

Preface

Writing in the *New York Times* in April 2020, David Sax suggested that the COVID-19 pandemic and related public health and economic crises should serve as a reminder of the types of entrepreneurship that truly matter in our society.¹ Sax noted that entrepreneurship had frequently been defined and lionized in the media as being limited to the tight-knit ecosystem of Silicon Valley that provides us with innovative ideas for the reinvented futures the prophets and gurus in that ecosystem decide that we must all have. Referred to by Sax as “bold, sexy entrepreneurship,” examples include Jobs, Musk, and Zuckerberg; Mark Cuban and other ruthless investors on *Shark Tank*; a host of so-called “Unicorns”; celebrity cosmetics companies and the seemingly endless stream of college dropouts who have miraculously found the next disruptive product or technology to develop with hundreds of millions of dollars of venture capital financing and no experience or responsible guidance.

Fawning boosters of this phenomenon, including many economists and policymakers, have effectively argued that the “Silicon Valley startup” is the only type of entrepreneurship worthy of financial and political support and, as Sax put it, small businesses that are not interested in innovating boldly or pursuing exponential growth have been disdainfully cast aside as effectively pointless and a waste of valuable scarce resources. Seemingly productivity alone is to be the holy grail of entrepreneurship. Sax provided the following quote from Lind and Atkinson to illustrate this view of entrepreneurship and its hostility to traditional small business: “The best way to boost productivity is to remove obstacles to the replacement of small-scale, labor-intensive, technologically stagnant mom-and-pop firms with dynamic, capital-intensive, technology-based businesses, which tend to be fewer and bigger.”² Lind and Atkinson went on to advise governments that if they wanted to help any small firms they

1. Portions of this essay have been adapted from D. Sax, *The Entrepreneurs Who Matter*, N.Y. TIMES, April 11, 2020, at A23, <https://www.nytimes.com/2020/04/10/opinion/coronavirus-small-businesses.html>.

2. ROBERT ATKINSON & MICHAEL LIND, *BIG IS BEAUTIFUL: DEBUNKING THE MYTH OF SMALL BUSINESS* (Cambridge MA: The MIT Press, 2018).

“should focus on the startups that have the desire and potential to get big, not on nurturing Ashley and Justin’s efforts to open a local pizza shop.”³

Certainly job creation and other types of economic growth, done responsibly by the Silicon Valley startups like those described above, is generally a positive contribution to society; however, Sax argued that to fixate only on those metrics of success ignored the deep and intricate connection that small businesses have to the heart and soul of their communities and everyone who lives there. According to Sax, if one or more of the darlings of Silicon Valley flamed out in the stormy seas of the Coronavirus, life would go on relatively unchanged, but if we lost the barbers, fruit stores, and plumbers that we have come to rely on every day, we would lose a part of our souls and our communities would be filled with good people and their families who have been ruthlessly and callously consigned to struggling with financial and emotional trauma for years to come.

Even before the Coronavirus, the demographics and impacts of entrepreneurship in America were shifting dramatically. According to Sax, the number of Americans who were self-employed and had started their own businesses dropped by half since the early 1980s. However, while smaller in numbers, these entrepreneurs continued to have an outsize impact on their communities: struggling to sustain profitability to survive, yet contributing immeasurable intangible value to the social fiber of the world in which they operated. Sax’s own experience in his community was that if a business was owned and operated by entrepreneurs, including partners, individuals, and families, they almost always offered their immediate support for activities that would benefit the community, be it schools, parks, the local playhouse or some other activity that could be enjoyed by their neighbors even if they were not customers at that time. On the other hand, when businesses in the same community were owned by larger corporations headquartered hundreds of miles away or funded by outside professional investors, they were far less likely to contribute to the cause. Sax also reported about small businesses, such as hair salons and restaurants, that served as *de facto* community centers operated by entrepreneurs who often provided services and products for free to help out their neighbors in need.

Sax admitted that even with the best of intentions and financial support, many traditional small businesses would simply not be able to survive the sudden shock of the pandemic, as happened during the great

3. *Id.*

recession of the late 2000s, and would be forced to close their doors, lay off their employees and file for bankruptcy protection to fend off their creditors, many of whom are also small businesses in similar situations. Small businesses simply do not have the safety nets to survive more than a few days or weeks without customers. Nonetheless, even as they struggled to deal with a future they could not control and politicians that said the right things but seemed unable or unwilling to really help while larger businesses got most of the financial assistance, small businesses around the country moved quickly to provide whatever support they could to help those in their communities during the crisis. Sax cited examples of small fashion designers pivoting quickly to making face masks; craft distilleries producing hand sanitizers and restaurants providing free meals to health care workers, the homeless, and isolated senior citizens. Small restaurants also stayed open for limited takeout service, not just for the food but to simply give customers an opportunity for social interaction in line with social distancing.

There is a place for both Silicon Valley and traditional entrepreneurs and small businesses in our world, but the proper balance between these two types of entrepreneurship remains to be determined, one of many problems that will have to wait until after the Coronavirus is brought under control. Until then, however, the pandemic is a time for people to reflect on the simple things, often taken for granted, that they miss the most. And as small businesses emerge once again from the crucible of the pandemic, they can and must be embraced as opportunities for building a more sustainable world. This book will hopefully be one small step in that direction.

This book is the second in a series of guides from the Business Law Section of the American Bar Association on the practical aspects of implementing CSR. It will be the first to systematically address how small businesses and startups can integrate CSR standards and practices into their business models, operational practices and legal and regulatory compliance programs. This book will be an invaluable first resource for attorneys and other professionals involved in counseling small business and startups, most of which lack the resources to bring in external expertise and often rely heavily on their attorneys to assist them with designing and implementing change initiatives. As noted above, while much has been written on CSR and sustainability for larger enterprises, there remains little in the way of practical guidance on what steps should be taken by smaller firms. This book provides step-by-step advice covering essential subjects such as CSR drivers and benefits for small businesses and

startups, legal and regulatory considerations, applicability of voluntary CSR standards and initiatives to small businesses and startups, core subjects of CSR, strategic planning, implementation and integration, governance and management, engagement and reporting and communications.