

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NANETTE MILES, individually and on behalf
of similarly situated persons,

Plaintiff,

v.

**DAVID HYLES, HYLES-ANDERSON
COLLEGE, and FIRST BAPTIST CHURCH
OF HAMMOND, INDIANA, INC.,**

Defendants.

Case No.

Jury Demanded

ORIGINAL COMPLAINT

Plaintiff Nanette Miles (“Plaintiff”), individually and on behalf of all others similarly situated, brings this Complaint against Defendants David Hyles (“D. Hyles”), Hyles-Anderson College (“College”), and First Baptist Church of Hammond, Indiana, Inc. (“First Baptist” or the “Church”), and alleges as follows:

I. INTRODUCTION

1. This is a civil action to recover damages on behalf of Plaintiff and a class of similarly situated individuals who have been harmed by sexual abuse, perpetrated by David Hyles, other First Baptist leaders and officials of Hyles- Anderson College and First Baptist Church of Hammond, Indiana.

2. During the relevant period, D. Hyles was employed at First Baptist Church of Hammond, Indiana. D. Hyles served in various leadership roles, such as youth director, and gradually rose in the rankings and achieved higher positions of power.

3. By its own account, the College and First Baptist have been reputable

establishments since their openings. The College, purported to be a “ministry” of First Baptist, has existed since 1972 and claims connections to over 8,000 graduates, many of whom are in leadership positions in churches, school, and seminaries across the country and internationally. First Baptist and the College consider themselves to be the “flagship” organization for thousands of affiliated Independent Fundamental Baptist organizations. These Defendants both additionally purport to be formed by Jack Hyles (“J. Hyles”), the father of D. Hyles, and continue to bear his name as their namesake.

4. Over his career, D. Hyles had access to not only the entire congregation of First Baptist but also the entire student body of the College.

5. In addition to Plaintiff, at least ten (10) others have credibly accused D. Hyles of using his position of power to sexually prey on them when they were minors. Upon information and belief, First Baptist and the College staff members were aware of his reprehensible conduct for years and remained silent.

6. According to dozens of current and former church members, religious experts, historians, and court documents, at least ten (10) other First Baptist leaders have also been credibly accused of sexually and physically abusing minors. Defendants implemented *de facto* common policies to perpetuate and cover up this abuse, causing many victims, like Plaintiff, to suffer in silence for decades, while First Baptist leaders were shielded from any accountability.

7. Collectively, Defendants, including their officers, directors, employees, and members, jointly conducted and participated, directly and/or indirectly, in wrongful actions which injured and harmed Plaintiff and Class Members.

8. Defendants stole something innocent, sensitive, and sacred from every minor they abused.

II. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction over Plaintiff's claims under 28 U.S.C. §1331 because the matter in controversy "arises under the Constitution, laws, or treaties of the United States.

10. This Court has personal jurisdiction over Defendants because at all relevant times, one or more of Defendants, directly and/or through their agents and representatives, resided, were found, and conducted business in this District. This Court also has personal jurisdiction over Defendants because at all relevant times, one or more Defendants, directly and/or through the Clergy, their agents and representatives (i) caused tortious injury by an act or omission in this District, (ii) caused tortious injury in this District by an act or omission committed outside of this District, and/or (iii) engaged in a persistent course of conduct, or derived substantial revenue from goods used or consume or services rendered in this District, and the tortious injury occurring in this District arose out of such activity. This Court, therefore, has personal jurisdiction over Defendants.

11. At all relevant times, and as set forth above, a substantial part of the events or omissions giving rise to the claim occurred in this District. Accordingly, venue is proper in this Court under 28 U.S.C. §1391.

III. PARTIES

12. Plaintiff Nanette Miles (Ms. Miles) is a citizen and resident of the State of North Carolina.

13. Defendant David Hyles, at all times material hereto, is a citizen of the State of Tennessee, where he is a member of Family Baptist Church and conducts a ministry for the restoration of "fallen preachers," called Fallen in Grace.

14. Defendant Hyles-Anderson College is a domestic nonprofit corporation operating as an independent Baptist college located at 8400 Burr St., Crown Point, Indiana 46307.

15. Defendant First Baptist Church of Hammond, Indiana, Inc. is a domestic nonprofit corporation located at 473 Sibley Street, Hammond, Indiana 46320.

IV. FACTUAL ALLEGATIONS

Plaintiff Miles' Specific Allegations

1. Plaintiff was thirteen (13) years old when D. Hyles, a leader in First Baptist and College, and son of J. Hyles, then president of the Church and College, raped her on the floor of his office; D. Hyles raped Plaintiff on a weekly basis from that point on—unless he was out of town on Church business—for the next five (5) years.

2. D. Hyles had begun his advances toward Plaintiff when she was twelve (12) years old, when her mother was diagnosed with cancer. D. Hyles began calling Plaintiff into his private office at the Youth Center for counseling.

3. Plaintiff attended the Youth Center at the Church where D. Hyles made inappropriate comments to her about her body, stating that he wanted to see her in a swimsuit. D. Hyles would also rub up against Plaintiff inappropriately, touch her breast on multiple occasions, and often try to isolate her by calling her into his office.

4. In September 1976, D. Hyles summoned Plaintiff to his office for counseling where he had her sit on the couch and offered her a drink in a Styrofoam cup. Plaintiff drank the drink from the Styrofoam cup and shortly thereafter blacked out.

5. When Plaintiff woke up sometime later, she was on her back on the floor and D. Hyles was on top of her, penetrating her vagina with his penis.

6. D. Hyles raped Plaintiff for approximately forty-five (45) minutes, then told her to

get dressed and exit out the back door of his office so his secretary would not notice her leaving.

D. Hyles also told Plaintiff at that time that he wanted to see her again.

7. One week after the initial rape, D. Hyles told Plaintiff to meet him in his office where he raped her again.

8. D. Hyles would rape Plaintiff weekly from that point on—unless he was out of town on Church business.

9. Plaintiff suffered sexual abuse by D. Hyles for approximately five years.

10. Plaintiff suffered sexual abuse by D. Hyles in his office located inside the buildings owned by the Church and College and in the main Church building itself.

11. Plaintiff's mother found a letter that D. Hyles wrote to Plaintiff while she was 13 years old containing sexually explicit and vulgar language about what he wanted to do to Plaintiff.

12. Plaintiff's mother took this letter to J. Hyles, the Senior Pastor of the Church at the time and he tore up the letter, threw it away, and told Plaintiff's mother that D. Hyles did not write it.

13. Despite these allegations, J. Hyles did not fire D. Hyles, or terminate his role within the Church or College; rather, he was promoted to greater positions of influence.

14. Plaintiff's mother witnessed D. Hyles' sexual advances on another occasion when Plaintiff was 14 years old when she asked her mom to listen in on a phone call as D. Hyles asked Plaintiff to undress and stand in her window naked so he could see her.

15. On another occasion, D. Hyles took pornographic photographs of Plaintiff in lingerie that he purchased for her. He then raped Plaintiff for two hours.

16. D. Hyles took at least one dozen pictures of Plaintiff while she was both clothed

and in the nude on multiple occasions.

17. On another occasion, Plaintiff babysat the Church children during a women's conference where D. Hyles raped her in a back room of the main Church building.

