

CAUSE NO. CC-19-04413-B

<p><b>JANE DOE ONE, a pseudonym,</b></p> <p style="padding-left: 40px;"><b>Plaintiff,</b></p> <p><b>v.</b></p> <p><b>THE VILLAGE CHURCH,</b></p> <p style="padding-left: 40px;"><b>Defendant.</b></p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p style="text-align: right;"><b>IN THE COUNTY COURT</b></p> <p style="text-align: right;"><b>AT LAW NUMBER</b> _____</p> <p style="text-align: right;"><b>DALLAS COUNTY, TEXAS</b></p>
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**PLAINTIFF’S ORIGINAL PETITION AND JURY DEMAND**

Plaintiff JANE DOE ONE (collectively, the “Plaintiff”) files this Original Petition against Defendant THE VILLAGE CHURCH (collectively, “TVC”), hereby requests trial by jury, and respectfully shows the Court the following:

**I.**

**DISCOVERY LEVEL**

1. Discovery in this case is intended to be conducted under Level 3 of Rule 190.4 of the Texas Rules of Civil Procedure.

**II.**

**PARTIES**

2. Plaintiff JANE DOE ONE is an individual residing in Texas. The last four numbers of her Social Security number are 7863.

3. Defendant THE VILLAGE CHURCH (“TVC”) is a Texas nonprofit

corporation with its primary place of business located in Flower Mound, Texas. It may be served by serving its registered agent, Capitol Corporate Services, Inc. with citation and copy of this petition at 206 E. 9<sup>th</sup> Street, Suite 1300, Austin, Texas 78701 or wherever else it may be found.

### **III.**

#### **VENUE**

4. Venue is proper in Dallas County, Texas, pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because Dallas County is the county where a substantial part of the events or omissions giving rise to the claim occurred. More particularly, Dallas County is the place in which Jane Doe One was sexually assaulted by a pastor employed by TVC.

### **IV.**

#### **RULE 47 STATEMENT**

5. Plaintiff seeks monetary relief in excess of \$1,000,000.

### **V.**

#### **BACKGROUND FACTS**

6. On Thursday, June 21, 2012, at Mt. Lebanon Baptist Camp and Conference Center, Matthew Tonne (“Tonne”), a pastor employed at TVC and a counselor for TVC at the children’s camp, sexually assaulted Jane Doe One. Jane Doe One was eleven years old. Tonne was under the supervision, employment, and control

of TVC at the time of the incident. All statutes of limitations are tolled by virtue of the fact that Jane Doe One was a minor child at the time of the sexual assault.

7. On the evening of June 21, 2012, with Jane Doe One's own counselor and friends sleeping close by, the adult leaders of the camp met inside the Gladys Moore Lodge. The Lodge has a 1,064 square-foot meeting area with couches and tables, and leaders of both sexes met inside the Lodge. Sometime that night after the meeting concluded, Tonne entered the room of the Gladys Moore Lodge where Jane Doe One slept, approached her bed, and sexually violated her. Tonne fled the cabin when someone turned on the light in a nearby bathroom. Jane Doe One recalls that Tonne was wearing a yellow shirt, which indicated that he was at the camp as a counselor with TVC Church. Jane Doe One also recalls that sometime prior to being sexually violated by Tonne, he had stood in her cabin holding up a pair of girls' underwear asking, "Who do these belong to?"

8. Jane Doe One recognized Tonne, even though she had never personally spoken to him. He had taught at church. It is without question that Tonne was able to access and abuse Jane Doe One because her cabin was the designated meeting location for some of the staff debrief meetings. This is especially troubling in light of the fact that having mixed genders in the girls' cabin was in direct violation of TVC's own policies and procedures. Tonne met that evening with other staff members right outside the room where Jane Doe One and her fellow campers slept. This provided him the

opportunity to later sneak into that room and sexually violate young Jane Doe One.

9. Jane Doe One did not tell her parents about the assault. Jane Doe One found herself afraid, confused, and deeply traumatized by the assault and did not disclose it for many years. Instead, this child spent the following six years suffering in silence while attempting to cope with this reprehensible violation to her body and her spirit.

10. Tonne continued to work as a children's pastor at TVC for the next six years.

### **The Aftermath and its Effect on Jane Doe One**

11. As a result of the sexual assault by a leader at TVC, Jane Doe One experienced severe depression from age 11 forward. Jane Doe One's parents saw their energetic, funny, caring child slowly become withdrawn and angry. In addition to developing an eating disorder, Jane Doe One began to cut herself and conceal her injuries. She also began suffering from depression, nightmares, and chronic insomnia along with enduring suicidal ideations. The trauma Jane Doe One has experienced and continues to experience all began after the evening of June 21, 2012.

