

CONFIDENTIAL FILES

of.

GARY PACHECO

1500 34th Ave
Oakland CA 94601-3092
Phone (510) 536-3772 • Fax (510) 536-3970
www.bfranciscans.org

GARY PACHECO

FEBRUARY 4, 1988

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 leeave imposed by Bishop Mc Farland. 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. When the urged have to go to Church, by finally admitted he was furned off to the church because of this land.

At this point the bishop put Gary on administrative leve. If he had admitted the allegations he would have immediately severed his relation with the diocese.

Attorney Client Privileged

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
ot things he and seen on TV (apparently re priests and pedophilia).
I told him he would probably be asked to undergo psych. evaluation.
He weemed willing. I told him Fr. John Urell would probably contact him.

Feb. 5

Talkeed With Fr. Urell. He said that since Gary had admitted some indissretions, 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 I 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 Sprnnings Feb. 26. I did have a brief opportunity to talk with Gary. He indicated his willingnees 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 questoned how long it would be good for him to stay a t 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 devylopment had accoured. (cf. next page



DIOCESE OF ORANGE MARYWOOD CENTER

2811 EAST VILLA REAL DRIVE ORANGE, CALIFORNIA 92667-1999 (714) 974-7120

February 9, 1988

CONFIDENTIAL

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

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

Dear

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,

Reverend John Urell

Chancellor

ds

GARY PACHECO

MARCH 7, 1988

Received a call from Fr. John Urell, chancelfor 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 Cary and 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.

Attorney Client Privileged

I finally ealied 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 comeright away and enter the program at Villa Louis Martin.

CARY Presently at Willa Louis MARTIN 6/18/80

OFM PACH 1 0060

CONFIDENTIAL

GARY PACHECO

June 20, 1988

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.



1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

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.

ge

Bates Number 63 was removed by the Plaintiffs at the request of the Franciscans.

17130 SAN MALEO Apt. B Fountain Valley, (A 92708 714 962-6790

GARY PACHECO

On October 27, 1992, called the Provincial Office to report that a sister of a young man had come to 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 order to get continued counseling for her brother.

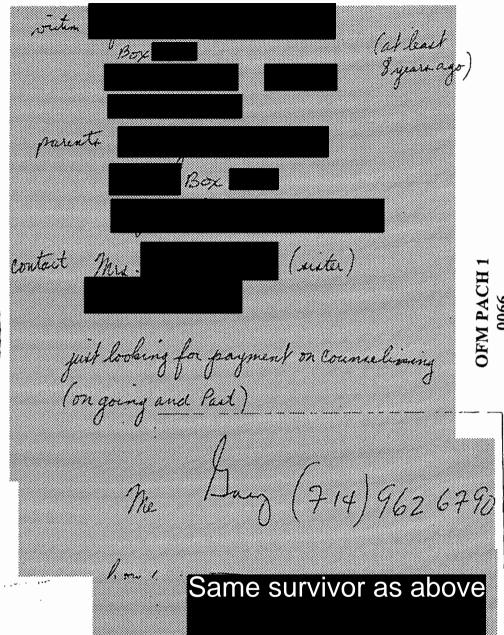
Attorney Client Privileged **OFM PACH 1**

OFM PACH 1 0064 Confidential

Memo: to From: Regarding: Gary Pacheco Date: November 24, 1992 informed me of allegations On November 4, 1992 of sexual abuse on the part of Gary Pacheco. These had been made by the pastor of our parish in Huntington Beach. name and phone number on November 6 and I talked to on November 7. now 24 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 gentials, and then take hand and place it on his own genitals. Though the parents were at home at the time, this activity went unnoticed behind closed door. Gary was a good friend of the family, a priest, and therefore trusted. Gary would see school as well, but there is no memory of any misconduct 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. shares that the experience caused him In retrospect, 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 was also abused but until the present said that he will broach the topic with 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.

In conversation with Gary Pacheco (714-962-6790) he has acknowledged the regular visits to the family home and backrubs and feet massages to in his bedroom. However, he does not remember any sexual misconduct. He acknowledges From the desk of



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.

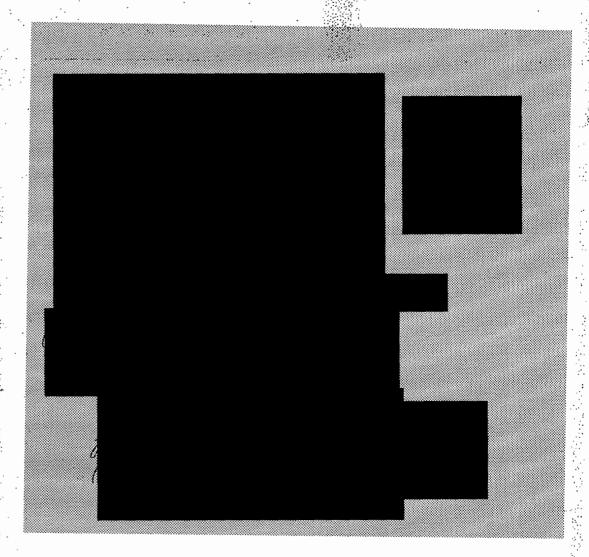
Action Recommended

- 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 the but for now he declines.
- a) 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 Gary's request to leave both the Order and the priesthood, and along with this acknowledge Gary's treatment at Jemez Springs.
- 5) Be aware that wants to confront Gary in person and that Gary'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.

OFM PACH 1 0069



Mel-

la ma Alas

Time: 8th , 14th year presently 24. at your house ,

he dedn't tell his parent They'd be home, leut in her room, done 3 n 4 Semi a month.

Thought he wa goy, he's weed, Confused. This salared he Expense Rece.

Ala happened to a brother - but the bether denie it.

STAKTED Souvelling while in cellinge in '89. - 2 nd. gede of severelling.

2. Councillary

OFM PACH 1 0071

g to the state

A 5.00

5.875

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Plaintiff

v.

R. RICHARD T. COUGHLIN, BOYS
HOIR SCHOOL OF ORANGE COUNTY,
Lk.a. ALL-AMERICAN BOY'S
HORUS, DIOCESE OF ORANGE
DUCATION AND WELFARE
ORPORATION, aka ROMAN
LATHOLIC BISHOP OF ORANGE aka
OMAN CATHOLIC DIOCESE OF
RANGE, ROMAN CATHOLIC
RCHBISHOP OF LOS ANGELES,
R. GARY PACHECO and
RANCISCAN FRIARS OF
LALIFORNIA, INC.

Defendants

Case No.

Waiver of Service of Summons

No: Rev. as agent for service of process for FRANCISCAN FRIARS OF CALIFORNIA, INC..

I acknowledge receipt of your request that I waive service of summons in the action of V. COUGHLIN, ET AL., which is tase number 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 idditional 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 lefenses or objections to the lawsuit or to the jurisdiction or renue 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 ctain parties to cooperate in saving unnecessary costs of service the summons and complaint. A defendant located in the United ates who, after being notified of an action and asked by a aintiff located in the United States to waive service of a mmons, fails to do so will be required to bear the cost of such rvice 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 rty believes that the complaint is unfounded, or that the action s been brought in an improper place or in a court that lacks risdiction over the subject matter of the action or over its rson or property. A party who waives service of the summons tains all defenses and objections (except any relating to the mmons or to the service of the summons), and may later object to e jurisdiction of the court or to the place where the action has en brought.

A defendant who waives service must within the time specified the waiver form serve on the plaintiff's attorney (or represented plaintiff) a response to the complaint and must also le a signed copy of the response with the court. If the answer motion is not served within this time, a default judgment may be ken against that defendant. By waiving service, a defendant is lowed more time to answer than if the summons had been actually exed when the request for waiver of service was received.

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

}	
Plaintiff)	Case No.
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 (CRANGE, ROMAN CATHOLIC) ARCHBISHOP OF LOS ANGELES, (CALIFORNIA, INC.)	Notice of Lawsuit and Request for Waiver of Service of Summons
Defendants)	NOTICE

TO: Rev. 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

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

Coughlin, et al. Case No. Notice of Lawsuit and Request for Waiver of Service of Summons

Page 2

Rev.

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)

SUMMONS

CASE NUMBER

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, akapefendants(s)
ROMAN CATHOLIC BISHOP OF ORANGE

TO THE ABOVE-NAMED DEFENDANT(S), NOW are nevery 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.

JAN 14 1994

DATE:

CLERK, U.S. DISTRICT COURT

Deputy Clerk

(SEAL OF THE COURT)

SUMMONS

OFM PACH 1

CV-1A (1/87)

OFM PACH 1

(Reverse Side)

JS-44C

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)

	COMPLETING THE FRONT SIDE OF FORM IS-44C, COMPLETE THE INFORMATION REQUESTED BELOW.			
Has I	action previously been filed and dismissed, remanded, or closed?			
<u>X</u> _	Yes Case No.			
	D CASE(S), IF ANY:			
٨.	Appear to arise from the same or substantially identical transactions, happenings or events;			
В.	involve the same or substantially the same parties or property;			
C.	Involve the same papent, 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	California County or State (if other than California) in which each named plaintiff resides. (Use an additional sheet if			
List neces	California County or State (if other than California) in which each named defendant resides. (Use an additional sheet if			

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

Orange County, Orange County, Orange County, IOs Angeles, Orange County and

Orange County

Alameda County.

Key to Statistical Codes relating to Social Security Cases:				
NATURE OF SUIT CODE	ABBREVIATION	SUBSTANTIVE STATEMENT OF CAUSE OF ACTION		
861	на	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))		
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 USC 923)		
863	DIWC	All claims filed by insured 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))		
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, so amended. (42 USC 405(g))		
864	ssm	All claims for supplemental accurity income payments based upon disability filed under Title 16 of the Social Security Act, as amended.		
865	RSt	All claims for retirement (old sgc) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 USC)		

JS-44C (04/93)

NOTICE TO COUNSEL

THE COURT HAS DIRECTED THAT THE FOLLOWING BULES 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 4.3.3 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 FRCP 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 FRCP 4(d)(4) and (5). Service should be promptly made; unreasonable delay may result in a dismissal of the action under Local Rule 12. Proof of Service must be promptly filed with the Court.

For further information inquire at the Office of the Clark, 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-II) 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-II after it has been completed. Only if <u>all</u> 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 <u>may not</u> 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).

Any appeal from a judgment of the Magistrate shall be taken to the United States Court of Appeal 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 on 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

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.

CV-20a 8/85 NOTICE OF G.O. 194-G

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].

Any appeal from a judgment of the Magistrate shall be taken to the United States Court of Appeal 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 on 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

and the second second

was a first of the organism of the

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.

1 MARK E. ROSEMAN, ESQ., Bar #82723 TIMOTHY M. O'CROWLEY, ESQ. #158549 2 LAW OFFICES OF BLUM & ROSEMAN, APC FILE 1851 East First Street, Suite 850 3 Santa Ana, California 92705 (714) 547-8801 4 JAN | 4 199*1*1 5 ATTORNEY FOR PLAINTIFF: ERK, U.S. DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA SANTA ANA OFFICE UNITED STATED DISTRICT COURT 8 CENTRAL DISTRICT OF CALIFORNIA 9 10 CASE NO. 11 Plaintiff, VS. COMPLAINT FOR: 12 FR. RICHARD T. COUGHLIN. 1. SEXUAL ASSAULT AND BATTERY: BOYS CHOIR SCHOOL OF 2. INTENTIONAL INFLICTION 13 ORANGE COUNTY, a.k.a. OF EMOTIONAL DISTRESS ALL-AMERICAN BOY'S CHORUS, 3. NEGLIGENT INFLICTION OF 14 DIOCESE OF ORANGE EDUCATION EMOTIONAL DISTRESS AND WELFARE CORPORATION, aka 4. NEGLIGENT SUPERVISION 15 ROMAN CATHOLIC BISHOP OF 5. VIOLATION OF STATUTE ORANGE aka ROMAN CATHOLIC 6. SEXUAL ASSAULT AND BATTERY; 16 DIOCESE OF ORANGE, ROMAN 7. NEGLIGENT INFLICTION OF CATHOLIC ARCHBISHOP OF **EMOTIONAL DISTRESS** LOS ANGELES, FR. GARY PACHECO, 17 8. NEGLIGENT SUPERVISION and FRANCISCAN FRIARS OF CALIFORNIA, INC. 18 DEMAND FOR JURY TRIAL 19 Defendants 20 21 NOW COMES the Plaintiff, who alleges as 22 follows: 23 JURISDICTION 24

1. Plaintiff, hereinafter, Plaintiff, is a citizen of the State of 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

25

26

27

28

8

9

10

11

12

13 14

15

16

17

18

19

20

21

22

23

24

///

///

///

///

///

25

26

27

28

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.
- 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.
- FRANCISCAN FRIARS 6. Defendant OF CALIFORNIA, 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.
- Defendant FR. GARY PACHECO hereinafter FR. PACHECO is a 7. 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.

· } ._

- 9. Plaintiff, born is 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.
- 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 ecclesiatic 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 ecclesiatic 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.

В

 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, coparticipant, 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. COUCHLIN 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 <u>California Code of Civil Procedure</u> 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

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. <u>SECOND CLAIM FOR RELIEF</u> (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. COUCHLIN'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 <u>California Code of Civil Procedure</u> 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 perpetratrated 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 <u>Alter Christi</u>, 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 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/LA 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 <u>California Penal Code</u> 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

- 54. That had Defendants adequately performed their duties mandated by section 11166 of the <u>Penal Code</u>, 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 <u>California Penal Code</u> 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

8

9

10

٠٠.

11 12

13

14

15 16

17 18

19

20 21

22

23 24

25

26

27

28

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 ofPlaintiff'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 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.
- In doing the acts hereinabove described, Defendant 66. 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.
- 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

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 carnings 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 presexual, 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 perpetratrated 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,

conduct perpetrated by FR. PACHECO.

27

28

80.

As a result of FRANCISCANS breaching their duty to

В

10

11

12 13

14 15

17 18

16

19

20

21 22

23

24

. 25

26

27

28

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.

- 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 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.
- 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 for judgment against the prays defendants as follows:

For general compensatory damages for past, present and 1. future psychological, emotional and physical pain, suffering,



FIL

. Confidential

Memo: to

From:

Regarding: Gary Pacheco

Date: November 24, 1992

On Movember 4, 1992 informed me of allegations, of sexual abuse on the part of Gary Pacheco. These had been made by the victim's

pastor of our parish in Huntington Beach.

Wovember 6 and I talked to her brother on November 7.

row his 8th. to 14th. year, on almost a weekly basis Gary Pacheco, while visiting his family home would enter his bedroom, fondle his gentials, and then take hand and place it on his own genitals. Though the parents were at home at the time, this activity went unnoticed behind 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.

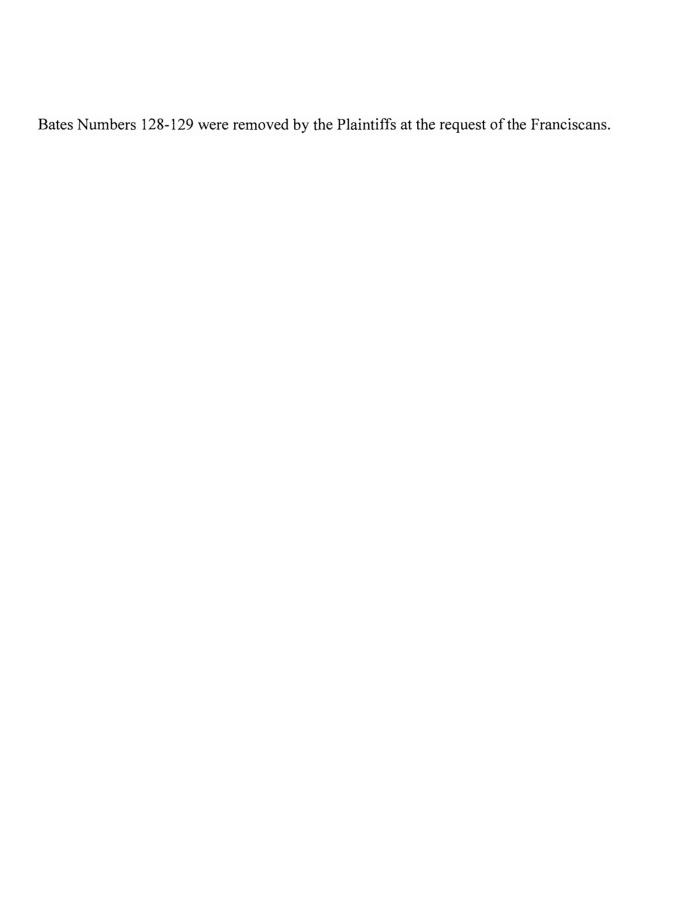
Action Recommended

- 2) Counseling has been offered to but for now he declines.
- parents have been invited to discuss this matter with me or the provincial through the They, too, would be welcome to counseling as well as the brother if so desired.
- 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, nonvindictive person. He's recently become a father, and he has some sense of concern for children in general - that they be protected.

