

**FATHER [REDACTED] - 12/15/05**

**JOHN DOE 39 v. FRANCISCAN FRIARS**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

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COORDINATION PROCEEDING SPECIAL )  
TITLE (RULE 1550(b)) )  
 )  
THE CLERGY CASES III )  
 )  
\_\_\_\_\_  
JOHN DOE 39, ) JCCP No. 4359  
 )  
Plaintiff, ) Alameda No.  
 ) RG03 134157  
vs. )  
 )  
FRANCISCAN FRIARS OF CALIFORNIA, )  
INC.; JAMES ROE 2; and ROES 3 )  
through 10, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF FATHER [REDACTED]  
COSTA MESA, CALIFORNIA  
DECEMBER 15, 2005

Reported by Cindy Cameron, CSR No. 10315, CCR No. 671  
PRS Job No. 2-298933

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19  
20               THE VIDEOTAPED DEPOSITION OF FATHER [REDACTED],  
21       taken at Lewis, Brisbois, Bisgaard & Smith LLP, 650 Town  
22       Center Drive, Suite 1400, Costa Mesa, California on  
23       Thursday, December 15, 2005, at 10:13 a.m., before Cindy  
24       Cameron, Certified Shorthand Reporter in and for the  
25       County of Orange, State of California.

## I N D E X

WITNESS: Father [REDACTED]

EXAMINATION

PAGE

By Mr. Hale

7

## QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

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## INFORMATION REQUESTED

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None.

PERCIPIENT

FATHER [REDACTED]

The Clergy Cases III

Thursday, December 15, 2005

Cindy Cameron, CSR No. 10315, CCR No. 671

INDEX TO EXHIBITS

EXHIBIT

MARKED

1	Amended Notice of Taking Deposition	95
	of Fr. [REDACTED] Pursuant to	
	Deposition Protocol Category (2)	
	Notice Witness; Videotape to be	
	Used at Trial	

1 COSTA MESA, CALIFORNIA; THURSDAY, DECEMBER 15, 2005;  
2 10:13 A.M.

3  
4 THE VIDEOGRAPHER: Good morning. My name is  
5 Robert Velasco. I'm with Paulson Reporting & Litigation  
6 Services, located at 535 Anton Boulevard, Suite 300, in  
7 Costa Mesa, California 92626.

8 This is the deposition of Father [REDACTED] in  
9 the matter of The Clergy Cases III, John Doe 39, et al.,  
10 versus Franciscan Friars of California, Inc., et al.;  
11 JCCP No. 4359, Alameda No. RG031134157.

12 The deposition is taking place at 650 Town  
13 Center Drive, Suite 1400, in Costa Mesa, California. The  
14 deposition is being videotaped and audiotaped at all  
15 times, unless specified to go off the record. The  
16 deposition is now commencing at 10:13 a.m. on  
17 December 15th, 2005.

18 Would all present please identify themselves,  
19 beginning with the witness.

20 THE WITNESS: Father [REDACTED].

21 MR. MATIASIC: Paul Matiasic, Lewis, Brisbois,  
22 Bisgaard & Smith, appearing for the Franciscan Friars of  
23 California and the deponent.

24 MR. HANCE: Brian Hance, also Lewis, Brisbois,  
25 Bisgaard & Smith, for the Franciscan Friars of

1 California, Clergy I.

2 MS. HUBERT: Vanessa Hubert of Gilbert, Kelly,  
3 Crowley & Jennett appearing for Archdiocese of  
4 Los Angeles.

5 MR. HABEL: James Habel, Hennigan, Bennett &  
6 Dorman for the Archdiocese of Los Angeles and Defendants'  
7 liaison counsel in Clergy I.

8 MR. HALE: Tim Hale for Plaintiff.

9 THE VIDEOGRAPHER: Thank you.

10 Would the court reporter please swear in the  
11 witness.

12  
13 FATHER [REDACTED],

14 having been first duly sworn, testified as follows:

15  
16 EXAMINATION

17 BY MR. HALE:

18 Q Father, could you state and spell your name for  
19 the record?

20 A [REDACTED]

21 Q Have you ever had your deposition taken before?

22 A Never.

23 Q Okay. I assume your -- Mr. Matiasic has gone  
24 over the process with you. Let me go over a few of the  
25 rules of the deposition, so to speak.



1           Do you understand that your testimony today has  
2           the same force and effect as if you were in a court of  
3           law before a judge and a jury?

4           A     Yes.

5           Q     Okay. Do you understand you've been placed  
6           under oath by the reporter?

7           A     Yes.

8           Q     Okay. Have you consumed any alcohol or drugs  
9           in the last 24 hours that might somehow impair your  
10          ability to testify?

11          A     Cold medicine.

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

14          A     No.

15          Q     Okay. You're doing a real good job of allowing  
16          me to finish my question before you answer my question.  
17          If you could continue to do that, and if I could do the  
18          same with regards to when you're answering the questions,  
19          we'll have a nice, clear record. Because, as you can  
20          see, the court reporter is typing down everything you and  
21          I say during this process.

22                Do you understand that?

23          A     Yes.

24          Q     Okay. I don't want you to guess to any of the  
25          questions -- the answers to any of the questions that I

1 ask you. I am entitled to your best estimate.

2 Do you understand the difference between a  
3 guess and an estimate?

4 A Yes.

5 Q Okay. If I ask you a question and you respond,  
6 I'm going to assume you understood the question. So it's  
7 very important that if you don't understand the question,  
8 you ask me to clarify it or rephrase or something to that  
9 effect.

10 Do you understand that?

11 A Yes.

12 Q Okay. At the end of the deposition, your  
13 testimony is going to be placed into a typed booklet  
14 form. You'll have a chance to review that testimony.  
15 You can make any changes you think are necessary. But  
16 keep in mind that if you do make any changes, either  
17 myself or any other attorney involved in this matter will  
18 be free to comment on those changes at the time of trial.  
19 So it's very important you give your best testimony this  
20 morning.

21 Do you understand that?

22 A Yes.

23 Q Okay. You're also doing a great job of  
24 answering questions affirmatively. So if you just keep  
25 that up and avoid answering questions with nods of the

1 heads or -- head or uh-huhs or huh-uhs, we'll have a  
2 nice -- again, a nice, clean record.

3 Do you understand that?

4 A Yes.

5 Q Do you have any questions?

6 A No.

7 Q Okay. If you need to take a break at any time  
8 today, just let me know; okay?

9 A (Nods head.)

10 Q Did you review any documents in preparation for  
11 today's deposition?

12 A No.

13 Q Okay. I'd like to go over your employment and  
14 educational background, if we could.

15 Where were you born?

16 A Phoenix, Arizona.

17 Q Okay. And where did you attend high school?

18 A St. Anthony's Seminary, Santa Barbara.

19 Q And was that a four-year or five-year program  
20 when you attended?

21 A Five-year program.

22 Q Okay. When was your last year at  
23 St. Anthony's?

24 A 1946.

25 Q Okay. And after you finished at St. Anthony's,

1 what was your next -- the next step in your process for  
2 you becoming a Franciscan?

3 A Entering the novitiate in San Miguel.

4 Q Okay. And was that one year?

5 A Yes.

6 Q Who was the novice master?

7 A Father David Temple.

8 Q Okay. And how many other candidates were --  
9 how many other novices were with you at the -- at San  
10 Miguel?

11 A There were eight of us.

12 Q Okay. And was that a one-year program?

13 A One year.

14 Q Do you recall who the other eight were, the  
15 other eight novices, who they were?

16 A I can try.

17 Q Okay. Just do your best.

18 A Luis Baldonado --

19 Q Okay.

20 A -- Martin McCuen, Ernest Garcia, Valentine  
21 Healey, Joseph Bauer --

22 Q Okay.

23 A -- [REDACTED] Melvin Stanley.

24 Q Okay. Anyone else you can recall?

25 A I don't recall.

1 Q Okay. Was there anyone assisting Father  
2 Temple, any --

3 A No.

4 Q Okay. And after you finished the one-year  
5 novitiate, did you go to San Luis Rey?

6 A San Luis Rey.

7 Q Okay. And was that three years?

8 A It was two years.

9 Q Two years; okay.  
10 Did you receive a degree from San Luis Rey?

11 A Yes.

12 Q And what was that in?

13 A It was a Bachelor's.

14 Q Okay. Any area in particular?

15 A Philosophy.

16 Q And so would that have been from 1947 to 1949?

17 A Yes.

18 Q Okay. And after that, did you go on to the  
19 school of theology --

20 A Yes.

21 Q -- in Santa Barbara?

22 A Santa Barbara.

23 Q And was that three years?

24 A Four years.

25 Q Four years; okay.

1           And did you receive a degree from the school of  
2 theology, as well?

3           A     Not a degree, no.

4           Q     Were you ordained in your third year there?

5           A     Must have been my fourth year.

6           Q     Okay. What year were you ordained?

7           A     1952.

8           Q     And did you go through what was called a  
9 simplex year in that last year?

10          A     Yes.

11          Q     And did you finish that year in '53?

12          A     Yes.

13          Q     During your time at the school of theology, did  
14 you assist -- did you ever assist at St. Anthony's  
15 Seminary?

16          A     No.

17          Q     What was your first assignment after you  
18 finished your simplex year?

19          A     St. Elizabeth High School in Oakland.

20          Q     Okay. And what was your position there?

21          A     A teacher of religion.

22          Q     Okay. How many years did that assignment last?

23          A     I left there in 1959, I believe.

24          Q     Okay. So from '53 to '59, you were at  
25 St. Elizabeth's?

1 A Yes.

2 Q Who was the principal?

3 A Father Ronald Collotey.

4 Q And where were you in residence during that --  
5 in '53?

6 A At St. Elizabeth.

7 Q Okay. What was your next assignment?

8 A To St. Mary's High School, Stockton.

9 Q How many years was that for?

10 A It's four years.

11 Q So around '59 to '63?

12 A Yes, uh-huh.

13 Q And were you a teacher?

14 A I was a principal.

15 Q And where were you in residence during that  
16 time?

17 A There's a residence there at the high school.

18 Q Okay. What was your next assignment?

19 A To Los Angeles, to St. Joseph, but to the  
20 Franciscan Communication Center as an associate producer.

21 Q How many years did that last, '63 to --

22 A '63 to -- '64 to --

23 Q It's okay to approximate.

24 A -- 1974.

25 Q Okay. So around 1963 to 1974?

1           A     Yes.

2           Q     And where were you in residence during that  
3     time?

4           A     At St. Joseph.

5           Q     Do you recall how many Franciscans were in  
6     residence at St. Joseph's during that period? Was it a  
7     big community or small --

8           A     It was a large community, yes.

9           Q     More than 10?

10          A     I think so.

11          Q     Okay. I'm not asking you to recall all the  
12     names. I'll have specific questions later.

13                     What was your next assignment after St. Joseph  
14     in the Franciscan Communications Center?

15          A     Then I was a traveling preacher around the  
16     country until 1980.

17          Q     So from 1974 to 1980?

18          A     Yes.

19          Q     Were you in residence anywhere?

20          A     I would use St. Joseph as the base.

21          Q     On average in those years, how much of the time  
22     did you spend on the road per year?

23          A     On average, maybe a third of the time.

24          Q     Okay. And would you be going to different  
25     Franciscan parishes around the country or --



1 A Any -- any parish.

2 Q Were there other Franciscans who shared this  
3 assignment with you?

4 A No.

5 Q How was it that you came to have this  
6 assignment?

7 A I would be -- receive invitations to come.

8 Q And was it just to perform mass or were you  
9 speaking on a specific topic?

10 A No, I was speaking; yeah, speaking. Giving  
11 parish missions, so I would deal with religious topics.

12 Q And would you be speaking to any particular  
13 group; in other words, parishioners or women or men or  
14 the community there?

15 A Well, they were both parishioners and religious  
16 groups and priests; whoever invited me.

17 Q Okay. Do you recall the specific topics that  
18 you discussed?

19 A I dealt with the purpose of life, pursuit of  
20 happiness, the love of God.

21 Q Anything else?

22 A That's essentially it. That sums up pretty  
23 much my --

24 Q Okay.

25 A -- message.

1 Q Okay. Have there been, to your knowledge,  
2 other Franciscans who have -- was this a specific  
3 assignment that you had?

4 A No. I was free to accept invitations.

5 Q Okay. And to your knowledge, did the  
6 Provincial intentionally not assign you anywhere because  
7 he was aware you were receiving these invitations?

8 A Oh, I had permission. I was free to do that,  
9 yes.

10 Q In other words, the Provincial was aware, to  
11 your knowledge --

12 A Yes.

13 Q -- that you were doing these things?

14 A Oh, yes.

15 Q Okay.

16 MR. MATIASIC: Father, you've got to let him  
17 finish his question before you answer, okay?

18 THE WITNESS: Oh, okay.

19 BY MR. HALE:

20 Q Have you ever heard or been aware of any other  
21 Franciscans having a similar -- I don't know if  
22 assignment is the right word -- but kind of acting as a  
23 traveling speaker around the country?

24 MR. MATIASIC: Any -- when you say  
25 "Franciscans," Counsel, you mean within the province of

1 Santa Barbara?

2 MR. HALE: Yes, yes.

3 THE WITNESS: Among our members?

4 MR. HALE: Yes.

5 THE WITNESS: No.

6 There was a mission banned prior to my doing  
7 this, but they were pretty much, you know -- they had  
8 folded.

9 BY MR. HALE:

10 Q Did you have a title in this position?

11 A No.

12 Q And you traveled all around the United States?

13 A Yes.

14 Q Did anyone travel with you or act as your  
15 assistant?

16 A No.

17 Q And when you traveled, did you generally stay  
18 at a Franciscan community somewhere or would it have been  
19 the diocese or --

20 A Yes, any rectory.

21 Q Okay. What was your next assignment after this  
22 traveling ended?

23 A I was assigned to Serra Retreat in Malibu in  
24 1980.

25 Q Okay. What were your duties there?

1           A     To direct retreats and, eventually, to be the  
2 director of the retreat house.

3           Q     How long were you there for?

4           A     14 years.

5           Q     So 1980 to 1994?

6           A     Right.

7           Q     What year did you become the director of the  
8 retreat house?

9           A     I'd say '90.

10          Q     Okay. So just about four years, you were in  
11 charge of the retreat house?

12          A     Yes.

13          Q     And from 1980 to 1990, you were simply one  
14 of the -- was it -- I don't know what it would be called  
15 -- a retreat master?

16          A     I was a retreat master.

17          Q     Who was the director of Serra before you became  
18 the director of the retreat house?

19          A     Father Ronald Collotey.

20          Q     And he was the only director before you became  
21 director that -- strike that. That's a really poorly  
22 phrased question.

23                 Was it -- while you were at Serra Retreat  
24 house, was he the only other director of the retreat  
25 house?

1 A Yes.

2 Q Okay. Is he still alive?

3 A No.

4 Q And I assume you were in residence there, as  
5 well?

6 A Yes.

7 Q When you first arrived at Serra, who else was  
8 on the -- what other Franciscans were either assigned  
9 there or were in residence there?

10 A Brother Peter, Brother Adrian Fuhrman, and  
11 Brother Sam Cabbott, Brother [REDACTED].

12 Q Okay. Anyone else?

13 A Not one comes to mind.

14 Q Were you and Father Collotey the only priests  
15 that were assigned there during your time at Serra?

16 A Father Gilbert Slatar, who passed away there.

17 Q Okay.

18 A I don't recall any others.

19 Q Okay. Was there ever a Brother Henry at Serra  
20 while you were there?

21 A Henry? No.

22 Q Do you know any -- have you ever known any  
23 Franciscan brothers named Brother Henry?

24 A I don't recall.

25 Q Okay. While you were working at Serra

1 during -- from '80 to '94, did you have assignments or  
2 duties anywhere other than at Serra?

3 A Well, occasionally, I would go on the road to  
4 give parish missions.

5 Q Okay. When you say "parish missions," what do  
6 you mean?

7 A That would be like a week at a parish; and then  
8 each evening, there would be devotions and talk and --

9 Q Okay.

10 A Uh-huh.

11 Q And would you do that on your own again --

12 A Yes.

13 Q -- or would someone accompany you?

14 A No.

15 MR. MATIASIC: Let him finish his question,  
16 Father.

17 BY MR. HALE:

18 Q What was your next assignment after Serra?

19 A I returned to Hunting- -- I came to Huntington  
20 Beach, to St. Simon and Jude, and joined their community.

21 Q Okay. And how long did that last for?

22 A It's still going on.

23 Q So from '94 to the present?

24 A Yes.

25 Q And what was your assignment at St. Simon and

1 Jude?

2 A I'm simply in residence. I suppose you would  
3 say semi-retirement.

4 Q Okay. Have you assisted there?

5 A Yes.

6 Q Performed mass sometimes?

7 A Yes.

8 Q Who was the pastor there when you arrived?

9 A Father [REDACTED]

10 Q And were there any Franciscans assisting Father  
11 [REDACTED] when you first arrived?

12 MR. MATIASIC: This is assisting as opposed to  
13 being in residence?

14 MR. HALE: Uh-huh.

15 THE WITNESS: Father [REDACTED]

16 BY MR. HALE:

17 Q Okay. Anyone else?

18 A Father Gus Krumm.

19 Q Was he there when you first got there in '94?

20 A Yes.

21 Q Okay. Anyone else?

22 A I don't recall.

23 Q Okay. Anyone -- was there anyone -- has there  
24 been -- are those the only priests that you recall being  
25 assigned to St. Simon and Jude since you've been there

1       since '94?

2               MR. MATIASIC: Franciscan or otherwise?

3               MR. HALE: Yes.

4               THE WITNESS: No one comes to mind.

5 BY MR. HALE:

6               Q       Okay. How about any brothers that have been  
7 assigned or in residence there since '94?

8               A       I don't remember.

9               Q       Okay. Any other Franciscans who have been in  
10 residence or assisted there, other than who we've already  
11 talked about, in the same time frame, since 1994?

12              A       I suppose there have been. I don't know.

13              Q       Okay. Have you ever held any elected positions  
14 within the province?

15              A       I served on the Definitorium for one -- one  
16 term.

17              Q       What years were that?

18              A       I'm terrible with dates, but it was during the  
19 term of Father [REDACTED]

20              Q       While he was Provincial?

21              A       Yes.

22              Q       And is that a three-year term?

23              A       Yes.

24              Q       Who else was on the Definitorium with you?

25              A       I can't remember the name, but he's deceased



1 now. What is his name? Anyway, I think -- I think --  
2 all I can do is --

3 Q Okay.

4 A [REDACTED]

5 Q Okay. Was [REDACTED] on with you?

6 A No.

7 Q Okay. Who else?

8 A No memory. Sorry.

9 Q Okay. And then if I wanted to go somewhere to  
10 find a list of who was on the Definitorium for each year,  
11 is there some sort of publication I can turn to or is  
12 there a directory of some sort? Is there some sort of  
13 annual directory put out by the province?

14 A To find out who served when?

15 Q Right.

16 A I'm sure there is. I can't tell you where. We  
17 put a cathologist catalog, and usually the statistics are  
18 contained there.

19 Q Is that an annual publication?

20 A Not annual, but it comes out periodically.

21 Q How often?

22 A I don't know. Two years.

23 Q Okay. And that would list whoever was sitting  
24 on the Definitorium during that period, you think?

25 A Again --

1 Q Okay. But you suspect that might be the case,  
2 sounds like?

3 A Uh-huh.

4 Q Regarding Father [REDACTED] does it refresh your  
5 recollection -- do you think, possibly, that your time in  
6 the Definitorium was either in the late '60s or early  
7 '70s? Does that sound like the right time frame?

8 A Be more in the mid-'70s.

9 Q Okay. And while you were on the Definitorium,  
10 were you a part of any discussions regarding the transfer  
11 of Father Cimmarrusti?

12 MR. MATIASIC: Lacks foundation.

13 THE WITNESS: I don't recall.

14 BY MR. HALE:

15 Q Okay. Were you a part of any discussions where  
16 the curriculum for St. Anthony's Seminary was decided?

17 A No.

18 Q In your capacity as a definitor, do you recall  
19 there being any discussions amongst the Definitorium  
20 regarding St. Anthony's Seminary?

21 A No.

22 Q Okay. Did you serve on any boards during your  
23 career as a Franciscan, maybe the locations board or the  
24 locations committee or --

25 A The -- the retreat board.

1 Q Do you recall what year -- how many -- how many  
2 years did you serve on the retreat board? More than one?

3 A Pardon?

4 Q More than one?

5 A Oh, yes.

6 Q Okay. More than five?

7 A I suppose five.

8 Q Okay. Was that in the '70s or the '80s or --

9 A It's when I became the director of the retreat.

10 Q Okay. So around the time you were assigned --

11 A Yes.

12 Q -- to Serra Retreat?

13 MR. MATIASIC: Let him finish his question,  
14 Father.

15 THE WITNESS: Ex officio.

16 BY MR. HALE:

17 Q I'm sorry, what?

18 A By virtue of being the director.

19 Q Got it.

20 And who else was on the retreat board with you,  
21 just to the best of your recollection?

22 A (Inaudible).

23 Q Okay.

24 MR. MATIASIC: Answer audibly, Father.

25 THE WITNESS: Pardon?

1 MR. MATIASIC: Answer audibly.

2 THE WITNESS: I don't recall.

3 BY MR. HALE:

4 Q Okay. What did you discuss on the retreat  
5 board? What topics came up?

6 MR. MATIASIC: Vague. Ambiguous. Overbroad.

7 THE WITNESS: Finances, programs.

8 BY MR. HALE:

9 Q Did you discuss who was going to be -- which  
10 Franciscans were going to serve as retreat masters?

11 A I don't recall, specifically.

12 Q Okay. Did you discuss the subject matter of  
13 the retreats?

14 A Yes.

15 Q Okay. Did you discuss marketing the retreats  
16 to any particular groups of people?

17 MR. MATIASIC: Vague and ambiguous.

18 THE WITNESS: I don't know.

19 BY MR. HALE:

20 Q Okay. Do you recall there being any efforts to  
21 market retreats to high-school-age students?

22 MR. MATIASIC: Same objection as to the term  
23 market.

24 THE WITNESS: No.

25 ///

1 BY MR. HALE:

2 Q I'm sorry. "No," you don't recall or "No,"  
3 there weren't any discussions of the sort?

4 A I don't recall.

5 Q Were retreats discussed for Serra and Three  
6 Rivers and all the various retreat houses in the province?

7 A Yes.

8 Q Would there be a representative from each  
9 retreat house attending these meetings?

10 A Correct.

11 Q How often did the board meet?

12 A Bi-annually.

13 Q Bi-annually?

14 A Uh-huh.

15 Q And was there any particular -- would they meet  
16 at one of the retreat houses or --

17 A Yes.

18 Q Would there be minutes kept of the meetings?

19 A Yes.

20 Q And do you know where those were stored?

21 A No.

22 Q Do you know who kept the minutes?

23 A No.

24 Q Was there anyone designated secretary, for  
25 instance?

1           A     I suppose.

2           Q     Okay. Did you ever keep the minutes?

3           A     No.

4           MR. MATIASIC: Counsel, when you say "keep the  
5 minutes," you're saying take -- take down the notes?

6           MR. HALE: Yes.

7           Q     You understand when I say minutes, I'm  
8 referring to taking notes regarding what was discussed?

9           A     Yes.

10          Q     Okay. Have you ever served on any committees  
11 within the province?

12          A     No.

13          Q     Okay. Other than what we already talked about  
14 today, have you held any other positions within the  
15 province?

