

1 DONALD H. STEIER [SBN 58391]  
2 **GUZIN & STEIER**  
3 4525 WILSHIRE BOULEVARD  
4 SUITE 201  
5 LOS ANGELES, CA 90010

6 [323] 932-1600 / Fax [323] 932-1873

7 Special Appearance by Attorney for Certain Non-Party Priests

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 **COORDINATED PROCEEDING**  
11 **SPECIAL TITLE [Rule 1550 (b)]**

12 **The Clergy Cases I**

JUDICIAL COUNCIL COORDINATION  
PROCEEDING NOS. 4286

Trial Coordinating Judge:  
Hon. Emilie H. Elias  
Department 324

13 **DECLARATION OF DONALD H. STEIER**

14 **Date: December 15, 2010**  
15 **Time: 11 a.m.**  
16 **Dept: JAMS Office**  
17 **Hon. Dickran Tevrizian**

18 I, Donald H. Steier, declare as follows:

19  
20 1. I am an adult, competent to testify in this matter, and the facts set forth herein

21 I personally know to be true.

22 2. I am an attorney licensed to practice law in the State of California. I am  
23 familiar with both criminal and civil laws, having served as a Deputy District Attorney for  
24 the County of Los Angeles from 1974 to 1979, and have operated my own private  
25 practice continuously since then.  
26

1 3. I have represented clergy and religious entities since 1982, including scores  
2 of priests of the Roman Catholic Archdiocese of Los Angeles. I have also represented  
3 another Roman Catholic archdiocese, numerous religious orders, and non-Catholic  
4 clergy and entities.

5 4. In the course of my representation of clergy of the Los Angeles Archdiocese, I  
6 have learned the document retention and classification practices of the Archdiocese.  
7 The Archdiocese regularly creates a "personnel file" for each priest who works for it, and  
8 compiles all documents routinely related to employment and assignment therein. If a  
9 priest has any kind of complaint lodged against him or other problem, documents  
10 relating to such matters are placed in a separate "confidential file," and access to those  
11 files is restricted to those working under authority of the diocesan General Counsel or  
12 under authority of the Archbishop himself. The primary person working under authority  
13 of the Archbishop is his alter ego for purposes of overseeing clergy in a large diocese;  
14 that position has been known as "Vicar for Clergy" in recent decades.

15 5. "Confidential files" such as those at issue in this proceeding may contain  
16 complaints and documentation of ensuing activity, including confidential investigation  
17 where needed, regarding such complaints concerning a very wide spectrum of  
18 problems. Ecclesiastical complaints about how a priest comports himself, dresses,  
19 jokes, sings, grooms himself, or recites religious material appear in many of the  
20 confidential files. Other complaints relate to a priest's alleged insubordination, laziness,  
21 diligence, or friction among the clergy. Confidential files also include the estate  
22 planning of priests, material related to their retirement, health insurance, and even  
23 health issues relating to their parents and other family members. Confidential files  
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1 contain private financial information relating to a priest. They also contain evaluations  
2 of a priest's performance as a priest by colleagues and superiors. In some files there  
3 are materials relating to health issues, such as heart attacks, stress-related problems,  
4 and possible excessive use of alcohol. Some documents relate to suspicions or  
5 complaints of inappropriate contact with others, both minors and adults. The files often  
6 contain confidential internal communications to the General Counsel [or, in some cases,  
7 outside counsel] either from the Archbishop or his Vicar for Clergy, who has the front-  
8 line, day-to-day responsibility to investigate matters with potential legal consequences  
9 for the Archbishop and General Counsel. The files also contain confidential  
10 communications from diocesan lawyers to the client. In cases where a priest has been  
11 sent to receive psychological, psychiatric, or medical evaluation or treatment, there is  
12 often a confidential memorandum from the Vicar for Clergy that summarizes the reason  
13 the priest is going to professional therapy. Where the Archdiocese is paying for such  
14 treatment, there are often confidential communications from the medical provider about  
15 progress. Likewise, when a priest-patient requires aftercare treatment connected with  
16 such therapy, there are sometimes confidential communications between the medical  
17 provider and the diocesan employees involved in such therapeutic aftercare.

