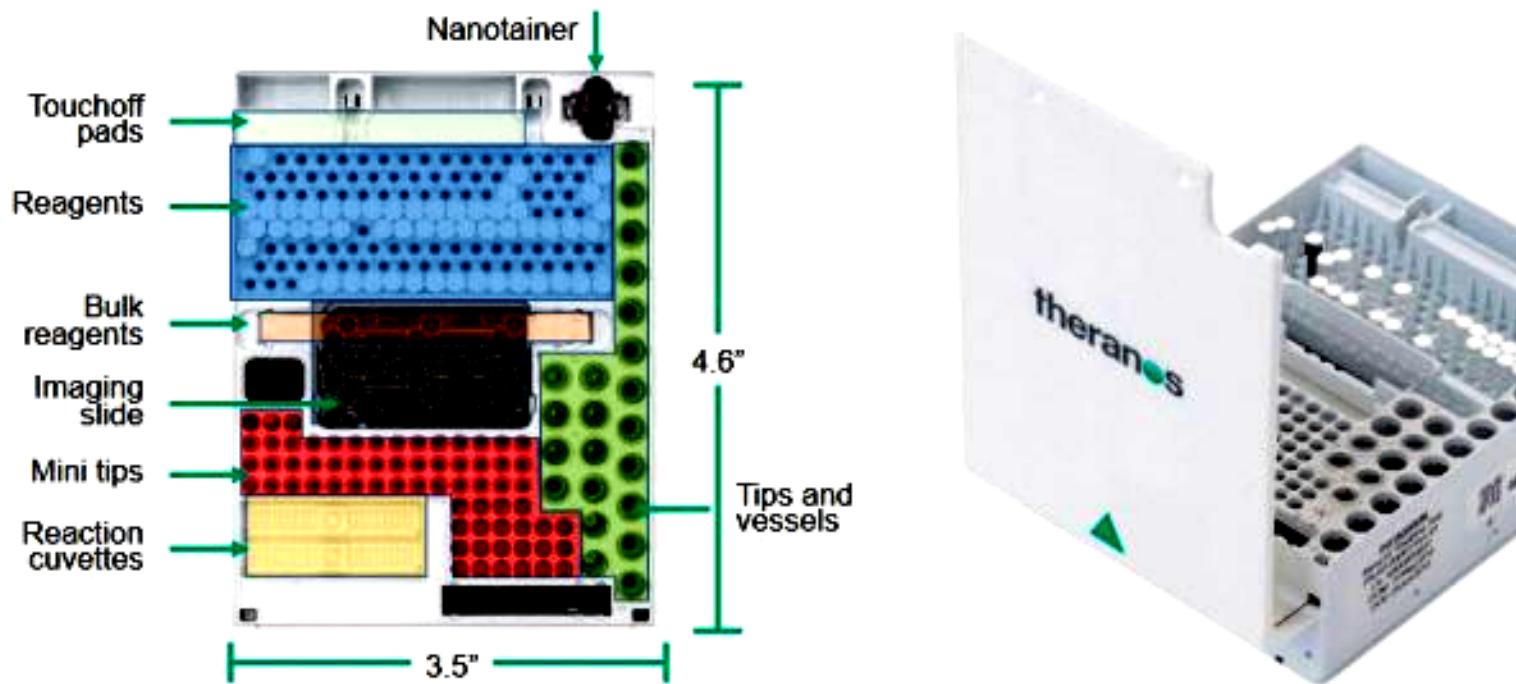
## Theranos Sample Processing Unit (miniLab)



The MiniLab is a complex unit integrating miniaturized versions of many standard techniques.

