

NOV 16 2006

John A. Clarke, Executive Officer/Clerk  
By D.M. Swain Deputy

1 Lawrence E. Drivon, SBN 46660  
David E. Drivon, SBN 158369  
2 Robert T. Waters, SBN 196833  
The Drivon Law Firm  
3 215 N. San Joaquin Street  
Stockton, CA 95202  
4 (209) 644-1234

5 Michael G. Finnegan, SBN 241091  
Jeff Anderson & Associates  
6 E-1000 First National Bank Bldg.  
332 Minnesota Street  
7 St. Paul, Minnesota 55101  
(651) 227-9990

8 Attorneys for Plaintiff  
9 Juan Doe 100

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 LOS ANGELES COUNTY, CENTRAL DISTRICT

12 BC361997

13 JUAN DOE 100

14 Plaintiff,

15 vs.

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

23 Defendants

) Case No:

) COMPLAINT FOR DAMAGES FOR:

- ) (1) Negligence – Mahony & L.A. Archdiocese
- ) (2) Negligent Supervision/Failure to Warn– Mahony & L.A. Archdiocese
- ) (3) Negligent Hiring/Retention–Mahony & L.A. Archdiocese
- ) (4) Negligence – Rivera & Tehuacan Diocese
- ) (5) Negligent Supervision/Failure to Warn– Rivera & Tehuacan Diocese
- ) (6) Negligent Hiring/Retention--Rivera & Tehuacan Diocese
- ) (7) Negligent Failure to Warn--Rivera & Tehuacan Diocese
- ) (8) Civil Conspiracy– All Defendants
- ) (9) Negligence Per Se– All Defendants
- ) (10) Intentional Infliction of Emotional Distress– All Defendants
- ) (11) Sexual Battery– Mahony, L.A. Archdiocese, Rivera & Tehuacan Diocese
- ) (12) Sexual Battery– Fr. Nicholas Aguilar

24 Plaintiff, Juan Doe 100, complains against the Defendants, and each of them as follows:  
25  
26  
27  
28

COMPLAINT FOR DAMAGES

**PARTIES**

1  
2           1.       Plaintiff Juan Doe 100 is an adult male. Plaintiff was a minor at the time of the  
3 sexual abuse alleged herein. Plaintiff's identity is made known to Defendants under separate letter.

4           2.       Cardinal Roger Mahony is the head of the Archdiocese of Los Angeles. Cardinal  
5 Mahony was in this position at all times material. Mahony is sued in his individual capacity and in  
6 his official capacity as head of the Archdiocese of Los Angeles.

7           3.       At all times material, defendant The Roman Catholic Archbishop of Los Angeles, a  
8 Corporation Sole, (hereinafter "Archdiocese of Los Angeles") was and continues to be a California  
9 corporation authorized to conduct business and conducting business in the State of California with  
10 its principal place of business at 1531 West Ninth St., Los Angeles, California.

11          4.       Cardinal Norberto Rivera (also known as Cardinal Norberto Rivera Carrera) was at  
12 all times material the head of the Diocese of Tehuacan. Cardinal Rivera is sued in his individual  
13 capacity and in his official capacity as the former head of the Diocese of Tehuacan.

14          5.       At all times material, defendant the Diocese of Tehuacan was and continues to be an  
15 organization, business form unknown, operating in the United States and California with its principal  
16 place of business in Tehuacan, Puebla, Mexico. The Diocese of Tehuacan has used and had  
17 employees and agents working in the United States and California.

18          6.       At all times material, Nicholas Aguilar (also known as Nicholas Aguilar Rivera) was  
19 a Roman Catholic Priest ordained by the Diocese of Tehuacan and serving with the express  
20 permission of Archbishop Mahony and the Bishop of the Diocese of Tehuacan in the Archdiocese  
21 of Los Angeles. Nicholas Aguilar is currently a fugitive of justice with outstanding arrest warrants  
22 issued by the State of California stemming from Nicholas Aguilar's unlawful sexual conduct/rape  
23 of minors. Nicholas Aguilar's current whereabouts are unknown but it is believed that Nicholas  
24 Aguilar is in Mexico and is being harbored by defendants named herein.

25          7.       Defendant Does 1 through 100, inclusive, are individuals and/or business or corporate  
26 entities incorporated in and/or doing business in California whose true names and capacities are

1 unknown to Plaintiff who therefore sues such defendants by such fictitious names, and who will  
2 amend the Complaint to show the true names and capacities of each such Doe defendant when  
3 ascertained. Plaintiff alleges upon information and belief that each such Defendant Doe is legally  
4 responsible in some manner for the events, happenings and/or tortious and unlawful conduct that  
5 caused the injuries and damages alleged in this Complaint. Each of the Defendant Does 1 through  
6 100 is the agent, servant and/or employee of the other Defendants.