12. On February 9, 2016, Jane Doe One fell while rock climbing and broke her ankle. The Does took Jane Doe One to the emergency room. When the doctor lifted her shirt, it revealed several cuts along her abdomen and thighs—injuries from an unseen battle. The Doe family set on a journey of daily wellness checks to make sure

their daughter wasn't harming herself. In March 2016, the Doe family sought out a Christian counselor for Jane Doe One through TVC. The Does were not aware at the time that their daughter had been sexually assaulted.

13. In spring of 2017, Jane Doe One's pediatrician placed her on medication for depression. In June of 2017, Jane Doe One's psychiatrist also placed her on medication for major depression.

14. From July 7, 2017 until November 6, 2017, Jane Doe One sought counseling in connection with her severe depression and anorexia.

15. On January 22, 2018, Jane Doe One's depression reached a breaking point, and her suicidal thoughts returned. She was hospitalized to address a severe, depressive episode.

16. On the evening of February 16, 2018, Jane Doe One made her first outcry to her parents regarding Tonne's sexual assault. The Does suffered deep shame and loss as a family as their daughter poured out her experience. Jane Doe's mother reached out to Dawn Walck to see who they should contact at the church to notify of the sexual assault.

17. On February 17 2018, the Does contacted the Cedar Hill Police Department to report the crime. The Does reported to Josh Patterson, an executive elder at TVC's main campus, that Jane Doe One had been sexually assaulted at a camp hosted by TVC. The Does did not identify Tonne by name at the time. Patterson did

not ask the Does who committed the assault. It is not known whether TVC contacted the criminal authorities in response to this report.

18. On February 19, 2018, the Does entered into family counseling at a partial outpatient facility and began to fully understand what had happened to Jane Doe One at Mt. Lebanon Baptist Camp and Conference Center and how to begin the long and difficult healing journey.

19. On or before February 24, 2018, the Does were notified by Josh Patterson via text message that TVC's Southlake campus pastor Rex Cole was aware of the situation and would be in contact. Cole did not contact the Does. It is not known whether Cole, Patterson, or TVC contacted the criminal authorities in response to the report.

20. On February 25, 2018, Jane Doe One's mother baptized her daughter Jane Doe One at TVC's Southlake campus. At that time, Jane Doe One disclosed her own sexual abuse in her baptism testimony as having occurred in the fifth grade. It is not known whether TVC contacted the criminal authorities in response to Jane Doe One's baptism testimony.

21. On March 2, 2018, Josh Patterson notified the Does via text message that "Doug Stanley is our contact for this. He is aware of the situation." Unfortunately, Doug Stanley, the Senior Director of TVC, did not contact the Does. It was the Does who reached out to Stanley in April 2018 to request a meeting. Stanley never inquired

as to the identity of the perpetrator, even though he was aware that the assault occurred at Camp by an adult staff member wearing a t-shirt that identified him as representing TVC. It is not known whether Stanley contacted the criminal authorities in response to the report.

22. From April of 2018 to August of 2018, Jane Doe One entered intensive trauma therapy for twenty weeks.

23. On May 6, 2018, the Does met with TVC elder and staff member Brian Walck and his wife, Dawn Walck. During this meeting, the Does disclosed to the Walcks that Tonne was the perpetrator in Jane Doe One's sexual assault. It is not known whether either of the Walcks reported the assault to criminal authorities in response to this disclosure.

24. On May 9, 2018, Doug Stanley met with the Does for the first time. Stanley gave the impression that he was uninterested as the discussion continued. When the Does raised the possibility that one of TVC's employees could have committed the assault, Stanley stated that the perpetrator of the assault "could never be one of our employees," since TVC subscribed to "covenant membership." Stanley never asked the Does who committed the assault. It is not known whether TVC contacted the criminal authorities in response to the report.

25. On May 15, 2018, Jane Doe's mother reached out to the detective pursuing the criminal investigation of Tonne and disclosed Tonne's name in the body

of the mail. Jane Doe's mother accidentally copied Lindsey Eenigenburg (TVC's Director of Administration) on the email.