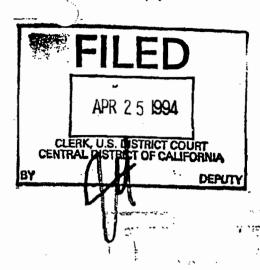
Mark E. Roseman, Esq. May 3, 1994 Page 3

bcc: Sheryl Bandy Fr. Mel Jurisich, OFM

L:\0418\ (rose3.ltr



15_.



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

Plaintiff,

•

FR. RICHARD T. COUGHLIN, ET AL.,

Defendants,

CASE NO. (Ex)

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,
is a citizen of the State of 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 and forced allegedly fondled to touch his genitals.

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

1

2

3

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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. <u>Id.</u> at 5. In addition, he alleges that he has lost both present and future earnings due to his deep seated psychological injuries.

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 § 340.19k). His complaint was filed within eight years of

suit is the plaintiff's 19th birthday." Id.

2

4

7

8

9

11

12

14

16

17

18

19

20

22

24

26

27

28

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

0134

^{&#}x27;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 periond 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 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 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."

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 <u>David A.</u>, 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. <u>David A.</u>, 24 Cal Rptr.2d at 539. Unlike the plaintiff in <u>David A.</u> had not recently discovered ber sexual abuse history and had not previously proceeded with

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 <u>David A.</u> 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 statue 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 <u>David A.</u>

reviewed three conditions for whether a claim under § 340.1 was untimely:

(1) 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 <u>David A.</u>, 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. <u>Id</u>. 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. <u>Id</u>.

Although claims meet the first two conditions of untimeliness set forth in <u>David A.</u>, 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.

III. The Archbishop's Duty to Report Under the Child Abuse Reporting Act Arose Before 1983

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.
APR 20 1994
Dated:

JOHN G. DAVIES

United States District Judge

CV 94-350-JGD

SERVICE LIST

BLUM & ROSEMAN
MARK E. ROSEMAN
1851 EAST FIRST ST., STE 850
SANTA ANA, CA 92705

McNICHOLAS & McNICHOLAS JOHN P. McNICHOLAS 10866 WILSHIRE BLVD., STE 1400 LOS ANGELES, CA 90024-4338

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

LEWIS, D'AMATO, BRISBOIS & BISGAARD

PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

LAWYERS

SUITE 1400

650 TOWN CENTER DRIVE CENTER TOWER BUILDING COSTA MESA, CALIFORNIA 92626

TELEPHONE (714) 545-9200

FACSIMILES:

COSTA MESA: (7/4) 850-1030 LOS ANGELES: (2/3) 250-7900 SAN DIEGO: (6/9) 233-8627 SAN FRANCISCO: (4/5) 434-0882 SAN BERNARDINO: (909) 387-1/38 ORANGE: (7/4) 978-6922 SACRAMENTO: (9/6) 564-5444 INLAND EMPIRE OFFICE

TRI-CITY CORPORATE CENTRE
SUITE 600
650 EAST HOSPITALITY LANE
SAN BERNARDINO, CALIFORNIA 92408
TELEPHONE (909) 387-1130

ORANGE OFFICE

THE CITY TOWER

333 CITY BOULEVARD WEST, SUITE 1600

ORANGE, CALIFORNIA 92668-2824

TELEPHONE (714) 978-6300

SACRAMENTO OFFICE

METRO CENTER
2720 GATEWAY OAKS DRIVE, SUITE 250
SACRAMENTO, CALIFORNIA 95833-3501
TELEPHONE (916) 564-5400

TELEPHONE (415) 362-2580
SAN DIEGO OFFICE

LOS ANGELES OFFICE

SUITE 1200

221 NORTH FIGUEROA STREET

LOS ANGELES, CALIFORNIA 90012

TELEPHONE (213) 250-1800

SAN FRANCISCO OFFICE

SUITE 1900

601 CALIFORNIA STREET SAN FRANCISCO, CALIFORNIA 94108

SUITE 800 550 WEST "C" STREET SAN DIEGO, CALIFORNIA 92101 TELEPHONE (619) 233-1006

MICHAEL C. OLSON

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

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 Franciscan Friars contemplates taking the May 13, 1994. deposition of plaintiff, plaintiff's sister, plaintiff's brother, plaintiff's parents, and plaintiff's college counselor in the Defendant also intends to subpoena medical month of July. 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.

Mark E. Roseman, Esq. May 5, 1994 Page 2

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 <u>David A.</u> 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, BRYSBOIS & BISGAARD

Michael C. Olson

MCO:dcw Enclosure

cc: David Ring, Esq.

Mark E. Roseman, Esq. May 5, 1994 Page 3

bcc: Sheryl Bandy Fr. Mel Jurisich, OFM

L:\0418 rose4.ltr Bates Number 143 was removed by the Plaintiffs at the request of the Franciscans.

1 MARK E. ROSEMAN, ESQ., Bar #82723 LAW OFFICES OF BLUM & ROSEMAN, APC 2 1851 East First Street, Suite 850 Santa Ana, California 92705 3 (714) 547-8801 4 ATTORNEY FOR PLAINTIFF: 5 6 UNITED STATED DISTRICT COURT 7 CENTRAL DISTRICT OF CALIFORNIA 8 9

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.

PLAINTIFF'S RESPONSES TO SPECIAL INTERROGATORIES

SET NO. ONE

Defendants

PROPOUNDING PARTY: Defendants, FRANCISCAN FRIARS OF CALIFORNIA,

INC.

RESPONDING PARTY: PHaintiff,

SET NO.: One

PRELIMINARY STATEMENT

Plaintiff, ("responding party") hereby makes the following responses to Respondent's First Set of Interrogatories.

1 OFM PACH 1 0144

10

11

12

13

14

15

16

<u>.</u> 17

. 19

- 20

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.

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 QUESTION'S AND RESPONSES

INTERROGATORY NO. 1:

State your name, address, date of birth and social security number.

RESPONSE NO. 1:

contained in plaintiff's complaint.

1

28

tree

RESPONSE NO. 4:

1. 2. 3. 4. 5. 5. 5. 6.

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 activitities 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 1 2 Father Pacheco was neither qualified nor able to be a trustworthy 3 and responsible child care custodian. RESPONSE NO. 6: Gary Pacheco sexually, molested me and another child while he 6 was associated with the Friars. 7 INTERROGATORY NO. 7: 8 For each alleged wrongful act committed by Father Gary 9 Pacheco, state the date and conduct of Father Pacheco which you 10 alleged to be wrongful. 11 12 RESPONSE NO. 7: I cannot recall specific dates of the abuse. I was sexually 13 14 abused by Gary Pacheco while he was associated with St. Simon & 15 Jude Parish in the Diocese of Orange. 16 The conduct consisted of him placing my hands on his penis ...17 and sticky fluid was present, having me rub his upper body while 18 alone at my home. 19 INTERROGATORY NO. 8: . 20 For each alleged wrongful act committed by Father Gary 21 Pacheco, state the address or place where the alleged wrongful act' 22 occurred. 23 RESPONSE NO. 8: 24 25 26 On tour for the All American Boys Chorus. 27 INTERROGATORY NO. 9:

If plaintiff discussed the alleged wrongful acts by Father

28

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:

17

21

22

23

24

25

26

27

28

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.

1 mm -

Coughlin's inappropriate sexual contact with choir members. INTERROGATORY NO. 12: If you respond (sic) to Defendant's First Set of Request for served concurrently herewith, Admission. unconditional admission for each response, please state all facts

upon which you rely in support thereof.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

18

19

20

21

22

23

24

25

26

<u>, 17</u>

RESPONSE NO. 12:

Request No. 1: See my response to Special Interrogatory No. 5.

is other

than

Request No. 2: I was sexually abuse by Gary Pacheco while he The Friars implicitly represented was employed by the Friars. that Gary Pacheco was a devote, 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 devote man of god. He was not morally trained on the appropriate conduct between a priest and a young boy.

This calls for a legal analysis Request No. 4: 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:

Moberly Regional Medical Center 1515 Union Avenue, Moberly, Missouri 65270 (816) 263-8400

1		
1 2	 Saint Joseph's Hospital 523 North Third Street, Brainerd, Minnesota 56401 (218) 829-2861 	
3 4	 FHP 9920 Talbert Avenue, Fountain Valley, CA 92708 (714) 962-4677 	
5 6	4. Fountain Valley Hospital 17100 Euclid Avenue, Fountain Valley, CA (714) 962-7200	
7 8	DATED: May 13, 1994 BLUM & ROSEMAN, ESQ.	
9	Maile & Roseman	
10	MARK E. ROSEMAN, ESQ. Attorney for Plaintiff	
12	rsrog.pld	
13		
14		
15		
16		
	المعارض	
18		
19		
21		•
22		'سر.
23		ř
24		
25		
26		
27		
28		

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 <u>PLAINTIFF'S RESPONSE TO RESPONSE TO SPECIAL INTERROGATORIES</u>, <u>SET ONE</u> 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 Taws 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 Coderpote

بهيهرة

G:\CLIENTS\

SROGOL.POS

...17

1	ATTACHED MAILING LIST
2	·
3	JEFFREY R. ANDERSON, ESQ. REINHARDT AND ANDERSON
4	332 Minnesota Street
5	St. Paul, Minnesota 55101
6	Attorneys for: PLAINTIFF :
7	MICHAEL OLSON, ESQ. LEWIS, D'AMATO, BRISBOIS & BISGAARD 650 Town Center Drive, #1400 Costa Mesa, CA 92626
9	Attorneys for: FRANCISCAN FRIARS OF CALIFORNIA
10 11	JOHN P. McNICHOLAS, ESQ. McNICHOLAS & McNICHOLAS 10866 Wilshire Blvd #1400
12	Los Angeles, CA 90024
13	Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES, A CORPORATION SOLE
15	
16 17	Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF ORANGE, A CORPORATION SOLE
18 19	JOHN NELSON, ESQ. WEISENBERG & NELSON 888 N. Main St. Suite 400
20	Santa Ana, CA 92701-3518
21	Attorney for: GARY PACHECO
22	MICHAEL D. McEVOY, ESQ. MURCHISON & CUMMING
23	200 W. Santa Ana Blvd #801 Santa Ana, CA 92701
24	Attorney for: AABC
25	

~~

26

27

28

total

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:

1

2

3

4

5

6

8

20

21

22

23

24

25

26

27

28



UNITED STATED DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

9 CASE NO 10 Plaintiff, 11 FR. RICHARD T. COUGHLIN, 12 BOYS CHOIR SCHOOL OF PLAINTIFF'S RESPONSES TO ORANGE COUNTY, a.k.a. 13 ALL-AMERICAN BOY'S CHORUS, REQUEST FOR PRODUCTION OF DIOCESE OF ORANGE EDUCATION DOCUMENTS AND WELFARE CORPORATION, aka ROMAN CATHOLIC BISHOP OF SET NO. ONE 15 ORANGE aka ROMAN CATHOLIC -DIOCESE OF ORANGE, ROMAN 16 CATHOLIC ARCHBISHOP OF LOS ANGELES, FR. GARY PACHECO, 17 and FRANCISCAN FRIARS OF CALIFORNÍA, INC. 18 Defendants 19

PROPOUNDING PARTY: Defendants, FRANCISCAN FRIARS OF CALIFORNIA, INC.

RESPONDING PARTY: PFaintiff,

COST ON STATE STAT

Pursuant to the Code of Civil Procedure, Plaintiff,

One

hereby responds to Defendant, FRANCISCAN FRIARS OF

CALIFORNIA, INC. request for production of documents:

111

SET NO .:

]	RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS
2	REQUEST FOR PRODUCTION NO. 1:
3	Any and all documents upon which plaintiff relies in support
4	of count five (5) of plaintiff's complaint for violation of
5	statute.
6	RESPONSE NO. 1:
7	I have no documents
8	REQUEST FOR PRODUCTION NO. 2:
9	Any and all documents upon which plaintiff relies in support
10	of count eight (8) of its complaint for negligent supervision.
11	RESPONSE NO. 2:
12	I have no documents
13	REQUEST FOR PRODUCTION NO. 3:
14	If plaintiff responds to defendants' first set of request for
15	admissions served concurrently herewith, is other than an
16	unconditional denial, then any and all documents which evidence or
17	relates to facts upon which plaintiff relies in support of its
18	answer to the request for admissions.
19	RESPONSE NO. 3:
20	I have no documents
21	REQUEST FOR PRODUCTION NO. 4:
22	Any and all statements taken from any witnesses with
23	knowledge or information relevant to the claims alleged in
24	plaintiff's complaint.
25	RESPONSE NO. 4:
26	A copy of December 21, 1993, taped
27	interview is enclosed.
28	REQUEST FOR PRODUCTION NO. 5:

1	Copies of any and all social workers', counselling,
2	psychiatric, or psychological records regarding the plaintiff.
3	RESPONSE NO. 5:
4	I have no records
5	REQUEST FOR PRODUCTION NO. 6:
6	Copies of any and all correspondence, memos, reports, or
7	other written documentation prepared by any of the defendants in
8	this matter which are in plaintiff's possession.
9	RESPONSE NO. 6:
10	Copy of January 29, 1993, letter is attached
11	REQUEST FOR PRODUCTION NO. 7:
12	Copies of any and all letters, memos, reports, or other
13	written documents prepared by plaintiff and sent to any of the
14	defendants in this matter.
15	RESPONSE NO. 7:
16	I have no documents
17	REQUEST FOR PRODUCTION NO. 8:
18	Copies of any and all diaries, journals or written logs
19	prepared by the plaintiff.
_ 20	RESPONSE NO. 8:
21	I have none
22	REQUEST FOR PRODUCTION NO. 9:
23	Copies of any and all newsletters, minutes of meetings,
24	handouts, brochures, or other written material received from
25	S.N.A.P. or any other organization of sexually abused persons.
26	\ \\
27	\ \\
28	\\\
	n ·

1	RESPONSE NO. 9:
2	I have none
3	DATED: May 13, 1994 BLUM & ROSEMAN, APC
4	
5	MARK E. ROSEMAN. ESO.
6	MARK E. ROSEMAN, ESQ. Attorney for Plaintiff
7	rdpd.pld
8	
9	
10	
11	
12	;
13 14	المستعشر
15	
16	
17	→
18	Arteris and
19	grand was and the same of the
20	
21	
22	- Leed
23	
24	
25	
26	
27	
28	

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 <u>PLAINTIFF'S RESPONSE TO RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE</u> 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 Taws 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

|

G:\CLIENTS\

DPDOL.POS

., 17

ATTACHED MAILING LIST

1	
2	

3 JEFFREY R. ANDERSON, ESQ. REINHARDT AND ANDERSON

332 Minnesota Street St. Paul, Minnesota 55101

Attorneys for: PLAINTIFF

Costa Mesa, CA 92626

6

5

7

8

9

10

11

12

13

14 15

16

..17

18 19

20 21

22

23 24

25 26

27

28

MICHAEL OLSON, ESQ. LEWIS, D'AMATO, BRISBOIS & BISGAARD 650 Town Center Drive, #1400

Attorneys for: FRANCISCAN FRIARS OF CALIFORNIA

JOHN P. McNICHOLAS, ESQ. McNICHOLAS & McNICHOLAS 10866 Wilshire Blvd.. #1400 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. WEISENBERG & NELSON 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

DIUCESE OF ORANGE



MARYWOOD CENTER
2611 EAST VILLA REAL DRIVE
ORANGE, CALIFORNIA 92667-1989
(714) 974-7120

January 29, 1993

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

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 jon "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 theorem 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 judgement of the Diocese of Orange is that Father Coughlin will no longer be slicked 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.

