

**ASSEMBLIES OF GOD THEOLOGICAL SEMINARY**  
**Continuing Education Course**  
**Springfield, Missouri**  
**August 29-30, 2003**

**P THE 628 Legal Issues for Churches and Clergy**  
**(1 Credit)**

**Richard R. Hammar, J.D., LL.M., CPA**

**Fall 2003**

**COURSE SYLLABUS**

**COURSE DESCRIPTION**

A course designed to acquaint the student with the application of civil law to churches and clergy.

**COURSE OBJECTIVE**

This course is designed to provide students with: (1) a basic understanding of many of the substantive legal principles that apply to churches and clergy; (2) an ability to recognize circumstances that require professional legal counsel; (3) a recognition that many pastoral decisions must be considered and rendered in the light of their legal consequences; (4) familiarity with the more common forms of church and clergy legal liability; (5) an understanding of the legal rights and responsibilities of clergy; (6) a familiarity with the structure and workings of our legal system and with the legal remedies available under that system; and (7) a basic understanding of several risk management principles and strategies that can help churches and clergy lower their risk of liability.

**REQUIRED TEXTBOOK**

R. Hammar, *Pastor, Church & Law, 3rd edition* (Christian Ministry Resources 2000).

**RECOMMENDED TEXTBOOKS**

R. Hammar, *The Church & Clergy Tax Guide* (Christian Ministry Resources 2002).

R. Hammar, *Church Law & Tax Report* (bimonthly newsletter--Christian Ministry Resources) (selected excerpts may be distributed in class or placed on reserve in the library).

R. Hammar, *Church Treasurer Alert!* (monthly newsletter--Christian Ministry Resources) (selected excerpts may be distributed in class or placed on reserve in the library).

J. Cobble, R. Hammar, *2003 Compensation Handbook for Church Staff* (Christian Ministry Resources 2001).

J. Cobble, R. Hammar, *Risk Management Handbook for Churches and Schools* (Christian Ministry Resources 2001).

ChurchLawToday.com website maintained by R. Hammar and J. Cobble.

## **BASIC OUTLINE**

Set forth below is a tentative schedule of the materials that will be covered in class and the corresponding assignments and examinations. This schedule is subject to change.

### **Friday, August 29 (session 1)**

#### **Introduction**

- Objectives:**
- (1) Understand the legal difference between the terms *pastor*, *clergyman*, and *minister*.
  - (2) Explain why it is important to define the terms *pastor*, *clergyman*, and *minister*.
  - (3) Name several statutes that use the terms *pastor*, *clergyman*, or *minister*.
  - (4) Explain how the civil courts determine the definition of a “minister” when a church’s definition differs from the definition in a statute.
  - (5) Define the terms *employee* and *self-employed*, recognize the legal differences between these terms; and determine whether a minister is an employee or self-employed in several contexts including income tax and social security reporting.
  - (6) Understand the legal significance of the term *ordained*, *commissioned*, or *licensed*.
  - (7) Understand the legal aspects of the selection of clergy.
  - (8) Understand under what circumstances the civil courts will intervene in internal church disputes involving the selection of clergy.
  - (9) Explain why clergy and churches should enter into a contract of employment, and identify several important items to cover in such a contract.
  - (10) Define *unreasonable compensation*, and explain the significance of this concept to churches and clergy.
  - (11) Identify those circumstances in which the civil courts may intervene in internal church disputes involving the dismissal of a minister.
  - (12) Describe a minister’s legal authority.
  - (13) Identify the legal requirements that clergy must follow in performing marriage ceremonies.
  - (14) Explain the status of clergy, and theology students, under the Selective Service Act.

- (15) Understand the nature and purpose of the clergy-penitent privilege, and apply it to a variety of factual circumstances.
- (16) Understand whether or not a minister has a legal duty to report known or reasonably suspected cases of child abuse to state authorities.

