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Critical Justifications for Recognising the Sentience of Companies

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Abstract

The law already recognises that a company, though abstract in nature, can do certain things which a natural person can do, such as owning properties, entering into contracts, communicating, being able to sue and be sued, and even to have an intention. As a creation of the law, a company has a distinct personality and life of its own, but it only lives and acts through natural persons who are its directors. The ascription of human capacities to a company is necessary for it to operate effectively. It enables a company to lay claim to and also be responsible for the actions and inactions of its human directors when the latter act within the context of their authority. However, in several cases, the courts have shown strong disinclination to recognise the possibility that sentience, although typically associated with natural persons, can also be attributed to a company in the same contexts in which the actions and inactions of its human directors are ascribed to it. This consequently creates a limitation for companies with respect to the reliefs they can claim or get from the courts, as seen in the recent case of F.C.M.B. v. Abdul Gafaru & Co. Ltd (2026) 6 NWLR (Pt. 2038) 179. However, with the aid of Lord Denning's analogy of a company in Bolton (H L) (Engineering) Company Ltd v T J Graham & Sons Ltd (1957) 1 QB 159 and insights from legal realism, this research challenges the traditional approach of the courts to the sentience of companies and calls for a jurisprudence more consciously attuned to social realities. It argues that, since the acts, knowledge and representations of a company's human directors, when acting within the context of their authority, are legally deemed to be those of the company, the law can be developed to attribute the experiences (emotions) of these natural persons, in the same context, to the company.

Keywords: Company, Directors, Feelings, Sentience, Courts, Law

1.0 Introduction

In the legal realm, the word 'feeling' has long functioned as a catchall category for much of what law aspires to avoid because of its subjectivity.[1] But, it is crucially shielded by tort law from harms occasioned by the wrongdoing of others.[2] Traditional legal theories often exclude non-human entities such as companies from being recognized as sentient beings. The word 'sentient' means the ability to have feelings.[3] Recently, the Nigerian Supreme Court in *F.C.M.B. v. Abdul Gafaru & Co. Ltd* restated the principle that companies are not sentient and as such cannot claim damages for emotional distress experienced by their directors.[4] This position of the apex Court is not novel to the Nigerian jurisprudence,[5] neither is it peculiar to it.[6] In fact, the notion dates back to the famous dictum of Lord Reid in *Lewis v. Daily Telegraph Ltd* where his lordship stated that: "a company cannot be injured in its feelings, it can only be injured in its pocket. Its reputation can be injured by a libel but that injury must sound in money."[7] The rationale behind the position is simply that, a company is not a natural person and only natural persons can suffer shock, anxiety or emotional upset.[8] However, this research critiques this position and argues that, even though a company is not a human being, it can be attributed with sentience through its human directors the same way the law attributes certain human actions and inactions of the directors to the company.

2.0 Statement of Problem

The non-recognition of the sentience of companies raises serious limitations with regard to the remedies they can seek or get from the court. In *F.C.M.B. v. Abdul Gafaru & Co. Ltd,* a company (1st Respondent) sued to recover general damages for the "embarrassment, humiliation, trauma and discomfort" caused to its directors/officers by the Appellant/Bank when the cheques and drafts issued by the company's directors, within their authority as the directing mind and will of the company, were dishonored. Both the High Court and the Court of Appeal accepted the case of the company and granted the reliefs sought. But the decisions of these two courts were overturned by the Supreme Court on the basis that the company, not being a human being, could not seek or be awarded damages for emotional injuries suffered by its directors. Consequently, the company could not recover damages for the discomfort it suffered when its directors, acting in the context of their authority, were humiliated and embarrassed.

