

<b>Jane Doe One</b> , a pseudonym,	§	In the County Court
	§	
Plaintiff,	§	
	§	
v.	§	
	§	at Law Number 2
<b>The Village Church</b> ,	§	
	§	
	§	
	§	
Defendant.	§	Dallas County, Texas

**Defendant’s Original Answer**

Defendant, the Village Church, now files its Original Answer to Plaintiff’s Original Petition.

**I. General Denial**

1.1 Defendant generally denies each and every allegation in Plaintiff’s Original Petition and demands strict proof by a preponderance of the credible evidence.

**II. Discovery Control Plan**

2.1 Defendant objects to Plaintiff’s invocation of Discovery Control Plan 3 unless and until all parties can agree upon the specific details of a Level 3 control plan or the specifics can be determined by motion to the Court pursuant to Rule 190 of the Texas Rules of Civil Procedure.

**III. Affirmative Defenses**

3.1 Defendant denies that it is liable to Plaintiff for the amount of damages claimed due to the applicability of the Texas Charitable Immunity Act’s cap on damages as set forth in Chapter 84 of the Texas Civil Practices and Remedies Code.

3.2 Defendant further states that the provisions of Chapter 41 of the Texas Civil Practice and Remedies Code limit Plaintiff’s right to recover exemplary damages, if any, to no more than the

liability cap provided for by Section 41.008 of the Texas Civil Practice and Remedies Code, and to those conditions prescribed by Chapter 41 of the Texas Civil Practice and Remedies Code.

**3.3** Defendant asserts the limitations set forth in Section 41.007 of the Texas Civil Practices and Remedies Code and Chapter 304 of the Texas Finance Code, with respect to any pre-judgment interest, insofar as such may apply to any claim for alleged exemplary damages.

**3.4** Should a trier of fact establish that the incident of which the Plaintiff alleges occurred, Defendant asserts that it is not liable for the intentional criminal acts of its employee as these acts would be outside of the course and scope of the employment of said employee pursuant to Section 41.005 of the Texas Civil Practices and Remedies Code.

**3.5** Defendant alleges that any award of exemplary or punitive damages in this action would amount to a deprivation of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Sections 3, 13, and 19 of the Texas Constitution.

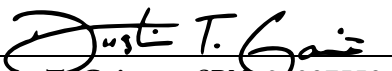
**3.6** Defendant further states that an award of exemplary or punitive damages in this civil action would amount to an excessive fine in violation of the Eighth Amendment to the United States Constitution and Article 1, Sections 3, 13, and 19 of the Texas Constitution. This Defendant further states that the criteria used for determining whether and in what amount exemplary or punitive damages may be awarded is impermissibly vague, imprecise, and inconsistent; and therefore, that any award of exemplary or punitive damages in this civil action, and in particular any award not bearing a single digit multiplier ratio to the amount of compensatory damages, would violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Sections, 3, 13, and 19 of the Texas Constitution.

#### IV. Prayer

Defendant respectfully asks this Court to dismiss this suit or render judgment that Plaintiff takes nothing, assess costs against Plaintiff, and award all other relief to which Defendant is justly entitled.

Respectfully submitted,

MIDDLEBROOK AND GOODSPEED, PLLC

By: 

Dustin T. Gaines—SBN: 24087553

4501 Merlot Avenue

Suite 200

Grapevine, TX 76051

(817) 484-0214 (phone)

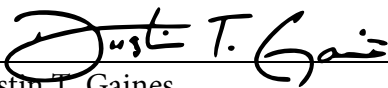
(214) 484-0194 (fax)

E-mail: [dustin@mglawteam.com](mailto:dustin@mglawteam.com)

*Counsel for Defendant*

**Certificate of Service**

The undersigned certifies that on August 23, 2019, a true and correct copy of the foregoing document was served on all known counsel of record in accordance with the Texas Rules of Civil Procedure.

  
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Dustin T. Gaines