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Showers Quarterly focuses on emerging legal issues affecting churches and nonprofits.

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The Showers Quarterly

See below our fourth quarter recap highlighting recent articles written and published by our firm. All articles are published on our website at SimmsShowersLaw.com. We hope this article, along with the many other articles on our website and in our newsletters, help your organization begin the conversation on how to best protect your ministry and lead you to the best resources.



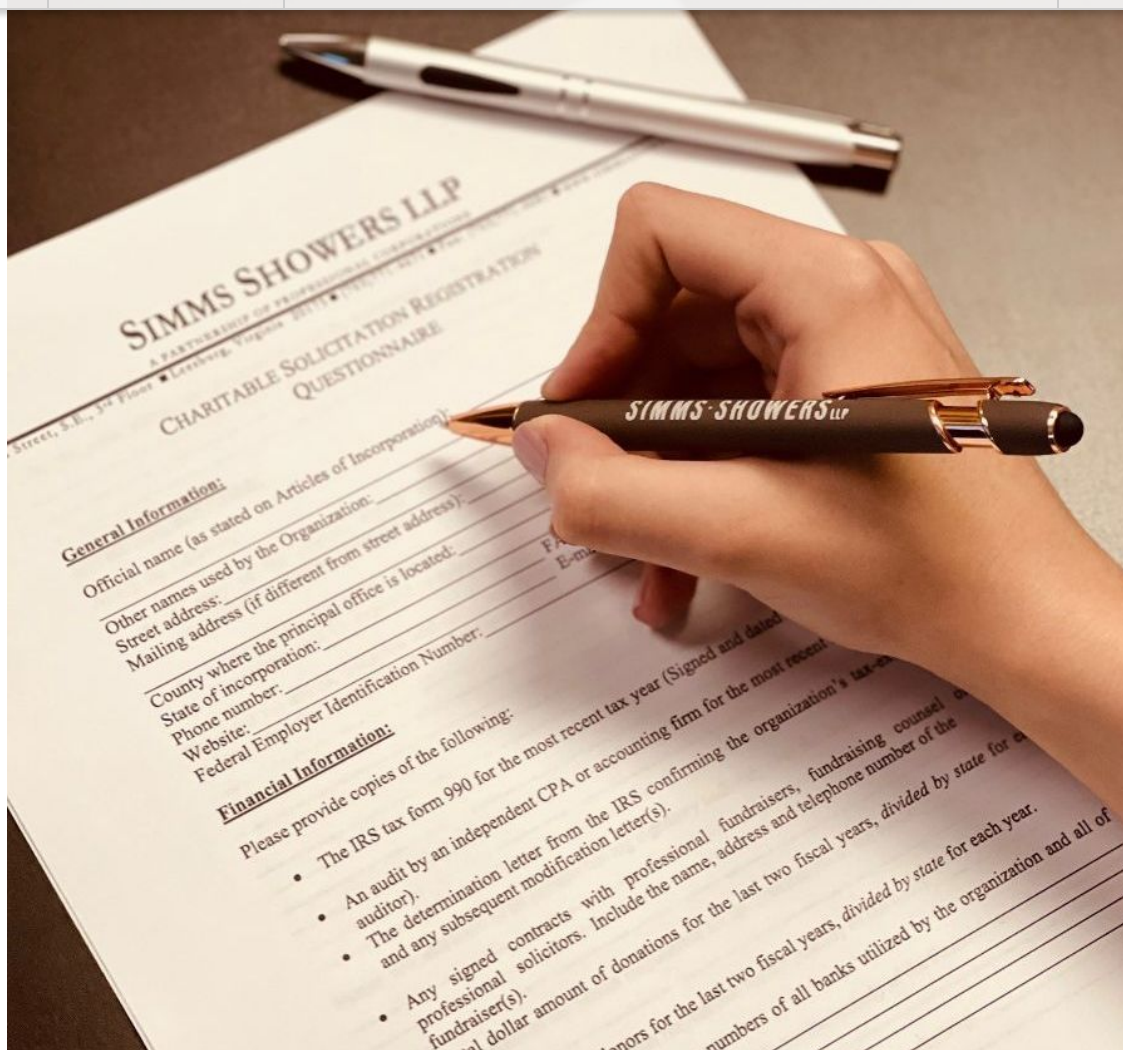
Church Third Party Uses: What You Don't Know Can Hurt You!

By H. Robert Showers, Esq. and Justin R. Coleman, Esq.

Renting or allowing the use of church and ministry facilities by third parties opens your ministry up to many new risks: **child abuse liability, unwanted use purposes (same-sex marriages) or activities on-premises (illegal or risky)**; it also increases liability that is not covered by insurance or

unforeseen offense. The optimum “Church Facilities Use Policy” and “Rental or Use Agreement” should contain many key components. **First**, the policy and any subsequent agreement are designed to make the church less conducive to being perceived as a public accommodation. **Second**, the policy protects against general liabilities that could occur through public use of its facilities and grounds. **Third**, it protects against other specific liabilities like child abuse or unwanted activities. **Fourth**, it defines the Christian way of resolving disputes out of court and keep the process confidential and out of the media. **Finally**, it handles key nuts and bolts such as permitted uses, times and place of use, costs, indemnification, additional insurance, child care and safety policies, and other use safety measures.

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Charitable Solicitation Registration-Why Register?

Updated June 2022

From the nonprofit fundraising scandals of the late 1970's to the televangelist debacles of the 2000's, charity scandals over the last few decades have led many state governments to increase their regulation of charitable fundraising. The most significant legislative response to the shifting nonprofit landscape is the charitable solicitation registration ("CSR") statutes now enacted in at least 39 states and the District of Columbia. Today, states are regulating charitable solicitation more strictly than ever in order to protect their residents from solicitation fraud and give them the information they need to make wise charitable contributions. Another component of state intervention is the significant fees generated from registrations under these CSR statutes.

State CSR statutes generally cover the following areas:

- Exemptions from registration and reporting requirements;
- Disclosure requirements for charities and professional fundraisers during solicitations;
- Prohibitions against certain acts while soliciting; and
- Penalties for unregistered solicitation, late registration, and other violations.

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West Virginia’s current Constitution prohibits the State from allowing any church under its authority to incorporate, making it the last state not to allow church incorporation.

Article VI, Section 47 of the West Virginia Constitution explicitly states: “No charter of incorporation shall be granted to any church or religious denomination.” [1] Surprisingly to some, this provision was anything but a recent development.

In fact, West Virginia’s prohibition against church incorporation is a vestige of *Virginia’s* former constitutional prohibition, which the 2002 *Falwell v.*

West Virginia is now the only state in the Union that prohibits church incorporation—*but change is finally coming.*

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Our Mailing Address is:

Simms Showers LLP
305 Harrison St. SE
Third Floor
Leesburg, VA 20175

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