7 8. Defendants Diocese of Tehuacan and Cardinal Rivera were conducting business in  
8 California. Both also had an employee or agent working in California. The agent or employee was  
9 paid for his work in California. Cardinal Rivera and the Diocese of Tehuacan corresponded on this  
10 business with representatives of the church in California. Cardinal Rivera and the Diocese of  
11 Tehuacan conspired to violate or aid in the violation of California laws. Cardinal Rivera and the  
12 Diocese of Tehuacan conspired with their business operations in California to cover up and suppress  
13 any publicity of the felony crimes committed by its agent in California upon numerous children in  
14 California. Cardinal Rivera and the Diocese of Tehuacan accomplished their goal of minimizing  
15 public scandal and exposure of them in California and their agent's problems with the sexual abuse  
16 of minors. Cardinal Rivera and the Diocese of Tehuacan sent an agent with a history of sexual  
17 misconduct to California. Cardinal Rivera and the Diocese of Tehuacan caused a tortious injury by  
18 their concealment, aiding of, and facilitating of Fr. Nicholas Aguilar fleeing California.

19 9. Each Defendant is the agent, servant and/or employee of other Defendants, and each  
20 Defendant was acting within the course and scope of his, her or its authority as an agent, servant  
21 and/or employee of the other Defendants. Defendants, and each of them, are individuals,  
22 corporations, partnerships and other entities which engaged in, joined in and conspired with the other  
23 wrongdoers in carrying out the tortious and unlawful activities described in this Complaint.

24 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

25 10. Plaintiff was raised in a devoutly Roman Catholic family, was baptized, confirmed  
26 and regularly celebrated weekly mass and received the sacraments through the Roman Catholic  
27

1 Church. Plaintiff was also educated and taught the doctrines, theology and tenets of the Roman  
2 Catholic Church on matters of faith, morals, and religious doctrine. Plaintiff therefore developed  
3 great admiration, trust, reverence and respect for, and obedience to, Roman Catholic clergy, who  
4 occupied a position of great influence and persuasion as holy men and authority figures.

5 11. Fr. Nicholas Aguilar (also known as Nicholas Aguilar Rivera) was a priest at all times  
6 material. Fr. Nicholas Aguilar was an adult at the time that he sexually abused Juan Doe 100 as a  
7 child.

8 12. In the late 1960's Nicholas Aguilar tried to molest a student while he was in seminary.

9 13. In the late 1960's, a seminary classmate of Nicholas Aguilar, found out that Nicholas  
10 Aguilar sexually attacked another seminary classmate.

11 14. This seminary student reported to the priests in charge of the seminary that Nicholas  
12 Aguilar sexually attacked another seminary student. The seminary kicked the student that reported  
13 the attack by Nicholas Aguilar out of school.

14 15. On July 27, 1970 Fr. Nicholas Aguilar was ordained a priest of Defendant Diocese  
15 of Tehuacan.

16 16. In 1976 Fr. Nicholas Aguilar become the first parish priest of San Sebastian Parish  
17 in Cuacnopalan.

18 17. In 1986 or 1987 Fr. Nicholas Aguilar was brutally beaten at his parish residence.  
19 Police suspected one or more of the many young male visitors to the rectory, but Fr. Nicholas  
20 Aguilar asked that the case not be prosecuted.

21 18. On January 27, 1987 Defendant Norberto Rivera, then the Bishop of Tehuacan wrote  
22 to Defendant Roger Mahony, then Archbishop of Los Angeles, regarding the possibility that Fr.  
23 Nicholas Aguilar could come and work as a priest in Los Angeles. In this letter Defendnat Norberto  
24 Rivera informed Defendant Roger Mahony and Defendant Archdiocese of Los Angeles of a  
25 summary of Fr. Nicholas Aguilar's "homosexual problems."

1           19.     In February or early March of 1987, Defendant Norberto Rivera and Defendant  
2 Diocese of Tehuacan transferred Fr. Nicholas Aguilar to the Archdiocese of Los Angeles, where  
3 Defendant Roger Mahony was in charge.

4           20.     On March 16, 1987 Defendant Roger Mahony employed Fr. Nicholas Aguilar as  
5 associate pastor at Our Lady of Guadalupe Church, Los Angeles.

6           21.     Sometime between March and May of 1987, a Fr. Nicholas Aguilar victim, a child,  
7 tells Juan Robles, a part-time caretaker at Our Lady of Guadalupe, about Aguilar's misconduct.

8           22.     On March 23, 1987, Defendant Norberto Rivera sent Defendant Roger Mahony a  
9 confidential letter that according to Rivera "provided a summary of [Aguilar's] homosexual  
10 problems." This summary of "homosexual problems" included the long series of sexual abuse of  
11 minors by Fr. Nicholas Aguilar while serving as a Roman Catholic Priest in Mexico.

