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CLERK OF THE SUPERIOR COURT  
COUNTY OF STANISLAUS  
BY **BRENDA WILLIAMS**  
DEPUTY

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF STANISLAUS**

11 JOHN JS DOE, an individual, )  
12 )  
13 Plaintiff, )  
14 )  
15 v. )  
16 )  
17 DOE 1, a corporation sole; DOE 2, a business )  
18 entity of form unknown; DOE 3, a business )  
19 entity of form unknown; DOE 4, an individual; )  
20 and DOE 5 through 100, inclusive; )  
21 Defendants. )

Case No.: 648696  
Judge: Hurl W. Johnson  
Dept.: 23

**SECOND AMENDED COMPLAINT  
FOR DAMAGES FOR:**

- 1) NEGLIGENCE;
- 2) NEGLIGENT SUPERVISION;
- 3) NEGLIGENT HIRING/  
RETENTION;
- 4) NEGLIGENT FAILURE TO WARN,  
TRAIN OR EDUCATE;
- 5) CONSTRUCTIVE FRAUD (C.C. §  
1573);
- 6) INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;
- 7) SEXUAL BATTERY (C.C. § 1708.5);
- 8) ASSAULT.

[DEMAND FOR JURY TRIAL]

[Filed Pursuant to C.C.P. § 340.1]

23 **COMES NOW**, Plaintiff JOHN JS DOE, who complains and alleges as follows:

24 **GENERAL ALLEGATIONS AS TO THE PARTIES**

25 1. At all times mentioned herein, Plaintiff JOHN JS DOE was a resident of the State  
26 of California. The name used by JOHN JS DOE in this Complaint is not the real name of JOHN  
27 JS DOE, but is a fictitious name utilized to protect the privacy of JOHN JS DOE, a victim of  
28 childhood sexual harassment, molestation and abuse. Plaintiff JOHN JS DOE was a minor during

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1 the entire time of the sexual misconduct alleged herein (JOHN JS DOE is hereinafter referred to as  
2 "Plaintiff") .

3 2. Defendant DOE 1, at all times mentioned herein was and is, a religious corporation  
4 sole and Roman Catholic Diocese, organized under the laws of the State of California, having its  
5 principal place of business in the County of Stockton, State of California.

6 3. Defendant DOE 2, a Roman Catholic parish and school and business entity of form  
7 unknown, is located in the City of Turlock, in the County of Stanislaus, State of California, wholly  
8 owned, operated and controlled by DOE 1 and/or DOE 3. DOE 2 was and is a Roman Catholic  
9 parish that provides education, ministry and youth services to children , including children  
10 between the approximate ages of 5 and 14.

11 4. Defendant DOE 3, a Roman Catholic parish and school and business entity of form  
12 unknown, is located in the City of Stockton, in the County of Stockton, State of California, wholly  
13 owned, operated and controlled by DOE 1 and/or DOE 2. DOE 3 was and is a Roman Catholic  
14 parish that provides education, ministry and youth services to children , including children  
15 between the approximate ages of 5 and 14.

16 5. At all times mentioned herein, DOE 4 was an individual and a priest, pastor,  
17 mentor, counselor, teacher at DOE 1, DOE 2, and DOE 3, teaching and providing spiritual  
18 education, leadership, guidance, mentoring and counseling, to parishoners and students, including  
19 children parshioners and Plaintiff and residing in the Counties of Stanislaus and Stockton. At all  
20 times mentioned herein, DOE 4 was an employee, agent, and/or servant of Defendants DOE 1,  
21 DOE 2, and DOE 3, and/or was under their complete control and/or active supervision.

22 6. At all times mentioned herein, each and every Defendant and DOE 4 was an  
23 employee, agent, and/or servant of DOE 1, DOE 2 and DOE 3 and of DOES 5 through 100,  
24 inclusive, and/or was under their complete control and/or active supervision. Defendants and  
25 DOE 4 and each of them are individuals, corporations, partnerships and/or other entities that  
26 engaged in, joined in, and conspired with other Defendants and DOE 4 and wrongdoers in carrying  
27 out the tortuous and unlawful activities described in this Complaint.

28 7. Defendants DOES 5 through 100, inclusive, and each of them, are sued herein

1 under said fictitious names. Plaintiff is ignorant as to the true names and capacities of these DOE  
2 Defendants, whether individual, corporate, associate, or otherwise, and therefore sue said  
3 Defendants by such fictitious names. When their true names and capacities are ascertained,  
4 Plaintiff will request leave of Court to amend this Complaint to state their true names and  
5 capacities herein.

6 8. Plaintiff is informed and believes, and on that basis alleges, that at all times  
7 mentioned herein, each fictitiously named Defendant was responsible in some manner or capacity  
8 for the occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were  
9 proximately caused by all said DOE Defendants.

10 9. Defendants DOE 1, DOE 2, DOE 3, DOE 4 and DOES 5 through 100, inclusive,  
11 are sometimes collectively referred to herein as "Defendants" and/or as "All Defendants"; such  
12 collective reference refers to all specifically named Defendants as well as those fictitiously named  
13 herein.

14 10. Plaintiff is informed and believes, and on that basis alleges, that at all times  
15 mentioned herein, there existed a unity of interest and ownership among Defendants and each of  
16 them, such that any individuality and separateness between Defendants, and each of them, ceased  
17 to exist. Defendants and each of them, were the successors-in-interest and/or alter egos of the  
18 other Defendants, and each of them, in that they purchased, controlled, dominated and operated  
19 each other without any separate identity, observation of formalities, or other manner of division.  
20 To continue maintaining the facade of a separate and individual existence between and among  
21 Defendants, and each of them, would serve to perpetrate a fraud and an injustice.

22 11. Plaintiff is informed and believes, and on that basis alleges, that at all times  
23 mentioned herein, Defendants and each of them and DOE 4 were the agents, representatives and/or  
24 employees of each and every other Defendant. In doing the things hereinafter alleged, Defendants  
25 and each of them, and DOE 4, were acting within the course and scope of said alternative  
26 personality, capacity, identity, agency, representation and/or employment and were within the  
27 scope of their authority, whether actual or apparent.

28 12. Plaintiff is informed and believes, and on that basis alleges, that at all times

1 mentioned herein, Defendants and each of them and DOE 4 were the trustees, partners, servants,  
2 joint venturers, shareholders, contractors, and/or employees of each and every other Defendant,  
3 and the acts and omissions herein alleged were done by them, acting individually, through such  
4 capacity and within the scope of their authority, and with the permission and consent of each and  
5 every other Defendant and that said conduct was thereafter ratified by each and every other  
6 Defendant, and that each of them is jointly and severally liable to Plaintiff.

7 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

8 13. At all times material hereto, DOE 4 was a Roman Catholic priest, mentor, spiritual  
9 advisor, counselor and teacher, under the direct supervision, employ, agency, and control of  
10 Defendants, DOE 1, DOE 2, and DOE 3, and DOES 5 through 100, inclusive.

11 14. At all times material hereto, DOE 4's employment duties with the named  
12 Defendants included, in part, providing for the religious, educational, spiritual, and emotional  
13 needs and well-being of students, including Plaintiff, of DOE 1, DOE 2, and DOE 3, and for the  
14 religious, educational, spiritual, and emotional needs and well-being of students and parishioners  
15 of the Roman Catholic Church, and more specifically of DOE 1, a corporation sole, and DOES 5  
16 through 100.

17 15. At all times material hereto, Plaintiff was a minor student and parishioner at DOE  
18 3, a Roman Catholic parish and school owned, operated and controlled by Defendants and each of  
19 them.

20 16. At all times material hereto, DOE 4 was employed at DOE 1, DOE 2, and DOE 3 as  
21 a priest, pastor, mentor, counselor, and teacher employed by DOE 1, DOE 2, and DOE 3, teaching  
22 and providing for the religious, educational, spiritual, and emotional needs and well-being of  
23 parishioners and students at DOE 3, where Plaintiff was a minor student and parishioner. It is  
24 under these circumstances that Plaintiff came to be under the direction and control of DOE 4, who  
25 used his position of authority and trust over Plaintiff to sexually harass, molest and abuse him.  
26 DOE 4 did sexually harass, molest and abuse Plaintiff, who was a minor at the time. Such conduct  
27 was done for DOE 4's sexual gratification, and was performed on Plaintiff without his free  
28 consent, as Plaintiff was a mere minor and thus unable to give valid, legal consent to such sexual

1 acts. These actions upon Plaintiff constituted conduct in violation of California Penal Code  
2 sections 266j, 272, 273a, 285, 286, 288, 288a, 288.2, 288.5, 289, and 647.6.

3 17. As minor parishioner and altar boy at DOE 3, where DOE 4 was employed and  
4 worked, Plaintiff was under DOE 4's supervision, care and control, thus creating a special  
5 relationship, fiduciary relationship, and/or special care relationship with Defendants and DOE 4,  
6 and each of them. Additionally, as a minor child under the custody, care and control of  
7 Defendants and DOE 4, Defendants and DOE 4 stood *in loco parentis* with respect to Plaintiff  
8 while he was attending school, mass and school/church related functions at DOES 1-3. As the  
9 responsible parties and/or employers controlling DOE 4, and as the operators of the Roman  
10 Catholic Church, Defendants and DOE 4 were also in a special relationship with Plaintiff, and  
11 owed special duties to Plaintiff.

12 18. Plaintiff is informed and believes and thereon alleges that as employers of DOE 4  
13 with previous knowledge of DOE 4's dangerous propensities and tendencies as a child molester,  
14 sexual harasser and sexual abuser, DOE 1, DOE 2, and DOE 3 had a duty to reveal to Plaintiff,  
15 Plaintiff's parents, and students and parishioners of DOE 2 and DOE 3 the truth about DOE 4 and  
16 his dangerous propensities. Defendants never provided Plaintiff, Plaintiff's parents, or students or  
17 parishioners of DOE 2 or DOE 3 with such notice of DOE 4's dangerous propensities.