Rage Two + Boys Choru | d of Directors January 29, 1993

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,

Reverend Monsignor John Urell Chancellor/Moderator of the Curla

ds

c: Mr. Daniel W. Holden Diocesan Attorney

> Sgt. Mike Millington Cost Mesa Police Department

1 MARK E. ROSEMAN, ESQ., Bar #82723 LAW OFFICES OF BLUM & ROSEMAN, APC 2 1851 East First Street, Suite 850 Santa Ana, California 92705 3 (714) 547-8801 ATTORNEY FOR PLAINTIFF: 5 6 UNITED STATED DISTRICT COURT 7 CENTRAL DISTRICT OF CALIFORNIA 8 9 CASE NO. 10 Plaintiff, 11 FR. RICHARD T. COUGHLIN, 12 BOYS CHOIR SCHOOL OF PLAINTIFF'S RESPONSES TO ORANGE COUNTY, a.k.a. 13 ALL-AMERICAN BOY'S CHORUS, REQUEST FOR ADMISSIONS DIOCESE OF ORANGE EDUCATION 14 AND WELFARE CORPORATION, aka SET NO. ONE ROMAN CATHOLIC BISHOP OF 15 ORANGE aka ROMAN CATHOLIC DIOCESE OF ORANGE, ROMAN CATHOLIC ARCHBISHOP OF 16 LOS ANGELES, FR. GARY PACHECO, .. 17 and FRANCISCAN FRIARS OF CALIFORNIA, INC. . 18 Defendants 19 20 PROPOUNDING PARTY: Defendants, FRANCISCAN FRIARS OF CALIFORNIA, 21 INC. 22 Plaintiff, RESPONDING PARTY: 23 SET NO.: One 24 Pursuant to the Code of Civil Procedure, Plaintiff 25 hereby responds to Defendant, FRANCISCAN FRIARS OF 26 CALIFORNIA, INC. request for admissions: 27 111

28

111

OFM PACH 1 0162

さんじごっど ぐろ

2 REQUEST NO. 1: Prior to June of 1983, the FRANCISCAN FRIARS OF CALIFORNIA, 3 INC. was not aware that any of the wrongful acts which are the 4 5 subject matter of Plaintiff's complaint had occurred. 6 RESPONSE NO. 1: Deny, on information and belief. 7 REQUEST NO. 2: 8 9 That FRANCISCAN FRIARS OF CALIFORNIA, INC. did not 10 negligently supervise Father Gary Pacheco. 11 RESPONSE NO. 2: 12 Deny 13 REQUEST NO. 3: 14 That FRANCISCAN FRIARS OF CALIFORNIA, INC. was not negligent 15 in training Father Gary Pacheco. .16 RESPONSE NO. 3: 17 Deny, on information and belief 18 REQUEST NO. 4: 19 That California Penal Code Section 11164 et seq. does not 20 apply to the defendant FRANCISCAN FRIARS OF CALIFORNIA, INC. 21 RESPONSE NO. 4: 22 Objection: calls for a legal conclusion DATED: May (5, 1994 23 BLUM & ROSEMAN, ESQ. 24 25 26 Attorney for Plaintiff 27

RESPONSES TO REQUESTS FOR ADMISSIONS

1

rrfa.pld

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

1

2

3

5

6

7

8

9

10

11

12

13

16

18

19

20

21

23

24

25

26

27

28

<u>, 17</u>

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 RESONSE 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.

- I caused such envelope to be () BY PERSONAL SERVICE: 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.

G: \CLIENTS\

1	ATTACHED MAILING LIST
2	
3	JEFFREY R. ANDERSON, ESQ. REINHARDT AND ANDERSON 332 Minnesota Street St. Paul, Minnesota 55101
5 6 7 8	Attorneys for: PLAINTUFF MICHAEL OLSON, ESQ. LEWIS, D'AMATO, BRISBOIS & BISGAARD 650 Town Center Drive, #1400 Costa Mesa, CA 92626
9	Attorneys for: FRANCISCAN FRIARS OF CALIFORNIA
1	JOHN P. McNICHOLAS, ESQ. McNICHOLAS & McNICHOLAS 10866 Wilshire Blvd #1400 Los Angeles, CA 90024
.3	Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES, A CORPORATION SOLE
5	CALLAHAN, McCUNE & WILLIS 402 West Broadway #800
17	Attorneys for: THE ROMAN CATHOLIC ARCHBISHOP OF ORANGE, A CORPORATION SOLE
18	JOHN NELSON, ESQ. WEISENBERG & NELSON 888 N. Main St. Suite 400 Santa Ana, CA 92701-3518
21	Attorney for: GARY PACHECO
22	MICHAEL D. McEVOY, ESQ. MURCHISON & CUMMING 200 W. Santa Ana Blvd. #801 Santa Ana, CA 92701

OFM PACH 1

Attorney for:

DIOCESE OF ORANGE



OFFICE OF THE CHANCELLOR/ MODERATOR OF THE CURIA MARYWOOD CENTER 2811 E. VILLA REAL DRIVE ORANGE, CALIFORNIA 92667-1999 (714) 974-7120

CUPY FOR YOUR INFORMATION

Thulleere

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 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 immediatley, and then returned to the Franciscan Community for their decisions in his regard.

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

Provincial
Franciscan Friars
1500 Thirty-Fourth Avenue
Oakland, California 91601
(415) 536-3722

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

Sincerely yours in Christ,

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



SEDGWICK, DETERT, MORAN & ARNOLD NICHOLAS W. HELDT (Bar No. 083601) One Embarcadero Center, 16th Floor San Francisco, California 94111-3765 Telephone: (415) 781-7900 ENDORSED FILED ALAMEDA COUNTY

JUL 0 3 1997

RONALD G. OVERHOLT, Exec. Off./Clerk By Ed Cranston

4

5

2

Attorneys for Defendant THE FRANCISCAN FRIARS OF CALIFORNIA, INC.

6

7

.9

10

1.0

11

12

13

14

16

inclusive,

17 18

19

20

22

23

24

25

Plaintiff,

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

Defendants.

NO.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

[BROSCOED] ORDER ON DEMURRER AND MOTION TO STRIKE

Date: July 3, 1997 Time: 10:00 a.m.

Dept: 81

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

SEDGWICK:
TERT, MORAN 28

Embarcadero Center Sixteenth Floor 1 Prancisco, California 94111-3765 Tel. 415-781 2000

SDSF2/258960

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.

Dated: July 3, 1997.

18

1

2

3

5

7

10

11

12

13

14

15

16

17

19

20

21

22

23

24

25

26

SDSF2/258960

EDGWICK ERT. MORAN 28

415.781.7900

27

Honorable Sandra Marguiles-

Judge of the Superior Court

ABBEY, WEITZENBERG, KELLY, NADLER, HOFFMAN & EMERY, P.C. 2 W. BARTON WEITZENBERG, ESQ. - SB#051788 WAYNE R. WOLSKI, ESQ. - SB#118600 1105 North Dutton Avenue 3 Post Office Box 1566 Santa Rosa, CA 95402 4 Telephone: (707) 542-5050 Facsimile: (707) 542-2589 5 6 Attorneys for Plaintiff 7

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

ומ

Plaintiff,

vs.

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

Defendants.

Case No:



SECOND AMENDED COMPLAINT FOR DAMAGES

19 20

21

22

23

24

25

26

27

28

8

9

10

11

12

13

14

15

16

17

18

- 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.
 - Plaintiff is informed and believes and thereon alleges

ABBEY, WEITZENBERG, KELLY, NADLER, JOFFMAN & EMERY, P.C. 1105 N. Dotton Avenue Sama Rosa, CA 95401 (707) 542-5050

W.

.9

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,

- 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.

p. During the time of the molests and for many years afterwards, Pacheco continued to function as a FRIAR in his interaction with Plaintiff and Plaintiff's family. Instant in Virtus of, his position as a FRIAR, 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 FRIAR. His access to Plaintiff in Plaintiff's home and elsewhere depended on PACHECO's identity as a FRIAR and on his association with the FRIARS, and the opportunity afforded to PACHECO to accomplish the sexual abuse came about solely

ı

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 FRIAR in Plaintiff's company.

11. Thereafter, the FRIARS have failed and retused to acknowledge to Plaintiff concern for Plaintiff's injuries arising

10. Further, the position PACHECO held as a FRIAR during all

instead controlled, confined and internalized the knowledge gained in approximately 1988 and before, that PACHECO molested Plaintiff and others in his position as a FRIAR. In so doing, the FRIARS have continuously, repeatedly and unremittingly, up to the present time, injured Plaintiff.

from the sexual abuse of one of their members and the FRIARS have

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

FIRST CAUSE OF ACTION

(NEGLIGENT RETENTION AND RATIFICATION)
(AGAINST FRIARS)

- 13. Plaintiff incorporates the allegations of Paragraphs 1 through therein as though set forth in their entirety herein.
- 14. 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

- 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.

. 19

_20

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 therein 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.

ABBEY, WEITZENBERG, KELLY, NADLER, KOFFMAN & EMERY, P.C. 1105 N. Dutton Avenue Senta Rose, CA. 95401 (NEGLIGENT FAILURE TO ACT) (AGAINST FRIARS)

Plaintiff incorporates the allegations of Paragraphs 1

1

8 9

10

11 12

13

14 15

16

17

18

19 20

21

22

23

24 25

26

27 28 through a herein as though set forth in their entirety herein.

- 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.
- 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.
- 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)

- Plaintiff incorporates the allegations of Paragraphs 1 through 28 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

- F

distress.

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 sever 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 therein 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

ABBEY, WEITZENBERG, RELLY, NADLER, IOFFMAN & EMERY, P.C. 1105 N, Dutton Avenue Santa Rosa, CA 95401 (707) 542-5050 ABBEY, WEITZENBERG, KELLY, NADLER, KOFFMAN & EMERY, P.C. 1105 N. Dutton Avenue Santa Rosa, CA 95401 (2007) 542,5150 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 therein 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

- 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 and continue to the present time to aggravate Plaintiff's injuries and aided and abetted and ratified 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 in the present time.
- 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

.9

affirmatively respond over many years up to the present, the FRIARS continue to act in furtherance of the conspiracy of silence and aggravation of the tortious sexual abuse of Plaintiff.

- 45. As a proximate result of the wrongful acts as herein alleged, Plaintiff has incurred general damages according to proof at time of trial.
- 46. Further, Plaintiff has incurred special damages for psychological counseling in an amount according to proof at time of trial.
- 47. 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.

(SEVENTH CAUSE OF ACTION)

(ASSAULT AND BATTERY) (AGAINST PACHECO)

- 48. Plaintiff incorporates the allegations of Paragraphs 1 through the through the through through through the through through through the through through through the through through the through through through the through through the through through the through through the through through through the through through through through the through the through through the through the through through the throught through the th
- 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

OFM PACH 1 0198

23

24

25

26

27

from defendant PACHECO. 3. 5. proper. DATED: July 9, 1997

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 Plaintiff therefore seeks exemplary and punitive damages

WHEREFORE, Plaintiff prays for damages as follows:

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

ABBEY, WEITZENBERG, KELLY, NADLER, HOFFMAN & EMERY

Attorneys for Plaintiff

C:\WP51\WRW\

28

27

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

-19

20

21

22

23

24

25

26

ABBEY, WEITZENBERG,

PROOF OF SERVICE

2

3 4

5

6 7

8

10

11 12

.

- .

15

16

17

18

19

-20 -21

22

23

24

25 26

27

28

WBBEY, WETTZENBERG, KELLY, NADLER, XFMAN & EMERY, P.C. 105 N. Dutton Avenue insta Rosa, CA 95401 (707) 542-5050 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

/X/ (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.

Martin Waldum

Bates Numbers 201-209 were removed by the Plaintiffs at the request of the Franciscans.

LF 'S, D'AMATO, BRISBOIS & BIS

LOS ANGELES OFFICE

SUITE 1200 221 NORTH FIGUEROA STREET LOS ANGELES, CALIFORNIA BOOIZ TELEPHONE (213) 250-1600 .

BAN FRANCISCO OFFICE

SUITE IBOO 601 CALIFORNIA STREET TELEPHONE (415) 362-2580 SAN FRANCISCO, CALIFORNIA 94108

SAN DIEGO OFFICE

SUITE BOO SEO WEST "C" STREET AN DIEGO, CALIFORNIA BZIOI TELEPHONE (619) 233-1006

MICHAEL C. OLSON

LAWYERS

SUITE 1400

650 TOWN CENTER DRIVE CENTER TOWER BUILDING COSTA MESA, CALIFORNIA 92626

TELEPHONE (714) 545-9200

INLAND EMPIRE OFFICE

TRI-CITY CORPORATE CENTRE SUITE BOD 650 EAST HOSPITALITY LANE

SAN BERNARDINO, CALIFORNIA 92408 TELEPHONE (909) 387-1130

BACRAMENTO OFFICE

METRO CENTER

2720 GATEWAY DAKS DRIVE, BUITE 250 BACRAMENTO, CALIFORNIA 95833-3501 TELEPHONE (918) 564-5400

FACSIMILES:

COSTA MESA: (714) 850-1030 LOS ANGELES: (213) 250-7900 SAN DIEGO: (619) 233-8627 SAN FRANCISCO: (415) 434-0882 SAN BERNARDINO: (909) 387-1138 SACRAMENTO: (916) 564-5444

November 15, 1994

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

vs. Coughlin

Our File No: 21155-026

Dear Ms. Goodwin:

Enclosed herewith please find a settlement draft in the amount of You are not authorized to deliver this draft to Mr. ROSEMAN. 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

Micháel C. Olson

- Enclosure

MCO:ct

Mark Roseman, Esq.

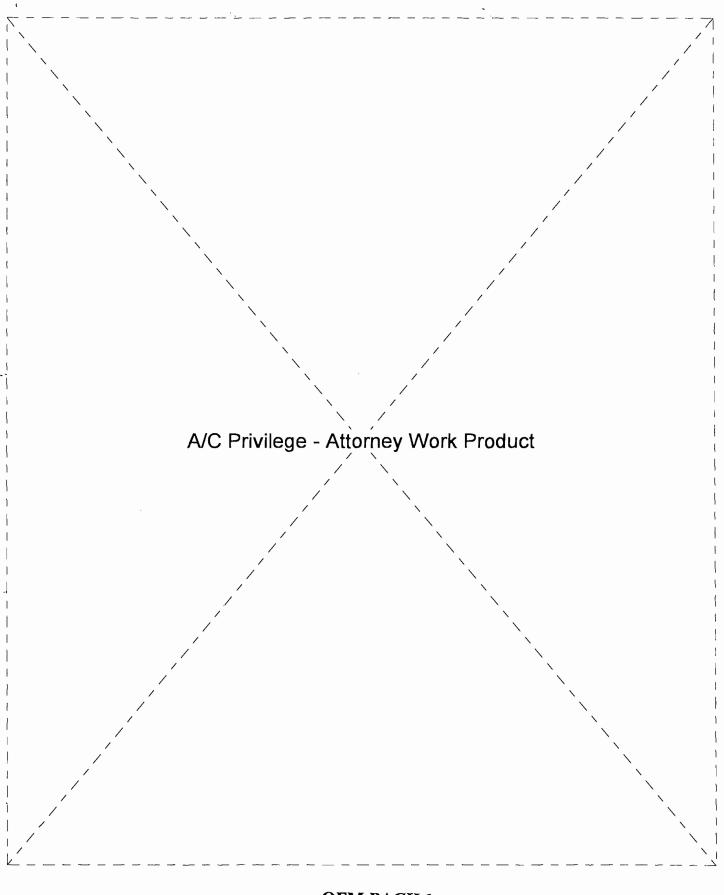
DATA94CN: 44335 1

Lynne Browning Goodwin, November 15, 1994 Page 2

-bcc:

Sheryl Bandy

DATA94CM: 44335_1



OFM PACH 1 0215

Law Offices of

THEODORE S. WENTWORTH

THEODORE S. WENTWORTH*
NANCY MORSE KNIGHT
WILLIAM DELLI PAOLI

October 17, 1994

*CERTIFIED SPECIALIST, CIVIL TRIALS

NATIONAL BOARD OF TRIAL ADVOCACY

Reply - Irvine

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

RE:

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

NANCY M. KNIGHT

NMK:skb Enclosure

<u>CERTIFIED MAIL</u>
RETURN RECEIPT REQUESTED

Statesrv.In

2112 BUSINESS CENTER DRIVE SUITE 220 IRVINE, CALIFORNIA 92715 (714) 752-7711

OFM PACH 1 0219 WELLS FARGO BANK BLDG. 41530 ENTERPRISE CIRCLE SOUTH SUITE 206 TEMECULA. CALIFORNIA 92590 (909) 695-1888

FAX (714) 752-8339

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 secion. 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. LAW OFFICES OF THEODORE S. WENTWORTH 2112 Business Center Drive, Suite 220 Irvine, California 92715	For Court Use Only 752-7711
Insert name of court, judicial district or branch court, if any, and Post Office and Str ORANGE COUNTY SUPERIOR COURT 700 Civic Center Drive West Santa Ana, California 92701	eet Address.
PLAINTIFF	
DEFENDANT: ROMAN CATHOLIC BISHOP OF ORANG CATHOLIC DIOCESE OF ORANGE, et	
NOTICE AND ACKNOWLEDGMENT OF RE	CEIPT Case Number
TO: Agent for Service for: Francis	
Code of Civil Procedure. Your failure to complete this form the party on whose behalf you are being served) to liabili summons on you in any other manner permitted by law. If you are being served on behalf of a corporation, uninentity, this form must be signed by you in the name of supprocess on behalf of such entity. In all other cases, this form by you to acknowledge receipt of summons. Section 415.3	corporated association (including a partnership), or other such entity or by a person authorized to receive service of must be signed by you personally or by a person authorized 80 provides that this summons and other document(s) are
deemed served on the date you sign the Acknowledgment o Dated: October 17, 1994	NANCY M. KNIGHED nature of sender)
ACKNOWLEDGM	ENT OF RECEIPT
	ige) and:
(To be completed by recipient)	
Date of receipt:	(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)
Date this form is signed:	(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)