18. When Plaintiff was 14 years old, D. Hyles took Plaintiff to Bill Rice Ranch located in Murfreesboro, TN, for summer camp where he raped her in a chapel room behind the altar.

19. On another occasion, when Plaintiff was 15 years old, as she walked home from the Church, D. Hyles approached her in his Oldsmobile and told her to get in and put her head down. D. Hyles drove for a while before Plaintiff lifted her head and saw a "Welcome to the State of Illinois" sign.

20. D. Hyles took Plaintiff to a motel and left her in a room where she tried to make a phone call home, but failed because there was a long-distance charge.

21. D. Hyles came back with a briefcase full of pornographic pictures of Plaintiff and other young girls from the Church. D. Hyles then drugged and raped Plaintiff and carried her back to his car when he was done as she was still under the influence.

22. At 17 years old, Plaintiff was getting married and told D. Hyles that his sexual abuse needed to stop, but he responded that she needed to come back to him after she wed to have a baby by him.

23. Plaintiff was married by 18 years old, however, her husband filed for divorce 8 years later due to her mental disabilities.

24. Plaintiff began seeing a psychologist at the age of 22 who found a medical connection between D. Hyles' sexual abuse and her psychosomatic symptoms.

25. Plaintiff has suffered many injuries and hardships she alleges were caused by D.

Hyles' sexual abuse: she was hospitalized and on life support shortly after leaving the Church at the age of 18; her house foreclosed in 1991 because she has never been able to maintain a consistent source of income; she has been fired from approximately 10 jobs—4 of which were within the last 5 years; she divorced in 1993 and never had any children; she has seen multiple therapists and counselors in her adulthood; she no longer has a relationship or communicates with her immediate family; she has lost her faith; she currently struggles with Major Depressive Disorder (“MDD”), Complex Post Traumatic Stress Disorder (“c-PTSD”), and Agoraphobia; and she has recently been approved for disability payments due to her MDD and c-PTSD.

26. Plaintiff was hospitalized, just as recently as August 2018, at Frye Regional Medical Center located in Hickory, North Carolina, for 10 days after a suicide attempt.

27. Multiple other minor girls accused D. Hyles of sexual misconduct, similarly, to no avail.

28. In fact, in another similar incident, a young girl's father brought D. Hyles' abuse to J. Hyles' attention. In turn, the father was given a long-term, lucrative position at the College in exchange for his silence and agreement not to take the allegations to law enforcement. The father continues, to this day, to receive payments from the College in exchange for his silence.

29. After that particular incident, D. Hyles was moved from the Church approximately by early 1982 and sent to Texas to join the staff of Miller Road Baptist Church, the Church J. Hyles pastored prior to taking over the Church.

30. At Miller Road Baptist Church, D. Hyles would again be accused of sexual misconduct.

31. Plaintiff has suffered and continues to suffer extensive injuries and hardships as a

direct result of the predatory actions of D. Hyles, the coverup by J. Hyles and the Church, and the absolute apathy and disregard by all of the Defendants for Plaintiff's safety, care, and wellbeing.

General Allegations

32. Instances of child rape and sexual abuse by clergy, including Independent Fundamental Baptist leaders, are widely known and have led to numerous investigations, trials, and convictions. These investigations have also shed light on the elaborate attempts many organizations have made to cover-up reported incidents.

33. Only in recent years have these instances of child sexual abuse received such significant media and public attention, bringing a spotlight to an otherwise hidden area of abuse, hurt, and deception.

34. For instance, in August 2018, a Pennsylvania grand jury determined the Catholic Church of Pennsylvania covered up sexual abuse by more than 300 priests and victimized more than 1,000 individuals. The grand jury report reflected similar characteristics to the actions of the Defendants in the instant case: encouraging victims not to report the abuse to law enforcement, failing to properly investigate allegations of abuse, and sending offending clergy to other parishes in order to "fix" the situation.

35. Recent investigations have uncovered hundreds, if not thousands, of victims, men, women, and children, who have suffered rape, sexual assault, and sexual abuse in the past few decades by Independent Fundamental Baptist affiliated entities.

36. A recent investigation by the Fort Worth Star-Telegram uncovered over "412 allegations of sexual misconduct in 187 [Independent Fundamental Baptist] churches and their

affiliated institutions, spanning 40 states and Canada.”¹

37. Shockingly, scores of abusers remained in their position of authority in their organization despite accusations of sexual misconduct.²

38. Many victims share the same background – abuse by a “spiritual” leader in a position of influence (whether pastor, teacher, counselor, etc.) over the individual compounded by the “cult-like power” Independent Fundamental Baptist leaders hold in their organizations.³

39. In this case, First Baptist and the College treated rape, sexual abuse, and sexual assault as an internal matter and “dealt” with these serious allegations internally, rather than bringing in outside investigators or bringing the information to law enforcement. In fact, great lengths were taken to prevent law enforcement from learning of the rapes, sexual abuse, and sexual assaults.

40. In December 2012, *Chicago Magazine* published an article titled “Let Us Prey: Big Trouble at First Baptist Church,” detailing the pervasiveness of the abuse and the number of Church leaders involved:

Multiple websites tracking the First Baptist Church of Hammond have identified *more than a dozen men* with ties to the church—many of whom graduated from its college, Hyles-Anderson, or its annual Pastors’ Schools—who fanned out around the country, preaching at their own churches and racking up a string of arrests and civil lawsuits, including physical abuse of minors, sexual molestation, and rape.⁴

The article overviews the extent of the “cover-ups” and “cult-like control” exercised by Defendants, which allowed D. Hyles and other Church leaders to prey on Plaintiff and scores of

¹ “Hundreds of Sex Abuse Allegations Found In Fundamental Baptist Churches Across U.S.,” Sarah Smith, *Fort Worth Star-Telegram*, December 9, 2018 (last accessed October 6, 2020; available online: <https://www.startelegram.com/living/religion/article222576310.html>).

² *Id.*

³ *Id.*

⁴ “Let Us Prey: Big Trouble at First Baptist Church,” Bryan Smith, *Chicago Magazine*, December 11, 2020 (last accessed November 30, 2020; available online: <https://www.chicagomag.com/Chicago-Magazine/January-2013/Let-Us-Prey-Big-Trouble-at-First-Baptist-Church/>) (emphasis added).

other young children and subject them to horrifying acts of sexual abuse.⁵

41. The Church and College routinely moved offending employees, including, but not limited to, Defendant D. Hyles, to other entities associated with the Church and/or the College, without reporting the incident(s) to law enforcement. After being moved, the individuals would continue working in a capacity that involved interaction with children.⁶

42. Sexual abuse has been tolerated and ignored by the Church, College, and their leadership for decades.⁷ Despite Plaintiff's pleas, Defendants refused to take action to correct the wrongs perpetrated by D. Hyles against Plaintiff and continued to cover-up the terrible acts committed against her.

43. As the spiritual leaders of Plaintiff in positions of authority and power, Defendants knew that Plaintiff put her faith, trust, and confidence in them and their employees.

44. 18 U.S.C. § 2243 provides: "Whoever, in the special maritime and territorial jurisdiction of the United States . . . knowingly engages in a sexual act with another person who—(1) has attained the age of 12 years but has not attained the age of 16 years; and (2) is at least four years younger than the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both."