Subjects: Law and the pastor--definitions and status  
Law and the pastor--the pastor-church relationship  
Law and the pastor—authority, rights, and privileges

Assignments: *Pastor, Church & Law (third edition)*, chapter 1  
*Pastor, Church & Law (third edition)*, chapter 2  
*Pastor, Church & Law (third edition)* chapter 3

### **Friday, August 29 (session 2)**

- Objectives:
- (1) Understand the legal concept of negligence, and its application to clergy and churches.
  - (2) Define the term *defamation*, and explain its application to clergy both as plaintiffs and defendants in civil litigation.
  - (3) Define the term *undue influence*, and explain its significance to churches and clergy.
  - (4) Define the four varieties of *invasion of privacy*, and their relevance to clergy.
  - (5) Define the term *malpractice*, and describe the application of the term to a variety of clergy practices.
  - (6) Understand the application of securities law to clergy who offer or sell church securities to church members as a means of raising funds.
  - (7) Describe the status of clergy under state child abuse reporting laws, and the consequences of a failure to report known or reasonably suspected incidents of abuse.
  - (8) Understand the legal consequences to a minister in the event the minister engages in sexual contact with an adult or minor member of the congregation.

Subjects: Law and the pastor--liabilities, limitations, and restrictions.

Assignments: *Pastor, Church & Law (third edition)*, chapter 4

### **Saturday, August 30**

- Objectives:**
- (1) Understand the legal differences between an unincorporated and an incorporated church, and explain the advantages of the corporate form of organization.
  - (2) Define the terms *charter*, *constitution*, *bylaws*, and *resolution*, and explain the legal priorities among these terms.
  - (3) Describe the legal authority of church members to inspect church records.
  - (4) Explain the purpose and application of the Church Audit Procedures Act.
  - (5) Summarize several state and federal reporting requirements that apply to many churches.
  - (6) Identify several potential theories of personal legal liability for church officers and directors.
  - (7) Explain the application of charitable immunity laws to church officers and directors.
  - (8) Describe the two approaches to civil court intervention in church membership determinations.
  - (9) Explain the legal effect of church meetings that are conducted in violation of a church's bylaws.

**Subjects:** Law and the church—organization and administration

**Assignments:** *Pastor, Church & Law (third edition)*, chapter 6

### **METHODOLOGY**

This course is designed to give students a practical, rather than an academic or theoretical, understanding of the materials presented. Students will be encouraged to apply what they have learned to practical situations both in assigned homework problems and class discussions. Special emphasis will be placed on addressing the questions at the end of each chapter. Lectures will be presented on each assigned chapter to explain difficult materials, emphasize major points, and present additional materials and insights not covered in the texts. Free discussion is encouraged. However, students are discouraged from participating in class discussion unless they have studied the assigned materials.

### **GRADING PROCEDURE**

**Exams.** There will be one exam worth 100 points consisting of 40-50 multiple choice questions. "Difficulty points" may be added to exam scores, depending on the difficulty of the exam.

**Grading scale.** 90-100% = A; 80-89% = B; 70-79% = C; 60-69% = D; 0-59% = F.

**ABOUT YOUR INSTRUCTOR:**

Richard R. Hammar is an attorney, CPA, and author specializing in legal and tax issues for churches and clergy. He is a graduate of Harvard Law School, and attended Harvard Divinity School. He is the author of more than 40 books, including *Pastor, Church & Law*, the annual *Church and Clergy Tax Guide*, and *The Church Guide to Copyright Law*. He also writes *Church Law & Tax Report*, a widely-circulated bimonthly newsletter reviewing significant legal and tax developments for churches and clergy, and the *Church Treasurer Alert!*, a monthly newsletter for church treasurers. He has contributed articles to numerous journals and publications; is a frequent speaker at legal and tax conferences; has taught church law at a number of seminaries; and is frequently asked to consult with attorneys, CPAs, and church leaders on church and denominational legal and tax issues. He has been a lecturer at the annual Washington Nonprofit Tax Conference since 1992; and has addressed a National Institute of the American Bar Association, and continuing education programs at New York University, Princeton, and Emory University. He is a member of the Missouri and Illinois Bar Associations, the American Institute of Certified Public Accountants, the Christian Legal Society, and is admitted to practice before the United States Tax Court.

**SPECIFIC DATA**

This syllabus was prepared by Richard Hammar in July 2003.