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11 MONTANA EIGHTH JUDICIAL DISTRICT COURT
12 CASCADE COUNTY

13 JANE DOE, 1, an Adult Woman,

NO.:

14 Plaintiff,

DEPT.:

15 vs.

COMPLAINT FOR DAMAGES

16 ORDER OF FRIARS MINOR,
17 CAPUCHIN, aka, PROVINCE OF ST.
18 JOSEPH OF THE CAPUCHIN ORDER,
19 INC., THE ROMAN CATHOLIC
20 BISHOP OF THE DIOCESE OF
21 GREAT FALLS-BILLINGS, A
22 CORPORATION SOLE, aka, the
23 DIOCESE OF GREAT FALLS-
24 BILLINGS,

DEMAND FOR JURY TRIAL

25 Defendants.

26 **COMES NOW** the Plaintiff, by and through her counsel of record, Julio K. Morales,
27 Esq., MORALES LAW OFFICE and TAMAKI LAW OFFICES, *PRO HAC VICE*, and
28 alleges as follows:

I. INTRODUCTION

1 1.1 Plaintiff suffered physical, sexual, and emotional abuse by Father Emmett Hoffmann,
2 who was employed by the Order of Friars Minor, Capuchin, the St. Labre Mission
3 School, and the Roman Catholic Bishop of the Diocese of Great Falls/Billings
4 (hereinafter referred to as “the Bishop”). Plaintiff was then a minor in the care, custody,
5 and control of the St. Labre Mission School, and/or Father Hoffmann, and the Bishop.

7 1.2 Defendant, the Order of Friars Minor, Capuchin, has existed since the sixteenth
8 century. The Order is known in Latin as the Ordo Fratrum Minorum, Capuccinorum
9 (hereinafter referred to as the “OFM/CAP” or “the Order”), and is one of several orders
10 devoted to St. Francis of Assisi. The Order is divided worldwide into Provinces which
11 administer the brothers, priests, friaries, and schools within their boundaries. At all
12 relevant times, the Province of St. Joseph of the Capuchin Order, Inc., headquartered in
13 Detroit, Michigan was jointly responsible with the Bishop of the Diocese of Great
14 Falls/Billings to supervise Father Emmett Hoffmann.

17 1.3 Defendant, the Roman Catholic Bishop of the Diocese of Great Falls/Billings, a
18 corporation sole, (hereinafter “the Bishop”) was part of the larger Diocese of Helena
19 until 1904 when it split and assumed control generally over eastern Montana. The
20 Diocese of Great Falls/Billings consists of approximately 65 parishes, 45 missions,
21 eight chapels of occasional worship, and a territory of approximately 94,158 square
22 miles. The St. Labre Mission is located in Ashland, Montana and is presently headed
23 by the Reverend Paschal Siler, of the Order of Friars Minor, Capuchin.

25 1.4 The OFM/CAP and/or the Bishop maintained authority, control, and supervision over
26 priests, including Father Hoffmann, who staffed the St. Labre Mission School. The St.
27 Labre Mission School was and is situated within the geographical boundaries of the
28

1 Diocese of Great Falls/Billings. The Bishop has ultimate authority within the Diocese
2 to consent, agree, assent, grant faculties, and/or permit any priest, man or woman
3 religious, deacon, brother or friar to assume, occupy, or staff a position within the
4 Catholic religious churches, schools, and institutions associated with the diocese.
5

6 1.5 Eight men have served as Bishop of the Great Falls-Billings Diocese, beginning with
7 Jean-Baptiste Brondel, who served from 1884-1903 when Montana had only one
8 diocese. Mathias Clement Lenihan was consecrated as the first Bishop of the Great
9 Falls Diocese in 1904. Edwin Vincent O’Hara served as Bishop for the Diocese of
10 Great Falls from between 1930 and 1939, when he was succeeded by William Joseph
11 Condon, who served until his death in 1967. Elden Bernard Mathias Schuster was
12 installed as Bishop in 1968 and served in that capacity until 1978. Thomas Joseph
13 Murphy was installed as Bishop for the Great Falls Diocese. George Joseph served as
14 Bishop from 1978 until 1987 when he was named Co-adjutor Bishop of Seattle.
15 Anthony Michael Milone was appointed Bishop of the Great-Falls Diocese in 1987 and
16 served in that capacity until his retirement in 2007. The current Bishop of the Dioceses
17 of Great Falls-Billings is Michael W. Warfel.
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21 **II. PARTIES**

22 2.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
23 forth herein.