20 6. The relationship between a Roman Catholic priest and his bishop is uniquely  
21 close. Priests are expected to confide all matter of problems or issues in their lives to  
22 the bishop or his alter ego, the Vicar for Clergy, or another religious superior. For  
23 example, the diocese controls what kind of vehicle a priest drives, or whether he has a  
24 vehicle at all; it controls not only where he lives, but also the décor of his living quarters.  
25 In order to foster this uniquely close relationship, which is integral to Roman Catholic  
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1 dogma that holds that its clergy are representatives of God and Christ on Earth,  
2 confidential communication from priests to their superiors is required and has been  
3 promised to the priests. Every Roman Catholic priest I have represented has believed  
4 his private communications to the Archbishop or Vicar for Clergy or diocesan counsel  
5 would be and remain confidential, based on assurances he had been given at all  
6 relevant times by the diocese. The security of these confidential communications by  
7 priests is exceptionally important to the continuing functioning of the Roman Catholic  
8 Church. To give one small illustration, I am aware that the threat that confidential files  
9 will be disclosed publicly as a result of the instant process has already caused  
10 reluctance on the part of priests and seminarians to be open and candid with their  
11 religious superiors, and even to undergo psychological screening designed to “weed  
12 out” potential problem priests and better protect the public. In that context, this process  
13 is having exactly the opposite effect the court might want, by making it difficult or  
14 impossible for priests and seminarians to be open about their emotional or sexual  
15 problems.  
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18 7. In my defense of priests since 1982, and particularly as to some dozens  
19 relating to these Clergy Cases I have investigated, myself or with other members of my  
20 staff and private investigators, more than a hundred claims of childhood sexual abuse  
21 alleged to have been perpetrated by my clients. In a number of cases, to aid in my  
22 investigation, I have had accused priest clients take polygraph examinations performed  
23 by very experienced former law enforcement experts, including from L.A.P.D., the  
24 Sheriff Department, and F.B.I. In many cases the examinations showed my clients’  
25 denial of wrongdoing was “truthful,” and in those cases I offered in writing to the accuser  
26

1 to undergo a similar polygraph examination at my expense. In every case the accuser  
2 refused to have his veracity tested by that investigative tool, which is routinely used by  
3 intelligence agencies. In my investigation of many cases, I have seen the stories of  
4 some accusers change significantly over time, sometimes altering years, locations, and  
5 what activity was alleged – in every case, the changes seemed to have enabled or  
6 enhanced claims against my clients, or drastically increased alleged damages. In  
7 several cases my investigation has provided objective information that could not be  
8 reconciled with the truthfulness of the subjective allegations. In other words, in many  
9 cases objective facts showed that accusations were false. One retired F.B.I. agent who  
10 worked with me to investigate many claims in the Clergy Cases told me, in his opinion,  
11 about ONE-HALF of the claims made in the Clergy Cases were either entirely false or  
12 so greatly exaggerated that the truth would not have supported a prosecutable claim for  
13 childhood sexual abuse. I also recall that the U.S. Justice Department reported a study  
14 it did regarding convictions for felony sexual assault, and found that slightly more than  
15 30% of the convicts were factually innocent. Recent developments of DNA and other  
16 forensic testing have confirmed the phenomenon that an unacceptably high proportion  
17 of sexual assault accusations based on human testimony without scientific  
18 corroboration are false, what some federal cases euphemistically call “false positives.”

21 8. In these Clergy Cases, based on my experience, it is my opinion that all of the  
22 same factors that lead to a high level of false accusations in sexual assaults generally  
23 are present, and they are catalyzed by certain other factors. When the California  
24 Legislature suspended the statute of limitations for childhood sexual abuse in 2003,  
25 after lobbying by law firms, hundreds of unsworn accusations were filed by those same  
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1 law firms and others. A cottage industry exploded, suing the Roman Catholic  
2 Archdiocese of Los Angeles, in particular. "Victim advocacy" groups -- working closely  
3 with plaintiffs' lawyers in most cases -- maintained hotlines and even a website that  
4 presented detailed information on named priests, from which plaintiffs could learn of  
5 detailed accusations made by others against those priests. A number of my clients  
6 were on that list. The prospect of a lucrative pay-off from the Archdiocese and its  
7 insurers certainly affected some accusations. The cases were settled with no trials  
8 whatsoever, in a process that excluded those most affected - the accused clergy. In  
9 most cases the priests were never named as parties defendant, but the few who were  
10 named ALL refused to settle. Thus, there was NO legal process to separate false  
11 claims from valid claims. I am aware of several plaintiffs who testified that they realized  
12 that they had been abused only after learning that some other person -- sometimes a  
13 relative -- had received a financial settlement from the Archdiocese or another Catholic  
14 institution. I also know that private advocacy groups, such as Survivors' Network for  
15 those abused by Priests [commonly called "S.N.A.P."], are active in supporting victims  
16 of sexual abuse. S.N.A.P. in particular also aggressively attempt to locate and identify  
17 new people who claim to have been victims, and they maintain an interactive Internet  
18 website with a user "Forum" and "Message Board," among other features, where people  
19 can share detailed information between alleged victims pertaining to identity of specific  
20 alleged perpetrators, their alleged "modus operandi," and other details of alleged  
21 molestation. In effect, a person who wanted to make a false claim of sexual abuse by a  
22 priest could go to that website and find a "blueprint" of factual allegations to make that  
23 would coincide with allegations made by other people. Law enforcement also uses the  
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1 S.N.A.P. website to attempt to locate new victims and allegations against Catholic  
2 priests.

