

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

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COORDINATION PROCEEDING No. JCCP 4286 and

SPECIAL TITLE (RULE 1550(b)) JCCP 4359

IN RE:

THE CLERGY CASES I & III /

DEPOSITION OF FATHER 

FRIDAY, FEBRUARY 3, 2006

Reported by:

LUCY CARRILLO-GRUBBS, RMR, CRR, RPR, CSR

License No. 6766

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EXAMINATION BY
MR. HALE

PAGE
6

(No exhibits were marked.)

A P P E A R A N C E S

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37 Also Present: KEVIN FOOR, VIDEOGRAPHER

38
39 ---o0o---

1 BE IT REMEMBERED THAT, pursuant to the laws
2 pertaining to the taking and use of depositions, and
3 on February 3, 2006, commencing at the hour of
4 2:19 p.m., thereof, at the offices of LEWIS, BRISBOIS,
5 BISGAARD & SMITH, LLP, One Sansome Street, Suite 1400,
6 San Francisco, California, before me, LUCY
7 CARRILLO-GRUBBS, CRP, RMR, CRR, RPR, CSR No. 6766, a
8 Certified Shorthand Reporter in and for the State of
9 California, personally appeared

10
11 FATHER [REDACTED]
12

13 called as a witness by the Plaintiffs; who, having
14 been by me first duly sworn, was thereupon examined
15 and interrogated as hereinafter set forth.

16 -0-

17 VIDEOTAPE OPERATOR: Good afternoon.

18 This is the beginning of tape 1, Volume 1 in the
19 deposition of Father [REDACTED], in the matters
20 of the Clergy Cases I and III. Those are case numbers
21 BC308555 and 01130925. They're filed in the Superior
22 Court of the State of California, County of Los
23 Angeles.

24 Today is February 3rd of the year 2006. The time
25 is approximately 2:19. The location is the law

1 offices of Lewis, Brisbois, Bisgaard & Smith, they're
2 at One Sansome Street, Suite 1400, in San Francisco.

3 This deposition is being taken pursuant to notice.
4 The videotape is being produced on behalf of Nye,
5 Peabody and Stirling, who represent a plaintiff.

6 My name is Kevin Foor, I'm a notary public for the
7 State of California, County of Marin. I work for Dan
8 Mottaz Productions at 182 Second Street, Suite 202 in
9 San Francisco.

10 Will the attorneys present please identify
11 themselves and who they represent for the record.

12 MR. HALE: Tim Hale for plaintiffs.

13 MS. HUBERT: Vanessa Hubert, Gilbert, Kelly,
14 Crowley & Jennett for the Archdiocese of Los Angeles,
15 Clergy I.

16 MR. HABEL: James Habel of Hennigan, Bennett &
17 Dorman for the Archdiocese of Los Angeles and
18 defendants liaison counsel in Clergy I.

19 MR. MATIASIC: Paul Matiasic, Lewis, Brisbois,
20 Bisgaard & Smith for defendant, The Franciscan friars
21 of California, and the witness in Clergy I and III.

22 VIDEOTAPE OPERATOR: Thank you.

23 If the court reporter will please administer the
24 oath, we can begin.

25

1 FATHER [REDACTED],
2 having been first duly sworn by the Reporter to tell
3 the truth, the whole truth, and nothing but the truth,
4 testified as follows:

5 -oOo-

6 EXAMINATION

7 BY MR. HALE:

8 Q. Good afternoon, Father, my name is Tim Hale.

9 A. Good afternoon.

10 Q. Could you state and spell your full name for
11 the record.

12 A. Father [REDACTED], [REDACTED] is [REDACTED] [REDACTED]
13 stands for [REDACTED], [REDACTED], [REDACTED].

14 Q. Thank you.

15 Have you ever had your deposition taken
16 before?

17 A. No.

18 Q. Okay.

19 I assume your attorney has gone over the
20 process with you and I just want to touch on a few
21 points, to make sure we're on the same page. You
22 understand that today your testimony has the same
23 force and effect as if we were sitting in a court of
24 law before a judge and jury?

25 A. Yes.

1 Q. You understand you've been placed under oath
2 by the court reporter?

3 A. Yes.

4 Q. Okay.

5 Have you consumed any alcohol or drugs in the
6 last 24 hours that might somehow impair your ability
7 to give good clear testimony?

8 A. No. I take a lot of heart medicines and blood
9 pressure medicines but --

10 Q. Does that effect your cognitive function?

11 A. No, no.

12 Q. Is there any reason you can't give your best
13 testimony today?

14 A. No.

15 Q. Okay.

16 You're doing a real good job so far, allowing
17 one person to speak at a time. As you can see, the
18 reporter's taking down what I'm saying and what you're
19 saying, so during the deposition it's important that
20 when I ask you a question, let me finish my question
21 before you answer. By the same token, when you're
22 responding to one of my questions, I'll do the best I
23 can to not interrupt you and let you finish your
24 question, and we'll try not to cross over each other's
25 statements, okay?

1 A. Yes.

2 Q. Okay.

3 If I ask you a question, I don't want you to
4 guess to the answer; however, I am entitled to your
5 best estimate. Do you understand the difference
6 between a guess and an estimate?

7 A. Yes.

8 Q. Okay.

9 And by the same token, if I ask you a question
10 and you respond, I'm going to assume that you
11 understood what I meant by the question.

12 So if you don't understand a question I ask
13 you, it's very important that you ask me to rephrase
14 or explain whatever part of it you don't understand.

15 A. Sure.

16 Q. Okay.

17 At the end of your testimony it's going to be
18 placed into a typed booklet form, you're going to have
19 a chance to review it and make any changes you think
20 are necessary.

21 But you need to keep in mind that, if you do
22 make any changes, either myself or some other attorney
23 in this matter will be free to comment on those
24 changes at the time of trial. So it's very important
25 that you give your best testimony today.

1 Do you understand that?

2 A. Yes.

3 Q. Great.

4 You're also doing a real good job of giving
5 affirmative answers. Just so we'll have a nice clear
6 record, continue to -- to do that. What we want to
7 avoid specifically is responding to questions with
8 nods of the head or uh-huhs and uh-uhs, and that kind
9 of thing.

10 Do you understand that?

11 A. Yes.

12 Q. Great.

13 Okay. Not holding you prisoner here. I
14 understand your endurance is not as strong as it may
15 have been when you were a younger man. So if you need
16 to take a break at any time let me know and we'll take
17 a break, okay?

18 A. Yes.

19 Q. Great.

20 Did you review any documents --

21 MR. MATIASIC: If I can insert an objection.

22 MR. HALE: Yeah.

23 MR. MATIASIC: I wanted to object for the
24 record to the extent that the notice purports to
25 notice Father [REDACTED] as a hierarchy witness. He was

1 never a hierarchy witness and so won't be answering
2 any questions in that regard. Also wanted to note for
3 the record that we've sent a letter to -- to you, Tim,
4 plaintiff's counsel, I think it was also cc'd to
5 Mr. Demarco, plaintiff's liaison counsel, advising you
6 of the correspondence from Father [REDACTED]
7 cardiologist and how the cardiologist has indicated
8 that a time limitation is appropriate. It was an hour
9 and a half on -- on his correspondence, let's go for
10 an hour and a half, see where we're at and we'll take
11 it from there.

12 MR. HALE: Fair enough.

13 And your objection is noted regarding hierarchy
14 status, I would and -- hang on, just -- I'll get to
15 you in a second, Jim. I would state that I'd like to
16 reserve -- let's see what his background is and then
17 we'll see if that objection is going to be responded
18 to or not.

19 Jim?

20 MR. HABEL: I'll join the objection to the
21 notice if it purports to note him as a hierarchy
22 witness, either for the Archdiocese or in general.

23 MS. HUBERT: And I join in that as well.

24 MR. HALE: Anything else? Anyone?

25 MR. MATIASIC: Nope.

1 MR. HALE: Okay.

2 Q. Father, did you review any documents in
3 preparation for your deposition today?

4 A. No.

5 Q. Okay.

6 What I want to start with is I want to go
7 through your educational background and then your
8 assignment history. So let's start with your
9 educational -- let me ask you this, where were you
10 born?

11 A. I was born in Los Angeles.

12 Q. Okay.

13 And did you attend St. Anthony's Seminary?

14 A. Yes.

15 Q. Was that a five-year program at the time?

16 A. It was. I was only there four years.

17 Q. Okay.

18 What year did you start at St. Anthony's?

19 A. Sophomore.

20 Q. So by what -- 19 --

21 A. I --

22 Q. Roughly, you don't have to guess.

23 A. Around 1949.

24 Q. Okay.

25 We're going to be going over a lot of dates.

1 A. Yeah.

2 Q. I don't expect you to remember every one
3 exactly, just do your best, if you can approximate
4 when that was, that would be fine.

5 Where did you attend your freshman year of
6 high school?

7 A. Cathedral High School in Los Angeles.

8 Q. And why did you transfer up to St. Anthony?

9 A. I felt I had a vocation to become a Franciscan
10 priest.

11 Q. And what led you to -- to feel that way?

12 A. Prayer and reflection, meditation.

13 Q. Did you have any contact with Franciscans?

14 Were they -- I don't know, recruited you to
15 St. Anthony's or anything like that?

16 MR. MATIASIC: Vague and ambiguous.

17 BY MR. HALE:

18 Q. You can answer.

19 A. My uncle -- I had two uncles who were
20 Franciscan seminarians. I made retreats at a
21 Franciscan retreat house.

22 Q. Your two uncles, were they seminarians while
23 you were in high school?

24 A. No. The --

25 Q. Were they -- I'm sorry, I didn't mean to

1 interrupt you.

2 Go ahead.

3 A. No.

4 Q. Were they members of the Province?

5 A. No.

6 Q. While --

7 A. No, they just went to the seminary.

8 MR. MATIASIC: Father, let him finish his
9 question, okay?

10 THE WITNESS: Okay.

11 BY MR. HALE:

12 Q. So they attended St. Anthony's as well?

13 A. Yes.

14 Q. Okay.

15 Do you know what years they graduated from
16 St. Anthony's?

17 A. No.

18 Q. Okay. Same last name as you, [REDACTED]?

19 A. No.

20 Q. What were their last names?

21 A. Drake and Pirri.

22 Q. Okay. Did any -- did you speak with any --
23 well, strike that.

24 Where -- you said you attended a seminar or
25 some sort of a retreat regarding --

1 A. Retreat.

2 Q. Is that with the Franciscans?

3 A. Yes.

4 Q. Was that the Serra Retreat House?

5 A. Yes.

6 Q. Do you recall who led that retreat?

7 MR. MATIASIC: Vague and ambiguous.

8 THE WITNESS: Father --

9 MR. MATIASIC: Lacks foundation.

10 BY MR. HALE:

11 Q. You can answer.

12 A. Father Augustine Holbrick.

13 Q. Okay. And what -- was attending the seminary
14 discussed at that retreat?

15 A. No.

16 Q. Did you talk to anyone at that retreat about
17 attending the seminary?

18 A. My -- I have my uncle Henry Drake was a very
19 religious man and I had a bed in his room, and he put
20 a note on my pillow saying now is a good time to think
21 about becoming a Franciscan.

22 Q. Okay.

23 Before you transferred to St. Anthony's did
24 you have any discussions with -- with members of the
25 Province about what would be involved in attending the

1 seminary?

2 A. I don't remember.

3 Q. Okay. Do you recall if any Franciscans had
4 any meetings with your -- your parents, for instance,
5 or your family about what would be involved in you
6 attending the seminary?

7 A. No.

8 Q. Okay.

9 Did you discuss with your uncles what seminary
10 life was like?

11 A. I don't remember.

12 Q. Okay. When you decided you were going to
13 transfer to St. Anthony's, did you go through an
14 application process?

15 A. Yes.

16 Q. And what did that involve?

17 A. Answering certain questions, also I believe a
18 medical test.

19 Q. Okay. Do you recall --

20 A. And letters of reference, I believe.

21 Q. Okay. Were the letters of reference from
22 family members or parish or --

23 A. Parish.

24 Q. From your pastor?

25 A. Pastor.

1 Q. Okay.

2 And what were the questions that were asked?

3 MR. MATIASIC: On the application?

4 MR. HALE: Yes.

5 THE WITNESS: I don't remember.

6 MR. HALE: Okay.

7 Q. And you said it was a medical exam, was it
8 just a general physical?

9 A. Physical.

10 Q. Was there any psychological aspect to the
11 exam, to your knowledge?

12 A. No.

13 Q. Okay.

14 And did you see some kind of written report
15 from your doctor about the exam?

16 A. I think he signed a paper.

17 Q. Do you know if it was sent to the seminary?

18 A. I believe, or I -- I sent it for him, I don't
19 know.

20 Q. Okay.

21 Were you interviewed by any Franciscans before
22 you transferred?

23 MR. MATIASIC: Formally interviewed as opposed
24 to discussions he had with his uncles?

25 MR. HALE: I don't think they were Franciscans

1 though.

2 Q. Your uncles were not members of the Province,
3 correct?

4 A. No, I wasn't -- I can't remember being
5 interviewed.

6 Q. Okay.

7 Did you have any informal, as your counsel
8 suggested, discussions with Franciscans, before you
9 went to join the seminary?

10 A. I visited St. Joseph's Church, which is run by
11 the Franciscans, and talked to one of the friars.

12 Q. Do you remember who you talked to?

13 A. Father Burton Fox.

14 Q. And did he discuss with you what seminary life
15 was like?

16 A. I just told him I was going.

17 Q. Okay.

18 Do you remember what he said in response?

19 A. No.

20 Q. Okay.

21 So you attended St. Anthony's from
22 approximately 1949 to 1953?

23 A. I believe I graduated from the fifth class in
24 1953.

25 Q. Okay. And was Father ██████████ the prefect of

1 discipline then?

2 A. When I was a student.

3 Q. Okay.

4 Was there a vice prefect?

5 MR. MATIASIC: This is when he was a student?

6 MR. HALE: Right.

7 THE WITNESS: There was, and I can't remember.

8 BY MR. HALE:

9 Q. But there was. Do you recall there was one?

10 A. Yeah. There were two people eating dinner in
11 the refectory.

12 Q. The refectory, is that where the students ate
13 and --

14 A. Dining room.

15 Q. Okay, and that's where the students ate?

16 A. Yes.

17 Q. Okay.

18 And did they eat at an elevated table among
19 the students?

20 A. Yes.

21 Q. Was there an infirmarian while you were --
22 first of all, did the infirmary exist while you were
23 at the seminary?

24 A. I think there was an infirmary, and Father
25 Marshall looked after it.

1 Q. Did you ever personally get sick or spend any
2 time in the infirmary?

3 A. I believe so.

4 MR. MATIASIC: Hold on.

5 This is when he was a student?

6 BY MR. HALE:

7 Q. Yeah. We're only talking about your time at
8 the seminary right now as a student.

9 A. I believe so. I had a cold.

10 Q. Okay. What was involved in treating at the
11 seminary when you were a student? Would you go and
12 check in?

13 A. Yes. You were advised to go to the infirmary.

14 Q. Okay.

15 A. And they'd bring you your meals in the
16 infirmary.

17 Q. Did you spend the night in the infirmary?

18 A. I believe so.

19 Q. Okay. So there were beds in the infirmary?

20 MR. MATIASIC: Counsel, just to back up, when
21 you're asking him did you spend the night, are you
22 saying students generally or did he when -- when he
23 got sick or --

24 BY MR. HALE:

25 Q. In this instance when you got sick when you

1 went down to the infirmary.

