

# COPYRIGHT STORIES THAT COULD AFFECT YOUR CHURCH

For many churches, the use of the internet, digital meeting platforms, and social media is becoming the norm for spreading the word of God. While the dangers of social media are well-known with respect to predators and financial scams, less heard about, are the risks around “Intellectual Property” to include music, art, and literature. While there is a “Religious Service Exemption” for copyrighted materials, the use of the material outside the sanctuary is not covered such as transferring material to web pages.

\*The copyright issue can be a bit tricky, as mentioned above. U.S. Copyright law provides an exemption for churches, but that exemption is limited. In their *Guide to Online Ministry*, Internet streaming experts Haivision – Video at Work puts it this way. “The Religious Service Exemption in U.S. copyright law outlines permissions for churches to perform songs that are copyrighted, during their religious services. It does not, however, permit that performance to be streamed or broadcast over the Internet. So, if you stream your services, songs performed by your worship band could count as copyright infringement if you haven’t obtained a performance license.”[1]

Here is an example: a pastor recently asked about putting sermons on YouTube. She explained that her sermons commonly contain quotations of others’ copyrighted materials and musical performances. While we support the use of social media and services shared on YouTube to further the interests of the church and its ministries, we have advised her to purge them of copyrighted material in the authorship phase if she wishes to post them on-line. If sermons are to have a life past the sanctuary, they must be e-Ready! e-Safe! and e-Legal!

In another example, author, **Linda Ellis**, who is the author of the poem “**The Dash.**” has copyrighted her poem, built a business around her art, and explicitly denies any right to publish her work. The poem is popularly shared, especially in funerals and memorial services and while it is quite alright to quote the poem as part of a religious service, some churches published the poem on their websites. She is entitled to enforce her copyright and aggressively does so by making claims against unwitting churches. The claim amount is usually \$5,000 or more.

Pastors have an extraordinary intellectual and creative burden to provide a weekly sermon that inspires, cleanses, and even entertains, for virtually the same audience. You may ask if you, as the pastor, own the sermon? Especially because of the proliferation of social media, from web pages, to Facebook, and live streaming and YouTube, copyrights have become a live issue, and an elusive one at that. And it is an issue that should concern clergy whose pastoral role involves a large measure of literary creativity. *Section 201(b) of the Copyright Act states “(i) in the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author ... and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.”*

\*\*Copyright law generally provides that an employer owns the work product of its employees. If the work is created pursuant to employment, and the author is not thoroughly qualified as an “independent contractor,” the work belongs to the employer. That is, the precise employment relationship matters in the determination of copyright. For clergy that can be tricky. Therefore, based upon the principles above, the copyright for sermons produced in the course of employment for a church, is the property of the church. Unless a Call Agreement (or other writing) makes specific provisions for copyrights, clergy may not own sermons or other work they produce “on church time.”

United Church of Christ has added copyright language to its standard Call Agreement. The language leaves copyrights with the pastor while providing an un-limited license to the church employer. We suggest that the Call Agreement be considered a living document, and this issue provides an example of an evolving issue for which you, pastor or congregation, may wish to have some clarity.

\*--*Church Streaming Liability*, Phillip Baker, Adventis Risk Management, Inc, 2020

\*\* -- *The Essential Guide to Copyright Law for Churches*, Richard R. Hammar, Christianity Today International, 2010, p 16.

## References:

1-<https://www.haivision.com/blog/faith-worship/guide-to-online-ministry-faith-streaming/>