

CAUSE NO. DV05-05669-M

C. BROWN,  
Plaintiff

VS.

FIRST BAPTIST CHURCH OF  
FARMERS BRANCH and  
TOMMY GILMORE a/k/a  
THOMAS E. GILMORE,  
Defendants.

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IN THE DISTRICT COURT

298<sup>th</sup> JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

FILED  
2005 NOV 16 AM 9:26  
D. Williams  
CLERK  
DEPUTY

**PLAINTIFF'S FIRST AMENDED PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES C. Brown ("Plaintiff"), complaining of the First Baptist Church of Farmers Branch and Tommy Gilmore a/k/a Thomas E. Gilmore ("Defendants"), and for cause of action would respectfully show the Court as follows:

**I.  
DISCOVERY LEVEL**

1. Plaintiff intends to conduct discovery under Level 2 of Rule 190, Texas Rules of Civil Procedure.

**II.  
PARTIES**

2. Plaintiff, C. Brown, is an individual who is a resident of Texas.

3. Defendant, the First Baptist Church of Farmers Branch (FBCFB), is a Texas nonprofit corporation whose office is at 13017 William Dodson Parkway, Dallas, Dallas County, Texas 75234. Defendant FBCFB has been served with process and has filed an answer. Defendant Tommy Gilmore a/k/a Thomas E. Gilmore is an individual who is a nonresident of Texas whose home address is 2436 Chantilly Terrace, Oviedo, Florida 32765. He became a nonresident after the

occurrences that form the basis for the causes of action stated in this petition. Defendant Tommy Gilmore a/k/a Thomas E. Gilmore has been served with process via service through the Texas Secretary of State, and he has filed an answer.

### **III. VENUE AND JURISDICTION**

4. A substantial part of the events giving rise to the claims occurred in Dallas County. The amount in controversy exceeds the minimum jurisdictional limit of this Court.

### **IV. FACTUAL BACKGROUND**

5. The youth and education minister at the First Baptist Church of Farmers Branch in Dallas County, Texas was formerly Defendant Tommy Gilmore a/k/a Thomas E. Gilmore. At the time, Gilmore was approximately 28 or 29 years old, married, and a father. Plaintiff was a devout and deeply religious girl who was very active in the church. Beginning shortly after the Plaintiff's 16<sup>th</sup> birthday, Defendant Gilmore sexually abused and sexually assaulted the Plaintiff, a minor. The abuse and assaults were very serious in nature and they occurred frequently over approximately a seven month period of time during 1968 and 1969. They often occurred at the church and at a church-owned parsonage. They were instituted via the guise of pastoral counseling and they occurred in connection with church events. Gilmore was an agent and employee of FBCFB. Although some facts are reiterated under the various causes of action, all of these facts are pled in support of all of the causes of action set forth.

6. Gilmore himself initiated counseling with Brown after he learned from minister Glenn Hayden that Brown's family was having some difficulties. Gradually, he groomed the adolescent Brown for his predatory assaults by giving her extra attention, by normalizing sexual talk, including talk about "Barbarella" and about other women's bodies, by making lurid jokes, by his participation

in games involving physical contact such as Twister and touch football, and by arranging for time alone with the adolescent Brown.

7. When Gilmore first told Brown that he was obsessed with the idea of kissing her, and asked if he could, Brown said “no.” Nevertheless, Gilmore persisted, and in subsequent weeks, he repeatedly insisted that she should allow him to kiss her. As a naive adolescent girl who had only recently gotten the braces off her teeth, Brown did not have the experience to effectively deal with the persistence and deception of the adult minister Gilmore. At that time, Brown had never been on a single date and had never even held hands with anyone.

8. Finally, the adolescent Brown relented to Gilmore’s request, but it did not end Gilmore’s obsession, and he continued to increase his demands of her. Gilmore repeatedly told the adolescent Brown that this was what God wanted from her, that God intended her to be his “helpmate,” and that it was all part of God’s will for her life. Whenever Brown balked or questioned something, Gilmore chastised her by saying “Oh ye of little faith,” and told Brown that she was not supposed to try to understand for herself because God wanted her to live by faith. Gilmore told Brown that she should think of Abraham, Noah and Moses, who acted on faith rather than insisting on their own understanding.

9. Gilmore repeatedly told Brown that he loved her, that he had prayed about it, that God intended them to be together, and that God would make a way for it to happen. He told her that men in the Bible sometimes had more than one wife and also had concubines, and that this was God’s plan. He told Brown that she was being trained to be a future wife for him. And whenever Brown expressed any confusion or doubt, Gilmore would chastise her with “Oh ye of little faith” and tell her that it was not her place to try to understand God’s ways. When Brown was compliant, Gilmore told her how special she was, how special their relationship was, and how much God loved her.

