

ENDORSED  
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San Francisco County Superior Court

SEP 28 2012

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1 DAVID L. NYE (Bar #67009)  
TIMOTHY C. HALE (Bar #184882)  
2 NYE, PEABODY, STIRLING, HALE & MILLER LLP  
33 West Mission St., Suite 201  
3 Santa Barbara, California 93101  
Telephone: (805) 963-2345  
4 Facsimile: (805) 563-5385

5 Attorneys for Plaintiff

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 For the County of San Francisco

8 John FD Roe 1, an individual,  
9 Plaintiffs,

Case No. CGC-12-524910

10 v.

COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR:

11 Roman Catholic Bishop of San Jose;  
12 St. Frances Cabrini Church; St.  
Frances Cabrini School;  
13 Roman Catholic Archbishop of San  
Francisco; Roman Catholic Bishop of  
14 Fresno; Diocese of Fresno Education  
Corporation; Father Don Flickinger,  
15 an individual; and Does 1 through  
100, Inclusive.

1. PUBLIC NUISANCE
2. NEGLIGENCE
3. NEGLIGENT SUPERVISION/  
FAILURE TO WARN;
4. NEGLIGENT  
HIRING/RETENTION
5. FRAUD;
6. FIDUCIARY/CONFIDENTIAL  
RELATIONSHIP FRAUD AND  
CONSPIRACY;
7. BREACH OF FIDUCIARY  
DUTY;
8. NEGLIGENT FAILURE TO  
WARN, TRAIN, OR EDUCATE  
PLAINTIFF;
9. INTENTIONAL INFLICTION  
OF EMOTIONAL DISTRESS;
10. NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS;
11. FRAUD AND DECEIT;
12. PREMISES LIABILITY.
13. CHILDHOOD SEXUAL  
ABUSE;
14. SEXUAL BATTERY

16 Defendants.

JURY TRIAL DEMANDED



1 responsibility for Roman Catholic Church operations in San Francisco County and  
2 Santa Clara County, California during relevant dates herein. Defendant Archbishop  
3 is the leader of the Roman Catholic Archdiocese in which Fr. Flickinger was  
4 assigned before he abused Plaintiff, whose agents learned of the threat posed by  
5 Fr. Flickinger long before the abuse of Plaintiff, and that placed children at risk to be  
6 sexually abused by allowing Fr. Flickinger to perform his ministry with children at  
7 least as recently as 2011. At least thirty-six priests from the Archdiocese of San  
8 Francisco have been accused of childhood sexual abuse. Since 2003 the  
9 Archdiocese has paid close to \$70 million dollars to settle over 100 claims for  
10 childhood sexual abuse by its priests.

11 2.4 Defendant Roman Catholic Bishop of Fresno (“Defendant Fresno Bishop”) is  
12 a corporation sole authorized to conduct business and conducting business in the  
13 State of California, with its principal place of business in Fresno County during  
14 relevant dates herein. Fr. Flickinger is incardinated in the Diocese of Fresno, and  
15 has been subject, in part, to control by the diocese throughout his career. While Fr.  
16 Flickinger was assigned in the Diocese of Fresno in the late 1960s, and long before  
17 Flickinger sexually assaulted Plaintiff, Defendant Fresno Bishop knew or should  
18 have known of the danger Fr. Flickinger posed to children, and in the 1970s  
19 Defendant Fresno Bishop was put on notice that Father Flickinger was sexually  
20 abusing children in the diocese. Defendant Fresno Bishop thus could have  
21 prevented Fr. Flickinger’s abuse of Plaintiff and other children. Defendant Fresno  
22 Bishop is the leader of the Roman Catholic Diocese in which Fr. Flickinger was  
23 assigned and whose agents learned of the threat posed by Flickinger long before  
24 the abuse of Plaintiff. At least ten priests from the Diocese of Fresno have been  
25 accused of childhood sexual abuse.

26 2.5 Defendant Roman Catholic Education Corporation of Fresno (“Education  
27 Corporation”) is a California corporation authorized to conduct business and  
28 conducting business in the State of California, with its principal place of business in

1 Fresno County, California, and doing business in Fresno County during relevant  
2 dates herein. Education Corporation had responsibility for Roman Catholic school  
3 operations in Fresno County, California during relevant dates herein, including the  
4 school where Flickinger was assigned in the late 1960s, San Joaquin Memorial High  
5 School (“SJMHS”). While Flickinger was assigned to SJMHS, he repeatedly  
6 engaged in conduct with students which Education Corporation knew or should have  
7 known evidenced the danger Fr. Flickinger posed to children. Defendant Education  
8 Corporation thus could have prevented Plaintiff’s abuse. Defendant Fresno Bishop  
9 and Defendant Education Corporation are sometimes collectively referred to as the  
10 “Fresno Defendants.”

11 2.6 Defendant Fr. Don Flickinger, the Perpetrator, was an individual residing and/or  
12 doing business in the City of San Jose and County of Santa Clara, California, during  
13 the period of abuse of Plaintiff, and was and/or is a Roman Catholic priest, member,  
14 employee, agent and/or servant of Defendant San Jose Bishop and/or Defendant  
15 Parish and/or Defendant School and/or Defendant Archbishop and/or Defendant  
16 Fresno Bishop and/or Defendant Education Corporation and/or Does 1-100. During the  
17 abuse, Fr. Flickinger was assigned, or in residence, or doing supply work, or  
18 volunteering, or visiting at Defendant Parish and/or Defendant School, and was under  
19 the direct supervision, employ and control of the Defendant San Jose Bishop and/or  
20 Defendant Parish and/or Defendant School and/or Defendant Archbishop and/or  
21 Defendant Fresno Bishop and/or Defendant Education Corporation and/or Does 1-100.

22

23 **FR. FLICKINGER’S ASSIGNMENT AND/OR RESIDENCE HISTORY**

24 Fr. Flickinger’s assignment and/or residence history includes the following:

25 **DIOCESE OF FRESNO (1)**

26 1964 St. John’s Cathedral, San Joaquin Memorial High School (Fresno, California)

27

28 1967 St. Helen’s Parish (Fresno, California)

1 1970 San Joaquin Memorial H.S.; St. Genieve Parish (Fresno, California)

2

3 1972 St. Therese (Fresno, California)

4

5 **ARCHDIOCESE OF SAN FRANCISCO (2)**

6 1972-78 Santa Clara University (Santa Clara, California)

7

8 1978-1981 University of San Francisco (San Francisco, California)

9

10 **DIOCESE OF SANTA ROSA (3)**

11 1981-83 Christian Brothers Novitiate (Napa, California)

12

13 **ARCHDIOCESE OF SAN FRANCISCO**

14 1983-86 San Francisco Chancery Office; Sacred Heart Church; St. Michael's  
15 Church (San Francisco, California)

16

17 **DIOCESE OF MONTEREY (4) /ARCHDIOCESE OF LOS ANGELES (5)**

18 1986-88 St. Francis Retreat (San Juan Bautista, California)

19

20 1987-88 St. Martin of Tours (Los Angeles, CA) (10 days a month)

21

22 1988-89 Star of the Sea Church (Santa Cruz, California)

23

24 1989 St. Francis Retreat (San Juan Bautista, California)

25

26 **ARCHDIOCESE OF SAN FRANCISCO**

27 1990-91 St. Paul's Church (San Francisco, California)

28

1 **DIOCESE OF SAN JOSE (6)**

2 1991-94 Sacred Heart Church (Saratoga, California)

3

4 **DIOCESE OF OAKLAND (7)**

5 1994-95 Holy Family Sisters Mother House (Fremont, California)

6

7 **DIOCESE OF SAN JOSE**

8 1995-2007 St. Frances Cabrini Church (San Jose, California)

9

10 2007 Sacred Heart Jesuit Center (Los Gatos, CA)

11

12 **DIOCESE OF MONTEREY**

13

14 2007-2009 St. Clare's Retreat (Soquel, California)

15

16 **ARCHDIOCESE OF SAN FRANCISCO**

17 2009-2011 St. Paul's (San Francisco, California)

18

19 **DIOCESE OF FRESNO**

20 2011-present New Bethany Residence (Los Banos, California)

21

22 3. Defendant Does 1 through 100, inclusive, are individuals and/or business or  
23 corporate entities incorporated in and/or doing business in California whose true names  
24 and capacities are unknown to Plaintiff who therefore sues such defendants by such  
25 fictitious names, and who will amend the Complaint to show the true names and  
26 capacities of each such Doe defendant when ascertained. Each such Defendant Doe  
27 is legally responsible in some manner for the events, happenings and/or tortious and  
28 unlawful conduct that caused the injuries and damages alleged in this Complaint.

1 4. Fr. Flickinger and/or each Defendant were and/or are the agent, servant and/or  
2 employee of Defendant San Jose Bishop and/or Defendant Parish and/or Defendant  
3 School and/or Defendant Archbishop and/or Defendant Fresno Bishop and/or  
4 Defendant Education Corporation and/or Does 1-100. Fr. Flickinger and/or each  
5 Defendant was acting within the course and scope of his, her or its authority as an  
6 agent, servant and/or employee of Fr. Flickinger and/or other Defendants. Fr.  
7 Flickinger and/or Defendant San Jose Bishop and/or Defendant Parish and/or  
8 Defendant School and/or Defendant Archbishop and/or Defendant Fresno Bishop  
9 and/or Defendant Education Corporation and/or Does 1-100, and each of them, are  
10 individuals, corporations, partnerships and other entities which engaged in, joined in  
11 and conspired with the other wrongdoers in carrying out the tortious and unlawful  
12 activities described in this Complaint, and Fr. Flickinger and/or each Defendant ratified  
13 the acts of Fr. Flickinger and/or Defendant San Jose Bishop and/or Defendant Parish  
14 and/or Defendant School and/or Defendant Archbishop and/or Defendant Fresno  
15 Bishop and/or Defendant Education Corporation and/or Does 1-100.

16  
17 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

18 5. Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents  
19 committed acts of childhood sexual abuse at St. Frances Cabrini and at various  
20 locations around California and elsewhere before, during, and after the time Plaintiff  
21 attended St. Frances Cabrini. Defendants' practice of concealing the identities,  
22 propensities, and current assignments and/or residences of these perpetrators has  
23 enabled and empowered such men to sexually assault and/or continue to place at risk  
24 countless children around the various locations in California where Defendants conduct  
25 their business. Defendants have greatly increased the danger to children by continuing  
26 to transfer perpetrators such as Fr. Flickinger, after allegations of abuse arise, from one  
27 diocese to another into unsuspecting parishes and communities such as St. Paul in  
28 San Francisco or New Bethany in Los Banos. Defendants have further increased the

1 danger to children by making affirmative representations to current or future employers,  
2 regarding Flickinger's and Defendants' other pedophilic and/or ephebophilic agents'  
3 fitness for employment, in positions that included working with children, while failing to  
4 disclose negative information regarding sexual misconduct by such men. Additionally,  
5 an unknown number of Defendants' former pedophilic and/or ephebophilic agents,  
6 whose propensities Defendants have been aware of for years but have disclosed to no  
7 one, continue to sexually assault and/or place at risk countless children at locations  
8 where Defendants' former agents now reside. Fr. Flickinger's history, as set forth  
9 below, is but one example of the threat to today's children posed both by such men,  
10 and by Defendants' continuing practices in managing them.

11

12 **Fr. Flickinger is Ordained in the Diocese of Monterey-Fresno in 1964**

13 6. Fr. Flickinger was ordained in 1964. One of his first assignments was as  
14 chaplain at San Joaquin Memorial High School ("SJMHS") in Fresno. Soon thereafter  
15 Flickinger began openly engaging in sexually motivated misconduct that was  
16 recognized by numerous boys at SJMHS as inappropriate, but was ignored by agents  
17 of the Fresno Defendants. Those agents not only observed Fr. Flickinger's conduct but  
18 allowed it to continue. Among other things, Flickinger regularly and openly  
19 inappropriately touched boys, removed select boys from classes for private meetings  
20 in his office, asked them sexual questions, and often attempted to give his misconduct  
21 the false appearance of appropriateness. For instance, one of his ploys was to attempt  
22 to cloak his sexual questions in purported penitential communications by inducing boys  
23 to agree to let him hear their confessions outside the confessional. In another such  
24 ploy he sometimes inflicted pain on the boys he touched inappropriately by grabbing  
25 them with enough force to cause pain, thus allowing Flickinger to sexually gratify  
26 himself but make it appear as if he was somehow acting masculine or tough rather than  
27 as a sexual predator.