18 19. Plaintiff is informed and believes and thereon alleges that Defendants had a duty to  
19 disclose to Plaintiff and students, parishioners, minors, parents, caretakers and others under DOE  
20 4's direction and guidance that DOE 4 had in the past engaged, and was continuing to engage, in  
21 unlawful sexually-related conduct with minors and with parishioners and/or students of DOE 1,  
22 DOE 2, and DOE 3 but negligently and/or intentionally suppressed, concealed or failed to disclose  
23 this information. The duty to disclose this information arose by the special, trusting, confidential,  
24 and/or fiduciary relationship between Defendants and Plaintiff. Instead of disclosing such  
25 information, Defendants, notably the Bishop of DOE 1 and members of his curia, who were the  
26 officers, directors and managing agents of DOE 1 at the time, conspired to, and did, breach this  
27 special, trusting, confidential and fiduciary relationship with Plaintiff by concealing from Plaintiff  
28 and his parents the extensive past and ongoing sexual abuse of minors by DOE 4, resulting in

1 Plaintiff's sexual abuse and subsequent damages, which continue to accrue until today. They  
2 concealed the fact that DOE 4 is, in fact, one of the worst child molesters ever to don a Roman  
3 collar. The conspiracy also continues to this very day, because these Defendants, including the  
4 Bishop of DOE 1 and members of his curia, are still concealing the true extent and nature of the  
5 sexual abuse committed by DOE 4, known by Defendants, from Plaintiff and the public. It also  
6 continues because, on information and belief, Defendants are paying Defendant DOE 4 a pension,  
7 which was negotiated after his abuse of children was made known to Defendants, in order to  
8 purchase his silence as to the true extent of his sexual abuse of minors such as Plaintiff, furthering  
9 the conspiracy. This conspiracy of concealment by Defendants precluded Plaintiff from obtaining  
10 the information requisite to file his claim at an earlier date, because Defendants did not disclose to  
11 Plaintiff or the public that DOE 4 has sexually abused children in the past, and had sexually  
12 abused children after Plaintiff. To this date, Defendants have not disclosed such information to  
13 Plaintiff or the public, thus furthering the conspiracy. Defendants engaged in this conspiracy, and  
14 have continued to conceal this information from Plaintiff and the public, to prevent and impede  
15 their filing of claims for the sexual abuse they suffered, and to hinder their efforts to obtain  
16 information requisite to substantiate their claims.

17         20. Plaintiff is informed and believes and on that basis alleges while Plaintiff was a  
18 student, altar boy and parishioner at DOE 3, Defendants DOE 1, DOE 2, and DOE 3 engaged in a  
19 pattern and practice of employing other child molesters and/or staff known to be a danger to  
20 minors in their care. Plaintiff is informed and believes and thereon alleges that in addition to  
21 employing DOE 4, Defendants employed multiple other priests, teachers, staff, counselors,  
22 employees, assistants, faculty members and others who were known to have sexually abused  
23 minors.

24         21. Plaintiff is informed and believes and thereon alleges that Defendants had a duty to  
25 disclose to Plaintiff, and students, parishioners, minors, parents, caretakers and others under DOE  
26 1, DOE 2, and DOE 3's control, direction, and guidance, that DOE 4 was known to be a child  
27 molester.

28         22. Plaintiff is informed and believes and thereon alleges that Defendants were

1 apprised, knew or should have known and/or were put on notice of DOE 4's past sexual abuse of  
2 minors, past arrests, charges, claims and/or investigations, and his propensity and disposition to  
3 engage in unlawful activity and unlawful sexual activity with minors such that Defendants knew or  
4 should have known that DOE 4 would commit wrongful sexual acts with minors, including  
5 Plaintiff; this belief is founded on the fact that the personnel and/or school records and other  
6 records of DOE 1, DOE 2, and DOE 3 reflect numerous incidents of inappropriate sexual contact  
7 and conduct with minors by priests, teachers, staff, counselors, and others, including incidents  
8 involving DOE 4, both on and off the physical premises of such Defendants; and based on these  
9 records, Defendants knew and/or should have known of DOE 4's past sexual abuse of minors, past  
10 arrests, charges, claims and/or investigations, and his propensity and disposition to engage in  
11 unlawful activity and unlawful sexual activity with minors such that Defendants knew or should  
12 have known that DOE 4 would commit wrongful sexual acts with minors, including Plaintiff.

13         23. Plaintiff is informed and believes and thereon alleges Defendants failed to take  
14 reasonable steps and/or implement reasonable safeguards to avoid acts of unlawful sexual conduct  
15 by DOE 4 in the future, including, but not limited to, preventing abuse of Plaintiff by DOE 4,  
16 avoiding placement of DOE 4 in a function or environment in which contact with children is an  
17 inherent part of that function or environment; instead, Defendants ignored and/or covered up the  
18 sexual abuse of Plaintiff and others by DOE 4 that had already occurred. Plaintiff is informed and  
19 believes, and on that basis alleges Defendants and each of them were given specific notice of  
20 incidents of inappropriate conduct by DOE 4, including such facts as those set forth in this  
21 Complaint.

22         24. Plaintiff is informed and believes, and thereon alleges that prior to and during the  
23 sexual harassment, molestation and abuse of Plaintiff, Defendants knew or should have known that  
24 DOE 4 would commit wrongful sexual acts with minors. This belief is founded on the fact that  
25 church, personnel and/or school records and other records of DOE 1, DOE 2, and DOE 3 reflect  
26 numerous incidents of inappropriate sexual contact and conduct with minors by priests, teachers,  
27 staff, counselors, choir directors, employees, assistants, faculty members and others, including  
28 based on information and belief, incidents involving DOE 4, both on and off the physical premises

1 of such Defendants. Additionally, Plaintiff is informed and believes and thereon alleges  
2 Defendants knew or should have known that DOE 4 had violated his role as a priest, spiritual  
3 advisor, youth counselor and mentor, and used this position of authority and trust acting on behalf  
4 of Defendants to gain access to children, including Plaintiff, on and off the church and school  
5 facilities and grounds, to allow him to touch Plaintiff in a sexual manner, and engaged in sexual  
6 conduct and abuse, including harassment and molestation, with such children including Plaintiff.

7 25. Because of the relationship between Plaintiff and Defendants, Defendants had an  
8 obligation/duty under law not to hide material facts and information about DOE 4's past, including  
9 but not limited to, allegations of sexual misconduct lodged against him. Additionally, Defendants  
10 had an affirmative duty to inform, warn, and institute appropriate protective measures to safeguard  
11 minors who were reasonably likely to come in contact with Defendants' employees and other  
12 perpetrators of childhood sexual harassment, molestation and abuse at DOE 3. Plaintiff further  
13 alleges that the Defendants willfully refused to notify, give adequate warning and/or to implement  
14 appropriate safeguards and thereby created the peril that ultimately damaged Plaintiff.

15 26. Plaintiff is informed and believes and thereon alleges that with actual or  
16 constructive knowledge that DOE 4 was a child molester, Defendants conspired to and did  
17 knowingly fail to take reasonable steps, and failed to implement reasonable safeguards to avoid  
18 acts of unlawful sexual conduct in the future by DOE 4, including, but not limited to, preventing or  
19 avoiding placement of DOE 4 in a function or environment in which contact with children is an  
20 inherent aspect of that function or environment.

21 27. Plaintiff is informed and believes and thereon alleges that with actual or  
22 constructive knowledge that DOE 4 was incapable of supervising and/or stopping other child  
23 molesters, Defendants conspired to and did knowingly fail to take reasonable steps, and failed to  
24 implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by those  
25 supervised by DOE 4 including, but not limited to, preventing or avoiding placement of DOE 4 in  
26 a function or environment in which supervision of employees whose contact with children is an  
27 inherent aspect of that function or environment.

28 28. Plaintiff is informed and believes and thereon alleges that Defendants failed to



1 report and did hide and conceal from students, parents, parishioners, care givers, teachers, law  
2 enforcement authorities, civil authorities and others, the true facts and relevant information  
3 necessary to bring DOE 4 to justice for the sexual misconduct he committed with minors, as well  
4 as protect their fiduciaries, including Plaintiff.

5 29. Plaintiff is informed and believes and thereon alleges Defendants have engaged in a  
6 pattern and practice of employing sexual abusers as faculty and staff administration within the  
7 ownership and control of DOE 1, at DOE 2 and DOE 3; and Defendants knowingly and/or  
8 negligently concealed these facts from students, their parents, the Catholic community, the public  
9 at large and law enforcement.

10 30. Plaintiff is informed and believes and thereon alleges Defendants intentionally,  
11 conspiratorially, and fraudulently attempted to hide and conceal DOE 4's propensities and acts of  
12 sexual harassment, molestation and abuse from public scrutiny and criminal investigation.  
13 Plaintiff is informed and believes and thereon alleges that the Bishop of DOE 1 created and  
14 implemented a "Conspiracy of Silence," a policy and procedure whereby any and all allegations of  
15 sexual misconduct by employees and agents of DOE 1, DOE 2, and DOE 3 would be immediately  
16 squelched, concealed and hidden from the public, parishioners and law enforcement. After his  
17 retirement, Bishop Roger Mahony, who took over as the Bishop of DOE 1, continued this  
18 "Conspiracy of Silence," a policy and procedure of concealing and hiding allegations of sexual  
19 misconduct by employees and agents of DOE 1, DOE 2, and DOE 3 from the public, parishioners,  
20 and law enforcement. Defendants concealed from Plaintiff, the public and law enforcement the  
21 fact that DOE 1, DOE 2, and DOE 3 had individuals working within their ranks who had been  
22 accused of sexual misconduct with minors, and/or were at the time sexually abusing minors.