16          MR. MATIASIC: You're talking about elected  
17 positions?

18          MR. HALE: Not necessarily elected. Perhaps  
19 maybe he was appointed to a board or a committee or --

20          MR. MATIASIC: Anything other than the  
21 assignment history he's already testified to?

22          MR. HALE: Right. Right.

23          THE WITNESS: No.

24 BY MR. HALE:

25          Q     Are there ever any retreats held at St. Simon

1 and Jude?

2 A A parish mission.

3 Q Okay. And what is that exactly?

4 A Again, in the course of a week, it would entail  
5 talk in the morning, mass, and evening; presentation.

6 Q And would that be something that would be  
7 held -- when you say it's during the course of weeks,  
8 would that be held during the summer months if it was  
9 for -- for --

10 A Usually, in the spring.

11 Q Okay. Would there be -- did that involve  
12 minors?

13 A Not specifically.

14 Q Since your time at St. Simon and Jude, have you  
15 ever been aware of minors from St. Simon and Jude going  
16 on retreats as a group?

17 MR. MATIASIC: At St. Simon and Jude?

18 MR. HALE: Anywhere.

19 Q In other words, minors from that parish going  
20 somewhere as a group to a retreat somewhere else or some  
21 other location; maybe Serra, maybe San Luis Rey. I don't  
22 know.

23 A Minors, no, not as a group.

24 Q Okay. What about individually?

25 A No.

1 Q Okay. Are you aware -- do you still perform  
2 retreats at Serra or do you still -- I'm sorry.

3 Do you still supervise retreats at Serra?

4 A Well, direct retreats?

5 Q Yeah, direct retreats, sure.

6 A Yes.

7 Q Are there ever youth retreats at Serra?

8 A Which?

9 Q Youth retreats.

10 A I suppose. I'm not aware.

11 MR. MATIASIC: Don't guess, Father. He only  
12 wants to know what you know.

13 THE WITNESS: Okay.

14 MR. HALE: Right.

15 Q So not to your knowledge?

16 A Not to my knowledge.

17 Q What about -- do you ever direct retreats at  
18 San Luis Rey?

19 A I?

20 Q Yes.

21 A Yes.

22 Q Okay. When was the last time you directed a  
23 retreat at San Luis Rey?

24 A Three, four years ago.

25 Q Okay. Are you aware of there being youth



1       retreats at San Luis Rey?

2               When I say "youth," I mean anyone under the age  
3       of 18.

4               MR. MATIASIC:   Presently?

5               MR. HALE:    At any time.

6               MR. MATIASIC:   Overbroad.

7               THE WITNESS:   Yes.

8               MR. HALE:    Okay.

9       Q       How did you become aware of those retreats?

10      A       Hearsay.

11      Q       Who -- what did you hear about the retreats?

12      A       Just that they're being held.

13      Q       Okay.   Was it -- is there more than one a year,  
14      to your knowledge?

15      A       I don't know.

16      Q       Do you know who directs the retreats?

17               MR. MATIASIC:   When, Counsel; now or at any  
18      time?

19               MR. HALE:    At any time.

20               MR. MATIASIC:   Overbroad.

21               THE WITNESS:   Question again?

22      BY MR. HALE:

23               Q       Do you know who was the retreat master for  
24      these youth retreats at San Luis Rey?

25      A       No.

1 MR. MATIASIC: Same objection.

2 BY MR. HALE:

3 Q Do you know if any of the retreats have  
4 involved -- have been overnight retreats? And I'm  
5 referring to the San Luis Rey retreats.

6 MR. MATIASIC: And you're talking about at any  
7 time?

8 MR. HALE: At any time, to his knowledge.

9 MR. MATIASIC: Overbroad.

10 THE WITNESS: Yes.

11 BY MR. HALE:

12 Q Okay. Do you know if any -- any parents  
13 from -- strike that.

14 Do you know if -- well, how are you aware that  
15 these retreats are overnight?

16 A Publicity.

17 Q You read it in a parish bulletin or --

18 A Their bulletin.

19 Q San Luis Rey's bulletin?

20 A Yes.

21 Q Okay. Are you aware of any -- any minors from  
22 St. Simon and Jude attending any of these overnight  
23 retreats at San Luis Rey?

24 MR. MATIASIC: Overbroad.

25 THE WITNESS: Not aware of.

1 BY MR. HALE:

2 Q Okay. Do you know what the subject matter of  
3 these retreats for minors at San Luis Rey is?

4 A No idea.

5 Q Do you know where, on these overnight retreats,  
6 where the minors sleep?

7 MR. MATIASIC: At any time?

8 MR. HALE: Uh-huh.

9 MR. MATIASIC: Overbroad.

10 THE WITNESS: Their rooms.

11 BY MR. HALE:

12 Q But do you have personal knowledge of that or  
13 are you just assuming? I don't want you to assume.

14 A All right. Then no.

15 Q Is there a youth minister position at St. Simon  
16 and Jude?

17 MR. MATIASIC: Presently?

18 MR. HALE: (Nods head.)

19 THE WITNESS: Yes.

20 BY MR. HALE:

21 Q Okay. And who is that -- is there a specific  
22 person in that position?

23 A Some woman.

24 Q Since you've been at St. Simon and Jude, has  
25 there always been a youth minister?

1 MR. MATIASIC: Father, are you okay?

2 MR. HALE: Do you want to take a break?

3 MR. MATIASIC: Let's go off the record and take  
4 a break.

5 THE WITNESS: Take a break.

6 THE VIDEOGRAPHER: Off the record at 10:53 a.m.

7

8 (Break taken from 10:53 a.m. to 11:03 a.m.)

9 (Whereupon Mr. Bona enters the proceedings.)

10 THE VIDEOGRAPHER: Back on the record at  
11 11:03 a.m.

12 BY MR. HALE:

13 Q Father, do you know Father [REDACTED],  
14 [REDACTED]?

15 A Yes.

16 Q Okay. Are you aware of him [REDACTED]  
17 [REDACTED] currently?

18 A [REDACTED]

19 Q And how long have you been aware of him  
20 directing retreats at San Luis Rey?

21 A How long?

22 Q Approximately.

23 A [REDACTED]

24 Q Okay. Are you aware of him directing retreats  
25 for minors?

1 A No.

2 Q Okay. We were talking about the youth minister  
3 position at St. Jude's, and you identified the current  
4 person as a woman.

5 Has there always been a youth minister position  
6 at St. Jude's since you've been there?

7 A Yes.

8 Q Okay. Is it normally held by a Franciscan or a  
9 layperson?

10 A A layperson.

11 Q Okay. And you don't know the current name, the  
12 name of the current person?

13 A No.

14 Q Okay. Has there ever been a youth minister  
15 named John White?

16 A I don't know.

17 Q Okay. Does that name sound familiar to you at  
18 all?

19 A No.

20 Q Okay. Do you recall the names of any of the  
21 youth ministers since you've been at St. Simon and Jude?

22 MR. MATIASIC: Counsel, I'm just going to  
23 object on the grounds that this is not reasonably  
24 calculated to lead to the discovery of admissible  
25 evidence.

1           He already testified that there aren't any  
2 Franciscans who were youth ministers during his time at  
3 St. Simon and Jude. So I think this is kind of a Diocese  
4 of Orange issue here as to who the youth minister was,  
5 since it's not involving the Franciscans.

6           But I'll let him answer the question.

7           MR. HALE: Okay.

8           THE WITNESS: The question again?

9 BY MR. HALE:

10          Q     Do you recall the names of any of the persons  
11 who have been the youth minister at St. Simon and Jude  
12 since you've been there?

13          A     No.

14          Q     Do you know Father -- Father [REDACTED]  
15 [REDACTED]?

16          A     Yes.

17          Q     And has he been at St. Simon and Jude during  
18 your tenure at St. Simon and Jude?

19          A     No.

20          Q     Did he ever assist at St. Simon and Jude from  
21 '94 to the present?

22          A     I don't recall.

23          Q     Was he ever in residence at St. Simon and Jude  
24 during that time period?

25          A     No.

1           Q     Were you ever aware of there being any kind of  
2     a conflict between Father [REDACTED] and Father Krumm,  
3     K-r-u-m-m?

4           A     No.

5           Q     Do you recall Father Krumm being reassigned to  
6     Ascension, A-s-c-e-n-s-i-o-n, in Portland?

7           MR. MATIASIC: Lacks foundation.

8           THE WITNESS: Again, please.

9           MR. HALE: Sure.

10          Q     Do you recall Father Krumm being reassigned to  
11     Ascension in Portland?

12          MR. MATIASIC: Same objection.

13          THE WITNESS: No.

14     BY MR. HALE:

15          Q     Do you recall Father Krumm being transferred  
16     out of St. Simon and Jude?

17          MR. MATIASIC: Lacks foundation.

18          THE WITNESS: Transferred?

19     BY MR. HALE:

20          Q     Or reassigned, however you want to put it.

21          MR. MATIASIC: Same objection.

22          THE WITNESS: No.

23     BY MR. HALE:

24          Q     Well, he's no longer at St. Simon and Jude,  
25     correct?

1           A     No.   No.

2           Q     Do you recall when he left?

3           A     I recall him leaving; but when, I have no  
4 certainty.

5           Q     Okay.   Do you know where he went to when he  
6 left St. Simon and Jude?

7                 MR. MATIASIC:   Lacks foundation.

8                 THE WITNESS:    I don't know.

9 BY MR. HALE:

10           Q     Okay.   During your time at St. Simon and Jude,  
11 have you ever been aware of a youth minister being banned  
12 from working at that parish?

13           A     No.

14                 MR. MATIASIC:   Vague and ambiguous.

15 BY MR. HALE:

16           Q     How about being banned from working with youth  
17 at that parish?

18                 MR. MATIASIC:   Same objection.

19                 THE WITNESS:    No.

20 BY MR. HALE:

21           Q     Were you ever aware of a youth minister from  
22 St. Simon and Jude having a roommate who was accused of  
23 childhood sexual abuse?

24           A     No.

25           Q     Okay.   Aside from conversations with your



1 counsel, have you ever discussed the fact you were going  
2 to be deposed with anyone? Have you ever discussed the  
3 fact that you were going to be deposed?

4 A Deposed?

5 Q Yes.

6 A I mentioned it to the community.

7 Q Who in the community?

8 A The guardian.

9 Q Okay. Who's the guardian?

10 A Father Dan Lackey.

11 Q Okay. Who else?

12 A Father Chris Mondore.

13 Q Okay.

14 A And the student who brought me, David. I don't  
15 even know his last name --

16 Q Okay.

17 A -- but he lives in the house.

18 Q Okay. Is he a Franciscan candidate, this --

19 A Yes.

20 Q Okay. What did you -- what did you tell him?

21 A Simply I was coming.

22 Q Okay. Did they offer you any advice on what  
23 was going to happen at a deposition?

24 A No.

25 Q Have you ever had discussions with anyone,

1 other than your attorneys, regarding how to conduct  
2 yourself at a deposition?

3 A No.

4 Q Have you ever had any discussions with anyone,  
5 other than your attorneys, regarding other depositions  
6 that have taken place in this -- in this current  
7 litigation?

8 A The question again?

9 Q Have you ever had any discussions with anyone,  
10 other than your counsel, about depositions that have  
11 already taken place in this current clergy --

12 A No.

13 Q -- abuse litigation?

14 Do you know Father [REDACTED]?

15 A Yes.

16 Q And how do you know him?

17 A Long-time friendship.

18 Q Have you ever been assigned anywhere with him?

19 A No.

20 Q Are you aware of him directing retreats at  
21 Serra?

22 A Yes.

23 Q What kind of retreats does he direct?

24 A Married couples.

25 Q Okay. Anything else?

1 A I'm not aware.

2 Q Have you heard of something called a men's  
3 retreat at Serra?

4 A Yes.

5 Q What is that about?

6 A It's usually men who come on retreat.

7 Q Okay. But is there a specific subject matter  
8 that's addressed?

9 A No.

10 Q Okay. What about a recovery retreat?

11 A There are those given.

12 Q What are those?

13 A Alcoholic recovery.

14 Q Okay. Are you aware of there being any  
15 restrictions on Father [REDACTED]'s ministry?

16 MR. MATIASIC: Lacks foundation.

17 THE WITNESS: No.

18 BY MR. HALE:

19 Q Have you ever been aware of any allegations of  
20 inappropriate sexual conduct by him?

21 A No.

22 Q Have you ever been aware of him being  
23 criminally prosecuted for inappropriate sexual conduct?

24 A No.

25 Q Ever aware of him being sent for treatment for

1 sexual problems?

2 A No.

3 Q While you were a student at St. Anthony's, do  
4 you recall students being disciplined in any way? In any  
5 way, I mean it could be through detention or maybe extra  
6 assignments; maybe -- any form of punishment.

7 MR. MATIASIC: Vague. Ambiguous. Overbroad.

8 THE WITNESS: Being punished?

9 MR. HALE: Yes.

10 THE WITNESS: Yes.

11 BY MR. HALE:

12 Q Okay. What were the methods of punishment  
13 while you were a student at St. Anthony's?

14 MR. MATIASIC: Same objection.

15 THE WITNESS: Grounding.

16 BY MR. HALE:

17 Q In other words, you couldn't go off the  
18 property?

19 A Right.

20 Q Okay. What else?

21 A That's it.

22 Q Was there -- who was the prefect of discipline  
23 while you were at St. Anthony's?

24 A [REDACTED]

25 Q Okay. [REDACTED]?

1 A [REDACTED]

2 Q [REDACTED]?

3 A [REDACTED], yeah.

4 Q Okay. Thanks.

5 And was there an infamarian while you were at  
6 St. Anthony's?

7 A Yes.

8 Q And was that a student or a faculty member?

9 A Student.

10 Q Okay. Do you recall who that was?

11 A I don't recall.

12 Q Okay. During your five years at St. Anthony's,  
13 do you recall the infamarian ever being a faculty member?

14 A No.

15 Q During your five years at St. Anthony's, do you  
16 recall the infamarian ever being a Franciscan?

17 A No.

18 Q Have you ever been involved in the preparation  
19 of a quinquennial report, q-u-i-n-q-u-e-n-n-i-a-l?

20 A Quinquennial? No.

21 Q Do you know what that is?

22 A 50.

23 Q A what?

24 A 50 years.

25 Q Okay. But you've never heard of it?

1 A No.

2 Q Okay. You don't know anything like that being  
3 sent over to the orders -- the order office in Europe?

4 A No.

5 Q Okay. Are you aware of any kind of financial  
6 report being sent to the order's office in Europe?

7 MR. MATIASIC: By whom, Counsel?

8 MR. HALE: By the province.

9 THE WITNESS: No.

10 BY MR. HALE:

11 Q Do you know Anton Smario, S-m-a-r-i-o?

12 A No.

13 Q Do you know who Carl Rogers is?

14 A Yes.

15 Q How are you familiar with Carl Rogers?

16 A Not familiar. I just know the name.

17 Q Okay. How do you know the name?

18 A Through discussions on sensitivity or whatever  
19 it is, yes.

20 Q Sensitivity training?

21 A Yes.

22 Q What's your understanding regarding sensitivity  
23 training, regarding what it is or what it involves?

24 A Very superficially, it's personal psychological  
25 growth.

1           Q     Have you ever been aware of students at  
2     St. Anthony's receiving sensitivity training?

3           A     No.

4           Q     Did you ever participate in any sensitivity  
5     training in the time you've been a Franciscan?

6           A     No.

7           Q     Have you been aware of other Franciscans  
8     participating in sensitivity training?

9           MR. MATIASIC: At any time?

10          MR. HALE: (Nods head.)

11          THE WITNESS: Yes.

12     BY MR. HALE:

13           Q     Okay. And did that take place at Serra Retreat  
14     house?

15           A     No.

16           Q     How did you become aware of that training for  
17     these Franciscans?

18           A     Just hearsay.

19           Q     Okay. Do you recall who participated in the  
20     training?

21           A     Yes.

22           Q     Who was that?

23           A     [REDACTED].

24           Q     Anyone else?

25           A     No.

1 Q When was the last time you spoke to [REDACTED]?

2 A Oh, many years.

3 Q Okay. When I refer to childhood sexual abuse,  
4 do you understand that to mean the sexual abuse of a  
5 child under the age of 18?

6 MR. MATIASIC: Counsel, again, I think with  
7 this question -- is that the definition you're going to  
8 use when you use that term? I mean, that's a different  
9 question as to what, you know, he understands it to mean.  
10 I'm asking you, Counsel, is that what you're giving him,  
11 that's the definition you're going to use, whether he  
12 understands that definition?

13 MR. HALE: I don't think it's a definition.  
14 Is he considering it to be abuse of a child  
15 under the age of 18? I'm asking for age.

16 MR. MATIASIC: When you use that term?

17 MR. HALE: Yeah.

18 Q Go ahead, Father.

19 A The question again?

20 Q Sure.

21 When I refer to childhood sexual abuse, do you  
22 understand that to mean the abuse of a child under the  
23 age of 18?

24 A Okay.

25 Q Is that a "yes"?



1           A     Uh-huh.

2           Q     Okay. Do you draw any distinction between  
3 sexual abuse of an adolescent versus sexual abuse of a  
4 pre-adolescent or a younger child?

5           MR. MATIASIC: Calls for speculation. Calls  
6 for an expert opinion.

7           THE WITNESS: There's a distinction?

8 BY MR. HALE:

9           Q     I'm asking you, do you draw any distinction  
10 between the two?

11          MR. MATIASIC: Same objection.

12          THE WITNESS: No.

13 BY MR. HALE:

14          Q     Okay. While you were a student of  
15 St. Anthony's, did any Franciscan ever engage in what you  
16 consider to be inappropriate conduct with you?

17          A     No.

18          MR. MATIASIC: Vague and ambiguous.

19 BY MR. HALE:

20          Q     Have you ever been aware of any Franciscan  
21 engaging in inappropriate conduct with a St. Anthony's  
22 student?

23          MR. MATIASIC: Other than anything you may have  
24 heard from counsel.

25          MR. HALE: Right.

1 MR. MATIASIC: And vague and ambiguous.

2 THE WITNESS: No.

3 BY MR. HALE:

4 Q Okay. What about after you finished your fifth  
5 year at St. Anthony's, but before you were ordained, did  
6 any Franciscan ever engage in what you consider to be  
7 inappropriate conduct with you?

8 MR. MATIASIC: Same objection.

9 THE WITNESS: No.

10 BY MR. HALE:

11 Q Okay. When you were a student at San Luis Rey,  
12 was Dennis Lyons on the faculty?

13 A Dennis?

14 Q I'm sorry, Brian Lyons.

15 A No.

16 Q Okay. Were you ever aware of -- did you  
17 ever -- strike that.

18 Have you ever been aware of or heard of Father  
19 Lyons inspecting San Luis Rey students to determine if  
20 they were circumcised?

21 A Yes.

22 Q How did you first become aware of that?

23 A At San Luis Rey?

24 Q Yes.

25 A Reports.

1 Q Reports from other students?

2 A Yes.

3 Q Did you hear that from some of your classmates?

4 A No.

5 Q Okay. And Father Lyons was not at San Luis Rey  
6 while you were there?

7 A That's correct.

8 Q Had you heard about it taking place before you  
9 arrived at San Luis Rey?

10 A No. I was gone.

11 Q So it was your understanding that that conduct  
12 by Father Lyons took place after you had attended San  
13 Luis Rey?

14 A Yes.

15 Q Were you aware of the province taking any  
16 action to stop Father Lyons' conduct in that regard?

17 MR. MATIASIC: Lacks foundation that the  
18 province knew of the conduct.

19 THE WITNESS: No.

20 BY MR. HALE:

21 Q Okay. Did you hear it from Franciscan  
22 candidates who were students at the time at San Luis Rey  
23 and told you this was happening or had been students at  
24 San Luis Rey and told you this was happening?

25 A Had been.

1 Q Okay. How many different students did you hear  
2 it from?

3 A I don't know.

4 MR. MATIASIC: And again, Counsel, we're  
5 talking, specifically, about Father Lyons checking for  
6 circumcision?

7 MR. HALE: Yes.

8 Q More than one?

9 A I don't remember.

10 Q Okay. And what was your understanding of what  
11 exactly Father Lyons was doing?

12 MR. MATIASIC: Based upon his conversations?

13 MR. HALE: Right.

14 THE WITNESS: What was my --

15 BY MR. HALE:

16 Q What did they tell you had happened to them  
17 with Father Lyons -- or that -- what did that person tell  
18 you had happened with Father Lyons?

19 A Just that there were inspections.

20 Q Okay. Was there any discussion of whether he  
21 touched their genitals?

22 A No.

23 Q Was it your understanding he was simply viewing  
24 their genitals?

25 A Yes.

1           Q     Do you consider that conduct, wherein he  
2     ordered them to drop their pants so that he could view  
3     their genitals, to be sexual abuse?

4           MR. MATIASIC: I'm going to object that, one,  
5     it lacks foundation; two, it calls for an expert opinion.

6           This is -- you know, he's not an expert witness  
7     here. He's not a hierarchy witness, and I think it's not  
8     likely to lead to the discovery of admissible evidence  
9     whether or not he considers that conduct to be sexual  
10    abuse.

11          MR. HALE: Well, I think that as a Definitorium  
12    member, though, I think that qualifies him as a hierarchy  
13    witness.

14          MR. HABEL: Probably calls for a legal  
15    conclusion, too.

16          MR. MATIASIC: Yeah, and it lacks foundation  
17    that he was -- that that issue specifically came up in  
18    front of the Definitorium during his time there, as well.

19          If you can answer the question, Father, you can  
20    go ahead.

21          THE WITNESS: The question?

22    BY MR. HALE:

23           Q     Do you consider that conduct by Father Lyons --  
24    i.e., the ordering a student to drop his pants so that  
25    Father Lyons could visually inspect his genitals -- to be

1       sexual abuse?

2               MR. MATIASIC: And I think it also misstates  
3 his testimony. I don't think that he testified that  
4 Father Lyons ordered students to drop their pants. But  
5 same objections.

6               Go ahead and answer.

7               MR. HALE: Let's clear that up.

8               Q     What was your understanding of what Father  
9 Lyons was having that student or students do?

10              A     I did not understand it to be abuse. I  
11 considered it part of his -- what he considered his duty.

12              Q     Okay. But as far as what Father Lyons was  
13 doing -- let me see if I can state it.

14                    Was it your understanding that what Father  
15 Lyons was doing was ordering a student or students to  
16 drop their shorts so they were naked from their waist  
17 down, and then he would observe or view their genitals to  
18 determine if they were circumcised; is that correct?

19              A     That's correct.

20              Q     That was your understanding of what was  
21 happening?

22              A     Yes.

23              Q     And you do not consider that to be sexual  
24 abuse?

25              A     No.

1 Q Okay. While you were a student at  
2 St. Anthony's, I assume there were study halls?

3 A Yes.

4 Q Okay. Would there be a Franciscan who would  
5 supervise the study hall?

6 A Yes.

7 Q During your time as a student at St. Anthony's,  
8 were you ever aware of any Franciscan pulling a student  
9 out of study hall for any purpose?