10. Ultimately, Gilmore repeatedly violated the adolescent Brown.\*

11. Gilmore eventually began to complain to Brown that she was causing him to sin, and he repeatedly told her that she was the “serpent” and “Satan’s ally.” Nevertheless, Gilmore did not cease his abuse and assaults.

12. Finally, Gilmore took the adolescent Brown to his house and insisted that she drink some beer. Brown did not want to and expressed confusion because the church preached against the use of alcohol. But Gilmore kept insisting and repeatedly put the glass in her hand and so she took a few sips. Gilmore himself continued to drink.\*

13. After that, Gilmore did not physically assault Brown again. However, he continued to abuse her emotionally and spiritually. He told Brown that she had let Satan enter in and had harbored evil, and he directed her to kneel before him in his church office. While the adolescent Brown cried on her knees, Gilmore stood over her and prayed aloud, asking God to cast Satan from her and to cleanse her soul.

14. By this time, Brown’s mental and emotional state had deteriorated. She was extremely confused and terrified that she was going to hell, which was a literal place of fire according to Brown’s belief at that time. She believed what Gilmore told her – that she had somehow harbored evil and had allowed Satan to live within her. Ultimately, with all of his faith-based manipulation, minister Gilmore could have stolen more from this vulnerable adolescent only if he had persuaded her to drink cyanide punch for the love of God.

15. Brown sometimes played the piano for the church, and she took piano lessons from FBCFB music minister James A. Moore. During a piano lesson in the church sanctuary, Brown became very distraught and broke down crying. Music minister James A. Moore took Brown into his church office to talk with her. There, the adolescent Brown told Moore about what had happened with Gilmore and about how afraid she was of going to hell. Moore asked Brown whether she had told anyone else, and he said it would be best if she did not talk about it with anyone else.

16. Brown's distraught revelation to Moore was not the first information Moore had concerning Gilmore's conduct. Even prior to that, Gilmore himself had talked with Moore about his concern that a member of the congregation may have seen him in a compromising position with Brown.

17. After Moore's conversation with Brown, Moore told Gilmore that, if he did not leave, Moore would take the matter before the church. Gilmore also spoke with minister Glenn Hayden about the matter.

18. Gilmore left FBCFB and went to a ministerial position at the First Baptist Church of Tyler, Texas. FBCFB minister Glenn Hayden sent Gilmore on his way with praise from the pulpit for being a man of God, and FBCFB gave Gilmore a send-off reception.

19. Before leaving, however, Gilmore increased the confusion of the adolescent Brown still further. He told her that he loved her and that God still intended for her to be his wife. He said that his leaving was a test of faith for Brown, that they would be together again some day, and that it would happen in God's time. Brown expressed her confusion, but Gilmore said that it was not for her to try to understand how or when it would happen, and that she should have faith because it would happen according to God's plan.

20. Finally, Gilmore insisted that the adolescent Brown apologize to his wife for having “seduced” him. This manipulative conduct contributed still further to Brown’s confusion. Brown was compliant and did as Gilmore instructed. He arranged for Brown to come to his office, where Gilmore’s adult wife stood waiting. The adolescent Brown begged Gilmore’s wife to forgive her.

## V. NEGLIGENCE

21. Defendant FBCFB, through its employees and deacon officers, was negligent and grossly negligent in the following respects: (a) in failing to provide a safe environment for members of the church youth group such as Plaintiff, (b) in failing to provide adequate supervision and monitoring of employee Gilmore who was allowed extensive unsupervised access to minors, (c) in failing to institute and implement policies for the protection of minors, (d) in failing to investigate allegations of inappropriate conduct, (e) in failing to report the crime against Plaintiff to law enforcement authorities, (f) in failing to inform Plaintiff’s parents, (g) in failing to treat the known abuse as a crime and in failing to recognize that Gilmore was unfit for work as a minister, (h) in retaining Gilmore as a youth minister after receiving information concerning abuse of the minor Plaintiff, (i) in failing to recognize the injury and harm done to Plaintiff, and (j) in failing to seek medical assistance and psychological intervention for evaluation and treatment of the injury done to Plaintiff. If Plaintiff had simply stepped on a nail on church property, assistance would have likely been provided. But for the far greater injury of repeated traumatic sexual abuse of a minor, FBCFB provided no assistance whatsoever.

22. Defendant FBCFB bears vicarious liability for the acts and omissions of its agents, employees and deacon officers under the theories of respondeat superior and/or apparent authority.

In particular, Defendant FBCFB bears vicarious liability for the acts and omissions of music minister James A. Moore and lead minister Glenn Hayden.