23 31. Plaintiff is informed and believes and thereon alleges Defendants also implemented  
24 various measures designed to, or which effectively, made DOE 4's conduct harder to detect  
25 including, but not limited to:

- 26 a. Failing to disclose DOE 4's prior record of sexual abuse and molestation of minors  
27 and his propensity to commit such acts to the church and school community  
28 including parishioners, students, parents, care givers, teachers and staff, the public  
at large, and law enforcement;

- 1           b.     Permitting DOE 4 to remain in a position of authority and trust after Defendants
- 2                     knew or should have known he was a molester of children;
- 3           c.     Placing DOE 4 in a separate and secluded environment, including placing him in
- 4                     charge of young children, counseling programs, athletic programs, youth
- 5                     parishioners, and youth programs where they purported to supervise the children,
- 6                     which allowed him to sexually and physically interact with and abuse the children,
- 7                     including Plaintiff;
- 8           d.     Allowing DOE 4 to come into contact with minors, including Plaintiff, without
- 9                     supervision;
- 10          e.     Failing to adequately hire, supervise or retain DOE 4, who they permitted and
- 11                     enabled to have access to minors, including Plaintiff;
- 12          f.     Failing to investigate or otherwise confirm or deny such facts about DOE 4,
- 13                     including prior arrests, charges, claims and investigations for sexual abuse of
- 14                     minors;
- 15          g.     Failing to inform, or concealing from Plaintiff, Plaintiff's parents, students,
- 16                     parishioners, the church community, the community as a whole, and law
- 17                     enforcement officials the fact that DOE 4 was or may have been sexually abusing
- 18                     minors;
- 19          h.     Failing to inform, or concealing from Plaintiff's parents and law enforcement
- 20                     officials the fact that Plaintiff and others were or may have been sexually abused
- 21                     after Defendants knew or had reason to know that DOE 4 may have sexually abused
- 22                     Plaintiff or others, thereby enabling Plaintiff to continue to be endangered and
- 23                     sexually abused, and/or creating the circumstance where Plaintiff and others were
- 24                     less likely to receive medical/mental health care and treatment, thus exacerbating
- 25                     the harm to Plaintiff;
- 26          i.     Holding out DOE 4 to Plaintiff and his parents, students, parishioners, and to the
- 27                     school and church community as being in good standing and trustworthy;
- 28          j.     Cloaking DOE 4's contact and actions within the facade of normalcy, thereby
- disguising the nature of his sexual abuse and contact with minors;
- k.     Failing to take reasonable steps, and to implement reasonable safeguards to avoid
- acts of unlawful sexual conduct by DOE 4 with students and parishioners, who
- were minor children, including but not limited to preventing or avoiding placement
- of DOE 4 in functions or environments in which his solitary contact with children
- was inherent; and
- l.     Failing to put in place a system or procedure to supervise or monitor employees,
- volunteers, representatives or agents to insure that they did not molest or abuse
- minors in Defendants' care, including Plaintiff.

25           32.     By his position within the Defendants' institutions, DOE 4 attained a position of

26     respect and influence over Plaintiff, and others. Defendants' conduct created a situation of peril

27     that was not, and could not be appreciated by Plaintiff. Plaintiff is informed and believes and

28     thereon alleges that by virtue of Defendants' conspiratorial and fraudulent conduct, and in keeping

1 with their intent to fail to disclose and hide DOE 4's past and present conduct from the parish,  
2 school and church community, the public at large, and law enforcement, Defendants allowed  
3 molester DOE 4 to remain in a position of influence where his unsupervised or negligently  
4 supervised conduct with minors made the molestation and abuse of minors possible.

5 33. By his position within the Defendants' institutions, Defendants and DOE 4  
6 demanded and required that Plaintiff respect DOE 4 in his position of teacher, priest, pastor,  
7 mentor and counselor at DOE 3.

8 34. The incidents of abuse outlined herein took place while Plaintiff was under the  
9 control of DOE 4, in his capacity and position as a teacher, priest, pastor, mentor and counselor at  
10 DOE 3, and while acting specifically on behalf of DOE 1, DOE 2, DOE 3, and DOES 5 through  
11 100, including, but not limited to, the following:

- 12 a. DOE 4 was at all times relevant to this Complaint a pastor, teacher, mentor and  
13 spiritual counselor at DOE 2 and DOE 3, institutions wholly owned, controlled and  
operated by the Roman Catholic Church, specifically DOE 1;
- 14 b. Before DOE 4 sexually harassed, molested and abused Plaintiff, DOE 1, DOE 2,  
15 DOE 3, and DOES 5 through 100 were well aware that DOE 4 took an unusual  
interest, and spent an inordinate amount of time with minor parishioners, students,  
16 and other minors in his charge;
- 17 c. In full awareness that minors and parishioners were at risk of becoming victims of  
18 sexual harassment, molestation and abuse by DOE 4, Defendants (except DOE 4)  
and each of them did willfully assign DOE 4 as a teacher, priest, spiritual advisor,  
youth counselor and mentor at DOE 2 and DOE 3;
- 19 d. In his capacity as a pastor, teacher, advisor, youth counselor and mentor for  
20 Defendants, DOE 4 was given custody and supervision of minors, including  
Plaintiff. DOE 4 was able to use his position as a teacher, priest, mentor and  
21 counselor at DOE 2 and DOE 3 to require children to give into his sexual  
suggestions, and to use his authority and position of trust to exploit them physically  
and emotionally;
- 22 e. Plaintiff was born on July 26, 1972. From in or around 1978 through in or around  
23 1987, Plaintiff was a parishioner and student at DOE 3, where DOE 4 was  
employed by DOE 1, DOE 2, DOE 3, and DOES 5-100. During that time period,  
24 Plaintiff was a minor, of approximately six through fourteen years of age;
- 25 f. At no time did Defendants or any of them advise Plaintiff or his family of the past  
26 sexual misconduct of DOE 4 involving minors;
- 27 g. At no time did Defendants or any of them take any action to restrict DOE 4's access  
28 and/or interaction with minors, including Plaintiff. In fact, Defendants' conduct  
made it a virtual certainty that Plaintiff and other minors would be victimized;

- 1 h. Plaintiff, as a minor, acted as a student and altar boy at DOE 3, performing  
2 ministerial duties for Defendants, including attending class, attending school and  
3 parish functions, participating in church-related events and functions, and  
4 performing other services for Defendants. While acting as a student and  
5 parishioner under Defendants' control, Plaintiff came under the influence of DOE 4.  
6 DOE 4 took a special interest in Plaintiff, and gained Plaintiff's confidence by  
7 feigning to be a friend, counselor and mentor to Plaintiff;
- 8 i. While with Plaintiff, DOE 4 attempted to get increasingly and physically closer to  
9 Plaintiff during and after class, services, and church functions by isolating Plaintiff  
10 for periods of time from Plaintiff's classmates, friends and family;
- 11 j. Using his position as a pastor, mentor and counselor, DOE 4 would initially try to  
12 sensually touch Plaintiff, attempting to gain Plaintiff's, friendship, trust and  
13 affection. DOE 4 would tell Plaintiff that he was "special," etc. In so doing, DOE  
14 4 was merely beginning the process of grooming Plaintiff for sexual abuse, gaining  
15 access to Plaintiff sexually;
- 16 k. While Plaintiff was a minor student and altar boy at DOE 3, DOE 4 began using his  
17 position as a pastor, teacher, spiritual advisor, youth counselor and mentor at DOE  
18 3 to sexually harass, molest and abuse Plaintiff. This sexual harassment,  
19 molestation and abuse continued while Plaintiff was an altar boy at DOE 3;
- 20 l. The sexual harassment of Plaintiff, committed by DOE 4, included DOE 4: forcing  
21 Plaintiff to strip in front of him, engaging in sexually explicit talk and suggestion  
22 with Plaintiff; massaging and fondling Plaintiff's body with his hands, both above  
23 and underneath Plaintiff's clothes;
- 24 m. The sexual abuse and molestation of Plaintiff included: groping Plaintiff's penis  
25 and testicles, masturbation, and sodomy of Plaintiff;
- 26 n. The sexual harassment, molestation and abuse of Plaintiff, perpetrated by  
27 Defendant DOE 4, occurred in various locations in DOE 3, including offices and  
28 rooms at the school and parish;
- o. All of these acts were done at a time after Defendants knew of sexual abuse by  
DOE 4 of other students and parishioners at DOE 3 and DOE 2 and various other  
locations at DOE 1 and DOE 2; and
- p. Many of these acts were done on the premises of DOE 3, and within full view of  
other priests, students, administrators, and staff;
- q. During the same time period, DOE 4 also sexually harassed, molested and abused  
Plaintiff's younger brother and sister, who were also minors at the time and also  
students and parishioners at DOE 3;
- r. DOE 4 also forced Plaintiff and his brother and sister to engage in sexual activity  
with one another on multiple occasions.

35. As set forth more fully herein above, DOE 4 did sexually harass, molest and abuse Plaintiff, who was a minor at the time. Plaintiff is informed and believes, and on that basis alleges, that such conduct by Defendant DOE 4 was based upon Plaintiff's gender, and was done

1 for his sexual gratification. These actions upon Plaintiff were performed by Defendant DOE 4  
2 without the free consent of Plaintiff, who was a minor. These actions upon Plaintiff constitute  
3 conduct in violation of California Penal Code sections 226j, 272, 273a, 288, 288.2, 288.5, and  
4 647.6.

5 36. Plaintiff did not initially report his sexual abuse by DOE 4 to anyone. He did not  
6 report such abuse for several reasons including: a) DOE 4 instructed Plaintiff not to tell anyone  
7 about the abuse, and informed Plaintiff that if he did, DOE 4 would inform God and Plaintiff and  
8 his family would go to hell; b) DOE 4 instructed Plaintiff not to tell anyone about the abuse, and  
9 because Plaintiff was taught, per the tenets of the Roman Catholic Church, that DOE 4 was God's  
10 emissary on Earth, Plaintiff felt compelled to follow DOE 4's instructions; c) DOE 4 instructed  
11 Plaintiff not to tell anyone about the sexual abuse or Plaintiff and his family would be "harmed";  
12 d) DOE 4 instructed Plaintiff that if he did tell anyone about the sexual abuse, DOE 4 would see to  
13 it that the public would find out about Plaintiff and his siblings engaging in sexual activity with  
14 one another, telling Plaintiff they would get into grave trouble because "you knew it was wrong";  
15 e) DOE 4 would hug Plaintiff extremely hard, to the point where Plaintiff would be unable to  
16 breathe, and would hold such hug for an extended period of time, making Plaintiff fearful that if he  
17 told anyone about the abuse, DOE 4 would suffocate him or his siblings; and f) DOE 4 instructed  
18 Plaintiff that no one would believe Plaintiff's word over that of a priest. These representations and  
19 actions placed Plaintiff in substantial fear of public disclosure of the abuse, and instilled a great  
20 deal of shame in him for the abuse that had occurred, preventing him from reporting his abuse.  
21 This fear and shame continued uninterrupted from the time Plaintiff and his siblings were sexually  
22 abused by DOE 4 until the time Plaintiff decided to file the present action. Residual effects of the  
23 fear and shame instilled by DOE 4 continue to this date.

24 37. Plaintiff is informed and believes, and on that basis alleges, that Defendants and  
25 each of them were or should have been aware of DOE 4's prior and continuing wrongful conduct  
26 within DOE 1, DOE 2, DOE 3, and elsewhere, his wrongful conduct at or about the time it was  
27 occurring, and thereafter, but took no action to obstruct, inhibit or stop such continuing conduct, or  
28 to help Plaintiff endure the trauma from such conduct. Despite the authority and ability to do so,

1 Defendants negligently and/or willfully refused to, and/or did not, act effectively to stop the sexual  
2 assaults on Plaintiff, to inhibit or obstruct such abuse, or to protect Plaintiff from the results of that  
3 trauma.