28 Flickinger engaged in such conduct at, among other places, SJMHS and a



1 summer camp at Bass Lake, and continued this predatory behavior throughout his  
2 career as a priest. Flickinger's conduct at SJMHS was so frequent and well known that  
3 the boys at SJMHS openly discussed the fact that Flickinger was attracted to boys,  
4 warned each other to watch out for him, and gave Flickinger nicknames such "Fr.  
5 Fuckinger" and "Fr. Faggot."

6         Witness #1, a member of the SJMHS Class of 1968, met Flickinger while an  
7 underclassman. Flickinger would take the boy out of class to Flickinger's office and ask  
8 him sexual questions. Flickinger also constantly touched Witness #1, squeezing his  
9 hand with such force the boy would bend over in pain, grabbing the boy's shoulders,  
10 and digging his fingers into the boy's upper inner thigh with such pressure Witness #1  
11 had to flex his quadriceps to prevent Flickinger from digging in any deeper. Flickinger  
12 also engaged in such conduct with members of the boys' swim team while serving as  
13 the team chaplain. Another member of the Class of 1968, Witness #8, considered  
14 Flickinger too "touchy-feely" with boys at SJMHS, and talked with other members of the  
15 swim team who agreed it was strange how much time Flickinger spent in the team's  
16 locker room. Witness #1 considers Flickinger's conduct at SJMHS "unnatural" and  
17 "perverted."

18         At the end of Witness #1's sophomore year in 1966, Flickinger invited the boy  
19 to work at a camp at Bass Lake known as Camp Santa Teresita. The camp was run  
20 by the Roman Catholic Church for grade school age boys and girls. Unfortunately,  
21 Flickinger used the camp for his own sexual gratification as he invited boys from  
22 SJMHS to volunteer at the camp, and the inappropriate touching and sexual questions  
23 continued and grew worse, including further grabbing of Witness #1's thighs. In one  
24 instance, while alone with the boy in the mess hall, Flickinger grabbed and squeezed  
25 Witness #1's thigh until the shocked boy threw up his arms and forced Flickinger back.  
26 During the camp Flickinger also seized on opportunities to isolate Witness #1, offering  
27 to teach the boy to drive, taking the boy out to dinner, or inducing the boy to enter  
28 Flickinger's residence at night.

1 Flickinger's conduct with the boy in his camp residence occurred at least once  
2 a week around 9:00 p.m., and paralleled his conduct during the incidents at SJMHS.  
3 Specifically, Flickinger sometimes unilaterally made the meetings confessional. During  
4 others he did not. But almost inevitably, and regardless of the context he  
5 manufactured, Flickinger would question Witness #1 about the boy's thoughts regarding  
6 masturbation, a subject the boy had no interest in discussing and that Flickinger had  
7 no legitimate basis about which to ask, and was for Flickinger's own sexual gratification.  
8 All of this took place while Flickinger touched the boy inappropriately.

9 The following school year, 1966-67, another SJMHS student, Witness #2, began  
10 avoiding Flickinger after the priest repeatedly asked him personal questions, and then  
11 put his arms around the boy or grabbed the boy's thighs while meeting with the boy in  
12 Flickinger's office. On one such occasion Flickinger said "wow, no wonder you're such  
13 a good football player, you've got legs like this." Upon standing up Flickinger would hug  
14 Witness #2 so closely and for so long it made the boy uncomfortable, a feeling he had  
15 never felt toward another priest.

16 Like so many other SJMHS students, Flickinger called Witness #2 into his office  
17 on more than one occasion and asked him sexual questions. In Witness #2's case,  
18 Flickinger asked if he was sexually active with his (Witness #2's) girlfriend. No other  
19 priest had ever asked the boy such questions.

20 Once, after a student government meeting, Flickinger asked the boy to come to  
21 his office. Fearing further inappropriate touching and sexual questions by Flickinger,  
22 Witness #2 claimed he could not meet with Flickinger because he had to go home  
23 immediately. Despite this, Flickinger spent the next thirty minutes questioning Witness  
24 #2 about his relationships with girls, the fact he had heard Witness #2 was dating a girl,  
25 and about whether he was sexually active with the girl. There also are instances where  
26 Witness #2 recalls being in Flickinger's office but is unable to recall what took place.

27 Flickinger's sexually predatory conduct toward the boys at SJMHS was so open  
28 and well known that other boys warned Witness #2 to stay away from Flickinger.

1 Witness #2 recalls boys talking about Flickinger getting "real personal," and asking  
2 other boys whether they were sexually active and whether they masturbated. All of this  
3 prompted some of Witness #2's fellow students to refer to Flickinger as "weird," and to  
4 call him "Father Fuckinger." Witness #2 also recalls Flickinger pulling other boys out  
5 of class, who were then openly mocked by their classmates during class.

6 During the junior and senior years of Witness #3, Class of 1969, Flickinger took  
7 the boy out of class to his office so often that Witness #3 and his friends joked about  
8 it, describing Flickinger as "weird" or "homosexual." At the start of these incidents  
9 Flickinger would first grip Witness #3's hand with such force the boy's knees almost  
10 buckled. Once they sat down Flickinger would place his hand on the boy's shoulder,  
11 upper arm, or lower thigh, sometimes squeezing the boy's knee while questioning him  
12 about whether he masturbated, whether he was having sex, whether he was thinking  
13 about having sex, and whether the boy was having any problems with sex or  
14 masturbation. During these incidents Flickinger often attempted to create a false  
15 appearance of propriety for his questions by asking the boy if he wanted Flickinger to  
16 hear his confession. He also would touch the boy's thigh, arm or neck.

17 Witness #3 never asked Flickinger to hear his confession or brought up  
18 masturbation, but Flickinger always raised the subject. When Flickinger finished his  
19 questions he would hug the boy and stare at him for so long it made the boy  
20 uncomfortable. Witness #3 recalls simply dropping his head and waiting for Flickinger  
21 to finish and release him. Later, when Witness #3 had a girlfriend, Flickinger  
22 questioned the boy about sex and arousal, as well as about masturbation. Similar  
23 incidents also took place while Witness #3 was at the summer camp with Flickinger  
24 before the boy's senior year. Witness #3 also recalls other students warning each  
25 other about Flickinger, that he touches them, and that they should watch out for him.

26 Flickinger also called Witness #4, Class of 1968, to his office and asked the boy  
27 personal questions about sex and masturbation. Because of the frequency and nature  
28 of Flickinger's conduct, Witness #4 and his friends concluded Flickinger was weird and

1 began calling Flickinger "Fr. Fuckinger." Witness #4's classmates would whoop and  
2 snicker when Flickinger pulled Witness #4 from class.

3       Once in Flickinger's office the priest would insist the boy sit in chair so close to  
4 the priest it made the boy uncomfortable. Flickinger would then ask the boy if he  
5 masturbated, and if so, what he thought about when he masturbated, subjects  
6 Flickinger always returned to with the boy. Flickinger also asked the boy if he was  
7 sexually active with girls. And after a few of these incidents, Flickinger began leaning  
8 in close to the boy's face, or placing his hand on the inside of the boy's upper thigh  
9 while asking the boy sexual questions. Witness #4 considered Flickinger's conduct  
10 "really creepy" and sexual in nature, eventually prompting the boy to stand up and  
11 make a fist as if he intended to strike the priest after Flickinger placed his hand on the  
12 boy's upper thigh. Flickinger never engaged in such conduct again, and eventually  
13 stopped summoning the boy to his office.

14       After observing and being subjected to Flickinger's inappropriate conduct at  
15 SJMHS, Witness #4 soon concluded that everyone at the school knew of Flickinger's  
16 propensities, and that it was only a matter of time before Flickinger was arrested for  
17 child molestation.

18       Flickinger often put his arm around Witness #5, Class of 1968, and tried to  
19 induce the boy to come to Flickinger's office. The boy refused as he was disturbed by  
20 his observations of the frequency and the ways in which Flickinger touched other boys  
21 at SJMHS, and thought Flickinger's behavior was bizarre.

22       Flickinger called Witness #6, Class of 1968, into his office and asked the boy if  
23 he masturbated. When Witness #6 said he never did and did not discuss his sexual  
24 conduct, Flickinger appeared to lose interest and ended the conversation. Witness #6  
25 was aware of his classmates making comments that suggested Flickinger was  
26 someone to watch out for because he might be sexually attracted to male students.  
27 One classmate in particular, on one or two occasions, stated that Flickinger was "gay"  
28 or "liked boys."

1           Despite years of open and obvious inappropriate conduct by Flickinger, the  
2 SJMHS faculty and staff – all agents of the Fresno Defendants – continued to allow the  
3 priest to enter freshmen classrooms, among others, and hand-pick boys, such as  
4 Witness #7 (Class of 1971), to take to his office, claiming they needed “counseling” or  
5 “spiritual guidance.” Other times Flickinger would say to Witness #7, "I'm the Chaplain,  
6 I need to get to know you," and then order the boy to his office. The faculty and staff  
7 allowed Flickinger to engage in such conduct throughout Witness #7's freshman year  
8 despite the fact it was clear Flickinger was not pulling every boy out of class, but was  
9 targeting only those boys he found most attractive and/or believed would be vulnerable.

10           Flickinger also continued to exploit penitential communications in order to cloak  
11 his inappropriate intentions and conduct. Specifically, the first thing Flickinger would  
12 ask Witness #7, once he had the boy in his office, was, "When was the last time you  
13 went to confession?" Each time Flickinger ordered Witness #7 to his office, he ordered  
14 Witness #7 to give his confession, a fact that made Witness #7 very uncomfortable as  
15 it was the first time he ever gave his confession outside the confessional. At the start  
16 of each incident Flickinger would hug Witness #7 and then say, "If you don't mind, I'm  
17 going to put my hand on your knee so I can really focus on what you're telling me."  
18 Witness #7 would then dutifully confess, and as soon as Witness #7 mentioned  
19 masturbation, Flickinger would ask, "What do you think about during masturbation?  
20 Tell me more." He also asked the boy who he thought about, and what kind of visions  
21 the boy had during masturbation. At the end of these meetings Flickinger would  
22 conclude with another long hug in which Witness #7 recalls Flickinger holding him so  
23 that they were face to face for an extended period, as if Flickinger was waiting to see  
24 if the boy would be responsive to his (Flickinger's) misconduct. Witness #7 recalls  
25 holding his hands at his sides and waiting for Flickinger to release him.

26           Like Witness #11, also a member of the Class of 1971, Flickinger's sexual  
27 questions and conduct made Witness #7 very uncomfortable, and led him to conclude  
28 Flickinger was questioning boys to determine how vulnerable they were to further

1 abuse. Flickinger appeared always to be looking for excuses to redirect his  
2 conversations with boys at SJMHS to sex. For instance, Witness #12, Class of 1969,  
3 recalls Flickinger noting boys had chewed their fingernails, and using this as an excuse  
4 to ask if it was a sign of the boys masturbating.

5         Additionally, in what may have been one of Fr. Flickinger's earliest attempts at  
6 such a ploy, Flickinger took a request from a student for guidance regarding what  
7 school a student should attend and attempted to use it to isolate and sexually abuse  
8 the boy. Specifically, during Witness #7's senior year he asked Flickinger to assist him  
9 in gaining admission to Santa Clara. Flickinger, however, told the boy they needed to  
10 meet in person so that he could talk to Witness #7 and get a better feel for Witness #7's  
11 character. As with Witness #20 over thirty years later, Flickinger wanted to pick  
12 Witness #7 up at his parent's house and take the boy to lunch. However, having  
13 learned from his past experiences with Flickinger, Witness #7 refused. Witness #7 also  
14 was afraid his friends, who referred to Flickinger as "Father Fag" as a result of  
15 Flickinger's conduct toward the boys at SJMHS, would see Flickinger pick him up and  
16 tease Witness #7 about going on a date with Flickinger. Witness #7 recalls that  
17 through his years at SJMHS there was an "undercurrent among the student body that  
18 Flickinger was probably gay."

