CONFIDENTIAL FILES

of

GARY PACHECO
Received a call from Fr. John Urell, chancellor of diocese of Orange. He informed me that Gary Pacheco was at the house of prayer on administrative leave imposed by Bishop McFarland. Gary was in the process of incardination into the diocese.

Father Urell reported that first he talked with a mother and then with her son about allegations regarding Gary. The son is presently 21. About 7 or 8 years ago, he claims, Gary took him to a motel and had sexual relations with him.

Fr. Urell talked with Gary. While not denying taking boys to motels while on days off (e.g. during a visit to Disneyland) he denied emphatically any sexual acts.

The mother claims that the son is having severe difficulties, he was using drugs and was dishonorably discharged from the service. At this point the bishop put Gary on administrative leave. If he had admitted the allegations he would have immediately severed his relation with the diocese.

5PM Called [redacted] and relayed above report.

FEB.5 % Talked with Gary Pacheco
We did not discuss the actual incidents. He did offer the fact that he is affectionate, but was more cautious lately because of things he had seen on TV (apparently re priests and pedophilia). I told him he would probably be asked to undergo psych. evaluation. He seemed willing. I told him Fr. John Urell would probably contact him.
Feb. 5

Talked with Fr. Urell. He said that since Gary had admitted some indiscretions, in taking boys on days off and staying in motels with them, and even sleeping in the same bed, the Bishop will not incardinate him, and he returns to the diocese. Meanwhile the diocese will pay for the evaluation. Fr. Urell will arrange for this with local psychologist with

Feb 7 Fr. Urell called, said that the psychologist had raised some questions, concerning reporting, and also what would the diocese want to do with the report if Gary was no longer attached to them. Therefore, we agreed to do the evaluation and arranged for this to be done at Jemez Springs with the Paracletes. I called Gary and he agreed. This evaluation took place Feb. 22-26.

I was in Jemez Springs Feb. 26. I did have a brief opportunity to talk with Gary. He indicated his willingness to go through a program there for his own growth.

We said we would await the report and he would return to the prayer house in Orange.

I did talk with Fr. Urell and he agreed with this though questioned how long it would be good for him to stay at the prayer house.

March 7 Fr. Urell called and said that he had agreed with Gary he could stay until the evaluation arrived, but a new development had occurred.

(cf. next page)
February 9, 1988

[Confidential]

Provincial
Province of Saint Barbara
1500 34th Avenue
Oakland, California 94601

RE: REVEREND GARY PACHECO, O.F.M.

Dear [Name]

Pursuant to our phone conversation of February 4, 5, and 8, 1988, Bishop Norman F. McFarland has deemed it necessary to mandate Father Gary Pacheco back to the Franciscan Community from his service ad experimentum in the Diocese of Orange.

Following the public accusations made against Father Pacheco, about which no judgement has been made, and the admitted professional imprudences about which Father Pacheco has spoken, this decision is made for Father Pacheco's good and the good of the Church.

Father Pacheco returns to the Franciscan Community with the recommendation that he receive professional, psychological evaluation prior to any future assignment.

Father Pacheco has been on administrative leave from his parish assignment as of February 4, 1988, and has since been residing at the House of Prayer in Orange. He has been informed of this decision and is awaiting further word from you.

Sincerely yours in Christ,

[Signature]
Reverend John Urell
Chancellor

ds

OFM PACH 1
0059
March 7, 1988

Received a call from Fr. John Urell, chancellor of Orange.

He was very concerned that Gary had visited families in the Huntington Beach area. He had told him not to return to the parish, did not exactly say not to any homes, but had presumed that and thought this very irresponsible of Gary. Apparently (mother of the one making the allegations?) said that she was talking about the situation with a friend who is a psychiatrist. The latter a mother with a number of sons was also alarmed because her sons might be involved. In the conversation it became clear that Gary had visited in the area. He had gone to a home and when the boys told them their parents were not home he left.

There were no allegations of any wrong doing in this report, only the fear of the families (at least and the psychiatrist-friend) that he was in the area when they had been told by Fr. Urell that he was out of the area.

Fr. Urell then asked that he be moved from the area completely. He had told Gary recently that he could stay a few days until the results of the testing at Jemez Springs, but now felt he should leave the county as soon as possible.

I then phoned Gary and described the conversation from Fr. Urell. We agreed that he would go to our retreat house in Malibu until we heard from the Paracletes. He said he would try to go today (the understanding being if not today certainly tomorrow). Also it was clear he is not to visit families, etc.

I then phoned Fr. Ronal Collotty director at Serra Retreat Malibu and explained that Gary would be coming. He would welcome him. I explained a little of the situation and asked him to alert us if there was any indication that he was returning to the area, or any other reason for concern. He said he would.

I finally made contact with the Paracletes in Jemez Springs. I talked with Frank Luddy who spoke on behalf of the director Fr. Liam. He said although they recommended the module beginning in July, if it seemed better they would arrange for him to come right away and enter the program at Villa Louis Martin.
Applied to join the Diocese of Orange; accepted on probation.
Accused of molesting a young man 8 years ago. Gary denies this. So, who
is telling the truth? It was pointed out that a characteristic of people
who get involved in these things is total denial.
He admits that he takes young people on weekends.
He was removed by the diocese from the parish where he was and sent to the
house of prayer. He was told not to go back to Huntington Beach; when he
did, he was terminated from the diocese, and thus he returns to the province.
He has told others that he does not want to be a friar, so apparently he will
be looking for another diocese.
At present we are legally responsible.
Gary Pacheco was at Villa Louis Martin, Jemez Springs, New Mexico, a treatment center run by the Servants of the Paraclete, from March 11, 1988 to September 2, 1988.
Bates Number 63 was removed by the Plaintiffs at the request of the Franciscans.
On October 27, 1992, called the Provincial Office to report that a sister of a young man had come to report that her brother had been sexually abused by Gary Pacheco some eight years ago. The victim is now 24. The sister told that the family found out about this a year ago. The victim has been in counseling and the insurance has run out. She was coming to in order to get continued counseling for her brother.
Memo: Confidential

From: [Redacted]

Regarding: Gary Pacheco

Date: November 24, 1992

On November 4, 1992, [Redacted] informed me of allegations of sexual abuse on the part of Gary Pacheco. These had been made by the [Redacted], pastor of our parish in Huntington Beach. [Redacted] name and phone number on November 6 and I talked to [Redacted] on November 7.

Now 24 and living in [Redacted] claimed that from his 8th. to 14th. year, on almost a weekly basis Gary Pacheco, while visiting his family home would enter his bedroom, fondle his genitals, and then take [Redacted] hand and place it on his own genitals. Though the parents were at home at the time, this activity went unnoticed behind a closed door. Gary was a good friend of the family, a priest, and therefore trusted. Gary would see [Redacted] at school as well, but there is no memory of any misconduct there. At the time [Redacted] did not tell his parents for he was confused by this behavior, especially because it was initiated by a priest and friend. Though [Redacted] felt it to be inappropriate, he wondered if any accusation would be believed by his parents.

In retrospect, [Redacted] shares that the experience caused him to wonder if he were gay and led to feelings of shame and confusion. It colored his sense of sexual self and introduced ambivalent feelings. [Redacted] claims that [Redacted] was also abused but until the present [Redacted] denies it. [Redacted] said that he will broach the topic with [Redacted] again and then suggest to us possible ways to proceed.

[Redacted] started counseling while a sophomore in college and there was helped by a professor in a psychology class to remember these cases of abuse. After leaving college he discontinued the counseling.

In conversation with Gary Pacheco (714-962-6790) he has acknowledged the regular visits to the family home and backrubs and feet massages to [Redacted] in his bedroom. However, he does not remember any sexual misconduct. He acknowledges
Same survivor as above

Same survivor as above (at least 8 years ago)

17130 Via Mares
Apt. B22
Fontana Valley, CA 92338

714 962-6790

Contact Mrs. [redacted] (ex-wife)

Just looking for payment on counseling
(ongoing and past)

Me. Barry (714) 962-6790

Same survivor as above
that he was not affectively mature. He was fond of
and he says that he is sorry for any pain he might have
caused him.

Action Recommended

1) CPS is to be notified. According to provincial policy,
this should be done at the local level. has agreed to
do this with or without familial participation.
2) Counseling has been offered to , but for now he
   declines.
3) 's parents have been invited to discuss this matter
   with me or the provincial through . They, too, would
   be welcome to counseling as well as the brother if so
   desired.
4) Process 's request to leave both the Order and the
   priesthood, and along with this acknowledge 's treatment
   at Jemez Springs.
5) Be aware that wants to confront in person and
   that 's "poor memory" could provoke to raise the
   ante, e. g., a legal suit.
6) I will continue to keep in touch with and make
   available resources for his own recovery.

N. B. comes across as a sensitive, mature, non-
vindictive person. He's recently become a father, and he
has some sense of concern for children in general - that
they be protected.
Bates Number 68 was removed by the Plaintiffs at the request of the Franciscans.
Time: 8th, 14th year. Presently 24.
at your house.

he didn't tell his parents.
They'd be home, but in his room.

- 15-20 minutes.
done 3 or 4 times a month.

thought he was gay, he is married,

confused. 

this related to expensive items.

Also happened to a brother - but he

in the house.

STARTED COUNSELLING while in college
in '89 - 2nd year of counselling.

Counselling
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Plaintiff

v.

Defendants

Case No.: Waiver of Service of Summons

I acknowledge receipt of your request that I waive service of summons in the action of [Redacted], which is case number [Redacted] in the United States District Court for the Central District of California. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under
Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and turn the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons waives all defenses and objections (except any relating to the summons or to service of the summons), and may later object to a jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified in the waiver form serve on the plaintiff's attorney (or represented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer motion is not served within this time, a default judgment may be entered against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.
UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  

Plaintiff  

v.  

FR. RICHARD T. COUGHLIN, BOYS  
CHOIR SCHOOL OF ORANGE COUNTY,)  
a.k.a. ALL-AMERICAN  
BOY'S CHORUS, DIOCESE OF ORANGE  
EDUCATION AND WELFARE  
CORPORATION, aka ROMAN  
CATHOLIC BISHOP OF ORANGE aka  
ROMAN CATHOLIC DIOCESE OF  
ORANGE, ROMAN CATHOLIC  
ARCHBISHOP OF LOS ANGELES,  
FR. GARY PACHECO and  
FRANCISCAN FRIARS OF  
CALIFORNIA, INC.  

Defendants  

Case No. 

Notice of Lawsuit and  
Request for Waiver of  
Service of Summons  

TO:   
Rev. [redacted], OFM, as agent for service of  
process for FRANCISCAN FRIARS OF CALIFORNIA, INC..  

A lawsuit has been commenced against the entity on whose  
behalf you are addressed. A copy of the Summons, Complaint,  
Litigation Guidelines, Notice of Right to Consent to Disposition of  
a Civil Case by a United States Magistrate, Notice of Assignment to  
a United States Magistrate Judge, and Notice to Counsel is attached  
to this notice. It has been filed in the United States District  
Court for the Central District and has been assigned  
docket number [redacted].  

This is not a formal summons or notification from the court,  
but rather my request that you sign and return the enclosed waiver  
of service in order to save the cost of serving you with a judicial  
summons and an additional copy of the complaint. The cost of  
service will be avoided if I receive a signed copy of the waiver  
within 30 days after the date designated below as the date on  
which this Notice and Request is sent. I enclose a stamped and  
addressed envelope for your use. An extra copy of the waiver is  
also attached for your records.  

If you comply with this request and return the signed waiver,  
it will be filed with the court and no summons will be served on  

OFM PACH 1  
0074
you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent.

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the reverse side of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this 24th day of January, 1994.

MARK E. ROSEMAN, ESQ.
Attorney for Plaintiff
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PLAINTIFF(S)

VS.

FR. RICHARD T. COUGHLIN, BOYS
CHOIR SCHOOL OF ORANGE COUNTY, a.k.a.
ALL-AMERICAN BOY'S CHORUS, DIOCESE
OF ORANGE EDUCATION AND WELFARE
CORPORATION, a.k.a. DEFENDANTS(S)

SUMMONS

TO THE ABOVE-NAMED DEFENDANT(S), you are hereby summoned and required to
file with this court and serve upon

Plaintiff's attorney, whose address is:
MARK E. ROSEMAN, ESQ., Bar #82723
TIMOTHY M. O'CROWLEY, ESQ. #158549
LAW OFFICES OF BLUM & ROSEMAN, APC
1851 East First Street, Suite 850
Santa Ana, California 92705
(714)547-8801

an answer to the complaint which is herewith served upon you within 20 days after service of this summons upon you, exclusive
of the day of service. If you fail to do so, judgment by default
will be taken against you for the relief demanded in the complaint.

DATE: JAN 14 1994

CLERK, U.S. DISTRICT COURT

By Deputy Clerk

(SEAL OF THE COURT)
I (a) PLAINTIFFS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRST NAME, ADDRESS, AND TELEPHONE NUMBER)

MARK E. ROSEMAN, ESQ., Bar #62723
TIMOTHY M. O’CROWLEY, ESQ., #158549
LAW OFFICES OF BLAIR & ROSEMAN, APC
1851 E. First Street, Suite 850
Sta., CA 92705, 714-547-8801

II. BASIS OF JURISDICTION

☐ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

III. CITIZENSHIP OF PRINCIPAL PARTIES

☐ Plaintiff

☐ Defendant

☐ 3 Foreign Plaintiff

☐ 4 Defendant

☐ United States Citizen or Subject of a Foreign Country

IV. ORIGIN

☐ (PLACE AN X IN ONE BOX ONLY)

☐ Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded to State Court

☐ 4 Transferred from another district

☐ 5 Transferred or Reassigned

☐ 6 Multidistrict

☐ 7 Marshall & Faulconer

☐ 8 Transferred

☐ 9 Multidistrict

V. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION

☐ DEMAND $

☐ CHECK YES ONLY IF DEMAND IS IN EXCESS OF $75,000

☐ JURY DEMAND: ☐ YES ☐ NO

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTORY BASIS UPON WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.

28 U.S.C. 1332 (Diversity)

VII. NATURE OF SUIT

☐ PERSONAL INJURY

☐ BANKRUPTCY

☐ PROPERTY RIGHTS

☐ SOCIAL SECURITY

☐ OTHER STATUTES

☐ PERSONAL PROPERTY

☐ INJURY

☐ PENALTY

☐ BANKRUPTCY

☐ PROPERTY RIGHTS

☐ SOCIAL SECURITY

☐ OTHER STATUTES

☐ 210 Land Condemnation

☐ 440 Alien Property

☐ 510 Non-Resident Alien Personal

☐ 520 Land Condemnation

☐ 442 Employment Practices

☐ 515 Mortgages

☐ 530 Real Estate

☐ 443 Employment Practices

☐ 540 Personal Injury

☐ 540 Personal Injury

☐ 444 Employment Practices

☐ 550 Personal Injury

☐ 550 Personal Injury

☐ 445 Employment Practices

☐ 560 Personal Injury

☐ 560 Personal Injury

☐ 446 Employment Practices

☐ 570 Personal Injury

☐ 570 Personal Injury

☐ 447 Employment Practices

☐ 580 Personal Injury

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☐ 449 Employment Practices

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☐ 826 Personal Injury

☐ 449 Employment Practices

☒ 827 Personal Injury

☐ 827 Personal Injury

☐ 449 Employment Practices
The JS-44 Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3.3 and is used by the Clerk of Court for the purpose of initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet)

**AFTER COMPLETING THE FRONT SIDE OF FORM JS-44C, COMPLETE THE INFORMATION REQUESTED BELOW**

Has this action previously been filed and dismissed, remanded, or closed?

X No __Yes __ Case No. __________

RELATED CASE(S), IF ANY:

CIVIL CASES ARE DEEMED RELATED IF A PREVIOUSLY FILED CASE AND THE PRESENT CASE:

A. Appear to arise from the same or substantially identical transactions, happenings or events;
B. Involve the same or substantially the same parties or property;
C. Involve the same patent, trademark or copyright;
D. Call for determination of the same or substantially identical questions of law, or
E. Likely for other reasons may entail unnecessary duplication of labor if heard by different judges.

List the California County or State (if other than California) in which each named plaintiff resides. (Use an additional sheet if necessary)

List the California County or State (if other than California) in which each named defendant resides. (Use an additional sheet if necessary)

Orange County, Orange County, Orange County, Los Angeles, Orange County and Alameda County.

List the California County or State (if other than California) in which each claim arose. (Use an additional sheet if necessary)

Orange County

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**Key to Statistical Codes relating to Social Security Cases:**

<table>
<thead>
<tr>
<th>NATURE OF CLAIM</th>
<th>SUIT CODE</th>
<th>ABBREVIATION</th>
<th>SUBSTANTIVE STATEMENT OF CAUSE OF ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>861</td>
<td>HIA</td>
<td>All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 USC 1935FF(b))</td>
<td></td>
</tr>
<tr>
<td>862</td>
<td>BL</td>
<td>All claims for &quot;Black Lung&quot; benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 USC 923)</td>
<td></td>
</tr>
<tr>
<td>863</td>
<td>DIWC</td>
<td>All claims filed by injured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 USC 405(g))</td>
<td></td>
</tr>
<tr>
<td>863</td>
<td>DIWW</td>
<td>All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 USC 405(g))</td>
<td></td>
</tr>
<tr>
<td>864</td>
<td>SSID</td>
<td>All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. (42 USC 405(g))</td>
<td></td>
</tr>
<tr>
<td>865</td>
<td>RSI</td>
<td>All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 USC 405(g))</td>
<td></td>
</tr>
</tbody>
</table>

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*OFM PACH 1
0078*
NOTICE TO COUNSEL

THE COURT HAS DIRECTED THAT THE FOLLOWING RULES BE SPECIFICALLY CALLED TO YOUR ATTENTION.

I. Continuing Obligation to Report Related Cases (Local Rule 4)

II. Service of Papers and Process (Local Rule 5)

III. Notice of Right to Consent to Disposition of a Civil Case by a United States Magistrate (28 U.S.C. §636(c). General Order 194-G)

I. CONTINUING OBLIGATION TO REPORT RELATED CASES

Counsel are reminded that you have the continuing obligation to promptly advise the Court whenever one or more civil actions or proceedings previously commenced and one or more currently filed appear to be related.

Local Rule 4.3.1 provides that, "It shall be the continuing duty of the attorney in any case promptly to bring to the attention of the Court, by the filing of a Notice of Related Case(s) pursuant to Local Rule 4.3.1, all facts which in the opinion of the attorney or party appear relevant to a determination whether such action and one or more pending actions should, under the criteria and procedures set forth in Local Rule 4.3, be heard by the same judge."

Local Rule 4.2.1 provides that, "It is not permissible to dismiss and thereafter re-file an action for the purpose of obtaining a different judge." Whenever an action is dismissed before judgment and thereafter the same or essentially the same action is re-filed, the latter action shall be assigned to the judge to whom the first action was assigned. It shall be the continuing duty of every attorney appearing in such a re-filed action promptly to bring the facts of the matter to the attention of the Clerk in writing.

II. SERVICE OF PAPERS AND PROCESS

Local Rule 5.4 provides that "Except as otherwise provided by order of Court, or when required by the treaties or statutes of the United States, process shall not be presented to the United States Marshal for service." Service of process upon classes of persons identified F.R.C.P. 4(d)(1), (2), (3) and (6) shall be accomplished in any manner provided by State law including but not limited to service by private persons qualified to serve process under the Federal Rules of Civil Procedure (a person of suitable discretion at least 18 years of age). Service upon the United States, an officer or agency thereof, shall be served pursuant to the provisions of F.R.C.P. 4(d)(4) and (5). Service should be promptly made; unreasonable delay may result in a dismissal of the action under Local Rule 11. Proof of Service must be promptly filed with the Court.

For further information inquire at the Office of the Clerk, Civil Filing Window.
III. NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE

Pursuant to General Order 194-G, notice must be served with the summons and complaint on all defendants. Additional copies of this notice have been provided for that purpose.

In accordance with the provisions of 28 U.S.C. §636(c), you are hereby notified that the full-time United States Magistrates of this District Court, in addition to their other duties, may, upon the consent of all parties to their civil case, conduct any and all proceedings in a civil case, including a jury or non-jury trial, and order the entry of a final judgment. Copies of appropriate consent forms for this purpose (Form number CV-11) are available from the Clerk of Court.

Your opportunity to have your case disposed of by a Magistrate is subject to the calendar requirements of the court. Accordingly, the district judge to whom your case is assigned must approve the reference of the case to a Magistrate for disposition.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States Magistrate for disposition is entirely voluntary and should be communicated solely to the clerk of the district court by submitting form number CV-11 after it has been completed. Only if all parties to the case consent to the reference to a Magistrate will either the Judge or Magistrate to whom the case has been assigned be informed of your decision.

The parties may stipulate to the designation of a specific Magistrate to conduct all further proceedings. A space is provided on the consent form for use by parties if they desire to stipulate to a specific Magistrate.

NOTE: The parties may not stipulate to the designation of a specific Magistrate in a case which has already been assigned to a Magistrate for a report and recommendation. If the case has been so assigned, it shall remain assigned to the assigned Magistrate. (General Order 194-G, S.6.04.01).

Any appeal from a judgment of the Magistrate shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the district court in accordance with 28 U.S.C. §636(c)(3). In the alternative, in accordance with 28 U.S.C. §636(c)(4), at the time of the reference to a Magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as an appeal from a judgment of the district court to a court of appeals, subject to the limitation contained in 28 U.S.C. §636(c)(5) which provides that cases appealed under 28 U.S.C. §636(c)(4) "may be reviewed by the appropriate United States Court of Appeals upon petition for leave to appeal by a party stating specific objections to the judgment."

Form number CV-11 provides an opportunity for parties to designate their election of appellate alternatives under 28 U.S.C. §636(c)(3) or 28 U.S.C. §636(c)(4).

CLERK, UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OFM PACH 1
0080
NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE

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CV-20a 6/85 NOTICE OF G.O. 194-G

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0081
NOTE: The parties may not stipulate to the designation of a specific Magistrate in a case which has already been assigned to a Magistrate for a report and recommendation. If the case has been so assigned, it shall remain assigned to the assigned Magistrate. (General Order 194-G, 6.6.04.01).

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE

Pursuant to the Local Rules Governing Duties of Magistrate Judges, Magistrate Judge Charles F. Eick has been designated to hear discovery motions in the within action at the discretion of the assigned District Judge.

Upon the filing of a discovery motion, the motion will be presented to the United States District Judge for consideration and may hereafter be referred to the Magistrate Judge for hearing and determination.

The Magistrate Judge's initials should be used on all documents filed with the Court so that the case number reads as follows:

NOTE: A COPY OF THIS NOTICE MUST BE SERVED WITH THE SUMMONS AND COMPLAINT ON ALL DEFENDANTS.
MARK E. ROSEMAN, ESQ., Bar #82723
TIMOTHY M. O’CROWLEY, ESQ. #158549
LAW OFFICES OF BLUM & ROSEMAN, APC
1851 East First Street, Suite 850
Santa Ana, California 92705
(714) 547-8801

ATTORNEY FOR PLAINTIFF:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Plaintiff,

vs.

FR. RICHARD T. COUGHLIN,
BOYS CHOIR SCHOOL OF
ORANGE COUNTY, a.k.a.
ALL-AMERICAN BOY’S CHORUS,
DIOCESE OF ORANGE EDUCATION
AND WELFARE CORPORATION, aka
ROMAN CATHOLIC BISHOP OF
ORANGE aka ROMAN CATHOLIC
DIOCESE OF ORANGE, ROMAN
CATHOLIC ARCHBISHOP OF
LOS ANGELES, FR. GARY PACHECO,
and FRANCISCAN FRIARS OF
CALIFORNIA, INC.

Defendants

NOW COMES the Plaintiff, [REDACTED], who alleges as
follows:

JURISDICTION

1. Plaintiff, [REDACTED], hereinafter, Plaintiff, is
a citizen of the State of [REDACTED]. The jurisdiction of this
Court over the subject matter of the action is predicated on 28
USC Section 1332. The amount in controversy exceeds $50,000.00,
exclusive of interest and costs.

OFM PACH 1
0084
2. Defendant FR. RICHARD T. COUGHLIN, hereinafter referred to as FR. COUGHLIN, is a resident of the State of California.

3. Defendant BOYS CHOIR SCHOOL OF ORANGE, also known as "The All-American Boys Chorus," hereinafter referred to as CHOIR, is a non-profit corporation with its principle place of business in Orange County, California.

4. Defendant DIOCESE OF ORANGE EDUCATION AND WELFARE CORPORATION, also known as the "ROMAN CATHOLIC BISHOP OF ORANGE", aka "THE ROMAN CATHOLIC DIOCESE OF ORANGE" hereinafter DIOCESE, is a corporation organized and existing under the laws of the State of California.

5. Defendant ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES, is an unknown business entity, having its principle place of business in the County of Los Angeles, California.

6. Defendant FRANCISCAN PRIARS OF CALIFORNIA, INC., hereinafter referred to as FRANCISCANS is, and at all times herein mentioned was, an unknown business entity, having its principle place of business in Oakland, California.

7. Defendant FR. GARY PACHECO hereinafter FR. PACHECO is a resident of the State of California.

8. The incidents of alleged childhood sexual abuse and other factors giving rise to each of the Claims, herein alleged, took place in Orange County, California.
BACKGROUND

9. Plaintiff, born [redacted] years old, and at all times the allegations of sexual abuse and/or negligence are mentioned, herein, was a minor.

10. Defendant CHOIR, was established in 1970, by FR. COUGHLIN, who was employed, monitored and otherwise supervised by the CHOIR, as its music director, until January 1993.

11. Plaintiff was a member of the CHOIR between [redacted] and [redacted] and at all times during that membership, FR. COUGHLIN was the music director in charge of training members of the CHOIR.

12. Between 1976 and 1983, Defendant DIOCESE was the parent ecclesiastic body where the Bishop, by whom FR. COUGHLIN was employed, supervised or otherwise controlled, was venued.