# Case Study 9: Specialized Testing Cartridges

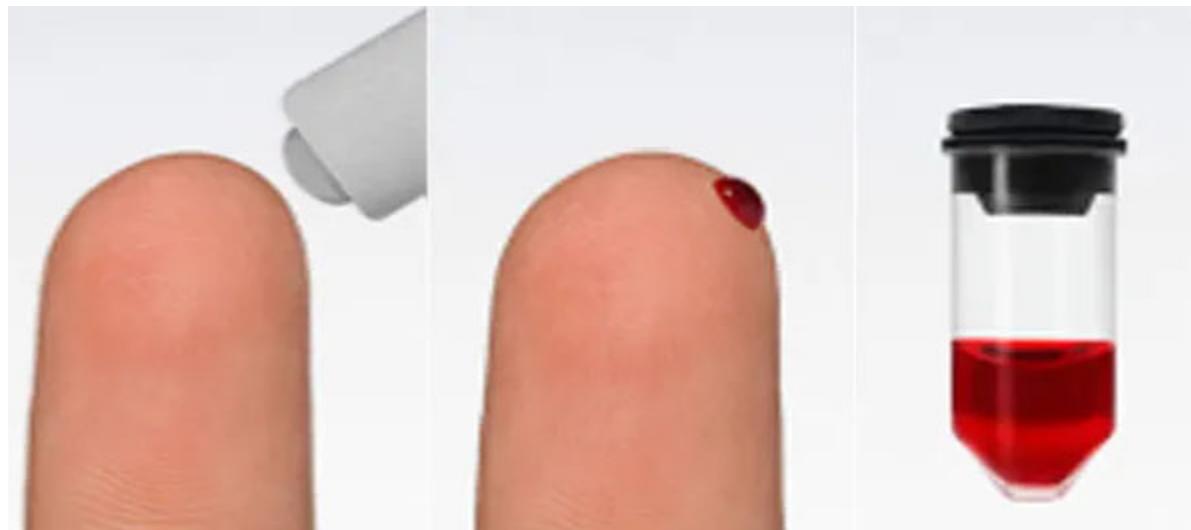
## Cartridges: Customized to the Assays



This technology has not been cleared or approved by the FDA and is not for sale in the United States.

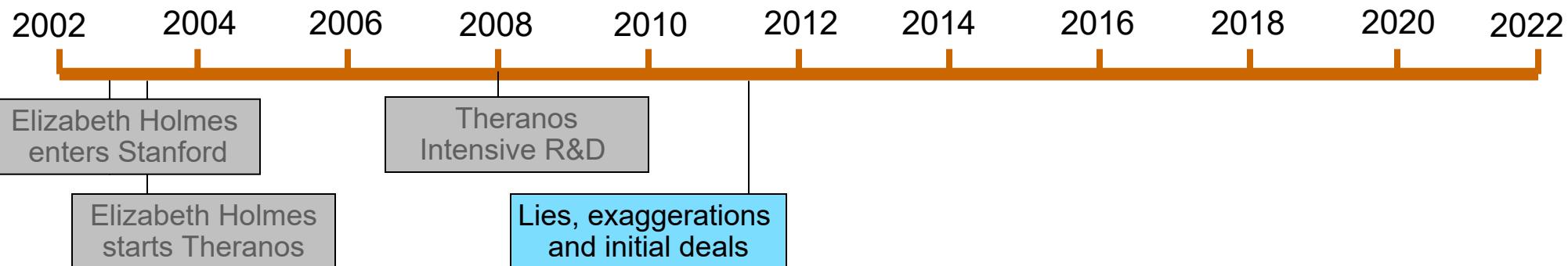
The MiniLab uses special cartridges that contain the chemicals needed for classes of tests.

## Case Study 9: “Nanotainer” Blood Collection



Blood is drawn from a finger-stick, stored in a “Nanotainer,” and then diluted for testing.

# Case Study 9: Building on Lies & Exaggeration



Elizabeth Holmes claims:

- 800 tests from a drop of blood
- Tests are ready in 30 minutes
- More accurate than traditional
- Theranos has DoD contracts
- Edison used by battlefield units
- Edison tests approved by FDA
- Endorsed by university centers