10 MR. MATIASIC: Lacks foundation, vague and  
11 ambiguous and incomplete hypothetical.

12 THE WITNESS: Yes.

13 BY MR. HALE:

14 Q Okay. Was that a common occurrence or an  
15 uncommon occurrence?

16 MR. MATIASIC: Same objection.

17 THE WITNESS: It happened.

18 BY MR. HALE:

19 Q And if a Franciscan pulled a student out of the  
20 study hall, would that Franciscan first have to check  
21 with the Franciscan who was supervising the study hall?

22 A No.

23 MR. MATIASIC: Same objections.

24 BY MR. HALE:

25 Q He could just go in there, grab a student, and

1 walk on out?

2 A Or summon him.

3 Q Okay. Or summon him; okay.

4 Did you ever -- aside from your time as a  
5 student at St. Anthony's, did you spend any time at  
6 St. Anthony's campus for any reason from 1964 to 1987?

7 MR. MATIASIC: Overbroad.

8 THE WITNESS: None.

9 BY MR. HALE:

10 Q Did you ever lecture at St. Anthony's campus?

11 A No.

12 Q Okay. Are you aware of any photographs of you  
13 speaking at St. Anthony's appearing in the St. Anthony's  
14 yearbooks?

15 A Repeat.

16 Q Sure.

17 Are you aware of any photographs of you  
18 speaking at St. Anthony's appear- --

19 A Me speaking?

20 Q Yes.

21 -- appearing in St. Anthony's yearbooks?

22 And, Father, I'm not trying to play -- I'll  
23 just represent to you -- I don't have a copy of the  
24 photograph here, but I'll represent to you I have  
25 observed -- I think it was from the 1967 yearbook, a



1 photograph of you --

2 A Addressing the students.

3 Q Yes.

4 MR. MATIASIC: Let him finish, Father.

5 BY MR. HALE:

6 Q Yes, you're right; addressing the students.

7 Do you have a recollection of that taking place  
8 in the '60s?

9 A No.

10 MR. MATIASIC: Well -- and, Counsel, I'm also  
11 just going to lodge the objection that despite your  
12 representation, the photo's not in front of him. And so,  
13 you know, I think that the only way he can fairly answer  
14 that is if it's in front of him.

15 Because, also, you've used the language of  
16 "addressing the students." The photo may be depicting  
17 something else, but --

18 MR. HALE: It does, but whatever the case.

19 MR. MATIASIC: I'm just saying that it's not in  
20 front of him.

21 MR. HALE: I understand.

22 Q So you don't have a recollection, though, of  
23 speaking to the student body at St. Anthony's?

24 A Vaguely, maybe. I don't know.

25 Q Okay. During that same time frame, do you have

1 a recollection of spending time at St. Anthony's or the  
2 mission?

3 MR. MATIASIC: The same frame being the '70s?

4 MR. HALE: '64 to '87.

5 MR. MATIASIC: It's overbroad.

6 THE WITNESS: Time? How much time?

7 BY MR. HALE:

8 Q Maybe an overnight stay.

9 A I don't recall.

10 Q Okay. Have you ever been involved in  
11 evaluating a Franciscan candidate -- candidacy to join  
12 the province?

13 MR. MATIASIC: Vague. Ambiguous.

14 THE WITNESS: Have I been involved?

15 MR. HALE: Uh-huh.

16 THE WITNESS: Yes.

17 BY MR. HALE:

18 Q Okay. Was that during your time at the  
19 Definitorium or at some other point?

20 A I was a member of a community.

21 Q Okay. And when was that?

22 A Oh, I have no idea.

23 Q Has it happened more than once?

24 A Whenever a candidate is considered, our opinion  
25 is asked for.

1 Q Okay. Do you have a recollection of offering  
2 an opinion for any specific candidates?

3 A No.

4 Q Do you recall what criteria were used to  
5 evaluate a candidate's fitness for joining the province?

6 MR. MATIASIC: Vague and ambiguous.

7 THE WITNESS: No.

8 BY MR. HALE:

9 Q Okay. Was a candidate's -- have you ever been  
10 aware of a candidate's sexual maturity being one of the  
11 criteria for evaluating his candidacy?

12 A No.

13 MR. MATIASIC: Same objections.

14 BY MR. HALE:

15 Q What about a candidate's manliness being one of  
16 the criteria for -- manliness --

17 A Manliness?

18 Q -- for evaluating his candidacy?

19 A No.

20 MR. MATIASIC: Same objection.

21 BY MR. HALE:

22 Q Have you ever heard of a Franciscan -- not a  
23 candidate, but a Franciscan -- being evaluated based on  
24 with the criteria being a Franciscan's manliness?

25 MR. MATIASIC: Same objection.

1 THE WITNESS: No.

2 BY MR. HALE:

3 Q What about sexual maturity? Same question.

4 MR. MATIASIC: Same objection.

5 THE WITNESS: No.

6 BY MR. HALE:

7 Q Okay. Were you ever aware, while you were a  
8 student at St. Anthony's, of students being punished with  
9 spankings?

10 A At the seminary?

11 Q Yes.

12 A No.

13 Q Have you ever been aware of any minors being  
14 punished with spankings by any Franciscan?

15 MR. MATIASIC: Overbroad. Vague and ambiguous.

16 THE WITNESS: Generally?

17 MR. HALE: Yes.

18 MR. MATIASIC: You're speaking of within the  
19 province?

20 MR. HALE: Yes.

21 THE WITNESS: Yes.

22 BY MR. HALE:

23 Q Where at?

24 A Oh, let's see. Seminarians.

25 MR. MATIASIC: Father, do you understand the

1 pending question?

2 THE WITNESS: Repeat the question again.

3 MR. HALE: Sure.

4 Q Have you ever been aware of any minors being  
5 punished with spankings by Franciscans anywhere within  
6 the province?

7 MR. MATIASIC: Same objections.

8 THE WITNESS: No.

9 Minors being --

10 MR. HALE: 18 or under.

11 THE WITNESS: -- 18 or under?

12 18 or under? Yes.

13 BY MR. HALE:

14 Q Okay. And where was that at?

15 A San Luis Rey.

16 Q Okay. And how did you become aware of this?

17 A Reports.

18 Q Was it while you were a student there or --

19 A No.

20 Q Okay. Who was doing the spanking?

21 A Father Brian.

22 Q Okay. Father Lyons?

23 A (Nods head.)

24 Q And who was receiving the punishment?

25 A Oh, students.

1 Q And are you aware of this happening more than  
2 once?

3 A I guess. I don't --

4 MR. MATIASIC: Father, don't --

5 THE WITNESS: I don't know.

6 MR. MATIASIC: -- guess.

7 THE WITNESS: That's right.

8 MR. MATIASIC: He only wants to know what you  
9 know.

10 THE WITNESS: Right.

11 MR. MATIASIC: So if you don't know, just tell  
12 him.

13 THE WITNESS: Right.

14 BY MR. HALE:

15 Q Was it your understanding that Father Lyons was  
16 spank- -- was requiring them to drop their pants to spank  
17 their naked bottoms?

18 A Yes.

19 Q Okay. And was it your understanding that he  
20 was causing any kind of bruising or other injury to their  
21 bottoms?

22 A No.

23 Q Okay. Were you aware of the province taking  
24 any steps to stop Father Lyons' conduct in that regard?

25 MR. MATIASIC: Lacks foundation.

1 THE WITNESS: No.

2 BY MR. HALE:

3 Q And can you give me a time frame for when you  
4 were aware of this taking place? Was it in the '50s or  
5 the '60s or --

6 A Don't know.

7 Q Okay. But it was while he was on the faculty  
8 at San Luis Rey?

9 A Yes.

10 Q Okay.

11 MR. MATIASIC: Hold on, Counsel. That it  
12 occurred or that he became aware of it?

13 MR. HALE: That it occurred.

14 Q Is that correct? So, in other words, Father  
15 Lyons was spanking students while he was on the faculty  
16 of San Luis Rey?

17 A Yes.

18 Q Okay. Were you aware of -- were there any  
19 discussions, that you were aware of, within the province  
20 regarding the appropriateness of spankings as punishment?

21 MR. MATIASIC: Lacks foundation. Vague and  
22 ambiguous as to discussions amongst the province, the  
23 province spans several states and several-hundred people.

24 BY MR. HALE:

25 Q You can answer.

1           A     Was I --

2           Q     Aware of any discussions where people were --  
3     Franciscans were considering whether it was appropriate  
4     for Father Lyons to be spanking students.

5           MR. MATIASIC:   Same objections.

6           THE WITNESS:   No.

7     BY MR. HALE:

8           Q     Okay.   At some -- were you -- strike that.

9                 Was Father Lyons the prefect of discipline at  
10    San Luis Rey while this was going on; the spankings, that  
11    is?

12          A     That wasn't his title, prefect of discipline.

13          Q     Okay.   Was his position, to your knowledge,  
14    equivalent to the seminary's prefect of discipline?

15          MR. MATIASIC:   Vague and ambiguous.

16          THE WITNESS:   He was simply director of  
17    students.

18     BY MR. HALE:

19          Q     Okay.   To your knowledge, has corporal  
20    punishment ever been -- well, would you consider spanking  
21    to be corporal punishment?

22          A     Yes.

23          Q     To your knowledge, has corporal punishment ever  
24    been forbidden by the province?

25          MR. MATIASIC:   Lacks foundation.



1 THE WITNESS: No.

2 BY MR. HALE:

3 Q To your knowledge, has corporal punishment ever  
4 been approved of by the province?

5 MR. MATIASIC: Same objection; and vague and  
6 ambiguous.

7 THE WITNESS: No.

8 BY MR. HALE:

9 Q Were there ever any discussions, while you were  
10 on the Definitorium, regarding corporal punishment?

11 A No.

12 Q Have you ever heard of any other Franciscans,  
13 aside from your attorneys, other than Father Lyons,  
14 spanking students?

15 A No.

16 Q Have you ever heard, aside from your attorneys,  
17 of any Franciscan ordering a class of students to take an  
18 exam in their underwear?

19 MR. MATIASIC: Vague and ambiguous. Incomplete  
20 hypothetical.

21 THE WITNESS: No.

22 MR. MATIASIC: Lacks foundation.

23 BY MR. HALE:

24 Q Have you ever heard of or been aware of any  
25 Franciscan stating they had walked in on Father

1 Cimmarrusti with a student in his room?

2 A No.

3 Q Did you speak to San Luis Rey students who had  
4 been spanked by Father Lyons or did you hear about it  
5 secondhand or thirdhand?

6 A Secondhand.

7 Q Okay. Do you have any knowledge of whether  
8 that conduct by Father Lyons was reported to anyone  
9 within the province?

10 MR. MATIASIC: Lacks foundation. Calls for a  
11 legal conclusion, as well.

12 THE WITNESS: No.

13 BY MR. HALE:

14 Q Okay. Did you consider reporting it to anyone  
15 within the province?

16 MR. MATIASIC: Same objection.

17 THE WITNESS: No.

18 BY MR. HALE:

19 Q Why not?

20 MR. MATIASIC: Argumentative.

21 THE WITNESS: He had a reputation.

22 BY MR. HALE:

23 Q What do you mean by he had a reputation?

24 A That was his routine.

25 Q Spanking students?

1           A     (Nods head.)

2           Q     Is that a "yes"?

3           A     Yes.

4           Q     Did he have a reputation for punishing  
5 students?

6           MR. MATIASIC: Counsel, I'm just going to  
7 object here. I don't know how this is -- I allowed a few  
8 questions, just to see if there's going to be some type  
9 of relevance.

10          Father [REDACTED] is being deposed in connection with  
11 the Father Cimmarrusti's case and the Clergy Cases III.  
12 What the reputation of Father Lyons is is, you know,  
13 absolutely irrelevant to any of the issues in the Clergy  
14 III, it's not reasonably calculated to lead to the  
15 discovery of admissible evidence. And, quite frankly, I  
16 think that, you know, this is just badgering the witness.  
17 This is an inappropriate line of questioning.

18          So, you know, Father, if you have an opinion  
19 one way or another regarding the reputation of Father  
20 Lyons, you can go ahead and answer.

21          But, Counsel, I'm not going to continue to  
22 allow him going down this road and answering these type  
23 of questions unless you can somehow demonstrate the  
24 relevancy to me.

25          MR. HALE: It's quite easily done.

1           You've got a Franciscan here engaging in the  
2           same kind of conduct that Mr. Cimmarrusti has been  
3           accused of himself, apparently with the province's  
4           approval. It's clearly relevant. There's a pattern of  
5           conduct here, and it parallels Father Cimmarrusti's.

6           MR. MATIASIC: Well, quite frankly, I would  
7           disagree, because -- I don't want to sit here and get  
8           into a long colloquy on the record, but Father [REDACTED] has  
9           already testified that corporal punishment wasn't  
10          approved by the province.

11          So if he had testified otherwise, you'd maybe  
12          have a leg to stand on. But he didn't; he never said it  
13          was approved. So I don't know how this is in anyway  
14          relevant.

15          MR. HALE: Well, I think we can agree to  
16          disagree on this.

17          MR. HABEL: And let me add, I think a lot of  
18          questioning this morning has exceeded the scope of the  
19          deposition notice for the one Plaintiff in Clergy III  
20          alleging abuse by Father Cimmarrusti. I could go through  
21          my notes and give examples, but there's been plenty of  
22          questions that far exceeds the scope.

23          I think this deposition is being used as a  
24          vehicle to circumvent the discovery stay in Clergy I. I  
25          think this deposition violates the discovery stay in

1 Clergy I?

2 MR. MATIASIC: I'd join in the objections  
3 raised by the counsel for the Archdiocese of Los Angeles.

4 MR. HALE: I, obviously, disagree.

5 And rather than restate the position I stated  
6 on the record at the [REDACTED] deposition, I don't want to  
7 go through all that again.

8 MR. HABEL: I would just add, I don't think any  
9 party is entitled to do punitive-damage discovery until  
10 such time as they've been allowed to bring a claim for  
11 punitive damages. So that would be premature.

12 MR. HALE: Well, given we've got a March 6  
13 trial date, I don't think Judge Sebrae is going to expect  
14 us to attend a deposition, get the punitive motions  
15 granted, and then come back and do it all over again.  
16 Talk about inefficient use of judicial resources.

17 MR. MATIASIC: Well, one, Counsel, that has to  
18 do with -- I mean, that's not our issue. That has to do  
19 with the timing of you filing your motion for leave to  
20 amend to include punitive damages.

21 MR. HALE: Sure.

22 MR. MATIASIC: And just because you haven't,  
23 that doesn't mean that -- you know, that we're just going  
24 to still allow him to testify as to these things.

25 And I think, also, in light of the court's

1 tentative ruling in this matter, that the case may be  
2 transferred down to Clergy I, I think it's particularly  
3 inappropriate; and it's very clearly being used to  
4 circumvent the discovery order in Clergy I.

5 MR. HALE: There's no attempt to circumvent the  
6 discovery order whatsoever here. I think that's just  
7 grandstanding on your part.

8 And I think the key word is tentative. It's  
9 not final yet.

10 MR. MATIASIC: Counsel, I agree.

11 I'm just saying, in light of the fact -- I  
12 mean, you talked about what Judge Sebrae would think  
13 would be permissible discovery in this case. And so I  
14 was just pointing out that he has tentatively opined upon  
15 what to be permissible discovery in the Clergy III case.

16 MR. HALE: You know as well as I do, there's  
17 still going to be oral argument on the issue.

18 MR. MATIASIC: No issue with that, Counsel.

19 I just -- I don't see how this line of  
20 questioning is in any way relevant to the lone  
21 Cimmarrusti case we have in Clergy III.

22 MR. HABEL: For instance, the questioning about  
23 current or -- not just current, but what was it, youth  
24 ministers --

25 MR. MATIASIC: Youth ministers.

1 MR. HABEL: -- from 1994 to the present within  
2 a parish in Orange County. If there's some way you can  
3 tie that in --

4 MR. HALE: Absolutely.

5 MR. HABEL: -- you'd be educating me, Counsel.

6 MR. HALE: That's the think, I don't want to  
7 educate you as far as where we're going with our case,  
8 but I can. I absolutely can. I know exactly what that  
9 line of questioning was about. It had nothing to do with  
10 diocese of Orange; it had everything to do with the  
11 conduct of the Franciscans in operating that parish.

12 MR. HABEL: But, again, would it have anything  
13 to John Doe 39's claim against Father Cimmarrusti?

14 MR. HALE: Well, that's where we disagree on  
15 the whole punitive-damages argument.

16 MR. MATIASIC: You know, quite frankly, there's  
17 no punitive damages motions that have been filed as of  
18 today's date.

19 And so, you know, if you're saying that the  
20 basis is, you know, because it potentially may go to a  
21 punitive-damages motion, I'm not going to allow -- I'm  
22 going to instruct him not to answer; because there's no  
23 punitive-damage motion pending.

24 MR. HALE: All right. Well, if you do that,  
25 there most certainly will have to be a motion to compel.

1           This is discovery. It's not about -- I mean,  
2   if you're going to instruct based on a privilege or a  
3   privacy right, that's one thing; but I think it's  
4   inappropriate for you to instruct otherwise.

5           MR. MATIASIC: Well, Counsel, you just -- you  
6   indicated that you think it's -- I mean, we're talking  
7   about -- at some point, Tim, you're talking about  
8   badgering the witnesses here. I mean, this witness was  
9   never even assigned to Santa Barbara.

10          And so you're asking him about youth ministers  
11   and the diocese of Orange, and, you know, you're asking  
12   him about other priests not implicated in the John Doe 39  
13   case.

14          If you think it's relevant because of the issue  
15   of punitive damages, that's fine. But there's no  
16   punitive-damages motion that has been filed. And so  
17   given that that's the case, I'm not going to allow him to  
18   give testimony going on -- based upon your representation  
19   that you may be filing a punitive-damage motion sometime  
20   in the future.

21          MR. HABEL: You're not entitled to the  
22   discovery at this time. There may be a point in time  
23   when you're wholly entitled to it, but that hasn't arisen  
24   yet.

25          MR. HALE: Well, first of all, I disagree with



1 your characterizing my questioning as badgering. I think  
2 I've been nothing but polite and respectful to this  
3 witness. I think that's unfair.

4 MR. MATIASIC: Counsel, I think there's a way  
5 of badgering the witness in the most polite way. I'm not  
6 representing that, you know, you haven't been polite.  
7 You have. You've conducted yourself, just fine. What  
8 I'm saying is I think you're badgering -- how about not  
9 the witness, but the defendant in this case, as well, by  
10 asking --

11 MR. HALE: Maybe Defense counsel.

12 MR. MATIASIC: That's okay. You can badger me.  
13 I don't have any problem with that.

14 And, Counsel, just so the record's clear, I  
15 allowed a number of questions to see if there was some  
16 type of relevance. I'm not trying to stymie your ability  
17 to conduct discovery; but it's clear that the only -- you  
18 know, based upon your representation, as well, that the  
19 only way that testimony is relevant is to the issue of  
20 punitive damages. There's no motion pending on that. So  
21 I think we should move on to another line of questioning.

22 MR. HALE: Actually, no.

23 Could you read my last question back, however  
24 far back that is.

25 And then if you're going to instruct not to

1 answer, do so. But, Paul, I've got to file a motion to  
2 compel on that issue. This is discovery. You are not  
3 providing a reasonable basis to instruct not to answer.

4 MR. HABEL: But the motion to compel would be  
5 premature, because you don't have a right to the  
6 discovery.

7 MR. HALE: But, see, that's where we disagree.  
8 This is discovery, and unless you've got a privilege that  
9 you're saying I'm violating or a privacy right that I'm  
10 violating, you cannot instruct not to answer.

11 MR. HABEL: How can -- if the question is so  
12 wholly irrelevant as to be, you know, harassing and just  
13 completely out of bounds, you can instruct not to answer.  
14 And without a right to bring a punitive-damages claim, it  
15 is.

16 MR. MATIASIC: This is a 78-year-old witness  
17 who was never assigned to Santa Barbara. We are talking  
18 about a case involving abuse allegations involving Father  
19 Mario Cimmarrusti at St. Anthony's in Santa Barbara.

20 So the only way this would be relevant,  
21 arguably -- and I'm not conceding that it would be -- is  
22 to the issue of punitive damages, in which no motion has  
23 been filed; and so that's the basis for the instruction.

24 I understand the standard to conduct  
25 discovery. If this were -- if you were asking questions

1 about Cimmarrusti, it would be a different story. If you  
2 were even asking questions about St. Anthony's Seminary  
3 around the same time that Cimmarrusti was there, we would  
4 allow it, but you're not, so --

5 MR. HALE: Could you read -- I know it's a ways  
6 back, but could you read my last question back.

7 THE REPORTER: "Did he have a reputation  
8 for punishing students?"

9 MR. MATIASIC: That's not relevant.

10 I'm going to instruct him not to answer.

11 MR. HALE: Okay. And I'm absolutely going to  
12 have to file a motion to compel; because, again, you've  
13 got Father Lyons engaging in conduct that's almost  
14 identical to Father Cimmarrusti's, apparently with the  
15 approval of the province. I don't think you've got a  
16 right to instruct not to answer based on that. You've  
17 got a pattern of conduct there, even beyond the punitive  
18 damages claim. It's identical to Father Cimmarrusti's.

19 This is the first time I've ever heard a  
20 witness talk about another Franciscan engaging in the  
21 same conduct that Father Cimmarrusti did. I think it's  
22 highly relevant.

23 MR. MATIASIC: We're talking about the same  
24 conduct, as well, Counsel.

25 If you want to ask him a question specifically

1 directed to sexual abuse, whether he's ever heard that  
2 Father Lyons conducted sexual abuse, fine; I'll let him  
3 answer that question. But corporal punishment is a  
4 different story, and he's already testified -- I let him  
5 answer the question that, you know, you asked him did the  
6 province approve of corporal punishment. He already  
7 answered that question. So --

8 MR. HALE: Paul, you're well aware there are  
9 allegations of sexual abuse in the context of corporal  
10 punishment by Father Cimmarrusti. And you know you are.  
11 You know your case. And that makes the question highly  
12 relevant, highly.

13 And I think it's completely inappropriate for  
14 you to instruct not to answer, and I have to file a  
15 motion to compel if you continue to take this position;  
16 and I will.

17 MR. MATIASIC: But, Counsel, I let him -- I let  
18 him answer the questions regarding what he knew or what  
19 he didn't know. What Father [REDACTED]'s testimony related to  
20 Lyons' reputation has to do with 39 is beyond me. I  
21 mean, if you want to make a representation of how that  
22 particular question is relevant --

23 MR. HALE: Yeah. I'm trying to find out if  
24 there was other conduct by Father Lyons that somehow  
25 parallels Father Cimmarrusti. We've already got one

1 instance where it does, clearly.

2 MR. MATIASIC: Counsel, I'll let him ask --  
3 I'll let him answer a question regarding sexual abuse if  
4 you want to ask that.

5 MR. HALE: I'm not changing my question. I  
6 think it's completely relevant, completely appropriate.

7 And like I said, I don't want to go in front of  
8 the court, but I will on this issue if you're going to  
9 press this. I have to. This is wrong.

10 MR. MATIASIC: I'm going to instruct him not to  
11 answer on that basis.

12 MR. HALE: Okay. You understand we're going.

13 MR. MATIASIC: I understand.

14 MR. HALE: I'm just trying to meet and confer  
15 and avoid if we can.

16 MR. MATIASIC: And, Tim, and I'm trying to bend  
17 over backward -- I allowed quite a few questions in this  
18 area. I'll take the questions on an ad-hoc basis. And  
19 if you have another one and if it's somehow relevant,  
20 we'll allow him to answer the question.

