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an assistant to Defendant Johnny McGowan (McGowan), who at that time was and still is an employee of Defendant Lakewood as an associate pastor. Defendant McGowan wore many hats, including working under supervision of Joel Osteen for the Defendant Lakewood's growing television operations while John Osteen was pastor of the Church. The Molina couple had two children together, born in 1994 and 1996, and then A.M.M. was born on October 15, 1999.

10. In early 2002, Defendant McGowan approached Plaintiff and solicited the work of Plaintiff's then wife for a business endeavor known as "Unitech," which was a side occupation of Defendant McGowan believed to be involved in construction work<sup>1</sup>. Plaintiff's wife worked for Defendant McGowan from May 2002 through March 2003 for a nominal amount per week, in addition to volunteering at and being a member of Defendant Lakewood.

11. In 2003, the Molinas were having marital problems and sought the services of Defendant Leo Tyler (Tyler), who at that time was and still is an associate pastor of Defendant Lakewood and operated a website named [www.healthysoul.org](http://www.healthysoul.org). Defendant Tyler would later incorporate that ministry into what became Healthy Soul Network, Inc. (HSN) in early 2008. The Molinas sought the services of Defendant Tyler in part or in whole due to their membership in Lakewood, and representations made to them by Defendant Lakewood's staff. Specifically, the Molinas first sought Defendant Tyler's services after a Sunday service, and Defendant Tyler counseled the couple in a series of sessions at Defendant Tyler's private residence.

12. In November 2003, Plaintiff sought the counseling of Defendant Osteen, who instructed Plaintiff to spend more time with his wife, and less time at the church. That meeting occurred after Defendant Osteen had counseled Mrs. Molina, along with Lisa Comes, and in which Defendant

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<sup>1</sup> This was after Hurricane Allison

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Osteen learned of the adulterous affair Mrs. Molina was having with Defendant McGowan.

13. In January 2004, Defendant Tyler called Plaintiff to inform him that Tyler could no longer provide counseling to the Plaintiff. Defendant Tyler's explanation was that Tyler's mentor, Defendant Paul Osteen (Osteen) said so and added that Mrs. Molina was "really messed up." This, despite continued assurances by Defendant Tyler that he would be the support necessary for sustaining the Plaintiff's marriage, claiming to Plaintiff that they "were tight, and that he is there for him [Plaintiff Molina]."

14. In 2006, Plaintiff learned of an extramarital affair of his wife with an individual, who was not a part of Defendant Lakewood; which occurred in 2006. The individual involved in that affair is not a defendant in this lawsuit, but by through the discovery of that 2006 relationship, Plaintiff learned of another extramarital relationship which was even longer in duration. At that time, Plaintiff discovered an extensive "phone relationship" between his then wife and Defendant McGowan. Later, Plaintiff learned that Mrs. Molina met with Defendant Osteen in November 2003 concerning the Molina marriage and confessed to Defendant Osteen of an illicit affair with Defendant McGowan. Defendant Osteen would later allege that, in fact, Defendant McGowan worked for Channel 55 but also indicated Defendant McGowan was disciplined by the Church for his infidelity by not allowing Defendant McGowan to teach the Family Life Institute classes held at the Church for six months.<sup>2</sup>

15. On or about Memorial Day 2006, Plaintiff met in Joel Osteen's office with Defendant McGowan and Defendant McGowan's wife after the Sunday service, to discuss the improprieties of the phone relationship between Defendant McGowan and Mrs. Molina. At that meeting, Defendant McGowan claimed he had been counseling Plaintiff's wife regarding the "other" affairs, and

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<sup>2</sup> Channel 55, KTBU "the tube" was owned at that time by the Church and/or members thereof, but has since changed ownership.

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suggested doing DNA testing of the Molina's eldest son. Defendant McGowan claimed he personally knew of three such extramarital affairs of Mrs. Molina. Plaintiff only knew conclusively about three affairs, but felt strongly there was a fourth. The Plaintiff and Defendant McGowan prayed that day for God to reveal the identity of the man in the fourth affair. Sometime later, God answered Plaintiff's prayer.