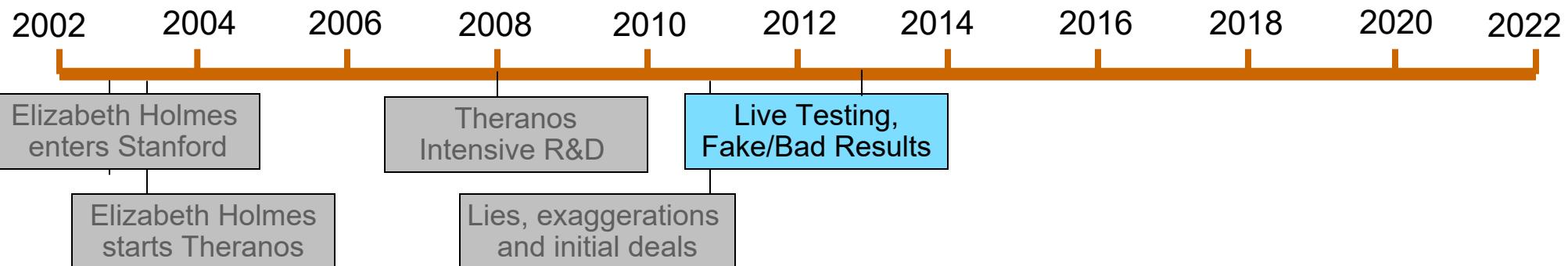
Deals made include:

- Safeway stores invests \$350M for Theranos in-store blood test clinics.
- Walgreens plans to put Theranos clinics in 1000s of drug stores, and opens two or three.



Elizabeth Holmes' claims are lies or exaggerations, but are highly publicized and widely believed.

# Case Study 9: Real Patients Are Put at Real Risk



Adam Beam, former Lab Director, says Theranos is:

- Proceeding before Edisons are ready for patients
- Using venous puncture at Walgreens clinics
- Transporting blood to Palo Alto HQ for testing
- Testing mainly with hacked Siemens equipment
- Providing unreliable and/or faked test results
- Committing ethical breaches in proficiency testing
- Lying to and cheating CLIA regulators

At this point Theranos goes from simple “puffery” to endangering the safety of many patients with unreliable test results by accepting the Silicon Valley motto of “Fake it ‘til you make it.”

# Case Study 9: Elizabeth Holmes is Elevated



Elizabeth Holmes enters Stanford

Theranos Intensive R&D

Live Testing,  
Fake/Bad Results

Elizabeth Holmes starts Theranos

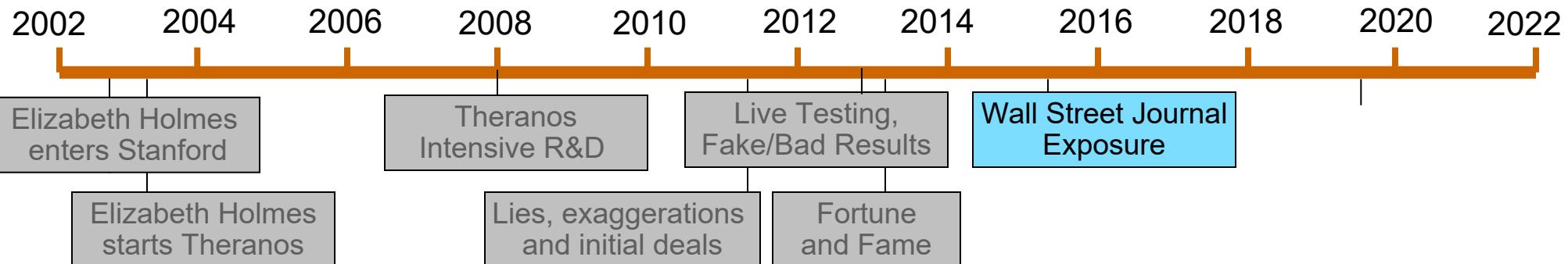
Lies, exaggerations  
and initial deals

Fortune  
and Fame



A new investment round of about \$900M gives Theranos a \$9B valuation and means Holmes is worth \$4.5B; she is lauded as the most successful woman entrepreneur in Silicon Valley.

