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

1 JOHN DOE 76, JOHN DOE 77, JOHN DOE 78
2 and JOHN DOE 79,

3 Plaintiffs,

4 v.

5 JOHN ROE 1; JOHN ROE 2; JOHN ROE 3;
6 JOHN ROE 4, JOHN ROES 5 through 25,
7 inclusive,

8 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. Negligence
2. Negligent Hiring, Supervision & Retention
3. Negligent Failure to Warn
4. Negligent Misrepresentation
5. Fraud
6. Intentional Non-Disclosure
7. Fraudulent Concealment / Intentional Non-Disclosure
8. Sexual Battery
9. Assault
10. Vicarious Liability
11. Conspiracy to Defraud

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GENERAL ALLEGATIONS

1. Plaintiffs John Doe 76, John Doe 77, John Doe 78 and John Doe 79 are using fictitious names in this Complaint under rights to privacy granted by the Constitution of the State

1 of California due to the sensitive nature of this case. If, for any reason, Defendants cannot
2 accurately determine the identity of the Plaintiffs, their attorney can contact Plaintiffs' attorney at
3 the address on the face sheet of the Complaint, and the name of the Plaintiffs will be provided.

4 2. Plaintiff JOHN DOE 76 is a natural person who was a resident of the County of
5 Humboldt, State of California, at all relevant times mentioned herein. Plaintiff was around 9 years
6 old when he was first molested by Defendant JOHN ROE 2 in or around 1984.

7 3. Plaintiff JOHN DOE 77 is a natural person who was a resident of the County of
8 Humboldt, State of California, at all relevant times mentioned herein. Plaintiff was around 11
9 years old when he was first molested by Defendant JOHN ROE 2 in or around 1983.

10 4. Plaintiff JOHN DOE 78 is a natural person who was a resident of the County of
11 Humboldt, State of California, at all relevant times mentioned herein. Plaintiff was around 11
12 years old when he was first molested by Defendant JOHN ROE 2 in or around 1985.

13 5. Plaintiff JOHN DOE 79 is a natural person who was a resident of the County of
14 Humboldt, State of California, at all relevant times mentioned herein. Plaintiff was around 17
15 years old when he was first molested by Defendant JOHN ROE 2 in or around 1984 - 1985.

16 6. Defendant JOHN ROE 1 (hereinafter ROE 1) is a religious institution organized
17 under the laws of the State of California as a corporation sole with its principle place of business
18 in Santa Rosa, California. Defendant ROE 1 is responsible for the funding, staffing and direction
19 of the parishes, parochial schools, fraternal organizations and other facilities and institutions. It
20 comprises the counties of Del Norte, Humboldt, Lake, Mendocino, Napa and Sonoma.

21 7. Bishop Mark Joseph Hurley became the Bishop of ROE 1 Diocese in 1969. Bishop
22 Hurley was the Bishop of the ROE 1 Diocese at all times ROE 2 was an employee of the Diocese
23 or otherwise functioning at the direction of Diocese.

24 8. Defendant JOHN ROE 2 (hereinafter ROE 2) was an adult male who was a priest
25 employed by and/or working on behalf of Defendant ROE 1. At all times material hereto, ROE 2
26 was under the direct supervision, employ and control of Defendant ROE 1. ROE 2 physically
27 perpetrated acts of sexual abuse upon the Plaintiff when Plaintiff was a minor.

28 9. Defendant JOHN ROE 3 (hereinafter ROE 3) was and continues to be a non-profit

1 corporation, authorized to conduct business and conducting business in the States of New Mexico
2 and Missouri with its principal places of business located at P.O. Box 539, Cedar Hill, Missouri
3 63016 and P.O. Box 10, Jemez Springs, New Mexico 87025 U.S.A. ROE 3 operates treatment
4 facilities in the United States that purport to treat pedophile priests.

5 10. Defendant JOHN ROE 4 (hereinafter "ROE 4") was and continues to be a Roman
6 Catholic Archdiocese located in Dublin, Ireland.

7 11. Plaintiffs are informed and believe and based thereon alleges that at all times
8 material hereto each Defendant was the agent, servant, employee and/or representative of each
9 remaining Defendant, and was at all times acting within the course and scope of said agency,
10 service, employment and/or representation, and did the acts herein alleged with the permission and
11 consent of each other Defendant. Plaintiffs are informed and believe and based thereon alleges
12 that at all times material hereto Defendant ROE 1, Defendant ROE 2, Defendant ROE 3,
13 Defendant ROE 4 and ROES 5 through 25, inclusive, and each of them, operated and controlled
14 religious and educational facilities in Sonoma county, and other counties in California, and
15 through such facilities, provided religious and educational instruction to students, parishioners and
16 others.

17 12. The true names and capacities, whether individual, corporate, associate or
18 otherwise, of Defendants ROES 5 through 25 are unknown to Plaintiffs, who therefore sue said
19 Defendants by such fictitious names. When the true names and capacities of said Defendants have
20 been ascertained, Plaintiffs will seek leave of court to amend this Complaint to allege such true
21 names and capacities. Plaintiffs are informed and believe and based thereon allege that each of the
22 Defendants designated as a ROE herein is liable in some manner for the acts, occurrences and
23 omissions hereinafter alleged.

24 13. While religious belief is absolutely protected, conduct is not protected and the
25 actions hereinbelow alleged were illegal secular motivated conduct that is regulated by the law.

26 14. ROE 2 was ordained a priest for the Archdiocese of Dublin in 1961.

27 15. ROE 2 was discovered to have sexually abused many children between 1973 and
28 1981. In 1977, at the Church of St. Therese in Dublin, an investigation was conducted on behalf

1 of the Archbishop of ROE 4 into ROE 2's sexual abuse of a young boy.

2 16. As part of the investigation, a letter was written by Canon MacMahon, dated
3 Tuesday, 25th of January, 1977. The letter details the abuse and makes findings based on
4 "substantial evidence of a well founded complaint that ROE 2 misbehaved in a relationship" with
5 the young boy. MacMahon writes "I explained that I was making a private enquiry on behalf of
6 the Archbishop." MacMahon goes on to note "it is sad to see this unbalanced emotionalism
7 clothed in religious terms, a phenomenon I have encountered once before." He also recommends
8 an inquiry be taken up with ROE 2.

9 17. 1981, ROE 2 was sent for treatment at Our Lady of Victory Treatment Center, a
10 facility run by the ROE 3 in Stroud, Gloucestershire, England. ROE 2 was assigned there on a
11 temporary basis between April 1981 and August 1981.

12 18. In September 1981, ROE 2 was placed by Archbishop Ryan of ROE 4 back into
13 ministry in Clogher Road Parish where he served until 1982.

14 19. After numerous complaints of ROE 2 sexually abusing children, ROE 2 was sent
15 by ROE 4 to the ROE 3 treatment facility in Jemez Springs, New Mexico in July 1982. ROE 2
16 remained at the treatment facility from July to December 1982, when he returned to Ireland over
17 Christmas, 1982. During his brief stay, ROE 2 was reported to have abused a 16-year-old boy.
18 ROE 2 returned to Jemez Springs treatment facility in January 1983. At that time, ROE 2 was
19 diagnosed a pedophile and prescribed Depo-Provera. While remaining officially incardinated to
20 Dublin, ROE 2 was assigned to live and work in the Diocese of ROE 1. Archbishop Ryan asked
21 Bishop Hurley, the bishop of ROE 1, to "rid me of this troublesome priest".

22 20. Defendants ROE 1, ROE 3 and ROE 4 knew that the ROE 3 facilities in Jemez
23 Springs, New Mexico were not equipped to or capable of treating child sexual abusers. This is
24 evidenced by the following:

- 25 a. In a letter from the founder of ROE 3, Fr. Gerald Fitzgerald to Cardinal Ottaviani dated
26 April 11, 1962, Fr. Fitzgerald stated:

27 On the other hand, where a priest for many years has fallen into repeated
28 sins which are considered, generally speaking, as abnormal (abuse of
nature) such as homosexuality and most especially the abuse of children,

1 we feel strongly that such unfortunate priests should be given the
2 alternative of a retired life within the protection of monastery walls or
complete laicization [defrocked as a priest].

3 b. In a letter from Fr. Gerald Fitzgerald to Bishop Robert Dwyer, Bishop of the Diocese
4 of Reno dated September 12, 1952, Fr. Fitzgerald stated:

5 Hence, leaving them on duty or wandering from diocese to diocese is
6 contributing to scandal . . . we find it quite universal that they seem to be
7 lacking in appreciation of the serious situation . . . I myself would be
inclined to favor laicization for any priest, upon objective evidence, for
tampering with the virtue of the young . . .