In libel cases, as well, a company claiming to have been defamed is expected to limit its pleadings and evidence in terms of how the defamatory statements concerned caused it to suffer a reputational or patrimonial loss. In other words, even though libel is actionable per se, if there is no evidence of financial or reputational loss, the defamed company may not be awarded substantial damages. This point was emphasised in the Canadian case of *James Bay Resources Limited v. Mak Mera Nigeria Limited,* where the Court of Appeal held that: "in the case of a corporate plaintiff, absent proof of loss or impact, it is unlikely that substantial damages will be awarded. Rather, the judgment itself will often serve as a vindication of the plaintiff's rights."[9] The Court further noted as follows:

> "The repetition of defamation by way of an unsuccessful plea of justification as part of a defence may aggravate the damages of an individual because it perpetuates hurt feelings and humiliation: However, in the case of a corporate

[1] Susan A. Bandes and Jeremy A. Blumenthal, 'Emotion and the Law' (2012) 8 *The Annual Review of Law and Social Science*, 162.
[2] Priyanshi Jain, 'Emotional Distress and Claim in Law of Torts' (2023) 6 (1) *International Journal of Law Management & Humanities*, 673.
[3] A. S, Hornsby, 'Oxford Advanced Learner's Dictionary' 7th Edn (2006) 1331.
[4] *(2026) 6 NWLR (Pt. 2038) 179.*
[5] See *Duyile & Anor. v. Ogunbayo & Sons Ltd (1988) NWLR (Pt.72) 601.*
[6] See *James Bay Resources Limited v. Mak Mera Nigeria Limited (2025) ONCA 448.*
[7] *[1964] AC 234 at 262.*
[8] *F.C.M.B. v. Abdul Gafaru & Co. Ltd (supra) at 206.*
[9] *(2025) ONCA 448, at 47.*

> plaintiff, the mere repetition of a libel by way of a plea of justification is insufficient, by itself, to establish reputational or economic loss or impact."[10]

It was on the basis of the above analysis that the appellate court went on to set aside the $200,000.00 damages awarded to a defamed company by the lower court and substituted the same with a lesser sum of $1,000. Similarly, the 'insentience' of the respondent company in the case of *Sun Publishing Ltd v. DS Nig. Ltd* was alluded to by the Nigerian Court of Appeal when it reduced the damages awarded to a company by the trial court from N10,000,000.00 (Ten Million Naira) to N3,000,000.00 (Three Million Naira).[11]

The foregoing demonstrates the limitations that companies encounter due to the courts' refusal to recognise the possibilities of ascribing sentience to artificial beings. Interestingly, Carter-Ruck and Walker forewarned this as far back as 1985 in the following words:

> "Unlike a personal plaintiff (i.e a natural person), it (a company) cannot tug the jury's heart strings by describing its distress and humiliation on reading the defamatory words. This presents a problem for a company which has been defamed, since it is often difficult to prove that the publication caused either a specific or a general loss of business."[12]

Brackets mine.

3.0 Legal Realism As Basis For Recognising The Sentience Of Companies

Legal realism is one of the theories of adjudication, in the field of jurisprudence. It aims to bring the law in contact with its true stakes, asserting that law evolves from time to time and judges are key to that evolution.[13] Unlike the legal formalists who believe that all that goes into judicial decision-making is mechanical deduction, legal realists assert that adaptation to societal norms is one of the basic fundamentals of law.[14] To realists such as Oliver Wendell Holmes and Roscoe Pounds, there is a distinction between "law in books" and "law in action" and one could not actually understand the law without reference to the latter.[15] In essence, realism challenges the idea that law should operate as an autonomous domain, one that makes its decisions by turning its judicial eye inward—to the world of legal concepts—rather than outward to the society it governs.[16] In this connection, it has been contended that companies are not mere fictions of law, but are real entities.[17] According to Micheler, companies are real entities because there is a consensus in how they are perceived by both the natural persons that make them up and the third parties (non-members) that relate with them.[18] The consensus is that the people who make up a company intend to act collectively and not individually, in such a way that everyone treats the company as an "active social unit."[19] Another scholar views a company as nothing but a community of members (i.e natural persons).[20] Indeed, it is because of the natural persons that make up and control the company, that it is able to exhibit behaviours to which we ascribe intentionality or sentience, even though