Dept 6/Stock Dept 8/Horn Dept 10/Myers	834-4656 834-3700 834-4660	Dept 17/Brickner Dept 19/Wilkinson Dept 20/McDonald	834-4355 834-3720 834-4565	Dept 25/Goldstein Dept 26/Choate Dept 28/Mandel	834-4506 834-5532 834-2273
Dept 11/Jameson Dept 13/Thrasher	834-4694 834-4592	Dept 21/Engebretsen Franklin	/ 834-4732	Dept 30/Smallwood Dept 31/Rylaarsdam	834-2126 834-2372
Dept 14/Frazee	834-4526	Dept 22/Firmat	834-5005	Dept 32/Siegel	834-2351.
Dept 15/Watson	834-4685	Dept 23/Bauer	834-5002	Dept 33/Thomas	834-2314
Dept 16/Poole	834-3886	Dept 24/Palk	834-5092		

Dept 61/Polis* 569-2318 sitting at 909 N. Main Street, Santa Ana

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

Dept 71/Knox 896-7364 Dept 72/Cox 896-7377

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

Dept 80/Ross 773-4469 Dept 82/Alfano 773-4445

SITTING AT HARBOR MUNICIPAL COURT (4601 JAMBOREE ROAD, NEWPORT BEACH; CA 92660)

Dept 91/Schenk 476-4703 Dept 92/Luesebrink 476-4704 Dept. 93/Weeks 476-4705

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

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:

Dept.	Judge/ Commissioner	Day	Time
6 8 9 10 11 13 14 15 16 17 19 20 21 22 23 24 25 26 28 30 31 32 33 61	Stock Horn Keough Myers Jameson Thrasher Frazee Watson Poole Brickner Wilkinson McDonald Engebretsen/Frank Firmat Bauer Palk Goldstein Choate Mandel Smallwood	Thursday Wednesday Tues & Thurs Wednesday Tuesday Thursday Thursday Wednesday Wednesday Friday Wednesday Friday Friday	1:30 pm 2:00 pm 9:30 am 9:00 am 1:30 pm 1:30 pm
71 · 72	Knox Cox	Tuesday Thursday	1:30 pm. 1:30 pm
31 32 33 61	Rylaarsdam Eve Siegel Thomas Polis	en # Tues/Odd # Thurs Tuesday Wednesday Friday	2:30 pm 11:00 am 1:30 pm 1:30 pm
80 82 91 92 93	Ross Alfano Schenk Luesebrink	Wednesday Wednesday Monday Friday	1:30 pm 1:30 pm 1:30 pm 2:00 pm
33 61 71 72 80 82 91 92	Siegel Thomas Polis Knox Cox Ross Alfano Schenk	Tuesday Wednesday Friday Tuesday Thursday Wednesday Wednesday Monday	11:00 am 1:30 pm

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

DEPARTMENT 61

HON. ROBERT J. POLIS

EX PARTÉ POLICIES AND PROCEDURES

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

	(CITACIOI	V JUDICIAL)		
NOTICE TO DEFENDANT: ROMAN CATHOLIC BISHO SOLE; ROMAN CATHOLIC FRANCISCAN FRIARS; H INCORPORATED; SAINTS CHURCH; FATHER MICHA MATER DEI HIGH SCHOOL Inclusive, YOU ARE BEING SUED BY (A Ud. le está demandand	(ON SECOND AMEN (Aviso a Acusado) DP OF ORANGE, A C DIOCESE OF ORAN FRANCISCAN FRIARS S SIMON AND JUDE AEL HARRIS; FATHE DL; and DOES 1 th	DED COMPLAINT) ORPORATION GE; PROVINCIAL OF CALIFORNIA CATHOLIC R GARY PACHECO		
mons 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 protección: su respu		treguen esta citación judicial usted MAS CALENDARIOS para presentar a maquina en esta corte. amada telefónica no le ofrecerá esta escrita a máquina tiene que		
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.		cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso. Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.		
There are other legal re want to call an attorney right know an attorney, you mainst service or a legal aid off book).	ght away. If you do not y call an attorney refer-	llamar a un abogado i abogado, puede llam	os legales. Puede que usted quiera inmediatamente. Si no conoce a un ar a un servicio de referencia de ina de ayuda legal (vea el directorio	
The name and address of the cou	ut is: (El nombre y dirección	de la cotte es)	CASE NUMBER: (Número del Caso)	
The name and address of the court is: (El nombre y dirección de la corte es) SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE			JUDGE ROBERT J. POLIS	
700 Civic Center Drive West P.O. Box 838 Santa Ana, CA 92702-0838		DEPT. 61		
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es) LAW OFFICES OF THEODORE S. WENTWORTH 2112 Business Center Drive, Suite 220 Irvine, California 92715 714-752-7711				
DATE: 0CT 1 2 1994	ALAN SLATER	Clerk, by (Actuario)	MARILYN DAVIS , Deputy	
1 2 2 3 A E		ndant, inder the fictitious name	of (specify):	
	CCP 416.20	(corporation) (defunct corporation) (association or partners) on (date):	CCP 416.60 (minor) CCP 416.70 (conservatee) CCP 416.90 (individual)	

GB F0182-2402.12

2

3

4

5

б

7

8

9

Law Offices of

THEODORES. WENTWORTH

2112 BUSINESS CENTER DRIVE, SUITE 220 IRVINE, CALIFORNIA 92715-1083 (714) 752-7711

Plaintiff

Attorney for.

FILED

OCT 1 2 1994

ALAN SLATER, Exocutive Officer/Clark M. Davis

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

10

11 12

13

14

ASSIGNED TO CIVIL CASE MANAGEMENT. ALL PARTIES MUSTIULES SET FORTH IN ORANGE COUNTY RULES OF COURT, EADING MUST INCLUDE THE ASSIGNED JUDGE DESIGNATION ECASE NUMBER OF THIS DOCUMENT, PURSUANT TO ORANGE OF SET OF S

THIS CASE HAS BEEN ASS COMPLY WITH THE RULE AS SHOWN UNDER THE CA COUNTY RULES. 25 26 27 28 Plaintiff,

vs.

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,

Defendants.

CASE NO .:



ASSIGNED FOR ALL PURPOSES: Judge: Robert J. Polis

Dept.:

SECOND AMENDED COMPLAINT FOR PERSONAL INJURIES AND DAMAGES

- NEGLIGENCE
- NEGLIGENCE PER SE
- NEGLIGENT INFLICTION OF **EMOTION DISTRESS**
- ASSAULT AND BATTERY
- 5. FALSE IMPRISONMENT
- 6. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- 7. FRAUD
- NEGLIGENT MISREPRESENTATION
- 9. STATUTORY VIOLATIONS

11111 11111

11111

OFM PACH 1 0226

5 6

7 8

9 10

12

13

11

14 15

16 17

18

19 20

21

22

23 24

25

26

27

28

COMES NOW plaintiff,

who hereby alleges

against defendants, and each of them, as follows:

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

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

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 as 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

8 9

10 11

12 13

14

15 16

17

18 19

20

21 22

23

24 25

26 27

or about 210 Batavia Drive, in the City of Orange, and/or some other locations within the County of Orange and elsewhere.

- Plaintiff is ignorant of the true names 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 negligently, is 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.
- All defendants, and each of them, at all times agents, mentioned herein, were the principals, employers, employees, co-employees, supervisors, servants, co-servants, partners, associates, joint venturers, co-participants, COprincipals conspirators, aiders and abettors, 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.
- 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,

of each of their employers, principals and/or superiors.

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.

 through and including, 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.

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

14

15

1

2

3

4

5

6

7

8

9

10

11

16 17 18

20

21

19

22 23

24 25

26

27 28

special education, quidance, 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. 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.

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, 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

5

6

7

8

10 11

12

14

15 16

17.

18

19

20 21

22

23 24

25

26

27

28 |

/////

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 through their activities, concert, inaction, silence agreements, among other actions, violate California Penal Code, Sections 285 266(j), 286, 288(a)(b) and (c) and 289(H)(I) and (J)m 311.1, 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.

5

7 8

9

10 11

12

13 14

15 16

17

18

19 20

21

22

2324

25

26

27 28 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.

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, associated, engaged, retained, 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 teachers', priests', principals', vice principals', and church conduct, administrators' authorities' wrongful propensities, and the resulting attendant reasonably foreseeable

11 12

10

13 14

16

15

17 18

19 20

21

22 23

24

25 26

27

28

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.

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

7 8 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 didinot reasonably discover, and reasonably could not have discovered, that his mental, emotional and psychological injuries, illnesses 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

.9

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 <u>California Code of Civil Procedure</u>, 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 <u>Penal Code</u> 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

. 15

prosecuting such conduct, causing plaintiff to suffer great physical, mental and emotional injury as more particularly set forth and alleged herein.

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

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 aforedescribed 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.

6

7 8

9

10 11

12 13

14 15

16 17

18

19

20

21 22

23

24 25

26 27

28

Defendants, FATHER MICHAEL HARRIS, FATHER GARY 29. PACHECO and DOES 1 through 50, inclusive, and each of them, deceived, intimidated, betrayed, 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, 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 students members, parishioners, and others,

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 <u>Code of Civil Procedure</u>, 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,

9

7

10

12

13 14

15 16

17

19

20 21

22

23

24 25

26

27

28

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.

/////

11111

/////

- 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

5

9

8

10 11

12

14

15

16

17 18

19

20

21

22

23

24 25

26

27 28 nervous system, and was otherwise injured in his mind and body as more particularly stated and alleged herein.

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

28

1

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

acts upon plaintiff as alleged herein.

48. At all times relevant herein, plaintiff was unaware

commit the acts of sexual abuse, molestation and other wrongful

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 file, 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 DEL 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.
- 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

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.

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

8 9

10 11

12 13

14

15 16

17

18 19

20

21 22

23

24

25

26

27 28 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.
- 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.

WHEREFORE, plaintiff prays as follows:

AS FOR ALL CAUSES OF ACTION

- General damages according to proof; 1.
- Medical and related expenses, past, present and future, according to proof;
- Loss of earnings, past, present and future, and loss of earning capacity, in a sum according to proof;
 - Other items of special damage according to proof;
 - 5. Costs of suit incurred herein;
 - Prejudgment interests as provided by law; and 6.
- Such other and further relief as may be deemed just 7. 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 SECTION 425.14

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

October 7, 1994

LAW OFFICES OF THEODORE S. WENTWORTH

> NANCY M. KNIGHT, Attorneys for Plaintiff



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 91790-2516 (818) 962-2124 * Fax (818) 960-0373

LRS

LEGAL REPRODUCTIVE SERVICES

P.O. Box 1738, West Coving CA 91793 2222 W. Garvey Ave. South, Suite 100 West Coving CA 91790-2516

West Covina, CA 91790-2516	ORDERED 0-17-95 NEEDED
REQUESTED BY:	□ RUSH □ REGULAR ASAP
FIRM Mc Dickolas4McDicholas	63/88
ADDRESS 10866 Wilshire Blut 1400	CASE INFORMATION:
LOS Angeles, CA90024-4338	CASE TITLE
ADJUSTER/ATTY Jawid M. Ring	vs. Roman Casholic Bishop of Orange Con
	CASE # COURT Orange Chy Sep.
PHONE # (310) 474-1583	INSURED
FILE#/CLAIM#	OPPOSING COUNSEL & PARTIES TO BE NOTIFIED
REPRESENTING: ADEFENDANT II PLAINTIFF	See attached Service list.
BILLING INSTRUCTIONS:	The second second second
BILL TO: X FIRM CARRIER LIEN-WCABONEY	Vo
CARRIER	PATIENT INFORMATION:
	NAME
	AKA
ATTN:	D/BIRTHD/ACCIDENT
FILE#	\$S#
D AUTHO ZATION ATTACHED D PERSON A SAVE ENCLOSED SDT D COMPLE PREP. & SERVE SDT D OBTAIN D PREP. & SERVE D COPIES TO MCNICAMOS 2nd COPIES	UCTIONS: INEL RECORDS DOMIT PRESCRIPTIONS ETE CHART DOMIT NURSES NOTES BILLING RECORDS DOMIT LAB NOTES X-RAY FILMS DOMIT OTHER (EXPLAIN BELOW) STRUCTIONS DOMIT OTHER (EXPLAIN BELOW) PLEASE SEND ME: DENVELOPES DORDER FORMS
LOCATIONS OF SERVICE: (Please includ	e phone, street address & any special notations)
	4.
please see attached list	·
l 1:7/	
2 DRANGE POLICE DEPT	S
2 OFANCE POLICE DEPT	5.
2 OFANGE POLICE DEPT	5.
2 OFANGE POLICE DEPT	5.
2 OFANGE POLICE DEPT 1107 N- BATAVIA DRANGE CA 2 (7) 744-7390, 7444	5. 6.
2 OFANGE POLICE DEPT	5. 6.

Phone: (818) 962-2124 Fax: (818) 960-0373 FEB 2 0 1995

فتناسب والمناز	
	Keof. 2/27/95 El
, · · · · · · · · · · · · · · · · · · ·	P COPY
ATTOMORY OR BUSTY WITHOUT ATTOMORY plane and Assessed; TELEPHONE MQ:	Contract 1
HENICHOEAS AND MCNICHOLAS (310) 474-1582	
10866 WILSHIRE BLVD., \$1400	•
LOS ANGELES, CA 90024-4338	
DAVID M. RING	•
ATTOMEY FOR PLANE: ROMAN CATHOLIC BISHOP OF ORANGE; ET AT	•
NAME OF COURT ORANGE COUNTY SUPERIOR COURT	
STREET ADDRESS: 700 CIVIC CENTER DR., WEST	
MALING ADDRESS:	
GTYAND 2000: SANTA ANA, CA 92701	
BAANCH NAME:	•
PLAINTIFF/PETITIONER:	• •
	•
DEFENDANTRESPONDENT ROMAN CATHOLIC BISHOP OF ORANGE,	•
ET AL.	
DEPOSITION SUBPENA	CASE MAISER:
	•
For Production of Business Records	W
HE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): ORANGE POLICE DI	EPT.
1107 N. BATAVIA	
ORANGE, CA 9266	,
YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in Hem 3 as	
. THE MARK UNDERED TO FRODUCE THE DUSINESS RECORDS DESCRISED IN ROM 3 88	1545129.
Deposition Officer (name): LEGAL REPRODUCTIVE SERVICES	(818) 962-2124
Date: March 9, 1995 Time: 09:00 A.M.	
Address: 2222 tr Carry arm correspondent to the cor	
2222 W. GARVEY AVE., SOUTH, STE \$100, WEST	COVINA, CA 91790
with the title and number of the action, name of witness, and date of subpens then be enclosed in an outer envelope or wrapper, sealed, and mailed to the d b by delivering a true, legible, and curable copy of the business records described bess's address, on receipt of payment in cash or by check of the massnable cost.	clearly written on it. The inner wrapper sh leposition officer at the address in item 1, in item 3 to the deposition officer at the w
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the display the business records described next's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). E. XXI by making the original business records described in Item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in Item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating recard postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The of the custodian or other qualified witness pursuant to Evidence Code section 1561. The records to be produced are described as follows:	seposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition
then be enclosed in an outer sovelope or wrapper, sealed, and mailed to the display the by delivering a true, legible, and chrable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in Item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in Item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating record postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The set 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper shipposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depo
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the display the by delivering a true, legible, and chrable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). 6. **Existing the original business records described in Item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in Item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating receind postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper she position officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorner ble conditions during normal business hour 20 days after the issuance of the depositions, making them evailable or copying the records shall be accompanied by an affida
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the display the business records described nexs's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in Item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in Item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating receind postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper shapposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined uncon at your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the deposition of the strength of the seconds shall be accompanied by an affide IN JULY 1994 IN YOUR
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the distribution by delivering a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). d. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating recard postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper shapposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined uncon at your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the deposition of the strength of the seconds shall be accompanied by an affide IN JULY 1994 IN YOUR
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the display the business records described nexs's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in Item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in Item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating receind postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper she position officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorner ble conditions during normal business hour 20 days after the issuance of the depositions, making them evailable or copying the records shall be accompanied by an affida
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the distribution by delivering a true, legible, and chrable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). d. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating recard postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper shaposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depos
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the distribution by delivering a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). d. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating recand postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO	clearly written on it. The inner wrapper shaposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depos
then be enclosed in an outer servelope or wrapper, sealed, and mailed to the displaying a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). d. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating recard postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO Continued on attachment's. Continued on attachment's.	clearly written on it. The inner wrapper shaposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depos
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the dist. by delivering a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in item 3 available for inspection representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating received postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The set 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO Continued on attachment's. Continued on attachment's. DISOBEDIENCE OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COUBLE Grown or FIVE HUNDRED DOLLARS AND ALL DAMAGES REGulting FROM YOUR FAILE issued: 2/21/95	clearly written on it. The inner wrapper shaposition officer at the address in item 1, in item 3 to the deposition officer at the was of preparing the copy, as determined undo not your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depos
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the distribution of the delivering a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable comes fedence Code section 1563(b). c. XX by making the original business records described in item 3 available for inspection representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating received postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO BUSINESSION OR UNDER YOUR CONTROL PERTAINING TO BUSINESSION OR UNDER YOUR CONTROL PERTAINING TO BUSINESSION OR UNDER YOUR CONTROL PERTAINING FROM YOUR FAILED STORED THE HUNDRED DOLLARS AND ALL DAMAGES REGulting FROM YOUR FAILE issued: 2/21/95 JAMES H. DEMPSEY	clearly written on it. The inner wrapper shapposition officer at the address in item 1. In item 3 to the deposition officer at the was of preparing the copy, as determined uncon at your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the depositions, making them evailable or copying the records shall be accompanied by an affider IN JULY 1994 IN YOUR IN JULY 1994 IN YOUR STATES TO OBEY.
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the distribution of the delivering a true, legibla, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). e. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonal. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating received postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The set 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES REGulting FROM YOUR FAILED SUBPENS AND ALL DAMAGES REGULTING FROM YOUR	clearly written on it. The inner wrapper shapposition officer at the address in item 1. In item 3 to the deposition officer at the was of preparing the copy, as determined uncon at your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the deposition of the depo
then be enclosed in an outer envelope or wrapper, sealed, and mailed to the dist. b. by delivering a true, legible, and curable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonable. The records are to be produced by the date and time shown in item 1 (but not sooner than subpens, or 15 days after service, whichever date is later). Reasonable costs of locating received and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO BUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES REGULTING FROM YOUR FAILED SUBBOLIENCE OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COURSE issued: 2/21/95 JAMES H. DEMPSEY	clearly written on it. The inner wrapper shapposition officer at the address in item 1. In item 3 to the deposition officer at the was of preparing the copy, as determined uncon at your business address by the attorney ble conditions during normal business hour 20 days after the issuance of the depositions, making them evailable or copying the records shall be accompanied by an affider IN JULY 1994 IN YOUR IN JULY 1994 IN YOUR STATES TO OBEY.

