



JEFF ANDERSON & ASSOCIATES PA
REACHING ACROSS TIME FOR JUSTICE

The Motion for Punitive Damages

This motion for punitive damages was filed in November of 2013. It's a means to show the extent of the fraud and wrongdoing by the Archdiocese of Los Angeles in the case of Fr. Nicolas Aguilar Rivera.

Overview

The document itself is a detailed timeline of the abuse and cover-up, with corresponding documents.

It states that Archdiocese officials—including Cardinal Roger Mahony, Msgr. Thomas Curry, and two parish pastors:

- KNEW that Aguilar-Rivera was molesting children
- HELPED the priest escape to Mexico to avoid arrest
- THWARTED the police investigation of Aguilar-Rivera's crimes; and
- DEFRAUDED the victims of the cleric by denying them their criminal and civil rights.

The Timeline

The Transfer to LA from Mexico

- In January 1987, Bishop Noberto Rivera wrote the LA Archdiocese asking them to take Aguilar Rivera for "health and family reasons," a well-known code phrase indicating there are other, confidential, issues with the priest.
- In March 1987, at Curry's request, Bishop Rivera told Curry that Aguilar Rivera was beaten up due to "homosexual behavior" involving boys.
- Msgr. Curry, knowing that Aguilar Rivera was beaten up in Mexico, gave the cleric an assignment letter to Our Lady of Guadalupe.
- Curry wrote an internal memo in 1988 stating that Mahony had been given the confidential letter and knew that there were problems with the priest.

At Our Lady of Guadalupe

- In May 1987, a night secretary observed one victim going to Aguilar Rivera's room.
- The victim told the night secretary that Aguilar Rivera had been sexually abusing him.
- Aguilar Rivera was immediately transferred to St. Agatha's.

At St. Agatha's

- Aguilar Rivera began abusing more boys soon upon his arrival at St. Agatha's.
- A few weeks after Aguilar Rivera's arrival, the pastor witnessed Aguilar Rivera sexually abusing a boy. He did not report.

The Report - January 8, 1988

- On Friday, January 8, 1988, the mother of a victim at Our Lady of Guadalupe, reported the abuse to a nun school teacher at Our Lady of Guadalupe School and the pastor of Our Lady of Guadalupe parish.
- The pastor of Our Lady of Guadalupe, Fr. Mclean, called Msgr. Curry. Curry told the priest to keep the allegations secret. Mclean did not report to the police.
- Curry then called the pastor at St. Agatha's and told him that Aguilar-Rivera was being removed. Curry told the pastor at St. Agatha's to inform the parish, that, "something had come up in Mexico."
- The nun school teacher then reported to Sister Jose, the principal of Our Lady of Guadalupe.

January 9, 1988

- On Saturday, January 9, Curry visited Aguilar Rivera and told him that he "was in a good deal of danger" and that he must leave Los Angeles immediately.
- Aguilar Rivera was taken to Tijuana by his sister.

January 10, 1988

- Curry wrote a memo acknowledging receipt of the 1987 confidential letter regarding Aguilar Rivera's "homosexual problems."

January 11, 1988

- Sister Jose contacted the Los Angeles Police Department and reported Aguilar Rivera.
- She stated that she had tried to call Child and Protective Services over the weekend, but no one was there.
- When contacted by the LAPD, Curry denied that he had knowledge that Aguilar Rivera would escape to Mexico.

The Investigation and Cover-Up

- Fr. Barnes, the priest at St. Agatha's who witnessed Aguilar Rivera abusing children, refused to give the LAPD a list of altar boys who may have been abused. He refused on orders from Msgr. Curry.
- Curry, with the express approval of Mahony, also refuses to turn over the list of altar boys at Our Lady of Guadalupe.
- LAPD investigators go to the local public school to interview children about Aguilar Rivera. They find 26 children who say they were molested by the priest.
- In a March 1988 letter to the LAPD, Mahony lied about two facts: 1) he says that he had never received the letter from Noberto Rivera about Aguilar-Rivera's homosexual problems, and 2) the LA Archdiocese does not accept priests with "homosexual problems."

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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST DISTRICT

18 Coordinated Proceeding Special Title
(Rule 1550(b))

19 THE CLERGY CASES I

20 JUAN HAA DOE, an Individual; JUAN FAA
21 DOE, an Individual, JUAN JRR DOE, an
Individual;

22 Plaintiffs,

23 v.

