

Appendix D

When Is It Right to Go to Court?

First Corinthians 6:1–8 specifically limits a Christian’s freedom to sue another Christian in civil court. There is significant confusion regarding the intent of this passage and the extent of its limitation. In this appendix, I will address a few of the central issues in this passage.

Does 1 Corinthians 6 Apply Only to Scandalous Lawsuits?

Some people argue that 1 Corinthians 6 applies only to lawsuits that deal with such scandalous issues that the publicity would necessarily hurt the reputation and witness of the church. I can understand how they draw that inference from verses 6-8, but I think they are missing another important implication of this passage and related teachings in Scripture.

As James 4:1-3 teaches, prolonged, intense conflict is generally caused or aggravated by sinful desires that war in people’s hearts. This is as true for lawsuits as it is with most other conflicts. When two Christians lock horns over legal issues, there are almost always sin issues involved. These may include honoring your contracts (Ps. 15:4), telling the truth (Eph. 4:15), shifting responsibility and getting caught up in self-justification (Matt. 7:3-5), harboring bitterness or anger towards someone else (Matt. 5:21-22), refusing to repair damage done to someone else (Num. 5:5-7), or cheating or otherwise doing wrong to someone (1 Cor. 6:7-8).

Civil courts can make rulings on legal and property issues, but they have no jurisdiction or ability to address sin or other matters of the heart described in James 4:1-3 and Matthew 15:19 (see discussion below on possible concurrent jurisdiction). Therefore, civil courts are completely powerless to resolve the root causes of a lawsuit or to help people break free from the sin that is fueling their dispute. Only the church can authoritatively carry out the ministry that is needed to *thoroughly resolve* a lawsuit between believers. Therefore, when two Christians have a legal dispute, it makes no difference whether it involves major issues that may cause a scandal or small issues that are of no interest to outsiders. If the dispute involves matters of the heart, as almost all lawsuits do, God wants it resolved through the one institution that he established to minister to the heart, which is the local church.

To Whom Does 1 Corinthians **Apply**?

There are three common views on the scope of 1 Corinthians 6:1–8 (which I will refer to as 1 Corinthians 6). One view holds that this passage forbids lawsuits against both Christians and non-Christians. This view is difficult to support. The passage talks about “one brother [going] to law against another—and this in front of unbelievers!” (v. 6). It also asks if it is possible “that there is nobody among you wise enough to judge a dispute *between believers?*” (v. 5, emphasis added). Moreover, this passage instructs Christians to submit to the “judgment” of the fellow believers within the context of the church. Paul would have hardly expected unbelievers to submit to the authority of the church. In fact, earlier in the same letter he had specifically warned the church not to judge unbelievers (1 Cor. 5:12). Therefore, 1 Corinthians 6 should be understood to apply only to disputes between Christians.

Another view of this passage is that it forbids any and all lawsuits between people who profess to be Christians. This view is not supported by the express language of the passage, nor is it consistent with the rest of Scripture, which clearly indicates that God has established civil courts and expects his people to respect their authority and cooperate with them in appropriate situations (see Rom. 13:1–7; 1 Peter 2:13–14; cf. Acts 24:2–4; 25:10–11).

The third view of this passage is that it *forbids Christians to sue persons who are members in good standing of a Christian church that is faithful to Scripture*. I believe this is the most reasonable view of this passage. Paul was upset with the Corinthian Christians because they were suing one another in secular court rather than resolving their disputes with the help of the church. Realizing the terrible witness this was giving to unbelievers (v. 6), he said it would be better to be wronged or cheated than to sue a person who is part of the church—that is, someone who is “among you” (vv. 5, 7). As indicated in 1 Corinthians 5:1–13, however, a person should not be considered to be part of the church if he or she has been removed from the fellowship through official church discipline (see Matt. 18:17). Even if that person claims to be a Christian (1 Cor. 5:11), once he or she has been removed from the protection of the church (v. 5), that person can no longer enjoy the fellowship and privileges that belong to believers (vv. 9–11). Among other things, this means that such an offender no longer qualifies as a “brother” who is “among you.” Therefore, I do not believe 1 Corinthians 6 applies to that person, and other Christians are not necessarily forbidden to go to court against him or her.

Exhausting Church Remedies

The view I described in the previous paragraph gives the church a crucial role in resolving conflicts between people who profess to be Christians. If the church obeys Jesus' commands to help resolve disputes between Christians (Matt. 18:15–20), many conflicts will be settled far short of litigation. If your opponent (or you) refuses to listen to the church, and if the church obeys Scripture and disfellowships such a person, the dispute can then be resolved legitimately through the civil courts, if necessary.