8 c. In a letter from Fr. Gerald Fitzgerald to Archbishop James Byrne, Archdiocese of Sante
9 Fe dated September 18, 1957, Fr. Fitzgerald wrote:

10 May I beg your Excellency to concur and approve of what I consider a
11 very vital decision on our part – that for the sake of preventing scandal
12 that might endanger the good name of Via Coeli we will not offer
13 hospitality to men who have seduced or attempted to seduce little boys or
14 girls? These men Your Excellency are devils and the wrath of God is
15 upon them and if I were a Bishop I would tremble when I failed to report
16 them to Rome for involuntary layization [sic]. . . Experience has taught
17 us these men are too dangerous to the children of the Parish and
18 neighborhood for us to be justified in receiving them here. . . It is for this
19 class of rattlesnake I have always wished the island retreat – but even an
20 island is too good for these vipers . . .

21 d. In a letter from Fr. Gerald Fitzgerald to Pope Paul VI dated August 27, 1963, Fr.
22 Fitzgerald wrote:

23 Personally I am not sanguine of the return of priests to active duty who
24 have been addicted to abnormal practices, especially sins with the young .
25 . . Where there is indication of incorrigibility, because of the tremendous
26 scandal given, I would most earnestly recommend total laicization.

27 21. In or around June 1983, the Archbishop of ROE 4 spoke with Bishop Mark Hurley
28 of ROE 1 to allow ROE 2 to serve as a priest at St. Bernard's Catholic Church in Eureka. Bishop
Hurley agreed to allow ROE 2 to serve as assistant pastor at St. Bernard's Church. Bishop Hurley
transferred ROE 2 from St. Bernard's Church to St. Elizabeth's Church in Guerneville in late 1985
after receiving a credible report of criminal child sexual abuse.

22 22. A major source of funds for Defendant is monies received from its parishioners in
23 the form of tithing. Another major source of funding for Defendant and its agents is in the form of
24 tuition for attendance at its Catholic Schools. Defendant benefitted from Plaintiffs and their

1 parents through tithing and tuition. In fact, it was in the course of performing services for
2 Defendant in order to receive a credit for tuition that ROE 2 was able to gain access to and
3 sexually molest Plaintiffs.

4 23. Plaintiffs were raised in devoutly religious families, were baptized, confirmed,
5 served as altar servers and regularly celebrated weekly mass and received the sacraments through
6 their Church. Plaintiffs were educated and taught the theology and tenets of The Roman Catholic
7 Church on matters of faith, morals and religious doctrine. Plaintiffs therefore developed great
8 admiration, trust, reverence and respect for, and obedience to, Roman Catholic clergy, who
9 occupied positions of great influence and persuasion as holy men and authority figures. Plaintiffs
10 were encouraged to trust, respect and obey ROE 2.

11 24. Plaintiffs were minors who were under the custody and control of ROE 1, who had
12 control over the Plaintiffs' welfare and who was responsible for running the school and parish
13 with a duty to protect Plaintiffs because it was in a special relationship with them. While a
14 priest/parishioner relationship does not mean it is special per se, it does not follow that a fiduciary
15 or confidential relationship between a priest and parishioner cannot be created depending on the
16 circumstances.

17 25. Plaintiff John Doe 76 first met and came to know ROE 2 as his parish priest and
18 counselor while attending St. Bernard's school and church in Eureka, California.

19 26. Plaintiff John Doe 76 regularly attended mass and engaged in confession with
20 priests employed by Defendant ROE 1 and ROE 4. Accordingly, a special relationship was
21 formed between Plaintiff and Defendants. As delineated in California Evidence Code sections
22 1030-1034, codifying the clergyman-penitent privilege, the fact that a special relationship between
23 Defendants and parishioners not only exists, but extends to non-spiritual matters.

24 27. In 1984, ROE 2 sexually molested Plaintiff in the rectory of St. Bernard's Church
25 in Eureka, California. Sexual molestations continued for approximately six to nine months.

26 28. Plaintiff John Doe 77 first met and came to know ROE 2 as his parish priest and
27 counselor while attending St. Bernard's school and church in Eureka, California.

28 29. Plaintiff John Doe 77 regularly attended mass and engaged in confession with

1 priests employed by Defendant ROE 1 and ROE 4. Accordingly, a special relationship was
2 formed between Plaintiff and Defendants. As delineated in California Evidence Code sections
3 1030-1034, codifying the clergyman-penitent privilege, the fact that a special relationship between
4 Defendants and parishioners not only exists, but extends to non-spiritual matters.

5 30. In 1983, ROE 2 sexually molested Plaintiff John Doe 77 in the rectory of St.
6 Bernard's Church in Eureka, California. Sexual molestations continued for approximately nine to
7 twelve months on a weekly basis.

8 31. Plaintiff John Doe 78 first met and came to know ROE 2 as his parish priest and
9 counselor while attending St. Bernard's school and church in Eureka, California.

10 32. Plaintiff John Doe 78 served as an altar boy for ROE 2 and Plaintiff regularly
11 attended mass and engaged in confession with priests employed by Defendant ROE 1 and ROE 4.
12 Accordingly, a special relationship was formed between Plaintiff and Defendants. As delineated
13 in California Evidence Code sections 1030-1034, codifying the clergyman-penitent privilege, the
14 fact that a special relationship between Defendants and parishioners not only exists, but extends to
15 non-spiritual matters.

16 33. In 1985, ROE 2 sexually molested Plaintiff John Doe 78 in the rectory of St.
17 Bernard's Church in Eureka, California.

18 34. Plaintiff John Doe 79 first met and came to know ROE 2 as his parish priest and
19 counselor while attending St. Bernard's church in Eureka, California.

20 35. Plaintiff John Doe 79 regularly attended mass and engaged in confession with
21 priests employed by Defendant ROE 1 and ROE 4. Accordingly, a special relationship was
22 formed between Plaintiff and Defendants. As delineated in California Evidence Code sections
23 1030-1034, codifying the clergyman-penitent privilege, the fact that a special relationship between
24 Defendants and parishioners not only exists, but extends to non-spiritual matters.

25 36. In around 1984 to 1985, ROE 2 sexually molested Plaintiff in the rectory of St.
26 Bernard's Church in Eureka, California.

27 37. At no time did Defendant Diocese ever send an official, a member of the clergy, an
28 investigator or any employee or independent contractor to St. Bernard's Church in Eureka to

1 advise the parishioners either verbally or through a church bulletin that there were credible
2 allegations against ROE 2 and to request that anyone who saw, suspected or suffered sexual abuse
3 to come forward and file a report with the police department. Rather, Defendants remained silent.

4 38. ROE 2 served the parishioners of St. Bernard's Church and St. Joseph's Church in
5 Eureka from 1983 until in or about December 1985 when he was transferred to a St. Elizabeth's
6 Church in Guerneville, California after Defendant received additional, credible reports of criminal
7 child sexual abuse by ROE 2 in Eureka, California.

8 39. Upon information and belief, Plaintiffs now believe and allege that Defendant ROE
9 1 allowed ROE 2 to transfer to St. Elizabeth's Church in Guerneville in late 1985, and never
10 disclosed to parishioners of St. Bernard's Church that Defendant ROE 1 knew that ROE 2 was a
11 pedophile and knew ROE 2 had molested children at St. Bernard's Church in Eureka.

12 40. The Holy See is the sovereign nation located in Rome, Italy and the ecclesiastical,
13 governmental, and administrative capital of the Roman Catholic Church. The Holy See is the
14 composite of the authority, jurisdiction, and sovereignty vested in the Pope and his delegated
15 advisors and/or agents to direct the activities and business of the world-wide Roman Catholic
16 Church. The Holy See has unqualified power over the Catholic Church including each and every
17 individual and section of the church, including but not limited to all priests, Bishops, Archbishops,
18 Metropolitans, Cardinals, and all other church workers, as well as dioceses, archdioceses,
19 ecclesiastical provinces, and orders.

20 41. The Holy See directs, supervises, supports, promotes and engages in the oversight
21 of the sovereign nation, the organization, and its employees for the purpose of the business,
22 foreign affairs, and employees of the worldwide Roman Catholic Church, and provides religious
23 and pastoral guidance, education and counseling to Roman Catholics world-wide in exchange for
24 all or a portion of the revenues collected from its members.

25 42. The Holy See engages in some of its activities through its agents, cardinals, bishops
26 and clergy, including religious order priests, brothers and sisters, who work under its authority.

27 43. The Holy See actively engages in commercial activity in the United States by
28 collecting contributions from members. Moreover, Doe's claims are based in part on his

1 perpetrator's commercial employment relationship with the Holy See and its agents. The relevant
2 employment relationship is not peculiar to a sovereign as the employment is not part of civil
3 service, the diplomatic corps, or the military.