OFM PACH 1 0267



CITY OF ORANGE

POLICE DEPARTMENT • 1107 N. BATAVIA STREET • ORANGE, CALIFORNIA 92667 • (714) 744-7390 FAX (714) 744-7320

AFFIDAVIT OF CERTIFICATION

I affirm that I have the authority, as the Police Records Hanager 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 subpena 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.

			compli	es with	the rep	uest from
a	(type)		Subper	na Duces	Tecum	served on
	(type)					
_	022795		by MCN	ICHOLAS (AND MONIC	HOLAS
	(date)		,	(at	torney)	
repr	esenting		AN CATHOI	JC BISHO	מגפט פט פ	GE FT AL
	,	(perso	n/place	represe	nted by	attorney
Case	number_				for u	se in the
depo	sition	- 1		-		
- 22	22 w Carv		Nitra et#1	on_	March 9	1995
	(court)				(date)	
•						
e	09:00 (time)		-'			
	(4,5)					
Atte	sted thi	S: 1s+	di	av of w	arch	1995
					ar Cn	
BY: _		as 11	12/10	r.		
	ROBERTA	PPI	CHCMON	71W 0D =		
4	NOUGHA	*****	COSTON	LAR UF R	KITIDING	

ORANGE POLICE DEPARTMENT INCIDENT REPORT 1 of 4 I I Ym IX No EVENT 96891045 888 72 E 7-11-94 1045 11-79 UNK 0001:09 UNICOME 44 Info Report 6-83 UNK UNK VICTIM INFORMATION NAME: Int. For Madie DCM / 4GE DJ ' SFX RACE RESIDENCE ADDRESS CITY, ZIP CODE _ PHONE [10+ 1 1 Hale STATE BUSINESS / SCHOOL NAME & ADDRESS CITY STATE ZIP CODE PHONE []De []Nes None VICTIM VEHICLE YEAR MAKE BODY STYLE COLOR LICENSE IMPOUNDED! []YES [] NO LOCATION STATE CODE: V- VICTE 1 W - WITNESS P-PARENTS R - REPORTING PARTY X - OTHER DOS/AGE RESIDENCE ADDRESS CIY STATE ZIP CODE PHONE [] De [] NA BUSINESS / SCHOOL HANGE ADDRESS PHONE []Pe [] Ned SUSPECT INFORMATION I TONE SEEN Les Free Middle . Harris AEA Michael Torange TA 9256 PHONE []Do [] Nich NIA PHONE | 10- 1 1X FOT NOT HAD CO3 230 Blood CCS I ACE BLTLD. STATE 49 Stecky NAME Luc First Middle S-2 AKA ADDRESS / KNOWN HANGOLT arr ZIP CODE PHONE []Dy [] Night MUSENESS / SCHOOL NAME & ADDRESS DIY STATE ZIP CCDE PHONE! ID- []N-HGT EYES DOS / AGE BUILD STATE CLOTHING DESCRIPTION SUSPECT VEHICLE NONE SEEN MAKE MCDEL BODY STYLE COLOR LICENSE IMPOUNDED! []YES [] NO LOCATION Has CSI been performed I] Ye [X No None **⋈**०----[] Fingerprint TOTAL PROPERTY LOSS: TOTAL B. TOTAL T

OFM PACH 1

SUPERVISOR'S EXENAPORE

() GANG

MOCESSED BY: O.

DATETIME

() STATISTIC () C. L. PROOFREAD BY:

7-12-90

DATE/TIME

() OTHER

() DEF

7-12-94

TO DETECTIVE

TOTAL PROPERTY RECOVERED:

() DA () CRDAE PREY.

REPORTING OFFICER NAME ID

FOR RECORDS SURFAU ONLY:

BEYER

REDACTED

ORANGE POLICE DEPARTMENT INCIDENT REPORT 3 Describe Visit 3 Charg Related 3 Made Orland Transfer sanded [] You [No EVENT! 96891045 888 1045 UNIC COOK 44 UNK and 09 11-79 Info Report UNK 6-83 UNK VICTIM INFORMATION DOM / AGE WX MCE PHONE | 10+ | 1154 ZUP CODE . KESIDENCE ADDRESS CONT, STATE BUSINESS / SCHOOL NAME & ADDRESS ZIP COOR PHONE ! IP- ! INCH an None VICTIM VEHICLE DEPOUNDED! | IYES | INO LICENSE STATE BODY STYLE 20101 X - OTEER V-VICTE 1 R - REPORTING PARTY W - WITNESS P-PARENTS RACE NAME Int. For Middle DOB / AGE DI MENDENCE ADDRESS an ZIP CODE PHONE | 10 1 1 NA PHONE | IDY | INCh BUSINESS / SCHOOL NAME/& ADDRESS STATE ZIP CODE CTTY SUSPECT INFORMATION 1 TONE SEEN AKA Michael ADDRESS / ESONS HANGOLT CA 9766 PHONE []De [] NO Wranse. NA PHONE | 10- 1 1X CIII STATE ZIP CCDE M W 603 236 Blend Blue STATE DL NAME: Inc. First, Middle S-2 ADDRESS / ENOWN HANGOLT ZIP CODE PHONE | 10+1 1K+ STATE CITY PHONE! ID- ! IN-MUSINESS / SCHOOL NAME & ADDRESS CITY STATE ZIP CCDE STATE WGI EYES DOS / AGE MILD CLOTHING DESCRIPTION SUSPECT VEHICLE NONE SEEN DEPOUNDED! []YES [] NO LOCATION YEAR MAKE MODEL DODY STYLE KOLOR LICENSE STATE (X) Xo None [] Fagorprint ⋈⊶ 1] Ye IX No TOTAL PROPERTY LCSS: TOTAL T .: TOTAL PROPERTY RECOVERED: TOTAL W TOTAL C TOTAL 7 TOTALX TOTAL T'



REPORTING OFFICER NAME TO

() DA () CROCE PREV.

BEYER

TO DETECTIVE () NAME

7-12-9-

() OTHER

DATETOLE

() STATISTIC

PROOFREAD BY:

PROCESSED BY: O.S.

7-12-90

()CL

ORANGE POLICE DEPARTMENT CONTINUATION REPORT

PAGEN 30f4

DR# 294-07-0491

EVIDENCE: None

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

DISPOSITION: Refer to Investigations.

			· · ·		
BEYER	956	7-12-94/1100	SUPERVISOR'S SIGNATI	THE DATE STIME	
FOR RECORDS BUREAU	JONLY:	() DETECTIVE	() NARC () GANG	() STATISTIC () CL	

ORANGE POLICE DEPARTMENT CONTINUATION REPORT

PAGEN 3of 4

DRI 294-07-0491

EVIDENCE: None

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

DISPOSITION: Refer to Investigations.

CRANGE POLICE DEPARTMENT

288 PC/LE Report 96891045 DR 894-07-0491	TYPE OF CRIME / 288 PC/Lib Report	+ FVENT \$96891045	DRJ R94-07-0491	
--	-----------------------------------	--------------------	-----------------	--

VICTIMS OF SEX CRIMES REQUEST FOR CONFIDENTIALITY OF INFORMATION

Pursuant to California Fenal Code Section 293(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

	blic record; puringent Code.	arsuant to Section 6254	•
I have been informed o	f the above rig	this to privacy section. Initia	al
By not signing this, y	our name may be	ecome available for publicatio	n.
z ,		hearby elect to exercise my r	ight to
privacy, pursuant to S	ection 6254 of	the Government Code.	
		- 7/11/94	
Signature		Date	•.
			· .
REPORTING OFFICER NAME BEYER 95	ID# DATE	4 SUPERVISOR'S SIGNATURE	DATE
FOR RECORDS BUREAU ONI		ECTIVE () STATISTIC () OTE	IER
PROCESSED BY:	PROOFREAD BY:	•	
OPD V-14 (Rev. 2/93)	•		

CRANGE POLICE DEPARTMENT

		VICTIME OF SEX C		
yo lo be	a are informed public record	tpat Aonz ners i mylere Aon soci rocordi bineneri rocordi	le section 293(a), will be a matter lest that it not to section 6254	:
I have been in	nformed of the	above rights to	privacy section. Initi	al
By not signing	g this, your r	name may become t	evailable for publication	n.
ı,	-	hearb	r elect to exercise my r	ight to
	uant to Section	hearb on 6254 of the G	•	ight to
	uant to Sactio	on 6254 of the G	•	ight t
	uant to Section	on 6254 of the G	overnment Code.	ight t
privacy, purs	uant to Section	on 6254 of the G	7/11 /94	right to
privacy, purs	uant to Sactio	on 6254 of the G	7/11 /94	right to

PROCESSED BY: PROOFREAD BY:

OPD V-14 (Rev. 2/93)

NARRATIVE

SYNOPSIS:

Victim is sexually abused from the ages of 14-18 years old by his 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 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 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.

Case Name:

Ve.

ROMAN CATHOLIC BISHOP ORAN

Records Of:

Record Loc.: SANTA ANA POLICE DEPARTMEN

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 91790-2516 (818) 962-2124 * Fax (818) 960-0373

> OFM PACH 1 0273

LRS LEGAL REPRODUCTIVE SERVICES P.O. Box 1738, West Coving CA 91793	Phone: (818) 962-2124 Fax: (818) 960-0373 / CD
2222 W. Garvey A. e. South, Suite 100 West Covina, CA 91790-2515	DATE ORDERED 8-17-95 NEEDED
REQUESTED BY: FIRM Mc Nickolosymonicholos ADDRESS 10866 Wilshire Blutti400 Los Angleo, CA90024-4338 ADJUSTERVATTY JOWING M. RVING PHONE # (310) 474-1582 FILE # / CLAIM # 115 REPRESENTING: ** MOEFENDANT DPLAINTIFF BILLING INSTRUCTIONS: BILL TO: ** FIRM D CARRIER D LIEN-WCABOMLY CARRIER ATTN: FILE #	CASE INFORMATION: CASE TITLE VS. ROMAN Catholic Bishop of Orams for Case II. VS. ROMAN Catholic Bishop of Orams for Case II. COURT Drang (nly Sp.) INSURED OPPOSING COUNSEL & PARTIES TO BE NOTIFIED SER ATTACHON SOLUTION NAMI AKA D/BIRTH 2/!/65 D:ACCIDENT SS#
D AUTHORIZATION ATTACHED DE PERSON SERVE ENCLOSED SOT DE COMPLI PREP. & SERVE SDT DE OBTAIN	UCTIONS: INEL RECORDS DOMIT PRESCRIPTIONS ETE CHART DOMIT NURSES NOTES BILLING RECORDS DOMIT LAB NOTES X-RAY FILMS DOMIT OTHER (EXPLAIN BELOW) THE CONTROLLERS PLEASE SEND ME: DENYELOPES
	NSTRUCTIONS DORDER FORMS
•	
LOCATIONS OF SERVICE: (Please include	de phone, street address & any special notations)
please de attached list	4.
24 Civic CHR PIAZA	of. 5.
SANTO ANA, 927CI 1 (1) 834-4211	R.

The state of the s	The same of the sa
STOWN DA PARTY WITHOUT ATTOMOS Many and Assessed: TELEPHONE MO.	COPY
- MCNICHOLAS AND MCNICHOLAS (310) 474-1582 10866 WILSHIRE BLVD., #1400 LOS ANGELES, CA 90024-4338 DAVID M. RING	Rocas
ATTORNEY FOR MARINE ROMAN CATHOLIC BISHOP OF ORANGE, ET AT NAME OF COURT ORANGE COUNTY SUPERIOR COURT STREET ADDRESS: 700 CIVIC CENTER DR., WEST MALING ADDRESS:	g /
MANCH NAME: PLAINTIFF/PETITIONER:	94-40185
DEFENDANT/RESPONDENT ROMAN CATHOLIC BISHOP OF ORANGE, ET AL.	CASE INCAMPER:
DEPOSITION SUBPENA For Production of Business Records	:
THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): SANTA ANA POLIC 24 CIVIC CENTER SANTA ANA, CA 9 1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3 as	PLAZA 2701
Deposition Officer (name): LEGAL REPRODUCTIVE SERVICES Date: March 9, 1995 Time: 09:00 A.M.	(818) 962-2124
Address: 2222 W. GARVEY AVE., SOUTH, STE \$100, WEST Do not release the requested records to the deposition officer prior to the date and to	
 a by delivering a true, legible, and durable copy of the business records described with the title and number of the action, name of witness, and date of subpens then be enclosed in an outer envelope of wrapper, sealed, and mailed to the objective by delivering a true, legible, and durable copy of the business records described ness's address, on receipt of payment in cash or by check of the reasonable cost Evidence Code section 1563(b). c. XX by making the original business records described in item 3 available for inspective representative and permitting copying at your business address under reasonable. 2. The records are to be produced by the date and time shown in item 1 (but not sooner than subpense, or 15 days after service, whichever date is later). Reasonable costs of locating recond postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The reformation 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 POSSESSION OR UNDER YOUR CONTROL PERTAINING TO 	clearly written on it. The inner wrapper shall eposition officer at the address in Item 1. in item 3 to the deposition officer at the wittes of preparing the copy, as determined under on at your business address by the attorney's be conditions during normal business hours. If 20 days after the issuance of the deposition ords, making them available or copying them, records shall be accompanied by an affidavit
Continued on attachment 3.	
DISOBEDIENCE OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COURSUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAIR	
Date issued: 2/21/95	ensel
JAIVIES H. DEIVIPSET	ATUME OF PERSON ISSUING CUBPENAI FICER/CLERK OF THE SUPERIOR COURT
(See reverse for proof of service)	ווועט
Form Adopted by Rule 582 DEPOSITION SUBPENA—BUSINESS RECORD	DS Cade of Civil Procedure, 66 2020, 2026
Auticial Council of California \$82(a)(15.2) [Rev. January 1, 1993] 750380	OFF Government Code 880973