4 38. Plaintiff is also informed and believes, and on that basis alleges, that during the  
5 period of abuse of Plaintiff at the hands of DOE 4, Defendants and each of them had the authority  
6 and the ability to obstruct or stop DOE 4's sexual assaults on Plaintiff, but negligently and/or  
7 willfully failed to do so, thereby allowing the abuse to occur and to continue unabated. This  
8 failure was a part of Defendants' "Conspiracy of Silence"- a conspiratorial plan and arrangement to  
9 conceal wrongful acts, to avoid and inhibit detection, to block public disclosure, to avoid scandal,  
10 to avoid the disclosure of their tolerance of child sexual molestation and abuse, to preserve a false  
11 appearance of propriety, and to avoid investigation and action by public authority including law  
12 enforcement. Plaintiff is informed and believes, and on that basis alleges, that such actions were  
13 motivated by a desire to protect the reputation of Defendants and each of them, and to protect the  
14 monetary support of Defendants while fostering an environment where such abuse could continue  
15 to occur.

16 39. On July 2, 1990, Plaintiff joined the United States Marine Corps, entering active  
17 duty. He was in active service until on or around August 6, 1996, when he received his honorable  
18 discharge. Plaintiff's service in the United States Marine Corps tolled any applicable statutes of  
19 limitations for the present claims during the time he was in active service, by virtue of Sections  
20 525 and 526 of the Soldiers and Sailors Civil Relief Act, which states that "[t]he period of a  
21 servicemember's military service may not be included in computing any period limited by law,  
22 regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau,  
23 commission, department, or other agency of the State (or political subdivision of the State) or the  
24 United States by or against the servicemember or the servicemember's heirs, executors,  
25 administrators, or assigns." See 50 USCS Appx. §526(a).

26 40. In late December of 2007, Plaintiff began recalling the sexual molestation,  
27 harassment and abuse he had suffered as a child at the hands of DOE 4, reflecting on such.  
28 Thereafter, in early 2008, Plaintiff began to realize that the multiple physical, mental,

1 psychological and emotional problems, injuries or illnesses, including but not limited to, problems  
2 maintaining intimate relationships throughout his adult life, including but not limited to trust  
3 issues, depression, anxiety, sleeplessness, fear, suicidal ideation, he had been suffering as an adult  
4 were due to the sexual harassment, molestation and abuse he had suffered as a child at the hands of  
5 DOE 4. Plaintiff began at that time, for the first time in his life, to discover and realize that his  
6 physiological and psychological injuries and/or illnesses he suffered as an adult were actually  
7 caused by the childhood sexual harassment, molestation and abuse he suffered at the hands of  
8 DOE 4, while he was a minor parishioner at DOE 1, DOE 2, and DOE 3. Plaintiff, for the first  
9 time, began making a mental connection between his present intimacy, mental and emotional  
10 problems and the sexual abuse he experienced as a minor parishioner and student at DOE 4.

11 41. It was only after early 2008 that Plaintiff reasonably determined and discovered that  
12 the psychological injury, illness, and suffering that Plaintiff has endured throughout his adult life  
13 was actually caused by the childhood sexual harassment, molestation and abuse he suffered at the  
14 hands of Defendants, and each of them.

15 42. Plaintiff's delay in discovering the connection between his psychological injury or  
16 illness and Defendants' acts was due to the severity of the sexual abuse he suffered at the hands of  
17 DOE 4, and his lack of knowledge of sexual abuse and its effects. As such, he was completely and  
18 blamelessly incapable of discovering that his psychological injury or illness was caused by the  
19 sexual harassment, molestation and abuse he endured at the hands of DOE 4 at a date earlier than  
20 early 2008.

21 43. As a direct result of the sexual harassment, molestation and abuse of Plaintiff by  
22 DOE 4, Plaintiff has difficulty in reasonably or meaningfully interacting with others, including  
23 those in positions of authority over Plaintiff, including supervisors, and in confidential and familial  
24 relationships, due to the trauma of childhood sexual harassment, molestation and abuse inflicted  
25 upon his by Defendants. This inability to interact creates conflict with Plaintiff's values of trust  
26 and confidence in others, and has caused Plaintiff substantial emotional distress, anxiety,  
27 nervousness and fear. As a direct result of Plaintiff's molestation by DOE 4, Plaintiff experienced  
28 severe issues with his personal life, including issues with trust and difficulties in maintaining

1 meaningful relationships. As a further direct result of the Plaintiff's molestation by DOE 4,  
2 Plaintiff has always had problems maintaining a normal intimate relationship. These feelings have  
3 caused Plaintiff substantial emotional distress, anxiety, nervousness and fear.

4 44. As a direct and proximate result of the Defendants' tortuous acts, omissions,  
5 wrongful conduct and/or breaches of their duties, whether willful or negligent, Plaintiff's  
6 employment and professional development has been adversely affected. Plaintiff has lost wages as  
7 a result of the abuse he suffered at the hands of Defendants, and will continue to lose wages in an  
8 amount to be determined at trial. Plaintiff has suffered economic injury, all to Plaintiff's general,  
9 special and consequential damage in an amount to be proven at trial, but in no event less than the  
10 minimum jurisdictional amount of this Court.

11 45. As a Further direct and proximate result of Defendants' wrongful actions, as herein  
12 alleged, Plaintiff has been hurt in his health, strength and activity. Plaintiff has sustained  
13 permanent and continuing injury to his nervous system and person, which has caused and  
14 continues to cause great mental, emotional, physical and nervous pain, suffering, fright, upset,  
15 grief, worry and shock in an amount according to proof at trial, but in no event less than the  
16 jurisdictional minimum requirements of this Court.

17 46. As is set forth herein, Defendants and each of them have failed to uphold numerous  
18 mandatory duties imposed upon them by state and federal law, and by written policies and  
19 procedures applicable to Defendants, including but not limited to the following:

- 20 \* Duty to use reasonable care to protect students from known or foreseeable dangers  
(Government Code §§ 820, 815.2);
- 21 \* Duty to refrain from taking official action that contradicts the provisions of Article  
22 1, section 28(c) of the California Constitution;
- 23 \* Duty to enact policies and procedures that are not in contravention of the Federal  
24 Civil Rights Act, section 1983, and the 14th Amendment of the United States  
Constitution;
- 25 \* Duty to protect students and staff, and provide adequate supervision;
- 26 \* Duty to ensure that any direction given to parishioners and students is lawful, and  
27 that adults act fairly, responsibly and respectfully towards parishioners and  
students;
- 28 \* Duty to properly train priests, teachers, priests, spiritual advisors, youth counselors,



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- mentors, administrators, and staff so that they are aware of their individual responsibility for creating and maintaining a safe environment;
- \* Duty to review the criminal history of priests, teachers, athletic directors, spiritual advisors, youth counselors, mentors, administrators, and staff, applicants and current employees;
- \* Duty to supervise parishioners and students and enforce rules and regulations prescribed for schools, exercise reasonable control over students as is reasonably necessary to maintain order, protect property, or protect the health and safety of parishioners and students or to maintain proper and appropriate conditions conducive to learning;
- \* Duty to exercise careful supervision of the moral conditions in the church and school;
- \* Duty to provide playground and parking lot supervision, before and after school as well as during recess and others scheduled breaks;
- \* Duty to hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds or during recess;
- \* Duty to properly monitor students, prevent or correct harmful situations or call for help when a situation is beyond their control;
- \* Duty to ensure that personnel are actually on hand and supervising students;
- \* Duty to provide enough supervision to students;
- \* Duty to supervise diligently;
- \* Duty to act promptly and diligently and not ignore or minimize problems;
- \* Duty to refrain from violating Plaintiff's right to protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations (Civil Code § 43);
- \* Duty to abstain from injuring the person or property of Plaintiff, or infringing upon any of his rights (Civil Code § 1708); and
- \* Duty to report suspected incidents of child abuse and more specifically childhood sexual abuse (Penal Code §§ 11166, 11167).

47. Compulsory education laws create a special relationship between students and Defendants, and students have a constitutional guarantee to a safe, secure and peaceful school environment. Defendants and each of them failed to acknowledge unsafe conditions, and therefore failed to guarantee safe surroundings in an environment in which Plaintiff was not free to leave, specifically including but not limited to allowing DOE 4 to take children for purposes of sexual activity and allowing DOE 4 to operate isolated environments, incapable of monitoring from the

1 outside, wherein Defendants sexually harassed, molested and abused Plaintiff and others.

2 48. Defendants and each of them had and have a duty to protect students and  
3 parishioners, including Plaintiff. Defendants were required to, and failed, to provide adequate  
4 campus, church and off-site school event supervision, and failed to be properly vigilant in seeing  
5 that supervision was sufficient to ensure the safety of Plaintiff and others.

6 49. Defendants and each of them lodged with DOE 4 the color of authority, by which  
7 he was able to influence, direct and abuse Plaintiff and others, and to act illegally, unreasonably  
8 and without respect for the person and safety of Plaintiff.

9 50. Defendants and each of them had a duty to and failed to adequately train and  
10 supervise all teachers, choir directors, spiritual advisors, youth counselors, priests, mentors and  
11 staff to create a positive, safe, spiritual and educational environment, specifically including  
12 training to perceive, report and stop inappropriate conduct by others members of the clergy and  
13 staff, specifically including DOE 4, with children.

14 51. Defendants and each of them had a duty to and failed to enact and enforce rules and  
15 regulations prescribed for schools, and execute reasonable control over students necessary to  
16 protect the health and safety of the student and maintain proper and appropriate conditions  
17 conducive to learning.

18 52. Defendants and each of them were required to and failed to exercise careful  
19 supervision of the moral conditions in their parishes and schools, and provide supervision before  
20 and after school as well as during recess and others scheduled breaks. This duty extended beyond  
21 the classroom.