4 44. The Holy See's business or private operation, in addition to overseeing its
5 employees not engaged in work peculiar to a sovereign, performs acts that are commercial in
6 nature, including extensive financial operations and fundraising activities throughout the United
7 States. Consistent with its corporate structure, The Holy See has instituted worldwide, mandatory
8 policies that perpetuate its financial strength and stability.

9 45. The Holy See is a unique entity, with an organizational structure and chain of
10 command that mandates that the Holy See and its head of state, the Pope, have a significantly high
11 level of involvement in the routine and day-to-day activities of its agents and instrumentalities,
12 particularly with respect to the handling of clergy who have engaged in certain specified conduct,
13 including child sex abuse.

14 46. It enters into treaties and conventions with other foreign states, including but not
15 limited to the *Universal Declaration of Human Rights* and the *Convention on the Rights of the*
16 *Child*, maintains diplomatic relations with other foreign states, including the United States, and
17 has observer status in the United Nations. The Holy See occupies its own sovereign territory
18 located within the city of Rome.

19 47. The Holy See engages in commercial activity in the State of California, the United
20 States, Ireland, and throughout the world.

21 48. As part of its fundraising activities, the Holy See has continued the long and
22 entrenched tradition of Peter's Pence. Peter's Pence fundraising for the Holy See has been active
23 since 1871 when it was created by the "Saepe Venerabilis" encyclical authored by Pope Pius IX.
24 Members are encouraged to send their donations throughout the year directly to the Office of the
25 Holy Father in Vatican City, but the Holy See also directs and coordinates an international
26 campaign each and every year on June 29 or the closest Sunday to the Solemnity of Saints Peter
27 and Paul for its subdivisions, agencies, and/or instrumentalities to take up a specific collection for
28 the benefit of the Holy See.

1 http://www.vatican.va/roman_curia/secretariat_state/obolo_spietro/documents/index_en.htm (last
2 visited July 9, 2009).

3 49. Peter's Pence raises funds that are required to be sent directly to the Holy See.
4 Dioceses, Bishops, Archbishops and other agents are ordered to send the funds directly to "His
5 Holiness Pope Benedict XVI, 00120, Vatican City State – Europe." As part of Peter's Pence, the
6 Holy See is involved in the United States in creating materials to advertise for its campaign and
7 benefits directly from solicitation letters sent to members of its organization throughout the United
8 States. It is also directly involved in and authorizes and supports appeals at parishes throughout
9 the United States for members to give money to the Holy See and the creation and distribution of
10 materials to help its agents recruit funds for the Peter's Pence Collection. The Holy See also uses
11 other forms of media such as ads and posters to solicit funds in the United States.

12 50. On information and belief the Peter's Pence operation has provided the Holy See
13 with millions of dollars each year from the United States. The Peter's Pence collection brought in
14 almost \$80 million for the Holy See in 2007 and over \$100 million in 2006, with the United States
15 providing the largest percentage of the funds. The Holy See's business divisions in the United
16 States facilitate the largest portion of money collected for the Holy See in the Peter's Pence
17 Collection.

18 51. As part of its business and private operation the Holy See requires its agents in
19 charge of its operation in a particular geographical location to come to Rome and report about the
20 state of the Holy See's operations, including any problems involving issues that are commercial in
21 nature, including financial status and business issues. The Holy See calls these Ad Limina visits.
22 These agents, as appointed leaders of the local business and private operations including those in
23 the United States, are required to make this visit at least once every five years. As part of its
24 business and private operation, the Holy See also requires its divisions to write detailed reports
25 about the status of the operation including but not limited to personnel issues, finances, and real
26 estate holdings. With respect to the income of pastors and their supervisors, the Holy See requires
27 information regarding whether it is from real estate, public funds, an uncertified sum accruing
28 through individual stole fees, or from a contribution made by the faithful or by the diocese. These

1 reports are sometimes called “quinquennial reports.”

2 52. The Holy See has direct involvement with seminaries in the United States including
3 California, and Ireland, where it trains agents in its organization and operation. On August 15,
4 1990, Pope John Paul II issued an apostolic constitution on Catholic higher education entitled Ex
5 corde Ecclesiae. The Apostolic Constitution described, in detail, the top-down relationship
6 between the Holy See and its educational institutions like seminaries. According to the Catholic
7 Church Extension Society, no matter where it's located or how it's structured, every institution
8 within the organization answers to the Holy See. The Vatican's Congregation for Catholic
9 Education has jurisdiction over all Catholic institutions of higher learning, including seminaries.
10 As a result, it oversees and controls the admissions requirements and curricula to ensure that
11 candidates are properly prepared. In addition, since 1971, U.S. seminaries have adhered to the
12 Program of Priestly Formation (PPF) promulgated by the U.S. bishops' conference and also
13 approved by Rome. Inside the Seminary, http://www.catholicextension.org/site/epage/54472_667
14 (last visited July 10, 2009). The Holy See has a vast enterprise in the United States which recruits
15 and solicits members in order to support its business operations in the United States and
16 worldwide.

17 53. The Holy See is solely responsible for creating new divisions of its business and
18 private enterprise (called a “Diocese” or “Archdiocese”) around the world. Only the Holy See has
19 this power. The Holy See created all of the Dioceses in California and Ireland. It creates, divides
20 and re-aligns dioceses, archdioceses and ecclesiastical provinces see comment. It also gives final
21 approval to the creation, division or suppression of provinces of religious orders and it is solely
22 responsible for modification or elimination of one of the divisions of its business enterprise. The
23 Holy See reserves the exclusive right to perform numerous local activities within its business
24 operation within the United States including but not limited to marriage annulments, marriage
25 dissolutions, Pius Wills, laicization of clerics, dispensations from canon law, and appeals of a
26 bishop’s decision. The Holy See has control over and involvement with property owned by all
27 Catholic entities in California and Ireland. The Holy See’s permission is required for the alienation
28 (sale, gift, etc.) of much of the property owned by Catholic Entities in California and Ireland. Can.

1 1292 B2 ("The permission of the Holy See also is required for the valid alienation of goods whose
2 value exceeds the maximum sum, or if it is a question of the alienation of something given to the
3 Church by reason of a vow, or of objects which are precious by reason of their artistic or historical
4 significance."); Can. 1296 ("When alienation has taken place without the prescribed canonical
5 formalities, but is valid in civil law, the competent authority must carefully weigh all the
6 circumstances and decide whether, and if so what, action is to be taken, namely personal or real,
7 by whom and against whom, to vindicate the rights of the Church.").

8 54. The Holy See directly and definitely controls the standards, morals, and obligations
9 of the clergy of the Catholic Church. The Holy See also does this by and through its agents and
10 instrumentalities, including the Congregation for the Clergy and the Congregation for Religious
11 both delegated by the Pope and acting on his behalf and acting under his authority. The Holy See
12 interacts with its local business units including those in the United States in a manner that controls
13 their day-to-day business and provides for no discretion on numerous issues, and in particular the
14 handling of child sex abuse by clergy and the determinations whether clergy remain in the Holy
15 See's employ. The Holy See routinely promulgates its policies through various means including
16 encyclical, canon law, and Papal pronouncements.

17 55. The Holy See promotes the sacred liturgy, directs and coordinates the spreading of
18 its doctrine and other things necessary to promote its doctrine. It creates, appoints, assigns and re-
19 assigns bishops, superiors of religious orders, and through the bishops and superiors of religious
20 orders has the power to directly assign. The Holy See has the final and sole power to remove
21 individual clergy. All bishops, clergy, and priests, including religious order priests, vow to show
22 respect and obedience to the Pope and their bishop.

23 56. The Holy See also examines and is responsible for the work and discipline and all
24 those things which concern bishops, superiors of religious orders, priests and deacons of the
25 religious clergy. In furtherance of this duty, the Holy See requires bishops to file a report, on a
26 regular basis, outlining the status of, and any problems with clergy. The Holy See promulgates
27 and enforces the laws and regulations regarding the education, training and standards of conduct
28 and discipline for its members and those who serve in the governmental, administrative, judicial,

1 educational and pastoral workings of the Catholic Church world-wide. The Holy See is also
2 directly and solely responsible for removing superiors of religious orders, bishops, archbishops
3 and cardinals from service and/or making them ineligible for positions of leadership in the various
4 divisions and offices of the Catholic church.

5 57. The Holy See buys and sells real and personal property, and purchases and supplies
6 goods and services in pursuit of its private and business activities.

7 58. The Holy See – even beyond its collection through Peter’s Pence and other Means
8 – is supported through the contributions of its parishioners, which are received as part of a regular
9 course of commercial conduct in the form of donations of money, real property and personal
10 property.