2 A. Yes.

3 Q. Okay. So you spent the night?

4 A. Yes.

5 Q. Do you recall how many nights you spent?

6 A. Maybe one.

7 Q. Okay.

8 Did you have to -- was there a sign-in sheet
9 when you went to the infirmary?

10 A. I don't remember.

11 Q. Okay. Was there a student that was assisting
12 in the infirmary?

13 A. Yes.

14 Q. Was that person called the infirmarian?

15 A. Yes.

16 Q. Okay.

17 And during your time there was there any kind
18 of medication dispensed to you?

19 A. I think the supervising doctor was Dr. [REDACTED]

20 Q. Okay.

21 MR. MATIASIC: He asked whether any medication
22 was dispensed to you, Father.

23 THE WITNESS: I don't remember. I just
24 remember Dr. [REDACTED] liked to give out pink pills.

25 BY MR. HALE:

1 Q. Okay. Did anyone take your temperature while
2 you were in the infirmary?

3 A. I don't remember.

4 Q. Okay.

5 Do you recall the rector coming to visit you
6 while you were in the infirmary?

7 A. No.

8 Q. And was that Father [REDACTED] at the time?

9 A. Right.

10 Q. Do you recall Father [REDACTED] coming to visit
11 you while you were in the infirmary? The spelling of
12 [REDACTED] is [REDACTED], I believe.

13 Does that sound right to you?

14 A. [REDACTED].

15 Q. [REDACTED]?

16 A. [REDACTED].

17 Q. Sorry, I got that backwards.

18 Okay. Do you recall Father [REDACTED] coming to
19 visit you?

20 A. No.

21 Q. And was there -- can you -- can you describe
22 for me the role of that student infirmarian? Was he
23 constantly present in the infirmary?

24 A. No, I --

25 MR. MATIASIC: Vague and ambiguous and calls

1 for speculation.

2 THE WITNESS: I --

3 BY MR. HALE:

4 Q. And I'm talking about that period when you
5 were staying in the infirmary.

6 MR. MATIASIC: What he observed the
7 infirmarian doing?

8 MR. HALE: Exactly.

9 THE WITNESS: I believe -- I think he brought
10 the meals.

11 MR. HALE: Okay.

12 Q. Do you recall him administering or providing
13 you with any kind of medication or maybe a hot
14 compress or anything like that?

15 A. No.

16 Q. Okay.

17 A. I don't recall.

18 Q. And was the infirmarian a senior class member
19 or was it a lower -- a lower -- an underclassman?

20 A. I don't recall.

21 Q. Okay.

22 Do you recall anyone checking on you, for
23 instance, in the middle of the night when you spent
24 the night at the infirmary?

25 A. No.

1 Q. Okay. Other than -- do you recall Dr. [REDACTED]
2 checking in on you?

3 A. No, I think I went to visit him at his office.

4 Q. Okay.

5 Was there any -- any other students in the
6 infirmary with you at that time?

7 A. I can't recall.

8 Q. Okay.

9 Do you recall how many beds were in the
10 infirmary?

11 A. Can't recall.

12 Q. Okay.

13 When you finished at the infirmary, did you
14 have to sign out, kind of check out?

15 A. I don't think so.

16 Q. Okay.

17 Did you have to notify your -- well, for
18 instance, did you attend your classes when you -- when
19 you spent the day in the infirmary?

20 A. No.

21 Q. Okay.

22 Did you have to notify your teachers or did
23 the infirmarian handle that?

24 A. I think they must have.

25 Q. When you say "they" who are you referring to?

1 A. The -- maybe Father Marshall told them.

2 MR. MATIASIC: Father, don't guess.

3 MR. HALE: Right.

4 MR. MATIASIC: He's asking only what you know.

5 THE WITNESS: Yeah.

6 MR. MATIASIC: If you know who informed your
7 teachers, tell him, if not --

8 THE WITNESS: I don't know who informed the
9 teachers.

10 MR. HALE: Fair enough.

11 THE WITNESS: Thank you.

12 BY MR. HALE:

13 Q. Do you recall Father [REDACTED] ever disciplining
14 students while you were there?

15 MR. MATIASIC: Vague and ambiguous.

16 THE WITNESS: I don't.

17 MR. HALE: Okay.

18 Q. Do you recall any of your -- your classmates
19 getting in trouble while -- while you were at the
20 seminary?

21 MR. MATIASIC: Same objection.

22 THE WITNESS: No.

23 MR. HALE: Okay.

24 Q. Do you recall any students being expelled
25 while you were a student at the seminary?

1 A. Yes.

2 Q. How many?

3 A. One publicly expelled.

4 Q. And do you recall why he was expelled?

5 MR. MATIASIC: If you know.

6 THE WITNESS: I -- I don't know when I found
7 out the reason.

8 MR. HALE: Okay.

9 Q. But do you know what the reason was?

10 A. I believe so.

11 Q. What was the reason?

12 A. Giving the finger.

13 Q. To the --

14 A. A professor.

15 Q. To a faculty member?

16 A. Yes.

17 Q. Okay.

18 And was that something that was announced by
19 the faculty, that he was being expelled?

20 A. The rector expelled him publicly.

21 Q. When you say the rector expelled him publicly,
22 how -- how did the rector expel him publicly?

23 A. In study hall.

24 Q. Can you describe what exactly happened?

25 A. He came in and told him to stand up.

1 Q. Okay.

2 A. And expelled him.

3 Q. Okay.

4 Do you recall any students, while you were a
5 student at St. Anthony's, running away from -- from
6 the seminary?

7 A. No.

8 Q. Do you recall any students, while you were at
9 the seminary, quitting the seminary?

10 A. Oh, sure.

11 Q. How -- how many times did that happen while
12 you were a student at St. Anthony's?

13 A. Must have been often.

14 Q. Okay.

15 A. Because classes shrink.

16 Q. When you say often, would you say five people
17 a year would quit, usually, or is that a low number or
18 a high number?

19 A. I think that might be a middle number.

20 Q. Okay, okay.

21 So maybe somewhere from five to ten would quit
22 a year?

23 A. Could be.

24 Q. Okay.

25 A. Yeah.

1 Q. Did you ever talk with anyone who told you,
2 "I'm quitting the seminary," while you were a student
3 at St. Anthony's?

4 A. I can't remember.

5 Q. Did anyone -- did you ever hear any reasons
6 why someone was quitting the seminary?

7 MR. MATIASIC: While he was a student?

8 MR. HALE: Yes.

9 THE WITNESS: I can't recall.

10 MR. HALE: Okay.

11 Q. Do you recall there ever being any rumors
12 going around the seminary about why a specific
13 seminarian had decided to leave the seminary?

14 A. No.

15 Q. Okay.

16 So -- you say that there was an infirmarian,
17 but you say Father Marshall was kind of looking after
18 the infirmarian -- the -- the infirmary. How do you
19 know Father Marshall was quote, unquote, "looking
20 after the infirmary"?

21 A. Well, Father -- Father Marshall was dean of
22 students.

23 Q. Okay.

24 A. And this was part of his responsibility.

25 Q. Okay.

1 And what exactly were his responsibilities in
2 looking after the infirmary?

3 MR. MATIASIC: If you know.

4 THE WITNESS: I don't know.

5 MR. HALE: Okay.

6 Q. Did you observe him doing anything that you
7 considered to be him looking after the infirmary?

8 A. I think -- I guess -- I don't guess.

9 Q. Don't guess, definitely don't guess.

10 A. I can't recall.

11 Q. Okay.

12 At the time you got sick and spent the night,
13 was that -- that, to your recollection, the only
14 instance where you spent time in the infirmary?

15 A. No. When I was in the fifth class they took
16 out my wisdom teeth.

17 Q. Okay.

18 A. And I bled one night and I think I got in the
19 next morning.

20 Q. Okay. Did you spend the night again?

21 A. I believe so.

22 Q. Okay.

23 Just one night?

24 A. I can't remember.

25 Q. Okay.

1 And do you recall seeing Father Marshall while
2 you were in the infirmary during that period?

3 A. I can't remember.

4 Q. Do you recall seeing the infirmarian while you
5 were in the infirmary during that period?

6 A. Can't remember.

7 Q. Okay.

8 Do you recall any medical care being provided
9 to you while you were in the infirmary, during that
10 period?

11 MR. MATIASIC: Vague and ambiguous.

12 THE WITNESS: I saw a doctor.

13 BY MR. HALE:

14 Q. Dr. [REDACTED]?

15 A. No.

16 Q. I'm sorry?

17 A. A dentist.

18 Q. A dentist.

19 Did the dentist come and see you?

20 A. No.

21 Q. You went to see the dentist?

22 A. I believe so.

23 Q. But what about while you're in the infirmary,
24 did anyone bring you, I don't know, something for the
25 bleeding or --

1 A. I chewed on something, I remember. They gave
2 you some gauze or something.

3 Q. Okay.

4 Do you recall who gave you the gauze?

5 A. Could have been the infirmarian.

6 Q. Okay.

7 MR. MATIASIC: He asked if you recall, Father,
8 don't guess.

9 THE WITNESS: No.

10 BY MR. HALE:

11 Q. Okay.

12 Do you recall anyone bringing you any aspirin?
13 I assume there was some pain involved probably in the
14 wisdom teeth that --

15 A. No, I don't.

16 Q. Okay. All right.

17 Any other instances where you stayed in the
18 infirmary?

19 A. No.

20 Q. Okay.

21 What was the next step in your path down
22 the Franciscan -- in the Franciscan process? Was
23 it the novitiate?

24 MR. MATIASIC: In terms of becoming a
25 Franciscan?

1 BY MR. HALE:

2 Q. Yes.

3 A. Novitiate.

4 Q. Okay.

5 Was that at San Miguel?

6 A. Yes.

7 Q. And was Father Temple the novice master?

8 A. No. Father Reginald McDonagh.

9 Q. Reginald McDonagh?

10 A. Yes.

11 Q. Okay.

12 So did you start at San Miguel during what
13 would have been the '53-'54 school year?

14 A. Yes, I believe July '53.

15 Q. Who was assisting Father McDonagh?

16 MR. MATIASIC: Lacks foundation.

17 BY MR. HALE:

18 Q. You can answer that.

19 A. Father Irwin Shoenstein.

20 Q. Anyone else?

21 A. I can't remember.

22 Q. Okay.

23 How many other novices were with you in the
24 program when you started?

25 A. About 26.

1 Q. And what about when you finished that year?

2 A. I believe like five had left or it could be
3 more.

4 Q. Do you know why the five left -- left? Did
5 they leave voluntarily, were they asked to leave?

6 MR. MATIASIC: Well, compound. You're talking
7 about five different people as well.

8 To the extent there was one reason for all of
9 them.

10 MR. HALE: Sure.

11 MR. MATIASIC: Go ahead and answer the
12 question if you can.

13 THE WITNESS: Could you repeat the question?

14 BY MR. HALE:

15 Q. Do you know why those five people left or five
16 or more, however -- whatever the number was?

17 MR. MATIASIC: Same objection.

18 THE WITNESS: Can't recall.

19 BY MR. HALE:

20 Q. Okay.

21 A. Don't know.

22 Q. Do you recall if any of them left because
23 someone -- because a Franciscan asked them to leave?

24 In other words, they were expelled or kicked out?

25 A. I believe so.

1 Q. And do you know why they were expelled or
2 kicked out?

3 A. No.

4 Q. Was -- what -- was the next step in the
5 process San Luis Rey?

6 A. Yes.

7 Q. So you started there for the '54-'55 school
8 year?

9 A. Yes.

10 Q. And how long did that go for?

11 A. It was three years, I was soph- -- you start
12 as a sophomore.

13 Q. So you left in 1957?

14 A. I can't remember, '57 or '58. '57 -- I can't
15 remember.

16 Q. But it was definitely three years, correct?

17 A. Yes.

18 Q. Okay.

19 Who was the rector? Was there -- was there a
20 rector at San Luis Rey?

21 A. Let me see if they called someone rector.

22 I don't think they called someone rector.

23 Q. Okay. Was there someone who was in charge of
24 the school?

25 MR. MATIASIC: Vague and ambiguous.

1 BY MR. HALE:

2 Q. A principal or a rector or someone in an
3 equivalent position?

4 A. Well, I don't -- I don't know who that would
5 be.

6 Q. Okay.

7 Was Father Lyons on the faculty when you were
8 at San Luis Rey?

9 A. Yes.

10 Q. Okay.

11 A. The last year, I believe.

12 Q. Okay.

13 Were you aware of Father Lyons inspecting
14 students' genitals to see if they needed to be
15 circumcised?

16 MR. MATIASIC: Vague and ambiguous, lacks
17 foundation.

18 THE WITNESS: Could you re -- what are you
19 asking?

20 BY MR. HALE:

21 Q. Were you aware that Father Lyons was
22 inspecting students' genitals to see if they -- they
23 needed to be circumcised?

24 A. I had no --

25 MR. MATIASIC: Same objections and assumes

1 facts not in evidence.

2 You can answer, Father.

3 THE WITNESS: I don't know.

4 BY MR. HALE:

5 Q. Have you ever heard that that was happening?

6 MR. MATIASIC: Same objections.

7 Are you talking about at any time?

8 MR. HALE: Sure.

9 MR. MATIASIC: Overbroad.

10 BY MR. HALE:

11 Q. Just so you know, your counsel is going to
12 make objections throughout this deposition, and
13 believe me, when he doesn't want you to answer, he
14 will make it very clear that you're not to answer the
15 questions.

16 A. Well, I heard about it, yes.

17 Q. Okay. Okay.

18 When did you first hear about that happening?

19 A. I can't recall.

20 Q. Well, did you think it was while you were a
21 student or after you'd left San Luis Rey?

22 A. I don't know when I heard it.

23 Q. Okay.

24 But do you feel like it was a long time ago
25 that you heard it? Was it a recent -- a recent event?

1 A. Oh, no.

2 MR. MATIASIC: Vague and ambiguous.

3 BY MR. HALE:

4 Q. You heard about it recently?

5 A. No.

6 Q. It was closer to the time when you were
7 becoming a Franciscan, in other words, that you heard
8 this?

9 A. Well -- I'm sorry, I'd been --

10 MR. MATIASIC: Misstates his testimony.

11 Go ahead, Father.

12 THE WITNESS: I don't -- I don't know. I
13 don't recall.

14 MR. HALE: Okay.

15 Q. Do you recall how you heard about these
16 inspections by Father Lyons?

17 A. Don't recall.

18 Q. Okay.

19 MR. MATIASIC: And again, I'm just going to
20 object on -- on the term "inspection," the initial
21 question was "examining" but --

22 MR. HALE: Sorry, inspections, examinations,
23 that's irr- -- either way.

24 Q. Did you ever -- when you heard about -- that
25 these examinations were taking place, did you ever

1 tell anyone that that was happening?