19         Flickinger traumatized Witness #9, Class of 1968, with questions about  
20 masturbation during the boy's junior or senior years at SJMHS. These incidents took  
21 place at various locations around the school, and at least once during an open (no  
22 screen was present) face-to-face confession Flickinger induced the boy to give outside  
23 the confessional. During this event, Flickinger wanted information about the boy's  
24 masturbatory habits that included questions concerning frequency and visual fantasies.  
25 This incident had a tremendous emotional effect that still continues today. Equally  
26 troubling was the frequency with which Flickinger openly touched the boy's arms,  
27 shoulders, and upper thighs, doing so whether Witness #9 was standing or sitting.  
28 Most disturbing to Witness #9 is the fact that an identifiable trigger elicited a flash

1 image where he is alone with Flickinger who is lying on a bed or a cot that is covered  
2 with an olive-green blanket and is naked. The surroundings in the image make Witness  
3 #9 think this occurred in a cabin at Camp Teresita, Bass Lake where the witness  
4 worked during the summer of 1968. Witness #9 is unable to remember what if anything  
5 happened or why such a circumstance arose, nor why such an image would be  
6 triggered in his mind.

7           Witness #10, a student from the Class of 1969 and an ardent supporter of  
8 Flickinger, acknowledges that Flickinger touched him like many of the boys described  
9 above, but attributes this behavior to Flickinger reaching out for companionship.  
10 Witness #10 admits Flickinger's behavior was unusual because, at that time, it was  
11 socially unacceptable for males to touch each other.

12           It was so apparent to another member of the Class of 1971, Witness #11, that  
13 Flickinger's behavior with SJMHS boys was inappropriate that on several occasion  
14 Witness #11 considered reporting Flickinger to Defendant Fresno Bishop. Witness #11  
15 was particularly disturbed by Flickinger's inappropriate behavior that began when  
16 Witness #11 was fourteen at SJMHS and continued – unabated by the Fresno  
17 Defendants' agents – until Witness #11 was around sixteen. During those years  
18 Flickinger repeatedly ordered Witness #11 to Flickinger's office, and asked Witness #11  
19 if he masturbated, and what he thought about when he masturbated. Witness #11  
20 understood sex to be something they were not supposed to discuss and, as a result,  
21 always tried to change the subject when Flickinger brought it up, or to avoid it  
22 altogether. Witness #11's efforts failed as Flickinger always redirected their  
23 conversations to sex. At the end of these discussions Flickinger would hug Witness  
24 #11 for extended periods that made the boy uncomfortable, and induced the boy to  
25 submit by telling Witness #11 it was ok for men to hug. Witness #11 believes  
26 Flickinger's sole motivation for ordering Witness #11 to his office was to discuss sex  
27 and masturbation. Flickinger's conduct was so frequent and so extreme that Witness  
28 #11 believed three class years of boys at SJMHS concluded Flickinger was

1 homosexual and was acting inappropriately toward boys at SJMHS.

2           When Witness #13, Class of 1970, was fifteen, Flickinger came to his house  
3 when the boy's parents were gone and began asking the boy if he had erotic thoughts,  
4 if he thought about sex, what he thought about sex, if he had experimented sexually,  
5 and whether he masturbated, and if so, how often. Witness #13 was so surprised he  
6 answered "yes" to the masturbation question, and then felt so overwhelmed and in  
7 shock he shut down and did not answer any further questions. He also wondered why  
8 Flickinger was asking him about masturbation, and what business a priest had asking  
9 such questions. Even at his young age, Witness #13 concluded the questions were  
10 inappropriate, and Flickinger eventually stopped asking when Witness #13 did not  
11 respond. Witness #13 recalls a feeling of "unwanted intimacy" caused by Flickinger's  
12 conduct that day, conduct that has left him with what he describes as "very ugly  
13 memories" of the incident

14           Flickinger also used to call Witness #14, another member of the Class of 1970,  
15 into his office and ask whether the boy was involved in sexual relations and whether he  
16 was masturbating. On one occasion Flickinger began talking about masturbation,  
17 ejaculation and wet dreams while sitting in front of and close to the boy. Without  
18 warning, Flickinger suddenly reached over to the boy with both hands and grabbed  
19 Witness #14's thighs. Witness #14 was so shocked by this conduct that he suddenly  
20 stood up, and instinctively and defensively tensed up and clenched his fist. Witness  
21 #14 recalls thinking he should hit the priest, but feared he would be expelled if he did  
22 so. This reaction prompted Flickinger to stop, and to never call the boy into his office  
23 again. Flickinger's openly inappropriate conduct with boys at the school prompted  
24 Witness #14 and his friends to begin to refer to Flickinger as "Fr. Fag." Witness #14  
25 has further testified he believes Flickinger is a predator who attempted to exploit what  
26 Flickinger believed was Witness #14's vulnerability created by his parents' divorce.

27           After Witness #14 graduated from SJMHS he began volunteering in the Fresno  
28 Defendants' youth outreach program in 1971. In 1972, when Witness #14 was



1 approximately nineteen years old, he inadvertently placed agents of the Fresno  
2 Defendants and Defendant Archbishop on notice that Flickinger had been accused of  
3 engaging in inappropriate sexual conduct with boys at SJMHS. Specifically, in  
4 November 1971 Flickinger's name was mentioned during a volunteer staff dinner  
5 meeting. Witness #14 then openly referred to Flickinger as "Fr. Fag," explaining that  
6 was the nickname his friends at SJMHS had given Flickinger.

7 By March 1972 Witness #14 had enrolled at Santa Clara University in what was  
8 then part of the Archdiocese of San Francisco. On March 13, 1972, Witness #14 was  
9 summoned to the Dean of Students' office. The Dean was a Jesuit priest, Stephen  
10 Olivo, with faculties from the Archdiocese of San Francisco.

11 Flickinger was waiting for Witness #14, along with a man who claimed to be a  
12 Fresno County Sheriff's lieutenant. Flickinger and the Sheriff confronted Witness #14  
13 about his statements at the dinner in November, then demanded that Witness #14 sign  
14 a document stating that Flickinger had never made any homosexual advances towards  
15 Witness #14 in Flickinger's office at SJMHS. Witness #14 asked to call his parents but  
16 was told he could not. Witness #14 also was threatened that if he did not sign, he  
17 (Flickinger) would have Witness #14 expelled from Santa Clara and would either sue  
18 him or have him criminally prosecuted. Feeling bullied, threatened, humiliated, and  
19 scared of being expelled or worse, Witness #14 submitted to the priest's demands and  
20 signed the document, as did Flickinger, the sheriff, Fr. Olivo, and a Resident Assistant  
21 from the university. Flickinger told Witness #14 the letter would go into his (Flickinger's)  
22 personnel file.

23 In April of 1972 Witness #14 told three priests from the Diocese of Fresno about  
24 the letter, and about Fr. Flickinger's misconduct toward Witness #14 in Flickinger's  
25 office at SJMHS while Witness #14 was a student at SJMHS. Their only response was  
26 to ask Witness #14 what, if anything, he was going to do about Flickinger's conduct.  
27 However, Defendants took no further action, and Flickinger continued his ministry.  
28

1     **Defendants Assign Flickinger to Sacred Heart Parish in Saratoga Where He**  
2                                     **Continues to Abuse Children**

3             In the early 1990s Defendants transferred Flickinger to Sacred Heart, where  
4 Defendants allowed him to work with and have physical contact with even younger  
5 children, including preparing them for their first communion and hearing their  
6 confessions. With no warning to the parishioners, and having never been reported to  
7 law enforcement, criminally prosecuted, or forced to register as a sex offender,  
8 Flickinger, at least initially, was unidentifiable to the parishioners as a predator.  
9 Instead, he was free to use the power, respect and authority he enjoyed as a Roman  
10 Catholic priest to continue his exploitation of children. It was at this location that  
11 Flickinger abused Witness #27 during both church and school hours.

12             Witness #27 was raised in a devout Roman Catholic Family, and attended  
13 Sacred Heart for school from 1<sup>st</sup> through 8<sup>th</sup> grade. Sacred Heart also was her home  
14 parish, attended by Witness #27 and her family for mass on a weekly basis until  
15 Witness #27 was old enough to choose not to attend such services. During the period  
16 of Flickinger's abuse of Witness #27, among other things, Defendants allowed him to  
17 openly and inappropriately touch children on the grounds of the school and parish,  
18 including in the church itself. The touching included long massages of the child's chest  
19 and back, and involved Flickinger exploiting his far superior size and strength to restrain  
20 the child while he engaged in this conduct. Flickinger used the position of trust he  
21 enjoyed to groom Witness #27 for abuse by showering her with praise, helping her  
22 prepare for her first communion, and repeatedly publicly touching her in an affectionate  
23 way. As a child in a large family Witness #27 was starved for such direct attention and  
24 affection from a paternal figure. And as a priest, Flickinger was the ultimate paternal  
25 figure and the voice of God in Witness #27's eyes. Flickinger exploited this revered  
26 status first to create in Witness #27 an emotional dependency on him, and then to  
27 sexually abuse Witness #27.

28             One mother at the parish, Witness #25, recalls observing Flickinger approach

1 a child from behind, stroke the little girl's hair, and give her a kiss on the head that  
2 lasted so long the mother was disturbed to the point she "got the chills," and was  
3 compelled to tell Flickinger to leave her daughter alone and to stay away from the child.  
4 In other instances Defendants allowed Flickinger to hold a child in his lap, restraining  
5 the child from leaving while pulling her against his leg and onto his erection.  
6 Flickinger's conduct was so brazen that it was common knowledge amongst some of  
7 the mothers at the parish that children should be kept away from him, prompting some  
8 of them to complain to the school principal. At least one mother complained to the  
9 principal in 1991 that Flickinger had sexually abused her daughter. As a result,  
10 Defendants were forced to transfer him again. Unfortunately, Defendants did so  
11 without any warning to his new community. That same mother complained again about  
12 Flickinger's abuse of her daughter to the Diocese of San Jose in 2002, but Defendants  
13 did not report the complaint to law enforcement, nor warn anyone of it, and instead  
14 allowed Flickinger to remain in ministry.

15

16 **Defendants Transfer Flickinger to St. Frances Cabrini Where he Continues to**  
17 **Abuse Children**

18 In the 1990s Flickinger was assigned to St. Frances Cabrini Parish and School  
19 ("Cabrini") in what had been part of the Archdiocese of San Francisco but was now in  
20 the Diocese of San Jose. At Cabrini Fr. Flickinger continued his decades of childhood  
21 sexual abuse with little, if any, objections from the San Jose Defendants' agents,  
22 despite the fact they were observing the same if not worse inappropriate conduct that  
23 Flickinger had openly engaged in since the 1960s. Once again, the children who were  
24 subjected to or observed this conduct recognized it as disturbing and inappropriate,  
25 while Defendants' agents allowed such conduct to continue. For instance, Witness  
26 #15, a former student at Cabrini, quickly concluded Flickinger was "overly friendly," "too  
27 huggy," and, as a result, "kind of creepy." Witness #15 was never comfortable with the  
28 priest. Witness #15's mother, Witness #16, recalls that her children left whenever Fr.

1 Flickinger appeared at their home. As a result of her observations of Flickinger's  
2 conduct, Witness #16 did not allow her children to be alone with Flickinger.

3 Witness #17's sons served as altar boys for Flickinger, and felt that Flickinger  
4 was strange. Flickinger often came by her house when her children were home alone,  
5 and Witness #17 was so disturbed by Flickinger's behavior that she told her children  
6 never to let him in. Flickinger also tried to convince her to let him take at least one of  
7 them on an overnight trip to visit an out of state college, but Witness #17 refused. She  
8 also refused to allow him to be alone with her children in a variety of other  
9 circumstances, and was hypervigilant when she could not prevent it. For instance,  
10 when her boys served as altar boys with Flickinger at Cabrini, Witness #17 would count  
11 the seconds they were alone in the sacristy with Flickinger.

