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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 LOS ANGELES COUNTY, CENTRAL DISTRICT

15 JOAQUIN AGUILAR MENDEZ
16 Plaintiff,

17 vs.

18 CARDINAL ROGER MAHONY, THE
ROMAN CATHOLIC ARCHBISHOP
19 OF LOS ANGELES, A
CORPORATION SOLE, CARDINAL
20 NORBERTO RIVERA, THE DIOCESE
OF TEHUACAN, FATHER
21 NICHOLAS AGUILAR DOES 1-100

22 _____
Defendants

Case No: BC358718

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO MEXICAN
DEFENDANTS' MOTION TO DISMISS
FOR LACK OF PERSONAL
JURISDICTION**

Date: October 16, 2007
Time: 8:30 a.m.
Dept: 42
Judge: Elihu M. Berle

FILED
LOS ANGELES SUPERIOR COURT

SEP 25 2007

JOHN A. CLARKE, CLERK
BY RUGENA LOPEZ, DEPUTY

23
24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **INTRODUCTION**

26 This honorable Court has both general and specific personal jurisdiction over the Mexican
27
28

1 Defendants.¹ This Court has general jurisdiction because the Mexican Defendants' contacts with
2 California are substantial—they sent a child molesting agent to California where he worked and
3 molested dozens of children, leaving his California victims profoundly injured for their lives.

4 Regardless of general jurisdiction, the assertion of specific jurisdiction over the Mexican
5 Defendants is proper. They knowingly derived a benefit when they sent their child molesting agent
6 to California. They were able to keep him from scrutiny in Mexico where things were too hot for
7 Aguilar to stay.

8 They also gained a significant benefit from facilitation of Aguilar going back to Mexico after
9 he was wanted by the Los Angeles Police. The police would have arrested Nicolas Aguilar as soon
10 as they got the report of his abuse. However, the church officials in Los Angeles, working under the
11 Mexican Defendants' authority, encouraged or at least allowed Aguilar to leave California before
12 they reported him to the police. Had this not been done, Aguilar would likely be behind bars and
13 the Mexican Defendants would have faced a huge scandal. Further the Mexican Defendants operated
14 a conspiracy in which they used California to hide its priest. Because of these California contacts,
15 the Mexican Defendants purposefully availed themselves of California.

16 Joaquin's claims are directly related to the Mexican Defendants' contacts. Joaquin brought
17 negligence claims against the Mexican Defendants for their action in allowing Aguilar to leave the
18 United States, for failing to investigate Aguilar's whereabouts, and for their conspiracy.

19 The assertion of specific jurisdiction does not offend notions of fair play and substantial
20 justice because California has a substantial interest in holding the Mexican Defendants accountable
21 because they sent a known child molester to California and because the modern means of
22 communication make litigating in California a minimal burden on a huge corporation like the
23 Mexican Defendants. Accordingly, Plaintiff respectfully requests that this honorable Court deny the
24 Mexican Defendants' motion in its entirety.

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¹The Diocese of Tehuacan and Norberto Rivera are grouped together in this brief. Although each defendant is generally viewed separately, here Rivera is sued in his official capacity as head of the Diocese of Tehuacan.

1 **ARGUMENT**

2 **I. California Courts Can Exercise Personal Jurisdiction Over the Mexican Defendants.**

3 California authorizes its Courts to exercise jurisdiction to the full limits of the United States
4 Constitution. Section 410.10 of the Code of Civil Procedure provides: "A court of the state may
5 exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United
6 States." This section authorizes the broadest possible exercise of judicial jurisdiction. Quattrone v.
7 Superior Court, 44 Cal. App. 3d 296, 302, 118 Cal. Rptr. 548 (1975).

8 **II. California Has General Jurisdiction over the Mexican Defendants Because the Mexican**
9 **Defendants Sent a Child Molesting Priest to California, Where He Worked for the**
10 **Mexican Defendants and Was Allowed to Rape Dozens of Children, Causing a Lifetime**
11 **of Depression, Anxiety, and Suicide Attempts in California.**

12 The Mexican Defendants' contacts with California were substantial and the effects are
13 continuous to this day. "A defendant is subject to general jurisdiction only where the defendant's
14 contacts with a forum are substantial or continuous and systematic." Bancroft & Masters, Inc. v.
15 Augusta Nat'l, Inc., 223 F.3d 1082, 1086 (9th Cir. 2000). "For purposes of personal jurisdiction, the
16 actions of an agent are attributable to the principal." Sher v. Johnson, 911 F.2d 1357, 1362 (9th Cir.
17 1990).²

18 **A. Mexican Defendants knowingly sent a child molesting priest to California.**

19 In 1986 Nicolas Aguilar was beaten up at his parish residence by a group of kids.
20 (RIV00019, attached to Declaration of Michael Finnegan as Ex. 3.) The police found blood all over
21 the residence. (Id.) The police report stated that there were numerous youngsters that came from
22 different communities and slept in Nicholas Aguilar's bedroom. (Id.) Rivera testified that he heard
23 that Aguilar had been beat up like this before this assault, but apparently did little to find out if,
24 when, or why the other assault took place. (See Finnegan Ex. 30, Rivera Depo. p. 135.) Cardinal

25 ²The Mexican Defendants' reliance on the Archdiocese of Milwaukee case is misplaced for
26 general jurisdiction purposes. The issue was not raised or argued before the Court of Appeals.
27 Archdiocese of Milwaukee v. Superior Court, 112 Cal.App.4th 423, 5 Cal.Rptr.3d 154 (Cal. App.
28 4 Dist. 2003). Moreover, the Court of Appeals did not address the issue at all, only noting that the
issue was not being argued. Therefore, the decision is not precedential regarding general
jurisdiction.

1 Mahony testified that a priest having children sleep in his bedroom was enough that priest could not
2 work in the Archdiocese. (Finnegan Ex. 33, Mahony Dep. p. 101.) On January 27, 1987, Norberto
3 Rivera and the Diocese of Tehuacan sent a letter to California to then Archbishop Roger Mahony,
4 the leader of the Archdiocese of Los Angeles. (Finnegan Ex. 6, RIV00023). In the letter Norberto
5 Rivera told Mahony that Aguilar was being sent to California for family and health reasons. (Id.)
6 In his declaration, Rivera stated that the term family and health reasons was used within the Catholic
7 Church to warn that a priest suffers from some sort of problem. (Finnegan Ex. 29, Rivera
8 Declaration ¶ 11.) This was a warning to Mahony that Rivera was a problem priest. Norberto Rivera
9 admitted that he was not sure if Aguilar was even fit to serve as a priest before he allowed him to go
10 to California. (Finnegan Ex. 29, Rivera Dec. ¶ 12.) Rivera sent another letter to California to
11 Mahony explaining that the problem was that Aguilar was beaten up in Mexico because of
12 "homosexuality" and that there were several accusations of homosexuality against Aguilar.
13 (Finnegan Ex. 9, RIV 00026.) Mahony disputes receiving this letter. (Finnegan Ex. 33, Mahony
14 Depo. pp. 111, 176.) Within the Catholic Church the term homosexuality in this context was used
15 as code for child sexual abuse. (Declaration of A.W. Richard Sipe ¶ 20.) Mahony acknowledged
16 in his 1988 letter that "homosexuality" was such a problem that he would not have even accepted
17 Aguilar if he had been warned of this. (Finnegan Ex. 19, RIV 00044.) Bishop Curry of the
18 Archdiocese of Los Angeles also testified that accusations of homosexuality are serious enough for
19 a priest like Aguilar to not be admitted to work in the Archdiocese. (Finnegan Ex. 32, Curry Depo.
20 p. 49.) Accordingly the Mexican Defendants knowingly sent a child molesting priest to California.

21 This is one of the most egregious actions that any employer could take - to send a child
22 molester to California. This egregious contact and the other contacts discussed below are substantial
23 enough to permit general jurisdiction.

24 **B. Aguilar worked in California.**

25 At all times that Aguilar was in California he was a priest of the Diocese of Tehuacan and
26 under the control of Norberto Rivera. (Fr. Thomas Doyle Declaration ¶¶ 6-7; Finnegan Ex. 30,
27 Rivera Depo. p. 118.) The only way that Aguilar could work in California was for the Diocese of
28 Tehuacan and the Norberto Rivera to give Aguilar permission to do so. (Fr. Doyle Declaration ¶6-7;

1 see Finnegan Ex. 6-7, RIV 00023-24; Finnegan Ex. 10, RIV 00027.) Aguilar was appointed as an
2 associate priest at Our Lady of Guadalupe in Los Angeles, California on March 16, 1987. (Finnegan
3 Ex. 10, RIV00027.) Aguilar was given full faculties to work in the Archdiocese of Los Angeles.
4 (Id.) On May 18, 1987 Aguilar was appointed to work at St. Agatha's in Los Angeles, California.
5 Finnegan Ex. 33, Mahony Depo. Ex. B-CIVAGUIL 000009.) Aguilar worked at that parish until
6 January of 1988. (Finnegan Ex. 13, RIV 00030.) Aguilar was still an agent of the Diocese of
7 Tehuacan and Norberto Rivera this whole time. (Fr. Doyle Dec. ¶¶ 6-7.) The Diocese of Tehuacan
8 and Rivera had the primary authority over Aguilar when he was working in California. (Id.; Finnegan
9 Ex. 33, Mahony Depo. p. 90; Finnegan Ex. 30, Rivera Depo. 118.) Cardinal Mahony testified that
10 Cardinal Rivera was Nicholas Aguilar's ultimate superior when Aguilar was in California.
11 (Finnegan Ex. 33, Mahony Depo. 87.) Therefore Aguilar worked at two different parishes in
12 California and most likely ministered to thousands of California residents during this time, meaning
13 that the Diocese of Tehuacan and Rivera likely had thousands of contacts with California through
14 Aguilar's work in California.