[10] *Ibid*, at 46.
[11] *(2019) 9 NWLR (Pt. 1678) 510.*
[12] Peter F. Carter-Ruck & Richard Walker in 'Carter-Ruck on Libel and Slander' (London: Butterworths, 1985) 157.
[13] Sree Bhavan P S, 'Legal Realism: The Role of Judges in Shaping the Law' (2024) IV (I) *Indian Journal of Integrated Research in Law,* 457.
[14] Naeesha Halai, 'The Realist Theory of Law' (2021) 7 (5) *International Journal of Legal Developments and Allied Issues,* 72.
[15] Samuel Aber, 'Legal Realism: An LPE Reading List and Introduction' (2020) 3 available at https://lpeproject.org/wp-content/uploads/2020/07/Legal-Realism-Primer.pdf accessed on 19 July, 2026.
[16] *Ibid*
[17] Eva Micheler, 'Company Law – A Real Entity Theory' 22, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3783696 accessed on 20 July, 2026.
[18] *Ibid.*
[19] *Ibid.*
[20] David Wishart, 'A Reconfiguration of Company and/or Corporate Law Theory', (2010) 10 (1) *Journal of Corporate Law Studies* 151, 176.

it is not a human being. Building on the above logic, Schmid argues that companies have emotions.[21] He defines the term "corporate emotions" to mean the emotions of individual employees that are regulated by the corporation's normative structure.[22] The following quote in Rob Perks' 'Corporations Are People Too!': Business and Corporate Oral History in Britain' is supportive of Schmid's thinking:

> "In 2007 publication of James Bamberg's fourth volume of British Petroleum's official history was postponed when safety lapses in the US and Lord Browne's resignation as Chief Executive brought unwelcome media interest: *'There was a feeling in the company* that the timing wasn't right and that the history should be held for a time unspecified'."[23]

For Perks, companies are made up of people, and every company has its own 'biography', shaped both by its own people's biographies and by the versions of itself that it creates for different purposes at different times.[24] In the same vein, Gilbert believes that collective emotion is real and traces to the 'joint commitment' of the people that make up the company.[25] This research aligns with these perspectives as they recognise that companies are real entities because of the natural persons that make them up.

The realist approach is significant to the critical thinking that this research proposes, to the extent that it supports the argument that law is not static and that our courts can and should lead in the evolution and development of law. The basis on which courts refuse to ascribe sentience to companies (i.e that a company is not a human being) is simply doctrinal or what legal realists refer to as "mechanical jurisprudence".[26] For realists, the conclusions drawn from traditional styles of judicial opinion are often as a result of a sort of syllogism in which the major premise is the law, the minor premise is the facts, but it does not provide accurate descriptions of the processes of adjudication.[27] Thus, the danger that lies in traditional or formalist approaches is that the courts reiterate existing doctrine without leveraging their power to develop the law.

Consider, by way of illustration, the case of *Okoth & Kiplagat Advocates v Public Procurement Administrative Review Board & 3 others.*[28] In this case, the Kenyan Public Procurement Administrative Review Board attributed a corporate entity with the personal (professional) experience of its human agent (a partner in the firm), which qualified the corporate entity to represent the Attorney General of Kenya in an international arbitration. In opposition to this decision, the Appellant argued that the professional experience of the human agent was personal to him and not attributable to the corporate entity where he works. This contention was rejected by both the Review Board and the High Court. On appeal, the Court of Appeal held that the Review Board was right in not adopting a "mechanical approach" and that its decision was "rational" and "legally permissible."[29] The court reasoned that although the professional experience of the human agent remains personal to him, it can be attributed to the corporate entity for which he works, to suit commercial realities.[30] The approach of the court in the above case is apposite,

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[21] See, Hans Bernhard Schmid, 'The feeling of being a group: corporate emotions and collective consciousness', in Christian von Scheve, and Mikko Salmela (eds), 'Collective Emotions: perspectives from psychology, philosophy, and sociology' (Oxford University Press, 2014) 3-16.
[22] *Ibid*.
[23] Rob Perks, 'Corporations Are People Too!': Business and Corporate Oral History in Britain' (2010) 38 (1) *Oral History*, 46.
[24] *Ibid*, 49.
[25] Margaret Gilbert, 'Collective Guilt and Collective Guilt Feelings' (2002) 6 (2) *The Journal of Ethics*, 126 and 136.
[26] Edward B Rock, 'Corporate Law Doctrine and the Legacy of American Legal Realism' (2015) 163 (7) *University of Pennsylvania Law Review,* 2022.
[27] *Ibid*.
[28] Unreported Appeal No: E401 of 2026 (judgment delivered on 26th of June, 2026) retrieved from *https://judiciary.go.ke/download/court-of-appeal-decisions-delivered-on-june-26-2026-civil-appeals-and-applications/* accessed on 3 July, 2026.
[29] *Ibid*, 42.
[30] *Ibid*, 36.