11 59. A major source of funds for the Holy See is monies received from its parishioners
12 in the form of tithing. The amount of money flowing to the Holy See from the United States is
13 directly affected by the beliefs of its parishioners in the righteousness of the Holy See and its
14 conduct. As members of the Church, they are obligated to revere, respect, and obey the edicts
15 issued from the Holy See, and are under threat of a denial of the sacraments or excommunication
16 if they do not follow those edicts.

17 60. Another major source of funding that the Holy See and its agents receive is in the
18 form of tuition for attendance at its Catholic Schools.

19 61. The Holy See directs and mandates the morals and standards of conduct of all
20 clergy of the Roman Catholic Church. The Defendant, Holy See, ostensibly does this by and
21 through its agents and instrumentalities, by enforcement of the CODE OF CANON LAW written
22 and promulgated by the Defendant, Holy See and used as the employee manual for clergy.

23 62. The Holy See creates, appoints, assigns, reassigns and retires all clerics in the order
24 of bishop. It accords definitive approval to the election of the heads of religious orders and,
25 through the religious superiors and the bishops of dioceses, it exercises the power to directly
26 assign and remove individual priests and deacons. It also determines whether religious orders are
27 to be disciplined for inappropriate behavior and whether they may remain in the Church following
28 inappropriate behavior.

1 63. All bishops, priests and clergy, including religious order priests, vow to show
2 respect and obedience to the Holy See. For example, when a priest is ordained, he kneels before
3 his bishop and promises him and his successors obedience and respect. On the day a priest
4 receives the fullness of the priesthood in his ordination to the episcopacy, he stands before his
5 consecrators and the assembled people of God and promises his obedience and loyalty to the
6 supreme Roman pontiff, the Holy See. He receives financial support throughout the full length of
7 his life, and he may not be deprived of his pension or his clerical status unless the Holy See
8 approves.

9 64. Each Cardinal takes an oath upon becoming a Cardinal which requires obedience to
10 the Holy See and also requires secrecy in certain circumstances. An English translation of that
11 oath is "I [name and surname], Cardinal of the Holy Roman Church, promise and swear to be
12 faithful henceforth and forever, while I live, to Christ and his Gospel, being constantly obedient to
13 the Holy Roman Apostolic Church, to Blessed Peter in the person of the Supreme Pontiff [name of
14 current Pontiff], and of his canonically elected Successors; to maintain communion with the
15 Catholic Church always, in word and deed; not to reveal to anyone what is confided to me in
16 secret, nor to divulge what may bring harm or dishonor to Holy Church; to carry out with great
17 diligence and faithfulness those tasks to which I am called by my service to the Church, in accord
18 with the norms of the law."

19 65. The Holy See examines and is responsible for the work and discipline and all those
20 things which concern bishops, superiors or religious orders, priests and deacons. In furtherance of
21 this duty, the Holy See, among other things, requires bishops to file a report, on a regular basis,
22 outlining the status of and any problems with priests and clergy.

23 66. The Holy See promulgates and enforces the laws and regulations regarding the
24 education, training and standards of conduct and discipline for those who serve in the
25 governmental, administrative, judicial, educational and pastoral workings of the Roman Catholic
26 Church worldwide.

27 67. No priest, cleric, superior of a religious order, bishop, archbishop or cardinal may
28 be removed from service or a position of leadership without the approval of the Holy See; nor can

1 any priest, cleric, superior of a religious order, bishop, archbishop or cardinal remain in service or
2 a position of leadership over the objection of the Holy See.

3 68. The Holy See is directly and absolutely responsible for removing bishops,
4 archbishops and cardinals from service and/or making them ineligible for positions of leadership
5 in the various divisions and offices of the Roman Catholic Church by issuing instructions,
6 mandates and dictates in the United States.

7 69. The problem of childhood sexual abuse committed by Roman Catholic clerics and
8 others within the Holy See's control is almost as old as the Roman Catholic Church itself. The
9 first formal legislation was passed at the Council of Elvira in Spain in 306 A.D. This council
10 passed legislation condemning sexual abuse by the clergy, including sexual abuse of boys. The
11 Council of Elvira was the first in a series of legislative attempts by the Church to curb its problem
12 of childhood sexual abuse committed by its clergy.

13 70. In the 11th century, a writing authored by Father Peter Damien, THE BOOK OF
14 GOMORRAH, was presented to the Holy See. This work encouraged punishment of priests and
15 clerics who sexually molested and abused children, particularly boys.

16 71. In 1917 the Holy See codified all of its rules, regulations and laws, including those
17 applicable to its employees, agents, and instrumentalities, in one document known as the CODE
18 OF CANON LAW. This code specifically forbade priests and clerics from having sexual relations
19 or relationships with children under the age of sixteen, demonstrating that the Holy See was well
20 aware of the centuries-old practice of childhood sexual abuse by Roman Catholic priests and
21 clerics. Today, in the current version of the Code (Vatican II), the sexual abuse of children by
22 priests and clerics continues to be expressly forbidden.

23 72. The Holy See has known about the widespread problem of childhood sexual abuse
24 committed by its clergy for centuries, but has covered up that abuse and thereby perpetuated the
25 abuse. Secret settlement agreements with victims have been used to silence the victims and their
26 families and to protect the abuser from criminal prosecution by United States and state authorities.
27 This practice was designed to shield the Holy See from "scandal", and has been mandated not only
28 in the United States but throughout the world, including North and South America, Europe and

1 Australia. The Holy See is responsible for the historically verified practice of the hierarchy,
2 including the bishops, moving sexually abusive priests to areas where allegations of the offender's
3 abusive conduct were not known. The Holy See has never taken appropriate or effective steps to
4 remove sexually abusive priests from the ministry. The absolute power of the Holy See over its
5 bishops and clergy in the United States was demonstrated in 2002, when the most powerful
6 American bishop's organization, the U.S. Conference of Catholic Bishops adopted a proposed
7 policy designed to protect children from priest sexual abuse. The bishops were powerless to
8 implement this policy without approval from the Holy See. The Holy See denied approval of key
9 provisions sought by the U.S. bishops which would have required that its agents in the United
10 States report all known or suspected child abuse to the civil authorities. The Holy See also refused
11 to give the U.S. bishops the power to remove abusive priests from the ministry.

12 73. While the "public" policy of the Holy See is to forbid childhood sexual abuse by
13 priests and clerics within its control, the actual "private" or secret policy is to harbor and protect its
14 abusive priests, clerics, bishops, archbishops, cardinals, agents, and employees from public
15 disclosure and prosecution, in order to maintain the Pope's rightful claim of control and thereby
16 ensure that its parishioners, followers and financial contributors will keep confidence in the
17 institution, continue to view the Holy See and the Pope as deserving of allegiance, and, therefore,
18 continue to contribute money and property to the Holy See.

19 74. The Holy See has mandated a multi-level policy of mandatory secrecy over all
20 matters involving the administrative, legislative and judicial activities of the Vatican offices and
21 departments under the direct authority of the Pope, as well as over all similar activity in the
22 various dioceses throughout the world. There are degrees of secrecy demanded of the bishops,
23 clergy, and members. The highest level of secrecy is the absolute secrecy mandated for all
24 communications which take place in the sacrament of penance, commonly referred to as
25 "confession." The highest level of secrecy outside the confessional is known as the "Pontifical
26 secret," which is imposed on certain activities of the various departments or congregations of the
27 Holy See. Violation of the Pontifical Secret results in certain severe penalties, including
28 excommunication.

1 75. At all times material hereto, and as part of both its course of commercial conduct and
2 particular commercial transactions and acts, the Holy See directed its bishops in the United States
3 and globally to conceal from its parishioners and the general public the sexual abuse of children
4 committed by its priests, bishops, clerics, agents and employees in order to avoid public scandal,
5 and to perpetuate its Christian public image and power to ensure the continued receipt of funds
6 from its parishioners and other financial contributors, all in furtherance of the Holy See's
7 commercial activities.

8 76. Because of problems of sexual misconduct of Catholic clergy, the Catholic Church
9 and other organizations sponsored treatment centers for priests that had been involved in sexual
10 misconduct. One of the treatment centers that existed prior to 1982 was in Albuquerque, New
11 Mexico, and sponsored by the Defendant ROE 3. ROE 2 was treated at this facility prior to his
12 transfer to St. Bernard's Parish in Eureka, where he sexually abused Plaintiffs, and was a known
13 diagnosed pedophile.