If your opponent's church does not carry out its biblical responsibility, it places you in a difficult position, because your opponent will still be a member in good standing of a Christian church. When this happens, I believe you have at least two alternatives. First, you could drop the matter and suffer loss (1 Cor. 6:7). This course would be appropriate if the issues are not very important and if it is likely that a lawsuit would cause others to think less of Christians and of Christ. Second, you could ask the leaders of your church to meet with the leaders of your opponent's church in an effort to persuade them to fulfill their biblical responsibility to help resolve your dispute. If they respond to that appeal, the two churches could cooperate by appointing a panel of reconcilers from both churches who would carry out the responsibilities described in 1 Corinthians 6, with both churches agreeing that they will support the decision of that panel and, if necessary, enforce it through church discipline.

If your opponent's church rejects the appeal of your church leaders, you could again consider dropping the matter. If that would not be wise, your church could declare that since your opponent's church is not acting in a manner faithful to Scripture, it should not be treated as a true Christian church, at least for the purposes of this conflict. As a result, your opponent need not be considered to be a part of a true Christian church. This would make 1 Corinthians 6 inapplicable and allow you to proceed with litigation if the other two conditions discussed in chapter 9 are satisfied.

Of course, your own church may refuse to work with you, and decline either to appeal to your opponent's church or declare that church to be disobedient to Scripture. If your church leaders believe that you do not have a biblical basis to pursue an action against your opponent, in general you should respect that counsel and drop the matter. If, however, your church simply refuses to obey what is taught in Matthew 18:15–20 and 1 Corinthians 6, you should consider moving to a church that is faithful to Scripture.

When you have to stay in your church because there are no Bible-believing churches in your community to which you can move, you should still avoid deciding for yourself whether you should treat your opponent as a believer and proceed with a lawsuit. Such unilateral conduct would violate the spirit of Matthew 18 and 1 Corinthians 6. Instead, you should turn to a few spiritually mature Christians who can objectively evaluate your situation and give you biblical counsel. They may even approach your opponent in one last effort to resolve the conflict biblically. If your opponent still refuses to cooperate, and if these advisors conclude that your opponent is behaving “as a nonbeliever” and that your action is worth pursuing, you may be able to proceed with a lawsuit.

Two Additional Conditions

There are two other conditions you must satisfy before proceeding with a lawsuit against another believer. In addition to exhausting your church remedies, be sure that the rights you are seeking to enforce are biblically legitimate. As we saw in Chapter 4, some of the legal “rights” and remedies available through civil courts today are contrary to Scripture. For example, some of the actions that employees can legally bring against their employers undermine the authority that God has delegated to employers through Scripture. Conversely, some of the things employers can legally do are biblically wrong. As Justice Scalia has noted, exercising such “rights” is clearly wrong in the eyes of God. Before proceeding with a lawsuit against anyone, you should make sure that the rights you are about to assert are consistent with Scripture.

The third condition for bringing a lawsuit is to make sure that your action has a righteous purpose. As we have seen from our study of 1 Corinthians 10:31–11:1, never assert your rights if doing so is likely to dishonor God, to harm other people, or to draw you away from Christ and deplete your ability to serve him. Therefore, do not file a lawsuit unless you are confident that it will somehow (1) advance God’s kingdom (e.g., by promoting justice or providing a positive Christian witness to those who observe the action); (2) benefit your opponent (e.g., by invoking the power of the state to force him or her to bear the consequences of wrong behavior, which may help the opponent to behave more responsibly in the future; see Romans 13:1–7); and (3) enhance your ability to know and serve Christ (e.g., by preserving rights and resources needed to minister to others or to provide for those who depend on you).

When considering this final condition, it is important to realize that litigation often takes a much higher personal toll than most people anticipate. The financial, emotional, and spiritual demands of the adversarial process can be enormous, and they can even outweigh any gains made through a favorable judgment. That is why Abraham Lincoln gave this advice to a class of law students over a century ago: “Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses, and waste of time.”

As this warning indicates, you should be very cautious about filing a lawsuit. If the three conditions described above are satisfied, however, you may appeal to the civil courts to resolve a conflict. Although this is not the preferable way to settle disputes, it is one that God can and does use to restrain wrongdoers, to protect the weak, and to promote justice, all of which are necessary for peace and the preservation of society.

Who Has Jurisdiction?

In certain situations, it may be appropriate to pursue legal remedies at the same time you are pursuing church remedies. This may happen in cases where both the church and the state have jurisdiction over a matter and when irreparable harm might occur if legal action is delayed.

God has given the church jurisdiction over the way Christians respond to the commands set forth in Scripture. (“Jurisdiction” means the right or authority to interpret and apply the law.) In other words, the church has *jurisdiction over sinful acts and attitudes*, that is, offenses that are violations of God’s revealed will. This is why the church has both the responsibility and the authority to lovingly correct a person who is guilty of sin (Matt. 18:17–20). If a person refuses to respond to the correction of the church, the church may impose a variety of biblically established penalties, the most severe of which is to put that person out of the church and to treat him or her as a non-Christian. This penalty essentially removes the person from the jurisdiction (and protection) of the church and exposes the person to the unfettered attacks of Satan (1 Cor. 5:4–5; 1 Tim. 1:20).