OFM PACH 1 0275

			TYPER	EPORT		Care 8				
No.	Rolfige Debarrimenii	O Crime-Only O Crime-Arrest O Crime-Suspect Sinformation Only O Warrant Parole An	2	2 W&I 300-600 2 Domestic Vio 2 Gang Related 2 CPC 293 Adv Release Info	lence involved		/ of	4		
_		CRIME S	RAMMU	ΙΥ						
Γ	PRIMARY GRINE TYPE		SEC	EVOARY CRIME T	YPE					
	UNFO- POSSIBLE CHILD PA	DIHER CRULE TYPE								
Δ	WHEN DAY DATE THE OCCURRED UNK 91	PO DAY	DATE	TIME	WHEN REPORTED	THE	0ATE 8-4-99	THE 0842		
	WHERE DOOLBREET MARRIES COCCOON STREET APTS 2	- cose	L			proper	DISTRICT	ean,		
	SUSPECT VEHICLE DESCRIPTION, LIC #, STATE, YR, MK, MODEL, S	TYLE COLORS	, vc.	N VEHCLE (E. T.)	VACETI LICE, YR	MANE MODEL		148		
,	PROPERTY VALLE OF LOSSIFICOVERY	CSI BY		10.	WHERE LATEN PRINTS TAXENT	e a				
					JACE 47					
	VB Vicatre Business V Vicaba W W	LIST PERSONS IN T		DRDER R Reporting	Person	P Parket	M Mentioned			
	CHOLP ALL PERSONS OF	THE SAME CODE TOGE EXAMPLE: VAI, VAZ, VAZ			RSON IN THE CA	TOUP				
	SOME LAST, FIRST, M.C.				900	الله المناهد	INTERPRETER M	₹DEDI		
	I SAME PODDE	ELLIFICESS ADDRESS NOLLCE OF COO				- XI 301.	DTYPE-			
	HONE PICKE POSE BUSINESS PICKE	Ticaes	OTHERP	390000000000000000000000000000000000000						
						85 NUMBER	A			
	COR A NAME LAST PROPERTY	iai.	55.X 20.7	449	7 1008	بند يند	NIEPPRETER N	DEDI		
	TONE DODGES WELLE IT DOG		£.:50\£.5	S AUCACES DAC	LE P'COX,	envaro	STATE	1254		
3	HOME POSE LINESPOSE	1/25700 1-0.53		TO MANAGER	64KH71	A / G / N. MRET				
	UNK 858-323					SS MARER				
,	CODE S NEEE LAST, FIRST, M.C.	o. ∓		PACE AGE	DOS	ANL TANCA	MIERPRETER M O TYPE-	KERCES		
	HOME ADDRESS ACLUDE ZIP COCE		SUSTIES.	s address pail	VOE ZIP COCE		·			
	HOUE PHONE HOURS BUSINESS PHONE	HOURS	DTHERP	HOVE PAGER		COL NUMBER	1			
	REPORTING OFFICER		504	DAT	- 1	SS NUMBER	PETRICT	WATCH		
,	BORJ	A	124	8-4	99		4	/		
1	REPORT REVENED BY		106	5-5-		THE 530	SQT. APPRIOVE	IS ARREST		
	DESTRIBUTION TOTAL COPIES	OSTREUM	ON SY/DATE	2022	AUG	5 1994				
	D ACCIDENT BOX D ANGUEL CONTROL A DRACE AGAINST PERSON	D EVDENCE		Q TEA D TRA	M FOLICING		O OFCR			
•	O DISTRICT MY. O CHIME PREVENTION	D BAPD JAK		O VICE			O STHER			
	D CF D INTELLIGENCE D ENTERLE HALL O STATE	D NARCOTCE D RAP		D BOT.			owes			
_										
			हुए प्रतस्त	West Constant	REPROF	S Marie		į		
•						2000	and the second	5		

•	-						TYPE	REPO	RT		Cass	,			
	द्रकार्गालः । इंक	DAY:	MEN	000	Crime-Oni Crime-Arr Crime-Sur Alormado Warrant-P	spect on Only	esi	D (2)	ng Related C 233 Ads	ence Involv			/ of	4	
77					CR	IME S	UMMA	RY			حساب		<u> </u>		
Γ	PRIMARY CRIME TY:"E	-1218	cii. s			-	5	CONDA	T SME T	re .					
	OTHER DRIVE TYPE	724	CYTTLD	110	1557		01	HERCH	ME TYPE						
A	MINE CAY	DATE	TIME 91	70		DAY	DAT		TMS	WHEN			DATE 8-4-94 DETRET	OFYL GAD!	
	WERE OCCUPANES AS	AGERS CRECT	on sinks i.e.										4	148	
				7.3	E, COLDIN			VE VE	2		R HAVE MOC	ii.			
	STORES CHOTORE	ATTEO	LDSSTEEDVI		CSIBA				0.	WA-ERE LATE PROJES TROOMS	94T 				
_					LOT PER	FOR EAGS	OUCHN	G 090€	N.						
_	VB Yiche Beeh		Westen	w ware	•	C Coe	ordera	,	Asperting		P Proce		h thereigh		
_			OUP ALL PERSO		E SAME CO			P 51, F1	e, FIC,	RESONAL IN THE	GROUP				
	2 / 1 × 2 × 2 × 2 × 2 × 2 × 2 × 2 × 2 × 2 ×	e e e e e e e e e e e e e e e e e e e		LV			STATE OF THE PROPERTY AND						DTYPE-	500	
	n menorologistan rodenske romose 1	,	Eodesin			(NOS)	OTHER PHONEPHOER					COLHABER C 72075C			
			4				OHE	- THE R	PAGENT		83 R.M		- 120	2561	
	M 1 4/100	e 5 00	LAT FE						129	7 100			NTEPRETERA	EEDEDI	
2	HOME MORESE MOUNE	CP DOOS	4-1-12-5	100	Videos	-67			acid sc.	700 200 CCC	MANICA	10	511. 11.	445 X	
	HOME PHONE		MASTA.		(6-21-	loca			PAGER I	GH/4115	# 15A		HOOL		
	UNX			250	7						BEM	ER			
	HOME MODRESS NOLUCE		U.ST. FFS	T. N.CO.E			SEX	AACE		DOB	LOUT J	υ. .v.	DIYPA-	EEDEN	
	HOME ADDRESS NOUDE						SUS:N	235 ADO	MESS PACI	CE 2P COC	·				
	HOWE PHONE	CURS	ELSTESS P	Đ€		HOURS	DIFE	PYCYF	PACER		SS H.ME	<u> </u>		·	
	NEPORTEG DEFECER		801	L JA			120		5-4.		TIME	T	DESTRICT	WATCH	
G	REPORT REVENED BY					,	106	•	5-5-		134E 0650	†	SOT, APPECIA	MAREST	
	ECORDA REVIEW.					\simeq	-				5 1994				
-	XORTHGOSON C	O COURTLUS			ORUNGE		ACTE NO	TE	2022_	AUG	3 1774		ofc#		
ŧ	D ANNIAL CONTROL		LAST PERSON		EADER COARS	¥			D YICE	FIC		0	OTHER		
1	D TAKENTE HATT -	O STATE			S HARCOT				D ARSO	M		a	FAX 0		
_															
S				88		18.5			455		1		Miles St.	l .	

																				
-	E.	*		74-25E	564	-	73.7	-		TENER TO SE	3				Caso #			<u> </u>		
				NATE AND	0				is.	اسمام المساهدة	PAC	E 2	OF	4						
		5005		1 111112		A An	05:00		meeri i mad	S Susp	ect .			renile Deterrik	on .					
;		PAGE	SEX	NAME	5	AGE.		DCa		ST, MICOLE CHARGE LIEGARI WEIGHT HAS LEVES SALD SAPERORING & CITE &										
1.			VIDRESS	ADULT	_ಮ.		نــــــــــــــــــــــــــــــــــــــ	ii	HEIGHT WEIGHT HAS EVES SALD SAPOROOK											
			ATION & BU	ISINESS A	CRESS	-				ERS, DARECTION, STREET, CITY, STATE, ZP CODE						BUSINESS PIONE				
	LOCATION A PRESTED									-				DT ANGESTED THE APPESTED				FESTED .		
		DRIVER	S L.C. erST	ATÉ	SCC	WL SECT	AITY &		CGO		SAP	D SANE	ASLOCATO	N OF CRIME	11	۲۲.	SUNDOCUME	MTED		
;					AKAS				TATO	XXX, MARKS, S	ÇARS, 000	TES & LOC	ATIONS	CLOTHING AT	THE OF A		PERSON			
:		BAL AN	OUNT						THE RE	LEASED LOCA	DON HELD			DUTETINO	WATER	TSPARO	E OR PROBA	TON HOLDS		
		500€	•	HALE				LAST, F	AST, ≅ĐĐI	£			CHACE .			-		==		
		RACE	X3a	ADULY	υ VV	AGE	Τ.	202	HEGHT	WEIGHT A	ET EVES	₹ EULO	SAPO BOX	KING #1 CITE#	9000	NG DATE	BUOKS	VO TIME		
1	1	HOME A	DORESS	ACCC1	207	1	ئـــا	NAME	BERS, DIFE	CHOLS RE	T, CITY, STA	TE ZP COC	ξ		HOVE	PHONE		<u></u>		
		OCCUPA	ATION & BU	SAESS A	CRES\$										BUSN	ESPHON	€			
		LOCATE	ON ARREST	ED									AS LOCATE	IN DE CRIME	07 45	PESTED	TELE AL	HESTED		
		DRIVERS	SUC. #ST/		ŧ	W. SECU	RITY .						OCJ BUOKNG	PERCH						
		AXA'S								TATOOS WARKS, SCARS, DOONTES & LOCATIONS					THE CF A					
		BALANOUNT							TNERE	TIME RELEASED LOCATION HELD						TSPARK	E DA PROBA	ma Hous		
	D COOE NAME LAST, FFE									ST, MODE OWNOR					(MG # CITE # BODO SO DATE BOOKING THE					
1		RACE	X33	ADUALT	J.W.	AGE		200						XMG #/ CITE #				NG TILE		
	-	HOME W	TION: A BU	CILTED AC	racee.			W.S.	BERS, DESCRION, STREET, CITY, STATE, 2P COOR						HOLE PHONE BLESNESS PHONE DI ARVESTED TIME ARVESTED					
	-		N ARREST						2 SAME AS LOCATION DE CROME											
	-	·-	LIC. MSTA		800	AL SECU	RITY #							N OF CROKE						
	-				KA'S				TATO	CS, MARKS, S	CARS, 0004	ESILOC	ATORS	CLOTHING AT	TALE OF A	<u>_</u>	PERSON			
	1	BAL AN	DUNT						TATERE	LEASED LUCA	TION HELD			CUTSTANDANO	WATER	TSPAROL	E DR PROGL	TON HOUSE		
	ŀ		-,-	NAME				LAST, F	AST, HIDD.	E			CHARGE					====		
	-	RACE	SEX	<u>a</u>	0	AGE	Τ.	DO3	несент	WEIGHT H	GR EVES	BULD	SAP0 600	XING #/CITE#	8000	NO DATE	BOOKS	GTME		
	H	HOWE AL	D2=55	ADULT	JCV.		1_1	MAN	SERS, DAZ	CTION, STREE	. CITY, STA	IE DP COL	Æ		HOVE	PHONE				
	1	OCCUPA!	TION & BUS	SNESS AC	व्य <u>ट</u> ेडड										BSN	E & PHO	£			
	t	LOCATIO	NARREST	ED				· .				D SAVE	AS LOCATIO	N OF CAME	DTAR	PESTED	THEN	¥€STED		
1	t	DAIVERS	LC. ASTA	TE	SOCU	u secu	Rity •		C3.		EAP	WUG #		OCI BOOK NG		1	UNCOCUME			
:	1				KAS			· · · · · · · · · · · · · · · · · · ·	TATO	OS, MARKS, S	CARS, DOOR	ESALOC	ATIONS	CLOTHING AT	TWE OF A	PEST				
1	\int	BUL AND	X.C.IT						THE RE	EVZED FOCY	KON HELD			QUISTANONO	www	TS-PAROL	E OR PROBA	TON HOUS		
٠,-	_							ORE	NAMES	LISTED	ON CON	TINUA	TION SI	HEETS						
1	L	PACTUAL C	KL S.Z	70	1 to	LED		5 7	0 11	VE I	مدين يجات	no	8572	D DUS	ins	- 11	.5			
	₽	TEC.	1 40	MA																
	1											· 								
L	L																*****			

PER CPC 293, the victim was advised and they do/do not want the report to be public information.

-	
	SANTA ANTARES EIGE THE PASSINENT PASE 7 OF 4
	LIST PROPERTY FIRST/EVIDENCE SECOND/SUSPECT INFORMATION THIRD. LET SUSPECT SEX, RALE, AGE, HEIGHT, WEIGHT, HAIR, EYES, BUILD, ODDITIES, CLOTHING DESCRIPTION
	BNCLLIDE WHERE EVIDENCE/PROPERTY BOOKED THEN A GITY ANTICLE BRAND MODEL & GLOLOR SIZE MISCHPRIONS, CALIBER, MARKET S MALLE
	SENTACT WAS MADE WITH BE AT THE S. A. P. D. THIS MORNING
	BT ACOUT ONO DE MEQUESTED TO DOCUMENT THAT HE HAD
•	BEEN A VICTIM OF CHILD MOLEST. MY INTERVIEW OF REVEALED THAT THE INCIDENTS OCCUPATED
	IN SAME BYE AND IN ORBITE
	HAS ALAFARY FILED A REPORT WITH DRANGE POLICE, CI
	R-94-07-491
٠, :	THE INCIDENTS IN SOUTH AND OCCUPATED AT MATER DEL HIGH
	TOHOOL WITH THE PERFETATOR SELVE O PRIEST, FATTER HARAS
. .	THE MOLEST TOOK PLACE ABOUT TWICE A MONTH, FARM 11/19 TO 4/83
	ADVISED THAT THE LAST TIME AN INCIDENT OCCUMEN, IT WAS
	IN '92, WHEN WENT TO HARRIS BOME FOR A LETTER OF RE-
	FERDENCE,
 	THE MOLESTATION CONSISTED OF MAKANS CARACTHE ON THE STATESTESSESSESSESSESSESSESSESSESSESSESSESS
:·	TO ORAL COPULATION BY EACH OTHER IN CACH OTHER MASTERSATION BY
· '	BACH DITHER TO EACH OTHER, TO MARRIS LICKING MAIL CANTY.
` · ·	SELADED THAT NO ANAL SEX WAS PERFORMED BY WITHTE
	WHEN I ASKED WHY HE RAD NOT REPORTED THE INCIDENTS
	TO DO. BESIDES THAT HE WAS YOUNG AND DIDN'T KNOW WHAT
	LIKED THE ATTENTION THAT HARALE GAVE BUM.
P. tOT 9/87	THE INCIDENTS AND SEINE RECALLED AND ALE CAUSING ENOTION
SAPOR	AL FROOLEGS FOR
28/6	HAS INSTITUTED CIVIL PROCEDINGS AGAINST THE CATHOLIC
C.S. 814	BETTEN BEING RECALLED, CHAIRS THUS THE MULTITATION IN CLOCKED
-	DEGRA BOIND RECALLED,

REDACTED

•										
•	SOULD AND DE HEE DEPARTMENT MET OF A									
	LIST PROPERTY FIRST/EVIDENCE SECOND: SUSPECT INFORMATION THIRD. 'UST SUSPECT SEX, RALE, AGE, HEIGHT, WEIGHT, HAIR, EYES, BUILD, ODDITIES, CLOTHING DESCRIPTION									
	INCLUDE WHERE EVIDENCE/PROPERTY BOOKED TIEDS 9 OTY ANTICLE BRAND MODEL # (COLOR SIZE RECHPTIONS, CAUSSI, MANICS) SIGNAL # 3 WALTE.									
	CENTRICT WAS MADE WITH SATTHE SAIP DE THIS MORNING									
	AT ABOUT ONO MAS. LEQUESTED TO DOCUMENT THAT HE HAD.									
	BECN A VICTIM OF CHILD MOLEST.									
	MY INSTRYIEW OF REVEALED THAT THE INCLUSIONS OCCUPATED									
	HAS ALACTARY FILED A REPORT WITH DRANGE POLICE CI									
∷ે	R-94-07-491;									
;	THE INCIDENTS IN SOME AND OFFICE OF DATES DES HIST									
	SCHOOL WITH THE PERFORMATION SELVET A PRIEST, FATHER HARRIS.									
. :	THE MOLECT TON PLACE AROUT DUICE A MONTH, FROM 1/79 TO 4/83									
· .	18. ADVISED THAT THE LAST TIME AN INCIDENT OCCURRED, IT WAS									
	IN 92, WILLIA WENT TO HARROW HOME FOR A CETTER OF RE-									
	FERRENCE,									
	THE MOLESTATION CONSISTED OF MALLS CAMPSING ON THE 3									
:	TO ORAL COPULATION BY FACH DIVINE TO BACH OTHER MASTERSATION BY									
	GACH DINGS TO BACH OTHER, TO HARDIS LICKING ANAL CAVITY									
.· .·	RELATED THAT WE ANAL SEX WAS PERFORMED BY GITHTED									
	WHEN I ASKED WHY HE RAD NOT RETOUTED THE INCIDENTS									
	EXPLIENT STATED THAT HE WAS YOUNG AND DIDN'T KNOW WHAT									
	LIKED THE MITENTION THAT BALLOS GAVE HIM.									
P-10r 9/87	THE INCIDENTS ALL BRIND RECALLED AND ALL CAUSING BRIOTION									
SAPOP	AL. FRODEFOR FOR									
4 9/87	HAS INSTITUTED CIVIL PROCEEDINGS AGAINST THE CATHOLIC									
C8. 81	EXURCH FOR A CRESIDUCE CUAID. THIS THE MULLSTATION IN CIDENTS.									
,										

	· ·
:	SANDATANA ROLLIGE DEPARAMENT
}	AND THE CONTRACT OF 4
į.	All districts of the second of
ŧ	LIST PROPERTY FIRST: EVIDENCE SECOND SUSPECT INFORMATION THIRD.
	LIST SUSPECT SEX, RACE, AGE, HEIGHT, WEIGHT, HAIR, EYES, BUILD, ODDITIES, CLOTHERS DESCRIPTION
	. NCLUDE WHERE EVIDENCE/PROPERTY BOOKED
į.	TIBLE OTTY AFTICLE BRAND SECOND SIZE, DECREPTURE, CALIBER HARKS; BERAL , S MALE
ŀ	
:	ALS ATTERNEY HAS PLACED HEN 1400 THELAPT.
l	The state of the s
;	BULLEYES THAT HERES HAS SEEN TRANSFERED TO AN ON-
:	1
1	KNOWN JOHOW; HE RISO ITAS MOVED RESIDENCES AND DOESN'T
	KNOW HERES'S CHERENT HOME ADDRESS.