# Case Study 9: The Facts Emerge



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## Hot Startup Theranos Has Struggled With Its Blood-Test Technology

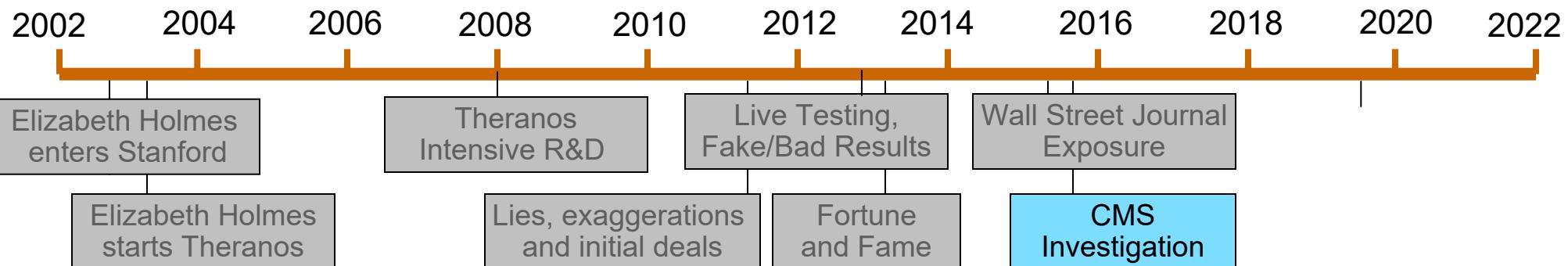
Silicon Valley lab, led by Elizabeth Holmes, is valued at \$9 billion but isn't using its technology for all the tests it offers

By JOHN CARREYROU  
Updated Oct. 16, 2015 2:00 p.m. ET

Partner with

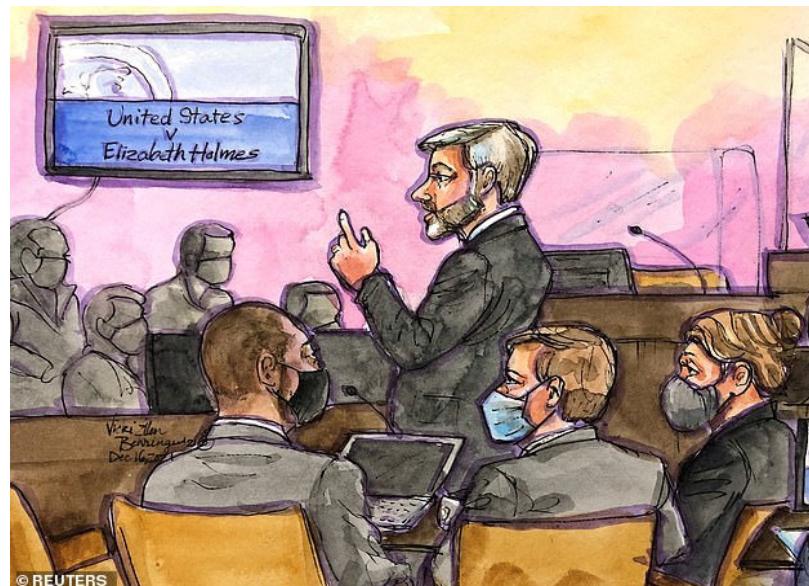
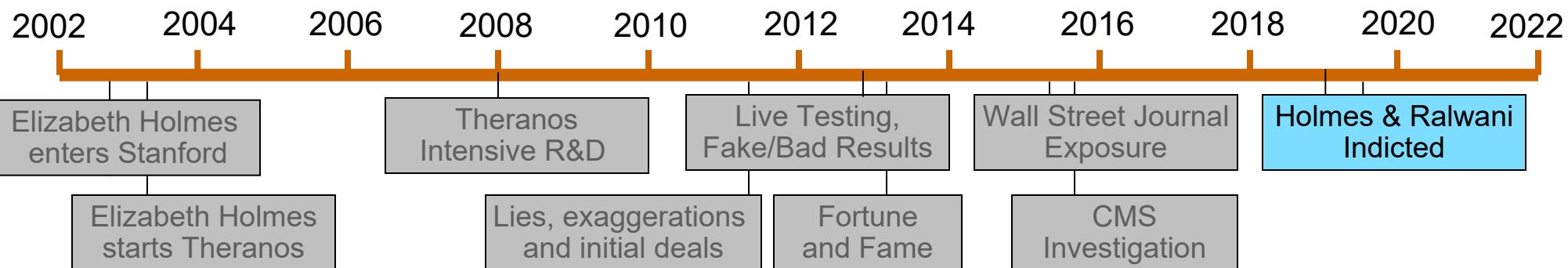
Wall Street Journal article based on information from former employees reveals Theranos' technical and operational deceptions and contributes to beginning of a CMS investigation.

