

## Introduction

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## INTRODUCTION

It is frequently assumed that the executive branch of government is responsible for the enforcement of the laws designed to curb serious misconduct, whether by individuals or corporations. The methods employed by the executive branch include administrative regulation and criminal prosecution, and it is anticipated that these methods will effectively identify and punish harmful acts. In this view, privately initiated litigation is, at most, an adjunct to executive action - an after-the-fact calculation of personal harm, the interests of society having already been addressed.

This is a simplistic conceptualization of law enforcement in America. It does not account for tort or other private claims as front-line tools of policing to address and deter harmful conduct, particularly by large corporations.

Recent executive branch failures due to a lack of resources, conceptual bias, or the exercise of political or financial influence underscore the importance of private litigation in cabining corporate misconduct. One need look no further than the fallout from the opioid epidemic or the deadly results of manufacturing malfeasance in the auto and aircraft industries to recognize the critical need for private litigation to confront corporate harms that cost human lives.

Corporate America, uncontrolled by vigorous government action, has built a rickety edifice whose walls have repeatedly collapsed on those lured inside. Private litigation to hold companies accountable offers an important avenue to render the incautious responsible for their actions.

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1. Professor Stephan Landsman is the current organizer and director of the Clifford Symposium.