15 **C. The Mexican Defendants did not warn a single child, parent or law enforcement**
16 **in California that their priest was a problem and unfit before Aguilar came to**
California or during the time Aguilar was in California.

17 The Mexican Defendants have presented no information that they ever warned any of the
18 children, parents or law enforcement in California that Aguilar was a problem priest who possibly
19 was unfit to be a priest. In fact the warnings that they did send were internal confidential warnings
20 only to other Catholic Officials, which those officials deny receiving. (See Finnegan Ex. 9,
21 RIV00026; Finnegan Ex. 33, Mahony Depo. pp. 111, 176.) The inference here is that the Mexican
22 Defendants failed to warn the children, parents and law enforcement in Los Angeles, which allowed
23 Aguilar to have unlimited access to children in California. This failure to take action with regard
24 to their agent in California led to the abuse of numerous children by Aguilar in California.

25 **D. The Mexican Defendants' employee/agent molested dozens of children in**
26 **California.**

27 While Fr. Aguilar was in California for roughly nine months, he sexually molested dozens
28 of children. (Los Angeles Police Report, attached to Declaration of Hector Esparza as Ex. A.) The

1 Los Angeles police interviewed approximately 16 different children who were molested by Aguilar.
2 (Id.). They charged Aguilar with 19 counts of child molestation in California. (Finnegan Ex. 33,
3 Los Angeles complaint against Aguilar attached as Mahony Depo. Ex. 101.) Cardinal Mahony wrote
4 a letter to Cardinal Rivera which stated that "it is impossible to determine precisely the number of
5 young altar boys that he has sexually molested, but the number is large." (Finnegan Ex. 16, RIV
6 00038.) The Los Angeles Times reported that the police stated that they had interviewed at least 18
7 boys who were molested by Aguilar. (Finnegan Ex. 14, RIV 00032.) The 18 boys they interviewed
8 were out of only half of the 60 total children that were altar boys at the parishes in California,
9 meaning out of those interviewed, Aguilar had molested approximately 18 out of 30 children. (Id.)
10 The article stated that the police reported that the boys ranged in age from 9 to 13. (Id.)

11 As discussed above, Aguilar was the Mexican Defendants' agent when he committed these
12 crimes. The Mexican Defendants knew that Aguilar was a child molester and knew that this was
13 likely to occur in California. Accordingly, these molestations in California were expected by the
14 Mexican Defendants.

15 **E. The aftermath of Aguilar's molestation of children in California is lifelong for**
16 **the victims that were abused and their families.**

17 The Mexican Defendants allowing Aguilar to work in California, even though they knew he
18 was a child molester, and Aguilar's subsequent abuse of dozens of children in California has had
19 ongoing ramifications in California since the abuse. Archbishop Mahony wrote to Bishop Rivera
20 that Father Aguilar's molestation of children in California "has caused terrible pain and suffering
21 for these youths . . ." (Finnegan Ex. 16, RIV 00038.)

22 The scientific literature regarding childhood sexual abuse overwhelmingly shows that
23 children who are sexually molested often suffer from depression, anxiety, PTSD, suicide, and other
24 disorders. For example, the article titled "Sexual Abuse of Boys" appearing in the peer-reviewed
25 Journal of the American Medical Association in December 1998 (hereafter the "JAMA Article")
26 reported the findings of 176 peer-reviewed journals relating to symptoms and conditions related to
27 the sexual abuse of boys. This article only cited to articles that "appeared in peer-reviewed journals;
28 had clear research designs; reported results for at least 20 male subjects; were not reviews,

1 perspectives, dissertation abstracts, editorials, and letters; and were conducted inside North
2 America.” (Finnegan Ex. 34 at 1858.) Specifically, the JAMA Article revealed that sexually abused
3 males were at increased risk for negative clinical sequelae (resulting symptoms) for posttraumatic
4 stress disorder, depression (4 times more likely than non-abused males), anxiety disorder, borderline
5 personality disorder, dissociation, somatization, antisocial personality disorder (2 times more likely
6 than non-abused males), among others. In addition, the following symptoms and disorders were
7 found in abused boys in higher frequency than in non-abused boys:

- 8 • Attempted Suicide (1.5 to 14 times higher among sexually abused boys versus non-
9 abused boys)
- 10 • Substance Abuse. Sexually abused boys compared with non-abused boys in an
11 inpatient chemical addiction center were more likely to report use of alcohol before
12 age 10 years, marijuana use before 12 years and current drug use. Sexually abused
13 high school boys compared with non-abused high school boys were 2 times more
14 likely to use alcohol and 5 times more likely to use drugs. Another article reported
15 that use of alcohol was 2 times higher, marijuana was 4 times higher, and cocaine
16 was 10 times higher in sexually abused high school students. In another article
17 sexually abused and sexually and physically abused sixth-grade boys reported rates
18 of multi-substance abuse that were 12 to 44 times greater than non-abused boys and
19 12th grade boys reported rates that were 3 and 10 times greater. Another study reports
20 the rate of injection drug use was 2 times higher in abused versus non-abused.
- 21 • Sexually related problems. Sexually abused males compared with non-abused males
22 were up to 5 times more likely to report sexually related problems, including sexual
23 dysfunction.
- 24 • Gender Role Confusion. Numerous investigators reported that sexually abused
25 compared with non-abused males experienced more gender role confusion and more
26 fears about intimate relationships.

27 Top Scientists and researchers from around the world have concluded that childhood sexual
28 abuse has devastating effects. The depression, anxiety, post traumatic stress, suicide, suicide
attempts and all of the other negative outcomes from childhood sexual abuse have been experienced
by Aguilar’s victims in California. These outcomes last a lifetime. The negative outcomes of the
Mexican Defendants knowingly sending a child molester to California and Aguilar’s molestation of
California children has had a continuous and systematic effect in California. This by itself is enough
to support general jurisdiction.

F. The Mexican Defendants facilitated or at least knew that their agent was violating United States Immigration laws.

On December 20, 1987 Father Aguilar wrote to Rivera and asked for permission to keep

1 working in Los Angeles California. (Finnegan Ex. 12, RIV 00029.) Aguilar specifically mentions
2 to Rivera that his last permission was not sent to the United States Embassy. (Id.) The letter
3 indicates that Aguilar would like to have Rivera state that this is his first request, essentially lie to
4 the United States Embassy. (Id.) Accordingly, Rivera and the Diocese of Tehuacan either facilitated
5 or at least knew that their agent was violating United States immigration and was misrepresenting
6 his status to the United States Embassy.

7 **G. The Mexican Defendants had other contacts with California.**

8 Norberto Rivera testified that he allowed another agent to work in California. Rivera gave
9 Jose Alfanzo del Real permission to work in California for one year. (Finnegan Ex. 30, Rivera Depo.
10 p. 163.) Further, the Mexican Defendants used the United States Mail to communicate with
11 California. They sent numerous letters to California and also received many letters from California.
12 These letters dealt with Aguilar working in California and his molestation of dozens of California
13 children. (Finnegan Dec. Ex. 5-20.)

14 **H. Overall, the Mexican Defendants' contacts with California are substantial.**

15 The Mexican Defendants knowingly sent a child molesting priest to California, employed
16 him in California, knew that he was likely to molest children, he did molest numerous children in
17 California, the wounds from this abuse lasting a lifetime in California. These contacts taken as a
18 whole are substantial and have had a continuous and systematic effect in California.

19 **III. Regardless of General Jurisdiction, California Has Specific Jurisdiction over the
20 Mexican Defendants.**

21 For due process to be satisfied, (1) the non-resident defendant must have "minimum
22 contacts" with the forum state resulting from an affirmative act on the defendant's part; and (2) the
23 contacts must be such that the exercise of jurisdiction over the person of the defendant does not
24 offend "traditional notions of fair play and substantial justice." Int'l. Shoe Co. v. Washington, 326
25 U.S. 310, 316, 66 S. Ct. 154 (1945).

26 **A. The Mexican Defendants purposefully availed themselves of the benefits of
27 California by sending a child molesting agent to California.**

28 "[D]efendant's conduct and connection with the forum State [must be] . . . such that he should
reasonably anticipate being haled into court . . ." in California. World-Wide Volkswagen Corp. v.