22 53. In subjecting Plaintiff to the wrongful treatment herein described, Defendants DOE  
23 1, DOE 2, DOE 3, and DOE 4 acted willfully and maliciously with the intent to harm Plaintiff, and  
24 in conscious disregard of Plaintiff's rights, so as to constitute malice and/or oppression under  
25 California Civil Code section 3294. Plaintiff is informed, and on that basis alleges, that these  
26 willful, malicious, and/or oppressive acts, as alleged herein above, were ratified by the officers,  
27 directors, and/or managing agents of the Defendants. Plaintiff is therefore entitled, upon proper  
28 application to the court, to the recovery of punitive damages, in an amount to be determined by the

1 court, against DOE 4. Plaintiff reserves his right, pursuant to California Code of Civil Procedure §  
2 425.14, to seek leave of court to pursue an award of punitive damages against Defendants DOE 1,  
3 DOE 2, and DOE 3 in a sum to be shown according to proof.

4 **FIRST CAUSE OF ACTION**  
5 **NEGLIGENCE**  
6 **(Against all Defendants)**

7 54. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
8 contained herein above as though fully set forth and brought in this cause of action.

9 55. Plaintiff is informed and believes, and on that basis alleges that prior to and after  
10 the first incident of DOE 4's sexual harassment, molestation and abuse of Plaintiff, through the  
11 present, Defendants, knew or should have reasonably known that DOE 4 had or was capable of  
12 sexually, physically, and/or mentally abusing Plaintiff or others victims.

13 56. Defendants and each of them had special duties to protect the minor Plaintiff and  
14 the others students within DOE 1, DOE 2, and DOE 3, when such students were entrusted to their  
15 care by their parents. Plaintiff's care, welfare and/or physical custody was entrusted to Defendants.  
16 Defendants voluntarily accepted the entrusted care of Plaintiff. As such, Defendants owed  
17 Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed  
18 Plaintiff the highest duty of care that adults dealing with children owe to protect them from harm.  
19 The duty to protect and warn arose from the special, trusting, confidential, and/or fiduciary  
20 relationship between Defendants and Plaintiff. Plaintiff felt great trust, faith and confidence in  
21 Defendants, and in DOE 4 as his teachers, priest, mentor and counselor.

22 57. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
23 breached their duties of care to the minor Plaintiff by allowing DOE 4 to come into contact with  
24 the minor Plaintiff and others students, without supervision; by failing to adequately hire,  
25 supervise and/or retain DOE 4 who they permitted and enabled to have access to Plaintiff; by  
26 failing to investigate or otherwise confirm or deny such facts about DOE 4; by failing to tell or  
27 concealing from Plaintiff, his parents, guardians and law enforcement officials that DOE 4 was or  
28 may have been sexually harassing, molesting and abusing minors; by failing to tell or concealing  
from Plaintiff's parents, guardians or law enforcement officials that Plaintiff was or may have been

1 sexually harassed, molested and abused after Defendants knew or had reason to know that DOE 4  
2 may have sexually harassed, molested and abused Plaintiff or others, thereby enabling Plaintiff to  
3 continue to be endangered and sexually harassed, molested and abused, and/or creating the  
4 circumstance where Plaintiff was less likely to receive medical/mental health care or treatment,  
5 thus exacerbating the harm done to Plaintiff; and/or by holding out DOE 4 to Plaintiff and to his  
6 parents as being in good standing and trustworthy. Defendants cloaked within the facade of  
7 normalcy Defendants' conduct, contact and actions with Plaintiff and/or others children who were  
8 DOE 4's victims, and/or disguised the nature of the sexual harassment, molestation and abuse and  
9 contact.

10 58. Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, failing  
11 to investigate or otherwise confirm or deny such facts, failing to reveal such facts to Plaintiff, the  
12 community of the school, students, minors, and law enforcement agencies, placing and continuing  
13 to place DOE 4 in positions of trust and authority within DOE 1, DOE 2, and DOE 3, and holding  
14 out, and continuing to hold out DOE 4 to Plaintiff, the public, the community of the school,  
15 students, minors, and law enforcement agencies as being in good standing and trustworthy.

16 59. Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, by  
17 failing to adequately monitor and supervise DOE 4 and/or stopping DOE 4 from committing  
18 wrongful sexual acts with minors including Plaintiff. This belief is founded on the facts that  
19 church, personnel and/or school records of DOE 1, DOE 2, and DOE 3 reflect numerous incidents  
20 of inappropriate sexual contact and conduct with minors by teachers, staff, priests, counselors and  
21 others, including incidents involving DOE 4, both on and off the premises of such Defendants.  
22 Based on these records, Defendants knew and/or should have known of DOE 4's incapacity to  
23 supervise and/or stop employees of Defendants from committing wrongful sexual acts with  
24 minors.

25 60. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
26 their employees and agents, were child care custodians and were under a statutory duty to report  
27 known or suspected incidents of sexual harassment, molestation or abuse of minors to a child  
28 protective agency, pursuant to California Penal Code § 11166, and/or not to impede the filing of

1 any such report.

2 61. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
3 or should have known that DOE 4, their agent, teachers, choir director, spiritual advisor, youth  
4 counselor and mentor and others priests, teachers and staff of DOE 1, DOE 2, and DOE 3 had  
5 sexually molested, abused, or caused touching, battery, harm, and others injuries to minors,  
6 including Plaintiff, giving rise to a duty to report such conduct under California Penal Code §  
7 11166.

8 62. Plaintiff is informed and believes, and on that basis alleges, that Defendants also  
9 knew, or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
10 including Plaintiff, existed because Defendants did not comply with California's mandatory  
11 reporting requirements.

12 63. By failing to report the continuing molestations and abuse, which Defendants and  
13 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
14 compliance with the reporting requirements provided under California Penal Code § 11166,  
15 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
16 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and others minors to sexual  
17 molestation and abuse.

18 64. Plaintiff was a member of the class of persons for whose protection California  
19 Penal Code § 11166 was specifically adopted to protect.

20 65. Had Defendants adequately reported the molestation of Plaintiff and others minors  
21 as required by California Penal Code § 11166, Further harm to Plaintiff and others minors would  
22 have been avoided.

23 66. As a proximate result of Defendants' failure to follow the mandatory reporting  
24 requirements of California Penal Code § 11166, Defendants wrongfully denied Plaintiff and others  
25 minors, the intervention of child protection services. Such public agencies would have changed  
26 the then-existing arrangements and conditions that provided the access and opportunities for the  
27 molestation of Plaintiff by DOE 4.

28 67. The physical, mental, and emotional damages and injuries resulting from the sexual

1 molestation of Plaintiff by DOE 4, were the type of occurrence and injuries that the Child Abuse  
2 and Neglect Reporting Act was designed to prevent.

3 68. As a result, Defendants' failure to comply with the mandatory reporting  
4 requirements of California Penal Code section 11166 also constituted a *per se* breach of  
5 Defendants' duties to Plaintiff.

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

13 **SECOND CAUSE OF ACTION**  
14 **NEGLIGENT SUPERVISION**  
15 **(Against ALL Defendants)**

16 70. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
17 contained herein above as though fully set forth and brought in this cause of action.

18 71. By virtue of Plaintiff's special relationship with Defendants, and Defendants'  
19 relation to DOE 4, Defendants owed Plaintiff a duty to provide reasonable supervision of DOE 4,  
20 to use reasonable care in investigating DOE 4's background, and to provide adequate warning to  
21 the Plaintiff, the Plaintiff's family, and minor students of DOE 4's dangerous propensities and  
22 unfitness.

23 72. As a Diocese and/or representative of the Roman Catholic Church, and a school,  
24 where all of the students are minors entrusted to the church, the schools, their priests and their  
25 teachers, DOE 1, DOE 2, and DOE 3 expressly and implicitly represented that their priests,  
26 teachers, choir directors, spiritual advisors, youth counselors and ministers, including DOE 4, were  
27 not a sexual threat to children and others who would fall under DOE 4's influence, control,  
28 direction, and guidance.

73. Plaintiff is informed and believes, and on that basis alleges, that DOE 1, DOE 2,

1 and DOE 3 and others Defendants, by and through their respective agents, servants and employees,  
2 knew or should have reasonably known of DOE 4's dangerous and exploitive propensities and/or  
3 that DOE 4 was an unfit agent. Despite such knowledge, Defendants negligently failed to  
4 supervise DOE 4 in his position of trust and authority as a teachers, priest, mentor and counselor  
5 and/or others authority figure, where he was able to commit wrongful acts against the Plaintiff.  
6 Defendants failed to provide reasonable supervision of DOE 4, failed to use reasonable care in  
7 investigating DOE 4, and failed to provide adequate warning to Plaintiff and Plaintiff's family of  
8 DOE 4's dangerous propensities and unfitness. Defendants Further failed to take reasonable  
9 measures to prevent sexual harassment, molestation and abuse of minors, including Plaintiff.

10 74. Plaintiff is informed and believes, and on that basis alleges, that at no time during  
11 the periods of time alleged did Defendants have in place a system or procedure to reasonably  
12 investigate, supervise and/or monitor teachers, including DOE 4, to prevent pre-sexual grooming  
13 and/or sexual harassment, molestation and abuse of children, nor did they implement a system or  
14 procedure to oversee or monitor conduct toward minors, students and others in Defendants' care.

15 75. Defendants and each of them were or should have been aware and understood how  
16 vulnerable children were to sexual harassment, molestation and abuse by priests, teachers and  
17 others persons of authority within DOE 1, DOE 2, and DOE 3.

18 76. Plaintiff is informed and believes, and on that basis alleges, that Defendants were  
19 put on notice, and knew or should have known, that DOE 4 had previously engaged and was  
20 continuing to engage in unlawful sexual conduct with minors and committed others felonies, for  
21 his own personal gratification, and that it was, or should have been foreseeable that he was  
22 engaging, or would engage in illicit sexual activities with Plaintiff, and others, under the cloak of  
23 their authority, confidence, and trust, bestowed upon him through Defendants, and each of them.

24 77. Plaintiff is informed and believes, and on that basis alleges, that Defendants were  
25 placed on actual and/or constructive notice that DOE 4 had molested others minors and students,  
26 both before his employment at DOE 1, DOE 2, and DOE 3, and/or during that employment.  
27 Plaintiff is informed, and thereon alleges, that others third parties, minor parishioners, minor  
28 students, law enforcement officials and/or parents informed Defendants of molestations committed

1 by DOE 4 or of conduct that would put a reasonable person on notice of such propensity to molest  
2 and abuse.

3 78. Even though Defendants knew or should have known of these activities by DOE 4,  
4 Defendants did nothing to investigate, supervise or monitor DOE 4 to ensure the safety of the  
5 minor students.

6 79. Defendants' conduct was a breach of their duties to Plaintiff.

7 80. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
8 their employees and agents, were child care custodians and were under a statutory duty to report  
9 known or suspected incidents of sexual molestation or abuse of minors to a child protective  
10 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any  
11 such report.