### 12 13 **Flickinger's Sexual Abuse of Plaintiff**

14 Plaintiff was a student at Cabrini and one of Flickinger's altar boys. Similar to  
15 but worse than his abusive conduct toward Witness #14 in Fresno, Flickinger exploited  
16 the Plaintiff's status as a child of a devout Roman Catholic mother in a single-parent  
17 family with minimal paternal contact. Plaintiff recalls attending mass every Sunday, and  
18 even more frequently once he became an altar boy. Before he became an altar boy,  
19 Plaintiff's mother always encouraged him to shake Fr. Flickinger's hand after mass, and  
20 clearly considered him a revered figure. Once Fr. Flickinger began to recognize  
21 Plaintiff, and to shower him with attention and praise, Plaintiff's affection for and  
22 emotional dependency on Flickinger increased steadily. That dependency was  
23 bolstered by the fact that Flickinger often praised Plaintiff to his mother, who was  
24 ecstatic to hear the priest speak highly of her son.

25 As a result of this relationship the priest soon learned that plaintiff often was  
26 home alone while his mother worked. Soon thereafter, most likely during the 1996-97  
27 school year when Plaintiff was ten years old, the priest asked and Plaintiff's mother  
28 agreed that Flickinger could visit the boy while she was gone.

1 On these occasions, much as he had with boys from SJMHS in Fresno,  
2 Flickinger would sit the boy down and, initially, make small talk, telling the boy he  
3 wanted to get to know him better. Almost from the outset of their relationship Flickinger  
4 had inappropriately touched and hugged the boy. However, Flickinger took his abuse  
5 to a new and despicable level the first time he visited the boy at home. In that instance  
6 Flickinger placed his hand on the boy's thigh, and begin asking Plaintiff sexual  
7 questions, such as whether his sexual organs worked, and whether the boy was  
8 masturbating. Flickinger then said he wanted to "make sure everything works" and  
9 began to fondle the boy's genitals over his clothes, trying to make it appear he was  
10 simply examining the boy like a doctor. While all this was happening Flickinger held the  
11 confused and shocked boy down with one hand, almost as if to calm him, but leaving  
12 the boy feeling trapped and restrained by the priest. This was Plaintiff's first sexual  
13 experience of any kind.

14 Flickinger's conduct that day began a pattern of sexual abuse that continued  
15 over a period of years, at least until approximately 2000-2001 when Plaintiff was  
16 fourteen. Flickinger also increased the abuse, sometimes taking the abuse farther by  
17 attempting to fondle the boy under his clothes, other times attempting to induce the boy  
18 to fondle him (Flickinger). The location of the abuse also changed, including in the  
19 rectory and in Flickinger's living quarters. After each instance of abuse Flickinger often  
20 took the boy out to eat, and continued to praise the boy as if nothing inappropriate had  
21 happened. Flickinger's less extreme but still inappropriate touching and hugging of  
22 Plaintiff continued even after the fondling stopped.

23  
24 **Fr. Flickinger's Misconduct Toward Other Children at Cabrini**

25 Flickinger took another boy from Cabrini, Witness #20, out to a lunch that  
26 purportedly was to counsel the boy regarding possible schools to attend, but instead  
27 was for Flickinger's own sexual gratification. Rather than counsel the boy regarding  
28 schools, Flickinger spent much of the lunch talking about the physical appearances of

1 Witness #20 and of another boy from Cabrini, obsessing to the point that Witness #20  
2 became uncomfortable. After the lunch Flickinger began calling Witness #20's cell  
3 phone with such frequency that the boy stopped taking Flickinger's calls. Flickinger  
4 was so obsessed with the boy that he wrote Witness #20 and told him to show some  
5 respect by answering his phone. Flickinger's conduct was so extreme that when  
6 Flickinger offered to take Witness #20 on an overnight visit to a school outside of  
7 California, Witness #20's girlfriend commented on Flickinger's bizarre behavior, and  
8 expressed her opinion to Witness #20's mother that Flickinger should never be allowed  
9 near the boy again.

10 Witness #22, a parent at Cabrini, had long been disturbed by the fact Flickinger  
11 was always taking, or trying to take, children from Cabrini on overnight trips to out of  
12 state schools, as he did with Plaintiff, and thought his behavior was bizarre. She also  
13 observed and was uncomfortable with Flickinger's relationship with Plaintiff. In May of  
14 2009 Witness #22 reported her concern to an agent of Cabrini, and said she feared  
15 Flickinger had sexually abused children, prompting the agent to acknowledge that her  
16 own son, a former parishioner at Cabrini, had never liked Flickinger, and that she was  
17 aware of others parents and children at Cabrini who were uncomfortable with Flickinger.

18 In addition to the inappropriate touching, the San Jose Defendants allowed  
19 Flickinger to engage in conduct at Cabrini that was forbidden by the San Jose  
20 Defendants. For instance, although children were not allowed in a priest's living  
21 quarters for any reason, the San Jose Defendants allowed Flickinger to break this rule  
22 repeatedly with Witness #20 and boys such as Plaintiff. Similarly, it was and is  
23 inappropriate for a priest to pull a boy out of class, take him to the priest's office, and  
24 then have the boy give his confession. Asking a child about masturbation, and probing  
25 into anyone, much less a child's, sex life by initiating questions about sex is a grave  
26 violation of both Roman Catholic moral theology and priestly training. Nevertheless,  
27 Defendants allowed Flickinger regularly to engage in such conduct since the 1960s.  
28 Additionally, at Cabrini Flickinger was seen regularly with boys in his company in

1 inappropriate circumstances, such as in his car and in the rectory and his living  
2 quarters.

3 This conduct did not go unnoticed by the San Jose Defendants, who apparently  
4 placed some limitations on Flickinger's ministry as a result. Eventually, in 2006,  
5 Flickinger was accused of misconduct again, prompting the Diocese of San Jose to  
6 refuse to renew his faculties in the Diocese. In or around April and May 2007 Flickinger  
7 spent time at the Sacred Heart Jesuit Center in Los Gatos, a Jesuit-run retirement and  
8 medical facility known to house and treat priests accused of childhood sexual abuse.

9 Around this time Flickinger also admitted to Witness #21, a parent from Cabrini,  
10 that he had been accused of sexual abuse and had been asked to leave the parish as  
11 a result. In approximately 2005 Flickinger admitted to at least one parent, Witness #23,  
12 that the San Jose Defendants had placed some limitations on his ministry such as not  
13 allowing him to drive. However, it was not until he was transferred from Cabrini that  
14 more severe restrictions were placed on his ministry. Specifically, Flickinger was sent  
15 to a northern California retreat house where children were not allowed, and was,  
16 purportedly, only permitted to serve mass to the nuns in residence. However,  
17 Defendants offered no warning to the public, made no reports to law enforcement, and  
18 their restrictions on Flickinger's ministry came far too late to prevent his abuse of  
19 children at Cabrini. As a result, Flickinger was able to sexually abuse, among others,  
20 Plaintiff and Witness #26.

21 **Flickinger's Abuse of Witness #26**

22 Witness #26 was raised in a devout Catholic family that attended mass every  
23 Sunday. Witness #26 served as an altar boy, most often for Fr. Flickinger, the man  
24 who Witness #26 first identified with the priesthood, and who was, from Witness #26's  
25 childhood perspective, the archetype for all priests. Witness #26's family was very  
26 active in Cabrini, and Fr. Flickinger came to their house for dinner on more than one  
27 occasion. Flickinger was the only priest with which Witness #26 spoke at the parish,  
28 and had become, at least to Witness #26, the face of the parish and his church, and

1 the voice of God.

2 As Witness #26 grew older and began to mature physically, Flickinger's behavior  
3 towards him changed. Flickinger had always been very touchy with the boy when  
4 speaking to him, and often placed his hands on the boy's upper thighs. At the end of  
5 their conversations, Flickinger almost always gave Witness #26 long hugs in which he  
6 pulled the boy close to him, and which began to feel to Witness #26 like more than  
7 hugs. Eventually Flickinger's questioning became sexual as he began questioning  
8 Witness #26 about his interest in girls, and about masturbation. Witness #26 was  
9 extremely shy, never raised these subjects himself, and would try to avoid them when  
10 Flickinger did so, sometimes outright denying any awareness of them. Flickinger  
11 ignored Witness #26's efforts, however, and Witness #26 recalls that approximately  
12 half of their conversations involved Flickinger questioning him about sexual matters  
13 such as masturbation and how he felt about girls. More often than not Flickinger  
14 questioned Witness #26 while they were in the sacristy, or sometimes during  
15 confession. All of this conduct made Witness #26 increasingly nervous and  
16 uncomfortable around Flickinger. However, because of the reverence he had for  
17 Flickinger, as the first and most important priest in his life, he continued to trust the  
18 man.

19 In late 2001 when Witness #26 was in 8<sup>th</sup> grade, Flickinger took him to lunch,  
20 purportedly to counsel the boy regarding schools to attend. Witness #26 expected that  
21 after lunch Flickinger would drive him home. Instead, without explanation, Flickinger  
22 drove them back to Cabrini and took the boy straight to the rectory. Although  
23 Flickinger's conduct was unexpected, Witness #26 assumed Flickinger wanted only to  
24 continue their discussion. Witness #26 had always viewed priests, and especially  
25 Flickinger, in a positive light, and was not concerned that Flickinger was taking them to  
26 his living quarters. When Flickinger directed Witness #26 into his bedroom the boy  
27 remained completely trusting of the priest and did not object. Unfortunately, Flickinger  
28 exploited that trust and sexually abused Witness #26 after inducing the boy to sit on his



1 (Flickinger's) bed.

2  
3 **Despite Decades of Knowledge of the Risk to Children Posed by Flickinger,**  
4 **Defendants Continue to Transfer Flickinger Into Unsuspecting Communities,**  
5 **and Allow Him to Perform his Ministry and to Work with Children**

6 Defendants eventually transferred Flickinger from Cabrini, and he was  
7 temporarily in residence at a retreat center in Northern California. However,  
8 Defendants later transferred Flickinger once again, this time to one of Defendant  
9 Archbishop's parishes, St. Paul in San Francisco, a parish with an elementary school  
10 with children the same ages as many of his prior victims, including Plaintiff, Witness  
11 #26, and Witness #27. As recently as August 2011 Flickinger was still listed as being  
12 in residence at that parish and school. Both the parish and school were dangerously  
13 unaware of Flickinger's history despite the fact Defendant Archbishop has been aware  
14 of Fr. Flickinger's propensities at least since Flickinger confronted Witness #14 in 1972  
15 and attempted to force Witness #14 to clear his (Flickinger's) name with regards to  
16 Flickinger's misconduct towards Witness #14 while the boy was a student at SJMHS.  
17 Equally disturbing is the fact that although Defendant Archbishop has claimed recently  
18 that Flickinger was at St. Paul's only as a retired priest, in reality Defendant Archbishop  
19 allowed Flickinger to work with children during Sunday School at St. Paul.

20 Unfortunately, Defendants' dangerous mismanagement of Fr. Flickinger  
21 continued. Specifically, the Diocese of Fresno transferred Flickinger yet again, this time  
22 to a residential living facility, New Bethany, in Los Banos, CA. According to public  
23 statements by Defendant Fresno Bishop, Flickinger supposedly was retired and was  
24 not performing his ministry at New Bethany. In reality, at least as recently as August  
25 2011 Flickinger assisted in performing mass at New Bethany. These services were  
26 conducted in the facility's chapel and were open to the public. And despite the fact that  
27 Defendants' agents have admitted to awareness of multiple reports of sexual abuse by  
28 Flickinger in the dioceses of Fresno and San Jose, they provided no warning to the

1 facility, its residents, or the Los Banos community of the danger posed by Flickinger.  
2 That danger continues as Flickinger's current assignment is known only to Defendants.

3 The consequences of the Defendants' continuing corporate practices with  
4 regards to their perpetrators, as illustrated by their handling of Fr. Flickinger, have been  
5 disastrous both for children, and for a society that continues to bear the financial  
6 burden of the psychological fallout for abuse survivors. Abuse survivors often engage  
7 in addictive, self-destructive, and, unfortunately, sometimes criminal behavior as they  
8 deal with the psychological scars caused by childhood sexual abuse. These behaviors  
9 in turn result in things such as divorce proceedings on court calendars, substance  
10 abuse, arrests, and incarcerations, all of which are paid for by the common taxpayer  
11 rather than by the truly culpable but tax-exempt organizations that protected,  
12 transferred and/or expelled perpetrators such as Fr. Flickinger.