21 But what Father [REDACTED]'s opinion as to whether or  
22 not Lyons had a certain type of reputation has to do with  
23 the 39 case is beyond me.

24 MR. HALE: Well, I'm trying to understand what  
25 his understanding of what other conduct Father Lyons was

1 engaging in. Again, if it parallels what Father  
2 Cimmarrusti did, it's highly critical to this case.

3 MR. MATIASIC: If you want to ask him, Counsel,  
4 did you hear of Father Lyons engaging in any other  
5 specific conduct while he was at San Luis Rey, go ahead  
6 and ask him that question; I'll let him answer.

7 But this witness opining upon what the  
8 reputation of Father Lyons was in the Cimmarrusti case is  
9 beyond me. So --

10 MR. HALE: I'm not sure I see what the  
11 difference is. If I'm asking what his reputation is,  
12 clearly it's going to lead to what the conduct is, Paul.

13 MR. MATIASIC: Tim, if you want to ask another  
14 question, you know, you may; but I'm not going to let him  
15 answer that question.

16 MR. HALE: All right. Well, we'll file the  
17 motion on that question, since you're not going to let  
18 him answer that question, and I'll see if I can ask  
19 another question.

20 MR. MATIASIC: That's fine.

21 BY MR. HALE:

22 Q Were you aware of other conduct regarding -- by  
23 Father Lyons that involved punishment other than the  
24 spanking that we talked about?

25 A No.

1           Q     During your time as a Franciscan, have you ever  
2     been aware of any program whereby a Franciscan assessed a  
3     student's physical maturity?

4           MR. MATIASIC: Vague and ambiguous.

5           THE WITNESS: Assessed?

6           MR. HALE: Yes.

7           THE WITNESS: Explain.

8     BY MR. HALE:

9           Q     Well, for instance, maybe -- did you ever hear  
10    discussions regarding a student's -- a concern regarding  
11    a student's voice not changing?

12          A     No.

13          Q     Do you understand what I mean by physical  
14    maturity now, though?

15          A     Yes.

16          Q     So have you ever been aware of any Franciscan  
17    within the province instituting a program for assessing a  
18    student's physical maturity?

19          A     No.

20          MR. MATIASIC: Vague and ambiguous. Lacks  
21    foundation.

22     BY MR. HALE:

23          Q     Did you ever attended any plays put on by  
24    students at St. Anthony's Seminary?

25          A     Yes.

1 Q Okay. Did you ever attend any productions  
2 where the students parodied faculty behavior at  
3 St. Anthony's Seminary?

4 A No.

5 Q Were you ever aware of or hear of productions  
6 where students parodied faculty behavior at St. Anthony's  
7 Seminary?

8 A I don't recall.

9 Q Okay. Did you ever know a seminarian named  
10 [REDACTED]?

11 A No.

12 Q Did you know Fern Sayovitz, S-a-y-o-v-i-t-z, a  
13 faculty member at St. Anthony's in the '60s?

14 A No.

15 Q Did you know a student named Bob Millik, a  
16 St. Anthony's student?

17 A No.

18 Q Never heard of that name before?

19 A No.

20 Q During a visit to St. Anthony's, did you ever  
21 tell a student that you did not like to visit  
22 St. Anthony's?

23 A Did not like to visit?

24 Q Yes.

25 A No.



1 Q Did you ever tell a student that St. Anthony's  
2 held too many ghosts for your comfort level?

3 A I don't recall using that description or -- I  
4 don't feel comfortable --

5 Q Uh-huh.

6 A -- returning to St. Anthony's Seminary?

7 Q Yes.

8 A When the news began to emerge --

9 MR. MATIASIC: Father, his question was  
10 specific. He asked whether you recall telling someone  
11 what he just described.

12 BY MR. HALE:

13 Q I'm referring to a visit you paid to the  
14 seminary in the 1960s.

15 A 1960s?

16 Q Yes.

17 A I don't recall.

18 Q Okay. As you sit here today, did you have any  
19 bad experiences while a student at St. Anthony's  
20 Seminary?

21 THE WITNESS: No.

22 MR. MATIASIC: Vague and ambiguous.

23 BY MR. HALE:

24 Q Did anything happen at St. Anthony's, at any  
25 time, that would make you uncomfortable to go back there?

1 MR. MATIASIC: You're talking about up to the  
2 present time?

3 MR. HALE: Well, it can't be up to the present.  
4 Obviously, St. Anthony's ceased to exist.

5 MR. MATIASIC: As a seminary, but the building  
6 is there.

7 MR. HALE: Right.

8 MR. MATIASIC: Ghosts.

9 THE WITNESS: Now, once again.

10 BY MR. HALE:

11 Q Is there anything that has happened involving  
12 you at St. Anthony's that would make it uncomfortable for  
13 you to return there to that property?

14 A No.

15 Q Can you think of any reason why you would have  
16 made a statement about not liking the ghosts at  
17 St. Anthony's to a seminarian?

18 MR. MATIASIC: Misstates his testimony to the  
19 extent that he already says he doesn't remember.

20 MR. HALE: Right.

21 Q I understand you don't remember, but can you  
22 think of any reason why, if that did happen, what would  
23 have been the basis for that statement?

24 A The reports that were emerging were disturbing.

25 Q You mean regarding the board of inquiry and the

1 scandal?

2 A Abuses.

3 Q When did you start hearing those reports?

4 A What time was it? I don't know.

5 Q But you're talking about the period with the  
6 board of inquiry?

7 A Yes.

8 Q Did you ever know any seminarians named -- with  
9 the last name [REDACTED]?

10 A Seminarian?

11 Q Yes, at St. Anthony's.

12 A No.

13 Q Okay. While you were on the Definitorium, did  
14 you receive reports from other Franciscans regarding  
15 whether a candidate should be allowed to become a  
16 Franciscan?

17 A I don't recall.

18 Q Do you recall ever discussing any reports,  
19 while you were on the Definitorium, regarding whether a  
20 candidate should become a Franciscan?

21 A I don't recall.

22 Q Do you have any recollection of any Franciscan  
23 ever objecting to a candidate becoming a Franciscan?

24 A I don't recall.

25 Q Okay. Has it been a common or uncommon

1 occurrence for you to spend the night at the mission in  
2 Santa Barbara since you've been a Franciscan?

3 MR. MATIASIC: Vague and ambiguous.

4 THE WITNESS: Has it been --

5 BY MR. HALE:

6 Q A common or uncommon occurrence for you to  
7 spend the night at the Santa Barbara mission since you've  
8 been a Franciscan, the mission in Santa Barbara.

9 A Uh-huh.

10 Well, uncommon.

11 Q But you have spent the night there before?

12 A Yes.

13 Q And are you required to check in with the  
14 guardian when that happened?

15 A Check in?

16 Q Right. Notify him if you're spending the  
17 night.

18 MR. MATIASIC: Are you asking if he was  
19 required to check in with the guardian?

20 MR. HALE: Yes.

21 THE WITNESS: Not required.

22 BY MR. HALE:

23 Q Is it a courtesy that you would tell the  
24 guardian that you're going to spend the night?

25 A We simply check -- sign our names with a

1 certain room, that's it.

2 Q So when you arrive at the mission, there's some  
3 sort of log book for you to sign?

4 A Yes.

5 Q And is there a check-in date and a check-out  
6 date?

7 A No.

8 Q Do you date when you arrive, though?

9 A I don't know we date it. It's simply a log  
10 book, yeah.

11 Q Do you know who has control of that log book?  
12 Is that the guardian?

13 A No.

14 MR. MATIASIC: This is at any time --

15 MR. HALE: Yeah.

16 MR. MATIASIC: -- since he's been a Franciscan?

17 MR. HALE: Right.

18 MR. MATIASIC: Overbroad.

19 BY MR. HALE:

20 Q Where is that log book located?

21 A In the receptionist area.

22 Q And has it always been located in that area as  
23 long as you've been a Franciscan?

24 A Yes.

25 Q Does anyone, to your knowledge, keep possession

1 of that log book?

2 A I have no idea.

3 Q Okay. Have you spent any time with -- at the  
4 Franciscan communities in the Philippines?

5 A I stayed there once.

6 Q When was that?

7 MR. MATIASIC: All right. Father, don't answer  
8 that question.

9 Counsel, whether or not he stayed at any  
10 Franciscan communities in the Philippines I know is not  
11 reasonably calculated to lead to the discovery of  
12 admissible evidence. There's no possible way that that's  
13 discoverable material in the John Doe 39 case.

14 And to the best of my knowledge, the province  
15 doesn't even have any outposts in --

16 MR. HALE: I don't know if your knowledge is --  
17 I know your knowledge isn't relevant. And as far as  
18 whether or not that question is relevant --

19 MR. MATIASIC: Well, there's a difference  
20 between any Franciscan community and any community  
21 associated with the province of Santa Barbara.

22 The Franciscans, that's a big order, the order  
23 of friar of minors is a big order. I mean, that's  
24 worldwide. So there are communities worldwide. Whether  
25 or not there's a province in --

1 MR. HALE: Do you want me to ask a specific  
2 questions as to whether this province has any communities  
3 in the Philippines?

4 MR. MATIASIC: It doesn't matter. I mean,  
5 what's the relevance of that to the 39 case --

6 MR. HALE: Whether we know --

7 MR. MATIASIC: -- whether or not he spent any  
8 time in the Philippines?

9 MR. HALE: Well, who was there with him? Who  
10 did he go with?

11 MR. MATIASIC: If you want to ask him if he  
12 spent any time with other Franciscans in the Philippines,  
13 go ahead.

14 MR. HALE: Well, I think -- I thought that's  
15 what I did, but whatever the case.

16 Q Are there -- are there communities with this  
17 province, from the province of Santa Barbara, in the  
18 Philippines?

19 A Not currently.

20 Q But there were at one time?

21 A Yes.

22 Q And when was that?

23 A Oh, gee. In the '60s.

24 Q Okay. And when did you go and visit?

25 A I was simply passing through.

1 Q And was that in the '60s?

2 A I suppose.

3 Q Okay. And were you with anyone?

4 A No.

5 Q And which Franciscans were there when you were  
6 there?

7 A By name?

8 Q Yes.

9 A Don't have any idea.

10 Q Okay. Was Brother Cabbott there while you were  
11 there?

12 A No.

13 Q Okay. Do you know why the Franciscans -- I  
14 don't know if you'd call it an operation, but why did  
15 they no longer have communities there in the Philippines?

16 MR. MATIASIC: Calls for speculation.

17 MR. HANCE: You know, actually at this point,  
18 I'm going to object, as well.

19 Tim, I'm wrestling with the whole notion of the  
20 discovery stay in Clergy I and these questions here.

21 MR. HALE: Sure.

22 MR. HANCE: So I want to allow you to ask  
23 questions relevant to the Clergy III case, but I would  
24 just encourage you, if you will, to limit your questions  
25 to that case and not Clergy I.



1 MR. HALE: Well, I understand why you guys are  
2 trying to limit the scope, but I just think it's  
3 inappropriate.

4 MR. HANCE: I have no idea where he's going on  
5 this.

6 MR. MATIASIC: Tim, under your analysis here,  
7 there's basically no question that's ever off limits  
8 because, you know, it may turn up some type of  
9 discoverable evidence.

10 If you want to ask him, Father, are you aware  
11 of -- do you have any understanding as to whether the  
12 Franciscans closed an outpost in the Philippines as a  
13 result of sexual abuse or something, you can tie to this  
14 case, go ahead and do so. Other than that, this is just  
15 fishing.

16 MR. HALE: I thought I did. I thought I did.  
17 I thought that's what I asked.

18 MR. MATIASIC: I don't think that's what you  
19 asked.

20 MR. HALE: Can you read my last question back.

21 THE REPORTER: "Do you know why the  
22 Franciscans -- I don't know if you'd call it an  
23 operation, but why did they no longer have  
24 communities there in the Philippines?"

25 MR. HALE: Paul, I can tell you this: If it's

1 not about sexual abuse, I'm not going to care.

2 MR. MATIASIC: Well, that's what I'm saying,  
3 pare your questions down to sexual abuse as opposed to --

4 MR. HANCE: Limiting to Clergy III.

5 MR. MATIASIC: -- as opposed to -- and I don't  
6 know that Cimmarrusti was ever in the Philippines, and so  
7 I don't know how this is even possibly irrelevant.

8 I'm going to allow him to answer the questions  
9 just so we can move on. But, Tim, this is way out of  
10 bounds.

11 MR. HALE: I disagree.

12 MS. HUBERT: Excuse me. I need to also  
13 interpose an objection on --

14 MR. HALE: Sure. Go for it.

15 MS. HUBERT: -- behalf of the Archdiocese of  
16 Los Angeles; because your deposition notice specifically  
17 indicates that the general subject matters of area of  
18 inquiry upon Father [REDACTED] is going to be deposed on  
19 information concerning Father Mario Cimmarrusti; and the  
20 deposition -- the questions thus far have far exceeded  
21 that scope. I mean, you've asked maybe one or two  
22 questions about Father Cimmarrusti.

23 So I have to put an objection on the record --

24 MR. HALE: Sure.

25 MS. HUBERT: -- that this whole line of

1 questioning greatly exceeds the scope of this deposition.

2 MR. HALE: All right. Well, you know, I made  
3 my record last week, and I guess I need to make my record  
4 again. There is going to be a punitive damages motion in  
5 this claim. I expect it's going to be granted because we've  
6 got reports to the rector, repeatedly, of abuse by  
7 Cimmarrusti.

8 And once that motion is granted, and again, you  
9 can contest whether it's going to be granted or not. At  
10 that point, you're going to have to argue, just as the  
11 Defendants did in the Thatcher case, that you change your  
12 ways and that you no longer conduct -- that your clients  
13 no longer conduct their business like that.

14 And once we do that, the door is wide open to  
15 what we're going to do, which is establish a continuing  
16 pattern of conduct, since 1937, of receiving reports of  
17 abuse; transferring the perpetrator to a different  
18 communities in those locations.

19 And that makes all this discovery not only  
20 highly relevant, but critical to that argument. And I  
21 don't think you can ask during discovery proceedings for  
22 us to put that off until that motion is granted. You're  
23 not citing any privileges, you're not citing any privacy  
24 rights.

25 I'm not simply fishing. I know exactly where

1 I'm going with these questions.

2 So I think it's inappropriate for you to try  
3 and shut this line of questioning down.

4 MR. MATIASIC: Until you file that motion for  
5 leave to amend to include punitive damages, you're not  
6 entitled to conduct that type of discovery. That's  
7 precisely why the Code of Civil Procedure makes you go  
8 and file the motion to get leave to amend, so that you  
9 don't have these wide-ranging fishing expeditions that we  
10 have now.

11 And so I'm going to allow him to answer your  
12 question anyway. But I can guarantee if we keep going  
13 off on these fishing expeditions, I won't be allowing him  
14 to answer any more.

15 MR. HALE: Well, I'm going to ask about every  
16 Franciscan perpetrator I know about, whether he's been  
17 assigned with them.

18 So are you telling me you're going to instruct  
19 not to answer on every one of those?

20 MR. MATIASIC: We'll take it case by case.

21 MR. HABEL: And, frankly, it's when the motion  
22 is granted, not when it's filed.

23 MR. HALE: Again, you and I have had this  
24 argument before. Do I need to bring my -- the Rudder  
25 Group with me and point out what the rules of discovery

1 are? I think you're completely limiting,  
2 inappropriately, the scope of discovery. You're not  
3 citing a privilege. You're had not citing a privacy  
4 right.

5 Where is it that allows to you shut a  
6 deposition down based on --

7 MR. HABEL: The question isn't of privilege.  
8 The question is of relevance. You've exceeded the scope  
9 of your own notice; okay?

10 You're in Clergy III. You've got one  
11 perpetrator that you've alleged abuse by by one  
12 Plaintiff. This stuff is not relevant. You do not have  
13 a cause of action for punitive damages. It's not  
14 relevant. You are not entitled to ask these questions.

15 MR. HALE: You know, one of the first things I  
16 learned coming out of law school is that relevancy is not  
17 a proper basis to instruct not to answer in a deposition.

18 MR. HABEL: That would be incorrect. It is.

19 MR. MATIASIC: Right, unless it goes to the  
20 point of just harassing and annoying and badgering the  
21 Defendant, the institutional Defendant in this case,  
22 which it clearly has gotten to that point.

23 And, Tim, the reason, as I said before, that  
24 you have to file the motion for leave to amend to include  
25 punitive damages is to have that gateway there; and

1 you're not entitled to conduct that discovery until that  
2 motion is granted.

3 So I think we've all made our record. I'm  
4 going to let him answer the question, just so we can move  
5 on. But we won't have many more fishing expeditions like  
6 this for the rest of the deposition.

7 MR. HALE: This is not a fishing expedition.  
8 It's absolutely legitimate and valid discovery.

9 And there's going to have to be a motion to  
10 compel. I guess we'll let the court resolve whether it's  
11 appropriate or not.

12 MR. MATIASIC: That's fine.

13 MR. HABEL: And what would your motion to  
14 compel say to Judge Sebrae, "Your Honor, they're not  
15 letting me conduct my punitive-damages discovery," as he  
16 flipps through his file and says, "Counsel, I wasn't  
17 aware you had a claim for punitive damages"?

18 MR. HALE: But it's not just punitive damages,  
19 it's the right to ask question that are reasonably  
20 calculated to lead to the discovery of admissible  
21 evidence. This is discovery.

22 MR. MATIASIC: But this was the Cimmarrusti  
23 case.

24 MR. HABEL: And there you go.

25 MR. MATIASIC: Father Cimmarrusti was not in

1 the Philippines, okay?

2 MR. HALE: We don't know that. I don't know  
3 that.

4 MR. MATIASIC: Well, if you want to ask a  
5 hierarchy witness, you know, regarding what Cimmarrusti's  
6 assignment was -- he's not being deposed as a Cimmarrusti  
7 expert.

8 If you want to ask him whether he was aware of  
9 whether Father Cimmarrusti was ever in the Philippines,  
10 fine, go ahead and ask; but the questions have to be tied  
11 to Cimmarrusti. That's the only Friar implicated in  
12 Clergy III.

13 MR. HALE: No. We're in disagreement on that.

14 MR. HABEL: Cimmarrusti or things that  
15 occurred, that happened while he was there and the  
16 Plaintiff was there, but --

17 MR. HALE: We're going to have to agree to  
18 disagree on that.

19 MR. MATIASIC: I agree. We've all made our  
20 records. Let's just move on.

21 MR. HALE: Yeah.

22 Can you read the last question back, whatever  
23 it was.

24 MR. HABEL: Can we -- now that we've referenced  
25 this, can we attach -- would this be Exhibit 1

1 (indicating)? Can we attach the deposition notice --

2 MR. HALE: Sure.

3 MR. HABEL: -- as Exhibit 1?

4 (Whereupon Exhibit 1 was marked for identification.)

5 THE REPORTER: "Do you know why the  
6 Franciscans -- I don't know if you'd call it an  
7 operation, but why did they no longer have  
8 communities there in the Philippines?"

9 MR. MATIASIC: And you know what? I'm going  
10 to instruct him not to answer unless you modify that to  
11 include the term sexual abuse. Do you know if they  
12 closed it as a result of sexual abuse, I'll allow him to  
13 answer that question. But not just why the province  
14 is closing outposts in other communities.

15 MR. HALE: I think that's completely  
16 inappropriate. I'm not going to modify the question. I  
17 think the question is completely appropriate.

18 MR. MATIASIC: Well, I object. He's not going  
19 to answer the question.

20 MR. HALE: Absolutely no choice --

21 MR. MATIASIC: Fine.

22 MR. HALE: -- we're going to file a motion to  
23 compel on this.

24 MR. MATIASIC: Fine.

25 MR. HALE: All right. I mean, do you have a



1 privilege or a privacy right that you're trying to raise  
2 in support of your instruction not to answer? I just  
3 want to be clear.

4 MR. MATIASIC: I incorporate by reference the  
5 entire discussion that we had before you repeated the  
6 question.

7 MR. HALE: No. I understand. I understand  
8 that. I'm not trying to --

9 MR. MATIASIC: And I think it's abundantly  
10 clear.

11 MR. HALE: But I'm just asking, is there a  
12 privacy right or a privilege that you're citing in  
13 support of your instruction not to answer?

14 MR. MATIASIC: And I'm, again, saying I  
15 incorporate by reference every -- everything that we said  
16 in our prior discussion before you repeated the last  
17 question.

18 MR. HALE: I didn't hear any privacy right or  
19 privilege cited in the prior discussion. So --

20 MR. MATIASIC: That's fine.

21 MR. HALE: So you're in agreement on that?

22 MR. MATIASIC: Counsel, I've already said what  
23 our objections are. They're laid out on the record. I  
24 have all faith in the court reporter that she got them  
25 all down. Let's move on.

1 MR. HALE: I should also state, for the record,  
2 that I think it's inappropriate for any counsel here,  
3 other than Mr. Matiasic, to state any objection on the  
4 record, as no one here, other than Mr. Matiasic, is a  
5 Clergy III -- Clergy III counsel.

6 MR. HABEL: Stipulate that you'll confine your  
7 questions to Clergy III and you won't see us anymore,  
8 Counsel. I think it's kind of hypocritical to put that  
9 on the record.

10 MR. HALE: I think that's where we disagree,  
11 again. I don't think my questions are related to Clergy  
12 I. I think they're related to Clergy III. That's where  
13 we're in disagreement.

14 And we'll ask the court to sort it out.

15 MR. HANCE: Join.

16 BY MR. HALE:

17 Q While you were a student at St. Anthony's  
18 Seminary, were you ever aware of faculty members  
19 purchasing gifts for students?

20 A No.

21 Q Do you know a Franciscan named [REDACTED]?

22 A No.

23 Q What about --

24 A [REDACTED]? Father [REDACTED] -- [REDACTED]?

25 Q Yes.

1 A No.

2 Q Does that name sound familiar to you?

3 A Does not.

4 Q Okay. What about a brother named Justin Honda?

5 A No.

6 Q [REDACTED] -- and I don't know what the  
7 pronunciation is -- [REDACTED]?

8 A [REDACTED]?

9 Q Yes.

10 A No.

11 Q What about Brother Simon Walsh?

12 A No.

13 Q Brother Clete Degnan, D-e-g-n-a-n?

14 A D-e-g-n-a-n?

15 Q Right.

16 A Degnan, no.

17 Q Brother Arturo Noyes, N-o-y-e-s?

18 A Yes.

19 Q How do you know Brother Arturo?

20 A He a taylor.

21 Q Is he still a Franciscan?

22 A Yes.

23 Q Is he still alive?

24 A Yes.

25 Q Where is he assigned currently?

1 MR. MATIASIC: If you know, Father.

2 THE WITNESS: I don't know.

3 BY MR. HALE:

4 Q When was the last time you spoke with him?

5 A Within the year.

6 Q And did you speak with him in person or over  
7 the phone?

8 A No, in person.

9 Q And where -- do you recall where that  
10 conversation took place?

11 A A meeting of some kind.

12 Q Provincial offices or Serra Retreat House or at  
13 St. Simon and Jude?

14 A I don't remember.

15 Q Okay. Have you ever discussed with him his  
16 time on the staff at St. Anthony's Seminary?

17 A No.

18 Q Have you ever discussed with him the clergy  
19 scandal?

20 A No.

21 MR. MATIASIC: Vague and ambiguous.

22 BY MR. HALE:

23 Q Have you ever been aware of any diocese or  
24 archdiocese removing the faculties of a Franciscan of the  
25 province of Santa Barbara?