13. Prior to 1976, Defendant DIOCESE/LA was the parent ecclesiastic body where the Bishop by whom FR. COUGHLIN was employed, supervised or otherwise controlled, was venued.

14. Between 1978 and 1983, defendant FRANCISCANS was the parent ecclesiastic body to which PACHECHO reported, and by whom he was employed, supervised or otherwise controlled.

I.

FIRST CLAIM FOR RELIEF
Sexual Assault and Battery
(Plaintiff vs. FR. COUGHLIN)

15. PLAINTIFF realleges and incorporates paragraphs 1-14, inclusive, above, by this reference, into the allegations of this Claim for Relief.

16. At all times herein mentioned, FR. COUGHLIN was a Roman Catholic priest assigned to the DIOCESE/LA or DIOCESE, and was the music director of the CHOIR. At all times herein mentioned, FR.
COUGHLIN worked for the Bishop of Los Angeles County and/or for the Bishop of Orange County.

17. Plaintiff is informed and believes, and on such information and belief alleges that each of the Defendants are now, and have been at all times herein mentioned, the agent, servant, employee, partner, associate, joint venturer, co-participant, co-conspirator and/or principal of or with each of the remaining Defendants, and that each Defendant has been, at all times herein mentioned, acting within the scope of such relationship and with the full knowledge, consent, authority, ratification, and/or permission of each of the remaining Defendants.

18. Wherever appearing in this Complaint, each and every reference to Defendants, or any of them, is intended to, and shall be deemed to, include all fictitiously named Defendants.

19. During Plaintiff's childhood, between the approximate ages of ten (10) years old, until approximately fifteen (15) years of age, (1978 through June 1983), FR. COUGHLIN did, with intent, malice, willfulness and oppression, repeatedly and continually sexually batter, assault, molest and abuse the Plaintiff on or about his body and person, including but not limited to fondling the Plaintiff's genitalia on bus rides to and from chorus engagements, soaping Plaintiff's body during showers, and wiping excess water from Plaintiff's body after showering, with defendant's own hands.

20. The period of Plaintiff's discovery that his psychological injury or illness, occurring after the age of majority, was caused by the sexual abuse of FR. COUGHLIN, began in
or about 1993, when Plaintiff initially realized, and understood, the link between his alleged childhood sexual abuse and the psychological injury or illness in his adulthood. Prior to 1993, Plaintiff was reasonably and blamelessly prevented from knowing, discovering or otherwise being cognizant that his psychological injury or illness, occurring after the age of majority, was the resultant psychological legacy of his childhood sexual abuse, by

FR. COUGHLIN.

21. As a result of the sexual acts committed upon Plaintiff by FR. COUGHLIN, Plaintiff psychologically buried some details of the herein alleged childhood sexual abuse.

22. As a proximate result of FR. COUGHLIN'S aforesaid sexual conduct, Plaintiff has been damaged as will be more particularly set forth, below.

23. In doing the acts hereinabove described, FR. COUGHLIN acted with willfulness, malice and oppression, justifying a future award of punitive damages. Plaintiff reserves the right to amend this complaint pursuant to California Code of Civil Procedure 425.14, for leave to request punitive or exemplary damages.

24. That as a direct and proximate result of the conduct of FR. COUGHLIN, Plaintiff has been injured in his psychological and physical health, including, but not limited to, feelings of helplessness, great shame, embarrassment, humiliation, fear, confusion about himself, guilt, self-blame, self-hate, anxiety, extreme depression, spiritual loss, psychosomatic and sleep-related complaints, difficulty forming meaningful trust relationships, and other long-term psychological sequelae, all to Plaintiff's damage in general damage dollar sums, subject to
proof, at time of trial.

25. The actions of FR. COUGHLIN, as alleged, herein, shattered the natural human trust inherent in any adult-child relationship with an Alter Christi, ethereal figure, and moral arbiter of right and wrong, thereby contributing to continued and deep-seated psychological injuries to Plaintiff, necessitating the need for past, present and future psychological care and treatment, and to a loss of earnings and future earning capacity, all contributing to Plaintiff's damages in a dollar sum subject to proof at time of trial.

II.
SECOND CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)
(Plaintiff v. FR. COUGHLIN)

26. Plaintiff realleges and incorporates as if fully stated, herein, each and every allegation contained in Paragraphs 15 through 25, inclusive, of the First Claim For Relief.

27. At all times mentioned herein, FR. COUGHLIN was a Roman Catholic Priest and director of the CHOIR. At all times during the conduct complained of in paragraph 19 of Plaintiff's First Claim For Relief, FR. COUGHLIN had actual care and control of the then minor Plaintiff relinquished to him by Plaintiff's trusting parents, thereby creating a special relationship between himself and the then minor Plaintiff.

28. Acting with knowledge of his superior spiritual position and special fiduciary relationship with the Plaintiff, and realizing the special susceptibility to emotional distress due to Plaintiff's tender age, and his temporary dependency upon him, FR. COUGHLIN intentionally and repeatedly humiliated and embarrassed Plaintiff while sexually battering and assaulting Plaintiff,
thereby directly or indirectly threatening/intimidating him not to
tell others of these acts.

29. Said acts of FR. COUGHLIN were done without just cause,
provocation, legal consent or complicity.

30. FR. COUGHLIN'S alleged acts of sexual molestation were
intentional, willful and malicious and done for the purpose of
causing Plaintiff to suffer humiliation, mental anguish and
emotional distress or with reckless disregard for the likelihood
that he would cause Plaintiff such distress.

31. As a proximate result of the aforesaid sexual
molestation conduct of Defendant, Plaintiff has been damaged as
alleged, above, at paragraphs 24 and 25 of the First Claim For
Relief.

32. In doing the acts hereinabove described, FR. COUGHLIN
acted with willfulness, malice and oppression justifying a future
award of punitive damages. Plaintiff reserves the right to amend
this complaint pursuant to California Code of Civil Procedure
425.14, and to bring a motion for leave to request punitive or
exemplary damages.

III.

THIRD CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)
(Plaintiff vs. FR. COUGHLIN)

33. Plaintiff realleges and incorporates as if fully stated
herein each and every allegation contained in Paragraphs 15
through 18, 20 through 21, of the First Claim For Relief.

34. Defendant, in his special relationship as a trusted
Roman Catholic Priest, had the duty to exercise ordinary care
regarding Plaintiff, and should have known that his secretive pre-
sexual grooming and conditioning conduct of the then minor
Plaintiff would likely cause, and did cause, Plaintiff to suffer
emotional distress and mental anguish.

35. As a proximate result of the secretive pre-sexual
negligence and carelessness of Defendant, Plaintiff has been
injured in his psychological and physical health, including but
not limited to feelings of shame, embarrassment, humiliation,
anxiety, lack of trust, spiritual loss, and other long-term
psychological sequelae, all to Plaintiff's general damage, subject
to proof at time of trial.

36. FR. COUGHLIN breached his natural and legal duties to
Plaintiff by digressing from the natural order of interaction
between a trusted priest, and minor child, by engaging in
secretive pre-sexual grooming and conditioning conduct separable
from the actual inherently harmful acts of molestations, as
distinguished in legal theory by Horace Mann Insurance Company v.
Barbara B., (1993) 4 Cal.3d 1076. Such separate conduct included,
but was not limited to, the non-sexual psychological conditioning
by FR. COUGHLIN of the Plaintiff, directed towards maintaining his
sexually abusive conduct, such as grooming Plaintiff to submit to
his sexual contacts by shaming and confusing Plaintiff into
accepting, without protest, acts of childhood sexual abuse.

37. Likewise, FR. COUGHLIN engaged in specific individual
non-sexually coercive, and harassing actions relevant to
Plaintiff, including scaring and intimidating the Plaintiff, and
turning trust into opportunity to molest, thereby causing the
occurrences and the secreting of the incestuous conduct FR.
COUGHLIN perpetrated on Plaintiff.
38. Plaintiff discovered all the facts essential to this Claim for Relief within one year of the filing of this Complaint.

39. The negligent, secretive pre-sexual conditioning conduct of FR. COUGHLIN, as alleged, herein, shattered the natural human trust inherent in any adult-child relationship with an Alter Christi, ethereal figure, and moral arbiter of right and wrong, thereby contributing to continuing and deep-seated psychological injuries to Plaintiff, necessitating the need for past, present and future psychological care and treatment, all of which has resulted in loss of earnings and future earning capacity, thereby contributing to Plaintiff's further damages in a dollar sum subject to proof at time of trial.

IV.

FOURTH CLAIM FOR RELIEF
(Negligent Supervision)
(Plaintiff v. CHOIR, DIOCESE, and DIOCESE/LA)

40. Plaintiff realleges and incorporates as if fully stated herein each and every allegation contained in Paragraphs 15 through 25, of the First Claim For Relief.

41. Defendants were informed prior to or contemporaneously to Plaintiff's childhood sexual abuse that COUGHLIN had molested members of the "All-American Boy's Chorus." Defendants were informed by third parties, prior to the termination of Plaintiff's molestations, that FR. COUGHLIN had molested members of the "All-American Boy's Chorus."

42. Plaintiff is informed and believes and thereon alleges that Defendants knew or in the exercise of reasonable diligence should have known, that FR. COUGHLIN was neither qualified nor able to function as a responsible, and trustworthy child care
custodian, and that an undue risk to children, such as the class of individuals including Plaintiff, existed, because Defendants did not adequately supervise FR. COUGHLIN.

43. Defendants breached their duty to Plaintiff, arising from the special relationship Plaintiff had with Defendants, and the foreseeability of harm to Plaintiff, to supervise FR. COUGHLIN, by failing to take any action upon notice of COUGHLIN's conduct as referred to in the First Claim For Relief.

44. That had Defendants adequately performed their duties to supervise FR. COUGHLIN, Plaintiff would not have been subject to some or all of the conduct of FR. COUGHLIN as alleged in the First Claim For Relief.

45. As a result of the failure of Defendants breaching their duty to competently supervise FR. COUGHLIN, Defendant COUGHLIN maintained his position as chorus director, and was afforded the continued opportunity to be alone, and unsupervised, with minor children, including the Plaintiff.

46. As a further result of the failure of Defendants to competently supervise FR. COUGHLIN, no report of the sexual molestation of the minor was made pursuant to section 11166 of the California Penal Code.

47. The failure of Defendants to adequately supervise FR. COUGHLIN was the legal and proximate cause of Plaintiff's injuries, as more specifically stated, at paragraphs 24 and 25 of the First Claim For Relief, and incorporated, herein.

48. Plaintiff discovered all the fact essential to this Cause of Action within one year of the filing of this Complaint.
FIFTH CLAIM FOR RELIEF
(Negligence - Violation of Statute)
(Plaintiff v. CHOIR, DIOCESE, DIOCESE/IA and FRANCISCANS)

49. Plaintiff realleges and incorporates as if fully set forth herein each and every allegation contained in paragraphs 1 through 47 of this Complaint, and paragraphs 62 through 68 of the Sixth Claim for Relief, below.

50. After the Child Abuse Reporting Act took effect in 1980, Defendants by and through their employees and agents, as "Child care custodians," had a statutory duty to report known or suspected incidence of sexual molestation of minors to a child protective agency, pursuant to Child Abuse Reporting Act, California Penal Code Section 11164, et. seq.

51. Plaintiff is informed and believes and thereon alleges that Defendants knew, or in the exercise of reasonable diligence should have known, that FR. COUGHLIN and/or FR. PACHECO had sexually molested or otherwise caused non-accidental injuries to a minor giving rise to a duty to report such conduct under section 11166 of the California Penal Code, and that an undue risk to children, such as Plaintiff, existed because Defendants did not comply with those reporting requirements.

52. By failing to report the molestation known or reasonably known to Defendants, and ignoring the fulfillment of the mandated compliance with reporting requirements provided by California Penal Code Section 11166, Defendants created the risks and dangers contemplated by the Child Abuse Reporting Act, and exposed Plaintiff to the molestations that subsequently occurred.

53. In 1980, and thereafter, Plaintiff was one of the class
of persons whose protection California Penal Code Section 11166 was specifically adopted.

54. That had Defendants adequately performed their duties mandated by section 11166 of the Penal Code, a report of molest to a child protective agency would have been made in 1980, resulting in the involvement of trained child sexual abuse case workers.

55. That the foreseeable result of a mandated reporting to a child protective agency, in 1980, 1981, 1982 and 1983, would have been to protect the Plaintiff, by initiating an investigation by trained child sexual abuse counselors, who had the potential to change the then existing arrangements and conditions between Plaintiff and FR. COUGHLIN and/or FR. PACHECO, (ie: recommend police investigation leading to criminal prosecution, removal of FR. COUGHLIN as director, provide chaperones so FR. COUGHLIN and FR. PACHECO would not be unmonitored with the children) which theretofore provided the basis for the access and opportunity for the Plaintiff’s molestations as alleged.

56. The physical and emotional damages resulting from continued sexual molestations of the Plaintiff, by FR. COUGHLIN and FR. PACHECO are the nature of damages California Penal Code Section 11161.5 was designed to prevent.

57. As a legal and proximate result of the negligence of Defendants, and the foreseeable resultant molestations, Plaintiff was injured in his health, strength and activity, thereby sustaining long-term and future psychological sequelae as a child molestation victim, including shame, loss of self-esteem, injury to his nervous system and person, and spiritual loss, all of which injuries have caused and continue to cause him great mental, and
nervous pain and suffering. Plaintiff is informed and believes, and thereon alleges that such injuries have resulted in permanent disability to him.

58. As a further legal and proximate result of the Defendants' negligence herein alleged, Plaintiff has been damaged in that he has been required in the past, and will be required in the future, to expend money and incur obligations for medical services, including psychotherapy, drugs and sundries reasonably required in the further treatment and relief of the injuries herein alleged in an amount to be proven at time of trial.

59. As a further legal and proximate result of the negligence of Defendants, Plaintiff's earning capacity has been greatly impaired for the future, in an amount according to proof at time of trial.

60. Plaintiff discovered all the facts essential to this Cause of Action within one year of the filing of this Complaint.

VI.

SIXTH CLAIM FOR RELIEF
(SEXUAL ASSAULT AND BATTERY)
(Plaintiff v. FR. PACHECO)

61. PLAINTIFF realleges and incorporates as if fully stated, herein, each and every allegation contained in Paragraphs 15 and 17, of the First Claim For Relief.

62. During Plaintiff's childhood, between the approximate age of ten years old, until approximately fifteen years of age, (1978 through June 1983), Defendant FR. PACHECO did, with intent, malice, willfulness and oppression, repeatedly and continually sexually batter, assault, molest and abuse the Plaintiff on or
about his body and person, including but not limited to fondling and the plaintiff, and forcing the plaintiff to place his hand on FR. PACHECO'S penis, skin to skin.

63. The period of Plaintiff's discovery that his psychological injury or illness, occurring after his age of majority, was caused by the sexual abuse of FR. PACHECO, began in 1993, when he initially realized that it was this sexual abuse that caused his psychological injury or illness in adulthood. Prior to 1993, Plaintiff was reasonably and blamelessly prevented from knowing or discovering or becoming aware that his psychological injury or illness, occurring after the age of majority, was caused by his childhood sexual abuse, by FR. PACHECO.

64. As a result of the sexual acts committed upon Plaintiff by Defendant FR. PACHECO, Plaintiff psychologically buried some details, of the herein alleged childhood sexual abuse.

65. As a proximate result of FR. PACHECO'S aforesaid conduct, Plaintiff has been damaged as will be more particularly set forth, below.

66. In doing the acts hereinabove described, Defendant PACHECO acted with willfulness, malice and oppression, justifying a future award of punitive damages. Plaintiff reserves the right to amend this complaint pursuant to California Code of Civil Procedure 425.14, to bring a motion for leave to request punitive or exemplary damages.

67. That as a direct and proximate result of the conduct of FR. PACHECO, Plaintiff has been injured in his psychological and physical health, including, but not limited to, feelings of
helplessness, great shame, embarrassment, humiliation, fear, confusion about himself, guilt, self-blame, self-hate, anxiety, extreme depression, spiritual loss, psychosomatic and sleep-related complaints, difficulty forming meaningful trust relationships, and other long-term psychological sequelae, all to Plaintiff's damage in general damage dollar sums, subject to proof, at time of trial.

68. The actions of FR. PACHECO, as alleged, herein, shattered the natural human trust inherent in any adult-child relationship with an Alter Christi, ethereal figure, and moral arbiter of right and wrong, thereby contributing to continued and deep-seated psychological injuries to Plaintiff, necessitating the need for past, present and future psychological care and treatment, resulting in loss of earnings and future earning capacity, all contributing to Plaintiff's further damages in a dollar sum subject to proof at time of trial.

VII.

SEVENTH CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)
(Plaintiff v. FR. PACHECO)

69. Plaintiff realleges and incorporates as if fully stated in Paragraphs 15 and 17 of the First Claim For Relief.

70. Defendant FR. PACHECO, in his special relationship as a trusted Franciscan Priest, had the duty to exercise ordinary care regarding Plaintiff, and should have known that his secretive pre-sexual, grooming and conditioning conduct of the then minor Plaintiff would likely cause, and did cause, Plaintiff to suffer emotional distress and mental anguish.

71. As a proximate result of the secretive pre-sexual
negligence and carelessness of FR. PACHECO, Plaintiff has been
injured in his psychological and physical health, including but
not limited to feelings of shame, embarrassment, humiliation,
anxiety, lack of trust, and other long-term psychological
sequelae, all to Plaintiff's general damage, subject to proof at
time of trial.

72. Defendant FR. PACHECO breached his natural and legal
duties to Plaintiff by digressing from the natural order of
interaction between a trusted priest, and minor child, by engaging
in secretive pre-sexual grooming and conditioning conduct
separable from the actual inherently harmful acts of molestations,
as distinguished in legal theory by Horace Mann Insurance Company
v. Barbara B., (1993) 4 Cal.3d 1076. Such separate conduct
included, but was not limited to, the non-sexual psychological
conditioning by FR. PACHECO of the Plaintiff, directed towards
maintaining his sexually abusive conduct, such as grooming
Plaintiff to submit to his sexual contacts by shaming and
confusing Plaintiff into accepting, without protest, acts of
childhood sexual abuse.

73. Likewise, FR. PACHECO engaged in specific individual
non-sexually coercive, and harassing actions relevant to
Plaintiff, including scaring and intimidating the Plaintiff into
secreting the incest he perpetrated on him.

74. The negligent secretive pre-sexual conditioning conduct
by FR. PACHECO, as alleged, herein, shattered the natural human
trust inherent in any adult-child relationship, especially when
the adult was a trusted priest, thereby contributing to
continuing and deep-seated psychological injuries to Plaintiff,
necessitating the need for past, present and future psychological
care and treatment, all of which has resulted in loss of earnings
and future earning capacity, thereby contributing to Plaintiff’s
further damages in a dollar sum subject to proof at time of trial.

75. Plaintiff discovered the facts essential to this Claim
for Relief within one year of the filing of this Complaint.

VIII.

EIGHTH CLAIM FOR RELIEF
(Negligent Supervision)
(Plaintiff v. FRANCISCANS)

76. Plaintiff realleges and incorporates as if fully stated
herein each and every allegation contained in Paragraphs 61
through 68, of the Sixth Claim For Relief and paragraphs 70
through 75 of the Seventh Claim For Relief.

77. Plaintiff is informed and believes and thereon alleges
that FRANCISCANS knew, or in the exercise of reasonable diligence
should have known, that FR. PACHECO was neither qualified nor able
to be a trustworthy and responsible child care custodian, and that
an undue risk to children, such as Plaintiff existed because
Defendant FRANCISCANS did not adequately train and supervise
PACHECO.

78. Defendant FRANCISCANS breached their duty to supervise
PACHECO, by failing to take any action upon their imputed notice
of FR. PACHECO’S conduct.

79. That had Defendants FRANCISCANS adequately performed
their duties to supervise FR. PACHECO, the Plaintiff would not
have been subject to some or all of the alleged sexual abuse
conduct perpetrated by FR. PACHECO.

80. As a result of FRANCISCANS breaching their duty to
competently supervise FR. PACHECO, Defendant FR. PACHECO was permitted to maintain his position as a trusted priest and allowed to be alone and unsupervised with the Plaintiff.

81. As a further result of the failure of FRANCISCANS to competently supervise FR. PACHECO, no report of the sexual molestation of the minor was made pursuant to section 11166 of the California Penal Code.

82. The failure of Defendants FRANCISCANS to adequately supervise FR. PACHECO was the legal and proximate cause of Plaintiff's injuries, to his psychological and physical health, including but not limited to feelings of shame, embarrassment, humiliation, anxiety, spiritual loss, lack of trust, and other long-term psychological sequelae, all to Plaintiff's general damage, subject to proof at time of trial.

83. The negligent supervision, as herein alleged, shattered the natural human trust inherent in Plaintiff's relationship with a trusted and revered religious order, and moral arbiter of right and wrong, thereby contributing to continued deep-seated psychological injuries to Plaintiff, necessitating the need for past, present and future psychological care and treatment, and to a loss of earnings and future earning capacity, all contributing to Plaintiff's damages in a dollar amount subject to proof at time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the defendants as follows:
1. For general compensatory damages for past, present and future psychological, emotional and physical pain, suffering,
1. For distress and injury.

2. For past, present and future medical and mental health and incidental expenses in an amount to be proven.

3. For loss of earnings and of earning capacity in an amount to be proven.

4. For legal interest on judgment according to code.

5. For costs of suit incurred herein.

6. For such other relief as the Court deems proper.

Dated: January 14, 1994

BLUM & ROSEMAN, APC

BY: MARK E. ROSEMAN, Esq.
Attorney for Plaintiff

JURY TRIAL DEMANDED

Dated: January 14, 1994

BLUM & ROSEMAN, APC

BY: MARK E. ROSEMAN, Esq.
Attorney for Plaintiff
Bates Numbers 103-124 were removed by the Plaintiffs at the request of the Franciscans.
Memo:

Confidential

To: 

From: 

Regarding: Gary Pacheco

Date: November 24, 1992

On November 4, 1992, I was informed of allegations of sexual abuse on the part of Gary Pacheco. These allegations were made by the victim's pastor of our parish in Huntington Beach. The pastor gave me her brother's name and phone number on November 6 and I talked to her brother on November 7.

She now and living in claimed that from his 8th to 14th year, on almost a weekly basis Gary Pacheco, while visiting his family home would enter his bedroom, fondle his genitals, and then take his hand and place it on his own genitals. Though the parents were at home at the time, this activity went unnoticed behind a closed door. Gary was a good friend of the family, a priest, and therefore trusted. Gary would see at school as well, but there is no memory of any misconduct there. At the time did not tell his parents for he was confused by this behavior, especially because it was initiated by a priest and friend. Though felt it to be inappropriate, he wondered if any accusation would be believed by his parents.

In retrospect, shares that the experience caused him to wonder if he were gay and led to feelings of shame and confusion. It colored his sense of sexual self and introduced ambivalent feelings. claims that his brother was also abused but until the present the brother denies it. said that he will broach the topic with his brother again and then suggest to us possible ways to proceed.

started counseling while a sophomore in college and there was helped by a professor in a psychology class to remember these cases of abuse. After leaving college he discontinued the counseling.

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Action Recommended

2) Counseling has been offered to [redacted] but for now he declines.
3) [redacted] parents have been invited to discuss this matter with me or the provincial through [redacted]. They, too, would be welcome to counseling as well as the [redacted] brother if so desired.

6) I will continue to keep in touch with [redacted] and make available resources for his own recovery.

N. B. [redacted] comes across as a sensitive, mature, non-vindictive person. He's recently become a father, and he has some sense of concern for children in general - that they be protected.
Mark E. Roseman, Esq.
May 3, 1994
Page 3

bcc: Sheryl Bandy
Fr. Mel Jurisich, OFM

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Bates Numbers 128-129 were removed by the Plaintiffs at the request of the Franciscans.
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Plaintiff,

v.

FR. RICHARD T. COUGHLIN, ET AL.,

Defendants,

ORDER DENYING DEFENDANT ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES' MOTION TO DISMISS

On March 4, 1994, defendant Roman Catholic Archbishop of Los Angeles filed a motion to dismiss for failure to state a claim. The Court waived oral argument pursuant to Local Rule 7.11. After considering the parties' written submissions, the Court concludes that the defendant has not shown that plaintiff's claim has lapsed or that plaintiff can prove no set of facts in support of his claim. Therefore, the motion to dismiss is DENIED.
FACTS

This is a diversity action. Plaintiff, Defendant Boys Choir of Orange County ("Boys Choir") was established in 1970, in Orange County, California. Defendant Father Richard T. Coughlin ("Coughlin") founded the Boys Choir and was its music director from 1970 until January 1993. Defendants Roman Catholic Bishop of Orange, a California corporation, and Roman Catholic Archbishop of Los Angeles ("Archbishop"), a corporation sole, are alleged to have been the supervisors of Coughlin at the time the alleged incidents took place. Defendant Father Gary Pacheco ("Pacheco") is a member of defendant Franciscan Friars of California.

In his complaint, filed on January 14, 1994, alleges the following facts. He was born and was 25 years old at the time this complaint was filed. He attained his age of majority on March 22, 1986. Between the ages of 10 and 15, i.e. from 1978 to 1983, was a member of the Boys Choir. During that time, he alleges that he was sexually abused by Coughlin and Pacheco. Coughlin allegedly fondled genitalia and washed and dried during showers. Pacheco allegedly fondled and forced to touch his genitals.

alleges he discovered in or about 1993 that "it was this sexual abuse that caused his psychological injury or illness in adulthood." Id. at 14. Prior to 1993, alleges that he was reasonably prevented from being cognizant that the
psychological injury was the legacy of his childhood abuse by Coughlin and Pacheco. Id.

The plaintiff alleges that he has needed psychological treatment to deal with his "feelings of helplessness, great shame, embarrassment, humiliation, fear," and other long term psychological problems. Id. at 5. In addition, he alleges that he has lost both present and future earnings due to his deep seated psychological injuries.