12           23.     On May 18, 1987 Archbishop Mahony assigned Fr. Nicholas Aguilar to St. Agatha  
13 in Los Angeles and appointed him as Associate Pastor with full faculties to serve in all capacities  
14 as a Roman Catholic Priest and thereby represented to the Community of Faith that Fr. Nicholas  
15 Aguilar was safe and celibate and able to adequately care for and protect the souls entrusted to his  
16 care by virtue of his position as a Roman Catholic priest.

17           24.     In December of 1987 two altar boys, minors at the time, from Our Lady of Guadalupe  
18 tell their mom that Fr. Nicholas Aguilar molested them.

19           25.     Sometime between December of 1987 and January 8, 1988, the mother of the two  
20 altar boys reported abuse to Fr. Bill McClean, pastor of Our Lady of Guadalupe in Los Angeles.

21           26.     At all times material Fr. Bill McClean was an agent of the Archdiocese of Los  
22 Angeles and its leader Defendant Roger Mahony.

23           27.     On January 6, 1988, Fr. Nicholas Aguilar contacted the families of some of the young  
24 boys he molested. Fr. Nicholas Aguilar told the families they should not pursue anything with the  
25 police.

26           28.     Sometime on or before January 8, 1988, Defendant Archdiocese of Los Angeles was  
27

1 notified that Fr. Nicholas Aguilar was molesting children in Los Angeles.

2 29. On January 8, 1988, Fr. McClean contacted Msgr. Thomas Curry, the Vicar for  
3 Clergy for the Archdiocese of Los Angeles, to report Fr. Nicholas Aguilar's sexual abuse of  
4 children.

5 30. At all times material, Msgr. Thomas Curry was an agent of and official of the  
6 Archdiocese of Los Angeles and its leader Defendant Roger Mahony.

7 31. On information and belief, Cardinal Mahony and the Archdiocese of Los Angeles  
8 communicated with Tehuacan and Defendant Cardinal Rivera about Fr. Nicholas Aguilar's abuse  
9 of children.

10 32. On January 9, 1988, Msgr. Curry confronted Fr. Nicholas Aguilar with the allegations  
11 that Aguilar molested children. Fr. Nicholas Aguilar told Msgr. Curry that he was going to return  
12 to Mexico. In direct violation of California law, Msgr. Curry DID NOT alert the police or other  
13 authorities of either Fr. Nicholas Aguilar's expressed intent to flee the country or of Fr. Nicholas  
14 Aguilar's sexual abuse of minors. These actions aided, assisted and facilitated Fr. Nicholas  
15 Aguilar's ability to flee the United States of America.

16 33. On the evening of January 9, 1988, Aguilar was taken to Tijuana, Mexico.

17 34. On January 11, 1988, the Principal at Our Lady of Guadalupe, Sister Renee, reported  
18 to the police that Fr. Nicholas Aguilar had molested children. This is the first report to any law  
19 enforcement agency of Fr. Nicholas Aguilar's childhood sexual abuse by a person affiliated with  
20 the Archdiocese of Los Angeles.

21 35. At all times material, Sister Renee was an agent of and under the direction of the  
22 Archdiocese of Los Angeles and Cardinal Roger Mahony.

23 36. In 1988 the Los Angeles police investigation found that Fr. Nicholas Aguilar sexually  
24 abused at least 26 minor parishioners in the nine month period while serving as a Roman Catholic  
25 Priest in Los Angeles, California. During the time that Fr. Nicholas Aguilar was perpetrating the  
26 sexual abuse upon minors he was serving under the express permission and supervision of Defendant  
27

1 Roger Mahony.

2 37. On March 4, 1988 Defendant Roger Mahony wrote to Defendant Norberto Rivera  
3 about Aguilar: "It is almost impossible to determine precisely the number of young altar boys he has  
4 sexually molested, but the number is large. . . . This priest must be arrested and returned to Los  
5 Angeles to suffer the consequences of his immoral actions."

6 38. On March 17, 1988 Defendant Norberto Rivera wrote back to Archbishop Mahony:  
7 "You will understand that I'm not in a position to find him, much less force him to return and appear  
8 in court. . . . In the letter of presentation of January 27, 1987, I included an identification  
9 photograph, and in the confidential letter of March 23 of the same year, I provided a summary of the  
10 priest's homosexual problems."

11 39. On March 30, 1988 Defendant Roger Mahony wrote back to Defendant Norberto  
12 Rivera: "I would like to tell you that I have not received any letter from you dated March 23, 1987,  
13 nor any other information concerning "the homosexual problems of the priest." . . . We have here  
14 in the Archdiocese of Los Angeles a clear plan of action: we do not admit priests with any  
15 homosexual problems."

16 40. On April 7, 1988 the Los Angeles police charged Fr. Nicholas Aguilar with 19 felony  
17 counts of Lewd Act upon a Child.