even though the case relates to the attribution of professional experience and not feelings. It aligns with the legal realists' call for a non-mechanical approach to adjudication.

If, as legal realists suggest, courts respond to the stimulus of the concrete cases before them rather to the stimulus of the over-general abstractions in legal opinion and treatises,[31] they may recognise that companies, through their human directors, can and do often share emotions (e.g regrets, frustrations, happiness, empathy, etc.) where necessary, and those emotions should not be dismissed with a wave of hand simply because they were made by a corporate entity.[32] In our modern reality, companies often embrace emotions such as empathy in order to effectively identify and understand the real and pressing issues faced by their customers, staff or the communities with whom they interface.[33] Anand *et al* aptly capture this point when they argued as follows:

> "By adopting empathetic narratives, companies can align a deeper, more meaningful connection with their audience – one that goes beyond transactional relationships to foster long term brand advocacy and sustainable consumption patterns."[34]

Arguably, if companies do not have feelings (howbeit through their human directors), they may not be able to have authentic and meaningful relationships with stakeholders and the society. As opined by some scholars, the more empathetic a company is, the more likely it is to embark on corporate social responsibility (CSR) activities.[35]

Apology is plausibly one of the ways in which companies show sentience. The word 'apology' means "a formal acknowledgement of a mistake, usually paired with regretful, palliative, or expiatory words."[36] Companies can, through their human agents, show contrition when they offend another person. In *Complete Comm. Ltd v. Onoh,* the Court ordered a company to write and publish a letter apologizing to the respondent, whom it had defamed.[37] In *Uzor v. Daewoo Nig. Ltd*, the Supreme Court equated a letter of apology written by a company's director, within the scope of his authority, as the company's own expression of apology.[38] Similarly, in *African Newspapers Ltd. v. Ciroma*, the Court of Appeal reversed a decision of a High Court for failing to recognise that a letter of apology written by a company's agent within the context of his authority, should be deemed to be that of the company. [39] Also, in *GTB Plc v. Obosi Micro Finance Bank Ltd,* the Supreme Court, held that a CBN Circular which mandates defaulting banks (artificial persons) to, *inter alia,* write letters of apology to their affected customers, has a force of law.[40] Implicit in the above decisions is the recognition of the reality that persons offended by companies can be assuaged by the latter's expression of contrition.[41] Viewed from this perspective, the courts may appreciate the secondary sentience of companies through their directors. After all, companies are creatures of the law, and their state at all material times is essentially determined by the state of those controlling

[31] Brian Leiter, 'American Legal Realism' (2002) University of Texas Law, Public Law Research Paper No. 42, available at https://ssrn.com/abstract=339562 accessed on 17 July, 2026.

[32] See, Hans Bernhard Schmid, 'The feeling of being a group: corporate emotions and collective consciousness', in Christian von Scheve, and Mikko Salmela (eds), 'Collective Emotions: perspectives from psychology, philosophy, and sociology' (Oxford University Press, 2014) 3-16.

[33] Bowden,T.'What is Organizational Empathy?' (2019) available at https://gothamculture.com/wp-content/uploads/Organizational-Empathy-Download.pdf accessed on 17th July, 2026.

[34] Angad Anand, N. Sundaram, Ajay Kumar Sharma, 'Empathy in Action: Unravelling the Impact of Empathetic CSR on Sustainable Consumer Behavior through Customer-Company Identification' (2025) 11 (2) *International Journal of Computational and Experimental Science and Engineering*, 2231.

[35] Lamia Chourou, Jocelyn Grira, Samir Saadi, 'Does empathy matter in corporate social responsibility? Evidence from emerging markets' (2021) 46 (1) *Emerging Markets Review* 100776.