1 Woodson, 444 U.S. 286, 297 (1980). That is, “[w]hen a corporation ‘purposefully avails itself of
2 the privilege of conducting activities within the forum State,’ [citation] it has clear notice that it is
3 subject to suit there, and can act to alleviate the risk of burdensome litigation by procuring insurance,
4 passing the expected costs on to customers, or, if the risks are too great, severing its connection with
5 the state.” Vons Companies, Inc. v. Seabest Foods, Inc., 14 Cal.4th 434, 926 P.2d 1085, 1092-93
6 (Cal. 1996) (citing World-Wide Volkswagon). “Thus, purposeful availment occurs where a
7 nonresident defendant . . . purposefully derive[s] benefit from its activities in the forum, . . . create[s]
8 a substantial connection with the forum . . . [or] . . . deliberately’ has engaged in significant activities
9 within the forum.” Snowney v. Harrah's Entertainment, Inc., 35 Cal.4th 1054, 112 P.3d 28, 39 (Cal.
10 2005) (internal citations omitted. “McGee stands for the principle a single act may be sufficient to
11 support jurisdiction if that act reflects a substantial connection with the state.” Pennsylvania Health
12 & Life Ins. Guaranty Assn. v. Superior Court, 22 Cal.App.4th 477, 484, 27 Cal.Rptr.2d 507 (1994)
13 (McGee v. International Life Ins. Co., 355 U.S. 220, 223 (1957)).

14 In 1986 Nicolas Aguilar was beaten up in Mexico and the police found that youngsters were
15 sleeping in Aguilar’s bedroom. (Finnegan Ex. 3, RIV 00019.) Cardinal Mahony testified that this
16 a priest sleeping with children was a problem. (See Finnegan Ex. 33, Mahony Dep. p. 101.) On
17 January 27, 1987, Norberto Rivera and the Diocese of Tehuacan sent a letter to California to then
18 Archbishop Roger Mahony, the leader of the Archdiocese of Los Angeles. (Finnegan Ex. 6, RIV
19 00023). In the letter Norberto Rivera told Mahony that Aguilar was being sent to California for
20 family and health reasons. (Id.) In his declaration, Rivera stated that the term family and health
21 reasons was used within the Catholic Church to warn that a priest suffers from some sort of problem.
22 (Finnegan Ex. 29, Rivera Dec. ¶11.) This was a warning to Mahony that Rivera was a problem
23 priest. Norberto Rivera admitted that he was not sure if Aguilar was even fit to serve as a priest
24 before he allowed him to go to California. (Ex. 29, Rivera Dec. ¶ 12.) Rivera sent another letter to
25 California to Mahony explaining that the problem was that Aguilar was beaten up in Mexico because
26 of “homosexuality” and that there were several accusations of homosexuality against Aguilar.
27 (Finnegan Ex. 9, RIV 00026). Mahony disputes receiving this letter. (Finnegan Ex. 33, Mahony
28 Depo. pp. 111, 176.) Within the Catholic Church the term homosexuality in this context was used

1 as code for child abuse. (Declaration of Richard Sipe ¶ 15, 19, 20.) Mahony acknowledged in his
2 1988 letter that "homosexuality" was such a problem that he would not have even accepted Aguilar
3 if he had been warned of this. (Finnegan Ex. 19, RIV 00044.) Accordingly the Mexican Defendants
4 knowingly sent a child molesting priest to California.

5 At all times that Aguilar was in California he was a priest of the Diocese of Tehuacan and
6 under the control of Norberto Rivera. (Fr. Thomas Doyle Dec. ¶¶ 6-7; Finnegan Ex. 30, Rivera
7 Depo. p. 118.) The only way that Aguilar could work in California was for the Diocese of Tehuacan
8 and the Norberto Rivera to Aguilar permission to do so. (Fr. Doyle Dec. ¶ 6; see Finnegan Ex. 6-7,
9 RIV00023-24; Ex. 10, RIV 00027) The Diocese of Tehuacan and Rivera had the primary authority
10 over Aguilar when he was working in California. (Id.; Finnegan Ex. 33, Mahony Depo. p. 90; Ex.
11 30, Rivera Depo. p. 118.) Cardinal Mahony testified that Cardinal Rivera was Nicholas Aguilar's
12 ultimate superior when Aguilar was in California. (Finnegan Ex. 33, Mahony Depo. p. 87.)

13 While Fr. Aguilar was in California for roughly nine months, he sexually molested dozens
14 of children. (Los Angeles Police Report, attached to Declaration of Hector Esparza as Ex. A.) The
15 Los Angeles police interviewed approximately 16 different children who were molested by Aguilar.
16 (Id.). They charged Aguilar with 19 counts of child molestation in California. (Finnegan Ex. 33,
17 Los Angeles complaint against Aguilar attached as Mahony Depo. Ex. 101.) Cardinal Mahony wrote
18 a letter to Cardinal Rivera which stated that "it is impossible to determine precisely the number of
19 young altar boys that he has sexually molested, but the number is large." (Finnegan Ex. 16, RIV
20 00038.) The Los Angeles Times reported that the police stated that they had interviewed at least 18
21 boys who were molested by Aguilar. (Finnegan Ex. 14, RIV 00032.) The 18 boys they interviewed
22 were out of only half of the 60 total children that were altar boys at the parishes in California,
23 meaning out of those interviewed, Aguilar had molested approximately 18 out of 30 children. (Id.)
24 The article stated that the police reported that the boys ranged in age from 9 to 13. (Id.)

25 The Mexican Defendants' act of allowing their agent, whom they knew was a child molester
26 should have put them on notice that they could be sued in California over their actions in connection
27 with Aguilar's contacts and their contacts in California. Further, by 1987 the Catholic Church
28 hierarchy, one of which was Cardinal Rivera, knew that there was a problem of priests sexually

1 molesting children. (Fr. Doyle Dec. ¶ 17; see Finnegan Ex. 33, Mahony Depo. p. 107.) The
2 Mexican Defendants knew that Aguilar was working at a parish in California. (Finnegan Ex. 10,
3 RIV 00027.) The Mexican Defendants knew that Aguilar was a danger and would have access to
4 children through his parish work. Accordingly, the Mexican Defendants knowingly took this risk
5 and purposefully availed themselves of California.

6 **B. The Mexican Defendants Purposefully Derived a Benefit from Sending Their**
7 **Agent Aguilar to California.**

8 The Mexican Defendants purposefully derived the benefit of minimizing scandal and harm
9 to the church by sending Aguilar to California. In 1986 Nicolas Aguilar was beaten up at his parish
10 residence by a group of kids. (RIV00019, attached to Declaration of Michael Finnegan as Ex. 3.)
11 The police found blood all over the residence. (*Id.*) The police report stated that there were numerous
12 youngsters that came from different communities and slept in Nicholas Aguilar's bedroom. (*Id.*)
13 Rivera testified that he heard that Aguilar had been beat up like this before this assault, but
14 apparently did little to find out if, when, or why the other assault took place. (See Finnegan Ex. 30,
15 Rivera Depo. p. 135.) Cardinal Mahony testified that a priest having children sleep in his bedroom
16 was enough that priest could not work in the Archdiocese. (Finnegan Ex. 33, Mahony Dep. p. 101.)

17 Cardinal Rivera also indicated in other correspondence that Aguilar was being sent to
18 California because he was a problem priest and because of "homosexual" problems. (Finnegan Ex.
19 29, Rivera Dec. ¶; Ex. 9, RIV 00026.) "Homosexual" problems was a code for child sexual abuse.
20 (Sipe Dec. ¶¶ 15, 19, 20.) Accordingly, the Mexican Defendants were attempting to rid themselves
21 of a child molesting priest. According to the Los Angeles officials they received no warnings.
22 ((Finnegan Ex. 33, Mahony Depo. pp. 82, 111.) The Mexican Defendants purposefully did this in
23 order to avoid scandal and make sure that Aguilar was not caught or prosecuted in Mexico for his
24 crimes.

25 **C. The Mexican Defendants Derived a Significant Benefit from California when**
26 **they facilitated or authorized Aguilar's escape from California law enforcement**
27 **who had enough information to detain Aguilar based on the information**
28 **received by the church officials.**

29 The only way that Aguilar could work in California was for the Diocese of Tehuacan and
30 the Norberto Rivera to Aguilar permission to do so. (Fr. Doyle Dec. ¶ 6; see Finnegan Ex. 6-7,

1 RIV00023-24; Finnegan Ex. 10, RIV 00027.) By giving Aguilar permission to work in Los Angeles,
2 the Mexican Defendants gave permission to the Archdiocese of Los Angeles and its officials to
3 assert a certain portion of control over Aguilar. (Fr. Doyle Dec. ¶¶ 7-8.) By this time the Bishops,
4 including Mahony and Rivera, were on notice that childhood sexual abuse by priests was a problem
5 and also that the Catholic Church required secrecy around these allegations. (See Fr. Doyle Dec.
6 ¶¶ 13, 16, 17.) On January 8, 1988, the Archdiocese of Los Angeles received reports that Aguilar had
7 molested children. (Esparza Dec. ¶¶ 6, 7.) The Archdiocese of Los Angeles did not report the
8 allegations of child sexual abuse to the Los Angeles police at that time, even though they knew that
9 they had to report these allegations (Finnegan Ex. 13, RIV 00030; Ex. 32, Curry Depo. p. 71;
10 Esparza Dec. ¶¶ 6, 7.) Rather, the Archdiocese of Los Angeles, acting under the authority that was
11 given to it by the Mexican Defendants to exert control over Aguilar, met with Aguilar on Saturday
12 January 9, 1988. (Finnegan Ex. 13, RIV 00030.) Under this same authority granted by the Mexican
13 Defendants, the Archdiocese notified Aguilar that he was going to be reported to the authorities
14 soon. (*Id.*) These documents alone show that the Archdiocese contacted Aguilar and either helped
15 him leave the country or told him to leave before the police were notified.