24 DEFENDANT DOE 1; DEFENDANT DOE
25 DOE 2; DEFENDANT DOE 3; DEFENDANT
DOE 4; and DOES 5 through 1000, inclusive,

26 Defendants.

27 JUAN EO DOE, an Individual, JUAN EC
28 DOE, an Individual, JUAN DD DOE, an

Case No. JCCP 4286

**NOTICE OF MOTION AND MOTION TO
AMEND PLAINTIFFS' COMPLAINT TO
ALLEGE PUNITIVE DAMAGES,
PURSUANT TO CCP SECTION 425.14;
DECLARATION OF ANTHONY M. DE
MARCO IN SUPPORT THEREOF
[FILED CONCURRENTLY]**

Date: December 9, 2013
Time: 1:45 p.m.
Dept.: 324

Los Angeles Superior Court Case No.s:
BC505393; BC 502705; BC484542;
BC4430208; BC450928

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Los Angeles Superior Court
NOV 04 2013

Sherri R. Carter, Executive Officer/Clerk
By: Tanaya Lewis, Deputy

1 individual, JUAN CV DOE, an Individual,
2 Plaintiff,
3 v.
4 DEFENDANT DOE 1; DEFENDANT DOE
5 2; DEFENDANT DOE 3; DEFENDANT
6 DOE 4 AND DOES 5 through 1000, inclusive,
7 Defendants.

7 JUAN GM DOE,
8 Plaintiff,
9 v.
10 DEFENDANT DOE 1; DEFENDANT DOE
11 2; DEFENDANT DOE 3; DEFENDANT
12 DOE 4; DEFENDANT DOE 5;
13 DEFENDANT DOE 6, and DEFENDANT
14 DOE 7 through 1000, Inclusive,
15 Defendants.

14 JOHN ME DOE, an Individual,
15 Plaintiff,
16 v.
17 DEFENDANT DOE 1; DEFENDANT DOE
18 2; DEFENDANT DOE 3; DEFENDANT
19 DOE 4; DEFENDANT DOE 5;
20 DEFENDANT DOE 6 and DOES 7 through
21 1000, inclusive,
22 Defendants.

21 OSCAR NEGRETE, an individual,
22 Plaintiff,
23 v.
24 DEFENDANT DOE 1; DEFENDANT DOE
25 2; DEFENDANT DOE 3; DEFENDANT
26 DOE 4; DEFENDANT DOE 5;
27 DEFENDANT DOE 6 and DOES 7 through
28 1000, inclusive,
29 Defendants.

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that, Plaintiffs, JUAN HAA DOE, an individual; JUAN FAA DOE, an individual, JUAN JRR DOE, an individual, JUAN EO DOE, an individual, JUAN EC DOE, an individual, JUAN DD DOE, an individual, JUAN CV DOE, an individual, JUAN GM DOE, and JOHN ME DOE, an individual, and OSCAR NEGRETE, an individual, will and hereby move this Court for an Order, Pursuant to *Code of Civil Procedure Section 425.14*, to amended Plaintiffs' Complaint to allege punitive damages. The motion will be based on the Memorandum of Points and Authorities, declaration of Anthony M. De Marco, the Court file and whatever other documents and argument as the court will permit.

Said Motion will be heard on December 9, 2013 at 1:45 p.m., in Department 324 of the Superior Court located at 600 S. Commonwealth Avenue, Los Angeles, California 90005.

DATED: October 31, 2013

LAW OFFICE OF ANTHONY M. DE MARCO

By:



ANTHONY M. DE MARCO
JOANNA ROBLES
Attorneys for Plaintiff, JOHN DOE

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 On January 4, 2013, Plaintiff JOHN DOE in case number BC 416014 filed a motion to amend
4 the complaint to allege punitive damages. Victim, JOHN DOE was the lead Plaintiff in the cases
5 against Father Aguilar Rivera, whose case at the time was scheduled for trial on April 2, 2013.
6 Instead of filing an opposition to the motion, Defendants stipulated that Plaintiff could file his
7 amended complaint seeking punitive damages, which was identical to then existing complaint with the
8 exception of the addition of punitive damages in the prayer. **Exhibit "2"**. On March 7, 2013,
9 Defendants answered the amended complaint alleging punitive damages. **Exhibit "4"**. Thereafter
10 Defendants argued that all eleven Plaintiffs, who allege abuse by Father Aguilar Rivera, should have
11 their cases consolidated for trial and the lead case continued to allow such. One argument Defendants
12 raised was that they did not want multiple trials in which punitive damages were sought based upon
13 the same conduct of Defendants. Declaration of Anthony M. De Marco at Paragraph 60. After this
14 Court consolidated all eleven Plaintiffs' cases and continued the trial to January 21, 2014, Plaintiffs'
15 counsel repeatedly requested in person and in writing to Defense counsel for them to stipulate to the
16 inclusion of punitive damages in the prayer as had previously been done. **Exhibit "48"**. Plaintiffs'
17 counsel's requests have been ignored. Declaration of Anthony M. De Marco at Paragraph 61.
18 Plaintiffs requested this in part to avoid the unnecessary work by Plaintiffs counsel, defense counsel
19 and Court involved in preparing and addressing this motion which seeks to place the all 11 Plaintiffs
20 on the same procedural footing vis- a- vis punitive damages. What follows is largely the same motion
21 that was filed on January 3, 2013 modified for the ten additional Plaintiffs and the rulings by the Court
22 on summary judgment.