14 77. Pursuant to California Code of Civil Procedure section 338(d), Plaintiffs' fraud
15 causes of action did not accrue until Plaintiffs read news articles on or about August 15, 2010, that
16 Defendants ROE 1, ROE 3 and ROE 4 had placed ROE 2, a priest known to Defendants to be a
17 diagnosed pedophile, into their parish, without disclosing to Plaintiffs or their parents or guardians
18 that they, as students and parishioners at St. Bernard's School and Parish, were in fact at risk.

19 78. Plaintiffs had no reason to suspect that they had been defrauded before August 15,
20 2010. As demonstrated by the sentiment among St. Bernard's parishioners, it was almost
21 unbelievable to suspect that a trusted priest would molest children. It was just as absurd to a
22 reasonable person, if not more so, to even entertain the idea that the Defendants would place
23 children in harm's way by concealing their knowledge that known abusers/priests/employees were
24 child molesters and representing that said priests should be trusted and have unsupervised access
25 to minor-parishioners. Accordingly, pursuant to Cal. Code Civ. Proc. § 338(d), Plaintiffs' fifth,
26 sixth, seventh, eleventh causes of action did not accrue until on or about August 15, 2010, when
27 Plaintiffs first learned that the Defendants had misrepresented ROE 2's fitness and actively
28 concealed ROE 2's history of sexual misconduct with children.

1 79. Defendants are estopped from asserting a statute of limitations defense to Plaintiffs'
2 causes of action for childhood sexual abuse. Defendants' knowing false representations as set
3 forth below prevent it from being able to use any statute of limitations to protect itself.
4 Defendants were aware of the true facts when misrepresentations were made. Defendants
5 intended that their representations would be acted upon by Plaintiffs. Plaintiffs were never aware
6 of the true facts until within one year of the filing of this action. Plaintiffs relied on Defendants'
7 conduct to their detriment. Had Plaintiffs and their parents known what Defendants knew—that
8 ROE 2 was known by Defendants to be a pedophile, prior to his assignment to St. Bernard's in
9 1983, Plaintiffs would not have been exposed to ROE 2.

10 80. Defendants are also estopped from asserting a statute of limitations defense, because
11 starting in 1983, Defendant ROE 1, ROE 3 and ROE 4 engaged in a pattern of conduct designed to
12 minimize the liabilities of the Defendants because of ROE 2's conduct. Defendants knew ROE 2
13 had an extensive history of sexually abusing Catholic minors while he was serving as a priest in
14 Ireland from 1971 to 1982. Defendants knew that the Bishop of ROE 4 transferred ROE 2 in May
15 1982 from Ireland to Jemez Springs, New Mexico for treatment for his psychosexual disorder.
16 Defendants knew that the director of ROE 2's treatment program in November 1982,
17 recommended an additional six months for ROE 2 in an extended care facility. Defendants knew
18 ROE 2 entered a contract with ROE 3 to undergo treatment for pedophilia with the drug Depo-
19 Provera. Notwithstanding this knowledge, Defendants ROE 1, ROE 3 and ROE 4 engaged in
20 conduct which precludes it asserting a statute of limitations defense which includes aiding and
21 abetting ROE 2's criminal conduct in continuing to place him in work around children despite
22 knowledge of his criminal propensities. Defendants ROE 1, ROE 3 and 4 are further estopped
23 from asserting a statute of limitations defense because, as with other Roman Catholic institutions,
24 they have systematically for many years thwarted investigations of pedophile priests, while
25 simultaneously attempting to pacify their victims and families through use of church loyalty. This
26 has routinely included steering victims of abuse and their families to counselors loyal to the
27 church, while at the same time failing to inform those victims and their families that they have
28 legal rights and that there are statutes of limitations that could preclude later bringing an action.

1 When such victims unknowingly wait until their limitations have expired, Defendants and other
2 Roman Catholic entities have then argued for dismissal of the victim's case because the statutes of
3 limitations have expired.

4 81. As a result of the molestation, Plaintiffs became subject to psychological
5 mechanisms of denial and dissociation which by their natural operation reasonably and justifiably
6 prevented Plaintiffs from being able to know and meaningfully understand the psychological and
7 emotional injuries which were occurring and would in the future continue to occur and develop in
8 them. Said mechanisms naturally and reasonably prevented Plaintiffs from being able to discover
9 that psychological injuries occurring in their adult life were causally connected to the child sexual
10 abuse, and from being able to discover the injurious nature of the childhood sexual abuse until
11 within one year of the filing of this Complaint.

12 82. Although Plaintiffs never repressed their memories of the abuse, they buried
13 memories of it as far as they could out of their conscious mind. They abused alcohol following
14 the molestations. Plaintiffs never disclosed the molestation by ROE 3 until within one year of the
15 filing of this complaint.

16 83. It is often only when an adult survivor of childhood sexual abuse enters
17 psychotherapy or at least as an adult, engages another person in conversation about the effects of
18 their child molestation that any meaningful understanding of his or her injuries can be developed.
19 Similarly, only when a survivor of abuse discloses the abuse do the psychological defense
20 mechanisms employed to protect the victim's mind begin to break down, exposing the injury.
21 Because of the shame and self-blame caused by the molestation, survivors of abuse cannot
22 reasonably be expected to disclose the abuse until some life event triggers or spurs a need to do so
23 or until a therapist inquires into the subject.

24 84. Plaintiffs are filing their negligence and sexual abuse causes of action within three
25 years of the date they discovered or reasonably should have discovered that psychological injury
26 or illness occurring after the age of majority was caused by the childhood sexual abuse. Plaintiffs
27 brings these causes of action for sexual abuse and negligence pursuant to Cal. Code Civ. Proc. §
28 340.1.

1 85. A Defendant has its primary place of business in Sonoma County; therefore, venue
2 is properly placed in Sonoma County.

3 **FIRST CAUSE OF ACTION**
4 **(Negligence – Defendants ROE 1, ROE 3, and ROE 4)**

5 86. Plaintiffs incorporate herein by reference each and every General Allegation as if
6 fully set forth herein and with the same force and effect.

7 87. Defendant ROE 1 had a duty to protect the minor Plaintiffs when they were
8 entrusted to their care by Plaintiffs' parents. Plaintiffs' care, welfare, and/or physical custody
9 were temporarily entrusted to Defendants, and Defendants accepted and entrusted care of the
10 Plaintiffs. As such, Defendants owed Plaintiffs, minor children, a special duty of care, in addition
11 to a duty of ordinary care, and owed Plaintiffs the higher duty of care that adults dealing with
12 children owe to protect them from harm. In this case, Plaintiffs required the heightened level of
13 care appropriate for a minor.

14 88. The perpetrator, ROE 2, was able, by virtue of his unique authority and position as
15 a priest in the Catholic Church, to identify the vulnerable victims and their families upon which he
16 would perpetrate such sexual abuse; to manipulate his authority to procure compliance with his
17 sexual demands from his victims; to induce the victim to continue to allow the abuse; and to
18 coerce victims not to report it to any other persons or authorities.

19 89. Defendants ROE 1, ROE 3 and ROE 4, by and through their agents, servants and
20 employees, knew or reasonably should have known of the ROE 2's dangerous and exploitive
21 propensities and/or that ROE 2 was an unfit agent. It was foreseeable that if Defendants did not
22 adequately exercise or provide the duty of care owed to children in their care, including but not
23 limited to the Plaintiffs, the children entrusted to Defendant's care would be vulnerable to sexual
24 abuse by ROE 2.

25 90. Defendants ROE 1, ROE 3 and ROE 4 breached its duty of care to the minor
26 Plaintiffs by allowing ROE 2 to come in contact with the minor Plaintiffs without supervision; by
27 failing to adequately supervise, or negligently retaining ROE 2 who they permitted and enabled to
28 have access to the Plaintiffs; by failing to investigate or otherwise confirm or deny such facts

1 about ROE 2; by failing to tell or concealing from Plaintiffs, Plaintiffs' parents, guardians, or law
2 enforcement officials, that ROE 2 was or may have been sexually abusing minors; by failing to tell
3 or concealing from Plaintiffs' parents, guardians or law enforcement officials that Plaintiffs were
4 or may have been sexually abused after Defendant knew or had reason to know that ROE 2 may
5 have sexually abused Plaintiffs, therefore enabling Plaintiffs to continue to be endangered and
6 sexually abused, and/or creating the circumstance where Plaintiffs were less likely to receive
7 medical/mental health care and treatment, thus exacerbating the harm done to Plaintiffs.
8 Defendants cloaked within the façade of normalcy Defendants' and/or ROE 2's conduct and/or
9 actions with the Plaintiffs and/or with other minors who were victims of ROE 2, and/or disguised
10 the nature of the sexual abuse.

11 91. As a direct result of Defendant ROE 1, ROE 3 and ROE 4's negligence, Plaintiffs
12 were caused harm as more fully set forth below.