Claims are for sexual assault and battery against Coughlin and Pacheco, negligent infliction of emotional distress against Coughlin and Pacheco, negligent supervision against the Boys Choir, Diocese of Orange, and the Archbishop, and violation of the Child Abuse Reporting Act, § 11166 of the California Penal Code, against the Boys Choir, Diocese of Orange, the Archbishop, and the Franciscans.

DISCUSSION

The Archbishop filed this motion pursuant to F.R.Civ.P. 12(b)(6) to dismiss the claims against it for negligent supervision and violation of the Child Abuse Reporting Act, the fourth and fifth claims in complaint. The Archbishop argues that claims have lapsed. Furthermore, the Archbishop argues that it was not the employer of Coughlin at the time the alleged incidents took place nor was it required to report the alleged incidents under the Child Abuse Reporting Act. This issue is one that can be addressed in a motion for summary judgment. The discovery issue may also be addressed in the same way.
Fed.R.Civ.P. 12(b)(6) provides for dismissal where the
complaint fails to state a claim upon which relief can be
granted. In reviewing a Rule 12(b)(6) motion, the court must
accept as true all material allegations in the complaint, as well
as reasonable inferences that can be drawn therefrom, and must
construe those facts and inferences in a light most favorable to
the non-moving party. See NL Industries, Inc. v. Kaplan, 792
F.2d 896, 898 (9th Cir. 1986). "When a motion to dismiss is
based on the running of the statute of limitations, it can be
granted only if the assertions of the complaint, read with the
required liberality, would not permit the plaintiff to prove that
the statute was tolled." Jablon v. Dean Witter & Co., 614 F.2d
677, 682 (9th Cir. 1980).

I. **Claims Were Filed Within the Statute of
   Limitations**

filed this complaint pursuant to § 340.1 of the
California Code of Civil Procedure. Section 340.1 provides:

(a) In any action for recovery of damages suffered as a
result of childhood sexual abuse, the time for
commencement of the action shall be within eight years
of the date the plaintiff attains the age of majority
or within three years of the date the plaintiff
discovers or reasonably should have discovered that
psychological injury or illness occurring after the age
of majority was caused by the sexual abuse, whichever
occurs later.

(k) The amendments to this section enacted at the 1990
portion of the 1989-90 Regular Session shall apply to
any action commenced on or after January 1, 1991.

The language of this section is clear. complaint
was filed on January 14, 1994, after the effective date provided
in § 340.19(k). His complaint was filed within eight years of

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attaining majority, approximately two months before his 26th birthday. Furthermore, [redacted] filed his complaint within three years from the date he discovered his psychological injuries were caused by the defendant. Under § 340.1, [redacted] complaint was timely filed.

II. [redacted] Claims Have Not Lapsed

The Archbishop argues that under § 340.1, [redacted] claims have lapsed. The 1991 amendment to § 340.1 liberalized the statute of limitations for childhood sexual abuse claims. Typically, claims for personal injuries are subject to a one year statute of limitations. "For injuries suffered during childhood, the statute is tolled until the plaintiff reaches majority on his or her 18th birthday." David A. v. Superior Court (Jane D.), 24 Cal. Rptr.2d 537, 539 (1993). "In effect the deadline for filing suit is the plaintiff's 19th birthday." Id.

Claims for childhood sexual abuse were subject to the same statute of limitations until § 340.1 was enacted, in 1987.1

1 Former § 340.1 provided in pertinent part: "(a) In any civil action for injury or illness based upon lewd or lascivious acts with a child under the age of 14 years, fornication, sodomy, oral copulation, or penetration of genital or anal openings of another with a foreign object, in which this conduct is alleged to have occurred between a household or family member and a child where the act upon which the action is based occurred before the plaintiff attained the age of 18 years, the time for commencement of the action shall be three years."

(d) Nothing in the bill [sic] is intended to preclude the courts from applying delayed discovery exceptions to the accrual of a cause of action for sexual molestation of a minor.
(e) This section shall apply to both of the following:
(1) Any action commenced on or after January 1, 1987, including any action which would be barred by application of the period of limitation applicable prior to January 1, 1987.
Section 340.1 applied to any claims of childhood sexual abuse alleged against a family or household member. Such claims could be brought until the child's 21st birthday. In addition to extending the time in which such an action could be brought, the legislature allowed previously lapsed claims to be revived. The 1987 version of § 340.1 which stated that the statute applied to "any action which would be barred by application of the period of limitation applicable prior to January 1, 1987" unmistakably revived lapsed claims.

In 1990, the legislature amended § 340.1 and in so doing liberalized the statute of limitations for childhood sexual abuse claims. Section 340.1 claims were extended to all persons, not just family or household members. Furthermore, the limitation period was extended to age 26, or three years after the date plaintiff became aware of the sexual abuse. However, the legislature excised from the statute the provision that all previously lapsed claims were revived.

The Archbishop argues that [redacted] claims first lapsed in 1987 when he reached his 19th birthday. The claims were revived with the enactment of § 340.1 in 1987, but lapsed again in 1989 when Archambo reached 21. Because § 340.1 no longer explicitly states that it revives lapsed claims, the Archbishop argues that [redacted] claims were not revived in 1991 when § 340.1 was amended.

The Archbishop cites David A., in support of its position and

(2) Any action commenced prior to January 1, 1987, and pending on January 1, 1987."
as the prevailing law in California. In David A., the Court of
Appeal sustained a demurrer previously overruled by the Superior
Court and held that the plaintiff's sexual abuse claim under §
340.1 had lapsed. In David A., as in this case, the plaintiff's
claims against her two stepbrothers had lapsed prior to the
enactment of § 340.1 in 1987, and again before the statute was
amended in 1991. David A., 24 Cal Rptr. 2d at 539. Unlike
the plaintiff in David A., had not recently discovered
her sexual abuse history and had not previously proceeded with
her claim due to the "emotionally traumatic nature of (the)
case." Id. at 542.

Although David A. is not mandatory authority for the Court
to follow in this diversity action, the reasoning of its decision
is persuasive. The Court of Appeal stated:

If the legislature wishes to revive lapsed claims, it
should so declare in "unmistakable terms. . . Here the
circumstances do not support plaintiff's view that the
phrase "any action" in subdivision (k) refers to lapsed
claims. From a comparison of the amended statute of
its predecessor, it appears that subdivision (k) is
derived from former subdivision (e). The latter
contained an explicit and unmistakable declaration that
the statute would operate to revive lapsed claims.
Subdivision (k) differs from former subdivision (e)
primarily in its omission of this language. . . This
comparison alone seems to preclude a determination that
subdivision (k) explicitly or unmistakably revives
lapsed claims.

Id. at 540.

The Court of Appeal's does not preclude all claims that may
have lapsed earlier. The court acknowledged that the inclusion
of the postponed accrual clause in subdivision (a) liberalized §
340.1. In reviewing plaintiff's claim, the court in David A.
reviewed three conditions for whether a claim under § 340.1 was untimely:

(I) the plaintiff reached age 21 before the amended § 340.1 took effect on January 1, 1991; (2) the suit was filed after the plaintiff reached age 21; and (3) the claim is not subject to postponed accrual.

Id. at 541-42.

In David A., the plaintiff's claim failed to meet the first two conditions on the face of the pleadings, therefore, the only basis for her claim was postponed accrual. Id. at 542. Because plaintiff did not initiate her action earlier due to what she described as the "emotional trauma" of the ordeal, the court decided that her claim was not subject to postponed accrual, and thus the lower court's ruling was vacated and the demurrer was sustained. Id.

Although claims meet the first two conditions of untimeliness set forth in David A., the third is not met because the claims were first known to him in 1993. The plaintiff alleges that "prior to 1993, plaintiff was reasonably and blamelessly prevented from knowing... that his psychological injury... was the resultant psychological legacy of his childhood sexual abuse, by Fr. Coughlin." Complaint at 5. For present purposes, this allegation is taken as true. Therefore, claims had not lapsed because they satisfy the postponed accrual clause of § 340.1.


The Archbishop argues that it was not obligated to comply with the Child Abuse Reporting Act as alleged in the fifth claim
by a motion for summary judgment." Schwarzer, at §14:12. After opportunity for discovery, summary judgment may be granted if the pleader is unable to produce facts supporting the claims pleaded. "A motion for summary judgment will be granted if the moving party has demonstrated the absence of any issue of material fact and the right to judgment as a matter of law." Jablon, 614 F.2d at 682.

Although the Archbishop disputes the employer relationship alleged in the complaint, the Court must accept plaintiff’s assertion that the Archbishop was the employer of Coughlin at the time the incidents took place. The Court is not inclined to convert the motion to dismiss to one for summary judgment at this early stage of the proceedings.

CONCLUSION

For the reasons stated above, the motion to dismiss is DENIED.

IT IS SO ORDERED.

Dated: APR 25 1994

JOHN G. DAVIES
United States District Judge
CV 94-350-JGD

SERVICE LIST

BLUM & ROSEMAN
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LEWIS, D'AMATO, BRISBOIS & BISGAARD
MICHAEL C. OLSON
650 TOWN CENTER DR., STE 1400
COSTA MESA, CA 92626-1970
May 5, 1994

Mark E. Roseman, Esq.
LAW OFFICES OF BLUM & ROSEMAN, APC
1851 East First Street, Suite 850
Santa Ana, California 92705

Re: v. Fr. Richard Coughlin, et al
Our File No: 21155-026

Dear Mr. Roseman:

Per your letter of May 3, 1994, we request that the joint status report include the following information:

1. DISCOVERY.

Defendant Franciscan Friars has served request for production of documents, interrogatories and requests for admission. Plaintiff will respond to the discovery on or before May 13, 1994. Franciscan Friars contemplates taking the deposition of plaintiff, plaintiff's sister, plaintiff's brother, plaintiff's parents, and plaintiff's college counselor in the month of July. Defendant also intends to subpoena medical records, etc. regarding the plaintiff upon receipt of plaintiff's responses to the discovery devices already propounded. Defendant may serve follow-up interrogatories, request for production or request for admission depending upon the responses received from plaintiff to the first set of discovery devices.

Defendant would anticipate having completed discovery by September 1, 1994.

Michael C. Olson
2. CONTEMPLATED LAW AND MOTION.

Defendant will bring a motion for summary judgment on the statute of limitations. The motion will be based on the David A. case and upon the fact that plaintiff contacted the Franciscan Friars regarding the occurrences at issue in this litigation no later than November of 1992. Accordingly, plaintiff did not file a lawsuit within one year of the date of discovery of the alleged incidence.

Defendant will also bring a motion for summary judgment on the basis that as a matter of law it is not responsible for the alleged acts by Gary Pacheco.

3. PROSPECTS FOR SETTLEMENT.

Settlement is unlikely.

4. PROPOSED DATE FOR PRE-TRIAL CONFERENCE AND TRIAL.

Defendant would request a pre-trial conference in October and a trial date thereafter.

If you have any problems with what we proposed to be included in the Joint Status Report, please do not hesitate to contact me.

Very truly yours,

LEWIS, D'AMATO, BRISBOIS & BISGAARD

Michael C. Olson

MCO: dcw
Enclosure

cc: David Ring, Esq.
Bates Number 143 was removed by the Plaintiffs at the request of the Franciscans.
Plaintiff, [redacted] ("responding party") hereby makes the following responses to Respondent's First Set of Interrogatories.
These responses are made solely for the purpose of this action. Each response is subject to all appropriate objections (including but not limited to objections concerning competency, relevancy, materiality, propriety and admissibility) which would require the exclusion of any statement contained herein if the interrogatory was asked of, or any statements contained herein if the answer was given by a witness present an testifying in Court. All such objections and grounds are reserved and may be interposed at such later time.

This responding party has not completed their investigation of the facts relating to this action, has not yet completed discovery, and has not completed preparation for trial. Consequently, the following responses are given without prejudice to the responding party's right to produce all evidence, whenever discovered, relating to proof of subsequently discovered material facts.

Except for the explicit facts admitted herein, no admissions of any nature whatsoever are implied or should be inferred. The fact that an interrogatory herein has been answered should not be taken as an admission or acceptance of the existence of any facts set forth or assumed by such interrogatory, or that such answer constitutes admissible evidence.

INTERROGATORY QUESTIONS AND RESPONSES

INTERROGATORY NO. 1:
State your name, address, date of birth and social security number.

RESPONSE NO. 1:

[Redacted]
INTERROGATORY NO. 2:

State the name and address of each and every counselor, social worker, psychiatrist and/or psychologist you have seen since the age of ten (10).

RESPONSE NO. 2:

1. David McSpaden, Ph.D.
   126 Shaul Avenue
   Ottumwa, Louisiana 52501

2. Sharon Thompson, M.A., M.F.C.C.
   2600 East Nutwood, Suite 205
   Fullerton, CA 92631

INTERROGATORY NO. 3:

State the name, address, area of expertise and substance of expected testimony from each and every expert you may or will call at the time of trial.

RESPONSE NO. 3:

1. Sharon Thompson, M.A., M.F.C.C. (714)239-3085
   2600 East Nutwood, Suite 205
   Fullerton, CA 92631

   - Psychotherapist: will testify on the issue of spiritual damages, i.e.: loss of trust and faith in men who have been sexually abused by priests.

2. Dr. Veronica Thomas (714)730-7090
   17562 Irvine Blvd. Suite 12
   Tustin, CA 92680

   - Psychotherapist: will testify on the issue of general damages.

INTERROGATORY NO. 4:

State the name, address, and phone number of each and every person who has knowledge or information regarding the allegations contained in plaintiff's complaint.
INTERROGATORY NO. 5:
State each and every fact upon which the plaintiff relies in support of its contention that defendants FRANCISCAN FRIARS OF CALIFORNIA, INC. knew or should have known of the claimed molestations of plaintiff prior to June of 1983.

RESPONSE NO. 5:
Gary Pacheco admitted having molested me in a phone conversation in February 1993, and I reasonably believe that he had confessed his sin to others associated with the Friars.
Gary Pacheco has another victim of whom I am aware. I reasonably believe that he did not isolate his sexual abuse to two boys. I believe that his abusive activities were covered up by the Friars.

INTERROGATORY NO. 6:
State all facts upon which you rely in support of the
allegations contained in paragraph 77 of your complaint that
Father Pacheco was neither qualified nor able to be a trustworthy
and responsible child care custodian.

RESPONSE NO. 6:

Gary Pacheco sexually molested me and another child while he
was associated with the Friars.

INTERROGATORY NO. 7:

For each alleged wrongful act committed by Father Gary
Pacheco, state the date and conduct of Father Pacheco which you
alleged to be wrongful.

RESPONSE NO. 7:

I cannot recall specific dates of the abuse. I was sexually
abused by Gary Pacheco while he was associated with St. Simon &
Jude Parish in the Diocese of Orange.

The conduct consisted of him placing my hands on his penis
and sticky fluid was present, having me rub his upper body while
alone at my home.

INTERROGATORY NO. 8:

For each alleged wrongful act committed by Father Gary
Pacheco, state the address or place where the alleged wrongful act
occurred.

RESPONSE NO. 8:

1. [Redacted]

2. On tour for the All American Boys Chorus.

INTERROGATORY NO. 9:

If plaintiff discussed the alleged wrongful acts by Father
Pacheco with any employee, agent, servant of the FRANCISCAN FRIARS OF CALIFORNIA, INC., state the date of each such conversation and person from FRANCISCAN FRIARS OF CALIFORNIA with whom the conversation was had by plaintiff.

RESPONSE NO. 9:

1. Called Father Gary Pacheco on February 7, 1993 at 9:30 p.m.

INTERROGATORY NO. 10:

State all facts upon which you rely in support of your contention contained in paragraph 50 of the complaint that the defendant is a "child care custodian" pursuant to California Penal Code Section 11164 et seq.

RESPONSE NO. 10:

Objection: Calls for a legal conclusion. Without waiving said objection, I am informed and believe that priests are teachers and instructors and therefore are child care custodians.

INTERROGATORY NO. 11:

State all facts upon which you rely in support of your contention that FRANCISCAN FRIARS OF CALIFORNIA, INC. knew or should have known prior to June of 1983, that Father Richard T. Coughlin had sexually molested plaintiff or committed any of the wrongful acts which are the subject matter of plaintiff's complaint.

RESPONSE NO. 11:

I have no specific facts at this time. I do not know, at this time, what was communicated to the Friars, by the Diocese of Orange and/or the AABC of notice given to them about Fr.
Coughlin's inappropriate sexual contact with choir members.

INTERROGATORY NO. 12:
If you respond (sic) to Defendant's First Set of Request for Admission, served concurrently herewith, is other than an unconditional admission for each response, please state all facts upon which you rely in support thereof.

RESPONSE NO. 12:
Request No. 1: See my response to Special Interrogatory No. 5.
Request No. 2: I was sexually abused by Gary Pacheco while he was employed by the Friars. The Friars implicitly represented that Gary Pacheco was a devout, religious man, while he was not. The Friars took no steps to assure that Gary Pacheco was safe around young boys, and that he did not have deviant sexual desires towards young boys.
Request No. 3: The Friars had a duty to protect me from Gary Pacheco since they represented that he was a devout man of God. He was not morally trained on the appropriate conduct between a priest and a young boy.
Request No. 4: This calls for a legal analysis

INTERROGATORY NO. 13:
Identify by name, address, and phone number each and every physician, outpatient clinic, hospital or other medical care provider who has provided professional service to plaintiff since the age of 10.

RESPONSE NO. 13:
1. Moberly Regional Medical Center
   1515 Union Avenue, Moberly, Missouri 65270
   (816) 263-8400
2. Saint Joseph's Hospital  
   523 North Third Street, Brainerd, Minnesota 56401  
   (218) 829-2861

3. FHP  
   9920 Talbert Avenue, Fountain Valley, CA 92708  
   (714) 962-4677

4. Fountain Valley Hospital  
   17100 Euclid Avenue, Fountain Valley, CA  
   (714) 962-7200

DATED: May 13, 1994  

BLUM & ROSEMAN, ESQ.

MARK E. ROSEMAN, ESQ.  
Attorney for Plaintiff

rsrog.pld
PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, MARY CODISPOTI, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 1851 E. First Street, Suite 850, Santa Ana, California 92705.

On May 3, 1994 I served the foregoing PLAINTIFF'S RESPONSE TO RESPONSE TO SPECIAL INTERROGATORIES, SET ONE on the interested parties in this action by mail a true copy thereof, enclosed in a sealed envelope, addressed as follows:

(SEE ATTACHED MAILING LIST)

(X) BY MAIL: I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of that party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

( ) BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the offices of the addressee.

( ) STATE: I declare under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

(X) FEDERAL: I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 13, 1994, at Santa Ana, California.

Mary Codispoti

MARY CODISPOTI
ATTACHED MAILING LIST

JEFFREY R. ANDERSON, ESQ.
REINHARDT AND ANDERSON
332 Minnesota Street
St. Paul, Minnesota 55101

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Attorneys for: FRANCISCAN PRIARS OF CALIFORNIA

JOHN P. McNICHOLAS, ESQ.
McNICHOLAS & McNICHOLAS
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Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES, A CORPORATION SOLE

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Attorney for: GARY PACHECO

MICHAEL D. MCÉVOY, ESQ.
MURCHISON & CUMMING
200 W. Santa Ana Blvd. #801
Santa Ana, CA 92701

Attorney for: AABC

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MARK E. ROSEMAN, ESQ., Bar #82723
LAW OFFICES OF BLUM & ROSEMAN, APC
1851 East First Street, Suite 850
Santa Ana, California 92705
(714) 547-8801

ATTORNEY FOR PLAINTIFF:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NO.

Plaintiff,

vs.

FR. RICHARD T. COUGHLIN,
BOYS CHOIR SCHOOL OF
ORANGE COUNTY, a.k.a.
ALL-AMERICAN BOY'S CHORUS,
DIOCESE OF ORANGE EDUCATION
AND WELFARE CORPORATION, aka
ROMAN CATHOLIC BISHOP OF
ORANGE aka ROMAN CATHOLIC
DIOCESE OF ORANGE, ROMAN
CATHOLIC ARCHBISHOP OF
LOS ANGELES, FR. GARY PACHECO,
and FRANCISCAN FRIARS OF
CALIFORNIA, INC.

Defendants

PROPPONDING PARTY: Defendants, FRANCISCAN FRIARS OF CALIFORNIA,
INC.
RESPONDING PARTY: Plaintiff,

SET NO.: One

Pursuant to the Code of Civil Procedure, Plaintiff, hereby responds to Defendant, FRANCISCAN FRIARS OF CALIFORNIA, INC. request for production of documents:

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\|

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RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Any and all documents upon which plaintiff relies in support of count five (5) of plaintiff's complaint for violation of statute.

RESPONSE NO. 1:

I have no documents

REQUEST FOR PRODUCTION NO. 2:

Any and all documents upon which plaintiff relies in support of count eight (8) of its complaint for negligent supervision.

RESPONSE NO. 2:

I have no documents

REQUEST FOR PRODUCTION NO. 3:

If plaintiff responds to defendants' first set of request for admissions served concurrently herewith, is other than an unconditional denial, then any and all documents which evidence or relates to facts upon which plaintiff relies in support of its answer to the request for admissions.

RESPONSE NO. 3:

I have no documents

REQUEST FOR PRODUCTION NO. 4:

Any and all statements taken from any witnesses with knowledge or information relevant to the claims alleged in plaintiff's complaint.

RESPONSE NO. 4:

A copy of December 21, 1993, taped interview is enclosed.

REQUEST FOR PRODUCTION NO. 5:
Copies of any and all social workers', counselling, psychiatric, or psychological records regarding the plaintiff.

RESPONSE NO. 5:
I have no records

REQUEST FOR PRODUCTION NO. 6:
Copies of any and all correspondence, memos, reports, or other written documentation prepared by any of the defendants in this matter which are in plaintiff's possession.

RESPONSE NO. 6:
Copy of January 29, 1993, letter is attached

REQUEST FOR PRODUCTION NO. 7:
Copies of any and all letters, memos, reports, or other written documents prepared by plaintiff and sent to any of the defendants in this matter.

RESPONSE NO. 7:
I have no documents

REQUEST FOR PRODUCTION NO. 8:
Copies of any and all diaries, journals or written logs prepared by the plaintiff.

RESPONSE NO. 8:
I have none

REQUEST FOR PRODUCTION NO. 9:
Copies of any and all newsletters, minutes of meetings, handouts, brochures, or other written material received from S.N.A.P. or any other organization of sexually abused persons.
RESPONSE NO. 9:

I have none

DATED: May 13, 1994

BLUM & ROSEMAN, APC

MARK E. ROSEMAN, ESQ.
Attorney for Plaintiff

rdpd.pld
PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, MARY CODISPORTI, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 1851 E. First Street, Suite 850, Santa Ana, California 92705.

On May 13, 1994 I served the foregoing PLAINTIFF’S RESPONSE TO RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE on the interested parties in this action by mail a true copy thereof, enclosed in a sealed envelope, addressed as follows:

(SEE ATTACHED MAILING LIST)

(X) BY MAIL: I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

I am "readily familiar" with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of that party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

( ) BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the offices of the addressee.

( ) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(X) FEDERAL: I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 13, 1994, at Santa Ana, California.

MARY CODISPORTI

OFM PACH 1
0158
ATTACHED MAILING LIST

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REINHARDT AND ANDERSON
332 Minnesota Street
St. Paul, Minnesota  55101

Attorneys for: PLAINTIFF

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650 Town Center Drive, #1400
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Attorneys for: FRANCISCAN PRIORS OF CALIFORNIA

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McNICHOLAS & McNICHOLAS
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Los Angeles, CA  90024

Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES,
A CORPORATION SOLE

LYNNE BROWNING GOODWIN, ESQ.
CALLAHAN, MCCUNE & WILLIS
402 West Broadway #800
San Diego, CA  92101

Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF ORANGE, A
CORPORATION SOLE

JOHN NELSON, ESQ.
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888 N. Main St. Suite 400
Santa Ana, CA  92701-3518

Attorney for: GARY PACHECO

MICHAEL D. McEVOY, ESQ.
MURCHISON & CUMMING
200 W. Santa Ana Blvd., #801
Santa Ana, CA  92701

Attorney for: AABC

OFM PACH 1
0159
January 29, 1993

Board of Directors
All American Boys Chorus
Post Office Box 1527
Costa Mesa, California 92628

Dear Board Members,

As you know, since December 1, 1992, the Diocese of Orange has been investigating certain allegations of sexual impropriety between Father Richard Coughlin and a former member of the All American Boys Chorus. From the beginning of our investigation, Father Coughlin has been on "administrative leave" and the permission given to him by the Diocese to work with the Chorus was suspended.

The Diocese of Orange has now concluded its investigation. I have been in touch with five adult males (ages 23-45) all of whom have made allegations of sexual impropriety by Father Coughlin with them. The most recent incident reported occurred ten years ago; the most distant was thirty years ago.

Father Coughlin has denied these allegations to Bishop McFarland; he states that he has no recollection of any of them and is really crushed by them being reported. Father Coughlin's reactions were after I gave a detailed account of these allegations to him as they were reported to me.

Nevertheless, because of the serious nature and scope of the allegations, the judgment of the Diocese of Orange is that Father Coughlin will no longer be allowed to function publicly as a priest, and the former permission granted him to engage in the non-Church related work of the All American Boys Chorus has been permanently withdrawn.

A good number of letters have been sent by current parents and members of the Chorus to the Diocese; they all have stated their fondest desire that Father Coughlin return to the Chorus. We request that the parents be informed by you of your resolution of their concerns, in light of the decision by the Bishop in whatever manner you deem appropriate.

Further, we hope that you will do what you think proper in contacting past members of the Chorus to see if there are similar concerns that have not been raised with either the Chorus or the Diocese of Orange.
Finally, please let me hear from you as to any financial consideration or plans you have for Father Coughlin in his retirement. This information will help him to assess his needs and any further planning that must be done.

I am certain you understand the gravity of this entire situation, and that you will respond accordingly.

Thank you for your assistance during the past two months in this difficult matter. I look forward to hearing from you.