23 Not less than 26 children have complained they were sexually molested by Father Nicholas
24 Aguilar Rivera during his nine months working in the Los Angeles Archdiocese from March of 1987
25 to January of 1988. Plaintiff is one of those children. The Church Defendants received numerous
26 warnings that Father Nicholas Aguilar Rivera was a child molester before he molested Plaintiff.
27 When Plaintiff's mother and another mother complained to church officials that their children had
28

1 been molested, Monsignor Thomas Curry, immediately notified Father Aguilar Rivera that he was
2 being accused by parents of molesting numerous children, that his assignment in Los Angeles was
3 over, and warned him that Police were going to be notified and that **Father Aguilar Rivera was in**
4 **danger**. The Mexican priest told Monsignor Curry he would leave the country within two days.
5 Archdiocesan officials then waited two days before calling law enforcement. Los Angeles Police
6 detectives responded immediately only to find Father Aguilar Rivera had already fled. In the coming
7 weeks, Monsignor Curry with the approval of Archbishop Mahony actively thwarted LAPD efforts to
8 interview victims of Aguilar Rivera and mislead detectives regarding the Archdiocese knowledge of
9 Aguilar Rivera's molestations.

10 Pursuant to *Code of Civil Procedure Section 425.14*, Plaintiff seeks leave to amend the
11 complaint to allege punitive damages against the Los Angeles Archdiocese, Defendants. A religious
12 corporation can be held liable for punitive damages if it was aware of its agent's dangerous
13 propensities and continued to engage that agent or if it ratified the agents misconduct. See *CCP*
14 *Section 425.14* and *Civil Code Section 3294(a)* and (b). Plaintiffs Requests Leave to file the First
15 Amended Complaints attached to the Declaration of Anthony M: De Marco as **Exhibit "1"**.

16 **II. A Prayer for Punitive Damages Against a Religious Corporation Requires Court**
17 **Approval**

18 A claim for punitive damages against a religious corporation may not be included in the
19 Complaint unless the Court enters an order allowing an amended pleading that states such a claim.
20 *California Code of Civil Procedure §425.14*. The allowance of such an amended pleading may be
21 made upon a finding, on the basis of supporting and opposing affidavits presented with the motion
22 "that the Plaintiff has established evidence which substantiates that plaintiff will meet the clear and
23 convincing standard of proof under Section 3294 of the *Civil Code*." *Id. C.C.P. Section 425.14*
24 requires "only that a Plaintiff demonstrate the existence of sufficient evidence to establish a *prima*
25 *facie* case for punitive damages, having in mind the higher clear and convincing standard of proof."
26 *Rowe v. Superior Court* (1993) 15 Cal.App.4th 1711, 1718. The trial court is not required to make
27 any factual determination or allowed to become involved in any evidentiary weighing process, beyond

1 that necessarily involved in deciding whether a *prima facie* case exists. (*Id.*) Once the Court
2 concludes that such a case can be presented at trial, it must permit the proposed amended pleading to
3 be filed. (*Id.*)

4 **III. A Principal May Have Punitive Damage Liability for its Advance Knowledge of an**
5 **Agent’s Unfitness or its ratification of its Agents Misconduct.**

6 “[I]f the employer after knowledge or opportunity to learn of the agent’s misconduct retains
7 the wrongdoer in service, the employer may make himself liable in punitive damages.” *Coats v.*
8 *Construction and General Laborers Local No. 185* (1971) 15 Cal.App.3d 908, 914, citing *Shoopman v.*
9 *Pacific Greyhound Lines* (1959) 169 Cal.App.2d 848, at 856. California jurisprudence on point has
10 been summarized in *Civil Code* Section 3294(b):

11 “[U]nless the employer had advance knowledge of the unfitness of the employee and
12 employed him or her with a conscious disregard of the rights or safety of others or authorized or
13 ratified the wrongful conduct for which the damages are awarded or was guilty of oppression, fraud or
14 malice. With respect to a corporate employer, the advance knowledge and conscious disregard,
15 authorization or ratification or act of oppression, fraud, or malice must be on the part of an officer,
16 director, or managing agent of the corporation.” Malice for purposes of these issues of punitive
17 damages includes “conscious disregard of the rights or safety of others.” *Civil Code Section* 3294.

18 According to *Weeks v. Baker & McKenzie* (1998) 63 Cal.App.4th 1128, 1151: Subdivision (b)
19 [of *Civil Code* Section 3294] authorizes the imposition of punitive damages on an employer in three
20 situations: (1) when an employee was guilty of oppression, fraud or malice, and the employer with
21 advance knowledge of the unfitness of the employee employed him or her with a conscious disregard
22 of the rights and safety of others, (2) when an employee was guilty of oppression, fraud or malice, and
23 the employer authorized or ratified the wrongful conduct, or (3) when the employer was itself guilty of
24 oppression, fraud or malice.