45. 18 U.S.C. § 3283 provides: "No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse . . . of a child under the age of 18 years shall preclude such prosecution during the life of the child"

⁵ *Id.*

⁶ *Id.*

⁷ *See generally, id.* ("the story of First Baptist is epic enough to rival the most sordid Old Testament tale. 'It really is astonishing,' says Jeri Massi, a researcher from Raleigh, North Carolina, who has been documenting the sexual abuse of children in Christian fundamentalism since 2001. 'The wickedness, the heartbreak, the ruining of lives.' Examples from First Baptist "take in everything: pedophilia, violence, defamation of the innocent to protect the guilty, heresies against Christian doctrine, defiance against lawful authority . . .").

46. D. Hyles committed violations of the United States Criminal Code with respect to the sexual abuse of Plaintiff.

47. D. Hyles violated 18 U.S.C. § 2421, in that he knowingly transported Plaintiff in interstate commerce, with the intent that Plaintiff engage in sexual conduct for which any person (i.e., D. Hyles) could be charged with a criminal offense.

48. D. Hyles violated 18 U.S.C. § 2423 when he knowingly transported Plaintiff, who had not attained the age of 18 years, in interstate commerce, with the intent that Plaintiff engage in sexual activity for which any person (i.e., D. Hyles) could be charged with a criminal offense.

49. D. Hyles violated 18 U.S.C. § 2241 when, while in the territorial jurisdiction of the United States, he knowingly caused a child to engage in sexual acts with him by threatening or placing that child (i.e., Plaintiff) in fear and by engaging in sexual acts with her when she was incapable of appraising the nature of the conduct and/or physically incapable of declining participation in those sexual acts.

50. D. Hyles violated 18 U.S.C. § 2244 on numerous occasions.

51. When D. Hyles began to sexually abuse Plaintiff, she was a member of the Youth Center, which was a ministry of First Baptist Church, and controlled by the Church and College.

52. At all material times, First Baptist and the College not only had actual knowledge that D. Hyles had violated, and was continuing to violate, numerous state and federal criminal statutes, including those cited above, with respect to the sexual abuse of a child, but conspired to conceal and cover-up those violations.

53. The Church and College are presumed to have knowledge of federal laws prohibiting the rape, sexual assault, and sexual abuse described above, including the federal laws allowing the prosecution of these crimes with no statute of limitation.

54. This underscores the continued and ongoing attempts of First Baptist, the College, and related employees to cover-up and hide the rapes, sexual assaults, and sexual abuse perpetrated by them in order to prevent the ever-present danger of criminal prosecution.

V. CLASS ALLEGATIONS

55. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this action against Defendants as a class action, for herself and all members of the following class of similarly situated individuals (the “Class”):

All persons, and if minor children, their parents or guardians on their behalf, who were sexually abused by David Hyles or any other leader within the First Baptist Church of Hammond or Hyles-Anderson College from 1972 to present.

56. The proposed Class consists of dozens, if not hundreds, of geographically dispersed members, the joinder of whom in one action is impracticable. The precise number and identities of Class Members are currently unknown to Plaintiff but are identifiable and readily ascertainable from Defendants’ internal records.

57. Defendants violated the rights of each Class Member by the above-described wrongful actions in the same way that Plaintiff was harmed.

58. As such, the above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence evidence Church leadership’s *de facto* common policy of perpetuating and covering up the sexual and physical abuse of minors, including named Plaintiff, Ms. Miles.⁸

⁸ Plaintiffs submit the following non-exhaustive list of examples to show the Church had a *de facto* common policy of perpetuating and covering up child sex abuse, which started with First Baptist’s leadership:

- “First Baptist [became] a nationwide phenomenon, dubbed a ‘superchurch’ by *Time*. That renown enabled [Jack] Hyles to begin crisscrossing the country as the *de facto* leader of a loose coalition of Independent Fundamental Baptist churches. People lined up to give cash to him and his only son, David [Hyles], who was following in his footsteps” (emphasis added). *Id.*

59. In addition to this *de facto* common policy, certain questions of law and fact common to the proposed Class predominate over any questions affecting individuals Class Members, including:

- (i) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence violated 18 U.S.C. § 1962(c) and/or (d);
- (ii) whether Defendants' above-described wrongful actions constitute assault at common law;
- (iii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute breach of fiduciary duty at common law;

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- “According to dozens of current and former church members, religion experts, and historians interviewed by *Chicago [Magazine]*—plus a review of thousands of pages of court documents—[there is] what some call a deeply embedded culture of misogyny and sexual and physical abuse at [the First Baptist Church of Hammond].” *Id.*
 - “Doors always had to be locked at offices. You could never just walk into an office, you always had to knock first.” – Paula Hyles (former spouse of Defendant David Hyles), interview with David Coleman, 1989, (last accessed November 30, 2020; available online: https://www.youtube.com/watch?v=h0Je_QJ-7wY&feature=youtu.behttps://brucegerencser.net/2019/04/the-david-hyles-saga/, at 46 min.).
 - “[Jack Hyles] [was] on the top of the totem pole. There’s nobody above him, except God. And so, everyone’s looking to him . . . He is the hero.” *Id.* At 45 min.
 - “The people of First Baptist Church were taught by [Jack] Hyles . . . that if they didn’t see something it didn’t happen. They were taught that unless an allegation could be confirmed by two or more witnesses (Matthew 18) they were not to believe it. This kind of thinking resulted in a culture where ‘sin’ was ignored or swept under the proverbial rug.” – Bruce Gerencser, former Evangelical pastor, “The Legacy of Jack Hyles,” *The Life and Times of Bruce Gerencser*, January 14, 2015 (last accessed November 30, 2020; available online: <https://brucegerencser.net/2015/01/legacy-jack-hyles/>).
 - “In the late 1960s and 1970s, Jack Hyles was, as many of us described, the pope of the Independent Fundamentalist Baptist Church movement.” *Id.*

- (iv) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute negligence/gross negligence at common law;
- (v) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute negligence per se at common law;
- (vi) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute intentional infliction of emotional distress at common law;
- (vii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute a public nuisance at common law;
- (viii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute conspiracy at common law;
- (ix) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence constitute aiding and abetting at common law;
- (x) whether Defendants should be compelled to make full restitution to Plaintiffs and Class Members under principles of equity;
- (xi) whether Defendants also are liable to Plaintiffs and Class Members for the Clergy's above-described wrongful actions, inaction, omissions, cover-up,

deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine;

- (xii) whether Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, obstructive behavior regarding investigations, and conspiracy of silence directly or proximately caused Plaintiff and Class Members to suffer physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages;
- (xiii) whether Plaintiff and Class Members are entitled to recover actual damages, consequential damages, compensatory damages, economic damages, punitive damages, RICO treble damages, pre- and post-judgment interest, attorneys' fees, litigation expenses, and court costs and, if so, the amount of the recovery; and
- (xiv) whether Plaintiff and Class Members are entitled to declaratory and injunctive relief, including the establishment of a medical monitoring fund for the testing, diagnosis and treatment of Plaintiff's and Class Members' emotional, psychological, and mental health issues directly and proximately resulting from Defendants' (and the Clergy's) above-described wrongful conduct.