26. On May 17, 2018, Eenigenburg contacted Jane Doe's mother by telephone about the disclosure of Tonne's name in the email to the investigator in relation to Jane Doe One's sexual assault. Jane Doe's mother informed Eenigenburg that her receipt of the email was inadvertent. It is not known whether Eenigenburg contacted the criminal authorities in response to the report.

27. Three days later, Tonne was hospitalized for an unknown reason, and on May 23, 2018, TVC issued an email communication only to the members under Tonne's leadership and notified them that Tonne had been placed on a leave of absence. Again, at no time did anyone in leadership at TVC express concern about the fact that Tonne was the subject of a criminal sexual abuse investigation and that other children could have been at risk. Upon information and belief, parents at TVC were never notified of Tonne's reported abuse until approximately January 2019 when the senior pastor, Matt Chandler made the public announcement.

28. On June 3, 2018, the Does were in contact with Miller and Eenigenburg to discuss the changes that had already been made regarding the dissemination of information to the current camp families. Miller also attempted to educate the Does about "the circles we share in," which suggested to the Does that TVC wished to limit the number of people aware of Tonne's assault.



29. On June 15, 2018, TVC issued an email communication to its body indicating that Tonne had been removed from TVC staff for alcohol-related reasons. Even though by this time TVC leadership was aware of the sexual abuse allegations and pending criminal investigation against Tonne, it made the conscious decision not to share that with the church body, but instead communicated his removal solely for alcohol-related reasons. TVC did not disclose Tonne's name.

30. It wasn't until three months later on September 16, 2018 that TVC Senior Pastor Matt Chandler made the first public announcement regarding the child sexual abuse that had been reported by Jane Doe One. Chandler's communication did not identify Tonne as being the reported perpetrator. In that statement, Chandler stated that the church wanted to support Jane Doe One in "any way possible." To this day, Patterson and Chandler have never personally reached out to Jane Doe One or her family. Chandler also stated that there were "no persons of interest in this investigation that have access to children at TVC Church. We would not let someone who is under investigation for a crime like this be near any of our children at TVC." Chandler knowingly failed to inform the congregation that Tonne had worked with and had access to children at TVC Church for eleven years. Chandler also knowingly failed to inform the body that Tonne was allowed to resign while blaming the resignation on alcohol and receiving a severance package. To date, TVC has undertaken no independent efforts to ascertain whether Tonne abused any other

children under its care and supervision.

31. On November 9, 2018, the State of Texas indicted Tonne for sexual assault.

32. On November 12, 2018, the Does notified TVC through Brian Miller and Rex Cole of Tonne's indictment.

33. On January 9, 2019, Tonne was arrested.

34. After the arrest, TVC stated on its own website that Tonne was removed from church staff "for other reasons, and we communicated those specific issues to our staff, as well as to members and volunteers in his ministry department at that time."

## VI.

### Causes of Action

35. Plaintiff re-alleges and incorporates by reference all allegations contained in the foregoing paragraphs.

(NEGLIGENCE, NEGLIGENCE *PER SE*, AND GROSS NEGLIGENCE)

36. Defendant TVC owed duties of care to Jane Doe One, breached those duties of care, and proximately caused Jane Doe damages. TVC failed to implement reasonable policies and procedures to detect and prevent the sexual abuse of Jane Doe One by Tonne. TVC further failed to adhere to the policies and procedures it had in place at the time to detect and prevent the sexual abuse of Jane Doe One by Tonne.

37. Specifically, TVC’s written policies and procedures as of 2018 state, “Any time that a child has been entrusted to Next Gen Ministry staff members or volunteers, **The Village Church assumes responsibility for the safety and well-being of the child.** Staff members and volunteers must act to ensure the appropriate supervision and safety of children in their charge.”<sup>1</sup> [emphasis added]. TVC failed to provide an environment where Jane Doe One could worship God and enjoy church activities around trustworthy adults. Each and every adult counselor at the Kids Camp Jane Doe One attended intentionally or unintentionally violated TVC’s own express, written policy regarding the presence of persons of the opposite sex in children’s cabins. The staff meeting was conducted by male and female leaders *inside of* Jane Doe One’s cabin, and no one—male or female—raised an objection or noted the policy and required the leadership to act in accordance with it. TVC further failed to adequately protect Jane Doe One with an adult counselor, who was asleep as Tonne sexually assaulted Jane Doe One, and further failed to adequately secure Jane Doe One’s cabin against intruders, including Tonne, TVC’s own employee and pastor.