25 **IV. AN EMPLOYER CAN BE LIABLE FOR PUNITIVE DAMAGES FOR RATIFYING**
26 **THE TORTIOUS CONDUCT OF THEIR AGENT**

27 Pursuant to *California Civil Code* Section 3294(b) an employer can be liable in punitive

1 damages for ratifying the conduct of their agent. An employer may be liable for an employee's act
2 where the employer either authorized the tortious act or subsequently ratified an originally
3 unauthorized tort." *C.R. v. Tenet Healthcare Corp.*, (2009) 169 Cal.App.4th 1094, 1110.; *Baptist v.*
4 *Robinson*, (2006) 143 Cal.App.4th 151, 169-70. "The theory of ratification is generally applied where
5 an employer fails to investigate or respond to charges that an employee committed an intentional tort,
6 such as assault or battery." *C.R.*, 169 Cal.App.4th at 1110; *Baptist*, 143 Cal.App.4th at 169- 70.
7 Retention of an employee after knowledge of the employee's conduct or an adequate opportunity to
8 learn of the conduct may support an inference of ratification. *Murillo v. Rite Stuff Foods, Inc.*, 65
9 Cal.App.4th 833, 852. Covering-up evidence of the employee's misconduct can demonstrate
10 ratification of that conduct. See *Greenfield v. Spectrum Investment Corporation* (1985) 174
11 Cal.App.3d 111, 120 overruled on other grounds in *Lakin v. Watkin Associated Industries* (1993) 6
12 Cal. 4th 644 , see also *C.R. v. Tenet Health Care Corp* (2009) 169 Cal.App.4th 1094. Ratification
13 may be proved by circumstantial as well as direct evidence. *Hale v. Farmers Ins. Exch.* (1974) 42
14 Cal.App.3d 681, 691-692. (Overruled on another point in *Egan v. Mutual of Omaha Ins., Inc.* (1979)
15 24 Cal.3d 809, 822, fn. 5).

16 In *C.R.*, an employee was accused of sexually harassing the Plaintiff. The court of appeal
17 found the following evidence helped establish the employer's ratification of the unlawful sexual
18 conduct: "The foregoing allegations that Defendant, with knowledge of Mr. Gaspar's misconduct,
19 continued to employ him and destroyed documents was sufficient to state a claim that it ratified his
20 sexual misconduct." *C.R. v. Tenet*, 169 Cal.App.4th at 1112.

21 **V. DEFENDANTS CAN BE LIABLE FOR PUNITIVE DAMAGES FOR THEIR OWN**
22 **CONDUCT ENGAGED IN WITH MALICE, OPPRESSION OR FRAUD**

23 Defendants can be liable for punitive damages for their own conduct engaged in with malice,
24 oppression or fraud. See CACI 3945 last revised October 2008. Malice means that the Defendant
25 "acted with intent to cause injury or that Defendant's conduct was despicable and was done with a
26 willful disregard of the rights and safety of another. A person acts with knowing disregard when he or
27 she is aware of the probable dangerous consequences of his or her conduct and deliberately fails to

1 avoid those consequences.” CACI 3945.

2 **VI. STATEMENT OF FACTS**

3 **A. Father Aguilar Rivera’s Molestation of Plaintiffs.**

4 Plaintiffs were all parishioners and altar boys at Our Lady of Guadalupe or St. Agatha’s
5 Catholic churches in Los Angeles. **Exhibit 9** 6:1-14, 88:5-13, 93:13-15, 94:15-95:1, 95:19-96:19,
6 **90:2-7, 91:2-5, 98:22-24, 100:16-18, 83:5-11, 94:17-24, 95:19-24, 103:19-104:20; Exhibit 10,**
7 **Exhibit “49”, Exhibit “51”, Exhibit “52”, Exhibit “53”, Exhibit “56”, Exhibit “57”, Exhibit**
8 **“58”, Exhibit “59”.** Plaintiffs were all sexually abused as minors by Father Aguilar Rivera on church
9 grounds. *Id.* Father Aguilar Rivera routinely isolated the boys in his rectory bedroom, office and in
10 parish classrooms and in the altar boy changing area. Plaintiffs were between 7 and 12 years old
11 during the abuse. *Id.* He routinely isolated the boys on church grounds under the auspices of the 7 to
12 12 year old boys teaching him, an adult, English. *Id.*