13 **SECOND CAUSE OF ACTION**
14 **(Negligent Hiring, Supervision & Retention – Defendants ROE 1 and ROE 4)**

15 92. Plaintiffs incorporate herein by reference each and every allegation in the First
16 Cause of Action as if fully set forth herein and with the same force and effect.

17 93. Defendants ROE 1 and ROE 4 had a duty to not hire and/or retain ROE 2, and
18 other employees, agents, volunteers and other representatives, given ROE 2's dangerous and
19 exploitive propensities.

20 94. Defendants ROE 1 and ROE 4 had a duty to provide reasonable supervision of both
21 ROE 2 and the Plaintiffs; to use reasonable care in investigating ROE 2; and to provide adequate
22 warning to the Plaintiffs, or the Plaintiffs' family members, of ROE 2's dangerous propensities or
23 unfitness.

24 95. Defendants ROE 1 and ROE 4, by and through its agents, servants and employees,
25 knew or reasonably should have known of ROE 2's dangerous and exploitive propensities and/or
26 that ROE 2 was an unfit agent. Despite such knowledge, Defendants ROE 1 and ROE 4
27 negligently failed to supervise ROE 2 in the position of trust and authority as a priest with a
28 leadership role with youth where he was able to commit the wrongful acts against the Plaintiffs.

1 Defendants ROE 1 and ROE 4 failed to prove the reasonable supervision of ROE 2, failed to use
2 reasonable care in investigating ROE 2, and failed to provide adequate warning to Plaintiffs and
3 Plaintiffs' family of ROE 2's dangerous propensities and unfitness. Defendants ROE 1 and ROE
4 4 further failed to take reasonable measures to prevent future sexual abuse.

5 96. As a direct result of Defendants ROE 1 and ROE 4's negligence, Plaintiffs were
6 caused harm as more fully set forth below.

7 **THIRD CAUSE OF ACTION**
8 **(Negligent Failure to Warn or Educate – Defendants ROE 1, ROE 3 and ROE 4)**

9 97. Plaintiffs incorporate herein by reference each and every allegation in the Second
10 Cause of Action as if fully set forth herein and with the same force and effect.

11 98. Defendants ROE 1, ROE 3 and ROE 4 breached their duty to take reasonable
12 protective measures to protect Plaintiffs and other minor students from the risk of childhood
13 sexual abuse by ROE 2, such as the failure to properly warn or educate the Plaintiffs and their
14 parents, and other minor parishioners and/or students about how to avoid such risk, pursuant to
15 *Juarez v. Boy Scouts of America, Inc.* (2000) 97 Cal.App.4th 377.

16 99. As a direct result of Defendant ROE 1, ROE 3 and ROE 4's negligence, Plaintiffs
17 was caused harm as more fully set forth below.

18 **FOURTH CAUSE OF ACTION**
19 **(Negligent Misrepresentation – Defendants ROE 1, ROE 3 and ROE 4)**

20 100. Plaintiffs incorporate herein by reference each and every general allegation as if
21 fully set forth herein and with the same force and effect.

22 101. Defendants ROE 1, ROE 3 and ROE 4, through their agents, represented to
23 Plaintiffs and their families that ROE 2 did not have a history of molesting children and that ROE
24 2 was not a danger to children.

25 102. ROE 2 did have a history of sexually molesting children and was a danger to
26 children.

27 103. Defendants ROE 1, ROE 3 and ROE 4 owed a duty of care to Plaintiffs because it
28 knew ROE 2 would have access to children including Plaintiffs. Defendants ROE 1, ROE 3 and

1 ROE 4 should have known that ROE 2 was a danger to children, and should have known ROE 2
2 had molested children before he molested Plaintiffs, and should have known that parents and
3 children would place the utmost trust in ROE 2.

4 104. Defendants ROE 1, ROE 3 and ROE 4 through their agents, failed to use ordinary
5 care in making the representations or in ascertaining the facts related to ROE 2. Defendants ROE
6 1, ROE 3 and ROE 4 reasonably should have foreseen that its representations would subject
7 Plaintiffs to an unreasonable risk of harm.

8 105. Defendants ROE 1, ROE 3 and ROE 4 failed to use ordinary care to determine
9 ROE 2's significant/lengthy history of molesting children and whether he was safe for work with
10 children before it made its representation about ROE 2. Defendant ROE 1's failures, include, but
11 are not limited to: failure to ask ROE 2 whether he would be sexually molesting children, failure
12 to ask ROE 2's co-workers whether he was molesting children or whether they had any concerns
13 about ROE 2 and children, failure to investigate ROE 2's interest in children, failure to have an
14 adequate system to determine whether ROE 2 molested children and whether he was safe, failure
15 to train its employees properly to identify signs of child molestation by fellow employees, and
16 failure to investigate warning signs about ROE 2 when they did arise.

17 106. Plaintiffs believed and justifiably relied upon Defendant ROE 1, ROE 3 and ROE
18 4's representations, which caused them to be sexually molested by ROE 2 and suffer damages as
19 set forth below.

20 **FIFTH CAUSE OF ACTION**

21 **(Fraud – Defendants ROE 1, ROE 3 and ROE 4)**

22 107. Plaintiffs incorporate herein by reference each and every General Allegation as if
23 fully set forth herein and with the same force and effect.

24 108. A priest was and is directly answerable to the Diocese as his superior. Defendants
25 ROE 1 and ROE 4 wanted its pastors to be well respected by the parishioners in their parish.
26 Defendant ROE 1 and ROE 4 also wanted the parishioners to have belief and trust in their pastors.

27 109. Defendants ROE 1 and ROE 4 wanted parishioners to have a belief that their priest
28 would never do anything to harm them and also a belief that the priest would always act in their

1 best interest.

2 110. Defendants ROE 1 and ROE 4's fundamental responsibility to the lay people and
3 the priests is to safeguard and nurture their spiritual and moral life. This responsibility requires
4 that a bond of complete trust exist between the Bishop and each person entrusted to him, meaning
5 those who live in his diocese and those who may be there temporarily.

6 111. The trust relationship that exists between a Bishop and the people of his diocese is
7 deeper and more inclusive than the trust relationship that exists between any secular superior and
8 his other subject. The institutional Church teaches the lay parishioner that he or she must trust the
9 Bishop to administer the laws of the Church in a fair and impartial manner (canon 221).

10 112. Defendant ROE 1, ROE 3 and ROE 4's act of placing ROE 2 at St. Bernard's
11 where he had unsupervised access to children affirmatively represented to the minor children and
12 their families that ROE 1, ROE 3 and ROE 4 did not know that ROE 2 had a history of molesting
13 children and that ROE 1, ROE 3 and ROE 4 did not know that ROE 2 was a danger to children.
14 Such acts constitute representations of fact.

15 113. Plaintiffs justifiably relied upon Defendant ROE 1, ROE 3 and ROE 4's
16 misrepresentation which caused them to have contact with ROE 2.

17 114. Defendants ROE 1, ROE 3 and ROE 4 knew that the misrepresentations were false
18 or at least were reckless and without care of whether these representations were true or false.

19 115. Defendants ROE 1, ROE 3 and ROE 4 made the misrepresentations with the intent
20 to deceive Plaintiffs and their parents and guardians to induce them to act on the
21 misrepresentations.

22 116. At no time did Defendants ROE 1, ROE 3 or ROE 4 ever send an official, a
23 member of the clergy, an investigator or any employee or independent contractor to St. Bernard's
24 Church to advise the parishioners either verbally or through a church bulletin that there were
25 credible allegations against ROE 2 and to request that anyone who saw, suspected or suffered
26 sexual abuse to come forward and file a report with the police department. Rather, Defendants
27 ROE 1, ROE 3 and ROE 4 remained silent despite their knowledge that ROE 2 had sexually
28 molested many Catholic children at St. Bernard's and at other parishes in Ireland.

1 117. As a direct result of Defendant ROE 1, ROE 3 and ROE 4's fraud, Plaintiffs were
2 caused harm as more fully set forth below.

3 **SIXTH CAUSE OF ACTION**
4 **(Fraud - Intentional Non-Disclosure – Defendants ROE 1, ROE 3 and ROE 4)**

5 118. Plaintiffs incorporate herein by reference each and every allegation in the Fifth
6 Cause of Action as if fully set forth herein and with the same force and effect.

7 119. Defendants ROE 1, ROE 3 and ROE 4 knew that ROE 2 had a history of sexually
8 molesting children before ROE 2 sexually molested Plaintiffs. Defendants failed to disclose the
9 fact that ROE 2 had a history of repeated criminal sexual abuse of children. Defendants, in light of
10 their knowledge of ROE 2's prior criminal sexual molestation of children, intended to deceive
11 children and their families at St. Bernard's Church and school.