[36] Bryan A Garner, 'Black's Law Dictionary' 11th Edition (USA: Thompson Reuters, 2019) 120.

[37] *(1998) 5 NWLR (Pt. 549) 197 at 223.*

[38] *(2019) 10 NWLR (Pt. 1680) 207 at 223/227.*

[39] *(1996) 1 NWLR (Pt. 423) 156.*

[40] *(2022) 4 NWLR (Pt. 1821) 455 at 513/514.*

[41] Susan A. Bandes and Jeremy A. Blumenthal, 'Emotion and the Law' (2012) 8 *The Annual Review of Law and Social Science,* 171.

their affairs. If the courts recognise that companies can express apologies through their directors as seen in the cases discussed above, they can also ascribe secondary sentience to companies through their directors in applicable contexts.

4.0 Applying Lord Denning's Analogy of a Company

Lord Denning's analogy of a company is significant to the core argument of this research. In the celebrated case of *HL Bolton (Engineering) Co Ltd v TJ Graham & Sons Ltd,*[42] the English Court of Appeal held that a company's 'state of mind' is determined by its directors and managers. The Court underscored that, although a company cannot on its own, form an intention, the intention of its officers and agents when acting within the context of their authority can be attributed to the company.[43] In this case, the learned trial judge found that the respondent company (the landlord), through its managers, evinced an intention to occupy a leased premises disputed by the Appellants/tenants who wanted a new tenancy. Learned counsel to the Appellants/tenants, Mr. Albery QC, challenged the decision of the trial judge on the basis *inter alia* that there was no board resolution of the respondent company showing such collective intention and it was not possible for the directors to be individually of one mind. This argument was, however, not accepted by the Court of Appeal. In dismissing the contention, Lord Denning likened the respondent company to a human body, where directors or managers of a company represent its directing mind and will, establishing that informal, authorized intentions suffice to prove business occupancy intent. For the sake of emphasis, Lord Denning's analogy of a company is reproduced below:

> "A company may in many ways be likened to a human body. It has a brain and nerve centre which control what it does. It also has hands which hold the tools and act in accordance with directions from the centre. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work and cannot be said to represent the mind or will. Others are the directors and managers who represent the directing mind and will of the company, and control what it does. **The state of mind of these managers is the state of mind of the company and is treated by law as such."**[44]

Lord Denning's thinking has been accepted and adopted by the Nigerian courts when attributing the acts of a company's directors to the company. In *Delta Steel Nigeria Ltd. v. American Computer Tech Inc*,[45] the Court of Appeal, relying on Lord Denning's analysis above, held that the directors, managers or the managing director of a company are in the eyes of the law the directing mind and the will of the company, and that the state of minds of this special class of employees is the state of the mind of the company. Similarly, in *Mezu v. C.C.B,*[46] the Supreme Court defined the chief executive officer of a company as "the face and body of the company."

Although the attribution of the acts of a company's directors to the company has usually been the case where the company is to be held liable for the acts of those natural persons, the courts can likewise recognise the company's vicarious ownership of and responsibility for the totality of those acts and the "emotional" processes that cause them, in contexts where the company will be entitled to some benefit. This view aligns with Rachel Leow's argument that the same rules of attribution which are used to establish the company's duties and liabilities should also be applied when the company is enforcing duties

[42] [1957] 1 QB 159.
[43] *Ibid*, 171 and 173. Section 316 of the Nigerian Companies and Allied Matters Act, 2020, recognises that a company can have intentions.
[44] *Ibid* 172.
[45] (1999) NWLR (Pt 597) at 66.
[46] (2013) 3 NWLR (Pt. 1340) 188 at 212.

owed to it.[47] She called this the 'both ways' test.[48] To Leow, limiting attribution to only where the company will be liable is like saying that the act or state of mind of the directors is both the company's and not the company's at the same time.[49] To further apply Lord Denning's reasoning to this discourse, it is important to consider feelings as states of mind and their connection with the actions of companies.