Sincerely yours in Christ,

[Signature]

Reverend Monsignor John Urell
Chancellor/Moderator of the Curia

To:
Mr. Daniel W. Holden
Diocesan Attorney

Sgt. Mike Millington
Cost Mesa Police Department
PROPPUNNG PARTY: Defendants, FRANCISCAN FRIARS OF CALIFORNIA, INC.

RESPONDING PARTY: Plaintiff

SET NO.: One

Pursuant to the Code of Civil Procedure, Plaintiff hereby responds to Defendant, FRANCISCAN FRIARS OF CALIFORNIA, INC. request for admissions:

\\
\\

OFM PACH 1
0162
RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST NO. 1:
Prior to June of 1983, the FRANCISCAN FRIARS OF CALIFORNIA, INC. was not aware that any of the wrongful acts which are the subject matter of Plaintiff's complaint had occurred.

RESPONSE NO. 1:
Deny, on information and belief.

REQUEST NO. 2:
That FRANCISCAN FRIARS OF CALIFORNIA, INC. did not negligently supervise Father Gary Pacheco.

RESPONSE NO. 2:
Deny

REQUEST NO. 3:
That FRANCISCAN FRIARS OF CALIFORNIA, INC. was not negligent in training Father Gary Pacheco.

RESPONSE NO. 3:
Deny, on information and belief

REQUEST NO. 4:
That California Penal Code Section 11164 et seq. does not apply to the defendant FRANCISCAN FRIARS OF CALIFORNIA, INC.

RESPONSE NO. 4:
Objection: calls for a legal conclusion

DATED: May 2, 1994

MARK E. ROSEMAN, ESQ.
Attorney for Plaintiff

rrfa.pld
PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, MARY CODISPOTI, am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 1851 E. First Street, Suite 850, Santa Ana, California 92705.

On May 13, 1994 I served the foregoing PLAINTIFF'S RESPONSE TO REQUEST FOR ADMISSIONS, SET ONE on the interested parties in this action by mail a true copy thereof, enclosed in a sealed envelope, addressed as follows:

(SEE ATTACHED MAILING LIST)

(X) BY MAIL: I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of that party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

( ) BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the office of the addressee.

( ) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(X) FEDERAL: I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 13, 1994, at Santa Ana, California.

MARY CODISPOTI

C:\CLIENTS\388\PAC1.POS

OFM PACH 1
0164
ATTACHED MAILING LIST

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Attorney for: GARY PACHECO

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200 W. Santa Ana Blvd., #801
Santa Ana, CA 92701
Attorney for: AABC

OFC PACH 1
0165
June 28, 1994

Werner R. Meissner
Attorney at Law
831 West Ninth Street
San Pedro, California 90731

Dear Mr. Meissner,

Following our meeting in my office yesterday with you and your client, I wanted to give you the name of the person or you will want to contact with reference to the allegations of sexual molestation by (Rev.) Gary Pacheco, OFM.

As I had told you, Gary Pacheco is no longer serving as a priest. This was as a result of an allegation made to this office, followed by his being placed on administrative leave immediately, and then returned to the Franciscan Community for their decisions in his regard.

The current Provincial of the Franciscan community for this area is:

[Blurred text]

Provincial
Franciscan Friars
1500 Thirty-Fourth Avenue
Oakland, California 94601
(415) 536-3722

Should I wish to pursue his allegations regarding Gary Pacheco with the Franciscans, [blurred text] would be the appropriate religious superior to contact.

Sincerely yours in Christ,

Rev. Msgr. John Urell
Chancellor / Moderator of the Curia

OFM PACH 1
0166
Bates Numbers 167-185 were removed by the Plaintiffs at the request of the Franciscans.
The Demurrer and Motion to Strike of defendant, THE
FRANCISCAN FRIARS OF CALIFORNIA, INC., came on regularly for
hearing on July 3, 1997. The court having considered the
arguments in support of and in opposition to the Demurrer and
Motion to Strike, and good cause appearing therefor,

The general Demurrer of defendant Franciscan Friars to
the entire First Amended Complaint is sustained with leave to
amend to allege facts taking the case within the one-year statute

///

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0186
of limitations of California Code of Civil Procedure Section 340(3).

Defendant’s general Demurrer to the Third though Sixth Causes of Action are sustained with leave to amend to plead facts showing defendant Pacheco was acting within the course and scope of his employment for defendant Franciscan Friars when the alleged acts occurred.

Defendant’s Demurrer to the Sixth Cause of Action based on C.C.P. 1714.10 is overruled as no cause of action is asserted against defendant’s attorney.

Defendant’s Motion to Strike Request for Punitive Damages is GRANTED pursuant to C.C.P. Section 425.14. Plaintiff shall have ten (10) days leave to amend.

Defendant shall have ten (10) days thereafter to file a responsive pleading. Notice of this Order is deemed to be given as of the date of the hearing.


By Honorable Sandra-Margulies-Judge of the Superior Court
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Case No: ____________________________

SECOND AMENDED COMPLAINT FOR DAMAGES

Plaintiff,

vs.

GARY PACHECO, an individual,
FRANCISCAN FRIARS OF
CALIFORNIA, INCORPORATED, a
California corporation, and
DOES 2-100, 102-200,
inclusive,

Defendants.

1. Plaintiff is ignorant of the true names and capacities of
Defendants sued herein as DOES 2 through 100 and 102-200,
inclusive and therefore sues these defendants by such fictitious
names. Plaintiff will amend the Complaint to allege their true
names and capacities when ascertained. Each of the fictitiously
named Defendants is legally responsible in some manner for the
occurrences herein alleged and Plaintiff's damages, as herein
alleged, are proximately caused by said-Defendants.

2. Plaintiff is informed and believes and thereon alleges
that at all times herein mentioned defendant Franciscan FRIARS of California, Inc. (hereinafter “FRIARS”), is, and at all relevant times was, a California corporation with its principal place of business in Alameda County, California.

3. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned defendant GARY PACHECO was an individual and a California resident.

4. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants DOES 2 through 50 were and are public benefit or religious corporations operating in the State of California with their principal places of business in Alameda County, California. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 2 through 50, and that Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 2 through 50. Said activities included, but were not limited to, employing administrators, priests, counselors, and others to provide care and supervision for the physical, spiritual and emotional needs of certain persons including the Plaintiff herein.

5. At all times herein mentioned DOES 56 to 100, and each of them, were the agents and employees of Defendants DOES 2 through 55, and each of them, and Defendants DOES 56 through 100, and each of them, were the agents and employees of defendant FRIARS and DOES 2 through 55, and each of them, and, at all times mentioned herein, all of said DOES were acting within the course and scope of their agency and employment, and with the authorization,
permission, consent, and ratification of their co-Defendants.

6. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, defendant PACHECO was a Roman Catholic priest employed by and under the supervision and control of defendant FRIARS and DOES 2 through 100, and each of them.

7. At all relevant times mentioned herein, Plaintiff was a Catholic parishioner or former Catholic and for much of this time Plaintiff was under the supervision and control of defendants FRIARS, PACHECO and DOES 2 through 100, so that Defendants were in a special relationship with Plaintiff.

8. On or about 1980, Defendant PACHECO, while employed and conducting himself as a member of the FRIARS, arranged for and participated in, a trip to Disneyland on which he took Plaintiff, then a minor, and, during said trip, sexually abused and molested Plaintiff. Thereafter, defendant PACHECO further molested Plaintiff in Plaintiff's parent's home and in motels over approximately a 2 year period.

9. During the time of the molesting and for many years afterwards, PACHECO continued to function as a PRIAR in his interaction with Plaintiff and Plaintiff's family, and in virtue of his position as a PRIAR PACHECO gained access to Plaintiff in Plaintiff's home, even in Plaintiff's bedroom, and on overnight trips. The alleged sexual abuse was accomplished, in part, because PACHECO was operating within the course and scope of his employment as a PRIAR, his access to Plaintiff in Plaintiff's home and elsewhere depended on PACHECO's identity as a PRIAR and on his association with the PRIARS, and the opportunity afforded to PACHECO to accomplish the sexual abuse came about solely
because of his position as a PRIAR. Further, the position PACHECO held as a PRIAR during all times herein alleged, served to aggravate the impact of the molests by imparting an aura of acceptance, authority and approval to the acts of sexual abuse from the continued and repeated presence of PACHECO as a PRIAR in Plaintiff’s company. Thereafter, the PRIARS have failed and refused to acknowledge to Plaintiff concern for Plaintiff’s injuries arising from the sexual abuse of one of their members and the PRIARS have instead controlled, confined and internalized the knowledge gained in approximately 1988 and before, that PACHECO molested Plaintiff and others in his position as a PRIAR. In so doing, the PRIARS have continuously, repeatedly and unremittingly, up to the present time, injured Plaintiff.

Plaintiff did not discover that psychological injuries he suffered as a result of said molestations were caused by the abuse and inaction to assist Plaintiff by defendants until on or about January 27, 1995, when he began therapy.

FIRST CAUSE OF ACTION
(NEGLIGENCE RETENTION AND RATIFICATION)
(AGAINST PRIARS)

13. Plaintiff incorporates the allegations of Paragraphs 1 through 12 herein as though set forth in their entirety herein.
14. Following the events referred to herein, PRIARS and DOES 2 through 100, and each of them, knew, or in the exercise of reasonable care should have known that defendant PACHECO was incompetent and unfit to be retained as a member of the PRIARS and that permitting defendant PACHECO to remain in such a position...
would aggravate injuries caused by PACHECO to Plaintiff.

15. Plaintiff is informed and believes that actual and
constructive knowledge was obtained by FRIARS and DOES 2 through
100 from these Defendants' observations of PACHECO's conduct and
from other sources so that defendant FRIARS should have known that
defendant PACHECO had molested Plaintiff and other minors and
otherwise abused his position of authority and trust as a
representative and member of the FRIARS.

16. At all times herein mentioned, defendant FRIARS and DOES
2 through 100 negligently and carelessly retained defendant
PACHECO to perform duties as a priest, and negligently and
carelessly failed to take steps to deprive him of his position of
trust and authority and otherwise as a member of the FRIARS so as
to prevent the explicit and tacit ratification of defendant
PACHECO's molestation of Plaintiff.

17. As a direct and proximate result of the negligence of
said Defendants, and each of them, Plaintiff's injuries arising
out of the molestations by defendant PACHECO were aggravated.

18. As a direct and proximate result of the negligence of
Defendants, and each of them, Plaintiff was thereafter injured in
his health, strength, and activity, sustaining injury to his
nervous system and person, all of which injuries have caused, and
will continue to cause, Plaintiff great physical, mental, and
nervous pain and suffering.

19. As a further direct and proximate result of the
negligence of Defendants, and each of them, Plaintiff was required
to and did incur and will in the future incur medical and
incidental expenses for treatment of his injuries.
20. As a further direct and proximate result of the negligence of Defendants, and each of them, Plaintiff has been prevented from attending to his usual occupation and has lost, and will continue to lose, earnings and his future earning capacity has been greatly impaired.

SECOND CAUSE OF ACTION

(NEGLIGENCE)
AGAINST PACHECO

21. Plaintiff incorporates the allegations of Paragraphs 1 through 17 herein as though set forth in their entirety herein.

22. At all times mentioned herein, defendant PACHECO, by reason of his position of authority and trust over Plaintiff, and by reason of his greater physical ability and knowledge, and by reason of his undertaking to supervise, care for, and protect Plaintiff, had a duty to care for and prevent harm to Plaintiff in his care, which reasonably included a duty not to abuse the minor Plaintiff herein.

23. At all times mentioned herein, defendant PACHECO, so negligently and carelessly supervised Plaintiff and placed himself in a position of authority and trust over Plaintiff, and allowed himself to be in his presence without other adult supervision, so that he was unable to control his abusive conduct, and at said times and places, defendant PACHECO negligently and carelessly, physically and mentally, abused Plaintiff, as alleged herein.

24. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered the injuries and damages as alleged herein.

/////
THIRD CAUSE OF ACTION
(NEGLIGENCE FAILURE TO ACT)
AGAINST FRIARS)

25. Plaintiff incorporates the allegations of Paragraphs 1 through herein as though set forth in their entirety herein.

26. Defendant FRIARS and DOES 2 through 100 in their role as religious institutions and under their stated and implicit authoritarian role as spiritual leaders, moral authorities and educators had a duty toward Plaintiff following the molestations by PACHECO and FRIARS' knowledge of these molestations to provide Plaintiff with assistance by way of formal apology, counseling, therapy and other supportive services to enable Plaintiff to cope with his various injuries arising out of the molestations.

27. Defendant FRIARS and DOES 2 through 100, breached their above described duties by failing and refusing to provide Plaintiff with any of the above-described support and to otherwise make amends to Plaintiff for the wrongdoing of defendant PACHECO.

28. As a direct and proximate result of the breach of this duty, Plaintiff has suffered damages as described herein and further according to proof at time of trial.

FOURTH CAUSE OF ACTION
(NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS)
AGAINST ALL DEFENDANTS)

29. Plaintiff incorporates the allegations of Paragraphs 1 through herein as though set forth in their entirety herein.

30. As alleged herein, Defendants and each of them, did so unlawfully touch, sexually molest and abuse Plaintiff as alleged herein or by their inaction and, ratification of the abuse caused Plaintiff to suffer severe and extreme emotional and mental
31. At all times herein mentioned, Defendants, and each of them, knew, or should have known, of the acts of sexual molestation by defendant PACHECO and knew, or should have known, that their failure to exercise reasonable conduct and due care in their carrying out of their duties to Plaintiff following the abuse would cause severe mental anguish, emotional and physical distress and profound shock to Plaintiff's nervous system.

32. As a further and direct legal and proximate cause of said wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer severe mental anguish, emotional and physical stress, resulting in the injuries and damages set forth herein.

FIFTH CAUSE OF ACTION

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS) (AGAINST FRIARS)

33. Plaintiff incorporates the allegations of Paragraphs 1 through 32 herein as though set forth in their entirety herein.

34. Defendant FRIARS knew or should have been aware at some time following the abuse by defendant PACHECO that such abuse had taken place. Despite this knowledge, defendant FRIARS intentionally, recklessly and with wanton disregard for the well-being of Plaintiff failed and refused to apologize to Plaintiff and to offer him any therapy or counseling or to take any other actions to assist him in rebuilding his damaged emotional and psychological state which they knew, or should have known, had been devastated by the abuse perpetrated by defendant PACHECO.

35. The conduct of Defendants was done with a wanton and
reckless disregard of the consequences to Plaintiff and was done
with knowledge that it was highly probable that Plaintiff would
suffer severe mental anguish, emotional and physical distress,
humiliation and embarrassment.

36. As a direct and proximate result of the aforementioned
acts, Plaintiff suffered, and will continue to suffer, severe
humiliation, embarrassment, mental anguish and emotional and
physical distress and further he has been injured in mind and body
and has suffered the injuries and damages as alleged herein.

37. The conduct of defendant FRIARS constituted malice and
oppression in that defendant FRIARS knew that Plaintiff was
vulnerable following the abuse and knew that it was highly likely
that serious harm would result to Plaintiff, but nonetheless acted
in a despicable, wilful, deliberate and conscious disregard of the
rights and well-being of Plaintiff.

SIXTH CAUSE OF ACTION

(CIVIL CONSPIRACY)
AGAINST FRIARS

38. Plaintiff incorporates the allegations of Paragraphs 1
through 22 herein as though set forth in their entirety herein.

39. Beginning in the 1980's and up to the present, defendant
FRIARS and DOES 2-100, and each of them, knowingly and wilfully
conspired and agreed among themselves to avoid public disclosure
of and to take responsibility for the sexual molestations
committed by their fellow member, defendant PACHECO, and FRIARS
avoided and continue to avoid extending apologies and assistance
to Plaintiff or Plaintiff's family when they knew Plaintiff and
his family had asserted defendant PACHECO's sexual abuse of
Plaintiff while PACHECO was a member of the FRIARS.

40. Defendant FRIARS conspired to avoid any affirmative actions to mitigate the damages caused by defendant PACHECO even though defendant FRIARS had received multiple accusations from various parents about defendant PACHECO's abuse of young men and despite the fact that defendant FRIARS were themselves conducting an on-going investigation of defendant PACHECO's sexual transgressions and despite the fact that in or about 1988, defendant FRIARS rejected PACHECO from their Order.

41. In so doing, defendant FRIARS aggravated injuries and aided and abetted the sexual abuse perpetrated on Plaintiff.

42. Defendant FRIARS did the acts and things herein alleged pursuant to and in furtherance of their conspiracy.

43. Defendant FRIARS furthered the conspiracy by cooperating to avoid the above-described affirmative actions and in this and other ways ratified and adopted the acts of defendant PACHECO.

44. Plaintiff is informed and believes and thereon alleges that the last overt act and pursuant to the above-described conspiracy occurred on or about August 1996, on which date Plaintiff met with the attorney for the FRIARS, in an attempt to gain a response to this claim against the FRIARS. Said attorney informed Plaintiff that he would contact Plaintiff with the FRIARS response. Attorney has never made contact with plaintiff's attorney, nor has he responded to Plaintiff's several calls in an attempt to get a response back from the FRIARS. By this specific failure to respond, and by the FRIARS consistent failure to
1 affirmatively respond over many years up to the present, the
2 FRIARS continue to act in furtherance of the conspiracy of silence
3 and aggravation of the tortious sexual abuse of Plaintiff.

45. As a proximate result of the wrongful acts as herein
5 alleged, Plaintiff has incurred general damages according to proof
6 at time of trial.

46. Further, Plaintiff has incurred special damages for
8 psychological counseling in an amount according to proof at time
9 of trial.

47. In doing the things as herein alleged, defendant FRIARS
11 acted wilfully and with the intent to cause injury to Plaintiff.
12 Defendant FRIARS are therefore guilty of malice and oppression in
13 conscious disregard of Plaintiff’s rights.

(SEVENTH CAUSE OF ACTION)

(ASSAULT AND BATTERY)
(AGAINST PACHECO)

48. Plaintiff incorporates the allegations of Paragraphs 1
through 2 herein as though set forth in their entirety herein.

49. Defendant PACHECO unlawfully assaulted and battered
Plaintiff by engaging in sexual related conduct with Plaintiff as
alleged herein.

50. By reason of the aforementioned wrongful acts, Plaintiff
was placed in great fear of his life and physical well-being.

51. As a direct and proximate result of the aforementioned
acts and the fright caused thereby, Plaintiff suffered the
injuries and damages as alleged herein.

52. The conduct of defendant PACHECO constituted malice and
oppression in that Defendant knew that Plaintiff was vulnerable.

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0198
and unable to protect himself and knew that it was highly likely that serious harm would result, but in a despicable, wilful and conscious disregard of the rights and safety of Plaintiff and his family, Defendant deliberately engaged in the conduct alleged herein. Plaintiff therefore seeks exemplary and punitive damages from defendant PACHECO.

WHEREFORE, Plaintiff prays for damages as follows:

1. For general damages in an amount within the jurisdiction of the Superior Court;
2. For special damages for medical, incidental, and loss of earnings, according to proof;
3. For punitive damages against defendant PACHECO only;
4. For costs of suit herein; and
5. For such other and further relief as the Court may deem proper.

DATED: July 9, 1997

ABBEY, WEITZENBERG, KELLY, NADLER, HOFFMAN & EMERY

Wayne B. Wolski
Attorneys for Plaintiff
PROOF OF SERVICE

I declare that:

I am employed in the County of Sonoma, California. I am over the age of eighteen years and not a party to the within cause; my business address is 1105 North Dutton Avenue, P. O. Box 1566, Santa Rosa, CA 95402.

On July 9, 1997, I served the attached: SECOND AMENDED COMPLAINT FOR DAMAGES on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Nicholas W. Heldt, Esq.
Sedgwick, Detert, Moran & Arnold
One Embarcadero Center, Sixteenth Floor
San Francisco, CA 94111-3765

__(BY MAIL)__ I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at Santa Rosa, CA, following ordinary business practices. I am readily familiar with the practice of Abbey, Weitzenberg, Kelly, Nadler, Hoffman & Emery for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

__(BY PERSONAL SERVICE)__ I caused each such envelope to be delivered by hand to the addressee(s) noted above.

__(BY FACSIMILE)__ I caused the said document to be transmitted by Facsimile machine to the number indicated after the address(es) noted above.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on July 9, 1997, at Santa Rosa, California.

[Signature]

MARSHA WALDNER

OFM PACH 1
Bates Numbers 201-209 were removed by the Plaintiffs at the request of the Franciscans.
November 15, 1994

Lynne Browning Goodwin, Esq.
CALLAHAN, MCCUNE & WILLIS
402 W. Broadway, #800
San Diego, CA 92101

Re: [Redacted] vs. Coughlin
Our File No: 21155-026

Dear Ms. Goodwin:

Enclosed herewith please find a settlement draft in the amount of $ [redacted] and MARK ROSEMAN. You are not authorized to deliver this draft to Mr. Roseman until after we have received a signed Release Agreement and a Stipulation and Order for Dismissal.

If you have any questions regarding our position, please do not hesitate to contact me.

Very truly yours,

LEWIS, D'AMATO, BRISBOIS & BISGAARD

Michael C. Olson

Enclosure
MCO: ct
cc: Mark Roseman, Esq.
bcc: Sheryl Bandy
A/C Privilege - Attorney Work Product
A/C Privilege - Attorney Work Product

OFM PACH 1
0214
A/C Privilege - Attorney Work Product
October 17, 1994

Franciscan Friars of California, Inc.
1500 34th Street
Oakland, California 94601

RE: [Redacted] vs. ROMAN CATHOLIC BISHOP OF ORANGE, et al.

Dear Gentlepeople:

Service of Summons and Complaint is being made pursuant to a new method enacted by the State Legislature pursuant to the Constitution. It is, in part, designed to prevent the embarrassment that comes from being served by a process server.

Please sign the "Acknowledgment of Service" and return it to us in the enclosed, self-addressed, return envelope. You should then take the papers and give them to your insurance company, agent or lawyer. He will know what to do with them.

You lose no rights by signing and returning the acknowledgment. You simply avoid the expense of service which you are otherwise obligated to pay. (See copy of the law attached.)

If there are any questions, please feel free to call our office.

Very truly yours,

LAW OFFICES OF
THEODORE S. WENTWORTH

By

NANCY M. KNIGHT

NMK:skb
Enclosure

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CALIFORNIA CODE OF CIVIL PROCEDURE

415.30  [Service by mail; Articles mailed; Form of Notice; When service complete; Liability for expense or failure to return acknowledgment; Approved form].

(a) A summons may be served by mail as provided in this section. A copy of the summons and of the complaint shall be mailed (by first class mail or airmail, postage prepaid) to the person to be served, together with two copies of the notice and acknowledgment provided in subdivision (b) and a return envelope, postage prepaid, addressed to the sender.

(b) [This sub-section of the Code simply specified the form of the Standard California Court Summons].

(c) Service of summons pursuant to the section is deemed complete on the date a written acknowledgment of receipt of summons is executed, if such acknowledgment thereafter is returned to sender.

(d) If the person to whom a copy of the summons and of the complaint are mailed pursuant to this section fails to complete and return the acknowledgment form set forth in subdivision (b) within twenty (20) days from the date of such mailing, the party to whom the summons was mailed shall be liable for reasonable expenses thereafter incurred in serving or attempting to serve the party by another method permitted by this chapter, and, except for good cause shown, the court in which the action is pending, upon motion, with or without notice, shall award the party such expenses whether or not he is otherwise entitled to recover his costs in the action.

(e) A notice of acknowledgment of receipt in form approved by the Judicial Counsel is deemed to comply with this section [Added by Stats. 1969, Section 3, operative July 1, 1970].

415.60  [Service outside state; When complete].

A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by any form of airmail requiring a return receipt. Service of a summons by this form if mail is deemed complete on the 10th day after such mailing. [Added by Stats. 1969, Section 3, operative July 1, 1970].
NAME AND ADDRESS OF SENDER
Nancy M. Knight, Esq. 714-752-7711
LAW OFFICES OF THEODORE S. WENTWORTH
2112 Business Center Drive, Suite 220
Irvine, California 92715

TELEPHONE NO.:
For Court Use Only

NAME AND ADDRESS OF RECIPIENT

ORANGE COUNTY SUPERIOR COURT
700 Civic Center Drive West
Santa Ana, California 92701

Insed same of court, judicial district or branch court, if any, and Post Office and Street Address.

NOTICE AND ACKNOWLEDGMENT OF RECEIPT

Case Number

TO: Agent for Service for: Franciscan Friars of California, Inc.
(Inset name of individual being served)

This summons and other document(s) indicated below are being served pursuant to Section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it to me within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons and other document(s) are deemed served on the date you sign the Acknowledgment of Receipt below, if you return this form to me.

Dated: October 17, 1994

NANCY M. KNIGHT

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of: (To be completed by sender before mailing)

1. [ ] A copy of the summons and of the complaint.
2. [ ] A copy of the summons and of the Petition (Marriage) and:
   [ ] Blank Confidential Counseling Statement (Marriage)
   [ ] Order to Show Cause (Marriage)
   [ ] Blank Responsive Declaration
   [ ] Blank Financial Declaration
   [X] Other: (Specify) Second Amended Summons and Second Amended Complaint; Notice to Attorneys; Ex Parte Policies & Procedures

(To be completed by recipient)

Date of receipt:

Date this form is signed:

(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)

(Type or print your name and name of entity, if any on whose behalf this form is signed)
NOTICE TO ATTORNEYS

Under procedures now in place, your case has been assigned to a judge-for-all-purposes, and will receive special handling from the date of its assignment to the date of its disposition. This assignment will facilitate the court's ability to manage the case and will assure its timely disposition.

The court determines that for the purposes of exercising C.C.P. 170.6 rights there are two sides in this matter unless, by noticed motion filed in Dept. 1 prior to the expiration of time in which to exercise said rights, a party asserts there are more than two sides.

All documents filed subsequent to this assignment must include the name and department of the judge under the case number (OCSCR 435).

Except as otherwise directed by the Orange County Superior Court Rules/Policies, all pleadings, with the exception of Law & Motion, should be filed at the Civil filing counters.

Law & Motion moving papers should be filed at the Civil Calendar Control counter; subsequent documents, including documents for cases assigned to the outer courts, should also be filed at Civil Calendar Control.