1 MR. MATIASIC: Vague and ambiguous. Overbroad.

2 THE WITNESS: Repeat, please.

3 MR. HALE: Sure.

4 Q Have you ever been aware of any diocese or  
5 archdiocese removing the faculties from a Franciscan  
6 within the province?

7 MR. MATIASIC: Same objections.

8 THE WITNESS: Within the province?

9 MR. HALE: Yes, uh-huh.

10 THE WITNESS: Yes.

11 BY MR. HALE:

12 Q Who?

13 MR. MATIASIC: Whose faculties did they  
14 remove?

15 MR. HALE: Right.

16 MR. MATIASIC: That he's aware of.

17 THE WITNESS: Gus Krumm.

18 BY MR. HALE:

19 Q And was that in Sacramento?

20 A I don't know.

21 Q When did you first hear about that?

22 MR. MATIASIC: That his faculties were removed?

23 MR. HALE: Yes.

24 THE WITNESS: Two years.

25 ///

1 BY MR. HALE:

2 Q Okay. How did you hear about that?

3 A Report.

4 Q Okay. Do you know why his faculties were  
5 removed?

6 MR. MATIASIC: Calls for speculation. Lacks  
7 foundation.

8 Again, Counsel, I'm just going to incorporate  
9 by reference everything we said before. When he knew --  
10 when Father [REDACTED] knew or how he knew that Gus Krumm's  
11 faculties may have been removed is not in any way, shape,  
12 or form relevant to the John Doe 39 matter pending in  
13 Clergy III.

14 I'm going to allow him to answer the question;  
15 but, you know, I think this is completely inappropriate.

16 MR. HALE: Obviously, I disagree. You know  
17 why. I don't want to go back into it.

18 MR. MATIASIC: You can incorporate by  
19 reference, if you want.

20 MR. HALE: Thanks. I appreciate that.

21 MR. HABEL: We need some sort hand for that.

22 MR. HALE: Yeah, seriously.

23 Q You can answer.

24 Can you restate my question back, please.

25 THE REPORTER: "Do you know why his

1 faculties were removed?"

2 MR. MATIASIC: Same objections.

3 THE WITNESS: Do I know why his faculties were  
4 removed? The province was compelled to remove the  
5 faculties.

6 BY MR. HALE:

7 Q Do you know why?

8 MR. MATIASIC: Same objections.

9 THE WITNESS: Because of the charges.

10 BY MR. HALE:

11 Q Regarding childhood sexual abuse?

12 A Apparently.

13 Q Okay. Are you aware of any other Franciscans  
14 who have had their faculties removed --

15 MR. MATIASIC: Overbroad.

16 BY MR. HALE:

17 Q -- other than Father Krumm?

18 A Cimmarrusti.

19 Q Okay. Do you know which diocese or archdiocese  
20 removed his faculties?

21 A No.

22 Q Do you know when they were removed?

23 A No.

24 Q Do you know why they were removed?

25 A Charges, apparently.

1 Q The allegations of childhood sexual abuse?

2 A (Nods head.)

3 Q Is that a "yes"?

4 A I know no details.

5 Q Okay. Any other Franciscans other than  
6 Cimmarrusti and Krumm?

7 A I don't know.

8 Q Are you aware of any diocese or archdiocese  
9 disciplining any Franciscans in any way other than  
10 removing faculties?

11 MR. MATIASIC: Vague and ambiguous. Overbroad.

12 THE WITNESS: Disciplining?

13 MR. HALE: Yes.

14 THE WITNESS: Meaning?

15 BY MR. HALE:

16 Q Anything other than having their faculties  
17 removed.

18 MR. MATIASIC: Same objection.

19 THE WITNESS: No.

20 BY MR. HALE:

21 Q Okay. Are you aware of any diocese or  
22 archdiocese ever reprimanding any Franciscan friars  
23 within the province?

24 MR. MATIASIC: Same objections.

25 THE WITNESS: For?



1 MR. HALE: I don't know.

2 THE WITNESS: Just reprimanding?

3 MR. HALE: Right.

4 THE WITNESS: I don't know.

5 BY MR. HALE:

6 Q Okay. Did Father Lyons recruit you to  
7 St. Anthony's Seminary?

8 A Yes.

9 Q And how did that come about?

10 MR. MATIASIC: Again, Counsel, how he was  
11 recruited to St. Anthony's, I don't know how that's  
12 relevant to anything in the case.

13 MR. HALE: Well, it goes to how -- what the  
14 province's conduct was regarding getting students to come  
15 to the seminary, what promises were made to them  
16 regarding what life would be like in the seminary. It's  
17 highly relevant.

18 MR. MATIASIC: Father [REDACTED] was at St. Anthony's  
19 from '42 to '46 or -- '41 to '46. You're talking about  
20 20, almost 25 years before the Plaintiff in this case.  
21 By that logic, Counsel, every person who has considered  
22 going to St. Anthony's is potentially deponent in the  
23 Clergy case III as a result. That's not the case.

24 Father, I'm going to instruct you not to  
25 answer.

1 MR. HALE: That is completely inappropriate,  
2 Paul. It's completely discoverable, it's very relevant.

3 There's also allegations in the complaint  
4 regarding representations made to the client -- to the  
5 Plaintiff and, also, to the parents regarding safety of  
6 of students at St. Anthony's.

7 MR. MATIASIC: Tim, if you want to actually,  
8 you know, work to narrow down your questions and pare  
9 down and say, you know, did the province make X  
10 representation to you when applying for St. Anthony's,  
11 fine. If you want to actually pare down your  
12 questioning, that's fine.

13 But as it stands now, every person who even  
14 considered going to St. Anthony's Seminary is potentially  
15 a deponent and every person who went to St. Anthony's  
16 Seminary is a deponent.

17 And just by virtue of that fact that Father  
18 [REDACTED] is a member of the order, doesn't mean he has to sit  
19 there and answer all these questions that aren't even  
20 remotely relevant to the case at hand, and that's John  
21 Doe 39.

22 If you want to ask him specific questions  
23 regarding his process, fine; but it's too overbroad.

24 MR. HALE: Well, obviously, we're not going to  
25 ask -- we're not going to depose every person that was a

1 student or possible student; but Father [REDACTED] did, Father  
2 [REDACTED] is here. This is discovery and I've got a right to  
3 ask my questions.

4 MR. MATIASIC: It's not even at the same time.  
5 You're talking about 25 years before the Plaintiff in  
6 this case.

7 MR. HALE: So what? You've got a pattern of  
8 conduct.

9 MR. MATIASIC: I'm instructing him not to  
10 answer.

11 If you want to narrow it down, ask him about  
12 specific representations: Father [REDACTED] did the province  
13 represent X to you, fine; Y to you, that's fine.

14 MR. HALE: I don't have to narrow my questions  
15 that way.

16 MR. MATIASIC: Then you can go get a motion to  
17 compel and have the court force him to answer that  
18 question because as of right now, I'm not going to let  
19 him answer it.

20 MR. HALE: Okay.

21 MR. HABEL: And, frankly, if there's a subject  
22 matter like that, the proper tool to discover it is to do  
23 a PMK depo notice to the Defendant on recruiting, you  
24 know, methods to the seminary, not to ask every witness  
25 who shows up, who is noticed on a narrow basis, every

1 possible subject matter you're interested in. That is  
2 not proper.

3 MR. MATIASIC: He was never -- he was never  
4 even on the faculty at St. Anthony's. It's arguable, as  
5 Jim would say, more relevant if he were a faculty member  
6 or something along those lines.

7 You're asking him by virtue of the fact that he  
8 attended. Thousands of people attended. So I'm  
9 instructing him not to answer unless you're going to  
10 limit your question.

11 MR. HALE: No, I'm not going to limit my  
12 questions.

13 MR. MATIASIC: Okay. Then I'm instructing him  
14 not to answer.

15 MR. HALE: It's highly appropriate. Your  
16 objection is not well-taken.

17 Again, are you citing any privilege or privacy  
18 right to base that objection on?

19 MR. MATIASIC: Again, I've been speaking on the  
20 record enough; and I've clearly laid the reasons for  
21 which I'm instructing him not to answer.

22 MR. HALE: I think you guys are clearly  
23 obstructing discovery. It's inappropriate.

24 MR. MATIASIC: But if I didn't specifically  
25 add, let me add --

1 MR. HALE: Sure.

2 MR. MATIASIC: -- that you're badgering and  
3 harassing this 78-year-old witness, a member of the  
4 province.

5 MR. HALE: There's no badgering or harassing on  
6 whatsoever.

7 MR. MATIASIC: In a very polite way.

8 MR. HALE: Fortunately there's video being  
9 taken right now that won't support anything you're  
10 saying.

11 MR. HABEL: Let me talk -- let me talk to you  
12 outside while there's not question pending.

13 MR. MATIASIC: Let's go off the record.

14 MR. HALE: Sure.

15 THE VIDEOGRAPHER: Off the record at 12:18 p.m.

16 This is the end of Disc No. 1.

17 (Lunch break taken from 12:19 p.m. to 1:14 p.m.)

18 THE VIDEOGRAPHER: Back on the record at  
19 1:14 p.m.

20 This is the beginning of Disc No. 2.

21 MR. HALE: Okay. Back on the record.

22 Q Father [REDACTED] we were -- we had just started  
23 discussing Father Lyons.

24 While you were a -- before you were a student  
25 at St. Anthony's or during your time as a student at

1 St. Anthony's, did you return home summer breaks to  
2 Phoenix?

3 A Yes.

4 Q Okay. Did you ever go camping with Father  
5 Lyons?

6 A No.

7 Q Were you aware of Father Lyons -- have you ever  
8 been aware of Father Lyons taking children or minors  
9 camping?

10 MR. MATIASIC: Again -- hold on, Father.

11 Again, Counsel, I just want to reiterate all  
12 the same objections. I don't know how this is even  
13 remotely relevant to the John Doe 39 case.

14 You know, I'll allow a little bit of  
15 questioning, but you really have to try to pare down your  
16 questions to try to relate it somehow, some way, to John  
17 Doe 39.

18 MR. HALE: Well, again, I disagree. I don't  
19 think -- it sounds like to me what you're saying is I  
20 have to have my punitive motion granted before I can ask  
21 these questions. And although I'm confident that I've  
22 got enough evidence to get the motion granted already, it  
23 sounds like you're saying I can't try and acquire any  
24 additional evidence to support that motion.

25 MR. MATIASIC: Well, what I'm saying, Counsel,

1 is this: You can't conduct any -- I mean, you even said  
2 yourself and the reason this arguably relevant is that it  
3 would go to the issue of punitive damages on behalf of  
4 the institutional Defendant.

5 If that's the case, in order to conduct that  
6 discovery, you need to file the motion for punitive  
7 damages.

8 MR. HALE: My question is --

9 MR. MATIASIC: I'm not getting into the merit  
10 of the motion. I'm just saying you need to have filed  
11 it, and it needs to be granted in order for you to  
12 conduct this punitive discovery.

13 MR. HALE: Right, right. But in order to file  
14 a motion, I've got to have evidence of conduct that  
15 supports a claim for punitive damages.

16 Now, granted, I believe we've already got  
17 enough evidence, but are you saying I'm not entitled to  
18 conduct discovery to find more evidence? Because that's  
19 what this line of questioning is intended to do.

20 MR. MATIASIC: You know, Counsel, it just  
21 depends on the nature of the questions.

22 You know, for example, the issues related to  
23 when Father [REDACTED] was enrolling at St. Anthony's Seminary  
24 25 years before the Plaintiff in the Clergy III case,  
25 that's not remotely relevant to that case. And I think

1 whether or not he went home on summer breaks while he was  
2 at St. Anthony's Seminary is not remotely relevant to the  
3 John Doe 39 case.

4 So no, you don't have an unfettered right to  
5 conduct this type of blanket discovery.

6 MR. HALE: Well, these questions are all  
7 intended to elicit evidence regarding notice of abuse to  
8 the Franciscans and their pattern of conduct in handling  
9 the perpetrator after receiving notice of abuse.

10 So I think all the questions are relevant, and  
11 I think it's inappropriate for you to shut down questions  
12 where even if they don't immediately jump out at you as  
13 going in that direction, are definitely leading towards  
14 that question. I can't simply come straight out and have  
15 this, you know, question that jumps right into it.  
16 That's not the way depositions are conducted; that's not  
17 the way discovery is conducted. It's all about finding  
18 my way to that evidence.

19 So obviously, we're still in disagreement on  
20 the appropriateness of the questions.

21 MR. MATIASIC: Well, particularly since you're  
22 talking about Father Lyons and not Father Cimmarrusti.  
23 If Father Lyons was the alleged perpetrator here, I  
24 think, you know, you'd be on better grounds. But he's  
25 not.



1           Ask him about Cimmarrusti. Continuing to ask  
2 him about Father Lyons has no relevance here.

3           MR. HALE: Okay. But the purpose of punitive  
4 damages is to motivate the institutional Defendant to  
5 change his conduct. And the conduct we're talking about  
6 is inappropriate conduct regarding receiving notice of  
7 abuse and transferring a perpetrator and not taking any  
8 steps to warn communities in which the perpetrator is  
9 transferred about the risks that are posed by those  
10 perpetrators. That's the conduct we're trying to change.  
11 That's the conduct we can already establish from 1937 to  
12 the present, and that's the evidence that I'm looking  
13 for. And I think it is relevant to that motion.

14           And, again, we've been through this a million  
15 times, but, you know, are you willing to stipulate now  
16 that you will not -- your clients will not argue at trial  
17 that they have changed their ways? If you're willing to  
18 stipulate to that, that could certainly, potentially  
19 change the approach; but I know you're not going to  
20 stipulate to that, Paul.

21           MR. MATIASIC: Counsel, I won't make any  
22 stipulations as to our trial argument.

23           And, further, you are tied to your deposition  
24 notice. The deposition notice is clear in terms of what  
25 it seeks to discover. You know, you could have noticed

1 the deposition a different way, and you chose not to.  
2 And I think the deposition notice was appropriate, but  
3 the point is this is outside the scope of that notice.

4 If you want to notice a PMK deposition  
5 regarding Father Lyons, fine, notice it, if that's  
6 somehow relevant to punitive damages. But he is not a  
7 PMK on Father Lyons. This is a Cimmarrusti case that he  
8 is being deposed in connection with in Clergy III. There  
9 is no punitive-damage motion on file. So --

10 MR. HALE: I disagree with your reading of the  
11 notice.

12 If you look at Page 2, Lines 13 through 15 of  
13 the notes, it says "The general subject matter -- matters  
14 and areas of inquiry upon the witness will be deposed  
15 include any and all information concerning Father Mario  
16 Cimmarrusti." There's not a limitation imposed by that  
17 language; it says include. So we're also in disagreement  
18 regarding your interpretation of Exhibit 1.

19 MR. MATIASIC: Fair enough. I think we've all  
20 made a record.

21 MR. HALE: Okay. So where were we?

22 Can you read the question back? And let me  
23 know if there was any answer after that. I can't  
24 remember if there was or was not.

25 THE REPORTER: "Were you aware of Father

1 Lyons -- have you ever been aware of Father  
2 Lyons taking children or minors camping?"

3 And there was no answer.

4 MR. HALE: Okay. So the question stands.

5 MR. MATIASIC: Go ahead and answer the  
6 question, Father.

7 BY MR. HALE:

8 Q You can answer.

9 A Did he take --

10 Q Were you ever aware of Father Lyons taking  
11 minors camping?

12 A Yes.

13 Q Okay. How did you become aware of that  
14 happening?

15 A Well, there were reports.

16 Q Was this before you were a Franciscan or after  
17 you became a Franciscan that you heard these reports?

18 A I was a seminarian.

19 Q Okay. And did the reports involve childhood  
20 sexual abuse?

21 A No.

22 Q Did they involve reports of inappropriate  
23 conduct by Father Lyons?

24 A No.

25 MR. MATIASIC: Vague and ambiguous.

1 BY MR. HALE:

2 Q Who was making these reports?

3 MR. MATIASIC: Well, you know, Counsel, I think  
4 you need to move on.

5 I'm going to instruct him not to answer on this  
6 additional line. I allowed him to answer the questions  
7 did the reports concern misconduct; did the reports  
8 concern sexual abuse. The answer was no. Therefore,  
9 this line of questioning is no longer even tangentially  
10 relevant.

11 So I'm going to instruct him not to answer.

12 MR. HALE: Okay. Well, we don't know that,  
13 though. We don't know -- there could be a difference,  
14 again, between how you and I would define sexual abuse or  
15 inappropriate misconduct and how he defines it. So I'm  
16 entitled to explore exactly what he means.

17 MR. MATIASIC: He already answered no and no to  
18 both of them and before, you already established the  
19 definition and his understanding of what you're going to  
20 mean when you say childhood sexual abuse. So I think  
21 it's abundantly clear.

22 MR. HALE: There also was a question regarding  
23 inappropriate conduct.

24 MR. MATIASIC: And he already answered that.  
25 He said no.

1 MR. HALE: He said no.

2 But, then, what you and I define as  
3 inappropriate conduct might be different from what he  
4 defines as inappropriate conduct.

5 I think I'm entitled to find out exactly what  
6 those reports were about. Maybe he's defining something  
7 you and I would define as inappropriate conduct or sexual  
8 abuse as something else; and I've got a right to find  
9 that out, I think. I know I do.

10 And, again, this is another issue -- I don't  
11 want to go into in front of the court; but there's  
12 just -- there's no way around it at this point. So if we  
13 can avoid this issue in some way, let me know and --  
14 otherwise --

15 MR. MATIASIC: Counsel, I think we did by  
16 allowing him to answer those two questions.

17 MR. HALE: I don't think we did, but --

18 MR. MATIASIC: So if there's a specific conduct  
19 that you want to ask him that you think was not inclusive  
20 of your definition of inappropriate conduct, then okay.  
21 But he's already answered the question.

22 MR. HALE: I never gave a definition of  
23 inappropriate conduct, first of all. I didn't do that.  
24 I'm just trying to find out what exactly these reports  
25 were about, and then you and I can argue later whether

1 they constitute inappropriate conduct or sexual  
2 misconduct or whatever. But I think I'm entitled to find  
3 out what exactly the reports were about.

4 MR. MATIASIC: What's the question that's  
5 pending?

6 THE REPORTER: "Who was making these  
7 reports?"

8 MR. MATIASIC: And, Counsel, by that question,  
9 you meant who was making the reports that he went  
10 camping?

11 MR. HALE: Right. Right.

12 MR. MATIASIC: Go ahead, Father. You can  
13 answer the question.

14 THE WITNESS: I just heard about them.

15 BY MR. HALE:

16 Q Did you hear about them from students who had  
17 gone camping with him or --

18 A Yes.

19 Q Okay. And did they tell you about what went on  
20 on these camping trips?

21 A No.

22 Q Did anyone ever tell you that he had offered to  
23 let them sleep in his bed with him?

24 A No.

25 Q Were these reports ever reported, to your

1 knowledge, to anyone within the province?

2 A No.

3 Q And you've identified them as reports. Why did  
4 you call them reports?

5 A Again, hearsay. They went on outings.

6 Q Did they tell you whether there were any other  
7 adults along with Father Lyons --

8 A No.

9 Q -- on this --

10 MR. MATIASIC: He already answered the  
11 question.

12 BY MR. HALE:

13 Q Did you ever tell anyone about being aware that  
14 Father Lyons was taking students camping?

15 MR. MATIASIC: Father, don't answer the  
16 question.

17 Counsel, you've now -- I've let you ask a  
18 number of additional questions. You've explored the  
19 issue as to what the reports were. He clearly testified  
20 the reports were that he went camping. That's it. I  
21 mean, you've already asked him about childhood sexual  
22 abuse. You've already asked him about inappropriate  
23 conduct. There's no other potential relevance to this  
24 line of questioning.

25 So from here on out, on this line, I'm going to

1 instruct him not to answer.

2 MR. HALE: It was an entirely different  
3 question, as to whether he reported the fact that this  
4 man was camping with children. Just that fact alone,  
5 especially without adult supervision, at least provides  
6 an argument of some sort of constructive notice.

7 MR. MATIASIC: Counsel, the instruction stands.

8 MR. HALE: That's an inappropriate instruction.

9 MR. MATIASIC: That's fine, Counsel. You can  
10 make it part of a motion, if you deem appropriate.

11 But how this is related to John Doe 39 is  
12 escaping me, despite all your representations; and we  
13 don't need to go through them again.

14 MR. HALE: Okay. I appreciate that, and I  
15 won't do that again.

16 But are there any other bases for your  
17 instruction not to answer other than what you've stated  
18 so far?

19 MR. MATIASIC: I incorporated by reference all  
20 the ones I've already stated.

21 MR. HALE: Is there any specific privilege or  
22 privacy right that we haven't -- that you're basing this  
23 instruction not to answer on?

24 MR. MATIASIC: I'll incorporate them by  
25 reference all over again, Counsel. You heard them.



1 MR. HALE: I have still today yet to hear a  
2 privacy right or a privilege that you're relying on.

3 MR. MATIASIC: I've stated the objections that  
4 I'm relying on.

5 MR. HALE: Okay. Fair enough.

6 Q Have you ever spoken with [REDACTED] about  
7 his experiences with Father Lyons on camping trips?

8 A No.

9 Q If a student had come to you and told you,  
10 during your time as a Franciscan, that Father Lyons had  
11 taken him camping and offered to let that student sleep  
12 in his bed, would you have reported that to anyone?

13 MR. MATIASIC: Vague and ambiguous. Lacks  
14 foundation. Calls for speculation. Incomplete  
15 hypothetical.

16 BY MR. HALE:

17 Q You can answer that.

18 A What was the question?

19 MR. HALE: Sure.

20 Q If --

21 Can you read that back for me.

22 THE REPORTER: "If a student had come to  
23 you and told you, during your time as a  
24 Franciscan, that Father Lyons had taken him  
25 camping and offered to let that student sleep

1 in his bed, would you have reported that to  
2 anyone?"

3 MR. MATIASIC: Father, don't answer the  
4 question.

5 You know what, Counsel? Those facts aren't  
6 present at all in the Cimmarrusti case. There aren't any  
7 allegations regarding Father Cimmarrusti taking kids  
8 camping. So it doesn't go to the issue of notice.

9 This is completely irrelevant. Is this a  
10 deposition regarding Father Lyons or Father  
11 Cimmarrusti -- the John Doe 39 case or Cimmarrusti case?  
12 I'm instructing him not to answer. This is just  
13 badgering, badgering the witness.

14 MR. HALE: There's no badgering going on and  
15 these depositions are not limited to us conducting  
16 discovery regarding notice. I think you're way off base  
17 here. I've got a right to try and gather more evidence  
18 to support the punitive-damages allegations, and that's  
19 exactly what this is about.

20 MR. MATIASIC: Hypothetical case involving  
21 camping when there are no allegations of camping  
22 involving Father Cimmarrusti? I'm sorry, I guess I'm  
23 missing it, Counsel.