12 81. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
13 or should have known that their agent, teachers, priest, mentor and counselor, DOE 4, and others  
14 priests, teachers and staff of DOE 1, DOE 1, and DOE 3 had sexually molested, abused or caused  
15 touching, battery, harm, and others injuries to minors, including Plaintiff, giving rise to a duty to  
16 report such conduct under California Penal Code section 11166.

17 82. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,  
18 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
19 including Plaintiff, existed because Defendants did not comply with California's mandatory  
20 reporting requirements.

21 83. By failing to report the continuing molestations and abuse, which Defendants and  
22 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
23 compliance with the reporting requirements provided under California Penal Code section 11166,  
24 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
25 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and others minors to sexual  
26 molestation and abuse.

27 84. Plaintiff was a member of the class of persons for whose protection California  
28 Penal Code section 11166 was specifically adopted to protect.



1           85.     Had Defendants adequately reported the molestation of Plaintiff and others minors  
2 as required by California Penal Code section 11166, Further harm to Plaintiff and others minors  
3 would have been avoided.

4           86.     As a proximate result of Defendants' failure to follow the mandatory reporting  
5 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
6 others minors the intervention of child protection services. Such public agencies would have  
7 changed the then-existing arrangements and conditions that provided the access and opportunities  
8 for the molestation of Plaintiff by DOE 4.

9           87.     The physical, mental, and emotional damages and injuries resulting from the sexual  
10 molestation of Plaintiff by DOE 4, were the type of occurrence and injuries that the Child Abuse  
11 and Neglect Reporting Act was designed to prevent.

12           88.     As a result, Defendants' failure to comply with the mandatory reporting  
13 requirements of California Penal Code section 11166 also constituted a per se breach of  
14 Defendants' duties to Plaintiff.

15           89.     Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by  
16 failing to adequately monitor and supervise DOE 4 and/or stopping DOE 4 from committing  
17 wrongful sexual acts with minors including Plaintiff. This belief is founded on the facts that  
18 church, personnel and/or school records of DOE 1, DOE 2, and DOE 3 reflect numerous incidents  
19 of inappropriate sexual contact and conduct with minors by teachers, staff, counselors and others,  
20 including incidents involving DOE 4, both on and off the premises of such Defendants. Based on  
21 these records, Defendants knew and/or should have known of DOE 4's incapacity to supervise  
22 and/or stop employees of Defendants from committing wrongful sexual acts with minors.

23           90.     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  
25 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of  
26 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be  
27 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain  
28 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for

1 medical and psychological treatment, therapy, and counseling.  
2

3 **THIRD CAUSE OF ACTION**  
4 **NEGLIGENT HIRING/RETENTION**  
5 **(Against ALL Defendants)**

6 91. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
7 contained herein above as though fully set forth and brought in this cause of action.

8 92. By virtue of Plaintiff's special relationship with Defendants and each of them, and  
9 Defendants' relation to DOE 4, Defendants owed Plaintiff a duty to not hire and/or retain DOE 4,  
10 given his dangerous and exploitive propensities, which Defendants knew or reasonably should  
11 have known had they engaged in a meaningful and adequate investigation of his background prior  
12 to his hiring.

13 93. As a Diocese and/or representative of the Roman Catholic Church, and operator of  
14 a school, where all of the students are minors entrusted to the church, the schools, their priests and  
15 their teachers, DOE 1, DOE 2, and DOE 3 expressly and implicitly represented that the priests and  
16 teachers, including DOE 4, were not a sexual threat to children and others who would fall under  
17 DOE 4's influence, control, direction, and guidance.

18 94. Plaintiff is informed and believes, and on that basis alleges, that at no time during  
19 the periods of time alleged did Defendants have in place a system or procedure to reasonably  
20 investigate, supervise and/or monitor teachers, including DOE 4, to prevent pre-sexual grooming  
21 and/or sexual harassment, molestation and abuse of children, nor did they implement a system or  
22 procedure to oversee or monitor conduct toward minors, students and others in Defendants' care.

23 95. Defendants and each of them were or should have been aware and understood how  
24 vulnerable children were to sexual harassment, molestation and abuse by teachers and others  
25 persons of authority within the control of DOE 1, DOE 2, and DOE 3.

26 96. Plaintiff is informed, and believes, and on that basis alleges, that the Defendants  
27 were put on notice, and should have known that DOE 4 had previously engaged and continued to  
28 engage in unlawful sexual conduct with minors and others felonies, for his own personal  
gratification, and that it was, or should have been foreseeable that he was engaging, or would

1 engage in illicit sexual activities with Plaintiff, and others, under the cloak of his authority,  
2 confidence, and trust, bestowed upon him through DOE 1, DOE 2, and DOE 3.

3 97. Defendants were placed on actual and/or constructive notice that DOE 4 had  
4 molested and/or was molesting minors and students, both before his employment within DOE 1  
5 and DOE 2 at DOE 3, and during that employment. Plaintiff is informed, and thereon alleges, that  
6 others third parties, minors, students, law enforcement officials and/or parents informed  
7 Defendants of inappropriate conduct and molestations committed by DOE 4.

8 98. Even though Defendants knew or should have known of these activities by DOE 4,  
9 Plaintiff is informed that Defendants failed to use reasonable care in investigating DOE 4 and did  
10 nothing to investigate, supervise or monitor DOE 4 to ensure the safety of the minor students.

11 99. Defendants' conduct was a breach of their duty to Plaintiff.

12 100. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
13 their employees and agents, were child care custodians and were under a statutory duty to report  
14 known or suspected incidents of sexual molestation or abuse of minors to a child protective  
15 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any  
16 such report.

17 101. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
18 or should have known that their agent, teachers, priest, mentor and youth counselor, DOE 4, and  
19 others priests, teachers and staff within DOE 1 and DOE 2 at DOE 3 had sexually molested,  
20 abused or caused touching, battery, harm, and others injuries to minors, including Plaintiff, giving  
21 rise to a duty to report such conduct under California Penal Code section 11166.

22 102. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,  
23 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
24 including Plaintiff, existed because Defendants did not comply with California's mandatory  
25 reporting requirements.

26 103. By failing to report the continuing molestations and abuse, which Defendants and  
27 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
28 compliance with the reporting requirements provided under California Penal Code section 11166,

1 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
2 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and others minors to sexual  
3 molestation and abuse.

4 104. Plaintiff was a member of the class of persons for whose protection California  
5 Penal Code section 11166 was specifically adopted to protect.

6 105. Had Defendants adequately reported the molestation of Plaintiff and others minors  
7 as required by California Penal Code section 11166, Further harm to Plaintiff and others minors  
8 would have been avoided.

9 106. As a proximate result of Defendants' failure to follow the mandatory reporting  
10 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
11 others minors the intervention of child protection services. Such public agencies would have  
12 changed the then-existing arrangements and conditions that provided the access and opportunities  
13 for the molestation of Plaintiff by DOE 4.

14 107. The physical, mental, and emotional damages and injuries resulting from the sexual  
15 molestation of Plaintiff by DOE 4, were the type of occurrence and injuries that the Child Abuse  
16 and Neglect Reporting Act was designed to prevent.

17 108. As a result, Defendants' failure to comply with the mandatory reporting  
18 requirements of California Penal Code section 11166 also constituted a per se breach of  
19 Defendants' duties to Plaintiff.

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

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**  
2 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**  
3 **(Against ALL Defendants)**

4 110. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
5 contained herein above as though fully set forth and brought in this cause of action.

6 111. Defendants owed Plaintiff a duty to take reasonable protective measures to protect  
7 Plaintiff and others minor students from the risk of childhood sexual harassment, molestation and  
8 abuse by DOE 4 by properly warning, training or educating Plaintiff and others students about how  
9 to avoid such a risk.

10 112. Defendants breached their duty to take reasonable protective measures to protect  
11 Plaintiff and others minor students from the risk of childhood sexual harassment, molestation and  
12 abuse by DOE 4, such as the failure to properly warn, train or educate Plaintiff and others students  
13 about how to avoid such a risk.

14 113. Defendants breached their duty to take reasonable protective measures to protect  
15 Plaintiff and others minor students from the risk of childhood sexual harassment, molestation and  
16 abuse by DOE 4, by failing to supervising and/or stop employees of Defendants, including DOE 4,  
17 from committing wrongful sexual acts with minors, including Plaintiff.

18 114. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through  
19 their employees and agents, were child care custodians and were under a statutory duty to report  
20 known or suspected incidents of sexual molestation or abuse of minors to a child protective  
21 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any  
22 such report.

23 115. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew  
24 or should have known that their agent, teachers, choir director, spiritual advisor, priest, youth  
25 counselor and mentor, DOE 4, and others priests, teachers and staff of DOE 1, DOE 2, and DOE 3  
26 had sexually molested, abused or caused touching, battery, harm, and others injuries to minors,  
27 including Plaintiff, giving rise to a duty to report such conduct under California Penal Code  
28 section 11166.

116. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,

1 or should have known in the exercise of reasonable diligence, that an undue risk to minors,  
2 including Plaintiff, existed because Defendants did not comply with California's mandatory  
3 reporting requirements.

4 117. By failing to report the continuing molestations and abuse, which Defendants and  
5 each of them knew or should have known, and by ignoring the fulfillment of the mandated  
6 compliance with the reporting requirements provided under California Penal Code section 11166,  
7 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting  
8 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and others minors to sexual  
9 molestation and abuse.

10 118. Plaintiff was a member of the class of persons for whose protection California  
11 Penal Code section 11166 was specifically adopted to protect.

12 119. Had Defendants adequately reported the molestation of Plaintiff and others minors  
13 as required by California Penal Code section 11166, Further harm to Plaintiff and others minors  
14 would have been avoided.

15 120. As a proximate result of Defendants' failure to follow the mandatory reporting  
16 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and  
17 others minors the intervention of child protection services. Such public agencies would have  
18 changed the then-existing arrangements and conditions that provided the access and opportunities  
19 for the molestation of Plaintiff by DOE 4.

20 121. The physical, mental, and emotional damages and injuries resulting from the sexual  
21 molestation of Plaintiff by DOE 4, were the type of occurrence and injuries that the Child Abuse  
22 and Neglect Reporting Act was designed to prevent.

23 122. As a result, Defendants' failure to comply with the mandatory reporting  
24 requirements of California Penal Code section 11166 also constituted a per se breach of  
25 Defendants' duties to Plaintiff.