TO SCHEDULE A NOTICED MOTION, PLEASE REFER TO THE INFORMATION ON THE BACK SIDE OF THIS MEMO.

To arrange for consideration of an ex-parte matter, you must call the clerk of the department to which your case was assigned at the following number:

SITTING AT CENTRAL COURT (700 CIVIC CENTER DRIVE WEST, SANTA ANA, CA 92701)

<table>
<thead>
<tr>
<th>Dept 6/Stock</th>
<th>Dept 7/Brickner</th>
<th>Dept 17/Brickner</th>
<th>Dept 18/Brickner</th>
<th>Dept 25/Goldstein</th>
<th>Dept 26/Choate</th>
<th>Dept 27/Choate</th>
</tr>
</thead>
<tbody>
<tr>
<td>834-4656</td>
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<td>834-4506</td>
<td>834-5532</td>
<td>834-5532</td>
</tr>
<tr>
<td>Dept 8/Horn</td>
<td>Dept 19/Wilkinson</td>
<td>Dept 19/Wilkinson</td>
<td>Dept 20/McDonald</td>
<td>Dept 26/Choate</td>
<td>Dept 27/Choate</td>
<td>Dept 28/Mandell</td>
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<td>834-2273</td>
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<tr>
<td>Dept 10/Myers</td>
<td>Dept 20/McDonald</td>
<td>Dept 20/McDonald</td>
<td>Dept 21/Engebretsen/</td>
<td>Dept 28/Mandell</td>
<td>Dept 30/Smallwood</td>
<td>Dept 31/Rylaarsdam</td>
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<tr>
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<tr>
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<td>Dept 21/Engebretsen/</td>
<td>Dept 21/Engebretsen/</td>
<td>Dept 22/Firmat</td>
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<tr>
<td>Dept 13/Thrasher</td>
<td>Franklin</td>
<td>Dept 23/Bauer</td>
<td>Dept 33/Thomas</td>
<td>Dept 33/Thomas</td>
<td>Dept 34/Smith</td>
<td>Dept 35/Thomas</td>
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<tr>
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<td>Dept 24/Pal</td>
<td>Dept 24/Pal</td>
<td>Dept 25/Goldstein</td>
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<td>Dept 28/Mandel</td>
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<td>Dept 29/Metcalf</td>
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Dept 61/Polis* 569-2318 sitting at 909 N. Main Street, Santa Ana

SITTING AT WEST MUNICIPAL COURT (8141 13TH STREET, WESTMINSTER, CA 92685)

<table>
<thead>
<tr>
<th>Dept 71/Knox</th>
<th>Dept 72/Cox</th>
<th>Dept 73/Cox</th>
<th>Dept 74/Cox</th>
<th>Dept 75/Cox</th>
<th>Dept 76/Cox</th>
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<td>896-7377</td>
<td>896-7388</td>
<td>896-7399</td>
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<td>896-7402</td>
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</table>

SITTING AT NORTH MUNICIPAL COURT (1275 N. BERKELEY, FULLERTON, CA 92635)

<table>
<thead>
<tr>
<th>Dept 80/Ross</th>
<th>Dept 81/Ross</th>
<th>Dept 82/Alfano</th>
<th>Dept 83/Alfano</th>
<th>Dept 84/Alfano</th>
<th>Dept 85/Alfano</th>
<th>Dept 86/Alfano</th>
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SITTING AT HARBOR MUNICIPAL COURT (4601 JAMBOREE ROAD, NEWPORT BEACH, CA 92660)

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<thead>
<tr>
<th>Dept 91/Schenk</th>
<th>Dept 92/Luesebrink</th>
<th>Dept 93/Weeks</th>
<th>Dept 94/Weeks</th>
<th>Dept 95/Weeks</th>
<th>Dept 96/Weeks</th>
<th>Dept 97/Weeks</th>
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</tbody>
</table>

srudich/forms/notices/ccm assignment
ec/7-25-94

OFS PACH 1
0222
ORANGE COUNTY SUPERIOR COURT

NOTICE TO ATTORNEYS

In order to improve service to the legal community the Court will continue to have the parties set motions on any day the assigned court has a law and motion calendar subject to statutory service. After setting the hearing date, submit your moving papers with appropriate filing fees to Civil Calendar Control no. later than 15 calendar days prior to the hearing. See Rule 520 B(1) Orange County Superior Court Rules. The matter will be calendared upon receipt of your documents. The Law and Motion schedule for each court is as follows:

<table>
<thead>
<tr>
<th>Dept.</th>
<th>Judge/ Commissioner</th>
<th>Day</th>
<th>Time</th>
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<tbody>
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<td>6</td>
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<tr>
<td>8</td>
<td>Horn</td>
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<td>2:00 pm</td>
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<tr>
<td>9</td>
<td>Keough</td>
<td>Tues &amp; Thurs</td>
<td>9:30 am</td>
</tr>
<tr>
<td>10</td>
<td>Myers</td>
<td>Wednesday</td>
<td>9:00 am</td>
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<td>11</td>
<td>Jameson</td>
<td>Tuesday</td>
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<tr>
<td>13</td>
<td>Thrasher</td>
<td>Thursday</td>
<td>11:00 am</td>
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<tr>
<td>14</td>
<td>Frazee</td>
<td>Tuesday</td>
<td>1:30 pm</td>
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<tr>
<td>15</td>
<td>Watson</td>
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<td>1:30 pm</td>
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<tr>
<td>16</td>
<td>Poole</td>
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<tr>
<td>17</td>
<td>Brickner</td>
<td>Friday</td>
<td>3:00 pm</td>
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<tr>
<td>19</td>
<td>Wilkinson</td>
<td>Wednesday</td>
<td>1:30 pm</td>
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<tr>
<td>20</td>
<td>McDonald</td>
<td>Friday</td>
<td>1:30 pm</td>
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<tr>
<td>21</td>
<td>Engebretsen/Franklin</td>
<td>Friday</td>
<td>1:30 pm</td>
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<tr>
<td>22</td>
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<td>Thursday</td>
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<td>24</td>
<td>Palk</td>
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<tr>
<td>25</td>
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<td>Friday</td>
<td>1:30 pm</td>
</tr>
<tr>
<td>26</td>
<td>Choate</td>
<td>Thursday</td>
<td>1:30 pm</td>
</tr>
<tr>
<td>28</td>
<td>Mandel</td>
<td>Wednesday</td>
<td>1:30 pm</td>
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<tr>
<td>30</td>
<td>Smallwood</td>
<td>Tuesday</td>
<td>2:00 pm</td>
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<tr>
<td>31</td>
<td>Rylaarsdam</td>
<td>Even # Tues/Odd # Thurs</td>
<td>2:30 pm</td>
</tr>
<tr>
<td>32</td>
<td>Siegel</td>
<td>Tuesday</td>
<td>11:00 am</td>
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<tr>
<td>33</td>
<td>Thomas</td>
<td>Wednesday</td>
<td>1:30 pm</td>
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<tr>
<td>61</td>
<td>Polis</td>
<td>Friday</td>
<td>1:30 pm</td>
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<tr>
<td>71</td>
<td>Knox</td>
<td>Tuesday</td>
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<tr>
<td>72</td>
<td>Cox</td>
<td>Thursday</td>
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<td>Alfano</td>
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<td>Schenk</td>
<td>Monday</td>
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<td>Friday</td>
<td>2:00 pm</td>
</tr>
<tr>
<td>93</td>
<td>Weeks</td>
<td>Friday</td>
<td>1:30 pm</td>
</tr>
</tbody>
</table>

For cases which have not been assigned to a Judge or Commissioner for all purposes, please call 834-3766 to schedule a hearing date.

/motionlist
cp/9-20-94

OPM PACH 1

0223
EX PARTE
POLICIES AND PROCEDURES

1. Ex parte applications will be heard Monday through Thursday at 1:30 P.M. The local rules of court and policies apply except as modified herein.

2. Moving party shall give the Court telephonic reservation of the ex parte application 24 hours prior to the hearing.

3. Ex parte application shall be filed in Department 61 at the time of hearing.

4. The moving party shall submit on the moving papers unless the Court invites oral argument.

5. No court reporter will be present unless invited by the Court.

6. Ex parte matters shall not interfere with or delay the trial in progress in Department 61. Counsel may have to wait.

7. Effective 8/2/93 a $14.00 fee will be required for all ex parte hearings with an additional $14.00 fee for all subsequent noticed motions.

Special Note

Judge Polis has a special procedure of FAXING his tentative rulings for his Friday calendars (Law and Motion, Evaluation Conference and Post Arbitration Review Hearings -- No appearances are necessary at these hearings).

In order to expedite this procedure, when your case is assigned to his Court, and you do not object to this assignment, please FAX the Case Name, Case Number, Your Name and who you represent, as well as your office phone number and your FAX number. PLEASE be sure to include your area code.

The FAX number for Department 61 is (714) 569-2199.
SUMMONS  
(CITACION JUDICIAL)  
(ON SECOND AMENDED COMPLAINT)  

NOTICE TO DEFENDANT:  
(Aviso a Acusado)  
ROMAN CATHOLIC BISHOP OF ORANGE; A CORPORATION  
SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL  
FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA  
INCORPORATED; SAINTS SIMON AND JUDE CATHOLIC  
CHURCH; FATHER MICHAEL HARRIS; FATHER GARY PACHECO;  
MATER DEI HIGH SCHOOL; and DOES 1 through 200,  
Inclusive,  
YOU ARE BEING SUED BY PLAINTIFF:  
(A Ud. le está demandando)  

You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.  

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.  

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.  

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).  

The name and address of the court is:  
(SUPREME COURT OF CALIFORNIA, COUNTY OF ORANGE  
700 Civic Center Drive West  
P.O. Box 838  
Santa Ana, CA 92708-0838)  

The name, address, and telephone number of plaintiff’s attorney, or plaintiff without an attorney, is:  
(LAW OFFICES OF THEODORE S. WENTWORTH  
2112 Business Center Drive, Suite 220  
 Irvine, California 92715  
714-752-7711)  

You are served  
1. as an individual defendant.  
2. as the person sued under the fictitious name of (specify):  
3. on behalf of (specify):  
   under:  
      CCP 416.10 (corporation)  
      CCP 416.20 (defunct corporation)  
      CCP 416.40 (association or partnership)  
      other:  
4. by personal delivery on (date):  

MARILYN DAVIS  
OFM PACH 1  
0225
SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

Plaintiff,

vs.

Defendants.

CASE NO.:

ASSIGNED FOR ALL PURPOSES:
Judge: Robert J. Polis
Dept.: 61

SECOND AMENDED COMPLAINT FOR PERSONAL INJURIES AND DAMAGES

1. NEGLIGENCE
2. NEGLIGENCE PER SE
3. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
4. ASSAULT AND BATTERY
5. FALSE IMPRISONMENT
6. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
7. FRAUD
8. NEGLIGENT MISREPRESENTATION
9. STATUTORY VIOLATIONS

OFM PACH 1
0226
COMES NOW plaintiff, [redacted] who hereby alleges against defendants, and each of them, as follows:

FOR A FIRST, SEPARATE AND DISTINCT CAUSE OF ACTION FOR NEGLIGENCE AGAINST ALL DEFENDANTS AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

1. Plaintiff, [redacted] is, and, at all times mentioned herein, was a resident of the County of Orange, State of California.

2. Plaintiff is informed and believes, and thereon alleges, that defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; SAINTS SIMON AND JUDE CATHOLIC CHURCH; MATER DEI HIGH SCHOOL; and DOES 51 through 150, inclusive, and each of them, are, and at all times mentioned herein were, corporations, partnerships, joint venturers or other business entities, non-profit organizations, associations or church organizations, units, divisions, branches, religious organizations, catholic schools or subsidiaries thereof, having their principal place of business in the County of Orange and the County of Alameda, State of California. The majority of the intentional, negligent and careless acts and occurrences, as alleged herein, as against said defendants, giving rise to the causes of action herein, occurred at or about the premises commonly known as MATER DEI HIGH SCHOOL, located at 1202 West Edinger, in the city of Santa Ana, County of Orange, State of California, and the premises commonly known as SAINTS SIMON AND JUDE CATHOLIC CHURCH, located at or about 2044 Magnolia Street, in the City of Huntington Beach, and the home of FATHER MICHAEL HARRIS, located at
or about 210 Batavia Drive, in the City of Orange, and/or some
other locations within the County of Orange and elsewhere.

3. Plaintiff is ignorant of the true names and
capacities of defendants sued herein as DOES 1 through 200,
inclusive, and each of them, and, therefore, sues said defendants
by said fictitious names. Plaintiff will amend this Complaint to
allege their true names and capacities when ascertained. Plaintiff
is informed and believes, and thereon alleges, that each said
fictitiously named defendant is negligently, carelessly,
intentionally, or otherwise, responsible in some manner for his
injuries as alleged herein, and that the injuries and damages
sustained by plaintiff as more particularly set forth herein were
directly and proximately caused by said wrongful conduct.

4. All defendants, and each of them, at all times
mentioned herein, were the principals, agents, employers,
employees, co-employees, supervisors, servants, co-servants,
partners, associates, joint venturers, co-participants, co-
conspirators, aiders and abettors, principals and/or
representatives of each of their co-defendants and, in doing the
things herein described, were acting within the course and scope of
such relationships and each such act or omission was with the
authority, permission, consent, knowledge and/or ratification of
each said co-defendant, who are thereby vicariously, and otherwise,
responsible for same.

5. Plaintiff is informed and believes, and thereon
alleges, that at all times mentioned herein, that defendants,
FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50,
inclusive, and each of them, were Priests, Pastors, Bishops,
Archbishops, Principals, Administrators, Teachers and/or other church authorities at MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 51 through 100, inclusive, and each of them, which were branches of, or otherwise affiliated with, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, ROMAN CATHOLIC DIOCESE OF ORANGE, PROVINCIAL FRANCISCAN FRIARS, FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, and DOES 100 through 200, inclusive, and each of them, and performed sermons; instructed students, disciplined students, oversaw and managed the youth groups, altar boys, and house boys, oversaw students' Christian education, acted as guidance counselors and performed various other duties at said schools and other locations, all within the course and scope of their authority and/or employment with said schools, with the knowledge, and permission, consent, authority and/or ratification of each of their employers, principals and/or superiors.

6. Plaintiff is informed and believes, and thereon alleges, that defendants, ROMAN CATHOLIC BISHOP OF ORANGE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 1 through 200, inclusive, and each of them, were the owners, operators, licensors, licensees, lessors, lessees, principals, employers, employees, overseers, or otherwise in control and supervision of the premises commonly known as MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 51 through 100, as well as all church, religious, educational and other activities, events, and occurrences at said locations.

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7. From approximately, but not limited to, 1978 up through and including, but not limited to, approximately 1983, defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, negligently, carelessly, willfully, intentionally, maliciously, wantonly, and otherwise under the cloak of their authority, confidence, trust, faith supervisory, hierarchical, and otherwise special relationship with plaintiff, committed acts of sexual abuse, molestation, and other wrongful acts upon plaintiff in violation of California Penal Code, Sections 285, 266(j), 286, 288(a)(b) and (c), and 289(H)(I) and (J), 311.1, 311.3 and 647.6, as well as other laws of the State of California proscribing said conduct, and continued to perform said acts and conduct, causing plaintiff to suffer great physical, mental and emotional injury as more particularly set forth and alleged herein.

8. At all times material herein, plaintiff was a student at MATER DEI HIGH SCHOOL and parishioner at SAINTS SIMON AND JUDE CATHOLIC CHURCH, and a member of the Catholic Church, as governed and operated by defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, and DOES 100 through 150, inclusive, and each of them. Because both his mother and father were dead, plaintiff's stepmother particularly requested defendants, and each of them, to comfort, solace, guide, and direct plaintiff in his adolescence. As a student, parishioner and church member, all defendants, and each of them, had acquired a special relationship to plaintiff as a member of the church, and student at the school, receiving
special education, guidance, discipline and training in the Catholic religion. All defendants, and each of them, were in a position to educate, advise, discipline, supervise, protect and control plaintiff. All defendants, and each of them, had a duty to protect, keep safe from harm, care for, supervise, warn, and advise plaintiff in a reasonably prudent manner, as well as a duty not to violate his civil rights and trust by performing, or allowing to be performed, any illegal, immoral or sexual acts against him including, but not limited to, acts of sexual abuse. All defendants, and each of them, had a further duty reasonably to supervise, investigate, monitor, report, warn, ascertain, uncover and terminate any such wrongful and illegal acts and activities involving plaintiff, such as those set forth and alleged herein.

9. At all times material herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; FATHER MICHAEL HARRIS; FATHER GARY PACHECO; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 50 through 150, inclusive, and each of them, had a duty diligently, reasonably and carefully to hire, engage, retain, associate, supervise, employ, train, investigate, reprimand, treat, refer, counsel, discharge report, warn, and otherwise be responsible for, priests, teachers, principals, administrators and other church authorities as they performed their functions within the church and church school, including their duties as priest, teacher, administrator and principal at MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 51 through 100, and each of them, particularly as it pertains to
contact with students and members of the parish, congregation and
public, such as plaintiff herein.

10. At all times material herein, defendants, ROMAN
CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC
DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS
OF CALIFORNIA, INCORPORATED; FATHER MICHAEL HARRIS; FATHER GARY
PACHECO; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC
CHURCH; and DOES 1 through 200, inclusive, and each of them,
negligently, carelessly, willfully, intentionally, and otherwise,
under the cloak of their authority, disciplinary position,
confidence, trust, faith and special relationship with plaintiff,
and with the knowledge and notice of said priests, principals,
teachers, administrators, adults and church authorities wrongful
conduct, propensities and illegal and harmful acts as alleged
herein, did so willfully, and intentionally cause, aid and abet,
advise, encourage, allow, assist, arrange, conspire and act in
concert, through their activities, inaction, silence and
agreements, among other actions, violate California Penal Code,
Sections 285, 266(j), 286, 288(a)(b) and (c) and 289(H)(I) and (J)\n311.1, 311.3 and 647.6, as well as other laws of the State of
California.

11. At all times material herein, all defendants, and
each of them, negligently, carelessly, willfully, intentionally,
and otherwise wrongfully, carried out their respective
aforementioned duties to plaintiff, their betrayal causing serious
injuries and damages to plaintiff as more particularly set forth
and alleged herein.

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12. At all times material herein, all defendants, and each of them, negligently, carelessly, willfully, intentionally or otherwise wrongfully, cared for, taught, advised, disciplined, chaperoned, supervised, treated, protected, educated, trained and otherwise controlled plaintiff, so that plaintiff’s person was violated as a result of illegal and immoral acts including, but not limited to, sexual abuse being performed on him by defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO and DOES 1 through 50, inclusive, and each of them, so as to cause serious and permanent physical, mental and emotional injuries to plaintiff as more particularly set forth and alleged herein.

13. At all times material herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 50 through 200, inclusive, and each of them, negligently, willfully, intentionally, and carelessly hired, engaged, retained, associated, supervised, employed, trained, investigated, reprimanded, treated, referred, counselled, invited to their home, discharged and were otherwise responsible for priests and other church authorities, such as defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, and retained said priests, principals, vice principals, teachers, administrators and other church figures, despite the fact that they and actual and/or constructive notice of said priests’, principals’, vice principals’, teachers’, administrators’ and church authorities’ wrongful conduct, propensities, and the resulting attendant reasonably foreseeable
injury to persons lawfully situated such as plaintiff herein by the acts and activities of defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of their activities and acts as more particularly set forth and alleged herein.

14. At all times material herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 51 through 200, inclusive, and each of them, knew, or should have known, that defendants, FATHER MICHAEL HARRIS; FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, were suffering from mental, emotional and/or physical injury, disability, or other illness, whereby it was, or should have been, foreseeable that he/they was/were engaging, or would engage in, in immoral, illegal and unprivileged acts and activities, including, but not limited to, acts of sexual abuse, with plaintiff, under the cloak of his/their authorities, confidence and trust, bestowed upon him/them by, and through, the church. Despite such knowledge and duty to investigate, control, counsel, advise, reprimand, discharge, report, warn, and take other appropriate actions with respect to defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, all defendants, and each of them, negligently and carelessly failed to take any appropriate action to protect and insure the safety of persons lawfully situated such as plaintiff herein including, but not limited to, reporting said defendants to the proper authorities, warning plaintiff and other members of the
public or persons affiliated or associated with the congregation
and student bodies of defendants, FATHER MICHAEL HARRIS, FATHER
GARY PACHECO, and DOES 1 through 50, inclusive, and each of their
dangerous and illegal propensities, or undertake any other
appropriate action such as, but not limited to, removing
defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1
through 50, inclusive, and each of their dangerous and illegal
propensities, or undertake any other appropriate action such as,
but not limited to, removing defendants, FATHER MICHAEL HARRIS,
FATHER GARY PACHECO, and DOES 1 through 50, and each of them, from
their positions of authority and from contact with minors, which
would have prevented the acts alleged herein from being committed
upon plaintiff, which resulted in serious injury and damages as
more particularly set forth and alleged herein.

15. As a further direct, legal and proximate result of
said negligence, carelessness, betrayal of trust, and other
wrongful conduct of said defendants, and each of them, plaintiff
continued to be so injured and damaged and was not afforded the
opportunity to obtain rehabilitation, counselling and other
appropriate treatment for his physical, mental, emotional, and
other injuries, within a reasonable time after defendants' wrongful
conducts, acts, actions and omissions against him, thereby causing
further injuries and damages to him as more particularly set forth
and alleged herein.

16. As a further direct, legal and proximate result of
the nature of defendants' and each of their wrongful conduct and
activities, and of the illnesses, injuries and damages sustained as
alleged herein by plaintiff, said wrongful conduct of said
defendants, and each of them, was reasonably psychologically repressed by plaintiff, thereby causing him to forget and suppress from his memory such injuries, illnesses and wrongful conduct including, but not limited to, acts of sexual abuse and molestation and other physical, emotional, mental and related abuse and injury as more specially alleged herein. Plaintiff did not reasonably discover, and reasonably could not have discovered, that his mental, emotional and psychological injuries, illnesses and damages, occurring after the age of majority were caused by said wrongful conduct of defendants, and each of them, including, but not limited to, the aforementioned sexual abuse and molestation occurring during his minority, as well as any other injuries and illnesses alleged herein, until approximately April 17, 1992, at which time said knowledge first began to surface and continues to present to surface to plaintiff, DAVID PRICE.

17. As a direct, legal and proximate result of said conduct of defendants, and their betrayal of plaintiff's trust and confidence, and each of them, plaintiff sustained personal injuries which have caused, and will continue to cause, permanent physical, emotional and mental pain, discomfort, disability and suffering, all to his general damage in an amount believed to be in excess of the minimum jurisdiction of this court, according to proof.

18. As a further, direct, legal and proximate result of said wrongful acts of defendants, and each of them, plaintiff was required to, and did, expend money and incur obligations for medical, psychiatric, psychological and other health care services, hospitalization, medicine and medical supplies, therapy, rehabilitation, and other services, and will in the future be
compelled to incur additional obligations for same. Plaintiff does not know the reasonable value of said obligations at this time, but prays that same may be inserted herein when ascertained or upon proof thereof.

19. As a further direct, legal and proximate result of defendants', and each of their wrongful conduct, plaintiff has been deprived of earnings and earning capacity, and will in the future be so deprived. Plaintiff does not know the reasonable value of same at this time, but prays that same be inserted herein when ascertained or upon proof thereof.

20. On or around September 15, 1994, the Court issued an Order in accordance with California Code of Civil Procedure, Section 340.1, that there is reasonable and meritorious cause for the filing of the within Second Amended Complaint naming the defendants herein.

FOR A SECOND, SEPARATE AND DISTINCT CAUSE OF ACTION FOR NEGLIGENCE PER SE AGAINST DEFENDANTS, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, AND DOES 1 THROUGH 50, AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

21. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First Cause of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

22. As alleged herein defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, committed acts of sexual abuse, molestation, and other wrongful acts in violation of California Penal Code Sections 285, 266(f), 286, 288(a)(b) and (c), and 289 (H)(I) and (J), 311.1, 311.3, and 647.6, as well as other laws of the State of California
prosecuting such conduct, causing plaintiff to suffer great
physical, mental and emotional injury as more particularly set
forth and alleged herein.

23. The violation of statutes of the State of California
by defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES
1 through 50, inclusive, and each of them, the fact that said
violations of law proximately caused physical and emotional
injuries to the plaintiff and the injury resulted from the
occurrence of sexual abuse, molestation and other wrongful acts
which said statutes were designed to prevent, and the fact that
plaintiff was one of the class of persons for whose protection the
statutes were adopted, create the presumption of negligence on the
part of defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO,
DOES 1 through 50, inclusive, and each of them.

FOR A THIRD, SEPARATE AND DISTINCT CAUSE OF
ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS AGAINST ALL DEFENDANTS, AND EACH OF
THEM, PLAINTIFF ALLEGES AS FOLLOWS:

24. Plaintiff hereby refers to, repeats, and realleges
each and every paragraph contained in the First and Second Cause of
Action, and each and every allegation contained therein, and
incorporates same by this reference, as though fully set forth at
this point.

25. As alleged herein, defendants, FATHER MICHAEL
HARRIS, FATHER GARY PACHECO and DOES 1 through 50, inclusive, and
each of them, did so unlawfully touch, sexually molest and abuse
plaintiff as alleged herein, and otherwise betraying, abusing and
causing physical and mental abuse as alleged herein thereby causing

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plaintiff to suffer severe and extreme emotional and mental distress.

26. At all times relevant herein, as alleged herein, defendants, and each of them, knew, or should have known, of the aforementioned acts of sexual molestation and abuse of plaintiff by defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO and DOS 1 through 50, inclusive, and each of them, or otherwise knew, or should have known, that their failure to exercise reasonable conduct and due care in the carrying out of their duties to plaintiff, as aforesaid and alleged herein, and that acting so negligently, carelessly and otherwise wrongfully, would cause severe mental anguish, emotional and physical distress and profound shock to plaintiff's nervous system.

