

Charities in the Courtroom: Part 1

12.22.16 | Linda J. Rosenthal, JD



Although, occasionally, a high-profile charity scandal hits the headlines, most people are unaware that nonprofits go to court (or are summoned there by others) on a fairly regular basis.

This unawareness may arise from blissful ignorance of all the laws that apply to charitable organizations – some unique to the philanthropic mission and others that apply across the board.

It may arise from something vague they've heard about including the notion of "charitable immunity." There have been times in the distant past that charities had some protection against negligence lawsuits, but those days are long gone.

It may arise from an acute sense of karma – as in "it's bad karma to sue a charity" or just plain tacky. Sadly, though, enough people have overcome any such reticence to keep many trial lawyers busy.

Types of Lawsuits

So what types of matters arise and which are the most common?

There's a surprisingly broad range of legal issues that may bring a charity into the courtroom either as a plaintiff or as a defendant. These can include disputes among or against board members, issues arising in connection with memberships, contract or real estate problems, and negligence liability – just to name a few.

According to insurance specialists, though, the most frequent issues that arise for nonprofits are ones not specific to the charitable sector. They are employment problems and disputes: for instance, discrimination and harassment claims, wrongful terminations, violations of labor laws about pay and working conditions, and contract disputes.

A handy way to appreciate the scope of possibilities is to take a quick peek back at courtroom cases we've already highlighted in this blog. Here are just a few:

- [A Rose by Any Other Name...](#): A large charity brought an infringement lawsuit against a much smaller one with a deceptively similar name
- [A Recipe for How To Get Noticed by the California Attorney General](#): Up in Napa, two trustees of a charitable trust were cooking up such a “hearty feast of trouble,” that the whiff of scandal floated all the way to the state charity regulators who hauled them into court for breach of charitable trust
- [Sweet Briar College: Saved – At Least for Now](#): Board insiders tried to force closure of 100-year-old college; alumnae and others ousted them and kept the doors open
- [The Other Nonprofit Discrimination Lawsuit in the News](#): A white applicant for a highly coveted arts internship at the Getty Foundation sued for discrimination in connection with a program geared toward underrepresented minorities
- [Memberships in a 501\(c\)\(3\) Nonprofit: What Could Possibly Go Wrong?](#) : There was big trouble in Puget Sound when some historical-society members staged a coup d’etat against the old guard
- [Princeton U. Settles Property Tax Challenge](#): In a classic “town vs. gown” battle, irate townies successfully sued the great university to get voluntary payments in lieu of property taxes
- [Refugees Relief Agencies Win Standoff Against Texas](#): Humanitarian aid groups successfully blocked Texas’s efforts to stop them from helping Syrian refugees
- [Charitable Gifts in Perpetuity: Not a Great Idea](#): Potential donor to struggling Paul Smith’s College wanted her name in lights, but a court refused to change the terms of testamentary trust that mandated that the original name be kept “in perpetuity.”

And our favorite –

- [Fighting City Hall: Tiny Charity Wins Against City Hall](#): Organization run by homeless for homeless wins David vs. Goliath battle against oppressive city ordinances

Conclusion

Some new cases are coming up in Part 2: a college that spends several years and hundreds of thousands of dollars to get a divorce from its alumni association; a famous museum that fights a quadriplegic patron’s request for a membership-fee discount under the Americans with Disabilities Act; and a lawsuit attempting to force the federal government to abide by animal protection statutes – thrown out for lack of “standing” of our almost-upright primate cousins.

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