# Case Study 9: The Empire Collapses



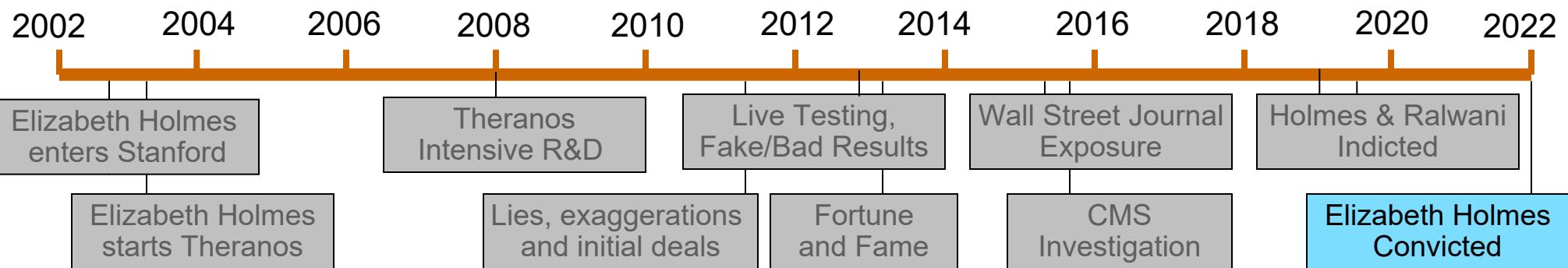
Theranos invalidates 1000s of test results following CMS disclosure of laboratory problems, Walgreens ends Theranos testing, and Theranos agrees to pay millions to its clinic patients.

# Case Study 9: Holmes and Ralwani are Indicted



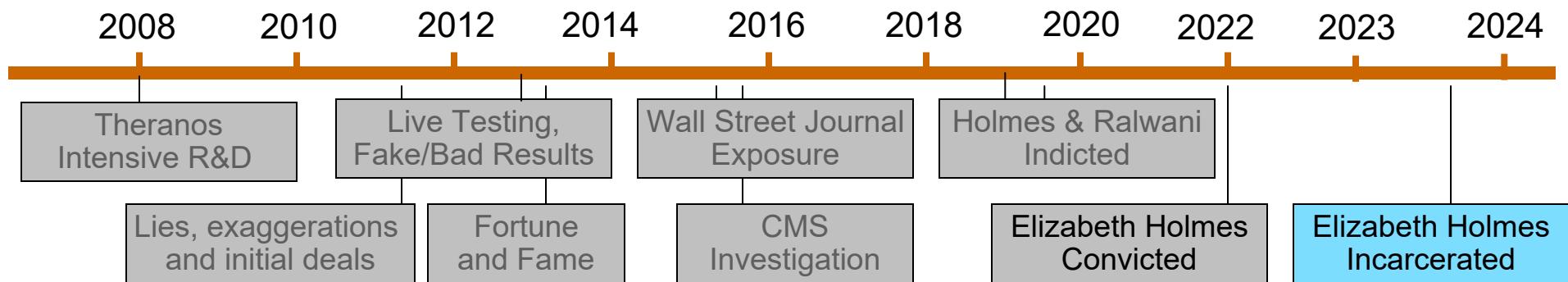
In June 2018 Holmes and Balwani are indicted on nine counts of wire fraud and arrested by the FBI. In her 2021 trial Holmes testifies for eight days trying to justify her actions.