27. As a further and direct, legal and proximate result of said wrongful acts of defendants, and each of them, as specifically alleged herein, plaintiff has suffered, and continues to suffer, severe mental anguish, emotional and physical distress, and profound shock to his nervous system, resulting in the injuries and damages set forth herein.

FOR A FOURTH, SEPARATE AND DISTINCT CAUSE OF ACTION FOR ASSAULT AND BATTERY AGAINST ALL DEFENDANTS AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

28. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First, Second and Third Causes of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

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29. Defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO and DOES 1 through 50, inclusive, and each of them, intimidated, betrayed, deceived, or otherwise wrongfully communicated or conveyed to plaintiff that said defendants, and each of them, would touch and perform immoral and illegal acts upon plaintiff including, but not limited to, acts of sexual molestation and sexual abuse, with the intent and ability of carrying out said acts. Because of his youth and inexperience and his trust of defendants, and each of them, plaintiff was incapable of resisting such immoral and illegal acts or acts of recognizing the immoral and illegal character of such acts.

30. Defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, then proceeded without legal consent unlawfully to touch, sexually molest and abuse plaintiff, and otherwise physically and mentally abuse and cause serious injury and harm to plaintiff as alleged herein, and thereafter continued to do so, causing plaintiff to suffer great physical and emotional injury, as more particularly set forth herein.

31. Plaintiff is informed and believes and thereon alleged, that at all relevant times herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; SAINTS SIMON AND JUDE CATHOLIC CHURCH; MATER DEI HIGH SCHOOL; and DOES 51 through 200, inclusive, and each of them, and the defendants' agents herein knew, or should have known, the herein above alleged acts of assault and battery, including, but not limited to, sexual molestation and abuse.
committed on plaintiff, \[\text{redacted} \] and the intent and/or of the
propensity of defendants, FATHER MICHAEL HARRIS, FATHER GARY
PACHECO and DOES 1 through 50, inclusive, and each of them, to
commit the acts of sexual molestation and sexual abuse against
plaintiff including, but not limited to, those acts alleged herein,
and that they were not qualified, competent nor capable of being a
child care custodian, thereby creating an undue risk of harm to
children similarly situated as plaintiff herein, which was, or
should have been reasonably foreseeable to all defendants, and each
of them, particularly since they had, or should have had, specific
knowledge that defendants, FATHER MICHAEL HARRIS, FATHER GARY
PACHECO, and DOES 1 through 50, inclusive, and each of them, were
sexually molesting and abusing other similarly situated children.
Yet, with full knowledge of those acts and in a conscious disregard
for the rights of plaintiff, said defendants permitted, adopted,
ratified and otherwise approved those acts which were committed in
the course and scope of defendants, FATHER MICHAEL HARRIS’, FATHER
GARY PACHECO’s and DOES 1 through 50, inclusive, and each of them, 
and each of their agents herein. In addition, defendants, ROMAN
CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC
DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS
OF CALIFORNIA, INCORPORATED; SAINTS SIMON AND JUDE CATHOLIC CHURCH;
MATER DEI HIGH SCHOOL; and DOES 51 through 200, inclusive, and each
of them, and their agents, had no reliable, significant or
meaningful policy or practice and otherwise failed and/or refused
properly to investigate and report complaints about the conduct of
the clergy or take appropriate action to protect the well-being of
its members, parishioners, students and others, including

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plaintiff. Thereafter, defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, continued to perpetuate and perform the despicable and outrageous acts including, but not limited to, acts of sexual molestation and abuse and other wrongful acts upon plaintiff. As a result thereof, said defendants, and each of them, did cause and continue to cause plaintiff to suffer severe mental, emotional and physical damages and injuries as more particularly set forth and alleged herein.

32. The aforementioned acts and conduct of said defendants, and each of them, constituted unprovoked conduct which was willful, wanton, malicious, oppressive and beyond all reasonable bounds of decency and conscious disregard for the physical and emotional health, safety and well-being of plaintiff.

33. By reason of said wrongful acts of defendants, and each them, plaintiff has suffered extreme and severe mental anguish, emotional distress, physical pain, and has been injured and damaged as more particularly set forth herein.

34. Said wrongful conduct of defendants, and each of them, was intended to cause injury and damages to plaintiff, or alternatively, was despicable and unconscionable conduct carried out with a willful, wanton, and conscious disregard for the rights, health, safety and well-being of plaintiff, subjecting plaintiff to cruel and unjust hardship, humiliation, severe mental anguish, severe emotional distress and suffering and was so vile, base, contemptible, miserable, wretched and loathsome that it would be looked down upon and despised so as to cause injuries and damages of the kind justifying an award of exemplary and punitive damages.
Pursuant to the provisions of California Code of Civil Procedure, Section 425.14, plaintiff will seek leave of Court in the future in order to amend this Complaint to include a prayer for punitive damages against the religious corporations, religious corporations sole, their units, divisions, branches, employees or subsidiaries thereof, named herein.

FOR A FIFTH, SEPARATE AND DISTINCT CAUSE OF ACTION FOR FALSE IMPRISONMENT AGAINST ALL DEFENDANTS, AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

35. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First, Second, Third and Fourth Causes of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

36. In carrying out the wrongful conduct alleged herein of said defendants, and each of them, said defendants forcibly, against plaintiff's will, and without legal consent, kept plaintiff in said defendants' presence and caused plaintiff to remain in defendants' presence until said defendants has completed their unlawful acts including, but not limited to, acts of sexual molestation and sexual abuse upon plaintiff.

37. Immediately prior to said wrongful acts of said defendants, and each of them, plaintiff had been peacefully attending school or church, performing church duties, and otherwise acting lawfully at MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH and DOES 51 through 200, inclusive, and each of them, and at all other locations wherein said wrongful acts and conduct of defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO,
and DOES 1 through 50, and each of them, occurred throughout the time period referred to herein.

38. The aforementioned acts of said defendants, and each of them, constituted unprovoked conduct which was willful, wanton, malicious, oppressive, beyond all reasonable bounds of decency and conscious disregard for the physical and emotional health, safety and well-being of plaintiff.

39. Said wrongful conduct of defendants, and each of them, and their betrayal of plaintiff’s trust and confidence, and that of his stepmother, was intended to cause injury and damages to plaintiff or alternatively, were despicable and unconscionable conduct carried out with a willful, wanton and conscious disregard of the rights, health, safety and well-being of plaintiff, subjecting plaintiff to cruel and unjust hardship, humiliation, severe mental anguish, severe emotional distress and suffering, and was so vile, base, contemptible, miserable, wretched and loathsome that it would be looked down upon and despised so as to cause injuries and damages of the kind justifying an award of exemplary and punitive damages. Pursuant to the provisions of California Code of Civil Procedure, Section 425.14, plaintiff will, at the appropriate time, seek leave of Court in the future in order to amend this Complaint to include a prayer for punitive damages against the religious corporations, religious corporations sole, their units, divisions, branches or subsidiaries thereof named herein.

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FOR A SIXTH, SEPARATE AND DISTINCT CAUSE OF
ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS AGAINST ALL DEFENDANTS, AND EACH OF
THEM, PLAINTIFF ALLEGES AS FOLLOWS:

40. Plaintiff hereby refers to, repeats, and realleges
each and every paragraph contained in the First, Second, Third,
Fourth and Fifth Causes of Action, and each and every allegation
contained therein, and incorporates same by this reference, as
though fully set forth at this point.

41. The betrayal of plaintiff's trust and confidence and
the wrongful acts and conduct of defendants, and each of them, as
alleged herein, was willful, intentional, malicious, wanton,
reckless and in conscious disregard for the well-being of
plaintiff's physical, emotional and mental state, and done for the
purposes of causing him to suffer humiliation, mental anguish,
emotional distress and suffering, and other physical injuries as
more particularly set forth herein.

42. Immediately prior to said wrongful acts of said
defendants, and each of them, plaintiff was peacefully visiting,
staying, attending and performing church duties, and otherwise,
acting lawfully at the MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE
CATHOLIC CHURCH, and DOES 52 through 200, inclusive, and each of
them, and at all other locations wherein said wrongful acts and
conducts of defendants, and each of them, occurred at all times
material herein.

43. As a further result of the aforementioned wrongful
acts of said defendants, and each of them, plaintiff, suffered, and continues to suffer, severe humiliation, mental
anguish, emotional distress and suffering, profound shock to his
nervous system, and was otherwise injured in his mind and body as more particularly stated and alleged herein.

44. The aforementioned acts of said defendants, and each of them, was intended to cause injury and damages to plaintiff or alternatively, amount to despicable and unconscionable conduct carried out with a willful, wanton and conscious disregard of the rights, health, safety and well-being of plaintiff, subjecting plaintiff to cruel and unjust hardship, humiliation, severe mental anguish, severe emotional distress and suffering, and other injuries and damages, and were so vile, base, contemptible, miserable, wretched and loathsome that it would be looked down upon and despised so as to cause injuries and damages of the kind justifying an award of exemplary and punitive damages. Pursuant to the provisions of California Code of Civil Procedure, Section 425.14, plaintiff will seek leave of Court in the future in order to amend this Complaint to include a prayer for punitive damages against the defendants named herein, which are religious corporations, religions corporations sole, their units, branches, or subsidiaries thereof.

FOR A SEVENTH, SEPARATE AND DISTINCT CAUSE OF ACTION FOR FRAUD AGAINST DEFENDANTS, AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

45. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First, Second, Third, Fourth, Fifth and Sixth Causes of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

46. At all times relevant herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC
DIocese of Orange; Provincial Franciscan Friars; Franciscan Friars of California, Incorporated, Mater Dei High School, Saints Simon and Jude Catholic Church; Father Michael Harris; Father Gary Pacheco; and Does 1 through 200, inclusive, and each of them, represented to plaintiff and his stepmother they were religious persons or religious establishments, where the plaintiff would be held safe from harm, protected against wrongful acts, and were further priests, pastors, bishops, archbishops, teachers and administrators and such other church authorities at Mater Dei High School and/or Saints Simon and Jude Catholic Church, and Does 51 through 100, inclusive, and each of them, which were branches of, or otherwise affiliated with defendants, Roman Catholic Bishop of Orange, Roman Catholic of Orange, Provincial Franciscan Friars, Franciscan Friars of California, Incorporated, and Does 100 through 200, inclusive, and that Father Harris and Father Pacheco, and Does 1 through 50, would protect plaintiff from any harm and provide him with education, emotional support, religious training, and support and protection while plaintiff was under their custody and control.

47. At all times relevant herein, defendants, and each of them, knew, or should have known, that said representations were false and that said defendants, and each of them, knowingly, intentionally and willfully made said representations in order to fraudulently induce plaintiff to rely upon said representations for the purposes of inducing plaintiff to accept defendants' educational, supervisory and hierarchal positions, and in confidence, faith and trust, either into a special relationship with defendants, and each of them, so that defendants, Father Michael Harris, Father Gary Pacheco, and Does 1 through 200, could
commit the acts of sexual abuse, molestation and other wrongful acts upon plaintiff as alleged herein.

48. At all times relevant herein, plaintiff was unaware of the falsity of these representations and relied upon the truth of said false representations by defendants, and each of them, that plaintiff would be free from harm and wrongful acts while a church member and/or a student, at defendants MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 51 through 150, and each of them, and while engaged in any other conduct or activity sanctioned, authorized and/or administered by defendants, and each of them, in the company of the defendants, FATHER MICHAEL HARRIS and FATHER GARY PACHECO.

49. As a direct, proximate and legal result of plaintiff's justifiable reliance upon the truth of these representations made by defendants, and each of them, as more specifically alleged herein, and the betrayal of his trust and confidence in defendants, and each of them, plaintiff has suffered, and continues to suffer, the economic, physical, mental and emotional illnesses, injuries and damages as alleged herein.

50. Said wrongful conduct of defendants, and each of them, was intended to cause injury and damages to plaintiff, or alternatively, was despicable and unconscionable conduct carried out with a willful, wanton, and conscious disregard for the rights, health, safety and well-being of plaintiff, subjecting plaintiff to cruel and unjust hardship, humiliation, severe mental anguish, severe emotional distress and suffering and was so vile, base, contemptible, miserable, wretched and loathsome that it would be looked down upon and despised so as to cause injuries and damages
of the kind justifying an award of exemplary and punitive damages. Pursuant to the provisions of California Code of Civil Procedure, Section 425.14, plaintiff will seek leave of Court in the future in order to amend this Complaint to include a prayer for punitive damages against the religious corporations, religious corporations sole, their units, divisions, branches, employees or subsidiaries thereof, named herein.

FOR AN EIGHTH, SEPARATE AND DISTINCT CAUSE OF ACTION, FOR NEGLIGENT MISREPRESENTATIONS AGAINST ALL DEFENDANTS AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

51. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First, Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

52. At all times relevant herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF ORANGE; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH; FATHER MICHAEL HARRIS; FATHER GARY PACHECO; and DOES 1 through 200, inclusive, and each of them, made continuing and repeated oral and written representations that they were a Catholic church, Catholic school, or otherwise religious establishment where plaintiff would be held safe from harm, protected against wrongful acts, by said school and church, as well as the priests, pastors, bishops, archbishops, teachers and such other church authorities at defendants MATER DEI HIGH SCHOOL and/or SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 51 through 100,
inclusive, and each of them, which were branches of, or otherwise affiliated with the defendants, ROMAN CATHOLIC BISHOP OF ORANGE, ROMAN CATHOLIC DIOCESE OF ORANGE, PROVINCIAL FRANCISCAN FRIARS, FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, and DOES 100 through 200, inclusive, and that FATHER MICHAEL HARRIS and FATHER GARY PACHECO, and DOES 1 through 200, inclusive, would protect plaintiff from any harm and/or wrongful conduct as alleged herein, and otherwise, and would provide plaintiff with education, guidance, emotional support, religious education and training.

53. At all times relevant herein, defendants, and each of them, made said representations without any reasonable ground for believing them to be true and with the purpose and intent of inducing plaintiff to rely upon said representation in order to coerce plaintiff to come under their hierarchal control and special relationship so that defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 200, inclusive, could commit the acts of sexual abuse, molestation, and other wrongful acts upon plaintiff as alleged herein.

54. At all times relevant herein, plaintiff was unaware of the falsity of these representations and justifiably relied upon the truth of the representations made by defendants and each of them.

55. As a direct, proximate and legal result of plaintiff's justifiable reliance upon the truth of these false representations made by defendants, and each of them, as more specifically alleged herein, plaintiff has suffered, and continues to suffer, the mental, physical, economic and emotional injuries and damages as set forth and alleged herein.
FOR A NINTH, SEPARATE AND DISTINCT CAUSE OF ACTION FOR STATUTORY VIOLATIONS AGAINST ALL DEFENDANTS, AND EACH OF THEM, PLAINTIFF ALLEGES AS FOLLOWS:

56. Plaintiff hereby refers to, repeats, and realleges each and every paragraph contained in the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action, and each and every allegation contained therein, and incorporates same by this reference, as though fully set forth at this point.

57. After the Child Abuse and Neglect Reporting Act took effect in 1980, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, ROMAN CATHOLIC DIOCESE OF ORANGE, PROVINCIAL FRANCISCAN FRIARS, FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, MATER DEI HIGH SCHOOL, SAINTS SIMON AND JUDE CATHOLIC CHURCH, and DOES 1 through 200, inclusive, and each of them, by and through their employees and agents, were "child care custodians" and were under a statutory duty to report known or suspected incidences of sexual molestation of minors to a Child Protective Agency, pursuant to the Child Abuse and Neglect Reporting Act, enunciated to California Penal Code, Section 1164, et seq.

58. At all times relevant herein, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, ROMAN CATHOLIC DIOCESE OF ORANGE, PROVINCIAL FRANCISCAN FRIARS, FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, and DOES 100 through 200, inclusive, and each of them, knew, or in the exercise of reasonable diligence, should have known that defendants, FATHER MICHAEL HARRIS and FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, had sexually molested, abused, or otherwise caused non-accidental touching, battery, harm and other injuries to a minor giving rise
to a duty to report such conduct under Section 11166 of the California Penal Code, and that an undue risk to children, such as plaintiff, existed because defendants ROMAN CATHOLIC BISHOP OF ORANGE, ROMAN CATHOLIC DIOCESE OF ORANGE, PROVINCIAL FRANCISCAN FRIARS, FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED, and DOES 100 through 200, inclusive, and each of them, even though they had been advised or otherwise knew or should have known of the wrongful acts of defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO and DOES 1 through 50, inclusive, and each of them, yet defendants, and each of them, did not comply with these mandatory reporting requirements.

59. At all times relevant herein, by failing to report the continuing molestation known by defendants, and each of them, at all times material herein, and ignoring the fulfillment of the mandated compliance with reporting requirements provided under California Penal Code, Section 11166, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF CALIFORNIA, INCORPORATED; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 1 through 200, inclusive, and each of them, created the risk and dangers contemplated by the Child Abuse and Neglect Reporting Act and as a result unreasonably and wrongfully exposed plaintiff, to the molestation as alleged herein, thereby breaching defendants' duty of care to him.

60. At all times relevant herein, plaintiff, was one of the class of persons for whose protection
California Penal Code, Section 11166, was specifically adopted to protect.

61. At all times relevant herein, had defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF CALIFORNIA, INCORPORATED; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 1 through 200, inclusive, and each of them, adequately performed their duties under Section 11166 of the California Penal Code, and reported the molestation of at all times material herein, plaintiff, to a child protective agency at all times material herein, it would have resulted in the involvement of trained child sexual abuse case workers for the purposes of preventing harm and further harm to plaintiff, and preventing and/or treating the injuries and damages suffered by plaintiff as alleged herein.

62. As a direct, legal and proximate result of the failure of defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF CALIFORNIA, INCORPORATED; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 1 through 200, inclusive, and each of them, to follow the mandatory reporting requirements of California Penal Code, Section 11166, and report the aforesaid acts of defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, at all times material herein, to a child protective agency, defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF CALIFORNIA, INCORPORATED; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN
FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 1 through 200, inclusive, and each of them, wrongfully denied to plaintiff, and other similarly situated minors from the protection of child protection agencies which would have changed the then existing arrangements and conditions, which theretofore provided the basis for access and opportunities for the molestation of plaintiff, as alleged herein.

63. The physical, mental and emotional injuries and damages as alleged herein resulting from the continued sexual molestation of plaintiff, by defendants, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, and DOES 1 through 50, inclusive, and each of them, as alleged herein, were the types of occurrences and injuries and damages the Child Abuse and Neglect Reporting Act was designed to prevent.

64. As a direct and proximate result of the intentional negligent, careless and other wrongful acts of defendants, ROMAN CATHOLIC BISHOP OF ORANGE, A CORPORATION SOLE; ROMAN CATHOLIC DIOCESE OF CALIFORNIA, INCORPORATED; PROVINCIAL FRANCISCAN FRIARS; FRANCISCAN FRIARS OF CALIFORNIA, INCORPORATED; MATER DEI HIGH SCHOOL; SAINTS SIMON AND JUDE CATHOLIC CHURCH; and DOES 1 through 200, inclusive, and each of them; the lack of appropriate referral for child sexual abuse treatment, and the foreseeable resultant molestation, plaintiff was injured in his health, strength and activity, and thereby suffered, and continues to suffer, permanent and several mental anguish, emotional and physical distress and profound shock to his nervous system and other injuries resulting in the trauma and damages set forth and alleged herein.

29 OFM PACH 1 0254
WHEREFORE, plaintiff prays as follows:

AS FOR ALL CAUSES OF ACTION

1. General damages according to proof;
2. Medical and related expenses, past, present and future, according to proof;
3. Loss of earnings, past, present and future, and loss of earning capacity, in a sum according to proof;
4. Other items of special damage according to proof;
5. Costs of suit incurred herein;
6. Prejudgment interests as provided by law; and
7. Such other and further relief as may be deemed just and proper.

FOR THE FOURTH, FIFTH, SIXTH AND SEVENTH CAUSES OF ACTION AS AGAINST DEFENDANTS, FATHER MICHAEL HARRIS, FATHER GARY PACHECO, AND DOES 1 THROUGH 50, INCLUSIVE, AND EACH OF THEM, AND OTHER DEFENDANTS SUBJECT TO LEAVE OF COURT IN ACCORDANCE WITH CODE OF CIVIL PROCEDURE, SECTION 425.14

8. For punitive and exemplary damages in an amount just and proper.

DATED: October 7, 1994

LAW OFFICES OF
THEODORE S. WENTWORTH

By

NANCY M. KNIGHT

Attorneys for Plaintiff
Bates Numbers 256-264 were removed by the Plaintiffs at the request of the Franciscans.
Case Name:  

VS  

ROMAN CATHOLIC BISHOP ORAN  

Records Of:  

Record Loc.: ORANGE POLICE DEPARTMENT  

Case No.:  

Claim No.:  

Work Order: 63188  

Ordered By:  

MCNICHOLAS & MCNICHOLAS  

10866 WILSHIRE BLVD., #1400  

LOS ANGELES, CA 90024  

DAVID M. RING  

LEGAL REPRODUCTIVE SERVICES  

2222 W. Garvey Ave. South, Suite 100, West Covina, CA 91790-2518  

(818) 962-2124 * Fax (818) 960-0373  

OFM PACH 1  

0265
<table>
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<tr>
<th>REQUESTED BY:</th>
<th>FIRM</th>
<th>Mr. Nicholas Mr. Nicholas</th>
</tr>
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<tr>
<td>ADDRESS</td>
<td>10606 Wilshire Blvd.</td>
<td>Los Angeles, CA 90024-4338</td>
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<tr>
<td>ADJUSTER/ATTY</td>
<td>David M. King</td>
<td></td>
</tr>
<tr>
<td>PHONE #</td>
<td>(818) 454-1582</td>
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<tr>
<td>D/BIRTH</td>
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<td>D/ACCIDENT</td>
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<td>☐ OBTAIN X-RAY FILMS</td>
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<td>☐ OMIT LAB NOTES</td>
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<td>☐ OMIT OTHER (EXPLAIN BELOW)</td>
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<td>☐ ORDER FORMS</td>
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<tr>
<td>1. please see attached list.</td>
</tr>
<tr>
<td>2. ORANGE POLICE DEPT.</td>
</tr>
<tr>
<td>ORANGE, CA</td>
</tr>
<tr>
<td>3.</td>
</tr>
<tr>
<td>4.</td>
</tr>
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OFM PACH 1
0266
I, DAVID M. RING, ORANGE COUNTY SUPERIOR COURT,
700 CIVIC CENTER DR., WEST
SANTA ANA, CA 92701

DEPARTMENT OF BUSINESS RECORDS

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): ORANGE POLICE DEPT.
1107 N. BATAVIA
ORANGE, CA 92667

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3 as follows:

<table>
<thead>
<tr>
<th>Deposition Officer (name):</th>
<th>LEGAL REPRODUCTIVE SERVICES (818) 962-2124</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date:</td>
<td>March 9, 1995</td>
</tr>
<tr>
<td>Date:</td>
<td>Time: 09:00 A.M.</td>
</tr>
<tr>
<td>Address:</td>
<td>2222 W. GARVEY AVE., SOUTH, STE #100, WEST COVINA, CA 91790</td>
</tr>
</tbody>
</table>

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. □ by delivering a true, legible, and readable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. □ by delivering a true, legible, and readable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. □ □ by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.

2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the examiner or other qualified witness pursuant to Evidence Code section 1561.

3. The records to be produced are described as follows:

□ ANY AND ALL POLICE REPORTS THAT WERE FILED IN JULY 1994 IN YOUR POSSESSION OR UNDER YOUR CONTROL PERTAINING TO

□ Continued on attachment 3.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 2/21/95

JAMES H. DEMPSEY
(SEE REVERSE FOR PROOF OF SERVICE)
AFFIDAVIT OF CERTIFICATION

I affirm that I have the authority, as the Police Records Manager of the City of Orange Police Department, to certify the attached records.

These reproductions are true copies of all of the records described in the subpoena which are in my possession.

The records were prepared by personnel of the City of Orange Police Department in the ordinary course of business at, or near, the time of the incident described within the certified records.

This certification complies with the request from a ____________ Subpoena Duces Tecum served on ____________

02/20/95 by MONTCALM AND MONTCALM

representing ____________ for use in the deposition

case number ____________ on March 9, 1995

(ATTORNEY)

WEST COVINA, CA 91790

(at time)

Attested this: ____________ day of ____________ 1995

BY: ____________________________

ROBERTA PELTZ, CUSTODIAN OF RECORDS
### ORANGE POLICE DEPARTMENT
#### INCIDENT REPORT

**Event #:** 96891045  
**Date Recorded:** 7/11/94  
**Time Recorded:** 1645

### Category 8  
**Class:** 883  
**Location:** 210 S. Batavia  
**Date of Occurrence:** 11-27  
**Day of Week:** UNK  
**Time:** UNK

### Info Report

#### Victim Information

- **Name:** Last, First, Middle  
- **DOB / AGE:**  
- **SEX:**  
- **RACE:**

- **Residence Address:**  
  - **City:**  
  - **State:**  
  - **ZIP Code:**  
  - **Phone:**  

- **Business / School Name & Address:**  
  - **City:**  
  - **State:**  
  - **ZIP Code:**  
  - **Phone:**

### Victim Vehicle

- **Year:**  
- **Make:**  
- **Model:**  
- **Body Style:**  
- **Color:**  
- **License:**  
- **State:**  
- **Impounded:** Yes  
- **Location:**

### Suspect Information

1. **NAME:** Finnish, Michael  
   - **SEX:**  
   - **AGE:**  
   - **DRL:**  
   - **STATE:**  
   - **Total:**

   - **SUSPECT VEHICLE:** None

   - **CLOTHING DESCRIPTION:**

2. **NAME:**  
   - **SEX:**  
   - **AGE:**  
   - **DRL:**  
   - **STATE:**  
   - **Total:**

   - **CLOTHING DESCRIPTION:**

### Total Property Loss

- **TOTAL A:**  
- **TOTAL B:**  
- **TOTAL C:**  
- **TOTAL D:**  
- **TOTAL E:**  
- **TOTAL F:**  
- **TOTAL G:**  
- **TOTAL H:**

- **TOTAL L:**  
- **TOTAL M:**  
- **TOTAL N:**  
- **TOTAL O:**

### Total Property Recovered

- **TOTAL A:**  
- **TOTAL B:**  
- **TOTAL C:**  
- **TOTAL D:**  
- **TOTAL E:**  
- **TOTAL F:**  
- **TOTAL G:**  
- **TOTAL H:**

- **TOTAL L:**  
- **TOTAL M:**  
- **TOTAL N:**  
- **TOTAL O:**

### Reporting Officer

- **NAME:** Beyer  
- **DATE / TIME:** 7-12-94 / 1530  
- **SUPERVISOR'S SIGNATURE:** [Signature]

---

**OFM PACH 1**  
**0269**
EVIDENCE: None

STATEMENTS: HARRIS: "come over and suck my dick"

DISPOSITION: Refer to Investigations.
EVIDENCE: None

STATEMENTS: HARRIS: "Come over and suck my dick"

DISPOSITION: Refer to Investigations.
ORANGE POLICE DEPARTMENT

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<th>EVENT #</th>
<th>DFS</th>
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<tbody>
<tr>
<td>288 PC/248 PC</td>
<td>96891045</td>
<td>94-07-0491</td>
</tr>
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</table>

VICTIMS OF SEX CRIMES
REQUEST FOR CONFIDENTIALITY OF INFORMATION

Pursuant to California Penal Code Section 288(a), you are informed that your name will be a matter of public record unless you request that it not become a public record, pursuant to Section 6254 of the Government Code.