2 A. No.

3 Q. Were you ever assigned anywhere with Father
4 Lyons?

5 A. No.

6 Q. Were you ever in residence anywhere with
7 Father Lyons?

8 A. That year I guess he was in residence while I
9 was there.

10 Q. So just --

11 MR. MATIASIC: Don't -- don't guess, Father.

12 THE WITNESS: Okay.

13 MR. MATIASIC: If you know he was in residence
14 tell him, but if you don't know --

15 THE WITNESS: He was.

16 BY MR. HALE:

17 Q. He was just that one year at San Luis Rey?

18 A. Yes.

19 Q. Okay.

20 I take it you were not examined by Father
21 Lyons?

22 A. Right.

23 Q. Okay.

24 Do you know if any of your classmates were
25 examined by Father Lyons?

1 MR. MATIASIC: Calls for speculation.

2 THE WITNESS: No.

3 MR. HALE: Okay.

4 Q. Was the next step in the process, the School
5 of Theology?

6 A. Yes, Santa Barbara.

7 Q. Okay. So that was probably in the '57-'58
8 school year?

9 A. '57-'58 -- yes.

10 Q. Okay.

11 And was that a three-year program as well?

12 A. It was a four-year program.

13 Q. Four-year program.

14 And was there a simplex year in the fourth
15 year?

16 A. Yes.

17 MR. MATIASIC: How are you doing, Father?

18 THE WITNESS: I think I'm doing well.

19 MR. HALE: If you need to take a break just
20 say the word.

21 THE WITNESS: Okay.

22 MR. HALE: It's completely your call, pull the
23 trigger.

24 Q. Can you -- did you work at any parishes in
25 Santa Barbara community during your simplex year?

1 A. In my second or third year we taught catechism
2 at Lady of the Lords or Lady of Sorrows School.

3 Q. I'm sorry, you said Our Lady of Sorrows or --

4 A. I believe it's Sorrows, I'm --

5 Q. Was that -- I'm probably mixing up my parishes
6 now, was that where the Jesuit parish was?

7 A. Yes.

8 Q. Okay.

9 A. Yeah.

10 Q. On -- on -- I should know this because I grew
11 up there. Phi ana kappa campus?

12 A. It's probably one of those streets.

13 Q. It's probably been too long for you to --
14 okay, I understand.

15 And you say we, in other words --

16 A. Classmates.

17 Q. Okay.

18 Was that a weekly assignment?

19 A. Maybe -- I think it was for a limited time.

20 Q. Okay.

21 A. You know, in other words for a month or two
22 months or whatever.

23 Q. Okay.

24 Any other work you did at the local parishes
25 while you were at the School of Theology?

1 A. I taught religion at the San Roque School
2 during the summer, summer school religion.

3 Q. And was the Province, to your knowledge,
4 running the -- that parish at that time?

5 A. Yes.

6 Q. Okay.

7 And I know later on down the road they
8 actually left that parish.

9 A. Yes.

10 Q. Okay.

11 Any other parishes that you did work at during
12 your time in the School of Theology?

13 A. I can't recall.

14 Q. Okay.

15 And were you ordained in '57?

16 A. No, '60.

17 Q. '6 --

18 A. December 17th, 1960.

19 Q. Oh, I'm sorry. Right, right.

20 A. And then --

21 Q. So you finished in --

22 A. Finished in '61.

23 Q. Okay. And you were ordained in '60, okay.

24 While you were a student at St. Anthony's do
25 you have a recollection of the prefect of

1 discipline -- in other words, Father [REDACTED], reviewing
2 your mail before it was sent out?

3 A. Yes.

4 Q. Okay.

5 Were there ever any instances where Father
6 [REDACTED] asked you to change anything that you'd written
7 in your mail?

8 A. No.

9 Q. Do you recall any instances where he commented
10 on anything you'd written in your mail?

11 A. Yes.

12 Q. And what were -- can you -- can you cite me
13 specifics.

14 A. The one I recall is my mother was Godmother to
15 someone who -- a baptism, and she -- my mother was an
16 Italian, not well-educated, and she expressed it like
17 saying I'm baptized by the baby. And he said, "She
18 didn't baptize the baby, did she?"

19 Q. Okay.

20 Any other instances?

21 A. No.

22 Q. Okay.

23 Were there ever any instances that you were
24 aware of where he intercepted mail that was going to
25 you and -- and stopped it from reaching you?

1 A. He did one advertisement. I wrote for some
2 illustrated tools, tools illustrated or --

3 Q. Yes.

4 A. -- one of those books, for my brother, and
5 evidently everybody in the class had done this and he
6 thought it was overdone.

7 Q. Okay.

8 A. Asking for that.

9 Q. Okay.

10 Any other instances where you were aware of
11 him intercepting mail that was coming to you?

12 A. No.

13 Q. Okay.

14 Were there study hall periods while you were
15 attending the seminary?

16 A. Yes.

17 Q. Okay.

18 Were there ever any instances where you were
19 in study hall and a faculty member sent for you to
20 come and see him in his office?

21 A. Do not recall.

22 Q. Would that have been unusual, in your
23 recollection of your time as a student of the
24 seminary?

25 A. I think so.

1 MR. MATIASIC: Would it have been unusual
2 for -- if he recalled, or unusual generally?

3 MR. HALE: Based on his -- his time and his
4 recollection of events at the seminary.

5 MR. MATIASIC: Right.

6 But again, the distinction I'm making is would it
7 have been unusual if somebody had called for him when
8 he was at study hall or for any seminarian?

9 BY MR. HALE:

10 Q. For him.

11 A. Yes.

12 Q. And were you -- were you aware of -- do you
13 have a recollection of other students ever being
14 called out of a study hall that you were in and being
15 called by a faculty member to their office?

16 A. Don't recall.

17 MR. MATIASIC: Vague and ambiguous.

18 MR. HALE: Okay.

19 Q. Same question there, would that have been
20 unusual if you'd seen that happen? While you were
21 attending St. Anthony's would that have struck you as
22 unusual?

23 MR. MATIASIC: Same objections, lacks
24 foundation and it's an incomplete hypothetical.

25 You can answer, Father.

1 THE WITNESS: I don't recall.

2 MR. HALE: Okay.

3 Q. And again, I'm not asking if you saw it, but
4 would it have been something that you went, oh, it's
5 kind of strange, if you saw it happen?

6 MR. MATIASIC: Same objections.

7 If you can answer it, Father, more than you
8 already have, go ahead.

9 THE WITNESS: I don't think I can answer that.

10 MR. HALE: Okay.

11 THE WITNESS: Because you're in a --

12 MR. MATIASIC: You answered the question,
13 Father.

14 THE WITNESS: Okay.

15 BY MR. HALE:

16 Q. What was -- was study hall a very controlled
17 environment when you were a student at St. Anthony's?
18 In other words --

19 A. Yes.

20 MR. MATIASIC: Father, you need to let Tim
21 finish his question, okay?

22 THE WITNESS: Okay.

23 MR. HALE: You're right in anticipating, I'm
24 sure the answer, but for the record, let's take our
25 time here and --

1 THE WITNESS: Sure.

2 BY MR. HALE:

3 Q. It was not a circumstance where you could get
4 up and leave any time you wanted?

5 A. Correct.

6 Q. Okay.

7 And if you were going to, for instance, go to
8 the restroom, you had to -- did you have to ask
9 permission of a study hall supervisor?

10 A. Yes.

11 Q. Was it generally a faculty member who was
12 study hall supervisor?

13 A. Yes.

14 MR. MATIASIC: And again, Tim, this is when he
15 was a student?

16 MR. HALE: Right, right. We're only --

17 THE WITNESS: Yes.

18 MR. HALE: -- talking about your time as a
19 student at the seminary.

20 Q. Do you recall there being any instances where
21 a faculty member sent another student to the study
22 hall to retrieve another student to see that faculty
23 member?

24 MR. MATIASIC: Vague and ambiguous.

25 THE WITNESS: I don't -- I don't recall.

1 MR. HALE: Okay.

2 Q. Do you recall the rector ever calling any
3 students out of study hall while you were a student at
4 St. Anthony's?

5 A. I don't recall.

6 Q. Okay. Okay.

7 Other than the education that we've already
8 discussed, any further education beyond the School of
9 Theology?

10 A. Yes.

11 MR. MATIASIC: And speaking of formal
12 education?

13 THE WITNESS: You mean on my part?

14 MR. HALE: Yes.

15 THE WITNESS: Yes. I began to get a degree in
16 communications.

17 BY MR. HALE:

18 Q. What year was that?

19 A. 6 -- '62.

20 Q. And where was that at?

21 A. I first went to UCSB during the summer.

22 Q. Okay.

23 Did you obtain a degree?

24 A. From Marquette University in 1970. Master's
25 degree.

1 Q. Okay.

2 And was that all based on summer school work?

3 A. Yes.

4 Q. Okay.

5 So you attended UCSB and Marquette, any other
6 schools?

7 A. Gonzaga University.

8 Q. And were studies at all three of those schools
9 directed toward the communications degree?

10 A. Yes.

11 Q. Okay.

12 Any other education?

13 A. I believe my first summer was at USF where I
14 took Spanish, yeah, the Spanish language.

15 Q. You say first summer, first summer after you
16 finished your --

17 A. After I finished at Stockton.

18 Q. Okay.

19 You finished at the School of Theology in
20 1961, right?

21 A. Yes.

22 Q. Where did you go next?

23 A. Went to Stockton, St. Mary's in Stockton.

24 Q. Okay.

25 So during the 1961-'62 school year you were at

1 St. Mary's?

2 A. Yes.

3 Q. And how long did that last for?

4 A. One year.

5 Q. What was that year called?

6 A. Pastoral year.

7 Q. What was -- and what's the purpose of the
8 pastoral year?

9 A. To introduce you to parochial practices,
10 experience.

11 Q. Did you have -- do you have a title or are you
12 simply just a priest by that time?

13 A. I was a -- a priest.

14 Q. Okay.

15 A. Since '60.

16 Q. How many other Franciscans were with you in
17 the pastoral year?

18 A. About ten.

19 MR. MATIASIC: At St. Mary's?

20 BY MR. HALE:

21 Q. Yeah.

22 A. About ten.

23 Q. Was there someone in charge of the pastoral
24 year?

25 A. Yes.

1 Q. Who was that?

2 A. Father [REDACTED]

3 Q. Was there anyone assisting Father [REDACTED]?

4 A. No.

5 Q. And did that involve working at the high
6 school at St. Mary's?

7 A. No. It -- no.

8 Q. What did it involve?

9 A. I was chosen to teach at the middle school, I
10 taught religion to the eighth graders at the middle
11 school.

12 Q. Who were the ten other Franciscans in their
13 pastoral years at St. Mary's with you?

14 A. By name?

15 Q. If you can remember. Do your best.

16 A. Enrique Perisi (phonetic).

17 Q. Okay.

18 A. Now deceased.

19 MR. MATIASIC: He asked what their names were,
20 Father.

21 THE WITNESS: Okay.

22 [REDACTED]

23 MR. HALE: Okay.

24 THE WITNESS: Tom Frost, Declan Day, Hillarian
25 Hitchcock (phonetic).

1 MR. HALE: Okay.

2 THE WITNESS: Loren Kirkoff, Dunston Duff --
3 Dunston Duff- -- Dundy, D-u-n-d-y. Dunfy -- Dunfy.

4 BY MR. HALE:

5 Q. Okay. Anyone else?

6 A. Allery Killroy (phonetic).

7 Is that ten?

8 Q. I'm not keeping track.

9 Just as many names as you can recall is fine,
10 whatever you can recall.

11 A. Yes.

12 Q. Okay.

13 And was it when you finished that year that
14 you began work on your communications degree at UC
15 Santa Barbara?

16 A. When I finished the year I was appointed to
17 St. Anthony's Seminary as a professor. And that
18 summer I took a course at USF in Spanish, because I
19 was going to teach Spanish.

20 Q. Okay, sorry.

21 Where were you in residence that summer?

22 MR. MATIASIC: The summer after St. Mary's?

23 MR. HALE: When he was at USF.

24 THE WITNESS: I -- I think St. Anthony's
25 Seminary.

1 BY MR. HALE:

2 Q. Was it a correspondence course?

3 A. No, I went to -- oh, pardon me.

4 Oakland, California.

5 Q. Right.

6 A. Yeah.

7 Q. Where -- where in Oakland?

8 A. St. Elizabeth's.

9 Q. Okay.

10 Who else was in residence with you there?

11 A. It was a big house.

12 Q. Well, let's not go through all the names,

13 we'll talk about that later.

14 When did you -- did you arrive at

15 St. Anthony's in August or in September?

16 A. Probably August.

17 Q. Okay.

18 So you started during the '62-'63 school year

19 of St. Anthony's?

20 A. I believe so.

21 Q. Are you okay? Do you need a break or

22 anything?

23 MR. MATIASIC: Yeah, we've gone going for --

24 for --

25 MR. HALE: 40 minutes.

1 MR. MATIASIC: 45 minutes, let's take a break.

2 MR. HALE: Sure.

3 VIDEOTAPE OPERATOR: It is 3:02, we are going
4 off the record.

5 (Recess.)

6 VIDEOTAPE OPERATOR: We are back on record, it
7 is 3:10.

8 BY MR. HALE:

9 Q. So when you -- when you commenced your
10 assignment at -- well, strike that.

11 Any other education other than what we talked
12 about, other than your time at USF and Marquette and
13 UC Santa Barbara?

14 A. No.

15 Q. Okay.

16 When you commenced your year at
17 St. Anthony's, that was your first official assignment
18 as a Franciscan, is that true?

19 A. Yes.

20 Q. Okay.

21 And Father Harris was not the rector when you
22 started at St. Anthony's, correct?

23 A. Correct.

24 Q. Okay.

25 And it was Father McKeon, M-c-K-e-o-n, who was

1 the prefect of discipline when you started at St.
2 Anthony's, correct?

3 A. Correct.

4 Q. Okay.

5 Was it Father [REDACTED] who was the rector when
6 you got there?

7 A. Yes.

8 Q. Okay.

9 How many years were you assigned to
10 St. Anthony's?

11 A. I believe five.

12 Q. Okay.

13 So your assignment ended in '67 or in '66?

14 A. I believe '67.

15 Q. '67, okay.

16 So your last full year there was 1966 to '67?

17 A. I believe so.

18 Q. Okay.

19 And again, you're not going to get --

20 A. Yeah.

21 Q. -- cross-examined on whether you got your
22 assignment dates correct.

23 I'll come back to your time at St. Anthony's
24 shortly, but let's finish up your assignment history
25 first.

1 What was your -- well, first of all, did
2 you -- were you -- did the provincial tell you you
3 were being reassigned from St. Anthony's or did you
4 request a transfer from St. Anthony's in '67?