24 MR. HALE: There certainly are allegations of  
25 Father Cimmarrusti having students in his bed, and that

1 was part of the question, as well. So you can't argue  
2 that.

3 MR. MATIASIC: Counsel, the instruction stands.

4 MR. HALE: Okay. Again, that's going to be  
5 an -- we're going to have an awful lot of  
6 motion-to-compel issues, obviously.

7 Is there a privacy right or a privilege that  
8 you're basing this objection on?

9 MR. MATIASIC: Counsel, you don't need to go  
10 through this routine every time. I've stated my  
11 objection.

12 MR. HALE: Well, I just want to make -- again,  
13 we're trying to meet and confer. I want to make sure I  
14 understand your argument. If there's merit to your  
15 argument, I don't want to bring it up to the court. So  
16 that's the only reason I'm asking that, Paul.

17 MR. MATIASIC: And, Counsel, I think I've done  
18 my best, in good faith, to allow you the opportunity to  
19 ask questions on certain lines to demonstrate that it's  
20 even in the most tangential way relevant to the John  
21 Doe 39 case. This clearly is not.

22 MR. HALE: We're going to disagree on that one.  
23 That's not what --

24 MR. MATIASIC: This clearly is not, Counsel. A  
25 hypothetical question, you know, involving allegations

1 that aren't at issue in this case. That's not relevant  
2 to any issue in 39.

3 MR. HALE: But you agree there are allegations  
4 regarding Father Cimmarrusti having students in his bed?

5 MR. MATIASIC: Counsel, I've made my record  
6 clear.

7 MR. HALE: Like I said, this is going to be  
8 another issue we've got to --

9 MR. MATIASIC: Why don't we take a break for a  
10 second.

11 THE VIDEOGRAPHER: Off the record at 1:29 p.m.

12 (Break taken from 1:29 p.m. to 1:32 p.m.)

13 THE VIDEOGRAPHER: Back on the record at  
14 1:32 p.m.

15 MR. HALE: All right. There was a question  
16 pending.

17 Is the instruction not to answer standing?

18 MR. MATIASIC: Yes.

19 BY MR. HALE:

20 Q Have you ever been aware of a Franciscan  
21 reporting to law enforcement allegations of childhood  
22 sexual abuse by another Franciscan?

23 MR. MATIASIC: Lacks foundation and incomplete  
24 hypothetical.

25 THE WITNESS: No.

1 BY MR. HALE:

2 Q Have you ever been aware of a Franciscan  
3 reporting to child protective services allegations of  
4 childhood sexual abuse committed by another Franciscan?

5 MR. MATIASIC: Same objections.

6 THE WITNESS: No.

7 BY MR. HALE:

8 Q Okay. Have you ever been aware of a Franciscan  
9 reporting allegations of childhood sexual abuse -- I'm  
10 sorry. Strike that.

11 Have you ever been aware of a Franciscan  
12 reporting to anyone within the province allegations of  
13 childhood sexual abuse by another Franciscan?

14 MR. MATIASIC: Same objections.

15 THE WITNESS: No.

16 BY MR. HALE:

17 Q When did you first meet Mario Cimmarrusti?

18 A He was enrolled in the seminary three,  
19 four years behind me.

20 Q So you weren't classmates, but you attended  
21 during at least one year at the same time?

22 A Yes.

23 Q Did you have him in any of your classes?

24 A No.

25 Q Did you interact with him while you were at the

1 seminary and he was?

2 A Did I --

3 Q Interact with him in any way.

4 MR. MATIASIC: Vague and ambiguous.

5 THE WITNESS: "Hello."

6 BY MR. HALE:

7 Q Okay. Were you friends with him?

8 A No.

9 Q Do you recall what he was like as a student?

10 MR. MATIASIC: Vague and ambiguous.

11 THE WITNESS: No.

12 BY MR. HALE:

13 Q Were you ever aware of any inappropriate  
14 conduct by him when he was a student?

15 MR. MATIASIC: Same objection.

16 THE WITNESS: No.

17 BY MR. HALE:

18 Q Have you ever been assigned anywhere with him?

19 A No.

20 Q When was the last time you spoke with him?

21 A About three years ago.

22 Q Okay. And what was the context in which the  
23 two of you spoke?

24 A He was at San Damiano Retreat in Danville, and  
25 I was there to give a retreat.

1 Q Okay. Did you discuss any of the allegations  
2 against him?

3 A None.

4 Q What did you guys discuss?

5 A Just "hello," and that's about it.

6 Q During your time as a Franciscan, have you ever  
7 observed any behavior by Father Cimmarrusti that you  
8 thought was inappropriate?

9 MR. MATIASIC: Vague. Ambiguous.

10 THE WITNESS: No.

11 MR. MATIASIC: Overbroad.

12 BY MR. HALE:

13 Q Have you ever heard anyone say that they  
14 observed some behavior by Father Cimmarrusti that they  
15 thought was inappropriate?

16 MR. MATIASIC: Same objections.

17 THE WITNESS: No.

18 BY MR. HALE:

19 Q Have you ever heard anyone receiving complaints  
20 of misconduct by Father Cimmarrusti?

21 MR. MATIASIC: Same objections; and lacks  
22 foundation.

23 THE WITNESS: No.

24 BY MR. HALE:

25 Q Were you, as a member of the Definitorium,

1 involved in the decision to transfer Father Cimmarrusti  
2 in Guaymas in 1971?

3 MR. MATIASIC: Lacks foundation.

4 MR. HALE: Guaymas is G-u-a-y-m-a-s.

5 THE WITNESS: I don't recall.

6 BY MR. HALE:

7 Q Okay. As a member of the Definitorium, were  
8 you a part of any decision to transfer him from Guaymas?

9 MR. MATIASIC: Lacks foundation.

10 THE WITNESS: No.

11 BY MR. HALE:

12 Q Are you aware of any discussions regarding the  
13 transfer of Father Cimmarrusti from Guaymas?

14 MR. MATIASIC: Same objection.

15 THE WITNESS: No.

16 BY MR. HALE:

17 Q Are you aware of any other allegations of  
18 childhood sexual abuse against Father Cimmarrusti while  
19 he was in Guaymas?

20 A No.

21 Q Were you aware -- ever aware that there were --  
22 strike that.

23 Were you ever aware that Mexican authorities,  
24 Mexican law-enforcement authorities, were seeking to  
25 prosecute Father Cimmarrusti for childhood sexual abuse



1 in Guaymas?

2 A No.

3 Q Have you ever heard any rumors to that effect?

4 A No.

5 Q Does the province run orphanages in Mexico?

6 MR. MATIASIC: Calls for speculation.

7 At what -- currently?

8 MR. HALE: Right, and we'll work our way back.

9 THE WITNESS: Does the province run them?

10 MR. HALE: Yes.

11 THE WITNESS: I don't know that it's under the  
12 province's auspices.

13 BY MR. HALE:

14 Q Okay. Are there any orphanages in Mexico that  
15 are owned or operated by the province or assisted by the  
16 province in the operation?

17 MR. MATIASIC: Calls for a legal conclusion.

18 THE WITNESS: Yes.

19 BY MR. HALE:

20 Q What are the names of those province --  
21 orphanages?

22 A Nuestros Hermanos. That's it.

23 Q Okay. And is it your understanding that Father  
24 Cimmarrusti is currently assigned at San Damiano?

25 A Yes.

1 Q Are you aware of any restrictions on him at  
2 San Damiano?

3 A Yes.

4 Q What are those restrictions?

5 MR. MATIASIC: Calls for speculation.

6 THE WITNESS: He --

7 MR. MATIASIC: And again, Counsel, I'm just  
8 going to further object that Father [REDACTED] is not a  
9 hierarchy witness for this institution Defendant based on  
10 where Father Cimmarrusti is assigned. He's assigned --  
11 Father [REDACTED] is assigned at a different location in  
12 southern California.

13 So with that being said, you can go ahead and  
14 answer, Father.

15 THE WITNESS: He has had his faculties removed  
16 in residence.

17 BY MR. HALE:

18 Q Anything else?

19 A No.

20 Q Is there a parish at San Damiano?

21 A Parish? No.

22 Q Is mass performed at San Damiano?

23 A Yes.

24 Q Is it a public mass? In other words, can  
25 members of nonFranciscans come and attend mass at

1 San Damiano?

2 MR. MATIASIC: Calls for speculation.

3 THE WITNESS: Yes.

4 BY MR. HALE:

5 Q Is there a lay community at San Damiano?

6 A Lay community?

7 MR. MATIASIC: Same objection.

8 BY MR. HALE:

9 Q In other words, people that are not Franciscan  
10 who come and just attend mass on weekends at San Damiano.

11 MR. MATIASIC: Vague and ambiguous.

12 THE WITNESS: Yes.

13 BY MR. HALE:

14 Q Okay. Are you aware of anyone from the  
15 province ever warning any those people regarding the  
16 history of abuse allegations involving Father  
17 Cimmarrusti?

18 MR. MATIASIC: Vague and ambiguous.

19 THE WITNESS: I don't know.

20 MR. MATIASIC: Lacks foundation.

21 BY MR. HALE:

22 Q Okay. Is there a school at San Damiano?

23 A No.

24 Q Do you know if there's -- is San Damiano in a  
25 neighborhood where there's a school nearby?

1 MR. MATIASIC: Vague and ambiguous.

2 THE WITNESS: No.

3 BY MR. HALE:

4 Q Are there residential homes near San Damiano?

5 MR. MATIASIC: Vague and ambiguous.

6 THE WITNESS: San Damiano is atop a hill.

7 That's -- house -- houses at the base.

8 BY MR. HALE:

9 Q Okay. Do you know if anyone from the province  
10 has ever warned any of the residents at the base of that  
11 hill of the history of allegations involving Father  
12 Cimmarrusti regarding childhood sexual abuse?

13 MR. MATIASIC: Vague and ambiguous. Lacks  
14 foundation.

15 THE WITNESS: No.

16 BY MR. HALE:

17 Q Okay. Do you believe the province should warn  
18 parishioners when an accused perpetrator is assigned to  
19 their parish?

20 MR. MATIASIC: Vague and ambiguous. Lacks  
21 foundation. Incomplete hypothetical.

22 Again, Counsel, this is -- this is not a  
23 hierarchy witness for the institutional Defendant. So I  
24 think these questions are more appropriately directed at  
25 those witnesses.

1           And so I'm also going to object that this is  
2 not reasonably calculated to lead to the discovery of  
3 admissible evidence and it's argumentative.

4           Go ahead and answer, Father.

5           THE WITNESS: Again, please.

6           MR. HALE: Could you read that back.

7           THE REPORTER: "Do you believe the  
8 province should warn parishioners when an  
9 accused perpetrator is assigned to their  
10 parish?"

11          MR. MATIASIC: Same objections.

12          THE WITNESS: I don't know.

13 BY MR. HALE:

14          Q     Okay. Do you know Father Dave Johnson?

15          A     Yes.

16          Q     When did you first meet him?

17          A     At Three Rivers.

18          Q     And by what --

19          A     I was giving a retreat there.

20          Q     Okay.

21          A     He was in residence.

22          Q     Have you ever been assigned with Johnson?

23          A     No.

24          Q     Have you ever supervised him?

25          MR. MATIASIC: Hold on, Father.

1 That calls for a legal conclusion.

2 I'm also going to object, Counsel, under all  
3 the same bases that we stated before: That this is not  
4 relevant to the Clergy Cases III, and I think this is  
5 violative of the discovery order in Clergy I.

6 Go ahead and answer, Father.

7 MR. HALE: Do you want a standing objection as  
8 we go through these perpetrators? That's fine.

9 MR. MATIASIC: Sure. Okay.

10 MR. HALE: Hopefully, it will get us out of  
11 here.

12 MR. MATIASIC: I'll take it.

13 BY MR. HALE:

14 Q Okay. Go ahead.

15 A Was I --

16 MR. HANCE: And to the extent it's violative of  
17 the Clergy I order, I would join in that.

18 MR. HABEL: Join.

19 MR. HALE: Okay.

20 THE WITNESS: Again.

21 MR. HALE: Before you -- you know, just for the  
22 record, I don't think it's violative of the order; again,  
23 it's for purposes of establishing the punitive-damages  
24 argument in the Clergy III case.

25 Q Okay. Go ahead.

1           **A     The question?**

2           MR. HALE:   Could you read my last question  
3       back.

4           THE REPORTER:  "Have you ever supervised  
5       him?"

6           MR. MATIASIC:  Calls for a legal conclusion.

7           THE WITNESS:  No.

8       BY MR. HALE:

9           **Q     Have you ever evaluated his performance as a**  
10       **Franciscan?**

11          **A     No.**

12          **Q     Ever reported him to a supervisor?**

13          **A     No.**

14          **Q     Ever praised him to a supervisor?**

15          MR. MATIASIC:  Counsel, can I have vague and  
16       ambiguous and lacking foundation --

17          MR. HALE:  Sure.

18          MR. MATIASIC:  -- in my standing objection?

19          MR. HALE:  Oh, yeah, absolutely.

20          MR. MATIASIC:  Okay.  Thank you.

21       BY MR. HALE:

22          **Q     You're familiar with the board of inquiry,**  
23       **correct?**

24          **A     Somewhat.**

25          **Q     Have you seen the board-of-inquiry report?**

1 A No.

2 Q Are you aware that the board issued a written  
3 document setting forth what their investigation covered?

4 A No.

5 Q Okay. Did you ever hear that the board had  
6 identified 11 perpetrators at St. Anthony's Seminary?

7 A Yes.

8 Q Okay. Are you -- have you ever been aware that  
9 Father Johnson was one of those 11 perpetrators  
10 identified?

11 A No.

12 Q Did you know Father David Carriere?

13 A Yes.

14 Q When did you first meet him?

15 A In the seminary.

16 Q And were you students there together?

17 A Just a second now. Let's see. David Carriere?

18 Q C-a-r-r-i-e-r-e.

19 A Yes, I know the name.

20 No, I was not in the seminary with him; with  
21 his brother. That's all I know. I only met him in the  
22 course of Provincial events.

23 Q Okay. Have you ever been assigned anywhere  
24 with him?

25 A No.



1 Q Ever been in residence anywhere with him?

2 A No.

3 Q Have you heard he's been accused of childhood  
4 sexual abuse --

5 MR. MATIASIC: Other than from your attorneys.

6 BY MR. HALE:

7 Q -- other than from your attorneys?

8 A No.

9 Q Was Father Edmond Austin assigned with you in  
10 St. Joseph's while you were there?

11 A Edmond Austin?

12 Q A-u- --

13 A Yes.

14 Q -- A-u-s-t-i-n.

15 A Yes.

16 Q Have you ever discussed Father Austin with  
17 [REDACTED]?

18 A No.

19 Q Did Father [REDACTED] ever tell you that he accused  
20 Father Austin of childhood sexual abuse?

21 A No.

22 Q Did you ever observe any inappropriate behavior  
23 by Father Austin while you were assigned with him at  
24 St. Joseph's?

25 A No.

1 MR. MATIASIC: Vague and ambiguous.

2 BY MR. HALE:

3 Q Did you ever visit Father Carriere while he was  
4 assigned in Fresno?

5 A No.

6 Q Do you know why he was transferred from Fresno?

7 A No.

8 MR. MATIASIC: Lacks foundation.

9 BY MR. HALE:

10 Q Were you ever aware that Father Carriere was  
11 making inappropriate sexual comments to male students --

12 MR. MATIASIC: Vague and ambiguous.

13 BY MR. HALE:

14 Q -- at St. Anthony's?

15 A No.

16 Q Were you ever aware he was making inappropriate  
17 sexual comments to anyone?

18 MR. MATIASIC: Same objection.

19 THE WITNESS: No.

20 BY MR. HALE:

21 Q Are you familiar with the House of Affirmation?

22 A In Pacifica?

23 Q There's a number of different locations,  
24 actually.

25 A One in Pacifica.

1 Q Okay. How are you familiar with the House of  
2 Affirmation?

3 A The burned Bush, Father Bush is my friend.

4 Q And he works --

5 A He directed --

6 Q Sorry, I didn't mean to interrupt you.

7 What is your understanding of the treatment  
8 that's offered by the House of Affirmation?

9 MR. MATIASIC: Okay. Counsel, what his  
10 understanding of what the House of Affirmation offers,  
11 how that's relevant, I don't know.

12 Go ahead and answer, Father.

13 THE WITNESS: Apparently, effectively. Did  
14 good counseling.

15 BY MR. HALE:

16 Q Is it your understanding that the House of  
17 Affirmation treated priests with sexual problems?

18 A I don't recall that, specifically.

19 Q Okay. When did you first become aware of the  
20 House of Affirmation?

21 A When I met Father Bush.

22 Q How long ago was that?

23 A 15 years ago.

24 Q Have you ever heard of Father Carriere, aside  
25 from your counsel, has been accused of childhood sexual

1 abuse?

2 A Father Carriere?

3 Q Yes.

4 A No.

5 Q Do you know Robert Van Handel?

6 A No. No, I don't know him personally.

7 Q Okay. Have you ever been assigned anywhere  
8 with him?

9 A No.

10 Q In residence anywhere with him?

11 A No.

12 Q Ever assist anywhere with him?

13 A No.

14 Q Have you heard he's been accused of childhood  
15 sexual abuse --

16 MR. MATIASIC: Other than from counsel.

17 BY MR. HALE:

18 Q -- other than from counsel?

19 A No. He was in jail.

20 Q Okay. And when is the first time you had heard  
21 he had been accused of childhood sexual abuse?

22 A I don't know how many years.

23 Q Okay. Do you know [REDACTED]?

24 A Yes.

25 Q When was the last time you spoke with him?

1           A     Within the year.

2           Q     Okay. Do you know where he is currently  
3 assigned or in residence?

4           A     San Miguel.

5           Q     Okay. Is he retired?

6           MR. MATIASIC: If you know, Father.

7           THE WITNESS: I don't know.

8 BY MR. HALE:

9           Q     Do you know how old he is?

10          A     Not exactly.

11          Q     Roughly?

12          A     Oh --

13          Q     Is he in his 70s or 80s?

14          A     Oh, in his 70s.

15          Q     Do you know if he's having any health problems?

16          A     Yes.

17          Q     What are his health problems?

18          A     Heart.

19          Q     Okay. Do you know if he's under the care of a  
20 physician?

21          A     No.

22          Q     Do you know what the nature of those problems  
23 are related to his heart?

24          A     No. He had open-heart surgery.

25          Q     How long ago was that?

1           A     Six years.

2           Q     Do you know if his heart condition is  
3 life-threatening?

4           A     Yes.

5           Q     When did you first meet Sam Cabbott?

6           MR. HANCE: Counsel, this is all Clergy I.

7           MR. HALE: I know. We disagree on that.

8           MR. MATIASIC: I still have my standing  
9 objection, right?

10          MR. HALE: Of course.

11          THE WITNESS: Oh, how many years? 15 years  
12 ago.

13 BY MR. HALE:

14          Q     Okay. Was he -- was he assigned to Serra when  
15 you first got to Serra?

16          A     I think he was there.

17          Q     Okay. So that would -- so you arrived at Serra  
18 in 1980, correct?

19          A     1980.

20          Q     So he was there in 1980 when you got there?

21          A     Yes.

22          Q     Okay.

23          MR. MATIASIC: Father, do you remember?

24          THE WITNESS: I don't know exactly.

25          ///

1 BY MR. HALE:

2 Q Okay. While you were at Serra, was there ever  
3 a young couple who worked there named Susan and Miguel?  
4 I don't know their last names. I just know their first  
5 names.

6 A Susan and Miguel?

7 Q And they may have actually lived on the  
8 property, as well as worked on the property.

9 A That's the same as Susanna?

10 Q Prob- -- yes, yes.

11 A Yes.

12 Q And do you remember -- do you know what their  
13 last names are?

14 A Garcia.

15 Q Okay. Do you know if they're still living at  
16 Serra Retreat?

17 A I don't know.

18 Q Were they still living there and working there  
19 when you left Serra Retreat in 1994?

20 A Yes.

21 Q Do you recall them having two young daughters?

22 A No.

23 Q Do you recall them having any children?

24 A They adopted children.

25 And, by the way, it was not Miguel.

1 Q Okay.

2 A Susanna and Martin.

3 Q Martin.

4 What were their jobs at Serra Retreat?

5 MR. MATIASIC: And, Counsel, again, I think  
6 this is outside the scope of the John Doe 39 matter.  
7 It's outside the scope of the deposition notice.

8 I'll allow him to answer the question. But if  
9 you keep asking about these people, we're going to  
10 instruct him not to answer if we keep going down this  
11 line.

12 MR. HABEL: And I really wonder what Judge  
13 Fromholtz would say about this line of questioning. I  
14 mean, this is clearly Father Cabbott questioning; and  
15 we've already established there's no Clergy III Father  
16 Cabbott case. Not to start the whole --

17 MR. HALE: Okay.

18 MR. HABEL: -- the whole round robin about  
19 punitive-damages claims and all that; but, I mean, it  
20 couldn't be any clearer.

21 MR. HALE: I disagree.

22 MR. MATIASIC: The jobs of -- the job  
23 descriptions and position of two lay witnesses at Serra  
24 Retreat when Father Cimmarrusti was never even assigned  
25 there, that can't possibly be related to anything in



1 Clergy III, even punitive damages, even any other  
2 argument you may make along those lines.

3 MR. HALE: It's definitely related to the  
4 punitive damages claim, absolutely, without a doubt, at  
5 least from our perspective. I mean, you guys are  
6 obviously entitled to disagree and Judge Sebrae, it  
7 sounds like, is going to get to make the final decision  
8 as to whether that's the case or not. Although maybe it  
9 will ultimately end up in front of Judge Fromholtz;  
10 either way.

11 I think there's a good reason for me to be  
12 asking these questions to support the punitive-damages  
13 claim. I understand you don't understand where the  
14 questions are going right now, but I'm trying to find out  
15 who these people are; because they will support the  
16 punitive-damages claim.

17 So I'll keep asking the questions, you instruct  
18 when you decide you're ready to instruct; and we'll let  
19 the court sort it up.

20 MR. HABEL: I think, I need to put on the  
21 record, if Judge Sebrae changes his mind and elects to  
22 leave the John Doe 39 case and Clergy III, I think -- I  
23 think the next thing to look at is a protective order in  
24 front of Judge Fromholtz limiting your questioning in  
25 Clergy III.

1 MR. HALE: But you can't stop a Plaintiff from  
2 discovering evidence relevant to his case just because  
3 he's not in Clergy I. I don't think -- I don't think  
4 Judge Fromholtz will do that.

5 MR. HABEL: I just -- I'm putting it out there.  
6 I mean --

7 MR. HALE: I mean, I'm not -- I am not going  
8 into damages aspect of those claims; I'm not going into  
9 the specifics of the abuse of Clergy I claims. I'm  
10 simply -- I'm going into whether notice of abuse to the  
11 Franciscans by perpetrators and what the Franciscans did  
12 with those perpetrators after they received those  
13 notices. Clearly intended to support the  
14 punitive-damages allegation.

15 MR. MATIASIC: But no punitive motion is on  
16 file. That's the issue.

17 MR. HABEL: And, clearly, Father [REDACTED] wouldn't  
18 have any information on the Plaintiff's damages in  
19 Clergy I. I mean, to say that you're not asking about  
20 damages, doesn't do us any good. The only notice is --

21 MR. HALE: No, no, no.

22 MR. HABEL: The only issue is notice.

23 MR. HALE: You're misunderstanding. I'm not  
24 getting into, yet, Plaintiff's damages in Clergy I, not  
25 this Plaintiff's damages. The Plaintiff -- in other

1 words, I'm not exploring the entirety of those cases at  
2 all.