3 9. To illustrate, I copied the following verbatim from the S.N.A.P. website:

4 "The San Francisco District Attorney's Office is looking for victims of clergy  
5 abuse in San Francisco. We currently are prosecuting four priests (names  
6 deleted). If you have been a victim of any of these priests, or any other  
7 San Francisco priest, please call our hotline at 415/553-1866.  
8 Thank you."

9 That entry was posted February 3, 2003, and is still accessible through the  
10 S.N.A.P. website.

11 10. I am aware that false memories can also be planted or created by various  
12 psychological processes, including by therapists who might be characterized as "sexual  
13 victim advocates," if not outright charlatans. For example, it is reported that most of the  
14 approximately seven hundred psychiatric "Certificates of Merit" filed in these Clergy  
15 Cases, as required by Code of Civil Procedure § 340.1, were signed by the same  
16 therapist.  
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18 11. It is important to clarify with factual background why some holdings in *Roman*  
19 *Catholic Archbishop of Los Angeles v. Superior Court* [2005] 131 Cal. App.4<sup>th</sup> 417 are  
20 factually distinguished from the facts in these Clergy Cases regarding confidential  
21 psychotherapist-patient communications. I was counsel of record for the priests  
22 involved in that case at all times. That case was a petition for a writ of mandate arising  
23 from some decisions of a referee [Hon. Thomas Nuss, ret.] who worked to determine  
24 claims of privilege arising from motions to quash subpoenas duces tecum from the Los  
25 Angeles County grand jury regarding nearly identical records to those I am informed are  
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1 at issue here. The referee conducted an in camera document-by-document review of  
2 the confidential files of several priests who were clients of mine. During the process of  
3 briefing, filing foundational declarations, and privilege logs, the parties had an  
4 agreement with the referee that he would not deny claims of privilege, and especially  
5 the psychotherapist privilege, on the grounds of inadequate foundational declarations  
6 without first giving us notice of any perceived deficiency and giving us an opportunity to  
7 correct it with detailed declarations. In fact, the District Attorney did not object to the  
8 foundation for the privileges, nor did the referee request any supporting declarations. At  
9 the conclusion of the review, the referee sustained virtually all of the assertions of  
10 therapist-patient privilege, including all psychotherapy reports and communications from  
11 the various therapists, and the communications from the priest or Archdiocese to the  
12 therapist. The assertion of privilege was denied as to a handful of documents that  
13 referenced therapy, but were communicated within the archdiocese. Although we  
14 prevailed in the trial court on virtually all claims of privilege, we took the writ primarily  
15 challenging more fundamental aspects of the proceeding, including the power and  
16 procedure for a state grand jury to subpoena documents at all. In the appellate  
17 proceedings, no party raised or briefed the issue of the sufficiency of the foundational  
18 declarations for the existence of the psychotherapist-patient privilege; however, after  
19 oral argument and without any additional briefing by the parties, the appellate court, *sua*  
20 *sponte*, focused on the issue by inquiring into whether there was sufficient showing  
21 that all communications were “reasonably necessary” to the purpose of the  
22 psychotherapeutic consultation. In subsequent litigation, including in these Clergy  
23 Cases, counsel defending the priests and the Church “learned their lesson,” and made  
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1 a practice of filing foundational declarations that discussed with particularity how each  
2 privileged document was "reasonably necessary" to the consultation. Our privileged-  
3 based objections were sustained and there has been no finding of "waiver". Any  
4 inference that the decision of *Roman Catholic Archbishop of Los Angeles v. Superior*  
5 *Court, supra*, controls in this case is incorrect, since the foundational circumstances are  
6 much different.

