

Church-going can be risky at times, so valid releases are essential

Risk-taking is underestimated when it comes to church-going. Consider common church youth group activities such as Ultimate Frisbee and camping or more adventurous ones such as whitewater rafting. Many churches also sponsor sports and schools of various kinds where kids are prone to be kids.

Social service ministries of churches commonly serve troubled youth and adults in dangerous areas. Churches also dispatch members to assist with relief efforts while electrical lines still dangle in the water or send members on mission trips to desolate and dangerous places without nearby medical facilities.

Church-going can be risky; consequently, when matters go haywire churches without valid releases can suffer serious damages.

Ski trip accident

As an example, a Florida jury awarded a \$4.75 million judgment against Idlewild Baptist Church when a youth at the age of 14 suffered an injury to his left leg on a ski trip his youth group took to Beech Mountain, NC. The mother had attended the church for several years. She alleged that the church had too few chaper-

ones and that her son received no instruction before careening down a slope at near 55 mph before crashing into another skier.

Fortunately for the church, the judge vacated the verdict when he learned two jurors, including the foreman, concealed their involvement in prior litigation, giving the church a

The plaintiff's father had paid the church \$40 and received a scholarship for the difference for her to participate in the church's "Winterama 2005" program in Colorado. He also signed a "registration and information" form stating, "I will not hold Grace Community Church or it's [sic] participants responsible for any liability which may result from participation," but the court held the document legally insufficient anyway.

These and other examples underscore that churches should not sponsor dangerous programs or events without insurance or insisting upon releases and waivers – and not just any releases or waivers prepared by a non-lawyer or borrowed from a well-meaning online source or form book.

Insist on releases

A form release can be as bad as or worse than no release because it creates an illusion of protection. There are several reasons. In many states, a release is not valid if it fails to provide adequate information about the nature of risks and events to which a person will be exposed. Fully informed and voluntary consent to the particular dangerous activity a child or person will engage in is critical to cut off a



rare opportunity to retry or settle the case.

Other churches have not been as fortunate. For example, the court entered a verdict against Grace Community Church of the Assemblies of God totaling \$2 million, after reducing the jury verdict of \$4 million to the limits of the church's insurance policy, when the inner tube in which a youth was riding pulled by an ATV all across a frozen lake crashed into a boulder embedded in the ice and broke her back. The parties concluded the litigation with a confidential out-of-court settlement.

releasor's defense that she was unaware of the real risks involved.

In several states, a release is not valid at all in relation to an ultra-hazardous activity, such as driving ATVs. This is especially so when the activity appears to concern primarily a commercial or business activity more than a religious activity. Form releases and even releases prepared by secular counsel rarely disabuse potential plaintiffs of the notion that a camping trip is about entertainment, rather than Christian formation and, therefore, are more likely to be set aside than a prepared release addressing the religious purpose of an event.

Not just anybody can sign a release or waiver and have it apply to a child either. The legal custodian or guardian's signature on the release is necessary. Parents and legal custodians do not always agree among themselves about whether children or wards should participate in events. When only one parent has legal custody of the child, the other may not have legal capacity to enter into the release. Yet form releases rarely require signatories to declare their legal capacity to enter into the agreement or address what happens when the signatory misrepresents the facts.

State law also varies when it comes to the language that must be included in an effective release and even concerning whether the release itself must be upper case and/or bolded.

Medical consent

Then, there is the question of whether to include a medical consent to provide first aid or admit a child to a hospital in an emergency situation where the parents are unavailable.

Form leases vary in terms of whether they incorporate medical consents at all, solicit information about the extent of medical treatment approved without parental consent, or require information about drug intolerances or other medical conditions that are important to proper medical treatment.

Religious organizations may also want to consider alternative dispute resolution or biblical mediation and arbitration as part of a release. In some cases, churches may even want various representations and warranties from program participants. As a rule of thumb, the more dangerous the activity and the more participants there are in the dangerous activity, the wiser it is to solicit church-state counsel to assist with reviewing and drafting a release and waiver specific to the event or program your church is sponsoring.

A common objection is that releases are seeker insensitive or a deterrent to participation. Another way to look at it is that their absence is member insensitive and a deterrent to volunteering, because releases protect congregants entrusted to your care. A sound release can actually encourage program participation even as it impresses the signatory with the seriousness with which the church takes its responsibility to steward the time, talent and treasure volunteers dedicate to serving them and expanding the ministry's outreach. This is work and calling for not just any member of the bar, but faithful church-state counsel.

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