16 Police Officer Hector Esparza investigated the Nicholas Aguilar case. (Esparza Dec. ¶¶ 2,
17 3.) During that investigation Officer Esparza found that:

- 18 ● Several church employees failed to report Aguilar's abuse to the police. (Esparza
19 Dec. ¶¶ 6, 7.)
- 20 ● "The three day delay (Friday January 8, 1988; Saturday January 9, 1988; and Sunday
21 January 10, 1988) in reporting the child sexual abuse allegations facilitated Father
22 Aguilar's departure from California." (Esparza Dec. ¶ 9.)
- 23 ● "[H]ad the Archdiocese of Los Angeles reported the allegations of child sexual abuse
24 to the Los Angeles Police Department on January 8, 1988 steps could have been
25 initiated to detain Father Aguilar and make sure he remained in California where he
26 would answer for his crimes. There were sufficient facts in existence for me as the
27 investigating detective to detain Father Aguilar on site based on the information
28 received by Sister Renee and Father McClean on January 8, 1988. Unfortunately this
information was not reported to the Los Angeles Police Department until January 11,
1998." (Esparza Dec. ¶ 11.)
- "When interviewing personnel affiliated with the Archdiocese of Los Angeles I
formed the impression that the Archdiocese intentionally delayed the report of the
child sexual abuse allegations as a means of assisting Father Aguilar in avoiding
criminal prosecution." (Esparza Dec. ¶ 12.)

1 Accordingly, had the allegations of sexual abuse been reported right away and Aguilar not helped
2 out of the country or at least allowed to leave, Aguilar would have been detained and he would have
3 had to face numerous counts of child sexual abuse and most likely spent the rest of his life in prison.

4 The Mexican Defendants derived a significant benefit from Aguilar being helped or allowed
5 to leave California. The Mexican Defendants were spared the embarrassment and scandal which
6 would have went along with their priest being convicted of child abuse. Without a prosecution and
7 trial, there were only a few media articles about Aguilar. Moreover, they were spared from having
8 Aguilar speak to the police which would have implicated the Mexican Defendants knowledge of
9 Aguilar's past problems in Mexico. Allowing Aguilar to get of California also alleviated the
10 Mexican Defendants from facing scandal over this type of decision. It saved them from further
11 scrutiny of its actions with other priests that molest children. Therefore, the Mexican Defendants
12 purposefully availed themselves of California because they derived a benefit from these contacts in
13 California.

14 **D. Though they knew that Aguilar, their agent, was wanted by law enforcement in**
15 **California, the Mexican Defendants created a substantial connection with**
16 **California when they failed to take any steps to ensure that he would return to**
17 **California to face prosecution.**

18 Even if the Mexican Defendants did not have such extensive contacts with California, if it
19 creates "a substantial connection with the forum," even a single act can support jurisdiction in the
20 foreign state. McGee v. International Life Ins. Co., 355 U.S. 220, 223 (1957). "McGee stands for
21 the principle a single act may be sufficient to support jurisdiction if that act reflects a substantial
22 connection with the state." Pennsylvania Health & Life Ins. Guaranty Assn. v. Superior Court, 22
23 Cal.App.4th 477, 484, 27 Cal.Rptr.2d 507 (1994).

24 On January 11, 1988 the Archdiocese of Los Angeles wrote to Cardinal Rivera regarding
25 Nicholas Aguilar. (Finnegan Ex. 13, RIV 00030.) The letter to Cardinal Rivera stated:

26 it has come to our attention that **several families** in Our Lady of Guadalupe Parish,
27 Los Angeles, where Fr. Nicholas Aguilar-Rivera served for some months on his first
28 coming here, **accuse him of acting very inappropriately with their children.**

(Id.)(emphasis added.) The letter from California to Cardinal Rivera also stated that the allegations
had to be reported to the police and also that Aguilar intended to return to Mexico. (Id.) After an

1 investigation it was found that while Fr. Aguilar was in California for roughly nine months he
2 sexually molested dozens of children. (Los Angeles Police Report, Esparza Ex. A.) The Los
3 Angeles police interviewed approximately 18 different children who were molested by Aguilar. (Id.).
4 They charged Aguilar with 19 counts of child molestation in California. (Los Angeles complaint
5 against Aguilar, Mahony Depo. Ex. 101--attached as Finnegan Ex. 33.) Again on February 23, 1988
6 the Archdiocese of Los Angeles wrote to Cardinal Rivera enclosing newspaper articles which told
7 about the ongoing police investigation in California and that Aguilar was charged with molesting
8 children in California. (Finnegan Ex. 14, RIV 00031-00035.) The letter to Rivera also urged him
9 to send Aguilar back to California. (Id.) Bishop Curry of the Archdiocese of Los Angeles testified
10 that he sent the letter to Rivera to show the seriousness of Aguilar's actions in California and for
11 Rivera to have Aguilar return to California. (Finnegan Ex. 32, Curry Depo. pp. 84-85, 87.) On
12 March 4, 1988, Cardinal Mahony wrote a letter to Cardinal Rivera which stated that "it is impossible
13 to determine precisely the number of young altar boys that he has sexually molested, but the number
14 is large." (Finnegan Ex. 16, RIV 00038.) In the letter Mahony describes the situation involving
15 Aguilar's abuse of children in California as "grave and urgent." (Finnegan Ex. 16, RIV 00038.) The
16 letter to Rivera also stated that "it is necessary that this priest [Aguilar] be detained and returned to
17 Los Angeles in order to suffer the consequences of his immoral actions." (Id.) Mahony testified that
18 this letter Rivera acknowledged that there was a credible report of child sexual abuse against Aguilar
19 in the United States. (Finnegan Ex. 33, Mahony Depo. p. 118.) Cardinal Mahony indicated to
20 Cardinal Rivera that he wanted him to return Aguilar to California so he could face civil authorities.
21 (Finnegan Ex. 33, Mahony Depo. p. 161.)

22 Rivera admitted that by this time he had determined that Aguilar needed to return to
23 California so that he could face the judicial and civil authorities in California. (Finnegan Ex. 30,
24 Rivera Depo. p. 160.) Fr. Aguilar remained a priest of the Diocese of Tehuacan and under an oath
25 of obedience to Rivera and the Diocese of Tehuacan after Aguilar returned to Mexico. (Finnegan
26 Ex. 30, Rivera Depo. pp. 158, 160.) Cardinal Mahony testified that the promise of obedience, which
27 Aguilar had to Rivera and the Diocese of Tehuacan, meant that "directives of the bishop or the
28 diocese in which the priest is ordained and serves are to be followed." (Finnegan Ex. 33, Mahony

1 Depo. p. 24.) Despite this Rivera never informed any Catholic clergies in Mexico to search for
2 Aguilar. (Finnegan Ex. 30, Rivera Depo. p. 160.) Rivera also never attempted to tell any individuals
3 in Mexico about Aguilar's alleged sexual molestation of dozens of children in California. (Finnegan
4 Ex. 30, Rivera Depo. p. 159.) Finally, Cardinal Rivera testified that at no time since 1987 has he
5 initiated an investigation into Fr. Aguilar's whereabouts. (Finnegan Ex. 30, Rivera Depo. p. 147.)

6 These inactions show that the Mexican Defendants failed to take any action to aid Aguilar's
7 prosecution in California. Accordingly, the Mexican Defendants' contacts with California and their
8 response to these contacts created a substantial connection to California.

9 **E. The Mexican Defendants transacted business in California by agreeing to and
10 licensing their agent to work in California**

11 The Mexican Defendants transacted business within the state of California by facilitating and
12 executing an agreement to have their agent, Nicholas Aguilar, work in California so that he could
13 escape scrutiny in Mexico for his abuse of children and getting beaten up. By willingly entering into
14 this agreement, the Mexican Defendants can be held to have transacted business in the state of
15 California even though no officials of Diocese or Cardinal Rivera were physically present in the
16 state. See Burger King v. Rudzewicz, 471 U.S. 462, 477 ("jurisdiction . . . may not be avoided
17 merely because the defendant did not physically enter the forum state. . . a substantial amount of
18 business is transacted solely by mail and wire communications across state lines, thus obviating the
19 need for physical presence within a state in which business is conducted").

20 In Burger King, the defendants were franchisees who purchased a Burger King franchise and
21 then fell behind in their rent payments. Id. at 468. The plaintiff Burger King was a Florida
22 corporation. Burger King drew up the franchise agreement in Florida and included a provision that
23 Florida law would govern disputes. Id. at 466. The contract was negotiated by Burger King's
24 headquarters in Miami and called for delivery of payments and notices to Miami. Id. These were
25 the only contacts the defendants had with the state of Florida, other than a short training attended in
26 Florida by one of the defendants. Id. The defendants argued that they should have been sued in
27 Michigan because the franchise was in Michigan, the property which they rented was in Michigan,
28 and the money from the business was in Michigan. Id. at 469, 479. The United States Supreme

1 Court held that the Michigan resident's contacts with Florida were sufficient to confer jurisdiction
2 over defendants by the Florida courts. *Id.* at 479-480. The court reasoned that the defendant's
3 voluntary acceptance of a long term and "exacting regulation of the business" from Miami made his
4 contacts with the state more than "random," fortuitous," or "attenuated." *Id.* at 480.