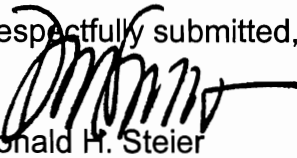
7  
8 12. To this date, I have not seen the actual files that the Archdiocese has prepared for  
9 consideration by this court. I am generally aware of the contents as to my clients,  
10 because for the most part I have seen them in other litigation. However, in my  
11 experience the exact contents of the files may differ, the order of documents within a  
12 file may differ, and the "Bates numbering" of documents almost certainly will differ  
13 between those files prepared for this proceeding and those I have seen before in civil  
14 or criminal litigation. Should the court order in camera review of the individual  
15 documents, it is essential that I be provided with copies of my clients' files so that I  
16 may prepare complete and accurate privilege logs and, where necessary, foundational  
17 declarations to support the claims of privilege. That has not been possible to date.

18  
19 13. I represent the following individual priests whose files are affected by this  
20 proceeding: Michael Baker, Kevin Barmasse, Lynn Caffoe (Deceased), Michael Carroll,  
21 Sean Cronin, John Dawson, Edward Dober, Don Farmer, Walter Fernando, David  
22 Granadino, Roderick Guerrini, Brian Hanley, Richard Henry, Stephen Hernandez, Ted  
23 Llanos (Deceased), Richard Loomis, Richard Martini, George Miller, Donal O'Connor,  
24 Samuel Orellana-Mendoza, Michael Pecharich, Joseph Pina, Michael Roebert, Donald  
25 Roemer, George Rucker, Manuel Sanchez, Carl Sutphin, Michael Terra, Francisco  
26

1 Vitella, Michael Wempe, G. Patrick Ziemann (Deceased). These names are based  
2 upon a list I received from counsel for the Roman Catholic Archbishop of Los Angeles of  
3 files proposed to be turned over to the court. However, I represent several other priests  
4 whose names were not on the list provided by the Archdiocesan lawyers. I have  
5 provided a list of those other priest-clients to the court only, and for its "eyes only." If it  
6 is proposed to consider the files of any of those other priests for disclosure, I request  
7 the same opportunity to defend their respective legal interests.  
8

9 This declaration is made under penalty of perjury under the laws of the State of  
10 California on this 30<sup>th</sup> day of November, 2010, at Los Angeles, California.  
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12 Respectfully submitted,  
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14 Donald H. Steier  
15 Specially Appearing for Certain Non-Party Priests  
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**EXHIBIT 1**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

COURT OF APPEAL - SECOND DIST.

**FILED**

OCT 16 2006

JOSEPH A. LANE Clerk  
E. AMOS Deputy Clerk

LYNN CAFFOE,

Petitioner,

v.

SUPERIOR COURT OF THE STATE OF  
CALIFORNIA FOR THE COUNTY OF  
LOS ANGELES,

Respondent.

THOMAS PEPITO et al.,

Real Parties in Interest.

B193506

(JCCP No. 4286)

(Halcy J. Fromholz, Judge)

NOTICE OF INTENTION TO GRANT  
PEREMPTORY WRIT IN THE FIRST  
INSTANCE and ORDER

THE COURT:\*

We have read and considered (1) the petition for writ of mandate filed on September 6, 2006, (2) the preliminary response lodged conditionally under seal by the Archdiocese of Los Angeles (Archdiocese) on September 19, 2006, (3) the preliminary opposition lodged conditionally under seal by plaintiffs on September 19, 2006, and (4) the reply lodged conditionally under seal by petitioner on September 29, 2006.

We have also read and considered the objections and motion to strike lodged conditionally under seal by the Archdiocese on September 29, 2006. The motion is denied. However, in considering the merits of the petition, we have

considered only the exhibits that were submitted in connection with the petition and plaintiffs' preliminary opposition.

The petition challenges those portions of orders entered by the respondent court on July 26, 2006, July 28, 2006, and August 17, 2006, requiring the Archdiocese to produce to plaintiffs nearly all documents in its possession which relate to petitioner and which are sought in the Standardized Document Request from Plaintiff to Each Defendant (deemed served on January 23, 2006).<sup>1</sup>

Based on the record before us we have concluded the respondent court erred in two limited respects. First, the court erred to the extent it required the Archdiocese to produce attorneys' fees statements that petitioner submitted to the Archdiocese. The statements may contain attorney-client and attorney work product materials. At the same time, it is the *fact* of submission of the billing statements and/or payment of legal bills that appears to be relevant to the legal point that plaintiffs wish to make. At the present stage in the proceedings, there appears to be no relevance to the contents of the billing statements. Therefore, we intend to grant relief insofar as the petition challenges the compelled production of these statements.

