American Bar Association trains lawyers to sue pastors, churches

By J. Shelby Sharpe, Attorney
Sharpe, Bayes & McGee
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Christianity in America is increasingly coming under attack by civil government regulation and litigation. Recently, private litigants have begun to bring suits against the church and Christian ministries. All signs point toward a rapid escalation of these attacks on both fronts in the very near future. The primary focus of this paper will center on tort litigation which was the subject of a seminar conducted May 4 and 5, 1989 in San Francisco, sponsored by the Section of Tort and Insurance Practice, Section of Individual Rights and Responsibilities and the Division for Professional Education of the American Bar Association.

Overview of the ABA seminar

At the top of the ABA brochure advertising the seminar was the very distressing statement that the seminar was for "Attorneys who want to be on the leading edge of an explosive new area of law." Christianity was placed on notice that there is a "new area of law" coming against it, and it is "explosive." The new weapon is the tort suit, and it was described by several of the speakers as a nuclear weapon. Shockingly, it is the American Bar Association, the most prestigious legal organization in the United States, not the American Civil Liberties Union, that is taking the lead in training the trial lawyers of America, whose usual activity is seeking large monetary judgments in personal injury and wrongful death litigation, to fire this new weapon at religious organizations and individuals within those organizations.

In evaluating this criticism of the American Bar Association, consider that the opening subject area was entitled "Expanding Use of Tort Law Against Religions." This set the tone for the entire seminar. The first speaker under this topic was a trial lawyer who entitled his presentation "Tort Law as an Ideological Weapon." He was followed by another trial lawyer who spoke on "Tort Law as Essential Restraint on Religious Abuses." The whole thrust of these presentations was how tort law was and would be used against religious organizations and individuals. War has been declared, and Christianity is in a fight to the death.

Should one think the assessment is overstated, consider the second subject was entitled "Emerging Theories Of Tort Liability." Topics covered were "Liability of Clergy as Spiritual Counselors," "Tort Liability for Fraud, Emotional Distress and Harm to Reputation Arising From Religiously Motivated Conduct," "Tort Liability for Brainwashing," "Liability for Sexual Conduct of the Clergy," "Institutional Liability for Negligent Hiring/Retention" and "Liability Arising Out of the Employment Relationship." While civil government has primarily concentrated on trying to keep Christianity out of the public areas of our nation, the tort suit is aimed within the four walls of the church to obtain money judgments for conduct considered detrimental to society. This goes to the very heart of Christian ministry.

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The final subject area of the seminar addressed tactics in litigating these suits and how to collect the damages anticipated being recovered through the judgments. The most chilling presentation under this topic was entitled "Piercing the Corporate Veil—Liability of Religious Bodies and Affiliated Entities." Every trial lawyer knows that the purpose of seeking to "pierce the corporate veil" is to remove the institutional protection from individual liability. Success in this area exposes the personal assets of individuals who are a part of an organization.

At first blush it appeared that the program was balanced. Careful analysis of the subjects, the speeches and the written materials forces one to the conclusion, however, that the ABA is no ally of Christianity, but a sinister foe. There was little or nothing in the seminar to discourage suits against God's people.

What is a tort?

A tort is defined as a private or civil wrong or injury independent of contract. Suits involving personal injuries, wrongful death, or defamation are tort suits. A tort claim usually has three elements. First, there is a legal duty to others. Second, there is the breach of that duty. And, finally, there are damages as a proximate result of the breach of that duty. Normally, the damages recoverable are compensatory only. However, if the breach of the duty is deliberate, the injured party is entitled to recover punitive or penalty damages in addition to the compensatory damages. Thus, these kinds of suits have the potential for huge monetary judgments with great destructive power. Even if one successfully defeats one of these suits, the attorney's fees and costs in successfully defending the suit can reasonably range between $20,000 and $250,000 or more.

The threat of the tort suit to Christianity is found in the first element dealing with duty. Duties are created by either legislative enactments or court decisions. The latter category has produced the greatest expansion of tort law because judges in recent decades have been creating new duties based upon what they perceive to be societal norms. Thus, as society becomes more ungodly and antagonistic toward Christianity, the courts will create new duties and become more receptive to entertaining litigation brought against Christians and Christian organizations.