	BARRES WAS LAST KINDWAY TO HAVE EEEN ASSIGNED TO SANTE PORT-
) ; :	SALIN HIEN SCHOOL
1	
1	COMPLETING MY INTERVIEW OF I MADE CONTACT OF MATER
14	4
×	DEL HIGH SCHOOL NO OUR COULD PLOYIDE INFORMATION OF PATHER
1	
	HARRIS. I was Affended to THE DIOCESE OF GRANGE, FUTHER
:	LAWRENCE BAIRD, 282-3000,
1	The The Diagram of the Court of
	CALLESTE THE DIOCESE, IT WAS FOUND THAT FATHER BAIRD WAS
1	NOT IN AND NO DIE COULD GIVE ME INFORMATION ON HELLES
1	THE THE PART COVER GIVE 196 VALUE OF THE PARTY OF THE PAR
- 13	A RECORD CHECK OF RNO HATHE REVERLED NO LECORD
. 33	
	OR WANTS.
12	
ir.	CONTACT WAS MADE WITH SEX CELENTS INVESTIGATION R. RODALTE,
	HE CONCUS ASD ANTH ONLY DOSUMENTINES
	ME CENCONTOSO CATA CALLY INCOMANIANO
	NOT PURSUE INT THE ISTUE.
1,	
•	
į	
:	
•	•
1	
,	
	,
5.0	
SAPO P.101 9.67	
4	
4	
9/67	
814.9	
6	
2	I NAPRATIYE CONTINUED
•	

REDACTED

ı			VIIIIVATION:	PAGE	4 0 4		
 :			PERTY FIRST. EVIDE EX. RACE, AGE, HEIGHT, 7				
1	WEN & OLA	AMICLE		RE EVIDENCE/PREPER ROLDA SA	TTY BOOKED E, NGCHETICHE, CAURE	R MARIST SERVE	FRANK MARKET S WALLE
	KIS	arrene	HAS PLACE	to Hen INTE	THELACT	<u> </u>	
1		BUILY	S THEF HER	45 1105 B	the Mais	FERRED TO	py 104-
	KHPWN I	cheer,	HE RISO ST	ts meets	RESIDENCE	SAND	mesn'
	know HR	eus s	reatest Ho	ME ADDAL	51		
	12.00		AST KHOWN	TO BAIL SE	to ETSITE	En 10 1427	e nac-
	5 AA2 178 //	411	Carried A		3	· · · · · · · · · · · · · · · · · · ·	
15			NO DIES	(Rignam www.marrow	Jan 188		***************************************
			ALLENAED 7				
	2757-270-980-9-90-90-90-90-90-90-90-90-90-90-		282-3000				
12	1		DIOCESE,		NO THAT	FATHER BH	un wa
	Wet in	WD NO	our could	T GIVE ME	MERMA	Den an B	waars,
. A. E.	A.RE	inso C4	VER OF	exa H	ULIF REV	MED NO P	teorp
12	OR EXAMIS				<u>·</u> ·		
			MADE WITE		4 75	4.	
1.1	· ·		THE CHILL DO	CUMENTINE	<u>- 9</u>	ALLE ER DON	S AND
100	NOT EVASU	ELUT III	E 1,50E				
· ;				•			
1				•			
;							
9.67	***************************************		,				
P.101.9							
6.20							
S. 514 9/87							

÷.

LAW OFFICES OF

CALLAHAN, McCUNE & WILLIS

402 WEST BROADWAY 1 SUITE 800 1 SAN DIEGO, CALIFORNIA 92101 1 TELEPHONE (619) 232-5700 1 FAX (619) 232-2206

PETER M. CALLAHAN
LARRY N. WILLIS
JOHN J. TASKER
ROBERT W. THOMPSON
ROBERT W. CASTLEBERRY
DANIEL H. CLIFFORD
O. BRANDT CALDILL JR.
LYNNE GOODWIN
GARY V. SPENCER
JEFFREY S. POLLAK

RICHARD P. LARRIVA RUSSELL P. MCQUOWN MARK M. GNESIN SCOTT S. BLACKSTONE JEFFREY M. MCCONNELL NANCY J. DEPASQUALE STEVEN A. SIMONS, SR. CHARLES T. BROWN ROSA KWONG CHRISTING C. KELTON CHRISTING C. KELTON CHRISTOPHER J. ZOPATTI KIM J. RUKBAUGH NANCY E. POWER RICHARD J. RITCHIE JOSEPH H. HUNTER RICHARD B. CARTER KELLE S. CHRISTIANSON EDWARD L. SCHJUMANN JOHN A. NOJIMA ALLISON L. JONES JANET DOOGE ALLEN DEBRA HOFFMAN SCHOFFNORMA S. MARSHAUL

JOSEPH T. KUTYLA MICHAEL G. DIBB COLRENA K. JOHNSON PAMELA S. COOKE STEPHEN L. CULP LEE A. SHERMAN JEREMY L. TISSOT

ADMINISTRATOR KENNETH D. BERG SCOTT M. McCUNE

(1948-1989)

TUSTIN OFFICE 111 FASHION LANE TUSTIN, CA 92680

(714) 730-5700 FAX: (714) 730-1642

LOS ANGELES OFFICE 11755 WILSHIRE BOULEVARD SUITE 1200 LOS ANGELES, CA 90025-1528

(310) 312-1860 FAX (310) 477-3481

April 18, 1995

TO ALL COUNSEL (See Attached Service List)

Re; v.

r. 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

W:\AET\4001\C04185.ALL

... ر. ق.

CALLAHAN, McCUNE & WILLIS

402 WEST BROADWAY I SUITE 800 I SAN DIEGO, CALIFORNIA 92101 I TELEPHONE (819) 232-5700 I FAX (619) 232-2206

PETER M. CALLAHMI
LARRY N. WALLS
JOHN J. TASKER
POBERT W. TASKER
POBERT W. CASTLEBERRY
DANIEL H. CLIFFORD
O. BRANDT CALDULL, JR.
LYNNE GOODWIN
GARY V. SPENCER
JEFFREY S. POLLAK,

RICHARD P. LARRIWA RUSSELL P. McCUCHN MARK M. GNESIN SCOTT S. BLACKSTONE SEFFREY M. McCONNELL NANCY J. DEPASOUALE STEVEN A. SMONS, SR.
CHARLES T. BROWN
ROSA KWONG
CHRISTNE C. KELTON
CHRISTOPHER J. ZOPATTI
KM J. RUMBAUGH
NWOT E. POWER
RICHARD J. RITCHE
JOSEPH H. HUNTER
RICHARD B. CARTER
RICHE S. CHRISTIANSON
EDWARD L. SCHUMANN
JOHN A. NORMA
ALISON L. JONES
JANET DODGE ALLEN
DEBRA HOFFMAN SCHROFF
NORMA S. MARSHAUL

JOSEPH T. KUTYLA MICHAEL G. DIBB COURENA K. JOHNSON PAMELA S. COOKE STEPHEN L. CULP LEE A. SHERMAN JEREMY L. TISSOT

ADMINISTRATOR KENNETH D. BERG

SCOTT M. McCLINE (1948-1989) TUSTIN OFFICE 111 FASHON LANE TUSTIN, CA 92000

(714) 730-5700 FAX: [714] 730-1842

LOS ANGELES OFFICE 11755 WILST-FRE BOULEVARD SUITE 1200 LOS ANGELES, CA 90025-1528

D10) 312-1860 FAX D10) 477-3481

April 18, 1995

TO ALL COUNSEL ACTION ACTION ACTION ACTION (1984)

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 Goddwin

LG/sab

Enclosure: Dr. Lewis Lane's Records

W: \AET\4001\C04185. ALL

MAILING LIST/PROOF OF SERVICE

PLAINTIFF

Case Name: Case No. :

ROMAN CATHOLIC BISHOP OF ORANGE, ET AL.

WILLIAM M. PAOLI LAW OFFICES OF THEODORE S. WENTWORTH 4631 TELLER AVENUE, #100 NEWPORT BEACH, CA 92660 (714) 752-7711/FAX (714) 752-8339

(JANE)

DAVID RING McNICHOLAS & McNICHOLAS 10866 WILSHIRE BLVD., #1400 LOS ANGELES, CA 90024 (310) 474-1582 FAX (310) 475-7871

THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES

RONALD BEVINS WALSWORTH, FRANKLIN, BEVINS & McCALL 1 CITY BOULEVARD WEST, SUITE 308 ORANGE, CA 92668-3604 (714) 634-2522 FAX (714) 634-0686

JOHN W. NELSON WEISENBERG & NELSON, INC. 888 NORTH MAIN STREET, #400 SANTA ANA, CA 92701-3518 (714) 836-3280 FAX (714) 836-3284

MICHAEL C. OLSON LEWIS, D'AMATO, BRISBOIS & BISGAAR 650 TOWN CENTER DRIVE, #1400 COSTA MESA, CA 92626 (714) 545-9200 FAX (714) 850-1030

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

MSGR, MICHAEL HARRIS

GARY PACHECO

FRANCISCAN FRIARS OF CALIFORNIA, INC.

FRANCISCAN FRIARS OF CALIFORNIA, INC.

REDACTED

MAILING LIST/PROOF OF SERVICE

Case Name:

v. ROMAN CATHOLIC BISHOP OF ORANGE, ET AL.

Case No.: 73 46 26

WILLIAM M. PAOLI LAW OFFICES OF THEODORE S. WENTWORTH 4631 TELLER AVENUE, #100 NEWPORT BEACH, CA 92660 (714) 752-7711/FAX (714) 752-8339 (JANE) PLAINTIFF

DAVID RING McNICHOLAS & McNICHOLAS 10866 WILSHIRE BLVD., #1400 LOS ANGELES, CA 90024 (310) 474-1582 FAX (310) 475-7871 THE ROMAN CATHOLIC ARCHBISHOP OF LOS ANGELES

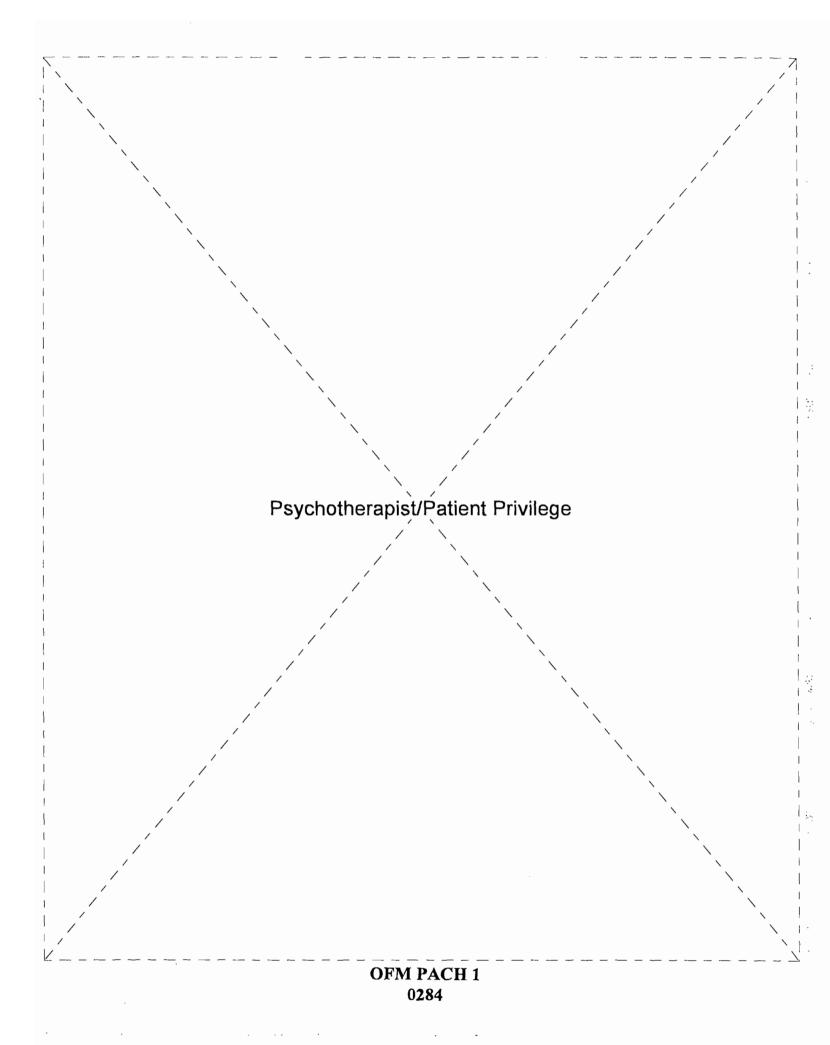
RONALD BEVINS
WALSWORTH, FRANKLIN, BEVINS & McCALL
1 CITY BOULEVARD WEST, SUITE 308
ORANGE, CA 92668-3604
(714) 634-2522
FAX (714) 634-0686

MSGR. MICHAEL HARRIS

JOHN W. NELSON WEISENBERG & NELSON, INC. 888 NORTH MAIN STREET, #400 SANTA ANA, CA 92701-3518 (714) 836-3280 FAX (714) 836-3284 **GARY PACHECO**

MICHAEL C. OLSON LEWIS, D'AMATO, BRISBOIS & BISGAAR 650 TOWN CENTER DRIVE, #1400 COSTA MESA, CA 92626 (714) 545-9200 FAX (714) 850-1030 FRANCISCAN FRIARS OF CALIFORNIA, INC.

NICHOLAS HELDT SEDGWICK, DETERT, MORAN & ARNOLD 1 Embarcadero Center, 16th Floor San Francisco, CA 94111-3765 (415) 781-7900 FAX (415) 781-2635 FRANCISCAN FRIARS OF CALIFORNIA, INC.



3-29.94

29 ylow Relates sexual abuse during 4 yrs of HS by Priest. Pt involved in suing cetholic church. Pt involved in choir & petivities in Catholic Church. Pt in answer act to 1: - 7

Pt in an Byr relationship to?
Pt parents died when pt was 5yrsold.
Pt clurgs turned to the church for support thelp.

Pt has been suspended from singing at church 20 to being accussed of homosexual behavior of unk drurch members An Brown having ministration to having onxiety

Began being nightnerest having anxisty
Began seeing Dr watters in Nov93 for help.

Por prescribed Kanax by MD pt didn't like idea that he had to take made for this.

Youax 0.25mg TID

Revently has become depressed energic, has SII auhedonic hopeless uses. I motivation, apathy, ambiralence crying

PEPalesouded Com molestation.