60. Plaintiff's claims are typical of Class Members' claims because Plaintiff and Class Members are all victims of sexual and physical abuse resultant of Defendants' above-described wrongful actions.

61. Plaintiff and her counsel will fairly and adequately represent the interests of Class Members. Plaintiff has no interest antagonistic to, nor in conflict with, the interests of the Class Members. Plaintiff's counsel are experienced in leading and prosecuting class actions.

62. A class action is superior to all other available methods for fair and efficient adjudication of Plaintiff's and Class Members' claims. Plaintiff and Class Members have been and will continue to be harmed as a direct and proximate result of Defendants' above-described wrongful actions. Litigating this case as a class action is appropriate because (i) it will avoid multiplicity of suits and the corresponding burden on the courts and Parties, (ii) it would be virtually impossible for all Class Members to intervene as party-plaintiffs in this action, and (iii) it will provide judicial oversight of the claims process once Defendants' liability is adjudicated.

63. Certification is therefore appropriate under Fed. R. Civ. P. 23(b)(3) because the above-described common questions of law or fact predominate over any questions affecting individual Class Members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

64. Certification is also appropriate under Fed. R. Civ. P. 23(b)(1) because the prosecution of separate actions by individual Class Members would create a risk of establishing incompatible standards of conduct for Defendants. For example, one court might decide that the challenged actions are illegal and enjoin Defendants, while another court might decide that the same actions are not illegal. Individual actions also could be dispositive of the interests of the other Class Members who are not parties to such actions and substantially impair or impede their ability to protect their interests.

65. Defendants' above-described wrongful actions are applicable to the Class as a whole, for which Plaintiff seeks, *inter alia*, damages, declaratory relief, injunctive relief, and other equitable remedies.

66. Absent a class action, Defendants will retain the benefit of their wrongdoing despite seriously violating the law and inflicting physical and/or mental injury, pain, suffering,

and other actual and consequential injury, harm, and economic damages on Plaintiff and Class Members.

VI. CAUSES OF ACTION

COUNT I: VIOLATION OF 18 U.S.C. §1962(c)

67. The preceding factual statements and allegations are incorporated by reference.

68. Plaintiff and Class Members are “persons” within the meaning of 18 U.S.C. §§1961(3); 1964(c). Defendants are “persons” within the meaning of 18 U.S.C. §1961(3).

69. First Baptist and the College are “enterprise(s)” within the meaning of 18 U.S.C. §§1961(4) and 1962(c).

70. Defendants conducted and/or participated in the business and financial affairs of the First Baptist and the College through a pattern of unlawful activity within the meaning of 18 U.S.C. §§1961(1)(B); 1961(5); 1962(c).

71. Defendants’ pattern of unlawful activity and corresponding violation of 18 U.S.C. §1962(c) through First Baptist and the College directly and/or proximately caused Plaintiff and Class Members to suffer injury to their businesses and/or property within the meaning of 18 U.S.C. §1962(c).

72. As a direct and proximate result of Defendants’ above-referenced wrongful actions through First Baptist and the College, *inter alia*: (i) Plaintiff and Class Members have suffered and will continue to suffer physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages to themselves, their businesses, and/or their property, (ii) Defendants maintained (and will continue to maintain) their reputations and maintained and expanded (and will continue to maintain and expand) their commercial operations in the United States whereby Defendants and the Enterprises obtained (and will

continue to obtain) money, funds, credits, assets, and/or other property, and (iii) Defendants have wrongfully shifted the risk, expense, and pain, and suffering of the sexual abuse to Plaintiff and Class Members and robbed them of their childhood, youth, innocence, virginity, families, jobs, finances, and assets — in short, their lives. Defendants intentionally engaged and continue to engage in these wrongful actions to their financial and reputational benefit and to Plaintiff and Class Members’ personal, mental, psychological, and financial detriment.

73. Defendants knew or should have known the above-described unlawful actions were fraudulent, misleading and illegal and would cause Plaintiffs and Class Members to suffer the above-referenced damages. All of Plaintiff’s and Class Members’ damages were reasonably foreseeable by Defendants and/or anticipated as a substantial factor and a natural consequence of their open-ended, ongoing, and continuous pattern of unlawful activity.

74. Defendants’ above-described unlawful actions violated and continue to violate 18 U.S.C. § 1962(c) by violating 18 U.S.C. §§ 1341; 1343.

COUNT II: VIOLATION OF 18 U.S.C. §1962(d) BY CONSPIRING TO VIOALTE 18 U.S.C. §1962(c)

75. The preceding factual statements and allegations are incorporated by reference.

76. Plaintiff and Class Members are “persons” within the meaning of 18 U.S.C. §§ 1961(3); 1964(c). Defendants are “persons” within the meaning of 18 U.S.C. § 1961(3).

77. First Baptist and the College are “enterprise(s)” within the meaning of 18 U.S.C. §§1961(4) and 1962(c) and, at all relevant times, were engaged in, and the activities of which affected, interstate commerce within the meaning of 18 U.S.C. §§ 1961(4); 1962(c); 1962(d).

78. On information and belief, Defendants conspired with other persons and/or entities, the identities of whom are known only to Defendants at this time, within the meaning of 18 U.S.C. § 1962(d) to violate 18 U.S.C. § 1962(c); that is, Defendants and their co-conspirators

conspired to conduct and/or participate in the business and financial affairs of First Baptist and the College through a pattern of unlawful activity within the meaning of 18 U.S.C. §§ 1961(1)(B); 1961(5); and 1962(c). Defendants and its co-conspirators intentionally participated and continue to participate in a conspiracy to engage in the above-described unlawful and intentional actions to their financial and reputational benefit and to Plaintiff's and Class Members' personal, mental, psychological, and financial detriment. The members, time, and place of this complex, multi-party conspiracy are known only by Defendants at this time and shall be revealed through discovery.

79. The pattern of unlawful activity and corresponding violations of 18 U.S.C. § 1962(d) engaged in by Defendants and their co-conspirators directly and/or proximately caused Plaintiff and Class Members to suffer injury to their businesses and/or property within the meaning of 18 U.S.C. § 1964(c). As a direct and proximate result of Defendants' (and the Clergy's) conspiracy to commit and continued commission of the above-referenced wrongful actions through First Baptist and the College, *inter alia*, (i) Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages to themselves, their businesses, and/or their property, (ii) Defendants maintained and will continue to maintain their reputations and maintained and expanded and will continue to maintain and expand their commercial operations in the United States whereby Defendants and the Enterprises obtained (and will continue to obtain) money, funds, credits, assets, and/or other property, and (iii) Defendants have wrongfully shifted the risk, expense, pain, and suffering of the sexual abuse to Plaintiff and Class Members and robbed them of their childhood, youth, innocence, virginity, families, jobs, finances, assets — in short, their lives. Defendants intentionally engaged and continue to

engage in these wrongful actions to their financial and reputational benefit and to Plaintiff's and Class Members' personal, mental, psychological, and financial detriment.

80. Defendants knew or recklessly should have known that conspiring to engage in and engagement in the above-described unlawful and intentional activities were fraudulent, misleading and illegal and would cause Plaintiff and Class Members to suffer the above-referenced damages. All of Plaintiff's and Class Members' damages were reasonably foreseeable by Defendants and/or anticipated as a substantial factor and a natural consequence of their open-ended, ongoing, and continuous pattern of unlawful activity.