12 120. Whether or not ROE 2 had a history of sexual abuse was a material fact to
13 Plaintiffs.

14 121. Plaintiffs and their parents relied on Defendants' non-disclosure.

15 122. Defendants ROE 1, ROE 3 and ROE 4 intentionally did not disclose this fact to the
16 then minor Plaintiffs or their parents or guardians in order to induce them to act on the
17 misrepresentations to their detriment.

18 123. Plaintiffs relied upon this intentional non-disclosure, which caused them to be
19 sexually molested by ROE 2 and suffer the damages as set forth below.

20 **SEVENTH CAUSE OF ACTION**
21 **(Fraudulent Concealment / Intentional Non-Disclosure – Defendant ROE 1)**

22 124. Plaintiffs incorporate herein by reference each and every allegation in the Sixth
23 Cause of Action as if fully set forth herein and with the same force and effect.

24 125. Plaintiffs reposed great trust and confidence in Defendant ROE 1. Defendant ROE
25 1 accepted Plaintiffs' trust and confidence. As a result of Defendant ROE 1's relationship to
26 Plaintiffs and their families, Defendant ROE 1 owed a fiduciary duty to Plaintiffs that was
27 breached by failing to disclose and actively concealing that ROE 2 was a known danger to
28 children.

1 126. Whether or not ROE 2 was a known criminal sex offender and would have access
2 to children by Defendant were material facts to Plaintiffs.

3 127. Defendant ROE 1 concealed or intentionally failed to disclose information relating
4 to Defendant ROE 1's knowledge of ROE 2's criminal history.

5 128. Defendant ROE 1 knew it concealed or failed to disclose information relating to
6 ROE 2's criminal history.

7 129. Plaintiffs justifiably relied upon Defendant ROE 1 for information relating to ROE
8 2's fitness to serve as a priest at St. Bernard's with access to children.

9 130. As a direct result of Defendant ROE 1's fraudulent concealment, Plaintiffs were
10 caused harm as more fully set forth below.

11 **EIGHTH CAUSE OF ACTION**
12 **(Sexual Battery – Defendant ROE 2)**

13 131. Plaintiffs incorporate by reference all general allegations as if fully set forth herein
14 and with the same force and effect.

15 132. In or around approximately 1984, Defendant ROE 2, using his position of trust and
16 authority as a priest, engaged in unlawful, harmful and offensive sexual contact upon the person of
17 Plaintiff JOHN DOE 76, when Plaintiff was a minor. Defendant ROE 2's sexual molestation,
18 sexual abuse and sexual touching were against Plaintiff's will and were done for the purposes of
19 Defendant ROE 2's sexual arousal and sexual gratification.

20 133. In or around approximately 1983, Defendant ROE 2, using his position of trust and
21 authority as a priest, engaged in unlawful, harmful and offensive sexual contact upon the person of
22 Plaintiff JOHN DOE 77, when Plaintiff was a minor. Defendant ROE 2's sexual molestation,
23 sexual abuse and sexual touching were against Plaintiff's will and were done for the purposes of
24 Defendant ROE 2's sexual arousal and sexual gratification.

25 134. In or around approximately 1985, Defendant ROE 2, using his position of trust and
26 authority as a priest, engaged in unlawful, harmful and offensive sexual contact upon the person of
27 Plaintiff JOHN DOE 78, when Plaintiff was a minor. Defendant ROE 2's sexual molestation,
28 sexual abuse and sexual touching were against Plaintiff's will and were done for the purposes of

1 Defendant ROE 2's sexual arousal and sexual gratification.

2 135. In or around approximately 1984-1985, Defendant ROE 2, using his position of
3 trust and authority as a priest, engaged in unlawful, harmful and offensive sexual contact upon the
4 person of Plaintiff JOHN DOE 79, when Plaintiff was a minor. Defendant ROE 2's sexual
5 molestation, sexual abuse and sexual touching were against Plaintiff's will and were done for the
6 purposes of Defendant ROE 2's sexual arousal and sexual gratification.

7 136. As a direct result of Defendant ROE 2's above referenced conduct while Plaintiffs
8 were minors, Plaintiffs were caused harm as more fully set forth below.

9 **NINTH CAUSE OF ACTION**
10 **(Assault – Defendant ROE 2)**

11 137. Plaintiffs incorporate by reference all general allegations as if fully set forth herein
12 and with the same force and effect.

13 138. Defendant ROE 2, in committing the acts herein alleged, intended to cause harmful
14 or offensive contact with Plaintiffs' person, or intended to put Plaintiffs in imminent apprehension
15 of such conduct.

16 139. Plaintiffs did not and could not legally consent to Defendant ROE 2's harmful
17 contact with Plaintiffs' person. Additionally, because Plaintiffs were minors during the time
18 herein alleged, they lacked the capacity to consent to sexual contact with Defendant ROE 2.

19 140. In doing the acts herein alleged, Defendant ROE 2 violated Plaintiffs' rights,
20 pursuant to California Civil Code Section 43, of protection from bodily restraint or harm, and from
21 personal insult. In doing the acts herein alleged, Defendant ROE 2 violated his duty, pursuant to
22 California Civil Code Section 1708, to abstain from injuring the person of Plaintiffs or infringing
23 upon Plaintiffs' rights.

24 141. As a direct result of Defendant ROE 2's above referenced conduct while Plaintiffs
25 were minors, Plaintiffs were caused harm as more fully set forth below.

26 **TENTH CAUSE OF ACTION**
27 **(Vicarious Liability – Defendants ROE 1 and ROE 4)**

28 142. Plaintiffs incorporate by reference each and every allegation contained in this

1 Complaint as if fully set forth herein and with the same force and effect.

2 143. At all times material, Defendant ROE 2 was a priest within the employment of and
3 in service of Defendant ROE 1 and ROE 4. Defendant ROE 2 was under Defendant ROE 1 and
4 ROE 4's direct supervision and control when he committed the wrongful and negligent acts
5 described herein. Defendant ROE 2 engaged in this conduct while in the course and scope of his
6 position as a priest with Defendant ROE 1 and ROE 4 and/or accomplished the sexual abuse by
7 virtue of his authority. Therefore, this Defendant is liable for the negligent and wrongful conduct
8 of Defendant ROE 2 under the law of vicarious liability, including the doctrine of respondeat
9 superior.

10 144. As a direct result of Defendant ROE 2's above referenced conduct while Plaintiffs
11 were minors, Plaintiffs were caused harm as more fully set forth below.

12 **ELEVENTH CAUSE OF ACTION**
13 **(Conspiracy to Defraud –Defendants ROE 1, ROE 3 and ROE 4)**

14 145. Plaintiffs incorporate all paragraphs of this complaint as if fully set forth in this
15 count.

16 146. Each Defendant, through their agents, including Bishop Hurley, and other agents of
17 ROE 1, ROE 3 and ROE 4, entered into a conspiracy to defraud the public, including Plaintiffs,
18 regarding ROE 2. Upon information and belief, the conspiracy consisted of an agreement to send
19 ROE 2 for "treatment" at the Defendant ROE 3 facilities in Jemez Springs, New Mexico, and then
20 transfer ROE 2 from the ROE 4 to ROE 1, and allow ROE 2 access to children when the
21 Defendants knew that ROE 2 had not been properly treated for his abuse of children and that he
22 had a history of sexually abusing children and would in all likelihood offend again, and to
23 misrepresent to the public, including Plaintiffs, that Defendants thought that ROE 2 was safe and
24 fit. Each Defendant knew that ROE 2 had sexually abused in the past, even after psychological
25 treatment. Each Defendant knew that parents had complained about ROE 2 sexually abusing their
26 children. Each Defendant knew that the ROE 4 did not want ROE 2 functioning as a priest within
27 the ROE 4 Diocese, because of the number of times his sexual abuse problem had recurred.

28 147. All Defendants concealed their own actions and the actions of the other co-

1 conspirators by failing to report known criminal conduct by ROE 2 to law enforcement.

2 148. All Defendants actively concealed past criminal activity by ROE 2 and future
3 criminal activity, that each of the co-conspirators knew would occur, by concealing ROE 2's past
4 sexual abuse of children and by continuing to assign ROE 2 to positions where he necessarily had
5 unsupervised access to children without warning the children or their families that ROE 2 would
6 likely sexually abuse those children.

7 149. All Defendants were aware that ROE 2 had been to repeated treatment for sexual
8 abusers prior to transferring ROE 2 to ROE 1.

9 150. Each Defendant knew that the psychological treatment that ROE 2 received at the
10 ROE 3 facilities was ineffective treatment and that ROE 2 remained a danger to children.