5 A. A provincial told me.

6 Q. Okay.

7 And where were you reassigned to?

8 A. Serra High in Salem, Oregon.

9 Q. In where?

10 A. Salem, Oregon.

11 Q. Salem.

12 Did the provincial explain to you why you were
13 being transferred from St. Anthony's?

14 A. He told me they wanted a strong faculty at
15 Salem.

16 Q. Okay.

17 And that was Father [REDACTED], right?

18 A. Yes.

19 Q. Okay.

20 Were you transferred there at the same time as
21 Father [REDACTED]?

22 A. Yes.

23 Q. Okay. Same year?

24 A. I believe so.

25 Q. All right.

1 Were any of your other fellow faculty members
2 from St. Anthony's reassigned that year to -- to Serra
3 High in Salem, other than you and Father [REDACTED]?

4 A. I don't recall.

5 Q. Okay.

6 So that would have been the '67-'68 school
7 year?

8 A. Yes.

9 Q. And how many years were you at Serra High?

10 A. One.

11 Q. Okay.

12 What -- what was your next assignment?

13 A. St. Boniface, San Francisco.

14 Q. And how long did that last for?

15 A. It's still going on.

16 Q. Okay. So you've been there ever since?

17 A. Yes. I -- from '90 -- I believe from '91 to
18 2003 I was superior at St. Anthony's San Francisco, I
19 lived there. My job was the same with St. Anthony's
20 Foundation.

21 Q. When you say you lived there, you mean you
22 lived at St. Boniface?

23 A. At St. Anthony's. I worked at St.
24 Anthony's -- well, both were called St. Anthony's. I
25 worked at St. Anthony's Foundation, I lived at St.

1 Anthony's parish.

2 Q. Okay.

3 So -- so you were at St. Boniface from 1968 to
4 1991, right?

5 A. Right.

6 Q. Okay.

7 And then from 1991 to 2003 you were at
8 St. Anthony's of San Francisco?

9 A. Right.

10 Q. And then from 2003 to the present you've been
11 back at St. Boniface?

12 A. Right.

13 Q. From '68 to '91 were you the pastor at
14 St. Boniface, were you an associate pastor, what was
15 your -- what were your duties there?

16 A. Associate pastor, acting pastor for three
17 months.

18 Q. So from '68 to '91, with the exception of
19 those three months, you were an associate pastor at
20 St. Boniface?

21 A. Plus retreat master at -- three retreat
22 houses.

23 Q. Which retreat houses?

24 A. San Juan Bautista -- oh, first St. Clare's
25 Santa Cruz, then San Juan Bautista and then Danville.

1 And then I became deputy executive director of
2 St. Anthony's Foundation, St. Anthony's Dining Room.

3 Q. While you were the retreat master of those
4 three locations, were you in residence at
5 St. Boniface?

6 A. Yes.

7 Q. Okay.

8 Who was the pastor when you were at
9 St. Boniface from '68 to '91?

10 A. I believe Father Alfred.

11 Q. Roducker?

12 A. In name Roducker.

13 And active as pastor was -- or is doing -- I
14 guess administrator, was Father Adel Berdish.

15 Q. Okay.

16 A. And while I was there Father Robert Fister was
17 also pastor.

18 And then Father James Kyrie.

19 Q. Kyrie, how do you spell that?

20 A. Like Kyrie, K-y-r-i-e.

21 Q. Okay.

22 Did anyone assist you as retreat master at St.
23 Clare's in Santa Cruz?

24 A. I believe so.

25 Q. Who?

1 A. At St. Clare's, Father -- I can't think of the
2 name. At San Juan Bautista maybe --

3 MR. MATIASIC: He asked you at St. -- at St.
4 Clare's.

5 THE WITNESS: Oh, okay.

6 MR. HALE: That was my next question.

7 Q. What about at San Juan Bautista?

8 A. I can't recall.

9 Q. What about at Danville?

10 A. I can't recall.

11 Q. And when you say Danville, is that San
12 Damiano?

13 A. Yes.

14 Q. And then you were the guardian at
15 St. Anthony's in San Francisco from '91 to 2003; is
16 that correct?

17 A. Right.

18 Q. Had you ever been a guardian anywhere else?

19 A. Yes.

20 Q. Where else?

21 A. Before that, nine years at St. Boniface.

22 Q. The guardian is an elected position, correct?

23 A. It is -- no. Well -- it is the community
24 suggester, it has a consultive vote. And then the
25 appointment comes from the definitorium.

1 Q. Okay.

2 So in other words, it sounds like the
3 community makes a recommendation to the definitorium?

4 A. Right.

5 Q. Does the definitorium usually follow that
6 recommendation?

7 A. Right.

8 Q. Okay.

9 Any other places where you were the guardian?

10 A. No.

11 Q. And what about your current assignment at
12 St. Boniface, what is your assignment there?

13 A. I'm consultant to St. Anthony's Foundation,
14 I'm provincial director of -- I'm consultant to the
15 provincial office of communications. I do a
16 newsletter.

17 I --

18 MR. MATIASIC: I think he was going to ask you
19 a question, Father.

20 BY MR. HALE:

21 Q. Where -- what are your duties as consultant to
22 the St. Anthony's Foundation?

23 A. Public relations, development, contact with
24 donors. I know the history of the place, available
25 for consultation, policies.

1 Q. What do you mean by policies?

2 A. They sometimes will ask me what -- why did we
3 make this decision 20 years ago, because I know the
4 history of the place.

5 Q. Okay.

6 How is it that you know the history of the
7 place from 20 years ago?

8 A. Because since 1970 I've been in different
9 positions at St. Anthony's.

10 Q. Okay.

11 What exactly is St. Anthony's Foundation?

12 A. It's a charitable foundation. It began with
13 St. Anthony's Dining Room, now it has 18 different
14 programs, helping people get out of the cycle of
15 poverty.

16 Q. And that's run by the Province?

17 A. The board of trustees.

18 Q. Okay.

19 And what positions have you held at St.
20 Anthony's Foundation?

21 A. I've been director of the Dining Room, I've
22 been chaplain.

23 Q. Okay.

24 A. Consultant.

25 Q. When you say your -- your -- you've been

1 consultant to the provincial, how long have you held
2 that position?

3 A. Since like 1990.

4 Wait a minute.

5 MR. MATIASIC: Would it be the provincial
6 communications office?

7 THE WITNESS: Yes.

8 MR. HALE: Okay.

9 THE WITNESS: I'm trying to think, like 15
10 years, I believe.

11 BY MR. HALE:

12 Q. And is your title -- was your title there
13 communications director for the Province?

14 A. At the beginning, and then we had set up an
15 office in Sacramento, and I became consultant,
16 provincial consultant.

17 Q. And what were your duties as communications
18 director for the Province?

19 A. The internal health -- help with the internal
20 communications and also the external communications.

21 Q. When you say help with the internal
22 communications, do you mean communications to the
23 Province members only?

24 A. Yes. You know, if they -- people needed
25 advice or they wanted to say something, how best to

1 contact or say it to the media.

2 Q. Okay.

3 So you gave them -- you gave advice on how to
4 communicate certain matters --

5 A. I --

6 MR. MATIASIC: Father, you need to let Tim
7 finish his question, okay?

8 MR. HALE: Thank you.

9 Q. So you gave Province members advice on how to
10 make -- communicate certain messages to the media?

11 A. If they asked.

12 Q. If they asked, okay.

13 And then you also referenced you helped with
14 external communications, what did you mean by that?

15 A. Sometimes there would be announcements to the
16 paper or someone's getting ordained or professed, and
17 they would have me help.

18 Q. For instance, would you draft up a press
19 release?

20 A. My policy usually was that they draw it up and
21 I correct it and tell them --

22 Q. Okay.

23 Since the scandal that -- the clergy abuse
24 scandal commenced have you participated drafting
25 communications to the media regarding the scandal?

1 MR. MATIASIC: Hold on, Father.

2 Excluding anything that you may have crafted in
3 conjunction with the help from counsel for the
4 Province.

5 THE WITNESS: No.

6 BY MR. HALE:

7 Q. Has anyone asked you for advice on how to
8 draft a message to the -- to the public regarding the
9 clergy abuse scandal?

10 MR. MATIASIC: At any time?

11 BY MR. HALE:

12 Q. Yeah.

13 A. Don't recall.

14 Q. And you say you worked on a newsletter as
15 well?

16 A. Yes.

17 Q. Is there a title of the newsletter?

18 A. Friars News.

19 Q. And how often is that published?

20 A. Monthly.

21 Q. And is that available to the lay community?

22 A. No.

23 Q. Only to members of the Province?

24 A. Yeah. I try to make it just to the Province.

25 MR. MATIASIC: And just to clarify, you're

1 talking about currently? Whether it's published
2 currently?

3 MR. HALE: Sure.

4 MR. MATIASIC: And it's available to lay
5 currently?

6 BY MR. HALE:

7 Q. Has it ever been available to the lay
8 community?

9 A. I send it to a few. It's --

10 Q. On those occasions when you have sent it to a
11 lay person, are you talking about to a specific lay
12 person, other than your attorneys?

13 A. I don't send it to my attorneys.

14 Q. Well, that answers the question then. That
15 takes care of it right there.

16 Who are the specific lay people and why -- who
17 are the specific lay people you sent the newsletter
18 to?

19 MR. MATIASIC: During the entire time he's
20 been a friar?

21 BY MR. HALE:

22 Q. Is there more -- is there a sea, an ocean of
23 lay people you --

24 A. No.

25 Q. It's been unusual for you to send it to a lay

1 person?

2 A. My personal policy, yeah.

3 Q. Okay.

4 When you have sent it to a lay person, can you
5 tell me why you sent it to a lay person?

6 A. One --

7 MR. MATIASIC: Well, vague and ambiguous, and
8 I think that it's compound, to the extent he may have
9 done it more than once. So...

10 BY MR. HALE:

11 Q. You can answer.

12 MR. MATIASIC: If you can -- if you understand
13 the question as Tim phrased it, go ahead.

14 THE WITNESS: Very few. One to a lady who's
15 communication -- communication director of another
16 Province.

17 BY MR. HALE:

18 Q. Okay.

19 A. And to -- oh, former Franciscans.

20 Q. Okay.

21 A. Yeah.

22 Q. And what's the -- what is the general subject
23 matter of the newsletter?

24 A. Like who died, change of address. It's --
25 it's the -- it's a monthly thing to update.

1 Q. Okay.

2 Do you usually draft the content of the
3 newsletter?

4 A. Yes.

5 Q. Okay. And does anyone help you draft the
6 content of the newsletter?

7 A. No.

8 Q. How long has the newsletter been published
9 for, how many years? When did it start?

10 A. About 15 years.

11 Q. Did you start it?

12 A. Yes.

13 Q. Okay.

14 A. Well, it -- I think there was a paper
15 called -- there were provincial letters and provincial
16 communication, and I think there was a -- a more
17 timely newsletter called Among the Friars, and that
18 sort of died out. And they sort of wanted me to
19 revive that, yeah.

20 Q. Okay.

21 So it sound like it started sometime around
22 1991, '92?

23 A. I believe so.

24 Q. Okay.

25 Did the letter -- has the letter ever

1 discussed the Board of Inquiry?

2 A. No.

3 Q. Has it ever discussed the clergy abuse
4 scandal?

5 A. No.

6 Q. Has it ever identified any Franciscans accused
7 of clergy abuse?

8 A. No.

9 Q. Were you appointed to be the communications
10 director or were you elected to be the communications
11 director?

12 A. I -- I think I suggested it.

13 Q. Was it a position you kind of created?

14 A. Yes.

15 Q. Okay.

16 And are you still the communications director?

17 A. No.

18 Q. Is there any communications director now?

19 A. There's a group of -- of people that had
20 different aspects in Sacramento.

21 Q. Okay.

22 Have you ever held any other positions within
23 the Province? For instance, have you ever been on the
24 definitorium?

25 A. Yes.

1 Q. What years were you on the definitorium?

2 A. Like '81 to '84, I believe.

3 Q. By the way, before I forget, who is the new
4 provincial?

5 A. Mel Jurisich.

6 Q. Hasn't a new one been elected?

7 A. No, it --

8 MR. MATIASIC: You answered the question,
9 Father.

10 BY MR. HALE:

11 Q. Okay. So there is not -- there is not --
12 you're not aware of a new provincial being elected
13 yet?

14 A. No.

15 Q. Has there been a vote on that?

16 A. No.

17 Q. Is that going to happen sometime soon?

18 A. No.

19 Q. Do you know if Father -- Father Jurisich's
20 term ends sometime soon?

21 A. Three years.

22 Q. Okay.

23 A. Three more years.

24 Q. Okay.

25 Was he reelected?

1 A. No.

2 Q. How long is the term of the provincial,
3 generally?

4 A. Six years.

5 Q. Okay. Okay.

6 So you were a member of the definitorium from
7 '81 to '84?

8 A. I believe so. I'm not that clear on it.

9 Q. Who else was on the definitorium with you?

10 A. [REDACTED] was provincial, the -- John
11 Outman was vicar.

12 Q. Is that kind of the vice provincial?

13 A. Yes, and he died.

14 MR. MATIASIC: He just asked what other
15 members were ever on the definitorium with you,
16 Father.

17 THE WITNESS: John Altman and [REDACTED],
18 Michael Delmeyer, Luis Maldonado, Michael Weishar.

19 BY MR. HALE:

20 Q. Is Weishar passed away?

21 A. Yes.

22 Q. Anyone else?

23 A. How many --

24 Q. I think that's [REDACTED], Delmeyer, Bombano,
25 Weishar and you, so that's five?

1 A. Oh. Bernard Connolly.

2 Q. Okay, okay.

3 Any other elected positions you've held within
4 the Province?

5 A. Can't think of any.

6 Q. Okay.

7 Have you ever served on any of the -- the
8 boards or the committees in the Province?

9 A. I think I was on the health committee.

10 Q. What -- what's -- I hadn't heard of that one
11 actually. What was that committee?

12 A. It's an old committee.

13 Q. It's a what?

14 A. An old committee.

15 Q. You mean it no longer exists?

16 A. Yeah, I believe so.

17 Q. What was the purpose of the health committee?

18 A. Give good health advice.

19 Q. To Franciscans, obviously?

20 A. Right.

21 Q. Did you assist them in obtaining treatment?

22 MR. MATIASIC: You mean did -- did members --
23 did the committee assist the friars in obtaining
24 treatment?

25 MR. HALE: Right.

1 THE WITNESS: I don't know.

2 BY MR. HALE:

3 Q. Who else was on the committee?

4 A. I think -- I don't remember.

5 Q. Okay.

6 When did the -- when did the committee cease
7 to exist?

8 MR. MATIASIC: If you know.

9 THE WITNESS: I don't know.

10 BY MR. HALE:

11 Q. But you're confident it no longer --

12 A. Oh, no.

13 Q. It doesn't exist any longer?

14 A. No.

15 Q. Okay.

16 Do you know why it was -- ceased to exist?

17 A. No.

18 Q. Do you recall what years you served on the
19 health committee?

20 A. No.

21 Q. Do you think it was early in your Franciscan
22 career or --

23 A. Oh, towards the middle.

24 Q. So probably in the '70s or '80s, sometime?

25 A. Right.

1 Q. Do you remember who you served with?

2 A. No.

3 Q. Was the committee responsible for identifying
4 specific doctors who would assist with a certain
5 problem?

6 A. No, no, it wasn't that advanced.

7 Q. What -- I'm trying to understand what the
8 committee did. What exactly did it do?

9 A. I remember one friar wrote me a letter and
10 said that we should tell people not to smoke or not
11 have secondary smoke and so forth.