81. Defendants' above-described unlawful and intentional actions violated (and continue to violate) 18 U.S.C. § 1962(d) by conspiring to violate 18 U.S.C. § 1962(c) by way of 18 U.S.C. §§ 1341; 1343.

COUNT III: ASSAULT

82. The preceding factual statements and allegations are incorporated by reference.

83. While under Defendants' employment, command, supervision, direction, and control, D. Hyles and other First Baptist leaders abused their positions of power, authority, trust, and confidence, and (i) intentionally, knowingly, and/or recklessly instigated and engaged in the inappropriate, unauthorized, forced, unjustified, and wrongful physical contact and sexual abuse of Plaintiff and Class Members when they were minors and without their consent, (ii) intentionally failed to report such sexual abuse to law enforcement or other responsible authorities as required by law, and (iii) intentionally and actively instigated, perpetrated, and participated in multiple schemes to cover up such sexual abuse.

84. Defendants knew or reasonably should have believed that Plaintiff and Class Members would regard the above-described inappropriate, unauthorized, forced, unjustified

physical contact and sexual abuse and subsequent cover-up as wrongful and offensive, which, in fact, it was (and continues to be). As a direct and proximate result of Defendants' above-described wrongful conduct, Plaintiff and Class Members have suffered and will continue to suffer physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful actions—while under Defendants' employment, command, supervision, direction, and control—constitutes assault at common law under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

COUNT IV: BREACH OF FIDUCIARY DUTY

85. The preceding factual statements and allegations are incorporated by reference.

86. While D. Hyles and other First Baptist leaders were under Defendants' employment, command, supervision, direction, and control, Plaintiff and Class Members—as parishioners—trusted them to provide them with sound spiritual guidance and act in Plaintiff's and Class Members' best interests. Defendants' members, officers, employees, agents and representatives who sexually abused Plaintiff and Class Members were in positions of power and influence over Plaintiffs and Class Members. The personal and moral relationships forged between Plaintiff and Class Members with D. Hyles and other First Baptist leaders were confidential, special, and fiduciary relationships, pursuant to which Defendants had a duty to, *inter alia*, guide, lead, and protect Plaintiff and Class Members—not allow them to be sexually abused by D. Hyles and other Church leaders, conceal the wrongful conduct when discovered, move the perpetrators from church to church, without warning church members or the general public, thereby further facilitating their predatory practices, refuse to report the abusive perpetrators to law enforcement or other responsible authorities as required by law, and even

promote the abusive perpetrators. Plaintiff and Class Members expected, and, in fact, trusted Defendants to engage in lawful and appropriate relationships with them; Defendants were well-aware of Plaintiff's and Class Members' expectations of trust and confidence that Defendants would do so.

87. As fiduciaries, Defendants owed Plaintiffs and Class Members (i) the commitment to deal fairly and honestly, (ii) the duties of good faith and undivided loyalty, and (iii) integrity of the strictest kind. Defendants were obligated to exercise the highest degree of care in carrying out their above-described obligations to Plaintiff and Class Members as spiritual leaders and confidants under the Parties' confidential, special, and fiduciary relationships.

88. Defendants, however, breached their fiduciary duty to Plaintiff and Class Members by, *inter alia*, (i) intentionally, knowingly, and/or recklessly instigating and engaging in, facilitating, and/or allowing the inappropriate, unauthorized, forced, unjustified, and wrongful rape and sexual abuse of Plaintiff and Class Members, when they were minors and without their consent, (ii) intentionally failing and refusing to report such wrongful child sexual abuse to law enforcement or other responsible authorities as required by law, and (iii) intentionally and actively instigating, perpetrating, and participating in multiple schemes to cover up such wrongful child sexual abuse. In breaching their duties to Plaintiff and Class Members, Defendants acted intentionally, wantonly, recklessly, and with a complete disregard for Plaintiff's and Class Members' rights and interests, and the consequences of their actions.

89. As a direct and proximate result of Defendants' above-described wrongful conduct, Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages. Defendants' above-described wrongful and abusive conduct—while D.

Hyles and other First Baptist leaders were under Defendants' employment, command, supervision, direction, and control—constitutes breach of fiduciary duty at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

COUNT V: NEGLIGENCE/GROSS NEGLIGENCE

90. The preceding factual statements and allegations are incorporated by reference.

91. To establish a negligence claim, there must be (i) a legal duty on the part of the defendant to conform to a certain standard of conduct to protect others against unreasonable risks, (ii) a breach of that duty, (iii) a proximate cause between the conduct and the resulting injury, and (iv) actual damages to the claimant's person or property. Foreseeability that an injury might result from the act complained of normally serves as the paramount factor in determining the existence of a duty. When deciding if some injury was reasonably foreseeable, whether expressly or implicitly, courts examine what the actor knew or should have known.

92. Defendants had (and continue to have) a legal duty to Plaintiff and Class Members to comply with certain standards of conduct and, *inter alia*, (i) safeguard and protect Plaintiff and Class Members from sexual and physical abuse at the hands of First Baptist leaders, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from church to church and covering up and further facilitating their abhorrent behavior), (iii) report sexual predators within the Church to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known First Baptist leaders with credible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employment, (v) publicly admit their wrongdoing, (vi) issue

apologies to Plaintiff and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive First Baptist leaders going forward.

93. Defendants' duty to comply with these standards of conduct and protect Plaintiff and Class Members from the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer) at the hands of Defendants also arose out of the above-described fiduciary relationships and relationships of trust and confidence between the parties resting on sound public policy as derived from a calculus of factors, including, *inter alia*, the (i) social and theological consensus that clergy/parishioner relationships—especially when the parishioners are vulnerable minors—are sacred and worthy of protection (they are), (ii) foreseeability of the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages that Plaintiff and Class Members, in fact, have suffered (and will continue to suffer) at the hands of Defendants, (iii) moral blame society attaches to the sexual abuse of minor children by clergy and other powerful persons in leadership positions (it's severely disfavored), and (iv) prevention of future physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages to the victims and future victims (i.e., future injury and harm could, and very likely will, occur if Defendants fail to, *inter alia*, (a) protect minor children from abusive clergy, (b) end their policies, procedures, and schemes of moving abusive clergy from parish to parish and covering up their wrongful conduct, (c) discipline known offending clergy, (d) report known perpetrators to law enforcement or other responsible authorities as required by law, (e) institute policies of transparency, disclosing in the public record the names of all known clergy with plausible allegations of sexual misconduct against, releasing all

corresponding documents and information, and terminating and expelling such offenders from Defendants' employment, (f) publicly admit their wrongdoing, and (g) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Clergy going forward).

94. In a grossly negligent manner, Defendants breached their common law, moral, and other duties to Plaintiff and Class Members by, *inter alia*, failing to (i) safeguard and protect Plaintiff and Class Members from sexual predators within the Church, (ii) properly hire, direct, supervise, and control First Baptist leaders, (iii) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (iv) report known perpetrators within the Church to law enforcement or other responsible authorities as required by law, (v) institute policies of transparency, disclosing in the public record the names of all known perpetrators with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (vi) publicly admit their wrongdoing, (vii) apologize to Plaintiff and Class Members, and (viii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from sexual and physical abuse going forward.