18 41. In October of 1994, Nicholas Aguilar raped a 13 year old altar boy named Joaquin  
19 Aguilar Mendez during mass at parish in Mexico City. Aguilar threatened the 13 year old boy in  
20 order to try to keep him quiet.

21 42. In late October-early November 1994, about 3 weeks after the rape, Joaquin's parents  
22 reported the rape to Fr. Candido at the White Towers Church. Fr. Candido told them to go to the  
23 police.

24 43. At all times material, Fr. Candido was an agent of and under the direction of the  
25 Archdiocese of Mexico and Cardinal Norberto Rivera.

26 44. On November 1, 1994, the 13 year old altar boy and his parents went to the police.  
27

1           45.     On information and belief, Cardinal Norberto Rivera, the Archdiocese of Mexico and  
2 the Diocese of Tehuacan all knew that Nicholas Aguilar had been reported to the police for child  
3 abuse.

4           46.     In 1995, Noberto Rivera was appointed Archbishop of Mexico.

5           47.     In 1995, Mexican prosecutors took the Los Angeles complaint of 10 victims to the  
6 Mexican Court. The judge dismissed the case as too old to prosecute. In 2002, Jorge Garcia  
7 Villalobos, who was the Mexican Consulate attorney in Los Angeles told the Los Angeles police that  
8 the case did not get prosecuted because "the system was never going to prosecute a priest."

9           48.     On information and belief, Cardinal Norberto Rivera, the Archdiocese of Mexico and  
10 the Diocese of Tehuacan all knew that Nicholas Aguilar had been reported to the Mexican  
11 prosecutors for his abuse of numerous children in Los Angeles.

12          49.     At sometime in or before 1997, Nicholas Aguilar was placed back in the Diocese of  
13 Tehuacan for his job. Aguilar worked at a church called Capilla de Juquilita in Aeropuerto.

14          50.     In 1997 Juan Doe 100 was a 13 year old boy. Juan Doe 100 was a parishioner at  
15 Capilla de Juquilita. Juan Doe 100 had to take church classes. Nicholas Aguilar taught the classes.  
16 There was a large group of kids for the classes. Juan Doe 100 had trouble with one of the lessons.  
17 Aguilar gave Juan Doe100 a book to read and told him that he had to stay after class with Aguilar  
18 so that they could go over the materials. Aguilar took Juan Doe100 into his room after the class was  
19 over. Aguilar shut the door after a while and took his shirt off. Aguilar told Juan Doe100 that he  
20 had chest pain. Aguilar backed up to Juan Doe100 when Juan Doe100 was sitting on the bed.  
21 Aguilar took Juan Doe100's hands and put them on Aguilar's chest. Aguilar then took Juan Doe100'  
22 s hands and made Juan Doe100 masturbate Aguilar's penis. Juan Doe100 was shaking and crying  
23 at this point. Aguilar then forced his penis in Juan Doe100's mouth and made the 13 year old  
24 perform oral sex on Aguilar until Aguilar ejaculated. Aguilar then put Juan Doe100 in the car to  
25 take him home. On the way to Juan Doe100's house Aguilar told Juan Doe100 that he would kill  
26 Juan Doe100's mother, kill someone in Juan Doe100's family, or make Juan Doe100 disappear if  
27



1 Juan Doe100 told anyone about what Aguilar did to him.

2 51. Juan Doe100 was scarred after this happened. Juan Doe100 talked with his friend,  
3 another young boy, about what happened. The other boy said that Aguilar molested him as well.  
4 They both decided to and did run away after this. Eventually the other boy's parents found the two  
5 boys and both boys told them about Aguilar's abuse of them. The boys then reported the abuse to  
6 the police.

7 52. On information and belief, Cardinal Norberto Rivera, the Archdiocese of Mexico and  
8 the Diocese of Tehuacan all knew that Nicholas Aguilar had been reported to the police for child  
9 abuse for these 1997 incidents.

10 53. Between 1997 and 2003 while this abuse case was pending, Aguilar worked at a  
11 parish in Mexico City for sometime. Archbishop Rivera is in charge of Mexico City at that time.

12 54. A Tehuacan Diocese official said that Father Aguilar had abused about 60 kids,  
13 according to Marie de Jesus Gonzalez, the mother of another child molested around the same time  
14 as Juan Doe100. She said the Rev. Teodoro Lima told her this in explaining why the church couldn't  
15 afford to pay for her son's counseling.

16 55. In 2003, Judge Carlos Raminez found Fr. Aguilar guilty of one of the 1997 charges  
17 and sentenced him to one year in prison.

18 56. In July 2003 Diane Feinstein, US Rep-CA, writes letter to President Fox about Fr.  
19 Nicholas Aguilar being free.

20 57. In 2004 Fr. Aguilar remained free on bail. On appeal, the federal judge upheld  
21 Aguilar's conviction but spared Aguilar the jail time because the crime was too old.