16. Plaintiff later relayed the entire conversation he had with Defendant McGowan to Plaintiff's sister, and Plaintiff's sister offered to pay for DNA testing of all three children, suspecting that the youngest of the Molina family (A.M.M.) was the one who was of particular interest. Plaintiff's sister knew that Defendant McGowan and Mrs. Molina were in a close relationship, and suspected more than a mere employer/employee bond existed between the two. The children were so examined with DNA testing, and in the first week of June 2006, Plaintiff found out A.M.M. was not his biologically child<sup>3</sup>. Only later in 2006, did Plaintiff learn from Defendant Tyler that there was an affair between Mrs. Molina and Defendant McGowan. Defendant Tyler related at that time to Plaintiff that Defendant Osteen knew of the affair, and instructed Defendant Tyler to no longer counsel *only* Plaintiff.<sup>4</sup> Defendant Tyler claimed at that time that when he had originally dropped Plaintiff as a client, that he did so because he was new at Defendant Lakewood and was fearful of reprisal since one of Mrs. Molina's extramarital affairs was with such a highly regarded member of Defendant Lakewood's pastoral staff as Defendant McGowan was and is.

17. Mrs. Molina would first sue for divorce from her husband in May of 2006<sup>5</sup>. However, the couple tried to reconcile their differences, the Plaintiff ultimately found out about the affair between

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<sup>3</sup> June 8, 2006, DNA testing occurred for the Molina children by and through the DNA Diagnostic Center.

<sup>4</sup> Presumably, counseling of sorts continued with Mrs. Molina by the staff of Defendant Lakewood

<sup>5</sup> Cause No. 2006-32838, *Molina v. Molina*, In the 309<sup>th</sup> Judicial District was filed on or about May 31, 2006 and was non-suited by Plaintiff Mrs. Molina on or about April 10, 2007.

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Defendant McGowan and Mrs. Molina in August of 2006, when Mrs. Molina told Plaintiff of same. Plaintiff later learned that Defendant McGowan took blood and/or swab DNA tests around the same time Plaintiff did in an effort to establish paternity. These tests were orchestrated by Mrs. Molina's attorney but at the time were unbeknownst to Plaintiff.<sup>6</sup> During their attempted reconciliation, Plaintiff also learned that should he decide to take action against Defendant McGowan, that Defendant McGowan would strike up a father/daughter relationship with A.M.M., and cut Plaintiff out of the relationship with his presumed child and wife entirely.<sup>7</sup>

18. Moreover, during the reconciliation, Plaintiff learned that the affair between Defendant McGowan and Plaintiff's wife lasted from at least 1998 until the discovery of the DNA results in 2006. When Plaintiff realized the treachery of what had occurred, he filed for divorce with a Houston attorney. That first attorney happened to be a member of Defendant Lakewood and did not want to "take them on," since Defendant Lakewood and the highly successful ministries of Joel and Victoria Osteen had become a world-wide phenomenon. That former attorney was dismissed by Plaintiff and Plaintiff hired the firm of Morley & Morley in late 2008, to represent him in Cause No. 2007-68681, *In the Matter of the Marriage of David Molina, et al*, in the 245<sup>th</sup> Judicial District of Harris County, Texas. The suit included Defendant McGowan as a co-respondent. Once the divorce decree finalized on April 16, 2009 and the Court held as a matter of law that A.M.M. was the biological offspring of Co-Respondent McGowan did Plaintiff discover the negligence, or in the alternative, the intentional acts and/or omissions of the parties named herein.

19. Pursuant to TEX. FAM. CODE SEC. 160.607, since Plaintiff did not learn the full story until late 2008-early 2009, Plaintiff was nevertheless held to be the presumed father, since Plaintiff had

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<sup>6</sup> July 14, 2006 by and through Genelex Corporation

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been the father of A.M.M. for at least four years.

**V. CAUSES OF ACTION**  
**—*Fraud by Nondisclosure*—**

20. Plaintiff had engaged members of the pastoral staff in 2003 for counseling of his marriage with his then wife. The Defendant Lakewood, and/or its staff, concealed from and/or failed to disclose certain facts to the Plaintiff. Namely, the fact that Plaintiff's ex-wife was seduced and engaged in an intimate extramarital affair with Defendant McGowan as far back as 1998. The Defendant Lakewood, and/or its staff, assumed a duty to disclose the facts to the Plaintiff. The facts, that of the intimate extramarital affair with Defendant McGowan, were material and resulted in the birth of A.M.M. Further, the Defendant Lakewood knew that Plaintiff was ignorant of the facts and the Plaintiff did not have an equal opportunity to discover the facts, namely due to his reliance on the Defendant Lakewood and/or its staff.

21. Moreover, the Defendant Lakewood, and/or its staff were deliberately silent when it had a duty, in part or in whole, to disclose the facts. Indeed, a confidential relationship was affirmatively established between Plaintiff and Defendant Lakewood when he engaged the secular marital counseling with Defendant Tyler in 2003. This relationship had little, if any, to do with religious doctrine, but it was a social relationship of trust and confidence. Certainly when Plaintiff met with Defendant Tyler, visited with Defendant Osteen, and prayed with Defendant McGowan, it was only natural that Plaintiff expected the agents of Defendant Lakewood to act in its best interest.

