

1974 WL 27642 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 25, 1974

*1 Mr. Ray Coleman
Ray Coleman's Insurance Agency
Post Office Box 1011
Dillon, South Carolina 29536

Dear Mr. Coleman:

Thank you for your letter of February 22 inquiring if a church can be sued or not.

Charitable associations in this State, such as churches, cannot be sued in tort, which is generally the kind of liability covered by the ordinary policy for liability coverage relating to negligence, etc. My experience has been with respect to governmental operations, which generally cannot be sued for their torts, and I do not think that the procurement of liability insurance by a governmental agency will constitute a waiver of its immunity from tort liability. Whether the same is true with respect to a private charity, such as a church, is a matter which I cannot express an opinion about, as my jurisdiction relates only to governmental bodies. I feel that churches do carry tort liability insurance, primarily as a goodwill or public relations factor, but, of course, this is dictated by the desires of each church involved. I have advised governmental authorities that they do not have authority to spend public money for liability insurance if they have no liability. As noted in your letter, this is the same as insuring against the risk which does not exist. Whether the same conclusions would be applicable to a church is, as stated, a matter for its own discretion in accordance with the advice of its lawyers.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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