

GTM + AI + Fiduciary Duty: Delaware 2023 Changed Everything

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The Huge Shift in Fiduciary Liability

- Effective oversight is no longer just an operational issue—it's a fiduciary risk for 90% of venture-backed companies and 2/3 of the Fortune 1000 that are Delaware companies.
- Delaware 2023 completely changed the definition of Fiduciary Duty and the standard of breach.
- The ruling expanded oversight duty under *Caremark* to all corporate officers. In practical terms, this extends to their teams as well, though w/o personal liability.
- Negligent oversight can now lead to personal liability, even if there is no provable intent or damage.
- Delaware 2023 requires all corporate officers to document the risks in their area, a plan to remediate and control such risks, and to take active measures to mitigate shareholder risk by whatever means are available.

One Example of Many: CRM Data

- CRM data quality is a meme.
- Data quality in general is a real problem. Many different researchers report that only 3-7% is ok.
- Recent case revealed 2/3 of data in company's CRM was “engineered” and “fraudulent.”
- AI determined the scale of the problem going back 14 years – and did it in less than 8 hours.
- Case was immediately settled out of court.
- In addition to the board and CEO, the CRO, CIO, and CDAO were all named parties in the lawsuit, which is now sealed.

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Legal & Financial Exposure Scenario

- AI-driven decision-making relies on accurate data.
- Inaccurate or inaccessible data impairs the company's competitive adoption of enterprise AI tools
- Impairment has never been easier to identify and scope.
- Delaware ruling means that officers must both show that they are actively mitigating downside risk and preparing for upside opportunity.

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Potential Retroactive Harm

- Years of data negligence could be scrutinized under new legal standards.
- Companies may have based overstated revenue potential in M&A or IPO filings on poor data.
- Fiduciary breaches tied to data integrity can lead to executive liability.

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Mitigating Fiduciary Risk

- Conduct proactive CRM data audits before external investigations arise.
- Ensure AI models are trained on validated, high-quality CRM data.
- Deploy Causal AI to monitor and confirm CRM data integrity in real time.
- Train and acculturate Sales teams to a new standard of thinking and action about data and increase the oversight from the CDAO team.

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Conclusion

- Data integrity is now a fiduciary obligation for all officers with potentially heavy financial and reputational impacts.
- AI-powered transparency will expose past and present negligence. The next 3-5 years will be a period of massive clean-up, during which a lot of shareholder litigation will be transpiring.
- Expect activist shareholders to leverage this.
- Officers need clarity on obligations, and lawyers can only speak to the legalities. Customized functional prescriptions also will be needed.

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