

CAUSE NO. 05-15669

FILED
2005 JUN 10 PM 12:18
JIM GOY
DISTRICT CLERK
DALLAS COUNTY TEXAS
IN THE DISTRICT COURT

C. BROWN,
Plaintiff

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M-298th JUDICIAL DISTRICT

VS.

TOMMY GILMORE a/k/a
THOMAS E. GILMORE,
Defendant.

DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

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

**I.
DISCOVERY LEVEL**

1. Plaintiff intends to conduct discovery in accordance with Texas Rule of Civil Procedure 190.3 as a Level 2 case.

**II.
PARTIES**

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

3. Defendant, Tommy 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 may be served with process by serving two copies on the Texas Secretary of State, Citations Unit, P.O. Box 12079, Austin, Texas 78711-2079, as Defendant's agent for service of process, in accordance with Tex. Civ. Prac. & Rem. Code § 17.044(a)(3).

**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. Defendant Tommy Gilmore was formerly the youth and education minister at the First

Baptist Church of Farmers Branch in Dallas County, Texas. At the time, he was approximately 28 or

29 years old, married, and a father. Plaintiff was a devout and deeply religious young girl who was

very active in the church. Beginning shortly after the Plaintiff's 16th birthday, Defendant Gilmore

sexually abused and sexually assaulted the Plaintiff. 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.

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

6. Plaintiff was a minor. At the time this cause of action arose, the age of consent was

18. Defendant committed the sexual abuse, sexual assaults and sexual batteries intentionally and

knowingly.

**VI.
BREACH OF FIDUCIARY DUTY**

7. As the youth and education minister of the church, Defendant was in a position of

trust with respect to the Plaintiff. In addition to being a minister, Defendant was also a counselor to

the Plaintiff. The Defendant himself initiated counseling sessions with the Plaintiff after another

minister in the church had talked with the Plaintiff's family about some family difficulties.

Defendant breached his fiduciary duties to the Plaintiff by using his position of trust to sexually exploit, violate, abuse and assault the Plaintiff.

**VII.
FRAUD**

8. In order to induce Plaintiff's compliance with his sexual demands, the Defendant repeatedly represented that he had prayed about it and that he knew it was God's will. Defendant told Plaintiff that she should not try to understand because God wanted her to live by faith. Defendant 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 the Defendant's representations, and she set aside her own attempts at understanding and she acceded to Defendant's sexual demands.

9. The Defendant's representations were false; he did not have any special knowledge of God's will. The Defendant made the representations intentionally and recklessly, as positive assertions, but without any knowledge of their truth. The Defendant 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 Defendant's representations, and she was greatly injured by the Defendant's fraud.

**VIII.
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

10. The Defendant's intentional and reckless conduct was extreme and outrageous. For a trusted minister and counselor to sexually abuse and sexually 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, the Defendant 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 office while he stood praying to cast Satan from her. This conduct was also extreme and outrageous. The Defendant's conduct caused severe and long-lasting emotional distress to the Plaintiff.

IX. DAMAGES

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

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

13. Plaintiff seeks exemplary damages for the harm caused by Defendant's malice, fraud and/or gross negligence.

X. LIMITATIONS TOLLING

14. The discovery rule applies because the psychological trauma of Defendant's abuse and assaults made the wrong and injury that was done to Plaintiff inherently undiscoverable in nature. 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 and of understanding that it was a terrible wrong done against her as opposed to a wrong done by her. 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, Defendant was sent on his way with praise to a better paying position at a bigger church.

15. The wrong done to Plaintiff by Defendant is objectively verifiable. There were other witnesses at the time, including at least one other minister in the church who knew about Defendant'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 abuse took place.

16. Limitations is also tolled by the doctrine of fraudulent concealment. The Defendant had actual knowledge of the nature of his wrongdoing and he had a fixed purpose to conceal the nature of that wrong from the Plaintiff. He expressly told the Plaintiff that their relationship was "special" and condoned by God and that she should not talk about it with anyone else. And when he 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. The Defendant made the Plaintiff apologize to his wife and say that it was her own fault. The purpose of this deceitful conduct was to drive into Plaintiff's mind the belief that the sexual conduct was the result of her own wrongdoing, to increase Plaintiff's profound shame and assure her silence, and to prevent Plaintiff from understanding the nature of Defendant's wrong against her.

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

**XI.
DEMAND FOR JURY**

18. Plaintiff demands a jury trial.

**X.
PRAYER**

19. For these reasons, Plaintiff asks that the Defendant be cited to appear and answer and, on final trial, that Plaintiff recover judgment for the following:

- a. Actual damages
- b. Exemplary damages
- c. Prejudgment and post-judgment interest
- d. Costs of suit
- e. All other relief, in law and in equity, to which the Plaintiff may be entitled.

Respectfully Submitted,

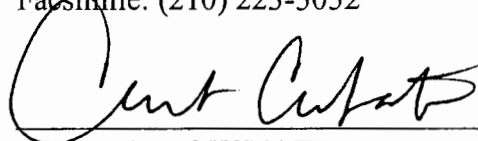
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