5 Similar to Burger King, the Mexican Defendants here allowed their priest to work in
6 California, where he remained under their authority. They reached out and made contact with
7 California by writing letters to Church officials in California which represented that Nicholas
8 Aguilar was fit to serve as a priest in California. (Finnegan Ex. 6, RIV 00023; Ex. 9, RIV00026.)
9 Further, Aguilar did in fact work in California, where the Mexican Defendants had primary authority
10 over him. (Finnegan Ex. 10, RIV00027; Ex. 33, Mahony Depo. p. 87.) These are more than just
11 random, fortuitous or attenuated contacts with California. Rather they are the very type of
12 purposefully directed contacts which make the assertion of jurisdiction over these Defendants proper.

13 **F. The Mexican Defendants engaged in a conspiracy with the California**
14 **Defendants which has employed a continuous pattern and practice which**
15 **operated in California, to transfer Aguilar to a new assignment in a different**
16 **country every time that Aguilar got caught molesting children.**

17 The Mexican Defendants along with every other Catholic Officials in the world entered into
18 and operated a conspiracy to keep allegations of child abuse secret and not to cause scandal to the
19 church by publicizing them. In 1922 and again in 1962, the Vatican issued orders to each Catholic
20 Official in the world on how to deal with cases of child sex abuse by priests. (Fr. Doyle Dec. ¶¶ 10-
21 11.) This document evidences the secrecy with which the Catholic Officials agreed to handle cases
22 of childhood sexual abuse by priests. (Fr. Doyle Dec. ¶ 16.)

23 The Mexican Defendants operated within this conspiracy in California and in their dealings
24 regarding Aguilar after he returned to Mexico. The Mexican Defendants sent Aguilar to California
25 soon after the police in Mexico were investigating Aguilar being assaulted. (Finnegan Ex. 3,
26 RIV00019; Ex. 6, RIV 00023.) The police noted that there were youngsters sleeping in Aguilar's
27 bedroom. (Finnegan Ex. 3, RIV00019.) The Mexican Defendants knew that Aguilar was a child
28 molester. (Finnegan Ex. 29, Rivera Dec. ¶¶ 11, 12; Ex. 9, RIV 00026; Ex. 18, RIV00044; Sipe Dec.
¶¶ 15, 19, 20.) Despite this they sent him to California and did not tell anyone about his past, with

1 the exception of possibly notifying the Archdiocese of Los Angeles. (Finnegan Ex. 33, Mahony
2 Depo. p. 82; Ex. 9, RIV 00026.) Essentially, the Mexican Defendants got Aguilar out of Mexico
3 soon after his assault in order to keep what they knew - that Aguilar was a child molester - from
4 getting to the police. The Mexican Defendants continued to operate under this pattern throughout
5 Aguilar's priesthood.

6 Similar to the way Aguilar was handled in Mexico in 1986 and early 1987, the conspiracy
7 with the California Defendants operated to allow Aguilar to be moved as soon as he got caught
8 molesting children again. The Mexican Defendants gave the Archdiocese of Los Angeles permission
9 to exercise a certain amount of authority over Aguilar. (Finnegan Ex. 33, Mahony Depo. pp. 86, 87.)
10 Within only nine months of being in California, Aguilar again sexually molested children. (Esparza
11 Dec. ¶ 5, 13.) When he was reported to the Archdiocese of Los Angeles in early 1988, they operated
12 under the conspiracy and authority of the Mexican Defendants to meet with Aguilar and allow him
13 time to leave the country before they reported him and the police could apprehend him. (Finnegan
14 Ex. 13, RIV00030.) Again, Aguilar was moved as soon to another location as he got caught acting
15 inappropriately with children.

16 Similarly, once back in Mexico the Mexican Defendants continued to protect Aguilar and
17 make sure that he was held accountable for his crimes. They did not order him to come back to
18 California, did not sanction Aguilar in any way, did not attempt to locate Aguilar, and did not warn
19 anyone about the danger that he posed to children. (See Finnegan Ex. 30, Rivera Depo. pp. 147, 155,
20 158-60.) In approximately November of 1994, Nicholas Aguilar was caught again molesting
21 children. (Finnegan Ex. 35, RIV00052-00054.) This time the Diocese of Tehuacan had Aguilar
22 working in the Archdiocese of Mexico. The police became involved. This abuse was of Joaquin
23 Aguilar Mendez, the plaintiff in the case at bar. After being caught in Mexico City, the Diocese of
24 Tehuacan again moved Nicholas Aguilar. This time he moved back to Tehuacan. While in
25 Tehuacan in 1997, he was again caught molesting children. (Finnegan Dec. Ex. 24-28.)

26 This conspiracy operated in and through California. The Mexican Defendants choose to use
27 California as one of the areas to operate this conspiracy. Accordingly, it should come as no surprise
28 that they are now being sued over that conspiracy in California.

1 **IV. The Mexican Defendants' Contacts with California are substantially connected to this**
2 **litigation.**

3 "A claim need not arise directly from the defendant's forum contacts in order to be
4 sufficiently related to the contact to warrant the exercise of specific jurisdiction. Rather, as long as
5 the claim bears a substantial connection to the nonresident's forum contacts, the exercise of specific
6 jurisdiction is appropriate." Vons, 14 Cal.4th 434, 452; Cornelison v. Chaney, 16 Cal.3d 143, 148,
7 127 Cal.Rptr. 352, 545 P.2d 264 ["The crucial inquiry concerns ... whether the cause of action arises
8 out of or has a substantial connection with [the forum] activity"]; Archdiocese of Milwaukee v.
9 Superior Court, 112 Cal.App.4th 423, 5 Cal.Rptr.3d 154 (Cal. App. 4 Dist. 2003) (stating that "for
10 jurisdiction purposes, the question is not whether the Milwaukee Archdiocese's forum contacts were
11 the proximate cause of Paino's injuries.") The California Supreme Court specifically rejected any
12 proximate cause test, "but for" test or substantive relatedness test to determine if the contacts are
13 connected to the litigation. Snowney v. Harrah's Entertainment, Inc., 35 Cal.4th 1054, 112 P.3d 28,
14 43 (Cal. 2005)

15 This approach requires "flexibility and emphasis on the nature of the relationship between
16 the claim and the forum contacts." Vons, 926 P.2d 1085, 1098. "[F]or the purpose of establishing
17 jurisdiction the intensity of forum contacts and the connection of the claim to those contacts are
18 inversely related." Snowney, 112 P.3d at 43. "Only when the operative facts of the controversy are
19 not related to the defendant's contact with the state can it be said that the cause of action does not
20 arise from that [contact]." Id.

21 **A. The Mexican Defendants' California Contacts of sending a child molester to**
22 **California and facilitating his escape from California law enforcement are**
23 **substantially related to Joaquin's claims.**

24 The Mexican Defendants' contacts - giving Aguilar permission to work in California, giving
25 permission to the Archdiocese of Los Angeles to assert authority over Aguilar while he was in
26 California, and the operation of that authority in California to allow Aguilar to leave California are
27 all substantially connected to Joaquin's claims. At all times that Aguilar was in California he was
28 a priest of the Diocese of Tehuacan and under the control of Norberto Rivera. (Fr. Doyle Dec. ¶7;
Finnegan Ex. 30, Rivera Depo. p. 118; Ex. 33, Mahony Depo. p. 86.) The only way that Aguilar

1 could work in California was for the Diocese of Tehuacan and the Norberto Rivera to Aguilar
2 permission to do so. (Fr. Doyle Dec. ¶ 6; see Finnegan Ex. 6-7, RIV 00023-24; Ex. 10, RIV 00027.)
3 By giving Aguilar permission to work in Los Angeles, the Mexican Defendants gave permission to
4 the Archdiocese of Los Angeles and its officials to assert a certain portion of control over Aguilar.
5 (Fr. Doyle Dec. ¶¶ 7-8.) Aguilar worked in California at that parish until January of 1988. (Finnegan
6 Ex. 13, RIV 00030.)

7 By this time the Bishops, including Mahony and Rivera, were on notice that childhood sexual
8 abuse by priests was a problem and also that the Catholic Church required secrecy around these
9 allegations. (See Fr. Doyle Dec. ¶¶ 13, 16, 17.) On January 7, 1988 or January 8, 1988, the
10 Archdiocese of Los Angeles received reports that Aguilar had molested children. (Finnegan Ex. 13,
11 RIV 00030; Esparza Dec. ¶¶ 6, 7.) The Archdiocese of Los Angeles did not report the allegations
12 of child sexual abuse to the Los Angeles police at that time, even though they knew that they had to
13 report these allegations (Finnegan Ex. 13, RIV 00030; Ex. 32, Curry Depo. p. 71.) Rather, the
14 Archdiocese of Los Angeles, acting under the authority that was given to it by the Mexican
15 Defendants to exert control over Aguilar, met with Aguilar on Saturday January 9, 1988. (Finnegan
16 Ex. 13, RIV 00030.) Under this same authority granted by the Mexican Defendants, the Archdiocese
17 notified Aguilar that he was going to be reported to the authorities soon. (*Id.*) These documents
18 alone show that the Archdiocese contacted Aguilar and either helped him leave the country or told
19 him to leave before the police were notified.