## **VI. BREACH OF FIDUCIARY DUTY**

23. The ministers of FBCFB were in a position of trust with respect to the Plaintiff. In addition to being a minister of the church, Tommy Gilmore was also a counselor to the Plaintiff. He himself initiated counseling sessions with the Plaintiff after minister Glenn Hayden had talked with Plaintiff's family about some family difficulties. Both as a minister and as a counselor, Gilmore breached his fiduciary duty and used his position of trust to sexually exploit, violate, abuse and assault the Plaintiff. Plaintiff was seriously injured thereby. Music minister James A. Moore and lead minister Glenn Hayden also worked in positions of trust and had fiduciary obligations to act with candor and integrity toward Plaintiff. However, rather than acting in a manner consistent with Plaintiff's well-being, ministers James A. Moore and Glenn Hayden acted in a manner consistent with fellow-minister Gilmore's interests by assisting Gilmore in maintaining secrecy. Moore and Hayden breached their fiduciary duties and Plaintiff was injured thereby.

## **VII. FRAUD**

24. In order to induce Plaintiff's compliance with his sexual demands, Gilmore repeatedly represented that he had prayed about it and that he knew it was God's will. Gilmore told Plaintiff that she should not try to understand because God wanted her to live by faith. Gilmore told Plaintiff that God wanted her to be a helpmate for him. Plaintiff was a very religious and devout young girl who had been raised in the church and who had been raised to respect and trust the church's ministers. Ultimately, she relied on Gilmore's representations, and she set aside her own attempts at understanding and complied with most of his sexual demands.

25. Gilmore's representations were false; he did not have any special knowledge of God's will. Gilmore made the representations intentionally and recklessly, as positive assertions, but without any knowledge of their truth. He made the representations with the intention that the Plaintiff rely on them so that he could gain sexual access to the Plaintiff. The Plaintiff did rely on Gilmore's representations, and she was greatly injured by the fraud.

26. FBCFB bears vicarious liability for the fraud because minister Gilmore was acting in the course and scope of his ministerial employment in providing religious and spiritual counseling, advice, prayer and direction, because FBCFB allowed Gilmore to wear the mantle of the church's apparent authority, and because FBCFB ratified the fraud by reinforcing Gilmore's authority even after knowing of Gilmore's conduct. The very mantle of authority that FBCFB conferred on Gilmore as a minister is the tool of trust that Gilmore used to perpetrate the fraud.

## **VIII. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

27. Gilmore's conduct was extreme and outrageous. For a trusted minister and counselor to sexually abuse and assault a naive 16-year old church girl constitutes extreme and outrageous conduct. In addition, the assaults were sometimes forced in nature. In addition, after months of such conduct, Gilmore repeatedly told the Plaintiff that she was the serpent and that she was Satan's ally. He told her that she harbored Satan, and he made her kneel in his church office while he stood praying to cast Satan from her. This conduct was also extreme and outrageous. The extreme and outrageous conduct caused severe and long-lasting emotional distress to the Plaintiff, including life-long terrifying nightmares.



**IX.**  
**SEXUAL ASSAULT AND BATTERY OF A CHILD**

28. Plaintiff was a minor. At the time this cause of action arose, the age of consent was eighteen. Minister Tommy Gilmore committed the sexual abuse, sexual assaults and sexual batteries intentionally and knowingly. He used his mantle of authority as a minister of the church to perpetrate these crimes.

**X.**  
**AIDING, ABETTING AND CONSPIRING**

29. Defendant First Baptist Church of Farmers Branch bears joint liability because other ministers and church officers, specifically including James A. Moore and Glenn Hayden, knew Gilmore's conduct was tortious and criminal, and they conspired with him for the unlawful purpose of concealing the crime. They also conspired with Gilmore to conceal the nature of Gilmore's conduct as constituting intentional torts. Through Moore and Hayden, Defendant FBCFB assisted Gilmore in committing the fraud, the breaches of fiduciary duty and the intentional infliction of emotional distress by failing to help the Plaintiff when she sought help, by encouraging her to keep silent, by praising Gilmore from the pulpit as a man of God even after knowing of his conduct, and by allowing Gilmore to continue as a minister in a bigger church and a better-paying position. They knew of Gilmore's horrific conduct, and by reinforcing and ratifying his authority as a man of God, they assisted his conduct by allowing him to escape accountability. This is analogous to the sort of assistance that one who converts stolen goods to cash provides to a burglar. This sort of assistance gives rise to joint liability for the consequences of the tort. Moore also assisted FBCFB in its negligent and grossly negligent conduct and in its breach of fiduciary duty. He had the intent to assist FBCFB and his assistance was a substantial factor in the torts and in causing harm to Plaintiff.

## **XI. DAMAGES**

30. The Defendants' wrongful conduct resulted in and proximately caused injury to the Plaintiff. Plaintiff seeks recovery for the following damages: physical pain and suffering, bodily injury, severe psychological pain and suffering, spiritual theft, and past and future emotional distress and mental anguish. Plaintiff also seeks recovery of damages for past and future medical costs and counseling expenses.

