

SAMPLES OF LAWSUITS AGAINST CHURCHES

There are hundreds of lawsuits against churches and religious organizations every year. The following list illustrates the range of liability situations that can be encountered.

Negligence:

Malloy v. Fong (Calif.): The case involved a 12-year-old boy who lost a leg and suffered serious injuries to his other leg because of an accident caused by the reckless driving of the pastor of a Presbyterian "missions" church. At the time of the accident, the boy was standing on the "running board" of a car driven by the church's pastor at an excessive rate of speed (he was racing a car driven by a seminary student). The boy's family sued the pastor individually and the Presbytery of San Francisco and won.

Negligent Selection:

J. v. Victory Baptist Church (Virginia): the church and the pastor was sued by a mother whose child was sexually assaulted by a church employee and won on the basis of negligent hiring, because the church and pastor either knew or should have known that the employee had recently been convicted of aggravated sexual assault on a young girl, that he was on probation for the offense, and that a condition of his probation was that he not be involved or associated with children.

Negligent Supervision:

Logan v. Old Enterprise Farms, Ltd.: a church picnic during which a 15-year-old boy was rendered a quadriplegic when he fell out of a tree.

Rivera v. Philadelphia Theological Seminary: a church-sponsored party for its altar boys at which a 12-year-old boy drowned.

L.M. Jeffords v. Atlanta Presbytery: a church picnic at which a child drowned.

Sullivan v. Birmingham Fire Insurance Co.: permitting a snowmobile party on farmland without making an adequate inspection for dangerous conditions.

Premises Liability

Stevens v. Bow Mills Methodist Church (New Hampshire): a church member was injured when she tripped and fell over a wooden cross that had been used in a skit presented at a church meeting.

Clark v. Moore Memorial United Methodist Church (Mississippi): a member sued the church and the trustees after she slipped and fell on a waxed floor while leaving a Sunday School class. The member won because the church should have known about the dangerous condition and had a duty to warn people of the condition.

Copyright Infringement

F.E.L. Publications v. National Conference of Catholic Bishops: the publisher sued the church for unauthorized duplication and use of its songs in "homemade or pirated hymnals" prepared for use in worship services. Over 80,000 "hymnals" were impounded by the court and relief granted to the publisher.

Wihtol v. Crow: a federal appeals court concluded that a Methodist church was legally responsible for the copyright infringement of its minister of music.

Defamation

Brewer v. Second Baptist Church (Calif.): the minister was found guilty of defaming a former member by publicly referring to him as a "lost sheep" who had attempted to put the minister "out of the church."

St. Luke Evangelical Lutheran Church v. Smith (Maryland): A youth pastor was sued for publicizing information regarding an alleged illicit affair between an associate minister and a church employee and found guilty of making untrue statements.

Contract Liability

Gospel Tabernacle Body of Christ Church v. Peace Publishers & Co. (Kansas): a minister was held personally liable for a contract into which he thought he was authorized to enter on behalf of his church by virtue of his position.

Diversion of Church Funds

Founding Church of Scientology v. United States: The Founding Church of Scientology lost its exemption from federal income taxation in 1969 because of unexplained payments to its founder in the form of loans and reimbursement of expenses in excess of his salary, even though the amounts of such payments were small.

Breach of the Duty of Care

Stern v. Lucy Webb Hayes National Training School for Deaconesses & Missionaries (District of Columbia): The court ruled that the directors of a nonprofit corporation breached their fiduciary duty in managing the corporation's funds. The ruling of the judge pointed out that a director (including those who serve on the Finance Committee) who fails to acquire the information necessary to supervise or consistently fails to even attend the meetings has violated the fiduciary duty to the corporation. A director whose failure to supervise permits negligent mismanagement by others to go unchecked has committed an independent wrong against the corporation. [NOTE: this is one of the charges that Jim Bakker was convicted of.]

Violation of Trust Terms

Mt. Jezreel Christians Without a Home v. Board of Trustees of Mount Jezreel Baptist Church (District of Col.): The trustees of the church were sued by church members when they attempted to sell church assets contrary to the restrictions specified in the church charter. [NOTE: The same principle may apply to board members who authorize the diversion of designated funds from the intended purpose or project, since it is unlawful to divert designated funds without the written consent of the donor.]

Willful Failure to Withhold Taxes

Carter v. United States: a church-operated charitable organization failed to pay over the IRS withheld income taxes and the employer's and employee's share of FICA taxes for a number of quarters in 1984 and 1985. Accordingly the IRS assessed a penalty in the amount of 100% of the unpaid taxes against each of the four officers of the organization pursuant to Internal Revenue Code.

extracted from Richard Hammar, *Pastor, Church & Law*, Matthews, NC: Christian Ministry Resources, 1991.