20 Had the Mexican Defendants not facilitated or allowed Aguilar to leave California, he would
21 have been detained and prosecuted and most likely spent the rest of his life behind bars. Police
22 Officer Hector Esparza investigated the Nicholas Aguilar case and testified that the police had
23 enough to detain Aguilar based upon the first reports of the church officials and that waiting to report
24 these crimes facilitated Aguilar's escape to Mexico. (Esparza Dec. ¶¶ 9-12.)

25 Joaquin's claims against the Mexican Defendants are directly related to these California
26 contacts. In his negligence count against the Mexican Defendants, Joaquin stated that:

27 Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100 had
28 a duty to not conspire to aid and abet the violation of California criminal laws, to
prevent Fr. Nicholas Aguilar from fleeing the United States, to ensure that Aguilar

1 would not flee the United States, to warn children about Father Aguilar's dangerous
2 propensities, and to protect the minor Plaintiff.

3 (Complaint ¶ 88.) Much of the duty in this negligence count is based solely on the Mexican
4 Defendants' misconduct with regard to its California contacts. Accordingly, the claims are
5 substantially connected to the Mexican Defendants contacts with California.

6 **B. The Mexican Defendants' California contacts and failure to take action in
7 response to these California contacts after the Los Angeles police were
8 investigating Aguilar were a direct cause of Joaquin being abused.**

9 As discussed above, the Mexican Defendants knew that Aguilar was a child molester and yet
10 they sent him to California. They should have expected that Aguilar would molest in California
11 again. He did in fact molest numerous children in California and got caught by the Church officials
12 within a year of being in California. The Mexican Defendants failure to take action and respond to
13 their contacts with California were a direct cause of Joaquin being abused.

14 Cardinal Rivera could have taken numerous steps to ensure that Aguilar was prosecuted in
15 the United States. Cardinal Rivera had the authority to require Aguilar to stay in Los Angeles to give
16 the Los Angeles police department time to investigate Aguilar's crimes. (Finnegan Ex. 33, Mahony
17 Depo. p. 128.) By letter Curry informed Rivera that Aguilar was coming back to Mexico. (Finnegan
18 Ex. 13, RIV 00030.) In a separate letter Curry wrote to Rivera that "if you know the whereabouts
19 of Father Aguilar-Rivera you urge him most strongly to return to answer to the allegations that have
20 been made against him." (Finnegan Ex. 14, RIV 00031.) This same letter enclosed the Los Angeles
21 Times articles which noted the police interviewed at least 18 boys who were molested by Aguilar
22 that ranged in age from 9 to 13. (Finnegan Ex. 14, RIV 00032.) Despite receiving this information,
23 Rivera did not initiate an investigation into Aguilar's whereabouts. (Finnegan Ex. 30, Rivera Depo.
24 p. 155.) Moreover, once Aguilar was back in Mexico Cardinal Rivera had the power to order
25 Aguilar to return to California. (Finnegan Ex. 33, Mahony Depo. pp. 151, 153, 157.) Mahony told
26 Rivera that he wanted Rivera to send Aguilar back to California so that the California authorities
27 could prosecute him. (See Finnegan Ex. 33, Mahony Depo. p. 161.) On March 4, 1988, Cardinal
28 Mahony wrote a letter to Cardinal Rivera which stated that "it is necessary that this priest [Aguilar]
be detained and returned to Los Angeles in order to suffer the consequences of his immoral actions."

1 (Finnegan Ex. 16, RIV 00038.) Cardinal Mahony testified that he is not aware of any effort by
2 Cardinal Rivera to locate Aguilar. (Finnegan Ex. 33, Mahony Depo. p. 169.) On March 4, 1988
3 Cardinal Mahony sent a letter to Cardinal Rivera stating that it was urgent that the Mexican
4 Defendants provide Mahony and the California police with information that would lead to locating
5 Aguilar. (Finnegan Ex. 15, RIV 00036.) Cardinal Rivera never responded to Cardinal Mahony's
6 request that he provide information about Aguilar which would allow the Los Angeles police to find
7 Aguilar and have him arrested. (Finnegan Ex. 33, Mahony Depo. pp. 162, 177; Ex. 32, Curry Depo.
8 p. 83.)

9 Similar to his failure to locate Aguilar, Rivera failed to take other actions relative to the
10 Mexican Defendants California contacts which caused Joaquin's abuse. Cardinal Rivera had the
11 power to remove Aguilar from the clerical state after he got the California letters and articles
12 detailing the allegations that Aguilar sexually molested dozens of children in California. (Finnegan
13 Ex. 33, Mahony Depo. p. 154.) Rivera also could have sanctioned Aguilar in response to the
14 California information. (Finnegan Ex. 32, Curry Depo. p. 87.)

15 These contacts are directly related to Joaquin's claims against the Mexican Defendants. The
16 negligence count was based in part upon the Mexican Defendants' failure "to prevent Fr. Aguilar
17 from fleeing the United States, to ensure that Aguilar would not flee the United States." (Complaint
18 88.) This claim is directly related to the California contacts. Moreover, Joaquin also brought claims
19 for negligent supervision and negligent retention. The complaint alleged that the Mexican
20 Defendants failed to "use reasonable care in investigating Fr. Nicholas Aguilar" failed to "provide
21 reasonable supervision of Fr. Nicholas Aguilar" and failed to "take reasonable measures to prevent
22 future sexual abuse." (Complaint 96, 101.) These claims are based upon the California contacts and
23 the actions surrounding the California contacts - failing to locate Aguilar, failing to send Aguilar
24 back to the United States, failing to restrict Aguilar's ability to be a priest after the Mexican
25 Defendants knew that Aguilar was a molester in Mexico and that he molested dozens of children in
26 California. Accordingly, the claims are directly related to the contacts.

1 **C. The Mexican Defendants' conspiracy with the Archdiocese of Los Angeles and**
2 **Cardinal Mahony is substantially connected to this litigation.**

3 The Mexican Defendants actions' in California are substantially connected to this litigation
4 because they entered and operated a conspiracy to hide and move a child molester in California. The
5 Mexican Defendants along with every other Catholic Official in the world entered into and operated
6 a conspiracy to keep allegations of child abuse secret and not to cause scandal to the church by
7 publicizing them. In 1922 and again in 1962, the Vatican issued orders to each Catholic Official in
8 the world on how to deal with cases of child sex abuse by priests. (Fr. Doyle Dec. ¶¶ 10-11.) This
9 document evidences the secrecy with which the Catholic Officials agreed to handle cases of
10 childhood sexual abuse by priests. (Fr. Doyle Dec. ¶ 16.)

11 The Mexican Defendants operated within this conspiracy in California and in their dealings
12 regarding Aguilar after he returned to Mexico. The Mexican Defendants sent Aguilar to California
13 soon after the police in Mexico were investigating Aguilar being assaulted. (Finnegan Ex. 3, RIV
14 00019; Ex. 6, RIV 00023.) The police noted that there were youngsters sleeping in Aguilar's
15 bedroom. (Finnegan Ex. 3, RIV 00019.) The Mexican Defendants knew that Aguilar was a child
16 molester. (Finnegan Ex. 29, Rivera Dec. ¶¶ 11, 12; Ex. 9, RIV00026; Ex. 19, RIV00044; Sipe Dec.
17 ¶¶ 15, 19, 20.) Despite this they sent him to California and did not tell anyone about his past, with
18 the exception of possibly notifying the Archdiocese of Los Angeles. (Finnegan Ex. 33, Mahony
19 Depo. p. 82; Ex. 9, RIV 00026.) Essentially, the Mexican Defendants got Aguilar out of Mexico
20 soon after his assault in order to keep what they knew - that Aguilar was a child molester - from
21 getting to the police. The Mexican Defendants continued to operate under this pattern throughout
22 Aguilar's priesthood.

23 Similar to the way Aguilar was handled in Mexico in 1986 and early 1987, the conspiracy
24 with the California Defendants operated to allow Aguilar to be moved as soon as he got caught with
25 children again. The Mexican Defendants gave the Archdiocese of Los Angeles permission to
26 exercise a certain amount of authority over Aguilar. (Finnegan Ex. 33, Mahony Depo. pp. 86, 87.)
27 Within only nine months of being in California, Aguilar again sexually molested children. (Esparza
28 Dec. ¶¶ 5, 13.) When he was reported to the Archdiocese of Los Angeles in early 1988, they

1 operated under the conspiracy and authority of the Mexican Defendants to meet with Aguilar and
2 allow him time to leave the country before they reported him and the police could apprehend him.
3 (Finnegan Ex. 13, RIV 00030.) Again, Aguilar was moved as soon to another location as he got
4 caught acting inappropriately with children.

5 Similarly, once back in Mexico the Mexican Defendants continued to protect Aguilar and
6 not take action to make sure that he was held accountable for his crimes. They did not order him to
7 come back to California, did not sanction Aguilar in any way, did not attempt to locate Aguilar, and
8 did not warn anyone about the danger that he posed to children. (See Finnegan Ex. 30, Rivera Depo.
9 pp. 147, 155, 158-60.) In approximately November of 1994, Nicholas Aguilar was caught again
10 molesting children. (Finnegan Ex. 35, RIV 00052-54.) This time the Diocese of Tehuacan had
11 Aguilar working in the Archdiocese of Mexico. The police became involved. This abuse was of
12 Joaquin Aguilar Mendez, the plaintiff in the case at bar. After being caught in Mexico City, the
13 Diocese of Tehuacan again moved Nicholas Aguilar. This time he moved back to Tehuacan. In
14 1997 he was again caught molesting children. (Finnegan Declaration - Tehuacan police reports)

15 This conspiracy operated in and through California. The Mexican Defendants choose to use
16 California as one of the areas to operate this conspiracy. Accordingly, it should come as no surprise
17 that they are now being sued over that conspiracy in California.