22. By keeping the intimate extramarital affair between the former Mrs. Molina and Defendant McGowan a secret, the Defendant Lakewood, and/or its staff intended to induce the Plaintiff to take action or refrain from acting. This is most clearly evidenced in a counseling session with Defendant

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<sup>7</sup> Plaintiff specifically does not allege in any way any other kind of relationship was contemplated by Defendant

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Osteen in late 2003, when Defendant Osteen advised Plaintiff to stay with his then wife, and to spend more time with her. Another example is when Defendant McGowan and Plaintiff met for counseling after the Sunday service on Memorial Day Weekend in 2006, when Defendant McGowan deliberately did not disclose that the improprieties between he, Defendant McGowan and Mrs. Molina went far beyond telephone conversations, even after revealing to Plaintiff that Mrs. McGowan was concurrently engaged in three separate intimate extramarital relationship besides his own.

23. Plaintiff definitely relied upon the Defendant Lakewood, and/or its staff's nondisclosures due, in part or in whole, to the confidential relationship that had developed over the years of Plaintiff's attendance and tithing to the social body of believers. The Plaintiff and his child A.M.M. were harmed as a result of acting without the knowledge of the undisclosed facts. Specifically, since the full picture of what happened did not occur to the Plaintiff until the Final Divorce Decree in 2009, he now has to support and raise A.M.M. Further, A.M.M. will eventually need counseling as to her genetic father was different that the man she knew as her presumed father.

***–Conspiracy to Commit Fraud–***

24. The Defendants herein, and others, were a combination of more than two persons. The object of the combination was to shield Plaintiff of knowledge of Mrs. Molina's affair with Defendant McGowan and to keep silent regarding the adultery for the protection of Defendant McGowan and Defendant Lakewood generally. The Defendants herein, and others, had a meeting of the minds on the course of action, one of the members (Defendant McGowan) committed an unlawful act (adultery) to further the course of action (the affair), and as a result the Plaintiff and his daughter

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McGowan.

were harmed in the past, present, and future.

***—The Defendants' Acts and/or Omissions Above are  
Intentional and/or Grossly Negligent Which Warrant Punitive Damages—***

25. Plaintiff further alleges that the conduct or misconduct of the Defendant rises to the level of intentional and willful acts and/or gross negligence by the TEX. CIV. PRAC. & REM. CODE CHAPTER 41, *et seq.* and pleads for punitive damages accordingly.

**V. OTHER MATTERS**  
***—Respondeat Superior, Aiding and Abetting, and Other Matters—***

26. Plaintiff alleges that at all time material here to the individual Defendants were acting in the course and scope of their employment for Defendant Lakewood, and/or Lakewood affiliated industries or endeavors and Plaintiff seeks to hold Defendant Lakewood vicariously liable for the acts and/or omissions for its agents herein. Defendant Tyler was acting both in the course and scope of his employment for Defendant Lakewood and for what would become Defendant HSN.

27. Plaintiff also alleges that the individual defendants aided and abetted each other in their acts and/or omissions, and seeks to therefore hold them jointly liable for the acts of the other.

28. Although Defendant Osteen is a doctor, nothing in this Petition gives rise to claims of health care and/or treatment.

29. Further, nothing in this Petition should be construed as any claims regarding the parties' religious views, or any of the religious doctrine of Defendants Lakewood and/or Defendant HSN.

30. If necessary, Plaintiff pleads the discovery rule as a bar to the invocation of the statute of limitations.

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31. If necessary, Plaintiff pleads the affirmative defense of fraud as a bar to the invocation of the statute of limitations.

32. If necessary, Plaintiff pleads fraudulent concealment as an affirmative defense as a bar to the invocation of the statute of limitations.

**V. DAMAGES**

33. Under our present system of justice, remedies are best expressed as damages. Damages are best expressed in United States dollars and cents. Plaintiff sues herein both individually and as next friend to A.M.M. for damages which include, but are not necessarily limited to:

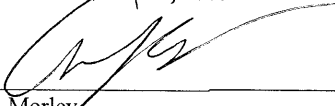
- a. Actual Damages;
- b. Out-of-Pocket Damages to date for the raising of A.M.M.;
- c. Special Damages, specifically the support and care for A.M.M. until age of majority.
- d. Costs of Court;
- e. Exemplary Damages;
- f. Pre- and post-Judgment interest

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer herein, and upon trial of the merits, asks for all other relief, in law or in equity, to which he may show himself to be justly entitled.

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Respectfully submitted,

**MORLEY & MORLEY, P.C.**



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