95. As a direct and proximate result of Defendants' above-described wrongful actions and gross negligence, Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while D. Hyles and other First Baptist leaders were under Defendants' employment, command, supervision, direction, and control—constitutes negligence and gross negligence at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

96. Defendants knew, or reasonably should have known, that if they failed to exercise reasonable care and safeguard and protect Plaintiff and Class Members—rather than facilitate and allow them to be sexually abused by First Baptist leaders while they were minors, conceal this wrongful conduct when discovered, move the abusive perpetrators from church to church, without warning church members or the general public, thereby further facilitating their predatory practices, refuse to report the abusive perpetrators to law enforcement or other responsible authorities as required by law (and even promote the abusive perpetrators), and fail and refuse to institute comprehensive protocols and procedures to compensate victims and protect children and their families from these abusive perpetrators going forward—it was imminently foreseeable Plaintiff and Class Members would suffer the physical and mental injuries, pain, suffering, and other actual and consequential injuries, harms, and economic damages they, in fact, have suffered (and will continue to suffer).

COUNT VI: NEGLIGENCE *PER SE*

97. The preceding factual statements and allegations are incorporated by reference.

98. The following state statutes require all persons with knowledge of child sex abuse to report such abuse to law enforcement or other responsible authorities:

Ala. Code § 26-14-3(a); (f)

Alaska Stat. § 47.17.020(d)

Ariz. Rev. Stat. § 13-3620(A); (L)

Ark. Code §§ 12-18-402; 12-18-803(b)

Cal. Penal Code §§ 11166(d); 11165.7(a)(32)-(33)

Colo. Rev. Stat. §§ 13-90-107(1)(c); 19-3-304(2)(aa)

Conn. Gen. Stat. § 17a-101(b)

Del. Code Tit. 16, §§ 903; 909

Fla. Stat. §§ 39.201(1); 39.204

Ga. Code § 19-7-5

Idaho Code § 16-1605

325 Ill. Com. Stat. § 5/4; 735 Ill. Comp. Stat. § 5/8-803

Ind. Code § 31-33-5-1

Ky. Rev. Stat. § 620.030(1), (3)

La. Children's Code Art. 603(17)(b)-(c)

Me. Rev. Stat. Tit. 22, § 4011-A(1)(A)(27)

Md. Code Fam. Law § 5-705(a)(1), (a)(3)

Tenn. Code § 37-1-403(a)

Mass. Gen. Laws Ch. 119, §§ 21; § 51A(j)

Mich. Comp. Laws §§ 722.623; 722.631

Minn. Stat. § 626.556, Subd. 3(a)

Miss. Code § 43-21-353(1)

Mo. Stat. §§ 210.140; 210.115; 352.400

Mont. Code §§ 15-6-201(2)(b); 41-3-201(2)(h), (5)(b)

Neb. Rev. Stat. § 28-711

Nev. Rev. Stat. § 432B.220(3)(d)

N.H. Rev. Stat. §§ 169-C:29; 169-C:32

N.J. Stat. § 9:6-8.10

N.M. Stat. § 32A-4-3(A)

N.C. Gen. Stat. §§ 7B-301; 7B-310

N.D. Cent. Code § 50-25.1-03(1)

Ohio Rev. Code §§ 2151.421(A)(4)(b)-(d); 2151.421(A)(4)(a)

Okla. Stat. Tit. 10A, § 1-2-101

Or. Rev. Stat. §§ 419B.005(3)(h); 419B.010(1)

23 Pa. Cons. Stat. §§ 6311(a); 6311.1

R.I. Gen. Laws §§ 40-11-11; 40-11-3(a)

S.C. Code § 63-7-420

Tenn. Code § 37-1-605(a)

Tex. Fam. Code § 261.101

Utah Code § 62A-4a-403

Vt. Stat. Tit. 33, §§ 4913(a), (h)-(i); 4912(12)

Va. Code § 63.2-1509

Wash. Rev. Code §§ 26.44.030(7); 26.44.060(3)

W.Va. Code §§ 49-2-811; 49-2-803

Wis. Stat. § 48.981(2)(b)

Wyo. Stat. § 14-3-205(a)

Wyo. Stat. § 14-3-210

99. By their above-described wrongful actions—more specifically—Defendants’ failure to report the above-described sexual and physical abuse of minors to law enforcement or other responsible authorities as required by law, Defendants violated (and continue to violate) the above-listed statutes.

100. Plaintiff and Class Members are clearly within the class of persons the above-listed statutes, laws, and code are designed to protect. The physical and/or mental injury, pain,

suffering, and other actual and consequential injury, harm, and economic damages they, in fact, have suffered (and will continue to suffer) at the hands of Defendants are precisely the types of damages, injury, and harm the above-listed statutes, laws, and code are designed to guard against.

101. As a direct and proximate result of Defendants' above-described wrongful actions and violations of the above-listed statutes, laws, and code, Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants' above-described wrongful conduct—while D. Hyles and other First Baptist leaders were under Defendants' employment, command, supervision, direction, and control—constitutes negligence *per se* at common law, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

COUNT VII: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

102. The preceding factual statements and allegations are incorporated by reference.

103. Defendants' above-described extreme, outrageous, and wrongful actions were committed intentionally and/or recklessly. As a direct and proximate result of such wrongful conduct, Plaintiff and Class Members have suffered (and will continue to suffer) severe emotional distress. Defendants' above-described wrongful conduct—while D. Hyles and other predatory First Baptist leaders were under Defendants' employment, command, supervision, direction, and control—constitutes intentional infliction of emotional distress, both directly and under the doctrine of *respondeat superior*, agency theory, and/or the command responsibility doctrine.

COUNT VIII: PUBLIC NUISANCE

104. The preceding factual statements and allegations are incorporated by reference.

105. By their above-described wrongful actions, Defendants have taken (and continue to take) affirmative actions to facilitate the sexual abuse of children by First Baptist leaders and conspire to engage, and engage, in ongoing efforts to, *inter alia*, (i) conceal from the general public the child sexual abuse committed by sexual predators within the Church, the identities and predatory tendencies of the abusive perpetrators, (ii) attack the credibility of the victims of this abuse, (iii) protect the abusive perpetrators from criminal prosecution for their sexual and physical abuse of children by concealing their wrongful conduct and engaging in a conspiracy of silence, (iv) moving abusive perpetrators from church to church, without warning church members or the general public, thereby further facilitating their predatory practices, (v) failing and refusing to report the abusive First Baptist leaders to law enforcement or other responsible authorities as required by law (and even promoting the abusive perpetrators), and (vi) making affirmative misrepresentations to current or future employers regarding the abusive perpetrators' fitness for employment in positions that include working with children—while failing to disclose information regarding the sexual misconduct by such predators.