Tort liability for brainwashing, coercive persuasion or mind control

Tort liability for brainwashing, coercive persuasion or mind control is unquestionably the most dangerous and sinister threat to God's people because it goes to the heart of orthodox Christianity. The Supreme Court of California in **Molko v. The Holy Spirit Association for Unification Church for Worldwide Christianity** declared that there is a compelling state interest in preventing its citizens from unknowingly being subjected by religious organizations to coercive persuasion, brainwashing or mind control. The court defined this activity as "a forcible indoctrination to induce someone to give up basic political, society or religious beliefs and attitudes and to accept contrasting regimented ideas." One would think "forcible" refers to physical force of the threat of it. However, the plaintiffs in the **Molko** case were never physically coerced to listen to the teachings which they ultimately embraced for a period of time. The court wrote that "when a person is subjected to coercive persuasion without his knowledge or consent" this was sufficient to give the state an interest authorizing its courts to entertain such litigation *(252 Cal. Rptr. 136)*. While the plaintiffs in **Molko** were initially lied to when they asked

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"No one needs your help more than these hungry and homeless children of the world. Will you please help Christian Aid support them?"
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When angels come down, some take the form of big sisters! Here a younger brother is provided with everything his big sister can give him . . . even a leg for a pillow! Could you help others like them?

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What would you do with the children of a family whose mother and father have just had their heads hacked off by communist guerillas?

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Or what would you do with the children of a family so poor that the father is willing to face death in travelling to another country—just to provide for the family left behind?

You already know living standards are different in other countries. But do you fully realize how LOW those standards are? Millions (yes, millions) of homeless children wander the fields and sleep in the street—every night. Yes, it is a very sad fact.

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Many children, like those described above, have found shelter in a Christian home or have received other help because American believers have SPONSORED them.

Indigenous church groups in many different areas of the world are providing care for these needy children with help from Christian Aid. And they are cared for with an efficiency that would make even an accountant proud of their stewardship.

Christian Aid has a 35-year history of quietly working in partnership with committed Christians and churches in the United States and Canada. Christian Aid acts as your direct link to over 270 indigenous groups in 66 Third World countries—most of them "closed" to the gospel of Christ.

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When people travel abroad to these Third World countries the comment is virtually unanimous: "We have it SO easy here in the USA!"

Yes, we even have the freedom to complain when the price of milk rises 10 cents!

But what if you lived in a country where inflation was nearing 200%—PER MONTH? And that same gallon of milk would cost maybe $4.00 this month and nearly $8.00 the next month in your country's currency? (That is IF you could FIND the milk to buy because of the shortages.)

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Because of the relative strength of the U.S. dollar, people are continually amazed at just how far EACH dollar can go towards assisting needy children in other lands.

A gift of just $15 will help provide food and shelter for a needy child for a month. As a sponsor, your $15 monthly support will bring you the child's name, photo and biographical information.

The World's Children: Liability—or Legacy From The Lord?

It's your choice of course. Committed Christians who take our Lord's command seriously to "Go into all the world and preach the Gospel," know that EVERY life—born AND unborn—is precious in His sight. We know EVERY life is a legacy, a "heritage" from God (Psalm 127:3).

Our many partners over the last 35 years believe this with all their hearts. A few of our partners give us their UNSOLICITED views . . . (actual letters on file):

"In my 25 years of giving to Christian organizations, I have NEVER found one that is more effective, efficient and more conscientious at being a good steward than Christian Aid."
—N.H.D.,III

"My children and I agreed to set aside 20 cents a day to send to you. It was tough. But since the beginning, the Lord has provided the money every day..."
—Brenda R.

"We are so happy to have a part in helping in the care of 'our little girl' Raksha...Thank you for the photo and her history which we truly cherish...we continue to pray for her as she is receiving God's Word!"
—Les & Emily W.

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Please pray about this. Let the Lord reveal His priorities to you. Have your church or Sunday School class pray about sponsoring SEVERAL children. Then clip and mail the coupon below!

Time is SO short. And the opportunities are SO great. Let us know you are standing with us to recognize every life as a legacy from God. Jesus told us "Whoever receives one such little child in My Name receives Me." (Matt. 18:5)

Child Sponsorship Form

☐ **YES!** I recognize every child is a legacy from the Lord.

☐ Enclosed is my first gift at $15 a month for _____ child/children.

☐ I cannot sponsor a child at this time, but I have enclosed a special gift of $ _____ to help care for the children nobody wants. (Yes, all gifts are tax-deductible.)

☐ **I/We prefer to sponsor a child in:**
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☐ Africa; ☐ Where Needed Most.

☐ Please send me more information on Christian Aid's ministries. 36-148

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