I have been informed of the above rights to privacy section. Initial ____________________________

By not signing this, your name may become available for publication.

I, ____________________________ hereby elect to exercise my right to privacy, pursuant to Section 6254 of the Government Code.

______________________________
Signature

7/11/94
Date

REPORTING OFFICER NAME ID# | DATE | SUPERVISOR'S SIGNATURE | DATE
---------------------------|------|------------------------|------
BEYER 956                  | 7-11-94 |                        |      |

FOR RECORDS BUREAU ONLY:
( ) COURT ( ) DA ( ) DEF ( ) DETECTIVE ( ) STATISTIC ( ) OTHER

PROCESSED BY: _____________  PROOFREAD BY: _____________

OPD V-14 (Rev. 2/93)

OFM PACH 1
0271
ORANGE POLICE DEPARTMENT

TYPE OF CRIME: 288 PC SUB. P
EVENT #: 96891045
DR#: R94-07-0491

VICTIMS OF SEX CRIMES
REQUEST FOR CONFIDENTIALITY OF INFORMATION

Pursuant to California Penal Code Section 6254(a),
you are informed that your name will be a matter
of public record unless you request that it not
become a public record, pursuant to Section 6254

I have been informed of the above rights to privacy section. Initial ___
by not signing this, your name may become available for publication.

I, __________________________ hereby elect to exercise my right to
privacy, pursuant to Section 6254 of the Government Code.

____________________________ 7/11/94
Signature Date

REPORTING OFFICER NAME ID# DATE SUPERVISOR'S SIGNATURE DATE
BEYER 956 7-11-94

FOR RECORDS BUREAU ONLY:
() COURT  () PA  () DFP  () DETECTIVE  () STATISTIC  () OTHER

PROCESSED BY: PROOFREAD BY: ___
OFD 7-16 (REV. 2/93)

OFM PACH 1
0271
SYNOPSIS:

Victim is sexually abused from the ages of 14-18 years old by her high school principal who was a priest in the Catholic Church. The incidents occurred between the dates 11-1979, 06-1983 and according to the victim surfaced through therapy.

FACTS:

V-1 came into the Orange Police Department on 7-11-94 to make a report about incidents that occurred between 1979 and 1983. V-1 said at a residence owned by the Catholic Church he was sexually abused by a priest who was also his high school principal. The events that occurred were discovered in therapy a short time ago and this information report will facilitate a lawsuit against the priest and Catholic Church.

V-1 said HARRIS was the principal at Mater Dei High School and a friend of V-1. V-1 entered Mater Dei in September of 1979 and stated in November of the same year HARRIS began taking V-1 out of class to go over to the residence. V-1 said the abuse occurred in a rear quarters off the main residence. The incidents lasted approximately one to two hours and occurred sometimes in the evening hours. The abuse occurred approximately three times a year during a four year period and would be initiated by HARRIS who would tell V-1 "come over and suck my dick". The abuse included kissing, touching, licking the anal area, masturbation, and oral copulation with the result always orgasm. V-1 and HARRIS did the above activities to each other with V-1 feeling threatened by HARRIS.

V-1 said the abuse ended 6-1983 when V-1 graduated from Mater Dei. V-1 said he knows of one other victim of the same abuse by HARRIS but the person is deceased. HARRIS left Mater Dei soon after 1983 and directed a new Catholic High School in the Mission Viejo area for approximately seven years. V-1 said after he made the allegations to the Catholic Church HARRIS has been transferred to an unknown location.

V-1 signed an OPD form V-14 (request for confidentiality) in my presence which is attached to the report.