12 Q. Okay.

13 Did it ever help people get -- did it ever
14 assist Franciscans with mental health problems?

15 A. No.

16 Q. Okay.

17 A. I don't recall.

18 Q. Okay.

19 Do you recall ever advising a Franciscan while
20 you were on the health committee to seek treatment at
21 a treatment center such as St. Luke's or the Paraclete
22 Center?

23 A. No.

24 Q. Are you aware of their -- there being a --
25 treatment centers for priests with sexual problems?

1 A. Yes.

2 Q. When did you become aware of treatment centers
3 for priests with sexual problems?

4 A. I guess --

5 MR. MATIASIC: Other than anything you learned
6 from counsel.

7 MR. HALE: Right.

8 THE WITNESS: '70s or '80s.

9 BY MR. HALE:

10 Q. Okay.

11 And do you recall how? For instance, I've
12 heard about publications that advertise --
13 advertisements for various treatment centers, did you
14 ever see an advertisement for one of these treatment
15 centers in --

16 A. No.

17 Q. -- in a publication?

18 A. Probably by word of mouth.

19 MR. MATIASIC: Do you need another break,
20 Father?

21 THE WITNESS: No, no.

22 MR. HALE: Say the word, Father.

23 Q. Any other committees or boards you served on?

24 MR. MATIASIC: Within the Province.

25 THE WITNESS: Don't recall.

1 MR. HALE: Okay.

2 Q. What about the ordination committee?

3 A. Never.

4 Q. The novitiate committee?

5 A. Never.

6 Q. The profession committee or board?

7 A. Never.

8 Q. The formation committee or board?

9 A. Never.

10 Q. What about the ongoing formation committee or
11 board?

12 A. Never.

13 Q. Okay.

14 Have you heard of those?

15 A. Yes.


16 Q. Okay.

17 I want to make sure I'm not getting anything
18 wrong.

19 Any other positions with the Province,
20 other than -- that you've held, other than what we've
21 already talked about?

22 A. No.

23 Q. Okay.

24 Do you remember a Father  (phonetic)?

25 A. Yes.

1 Q. Do you -- is it your understanding that he --
2 he left the Province?

3 A. Yes.

4 Q. Do you know why he left the Province?

5 MR. MATIASIC: Calls for speculation.

6 THE WITNESS: I don't know.

7 MR. HALE: Okay.

8 Q. Have you had any communications with him since
9 he left the Province?

10 A. No.

11 Q. Did you ever -- while you were on the faculty
12 at St. Anthony's, did you ever assist any of the
13 prefects with their duties as prefects?

14 A. No.

15 Q. Did you ever discipline any students while you
16 were on the faculty?

17 MR. MATIASIC: Vague and ambiguous.

18 THE WITNESS: I don't understand the question.

19 BY MR. HALE:

20 Q. Did you ever discipline any students while you
21 were on the faculty?

22 MR. MATIASIC: Counsel, you just -- you just
23 restated the same question, he said he didn't
24 understand it.

25 BY MR. HALE:

1 Q. I think -- well, you don't understand?

2 A. I don't know what you mean by disciplined. In
3 the classroom or --

4 Q. Sure. In the classroom or -- you know, maybe
5 there was a food fight in the cafeteria or --

6 A. I -- I think I put -- I told one person to
7 report to the prefect.

8 Q. Okay. What -- what prompted that?

9 A. I think talking back or sassy or something.

10 Q. In a class?

11 A. In a class.

12 Q. Okay.

13 And was that -- did you report that person to
14 Father McKeon or to Father --

15 A. Father McKeon.

16 Q. Okay. Do you know what Father McKeon did in
17 response, what action he took?

18 A. No.

19 Q. Okay.

20 Any other instances where you were -- well,
21 any other instances where you reported a student to a
22 prefect for discipline or punishment?

23 A. No, no.

24 Q. Any other instances you can think of where you
25 were involved in disciplining a student?

1 A. No.

2 MR. MATIASIC: Vague and ambiguous.

3 MR. HALE: Okay.

4 Q. Were you aware of Father McKeon disciplining
5 students?

6 MR. MATIASIC: Same objection.

7 THE WITNESS: Don't recall.

8 MR. HALE: Okay.

9 Q. What about Father Cimmarrusti, were you aware
10 of him disciplining students?

11 MR. MATIASIC: Same objection.

12 THE WITNESS: Don't recall.

13 MR. HALE: Okay.

14 Q. Do you recall there being any differences
15 between what you observed with regards to how
16 Father [REDACTED] performed his duties as the prefect of
17 discipline and what you observed with regards to how
18 Father McKeon performed his duties as prefect of
19 discipline?

20 MR. MATIASIC: Vague and ambiguous.

21 THE WITNESS: Don't know; don't -- don't
22 recall; don't know; wasn't informed.

23 BY MR. HALE:

24 Q. I didn't hear the last part, I'm sorry?

25 A. I don't have any knowledge.

1 Q. Okay.

2 What about did you observe any difference
3 between the way Father McKeon performed his duties as
4 prefect of discipline when compared to how Father
5 Cimmarrusti performed his duties as prefect of
6 discipline?

7 MR. MATIASIC: Same objections.

8 BY MR. HALE:

9 Q. Was there a difference in style, in other
10 words?

11 MR. MATIASIC: Vague and ambiguous.

12 THE WITNESS: There --

13 BY MR. HALE:

14 Q. Let me give you an example, for instance --
15 well, go ahead, go ahead.

16 A. Different personalities.

17 Q. Yeah, that's what I'm getting at.

18 Can you give me detail about how they
19 approached the duties differently?

20 A. No.

21 MR. MATIASIC: Calls for speculation.

22 MR. HALE: Okay.

23 THE WITNESS: Yeah.

24 BY MR. HALE:

25 Q. But you have -- you have a recollection of

1 there being different personalities between the two?

2 A. Yes.

3 Q. Okay.

4 For instance, I can recall from my own time in
5 high school, there were certain teachers that students
6 were drawn to and were more friendly with and there
7 were others more kind of stand-offish and less social.
8 Do you recall there being --

9 A. I don't recall --

10 MR. MATIASIC: Hold -- hold on. There's no
11 question pending.

12 THE WITNESS: Okay.

13 BY MR. HALE:

14 Q. Do you recall there being a difference between
15 Father Cimmarrusti and Father McKeon along those
16 lines?

17 MR. MATIASIC: Vague, ambiguous.

18 THE WITNESS: I don't think so.

19 MR. HALE: Okay.

20 Q. Do you recall one of them being more friendly
21 with students than the other?

22 MR. MATIASIC: Same objection.

23 THE WITNESS: Don't know.

24 MR. HALE: Okay.

25 Q. Do you recall one of them being, for instance,

1 more of a task master with the students than the
2 other?

3 MR. MATIASIC: Same objection.

4 THE WITNESS: I don't know.

5 MR. HALE: Okay.

6 Q. What was your understanding of the duties of
7 the prefect of discipline?

8 MR. MATIASIC: If you had an understanding,
9 Father.

10 THE WITNESS: They were in charge of the
11 students.

12 MR. HALE: Okay.

13 THE WITNESS: And the discipline.

14 MR. HALE: Okay.

15 Q. What was your understanding of -- of -- well,
16 did you have an understanding of what was an
17 acceptable form of discipline while you were at the
18 seminary?

19 MR. MATIASIC: Vague and ambiguous.

20 THE WITNESS: Can't recall.

21 MR. HALE: Okay.

22 Q. Do you recall being aware of discipline taking
23 place while you were on the faculty at St. Anthony's?

24 MR. MATIASIC: Same objections.

25 THE WITNESS: Don't recall.

1 BY MR. HALE:

2 Q. Do you have a recollection of any discipline
3 taking place while you were on the faculty?

4 MR. MATIASIC: Same objection.

5 THE WITNESS: I wasn't knowledgeable.

6 BY MR. HALE:

7 Q. Did you ever hear about discipline taking
8 place while you were on the faculty of St. Anthony's?

9 MR. MATIASIC: Same objection.

10 THE WITNESS: Can't recall.

11 BY MR. HALE:

12 Q. Were you aware of any rules against certain
13 forms of discipline at St. Anthony's?

14 MR. MATIASIC: Vague and ambiguous.

15 This is while he was on the faculty?

16 MR. HALE: Yeah.

17 THE WITNESS: I knew in general they were
18 disciplinarians.

19 MR. HALE: Okay.

20 Q. But were you aware of any -- any -- any
21 limitations on what they could do with regards to
22 forms of discipline?

23 MR. MATIASIC: Vague and ambiguous.

24 THE WITNESS: I just -- I guess -- I wasn't
25 privy to it.

1 BY MR. HALE:

2 Q. Did -- was it your understanding that they had
3 the right to discipline students in any fashion they
4 saw fit?

5 MR. MATIASIC: Vague and ambiguous.

6 THE WITNESS: I don't know.

7 MR. HALE: Okay.

8 Q. Were you ever aware of any discussions
9 regarding approved methods of discipline at
10 St. Anthony's?

11 MR. MATIASIC: Same objections.

12 THE WITNESS: I don't recall.

13 MR. HALE: Okay.

14 Q. When you sent a student to Father McKeon for
15 discipline, did you have any expectation as to what
16 the discipline -- the form of discipline was going to
17 be?

18 A. No.

19 Q. Were you aware of students being disciplined
20 by being put on dish duty?

21 MR. MATIASIC: While he was on the faculty?

22 MR. HALE: Yeah.

23 THE WITNESS: No.

24 MR. HALE: Okay.

25 Q. Were you aware of students being disciplined

1 by not being allowed to go out, for instance, leave
2 the seminary grounds on the weekends?

3 A. I think -- my recollection is when I was a
4 seminarian, I think there were people put on dish
5 duty, allowance taken away or grounded.

6 Q. Okay.

7 When you were a seminarian, were you ever
8 aware of a student being spanked by a faculty member?

9 MR. MATIASIC: Vague and ambiguous.

10 THE WITNESS: No.

11 MR. HALE: Okay.

12 Q. Have you ever heard that while you were --
13 have you ever heard at any time of a Franciscan
14 spanking a seminarian?

15 A. No.

16 Q. What about at San Luis Rey, have you ever
17 heard that there was any spanking of students taking
18 place?

19 A. No.

20 Q. Okay.

21 When you -- when you joined the faculty at
22 St. Anthony's were you aware that there was an
23 infirmarian?

24 A. Not overtly.

25 Q. Okay.

1 Did you have an understanding as to whether or
2 not it was a student or whether it was Father McKeon?

3 A. Don't know.

4 Q. Okay.

5 What about when -- when Father Cimmarrusti
6 beat -- became the prefect of discipline, did you have
7 an understanding then of who the infirmarian was?

8 A. I believe so.

9 Q. And who did you believe the infirmarian was?

10 A. Father Mario supervised, I guess.

11 Q. Okay.

12 Was it your understanding he was the
13 infirmarian?

14 A. I think he worked in the infirmary or -- yeah,
15 I think there was kids appointed to that also, to
16 assist.

17 Q. Okay. But was it your understanding he was
18 the infirmarian?

19 A. Yes.

20 Q. Did that strike you as unusual, that he was
21 serving as the infirmarian?

22 MR. MATIASIC: Vague and ambiguous.

23 THE WITNESS: No.

24 MR. HALE: Okay.

25 Q. Had you ever -- did you have any recollection

1 from your time on the faculty or from your time as a
2 student at St. Anthony's, of a Franciscan serving as
3 the infirmarian? And I'm not talking about assisting
4 in the infirmary, but actually serving as the
5 infirmarian?

6 A. Well, my recollection is it was part of the
7 office of dean of students.

8 Q. Okay.

9 A. You know, that he overlooked it.

10 Q. Okay.

11 But had Father -- to your knowledge, had
12 Father McKeon served as the infirmarian?

13 A. Don't remember.

14 Q. And I think you previously testified, correct
15 me if I'm wrong, Father [REDACTED] did not serve as the
16 infirmarian, it was a student, correct?

17 MR. MATIASIC: Go ahead and answer that
18 question. I'm going object to this whole line,
19 Counsel, in that he already stated that he thought
20 that it was the prefect's responsibility to oversee
21 the infirmary.

22 MR. HALE: I think that was -- that's not
23 responsive to the question, though.

24 THE WITNESS: I -- I thought that Father
25 Marshall was in charge of it, or, you know, knew about

1 it and -- and someone was appointed as infirmarian.

2 BY MR. HALE:

3 Q. So in other words, it was a student that was
4 an infirmarian while you were attending the seminary?

5 A. Yes.

6 Q. Okay.

7 So did it strike you as unusual that Father
8 Cimmarrusti was acting as the infirmarian as opposed
9 to doing what Marshall had done, which is kind of
10 supervise the infirmary?

11 MR. MATIASIC: And, again, misstates his
12 testimony, because when you originally asked the
13 question he said that he thought Father Cimmarrusti
14 supervised the infirmary.

15 MR. HALE: I think that now you're misstating
16 his testimony. I think the record can reflect that he
17 did say that Father Cimmarrusti was serving as the
18 infirmarian.

19 Can you read that last question back.

20 (The Reporter read back as follows:

21 "Question: So did it strike you as unusual that
22 Father Cimmarrusti was acting as the infirmarian as
23 opposed to what Marshall had done which is kind of
24 supervise the infirmary?")

25 MR. MATIASIC: Vague and ambiguous.

1 BY MR. HALE:

2 Q. You can answer.

3 A. Could you put it again?

4 Q. Sure.

5 Read it back one more time.

6 (The Reporter read back as follows:

7 "Question: So did it strike you as unusual
8 that Father Cimmarrusti was acting as the infirmarian
9 as opposed to what Marshall had done which is kind of
10 supervise the infirmary?")

11 MR. MATIASIC: Same objections.

12 THE WITNESS: I don't know.

13 MR. HALE: Okay.

14 Q. Did you assist with any of the athletic teams
15 at St. Anthony's while you were on the faculty?

16 A. No, no.

17 Q. Did you ever observe any students with
18 bruising or injury to their upper thighs or buttocks?

19 A. No.

20 Q. Did you ever hear anyone say that they had
21 observed students with injuries to their upper thighs
22 or buttocks?

23 A. No.

24 Q. Have you ever heard of Father -- aside from
25 your counsel, have you ever heard that Father

1 Cimmarrusti was spanking students?

2 A. No.

3 Q. Did -- when you -- do this for me, if you
4 could. I'd like to get a feel for what your typical
5 day was like at St. Anthony's. Would it start -- what
6 time in the morning would it start, would you rise
7 from bed?

8 A. I don't know exactly what time I rose from
9 bed, but we would have morning prayers.

10 Q. Okay.

11 A. And then I would say mass.

12 Q. Okay.

13 A. Then have breakfast.

14 Q. And when you had breakfast was that with the
15 faculty or with all of the student body?

16 A. The faculty -- well, it was -- we weren't all
17 together at the same time, you went in for breakfast.

18 Q. Did the prefects of discipline, while you were
19 on the faculty, eat breakfast with you or --

20 A. They ate with the students.

21 MR. MATIASIC: And I'm just going to lodge an
22 objection, he testified he was there for five years,
23 so all these questions assume that it was the same for
24 all five years.