22 58. As a direct result of the sexual abuse and other wrongful conduct described herein,  
23 Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress,  
24 physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,  
25 humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from  
26 performing his daily activities and obtaining the full enjoyment of life; has sustained loss of earnings  
27

1 and earning capacity; and/or has incurred and will continue to incur expenses for medical and  
2 psychological treatment, therapy, and counseling.

3 **FIRST CAUSE OF ACTION**  
4 **NEGLIGENCE**  
5 **(Against Roger Mahony, the Archdiocese of Los Angeles,**  
6 **and Does 1-100)**

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

8 60. Defendant Roger Mahony, Defendant the Archdiocese of Los Angeles, and Does 1-  
9 100 had a duty to report Fr. Nicholas Aguilar's suspected abuse of children to law enforcement, to  
10 ensure that Aguilar would not flee the country, to warn children about Father Aguilar's dangerous  
11 propensities, and to protect the minor Plaintiff.

12 61. Defendants Roger Mahony, the Archdiocese of Los Angeles, and Does 1-100, by and  
13 through their agents, servants and employees, knew or reasonably should have known of Fr. Nicholas  
14 Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an unfit agent.

15 62. Defendants Roger Mahony, the Archdiocese of Los Angeles, and Does 1-100, knew  
16 or reasonably should have known that Fr. Nicholas Aguilar was going to flee the United States and  
17 avoid criminal prosecution if they did not report the abuse to law enforcement and/or that Fr.  
18 Nicholas Aguilar would flee the country if they did not take precautions to monitor him until they  
19 reported to law enforcement.

20 63. Defendants Roger Mahony, the Archdiocese of Los Angeles, and Does 1-100 knew  
21 or reasonably should have known that child molesters, like Fr. Nicholas Aguilar, were highly likely  
22 to molest children again in the future and it was highly probable that they molested numerous  
23 children before the first report.

24 64. Defendants Roger Mahony, the Archdiocese of Los Angeles, and Does 1-100 knew  
25 or reasonably should have known that Fr. Nicholas Aguilar would operate as a priest with unlimited  
26 access to children if he was allowed to leave the United States, putting hundreds if not thousands of  
27 children in danger.

28 65. Defendants Roger Mahony, the Archdiocese of Los Angeles, and Does 1-100

1 breached their duties when they failed to immediately report Fr. Nicholas Aguilar's suspected abuse  
2 of children to law enforcement, allowed Fr. Nicholas Aguilar to flee the country, failed to warn  
3 children about Father Aguilar's dangerous propensities, and failed to protect the minor Plaintiff.

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

11 **SECOND CAUSE OF ACTION**  
12 **NEGLIGENT SUPERVISION/FAILURE TO WARN**  
13 **(Against Roger Mahony, the Archdiocese of Los Angeles,**  
14 **and Does 1-100)**

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

16 68. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100 had a  
17 duty to provide reasonable supervision of Fr. Nicholas Aguilar; to use reasonable care in  
18 investigating Fr. Nicholas Aguilar; and to provide adequate warning to the Plaintiff, the Plaintiff's  
19 family, minor students, minor parishioners, and instrumentalities of the Roman Catholic Church of  
20 Fr. Nicholas Aguilar's dangerous propensities and unfitness.

21 69. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100, by an  
22 through their agents, servants and employees, knew or reasonably should have known of Fr. Nicholas  
23 Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an unfit agent  
24 for service in the Archdiocese of Los Angeles or any other instrumentality of the Roman Catholic  
25 Church. Despite such knowledge, Defendant Roger Mahony, the Archdiocese of Los Angeles and  
26 Does 1 - 100 negligently failed to supervise Fr. Nicholas Aguilar in the position of trust and authority  
27 as a Roman Catholic Priest, religious instructor, counselor, school administrator, school teacher,  
28 surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where he was able

1 to commit the wrongful acts against the Plaintiff and other minors entrusted to the care of  
2 defendants. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100 failed to  
3 provide reasonable supervision of Fr. Nicholas Aguilar, failed to use reasonable care in investigating  
4 Fr. Nicholas Aguilar, and failed to provide adequate warning to Plaintiff and Plaintiff's family of Fr.  
5 Nicholas Aguilar's dangerous propensities and unfitness. Defendant Roger Mahony, the  
6 Archdiocese of Los Angeles and Does 1 - 100 further failed to take reasonable measures to prevent  
7 future sexual abuse to Plaintiff and other entrusted to defendants care.

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

15 **THIRD CAUSE OF ACTION**  
16 **NEGLIGENT HIRING/RETENTION**  
17 **(Against Roger Mahony, the Archdiocese of Los Angeles**  
18 **and Does 1 - 100 )**

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

20 72. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100 had a  
21 duty to not hire and/or retain Fr. Nicholas Aguilar, and other employees, agents, volunteers, and  
22 other representatives, given Fr. Nicholas Aguilar's dangerous and exploitive propensities.