106. First Baptist leaders' predatory tendencies coupled with Defendants' facilitation, deception, and concealment of such abuse was (and continues to be) an unreasonable interference with the general public's common right to the comfortable enjoyment of life because children cannot be left in the unsupervised presence of known sexual predators. As such, the general public cannot trust First Baptist and its leadership. The general public also cannot trust Defendants to, *inter alia*, (i) prohibit and prevent abusive First Baptist leaders from supervising, caring for, or having any contact with children, (ii) warn parents of the presence of abusive perpetrators, (iii) identify abusive perpetrators so as to protect children in the neighborhoods

where the abusers work and live, and (iv) report the abusive perpetrators to law enforcement or other responsible authorities as required by law, so they will be criminally prosecuted and identified to the general public as registered sex offenders. Defendants' secretive conduct also interferes with and causes harm to the general public's right to know that Defendants have concealed (and continue to conceal) decades of sexual abuse by First Baptist leaders.

107. Defendants' wrongful actions regarding the sexual misconduct of abusive First Baptist leaders has caused (and will continue to cause) injury to the general public and seriously imperil children where Defendants have protected and concealed their predatory leaders from criminal prosecution and registration as sex offenders in situations where the abusive perpetrators voluntarily left Defendants' employ and/or where Defendants expelled such perpetrators from the Church and disavowed any responsibility for the abusers' wrongful conduct even though Defendants shielded them. As a result of Defendants' above-described wrongful actions, when Defendants' former abusive leaders have sought employment in positions of trust with children, Defendants are the only ones aware of the risk posed by the them, and potential employers, childcare custodians, and parents have no means of identifying the risk to their children posed by these sexual predators who should be convicted of child sexual abuse and registered as sex offenders.

108. Defendants' above-described wrongful actions have endangered the welfare of children by placing them in harm's way, interfered with the interests of the community, and caused damage to the general public—and continues to do so. Defendants' wrongful conduct also has interfered with public health and safety by victimizing numerous minor children and causing them severe harm and trauma, both physically and emotionally, as well as severe harm and trauma to their family members and friends—and continues to do so. Defendants' wrongful

conduct also has interfered with the public morals by breaching the trust of Church parishioners and community members and holding themselves up as paragons of virtue and spiritual purity while simultaneously concealing and facilitating the criminal acts of its Clergy priests—and continues to do so.

109. As a direct and proximate result of Defendants' above-described wrongful actions, Defendants have created a public nuisance whereby Plaintiff and Class Members were placed in the custody, care, and control of abusive Church leaders and suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages.

110. As a direct and proximate result of Defendants' above-described wrongful actions, Defendants have created a public nuisance whereby children in the general public were (and are) unknowingly placed in the custody, care, and control of abusive Church leaders, unaware of the ongoing danger and at a much higher risk than other children for being sexually abused (and, perhaps, sexually abused by such perpetrators).

111. The ongoing and continuing public nuisance created by Defendants was, and continues to be, the proximate cause of the above-described injuries and harm to the general public and the above-described special injuries suffered (and continuing to be suffered) by Plaintiff and Class Members. Defendants' above-described wrongful conduct constitutes the tort of public nuisance at common law.

COUNT IX: CONSPIRACY

112. The preceding factual statements and allegations are incorporated by reference.

113. Defendants, First Baptist leaders, and possibly others, either working together as a combined group or in sub-combinations of two or more, affirmatively conspired to engage in the

wrongful actions set forth above. Defendants conspired to commit the wrongful actions outlined in Counts III-VIII, above, all of which directly and proximately caused Plaintiff and Class Members to suffer (and continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic damages. Defendants' above-described wrongful conduct constitutes conspiracy at common law.

COUNT X: AIDING AND ABETTING

114. The preceding factual statements and allegations are incorporated by reference.

115. By failing to, *inter alia*, (i) safeguard and protect Plaintiff and Class Members from sexual predators within the Church, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from church to church and covering up and further facilitating their abhorrent behavior), (iii) report sexual predatory Church leaders to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known perpetrators with credible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (v) publicly admit their wrongdoing, (vi) apologize to Plaintiff and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Church leaders going forward, Defendants have aided, abetted, assisted, facilitated, encouraged, participated in, and engaged in a concert of action with First Baptist leaders (and possibly others) to commit child sexual abuse, cover it up, wrongfully protect the abusive perpetrators, wrongfully protect the reputations, commercial activities, and financial interests of Defendants and the Church, and in the process, inflict severe physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, compensatory, and economic

damages on Plaintiff and Class Members and put the general public in danger—and continue to do so.

116. As a direct and proximate result of Defendants’ above-described wrongful conduct, Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Defendants’ above-described wrongful conduct constitutes aiding and abetting under common law.

COUNT XI: RESTITUTION

117. The preceding factual statements and allegations are incorporated by reference.

118. As a direct and proximate result of Defendants’ above-described wrongful actions, negligence, and gross negligence—while D. Hyles and other First Baptist leaders were under Defendants’ employment, command, supervision, direction, and control—Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. As a matter of justice, equity, and good conscience, therefore, Defendants should be compelled to make full restitution to Plaintiff and Class Members in the form and in an amount to be determined by the trier of fact.

COUNT XII: DECLARATORY AND INJUNCTIVE RELIEF

119. The preceding factual statements and allegations are incorporated by reference.

120. Under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the Court is authorized to enter a judgment declaring the Parties’ rights and legal relations and grant further necessary relief based upon such a judgment.

121. An actual controversy exists regarding Defendants’ duty to (i) safeguard and

protect Plaintiff and Class Members from predatory Church leaders, (ii) discipline known offenders (rather than harboring them, protecting them, and moving them from church to church and covering up and further facilitating their abhorrent behavior), (iii) report sexual predators to law enforcement or other responsible authorities as required by law, (iv) institute policies of transparency, disclosing in the public record the names of all known First Baptist leaders with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employment, (v) publicly admit their wrongdoing, (vi) apologize to Plaintiff and Class Members, and (vii) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abusive Church leaders going forward. As a direct and proximate result of Defendants' above-described wrongful actions negligence, and gross negligence—while D. Hyles and other First Baptist leaders were under Defendants' employment, command, supervision, direction, and control—Plaintiff and Class Members have suffered (and will continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages unless and until the Court enters judgment against Defendants and awards Plaintiff and Class Members their requested relief.

Declaratory Relief

122. Pursuant to the Court's authority under the Declaratory Judgment Act, Plaintiff and Class Members request the Court to enter a judgment declaring, *inter alia*, (i) Defendants owed (and continue to owe) a legal duty to (a) safeguard and protect Plaintiff and Class Members from sexual predators holding leadership positions in the First Baptist Church, (b) discipline known offenders (rather than harboring them, protecting them, and moving them from church to church and covering up and further facilitating their abhorrent behavior), (c) report sexual

predators in the Church to law enforcement or other responsible authorities as required by law, (d) institute policies of transparency, disclosing in the public record the names of all known First Baptist leaders with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (e) publicly admit their wrongdoing, (f) apologize to Plaintiff and Class Members, and (g) institute comprehensive protocols and procedures to compensate victims and protect children and their families from abuse going forward; (ii) by their above-described wrongful actions, negligence, and gross negligence, Defendants breached (and continue to breach) such duty; (iii) Defendants' breach of such duty directly and proximately caused Plaintiff, Class Members, and the general public to suffer (and continue to suffer) physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and/or damages; (iv) Plaintiff and Class Members are legally entitled to recover compensation from Defendants for such physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages; and (v) Defendants' above-referenced wrongful conduct forming the basis of Defendants' public nuisance and Plaintiff's request for declaratory relief actually occurred.