# Case Study 9: Holmes is Convicted...



In January 2022 Elizabeth Holmes is convicted on four counts of fraud on her wealthy investors. In November 2022 she is sentenced to 11+ years. "Sunny" Balwani is sentenced to 13 years for 12 counts of fraud on investors and patients,

# Case Study 9: ...and Starts Her Prison Term



# Case Study 9: Theranos Ethical Analysis

In terms of the engineering virtues propounded by ‘Shiva’:

- Openness

*Holmes and Balwani were extremely secretive and did not share with colleagues or the public*

- Acceptance of Limitations

*Holmes incorrectly insisted there were no limitations to testing from a drop or two of blood*

- Honesty

*Holmes continually and falsely misrepresented the capabilities of the Theranos technology*

- Deciphering Criticism in the Right Way

*Holmes and Balwani would not tolerate criticism either internal or external to Theranos*

- Proactive Thirst for Learning

*Holmes incorporated partial knowledge of a complex field but did not work to expand it fully*

- Willingness to Take Risks

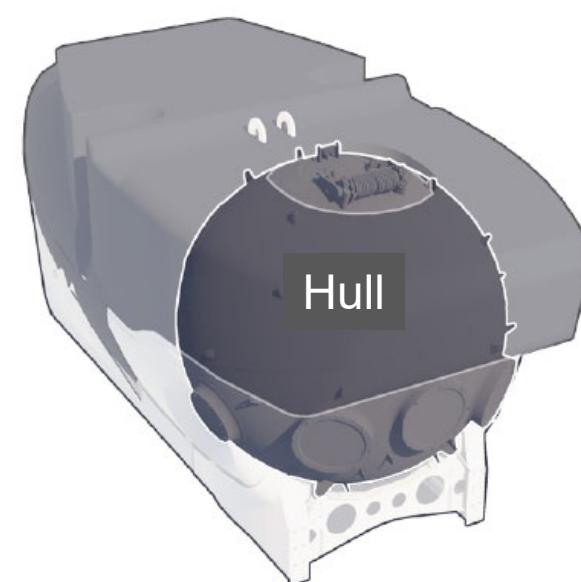
*Holmes and Balwani had an excess of this virtue -- they were willing to risk large amounts of money from investors, the well-being of their patients, and their personal reputations*

Holmes and Balwani clearly violated ethical principles as well as Federal laws.

# Holmes is Not Unique – The Titan Submersible



Titan



Alvin

A spherical shape allows for a uniform distribution

The New York Times, July 17, 2023

In order to carry more paying passengers to the Titanic wreck, Stockton Rush, CEO of Titans' owner OceanGate, uses unproven carbon fiber hull in unproven cylindrical configuration. Experts warn him that the hull will fail, but Rush insists he is expanding design boundaries.

# Holmes is Not Unique – The Titan Result

 MARKETS BUSINESS INVESTING TECH POLITICS CNBC TV INVESTING CLUB

## The Titan submersible imploded, killing all 5 on board, U.S. Coast Guard says

PUBLISHED THU, JUN 22 2023 1:00 AM EDT | UPDATED THU, JUN 22 2023 10:19 PM EDT

AP

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VIDEO 01:30

**Titan submersible crew presumed dead after debris found, says U.S. Coast Guard**

# Utilitarianism (Consequentialism): Definitions

- Fundamental Concepts:
  - The **consequences** of an action determine the *ethical content*
  - Consequences are a **Balance of Good (benefits) vs. Bad (costs)**
  - *Ethical* consequences give “**The most happiness for the most people**”
- Related Principles: John Stuart Mill (1806–1873) says
  - “Do no harm”
  - “Promote freedom”

# Utilitarianism: Societal/Technical Examples



- Cars:  
Speed & Convenience vs. Safety & Economy



- Air and Water Pollution:  
Public Health vs. Industrial Expense



- Genetically Engineered Foods  
Societal Benefits vs. Ecological Risks

# Utilitarianism (Consequentialism): Cautions

- Fundamental Concepts:
  - The *consequences* of an action determine the ethical content
  - Consequences are a balance of good (benefits) vs. bad (costs)
  - Ethical consequences give “the most happiness for the most people”
- Related Principles: John Stuart Mill (1806–1873) says
  - “Do no harm”
  - “Promote freedom”
- Societal/Technical Examples
- Cautions:
  - Inequitable distribution of “happiness”
  - Neglect of societal relations and values in the interest of quantitative results
  - Unforeseen consequences