11 151. Defendants knew that upon transfer to the ROE 1, it was almost predetermined that
12 ROE 2, a predator always hunting for children to abuse, would continue to sexually abuse minors.
13 By agreeing to transfer ROE 2 to the ROE 1, Defendants formed a conspiracy to commit fraud
14 against Plaintiffs, their parents, guardians and others.

15 152. Defendants agreed to allow ROE 2 to work in parishes in the ROE 1 and
16 affirmatively represented to Plaintiffs that ROE 2 was safe and did not have a history of sexually
17 abusing minors. In fact, they promised to parishioners, including Plaintiffs, that ROE 2 would be
18 a safe and trustworthy counselor and mentor for parish children and their families.

19 153. By placing ROE 2 in a parish within ROE 1, the Defendants also affirmatively
20 represented to the Plaintiffs that ROE 2 was safe and did not have a history of sexually abusing
21 minors.

22 154. Given the relationships and circumstances described herein, the Defendants had the
23 duty to disclose the fact that ROE 2 had sexually abused children at prior assignments and that
24 ROE 2 was not safe around children.

25 155. The placement of ROE 2 where he had access to Plaintiffs, as well as other children
26 without disclosing ROE 2's abusive past, constitutes a deliberate wrongful act committed in
27 furtherance of the conspiracy.

28 156. By their concerted action of transferring ROE 2 to ROE 1 and assigning ROE 2 to a

1 parish where he had access to children without disclosing ROE 2's abusive past, Defendants
2 accomplished an unlawful purpose to commit fraud against Plaintiffs and their parents and
3 guardians.

4 157. The Defendants came to a meeting of the minds that they would place ROE 2 at an
5 assignment within ROE 1, where the people at those assignments, including children, had no idea
6 that ROE 2 had been accused of sexually abusing children, that ROE 2 had received multiple
7 courses of treatment for being a sexual abuser or that ROE 2 had been suspended multiple times
8 for sexually abusing children and that he was a repeat offender, without remorse. The Defendants
9 decided that they would keep ROE 2's background a secret from the public, including Plaintiffs
10 and their parents and guardians.

11 158. Each Defendant engaged in wrongful acts pursuant to this conspiracy.

12 159. Plaintiffs were defrauded and sexually abused as a result of this conspiracy.

13 160. Plaintiffs could not with reasonable diligence have discovered the fraud or the
14 conspiracy to commit fraud until after August 15, 2010.

15 DAMAGES

16 161. As a direct, legal and proximate result of each and all of the Causes of Action
17 hereinabove alleged, Plaintiffs have been damaged as herein below set forth.

18 162. Plaintiff JOHN DOE 76 has suffered psychological and emotional injury and harm,
19 including not only the immediate distress caused by Defendants and their conduct, but also long-
20 term psychological injuries which were to a large extent only latent at the time of the wrongful
21 conduct, and which have developed and occurred, and will in the future continue to develop and
22 occur in Plaintiff John Doe 76, all to Plaintiff John Doe 76's general damages in a sum to be
23 proven. Plaintiff John Doe 76 has further suffered an exacerbation of any emotional difficulties
24 which were pre-existing the harmful treatment Plaintiff John Doe 76 received from Defendants.

25 163. Plaintiff John Doe 76 has suffered physical, mental and emotional health problems
26 as a result of which he has had to employ, and will in the future continue to have to employ,
27 medical and mental health professionals for diagnosis and treatment and have incurred and will in
28 the future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff John Doe

1 76 will ask leave of Court to amend this Complaint to state the exact amount of expenses when
2 they are ascertained.

3 164. Plaintiff John Doe 76 has suffered and will in the future continue to suffer a loss of
4 earnings and of earning capacity, in a sum as yet unascertained. Plaintiff John Doe 76 will ask
5 leave of court to amend this Complaint to state the exact amount of such losses when the sums are
6 ascertained.

7 165. Plaintiff JOHN DOE 77 has suffered psychological and emotional injury and harm,
8 including not only the immediate distress caused by Defendants and their conduct, but also long-
9 term psychological injuries which were to a large extent only latent at the time of the wrongful
10 conduct, and which have developed and occurred, and will in the future continue to develop and
11 occur in Plaintiff John Doe 77, all to Plaintiff John Doe 77's general damages in a sum to be
12 proven. Plaintiff John Doe 77 has further suffered an exacerbation of any emotional difficulties
13 which were pre-existing the harmful treatment Plaintiff John Doe 77 received from Defendants.

14 166. Plaintiff John Doe 77 has suffered physical, mental and emotional health problems
15 as a result of which he has had to employ, and will in the future continue to have to employ,
16 medical and mental health professionals for diagnosis and treatment and have incurred and will in
17 the future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff John Doe
18 77 will ask leave of Court to amend this Complaint to state the exact amount of expenses when
19 they are ascertained.

20 167. Plaintiff John Doe 77 has suffered and will in the future continue to suffer a loss of
21 earnings and of earning capacity, in a sum as yet unascertained. Plaintiff John Doe 77 will ask
22 leave of court to amend this Complaint to state the exact amount of such losses when the sums are
23 ascertained.

24 168. Plaintiff JOHN DOE 78 has suffered psychological and emotional injury and harm,
25 including not only the immediate distress caused by Defendants and their conduct, but also long-
26 term psychological injuries which were to a large extent only latent at the time of the wrongful
27 conduct, and which have developed and occurred, and will in the future continue to develop and
28 occur in Plaintiff John Doe 78, all to Plaintiff John Doe 78's general damages in a sum to be

1 proven. Plaintiff John Doe 78 has further suffered an exacerbation of any emotional difficulties
2 which were pre-existing the harmful treatment Plaintiff John Doe 78 received from Defendants.

3 169. Plaintiff John Doe 78 has suffered physical, mental and emotional health problems
4 as a result of which he has had to employ, and will in the future continue to have to employ,
5 medical and mental health professionals for diagnosis and treatment and have incurred and will in
6 the future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff John Doe
7 78 will ask leave of Court to amend this Complaint to state the exact amount of expenses when
8 they are ascertained.

9 170. Plaintiff John Doe 78 has suffered and will in the future continue to suffer a loss of
10 earnings and of earning capacity, in a sum as yet unascertained. Plaintiff John Doe 78 will ask
11 leave of court to amend this Complaint to state the exact amount of such losses when the sums are
12 ascertained.

13 171. Plaintiff JOHN DOE 79 has suffered psychological and emotional injury and harm,
14 including not only the immediate distress caused by Defendants and their conduct, but also long-
15 term psychological injuries which were to a large extent only latent at the time of the wrongful
16 conduct, and which have developed and occurred, and will in the future continue to develop and
17 occur in Plaintiff John Doe 79, all to Plaintiff John Doe 79's general damages in a sum to be
18 proven. Plaintiff John Doe 79 has further suffered an exacerbation of any emotional difficulties
19 which were pre-existing the harmful treatment Plaintiff John Doe 79 received from Defendants.

20 172. Plaintiff John Doe 79 has suffered physical, mental and emotional health problems
21 as a result of which he has had to employ, and will in the future continue to have to employ,
22 medical and mental health professionals for diagnosis and treatment and have incurred and will in
23 the future continue to incur expenses therefore, in a sum as yet unascertained. Plaintiff John Doe
24 79 will ask leave of Court to amend this Complaint to state the exact amount of expenses when
25 they are ascertained.

26 173. Plaintiff John Doe 79 has suffered and will in the future continue to suffer a loss of
27 earnings and of earning capacity, in a sum as yet unascertained. Plaintiff will ask leave of court to
28 amend this Complaint to state the exact amount of such losses when the sums are ascertained.

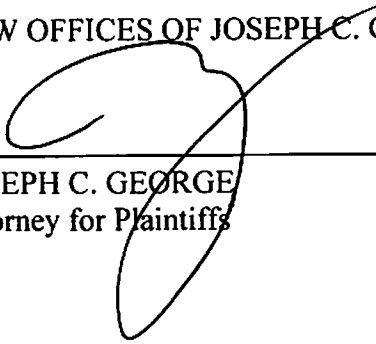
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WHEREFORE, Plaintiffs pray for judgment as follows:

1. For damages for past and future medical, psychotherapy, and related expenses according to proof at the time of trial;
2. For general damages for physical and mental pain and suffering and emotional distress in a sum to be proven at the time of trial;
3. For damages for past and future lost wages and loss of earning capacity according to proof at the time of trial;
4. For prejudgment interest pursuant to statute;
5. For costs of suit herein; and
6. For such other and further relief as the Court deems proper.

Dated: June 20, 2011

LAW OFFICES OF JOSEPH C. GEORGE, PH.D.



JOSEPH C. GEORGE
Attorney for Plaintiffs