13 7. Time and again Defendants have had the opportunity to end the cycle of abuse  
14 by reporting perpetrators such as Flickinger to law enforcement, by assisting rather than  
15 obstructing criminal investigations such as those of Fr. Flickinger, and by warning the  
16 general public when a priest has been accused of sexually assaulting a child.  
17 Tragically, the Defendants' ongoing efforts to protect their pedophilic members, and to  
18 protect their financial interests, establish a continuing pattern of conduct causing new  
19 harm to today's children, new trauma to adult survivors of childhood sexual abuse, and  
20 causing the continuing financial burden to a society paying for the resulting  
21 psychological fallout.

22 8. For decades, if not far longer, Defendants have known perpetrators such as Fr.  
23 Flickinger were sexually assaulting children, and of the fact any child exposed to their  
24 agents was at a heightened risk of being sexually assaulted. Since that time  
25 Defendants have been concealing these crimes, and shielding their criminal members  
26 from discovery and/or prosecution.

27 ///

28 ///



1 11. Defendants continue to conspire and engage in efforts to: 1) conceal from the  
2 general public the sexual assaults committed by, the identities of, and the  
3 pedophilic/ephebophilic tendencies of, Fr. Flickinger and Defendants' other pedophilic  
4 agents; 2) attack the credibility of the victims of Fr. Flickinger and Defendants' other  
5 pedophilic/ephebophilic agents; 3) protect Fr. Flickinger and Defendants' other  
6 pedophilic/ephebophilic current and former agents from criminal prosecution and  
7 registration as sex offenders for their sexual assaults against children; 4) after receiving  
8 reports or notice of misconduct by men such as Fr. Flickinger, transferring them to new  
9 parishes without any warning to parishioners of the threat posed by such men, all in  
10 violation of law; and 5) making affirmative representations to current or future  
11 employers, regarding Flickinger's and Defendants' other pedophilic and/or ephebophilic  
12 agents' fitness for employment, in positions that included working with children, while  
13 failing to disclose negative information regarding sexual misconduct by such men.

14 12. The negligence and/or deception and concealment by Defendants was and is  
15 injurious to the health of, indecent or offensive to the senses of, and an obstruction to  
16 the free use of property by, the general public, including but not limited to residents of  
17 the Counties of Fresno, Santa Clara, and San Francisco and all other members of the  
18 general public who live in communities where Defendants conducted, and continue to  
19 conduct, their work and/or ministry, and was and is indecent and offensive to the  
20 senses, so as to interfere with the general public's comfortable enjoyment of life in that  
21 children cannot be left unsupervised in any location where Defendants' agents are  
22 present as the general public cannot trust Defendants to prohibit their pedophilic agents  
23 from supervising, caring for, or having any contact with children, nor to warn parents of  
24 the presence of the pedophilic agents of Defendants, nor to identify their pedophilic  
25 agents, nor to identify and/or report to law enforcement their agents accused of  
26 childhood sexual abuse, nor to refrain from interfering with or obstructing the criminal  
27 investigations of these agents, thus creating an impairment of the safety of children in  
28 the neighborhoods where Defendants conducted, and continue to conduct, their work

1 and/or ministries.

2 13. Defendants' conduct has caused further injury to the public and severely  
3 impaired the safety of children where Defendants have protected and concealed Fr.  
4 Flickinger and Defendants' other pedophilic/ephebophilic agents from criminal  
5 prosecution and registration as sex offenders for their sexual assaults, where  
6 Defendants' other pedophilic/ephebophilic agents subsequently have left Defendants'  
7 employ, and where Defendants have disavowed any responsibility for Defendants'  
8 other pedophilic/ephebophilic former agents despite the fact Defendants facilitated  
9 these former agents' avoiding criminal prosecution and having to register as sex  
10 offenders. As a result of Defendants' conduct, when Defendants' former agents have  
11 sought employment placing them in positions of trust with children, Defendants are the  
12 only ones aware of the risk posed by these former agents, and potential employers,  
13 childcare custodians, and parents have no means of identifying the risk to their children  
14 posed by such men.

15 14. The negligence and/or deception and concealment by Defendants was specially  
16 injurious to Plaintiff's health as he and his family were unaware of the danger posed to  
17 children left unsupervised with agents of Defendants, and as a result of this deception,  
18 Plaintiff was placed in the custody and control of Fr. Flickinger, at the time an agent of  
19 the San Jose Defendants and the Fresno Defendants, who subsequently sexually  
20 assaulted Plaintiff.

21 15. The continuing public nuisance created by Defendants was, and continues to be,  
22 the proximate cause of the injuries and damages to the general public as alleged in ¶  
23 13, and of Plaintiff's special injuries and damages as alleged in ¶ 14.

24 15. In doing the aforementioned acts, Defendants acted negligently and recklessly  
25 and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

26 16. As a result of the above-described conduct, Plaintiff has suffered, and continues  
27 to suffer special injury in that he suffers great pain of mind and body, shock, emotional  
28 distress, physical manifestations of emotional distress, embarrassment, loss of

1 self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and  
2 continues to suffer spiritually; was prevented and will continue to be prevented from  
3 performing Plaintiff's daily activities and obtaining the full enjoyment of life; has  
4 sustained and will continue to sustain loss of earnings and earning capacity; and/or has  
5 incurred and will continue to incur expenses for medical and psychological treatment,  
6 therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered  
7 general and special damages in an amount in excess of the jurisdictional minimum of  
8 this Court.

9 17. As a further result of the above-described conduct by Defendants, Plaintiff  
10 further requests injunctive relief prohibiting Defendants from, among other things:  
11 allowing their pedophilic/ephebophilic agents to have any unsupervised contact with  
12 children; transferring their pedophilic/ephebophilic agents to communities whose  
13 citizens are unaware of the risk to children posed by said agents; failing/refusing to  
14 disclose to and/or concealing from the general public and/or law enforcement when  
15 Defendants have transferred a pedophilic/ephebophilic agent into their midst;  
16 failing/refusing to disclose to and/or concealing from law enforcement and/or the  
17 general public the identities and the criminal acts of their pedophilic/ephebophilic  
18 agents; failing/refusing to disclose to and/or concealing from the public and/or law  
19 enforcement reports, complaints, accusations or allegations of acts of childhood sexual  
20 abuse committed by Defendants' current or former agents; and warning their agents  
21 accused of abuse that they are the subjects of a criminal investigation. Defendants  
22 should be ordered to stop failing/refusing to disclose to and/or concealing and instead  
23 should identify each and every one of their current and former agents who have been  
24 accused of childhood sexual abuse, the dates of the accusation(s), the date(s) of the  
25 alleged abuse, the location(s) of the alleged abuse, and the accused agents'  
26 assignment histories.

27 ///

28 ///

1 **SECOND CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(Against the San Jose Defendants)**

4 18. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 19. While Plaintiff was a student at Defendant School and a member of Defendant  
6 Parish, Fr. Flickinger engaged in unpermitted, harmful and offensive sexual conduct  
7 and contact with Plaintiff. Said conduct was undertaken after the San Jose Defendants  
8 learned of the risk he posed to children, while Fr. Flickinger was an employee,  
9 volunteer, representative, or agent of the San Jose Defendants, and while in the course  
10 and scope of employment with the San Jose Defendants, and/or was ratified by the  
11 actions of Defendants. Defendants' conduct was wanton and reckless and/or  
12 evidenced a conscious disregard for the rights and safety of Plaintiff and other children.

13 20. Prior to or during the abuse alleged above, Defendants knew, had reason to  
14 know, or were otherwise on notice of unlawful sexual conduct by Fr. Flickinger and  
15 Defendants' other pedophilic and/or ephebophilic agents. Defendants failed to take  
16 reasonable steps and failed to implement reasonable safeguards to avoid acts of  
17 unlawful sexual conduct in the future by Fr. Flickinger and Defendants' other pedophilic  
18 and/or ephebophilic agents, including, but not limited to, preventing or avoiding  
19 placement of Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
20 agents in functions or environments in which contact with children was an inherent part  
21 of those functions or environments. Furthermore, at no time during the periods of time  
22 alleged did the San Jose Defendants have in place a system or procedure to supervise  
23 and/or monitor employees, volunteers, representatives, or agents to insure that they did  
24 not molest or abuse minors in the San Jose Defendants' care, including the Plaintiff.

25 21. The San Jose Defendants had a duty to protect the minor Plaintiff when he was  
26 entrusted to their care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical  
27 custody was temporarily entrusted to the San Jose Defendants. The San Jose  
28 Defendants voluntarily accepted the entrusted care of Plaintiff. As such, the San Jose

1 Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of  
2 ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children  
3 owe to protect them from harm.

4 22. Defendants, by and through their agents, servants and employees, knew or  
5 reasonably should have known of Fr. Flickinger's and Defendants' other pedophilic  
6 and/or ephebophilic agents' dangerous and exploitive propensities and that they were  
7 unfit agents. It was foreseeable that if the San Jose Defendants did not adequately  
8 exercise or provide the duty of care owed to children in their care, including but not  
9 limited to Plaintiff, the child entrusted to the San Jose Defendants' care would be  
10 vulnerable to sexual abuse by Fr. Flickinger and Defendants' other pedophilic and/or  
11 ephebophilic agents.

12 23. The San Jose Defendants breached their duty of care to the minor Plaintiff by  
13 allowing Fr. Flickinger to come into contact with the minor Plaintiff without supervision;  
14 by failing to adequately hire, supervise, or retain Fr. Flickinger and Defendants' other  
15 pedophilic and/or ephebophilic agents who they permitted and enabled to have access  
16 to Plaintiff; by failing to investigate or otherwise confirm or deny such facts about Fr.  
17 Flickinger and Defendants' other pedophilic and/or ephebophilic agents; by failing to tell  
18 or concealing from Plaintiff, Plaintiff's parents, guardians, or law enforcement officials  
19 that Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents were  
20 or may have been sexually abusing minors; by failing to tell or concealing from  
21 Plaintiff's parents, guardians, or law enforcement officials that Plaintiff was or may have  
22 been sexually abused after the San Jose Defendants knew or had reason to know that  
23 Fr. Flickinger may have sexually abused Plaintiff, thereby enabling Plaintiff to continue  
24 to be endangered and sexually abused, and/or creating the circumstance where  
25 Plaintiff was less likely to receive medical/mental health care and treatment, thus  
26 exacerbating the harm done to Plaintiff; and/or by holding out Fr. Flickinger to the  
27 Plaintiff and his parents or guardians as being in good standing and trustworthy. The  
28 San Jose Defendants cloaked within the facade of normalcy Fr. Flickinger's and



1 Defendants' other pedophilic and/or ephebophilic agents' contact and/or actions with  
2 the Plaintiff and/or with other minors who were victims of Fr. Flickinger and Defendants'  
3 other pedophilic and/or ephebophilic agents, and/or disguised the nature of the sexual  
4 abuse and contact.

5 24. As a result of the above-described conduct, Plaintiff has suffered, and continues  
6 to suffer great pain of mind and body, shock, emotional distress, physical  
7 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
8 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
9 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
10 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
11 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
12 to incur expenses for medical and psychological treatment, therapy, and counseling.

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14 **THIRD CAUSE OF ACTION**

15 **NEGLIGENT SUPERVISION/FAILURE TO WARN**

16 **(Against All Defendants)**

17 25. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

18 26. Defendants had a duty to provide reasonable supervision of Fr. Flickinger and  
19 Defendants' other pedophilic and/or ephebophilic agents, and to use reasonable care  
20 in investigating Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
21 agents. Defendants also had a duty and to provide adequate warning to the Plaintiff,  
22 the Plaintiff's family, minor students, minor parishioners, and other archdioceses and/or  
23 dioceses into which they transferred Fr. Flickinger of Fr. Flickinger's and Defendants'  
24 other pedophilic and/or ephebophilic agents' dangerous propensities and unfitness,  
25 particularly after the conduct they observed by Flickinger in their respective dioceses  
26 and archdiocese before Flickinger abused Plaintiff.

27 Defendants also had a duty not to fail to disclose negative information regarding  
28 Flickinger where they made an affirmative representation, regarding Flickinger's fitness

1 for employment, in positions that included working with children, presenting a  
2 foreseeable and substantial risk of significant harm to an employer or a third person.  
3 Additionally, because the San Jose Defendants knew or should have known of the  
4 heightened risk Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
5 agents posed to all children, the San Jose Defendants had a heightened duty to  
6 provide reasonable supervision and protection to children with whom the San Jose  
7 Defendants allowed Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
8 agents to have contact and/or custody and control.

