

WHAT SHOULD CLERGY DO WHEN A LAWSUIT IS FILED?

Steven D. Brown, current Chancellor for the Virginia Conference of the UMC, offers this advice:

When the Court Papers Arrive.

- Do not sign anything other than the receipt acknowledging that you have received the papers. Do not throw anything away, including the envelope or wrappers the papers arrived in.
- Make a written notation of the date and time you received the papers and the method by which you received them (hand delivery, posted on the premises, mail, etc.).
- Immediately make a copy of the papers. Scan them if you can so you can e-mail them to the various people below.
- Immediately provide copies of the papers to the appropriate church leader(s), such as the Senior Pastor, District Superintendent, SPRC chair, Church Council, Board of Trustee Chair, and the church's general counsel, if any. They will make the decision whether to inform the Bishop and/or Conference Chancellor of the lawsuit.
- Immediately contact your insurance broker and/or agent to ask if the church's liability insurance will cover the lawsuit, and, if so, how soon an attorney will be appointed. On many occasions you can choose counsel and you should push for the attorney you want to handle the case. Forward a copy of the papers to the broker and/or agent with a dated cover letter.
- If the lawsuit names "The United Methodist Church" or the "Virginia Conference of the United Methodist Church" as a party, immediately contact the Conference Chancellor.

The Next Steps.

- Promptly sit down with a small group of leaders (the makeup of the group will vary depending on the nature of the lawsuit) and discuss the following key issues:
 - If the church's liability insurance does not cover the lawsuit, retain an attorney. **There are important, short deadlines for filing a response to a lawsuit. To protect the church's interests, it is crucial that you retain an attorney immediately (within 2-3 days maximum).**
 - Decide who is going to be the church's main contact with respect to the lawsuit. This person will need to assist the attorney, keep the appropriate church leaders informed of the lawsuit's status, handle any and all inquiries that arise, etc. Ideally, this person has some knowledge of the basis of the lawsuit or can be brought up to speed quickly. At a minimum, this person should be responsive,

understand the importance of keeping information confidential, and use good judgment.

- Promptly ensure that all documents and communications – electronic or paper – relevant to the lawsuit are preserved. Do not delete anything involving the case. If the lawsuit involves a current employee, arrange to have his/her computer taken out of service or imaged to preserve all potentially relevant evidence. Make sure that all potentially important documents are kept in a file.
- Develop a litigation hold notice with your attorney.
- Decide whether any local church pastoral care will be needed and develop a plan to address those needs.
- If the lawsuit is based on pastoral misconduct, determine whether there has been any internal disciplinary action filed and, if so, determine the status. If not, decide whether it would be appropriate to pursue such an action at this time under the BOD.
- Do not contact the plaintiff (person suing), his/her attorney, or the judge. If the plaintiff is a current employee or someone with whom you interact regularly, simply state that you cannot discuss the lawsuit. All communication with opposing parties should be done by your attorney. There may be a time for you to discuss the case with the plaintiff, but do not do so without checking with your attorney first.

When You Meet with Your Attorney.

- Be completely open, honest, and forthright. Your attorney cannot help you if you conceal information. Do not decide for yourself what information is important or unimportant.
- Bring copies of all documents, communications and any other papers that may have anything to do with the lawsuit. This includes, but is not limited to, e-mails, text messages, social media postings, etc.
- Talk about the church's insurance coverage, if applicable, including what information you received from your insurance broker and/or agent.
- Identify and discuss key issues including, but not limited to, litigation strategy, budget, document retention, identification of witnesses and public relations issues.
- Educate your attorney about the United Methodist denomination. Make sure that he/she understands the importance of the structure and governance of the church, including the BOD. Tell your attorney that there are attorneys at the GCFA Legal Department who may have legal research, briefs, and other materials that may be of assistance in this case.

As the Case Progresses.

- Call your attorney immediately if you receive any additional court papers related to the lawsuit.
- Make sure that the contact person for the lawsuit is in regular communication with your attorney.
- Keep the appropriate church leaders informed of the progress of the lawsuit.
- If the church has any questions or concerns about the lawsuit or the church's insurance coverage, contact the current chancellor for the Virginia Conference for the UMC.

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