a. Feelings as states of the mind

Charles Darwin described emotions (feelings) as states of the mind, and he opined that the expressions of emotions are nothing but the serviceable actions provoked by those states of mind in order to find relief or gratification.[50] Another thinker, Bain, shared the same view when he postulated that the mind is distinguished by the three attributes or properties, namely feeling, volition and intellect.[51] He defines feeling as "all our Pleasures and Pains, together with states that are indifferent as regards pleasure or pain and are characterised simply as Excitement."[52] Thus, both Darwin and Bain recognise that feeling is a property of the mind. This fact is important to this discourse because the law already acknowledges that a company has a mind (i.e its directors or managers). Since, feelings occur in the mind, it is arguable that companies can have or express legally cognizable feelings through their directors or managers who are its mind. Therefore, as the mind and directing will of a company, directors carry or represent the experience and feelings of the company.

b. There is a link between feelings and actions of companies

Research shows that decision-making is a product of the intertwined relationship between emotions and cognition.[53] Indeed, the law of self-conservation connects pleasure (feeling) with increased vitality (action), and pain (feeling) with diminished vitality (action).[54] Bain alluded to this law in positing that our actions are often traceable to the feelings that we experience.[55] Although the above theory is typically applied in the context of humans, the idea can, arguably, be extended to the context of companies as well. In this connection, some scholars opine that emotions significantly shape the directors' cognitive processes, influencing how they process information and evaluate strategic choices, particularly in complex or ambiguous environments.[56] They further submit that the subjective wellbeing and happiness perceptions of directors of a company often dictates the company's decisions.[57] Indeed, there are certain actions which the law recognizes that a company can take, and those actions practically emanate from a positive or negative feeling (of the directors of the company).[58]

With regard to actions emanating from a negative feeling, a company can sack a fraudulent employee that has mismanaged its funds; it can rescind a contract due to constant breaches by the other party; it can sue an erring staff or trespasser to its assets; it can withdraw its investment from a hostile country, etc. Such actions are legally recognised but are usually propelled by emotions of displeasure or anger on the part of the company through its alter ego.[59] In the positive sense, a company can promote its hardworking staff or

[47] Rachel Leow, 'Corporate Attribution in Private Law' (Oxford: Hart Publishing, 2022) 201.
[48] *Ibid.*
[49] *Ibid.*
[50] Charles Darwin, 'The Expressions of the Emotions in Man and Animals' (New York: D, Appleton & Co, 1897) 66 and 72.
[51] Alexander Bain, 'The Emotions and the Will' 3rd Edn (London: Longmans, Green & Co, 1875) 3.
[52] *Ibid.*
[53] See Matteo Cristofaro, 'Unfolding irrationality: how do meaningful coincidences influence management decisions?' (2021) 29 (2) *International Journal of Organizational Analysis* 301–321.
[54] Bain, 313.
[55] *Ibid* 316.
[56] Hasson Marques R, Violant-Holz V and Damião da Silva E, 'Emotions and decision-making in boardrooms - a systematic review from behavioral strategy perspective' (2024) *Frontiers in Psychology*, 12.
[57] *Ibid.*
[58] See also Koen Van Den Oever and Christine Shropshire, 'More than a Feeling: How Board Member Displays of Anger and Happiness Influence Strategic Decisions' (2024) 67(6) *Academy of Management Journal*, 1551.
[59] Manisha Mundhra, ' Law and Emotions' (2018) 1 (3) *International Journal of Law Management & Humanities*, 5.

engage in broader corporate social responsibility projects, to express happiness. Indeed, the company, on its own, is unable to carry out those acts or hold the feelings that occasion them. It is only able to do those things through its human directors. According to Michael *et al,* a company reflects its directors' observable behaviour (actions/inaction) and unobservable behavior (emotions).[60] Thus, it is inconsistent for the courts to attribute only the observable behavior of such directors to the company, while refusing to replicate the same attribution for the emotions that cause them. Since the actions or inactions of the natural persons controlling a company arise from the intertwined relationship between their emotions and cognition, it is unbalanced to attribute only their actions or inactions (outcome) to the company while denying it of the emotional processes that lead to the actions/inactions.