25 I think you should break it down, Counsel, or at

1 least ask the question whether it ever changed.

2 BY MR. HALE:

3 Q. Did it change?

4 A. I'm giving you sort of a general picture.

5 Q. Do you have a recollection of there being a
6 point where the prefects were eating breakfast with
7 the faculty?

8 A. Don't recall.

9 Q. Okay.

10 All right, so you'd have breakfast and then
11 the class work would start?

12 A. Did a little class work. I had a full
13 schedule of classes and study halls.

14 Q. Okay.

15 So class would run until the noon hour?

16 A. Until 3:00 or 4:00, I thought, 3:00 o'clock, I
17 think.

18 Q. But there would be a lunch break, correct?

19 A. Yes, sir, yes.

20 Q. Do you have a recollection during your five
21 years of the prefects ever eating lunch with the
22 faculty?

23 A. No.

24 Q. Okay. Was it your understanding the prefects
25 would eat lunch with the students?

1 A. Yes.

2 Q. Okay.

3 And do you recall there being vice prefects?

4 A. Yes.

5 Q. And was Father [REDACTED] one of the vice prefects?

6 A. Yes.

7 Q. And was Father [REDACTED] one of the vice
8 prefects?

9 A. Yes.

10 Q. Anyone else?

11 A. Father -- my classmate, Father [REDACTED]

12 [REDACTED].

13 Q. Okay. Is he still alive?

14 A. No.

15 Q. Okay.

16 And then after lunch would classes resume?

17 A. Yes.

18 Q. Okay.

19 A. I believe maybe there was a study hall and
20 then classes.

21 Q. Okay.

22 A. I'm not sure.

23 Q. And how late would classes go till?

24 A. Until like 3:00, I guess. Maybe 3:30, quarter
25 to 4:00.

1 Q. Okay.

2 A. Because we had a 4:00 o'clock lunch.

3 Q. Okay.

4 A 4:00 o'clock lunch?

5 A. You picked up jam sandwiches --

6 Q. Okay.

7 A. -- if you wanted.

8 Q. And then would there be a study hall at
9 5:00 o'clock?

10 A. Yes.

11 Q. And what would happen between 4:00 and
12 5:00 o'clock?

13 A. Recreation, sports, relaxation.

14 Q. Okay.

15 A. Oh, you mean what I did?

16 Q. Right.

17 A. I think I maybe walked around.

18 Q. Okay.

19 Did you have office hours for students?

20 A. No, I -- no. We weren't -- the general
21 faculty was not -- did not have contact with the
22 students that much.

23 Q. Okay. Were you aware of any faculty members
24 having office hours?

25 A. The prefects, I guess.

1 Q. Okay.

2 What was your -- did you have an understanding
3 of why the prefects had office hours?

4 A. Well, they were in charge of the kids.

5 Q. But did you have an understanding of what was
6 going on during --

7 A. Well, they had offices.

8 MR. MATIASIC: Father, you need to let him
9 finish his question.

10 THE WITNESS: Okay.

11 MR. MATIASIC: Okay?

12 MR. HALE: Thanks, Paul.

13 Q. Did you have an understanding of what the
14 purpose of the prefect's office hours were?

15 A. To meet with the students.

16 Q. Do you know what the subject matter of those
17 meetings was?

18 A. I don't know if -- I don't know if they had
19 office hours.

20 Q. Okay.

21 A. They had offices.

22 Q. Okay.

23 MR. MATIASIC: Father, are you doing okay?

24 THE WITNESS: Yeah.

25 MR. MATIASIC: You want to take a break?

1 THE WITNESS: No.

2 MR. MATIASIC: Okay.

3 BY MR. HALE:

4 Q. Okay. And then study hall would start at
5 5:00?

6 A. I believe.

7 Q. Did you ever supervise study hall?

8 A. Yes.

9 Q. Okay.

10 How -- would you -- was that a weekly
11 occurrence for you that you would supervise the
12 5:00 o'clock study hall?

13 A. Usually, I believe it was a semester
14 assignment.

15 Q. Okay. So there would be a specific semester
16 where it would be your job, how many nights a week to
17 supervise study hall?

18 A. Five days, I guess.

19 Q. Okay. So you'd have it every night --

20 A. Yes.

21 Q. -- if it was your job that semester?

22 A. Yeah.

23 MR. MATIASIC: Father, you need to let him
24 finish.

25 THE WITNESS: Okay, I'm sorry.

1 MR. HALE: You're anticipating my questions
2 correctly, but for the sake of the record --

3 THE WITNESS: Yes.

4 BY MR. HALE:

5 Q. During your five years at St. Anthony's do you
6 recall how many semesters it was where you were a
7 study hall supervisor?

8 A. I believe it was usually every semester.

9 Q. Okay. Would you be the only person
10 supervising study hall?

11 A. Yes.

12 Q. Okay. And then would there be -- so study
13 hall would last for an hour?

14 A. Yes.

15 Q. And then would there be dinner?

16 A. Yes.

17 Q. Would there be another study hall session
18 after dinner?

19 A. Yes.

20 Q. Did you ever supervise that session?

21 A. I don't recall.

22 Q. Do you think the 5:00 o'clock hour was kind of
23 your hour?

24 A. Yes.

25 Q. Okay. Do you know who was supervising -- what

1 time would the second session of study hall be?

2 A. You mean in the evening?

3 Q. Right.

4 A. 7:00, 7:15, I believe.

5 Q. And how long would that run for?

6 A. Until like 8:30.

7 Q. Okay. And you don't have a recollection of
8 supervising any of those study hall times?

9 A. Not -- not much. There -- it -- one time I
10 think there were two study halls and I think it -- I'm
11 trying to recall if it was when I was a seminarian or
12 not. And I remember the 10:00 o'clock study hall or
13 the morning study hall.

14 Q. Okay. When you say 10:00 o'clock, you mean a
15 morning study hall?

16 A. Yes.

17 Q. So when you say two study halls you're not
18 referring to two separate rooms?

19 A. Locations, yes.

20 Q. You are referring --

21 A. Yes.

22 Q. Okay.

23 Do you think there were two separate locations
24 while you were at the seminary, as -- as a faculty
25 member?

1 A. Yes. I think the -- what used to be the fifth
2 class study hall became the freshman study hall, I
3 believe, I'm not sure.

4 Q. Okay.

5 Do you know -- do you know who supervised the
6 other study hall?

7 MR. MATIASIC: In the entire five-year period?

8 MR. HALE: Uh-hmm.

9 THE WITNESS: One of the faculty.

10 BY MR. HALE:

11 Q. And were there class years -- what class years
12 did you supervise? In other words, freshman,
13 sophomore, junior, senior?

14 A. They were all together.

15 Q. Okay. So it wasn't by class, it was just --
16 were there specific students that were assigned to
17 your study hall?

18 A. No, it was the student body study hall.

19 Q. Okay.

20 During your time, it's safe to say, it sounds
21 like you supervised an awful lot of study halls?

22 A. At least daily, I think, there was one study
23 hall.

24 Q. Okay. And no one assisted you in doing that?

25 A. No.

1 Q. One Franciscan had that assigned?

2 A. Right.

3 Q. Okay.

4 Do you have a recollection of students ever

5 getting up and leaving during study hall?

6 A. Not -- I don't recall.

7 Q. Okay.

8 A. I mean, I'm sure they did, but I don't recall.

9 Q. Would they have done that without your
10 permission?

11 A. No.

12 Q. Could they have done that without you knowing?

13 A. I don't think so.

14 Q. Okay.

15 Do you have a recollection of faculty members

16 calling for students to leave study hall while you

17 were supervising?

18 MR. MATIASIC: Vague and ambiguous.

19 BY MR. HALE:

20 Q. In other words, to come to my office and see
21 me, that kind of thing?

22 A. I don't recall.

23 Q. Okay.

24 Do you have a recollection of faculty members

25 sending other students to retrieve students to go to a

1 faculty member's office?

2 A. I don't recall.

3 MR. MATIASIC: Vague and ambiguous.

4 THE WITNESS: I don't recall.

5 BY MR. HALE:

6 Q. Could that have been done without you
7 approving of that?

8 MR. MATIASIC: Calls for speculation.

9 BY MR. HALE:

10 Q. In other words, if a faculty member sends a
11 student --

12 A. Yes.

13 Q. -- pulls another student out, would that
14 student have to check in with you before he left?

15 A. I believe so.

16 Q. Okay.

17 Do you have a recollection of Father
18 Cimmarrusti calling for or sending for students to
19 leave study hall?

20 A. Don't have a recollection.

21 Q. Okay.

22 Do you recall there being a recreation room
23 for the Franciscans?

24 A. Friars?

25 Q. Yes.

1 A. Yes.

2 Q. Was there -- was there separate recreation
3 rooms for the brothers and for the priests or was
4 there just one?

5 A. It -- both.

6 Q. Okay. So there were two?

7 A. There were two rec rooms.

8 Q. Okay.

9 A. And sometimes the brothers used ours.

10 Q. Okay. I'm sorry, I jumped ahead of myself for
11 a second.

12 After the -- the -- there would be a study
13 hall session after dinner, correct?

14 A. Study hall? Yes.

15 Q. Okay. And how long would that last for?

16 A. I believe like 45 minutes, an hour.

17 Q. Okay. So from 7:00 until was it -- did it
18 start at 7:00?

19 A. I believe we had devotions at 8:30 or
20 something.

21 Q. Okay.

22 And then after the devotions would it be
23 lights out, to bed?

24 A. Go to bed.

25 Q. Okay.

1 Did you ever do bed checks?

2 A. No.

3 Q. Were you aware of any Franciscans doing bed
4 checks?

5 A. I believe the prefects did.

6 Q. Okay.

7 A. Oh, yeah -- well, a faculty member.

8 Q. Okay.

9 MR. MATIASIC: Counsel, just to let you know,
10 we're --

11 MR. HALE: Say when.

12 MR. MATIASIC: We're at the hour and a half
13 mark. And so why don't we take a break, let's go off
14 the record.

15 VIDEOTAPE OPERATOR: It is 3:57, we are going
16 off the record.

17 (Recess.)

18 VIDEOTAPE OPERATOR: We are back on the
19 record, it's 4:07. This is the end of tape 1 in
20 Volume 1 in Dr. -- or doctor -- Father [REDACTED]'s
21 deposition, the time is 4:07.

22 (Recess.)

23 VIDEOTAPE OPERATOR: We are back on record,
24 this is the beginning of tape 1 -- or two, in Volume 1
25 in Father [REDACTED]'s deposition. It's 4:10.

1 BY MR. HALE:

2 Q. Father, when you were on the faculty at St.
3 Anthony's, where was your room located?

4 A. In the hallway where the recreation room was.

5 MR. MATIASIC: Tim, before you ask another
6 question, I'm sorry, just want to note for the record
7 that we're now passed the time that Father [REDACTED]'s
8 cardiologist thought it prudent for his deposition.
9 We're going to -- he feels okay to go a little bit
10 longer, so in a gesture of good faith we're going to
11 proceed for another half hour and we'll take it from
12 there.

13 MR. HALE: Yeah. I'm happy to call it
14 whenever -- whenever you want to call it.

15 MR. MATIASIC: Okay.

16 MR. HALE: Completely up to you guys, just say
17 the word.

18 Q. So you -- so let's say you and I are standing
19 on the athletic field of St. Anthony's, we're facing
20 the building.

21 A. Yes.

22 Q. If we walk in the main doors, is that to the
23 left?

24 A. To the right.

25 Q. To the right, okay.

1 And what floor was your room on?

2 A. I believe second.

3 Q. Okay.

4 And did you have the same room all five years
5 you were at St. Anthony's?

6 A. I believe so.

7 Q. Okay.

8 Were there people living on -- around -- were
9 the Franciscans living around you?

10 A. Yes.

11 Q. Was this -- was this in the cloister?

12 A. Yes.

13 Q. Okay.

14 So there were no students allowed in the
15 cloister?

16 A. Yes.

17 Q. Okay.

18 And who were your neighbors? In other words,
19 who lived to your right and who lived to your left?

20 A. I think to my right was the bathroom, across
21 from me was Father

22 Q. Okay.

23 What about to your left?

24 A. I think that was the hallway going over to the
25 new dormitory.

1 Q. Okay.

2 Did you ever spend any time in Father
3 Cimmarrusti's office or room?

4 A. No.

5 Q. Was it your understanding -- do you know -- do
6 you know whether his office served both as his office
7 and his living quarters?

8 A. I believe so.

9 Q. Okay.

10 Were you aware that he had a fish tank in his
11 room?

12 A. No.

13 Q. Okay.

14 With regards to the -- where was the
15 recreation room in relationship to your room?

16 A. When I came out of my door I would turn to my
17 right, go down like three doors and turn to my left.

18 Q. Okay.

19 And that recreation room, was that the room
20 that was for priests only?

21 A. Right.

22 Q. And then if we were coming out of your room
23 again, where would we see the brothers' recreation
24 room?

25 A. I believe that's the building across the

1 quadrangle.

2 Q. So if we're facing from the -- from the
3 athletic field, is it to the right if we go in the
4 entrance?

5 A. Yes, I believe so.

6 Q. Okay. And what floor was your room on?

7 A. Second.

8 Q. Second floor.

9 And the recreation room was on the second
10 floor as well?

11 A. Yes.

12 Q. And what about the brothers' recreation room?

13 A. I believe it was on the second floor.

14 Q. Okay. Did the brothers ever spend any time
15 that you recall in the priests' recreation room?

16 A. Yes.

17 Q. So it was accessible to both as available?

18 A. At different times.

19 Q. Okay.

20 Do you recall there being -- do you recall a
21 brother named [REDACTED]?

22 A. Yes.

23 Q. Okay.

24 He testified, I think it was a week ago, that
25 there was kind of a predinner or meeting with the

1 faculty in the recreation room, do you recall that
2 happening?

3 A. Yes.

4 Q. Okay.

5 Did it last for about half an hour?

6 A. I can't recall.

7 Q. Okay.

8 Did you usually attend that?

9 A. I believe so.

10 Q. Okay.

11 And would that be just kind of an opportunity
12 to have cocktail if one wanted or just chat about what
13 happened during the day, that kind of thing?

14 A. Right.

15 Q. It was kind of a social hour?

16 A. Yes.

17 Q. Okay.

18 And who would usually attend that, that you
19 recall? Would that be priests and brothers?

20 A. I can't recall.

21 Q. Okay. Do you recall Father Harris attending
22 that?

23 A. I can't recall.

24 Q. What about Father Cimmarrusti?

25 A. Can't recall.

1 Q. Okay.

2 And then do you recall there would be one
3 night a week that would kind of be the cards night,
4 playing cards and that kind of thing in the recreation
5 room?