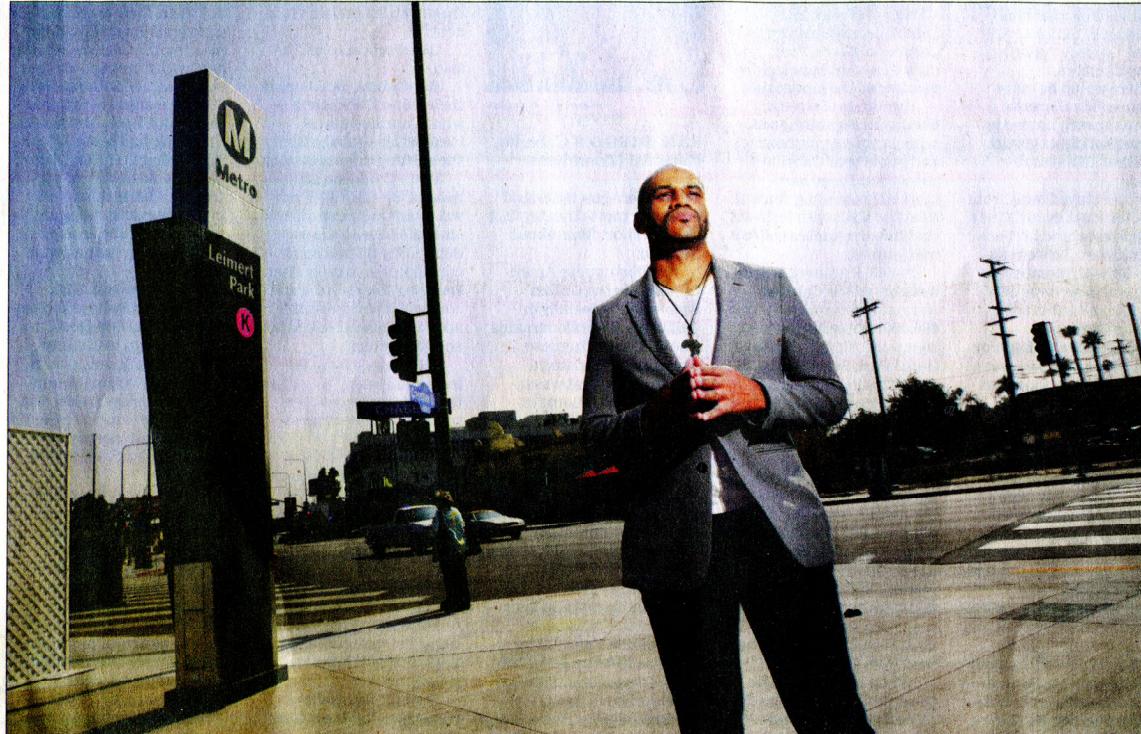
# Case Study 10: Unforeseen Consequences – LA 1

- Los Angeles' extensive streetcar network serves the city well
- Replaced by freeways in mid 1950s
- At First: Significant Benefits
  - Personal mobility and prestige
  - Increased access to suburbs
  - Easy commutes to urban centers
- Then: Severe Costs Appear
  - Isolation of poorer neighborhoods
  - Reduction in income for neediest
  - Severe congestion of freeways



## Case Study 10: Unforeseen Consequences – LA 2

FRIDAY, OCTOBER 7, 2022 :: LATIMES.COM/CALIFORNIA



A photograph of a man, Damien Goodmon, standing on a sidewalk. He is wearing a light-colored blazer over a white shirt and dark pants. He is looking upwards and slightly to his right. To his left is a tall, rectangular sign for the Leimert Park station of the Crenshaw/LAX Line. The sign features the Metro logo at the top, followed by the word "Leimert" and "Park" stacked vertically, with a small red letter "K" at the bottom right. The background shows a city street with a car, traffic lights, and utility poles under a clear sky.

Photographs by GARY CORONADO Los Angeles Times

**ACTIVIST** Damien Goodmon worries the new Crenshaw/LAX Line is poised to displace many in the very community that fought for it.