13 **B. Molestations and Warnings before Plaintiff was molested**

14 Father Nicholas Aguilar Rivera sexually molested children in Mexico before being removed
15 by his Bishop and sent to Los Angeles. See **Exhibit “5” Para. 6;** and **Exhibit “6.”** His Bishop in
16 Mexico in sending Aguilar Rivera to Los Angeles warned Cardinal Mahony that Father Aguilar
17 Rivera was a danger. See **Exhibits “7” and “8”.** Once Father Aguilar Rivera began working in the
18 Archdiocese, a parish secretary was informed he was molesting an underage altar boy in his rectory
19 bedroom. See **Exhibit “9” 109:18-110:21.** Aguilar Rivera was then transferred to a different parish.
20 **Exhibit “9” 158:3-9.** At the second parish he was observed within a few weeks by a priest molesting
21 an underage altar boy. **Exhibit “10” Para. 9.**

22 **1. Father Nicholas’ Molestation of Children in Mexico.**

23 On July 18, 1976, Father Nicholas Aguilar Rivera was removed from his position as parish
24 priest at Todos Santos Xochitlan in the state of Puebla, Mexico for “health reasons.” **Exhibit “11.”**
25 In July of 1977, he was assigned as Pastor at San Sebastian Catholic Church in the town of
26 Cuacnopolan, in the state of Puebla, in Mexico. See **Exhibit “12.”** Cuacnopolan is in southern
27 Mexico, near Mexico City. **Exhibit “13.”** In 1985-88, his supervising bishop was Noriberto Rivera

1 Carrera. **Exhibit "14"** 2:12-13, 2:28-3:3. While working as the Pastor at San Sebastian, Father
2 Aguilar Rivera regularly had underage boys spend time with him alone in his church residence known
3 as a rectory. **Exhibits "5"** Para 5 and 6. This included having the boys spend the night in his
4 bedroom, where he sexually molested them. See **Exhibits "5"** Para 6, and 5. In August of 1986
5 Father Nicholas was beaten in his rectory. See **Exhibit "6"** and **Exhibit "14"**:2:28-3:3. The last
6 known visitors of Father Aguilar Rivera were youths he had allowed to spend time alone with him.
7 See **Exhibit "6."** A police report was made of this incident. **Exhibit "6."** The police report is the
8 only documentation in the Father Nicholas Aguilar Rivera filed produced by the Diocese of Tehuacan
9 pertaining to the events precipitating Father Aguilar Rivera's removal from the parish. **Exhibit "15"**
10 and Declaration of Anthony M. De Marco, Esq. Father Aguilar Rivera admitted the beating was
11 because of his ministry with children. **Exhibit "16"** 67:12-70:15. Father Aguilar Rivera's supervising
12 Bishop reprimanded him, told him to seek psychiatric help and removed him as pastor of the parish.
13 See **Exhibit "14"** 3:11-12.

14 On January 23, 1987, Bishop Norberto Rivera Carrera wrote a letter of presentation to
15 Cardinal Roger Mahony on behalf of Father Nicholas Aguilar Rivera, stating Father Aguilar Rivera
16 was coming to Los Angeles for "Health and Family" reasons, and requesting that Father Aguilar
17 Rivera be given work for a year. See **Exhibits "7"** and **14** 3:17-4:3. The phrase "Health and Family"
18 reasons is a phrased used within the church to signify that there is an issue pertaining to the priest that
19 needs to be inquired of confidentially. See **Exhibit "14"** 3:26-4:3, and **Exhibit "17"** 377:1-380:11,
20 381:2-383:17.

21 On March 4, 1987 Father Nicholas Aguilar Rivera wrote a letter to Monsignor Thomas Curry,
22 the Vicar for Clergy for the Los Angeles Archdiocese. **Exhibit "18."** In the letter Father Aguilar
23 Rivera explains that for his own security, his Bishop has given him permission to travel to and work in
24 Los Angeles. **Exhibit "18."** The letter makes reference to Father Aguilar Rivera having been beaten.
25 **Exhibit "18."** On March 10, 1987, Monsignor Curry is scheduled to meet with Father Nicholas
26 Aguilar Rivera. See **Exhibit "19."** On March 12, 1987, Father Aguilar Rivera writes to Bishop
27 Norberto Rivera Carrera telling him that he has met with Monsignor Curry, and that Monsignor Curry

1 requested that Bishop Norberto Rivera Carrera send a confidential letter explaining the reasons for
2 Father Aguilar Rivera going to Los Angeles. See **Exhibit "14"** 4:4-8 and **Exhibit "20."**

3 On March 16, 1987, Monsignor Curry assigned Father Nicholas Aguilar Rivera as an
4 Associate priest at Our Lady of Guadalupe. **Exhibit "21."** The assignment document indicates his
5 faculties, or permission to work as a priest at the parish, last until October 31, 1987. **Exhibit "21."**

6 On March 23, 1987, Bishop Norberto Rivera Carrera writes a confidential letter to Archbishop
7 Mahony stating that Father Nicholas has been sent away because he was severely beaten and that it is
8 suspected the beating arose out of problems with homosexuality. **Exhibit "8"** and **Exhibit "14"** 4:9-
9 17. The confidential letter states that there are several accusations of homosexuality, none have been
10 proven, and everything is just accusations and suspicions. **Exhibit "8."** Monsignor Curry admits in a
11 memo to then Archbishop Mahony to receiving the confidential letter from Bishop Norberto Rivera
12 Carrera. **Exhibit "22."** The March 23, 1987 confidential letter is the only confidential letter in
13 Aguilar Rivera's Los Angeles Archdiocese files predating his flight from Los Angeles in January of
14 1988. See **Exhibits "23"** and **"24"** and Declaration of Anthony M. De Marco.