23 73. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100 , by and  
24 through their agents, servants and employees, knew or reasonably should have known of Fr. Nicholas  
25 Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an unfit agent.  
26 Despite such knowledge, Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 -  
27 100 , negligently hired and/or retained Fr. Nicholas Aguilar in the position of trust and authority as  
28 a Roman Catholic Priest, religious instructor, counselor, school administrator, school teacher,

1 surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where he was able  
2 to commit the wrongful acts against the Plaintiff and other minors entrusted to the care of  
3 defendants. Defendant Roger Mahony, the Archdiocese of Los Angeles and Does 1 - 100 failed to  
4 use reasonable care in investigating Fr. Nicholas Aguilar and failed to provide adequate warning to  
5 Plaintiff, Plaintiff's family, and others entrusted to the care of defendants of Fr. Nicholas Aguilar's  
6 dangerous propensities and unfitness. Defendant Roger Mahony, the Archdiocese of Los Angeles  
7 and Does 1 - 100 further failed to take reasonable measures to prevent future sexual abuse to Plaintiff  
8 and other minors entrusted to the care of defendants.

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

16 **FOURTH CAUSE OF ACTION**  
17 **NEGLIGENCE**  
18 **(Against Norberto Rivera, Diocese of Tehuacan,**  
19 **and Does 1-100)**

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

21 76. Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100 had  
22 a duty to not conspire to aid and abet the violation of California criminal laws, to prevent Fr.  
23 Nicholas Aguilar from fleeing the United States, to ensure that Aguilar would not flee the United  
24 States, to warn children about Father Aguilar's dangerous propensities, and to protect the minor  
25 Plaintiff.

26 77. Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100,  
27 by and through their agents, servants and employees, knew or reasonably should have known of Fr.  
28 Nicholas Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an

1 unfit agent.

2 78. Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100,  
3 knew or reasonably should have known that Fr. Nicholas Aguilar was going to flee the United States  
4 and avoid criminal prosecution if they conspired to aid and abet the violation of California criminal  
5 laws and/or if they did not prevent Fr. Nicholas Aguilar to quietly return to Mexico.

6 79. Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100  
7 knew or reasonably should have known that child molesters, like Fr. Nicholas Aguilar, were highly  
8 likely to molest children again in the future and it was highly probable that they molested numerous  
9 children before the first report.

10 80. Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100  
11 knew or reasonably should have known that Fr. Nicholas Aguilar would operate as a priest with  
12 unlimited access to children if he was allowed to leave the United States, putting hundreds if not  
13 thousands of children in danger.

14 81. Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100  
15 breached their duties when they conspired to aid and abet the violation of California criminal laws,  
16 allowed Fr. Nicholas Aguilar to flee the country, failed to warn children about Father Aguilar's  
17 dangerous propensities, and failed to protect the minor Plaintiff.

18 82. As a result of the above-described conduct, Plaintiff was abused and has suffered, and  
19 continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations  
20 of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of  
21 enjoyment of life; was prevented and will continue to be prevented from performing his daily  
22 activities and obtaining the full enjoyment of life; has sustained loss of earnings and earning  
23 capacity; and/or has incurred and will continue to incur expenses for medical and psychological  
24 treatment, therapy, and counseling

25 **FIFTH CAUSE OF ACTION**  
26 **NEGLIGENT SUPERVISION/FAILURE TO WARN**  
27 **(Against Norberto Rivera, Diocese of Tehuacan,**  
**and Does 1-100)**

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

2           84.     Defendants Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100  
3 had a duty to provide reasonable supervision of Fr. Nicholas Aguilar; to use reasonable care in  
4 investigating Fr. Nicholas Aguilar; and to provide adequate warning to the Plaintiff, the Plaintiff's  
5 family, minor students, minor parishioners, and instrumentalities of the Roman Catholic Church of  
6 Fr. Nicholas Aguilar's dangerous propensities and unfitness.

7           85.     Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100,  
8 by an through their agents, servants and employees, knew or reasonably should have known of Fr.  
9 Nicholas Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an  
10 unfit agent for service in the Archdiocese of Los Angeles, Diocese of Tehuacan or any other  
11 instrumentality of the Roman Catholic Church. Despite such knowledge, Defendants Norberto  
12 Rivera, Defendant the Diocese of Tehuacan, and Does 1-100 negligently failed to supervise Fr.  
13 Nicholas Aguilar in the position of trust and authority as a Roman Catholic Priest, religious  
14 instructor, counselor, school administrator, school teacher, surrogate parent, spiritual mentor,  
15 emotional mentor, and/or other authority figure, where he was able to commit the wrongful acts  
16 against the Plaintiff and other minors entrusted to the care of defendants. Defendants Norberto  
17 Rivera, Defendant the Diocese of Tehuacan, and Does 1-100 failed to provide reasonable  
18 supervision of Fr. Nicholas Aguilar, failed to use reasonable care in investigating Fr. Nicholas  
19 Aguilar, and failed to provide adequate warning to Plaintiff and Plaintiff's family of Fr. Nicholas  
20 Aguilar's dangerous propensities and unfitness. Defendants Norberto Rivera, Defendant the Diocese  
21 of Tehuacan, and Does 1-100 further failed to take reasonable measures to prevent future sexual  
22 abuse to Plaintiff and other entrusted to defendants care.