26 123. 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  
28 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of

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

5 **FIFTH CAUSE OF ACTION**  
6 **CONSTRUCTIVE FRAUD: CIVIL CODE § 1573**  
7 **(Against all Defendants)**

8 124. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
9 contained herein above as though fully set forth and brought in this cause of action.

10 125. By holding DOE 4 out as an agent of DOE 1, DOE 2, and DOE 3 and by allowing  
11 him to undertake the academic, physical and emotional instruction of Plaintiff, DOE 1, DOE 2,  
12 DOE 3, and DOE 4 and the others Defendants entered into a fiduciary relationship and special  
13 confidential relationship with Plaintiff.

14 126. By holding themselves out as qualified institutions of learning for children, and by  
15 undertaking to provide the academic, spiritual, and emotional instruction and counseling of  
16 Plaintiff and others minor students, DOE 1, DOE 2, DOE 3, and DOE 4 entered into a fiduciary  
17 relationship and special confidential relationship with Plaintiff.

18 127. Defendants, and each of them, breached their fiduciary duty and/or special duties to  
19 Plaintiff by the wrongful and negligent conduct described or incorporated in this Complaint, and in  
20 doing so gained an advantage over Plaintiff in matters relating to Plaintiff's safety, security and  
21 health. In particular and without limiting the generality of the foregoing, in breaching such duties  
22 as alleged, Defendants among others things, was able to sustain the status of DOE 1, DOE 2, and  
23 DOE 3 as institutions of high moral repute, and preserve the reputation of DOE 1, DOE 2, and  
24 DOE 3, including their administrators and staff, all at the expense of Plaintiff's Further injury and  
25 in violation of Defendants' and each of their mandatory duties.

26 128. By virtue of their fiduciary relationship and/or special relationship with Plaintiffs,  
27 Defendants and each of them owed Plaintiff a duty to:

- 28 a. Investigate or otherwise confirm or deny such claims of sexual abuse;  
b. Reveal such facts to Plaintiff, Plaintiff's parents and caretakers, the church

- 1 community, school community, and law enforcement agencies;
- 2 c. Refuse to place DOE 4 and others molesters in positions of trust and authority
- 3 within Defendants' institutions;
- 4 d. Refuse to hold out DOE 4 and others molesters to the public, the school
- 5 community, students, minors, parents and law enforcement agencies as being in
- 6 good standing and, trustworthy in keeping with his and their position as a teachers,
- 7 mentor, priest and authority figure;
- 8 e. Refuse to assign DOE 4 and others molesters to positions of power within the
- 9 school and over minor students; and
- 10 f. Disclose to Plaintiff, his parents, the public, the church community, the school
- 11 community, students, minors, and law enforcement agencies the wrongful, tortious,
- 12 and criminal acts of DOE 4 and others.
- 13 129. Plaintiff is informed, and on that basis alleges, that Defendants' breach of their
- 14 respective duties included, but were not limited to:
- 15 a. Making no or inadequate investigations of DOE 4;
- 16 b. Issuing no warnings about DOE 4;
- 17 c. Permitting DOE 4 to routinely be alone and in control of minors, unsupervised;
- 18 d. Not having adopted a policy to prevent DOE 4 from routinely having minors,
- 19 parishioners, and minor students in his unsupervised control;
- 20 e. Making no reports of any allegations of DOE 4's abuse of students, parishioners, or
- 21 of minors prior to his employment at DOE 1, DOE 2, and DOE 3; and
- 22 f. Assigning and continuing to assign DOE 4 to duties which placed him in positions
- 23 of authority and trust over minors, positions in which DOE 4 could easily isolate
- 24 and sexually abuse minors.
- 25 130. At the time that Defendants engaged in such suppression and concealment of acts,
- 26 such acts were done for the purpose of causing Plaintiff to forbear on Plaintiff's rights.
- 27 131. Defendants' misconduct did reasonably cause Plaintiff to forbear on Plaintiff's
- 28 rights.
132. Plaintiff is informed and believes, and on that basis alleges, that the
- misrepresentation, suppressions and concealment of facts were likely to mislead Plaintiff and
- others to believe that Defendants had no knowledge of any charges, or that there were no others
- charges of unlawful and/or sexual misconduct against DOE 4 or others and that there was no need
- for them to take Further action or precaution.



1           133. Plaintiff is informed, and on that basis alleges, that the misrepresentation,  
2 suppressions and concealment of facts by Defendants was likely to mislead Plaintiff and others to  
3 believe that Defendants had no knowledge of the fact that DOE 4 was a molester, and was known  
4 to commit wrongful sexual acts with minors, including Plaintiff.

5           134. Plaintiff is informed, and on that basis alleges, that Defendants, and each of them,  
6 knew or should have known at the time they suppressed and concealed the true facts regarding  
7 DOE 4 and others' sexual molestations, that the resulting impressions were misleading.

8           135. Plaintiff is informed, and on that basis alleges, that Defendants, and each of them,  
9 suppressed and concealed the true facts with the purpose of: preventing Plaintiff, Plaintiff's  
10 parents, and others, from learning that DOE 4 and others had been and were continuing to sexually  
11 harass, molest and abuse minors and others under DOE 4's and Defendants' control, direction, and  
12 guidance, with complete impunity; inducing people, including Plaintiff and others benefactors and  
13 donors to participate and financially support Defendants' church, school and others enterprises of  
14 Defendants; preventing Further reports and outside investigations into DOE 4's and Defendants'  
15 conduct; preventing discovery of Defendants' own conduct; avoiding damage to the reputations of  
16 Defendants; protecting Defendants' power and status in the community and the academic  
17 community; avoiding damage to the reputation of DOE 1, DOE 2, and DOE 3 or Defendants'  
18 institutions; and avoiding the civil and criminal liability of Defendants, of DOE 4, and of others.

19           136. Plaintiff is informed, and on that basis alleges, that at all times mentioned herein,  
20 Defendants, with knowledge of the tortious nature of their own and each others' conduct,  
21 negligently, recklessly, knowingly and intentionally gave each others substantial assistance to  
22 perpetrate the misrepresentations, fraud and deceit alleged herein.

23           137. Plaintiff is informed, and on that basis alleges, that Plaintiff and others were misled  
24 by Defendants' suppressions and concealment of facts, and in reliance thereon, were induced to act  
25 or induced not to act, exactly as intended by Defendants. Specifically, Plaintiff and Plaintiff's  
26 parents were induced to believe that there were no allegations of criminal or sexual abuse against  
27 DOE 4. Had Plaintiff or others known the true facts, they would have not participated Further nor  
28 continued to financially support the Defendants' activities alleged herein; they would have reported

1 the matters to the proper authorities, to others minor parishioners, students and their parents so as  
2 to prevent future recurrences; they would not have allowed children, including Plaintiff, to be  
3 alone with, or have any relationship with DOE 4; they would not have allowed children, including  
4 Plaintiff, to attend or be under the control of DOE 1, DOE 2, and DOE 3; they would have  
5 undertaken their own investigations which would have led to discovery of the true facts; and they  
6 would have sought psychological counseling for Plaintiff, and for others children molested and  
7 abused by DOE 4.

8 138. By giving DOE 4 the position of teacher, priest, mentor and counselor, Defendants  
9 impliedly represented that DOE 4 was safe and morally fit to give children direction and guidance.

10 139. Plaintiff is informed, and on that basis alleges, that when Defendants made these  
11 affirmative or implied representations and/or non-disclosures of material facts, Defendants knew  
12 or should have known that the facts were otherwise. Defendants knowingly and intentionally  
13 suppressed the material facts that DOE 4 had on numerous, prior occasions sexually, physically,  
14 and/or mentally abused minors and students of DOE 1, DOE 2, and DOE 3, including Plaintiff,  
15 and/or knew of or learned of conduct, or should have learned of conduct by DOE 4 which placed  
16 Defendants on notice that DOE 4 had previously been suspected, charged, arrested and/or  
17 convicted of felonies, including unlawful sexual conduct with minors, and was likely abusing  
18 children.

19 140. Because of Plaintiff's young age, and because of the status of DOE 4 as an authority  
20 figure to Plaintiff, Plaintiff was vulnerable to DOE 4. DOE 4 sought Plaintiff out, and was  
21 empowered by and accepted Plaintiff's vulnerability. Plaintiff's vulnerability also prevented  
22 Plaintiff from effectively protecting himself from the sexual advances of DOE 4.

23 141. Defendants had the duty to obtain and disclose information relating to sexual  
24 misconduct of DOE 4.

25 142. Defendants misrepresented, concealed or failed to disclose information relating to  
26 sexual misconduct of DOE 4.

27 143. Defendants knew that they had misrepresented, concealed or failed to disclose  
28 information related to sexual misconduct of DOE 4.

1           144. Plaintiff justifiably relied upon Defendants for information relating to sexual  
2 misconduct of DOE 4.

3           145. Defendants, in concert with each others and with the intent to conceal and defraud,  
4 conspired and came to a meeting of the minds whereby they would misrepresent, conceal or fail to  
5 disclose information relating to the sexual misconduct of DOE 4, the inability of Defendants to  
6 supervise or stop DOE 4 from sexually harassing, molesting and abusing Plaintiff, and their own  
7 failure to properly investigate, supervise and monitor his conduct with minor parishioners and  
8 students.

9           146. By so concealing, Defendants committed at least one act in furtherance of the  
10 conspiracy.

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

18           148. In addition, when Plaintiff finally discovered the fraud of Defendants, and  
19 continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In  
20 addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter,  
21 Plaintiff experienced extreme and severe mental anguish and emotional distress that Plaintiff had  
22 been the victim of Defendants' fraud; that Plaintiff had not been able to help others minors being  
23 molested because of the fraud, and that Plaintiff had not been able because of the fraud to receive  
24 timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to  
25 suffer as a result of the sexual harassment, molestation and abuse.

26           149. Plaintiff is informed and based thereon alleges that the conduct of Defendants was  
27 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for  
28 the rights and safety of others, and were carried out with a conscious disregard of his right to be

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1 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to  
2 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 4 in an  
3 amount appropriate to punish and set an example of DOE 4. Plaintiff Further reserves the right,  
4 pursuant to California Code of Civil Procedure § 425.14, to seek leave of court to pursue an award  
5 of punitive damages against Defendants DOE 1, DOE 2, and DOE 3 in a sum to be shown  
6 according to proof.