15 **2. Father Nicholas's Molestation of Children in Los Angeles and Warnings**
16 **Prior to the End of his Abuse of Plaintiffs.**

17 Upon his arrival at Our Lady of Guadalupe Church, in March of 1987, Father Aguilar Rivera
18 began a practice of isolating boys under the auspices of them teaching him English. **Exhibit "25"**
19 Page 6, **Exhibit "26"** 128:2-132:22, **Exhibit "2"** 47:24-48:24, **Exhibit "9"** 88:5-13, 93:13-15. One
20 such boy was Oscar Negrete, an altar boy at Our Lady of Guadalupe. **Exhibit "9"** 88:5-13, 93:13-15.
21 Oscar was 12 years old. **Exhibit "9"** 6:13-14. Father Nicholas repeatedly had Oscar visit him in his
22 rectory bedroom. **Exhibit "9"** 94:15-95:1, 95:19-96:19. On numerous occasions Father Nicholas
23 fondled and masturbated the 12 year-old. **Exhibit "9"** 90:2-7, 91:2-5, 98:22-24, 100:16-18. Each
24 time he visited Father Nicholas in the rectory, a parish secretary would see Oscar and then Father
25 Nicholas would take Oscar to his bedroom. **Exhibit "9"** 83:5-11, 94:17-24, 95:19-96:24, 103:19-
26 104:20. On the last occasion while he waited for Father Nicholas, the night secretary, Juan Robles
27 asked Oscar if he knew that Father Nicholas was gay. **Exhibit "9"** 109:8-110:3. Juan Robles then

1 asked Oscar if Father Nicholas was touching Oscar. **Exhibit "9"** 110:4-11. Oscar told him yes.
2 **Exhibit "9"** 110:4-11. Oscar was then let into the priests' bedroom by Father Nicholas and was
3 sexually abused for the last time by him. **Exhibit "9"** 109:8-110:21. After Oscar told Mr. Robles of
4 the abuse, Father Nicholas was removed from Our Lady of Guadalupe. **Exhibit "9"** 157:14-158:9.
5 Transfer records indicate he was sent to St. Agatha's. **Exhibit "27."**

6 Father Mclean the Pastor of Our Lady of Guadalupe has testified that he vaguely remembers
7 Juan Robles or someone else talking with him about Father Nicholas's giving children English
8 lessons. **Exhibit "26"** 27:1-28:6. Father Mclean has testified that he was also aware that Father
9 Nicholas had boys in his office for English lessons. **Exhibit "26"** 128:2-130:25. The full-time
10 secretary at Our Lady of Guadalupe has declared that she was aware that Father Nicholas was having
11 boys one-on-one with him alone in his rectory office in the late afternoon, and the Father Mclean was
12 aware of this. **Exhibit "28"** Paragraphs 5-7 and 16. She has also declared that no other priests ever
13 had engaged in this practice. **Exhibit "28"** Para 6. No announcement was made to the parish
14 community regarding the reason for Father Nicholas's sudden departure. **Exhibit "28"** Para 14.

15 Father Nicholas was transferred to St. Agatha's church in South Central Los Angeles on May
16 8, 1987. **Exhibit "27."** When Father Nicholas arrived at St. Agatha's, there were approximately 3-4
17 altar boys that regularly served masses. **Exhibit "10"** Para 5. One of those altar boys was M.G.
18 **Exhibit "10"** Para 5. Within days or a week after Father Nicholas arrived and started serving masses
19 at St. Agatha's, in the middle of May 1987, he began fondling M.G's genitals over his clothes in the
20 altar boy changing room. **Exhibit "10"** Paragraphs 6-7. M.G. was 10 years old at the time. **Exhibit**
21 **"10"** Para 2.

22 Within two weeks of the first incident of fondling, Father Nicholas again fondled the boy's
23 genitals in the altar boy changing room. **Exhibit "10"** Para 9. However, this time, the pastor of the
24 parish, James Barnes walked in on Father Nicholas and M.G. while he was fondling the boy's
25 genitals. **Exhibit 10** Para 9. Father Barnes made eye contact with the boy while he was being
26 fondled. **Exhibit "10"** Para 9. Father Nicholas and M.G. quickly separated and M.G. ran from the
27 changing area past Father Barnes. **Exhibit "10"** Para 9. Father Nicholas continued to molest M.G.