Injunctive Relief

123. Defendants' failure to report and account for the rape and sexual abuse of children by its leaders is a direct violation of the reporting statutes set forth in Count VI, above, which require Defendants to report any known or suspected child abuse. Defendants' above-described wrongful actions also constitute a public nuisance that must be remedied. Defendants' failure to notify law enforcement or other responsible authorities about known or suspected child predators as required by law constitutes a clear and present threat to public safety, an unreasonable

interference with rights, and a public nuisance (as set forth above) that can, and should, be remedied by this Court via injunctive relief.

124. As a direct and proximate result of Defendants' above-described wrongful actions, negligence, and gross negligence, Plaintiff and Class Members have suffered (and will continue to suffer) irreparable harm in the form of, *inter alia*, physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages. Such irreparable harm will not cease unless and until enjoined by this Court.

125. Plaintiff, therefore, on behalf of herself and Class Members, request the Court to enter an injunction compelling Defendants to:

- (i) immediately comply with the above-referenced statutory reporting requirements for all past and future cases of child sexual abuse;
- (ii) terminate the above-described ongoing and continuing public nuisance created by Defendants' failure to (a) safeguard and protect Plaintiff and Class Members from sexual predators within the Church, (b) discipline known offenders (rather than harboring them, protecting them, and moving them from parish to parish and covering up and further facilitating their abhorrent behavior), (c) report known sexual predators to law enforcement or other responsible authorities as required by law, (d) institute policies of transparency, disclosing in the public record the names of all known First Baptist leaders with plausible allegations of sexual misconduct against, releasing all corresponding documents and information, and terminating and expelling such offenders from Defendants' employ, (e) publicly admit their wrongdoing, (f) apologize to Plaintiff and Class Members, and (g) institute comprehensive protocols and procedures to compensate victims and

protect children and their families from abusive Church leaders going forward;

- (iii) make a full and complete disclosure of all records and information in their possession, custody or control, from 1972 to the present regarding the rape and sexual abuse of children by Hyles and other First Baptist leaders. Plaintiff further requests the Court (a) appoint a special master to ensure that sensitive information about the victims remains confidential (unless such information is authorized to be released by a victim), and (b) establish protocols and procedures for victims to review Defendants' or others' records pertaining to them to verify that they exist, are complete and accurate, and are available to be reviewed by law enforcement and other government officials;
- (iv) issue notice approved by Plaintiff and the Court to victims of their right and opportunity to provide additional information as victims or witnesses of child sexual abuse, such notice to be paid for by Defendants. Plaintiff further request the Court to establish protocols and procedures for the victims and witnesses to provide such information and place such protocols and procedures under the authority of the special master; and
- (v) establish a medical monitoring fund as set forth above.

126. The injunctive relief sought by Plaintiffs will fill in gaps in the public record by the immediate, complete, and accurate disclosure of sexual predators known to be dangerous to children, and provide a critical source of information for parents and childcare providers to best protect the children for whom they are responsible, as well as allow them to freely enjoy community and church activities without fear of being exposed to sexual predators with a known history of abusing children. The disclosure of the identities of persons who Defendants know are

dangerous child predators also will provide some redress for the injury and harm victims have suffered (and will continue to suffer) because of Defendants' wrongful conduct. Defendants' failure to take responsibility for their wrongful conduct and ongoing and continuing cover-up causes additional injury and harm to victims each day over and above the injury and harm they already have suffered at the hands of Defendants and the abusive Church perpetrators.

127. Plaintiff and Class Members have no adequate remedy at law in that monetary damages alone cannot (and would not) compensate them for the physical and/or mental injury, pain, suffering, and other actual and consequential injury, harm, and economic damages directly and proximately caused by Defendants' above-described wrongful conduct.

128. The hardship to Plaintiff and Class Members if an injunction does not issue exceeds the hardship to Defendants if an injunction is issued. Defendants' longstanding failure and refusal to report and release evidence proving a victim's accusations of sexual abuse by First Baptist leaders is undeniably punitive. It pits sexual abuse victims against the denials of formidable authority figures and has led to years of emotional and psychological harm. If, however, the facts are made public, victims are better insulated against the turmoil that occurs when memories of sexual abuse are disputed by powerful perpetrators. Better yet, it insures victims the right to proper mental health treatment. Accurate diagnosis and suitable treatment are precluded when accusations remain purposely unverified and the truth is suppressed. On the other hand, Defendants' cost of complying with the requested injunction requiring, for example, Defendants to report child sex abusers to law enforcement or other responsible authorities (which they are already required to do), is relatively minimal.

129. Issuance of the requested injunction will not disserve the public interest. To the contrary, it will end the above-described public nuisance, protect children and their families from

child sexual abuse going forward, and be a major step in the right direction toward the healing of child sex abuse victims.

VII. TOLLING OF THE STATUTE OF LIMITATIONS

130. The preceding factual statements and allegations are incorporated by reference.

Fraudulent Concealment

131. Defendants took active steps to conceal their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence. The details of Defendants' efforts to conceal their unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiff, and await further discovery. When some of this material information was revealed to Plaintiff, she exercised due diligence by investigating the situation, retaining counsel, and pursuing her claims. Defendants fraudulently concealed their wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the fraudulent concealment doctrine.

Equitable Estoppel

132. Defendants took active steps to conceal their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence. The details of Defendants' efforts to conceal their unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiff, and await further discovery. When some of this material information was revealed to Plaintiff, she exercised due diligence by investigating the situation, retaining counsel, and pursuing their claims. Defendants intentionally concealed their wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the doctrine of equitable estoppel.

Equitable Tolling

133. Defendants took active steps to conceal their above-described wrongful actions, inaction, omissions, cover-up, deception, and concealment, obstructive behavior regarding investigations, and conspiracy of silence. The details of Defendants' efforts to conceal their unlawful conduct are in their possession, custody, and control, to the exclusion of Plaintiff, and await further discovery. When some of this material information was revealed to Plaintiff, she exercised due diligence by investigating the situation, retaining counsel, and pursuing their claims. Defendants intentionally concealed their wrongful conduct. Should such be necessary, therefore, all applicable statutes of limitation (if any) are tolled under the doctrine of equitable tolling.

VIII. RELIEF REQUESTED

WHEREFORE, Plaintiff requests that judgement be entered against Defendants, ordering:

- a. Defendants be enjoined from further violations of Plaintiff's rights;
- b. Certification of a Class under Federal Rule of Civil Procedure 23(b)(3) of all persons who were sexually abused by Hyles and his agents/representatives during the relevant time period;
- c. Plaintiff be awarded compensatory, punitive, and exemplary damages for past and future pain and suffering and past and future emotional distress and mental anguish;
- d. Defendants pay for the costs of future counseling, therapy, and medical treatment related to the injuries described above;
- e. Plaintiff be awarded pre-judgement and post-judgement interest;
- f. Defendants pay Plaintiff's reasonable costs and attorneys' fees; and

g. All other relief the court deems necessary and equitable.

JURY DEMAND

Plaintiff, individually and on behalf of all others similarly situated, respectfully demands a trial by jury on all claims so triable.

Respectfully submitted,

/s/ Robert Montgomery
Robert A. Montgomery
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