24 2.2 Plaintiff is a female adult citizen and resident of the State of Montana. Plaintiff’s
25 identity is represented by the pseudonym “Jane Doe” in this Complaint to protect her
26 privacy because she was the victim of sex crimes as a minor. Plaintiff’s identity will be
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1 made known to the Defendants by separate communication. Plaintiff will file a motion
2 seeking permission to proceed anonymously after the Defendants have been served.

3 2.3 Defendant, the Order of Friars Minor, Capuchin, was and, at all relevant times,
4 continues to be a Roman Catholic religious organization and non-profit corporation
5 conducting business in the State of Montana. The OFM/CAP maintains a parish in St.
6 Labre and Ashland, Montana. The resident agent for purposes of process is located in
7 Great Falls, Montana.

8
9 2.4 Defendant, the Bishop was and continues to be a Roman Catholic organization and
10 non-profit corporation conducting business in the State of Montana. The Bishop is
11 headquartered in Great Falls, Montana. Defendant, the Bishop, owns the property
12 located at 1000 Tongue River Rd. in Ashland, Montana and the St. Labre Mission
13 School. Father Emmett Hoffmann is now a diocesan priest, granted faculties and
14 employed by and under the supervision of the Bishop of the Diocese of Great
15 Falls/Billings.
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18 **III. JURISDICTION AND VENUE**

19 3.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
20 forth herein.

21
22 3.2 This Honorable Court has jurisdiction and venue over the parties and subject matter of
23 this lawsuit pursuant to M.C.A. 25-2-118(1), M.C.A. 25-2-122(2), and M.R.Civ.P 4B.

24 3.3 Venue is proper in Cascade County pursuant to MCA 25-2-122, since Defendant, the
25 Bishop, is headquartered in Great Falls, Cascade County, Montana; Defendant
26 OFM/CAP is a foreign corporation whose registered agent is in Great Falls, Cascade
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1 County; and, the St. Labre Mission Parish falls within the authority of the Diocese of
2 Great Falls/Billings.
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5 6 **IV. FACTS**

7 4.1 From approximately 1955 until 1962, Plaintiff was a minor and student at the St. Labre
8 Mission School in Ashland, Montana.

9
10 4.2. From approximately 1955 until 1962, Plaintiff was victimized physically, sexually, and
11 emotionally by Father Emmett Hoffmann at the St. Labre Parish and School.

12 4.3 While inflicting corporal punishment upon Plaintiff, Father Emmett Hoffmann removed
13 Plaintiff's panties and rubbed her buttocks before and after he spanked her. Father
14 Emmett Hoffmann would tell Plaintiff that God told him to punish her in that manner.

15
16 4.4 From approximately 1955 until 1962 and sometime after the incidents described in
17 paragraph 4.3 began, Father Emmett Hoffmann exposed himself to Plaintiff and made
18 her touch and rub his penis.

19 4.5 Sometime between approximately 1955 through 1962, Father Emmett Hoffman
20 digitally penetrated Plaintiff's vagina and on at least one occasion digitally penetrated
21 Plaintiff's anus.

22
23 4.6 Sometime between approximately 1955 through 1962, the incidents of sexual abuse
24 perpetrated by Father Emmett Hoffmann upon Plaintiff progressed in scope and
25 severity and included acts of sexual intercourse that were unwanted and unconsented to
26 by Plaintiff, a minor under the age of eighteen.
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1 4.7 The sexual abuse and exploitation of Plaintiff and the circumstances under which it
2 occurred caused Plaintiff to develop various psychological coping mechanisms,
3 including not recognizing the injuries she experienced as a result of the sexual abuse
4 described herein.
5

6 4.8 From approximately 1955 through and beyond 1962, Defendant, the Bishop, owned and
7 oversaw operations of the St. Labre Mission School. The Bishop had authority over the
8 St. Labre Mission under its corporate structure and under Canon Law. It presently
9 retains such authority. The Bishop, furthermore, ordained Father Emmett Hoffmann as
10 a diocesan priest.
11

12 4.9 From approximately 1954 through 1994, Father Emmett Hoffmann was a member of the
13 Order of Franciscan Minor, Capuchin and employed as a Capuchin priest by Defendants,
14 the OFM/CAP and the Bishop. He is currently a diocesan priest with faculties granted to
15 him by the Bishop.
16