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

1 performing Plaintiff's daily activities and obtaining the fully enjoyment of life; has sustained and  
2 will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
3 to incur expenses for medical and psychological treatment, therapy, and counseling.

4 **SIXTH CAUSE OF ACTION**  
5 **NEGLIGENT HIRING/RETENTION**  
6 **(Against Defendants Norberto Rivera, The Diocese of Tehuacan,**  
7 **and Does 1-100)**

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

9 88. Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100 had  
10 a duty to not hire and/or retain Fr. Nicholas Aguilar, and other employees, agents, volunteers, and  
11 other representatives, given Fr. Nicholas Aguilar's dangerous and exploitive propensities.

12 89. Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does 1-100,  
13 by and through their agents, servants and employees, knew or reasonably should have known of Fr.  
14 Nicholas Aguilar's dangerous and exploitive propensities and/or that Fr. Nicholas Aguilar was an  
15 unfit agent. Despite such knowledge, Defendant Norberto Rivera, Defendant the Diocese of  
16 Tehuacan, and Does 1-100, negligently hired and/or retained Fr. Nicholas Aguilar in the position of  
17 trust and authority as a Roman Catholic Priest, religious instructor, counselor, school administrator,  
18 school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure,  
19 where he was able to commit the wrongful acts against the Plaintiff and other minors entrusted to  
20 the care of defendants. Defendant Norberto Rivera, Defendant the Diocese of Tehuacan, and Does  
21 1-100 failed to use reasonable care in investigating Fr. Nicholas Aguilar and failed to provide  
22 adequate warning to Plaintiff, Plaintiff's family, and others entrusted to the care of defendants of Fr.  
23 Nicholas Aguilar's dangerous propensities and unfitness. Defendant Norberto Rivera, Defendant  
24 the Diocese of Tehuacan, and Does 1-100 further failed to take reasonable measures to prevent future  
25 sexual abuse to Plaintiff and other minors entrusted to the care of defendants.

26 90. As a result of the above-described conduct, Plaintiff has suffered, and continues to  
27 suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
28 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has



1 suffered and continues to suffer spiritually; was prevented and will continue to be prevented from  
2 performing Plaintiff's daily activities and obtaining the fully enjoyment of life; has sustained and  
3 will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue  
4 to incur expenses for medical and psychological treatment, therapy, and counseling.

5 **SEVENTH CAUSE OF ACTION**  
6 **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF**  
7 **(Against Norberto Rivera, The Diocese of Tehuacan,**  
8 **and Does 1-100)**

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

10 92. Defendants breached their duty to take reasonable protective measures to protect  
11 Plaintiff and other minor parishioners and/or students from the risk of childhood sexual abuse by  
12 Fr. Nicholas Aguilar, such as the failure to properly warn, train, or educate Plaintiff and other minor  
13 parishioners and/or students about how to avoid such a risk, pursuant to Juarez v. Boy Scouts of  
14 America, Inc., (2000) 81 Cal.App.4th 377.

15 93. As a result of the above-described conduct, Plaintiff has suffered, and continues to  
16 suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
17 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has  
18 suffered and continues to suffer spiritually; was prevented and will continue to be prevented from  
19 performing plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will  
20 continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to  
21 incur expenses for medical and psychological treatment, therapy, and counseling.

22 **EIGHTH CAUSE OF ACTION**  
23 **CIVIL CONSPIRACY**  
24 **(Against All Defendants)**

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

26 95. Upon information and belief, Defendants, in concert with each other and with the  
27 intent to conceal and defraud, conspired and came to a meeting of the minds whereby they would  
28 misrepresent, conceal or fail to disclose information relating to the sexual misconduct of Fr. Nicholas  
Aguilar. Defendants also conspired and came to the meeting of the minds to violate California penal  
laws by failing to report his abuse to law enforcement immediately, by allowing Fr. Nicholas Aguilar

1 to flee the United States, and by obstructing justice.

2 96. By so concealing, failing to report, allowing Aguilar to flee, and obstructing justice,  
3 Defendants committed at least one act in furtherance of the conspiracy.

4 97. Defendants' acts described herein violate California Penal Code § 182 in that  
5 Defendants conspired with one or more other person to commit acts injurious to the public health,  
6 to public morals, or to pervert or obstruct justice, or the due administration of the laws.