5.0 Limitations

The view shared herein is not without its limitations. First, there is hardly any case law that explicitly propounds the emotional state of a company's directors can be treated as the company's own. However, it is not enough to argue that no case has been found in which it had been done before. As Lord Denning famously noted, "if we never do anything which has not been done before we shall never get anywhere. The law will stand still whilst the rest of the whole world goes on. That will be bad for both."[61]

Secondly, this article draws mainly from legal realism and Lord Denning's dictum that the state of mind of a company's director is, in law, the state of mind of the company. It may be contended that, whereas legal realism calls for a shift in judicial focus from concepts/doctrines to contexts, Lord Denning's dictum which this research builds on, is also criticized for being doctrinal rather than contextual.[62] Stephan, for instance, envisaged the far-reaching implication of Lord Denning's postulation of directors being the directing mind of a company, and he argues that such imagery is devoid of context and should be rejected entirely.[63] With respect, this research differs from Stephan's view. First, it is not suggested here that the courts should discard relevant doctrines that align with the context of cases before them. Rather, the point is that courts should give primary focus to contexts and not rely on concepts blindly. In this way, Lord Denning's directing mind and will analysis did not ignore contexts. In fact, contextually, when we refer to a company, we are referring to the natural persons that make it up.[64] Lord Denning rightly notes that, on its own, a company can do nothing except through those human members who are its directing mind and will.

Thirdly, feelings are subjective. For a company that has more than one human director, it may be difficult for all of them to have the same feeling at the same time. Some directors may individually feel hurt by a bad experience encountered by the company while others may feel indifferent. However, a group may adopt an emotional stance even if some members do not personally experience the corresponding feeling.[65] Using remorse as an example, Pelligra explains that 'collective remorse' arises when the group recognises a course of action as its own, judges it to be wrong, and commits to expressing that judgement through appropriate words and actions.[66] This reasoning has also been applied to the corporate feeling of regret,[67] and it can also be applied to pain. Not every director may have personally felt the pang, but it requires their

[60] Sunday Oluwafemi Michael, Soyinka Kazeem Akanfe, and Lodikero Olusola, 'Director's Unobservable Characteristics and Firm Performance' (2017) 3 (6) *International Journal of Advanced Academic Research,* 45.
[61] Parker v. Parker (1954) All E.R at 22.
[62]Stefan HC Lo, 'Context and Purpose in Corporate Attribution: Can The "Directing Mind" Be Laid To Rest' (2017) 4 (2) *Journal of International and Comparative Law*, 372.
[63] *Ibid*, 351.
[64] Eva Micheler, 'Company Law – A Real Entity Theory' 22, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3783696 accessed on 20 July, 2026.
[65] Vittorio Pelligra, 'Public emotions and collective responsibilities' (2020) available at *https://en.ilsole24ore.com/art/public-emotions-and-collective-responsibilities-AJQLVMO* accessed on 20 July, 2026.
[66] *Ibid.*
[67] Anita Konzelmann Ziv, 'Collective Guilt Feeling Revisited' (2007) 61 (3) *Dialectica* pp. 467-493.

acceptance of the experience as part of the company's normative history and to draw consequences from it for the present.[68]

6.0 Conclusion

This article challenges the traditional approach of the courts to the issue of whether a company can have or express feelings. While it is not suggested herein that companies are, on their own, capable of having feelings, it is opined that they do so through their directors. This view is necessary in order to appreciate the fact that a company can be hurt in terms of feelings and not just in its pockets. The ultimate aim is to foreground a possibility whereby the courts allow a company to claim damages for the emotional harms suffered by its human directors if the harms were experienced by the directors within the context of their authority as the mind of the company. The usual dismissive syllogism (i.e "a company is not a human being and cannot have feelings") re-echoed by the courts in striking out claims by companies for the emotional harms experienced by its directors, arguably beclouds the eyes of the courts from the true fact that, the states of mind of those directors are the statement of mind of the company.

[68] Vittorio Pelligra, 'Public emotions and collective responsibilities' (2020) available at *https://en.ilsole24ore.com/art/public-emotions-and-collective-responsibilities-AJQLVMO* accessed on 20 July, 2026.