✓ Second, the respondent court erred to the extent it rejected the privacy contentions raised by petitioner and the Archdiocese without first conducting an in camera review of each document to which the right of privacy was asserted.

"Information that is not protected by statutory privilege may nonetheless be shielded from discovery, despite its relevance, where its disclosure would invade an individual's right of privacy. [Citation.] The right of privacy is an 'inalienable right' secured by article I, section 1 of the California Constitution. [Citation.] It

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<sup>1</sup> We understand, however, that the respondent court agreed to conduct an in camera review of documents for which a psychotherapist-patient privilege claim was asserted.

OCT. 16. 2006 2:57PM

protects against the unwarranted, compelled disclosure of various private or sensitive information regarding one's personal life [citation], including his or her financial affairs [citation], political affiliations [citation], medical history [citation], sexual relationships [citation], and confidential personnel information [citation]." (*Hooser v. Superior Court* (2000) 84 Cal.App.4th 997, 1003-1004.)

Of course, "[t]he constitutional right of privacy does not provide absolute protection against disclosure of personal information; rather it must be balanced against the countervailing public interests in disclosure. [Citation.] For example, there is a general public interest in ""facilitating the ascertainment of truth in connection with legal proceedings"" [citation] and in obtaining just results in litigation [citation]. . . . If these public interests in disclosure of private information are found to be 'compelling,' the individual's right of privacy must give way and disclosure will be required." (*Hooser, supra*, 84 Cal.App.4th at p. 1004.)

"In determining whether disclosure is required, the court must indulge in a 'careful balancing' of the right of a civil litigant to discover relevant facts, on the one hand, and the right of the third parties to maintain reasonable privacy regarding their sensitive personal affairs, on the other. [Citation.] The court must consider the purpose of the information sought, the effect that disclosure will have on the affected persons and parties, the nature of the objections urged by the party resisting disclosure and availability of alternative, less intrusive means for obtaining the requested information. [Citation.] Based on an application of these factors, the more sensitive the nature of the personal information that is sought to be discovered, the more substantial the showing of the need for the discovery that will be required before disclosure will be permitted." (*Hooser, supra*, 84 Cal.App.4th at p. 1004.)

In this case, the trial court correctly engaged in a balancing analysis. However, in doing so, the court did not have the relevant documents before it.

Therefore, it was not in a position to consider the degree to which a particular document contains sensitive personal information, plaintiffs' need to obtain the information contained in the document, the availability of alternative, less intrusive means for obtaining the information, and other factors which are required to perform a meaningful balancing analysis.

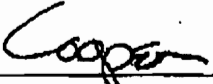

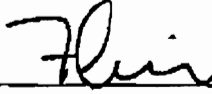
In light of the above, we also intend to grant relief insofar as the petition challenges the compelled production of documents for which a claim of privacy has been asserted and to require the respondent court to conduct an in camera review of the relevant documents to consider the privacy interests of petitioner and other persons.

Accordingly, the parties are notified of our intention to issue a peremptory writ in the first instance (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171; *Ng v. Superior Court* (1992) 4 Cal.4th 29, 35), directing the respondent court to vacate those portions of its orders entered on July 26, 2006, July 28, 2006, and August 17, 2006, which require the Archdiocese to produce to plaintiffs documents relating to petitioner, and to thereafter enter a new and different order directing the Archdiocese (1) not to produce any attorneys' fees statements submitted by petitioner to the Archdiocese, and (2) to produce all other documents to the respondent court for an in camera review to consider, as to each document, whether the privacy rights of petitioner or other persons preclude their production to plaintiffs.

The respondent court may avoid the issuance of a peremptory writ by proceeding as we have suggested above. If the respondent court elects to do so, it is requested to transmit to this court (by facsimile or other method) a copy of the minute order reflecting its action on or before November 2, 2006.

If the respondent court elects not to proceed as we have suggested, any real party in interest may serve and lodge conditionally under seal, on or before November 13, 2006, plenary opposition to the petition. <sup>2</sup>

Our temporary stay order of September 6, 2006, shall remain in effect until either (1) the respondent court proceeds as suggested above, or (2) further order of this court, whichever occurs first.

		
*COOPER, P.J.,	RUBIN, J.,	FLIER, J.

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<sup>2</sup> We address sealing issues by way of a separate order to be issued concurrently with, or shortly after, the filing of this order.





