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Attorney advises caution in publishing 'research'

By Mark Wingfield

Managing Editor

Could your church be sued for defamation or libel if it distributes the accusatory literature produced by Missouri Baptist Laymen's Association and Texas Baptist Laymen's Association?

The answer is mixed and difficult to give, according to Paul Watler, an attorney with the Dallas firm of Jenkins & Gilchrest who specializes in defending publishers and broadcasters against charges of defamation.

"This is not something so clear-cut that it leaps off the page," Watler said after reviewing some of the literature in question. "It's a subtler issue."

The bottom line, however, should be one of caution, the attorney advised.

"As someone who has practiced defamation law for almost 20 years now, I've seen libel and defamation cases brought over a lot less," Watler said of the material circulated among Texas Baptist churches. "The expense and distraction and burden of defending litigation is very real."

No one has yet filed any legal claim against Missouri Baptist Laymen's Association, Texas Baptist Laymen's Association or the groups' researchers, Roger Moran and Bill Streich. But some Baptists upset by the accusations Moran and Streich make have labeled their work "slander" and "innuendo."

The Baptist General Convention of Texas Committee on Baptist Integrity has called the literature and pieces like it "malicious gossip" and urged churches not to distribute it.

The pieces produced by Moran and Streich, which they defend as accurate, draw links between individual leaders of the BGCT, Cooperative Baptist Fellowship and Baptist Joint Committee to far-left causes such as support for homosexual rights and abortion rights. The links generally involve at least two or three degrees of separation, such as a Baptist leader serving on the board of an interfaith agency alongside another non-Baptist board member who supports homosexuality.

On one level, the question of whether such literature is defamatory might be easy to answer, Watler advised. "The classical definition of what is defamatory is a false statement that injures someone's reputation. So if you falsely state that someone associates with crusaders for homosexuality or that someone supports homosexuality and you can prove that is false, potentially there might be a defamation claim."

Where things get sticky, he added, is the intrusion of religious belief into the equation. If a charge were framed strictly within the definition of religious belief, there would be no case.

"When you're dealing with the tenets of a religious belief, the civil courts won't get involved," he explained. "Whether it's against the tenets of the Baptist church to accept homosexuality, courts would not adjudicate that."

However, fear of potential litigation caused the Missouri Baptist Convention's newspaper, Word & Way, in 1997 to reject a two-page advertisement that consisted almost entirely of Moran's research.

Acting on the advice of legal counsel, Editor Bill Webb rejected the ad, citing concerns about potential exposure to libel. Publishers are held accountable for libelous information they publish, even in the form of paid advertisements they did not write or endorse.

The rejection of that ad angered Moran and other Missouri Baptist conservatives, who charged the paper with merely attempting to squelch their voice.

"My response was, for crying out loud, this is public information," Moran said. "We just took public information and repeated it in an organized fashion.

"To say we have fact but not truth is a rather ridiculous defense because I don't think we have drawn all these bizarre conclusions. ... Would somebody please tell me exactly what I did say that was erroneous or out of context?"