17 **V. GENERAL ASSERTIONS COMMON TO ALL CAUSES OF ACTION**

18 5.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
19 forth herein.
20

21 5.2 At all relevant times to this Complaint, Plaintiff was a minor child under the care,
22 custody, responsibility and/or protection of the Bishop, the OFM/CAP and the St. Labre
23 Mission School. Father Emmett Hoffmann was a perpetrator of sexual abuse who
24 preyed upon Plaintiff. Upon information and belief, the Bishop and the OFM/CAP
25 knew or should have known that Father Emmett Hoffmann was committing acts of
26 sexual abuse against Plaintiff.
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1 5.3 At all relevant times, Father Emmett Hoffmann was under the authority, supervision,
2 and control of the OFM/CAP, and the Roman Catholic Bishop of the Diocese of Great
3 Falls/Billings, a corporation sole. Father Emmett Hoffmann used his position as a priest
4 and authority figure to molest, exploit, and abuse Plaintiff at the St. Labre Parish
5 Mission. Defendants, the OFM/CAP and the Bishop including their employees, agents,
6 and assigns, had a duty to ensure the safety of all children, including Plaintiff, while she
7 was a student and resident of the St. Labre Mission Parish and the St. Labre Mission
8 Parish School. The St. Labre Mission Parish and/or Church, the OFM/CAP, and the
9 Bishop stood “in loco parentis” as the caretakers for the Plaintiff. At all relevant times
10 hereto, Father Emmett Hoffmann perpetrated sexual abuse on Plaintiff while she was
11 under his care, custody, control, supervision, and protection.
12

13
14 5.4 At all relevant times to this Complaint, Father Emmett Hoffmann was an employee and
15 agent of the Bishop and/or the OFM/CAP. Upon information and belief and at all
16 relevant times hereto, Father Emmett Hoffmann acted under the shield and protection
17 of his clerical agency with the Bishop and/or the OFM/CAP.
18

19 5.5 Upon information and belief, the Bishop operates under authority of the Code of
20 Canon Law, which provides in part that each Bishop must maintain “secret archival
21 files” of any material injurious to the Catholic Church. The OFM/CAP functions under
22 similar or identical authority of the Code of Canon Law and the OFM/CAP’s governing
23 Provincial must maintain “secret archival files” of any material injurious to the Order
24 and the Roman Catholic Church. Upon information and belief, maintenance of these
25 “secret files” results in suppression of any data and evidence related to child sexual
26 abuse committed by priests and other clergy, including but not limited to the names of
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1 victims, the identities of perpetrators, and actions taken by the Church to “fix”
2 problems involving allegations of child sexual abuse. Thus, the Bishop and the
3 OFM/CAP hid, occulted, suppressed, and/or destroyed evidence.
4

5 5.6 At all relevant times to this Complaint, the Bishop and the OFM/CAP, on their own and
6 through their employees and agents, including the perpetrator named herein, acted
7 under circumstances and conditions likely to produce great bodily harm to Plaintiff;
8 willfully caused or permitted Plaintiff to suffer unjustifiable physical pain or mental
9 suffering; willfully caused or permitted injury to Plaintiff’s health; and willfully
10 endangered Plaintiff and/or permitted her health to be endangered.
11

12 5.7 At all relevant times to this Complaint, Father Emmett Hoffmann’s acts of sexual abuse
13 and molestation were the type of acts that were reasonably foreseeable for
14 organizations, such as the Roman Catholic Bishop of the Diocese of Great Falls-
15 Billings and the OFM/CAP, who were and are entrusted with the care, custody,
16 instruction, and protection of children. Defendants, the Bishop and the OFM/CAP,
17 occupied a special custodial relationship with the children delivered into their care and
18 thus knew or should have known that by sending a perpetrator to remote areas, they
19 created an unreasonable risk that vulnerable children, including Plaintiff, would be
20 victimized by the priest named herein.
21

22
23 5.8 Plaintiff’s causes of action did not begin to accrue until she discovered the acts, abuse,
24 and/or exploitation and its causal relationship to an injury or condition suffered by her.
25 Plaintiff has yet to discover this causal relationship and will require years of counseling
26 as a result of the abuse she suffered.
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1 5.9 This Complaint is not time-barred since Plaintiff did not discover prior to three years
2 before this lawsuit was filed, pursuant to Montana Code Annotated (M.C.A.) Section
3 27-2-216, that the injuries which are the subject of this matter were caused by the
4 childhood sexual abuse perpetrated upon Plaintiff as set forth above; nor should she
5 have reasonably made such a discovery.
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8 **VI. FIRST CAUSE OF ACTION - NEGLIGENCE**
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10 6.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
11 forth herein.

12 6.2 At all relevant times hereto, the Bishop and the OFM/CAP had certain duties to protect
13 the children entrusted to them from harm, injury, exploitation, and sexual abuse as well
14 as to ensure the general safety and well-being of the Plaintiff, as alleged herein.
15

16 6.3 At all relevant times hereto, the Bishop and the OFM/CAP breached those duties by
17 acting as alleged herein.