**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 10/30/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ

JUDGE

P. SOLIS

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. LAM CRT ASST

Deputy Sheriff

NONE

Reporter

JCCP4286

Plaintiff

Counsel

THE CLERGY CASES I

(No appearances)

Defendant

Counsel

B193506

**NATURE OF PROCEEDINGS:**

ORDER IN RESPONSE TO THE SECOND DISTRICT COURT OF APPEAL'S NOTICE OF INTENTION TO GRANT PEREMPTORY WRIT IN THE FIRST INSTANCE AND ORDER

In light of the Court of Appeal's Notice of Intention to Grant Peremptory Writ in the First Instance and Order of October 17, 2006, the Court takes the following actions:

First, the Court amends the July 26, 2006; July 28, 2006; and the August 17, 2006 Orders to the extent that they require the Archdiocese to produce attorneys' fees statements that the petitioner submitted to the Archdiocese: The Archdiocese is not required to produce these statements.

Second the Court orders the parties to submit to the Court immediately those documents called for by the July 26, 2006, July 28, 2006, and August 17, 2006 Orders for which a claim of privacy has been asserted, so that the Court may conduct an in camera review of the documents to consider the privacy interests of petitioner and other persons. The submitting party should accompany its submission with a log identifying each document and explaining why the party believes the privacy objection to each document should be sustained.

The Orders are otherwise to be complied with

<p align="center"><b>MINUTES ENTERED</b> 10/30/06 COUNTY CLERK</p>
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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 10/30/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ

JUDGE P. SOLIS

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. LAM CRT ASST

Deputy Sheriff

NONE

Reporter

JCCP4286

Plaintiff

Counsel

THE CLERGY CASES I

(No appearances)

Defendant

Counsel

B193506

**NATURE OF PROCEEDINGS:**

immediately.

CLERK'S CERTIFICATE OF MAILING/  
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 10-30-06 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: 10-30-06

John A. Clarke, Executive Officer/Clerk

By: \_\_\_\_\_  
P. Solis, Deputy

MINUTES ENTERED 10/30/06 COUNTY CLERK
---

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DATE: 10/30/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ

JUDGE P. SOLIS

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. LAM CRT ASST.

Deputy Sheriff

NONE

Reporter

JCCP4286

Plaintiff

Counsel

THE CLERGY CASES I

(No appearances)

Defendant

Counsel

B193506

**NATURE OF PROCEEDINGS:**

Anthony De Marco  
Kiesel Boucher Larson  
8648 Wilshire Blvd  
Beverly Hills CA 90211

Donald Woods  
Hennigan Bennett Dorman  
865 S. Figueroa St. Suite 2900  
Los Angeles CA 90017

Court of Appeal  
2nd Appellate District  
Division Eight  
300 S. Spring Street  
Los Angeles CA 90012

**RECEIVED**  
**NOV - 1 2006**

MINUTES ENTERED 10/30/06 COUNTY CLERK
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BLUES



SUPERIOR COURT OF CALIFORNIA, [REDACTED]

DATE: 06/07/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ -Clergy JUDGE

GLENN NAKAGAKI

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. FREGOSO, CRT ASST

Deputy Sheriff

LAUREN ENGEL

Reporter

8:30 am

JCCP4286

THE CLERGY CASES I

Plaintiff Anthony DeMarco  
 Counsel Katherine Freberg  
 Irwin Zalkin  
 Defendant \*  
 Counsel Donald Woods  
 James Habel  
 Susan Oliver  
 \*\*

NATURE OF PROCEEDINGS:

* Plaintiff Counsel	** Defense Counsel
Devin Storey	Michael Webb
Timothy Hale (CourtCall)	Donald Steier
	J.E. Holmes
	Robert K. Jassoy
	John Clifford
	Daniel Holden
	Keiko J. Kojima
	Peter Maretz
	Justin Morello

LIAISON COUNSELS' MOTION FOR A PROTECTIVE ORDER

The Court issues the following Protective Order governing information which is discovered in any coordinated suit:

A. Protected Information

The following information ("protected information") is not to be disclosed:

- 1) Names of plaintiffs and alleged perpetrators not already disclosed to the public.
- 2) Names of current and former employees and agents of the defendants, unless they are public figures, or unless they are named as parties in a coordinated complaint by their true names, in accordance with Code of Civil Procedure (CCP)

MINUTES ENTERED 06/07/06 [REDACTED]
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SUPERIOR COURT OF CALIFORNIA, [REDACTED]

DATE: 06/07/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ -Clergy JUDGE

GLENN NAKAGAKI

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. FREGOSO, CRT ASST

Deputy Sheriff

LAUREN ENGEL

Reporter

8:30 am

JCCP4286

THE CLERGY CASES I

Plaintiff	Anthony DeMarco
Counsel	Katherine Freberg
	Irwin Zalkin
Defendant	*
Counsel	Donald Woods
	James Habel
	Susan Oliver
	**

NATURE OF PROCEEDINGS:

section 340.1(g) - (o).