9 27. Defendants, by and through their agents, servants and employees, knew or  
10 reasonably should have known of Fr. Flickinger's and Defendants' other pedophilic  
11 and/or ephebophilic agents' dangerous and exploitive propensities and that they were  
12 unfit agents. The San Jose Defendants also knew that if they failed to provide children  
13 who had contact with Fr. Flickinger and Defendants' other pedophilic and/or  
14 ephebophilic agents sufficient supervision and protection, those children would be  
15 vulnerable to sexual assaults by Fr. Flickinger and Defendants' other pedophilic and/or  
16 ephebophilic agents. Despite such knowledge, the San Jose Defendants negligently  
17 failed to supervise Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
18 agents in the position of trust and authority as Roman Catholic Priests, religious  
19 brothers, religious instructors, counselors, school administrators, school teachers,  
20 surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures,  
21 where they were able to commit the wrongful acts against the Plaintiff. The San Jose  
22 Defendants also failed to provide reasonable supervision of Fr. Flickinger and  
23 Defendants' other pedophilic and/or ephebophilic agents. All of the Defendants failed  
24 to use reasonable care in investigating Fr. Flickinger and Defendants' other pedophilic  
25 and/or ephebophilic agents, and failed to provide adequate warning to other  
26 archdioceses and/or dioceses into which they transferred Fr. Flickinger, and to Plaintiff  
27 and Plaintiff's family of Fr. Flickinger's and Defendants' other pedophilic and/or  
28 ephebophilic agents' dangerous propensities and unfitness. Defendants also had a

1 duty not to fail to disclose negative information regarding Flickinger where they made  
2 an affirmative representation, regarding Flickinger's fitness for employment, in positions  
3 that included working with children, presenting a foreseeable and substantial risk of  
4 significant harm to an employer or a third person The San Jose Defendants further  
5 failed to provide Plaintiff with adequate supervision and protection, and failed to take  
6 reasonable measures to prevent future sexual abuse. Defendants' conduct was  
7 wanton and reckless and/or evidenced a conscious disregard for the rights and safety  
8 of Plaintiff and other children.

9 28. As a result of the above-described conduct, Plaintiff has suffered, and continues  
10 to suffer great pain of mind and body, shock, emotional distress, physical  
11 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
12 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
13 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
14 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
15 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
16 to incur expenses for medical and psychological treatment, therapy, and counseling.  
17 As a proximate result of these injuries, Plaintiff has suffered general and special  
18 damages in an amount in excess of the jurisdictional minimum of this Court.

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**FOURTH CAUSE OF ACTION**  
**NEGLIGENT HIRING/RETENTION**  
**(Against The Fresno and San Jose Defendants)**

29. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.  
30. The San Jose Defendants had a duty not to hire and/or retain Fr. Flickinger and  
Defendants' other pedophilic and/or ephebophilic agents given their dangerous and  
exploitive propensities.  
31. The Fresno and San Jose Defendants, by and through their agents, servants  
and employees, knew or reasonably should have known of Fr. Flickinger's and

1 Defendants' other pedophilic and/or ephebophilic agents' dangerous and exploitive  
2 propensities and/or that they were unfit agents. Despite such knowledge, the Fresno  
3 and San Jose Defendants negligently hired and/or retained Fr. Flickinger and  
4 Defendants' other pedophilic and/or ephebophilic agents in the position of trust and  
5 authority as Roman Catholic Priests, religious brothers, religious instructors,  
6 counselors, school administrators, school teachers, surrogate parents, spiritual  
7 mentors, emotional mentors, and/or other authority figures, where they were able to  
8 commit the wrongful acts against the Plaintiff. The Fresno and San Jose Defendants  
9 failed to use reasonable care in investigating Fr. Flickinger and/or Defendants' other  
10 pedophilic and/or ephebophilic agents and failed to provide adequate warning to  
11 Plaintiff and Plaintiff's family of Fr. Flickinger' and Defendants' other pedophilic and/or  
12 ephebophilic agents' dangerous propensities and unfitness. The Fresno and San Jose  
13 Defendants further failed to take reasonable measures to prevent future sexual abuse.  
14 The Fresno and San Jose Defendants' conduct was wanton and reckless and/or  
15 evidenced a conscious disregard for the rights and safety of Plaintiff and other children.

16 32. As a result of the above-described conduct, Plaintiff has suffered, and continues  
17 to suffer great pain of mind and body, shock, emotional distress, physical  
18 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
19 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
20 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
21 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
22 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
23 to incur expenses for medical and psychological treatment, therapy, and counseling.  
24 As a proximate result of these injuries, Plaintiff has suffered general and special  
25 damages in an amount in excess of the jurisdictional minimum of this Court.

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1 **FIFTH CAUSE OF ACTION**

2 **FRAUD**

3 **(Against All Defendants)**

4 33. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 34. Defendants knew and/or had reason to know of the sexual misconduct of  
6 Flickinger and Defendants' other pedophilic and/or ephebophilic agents.

7 35. Defendants misrepresented, concealed or failed to disclose information relating  
8 to sexual misconduct of Fr. Flickinger and Defendants' other pedophilic and/or  
9 ephebophilic agents as described herein, and Defendants continue to misrepresent,  
10 conceal, and fail to disclose information relating to sexual misconduct of Fr. Flickinger  
11 and Defendants' other pedophilic and/or ephebophilic agents as described herein.

12 36. Defendants made affirmative representations, regarding Flickinger's fitness to  
13 perform his ministry, presenting a foreseeable and substantial risk of significant harm  
14 to an employer or a third person. The affirmative representations included granting  
15 Flickinger faculties to perform his ministry, without limitations or restrictions, and  
16 thereby notifying other diocese in writing that he was a priest in good standing. Both  
17 before and after these affirmative representations, Defendants knew that they  
18 misrepresented, concealed or failed to disclose information relating to sexual  
19 misconduct of Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
20 agents.

21 37. Plaintiff justifiably relied upon Defendants for information relating to sexual  
22 misconduct of Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
23 agents. Plaintiff further justifiably relied upon Defendants not to fail to disclose negative  
24 information regarding Flickinger where they made an affirmative representation,  
25 regarding Flickinger's fitness for employment, in positions that included working with  
26 children, presenting a foreseeable and substantial risk of significant harm to an  
27 employer or a third person.

28 38. Defendants, with the intent to conceal and defraud, did misrepresent, conceal

1 or fail to disclose information relating to the sexual misconduct of Fr. Flickinger and  
2 Defendants' other pedophilic and/or ephebophilic agents.

3 39. As a direct result of Defendants' fraud, Plaintiff has suffered, and continues to  
4 suffer great pain of mind and body, shock, emotional distress, physical manifestations  
5 of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and  
6 loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented  
7 and will continue to be prevented from performing Plaintiff's daily activities and  
8 obtaining the full enjoyment of life; has sustained and will continue to sustain loss of  
9 earnings and earning capacity; and/or has incurred and will continue to incur expenses  
10 for medical and psychological treatment, therapy, and counseling. As a proximate  
11 result of these injuries, Plaintiff has suffered general and special damages in an amount  
12 in excess of the jurisdictional minimum of this Court.

13 40. In addition, when Plaintiff discovered the fraud of Defendants, and continuing  
14 thereafter, Plaintiff experienced recurrences of the above-described injuries. In  
15 addition, when Plaintiff finally discovered the fraud of Defendants, and continuing  
16 thereafter, Plaintiff experienced extreme and severe mental and emotional distress that  
17 Plaintiff had been the victim of Defendants' fraud; that Plaintiff had not been able to  
18 help other minors being molested because of the fraud; and that Plaintiff had not been  
19 able because of the fraud to receive timely medical treatment needed to deal with the  
20 problems Plaintiff had suffered and continues to suffer as a result of the molestations.

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**SIXTH CAUSE OF ACTION**

23

**FIDUCIARY/CONFIDENTIAL RELATIONSHIP FRAUD**

24

**AND CONSPIRACY TO COMMIT FRAUD**

25

**(Against The San Jose Defendants)**

26 41. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

27 42. Because of Plaintiff's young age, and because of the status of Fr. Flickinger as  
28 an authority figure to Plaintiff, Plaintiff was vulnerable to Fr. Flickinger. Fr. Flickinger

1 sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability.  
2 Plaintiff's vulnerability also prevented Plaintiff from effectively protecting himself.

3 43. By holding Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
4 agents out as a qualified Roman Catholic clergy, religious brothers, religious instructors,  
5 counselors, school administrators, school teachers, surrogate parents, spiritual  
6 mentors, emotional mentors, medical services providers and/or care givers, and/or  
7 other authority figures, and by undertaking the religious and/or secular instruction  
8 and/or spiritual and emotional counseling of Plaintiff, the San Jose Defendants held  
9 special positions of trust and entered into a fiduciary and/or confidential relationship  
10 with the minor Plaintiff.

11 44. Having a fiduciary and/or confidential relationship, the San Jose Defendants had  
12 the duty to obtain and disclose information relating to sexual misconduct of Fr.  
13 Flickinger and Defendants' other pedophilic and/or ephebophilic agents.

14 45. Defendants misrepresented, concealed or failed to disclose information relating  
15 to sexual misconduct of Fr. Flickinger and Defendants' other pedophilic and/or  
16 ephebophilic agents, and the San Jose Defendants continued to misrepresent, conceal,  
17 and/or fail to disclose information relating to sexual misconduct of Fr. Flickinger and  
18 Defendants' other pedophilic and/or ephebophilic agents as described herein.

19 46. The San Jose Defendants knew that they misrepresented, concealed or failed  
20 to disclose information relating to sexual misconduct of Fr. Flickinger and Defendants'  
21 other pedophilic and/or ephebophilic agents.

22 47. Plaintiff justifiably relied upon the San Jose Defendants for information relating  
23 to sexual misconduct of Fr. Flickinger and Defendants' other pedophilic and/or  
24 ephebophilic agents.

25 48. The San Jose Defendants, in concert with each other and with the intent to  
26 conceal and defraud, conspired and came to a meeting of the minds whereby they  
27 would misrepresent, conceal or fail to disclose information relating to the sexual  
28 misconduct of Fr. Flickinger and/or Defendants' other pedophilic and/or ephebophilic

1 agents.

2 49. By so concealing, the San Jose Defendants committed at least one act in  
3 furtherance of the conspiracy.

4 50. As a direct result of the San Jose Defendants' fraud and conspiracy, Plaintiff has  
5 suffered, and continues to suffer great pain of mind and body, shock, emotional  
6 distress, physical manifestations of emotional distress, embarrassment, loss of  
7 self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and  
8 continues to suffer spiritually; was prevented and will continue to be prevented from  
9 performing Plaintiff's daily activities and obtaining the full enjoyment of life; has  
10 sustained and will continue to sustain loss of earnings and earning capacity; and/or has  
11 incurred and will continue to incur expenses for medical and psychological treatment,  
12 therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered  
13 general and special damages in an amount in excess of the jurisdictional minimum of  
14 this Court.

15 51. In addition, when Plaintiff discovered the fraud of the San Jose Defendants, and  
16 continuing thereafter, Plaintiff experienced recurrences of the above-described injuries.  
17 In addition, when Plaintiff finally discovered the fraud of the San Jose Defendants, and  
18 continuing thereafter, Plaintiff experienced extreme and severe mental and emotional  
19 distress that Plaintiff had been the victim of the San Jose Defendants' fraud; that  
20 Plaintiff had not been able to help other minors being molested because of the fraud;  
21 and that Plaintiff had not been able because of the fraud to receive timely medical  
22 treatment needed to deal with the problems Plaintiff had suffered and continues to  
23 suffer as a result of the molestations.

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**SEVENTH CAUSE OF ACTION**

26

**BREACH OF FIDUCIARY DUTY AND/OR CONFIDENTIAL RELATIONSHIP**

27

**(Against The San Jose Defendants)**

28

52. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.



1 53. Because of Plaintiff's young age, and because of the status of Fr. Flickinger as  
2 an authority figure to Plaintiff, Plaintiff was vulnerable to Fr. Flickinger. Fr. Flickinger  
3 sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability.  
4 Plaintiff's vulnerability also prevented Plaintiff from effectively protecting himself.