# Rail line ‘a blessing and a curse’

Many fear Metro route will push residents out of historic Black community

# Utilitarianism (Consequentialism): Cautions

- Fundamental Concepts:
  - The *consequences* of an action determine the ethical content
  - Consequences are a balance of good (benefits) vs. bad (costs)
  - Ethical consequences give “the most happiness for the most people”
- Related Principles: John Stuart Mill says
  - “Do no harm”
  - “Promote freedom”
- Examples
- Cautions:
  - Unforeseen consequences
  - Inequitable distribution of “happiness”
  - Neglect of societal relations and values in the interest of results
  - **Actions that are basically wrong, whatever the consequences!**

# Utilitarianism: Basically Wrong Actions

## Freezing Exposure

Nazi doctors submerged victims in vats of ice water for periods of up to *five* hours in an attempt to find ways to treat German pilots forced to eject into freezing oceans. The victims were either naked or dressed in aviator suits, and the cold exposures were generally continued until the subjects died.



## Tuskegee Study of Untreated Syphilis

Infamous clinical study conducted between 1932 and 1972 by the U.S. Public Health Service. The purpose was to observe the progression of *transmitted syphilis* in rural African-American men in Alabama. The men were told they were receiving free health care from the US government, but in many cases their disease was left untreated in order to provide a control group to compare with those who got treatment.



Today there are laws to guard against such clear wrongs, but situations *can* still arise where the consequences might be useful even if the actions themselves were wrong.

# Pragmatism

- Fundamental Concepts
  - Context – In which facts and values must be balanced
  - Analysis -- Ethical reasoning vs. fixed rules or ideals
  - Flexibility – In integrating and harmonizing competing values
- Related Principles
  - Guidance – Methods of analytical thought
  - Warning – Against generalizing from specific cases
- Practical Approach
  - Cases are concrete dilemmas with differing moral/ethical opinions
  - Emphasizing *principles* often leads to accentuation of differences
  - Emphasizing *particulars* over *principles* can reconcile differences
  - *Didn't we earlier say the opposite with regard to the Golden Rule?*

***"A foolish consistency is the hobgoblin of little minds."***

*Ralph Waldo Emerson, Self Reliance, 1841*

# Case Study 11: Pragmatic Medical Decision



- Nazi dissections of camp prisoners were published in the “Atlas of Topographical and Applied Human Anatomy.”
- Years later an Israeli settler schoolboy severely injures his foot from a land mine.
- His Palestinian doctor says he can save the foot, but his chances are better if he refers to the textbook when operating.
- The boy’s mother, who lost relatives in the Nazi Holocaust, says: If the textbook information can help now, we’ll use it.”
- Israel’s rabbis also approve the doctor’s use of the textbook information.
- The doctor applies the information from the text and the foot recovers perfectly.

The lesson may be that “Pragmatism” can work -- even in difficult situations

New York Times, “In Israel, Modern Medicine Grapples With Ghosts of the Third Reich.” June 28, 2020

# Case Studies 12 & 13: Example Applications

## Soda Dispensing



### Situation

- In market or cafe
- Ask for water cup
- Fill cup with soda

### Philosophies

- Virtue Ethics
- CAT IMP 1

## Control of Immigration



### Situation

- Trump promises “Zero tolerance” for illegals
- Parents arrested, children separated
- End goals is deterrence of border crossers

### Philosophies

- Virtue Ethics
- Utilitarianism/Consequentialism
- CAT IMP #2

# Alternative Ethical Frameworks

- Non-Judeo/Christian: Islamic, Buddhist, Hindu. Etc.
- Non-Religious Secular Humanism, Atheism
- Non-Male Centered: Feminist
- Non-Adult Centered: Fetal, Infant and Child Rights
- Non-Human Centered: Animal, AI Entities and Nature Rights
- Non-Democratic: Dictatorship, Monarchy, Theocracy
- Non-Political: Libertarian, Anarchistic
- Non-Martial: Pacifistic
- Non-Capitalistic: Socialist, Communist
- Non-Altruistic: Objectivist (Ayn Randism)
- Non-Essentialist: Existentialist

# Conclusion

It is almost impossible today not to violate  
*somebody's* ethical principles -- no matter what you do.

On the other hand,  
having available a variety of ethical sources and philosophies  
gives you more material with which to build  
**YOUR PERSONAL ETHICAL FRAMEWORK.**