1 on several further occasions, but each time the abuse occurred in various rooms in the nearby St.
2 Agatha's elementary school. **Exhibit "10" Paragraphs 10-12.** The last incident of abuse again
3 occurred in the altar boy changing area. **Exhibit "10" Para 13.** This time in June or July of 1987.
4 **Exhibit "10" Para 14.** After this, M.G. stopped serving masses frequently. **Exhibit "10" Para 14.**

5 **3. The Archdiocese Facilitation of Father Nicholas Aguilar Rivera's flight and**
6 **Cover-up**

7 On Friday, January 8, 1988, Plaintiff's mother complained to a nun teacher at Our Lady of
8 Guadalupe elementary school that Father Aguilar Rivera had sexually abused Plaintiff and his brother.
9 **Exhibit "3" 94:22-95:3, 95:24-97:6, 98:21-99:10.** The teacher, a nun, was a mandated child abuse
10 reporter pursuant to *California Penal Code Section 11165.7(a)(1-3)*. Plaintiff's mom then complained
11 to the pastor of Our Lady of Guadalupe Father William Mclean, who also taught classes at Our Lady
12 of Guadalupe School, and therefore was a mandated reporter. **Exhibit "3" 86:17-87:10, 98:10-16,**
13 **99:12-101:7, 103:8-13.**

14 On January 8, 1988, immediately after meeting with Plaintiff's mother, at approximately 2:00
15 p.m., Father Mclean called Monsignor Curry, the Vicar for Clergy for the Los Angeles Archdiocese.
16 **Exhibit "26" 66:16-67:22, 73:23-74:24.** Father Mclean initially left a message for Monsignor Curry
17 saying: "Urgent. Please call me. "Possible child molestation case." **Exhibit "26" 74:25-75:6.** Not
18 until 5:00 p.m. did Monsignor Curry call Father Mclean back. **Exhibit "26" 75:7-12.** Father Mclean
19 at that point informed Monsignor Curry that he had received a complaint that Father Aguilar Rivera
20 had abused the boys of two families. **Exhibit "26" 75:14-23.** Monsignor Curry advised Father
21 Mclean to keep the complaints confidential. **Exhibit "26" 75:24-76:16.** Because Monsignor Curry
22 advised Father Mclean to keep the complaint confidential, Father Mclean did not report the complaint
23 to law enforcement. **Exhibit "26" 85:24-86:11.**

24 On Friday January 8, 1988, Monsignor Curry contacted Father James Barnes, the Pastor of St.
25 Agatha's church, where Father Aguilar Rivera was then assigned. **Exhibit "29" 44:15-45:20.**
26 Monsignor Curry informed Father Barnes of the abuse allegations, and that Father Aguilar Rivera was
27 being removed and he would not be available that Sunday. **Exhibit "29" 44:15-45:9.** Monsignor

1 Curry informed Pastor Barnes that he was to inform the parish community on Sunday that Father
2 Aguilar Rivera had left because something came up in Mexico. **Exhibit "29"** 57:4-59:6. At the time,
3 Father Barnes knew this was a lie but told it to the congregation because his boss, the Vicar for Clergy
4 told him to. **Exhibit "29"** 57:4-59:6.

5 On Friday evening January 8, 1988, at approximately 7:30 p.m., Sister Jose, the nun school
6 teacher who had received the complaint from Plaintiffs John Doe and John ME Doe's mother,
7 informed the principal, a nun, of the complaint, who was also a Mandated Reporter. **Exhibit "25"**
8 pages 9-10. According to Father Mclean on Saturday afternoon he learned of the complaint to the
9 school teacher for the first time when the Principal informed him of the complaint. **Exhibit "26"**
10 77:4-15. Father Mclean contacted Monsignor Curry to inquire of the legal obligations of the Principal
11 to report to law enforcement. **Exhibit "26"** 84:19-85:4.

12 By Friday, January 8, 1988, the mother of the second family complained directly to Father
13 McLean that her boys had also been sexually abused by Father Aguilar Rivera. **Exhibit "26"** 107:15-
14 108:10, and **Exhibit "25"** Page 2. Father McLean's reaction was to tell her to keep the complaint
15 confidential. **Exhibit "16"** 51:14-52:13.