3 The only thing I'm touching on in those cases  
4 is, one, notice of -- notice to the Franciscans of abuse  
5 of a perpetrator, who happens to be a Clergy I  
6 perpetrator, as well, in some cases not; and, two, how  
7 the Franciscans handled that perpetrator once they  
8 received that notice. It's a pretty narrow, limited  
9 circumstance.

10 MR. HABEL: Those are the only real liability  
11 issues in our Clergy I cases and these are -- this is a  
12 Father Cabbott issue.

13 MR. HALE: I don't think that's true at all. I  
14 think you're clearly going to go after various damages  
15 issues, to try and apportion fault for those damages to  
16 other entities.

17 MR. HABEL: So the only liability issues are  
18 notice and response to notice.

19 MR. HALE: And I certainly am not asking any  
20 questions about notice to your clients. It is strictly a  
21 Franciscan issue.

22 MR. HABEL: I understand.

23 But I am Defendants' liaison counsel, and I'm  
24 sitting here -- this is probably about the third day now,  
25 third deposition now, just listening to a litany of

1 Clergy I discovery.

2 MR. HALE: Well, I disagree that the Clergy I  
3 discovery.

4 MR. HABEL: Frankly, the only reason I haven't  
5 moved so far in front of Fromholtz is that I understood  
6 there's a motion to transfer in front of Judge Sebrae. I  
7 was hoping that that would resolve the issue. It may; it  
8 may not. We're still at the tentative stages.

9 MR. HALE: All right.

10 MR. HABEL: So I feel constrained to move,  
11 because I think the proper thing is to let Judge Sebrae  
12 rule; but I think that's where we're headed if he rules  
13 that it stays -- it stays in 3.

14 MR. HALE: I understand.

15 I don't know what to say. I disagree with the  
16 position you guys are taking, this is not relevant to the  
17 John Doe 39 case.

18 MR. HABEL: You know, my problem is we're going  
19 to have all these other Plaintiff attorneys in Clergy I  
20 saying why does Tim Hale get to take his discovery and we  
21 don't.

22 MR. HALE: But see, that's the thing. I don't  
23 think I'm getting to take my discovery. There's much  
24 more I'd like to ask; there's much more documents I'd  
25 like to have, which I don't have. There's so much

1 information I'm not going into. Again, I'm going into a  
2 very specific set of circumstances: Notice about a  
3 specific perpetrator and what the Franciscans did with  
4 that perpetrator once they received that notice.

5 And I understand, yes, that that also happens  
6 to be a key liability issue, but it's also key to that  
7 pattern of conduct argument for the punitive-damages  
8 claim in Clergy III.

9 MR. MATIASIC: First of all, there's no  
10 punitive-damages claim in Clergy III.

11 Secondly, you want to ask him specific issues  
12 with respect to notice from a particular perpetrator,  
13 fine. I'll let you ask, even though I agree with counsel  
14 and join his objections with respect to the violations in  
15 Clergy I.

16 With that being said, what the position and job  
17 description was of these lay witnesses is absolutely out  
18 of bounds. If that is, in fact, punitive discovery that  
19 you need to conduct, if your motion is granted for leave  
20 to amend to include a punitive-damage claim, then you can  
21 go ahead and conduct discovery accordingly. But I'm not  
22 going to let him answer any more questions along --

23 MR. HALE: I think this is a waste of attorney  
24 resources and judicial resources for us to have to file a  
25 motion to compel to get us to get an answer to these

1 questions, and then have to come back and do this all  
2 over again.

3 I mean, I know you guys are billing by the  
4 hour, but good grief, let's get it over with now. It's  
5 not like these -- I can understand if these depositions  
6 were running, you know, seven hours at a time, but  
7 they're not. The only depositions that have gone  
8 extensive periods have been the Harris deposition, who  
9 was, you know, the rector at the school for an extensive  
10 period. Each one of these depositions is concluded in under  
11 five hours. It's not like there's an unreasonable amount  
12 of time being spent at these depositions.

13 Instead, you're going to force us to ask  
14 relief -- for relief from the court and to come back here  
15 and do this again. I just don't see it being -- I see it  
16 being a horribly inefficient use of judicial resources  
17 and attorney resources, as well.

18 MR. MATIASIC: Counsel, I object as strong as I  
19 possibly can to the allocation of time with respect to  
20 these depositions, particularly vis-a-vis a witness like  
21 Father [REDACTED] who was never assigned at St. Anthony's  
22 Seminary in Santa Barbara; in fact, never assigned  
23 anywhere in Santa Barbara, never was at the same  
24 assignment as Father Cimmarrusti.

25 And so that's the case in which you're taking

1 the deposition. And so it would be a different issue if  
2 you were in conjunction with the case in Clergy I  
3 involving Brother Cabbott, but you're not.

4 So I'm going to instruct him not to answer.

5 MR. HALE: I thinks that's wholly  
6 inappropriate. We'll file a motion to compel on that, as  
7 well.

8 MR. MATIASIC: If you want to ask him specific  
9 notice questions related to a perpetrator, go ahead and  
10 do so.

11 MR. HALE: You know what this is discovery,  
12 though; and I don't have to ask specific notice  
13 questions. I'm trying to find out who these people were,  
14 where they were assigned, and that kind of thing. And I  
15 don't have to ask the specific questions that tip my  
16 hand, tip my case to you. That's not a requirement in  
17 discovery. That's what you're asking me to do, though.

18 So I don't have to educate you as to the facts  
19 of my case. I've got a right to ask these questions. I  
20 think you're way off base here.

21 MR. MATIASIC: You don't have a right to  
22 conduct punitive discovery until you've gotten that  
23 motion granted.

24 MR. HANCE: Or violate the Clergy I stay.

25 MR. HALE: Again, I don't think this is

1 violation of the Clergy I stay at all.

2 MR. MATIASIC: Let's just move on. I think we  
3 all --

4 MR. HALE: And I can't -- I can't --

5 MR. MATIASIC: Go ahead, unless you have more.

6 MR. HALE: It seems like it's kind of a  
7 circular argument to ask me not to discover my  
8 punitive-damages case until my punitive-damages motion is  
9 granted. Isn't that what you're asking me to do?

10 MR. MATIASIC: I guess you could make the same  
11 argument with respect to the Code of Civil Procedure  
12 requirement stating that you have to go and get leave of  
13 court first.

14 There's a reason there's a gateway to aver  
15 punitive damages, and that is because there has to be a  
16 sufficient showing and basis first to the court in order  
17 to conduct this discovery in the first place.

18 So without getting into the history of those  
19 statutes, why don't we just move on.

20 MR. HALE: Well, but I think that's in regards  
21 to financial information, Paul. We're not talking about  
22 discovery to support the allegations of punitive damages  
23 themselves.

24 MR. MATIASIC: It doesn't support the  
25 allegations of punitive damages vis-a-vie the Father



1 Cimmarrusti case. That's the case you're deposing Father  
2 [REDACTED] in connection with. So --

3 MR. HALE: That's where we disagree.

4 MR. MATIASIC: Okay. Let's just move on,  
5 Counsel.

6 MR. HALE: What was the last question.

7 THE REPORTER: "What were their jobs at  
8 Serra Retreat?"

9 MR. HALE: And you're instructing him not to  
10 answer that question?

11 MR. MATIASIC: I am.

12 MR. HALE: And are you instructing him not to  
13 answer any further questions related to [REDACTED]  
14 [REDACTED], assuming that's their correct names?

15 MR. MATIASIC: Yes.

16 MR. HALE: I think that's completely  
17 inappropriate and you're obstructing legitimate  
18 discovery, and we'll be filing a motion to compel on that  
19 issue.

20 Q Are there private residences around the Serra  
21 Retreat house?

22 A Are there?

23 Q Yes.

24 A Yes.

25 Q Okay. And are there public masses performed at

1 Serra Retreat house?

2 A Public, you mean --

3 Q In other words, if I'm living in a house that  
4 neighbors Serra Retreat, can I come to mass at Serra  
5 Retreat on Sunday?

6 A No. Normally, they go to parish church.

7 Q Okay. But would it be possible for them to  
8 attend mass -- is mass at Serra Retreat open to the  
9 public?

10 A Not normally.

11 Q But is it ever possible? I sounds like --

12 A Well --

13 MR. MATIASIC: Incomplete hypothetical.

14 I think you're arguing with the witness,  
15 Counsel. He's already given you an answer to the  
16 question.

17 MR. HALE: Well, he's saying "Not normally."  
18 So it sounds like there are specific circumstances, so  
19 I'd like to know what the circumstances are.

20 THE WITNESS: If people come, they're not  
21 turned away.

22 BY MR. HALE:

23 Q Okay. Have you ever been aware of any member  
24 of the province warning any of the neighbors of the Serra  
25 Retreat house about allegations of childhood sexual abuse

1 by a Franciscan assigned or in residence at Serra Retreat  
2 house?

3 MR. MATIASIC: Vague and ambiguous. Lacks  
4 foundation. Incomplete hypothetical.

5 THE WITNESS: No.

6 BY MR. HALE:

7 Q Okay. Have you ever been aware of any member  
8 of the province warning any employee of Serra Retreat  
9 house about allegations of childhood sexual abuse by A  
10 Franciscan friar assigned or in residence at Serra  
11 Retreat?

12 A No.

13 MR. MATIASIC: Same objections.

14 BY MR. HALE:

15 Q Is that a "no"?

16 A No.

17 Q Okay. Is there a kitchen at the Serra Retreat  
18 house?

19 MR. MATIASIC: Father, don't answer that  
20 question.

21 Counsel, again, that's not reasonably  
22 calculated to lead to the discovery of admissible  
23 evidence in John Doe 39 case. I don't think that even  
24 goes to the hypothetical punitive-damage situation  
25 either.

1 I'm instructing him not to answer.

2 Cimmarrusti was never there.

3 BY MR. HALE:

4 Q Have there ever been any adolescent boys who  
5 worked in the kitchen at Serra Retreat house while you  
6 were at Serra Retreat?

7 MR. MATIASIC: Don't answer, Father.

8 There will be no more questions on the Serra  
9 Retreat house. If you want to ask specific questions  
10 related to sexual abuse by a particular friar to Father  
11 [REDACTED] you're free to do so.

12 MR. HALE: I don't have to ask specific  
13 questions regarding --

14 MR. MATIASIC: In Clergy III, I think you do.  
15 If this were a Clergy I depo, I think it would be a  
16 different story.

17 MR. HALE: This is an inappropriate obstruction  
18 of the legitimate discovery process here. And we will  
19 file a motion to compel on this issue, too. Your  
20 objection and instruction is completely inappropriate.

21 Q Have you ever been aware of any adolescent  
22 males who were working at Serra Retreat house accusing a  
23 Franciscan friar of childhood sexual abuse?

24 A Have I been aware?

25 Q Uh-huh, yes.

1           A     I heard a report.

2           Q     Okay. Did that involve adolescent boys from  
3 either Mexico or somewhere in South America?

4           A     Did this involve adolescent boys? Yes.

5           Q     Okay.

6           MR. MATIASIC: From Mexico and South America?

7           THE WITNESS: Yes.

8           MR. HALE: Or; or South America.

9           MR. MATIASIC: Or South America.

10          THE WITNESS: Yes.

11 BY MR. HALE:

12          Q     And what year did this abuse take place, to  
13 your knowledge?

14          MR. MATIASIC: If you know, Father.

15          THE WITNESS: I don't know the year.

16 BY MR. HALE:

17          Q     Was it early in your time at Serra Retreat or  
18 towards the end before you left?

19          MR. MATIASIC: Lacks foundation that it  
20 occurred while he was there.

21          MR. HALE: Okay. Let's answer that question.

22          Q     Did it occur while you were at Serra Retreat  
23 House?

24          A     Yes.

25          Q     And who was the Franciscan who was accused of

1 childhood sexual abuse?

2 A Oh, I don't know. I don't know how to answer  
3 that. It's kind of confused in my mind.

4 Q Do you recall if it was a Franciscan priest or  
5 brother?

6 A Brother.

7 Q Okay. And was that reported to law  
8 enforcement?

9 MR. MATIASIC: Calls for speculation. Lacks  
10 foundation.

11 BY MR. HALE:

12 Q Did you report it to law enforcement?

13 MR. MATIASIC: Same objections.

14 THE WITNESS: No.

15 BY MR. HALE:

16 Q Why not?

17 MR. MATIASIC: Argumentative.

18 THE WITNESS: Why didn't I call in the police?

19 BY MR. HALE:

20 Q Why didn't you report the allegations of  
21 childhood sexual abuse involving these two boys to the  
22 police or to any law-enforcement authority?

23 MR. MATIASIC: Lacks foundation, Counsel, as to  
24 when Father [REDACTED] knew about the abuse.

25 THE WITNESS: Toward the end of my term there,

1 Brother [REDACTED] was the director.

2 BY MR. HALE:

3 Q Director of Serra Retreat?

4 A Uh-huh.

5 Q Okay. Did you report the allegations to  
6 Brother [REDACTED]?

7 A No.

8 Q Okay.

9 MR. MATIASIC: Again, it lacks foundation as to  
10 when Father [REDACTED] knew of the allegations.

11 BY MR. HALE:

12 Q And did you learn of these allegations while  
13 you were assigned to Serra Retreat, though?

14 A Yes, uh-huh.

15 Q So it was sometime between 1980 and 1994 that  
16 you learned of these allegations, correct?

17 A Yes.

18 Q And you recall you learned of them within a  
19 short time of them actually taking place or was it long  
20 after the event?

21 MR. MATIASIC: Vague and ambiguous.

22 THE WITNESS: After the event; after the --

23 BY MR. HALE:

24 Q The abuse?

25 A Uh-huh.

1 Q Okay. Are we talking within months of the  
2 abuse, within years of the abuse?

3 A I don't know. Months.

4 Q Okay. Did you make a report about the  
5 allegations of abuse to anyone in child protective  
6 services?

7 MR. MATIASIC: Lacks foundation --

8 THE WITNESS: No.

9 MR. MATIASIC: -- and argumentative.

10 BY MR. HALE:

11 Q Okay. Did you make a report to anyone in the  
12 province about the allegations of abuse?

13 MR. MATIASIC: Same objections.

14 THE WITNESS: No.

15 BY MR. HALE:

16 Q Did you discuss with Brother [REDACTED] about how to  
17 handle the allegations of abuse?

18 MR. MATIASIC: Same objections.

19 THE WITNESS: No.

20 BY MR. HALE:

21 Q Did Brother [REDACTED] ever tell you that he wanted  
22 to send the two boys who claimed they were abused back to  
23 whatever country they came from?

24 A No.

25 Q What happened to those two boys; do you know?



1           A     I have no idea.

2           Q     Did they stay on as employees of the Serra  
3     Retreat house?

4           MR. MATIASIC:   Calls for speculation --

5           THE WITNESS:    I don't know.

6           MR. MATIASIC:   -- and for legal conclusion.

7     BY MR. HALE:

8           Q     What was the nature of the abuse?

9           A     I have no idea.

10          Q     Other than you and Brother [REDACTED], was there  
11     anyone else, to your knowledge, that was aware of the  
12     abuse allegations?

13          A     I can't say.

14          Q     Did Brother Cabbott ever tell you how upset he  
15     was about the abuse allegations?

16          A     No.

17          Q     Was the Franciscan who was accused of abuse  
18     transferred from Serra Retreat?

19          MR. MATIASIC:   Lacks foundation.   Vague and  
20     ambiguous.   Calls for speculation.

21          THE WITNESS:    I don't know.

22     BY MR. HALE:

23          Q     Do you recall if he continued to work at Serra  
24     Retreat after you learned of the allegations?

25          MR. MATIASIC:   Same objection.

1 THE WITNESS: Repeat, please.

2 BY MR. HALE:

3 Q Do you recall if he continued to work at Serra  
4 Retreat after you learned of the allegations?

5 Well, actually, you know, strike that.

6 Was this a Franciscan who was assigned at Serra  
7 Retreat when you learned of these allegations --

8 MR. MATIASIC: Calls for speculation.

9 BY MR. HALE:

10 Q -- or -- in other words, was he someone who was  
11 visiting Serra Retreat or was he actually assigned there?

12 MR. MATIASIC: Calls for speculation.

13 THE WITNESS: Assigned there.

14 BY MR. HALE:

15 Q Okay. And after you learned of the  
16 allegations, do you recall him being assigned somewhere  
17 else or did he continue to work at Serra Retreat?

18 MR. MATIASIC: If you know, Father.

19 THE WITNESS: I don't know.

20 BY MR. HALE:

21 Q Okay. Did you ever talk to him about the abuse  
22 allegations?

23 A No.

24 Q Was it an older Franciscan or a younger  
25 Franciscan?

1 MR. MATIASIC: Vague and ambiguous.

2 THE WITNESS: I don't know.

3 BY MR. HALE:

4 Q Okay. Had you ever heard he had been accused  
5 of childhood sexual abuse before?

6 A No.

7 Q Did you ever discuss with Brother [REDACTED] whether  
8 the allegations should be reported to law enforcement?

9 A No.

10 MR. MATIASIC: Lacks foundation.

11 BY MR. HALE:

12 Q Did you ever discuss with anyone in the  
13 province whether the allegation should be reported to law  
14 enforcement?

15 MR. MATIASIC: Same objection; and calls for a  
16 legal conclusion.

17 THE WITNESS: No.

18 BY MR. HALE:

19 Q Okay. Do you know if the Franciscan who was  
20 accused was sent for treatment as a result of the  
21 allegations?

22 A No.

23 Q Were you ever aware of Brother Cabbott spending  
24 time at any of these Franciscan either operated or owned  
25 orphanages in Mexico?

1 MR. MATIASIC: I'm going to instruct him not to  
2 answer.

3 How that's relevant to the John Doe 39 case is  
4 beyond me.

5 MR. HALE: Again, it's to support the  
6 punitive-damages claim.

7 MR. MATIASIC: Again, there's no punitive claim  
8 in the John Doe 39 case as of now.

9 Father, don't answer the question.

10 MR. HALE: I need evidence in order to file a  
11 motion and so you're not allowing me to conduct discovery  
12 to obtain the evidence to support the motion, is what  
13 you're saying.

14 MR. MATIASIC: The John Doe 39 case involved  
15 Father Mario Cimmarrusti, Counsel --

16 MR. HALE: The punitive-damages claim  
17 involves --

18 MR. MATIASIC: -- not where Brother Cabbott was  
19 assigned.

20 MR. HALE: The punitive-damages claim will  
21 involve the pattern of conduct by your clients of  
22 receiving the reports of abuse and transferring those  
23 perpetrators without warning to new communities.

24 MR. MATIASIC: And you can conduct whatever  
25 punitive discovery you deem appropriate after that motion

1 is granted.

2 MR. HALE: Are you allowing no further  
3 questions regarding Sam Cabbott?

4 MR. MATIASIC: I'll take them on an ad-hoc  
5 basis, but I doubt I'll allow any more.

6 BY MR. HALE:

7 Q Have you ever heard of Casa De Los Pobres?

8 MR. MATIASIC: And, Counsel -- sorry to  
9 interject -- and the reason I say that, if it's somehow  
10 tied to the Cimmarrusti case, we'll certainly entertain  
11 it.

12 BY MR. HALE:

13 Q Okay. Have you ever heard of Casa De Los  
14 Pobres, P-o-b-r-e-s, located in Tijuana?

15 A Casa De Los Pobres, that's the orphanage?

16 Q Yes?

17 A Yes.

18 Q How are you familiar with that?

19 A I've visited there. I've supported them.

20 Q Were you ever aware of Brother Cabbott visiting  
21 Casa De Los Pobres?

22 MR. MATIASIC: Counsel -- Father, don't answer  
23 the question.

24 MR. HALE: Again, we're going to have to file a  
25 motion to compel on that, as well.

1 Q Do you know Sister Armeda, A-r- --

2 A No.

3 Q -- -m-e-d-a?

4 A No.

5 Q What about Sister Marie Eugenia, E-u-g-e-n-i-a?

6 A There at the Casa?

7 Q Or at possibly other locations.

8 A No.

9 Q Are you aware of Casa De Cuna, C-u-n-a, in  
10 Guaymas?

11 A No.

12 Q How many times have you visited that orphanage  
13 in Tijuana?

14 MR. MATIASIC: Father, don't answer the  
15 question.

16 MR. HALE: At this point, I think I'd like a  
17 standing -- I intend to file a motion to compel with  
18 regards to your instructions, if you don't mind.

19 MR. MATIASIC: Fair enough. You have it.

20 MR. HALE: Fair enough. Great.

21 MR. HABEL: You don't even need it, but --

22 Why don't you -- you can just say irrelevant,  
23 you say punitive, then you say motion; and that will be  
24 the shorthand.

25 MR. HALE: That will work. The court might not

1 understand, but he probably would.

2 Q Do you know whether Brother Cabbott was  
3 transferred from Santa Barbara directly to Serra Retreat?

4 MR. MATIASIC: Lacks foundation.

5 THE WITNESS: I don't know.

6 BY MR. HALE:

7 Q Did you ever -- were you ever aware that  
8 Brother Cabbott was transferred from Serra Retreat  
9 because he was spending too much time with certain  
10 families in Santa Barbara?

11 MR. MATIASIC: Lacks foundation. Calls for  
12 speculation.

13 THE WITNESS: I don't know.

14 BY MR. HALE:

15 Q Okay. Do you know Bob Boedekker,  
16 B-o-e-d-e-k-k-e-r?

17 A Yes.

18 Q How do you know Bob?

19 A He was an electrician who helped in our chapel.

20 Q At Serra Retreat?

21 A At Serra Retreat.

22 Q Okay. Did he work on a project at the Serra  
23 Retreat house?

24 A Yes.

25 Q And was Brother [REDACTED] acting as the director at

1 that time?

2 A Yes.

3 Q And was that period where Bob was working at  
4 Serra Retreat also in the same time frame as the abuse  
5 allegations that arose regarding the two -- the two boys?

6 A Approximately.

7 Q Okay. What year did Brother [REDACTED] become the  
8 director at Serra Retreat?

9 MR. MATIASIC: If you know, Father.

10 THE WITNESS: '93.

11 BY MR. HALE:

12 Q Okay. Did you ever spend any time in Brother  
13 Cabbott's living quarters in Serra Retreat?

14 A No.

15 MR. HANCE: Father, don't answer the question.

16 This is -- I'm going to draw the line. I've  
17 tried to be patient long enough. This is totally  
18 unrelated to Clergy III. This is all Clergy I and  
19 there's no basis for these questions.

20 MR. HALE: Okay. Brian, I don't think you have  
21 a right to instruct not to answer at this deposition.

22 MR. MATIASIC: Well, he does, too; because the  
23 firm represents the Franciscan friars. And so, you know,  
24 I don't think it matters which one of us says anything,  
25 but --



1           So -- and if need be, then I'll formally  
2 say it; then I'll instruct him not to answer.

3           MR. HALE: Okay. Fair enough.

4           Again, I'm going to have to file a motion to  
5 compel on that issue, as well.

6           MR. MATIASIC: Fair enough.

7           MR. HALE: Okay.

8           MR. HABEL: Do you think we could take a  
9 two-minute break?

10          MR. HALE: Yeah. Sure. Sure.

11          MR. HABEL: Is that --

12          MR. MATIASIC: How much longer do you have?

13          MR. HALE: Well, I mean, if things keep going  
14 the way they're going, they'll go fairly quick. Although  
15 I think we could probably be out by 3:00.