38. As described in Section 302B of the Restatement (Second) of Torts, “An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the other or a third person which is intended to cause harm, even though such conduct is criminal.”

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<sup>1</sup>“Next Generation Ministry Policies and Procedures Handbook,” p. 23, The Village Church, last updated: 09-18-

Here, that act or omission included conducting a camp staff meeting comprised of male and female leaders inside of Jane Doe One's cabin. The presence of male adults in the cabin of elementary school girls involved an unreasonable risk of harm to Jane Doe One and did cause harm to Jane Doe One by making her available to Tonne.

39. As described in Section 317 of the Restatement (Second) of Torts, "A master is under a duty to exercise reasonable care so to control his servant while acting outside the scope of his employment as to prevent him from intentionally harming others or from so conducting himself as to create an unreasonable risk of bodily harm to them, if the servant is upon the premises in possession of the master." Here, the Mt. Lebanon Baptist Camp and Conference Center was in the possession of TVC, and Tonne functioned as TVC's servant. Because Tonne functioned as TVC's servant while TVC was in possession of the premises, TVC was obligated to exercise reasonable care to control Tonne while acting outside the scope of his employment as to prevent Tonne from intentionally harming Jane Doe One. TVC failed to exercise that reasonable care by failing to deny Tonne access to Jane Doe One's cabin while she slept.

40. As described in Section 320 of the Restatement (Second) of Torts, "One who is required by law to take or who voluntarily takes the custody of another under circumstances such as to deprive the other of his normal power of self-protection or to

subject him to association with persons likely to harm him, is under a duty to exercise reasonable care so to control the conduct of third persons as to prevent them from intentionally harming the other or so conducting themselves as to create an unreasonable risk of harm to him, if the actor knows or has reason to know that he has the ability to control the conduct of the third persons and knows or should know of the necessity and opportunity for exercising such control.” Here, Jane Doe One was helplessly under the control of TVC at Camp and was completely under the protection of TVC at Camp. TVC knowingly had the ability to control Tonne, as well as the necessity and opportunity to exercise its control over him. However, TVC did not control Tonne, and Jane Doe One was sexually assaulted as a result.

41. Secondly, TVC and other Southern Baptist megachurches ignored repeated warnings from others within and outside of the Southern Baptist Convention related to widespread, unreported sexual abuse within the denomination. TVC further failed to report the crime committed by Tonne to law enforcement. TVC further failed to alert its members and attendees to Tonne’s past activity at the time it became aware of the sexual assault of Jane Doe One and, instead, falsely blamed Tonne’s dismissal on alcohol abuse.

42. Tonne’s conduct further violated criminal laws, including Section 21.11 (Indecency with a Child), Section 22.011 (Sexual Assault), and Section 22.01 (Assault)

of the Texas Penal Code. These criminal acts constitute negligence *per se* on the part of TVC.

43. TVC was further grossly or willfully negligent or acted with conscious indifference or reckless disregard for the safety of Jane Doe One. TVC's many adult agents, counselors, and employees at Camp all violated TVC's cabin policy as it related to the presence of the opposite sex by meeting as a collective inside an all-female cabin. The camp counselors knew the policy and either (1) all intentionally violated it or (2) all remained silent and ignored it as unimportant. It was this inaction and inattention that provided Tonne the opportunity and access to sexually assault Jane Doe One.

(NEGLIGENT HIRING, RETENTION, AND SUPERVISION)

44. Defendant TVC negligently hired, retained, and supervised Tonne when it assigned him to a position of public trust, confidence, and direct contact with minors, although TVC knew or should have known Tonne was unsuited to interact with minors. TVC exposed Jane Doe One, as well as other children, to Tonne's abuse and potential abuse. Jane Doe One relies upon Tonne's mental and/or emotional condition as part of her claims.

45. Tonne was employed by TVC as a youth pastor and was under TVC's direct supervision and control when he sexually assaulted Jane Doe One. The sexual assault arose from Tonne's authority and power over Jane Doe One and other children

as a result of his pastoral position and employment. TVC knew or should have known of Tonne's predilections toward children and the danger associated with Tonne, and Tonne's sexual assault was foreseeable.

46. TVC failed to provide reasonable monitoring and supervision of Tonne. TVC retained responsibility for Tonne's actions, including its responsibilities to inquire and investigate before hiring him; to supervise, evaluate, monitor, and oversee Tonne's activities; to investigate, monitor, and supervise Tonne as a pastor working with children at TVC; to have immediately removed Tonne from the pastorate upon notice that he was unsuited for the position for which he was hired and to which he was assigned; and to have investigated the complaints against Tonne. TVC was negligent and breached these duties, which breaches were the proximate cause of harm to Jane Doe One. Had TVC not breached its duties, Tonne would never have had the opportunity, authority, or power to sexually assault Jane Doe One.