6 A. Yes.

7 Q. Okay.

8 And was that on Wednesdays?

9 A. I can't recall.

10 Q. Okay. Would that be after the students had
11 gone to bed?

12 A. I believe so.

13 Q. Did you usually attend that?

14 A. Yes.

15 Q. Okay. Do you recall Father Harris attended
16 that?

17 A. Yes.

18 Q. Okay.

19 Do you recall Father Cimmarrusti usually
20 attended that?

21 A. Can't recall.

22 Q. Did you play cards there?

23 A. No.

24 Q. Do you recall there being cards -- cards being
25 played though?

1 A. I --

2 MR. MATIASIC: This is on the card night?

3 MR. HALE: Yeah, yeah.

4 THE WITNESS: Could you repeat that?

5 BY MR. HALE:

6 Q. Do you recall cards being played on this --
7 this one night a week?

8 A. Yes.

9 Q. Okay.

10 And what else would go on during this one
11 night that -- sounds like it went for a couple hours,
12 usually?

13 MR. MATIASIC: If you know, Father.

14 THE WITNESS: I don't know.

15 BY MR. HALE:

16 Q. Do you recall how long it would go?

17 A. No.

18 Q. Okay.

19 Do you recall anything else going on, other
20 than there being card playing at this one night a
21 week? That you were --

22 A. Reading.

23 MR. MATIASIC: I'm sorry, Counsel, you mean at
24 the -- at the card night itself as opposed to
25 contemporaneously?

1 MR. HALE: Right.

2 Q. In the recreation room, in other words.

3 A. I recall some reading papers or a magazine or
4 just talking.

5 Q. Okay.

6 Do you recall an instance where you were in
7 the recreation room and Father Cimmarrusti entered --
8 well, let me ask you this: Did you know a -- do you
9 remember a faculty member named Father Beltrami,
10 B-e-l-t-r-a-m-i?

11 A. I don't recall him being on the faculty.

12 Q. You don't remember him being on the faculty
13 while you were there?

14 A. No.

15 Q. Okay.

16 Do you recall an instance where Father
17 Cimmarrusti entered the recreation room and announced
18 to the room that he had just administered an exam to a
19 class of students where he had instructed them to take
20 the exam in their underwear?

21 MR. MATIASIC: Lacks foundation.

22 THE WITNESS: Don't recall.

23 BY MR. HALE:

24 Q. Have you ever heard of anything like that
25 happening?

1 MR. MATIASIC: Other than anything from
2 counsel?

3 MR. HALE: Right.

4 THE WITNESS: I seem to recall someone
5 mentioned the story post-factum. I don't know when.

6 MR. HALE: Okay.

7 THE WITNESS: Could have been ten years ago.

8 MR. HALE: Okay.

9 Q. But it sounds like it was many years after you
10 were on the faculty that you heard this story?

11 A. Yes, it was after I was on the faculty.

12 Q. Okay.

13 Do you recall being aware as to whether that
14 took place while -- in other words, when I say that,
15 the exam in the underwear, took place while you were
16 on the faculty or do you think it was after you'd left
17 St. Anthony's?

18 A. I don't know.

19 Q. Do you recall who told you?

20 A. No.

21 Q. Do you recall -- what exactly was described to
22 you?

23 MR. MATIASIC: If anything was described.

24 THE WITNESS: That the -- that they walked
25 around in their underwear. They walked single file in

1 their underwear.

2 BY MR. HALE:

3 Q. Through the school, you mean, or in the
4 classroom?

5 A. Through the school, I think.

6 Q. And then --

7 MR. MATIASIC: Father, are you -- are you
8 guessing? Do you recall specifically what you were
9 told?

10 THE WITNESS: Well, it's -- let me see how
11 much I do recall.

12 Just that there was a march or --

13 MR. HALE: Okay.

14 Q. Do you think it was like to the classroom
15 where the exam was given?

16 A. I don't know.

17 Q. Okay.

18 Do you remember what context -- how did this
19 come up, in other words? Why -- how was it raised to
20 you?

21 A. Someone just mentioned it.

22 Q. Was there -- was there a specific discussion
23 going on that prompted mentioning that incident?

24 A. I don't recall.

25 Q. Okay. Do you recall if it was related to

1 maybe a discussion about the Board of Inquiry?

2 A. I don't recall.

3 Q. Okay.

4 Were you surprised when you heard that?

5 A. Yes.

6 Q. Okay.

7 If you had learned of that while you were on
8 the faculty at St. Anthony's, would you have taken any
9 action in response to learning that?

10 MR. MATIASIC: Vague and ambiguous, lacks
11 foundation, and that's an incomplete hypothetical.

12 THE WITNESS: I don't know.

13 BY MR. HALE:

14 Q. Would you have reported it to anyone?

15 MR. MATIASIC: Same objections.

16 BY MR. HALE:

17 Q. You can answer.

18 A. Yes.

19 Q. Okay. Who would you have reported it to?

20 A. The rector.

21 Q. Okay.

22 Would you have considered such actions by
23 Father Cimmarrusti, in other words, instructing a
24 class to take an exam in their underwear, to be
25 inappropriate?

1 A. Yes.

2 MR. MATIASIC: Same objections.

3 MR. HALE: Okay.

4 Q. When you were told years later, did you tell
5 anyone about that?

6 A. I don't recall.

7 Q. Okay.

8 Have you ever talked to anyone who said, yes,
9 I was aware of that happening?

10 A. No.

11 Q. Okay.

12 Did the person who told you, was it someone
13 who had actually been there when Father Cimmarrusti
14 walked into the room and announced it?

15 A. I don't know.

16 Q. Did he tell you how he learned about that
17 happening?

18 A. I don't know.

19 Q. Okay.

20 And you've never talked to anyone else who was
21 aware of that taking place?

22 A. I never talked about it.

23 Q. Okay.

24 And you never heard anyone else talk about it?

25 A. No.

1 Q. Okay.

2 Do you know -- do you know Pat McKinley? Does
3 that name sound familiar to you?

4 A. No.

5 Q. Did Father Harris have a secretary when you
6 were at the -- at the seminary as a faculty member?

7 A. I don't think the secretary was a faculty
8 member.

9 Q. No, no. I'm sorry if I made it sound that
10 way. But while you were on the faculty, did Father
11 Harris have a secretary?

12 A. It was a secretary in the office, I believe.

13 Q. Okay. Do you remember what her name was?

14 A. I can't recall.

15 Q. Okay. Was it the same person, though, while
16 you were there?

17 A. I can't recall.

18 Q. Okay.

19 Were there -- were there monthly faculty
20 meetings while you were on the faculty?

21 A. There were regular faculty meetings, I don't
22 know if they were monthly.

23 Q. Do you recall how frequent those faculty
24 meetings were?

25 A. No.

1 Q. And was it maybe every month, month and a
2 half, every two months?

3 A. I would say within that.

4 Q. And do you recall those meetings taking place
5 in the recreation room?

6 A. I remember sitting around a big table, I guess
7 it was the recreation room.

8 MR. MATIASIC: Don't -- don't guess, Father.

9 THE WITNESS: I don't want to guess.

10 MR. MATIASIC: He asked if you recall whether
11 it took place in the rec room.

12 THE WITNESS: I -- I can't recall.

13 BY MR. HALE:

14 Q. Okay. But you recall being around a big
15 table?

16 A. Yes.

17 Q. And it would be the entire faculty?

18 A. Yes.

19 Q. Even brothers?

20 A. Not while I was there.

21 Q. And would Father Harris lead the discussion?

22 A. Yes.

23 MR. MATIASIC: Belated objection, Counsel, I
24 think he also testified that Harris wasn't the rector
25 the entire time he was there.

1 MR. HALE: Right, right.

2 Q. But during the faculty meetings while Father
3 Harris was the rector, is it safe to say he led the
4 discussions?

5 A. Yes.

6 Q. Okay. Did you ever miss any faculty meetings?

7 A. I can't recall.

8 Q. Okay. Would it have been unusual for you to
9 miss faculty meetings?

10 MR. MATIASIC: Vague and ambiguous.

11 BY MR. HALE:

12 Q. Do you recall other faculty members missing
13 faculty meetings?

14 A. I don't recall.

15 Q. What would be discussed at the faculty
16 meetings?

17 MR. MATIASIC: During the entire five-year
18 period?

19 MR. HALE: Yeah -- well, let's limit it to the
20 time where Father Harris was the rector.

21 THE WITNESS: How -- how the students were
22 doing.

23 BY MR. HALE:

24 Q. Okay.

25 Did you ever hear any faculty members express

1 concerns for students' health?

2 A. I don't recall.

3 Q. Okay.

4 Do you remember ever hearing any faculty
5 members express concern that students were not
6 developing physically or maturing physically?

7 MR. MATIASIC: Vague and ambiguous.

8 THE WITNESS: I don't recall.

9 MR. HALE: Okay.

10 Q. Do you recall any faculty members expressing
11 concern that a student had an undescended testicle?

12 A. Don't recall.

13 Q. Do you recall any faculty members expressing
14 concern that students -- a student's voice wasn't
15 changing?

16 A. Don't recall.

17 Q. Okay.

18 Do you recall any -- any faculty members
19 expressing concern that a student wasn't -- a
20 student's pubic hair wasn't growing?

21 A. Don't recall.

22 Q. If you'd heard a faculty member express
23 concern about pubic hair not growing or an undescended
24 testicle, would that have been surprising to you?

25 MR. MATIASIC: Lacks foundation, it's vague

1 and ambiguous, incomplete hypothetical.

2 THE WITNESS: I don't know.

3 BY MR. HALE:

4 Q. Okay. Do you recall there ever being any
5 discussion at a faculty meeting about a program that
6 Father Cimmarrusti wanted to institute to assess
7 younger students' physical maturity or development?

8 MR. MATIASIC: Lacks foundation, vague and
9 ambiguous.

10 THE WITNESS: I -- I don't.

11 BY MR. HALE:

12 Q. You don't recall?

13 A. No.

14 Q. Okay.

15 Is that something that if it had been
16 discussed, though, would have been surprising to you?

17 MR. MATIASIC: Same objections and add
18 incomplete hypothetical.

19 If you can answer, Father.

20 THE WITNESS: I think so.

21 MR. HALE: Okay.

22 Q. Have you ever been aware that Father
23 Cimmarrusti had instituted a program to assess
24 students' physical maturity or development?

25 MR. MATIASIC: Vague and ambiguous.

1 THE WITNESS: No.

2 MR. HALE: Okay.

3 Q. Were you ever aware of students being
4 examined, physically examined by Father Cimmarrusti?

5 A. No.

6 MR. MATIASIC: Same objection.

7 BY MR. HALE:

8 Q. Have you ever heard of that happening other
9 than from your counsel?

10 A. Post-factum.

11 Q. Okay.

12 A. You know, when the news broke.

13 Q. Did that shock you?

14 A. Yes.

15 Q. Did you -- did you try and look back in
16 hindsight to see if -- if knowing what you knew after
17 learning of it, that there was some kind of red flag
18 that should have alerted you to that, that was going
19 on?

20 MR. MATIASIC: Hold on.

21 Counsel, I don't know that that has any relevance
22 of whether or not he decided to go and revisit his
23 time at the seminary once it -- it broke publicly. I
24 mean, I think it's just kind of badgering at this
25 point with that type of questions.

1 I mean, if you have a specific question, whether
2 there's anything that raised a red flag while he was
3 there, I mean, I think that's a legitimate question.
4 But when he heard the news, what he did, given the
5 fact that there's been no foundation that he was in a
6 position of hierarchy when he heard the news, then I
7 think it's completely out of bounds.

8 And I am instructing him not to answer,
9 particularly given his health condition.

10 MR. HALE: Well, one, it's not badgering at
11 all. I'm being completely polite and respectful of
12 this witness, and certainly the video can reflect
13 that.

14 And two, there's a reason there's a phrase of
15 hindsight being 20/20. It's not -- that's -- you
16 know, exactly. There's things that maybe he wasn't
17 aware of then that maybe knowing what he knows now,
18 there's something that would have jumped out at him.
19 If there is, I'd like to know what it is; Maybe he
20 didn't. I think it's very relevant and I think it
21 certainly goes to notice evidence.

22 MR. MATIASIC: You certainly can ask him if
23 there's anything that raised a red flag at the time he
24 was on the faculty, I'll permit him to answer that.
25 But -- but when the news broke, if he then revisited

1 things in his mind is not relevant, even remotely, to
2 this litigation.

3 MR. HALE: I disagree. Knowledge changes,
4 understanding of what would constitute a red flag
5 changes, and I -- I think it's not only calculated to
6 lead to discoverable evidence, it in and of itself the
7 answer could be discoverable evidence.

8 MR. MATIASIC: Well, I think given the fact
9 we're talk about allegations of abuse in the 1960s,
10 it's a fair question to ask: Did anything arouse your
11 suspicions in the 1960s.

12 But what he did -- you asked him whether -- when
13 he heard the news publicly, whether he went and
14 revisited things in his mind, what his conduct was
15 when things broke, is not relevant to this litigation.
16 And I'm going to instruct him not to answer.

17 If you want to rephrase the question in a
18 different way, Tim, I'll allow him to answer.

19 MR. HALE: I completely disagree with you. I
20 think it's an inappropriate instruction, I think
21 you're obstructing discovery, and I think it's a very
22 legitimate line of questioning.

23 I suppose we'll add this to our motion to compel
24 if we have to.

25 MR. MATIASIC: And -- and like I said, I

1 welcome -- welcome the opportunity for you to rephrase
2 your question in a way that it would be relevant to
3 this litigation.

4 MR. HALE: Well, I think a separate question
5 along those lines is certainly forthcoming. But I
6 think this question standing alone is -- is completely
7 appropriate. And I think your instruction's
8 inappropriate. Relevance is an improper basis to
9 instruct him not to answer, especially when it's going
10 to -- when it's related to evidence that clearly could
11 support the notice evidence.

12 MR. MATIASIC: Tim, you've done so in a very
13 polite way, I'll -- I'll definitely concede that on
14 the record. However, it still can constitute
15 harassing and badgering when you're asking a question
16 of a witness whose -- whose advanced in years, who
17 clearly has a -- a cardiac problem, his doctor allowed
18 him an hour and a half to testify. If you want to ask
19 him was there anything in the 1960s, because that's
20 the legal standard that will apply in this case,
21 whether there's anything in the '60s that aroused his
22 suspicion related to Cimmarrusti, okay.

23 But whether or not he's decided to revisit his
24 time when things broke publicly is not relevant.
25 That's badgering the witness and --

1 MR. HALE: But I'm -- I'm asking him to
2 consider what he saw in the '60s, and whether his new
3 knowledge changed how he viewed what he saw in the
4 '60s. So I am asking him about what he saw in the
5 '60s, I'm just asking about it from a different
6 perspective.

7 MR. MATIASIC: No. Ask him if there was
8 anything in the 1960s that aroused his suspicion.
9 That's a legitimate question, you're not going to get
10 an instruction on that. But whether or not he decided
11 to revisit his time once he heard the news break
12 publicly is not germane to any issue in this case.