Family & dep sis-dep bro-etoH many sibs molested, incested

Medtly NKA

Kener 0.25mg

Blob IPPD commobis are occas

The Major depressive Episode prob subsyndround dusphoric Triel Sevoral dysphoric

Continue Alp 6.25mg BID

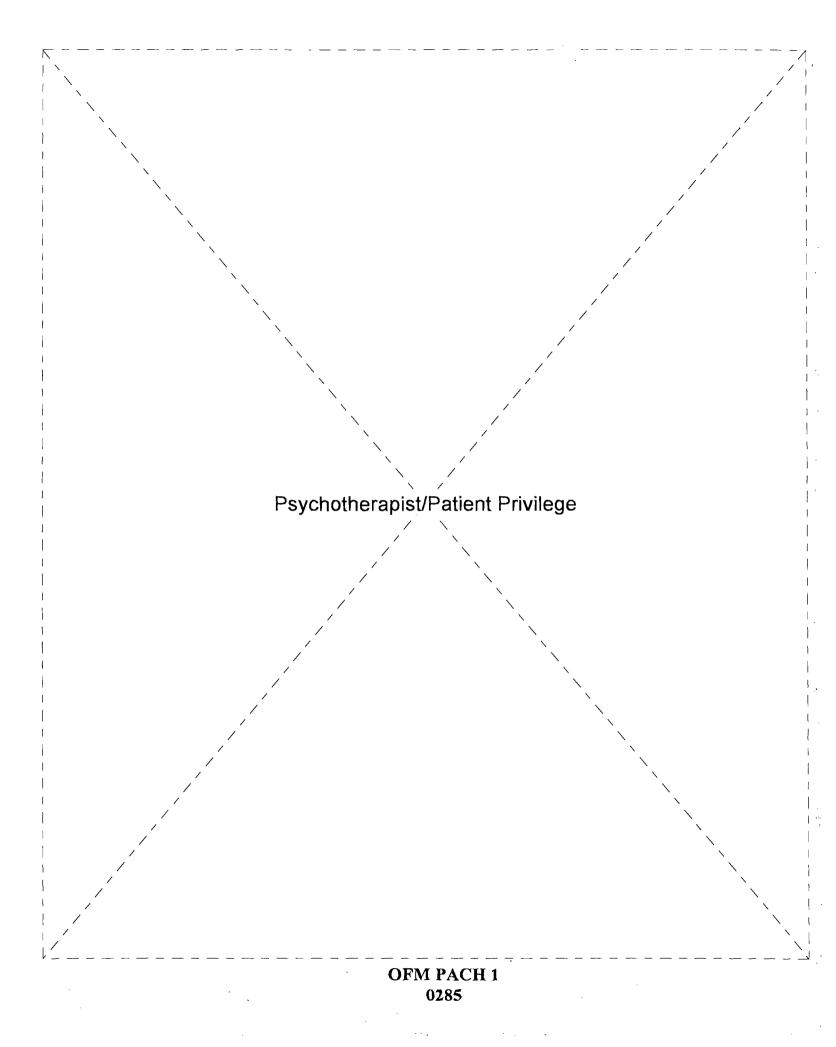
4-5. MEdical leave 4-4 stert

4-18 Pt returned to work & Sund out pt returned premeturely.

Mood labile. I enxiety. will I Sentral to 100mm.

5-2 Pt placed back on dissolity. Pt terminated Hameus

Alposing. Continue current regimen



At 100mg itel Alpo. 5. Mod & Lymic 6-29 Pt feeling more empowered , Hed, mtg = church hierarchy re molestation. Meds stebbe will continue current regimes. Bt do ongoing downhed. (Steulus) will try switch Parop zoma 7-27 Pt Malling Progress = depression. Dierrhes resolved. At Perox zong. Pt denied disability by examiner. It angry & teling, powerless. Continues to have PTSD sympto-Matology. Continue current regimen. Premains 9-26 Exes of PTSD & disengenced thinking & behavior. Pt distracted to needing structure of stressed over poor performance of atterney & fired him the vine 11d auxility over changes, wents to stop sucking. Hebitrol 2/mapstel 10-24 Deding = 112 medic involvement. Her been dealing v T desetions. Pt had some thoughts about ham Noting greater lear vericloility. Boundaries sotronger meder stable Pt went turn dischility hearing & probs. He ving 11-28 conflict - lite partner. Meds state 1-4-95 Pt beginning to look at poss of returning U to Employment, mood labite. At Parox zoma 41p'osma Coneup Selling up new business. mood enthymic, meds stock, some mood varishility. Attest Agnemb tull. At Pavox, 20mg & Alp 0.5mg. Pt Involved in pursuit of establishing correct. Aanems will be taking over more psychotherapeutic responsibility from Dr Walters. It had triggered memories of additional memories of molestation in 1982 Caround (m) death) that took in LA. This occurred in a cear & in a seminary mamory is district. An Maneur) Perox Zoma Alp 0.5mg

Bates Numbers 286-308 were removed by the Plaintiffs at the request of the Franciscans.

THOMAS P. KELLY, JR.
RICHARD W. ABBEY
W. BARTON WEITZENBERG
CANDACE H. SHIRLEY
TIMOTHY W. HOFFMAN
WAYNE R. WOLSKI
LEWIS R. WARREN
PETER J. WALLS
CRAIG M. STAINBROOK

Attorneys and Counselors at Law

CLARENDON W. ANDERSON (1895-1987) LESTER M. BELDEN (1927-1993)

June 12, 1996

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

parents and law enforcement authorities of the sexual assaults both at the time they occurred and up to the present. 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.

P.3/13

ENDORSED FILED ALAMEDA COUNTY

ALAMEDA COUNTY SUPERIOR COURT

JAN 26 1996

	-			PEAINTIFF'S INITI	AL FI	LINE I	RONALD G. OVERHOLT, Exec. Off/Clerk By Durothy Duckett				
	TI	TLE:	DOES 1-200	vc	ASE R	·	FILTH DATE 01/26/96				
	A£.	HUE:	£3 446 DAKLAND	I] 447 HAYWARD	r	1 448	Liversore-Fleasanten-Dublin				
	zkł.	CIV	TIL .	[] FARIL	Y LAN	•	E3 PROBATE BY FA				
	ABS	1300	DESIGNATION (chec	k one)							
-	Į.	€.	SEMERAL		£3	052	DEUZZI ZKOKNUZ				
	ťΙ	C	ASBESTOS		İM	051	NO SUMMONS ISSUED				
	t 3	4	UNLANFUL DETAINER - Defendant(s) In Passession of Real Property								
	נז	B	URLAWFUL DETAIN	ER - Defendant(s)	NOT I	n pos	session of Real Property				
	£3	U	UNINSURED MOTURIST (LAL. INS. CODE 11580.2) - Declaration pursuant to Local Rule 4.1(3) required								
	<u></u>			CASE TYPE (ch	eck o	44)					
-71	13;	34	PERSONAL INJURY	: AUTO	£3	69	ALL OTHER PETITIONS				
Fax	n X	33	PERSONAL INJURY	= OTHER	[]	18	ENIMENT DOMAIN				
	<u> </u>	10	DAMAGES	•	[1]	68	ALL OTHER COMPLAINTS				
& File, Inc.	ָנז ⁻	60	PRONGFUL DEATH	-	[]	47	BKLANFUL DETAINER				
, Ç	IJ.	70	PERSONAL INJURY	- ASBESTOS	[]	11	DECLARATORY RELIEF				
	ξĴ	71	MEDNEFUL DEATH	- ASSESTOS			•				
	- STATISTICAL DESIGNATION (Check mae)										
ري ري	[]	£10	PRODUCT LIABILIT	TY: ASBESTOS	£j	06	BUSINESS CONTRACT				
	[]	02	PRODUCT LIABILIT	Y: OTHER	13	07	REAL PROPERTY				
J	[1]	Q 3	REGLIGENCE		[]	80	MALPRACTICE				
1	[]	04	BRONGFUL TERMINA	KOIT	[]	09	CONSTRUCTION				
:	£3	05	INSURANCE BAD FA	ITH	63	10	ALL OTHER MOLESTATION				

Form No. 202-19

(kev. 7/01/91)

ALAMEDA COUNTY SUPERIOR COURT PLAINTIFF'S INITIAL FILING FORM

717	LE:	DOES 1-	-200	۷.	c	ASE NO	·	FILING DATE 01/26/9
YEX	DE:	至至 446 日	DAKLAND	[] 447	HAYWARD	[]	448	Livermore-Pleasanton-Dublin
kk.	CI	YIL		ξ	3 FARIL	Y LAK		E3 PROBATE
ABI	300	DESIGNATI	lox (check	one)			· · · · · · · · · · · · · · · · · · ·	
M.	6	GENERAL			:	[]	052	SURNORS ISSUED
ĽĬ	C	ASBEST	20	•		M	051	NO SUMMONS ISSUED
[]	Ā	UNLAKFU	IL DETAIKE	R - Defe	indant(s)	.In Po	2922	sion of Real Property
נז	B	UNLANFE	L DETAINE	R - Defe	ndant(s)	NOT I	n Po	ssession of Real Property
£3	u		ED MOTORI			DE 115	80.2) - Declaration pursuant
				CASE	TYPE (ch	eck o	se)	
13	34	PERSONA	L .INJURY:	OTUA		[]	- 69	ALL OTHER PETITIONS
M;	33	PERSONA	L INJURY:	OTHER	•	[]	18	ENIMENT DOMAIN
[]	10	DANAGES	;			[]	68	ALL OTHER COMPLAINTS
[]	50	WRONEFU	L DEATH			[]	47	UNLANFUL DETAINER
[].	70	PERSONA	L INJURY	- ASBEST	os	[3	11	DECLARATORY RELIEF
ָנז	71	WRONEFU	L DEATH -	-ASBESTO	s			
			· STA	TISTICAL	DESIGNAT	ION (check	* exe)
[]	ρĵ	PRODUCT	LIABILIT	Y: ASBES	TOS	[1	06	BUSINESS CONTRACT
[]	DZ	PRODUCT	LIABILIT	Y: OTHER		[]	67	REAL PROPERTY
[]	03	MEGLIGE	NCE			[]	08	MALPRACTICE
[]	04	WRONGFU	L TERMINA	TION		[]	09	CONSTRUCTION .
[]	05	INSURAN	CE BÁD FA	ITH		63	10	ALL OTHER MOLESTATION

Form No. 202-19

(Rev. 7/01/91)

FILED ON BE				
P001: 0				
P002:				
P003:				
P004:	-			
[] Addition	al Sheet Attached			
ATTORNEY OF	RECORD:			
Firm/				
Atty. Name:	BELDEN, ABBEY, WEITZENBERG & KELLY W. BARTON WEITZENBERG	1.D. No:		
Lead Atty:		Bar No: 118600		
Address: Phone:	1105 NO. DUTTON AVENUE POB 1566 SANTA ROSA, CA 95402-1566 (707) 542-5050			
[] Additiona	1 Sheet Attached	7.9		
COMPLAINT FI DOES DOES	LED AGAIKST: (List Mamed Defendants) 1-200			
D002:				
· · · · · · · · · · · · · · · · · · ·				
D003:				
0004:		•		
p005:	·			
DOD6:				
0007:				
.008:				
: 200				
1010;				

Form No. 202-19

(Page 2 of 2)

24

25

26

27

28

Plaintiff is informed and believes and thereon alleges 2. 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

BELDEY, ABBEY, PETTZENBERG & KELLY 105 N. Durion Avenue IKA ROID, CA 95401

PAGE. 003

P.5/13

BELDEN, ABBEY, WEITZENBERG & KELLY W. BARTON WEITZENBERG, ESQ. WAYNE R. WOLSKI, ESQ. 2 1105 North Dutton Avenue, P.O. Box 1566 3 Santa Rosa, California 95402 4 Telephone: (707) 542-5050 5 Attorneys for Plaintiff SUPERIOR COURT OF THE STATE OF CALIFORNIA 6 7 FOR THE COUNTY OF ALAMEDA Case No. 8 9 Plaintiff, COMPLAINT FOR DAMAGES 10 v. (PERSONAL INJURY) DOES 1 through 200, 11 12 Defendants. 13 COMMON ALLEGATIONS 14 1. Plaintiff is ignorant of the true names and capacities of 15 16 17 18

20 21

19

- 22 23
- 24
- 2526
- 27

28

- 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

-1-

11 12

13

10

14

16

15

17 18

19

20

21 22

23

24 25

26

27

28

BELDEN, ARREY. WEITZENBERG & KELLY 1105 N. Dutton Avenue Santa Roca, CA 95401 (707) 542-5050

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 4. 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 activities included, limited but were not 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.
- 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.
- 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.
- At all times mentioned herein, Plaintiff was a minor parishioner and under the supervision and control of Defendants DOES 1 through 100.

2 /

(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.

BELDEN, ABBEY, WEITZENBERG & KELLY 1305 N. Dutton Avenue Santa Rosa, CA 95401

(707) 542-5050

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.

877.3

- 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:

- 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 , 1996.

BELDEN, ABBEY, WEITZENBERG & KELLY

By Wayne R. Wolski,

Attorney for Plaintiff

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

.19

20

21

22

23

24

25

26

27

BELDEN, ABBEY, WEITZENBERG & KELLY W. BARTON WEITZENBEG, ESQ. WAYNE R. WOLSKI, ESQ. 1105 North Dutton Avenue, P.O. Box 1566 Santa Rosa, California 95402

ENDORSED FILED **ALAMEDA COUNTY**

JAN-26 1996

RONALD G. OVERHOLT, Exec. Off JClark By Dorothy Duckett

BY FAX

Telephone: (707) 542-5050

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

Case No

Plaintiff,

CERTIFICATE OF MERIT

[CCP §340.1]

DOES 1 through 200,

Defendants.

I, WAYNE R. WOLSKI, declare as follows:

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.

- I have personal knowledge of the matters attested herein and could competently testify to them if called as a witness herein.
- 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.
- Based on the above information and analysis, I have concluded that there is a reasonable and meritorious cause for the

28 BELDEN, ABBEY, EFEZENBERG & KELLY

105 N. Donon Avenue

ento Rosa, CA 95401

OFM PACH 1 0320

BELDEN, ABBEY, WEITZENBERG & KELLY 1105 N. Dutton Avenue Santa Rosa, CA 95401 (707) 542-5050

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

BELDEN, ABBEY, VEITZENBERG & KELLY 1105 N. Dutton Aveaue Santa Rosa, CA 95401 (707) 542-5050

FRO FAX AND FILE-DAKLAND TO 17075/

7,20

PAGE.004

JAN 26 '96 11:54

BELDEN, ABBEY, WEITZENBERG & KELLY 1105 N. Dutton Avenue Santa Rosa, CA 95401 (707) 542-5050

that has been subject to childhood sexual abuse.

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 2 day of January, 1996.

Anthony Sabatasso

BELDEN, ABBEY, WEITZENBERG & KELLY 1105 N. Dutton Avenue Sarta Rosa, CA 95401 (707) 542-5050

Bates Numbers 326-345 were removed by the Plaintiffs at the request of the Franciscans.

BELDEN, ABBEY, WEITZENBERG & KELLY W. BARTON WEITZENBERG, ESQ., SB #51788 WAYNE R. WOLSKI, ESQ., SB #118600 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.

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.

- 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.
- 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

25

26

27

- 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

22 23

24 25

26

27

28

ETTZENBERG & KELLY 105 N. Dutton Avenue ntz Rosa CA 95401 (707) 542-5050

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.
- 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.
- 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)

- Plaintiff incorporates the allegations of Paragraphs 1 10. through 9 herein as though set forth in their entirety herein.
- Following the events referred to herein, FRIARS and DOES 11. 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 sever 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.

.20

- 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

_

II

IELDEN, ABBEY, IZENBERG & KELLY 5 N. Dutton Avenue tà Rosa, CA 95401 (207) 542-5050 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.

OFM PACH 1

(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;
- For special damages for medical, incidental, and loss of earnings, according to proof;
 - 3. For punitive damages;

BELDEN, ABBEY, TZENBERG & KELLY 5 N. Dutton Avenue the Rose, CA 95401 (707) 542-5050

1

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

- 1	1
1	4. For c sts of suit herein; and
2	5. For such other and further relief as the Court may deem
3	proper.
4	Dated: March 7, 1997.
5	BELDEN, ABBEY, WEITZENBERG & KELLY
6	Correge K. crotslin
7	Wayne R. Wolski Attorney for Plaintiff
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	•
24	
25	
26	C:\WP51\WRW\1CP
27	
28	
, 11	

3ELDEN, ABBEY, 1ZENBERG & KELLY S N. Dutton Avenue 12 Rosa, CA 95401 (707) 542-5050



SEDGWICK, DETERT, MORAN & ARNOLD



October 31, 1997

Wayne R. Wolski, Esq.
Abbey, Weitzenberg, Kelly
Nadler, Hoffman & Emery
1105 North Dutton Avenue
P.O. Box 1566
Santa Rosa, CA 95402-1566

Re:

v. Pacheco, et al.

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

hoľas W. Heldt

NWH/ljp spsf3/26492

Enclosures

One Embarcadero Center Sixteenth Floor San Francisco, California 94111-3765
Telephone 415.781.7900 Voice Mail 415.788.1459 Facsimile 415.781.2635

SEDGWICK. DETERT, MORAN & ARNOLD



October 31, 1997

Wayne R. Wolski, Esq.
Abbey, Weitzenberg, Kelly
Nadler, Hoffman & Emery
1105 North Dutton Avenue
P.O. Box 1566
Santa Rosa, CA 95402-1566



Re

v. Pacheco, et al.

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 I also enclose an original letter from the Provincial Minister of the Pranciscans to IIII in care of 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

Nicholas W. He

NWH/ljp sDSF3/26492

Enclosures

REDACTED

One Embarcadero Center Sixteenth Floor San Francisco, California 94111-3765
Telephone 415.781.7900 Voice Mail 415.788.1459 Facsimile 415.781.2635

Los Argeles 213.426.6900

ORANGE COUNTY 714.852.8200 OFM PACH 1 0360

LONDON 0171.929.1829 ZURICH 01.201.1730 Wayne R. Wolski, Esq.
Re: v. Pacheco, et al.
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

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

October 23, 1997

Mr. c/o Belden, Abbey, Weitzenberg, & Kelly 1105 North Dutton Avenue, PO Box 1566 Santa Rosa, California 95402

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,

Provincial Minister