18 6.4 At all relevant times hereto, the Bishop and the OFM/CAP breached the standard of
19 care reasonably to be expected from a church caring for vulnerable children under the
20 same or similar conditions as alleged herein.
21

22 6.5 The negligence of the Bishop and the OFM/CAP directly and proximately caused life-
23 long, persistent damages to Plaintiff as alleged herein.

24 6.6 The acts, omissions, negligence, and recklessness of the Bishop and the OFM/CAP
25 directly and proximately injured and damaged and continue to injure and damage
26 Plaintiff as alleged herein and as will be proven at trial.
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1 6.7 Plaintiff suffered and continues to suffer damages for pain and suffering, physical,
2 emotional, psychological distress, and extreme anguish, loss of earnings and earning
3 capacity, and other general and special damages in an amount to be proven at trial.
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5 **VII. SECOND CAUSE OF ACTION – NEGLIGENT SUPERVISION**

6 7.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
7 forth herein.

8 7.2 At all relevant times hereto, the Bishop, the OFM/CAP, and Father Emmett Hoffmann
9 shared an employment relationship. Such relationship existed when the Plaintiff was
10 abused.
11

12 7.3 The Bishop, the OFM/CAP, and Father Emmett Hoffmann mutually assented to the
13 employment relationship between them.

14 7.4 At all relevant times hereto, the Bishop and the OFM/CAP had a duty to reasonably
15 supervise Father Emmett Hoffmann and his activities.
16

17 7.5 The Bishop and the OFM/CAP breached their duty to reasonably supervise Father
18 Emmett Hoffmann.

19 7.6 The acts, omissions, negligence, and recklessness of the Bishop and the OFM/CAP
20 directly and proximately injured and damaged and continue to injure and damage
21 Plaintiff as alleged herein and as will be proven at trial.
22

23 7.7 Plaintiff suffered and continues to suffer damages for pain and suffering, physical,
24 emotional, psychological distress, and extreme anguish, loss of earnings and earning
25 capacity, and other general and special damages in an amount to be proven at trial.
26

27 **VIII. THIRD CAUSE OF ACTION - PUNITIVE DAMAGES**

28 [M.C.A. §27-1-220, et. seq.]

1 8.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
2 forth herein.

3
4 8.2 Plaintiff reserves the right to seek punitive damages pursuant to M.C.A. §27-1-220, et.
5 seq., if it is revealed that Defendants' placement of Father Emmett Hoffmann at the St.
6 Labre Mission School occurred despite knowledge of facts and/or an intentional
7 disregard of facts that created a high probability of harm to Plaintiff.
8

9
10 **IX. FOURTH CAUSE OF ACTION – RESPONDEAT SUPERIOR**

11 9.1 Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set
12 forth herein.

13 9.2 At all relevant times hereto, Father Emmett Hoffmann and Defendants shared an
14 employment relationship. Such relationship existed when the Plaintiff was abused.
15

16 9.3 The Bishop, the OFM/CAP, and Father Emmett Hoffmann mutually assented to the
17 employment relationship between them.

18 9.4 At all times relevant hereto, Father Emmett Hoffmann was acting within the scope of
19 his employment with the Bishop and the OFM/CAP and pursuant to the faculties
20 granted to him by the Bishop.
21

22 9.5 The Bishop and the OFM/CAP are vicariously liable for the acts and omissions of
23 Father Emmett Hoffmann described herein.

24 **X. DAMAGES / PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff demands judgment against the Defendants, and each of
26 them, as follows:
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1. Judgment against the Defendants, jointly and severally, in an amount that will fairly compensate Plaintiff for all damages sustained;
2. Statutory costs and attorney=s fees;
3. Special damages in an amount to be proven at trial, including all pre-judgment interest thereon calculated at the maximum rate allowable by law;
4. Plaintiff's general damages in an amount to be proven at trial;
5. Equitable relief that will ensure that the Bishop and the OFM/CAP publicly acknowledge the sexual abuse that Plaintiff suffered, publicly acknowledge the pain and suffering that she continues to suffer, and which will result in the formulation of policies and procedures to ensure the future physical, spiritual, and emotional safety of children and parishioners entrusted to the Bishop and the OFM/CAP in Montana and elsewhere;
6. Such other and further relief as the Court deems just and equitable under the circumstances.
7. Plaintiff hereby demands a jury trial in this matter.

DATED: ___ of December, 2011.

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TAMAKI LAW OFFICES

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