18 Joaquin Aguilar Mendez' complaint is substantially connected to this ongoing conspiracy
19 which operated in California. Specifically, Joaquin brought a cause of action for civil conspiracy
20 against the Mexican Defendants. It stated that:

21 Defendants, in concert with each other and with the intent to conceal and defraud,
22 conspired and came to a meeting of the minds whereby they would misrepresent,
23 conceal or fail to disclose information relating to the sexual misconduct of Fr.
24 Nicholas Aguilar. Defendants also conspired and came to the meeting of the minds
to violate California penal laws by failing to report his abuse to law enforcement
immediately, by allowing Fr. Nicholas Aguilar to flee the United States, and by
obstructing justice.

25 (Complaint 107.) It also stated that the Mexican Defendants committed acts in furtherance of the
26 conspiracy and that Joaquin was harmed because of it. (Complaint 108, 110.) This conspiracy count
27 is based upon the same conduct as the Mexican Defendants' California contacts. Accordingly, these
28 California contacts are substantially connected to this litigation because the claims involve the same

1 acts as the contacts.

2 **D. All of Joaquin's claims and the Mexican Defendants' California contacts have**
3 **a stronger relation than the claims and contacts did in either Cornelison or**
4 **Amoco.**

4 In Cornelison, the California Supreme Court held that jurisdiction in California was proper
5 over a Nebraska Defendant who caused an accident in Nevada and whose only possible negligence
6 was committed in Nevada. Cornelison v. Chaney, 16 Cal.3d 143, 146, 127 Cal.Rptr. 352 (Cal 1976.)
7 The defendant was from Nebraska and the accident happened in Nevada. Id. at 146. The Court
8 noted that the Nebraska defendant traveled to California to do business and that he was on his way
9 to California to do business when the action occurred. Id. at 146-47. However the action did not
10 arise from the business relationship, rather it arose from the alleged negligent operation of the
11 vehicle in Nevada. The wrongful death claim was based on the defendant's negligent action in
12 Nevada. It was not based upon any wrongdoing in California. The connection between plaintiff's
13 cause of action and defendant's activity inside California was that defendant was rolling toward (and
14 plaintiff away from) its border. Even so, the court held that jurisdiction in California was proper.
15 This is far less of a connection between the contacts and the litigation than there is in the case at bar.
16 In Cornelison no part of the claim was based on the California contacts. Here the claims are based
17 on the California contacts and on the failures to act reasonably in response to those California
18 contacts. Therefore, there is a much stronger relation in the case at bar.

19 Similar to Cornelison, the California Supreme Court approvingly cited a Seventh Circuit case
20 which examined a tort committed to French citizens in an oil spill off the coast of France. The
21 California Court noted that as long as the California contacts were "critical steps in the chain of
22 events" that lead to the harm, the contacts were sufficiently connected to permit jurisdiction. See
23 Vons Companies, Inc. v. Seabest Foods, Inc., 14 Cal.4th 434, 926 P.2d 1085, 1098 (Cal. 1996)
24 (quoting Amoco Cadiz, supra, 699 F.2d at p. 917 - "and the negotiation and signing of the contract
25 were critical steps in the chain of events that led to the oil spill.") The Vons Court cited Amoco
26 Cadiz with approval and noted this about the case:

27 [T]he [Seventh Circuit] court of appeals, in an opinion by then Judge, now Chief
28 Judge Posner, approved the federal district court's exercise of jurisdiction in Illinois
over a Spanish shipbuilder in a case in which French citizens injured by an oil spill

1 off the coast of France sued the shipbuilder in tort for negligent and defective design
2 of the ship. The French citizens also sued affiliates of the shipowner's parent
3 company for damage caused by negligent operation of the ship, and the affiliates of
4 the parent company ***912 cross-claimed against the shipbuilder for indemnity. . .
5 The court concluded that the Spanish shipbuilder's contacts with Illinois, that is the
6 course of negotiations and the signing of the shipbuilding contract in Illinois, were
7 sufficiently connected to the oil spill off the coast of France to warrant the exercise
8 of specific jurisdiction with respect to the claims of the French citizens injured by the
9 spill.

10 Vons, 926 P.2d at 1098.

11 Again the contacts in this case are much more related to the cause of action than those in
12 Amoco. In Amoco the forum contacts were negotiations and signing of the contract for the ship.
13 The cause of action had nothing to do with a bad contract or misrepresentations in the negotiations.
14 However the Court still held that jurisdiction was proper because these contacts were critical steps
15 in the chain of events leading to the oil spill. In the case at bar the California contacts are the basis
16 for many of the claims - negligence, conspiracy, and failure to investigate. Therefore under either
17 of these cases, jurisdiction in the present case is proper.

18 **E. The Mexican Defendants' overemphasis on the location of Joaquin's
19 molestation is misplaced.**

20 The crucial inquiry is the connection between the defendant, the forum and the litigation, not
21 the connection between the defendant and the plaintiff. The Mexican Defendants' attempt to change
22 the inquiry is misplaced. In judging minimum contacts, the court properly focuses on "the
23 relationship among the defendant, the forum, and the litigation." International Shoe Co. v.
24 Washington, 326 U.S. 310, 316 (1945).

25 "The United States Supreme Court has stated more than once that the nexus required to
26 establish specific jurisdiction is between the defendant, the forum, and the litigation (Helicopteros,
27 supra, 466 U.S. at p. 411, 104 S.Ct. at pp. 1870-1871; Shaffer v. Heitner, (1977) 433 U.S. 186, 204,
28 97 S.Ct. 2569, 2579-2580, 53 L.Ed.2d 683)-not between the plaintiff and the defendant. For the
purpose of deciding whether a defendant has minimum contacts or purposefully has availed itself
of forum benefits, the relevant contacts are said to be with the forum, because it is the defendant's
choice to take advantage of opportunities that exist in the forum that subjects it to jurisdiction.
(Asahi Metal Industry Co. v. Superior Court (1987) 480 U.S. 102, 112, 107 S.Ct. 1026, 1032, 94

1 L.Ed.2d 92 (plur. opn. by O'Connor, J.); Burger King, supra, 471 U.S. at p. 475, 479, 105 S.Ct. at
2 pp. 2183-2184, 2185-2186; Helicopteros, supra, 466 U.S. at p. 414, 104 S.Ct. at p. 1872; Shaffer v.
3 Heitner, supra, 433 U.S. at p. 204, 97 S.Ct. at pp. 2579-2580.)” Vons Companies, Inc. v. Seabest
4 Foods, Inc., 14 Cal.4th 434, 926 P.2d 1085, 1098 (Cal. 1996)

5 In Vons, the California Supreme Court rejected the type of analysis which the Mexican
6 Defendants now urge this Court to take. The Court noted that “[t]he Court of Appeal below focused
7 on an asserted lack of relationship between Vons, on the one hand, and Seabest and WRMI, on the
8 other. The court suggested this lack of relationship was critical in determining whether the claim
9 was sufficiently related to the forum contacts to permit the exercise of specific jurisdiction in
10 California. Contrary to the Court of Appeal's thesis, **however, the defendant's forum activities**
11 **need not be directed at the plaintiff in order to give rise to specific jurisdiction.**” Vons, 926 P.2d
12 at 1098. The California Supreme Court noted that numerous the United States Supreme Court and
13 numerous other jurisdictions have come to the same conclusion. Id. (citing Keeton v. Hustler
14 Magazine, Inc. (1984) 465 U.S. 770, 775, 104 S.Ct. 1473, 1478-1479, 79 L.Ed.2d 790 [publisher that
15 distributes magazines to the public in a distant state may be held accountable in that forum for
16 damage to victim of defamation]; Cornelison, supra, 16 Cal.3d 143, 127 Cal.Rptr. 352, 545 P.2d 264
17 [jurisdiction found although the defendant's business activities in California were not directed at the
18 accident victim]; Akro Corp. v. Luker, . . . , 45 F.3d at p. 1547 [“plaintiff need not be the forum
19 resident toward whom any, much less all, of the defendant's relevant activities were purposefully
20 directed”]; Amoco Cadiz, supra, 699 F.2d at p. 917 [French victims of oil spill may bring a tort
21 action against a Spanish shipbuilder in an Illinois court; their claim “could readily be said to arise
22 from the negotiating and signing, in Illinois, of the [shipbuilding] contract” even though the
23 negotiations obviously were not directed at the plaintiffs].)

