

Handling Conflict While Avoiding Litigation

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Legal Disclaimer: I am not a legal expert. You should not consider this presentation to be personal legal counsel for any specific church or ministry. This information is provided as a synopsis of my research of best practices in order to encourage you to be more aware of basic ethical and legal considerations. I encourage each of you to take responsibility to remain current, as legal interpretations change over time. You should contact an attorney who is an expert on the pertinent laws in your state, as the law does vary from jurisdiction to jurisdiction. Churches and other religious organizations should maintain and provide liability insurance covering the church, pastors, trustees, elected leaders and those involved in the ministry.

Contemporary Legal Realities:

Legal Issues Facing Churches and Legal Organizations:

General Rules for Protecting Your Ministries¹

- **Follow the Golden Rule**
- **Use Conciliation Clauses**
- **Define and Respect Confidentiality**
- **Practice Biblical Accountability and Discipline**
- **Work Closely with Legal Counsel**

Conflict: Good or Bad?

- **Definition of Conflict** – Any matter that terminates, limits or prohibits Christians from acting or interacting with one another in a spiritually compelling way and therefore, affects their ability to serve the Lord according to Scripture.²

¹ “Legal Threats to the Church,”

[http://www.peacemaker.net/site/c.aqKFLTOBIpH/b.5474493/k.827D/Legal Threats to the Church.htm](http://www.peacemaker.net/site/c.aqKFLTOBIpH/b.5474493/k.827D/Legal%20Threats%20to%20the%20Church.htm), accessed December 14, 2013.

² Bryan H. Sanders, “Conflict Management,” enrichmentjournal.ag.org/200502/200502_conflict_1.cfm, accessed December 14, 2013.

The Slippery Slope of Peacemaking³

- **Escape Responses**
 - **Denial**
 - **Flight**
 - **Suicide**

- **Attack Responses**
 - **Assault**
 - **Litigation**
 - **Murder**

- **Peacemaking Responses**
 - **Personal Peacemaking**
 - **Overlook an Offense**
 - **Reconciliation**
 - **Negotiation**

 - **Assisted Peacemaking**
 - **Mediation**
 - **Arbitration**
 - **Accountability**

³ “The Slippery Slope,”

<http://www.peacemaker.net/site/c.aqKFLTOBIpH/b.1172255/apps/s/content.asp?ct=1245289>, accessed December 14, 2013.

Four G's of Peacemaking⁴

- **Glorify God**
- **Get the Log Out of Your Eye**
- **Gently Restore**
- **Go and Be Reconciled**

Church Discipline and Litigation – Key Cases

1. *Bouldin v. Alexander* (1872) – United States Supreme Court
2. *Baugh v. Thomas* (1970) – New Jersey Supreme Court
3. *Bear v. Reformed Mennonite Church* (1975) – Pennsylvania Supreme Court
4. *Employment Division v. Smith* (1990) – United States Supreme Court
5. *Guinn v. Church of Christ* (1989) – Oklahoma Supreme Court
6. *Hadnot v. Shaw* (1992) – Oklahoma Supreme Court
7. *Smith v. Calvary Chapel Christian Church* (1998) Michigan Court of Appeal
8. *Penley v. Westbrook* (2004) – Texas Supreme Court

⁴ “Four G's Of Peacemaking,”

<http://www.peacemaker.net/site/c.aqKFLTOBIpH/b.1172255/apps/s/content.asp?ct=1245289>, accessed December 14, 2013.

Recommendations for Avoiding Litigation Arising Out of Church Discipline

- 1. Leaders should make clear to all members of their congregation that they will follow biblical mandates regarding church discipline. The purposes, potential grounds and procedure for discipline should be taught and reviewed periodically and the church should strictly adhere to Scripture in all cases in which discipline is practiced.**
- 2. Discipline should not be rooted in personality differences but on conduct and doctrine that is clearly defined and/or proscribed in Scripture.**
- 3. Discipline should be based on factually established circumstances and all matters should be carefully investigated.**
- 4. During private conferences with the party subject to discipline, the emphasis should be placed on Scripture, out of love and concern for the individual.**
- 5. Brief records should be kept of all private conferences including the date, time and location of the meeting, identity of those present, a summary of what was discussed and the length of the meeting.**
- 6. All discussions should be handled confidentially and the entire discipline process should be handled as discreetly as possible.**
- 7. Every member should be informed that disciplinary proceedings against any impenitent member will continue regardless of whether that person voluntarily withdraws from the congregation before the process is completed. They should also be informed that continuing as a member of the church constitutes submission to that policy.**
- 8. Disciplinary procedures should be accurately spelled out in church documents such as the constitution or by-laws and carefully and consistently followed**

SUGGESTED RESOURCES:

Jay Adams, Handbook of Church Discipline, Grand Rapids, MI: Zondervan Publishing House, 1986.

Church Law & Tax, <http://www.churchlawandtax.com>

Tim Lane and Paul Tripp, Relationships: A Mess Worth Making, Glenside, PA: CCEF, 2006.

The Leadership Opportunity, Billings, MT: Peacemaker Ministries, 2009.

Peacemaker Ministries, www.peacemaker.net

Ken Sande, The Peacemaker, Grand Rapids, MI: Baker Books, 2004.