7 **SIXTH CAUSE OF ACTION**  
8 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
9 **(Against All Defendants)**

10 150. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
11 contained herein above as though fully set forth and brought in this cause of action.

12 151. DOE 4's conduct toward Plaintiff, as described herein, was outrageous and extreme.

13 152. A reasonable person would not expect or tolerate the sexual harassment,  
14 molestation and abuse of Plaintiff by DOE 4. Plaintiff had great trust, faith and confidence in  
15 DOE 4 and in Defendants, which, by virtue of DOE 4's and Defendants' wrongful conduct, turned  
16 to fear.

17 153. Defendants' conduct toward Plaintiff, as described herein, was outrageous and  
18 extreme.

19 154. A reasonable person would not expect or tolerate Defendants putting DOE 4, who  
20 was known to Defendants to be a child molester and child abuser, in charge of DOE 3, which  
21 enabled DOE 4 to have access to minor students and parishioners so that he could commit  
22 wrongful sexual acts, including the conduct described herein, with minors, including Plaintiff.  
23 Plaintiff had great trust, faith and confidence in Defendants, which, by virtue of Defendants'  
24 wrongful conduct, turned to fear.

25 155. A reasonable person would not expect or tolerate Defendants to be incapable of  
26 supervising and/or stopping employees of Defendants, including DOE 4, from committing  
27 wrongful sexual acts with minors, including Plaintiff, or to supervise DOE 4. Plaintiff had great  
28 trust, faith and confidence in Defendants, which, by virtue of Defendants' wrongful conduct,  
turned to fear.

1 156. DOE 4's and Defendants' conduct described herein was intentional and malicious  
2 and done for the purpose of causing or with the substantial certainty that Plaintiff would suffer  
3 humiliation, mental anguish, and emotional and physical distress.

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

11 158. Plaintiff is informed and based thereon alleges that the conduct of Defendants was  
12 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for  
13 the rights and safety of others, and were carried out with a conscious disregard of his right to be  
14 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to  
15 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 4 in an  
16 amount appropriate to punish and set an example of DOE 4. Plaintiff Further reserves the right,  
17 pursuant to California Code of Civil Procedure § 425.14, to seek leave of court to pursue an award  
18 of punitive damages against Defendants DOE 1, DOE 2, and DOE 3 in a sum to be shown  
19 according to proof.

20 **SEVENTH CAUSE OF ACTION**  
21 **SEXUAL BATTERY: CIVIL CODE § 1708.5**  
22 **(Against Defendant Defendant DOE 4 Only)**

23 159. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
24 contained herein above as though fully set forth and brought in this cause of action.

25 160. During Plaintiff's time as a minor parishioner and student at DOE 3, Defendant  
26 DOE 4 intentionally, recklessly and wantonly did acts which were intended to, and did result in  
27 harmful and offensive contact with intimate parts of Plaintiff's person, including but not limited to  
28 Defendant DOE 4: forcing Plaintiff to strip in front of him, engaging in sexually explicit talk and  
suggestion with Plaintiff; massaging and fondling Plaintiff's body with his hands, both above and

1 underneath Plaintiff's clothes; groping Plaintiff's penis and testicles; masturbation, and sodomy of  
2 Plaintiff, all while DOE 4 was in the course and scope of his agency/employment by Defendants,  
3 and each of them.

4 161. Defendant DOE 4 did the aforementioned acts with the intent to cause a harmful or  
5 offensive contact with an intimate part of Plaintiff's person, and would offend a reasonable sense  
6 of personal dignity. Further, said acts did cause a harmful or offensive contact with an intimate  
7 part of Plaintiff's person that would offend a reasonable sense of personal dignity.

8 162. Because of DOE 4's position of authority over Plaintiff, and Plaintiff's mental and  
9 emotional state, and Plaintiff's young age under the age of consent, Plaintiff was unable to, and did  
10 not, give meaningful consent to such acts.

11 163. As a direct, legal and proximate result of the acts of Defendant DOE 4, Plaintiff  
12 sustained serious and permanent injuries to his person, all to his damage in an amount to be shown  
13 according to proof and within the jurisdiction of the Court.

14 164. As a direct result of the sexual abuse by DOE 4, Plaintiff has difficulty in  
15 reasonably or meaningfully interacting with others, including those in positions of authority over  
16 Plaintiff including supervisors, and in intimate, confidential and familial relationships, due to the  
17 trauma of childhood sexual abuse inflicted upon his by Defendants. This inability to interact  
18 creates conflict with Plaintiff's values of trust and confidence in others, and has caused Plaintiff  
19 substantial emotional distress, anxiety, nervousness and fear. As a direct result of the molestation  
20 by DOE 4, Plaintiff has had issues with his personal life, as Plaintiff has issues with trust and is  
21 unable to maintain relationships. As a Further direct result of the molestation by DOE 4, Plaintiff  
22 has never been able to maintain a normal relationship. Further, Plaintiff has realized that  
23 Defendants' conduct was responsible for his problems with his own family, as he feels overly  
24 protective of his own family, constantly fearing that something horrible will happen to them.  
25 These feelings have caused Plaintiff substantial emotional distress, anxiety, nervousness and fear.

26 165. Plaintiff is informed and based thereon alleges that the conduct of Defendants was  
27 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for  
28 the rights and safety of others, and were carried out with a conscious disregard of his right to be

1 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to  
2 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 4 in an  
3 amount appropriate to punish and set an example of DOE 4.

4 **EIGHTH CAUSE OF ACTION**  
5 **ASSAULT**  
6 **(Against Defendant DOE 4 Only)**

7 166. Plaintiff re-alleges and incorporates by reference herein each and every allegation  
8 contained herein above as though fully set forth and brought in this cause of action.

9 167. Defendant DOE 4, in doing the things herein alleged, including intending to:  
10 massage and fondle Plaintiff's body with his hands, both above and underneath Plaintiff's clothes;  
11 grope Plaintiff's penis and testicles; masturbate, and sodomize Plaintiff;

12 168. In doing the things herein alleged, Plaintiff was put in imminent apprehension of a  
13 harmful or offensive contact by DOE 4, and actually believed DOE 4 had the ability to make  
14 harmful or offensive contact with Plaintiff's person.

15 169. Plaintiff did not consent to DOE 4's intended harmful or offensive contact with  
16 Plaintiff's person, or intent to put Plaintiff in imminent apprehension of such contact.  
17 Additionally, because Plaintiff was a minor during the time herein alleged, he lacked the ability to  
18 consent to sexual contact with any person, especially with a priest, spiritual advisor, and counselor  
19 at the church and school he attended, DOE 3.

20 170. In doing the things herein alleged, DOE 4 violated Plaintiff's right, pursuant to Civil  
21 Code section 43, of protection from bodily restraint or harm, and from personal insult. In doing  
22 the things herein alleged, DOE 4 violated his duty, pursuant to Civil Code section 1708, to abstain  
23 from injuring the person of Plaintiff or infringing upon his rights.

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

1 medical and psychological treatment, therapy, and counseling.

2 172. Plaintiff is informed and based thereon alleges that the conduct of Defendants was  
3 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for  
4 the rights and safety of others, and were carried out with a conscious disregard of his right to be  
5 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to  
6 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 4 in an  
7 amount appropriate to punish and set an example of DOE 4. Plaintiff Further reserves the right,  
8 pursuant to California Code of Civil Procedure § 425.14, to seek leave of court to pursue an award  
9 of punitive damages against Defendants DOE 1, DOE 2, and DOE 3, in a sum to be shown  
10 according to proof.

11 **WHEREFORE**, Plaintiff prays for a jury trial and for judgment against Defendants, and  
12 each of them, as follows:

13 **FOR ALL CAUSES OF ACTION**

- 14 1. For past, present and future general damages in an amount to be determined at trial;
- 15 2. For past, present and future special damages, including but not limited to past, present  
16 and future lost earnings, economic damages and others, in an amount to be determined at trial;
- 17 3. Any appropriate punitive or exemplary damages against Defendant DOE 4;
- 18 4. Plaintiff reserves his right, pursuant to California Code of Civil Procedure § 425.14, to  
19 seek leave of Court via noticed motion to pursue an appropriate award of punitive damages against  
20 Defendants DOE 1, DOE 2, and DOE 3 subject to California Code of Civil Procedure § 425.14.
- 21 5. Any appropriate statutory damages;
- 22 6. For costs of suit;
- 23 7. For interest as allowed by law;
- 24 8. For attorney's fees pursuant to California Code of Civil Procedure § 1021.5, and as  
25 otherwise as allowable by law;
- 26 9. For attorney's feel pursuant to California Government Code § 12965(b), or otherwise as  
27 allowable by law;

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10. For such others and Further relief as the court may deem proper.

**Filed Pursuant to California Code of Civil Procedure section 340.1.**

Dated: January 3, 2011

**MANLY & STEWART**

By:

  
VINCE WILLIAM FINALDI, Esq.  
Attorneys for Plaintiff.  
JOHN JS DOE.

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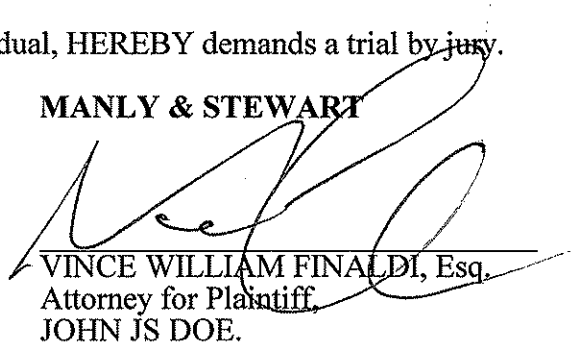
**DEMAND FOR JURY TRIAL**

Plaintiff JOHN JS DOE, an individual, HEREBY demands a trial by jury.

Dated: January 3, 2011

**MANLY & STEWART**

By:

  
VINCE WILLIAM FINALDI, Esq.  
Attorney for Plaintiff,  
JOHN JS DOE.

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**Manly & Stewart**  
LAWYERS  
4220 VON KARMAN AVENUE, SUITE 200  
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**PROOF OF SERVICE BY MAIL**

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the county of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 4220 Von Karman Avenue, Suite 200, Newport Beach, CA 92660.

On January 3, 2011, I served the foregoing document described as **SECOND AMENDED COMPLAINT FOR DAMAGES** on the parties in this action.

by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Thomas G. Beatty, Esq.  
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**BY MAIL**

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit

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

**(Federal)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on January 3, 2011, at Newport Beach, California

  
Kathy Frederiksen