24 Accordingly, the overemphasis placed upon Joaquin being from Mexico or the location of
25 the abuse is misplaced.

1 **V. The Exercise Of Jurisdiction Over Defendants Does Not Offend Traditional Notions**
2 **of Fair Play And Substantial Justice**

3 **A. The Mexican Defendants have not met their burden to show a compelling case**
4 **that jurisdiction would be unreasonable.**

5 “Once a plaintiff has shown the requisite minimum contacts to support jurisdiction, the
6 burden shifts to defendant to show jurisdiction is not reasonable. An otherwise valid exercise of
7 personal jurisdiction “is presumed to be reasonable.” Nissan Motor Co., Ltd. v. Nissan Computer
8 Corp., 89 F. Supp. 2d 1154, 1160-1161 (C.D. Cal. 2000). Therefore, defendant “must present a
9 compelling case that the presence of some other considerations would render jurisdiction
10 unreasonable. Most such considerations usually may be accommodated through means short of
11 finding jurisdiction unconstitutional.” Integral Development Corp. v. Weissenbach, 99 Cal.App.4th
12 576, 122 Cal.Rptr.2d 24, 36 (Cal. App. 6th Dist. 2002). Here, the Mexican Defendants have done
13 little more than assert conclusory statements regarding the burdens on them without any proof.
Accordingly the presumption of reasonableness should remain.

14 **B. The assertion of jurisdiction over these Mexican Defendants would not offend**
15 **traditional notions of fair play and substantial justice.**

16 To determine whether the exercise of jurisdiction would not offend traditional notions of fair
17 play and substantial justice, the Supreme Court has instructed that courts look to the following
18 factors: (1) the burden on the defendant; (2) the interests of the forum state; (3) the plaintiff’s interest
19 in obtaining relief; (4) the interstate judicial system’s interest in obtaining the most efficient
20 resolution of controversies; and (5) shared interest of the several states in furthering fundamental
21 substantive social policies. Asahi Metal Indus. Co. v. Superior Court, 480 U.S. 102, 113, 107 S. Ct.
22 1026 (1987) (citing World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 292, 100 S. Ct. 559
23 (1980)).

24 **i. California’s interest in deterring conduct similar to the Mexican**
25 **Defendants.**

26 California has a significant interest in making sure that child abuse is stopped in this state.
27 The California Court of Appeals noted that “California also has an interest in not becoming the target
28 for pedophiles from other jurisdictions.” Archdiocese of Milwaukee v. Superior Court, 112
Cal.App.4th 423, 5 Cal.Rptr.3d 154, 171 (Cal. App. 4 Dist. 2003). Additionally, California has an

1 interest in deterring conduct similar to the Mexican Defendants. California wants to ensure that
2 those that commit crimes in California and those that facilitate those crimes cooperate fully with law
3 enforcement to make sure that child molesters are stopped.

4 **ii. Minimal Burden on Mexican Defendants.**

5 There would be a minimal burden on the Mexican Defendants to litigate this case in
6 California because modern means of communication make it relatively simple to contact parties and
7 attorneys. The Mexican Defendants already showed that they are fully capable to litigate this case
8 in California. Defendants have been able to do so in filing there motions to quash service.
9 Defendants are using a law firm with offices across the country, including California and Texas.
10 Additionally, when discovery was served, Norberto Rivera was able to have one of his employees
11 search for the documents. (Finnegan Ex. 30, Rivera Depo. pp. 22-23.) Rivera admitted in his
12 declaration that his Archdiocese is the largest in the world. An organization of this size should be
13 able to handle any of the minor inconveniences that come about through civil litigation.

14 There are many witnesses to the Mexican Defendants conduct that are located in California -
15 Cardinal Mahony, Bishop Curry, priests from the Archdiocese of Los Angeles who worked with
16 Aguilar or supervised him, and the Los Angeles Police Department officials who investigated Aguilar
17 to name a few. Further, any depositions before trial of Mexican witnesses would most likely occur
18 within Mexico like the jurisdictional depositions already taken, making it no different than if the case
19 was litigated in Mexico. Accordingly the burden on the Mexican Defendants would be minimal.
20 See McGee v. International Life Insurance Co., 355 U.S. 220, 223-24 (1957) (stating that “[o]ften
21 the crucial witnesses-as here on the company's defense of suicide-will be found in the insured's
22 locality [Not California]. Of course there may be inconvenience to the insurer if it is held amenable
23 to suit in California where it had this contract but certainly nothing which amounts to a denial of due
24 process”)

25 Even when dealing with a foreign defendant this Court and the United States Supreme Court
26 have explicitly stated that the burden of litigating outside of one's country is not that substantial.
27 “When minimum contacts have been established, often the interests of the plaintiff and the forum
28 in the exercise of jurisdiction will justify even the serious burdens placed on the alien defendant.”

1 Asahi Metal Indus. Co., Ltd. v. Superior Ct. of Cal., 480 U.S. 102, 114 (1987). “[M]odern advances
2 in communications and transportation have significantly reduced the burden of litigating in another
3 country.” Dole Food Co., Inc. v. Watts, 303 F.3d 1104, 1115 (9th Cir. 2002) (citations omitted).
4 Accordingly, there would be little burden on the Mexican Defendants to litigate this case in
5 California.

6 **iii. Joaquin’s interest in holding the Mexican Defendants accountable.**

7 Joaquin has an interest in seeing that the Mexican Defendants are held accountable for the
8 actions that they took relative to their California contacts. Had the Mexican Defendants acted
9 reasonably when they got the information that Aguilar raped numerous children in California,
10 Joaquin would not have been raped by Aguilar. California is the best place for Joaquin to litigate
11 because the tort system in California allows a Plaintiff to hold institutions accountable for their
12 actions with regard to their child molesting agent.

13 **iv. Shared interest of California and Mexico**

14 Both Mexico and California have the shared interest in the social policies of stopping child
15 abuse and stopping the international movement of child molesters. The California Court of Appeals
16 held that “Wisconsin and California have a shared interest in furthering the social policy of
17 protecting children from sexual abuse; that social policy is furthered by asserting jurisdiction over
18 the Milwaukee Archdiocese in California.” Archdiocese of Milwaukee v. Superior Court, 112
19 Cal.App.4th 423, 5 Cal.Rptr.3d 154, 171 (Cal. App. 4 Dist. 2003). Accordingly, it would further
20 these shared policies to litigate this case in California.

21 **v. Overall reasonableness of litigating in California**

22 The assertion of jurisdiction over the Mexican Defendants does not offend traditional notions
23 of fair play and substantial justice. California has a significant interest in preventing child abuse and
24 making sure that child molesters are not being sent to California. There would be a minimal burden
25 on the Defendants as they are a huge organization with many people cable of handling the minor
26 inconveniences of civil litigation. Finally, Joaquin has an interest in seeing that the Mexican
27 Defendants who caused his abuse are held accountable and California is the best place for that to
28 happen. Accordingly, it is reasonable to assert jurisdiction over the Mexican Defendants. See Dole

1 Food Co., Inc. v. Watts, 303 F.3d 1104, 1115 (9th Cir. 2002) (describing Roth v. Garcia Marquez,
2 942 F.2d 617, 625 (9th Cir.1991) (noting “this court found personal jurisdiction in California over
3 two foreign individual defendants, despite the fact that only two of the reasonableness factors
4 favored plaintiff while three factors favored defendants, and despite the fact that defendants “ma[d]e
5 a strong argument ... that the exercise of jurisdiction may be unreasonable”).

6 **III. An Adverse Inference Should Be Drawn Against the Mexican Defendants Because of**
7 **the Lack of Information They Have Provided about the Whereabouts of Nicholas**
8 **Aguilar**

9 A court may make an inference from the facts submitted. See e.g. Kuhn v. Department of
10 General Services, 22 Cal.App.4th 1627, 29 Cal.Rptr.2d 191, 193-94 (Cal. App. 3 Dist. 1994).
11 Nicholas Aguilar’s location is a key piece of evidence for Plaintiff. Besides the Mexican officials
12 and the Archdiocese of Los Angeles officials, Nicholas Aguilar may be the best source of
13 information about the Mexican Defendants contacts and connection to California. The Mexican
14 Defendants at best have not complied with their discovery obligations to provide as much
15 information as they have about Aguilar’s location.

16 Cardinal Rivera testified that the last time he knew the whereabouts of Fr. Aguilar was when
17 Fr. Aguilar left the Diocese of Tehuacan in 1986. (Finnegan Ex. 30, Rivera Depo. p. 91.) Rivera
18 also stated that “since his [Nicholas Aguilar’s] return to Mexico, I have had no contact with Fr.
19 Aguilar.” (Finnegan Ex. 29, Rivera Dec. ¶18.) However, the Los Angeles Police Department was
20 told by Ann Curry that she had spoken with Norberto Rivera who stated that he confronted Aguilar
21 with the allegations.” (Esparza Dec. ¶ 9.) Further, the Los Angeles Times reported that “Aguilar,
22 according to officials in Mexico, stopped at his former Diocese in Tehuacan in the Mexican State
23 of Puebla after fleeing Los Angeles and announced he was resigning as a priest.” (Finnegan Ex. 14,
24 RIV00035.) Rivera received this report in 1988 and never did anything to correct it. (Id.)

25 In addition to the information about Rivera meeting with Aguilar after he left California,
26 there is also a 1997 Police report which states that Aguilar worked for the Diocese of Tehuacan as
27 recently as 1997 and for a number of years. (Finnegan Dec. Ex. 24-28.) At this assignment he
28 molested numerous children. The police investigated Aguilar, there were hearings regarding
Aguilar, Aguilar had to report to the police as part of his bail. Yet the Diocese of Tehuacan now