Likewise, God has given civil government jurisdiction over the way people interact with one another in society. *Government has jurisdiction over criminal acts*, that is, offenses that are violations of society’s laws (Rom. 13:1–7; 1 Peter 2:13–14).¹ This is why civil government has

both the responsibility and the authority to correct a person who is guilty of criminal behavior. This correction may include a variety of penalties, including fines, imprisonment, loss of property, or even capital punishment.

When a believer's offense is a sin but not a crime (e.g., refusing to be reconciled to another person), it comes under the exclusive jurisdiction of the church. When an offense is a crime (e.g., shoplifting), it is also a sin if the violated law is biblically legitimate; therefore, it comes under the jurisdiction of both the church and government. In other words, there are certain acts over which the church and government share *concurrent* or *overlapping jurisdiction*.

First Corinthians 6 indicates that when an offense comes under the jurisdiction of both the church and civil government, those involved should normally turn first to the church for a resolution, especially if there is a possibility that the church may be able to resolve the matter completely. If the church is unable to resolve the matter, those involved may turn to the civil courts for a remedy. For example, if Bob steals a CD player from Betty's store, Betty may postpone filing charges while she enlists the help of Bob's church in an effort to resolve the matter. With the help of the church, Bob may be brought to repentance, at which point there would be no need to involve the civil authorities. But if Bob refuses to repent and make restitution, the church should treat him as an unbeliever, at which point the church's jurisdiction ends and the jurisdiction of the civil courts may be legitimately invoked. Then Bob would have to face criminal penalties.

On the other hand, if an offense is a *dangerous* crime and others may be seriously injured if the offender is not effectively restrained, it may be appropriate simultaneously to invoke the jurisdiction of the church and the civil government. While the church attempts to deal with the sinful heart condition that prompted the act, the civil authorities may deal with the behavior itself and restrain the offender from harming others. For example, in cases of physical or sexual abuse, it would be appropriate to call in the church and the police at the same time, especially when there is an indication that further abuse is likely unless there is effective intervention.

Unusual Situations

Because our society has changed in significant ways since Paul wrote his letter to the Corinthians, there are some situations that do not fit easily into the 1 Corinthians 6 scenario. When this happens, it will be necessary to consider carefully the jurisdictional issue as well as the three conditions for proceeding with a lawsuit. Most of all, it will be important to remember that one of the major concerns behind 1 Corinthians 6 is the potential for a negative witness when Christians sue one another in civil courts.

For example, since the church does not have jurisdiction over civil government or corporate organizations, it is appropriate to resolve disputes with these types of bodies in court, assuming that you cannot arrive at a solution through personal and informal means. The same would be true of disputes involving insurance coverage. Since the church does not have jurisdiction over insurance companies, you will need to turn to the courts for a remedy if you are unable to arrive at a settlement. Even so, if the insured person who injured you is a Christian, you need to do all you can to resolve any personal animosity in a biblical manner. Furthermore, it would probably not be appropriate to seek excess damages from that individual (i.e., damages that exceed the coverage of the policy) without involving the church.

There may also be situations in which the only issue in dispute is the interpretation of a point of law. If there is truly no animosity between you and your opponent, and if you both believe that the other person is simply mistaken rather than acting in a sinful manner, it may be appropriate to allow a civil court to resolve relevant legal questions. When going this route, you must both agree that you will accept the court's decision without resentment. Of course, if possible, it would be preferable in many ways for the two of you to submit the legal issue to a respected Christian lawyer or judge who would resolve the matter more informally, perhaps through binding arbitration.

What If Someone Sues You?

The three conditions for filing a lawsuit apply equally well to defending yourself in a lawsuit. If you are sued by a person who professes to be a Christian, you should do all you can to divert the case to a church setting. If your opponent refuses, you should follow the Matthew 18 process, as described in chapter 9. If you exhaust that process (as described earlier in this

appendix) and are confident that you are defending biblically legitimate rights and that you have a righteous purpose in defending yourself, you may continue in court with a clear conscience. If you do not satisfy all three conditions, however, you should follow the advice given in Matthew 5:25a: “Settle matters quickly with your adversary who is taking you to court.”

Summary

Since every conflict is somewhat unique, it is impossible to address every question that might arise when a matter may be headed toward court. Moreover, as Jesus warned, it is important not to get caught up in a multitude of detailed and legalistic rules. Instead, you should pay attention to the basic principles set forth in Scripture and focus on what our Lord called “the more important matters of law—justice, mercy and faithfulness” (Matt. 23:23; cf. Micah 6:8). One way to apply these principles when you are trying to decide whether or not to go to court is to remember that you are a steward of Christ and to ask yourself, “Would my Master be pleased and honored if I use my time and resources to pursue this matter in court?”