31. Plaintiff seeks unliquidated damages that are within the jurisdictional limits of the court.

32. Plaintiff seeks exemplary damages for the harm caused by Defendants' malice, fraud and/or gross negligence. In accordance with section 41.008 of the Texas Civil Practice & Remedies Code, Plaintiff seeks the recovery of exemplary damages based on conduct that is described as a felony under section 22.011 of the Texas Penal Code.

## **XII. LIMITATIONS TOLLING**

33. The discovery rule applies because the psychological trauma of the sexual abuse, assaults and batteries made the wrong and injury that was done to Plaintiff inherently undiscoverable in nature. An inherent part of the harm caused by this sort of crime, particularly when it is inflicted on a minor by a person of trust, is that it often results in the victim having fragmented memories and memories that are in large part repressed because of the trauma, darkness, and extreme shame associated with them. So it was with Plaintiff. It was not until Plaintiff's own daughter reached the age of 16 that Plaintiff began the process of resurrecting the memories of what was done to her at that age, of beginning to understand that it was a terrible wrong done against her as opposed to a wrong done by her, and of beginning to connect the dots between her nightmares and Gilmore's

conduct, and between some of her other difficulties and what Gilmore had done to her. As an adolescent, despite the fact that Plaintiff spoke with another minister in the church about what had happened, no one assisted her in any way in understanding that a wrong had been done against her. Instead, minister Gilmore was sent on his way with praise to a better paying position at a bigger church.

34. The wrong done to Plaintiff is objectively verifiable. There were other witnesses at the time who are still alive, including at least one other minister in the church, James A. Moore, who knew about Gilmore's conduct. There has already been an objective verification in that the Baptist General Convention of Texas has made its own independent determination that the sexual abuse reported by Brown took place.

35. Limitations is also tolled by the doctrine of fraudulent concealment. Defendants had actual knowledge of the nature of the wrongdoing and they had a fixed purpose to conceal the nature of that wrong from the Plaintiff. Minister Gilmore expressly told the Plaintiff that their relationship was "special" and condoned by God and that she should not talk about it with anyone else. Even when Plaintiff did speak of it with another minister in the church, James A. Moore, he told her that it would be best if she did not talk about it with anyone else. And when Gilmore was ready to discard the Plaintiff, he repeatedly told her that the relationship was her fault, that she had harbored Satan, and that she was Satan's ally. Gilmore made the Plaintiff apologize to his wife and say that it was her own fault. The purpose of all this deceitful conduct was to permanently drive into Plaintiff's mind the belief that the sexual conduct was because of some evil within herself and because of her own wrongdoing, to increase Plaintiff's profound shame and thereby assure her silence, and to prevent Plaintiff from understanding the nature of the wrong done against her.

36. Gilmore further concealed the wrong from Plaintiff in a fraudulent manner by telling her that she would still be his wife one day and that she should be patient and trust God that it would happen when God was ready. This was still one more piece of deceitful conduct intended to confuse this vulnerable adolescent, to drive into her mind the admonition that she should put her faith in God rather than trying to understand, and to thereby preclude Brown from actually understanding the wrong done against her. Torn between the belief that she harbored Satan and the belief that she would one day be Gilmore's wife, and reeling from the incomprehensible trauma of what the much-trusted minister Gilmore had done to her, Brown's adolescent brain was overwhelmed. She was incapable of comprehending or processing what had been done to her, particularly in light of all Gilmore's deception and the church's own complicity.

37. Limitations is also tolled by Gilmore's absence from the state under section 16.063 of the Civil Practice and Remedies Code.

### **XIII. DEMAND FOR JURY**

38. Plaintiff demands a jury trial.

### **XIV. PRAYER**

39. For these reasons, Plaintiff asks that the Defendants be cited to appear and answer and, on final trial, that Plaintiff recover judgment for the following: (1) Actual damages, (2) Exemplary damages, (3) Prejudgment and post-judgment interest, (4) Costs of suit, (5) All other relief in law and in equity to which the Plaintiff may be entitled.

Respectfully submitted,

**MARTIN & CUKJATI, L.L.P.**

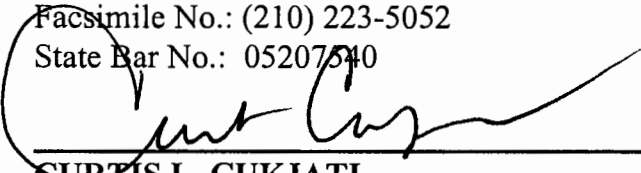
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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I certify that, on the 14 day of November 2005, a true and correct copy of the foregoing Plaintiff's First Amended Petition has been served on counsel of record shown below by certified mail, return receipt requested:

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**CURTIS L. CUKJATI**