Michael HARRIS is described as a male White, 49 years old, 6-03, 230 lbs., blue eyes and blond hair.
**BILLING INSTRUCTIONS:**

```plaintext
BILLTO: ~ FIRM ~
CARRIER.
ATTN: RUSH ~
Phone: (818) 962-2124.
Fax: (818) ~60-0,3_73 /

SPECIAL INSTRUCTIONS:
PRESCRIPTIONS
NURSES' NOTES
OTHER (EXPLAIN BELOW)

PATIENT INFORMATION:
NAME: [Redacted]
AKA: [Redacted]
D/Birth: 8/1/65 ~D:ACCIDENT
SS# [Redacted]

INSTRUCTIONS:
- [ ] AUTHORIZATION ATTACHED
- [ ] PER PERSONNEL RECORDS
- [ ] COMPLETE CHART
- [ ] OBTAIN BILLING RECORDS
- [ ] OBTAIN X-RAY FILMS
- [ ] OTHER (EXPLAIN BELOW)

NO. OF COPIES: 1 ORG. COPIES TO: ~ mcNicholas~mcNicholas

SPECIAL INSTRUCTIONS

LOCATIONS OF SERVICE: (Please include phone, street address & any special notations)

<table>
<thead>
<tr>
<th>1.</th>
<th>2.</th>
<th>3.</th>
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</thead>
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<tr>
<td>please see attached list.</td>
<td>SANTA ANA POLICE DEPT.</td>
<td>(7) 839-9211</td>
</tr>
<tr>
<td></td>
<td>24 CIVIC CTR PLAZA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SANTA ANA, 92705</td>
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</tr>
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OFM PACH 1
0274
YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in Item 3 as follows:

Date issued: 2/21/95

Date: March 9, 1995
Time: 09:00 A.M.
Address: 2222 W. GARVEY AVE., SOUTH, STE #100, WEST COVINA, CA 91790

Do not release the requested records to the deposition officer prior to the date and time stated above.

a. by delivering a true, legible, and durable copy of the business records described in Item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope with address, mailed, and mailed to the deposition officer at the address in Item 1.

b. by delivering a true, legible, and durable copy of the business records described in Item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. by making the original business records described in Item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.

The records are to be produced by the date and time shown in Item 1, but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later. Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.

The records to be produced are described as follows:

ANY AND ALL POLICE REPORTS THAT WERE FILED IN JULY 1994 IN YOUR POSSESSION OR UNDER YOUR CONTROL PERTAINING TO

□ Continued on attachment 3.

DISOBEIENCY OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 2/21/95

JAMES H. DEMPESEY
EXECUTIVE OFFICER/CLERK OF THE SUPERIOR COURT

(See reverse for proof of service)

DEPOSITION SUBPENA—BUSINESS RECORDS

OFM PACH 1
0275
## Crime Summary

**INFO - POSSIBLE CHILD MOLEST**

### When Occurred
- **Day:** UNK
- **Date:** 9-1
- **Time:** 2:00
- **Incident Type:** UNK
- **Owner:** UNK
- **Vehicle Color:** UNK
- **Vehicle Make:** UNK
- **Vehicle Model:** UNK
- **Property:** UNK
- **Value of Lesser Recovery:** UNK
- **DOB:** UNK
- **WHIP:** UNK
- **TAX:** UNK

### List Persons in Following Order

<table>
<thead>
<tr>
<th>Code</th>
<th>NAME</th>
<th>Last, First, M.I.</th>
<th>SEX</th>
<th>Age</th>
<th>DOB</th>
<th>Address Include ZIP Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Harris Michael</td>
<td>M. Hughes</td>
<td>M</td>
<td>47</td>
<td>1/2</td>
<td>123 ABC St, Santa Monica, CA</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>90404</td>
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</table>

### Reporting Officer
- **Name:** Borja
- **Date:** 5-4-94
- **Time:** 8-00

### District
- **Officer:** 1
- **Time:** 5-5-94
- **Tag:** BOT, APPROVING ARREST

---

**TYPE REPORT**

- **Crime-Only**
- **Crime-Arrest**
- **Crime-Suspect**
- **Information Only**
- **Warrants/Parole Arrest**

---

**OFM PACH 1**

0276
POLICE DEPARTMENT

CRIME SUMMARY

<table>
<thead>
<tr>
<th>PRIMARY CRIME TYPE</th>
<th>SECONDARY CRIME TYPE</th>
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<tr>
<td>UGMD - POSSIBLE CHILD MOLEST</td>
<td>OTHER CRIME TYPE</td>
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<table>
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<tr>
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<tbody>
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LIST PERSONS IN FOLLOWING ORDER

GROUP ALL PERSONS BY THE SAME CODE TOGETHER AND INCLUDE EACH PERSON IN THE GROUP AS EXAMPLE: VAL, VAL, VIN, VIN, VPA, VPA, VPA, VPA, ETC.

<table>
<thead>
<tr>
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<th>NAME</th>
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<th>TIME</th>
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OFM PACH 1
0276
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<tr>
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<th>NAME</th>
<th>LAST, FIRST, MIDDLE</th>
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<td>RACE</td>
<td>SEX</td>
<td>U</td>
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<td></td>
<td></td>
<td>HOME ADDRESS</td>
<td>NUMBERS, DIRECTION, STREET, CITY, STATE, ZIP CODE</td>
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<td>OCCUPATION</td>
<td>BUSINESS ADDRESS</td>
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<tr>
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<td>LOCATION ARRESTED</td>
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<tr>
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<td></td>
<td>DRIVERS LIC.</td>
<td>STATEN</td>
<td>SOCIAL SECURITY</td>
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<td></td>
<td></td>
<td>AKATS</td>
<td>TATTOOS, MARKS, SCARS, ODDITIES &amp; LOCATIONS</td>
<td>CLOTHING AT TIME OF ARREST</td>
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<tr>
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<td></td>
<td>Bail Amount</td>
<td>TIME RELEASED LOCATION HELD</td>
<td>OUTSTANDING WARRANTS/PAROLE OR PROBATION HOLD</td>
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</table>

Q MORE NAMES LISTED ON CONTINUATION SHEETS

PER CPC 263, the victim was advised and they do/do not want the report to be public information.

OFM PACH 1
0277
CONDUCT WAS MADE WITH [REDACTED] AT THE S.A.P.D. THIS MORNING AT ABOUT 0900 [REDACTED] TO DOCUMENT THAT HE HAD BEEN A VICTIM OF CHILD MOLEST.


THE INCIDENT IN SOUTH OCCURRED AT HART 720 HIGH SCHOOL, WITH THE PERPETRATOR BEING A POLICE FATHER [REDACTED].

THE MOLESTATION TOOK PLACE ABOUT TWICE A MONTH, FROM 01/92 TO 11/92.

[REDACTED] ADVISED THAT THE LAST TIME AN INCIDENT OCCURRED IT WAS IN 92, WHEN [REDACTED] WENT TO [REDACTED] HOME FOR A LITTLE OF RE-

FERENCE.

THE MOLESTATION CONSISTED OF [+REDACTED] ON THE [REDACTED] EVENTUALLY WORKING DOWN TO [+REDACTED] GENITALS. IT PROCEEDS TO ORAL STELLATION BY EACH OTHER TO EACH OTHER, PENETRATION BY EACH OTHER TO EACH OTHER, TO [REDACTED] LICKING [+REDACTED] ANAL CAVITY.

[REDACTED] RELATED THAT NO ANAL SEX WAS PERFORMED BY EITHER.


THE INCIDENTS ARE BEING RECALLED AND ARE CURRENT.

Contact was made with 

AT ABOUT 9:00 AM. 

REQUIRING TO DOCUMENT THAT HE HAD 

BEEN A VICTIM OF CHILD ABUSE. 

MY INTERVIEW OF 

REVEALED THAT THE INCIDENT OCCURRED 

IN CONTA AND IN PARKING 

HAS ALREADY FILED A REPORT WITH ORANGE POLICE 2/4 

R-74-07-491. 

THE INCIDENT OCCURRED IN CONTA AND OCCURRED AT 9:00 AM. 

COME WITH THE PERPETRATOR BEING A FRAIL PERSON OLDER. 

THE INCIDENT TOOK PLACE DIRECTLY AT A CAR, FARM 1/19 TO 1/20 

WAS IN CONTA AND SUFFERED IMMEDIATELY. 

R-74-07-491. 

ADVISED THAT THE LAST TIME AN INCIDENT OCCURRED IT WAS 

IN 1992 WHEN 

WENT TO HOMES HOUSE FOR A LETTER OF RE- 

FERENCE. 

THE MALÉ STATIONED AT HOMES CARDSHE ON THE 

BED, EVENTUALLY WALKING DOWN TO 

GENITALS, IT PROBABLY TO ORAL SUSTAINED AT EACH OTHER TO EACH OTHER, PROSTITUTION AT 

EACH OTHER TO EACH OTHER, TO MALE LACTATION 

ANAL CAVITY. 

RELATION THAT NO ANAL SEX WAS PERFORMED BY OTHERS 

WHEN I ASK AND WHY HE DID NOT REPORT THE INCIDENT 

ADDED THAT HE WAS SUSED AND DIDN'T KNOW WHAT 

TO DO, ADDED 

CHEM D CAN A FAMILY OF 7 BOYS AND HE 

LIKES THE ATTENTION THAT HE GAVE HIM. 

THE INCIDENTS ARE BEEN RECALLED AND ARE CAUSING ANOTHER 

MAL PROBLEMS FOR 

HAS INSTITUTED CIVIL PROCEDURES AGAINST THE CATHOLIC 

CHURCH FOR A MISDEMEANOUR THAT THE MALSTATED INCIDENT 

BEGIN BEING RECALLED.
OFM PACH 1
0279

His attorney has placed him into hiding. He believes that Harris has been transferred to an unknown location. He also said that residences and school records are not available. Harris's current home address is unknown.

During my interview of a law enforcement officer with high school knowledge, no one could provide information on Harris. I was referred to the Diocese of Orange.


Contacting the Diocese, it was found that Father Brand was not in and no one could give me information on Harris.

A search of the records revealed no record or report.

Contact was made with the school investigation. He concurred with only documentation and not subsequent events.
OFM PACH 1
0279

REDACTED

LIST PROPERTY FIRST/EVIDENCE SECOND/ SUSPECT INFORMATION THIRD.
LIST SUSPECT SEX, RACE, AGE, HEIGHT, WEIGHT, HAIR, EYES, BUILD, CLOTHES, CLOTHING DESCRIPTION
INCLUDE WHERE EVIDENCE/PROPERTY BOOKED

HIS ATTORNEY HAS PLEDG TO NO HARM THE ARCH.

BELIEVES THIS HAPPENED DUE TO POTABLE DRINK TO AN UN-
KNOWN PERSON, SHE MIGHT NOT BE RESIDENTS AND
DON'T
KNOW WHERE OR CURRENT HOME ADDRESS.

ADDRESS WAS LAST KNOWN TO HAVE BEEN RELATION TO THEIR ORG.

KIDS OF THE CHURCH.

CONFIRMS MY INTERVIEW OF

I MORE CONTACT TO WITNESS,

BUT NO SUCCESS.

NO ONE COULD PROVIDE INFORMATION OF FATHER

HANDS.

I WAS REFERRED TO THE DIOCESE OF ORANGE, FATHER

LAWRENCE BAIRD, 380-3000.

CALLED THE DIOCESE, IT WAS FOUND THAT FATHER BAIRD WAS

NOT IN ORANGE NO ONE COULD GIVE ME INFORMATION ON HIM

A SEARCH OVER OF AND FILES REVEALED NO RECORD

OF ORANTS.

CONTACT WAS MADE WITH THE CRIME INVESTIGATOR R. ROBERTS

HE CONCLUDED WITH ONLY DOCUMENTS ALLEGATIONS AND

NOT FOUND OF THE CRIME.
April 18, 1995

TO ALL COUNSEL
(See Attached Service List)

Re: Roman Catholic Bishop of Orange, et al.

Dear Counsel:

Enclosed please find a copy of the records received from Dr. Lewis Lane in the above captioned matter. These records were sent by Dr. Lane directly to this office. Should you have any questions, please feel free to call.

Sincerely,

CALLAHAN, McCUNE & WILLIS

Lynne Goodwin

LG/sab

Enclosure: Dr. Lewis Lane's Records
April 18, 1995

RE: ALL COUNSEL

TO: Roman Catholic Bishop of Orange et al.

Dear Counsel:

Enclosed please find a copy of the records received from Dr. Lewis Lane in the above captioned matter. These records were sent by Dr. Lane directly to this office. Should you have any questions, please feel free to call.

Sincerely,

CALLAHAN, McCUNE & WILLIS

Lynne Goodwin

Enclosure: Dr. Lewis Lane's Records
MAILING LIST/PROOF OF SERVICE

Case Name: ROMAN CATHOLIC BISHOP OF ORANGE ET AL.

PLAINTIFF

WILLIAM M. PAOLI
LAW OFFICES OF THEODORE S. WENTWORTH
4631 TELLER AVENUE, #100
NEWPORT BEACH, CA 92660
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(JANE)

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FAX (310) 475-7871

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FAX (714) 545-1030

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SEDGWICK, DETERT, MORAN & ARNOLD
1 Embarcadero Center, 16th Floor
San Francisco, CA 94111-3765
(415) 781-7900
FAX (415) 781-2635

THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES

MSGR. MICHAEL HARRIS

GARY PACHECO

FRANCISCAN FRIARS OF CALIFORNIA, INC.

FRANCISCAN FRIARS OF CALIFORNIA, INC.

OFM PACH 1
0283
MAILING LIST/PROOF OF SERVICE

Case Name: v. ROMAN CATHOLIC BISHOP OF ORANGE, ET AL.
Case No.: 73 46 26

WILLIAM M. PAOLI
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4631 TELLER AVENUE, #100
NEWPORT BEACH, CA 92660
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San Francisco, CA 94111-3765
(415) 781-7900
FAX (415) 781-2635

PLAINTIFF

THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES

MSGR. MICHAEL HARRIS

GARY PACHECO

FRANCISCAN FRIARS OF CALIFORNIA, INC.

OFM PACH 1
0283
Psychotherapist/Patient Privilege
29 year-old relates sexual abuse during yrs of his life by Priest. Pt involved in singing Catholic church, Pt involved in choir & activities at Catholic Church.
Pt in an rift relationship w/ 
Pt parent died when Pt was 9 yrs old.
Pt always turned to the church for support & help.
Pt has been suspended from singing st-church 2 yrs ago accused of homosexual behavior &瞻ook church members.
Begin having nightmares & having anxiety
Begin seeing Dr. Watters in Nov 93 for help.
Pt prescribed Xanax by MD pt didn't like idea that he had to take meds & this.

Xanax 0.25mg tid
Pt recently has become depressed, anxious, has s/c headaches, has episodes of depression, apathy, embarrassment, crying
Pt associated from molestation.

Family: 1 step sis. dep.
sis - bro - step.
mother-mother molested, incest.

Medics: N/A

- Xanax 0.25mg
- Feb 1994 - cannabis use occurs

Imp: Major depressive episode prob sub-syndrome

- anxiety features, dysphoria, Thins. Serbela

Continue Alprazolam 0.25mg BID

4-5 Medical leave 4-4 start

4-18 Pt returned to work & found out pt returned prematurely, mood labile, anxiety. Wish Pt Serretto 10mg.

5-2 Pt placed back on disability. Pt terminated at work. Mood improved at 10mg Serretto & Alprazolam

Continue current regimen

OFLM PACH 1
0284
Psychotherapist/Patient Privilege


8-29  Pt denied disability by employer. Pt angry & feeling powerless. Continuing to have PTSD symptoms. Continue current regimen. Remains unchanged.

9-26  Sex of PTSD is unclarified thinking & behavior. Pt distressed & needing structure. Pt stressed over, poor performance of attorney & fired from job. Having 1d episode over changes. Wants to stop smoking. Habitual 2mg patch.


1-4-95  Pt beginning to look at possible returning to employment. Mood better. At parox zymog. Atr 0.5mg.


3-2  Mood stable. Some mood variability. Affect Atr 0.5mg. Full. At parox zymog. & Atr 0.5mg. Pt involved in pursuit of establishing career.

3-9  Will be taking over more psychotherapy. Responsibility from Dr. Wollberg. Pt had triggered memories of additional memories of molestation in 1982. Around 17 death that took in LA. This occurred in 4 car & in a seminary. Memory is distinct.

Parox zymog. Atr 0.5mg
Bates Numbers 286-308 were removed by the Plaintiffs at the request of the Franciscans.
Franciscan Order  
Provence of Santa Barbara  
1500 34th Avenue  
Oakland, CA 94601  

Re: ********* v. Does 1 through 200  
Our File No. 06-610/7238 C7239  

Dear *********

By way of introduction, I am the attorney for ********* in the above-referenced case. I spoke with your secretary on Wednesday, June 12, 1996, and apprised her of my representation of Mr. ********* and generally the details that involve the Franciscan Order. I am sending along for your information the Complaint which is on file in the Alameda County Superior Court. I am suggesting a conference between us to see if the matter can be resolved short of the litigation which I am now prepared to move forward with.

In summary, the facts are these: Mr. ********* was an adolescent boy living in Huntington Beach within the Franciscan Diocese of Orange in the late 1970's and early 1980's. He was befriended by a Franciscan priest named Father Gary Pacheco during that time. At Father Pacheco's insistence and urging, ********* accompanied him to Disneyland on an overnight excursion. While there, Father Pacheco sexually molested Mr. *********. Other instances of sexual assault while Father Pacheco was a member of the Order have also been corroborated. Further, corroboration resulted from the opinion of an independent psychotherapist who has determined that Mr. ********* had been the subject of childhood sexual abuse. This psychotherapist's sworn declaration in support of the Complaint is also enclosed.

My intent, at this point, is to amend the Complaint to name specific defendants. I am allowed to do that given the corroborative information which I have obtained. I intend to name the Franciscan Order as well as Father Pacheco, whom I understand is now no longer with the Order. The claim against the Order will be for multiple counts, including negligent supervision/hiring Pacheco and negligently ratifying his actions as well as conspiring to hush up his behavior ever since his sexual assaults while a Franciscan. Further, I shall amend the Complaint to add claims for negligent failure to warn Mr.
Franciscan Order
June 12, 1996
Page 2

I intend to amend the Complaint in this fashion within the next few weeks.

Before taking these next steps in the litigation, it seemed to me prudent to contact the Franciscan Order to discuss the case further and see if there was a possibility of settlement before I amend the Complaint and begin prosecution of the claim.

I encourage you or your representative to call me within the next week in this regard. Should I not hear from you, I intend to proceed as I have outlined above.

Very truly yours,

BELDEN, ABBEY, WEITZENBERG & KELLY

Wayne B. Wolski

WBW:mw
Encl.
cc: Mr.
### Plaintiff's Initial Filing Form

**Title:** [Redacted]  
**Case No.:** [Redacted]  
**Filing Date:** 01/26/96  
**Venue:** [Redacted]

#### AB3300 Designation (check one):
- **C** General  
- **C** Asbestos  
- **A** Unlawful Detainer - Defendant(s) in Possession of Real Property  
- **A** Unlawful Detainer - Defendant(s) Not in Possession of Real Property  
- **U** Uninsured Motorist (CAL. INS. CODE 11580.2) - Declaration pursuant to Local Rule 4.1(3) required

#### Case Type (check one):
- **34** Personal Injury: Auto  
- **33** Personal Injury: Other  
- **10** Damages  
- **50** Wrongful Death  
- **70** Personal Injury - Asbestos  
- **71** Wrongful Death - Asbestos

#### Statistical Designation (check one):
- **01** Product Liability: Asbestos  
- **02** Product Liability: Other  
- **03** Negligence  
- **04** Wrongful Termination  
- **05** Insurance Bad Faith  
- **06** Business Contract  
- **07** Real Property  
- **08** Malpractice  
- **09** Construction  
- **10** All Other Molestation

**Form No. 202-19**  
**(Rev. 7/01/91)**

**OFP PACH 1**  
**0311**  
**Page 1 of 2**
## ALAMEDA COUNTY SUPERIOR COURT
### PLAINTIFF'S INITIAL FILING FORM

<table>
<thead>
<tr>
<th>TITLE:</th>
<th>CASE NO.</th>
<th>FILING DATE: 01/26/96</th>
</tr>
</thead>
<tbody>
<tr>
<td>VENUE:</td>
<td>446 OAKLAND</td>
<td>447 HAYWARD</td>
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### CIVIL

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<tr>
<th>AB3300 DESIGNATION (check one)</th>
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<tbody>
<tr>
<td>[ ] GENERAL</td>
</tr>
<tr>
<td>[ ] ASBESTOS</td>
</tr>
<tr>
<td>[ ] UNLAWFUL DETAINER - Defendant(s) in Possession of Real Property</td>
</tr>
<tr>
<td>[ ] UNLAWFUL DETAINER - Defendant(s) NOT in Possession of Real Property</td>
</tr>
<tr>
<td>[ ] UNINSURED MOTORIST (CAL. INS. CODE 11580.2) - Declaration pursuant to Local Rule 4.1(3) required</td>
</tr>
</tbody>
</table>

### CASE TYPE (check one)

| [ ] 34 PERSONAL INJURY: AUTO | [ ] 69 ALL OTHER PETITIONS |
| [ ] 33 PERSONAL INJURY: OTHER | [ ] 18 EMINENT DOMAIN |
| [ ] 10 DAMAGES | [ ] 68 ALL OTHER COMPLAINTS |
| [ ] 60 WRONGFUL DEATH | [ ] 47 UNLAWFUL DETAINER |
| [ ] 70 PERSONAL INJURY - ASBESTOS | [ ] 11 DECLARATORY RELIEF |
| [ ] 71 WRONGFUL DEATH - ASBESTOS |

### STATISTICAL DESIGNATION (check one)

| [ ] 01 PRODUCT LIABILITY: ASBESTOS | [ ] 06 BUSINESS CONTRACT |
| [ ] 02 PRODUCT LIABILITY: OTHER | [ ] 07 REAL PROPERTY |
| [ ] 03 NEGLIGENCE | [ ] 08 MALPRACTICE |
| [ ] 04 WRONGFUL TERMINATION | [ ] 09 CONSTRUCTION |
| [ ] 05 INSURANCE BAD FAITH | [ ] 10 ALL OTHER MOLESTATION |

Form No. 202-19
(Rev. 7/01/91)

OFM PACH 1
0312
(Page 1 of 2)
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Case No. [REDACTED]

Plaintiff,

v.

DOES 1 through 200,

Defendants.

COMMON ALLEGATIONS

1. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES 1 through 200, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege their true names and capacities when ascertained. Each of the fictitiously named Defendants is legally responsible in some manner for the occurrences herein alleged and Plaintiff’s damages, as herein alleged, are proximately caused by said Defendants.

2. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendant DOES 1 through 50 were and are corporations operating in the State of California with their principal places of business in Alameda County, California.

3. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants DOES 1 through 50
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Case No.

Plaintiff,

v.

COMPLAINT FOR DAMAGES
(PERSONAL INJURY)

DOES 1 through 200,

Defendants.

COMMON ALLEGATIONS

1. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES 1 through 200, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege their true names and capacities when ascertained. Each of the fictitiously named Defendants is legally responsible in some manner for the occurrences herein alleged and Plaintiff's damages, as herein alleged, are proximately caused by said Defendants.

2. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendant DOES 1 through 50, were and are corporations operating in the State of California with their principal places of business in Alameda County, California.

3. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants DOES 1 through 50
were and are public benefit or religious corporations operating in the State of California with their principal places of business in Alameda County, California.

4. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 1 through 50, and that Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 1 through 50. Said activities included, but were not limited to, employing administrators, priests, counsellors, and others to provide care and supervision for the physical and spiritual needs of certain minors including the Plaintiff herein.

5. At all times herein mentioned, DOES 56 to 100, and each of them, were the agents and employees of Defendants DOES 1 through 55, and each of them, and Defendants DOES 56 through 100, and each of them, were the agents and employees of Defendants DOES 1 through 55, and each of them, and, at all times mentioned herein, all of said DOES were acting within the course and scope of their agency and employment, and with the authorization, permission, consent, and ratification of their co-Defendants.

6. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, Defendant DOE 101 was a Roman Catholic priest employed by and under the supervision and control of Defendant DOES 1 through 100, and each of them.

7. At all times mentioned herein, Plaintiff was a minor parishioner and under the supervision and control of Defendants DOES 1 through 100.
FIRST CAUSE OF ACTION
(NEGLIGENT HIRING, ENTRUSTMENT, ASSIGNMENT, RETENTION, TRAINING AND SUPERVISION)

8. Plaintiff incorporates the allegations of Paragraphs 1 through 7 herein as though set forth in their entirety herein.

9. At all times mentioned herein, and for several years prior to the events referred to herein, Defendants DOES 1 through 100, and each of them, knew, or in the exercise of reasonable care should have known, that DOE 101 was incompetent and unfit to be hired, entrusted, assigned, and retained to perform duties involving contact with minors or to be placed in a position of authority and trust over minors and that placing and permitting DOE 101 to remain in such a position without adequate supervision and training, would create strong, irresistible, and continuing temptations and opportunities for abuse.

10. Plaintiff is informed and believes that actual and constructive knowledge was obtained by Defendants DOES 1 through 100 from these Defendants observations of DOE 101's conduct, and from other sources so that said Defendants should have known that DOE 101 was engaging in sexually related conduct toward minors and otherwise abusing his position of authority and trust.

11. At all times herein mentioned, Defendants DOES 1 through 101 negligently and carelessly hired, entrusted, assigned, and retained DOE 101 to perform duties as a priest, with authority over minors, and negligently and carelessly trained and supervised him regarding his duties, and negligently and carelessly failed to take other adequate precautions to control the conduct of DOE 101 or prevent the abuse.
12. As a direct and proximate result of the negligence of said Defendants, and each of them, Plaintiff was physically and mentally abused by DOE 101 on a trip to Disneyland on at least one occasion in or about 1980 when DOE 101 engaged in sexually related conduct with Plaintiff.

13. As a direct and proximate result of the negligence of Defendants, and each of them, Plaintiff was thereafter injured in his health, strength, and activity, sustaining injury to his nervous system and person, all of which injuries have caused, and will continue to cause, Plaintiff great physical, mental, and nervous pain and suffering.

14. As a further direct and proximate result of the negligence of Defendants, and each of them, Plaintiff was required to and did incur and will in the future incur medical and incidental expenses for treatment of his injuries.

15. As a further direct and proximate result of the negligence of Defendants, and each of them, Plaintiff has been prevented from attending to his usual occupation and has lost, and will continue to lose, earnings and his future earning capacity has been greatly impaired.

16. Plaintiff did not discover that the psychological injuries that he suffered were caused by the abuse until on or about January 27, 1995, when he began therapy.

SECOND CAUSE OF ACTION

(NEGLIGENCE)

17. Plaintiff incorporates the allegations of Paragraphs 1 through 7 herein as though set forth in their entirety herein.

18. At all times mentioned herein, Defendant DOE 101, by
reason of his position of authority and trust over Plaintiff, and by reason of his greater physical ability and knowledge, and by reason of his undertaking to supervise, care for, and protect Plaintiff, had a duty to care for and prevent harm to Plaintiff in his care, which reasonably included a duty not to abuse the minor Plaintiff herein.

19. At all times mentioned herein, Defendant DOE 101, so negligently and carelessly supervised Plaintiff and placed himself in a position of authority and trust over Plaintiff, and allowed himself to be in his presence without other adult supervision, so that he was unable to control his abusive conduct, and at said times and places, Defendant DOE 101 negligently and carelessly, physically and mentally, abused Plaintiff, as alleged herein.

20. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered the injuries and damages as alleged herein.

WHEREFORE, Plaintiff prays for damages as follows:

1. For general damages in an amount within the jurisdiction of the Superior Court;

2. For special damages for medical, incidental, and loss of earnings, according to proof;

3. For costs of suit herein; and

4. For such other and further relief as the Court may deem proper.

Dated: January 25, 1996.

BELDEN, ABBEY, WEITZENBERG & KELLY

By Wayne R. Wolski,

Attorney for Plaintiff
BELDEN, ABBEY, WEITZENBERG & KELLY
W. BARTON WEITZENBEG, ESQ.
WAYNE R. WOLSKI, ESQ.
1105 North Dutton Avenue, P.O. Box 1566
Santa Rosa, California 95402
Telephone: (707) 542-5050
Attorneys for Plaintiff

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

Case No.

CERTIFICATE OF MERIT
[CCP §340.1]

BY FAX

I, WAYNE R. WOLSKI, declare as follows:

1. I am an attorney licensed to practice before all of the Courts of the State of California and am one of the attorneys for the Plaintiff herein.

2. I have personal knowledge of the matters attested herein and could competently testify to them if called as a witness herein.

3. I have reviewed the facts of this case and have consulted with at least one mental health practitioner who is licensed to practice and practices in California and who is not a party to this action. I believe that mental health practitioner to be knowledgeable of the relevant facts and issues involved in this particular action.

4. Based on the above information and analysis, I have concluded that there is a reasonable and meritorious cause for the
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Case No.

Plaintiff,                  CERTIFICATE OF MERIT
                              [CCP §340.1]
v.
DOES 1 through 200,

Defendants.

I, WAYNE R. WOLSKI, declare as follows:

1. I am an attorney licensed to practice before all of
   the Courts of the State of California and am one of the attorneys
   for the Plaintiff herein.

2. I have personal knowledge of the matters attested
   herein and could competently testify to them if called as a witness
   herein.

3. I have reviewed the facts of this case and have
   consulted with at least one mental health practitioner who is
   licensed to practice and practices in California and who is not a
   party to this action. I believe that mental health practitioner to
   be knowledgeable of the relevant facts and issues involved in this
   particular action.

4. Based on the above information and analysis, I have
   concluded that there is a reasonable and meritorious cause for the
filing of the within action.

5. I have consulted with at least one mental health practitioner licensed to practice and practicing in the State and who is not a party to this action.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Santa Rosa, California, this 18 day of January, 1996.

Wayne R. Wolski
I, ANTHONY SABATASSO, declare as follows:

1. I have personal knowledge of the matters attested herein and could competently testify to them if called as a witness herein.

2. I am a psychologist licensed to practice in California and practicing in California.


4. I interviewed [redacted] and I am knowledgeable of the relevant facts and issues involved in this particular action.

5. Based on my interview with [redacted] and my knowledge of the facts and issues of this claim, it is my professional opinion that there is a reasonable basis to believe
I, ANTHONY SABATASSO, declare as follows:

1. I have personal knowledge of the matters attested herein and could competently testify to them if called as a witness herein.

2. I am a psychologist licensed to practice in California and practicing in California.

3. On January 9, 1996, I met with the Plaintiff herein, and examined him in my professional capacity. I have never treated nor am I treating him presently.

4. I interviewed and I am knowledgeable of the relevant facts and issues involved in this particular action.

5. Based on my interview with and my knowledge of the facts and issues of this claim, it is my professional opinion that there is a reasonable basis to believe
that \redacted\ have been subject to childhood sexual abuse.

6. I am not a party to this action.

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California, this 19 day of January, 1996.

Anthony Sabatasso

OFM PACH 1
0325
Bates Numbers 326-345 were removed by the Plaintiffs at the request of the Franciscans.
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Plaintiff, FIRST AMENDED COMPLAINT
FOR DAMAGES (PROPOSED)

v.

GARY PACHECO, an individual,
FRANCISCAN FRIARS OF CALIFORNIA,
INCORPORATED, a California
Corporation, and DOES 2-100,
102-200, inclusive,

Defendants.

1. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES 2 through 100 and 102-200, inclusive and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege their true names and capacities when ascertained. Each of the fictitiously named Defendants is legally responsible in some manner for the occurrences herein alleged and Plaintiff's damages, as herein alleged, are proximately caused by said Defendants.

2. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned defendant Franciscan FRIARS of California, Inc. (hereinafter "FRIARS"), is, and at all relevant
times was, a California corporation with its principal place of business in Alameda County, California.

3. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned defendant GARY PACHECO was an individual and a California resident.

4. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants DOES 2 through 50 were and are public benefit or religious corporations operating in the State of California with their principal places of business in Alameda County, California. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned, Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 2 through 50, and that Defendants DOES 51 through 55, and each of them, were and are responsible for all activities conducted on behalf of DOES 2 through 50. Said activities included, but were not limited to, employing administrators, priests, counselors, and others to provide care and supervision for the physical, spiritual and emotional needs of certain persons including the Plaintiff herein.

5. At all times herein mentioned DOES 56 to 100, and each of them, were the agents and employees of Defendants DOES 2 through 55, and each of them, and Defendants DOES 56 through 100, and each of them, were the agents and employees of defendant PRIARS and DOES 2 through 55, and each of them, and, at all times mentioned herein, all of said DOES were acting within the course and scope of their agency and employment, and with the authorization, permission, consent, and ratification of their co-Defendants.

6. Plaintiff is informed and believes and thereon alleges
that at all times herein mentioned, defendant PACHECO was a Roman Catholic priest employed by and under the supervision and control of defendant FRIARS and DOES 2 through 100, and each of them.

7. At all relevant times mentioned herein, Plaintiff was a Catholic parishioner or former Catholic and for much of this time plaintiff was under the supervision and control of defendants FRIARS, PACHECO and DOES 2 through 100 so that Defendants were in a special relationship with Plaintiff.

8. On or about 1980, Defendant PACHECO, while employed and conducting himself as a member of the FRIARS, arranged for and participated in, a trip to Disneyland on which he took Plaintiff, then a minor, and, during said trip, sexually abused and molested Plaintiff. Thereafter, defendant PACHECO, as a member of and acting within the authority of FRIARS, further molested Plaintiff in Plaintiff's parent's home and in motels over approximately a 2 year period while Plaintiff was a minor.

9. Plaintiff did not discover that psychological injuries he suffered as a result of said molestations were caused by the abuse by defendants until on or about January 27, 1995, when he began therapy.

FIRST CAUSE OF ACTION
(NEGLIGENT RETENTION AND RATIFICATION) (AGAINST FRIARS)

10. Plaintiff incorporates the allegations of Paragraphs 1 through 9 herein as though set forth in their entirety herein.

11. Following the events referred to herein, FRIARS and DOES 2 through 100, and each of them, knew, or in the exercise of reasonable care should have known that defendant PACHECO was
incompetent and unfit to be retained as a member of the FRIARS and
that permitting defendant PACHECO to remain in such a position
would aggravate injuries caused by PACHECO to Plaintiff.

12. Plaintiff is informed and believes that actual and
constructive knowledge was obtained by FRIARS and DOES 2 through
100 from these Defendants’ observations of PACHECO’s conduct and
from other sources so that defendant FRIARS should have known that
defendant PACHECO had molested Plaintiff and other minors and
otherwise abused his position of authority and trust as a
representative and member of the FRIARS.

13. At all times herein mentioned, defendant FRIARS and DOES
2 through 100 negligently and carelessly retained defendant
PACHECO to act as and perform duties as a priest, and negligently
and carelessly failed to take steps to deprive him of his position
of trust and authority and otherwise as a member of the FRIARS so
as to prevent the explicit and tacit ratification of defendant
PACHECO’s molestation of Plaintiff.

14. As a direct and proximate result of the negligence of
said Defendants, and each of them, Plaintiff’s injuries arising
out of the molestations by defendant PACHECO were aggravated.

15. As a direct and proximate result of the negligence of
Defendants, and each of them, Plaintiff was thereafter injured in
his health, strength, and activity, sustaining injury to his
nervous system and person, all of which injuries have caused, and
will continue to cause, Plaintiff great physical, mental, and
nervous pain and suffering.

16. As a further direct and proximate result of the
negligence of Defendants, and each of them, Plaintiff was required
to and did incur and will in the future incur medical and
incidental expenses for treatment of his injuries.

17. As a further direct and proximate result of the
negligence of Defendants, and each of them, Plaintiff has been
prevented from attending to his usual occupation and has lost, and
will continue to lose, earnings and his future earning capacity
has been greatly impaired.

SECOND CAUSE OF ACTION

(NEGLIGENCE)
AGAINST PACHECO

18. Plaintiff incorporates the allegations of Paragraphs 1
through 9 herein as though set forth in their entirety herein.

19. At all times mentioned herein, defendant PACHECO, by
reason of his position of authority and trust over Plaintiff, and
by reason of his greater physical ability and knowledge, and by
reason of his undertaking to supervise, care for, and protect
Plaintiff, had a duty to care for and prevent harm to Plaintiff in
his care, which reasonably included a duty not to abuse the minor
Plaintiff herein.

20. At all times mentioned herein, defendant PACHECO, so
negligently and carelessly supervised Plaintiff and placed himself
in a position of authority and trust over Plaintiff, and allowed
himself to be in his presence without other adult supervision, so
that he was unable to control his abusive conduct, and at said
times and places, defendant PACHECO negligently and carelessly,
physically and mentally, abused Plaintiff, as alleged herein.

21. As a direct and proximate result of the negligence of
Defendant, Plaintiff suffered the injuries and damages as alleged herein.

THIRD CAUSE OF ACTION
(NEGLIGENT FAILURE TO ACT)
AGAINST FRIARS

22. Plaintiff incorporates the allegations of Paragraphs 1 through 9 herein as though set forth in their entirety herein.

23. Defendant FRIARS and DOES 2 through 100 in their role as religious institutions and under their stated and implicit authoritarian role as spiritual leaders, moral authorities and educators had a duty up to the present time toward Plaintiff following the molestations by PACHECO and FRIARS’ knowledge of these molestations to provide Plaintiff with assistance by way of formal apology, counseling, therapy and other supportive services to enable Plaintiff to cope with his various injuries arising out of the molestations.

24. Defendant FRIARS and DOES 2 through 100, breached, and continue to breach, their above described duties by failing and refusing to provide Plaintiff with any of the above-described support and to otherwise make amends to Plaintiff for the wrongdoing of defendant PACHECO.

25. As a direct and proximate result of the breach of this duty, Plaintiff has suffered damages as described herein and further according to proof at time of trial.

FOURTH CAUSE OF ACTION
(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)
AGAINST ALL DEFENDANTS

26. Plaintiff incorporates the allegations of Paragraphs 1 through 25 herein as though set forth in their entirety herein.
27. As alleged herein, Defendants and each of them, did so unlawfully touch, sexually molest and abuse Plaintiff as alleged herein or by their continuing inaction and ratification of the abuse up to the present time caused Plaintiff to suffer severe and extreme emotional and mental distress.

28. At all times herein mentioned, Defendants, and each of them, knew, or should have known, of the acts of sexual molestation by defendant PACHECO and knew, or should have known, that their failure to exercise reasonable conduct and due care in their carrying out of their duties to Plaintiff following the abuse would cause severe mental anguish, emotional and physical distress and profound shock to Plaintiff’s nervous system.

29. As a further and direct legal and proximate cause of said wrongful acts of Defendants, and each of them, Plaintiff has suffered and continues to suffer severe mental anguish, emotional and physical stress, resulting in the injuries and damages set forth herein.

FIFTH CAUSE OF ACTION

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

AGAINST FRIARS

30. Plaintiff incorporates the allegations of Paragraphs 1 through 9 herein as though set forth in their entirety herein.

31. Defendant FRIARS knew or should have been aware at some time following the abuse by defendant PACHECO that such abuse had taken place. Despite this knowledge, defendant FRIARS intentionally, recklessly and with wanton disregard for the well-being of Plaintiff has failed and refused to apologize to Plaintiff and to offer him any therapy or counseling or to take
any other actions to assist him in rebuilding his damaged emotional and psychological state which they knew, or should have known, had been devastated by the abuse perpetrated by defendant PACHECO.

32. The conduct of Defendants was done with a wanton and reckless disregard of the consequences to Plaintiff and was done with knowledge that it was highly probable that Plaintiff would suffer severe mental anguish, emotional and physical distress, humiliation and embarrassment.

33. As a direct and proximate result of the aforementioned acts, Plaintiff suffered, and will continue to suffer, severe humiliation, embarrassment, mental anguish and emotional and physical distress and further he has been injured in mind and body and has suffered the injuries and damages as alleged herein.

34. The conduct of defendant FRIARS constituted malice and oppression in that defendant FRIARS knew that Plaintiff was vulnerable following the abuse and knew that it was highly unlikely that serious harm would result to Plaintiff, but nonetheless acted in a despicable, wilful, deliberate and conscious disregard of the rights and well-being of Plaintiff. Plaintiff therefore seeks exemplary and punitive damages from defendant FRIARS.

SIXTH CAUSE OF ACTION
(CIVIL CONSPIRACY)
AGAINST FRIARS

35. Plaintiff incorporates the allegations of Paragraphs 1 through 9 herein as though set forth in their entirety herein.
36. Beginning in the 1980's and up to the present, defendant FRIARS and DOES 2-100, and each of them, knowingly and wilfully conspired and agreed among themselves to avoid public disclosure of and to take responsibility for the sexual molestations committed by their fellow member, defendant PACHECO, and FRIARS avoided extending apologies, counselling, therapy, and other supportive services to Plaintiff or Plaintiff's family when they knew Plaintiff and his family had asserted defendant PACHECO's sexual abuse of Plaintiff while PACHECO was a member of the FRIARS.

37. Defendant FRIARS conspired up to the present to avoid any affirmative actions to mitigate the damages caused by defendant PACHECO even though defendant FRIARS had received multiple accusations from various parents about defendant PACHECO's abuse of young men and despite the fact that defendant FRIARS were themselves conducting an on-going investigation of defendant PACHECO's sexual transgressions and despite the fact that in or about 1988, defendant FRIARS disciplined PACHECO based on such accusations.

38. In so doing, defendant FRIARS aggravated the injuries and aided and abetted and ratified the sexual abuse perpetrated on Plaintiff.

39. Defendant FRIARS did the acts and things herein alleged pursuant to and in furtherance of their conspiracy.

40. Defendant FRIARS furthered the conspiracy by cooperating to avoid the above-described affirmative actions and in this and other ways ratified and adopted the acts of defendant PACHECO.

41. Plaintiff is informed and believes and thereon alleges
that the last overt act and pursuant to the above-described conspiracy occurred on or about August 1996, on which date Plaintiff met with the attorney for the FRIARS, in an attempt to gain a response to this claim against the FRIARS. Said attorney informed Plaintiff that he would contact Plaintiff with the FRIARS response. Attorney has never made contact with plaintiff's attorney, nor has he responded to Plaintiff's several calls in an attempt to get a response back from the FRIARS. By this specific failure to respond, and by the FRIARS consistent failure to affirmatively respond over many years up to the present, the FRIARS continue to act in furtherance of the conspiracy of silence and thereby aggravate the injuries caused by the tortious sexual abuse of Plaintiff.

42. As a proximate result of the wrongful acts as herein alleged, Plaintiff has incurred general damages according to proof at time of trial.

43. Further, Plaintiff has incurred special damages for psychological counseling in an amount according to proof at time of trial.

44. In doing the things as herein alleged, defendant FRIARS acted wilfully and with the intent to cause injury to Plaintiff. Defendant FRIARS are therefore guilty of malice and oppression in conscious disregard of Plaintiff's rights, thereby warranting an assessment of punitive damages in an amount appropriate to punish Defendants and to deter others from engaging in similar misconduct.

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(SEVENTH CAUSE OF ACTION)

(ASSAULT AND BATTERY)

AGAINST PACHECO

45. Plaintiff incorporates the allegations of Paragraphs 1 through 9 herein as though set forth in their entirety herein.

46. Defendant PACHECO unlawfully assaulted and battered Plaintiff by engaging in sexual related conduct with Plaintiff as alleged herein.

47. By reason of the aforementioned wrongful acts, Plaintiff was placed in great fear of his life and physical well-being.

48. As a direct and proximate result of the aforementioned acts and the fright caused thereby, Plaintiff suffered the injuries and damages as alleged herein.

49. The conduct of defendant PACHECO constituted malice and oppression in that Defendant knew that Plaintiff was vulnerable and unable to protect himself and knew that it was highly likely that serious harm would result, but in a despicable, wilful and conscious disregard of the rights and safety of Plaintiff and his family, Defendant deliberately engaged in the conduct alleged herein. Plaintiff therefore seeks exemplary and punitive damages from defendant PACHECO.

WHEREFORE, Plaintiff prays for damages as follows:

1. For general damages in an amount within the jurisdiction of the Superior Court;

2. For special damages for medical, incidental, and loss of earnings, according to proof;

3. For punitive damages;
4. For costs of suit herein; and
5. For such other and further relief as the Court may deem proper.


BELDEN, ABBEY, WEITZENBERG & KELLY

Wayne R. Wolski
Attorney for Plaintiff
Bates Numbers 358-359 were removed by the Plaintiffs at the request of the Franciscans.
Wayne R. Wolski, Esq.
Abbey, Weitzenberg, Kelly
Nadler, Hoffman & Emery
1105 North Dutton Avenue
P.O. Box 1566
Santa Rosa, CA 95402-1566


Dear Mr. Wolski:

 confidential settlement terms

I will now file with the court the request for dismissal and will provide you with a file, endorsed copy when it is returned to me.

Very truly yours,

SEDGWICK, DETERT, MORAN & ARNOLD

By Nicholas W. Heldt

Enclosures
Wayne R. Wolski, Esq.
Abbey, Weitzenberg, Kelly
Nadler, Hoffman & Emery
1105 North Dutton Avenue
P.O. Box 1566
Santa Rosa, CA 95402-1566


Dear Mr. Wolski:

I received the settlement agreement signed by you and your client. I also received the request for dismissal which you signed. I now enclose the settlement check in the amount of [amount redacted] in care of [name redacted] in your firm.

I also enclose an original letter from the Provincial Minister of the Franciscans to your firm.

I will now file with the court the request for dismissal and will provide you with a file, endorsed copy when it is returned to me.

Very truly yours,

SEDGWICK, DETERT, MORAN & ARNOLD

By Nicholas W. Heldt

Enclosures
Wayne R. Wolski, Esq.
October 31, 1997
Page 2

cc: Fr. Mel Jurisich
Franciscan Friars of Northern California
1500 34th Avenue
Oakland, CA 94601

Brian Brosnahan
Heller, Ehrman
333 Bush Street
San Francisco, CA 94104-2878
October 23, 1997

Mr. 

[Address]

Dear Mr. 

May the Lord give you peace!

The Franciscans of the St. Barbara Province have heard your pain caused by the actions of Gary Pacheco while he was a Franciscan priest. Please accept our sorrow and apology for the pain and hurt that Gary brought to you and your family. Be assured that we do not condone his actions nor do we hide from the knowledge of them.

We know the difficulty and hurt that can come with revealing Gary's actions to your family and to the Church, and we thank you for bringing this to us. Although we cannot change the past, your disclosure helped make provisions for the future.

The Franciscans will hold you and your family in our prayers in the hope that your healing will continue.

Sincerely,

[Signature]

Provincial Minister

OFM PACH 1
0362