(VICARIOUS LIABILITY FOR SEXUAL ASSAULT

VICE-PRINCIPAL/*RESPONDEAT SUPERIOR*)

47. Alternatively, Defendant TVC is vicariously liable for all of the actions of Tonne described in this petition, as Tonne was a Pastor and a Covenant Member of TVC operating within the scope of his employment at the time of the sexual assault of Jane Doe One. Tonne had the authority to employ, direct, and discharge servants of TVC, and the children's ministry was confided in him by the senior pastor and elders

of TVC, which make him a vice-principal of TVC. As a vice-principal of TVC, Tonne's intentional act of sexual assault committed in the workplace may be imputed to TVC, as he represents TVC in its corporate capacity. Further, the sexual assault was directly related to TVC's "business," as TVC was engaged in ministry to, care for, and protection of children and Tonne was tasked with exactly those tasks and clothed with the authority necessary to carry out those tasks.

48. Jane Doe One pleads that the authority of TVC over its pastors exceeds the usual employer/employee relationship, since TVC also retains ecclesiastical authority, control, and the ability to engage in church discipline over Tonne, its "Covenant Member." TVC is further liable for the intentional sexual assault under a theory of *respondeat superior*. The sexual assault was committed while Tonne was an employee of TVC acting within the scope of his employment. Particularly, the act of protecting Jane Doe One was within his general authority, in furtherance of TVC's "business," and for the accomplishment of the object for which Tonne was hired. Unfortunately, Tonne assaulted Jane Doe One rather than protecting her.

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

49. Defendant TVC acted intentionally or recklessly and caused Jane Doe One severe emotional distress. Defendant TVC's conduct was extreme and outrageous in that TVC never reported the crime, misrepresented the reason for Tonne's dismissal to Jane Doe One and the entire congregation, and failed to render any type of spiritual



or psychological aid to a child known to have endured abuse. These acts and omissions were exceedingly cruel and actually triggered and re-abused Jane Doe One. At the same time, TVC paid for Tonne's inpatient treatment for alcohol abuse. TVC's conduct proximately caused Jane Doe One emotional distress, and no alternative cause of action would provide a remedy for the severe emotional distress caused by TVC's conduct.

## VII.

### Damages

50. Plaintiff re-alleges and incorporates by reference all allegations contained in the foregoing paragraphs.

51. As a result of the acts and omissions described herein, Jane Doe One has incurred medical expenses in the past and is expected to incur future medical expenses.

52. Further, Jane Doe One has experienced severe physical, emotional, and psychological pain and suffering in the past and is expected to incur such trauma in the future.

53. Further, Jane Doe One has suffered mental anguish in the past and is expected to endure mental anguish in the future.

54. Further, Jane Doe One is expected to suffer a diminished wage-earning capacity in the future.

55. Further, Jane Doe One pleads for exemplary damages as a result of TVC's gross negligence under Chapter 41 of the Texas Civil Practice and Remedies Code. Pursuant to Section 41.005(c) of the Texas Civil Practice and Remedies Code, TVC as employer is liable for exemplary damages arising out of a criminal act committed by its employee, Tonne, and Tonne was employed in a managerial capacity and was acting in the scope of his employment. No cap applies to these damages, as the cause of action against TVC is based on conduct described as a felony at Section 22.011 of the Texas Penal Code (sexual assault).

### **VIII.**

#### **Conditions Precedent**

56. All conditions precedent to Plaintiff's recovery have been performed or have occurred.

### **IX.**

#### **Request for Disclosure**

57. Pursuant to Texas Rule of Civil Procedure 194, Defendant is requested to disclose, within 50 days of service of this petition, the information or material described in Rule 194.2(a)-(1).

### **X.**

#### **Prayer for Relief**

For the reasons stated, Plaintiff Jane Doe One prays that the Court enters a

judgment for the following against Defendant The Village Church:

- (1) Actual damages in an amount in excess of the minimum jurisdictional limits of the Court;
- (2) Exemplary Damages;
- (3) Prejudgment and postjudgment Interest;
- (4) The award of all costs; and
- (5) All further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**SCHEEF & STONE, L.L.P.**

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