5 54. By holding Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
6 agents out as a qualified Roman Catholic clergy, religious brothers, religious instructors,  
7 counselors, school administrators, school teachers, surrogate parents, spiritual  
8 mentors, emotional mentors, medical services providers and/or care givers, and/or any  
9 other authority figure, by allowing Fr. Flickinger to have custody and control of and/or  
10 contact with the Plaintiff, and by undertaking the religious and/or secular instruction  
11 and/or spiritual and/or emotional counseling and/or medical care of Plaintiff, the San  
12 Jose Defendants entered into a fiduciary and/or confidential relationship with the minor  
13 Plaintiff.

14 55. The San Jose Defendants and each of them breached their fiduciary duty to  
15 Plaintiff by engaging in the negligent and wrongful conduct described herein.

16 56. As a direct result of the San Jose Defendants' breach of their fiduciary duty,  
17 Plaintiff has suffered, and continues to suffer great pain of mind and body, shock,  
18 emotional distress, physical manifestations of emotional distress, embarrassment, loss  
19 of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and  
20 continues to suffer spiritually; was prevented and will continue to be prevented from  
21 performing Plaintiff's daily activities and obtaining the full enjoyment of life; has  
22 sustained and will continue to sustain loss of earnings and earning capacity; and/or has  
23 incurred and will continue to incur expenses for medical and psychological treatment,  
24 therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered  
25 general and special damages in an amount in excess of the jurisdictional minimum of  
26 this Court.

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1 **EIGHTH CAUSE OF ACTION**

2 **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF**

3 **(Against The San Jose Defendants)**

4 57. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 58. The San Jose Defendants breached their duty to take reasonable protective  
6 measures to protect Plaintiff and other minor parishioners and/or students from the risk  
7 of childhood sexual abuse by Fr. Flickinger and/or Defendants' other pedophilic and/or  
8 ephebophilic agents, such as the failure to properly warn, train, or educate Plaintiff, his  
9 parents, the San Jose Defendants' agents, employees and volunteers, and other minor  
10 parishioners and/or students about how to avoid such a risk and/or defend himself or  
11 herself if necessary, pursuant to Juarez v. Boy Scouts of America, Inc., 81 Cal.App.4th  
12 377 (2000). The San Jose Defendants' conduct was wanton and reckless and/or  
13 evidenced a conscious disregard for the rights and safety of Plaintiff and other children.

14 59. The San Jose Defendants knew, or in the exercise of reasonable diligence  
15 should have known, of the general risk of sexual assaults against children and,  
16 specifically, of Fr. Flickinger's and Defendants' other pedophilic and/or ephebophilic  
17 agents' propensities to commit, and history of committing, sexual abuse of children, and  
18 that an undue risk to children in their custody and care, such as Plaintiff, would exist  
19 because of this propensity to commit sexual assaults, and the history of sexual assaults  
20 against children, unless the San Jose Defendants adequately taught, educated,  
21 secured, oversaw, and maintained students, including Plaintiff, as well as other children  
22 in the custody and control of, or in contact with, Catholic clergy and Defendants' other  
23 pedophilic and ephebophilic agents. Future agents of the San Jose Defendants were  
24 put on actual and/or constructive notice, at least as early as 1972, that Fr. Flickinger  
25 and Defendants' other pedophilic and/or ephebophilic agents were sexually assaulting  
26 children at countless locations, including Fresno County, and, subsequently, Santa  
27 Clara County among others. From that date forward, current and/or future agents of  
28 the San Jose Defendants repeatedly and negligently ignored complaints from victims

1 and/or their parents, as well as warnings from Catholic clergy, that Fr. Flickinger and  
2 Defendants' other pedophilic and/or ephebophilic Catholic clergy were assaulting  
3 children in, among other locations, Fresno County, and, subsequently, Santa Clara  
4 County.

5         The San Jose Defendants also knew or should have known that the general risk  
6 of sexual assaults against children and, specifically, the risk posed by Fr. Flickinger and  
7 Defendants' other pedophilic and/or ephebophilic agents' propensities to commit, and  
8 history of committing, sexual abuse of children, could be eliminated, or at least  
9 minimized, if they took steps to educate, warn and train children in the San Jose  
10 Defendants' custody and control, as well as those children's parents, and the San Jose  
11 Defendants' employees, agents and volunteers, regarding the danger posed by  
12 pedophilic and ephebophilic clergy, how to recognize and avoid this danger, and how  
13 a child should defend herself or himself when assaulted by pedophilic and/or  
14 ephebophilic clergy. Based on their knowledge of the risk posed by Fr. Flickinger and  
15 Defendants' other pedophilic and/or ephebophilic agents, and the history of sexual  
16 assaults around Fresno County, and, subsequently, Santa Clara County since at least  
17 1972, the San Jose Defendants had a duty to take the aforementioned steps.

18         Notwithstanding the knowledge of the general risk of sexual assaults against  
19 children and, specifically, that Fr. Flickinger and Defendants' other pedophilic and/or  
20 ephebophilic agents had such propensities to commit, and had committed, sexual  
21 abuse of children, and notwithstanding that the San Jose Defendants knew it was not  
22 only reasonably foreseeable but likely that Fr. Flickinger and Defendants' other  
23 pedophilic and/or ephebophilic agents would sexually assault children, the San Jose  
24 Defendants breached their duty to adequately teach, educate, secure, oversee, and  
25 maintain students, including Plaintiff, as well as all other children in the custody and  
26 control of, or in contact with, Catholic clergy, and breached their duty to educate, warn  
27 and train children in the San Jose Defendants' custody and control and/or who they  
28 knew would come into contact with Flickinger, as well as those children's parents and

1 the San Jose Defendants' employees, agents and volunteers, regarding the danger to  
2 children posed by pedophilic and/or ephebophilic clergy, how to recognize and avoid  
3 this danger, and how a child should defend himself or herself when assaulted by  
4 pedophilic and/or ephebophilic clergy.

5 The San Jose Defendants knew or should have known that their failure to  
6 exercise reasonable care, as discussed above, would cause Plaintiff severe emotional  
7 distress and physical injury. Because of the foreseeability and likelihood of sexual  
8 assaults by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents  
9 against Plaintiff and other children, the San Jose Defendants breached their duty of  
10 care to Plaintiff and other children in their custody and control.

11 The failure of the San Jose Defendants to educate, warn and train children in the  
12 San Jose Defendants' custody and control, as well as those children's parents and the  
13 San Jose Defendants' employees, agents and volunteers, regarding the danger to  
14 children posed by pedophilic and/or ephebophilic clergy, how to recognize and avoid  
15 this danger, and how a child should defend himself or herself when assaulted by  
16 pedophilic and ephebophilic clergy, was the proximate cause of Plaintiff's injuries as  
17 alleged herein.

18 60. As a result of the above-described conduct, Plaintiff has suffered, and continues  
19 to suffer great pain of mind and body, shock, emotional distress, physical  
20 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
21 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
22 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
23 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
24 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
25 to incur expenses for medical and psychological treatment, therapy, and counseling.  
26 As a proximate result of these injuries, Plaintiff has suffered general and special  
27 damages in an amount in excess of the jurisdictional minimum of this Court.

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**NINTH CAUSE OF ACTION**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(Against All Defendants)**

61. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

62. Defendants' conduct was extreme and outrageous and was intentional and/or wanton and reckless with a conscious disregard for the rights and safety of Plaintiff and other children. Defendants knew or should have known Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents were spending time, and would continue to spend time in the future, in the company of and assaulting numerous children, including Plaintiff, around Fresno County, and, subsequently, Santa Clara County and other locations, including on school grounds, in the parishes, and in Fr. Flickinger's rectory rooms. Defendants also knew or should have known Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents were high risks to all children as Defendants had received numerous complaints and other notice of prior acts of childhood sexual abuse by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents, and had sent Fr. Flickinger and/or Defendants' other pedophilic and/or ephebophilic agents for treatment for their pedophilia, prior to and after assigning them to work at Defendant Parish and/or Defendant School. Given their knowledge of numerous prior acts of abuse by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents, Defendants knew or should have known that every child exposed to Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents, including Plaintiff, was substantially certain to be assaulted by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents. Defendants knew or should have known, and had the opportunity to learn of, the intentional and malicious conduct of Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents, and thereby ratified and joined in said conduct by failing to terminate, discharge, or at least discipline Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents after learning of their propensities, and/or by

1 failing to warn anyone of Fr. Flickinger's and Defendants' other pedophilic and/or  
2 ephebophilic agents propensities, and/or by failing to prevent them from having contact  
3 with children, and/or by making affirmative representations to future employers  
4 regarding Fr. Flickinger's and Defendants' other pedophilic and/or ephebophilic agents  
5 fitness for employment while failing to disclose negative information about these men.  
6 The conduct of Defendants in confirming, concealing and ratifying that conduct was  
7 done with knowledge that the emotional and physical distress of Plaintiff and other  
8 children exposed to these men would thereby increase, and was done with a wanton  
9 and reckless disregard of the consequences to Plaintiff and other children in their  
10 custody and control.

11 63. As a result of Defendants' conduct, Plaintiff experienced and continues to  
12 experience severe emotional distress resulting in bodily harm.

13 64. As a result of the above-described conduct, Plaintiff has suffered, and continues  
14 to suffer great pain of mind and body, shock, emotional distress, physical  
15 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
16 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
17 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
18 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
19 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
20 to incur expenses for medical and psychological treatment, therapy, and counseling.  
21 As a proximate result of these injuries, Plaintiff has suffered general and special  
22 damages in an amount in excess of the jurisdictional minimum of this Court.

23  
24 **TENTH CAUSE OF ACTION**

25 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

26 **(Against All Defendants)**

27 65. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

28 66. Defendants knew or should have known that their failure to exercise reasonable

1 care in the selection, approval, employment, supervision and transfer to other dioceses  
2 or archdioceses of Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
3 agents, and their failure to warn anyone of the propensities of these men after making  
4 affirmative representations about their fitness for employment, for positions that  
5 included working with children, to current or future employers, would cause severe  
6 emotional distress to Plaintiff and other children exposed to Flickinger. Because of the  
7 foreseeability of sexual assaults by Fr. Flickinger and Defendants' other pedophilic  
8 and/or ephebophilic agents against Plaintiff and other children, Defendants breached  
9 their duty of care in engaging in the conduct referred to in the preceding paragraphs.  
10 Defendants' conduct was wanton and reckless and/or evidenced a conscious disregard  
11 for the rights and safety of Plaintiff and other children.

12 67. The San Jose Defendants also knew or should have known that their failure to  
13 exercise reasonable care in providing adequate supervision to Plaintiff and other  
14 children in their custody and control, despite the fact they knew or should have known  
15 of the threat to children posed by Fr. Flickinger and Defendants' other pedophilic and/or  
16 ephebophilic agents, would cause Plaintiff severe emotional distress. Defendants also  
17 knew or should have known that after making affirmative representations about their  
18 fitness for employment, for positions that included working with children, Defendants'  
19 failure to disclose information relating to sexual misconduct of Fr. Flickinger and  
20 Defendants' other pedophilic and/or ephebophilic agents as described herein would  
21 cause Plaintiff and other children exposed to Flickinger severe emotional distress and  
22 subject them to further assaults. Because of the foreseeability of sexual assaults by  
23 Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents against  
24 Plaintiff and other children, the San Jose Defendants breached their duty to exercise  
25 reasonable care in failing to provide adequate supervision to Plaintiff and other children  
26 in their custody and control. Additionally, Defendants breached their duty to exercise  
27 reasonable care in failing to disclose information to Plaintiff; to his family; to future or  
28 current employers to whom Defendants made affirmative representations about

1 Flickinger's and their other agents' fitness for employment, for positions that included  
2 working with children; and to the general public, relating to sexual misconduct of Fr.  
3 Flickinger and Defendants' other pedophilic and/or ephebophilic agents.

4 68. Finally, Defendants knew or should have known that their creation and  
5 continuance of the Public Nuisance set forth in the preceding paragraphs would cause  
6 Plaintiff and other children severe emotional distress. Because of the foreseeability of  
7 sexual assaults by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
8 agents against Plaintiff and other children as a result of this conduct, Defendants  
9 breached their duty of care in creating and continuing the Public Nuisance referred to  
10 in the preceding paragraphs.