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

13 **NINTH CAUSE OF ACTION**  
14 **NEGLIGENCE PER SE FRO STATUTORY VIOLATIONS**  
15 **(Against All Defendants)**

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

17 100. At all times or sometimes herein mentioned, there was in full force and effect Penal  
18 Code Sections 32; 182; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b) 288a(b)(1)  
19 & (2); 288a(c); 289(h), (l), & (j); 647.6; or any prior laws of California of similar effect at the time  
20 these acts described herein were committed. These laws made unlawful certain acts relating to the  
21 sexual abuse of minors.

22 101. At the times mentioned herein, Defendants were in violation of the aforesaid statutes  
23 in doing the acts set forth herein.

24 102. Plaintiff was within the class of persons to be protected by Penal Code Sections 32;  
25 182; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c);  
26 289(h), (l), & (j); 647.6; or any prior laws of California of similar effect at the time these acts  
27 described herein were committed.

28 103. As a result of the above-described conduct, Plaintiff has suffered, and continues to

1 suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
2 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was  
3 prevented and will continue to be prevented from performing his daily activities and obtaining the  
4 full enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and  
5 will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

6 **TENTH CAUSE OF ACTION**  
7 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
8 **(Against All Defendants)**

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

10 105. Defendants' conduct was extreme and outrageous and was intentional or done  
11 recklessly.

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

14 107. As a result of the above-described conduct, Plaintiff has suffered, and continues to  
15 suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional  
16 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; was  
17 prevented and will continue to be prevented from performing his daily activities and obtaining the  
18 full enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and  
19 will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

20 **ELEVENTH CAUSE OF ACTION**  
21 **SEXUAL BATTERY (CIVIL CODE §1708.5)**  
22 **(Against Roger Mahony, the Archdiocese of Los Angeles, Norberto Rivera,**  
23 **The Diocese of Tehuacan, and Does 1 - 100.)**

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

25 109. When Plaintiff was approximately 13 years old Fr. Nicholas Aguilar engaged in  
26 impermissible, harmful and offensive sexual conduct upon the person of plaintiff.

27 110. Defendants expressly authorized its agent and employee, Fr. Nicholas Aguilar, to  
28 engage in unlawful sexual abuse.

111. Defendants ratified the conduct of Fr. Nicholas Aguilar who committed the unlawful  
sexual abuse of plaintiff.

1 112. Defendants are responsible for the unlawful sexual abuse committed by Fr. Nicholas  
2 Aguilar based upon the public policy of *respondeat superior*.

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

10 114. In doing the things herein alleged, defendants acted willfully and with intent to cause  
11 injury to Plaintiff, subjected Plaintiff to cruel and unjust hardship in conscious disregard of  
12 Plaintiff's rights, and intentionally misrepresented, deceived, and concealed material facts know to  
13 the defendants, thereby depriving Plaintiff of legal rights and causing injury to Plaintiff. Defendants  
14 were therefore guilty of malice, oppression, and fraud in conscious disregard of Plaintiff's rights, and  
15 Plaintiff is therefore entitled to an award of exemplary or punitive damages as against the defendants.

16 **TWELFTH CAUSE OF ACTION**  
17 **SEXUAL BATTERY/RAPE (CIVIL CODE §1708.5)**  
18 **(Against Defendant Nicholas Aguilar)**

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

20 116. When Plaintiff was approximately 13 years old Fr. Nicholas Aguilar engaged in  
21 impermissible, harmful and offensive sexual conduct upon the person of plaintiff.

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

1 118. In doing the things herein alleged, defendant acted willfully and with intent to cause  
2 injury to Plaintiff, subjected Plaintiff to cruel and unjust hardship in conscious disregard of  
3 Plaintiff's rights, and intentionally misrepresented, deceived, and concealed material facts know to  
4 the defendant, thereby depriving Plaintiff of legal rights and causing injury to Plaintiff. Defendant  
5 was therefore guilty of malice, oppression, and fraud in conscious disregard of Plaintiff's rights, and  
6 Plaintiff is therefore entitled to an award of exemplary or punitive damages as against the defendant.

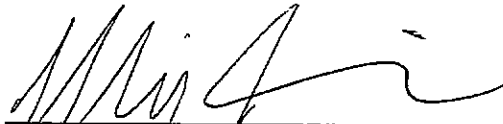
7 WHEREFORE, Plaintiff prays for damages, injunctive relief, costs, interest, attorneys' fees  
8 and such other relief as the court deems appropriate and just.

9  
10 **JURY DEMAND**

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

12 Dated: Nov. 16, 2008

13 THE DRIVON LAW FIRM

14 

15 By: Lawrence E. Drivon  
16 Michael G. Finnegan  
17 Attorneys for Plaintiff  
18 Juan Doe 100