13 And this is the type of question that prolongs
14 these depositions for hours and hours.

15 MR. HALE: Only because there's inappropriate
16 instructions not to answer, Paul.

17 MR. MATIASIC: Fair enough. We can agree to
18 disagree, Tim.

19 MR. HALE: Okay.

20 Q. Do you recall in the -- shortly after -- you
21 know what the Board of Inquiry is?

22 A. Yes.

23 Q. Okay.

24 Do you recall there was a time period around
25 '93, shortly after the Board issued its report, where

1 the provincial minister and perhaps a prior provincial
2 minister, [REDACTED] and [REDACTED] -- [REDACTED] is
3 [REDACTED] and [REDACTED] is [REDACTED] -- were --
4 came to the community you were living in and discussed
5 with the community -- the Franciscan community
6 reporting obligations if -- if you were suspicious of
7 child or sexual abuse going on?

8 A. Yes.

9 Q. Okay.

10 Do you recall if it was [REDACTED] or [REDACTED] or
11 both?

12 A. I -- I -- I recall [REDACTED]

13 Q. Okay.

14 And do you recall what he told you about what
15 your reporting allegations were?

16 MR. MATIASIC: Reporting allegations?

17 MR. HALE: Regarding reporting allegations.

18 MR. MATIASIC: Okay.

19 MR. HALE: Of child or sexual abuse.

20 MR. MATIASIC: All right.

21 THE WITNESS: To bring it to the proper
22 authorities.

23 MR. HALE: Okay.

24 Q. And -- and --

25 MR. MATIASIC: Just reporting requirements is

1 germane.

2 MR. HALE: Obligations, requirements.

3 MR. MATIASIC: Oh, you said obligations. I'm
4 sorry, I can't hear. I thought you said allegations.

5 MR. HALE: No, no, obligations.

6 MR. MATIASIC: Obligations. I apologize,
7 Counsel.

8 BY MR. HALE:

9 Q. When you say proper authorities, do you mean
10 law enforcement? Do you mean the guardian? Do you
11 mean the provincial? Who do you mean?

12 A. I guess I meant any of them, or all of them.

13 Q. Okay. Did he -- do you recall him telling you
14 that if you became suspicious of child or sexual abuse
15 was taking place that you should report that to a law
16 enforcement agency?

17 A. Right.

18 Q. Okay.

19 And do you recall there being any instruction
20 that if you became suspicious child and sexual abuse
21 was take place, you should report that to the guardian
22 of the community where you were living?

23 A. Or the provincial office, I can't remember
24 that.

25 Q. Okay.

1 Do you recall if there were instructions that
2 you were only to report allegations where -- I'm
3 sorry, suspicions of child and sexual abuse to the
4 provincial and to let the provincial handle reporting
5 to law enforcement?

6 A. I don't recall.

7 Q. Okay.

8 But -- but it was your understanding that he
9 was communicating to you that if you were suspicious
10 of child or sexual abuse taking place, you had the
11 right to report it to a law enforcement agency?

12 MR. MATIASIC: Counsel --

13 MR. HALE: If I'm misstating, correct --
14 correct my -- correct my question.

15 MR. MATIASIC: Counsel, I'm going to object
16 that it's misstating, because you said not he had the
17 right, they were to report it to law enforcement, I
18 believe that was Father [REDACTED]'s testimony.

19 MR. HALE: Okay, sure.

20 Q. That you -- so you had a duty, an obligation
21 to report it to law enforcement?

22 A. To report it.

23 Q. But in other words, to law enforcement or --

24 A. Yes, because I remember one --

25 MR. MATIASIC: Hold on, Counsel. This -- this

1 is now getting into badgering. You already asked him
2 who did -- you asked him specifically about law
3 enforcement, he answered that question. And then
4 Father [REDACTED] said any and all of them.

5 You said provincial versus law enforcement. He
6 said any and all of them. So I think to continue to
7 ask this -- this line of questioning is just
8 badgering. The instruction's coming.

9 MR. HALE: The only reason -- the only reason
10 I followed up is because he said to report it. He
11 didn't say to who.

12 THE WITNESS: Yeah.

13 MR. HALE: So I just wanted to be clear on the
14 who. He said "it," he stopped.

15 MR. MATIASIC: Okay.

16 THE WITNESS: I recall --

17 MR. MATIASIC: If you're saying specifically
18 that, then that's fine.

19 THE WITNESS: I recall someone telling us and
20 giving us the phone number of Child Protective
21 Services.

22 BY MR. HALE:

23 Q. Okay. And you think that was around 1993?

24 A. Yes.

25 Q. Okay. Do you recall there being theater

1 productions while you were at St. Anthony's?

2 A. Yes.

3 Q. And while you were on the faculty at
4 St. Anthony's?

5 A. Yes.

6 Q. And those were put on by the students?

7 A. Yes, every class.

8 Q. Okay.

9 Did you participate in those?

10 A. I -- I taught theater one of the years of my
11 five, I think.

12 Q. Okay.

13 A. I didn't participate, I let the students
14 direct themselves.

15 Q. Okay.

16 Did you -- did you help out with any of the
17 productions?

18 A. Not really.

19 Q. A little bit?

20 A. We used to have elocution contests, and I
21 helped the guys that were in the elocution contest.

22 Q. Okay. Anything else?

23 A. The -- it wasn't that good at it.

24 Q. Okay.

25 Did you -- did you attend every performance or

1 production that was put on?

2 A. Usually.

3 Q. Okay.

4 Do you recall there ever being a -- a skit
5 where students parodied faculty behavior?

6 MR. MATIASIC: Vague and ambiguous.

7 THE WITNESS: Yes.

8 MR. HALE: Okay.

9 THE WITNESS: I don't -- no, it wasn't -- I
10 don't know if that was a public skit or something that
11 took place in one of the recreation rooms.

12 BY MR. HALE:

13 Q. Okay. When you say it took place in one of
14 the recreation rooms, do you think it was --

15 A. They had class recreation rooms.

16 Q. The students had recreation rooms?

17 A. Yes.

18 Q. Were you aware of students parodying faculty
19 behavior in a skit in the recreation room?

20 A. Someone told me about it.

21 Q. Okay.

22 And what -- was it a student that told you
23 about it or was it a faculty member that told you
24 about it or a Franciscan?

25 A. I remember we had a meeting on it.

1 Q. Okay. And what -- what did they tell you
2 about it? What was the parody, in other words?

3 A. They -- something about one of the older
4 friars has cookies when he -- cookies and milk when he
5 goes to bed.

6 Q. Okay.

7 A. Somewhat disrespectful.

8 Q. Okay. Anything else?

9 A. No.

10 Q. Did --

11 A. I don't recall anything else.

12 Q. And do you recall, were any students expelled
13 as a result of the parody?

14 A. I don't recall.

15 Q. Okay.

16 Do you recall the names of any of the students
17 that were involved in the parody?

18 A. Don't recall.

19 Q. Okay. Does the name [REDACTED] sound
20 familiar?

21 A. I -- I know a [REDACTED], I taught him, I
22 guess.

23 Q. Do you know if he was expelled for
24 participating in -- in one of these parodies?

25 A. No, I don't.

1 Q. Do you know if there was more than one parody?

2 A. No, I don't.

3 Q. Okay.

4 Do you remember [REDACTED] leaving

5 St. Anthony's?

6 A. No. Not precisely, no.

7 Q. Okay, when you say not precisely --

8 A. I -- no, I don't recall.

9 Q. Okay.

10 Do you know why -- who called the meeting to

11 discuss the -- the parodies, was it the rector?

12 A. I don't recall.

13 Q. Did this -- did this take place while Father
14 Harris was the rector and Father Cimmarrusti was the
15 prefect?

16 A. Yes.

17 Q. Do you recall there being any element of the
18 parody that included a parody of Father Cimmarrusti
19 spanking a student?

20 MR. MATIASIC: Vague and ambiguous.

21 THE WITNESS: No.

22 MR. HALE: Okay.

23 Q. Do you recall there being any element of the
24 parody that included Father Cimmarrusti spanking Fern
25 Sayovitz, S-a-y-o-v-i-t-z?

1 A. Oh, God.

2 MR. MATIASIC: Same objections.

3 THE WITNESS: No.

4 BY MR. HALE:

5 Q. Okay.

6 Was there any kind of annual production that
7 involved or -- or informal production in the rec room
8 that involved students parodying faculty behavior as
9 kind of an annual thing?

10 A. No.

11 Q. Was that the first time, to your knowledge,
12 that it happened?

13 A. Yes.

14 Q. Okay.

15 Do you know how many students were involved in
16 that?

17 A. No.

18 Q. Do you know if there was any discipline or --
19 taken or any discipline -- any disciplinary action
20 taken as a result of that?

21 MR. MATIASIC: Vague and ambiguous.

22 THE WITNESS: Don't know, don't recall.

23 BY MR. HALE:

24 Q. Do you know if any students were reprimanded
25 as a result of that -- that behavior?

1 A. I don't recall.

2 Q. Do you know if any Franciscans actually
3 observed the -- the skit, the parody taking place?

4 A. Don't recall.

5 Q. Okay.

6 Do you know whether it -- was it a student
7 that had told a Franciscan about the parody, is that
8 how the faculty learned?

9 A. I don't recall.

10 Q. Okay.

11 Did -- do you recall if there were any steps
12 taken by the faculty to ensure that it would not
13 happen again?

14 A. I don't recall.

15 Q. Okay.

16 MR. MATIASIC: Tim, just to let you know,
17 we're just about at half an hour.

18 MR. HALE: Say when.

19 MR. MATIASIC: I don't want -- I don't want to
20 cut off your line of questioning though.

21 MR. HALE: No. This actually is a good place
22 if you want to do it, stop it right here.

23 THE WITNESS: I'm willing to go.

24 MR. MATIASIC: Father, let's -- let's go off
25 the record and we'll go talk.

1 THE WITNESS: Okay.

2 VIDEOTAPE OPERATOR: It is 4:38, we are going
3 off the record.

4 (Recess.)

5 VIDEOTAPE OPERATOR: We are back on the
6 record, it's 4:45.

7 MR. MATIASIC: I spoke -- off the record I
8 spoke with Father [REDACTED] and he indicated that he
9 could go a little bit longer, another 15, 20 minutes
10 maximum. Counsel, you've represented you need a few
11 more hours to conduct his deposition, so based upon
12 the fact that we're already a good half hour past the
13 time that his cardiologist thought it would be
14 appropriate for him to testify, why don't we just end
15 it for today.

16 MR. HALE: That's fine.

17 MR. MATIASIC: And take it up later.

18 And it is going to be our position that the -- the
19 questions should have been focused based upon the fact
20 that you received the letter from the cardiologist
21 ahead of time, and that questioning should have been
22 paired down in an attempt to -- to limit it to an hour
23 and a half to two hours, or two hours and 15 should
24 have been made.

25 MR. HALE: Okay.

1 But you never expressed to me that we were going
2 an hour and a half and that was going to be it. My
3 understanding of our discussions were, it was going to
4 be, we were going to break it down into segments. In
5 fact, you and I talked about it, we talked about what
6 happened with Bishop Ord and Bishop Arzube.

7 If I'd had any understanding that this was going
8 to be it -- I mean, I feel like I'm being -- I'm very
9 caught off guard. I did not realize you were going to
10 take the position that this is it.

11 So, you know, you're right. Frankly, if I was
12 going to be told I was limited to an hour and a half
13 or two hours, I would have tried -- I mean, frankly,
14 we would have -- we would have fought you on that.
15 But, nevertheless, I still would have made adjustments
16 to my outline.

17 So just in case, and I don't think you will, but
18 just in case the judge agrees with you and says this
19 is it, there would have been changes made. So I -- I
20 just think it's unfair.

21 MR. MATIASIC: And, Tim, when we were at the
22 mediation this week that's specifically why I said,
23 you know, based upon his -- his cardiological
24 condition this should be a cross-noticed depo. And I
25 said we wouldn't hold you to the hour and 45 minutes,

1 if another 15 minutes or 20 minutes would get it done.

2 But, you know, obviously we will -- we will
3 consult with his cardiologist again after this
4 deposition and see what he has to say, and if he would
5 think it is appropriate to have him testify for a
6 little bit longer, you know, we certainly would take
7 that recommendation.

8 So we can just agree to revisit it another time.

9 MR. HALE: Okay. As to the conversation at
10 the mediation, I -- I heard you say it and I -- I
11 agree that you qualified they date as firm, but,
12 again, I did not get the impression from you that this
13 was going to be a one-shot deal. Had I gotten that
14 impression, believe me, I had conversations with other
15 plaintiff's counsel recently where I -- I did not
16 communicate that to them, and I would have
17 communicated that to them in a heartbeat, had I
18 believed that was the case.

19 I think you're trying to play games here.

20 MR. MATIASIC: Well, and I think the
21 difference is maybe in relying upon what -- I'm not
22 privy to what happened with -- with the Archdiocese of
23 Los Angeles and what the other depositions were when there
24 was this type of -- of restriction. So I think, you
25 know, we may have been both operating under different

1 assumptions.

2 MR. HALE: I thought I told you, though, that
3 they broke Ward and Arzube down. There's been
4 multiple sessions with both of them. I thought I told
5 you that, I'm pretty sure I did. But whatever the
6 case.

7 MR. MATIASIC: I think we talked about that in
8 another context, you know, not in this context. But
9 why don't we take it up on another day.

10 MR. HALE: Okay.

11 So let's relieve the reporter of her duties under
12 the Code and we'll send the original to Mr. Matiasic's
13 office. He can maintain custody of that.

14 If he can then send that over to Father [REDACTED]

15 And Father [REDACTED] how many days would you like to
16 review the transcript and make any changes that you
17 think are necessary, 15, 30, whatever your preference
18 is.

19 MR. MATIASIC: Why don't we go with 30.

20 THE WITNESS: 30.

21 MR. HALE: 30 days.

22 If you make any changes or once you finish
23 reviewing it, can you then notify your counsel. He'll
24 then notify everyone here of any changes you have
25 made.

1 And if the original -- the signed original is not
2 available at the time of trial an unsigned certified
3 copy can be used for all purposes.

4 MR. MATIASIC: So stipulated.

5 MR. HALE: All right.

6 Thank you, Father.

7 VIDEOTAPE OPERATOR: This will conclude Tape 2
8 in Volume 1 of Father [REDACTED]'s deposition.

9 It's 4:49.

10

11 (At 4:49 p.m. the deposition
12 proceedings adjourned.)

13

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FATHER [REDACTED]

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1 REPORTER CERTIFICATE

2 I hereby certify that the witness in the
3 foregoing deposition, FATHER [REDACTED], was by
4 me duly sworn to testify to the truth, the whole
5 truth, and nothing but the truth, in the
6 within-entitled cause; that said deposition was taken
7 at the time and place herein named; that the
8 deposition is a true record of the witness' testimony
9 as reported by me, a duly certified shorthand reporter
10 and a disinterested person, and was thereafter
11 transcribed into typewriting by computer.

12 I further certify that I am not interested in
13 the outcome of the said action, nor connected with,
14 nor related to any of the parties in said action, nor
15 to their respective counsel.

16 IN WITNESS WHEREOF, I have hereunto set my
17 hand this 14th day of February, 2006.

18
19
20
21 LUCY CARRILLO-GRUBBS RPR

22 CSR No. 6766

23 STATE OF CALIFORNIA
24
25