11 69. Plaintiff experienced and continues to experience severe emotional distress  
12 resulting in bodily harm.

13 70. As a result of the above-described conduct, Plaintiff has suffered, and continues  
14 to suffer great pain of mind and body, shock, emotional distress, physical  
15 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
16 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
17 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
18 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
19 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
20 to incur expenses for medical and psychological treatment, therapy, and counseling.  
21 As a proximate result of these injuries, Plaintiff has suffered general and special  
22 damages in an amount in excess of the jurisdictional minimum of this Court.

23 In addition, when Plaintiff finally discovered the negligent misrepresentations of  
24 Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental  
25 and emotional distress that Plaintiff had been the victim of Defendants' negligent  
26 misrepresentations; that Plaintiff had not been able to help other minors being molested  
27 because of the negligent misrepresentations; and that Plaintiff had not been able  
28 because of the negligent misrepresentations and failure to disclose to receive timely



1 medical treatment needed to deal with the problems Plaintiff had suffered and  
2 continues to suffer as a result of the sexual abuse.

3  
4 **ELEVENTH CAUSE OF ACTION**

5 **FRAUD AND DECEIT**

6 **(Against The Fresno and San Jose Defendants)**

7 71. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

8 72. Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents held  
9 themselves out to Plaintiff as Roman Catholic Priests, religious brothers, religious  
10 instructors, counselors, school administrators, school teachers, surrogate parents,  
11 spiritual mentors, emotional mentors, medical services providers and/or care givers,  
12 and/or other authority figures. Fr. Flickinger and Defendants' other pedophilic and/or  
13 ephebophilic agents represented to Plaintiff and Plaintiff's parents that they would  
14 counsel and guide Plaintiff with his educational, spiritual, and/or emotional needs.  
15 Additionally, Fr. Flickinger told Plaintiff that he was examining Plaintiff's genitals to  
16 "make sure everything works." Fr. Flickinger also purported to counsel Plaintiff  
17 regarding his sexual development and/or to hear Plaintiff's confession regarding sexual  
18 matters.

19 73. These representations were made by Fr. Flickinger and Defendants' other  
20 pedophilic and/or ephebophilic agents with the intent and for the purpose of inducing  
21 Plaintiff and Plaintiff's parents to entrust the educational, spiritual, sexual, emotional  
22 and physical well being of Plaintiff with Fr. Flickinger and Defendants' other pedophilic  
23 and/or ephebophilic agents.

24 74. Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents  
25 misrepresented, concealed or failed to disclose information relating to their true  
26 intentions to Plaintiff and Plaintiff's mother when she entrusted Plaintiff to his care,  
27 which were to sexually molest and abuse Plaintiff. Plaintiff justifiably relied upon Fr.  
28 Flickinger's and Defendants' other pedophilic and/or ephebophilic agents'

1 representations.

2 75. Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents were  
3 employees, agents, and/or representatives of the Fresno and San Jose Defendants.  
4 At the time they fraudulently induced Plaintiff and Plaintiff's mother to entrust the care  
5 and physical welfare of Plaintiff to Fr. Flickinger and Defendants' other pedophilic  
6 and/or ephebophilic agents, Fr. Flickinger and Defendants' other pedophilic and/or  
7 ephebophilic agents were acting within the course and scope of their employment with  
8 the Fresno and San Jose Defendants.

9 76. The Fresno and San Jose Defendants are vicariously liable for the fraud and  
10 deceit of Fr. Flickinger and the Fresno and San Jose Defendants' other agents.

11 77. As a result of the above-described conduct, Plaintiff has suffered, and continues  
12 to suffer great pain of mind and body, shock, emotional distress, physical  
13 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
14 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
15 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
16 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
17 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
18 to incur expenses for medical and psychological treatment, therapy, and counseling.  
19 As a proximate result of these injuries, Plaintiff has suffered general and special  
20 damages in an amount in excess of the jurisdictional minimum of this Court.

21 78. In addition, when Plaintiff finally discovered the fraud of the Fresno and San  
22 Jose Defendants, and continuing thereafter, Plaintiff experienced recurrences of the  
23 above-described injuries. In addition, when Plaintiff finally discovered the fraud of the  
24 Fresno and San Jose Defendants, and continuing thereafter, Plaintiff experienced  
25 extreme and severe mental and emotional distress that Plaintiff had been the victim of  
26 the Fresno and San Jose Defendants' fraud; that Plaintiff had not been able to help  
27 other minors being molested because of the fraud; and that Plaintiff had not been able  
28 because of the fraud to receive timely medical treatment needed to deal with the

1 problems Plaintiff had suffered and continues to suffer as a result of the molestations.

2  
3 **TWELFTH CAUSE OF ACTION**

4 **PREMISES LIABILITY**

5 **(Against The San Jose Defendants)**

6 79. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

7 80. At all times herein mentioned, Defendant San Jose Bishop and/or Defendant  
8 Parish and/or Defendant School were in possession of the property where the Plaintiff  
9 was groomed and assaulted by Fr. Flickinger, and had the right to manage, use and  
10 control that property.

11 81. At all times herein mentioned, Defendant San Jose Bishop and/or Defendant  
12 Parish and/or Defendant School knew that Fr. Flickinger and Defendants' other  
13 pedophilic and/or ephebophilic agents had a history of committing sexual assaults  
14 against children, and that any child at, among other locations in Santa Clara County,  
15 Defendant Parish and Defendant School was at risk to be sexually assaulted by Fr.  
16 Flickinger and Defendants' other pedophilic and/or ephebophilic agents.

17 82. The San Jose Defendants knew or should have known that their agents at  
18 Defendant Parish and Defendant School had a history of grooming of and/or sexual  
19 assaults against children committed by Fr. Flickinger and/or Defendants' other  
20 pedophilic and/or ephebophilic agents and that any child at, among other locations in  
21 Santa Clara County, Defendant Parish and Defendant School, was at risk to be  
22 sexually assaulted. It was foreseeable to the San Jose Defendants that Fr. Flickinger  
23 and Defendants' other pedophilic and/or ephebophilic agents would sexually assault  
24 children if they continued to allow Fr. Flickinger and/or Defendants' other pedophilic  
25 and/or ephebophilic agents to teach, supervise, instruct, care for, and have custody and  
26 control of and/or contact with children.

27 83. At all times herein mentioned, the San Jose Defendants knew or should have  
28 known Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic agents were

1 repeatedly committing sexual assaults against children.

2 84. It was foreseeable to the San Jose Defendants that the sexual assaults being  
3 committed by Fr. Flickinger and Defendants' other pedophilic and/or ephebophilic  
4 agents would continue if the San Jose Defendants continued to allow Fr. Flickinger and  
5 Defendants' other pedophilic and/or ephebophilic agents to teach, supervise, instruct,  
6 care for, conduct physical examinations of, and have custody of and/or contact with  
7 young children.

8 85. Because it was foreseeable that the sexual assaults being committed by Fr.  
9 Flickinger and Defendants' other pedophilic and/or ephebophilic agents would continue  
10 if the San Jose Defendants continued to allow them to teach, supervise, instruct, care  
11 for, conduct physical examinations of, and have custody of and/or contact with young  
12 children, the San Jose Defendants owed a duty of care to all children, including  
13 Plaintiff, exposed to Fr. Flickinger and/or Defendants' other pedophilic and/or  
14 ephebophilic agents. The San Jose Defendants also owed a heightened duty of care  
15 to all children, including Plaintiff, because of their young age.

16 86. By allowing Fr. Flickinger and/or Defendants' other pedophilic and/or  
17 ephebophilic agents to teach, supervise, instruct, care for, conduct physical  
18 examinations of, and have custody of and/or contact with young children, and by failing  
19 to warn children and their families of the threat posed by Fr. Flickinger and Defendants'  
20 other pedophilic and/or ephebophilic agents, the San Jose Defendants breached their  
21 duty of care to all children, including Plaintiff.

22 87. The San Jose Defendants negligently used and managed Defendant Parish and  
23 Defendant School, and created a dangerous condition and an unreasonable risk of  
24 harm to children by allowing Fr. Flickinger and Defendants' other pedophilic and/or  
25 ephebophilic agents to teach, supervise, instruct, care for, conduct physical  
26 examinations of, and have custody of and/or contact with young children at, among  
27 other locations, Defendant Parish and Defendant School.

28 88. As a result of the dangerous conditions created by the San Jose Defendants,

1 numerous children were sexually assaulted by Fr. Flickinger and Defendants' other  
2 pedophilic and/or ephebophilic agents.

3 89. The dangerous conditions created by the San Jose Defendants were the  
4 proximate cause of Plaintiff's injuries and damages.

5 90. As a result of these dangerous conditions, Plaintiff has suffered, and continues  
6 to suffer great pain of mind and body, shock, emotional distress, physical  
7 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
8 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
9 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
10 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
11 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
12 to incur expenses for medical and psychological treatment, therapy, and counseling.  
13 As a proximate result of these injuries, Plaintiff has suffered general and special  
14 damages.

15  
16 **THIRTEENTH CAUSE OF ACTION**

17 **CHILDHOOD SEXUAL ABUSE**

18 **(Against Defendant Father Don Flickinger)**

19 91. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

20 92. While Plaintiff was a minor and in the custody and/or under the control and  
21 supervision of Defendant Flickinger, Defendant Flickinger intentionally sexually  
22 molested and assaulted Plaintiff.

23 93. As a result of the above-described conduct, Plaintiff has suffered, and continues  
24 to suffer great pain of mind and body, shock, emotional distress, physical  
25 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
26 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
27 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
28 daily activities and obtaining the full enjoyment of life; has sustained and will continue

1 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
2 to incur expenses for medical and psychological treatment, therapy, and counseling.  
3 As a proximate result of these injuries, Plaintiff has suffered general and special  
4 damages in an amount in excess of the jurisdictional minimum of this Court.

5 94. In doing the acts complained of herein, Defendant Flickinger acted intentionally,  
6 maliciously and with conscious disregard for the rights of Plaintiff, thereby entitling  
7 Plaintiff to punitive damages in an amount to be established at trial.

8

9

**FOURTEENTH CAUSE OF ACTION**  
**SEXUAL BATTERY (CIVIL CODE § 1708.5)**  
**(Against Defendant Flickinger)**

10

11

12 95. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

13 96. In doing the acts of childhood sexual abuse specified herein above, Defendant  
14 Flickinger intentionally touched an intimate part of Plaintiff in a sexually offensive  
15 manner with the intent to harm or offend him, and further acted in such a manner as  
16 to cause Plaintiff to have an imminent apprehension of such contact. Plaintiff did not  
17 consent and could not legally have consented to be so touched by Defendant  
18 Flickinger. Plaintiff was harmed and offended by his conduct.

19 97. As a result of the above-described conduct, Plaintiff has suffered, and continues  
20 to suffer great pain of mind and body, shock, emotional distress, physical  
21 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
22 humiliation, and loss of enjoyment of life; has suffered and continues to suffer  
23 spiritually; was prevented and will continue to be prevented from performing Plaintiff's  
24 daily activities and obtaining the full enjoyment of life; has sustained and will continue  
25 to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
26 to incur expenses for medical and psychological treatment, therapy, and counseling.  
27 As a proximate result of these injuries, Plaintiff has suffered general and special  
28 damages in an amount in excess of the jurisdictional minimum of this Court.

1 98. In doing the acts complained of herein, Defendant Flickinger acted intentionally,  
2 maliciously and with conscious disregard for the rights of Plaintiff, thereby entitling  
3 Plaintiff to punitive damages in an amount to be established at trial. Defendant  
4 Flickinger is further liable to Plaintiff for punitive damages pursuant to Civil Code §  
5 1708.5(b).

6  
7 WHEREFORE, Plaintiff prays for general and special damages; injunctive relief;  
8 attorney's fees and costs; statutory/civil penalties according to law; and such other relief  
9 as the court deems appropriate and just.

10  
11 **JURY DEMAND**

12 Plaintiff demands a jury trial on all issues so triable.

13  
14 DATE: September 28, 2012

NYE, PEABODY, STIRLING, HALE & MILLER, LLP

15  
16 By: 

17 DAVID L. NYE  
18 TIMOTHY C. HALE