- 3) Names of non-party victims.
- 4) Names of other witnesses, unless named as parties in the complaint by their true names, in accordance with CCP section 340.1 (g) - (o).
- 5) Background information that could potentially lead to the revelation of protected Plaintiffs', alleged perpetrators', employees', or witnesses' identity.
- 6) Information (such as employment, medical, psychiatric, financial, and similar records) regarding individual plaintiffs, individual defendants, and non-party alleged perpetrators. ✓

The prohibition on disclosure applies to both written and verbal disclosure.

B. Exceptions

All attorneys of record may have access, to the extent necessary to prosecute or defend their cases, to all protected information contained in discovery responses in all of the coordinated Clergy I and II actions, including the information stored in Sousa.

Pro se litigants must apply to the Court for

MINUTES ENTERED
06/07/06
[REDACTED]

SUPERIOR COURT OF CALIFORNIA

DATE: 06/07/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ -Clergy JUDGE

GLENN NAKAGAKI

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. FREGOSO, CRT ASST

Deputy Sheriff

LAUREN ENGEL

Reporter

8:30 am JCCP4286

THE CLERGY CASES I

Plaintiff Anthony DeMarco  
Counsel Katherine Freberg  
Irwin Zalkin  
Defendant \*  
Counsel Donald Woods  
James Habel  
Susan Oliver  
\*\*

NATURE OF PROCEEDINGS:

permission to have access to protected information.

When necessary, protected information may be disclosed by attorneys of record to their parties, experts, investigators, and other agents, and insurance carriers claimed to cover cases for which the attorney is responsible. Any such person or entity to whom protected information is disclosed must sign an acknowledgment that they have read and understand the terms of this Order, that they agree to abide by its terms, and that they understand that violation of the Order may result in sanctions for contempt of court.

It is the responsibility of counsel to act in good faith in determining the extent to which dissemination of information is necessary to further the resolution of the litigation, and in controlling the actions of others acting on their behalf and their clients. In particular, investigations are to be conducted in such a way as to avoid disclosure of protected information to the extent possible.

Liaison counsel is to provide notice.

CLERK'S CERTIFICATE OF MAILING/  
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I

MINUTES ENTERED  
06/07/06



SUPERIOR COURT OF CALIFORNIA, [REDACTED] S

DATE: 06/07/06

DEPT. 20

HONORABLE HALEY J. FROMHOLZ -Clergy JUDGE

GLENN NAKAGAKI

DEPUTY CLERK

HONORABLE JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. FREGOSO, CRT ASST Deputy Sheriff

LAUREN ENGEL

Reporter

8:30 am JCCP4286

THE CLERGY CASES I

Plaintiff Anthony DeMarco  
Counsel Katherine Freberg  
Irwin Zalkin  
Defendant \*  
Counsel Donald Woods  
James Habel  
Susan Oliver  
\*\*

NATURE OF PROCEEDINGS:

served Notice of Entry of the above minute order of June 7, 2006 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: June 8, 2006

John A. Clarke, Executive Officer/Clerk

By:   
Glenn Nakagaki, Deputy Clerk

Kiesel Boucher Larson  
Anthony DeMarco  
8648 Wilshire Boulevard  
Beverly Hills, California 90211

Hennigan, Bennett & Dorman  
Donald Woods  
865 South Figueroa Street, 29th Floor  
Los Angeles, California 90017

MINUTES ENTERED  
06/07/06  
[REDACTED]



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2 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

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ORIGINAL FILED  
11-15-06  
LOS ANGELES SUPERIOR  
COURT

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) Case No.: JCCP4286

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THE CLERGY CASES I

)

) ORDER

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RE: BC307225

)

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THOMAS MICHAEL PEPITO, ET AL.,

)

11

Vs. DOE DEFENDANTS

)

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)

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Order Regarding Assertions of Psychotherapist-Patient Privilege with respect  
to Documents Lodged by Defendant Doe 1 for In Camera Review

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The objections based on psychotherapist-patient privilege are  
sustained.