16          MR. MATIASIC: Okay.

17          THE VIDEOGRAPHER: Off the record at 2:18 p.m.

18          (Break taken from 2:19 p.m. to 2:30 p.m.)

19          THE VIDEOGRAPHER: Back on the record at  
20 2:30 p.m.

21          MR. HALE: Okay. You guys want to clear  
22 something up?

23          MR. MATIASIC: Yeah.

24          Could you please -- we just wanted to clear one  
25 thing up that -- Father [REDACTED] brought something up during

1 the break. So if I may be permitted to ask one question,  
2 it will clear something up.

3 Father, you first found out about the  
4 allegations that were described to you when Brother [REDACTED]  
5 was the director of the retreat center?

6 THE WITNESS: Yes.

7 MR. HALE: I thought that was already -- but  
8 maybe --

9 MR. MATIASIC: Wasn't sure that was clear on  
10 the record.

11 MR. HABEL: When did Brother [REDACTED] become a  
12 director?

13 MR. MATIASIC: He's already testified to that.  
14 He's not going to answer any questions. He's going to  
15 answer that one only. Sorry.

16 MR. HABEL: I've got to bring a motion now.

17 MR. HALE: Do you want to make a statement  
18 about something, though, Jim?

19 MR. HABEL: Yes.

20 On behalf of the Archdiocese and as Defendants'  
21 liaison counsel in Clergy 2, I would like to formally  
22 request that the two depositions of the Franciscans that  
23 are scheduled between now and January 3 -- which, I  
24 believe, are Father [REDACTED] and a Brother [REDACTED] --

25 MR. MATIASIC: [REDACTED]

1 MR. HABEL: -- [REDACTED] be postponed to at  
2 least January 3rd, when Judge Sebrae has scheduled a  
3 motion; because it's clear today that we've got a great  
4 gap in between what we believe is the proper scope of  
5 these depositions.

6 And I think it would be -- it behooves us to  
7 wait so we don't have to go through again what we went  
8 through today.

9 MR. HALE: That's fine.

10 My only proposal would be we convert the  
11 [REDACTED] deposition to a 1 and a 3 deposition; because  
12 it sounds like there may be concerns about his health and  
13 availability. That's it.

14 Q Okay. So you're instructing him not to answer  
15 on any further Cabbott questions; is that my  
16 understanding?

17 MR. MATIASIC: That's my -- that's correct.

18 MR. HALE: Again, we'll let the court resolve  
19 this issue.

20 The next line of questioning would be regarding  
21 Brother [REDACTED] Are you going to instruct him not to  
22 answer all questions related to [REDACTED]? Why don't  
23 you go ahead, Counsel.

24 MR. MATIASIC: I think so; but if there's one  
25 that somehow relates to Clergy III, then I'll allow it.

1 I doubt it, but I'll go ahead --

2 BY MR. HALE:

3 Q Okay. When you were transferred -- when you  
4 were assigned to Serra Retreat, was [REDACTED] already  
5 assigned there?

6 A No.

7 Q And other than Serra Retreat, have you ever  
8 been assigned anywhere else with him?

9 A With him?

10 Q Yes.

11 A No.

12 Q Have you heard that he's been accused of  
13 childhood sexual abuse --

14 MR. MATIASIC: Other than from your attorney.

15 BY MR. HALE:

16 Q -- other than from your attorneys?

17 A Yes.

18 Q When did you first hear of that?

19 A Within the last two years.

20 Q Have you ever been in residence anywhere with  
21 him?

22 MR. MATIASIC: Don't -- no more questions on  
23 Brother [REDACTED]. He testified when he heard he's been  
24 accused of sexual abuse.

25 MR. HALE: I can ask him.

1 MR. MATIASIC: I'm going to instruct him not to  
2 answer.

3 MR. HALE: Even when he was a resident? You  
4 already let me ask whether he was assigned. There's not  
5 a whole lot of difference there.

6 MR. MATIASIC: I'll let you ask and answer that  
7 question.

8 Father, go ahead.

9 BY MR. HALE:

10 Q Father, I just want to know if you've assisted  
11 where he's been assigned and so on.

12 MR. MATIASIC: Other than at Serra Retreat  
13 house? He's already --

14 MR. HALE: Right.

15 THE WITNESS: Other than Serra Retreat, no.

16 BY MR. HALE:

17 Q Okay. Has any Franciscan ever told you that  
18 they were abused by another Franciscan as a minor?

19 MR. MATIASIC: Vague and ambiguous. Lacks  
20 foundation.

21 THE WITNESS: No.

22 BY MR. HALE:

23 Q Have you ever heard anyone say that a  
24 Franciscan had told them that they were -- that  
25 Franciscan was abused by another Franciscan as a minor?

1           **A**    **No.**

2                   MR. MATIASIC: Same objections.

3                   MR. HALE: The next line of questioning is  
4 about Gus Krumm. Should I just proceed and you --

5                   MR. MATIASIC: Sure.

6 BY MR. HALE:

7           **Q**    **When did you first meet Gus Krumm?**

8           **A**    **At Simon and Jude, '94.**

9           **Q**    **Okay. Were you friends with Father Krumm?**

10                   MR. MATIASIC: Don't answer the question,  
11 Father.

12                   MR. HALE: Do you want the same -- same --

13                   MR. MATIASIC: Yep.

14                   MR. HALE: -- outstanding basis?

15                   MR. MATIASIC: Yep.

16 BY MR. HALE:

17           **Q**    **Have you ever been assigned or in residence**  
18 **anywhere else with him other than at St. Simon and Jude?**

19           **A**    **No.**

20                   MR. MATIASIC: If you -- go ahead, Counsel.

21                   MR. HALE: Just for the record, I don't want to  
22 spend a ton of time making a record every time you  
23 instruct him not to answer. I'm planning on filing a  
24 motion to compel on each one.

25                   MR. MATIASIC: And the other thing I was going

1 to say, if it's a specific question that I think is  
2 relevant to 39, I'll let him answer.

3 BY MR. HALE:

4 Q Okay. Was he already at St. Simon and Jude  
5 when you arrived there?

6 A Yes.

7 Q Did anyone -- when did you first become aware  
8 of childhood sexual abuse by him?

9 A Two years ago.

10 Q Okay. Were you aware that the province had  
11 settled an abuse claim against Father Krumm before you  
12 arrived at St. Simon and Jude?

13 MR. MATIASIC: Don't answer the question, Father.

14 BY MR. HALE:

15 Q Do you know who Ignacio Aceves is, A-c-e-v-e-s?  
16 Ignacio is I-g-n-a-c-i-o.

17 A Ignacio --

18 Q Aceves, A-c-e-v-e-s.

19 A No, I don't know him.

20 Q Okay. Were you aware that Father [REDACTED],  
21 [REDACTED], filed reports with the Oakland Police  
22 Department regarding childhood sexual abuse allegations  
23 or childhood sexual abuse allegations by Father Krumm?

24 A No.

25 Q Do you know where Father Krumm is currently

1 assigned?

2 A He has withdrawn from the order.

3 Q Is he still in Sacramento?

4 A I don't think so.

5 Q Do you know where he is?

6 A No.

7 Q Is he no longer a member of the order?

8 A Correct.

9 Q When was the last time you spoke with him?

10 MR. MATIASIC: Don't answer that question,  
11 Father.

12 BY MR. HALE:

13 Q Have you ever discussed Father Cimmarrusti with  
14 him?

15 A With Gus?

16 Q Uh-huh.

17 A No.

18 Q Have you ever discussed his experiences at  
19 St. Anthony's Seminary as a student?

20 A Gus Krumm?

21 Q Yes.

22 A No.

23 Q Did he ever tell you he was abused by a  
24 Franciscan?

25 A No.



1 Q Have you ever been aware of anyone from the  
2 province warning anyone about abuse allegations by Father  
3 Krumm?

4 MR. MATIASIC: Lacks foundation. Vague and  
5 ambiguous. Calls for speculation.

6 Don't answer the question, Father. That's a  
7 Gus Krumm question.

8 BY MR. HALE:

9 Q Do you know Father [REDACTED].

10 A Yes.

11 Q When did you first meet Father [REDACTED]?

12 A I don't know.

13 Q Have you ever been assigned anywhere with him?

14 A No.

15 Q What about in residence or assist him anywhere?

16 A No.

17 Q Did he ever assist anywhere where you were in  
18 residence?

19 A No.

20 Q When was the last time you spoke with him?

21 A I don't know.

22 Q Have you heard he's been accused of childhood  
23 sexual abuse?

24 MR. MATIASIC: Other than from counsel.

25 MR. HALE: Right.

1 Q You can answer the question.

2 A I heard recently.

3 Q Within the last few years, you mean?

4 A Uh-huh.

5 Q Hadn't heard anything before that?

6 A No.

7 Q Was Father McKeon on faculty when you were at  
8 St. Anthony's?

9 A -Keon?

10 Q McKeon, M-c-K-e-o-n, Mark McKeon.

11 A He's my classmate.

12 Q Oh, I'm sorry; that's right.

13 Have you ever heard he's been accused of  
14 childhood sexual abuse?

15 MR. MATIASIC: Other than from counsel.

16 MR. HALE: Other than from -- right.

17 MR. MATIASIC: Sorry.

18 THE WITNESS: No.

19 BY MR. HALE:

20 Q Do you know Charles Chumik, C-h-u-m-i-k?

21 A Yes.

22 Q How do you know Father -- or Brother Chumik?

23 A He was in residence at St. Joseph.

24 Q Okay. Are you aware of the allegations of  
25 childhood sexual abuse against him in Canada?

1           A     No.

2                     MR. MATIASIC:  Other than from counsel.

3  BY MR. HALE:

4           Q     Have you ever heard that before?

5                     MR. MATIASIC:  Other than from counsel.

6                     THE WITNESS:  Yes.

7  BY MR. HALE:

8           Q     How did you hear that?

9           A     Just a report.

10          Q     Did you hear of it while -- when did you hear  
11 of it?

12          A     I don't know.

13          Q     Did you hear of it while you were in residence  
14 with him at St. Joseph's?

15          A     No.

16          Q     Was it a more recent --

17          A     Yes.

18          Q     How recent, approximately; in the last couple  
19 years?

20          A     Last couple years.

21          Q     Okay.  Did he ever tell you that he was wanted  
22 by Canadian authorities?

23                     MR. MATIASIC:  Father, don't -- I'm going to  
24 instruct you not to answer.

25                     Counsel, I'll let you ask when he learned about

1 sexual abuse allegations involving him.

2 BY MR. HALE:

3 Q Have you ever been aware of anyone from the  
4 province warning anyone about the allegations involving  
5 Brother Chumik?

6 MR. MATIASIC: Don't answer the question,  
7 Father.

8 BY MR. HALE:

9 Q Now, you know Father [REDACTED] Father [REDACTED].  
10 When did you first hear allegations of sexual  
11 abuse involving Father [REDACTED]?

12 MR. MATIASIC: Lacks foundation.

13 THE WITNESS: I hadn't.

14 BY MR. HALE:

15 Q Did you ever visit him when he was assigned in  
16 Oregon?

17 MR. MATIASIC: Father, don't answer any more  
18 questions.

19 He's testified as to whether he found out if  
20 there are allegations of abuse.

21 MR. HALE: I want to make sure it's clear for  
22 the record. I'm not hearing any basis for these  
23 instructions not to answer, and it's going to necessitate  
24 a motion to compel.

25 MR. MATIASIC: Counsel, I thought we -- I

1 thought we had --

2 MR. HALE: Oh, I'm sorry.

3 MR. MATIASIC: -- we had a standing -- but if  
4 you want to hear me talk, which I know you don't, I'll do  
5 it again.

6 MR. HALE: You're right. I just think I'm  
7 biting my tongue and making you acquiesce. They're  
8 completely --

9 MR. MATIASIC: We don't understand.

10 MR. HABEL: We're not confusing efficiency for  
11 acquiescence.

12 MR. HANCE: Join.

13 BY MR. HALE:

14 Q Do you know Dr. Prochnow, P-r-o-c-h-n-o-w?

15 A Yes.

16 Q Have you ever been assigned anywhere with him?

17 A No.

18 Q Have you ever been in residence anywhere with  
19 him?

20 A No.

21 Q Have you ever been anywhere where he was  
22 assisting or you were assisting?

23 A Assisting?

24 Q For instance, maybe you were working at a  
25 parish performing mass where he --

1           A     No.

2           Q     Okay. Are you aware that he's been accused of  
3 childhood sexual abuse?

4           A     Yes.

5           MR. MATIASIC: Other than from counsel.

6 BY MR. HALE:

7           Q     Did you attend a meeting of some sort and he  
8 stood up and acknowledged that he had engaged in  
9 childhood sexual abuse?

10          A     Yes.

11          Q     When was that?

12          A     We had a convocation about four years ago. He  
13 acknowledged --

14          MR. MATIASIC: You answered the question,  
15 Father.

16 BY MR. HALE:

17          Q     Are you aware of anyone from the province  
18 warning anyone about the history of allegations involving  
19 childhood sexual abuse by Father Prochnow?

20          MR. MATIASIC: Don't answer the question.

21 BY MR. HALE:

22          Q     Are you aware of anyone from the province  
23 reporting to law enforcement the history of allegations  
24 of childhood sexual abuse by Father Prochnow?

25          MR. MATIASIC: Same instruction.

1 BY MR. HALE:

2 Q Have you ever been aware of any member of the  
3 province warning a member or members of a parish or  
4 community that a Franciscan who had been accused of  
5 sexual abuse with a minor was assigned or in residence at  
6 that location?

7 MR. MATIASIC: Father, don't answer the  
8 question.

9 That's asked and answered for this one.

10 MR. HALE: Are you sure about that?

11 MR. MATIASIC: Yeah. I can put it in context.  
12 I believe it was right after you asked the Cimmarrusti  
13 questions in Danville.

14 MR. HALE: All right. I'm acquiescing to that  
15 instruction only to the extent the transcript reveals  
16 that I have previously asked that question.

17 MR. MATIASIC: Or maybe it's somewhere else  
18 there, but I'm pretty sure.

19 MR. HALE: Well, I won't hold you to the exact  
20 location, Paul.

21 MR. MATIASIC: Okay.

22 BY MR. HALE:

23 Q Have you ever heard any discussions within the  
24 province about whether any Franciscan -- well, have you  
25 ever heard any discussions whether any warnings should be

1 made to anyone about abuse by any Franciscan?

2 MR. MATIASIC: Vague and ambiguous. Lacks  
3 foundation.

4 THE WITNESS: Yes.

5 BY MR. HALE:

6 Q When was the first time you heard such a  
7 discussion?

8 A Oh, when this business started, Provincial told  
9 us procedures.

10 Q When you say "when this business started,"  
11 what --

12 A Sexual revelations.

13 Q Are you talking about the board of inquiry or  
14 prior to the board of inquiry?

15 A Same time.

16 Q And was there anything in writing distributed  
17 to you from the Provincial or was there a meeting where  
18 this was discussed?

19 A A meeting. I suppose there were -- never mind.

20 Q Don't guess.

21 Were there any instructions given to -- given  
22 by the Provincial regarding how to report --

23 A Yes.

24 Q -- instances of sexual abuse?

25 A (Nods head.)



1 MR. MATIASIC: Let him finish his question,  
2 Father.

3 BY MR. HALE:

4 Q Okay. And what were those instructions?

5 A I don't -- I'm not capable of repeating them,  
6 but --

7 Q But you don't have to repeat them verbatim.  
8 What was your understanding of those  
9 instructions?

10 A Well, basically, it's a very serious problem.  
11 We have to report any infractions.

12 Q Was there any discussion of what would and what  
13 would not qualify as something that needed to be  
14 reported?

15 A They spelled it out clearly, you know.

16 Q So what was the dividing line?

17 A Between?

18 Q Something that needed to be reported versus  
19 something that didn't.

20 A Well, they --

21 MR. MATIASIC: Based upon the instruction he  
22 received?

23 MR. HALE: Right.

24 THE WITNESS: They discussed with us what  
25 harassment was all about.

1 BY MR. HALE:

2 Q Okay. Was there specific conduct discussed;  
3 examples, in other words?

4 A Yes.

5 Q What kind of conduct was discussed?

6 A Conduct?

7 Q Yes.

8 In other words, did they say this kind of  
9 conduct, you don't need to report this; this kind of  
10 conduct, you absolutely have to report; and this kind of  
11 conduct, maybe you have to error on the side of caution  
12 and report, something to that effect?

13 A Well, you know, appropriate behavior was --  
14 just, I suppose, some generic terms, but --

15 MR. MATIASIC: Father, don't --

16 THE WITNESS: All right.

17 MR. MATIASIC: -- suppose.

18 If you remember what you were told, tell it to  
19 him. If you don't, then don't.

20 Do you recall the specific dividing lines --

21 THE WITNESS: No.

22 MR. MATIASIC: -- that you were given by the  
23 order?

24 THE WITNESS: No.

25 ///

1 BY MR. HALE:

2 Q Okay. Was there a discussion of who should be  
3 reported to? In other words, should it be someone in the  
4 province; should it be to law enforcement; should it be  
5 the parents of any child that was involved? What was  
6 discussed in that regard?

7 A To the superior.

8 Q In the province?

9 A Local superior, in the house.

10 Q In the community; in other words, the guardian?

11 A Yeah.

12 Q Okay. Anyone else?

13 A Expect it to go from him to the higher  
14 authorities.

15 Q When you say "higher authorities," you mean the  
16 Provincial?

17 A Provincial.

18 Q And was it your understanding it would be a  
19 Provincial decision on whether to report it to law  
20 enforcement?

21 A Yes.

22 Q And did this -- this meeting take place  
23 sometime around the board of inquiry in 1993? I'm just  
24 not clear on exactly when the meeting took place. Was it  
25 around that time frame?

1 A Yes.

2 Q Do you think it was a little bit before, a  
3 little bit after?

4 A Following, yes.

5 Q Within a year of the board-of-inquiry issue?

6 A Yes.

7 Q Do you recall where the meeting took place?

8 A Malibu.

9 Q At the Serra Retreat house?

10 A Uh-huh.

11 Q Was the entire province there or was this just  
12 a discussion involving the people at Serra Retreat house?

13 A The members in the southern California area.

14 Q And did the Provincial come and speak to --

15 A Yes.

16 Q And was that Vitalli at the time?

17 A Vitalli?

18 Q Yes.

19 A Kanichi and Vitalli.

20 Q Okay. They both spoke at this meeting?

21 A I don't remember, but --

22 MR. MATIASIC: You answered the question,  
23 Father.

24 BY MR. HALE:

25 Q But they were both present at this meeting?

1           A     Different meetings. We had several meetings.

2           Q     But do you recall whoever the Provincial was  
3 during that time; leading the meeting, in other words?

4           A     Yes.

5           Q     Okay. And the Provincial discussed how to  
6 handle these situations where a report needed to be made?

7           A     Yes.

8           Q     And the Provincial laid out these steps where  
9 if you heard an allegation of abuse, you would report it  
10 to the guardian, and the guardian would report it to the  
11 Provincial?

12          A     Yes.

13          Q     That's the chain, to your understanding?

14          A     Yes.

15          Q     Was there anyone else it was to be reported to  
16 other than those two people?

17          A     No.

18          Q     Do you recall there being any discussion of you  
19 reporting to law enforcement, in addition to reporting to  
20 the guardian?

21          A     No.

22          Q     Do you recall there being any discussion of you  
23 reporting to family members of any child allegedly  
24 abused?

25          A     No.

1 Q And was this -- was it your understanding this  
2 was kind of a traveling program, where the Provincials  
3 went from community to community to discuss these  
4 reporting requirements?

5 A Yes.

6 Q Were you involved in any discussions regarding  
7 whether the board of inquiry should be created?

8 A No.

9 Q Were you aware of any discussions regarding  
10 whether the board of inquiry should be created?

11 A No.

12 Q Was Father Owen DeSilva on the faculty at  
13 St. Anthony's while you were a student at St. Anthony's?

14 A No.

15 Q Have you ever heard allegations of childhood  
16 sexual abuse by Father DeSilva?

17 A No.

18 Q In your capacity as a definitor, were you ever  
19 involved in assisting the province in obtaining insurance  
20 coverage?

21 A I don't remember.

22 Q Do you recall there being any discussions about  
23 obtaining insurance coverage?

24 A I don't remember.

25 Q In your capacity as a definitor, were you ever

1 involved in settling any claims of childhood sexual abuse  
2 against the province?

3 A No.

4 Q Were you aware of any settlements of childhood  
5 sexual abuse in the province?

6 A No.

7 MR. MATIASIC: In his capacity as definator?

8 BY MR. HALE:

9 Q Is that a "no"?

10 A No.

11 Q Were you ever aware that Father David Temple  
12 was working with the service of the paraclese?

13 A No.

14 MR. MATIASIC: Counsel, do you have any more  
15 questions related to Father Cimmarrusti?

16 MR. HALE: Actually, I think I'm at the end of  
17 my outline. I am.

18 All right. So this deposition is concluding;  
19 but, obviously, there's going to be a motion to compel  
20 following it.

21 So let's put the stipulation with the  
22 understanding that it's finishing today, but we're not  
23 concluding this deposition.

24 So we'll stipulate the reporter be relieved of  
25 her duties;

1 She'll send the deposition to Mr. Matiasic's  
2 office;

3 He'll maintain custody of the original;

4 You can then forward the original over to  
5 Father [REDACTED]; give him 30 days to review the transcript --

6 MR. MATIASIC: That's fine.

7 MR. HALE: -- make any changes he feels are  
8 necessary, sign it under penalty of perjury.

9 If you could then forward that back to  
10 Mr. Matiasic, and he will make changes and notify counsel  
11 as soon as possible;

12 And if a signed original is not available  
13 before trial, an unsigned copy can be used for all  
14 purposes.

15 MR. MATIASIC: So stipulated.

16 MR. HALE: Thank you, Father.

17 THE WITNESS: Thank you.

18 THE VIDEOGRAPHER: This is the conclusion of the  
19 deposition of Father [REDACTED]. We're off the record at  
20 2:54 p.m.

21 (Deposition concluded at 2:54 p.m.)

22 \* \* \* \*



## 1 DECLARATION UNDER PENALTY OF PERJURY

2  
3 I, Father [REDACTED], do hereby certify under  
4 penalty of perjury that I have read the foregoing  
5 transcript of my deposition taken on January 15, 2006;  
6 that I have made such corrections as appear noted herein;  
7 that my testimony as contained herein, as corrected, is  
8 true and correct.

9  
10 DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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FATHER [REDACTED]  
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## REPORTER'S CERTIFICATION

I, Cindy Cameron, Certified Shorthand Reporter, in  
and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn;  
that the deposition was then taken before me at the time  
and place herein set forth; that the testimony and  
proceedings were recorded stenographically by me and  
later transcribed into typewriting under my direction;  
that the foregoing is a true record of the testimony and  
proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this  
date: January 26, 2006.

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Cindy Cameron, CSR 10315, CCR 671