



LEGAL IMPLICATIONS OF SEXUAL MISCONDUCT CLAIMS

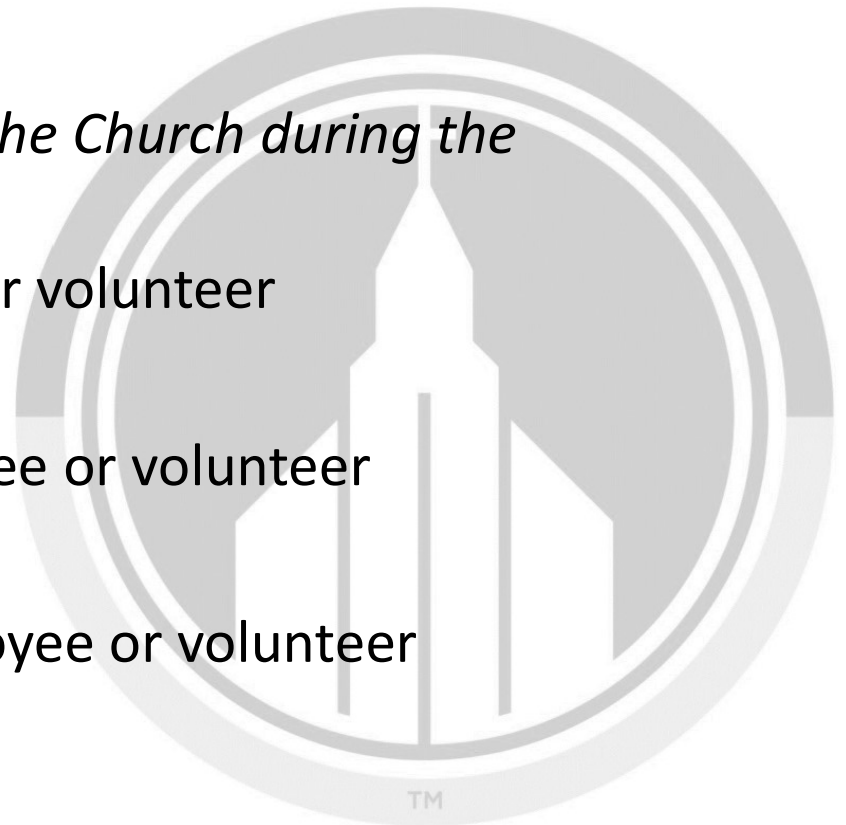
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LIABILITY THEORIES

The focus of liability is on the actions of the Church during the employment process:

- Negligent Hiring of Church employee or volunteer
- Negligent Retention of Church employee or volunteer
- Negligent Supervision of Church employee or volunteer



Plaintiff's Burden of Proof:

1. Church knew *or should have known* that employee had a “particular unfitness” for the position so as to create a danger of harm to minors; and
2. The particular unfitness was known or should have been known to the church at the time of hiring of employee, or became known or should have been discovered during their employment.

Particular Unfitness defined: The employee is not fit to work with or around minors (poses a danger to minors).

Actual Notice

The Church actually knew about the employee's predatory behavior/unfitness to be around minors.

(There was a prior complaint about the employee or a prior criminal history involving sexual misconduct).

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Constructive Notice

The Church should have recognized the red flags regarding the employee's unfitness to be around minors.

Most lawsuits involve the constructive notice standard. The longer the abuse went on the more likely the claimant will have a viable constructive notice argument against the Church.

Red Flags/Grooming

- Prior criminal record
- Too much one on one time with minor
- Inappropriate social media comments
- Texting with minor or calling minor's cell phone
- Giving gifts or money to the minor to gain their trust
- Alone with minor at group events (ie. youth ministry retreats/trips)
- Exchanging affectionate letters with minor
- Rumors among other minors or parents about the employee
- Inappropriate public displays of affection (hugging; holding hands)

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Preventative Actions to Take

- Formulate a strong Safe Church Policy
- Enforcement of the Safe Church Policy
- Conduct extensive background checks prior to hire
- Take all complaints seriously
- Investigate rumors/gossip
- Conduct Safe Church Training- recognition of the red flags/grooming is essential to prevention

DO NOT SWEEP THE WARNING SIGNS UNDER THE RUG!!!!

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