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On July 26, 2006 and July 28, 2006, the Court issued orders with  
respect to (1) Plaintiffs' Omnibus Motion to Compel Further Responses and  
Documents to Standardized Document Requests; (2) Plaintiffs' Motion to Compel  
Further Responses to Standardized Interrogatories; and (3) Plaintiff's Motion  
to Compel Further Responses to Requests for Admissions.

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In the above orders and at the hearing on the above motions, the Court  
ordered the parties to submit meet and confer statements on outstanding  
issues. On August 17, 2006, the Court issued a further order with respect to

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1 the above motions, in light of the meet and confer statements. In the August  
2 17, 2006 Order, the Court stated that, pursuant to stipulation, it would  
3 conduct an in camera review of documents as to which the Archdiocese of Los  
4 Angeles and Defendant Doe 1 asserted a psychotherapist-patient privilege.  
5 [August 17, 2006 Order 18:1-11; See Plaintiff's Response to Defendant's Meet  
6 & Confer Statement, August 4, 2006 at 12:19-17:14].

7 Defendant Doe 1 filed a Petition for Writ of Mandate in the Court of  
8 Appeal on September 6, 2006. This petition appears to have sought to prevent  
9 disclosure only of Defendant Doe 1's employment records, not the  
10 psychotherapist records that are the subject of this Order. Indeed, on  
11 October 16, 2006, the Court of Appeal entered a Notice of Intention to Grant  
12 Peremptory Writ in the First Instance and Order, in which it directed this  
13 Court to conduct an in camera review of documents to which a privacy  
14 objection was asserted. The Notice made no mention of documents as to which  
15 a psychotherapist-patient privilege was asserted.

16 This Order is limited to a ruling on assertions of the psychotherapist-  
17 patient privilege by the Archdiocese and Defendant Doe 1 as to the following  
18 documents:

19 CIVCAFFO Nos.: 000283-284; 000301-305; 000307-311; 000313-320; 000343-  
20 344; 000348; 000351-352; 000353-354; 000355-356; 000358-361; 000362-363;  
21 000368-370; 000376-377; 000481-483; 000484-487; 000488; 000490; 000498-501;  
22 000503; 000509; 000515-517; 000522; 000537-38, 543-44, 546-53; 000554-557;  
23 000563-65; 000571; 000578-618, 621-641; 000646; 000647-650. [See Notice of  
24 Lodging Exh.3].

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The Court notes that Defendants submitted additional documents for context as to which the psychotherapist-patient privilege was not asserted. [See Notice of Lodging 2:4-6].

Dated: November 15, 2006

\_\_\_\_ (SIGNED) (HALEY J. FROMHOLZ) \_\_\_\_\_

HALEY J. FROMHOLZ

JUDGE OF THE SUPERIOR COURT

**AFFIDAVIT AND DECLARATION OF PROOF OF SERVICE**  
(C.C.P. Section 1013a[3] and 2015.5)

STATE OF CALIFORNIA                    )  
  )        SS  
COUNTY OF LOS ANGELES                )

I, the undersigned, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. I am employed by Guzin & Steier ("the firm"); my business address is 4525 Wilshire Boulevard, Suite 201, Los Angeles, CA 90010.

On December 1, 2010, I served the foregoing document(s) described as *Objection and Memorandum of Points and Authorities in Support of Objections to Disclosure of Privileged Employee Information* on the interested parties to this action by personal service and by placing cop(ies) thereof, enclosed in a sealed envelope(s) with postage thereon fully prepaid and by causing such envelope(s) to be deposited in the mail at Los Angeles, California cop(ies) thereof, addressed as follows:

Plaintiff Attorneys:

Raymond Boucher, Esq.  
Kiesel, Boucher & Larson  
8648 Wilshire Boulevard  
Beverly Hills, California 90211

Defense Attorneys:

Don Woods, Esq.  
Hennigan Bennett & Dorman  
865 South Figueroa Street  
Suite 2900  
Los Angeles, CA 90017

By Hand:

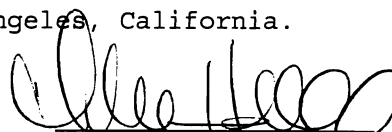
Hon. Dickran Tevrizian  
1635 Lombardy Road  
Pasadena, CA 91106

Electronic copies were emailed to Mr. Boucher and Mr. Hennigan on December 1, 2010.

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 1, 2010, at Los Angeles, California.

  
Michelle Hermosillo