16 On Saturday morning, January 9, 1988, Monsignor Curry visited Father Aguilar Rivera in his
17 rectory bedroom at St. Agatha's church. **Exhibit "30."** Monsignor Curry informed Father Aguilar
18 Rivera of the accusations against him. **Exhibit "30."** He informed him that law enforcement was
19 going to be notified. **Exhibit "30."** Informed him that he must leave Los Angeles, and that he,
20 Aguilar Rivera, "was in a good deal of danger." **Exhibit "30."** Father Aguilar Rivera informed
21 Monsignor Curry that he would leave the country by Monday or Tuesday. **Exhibit "30."**

22 On Saturday, January 9, 1988, Monsignor Curry spoke with Sister Judith Murphy Esq., in
23 house legal counsel for the Archdiocese, about the complaint to school teacher and principal, and their
24 legal obligations to report the complaints to law enforcement. **Exhibit "30."** Monsignor Curry then
25 contacted Father Mclean and gave him instructions to convey to the Principal. **Exhibit "30"** and
26 **Exhibit "26"** 77:4-17, 84:19-85:6.

27 On Saturday afternoon, January 9, 1988, Father Nicholas Aguilar Rivera was taken to Tijuana,

1 Mexico by his sister who lived in Venice, California. **Exhibit "25"** Page 4.

2 On Saturday, January 9, 1988, Bishop Stephen Blaire, then the Vicar General of the
3 Archdiocese, now the Bishop of Stockton, called Father Barnes to offer to perform the Spanish
4 speaking mass on Sunday at St. Agatha's. **Exhibit "29"** 56:13-21.

5 On Sunday, January 10, 1988, Monsignor Curry wrote a memo to Archbishop Mahony
6 acknowledging his receipt in early 1987 of Bishop Norberto Rivera Carrera's confidential letter
7 regarding Father Aguilar Rivera's homosexual problems in Mexico prior to his arrival in Los Angeles.
8 **Exhibit "22."** The memo refers to receipt of a confidential letter from Father Aguilar Rivera's Bishop
9 prior to his assignment at St. Agatha's church. **Exhibit "22."** The only confidential letter in the file is
10 the March 23, 1987 letter. This memo is an admission by Monsignor Curry that the March 23, 1987
11 letter was received, a fact Mahony would subsequently deny to Police and others. **Exhibit "31."**

12 On Monday morning, January 11, 1988, the Principal for the first time contacts the Los
13 Angeles Police Department and reported the complaint of molestation. **Exhibit "2"** 25 Pages 3, 9-10.
14 She informed Police that she had tried calling child protective services over the weekend but no one
15 answered and that she only thought to call police on Monday morning. **Exhibit "25"** Pages 3, 9-10.
16 Coincidentally, the same day Father Aguilar Rivera had told Monsignor Curry he would leave the
17 Country. **Exhibit "30."**

18 On Monday morning, January 11, 1988, Los Angeles Police detectives responded to Our Lady
19 of Guadalupe parish. **Exhibit "25."** Page 1. On January 11, 1988, an LAPD detective contacted
20 Monsignor Curry and asked whether Father Nicholas had informed Curry that he would flee to
21 Mexico. **Exhibit "42"** Monsignor Curry told the detective that he didn't know. **Exhibit "42"** This
22 again is in direct contradiction to Curry's admission in his memo to Archbishop Mahony dated
23 January 11, 1988. **Exhibit "22."**

24 On Monday, January 11, 1988, Monsignor Curry writes a letter to Bishop Norberto Rivera
25 Carrera informing him of the allegations against Father Nicholas Aguilar Rivera, and informing him
26 that the allegations are going to be reported to law enforcement as is required by civil law. **Exhibit**
27 **"32."** Monsignor Curry does not ask that Bishop Rivera Carrera encourage Father Nicholas Aguilar

1 Rivera to return to Los Angeles. **Exhibit "32."**

2 Over the ensuing days six LAPD detectives interview numerous children who were
3 parishioners at Our Lady of Guadalupe who state that they were sexually abused by Father Aguilar
4 Rivera over the brief time that he was at Our Lady of Guadalupe, as well as while he was assigned to
5 St. Agatha's church. **Exhibit "25"** Pages 1, 3, 5. Detectives seek from Father James Barnes a list of
6 the altar boys from St. Agatha's. **Exhibit "29"** 47:22-49:4. Father Barnes is the same priest that
7 witnessed Father Aguilar Rivera molesting an altar boy at St. Agatha's. **Exhibit "10"** Para. 9.
8 Barnes refuses to provide a list on orders from Monsignor Curry. Monsignor Curry also instructed
9 Father Mclean the pastor at Our Lady of Guadalupe not to give altar boys lists to police. **Exhibit**
10 **"26"** 93:5-96:11.

11 Starting January 25, 1988, two different LAPD commanding officers speak with Monsignor
12 Curry demanding the lists of altar boys at St. Agatha's. **Exhibit "33."** Monsignor Curry with the
13 express approval of Archbishop Mahony refuses. **Exhibit "34."** The reason stated by Monsignor
14 Curry for the refusal is there is no reason to believe Father Aguilar Rivera molested children at St.
15 Agatha's. **Exhibits "33"** and **"34."** This reason refutes any notion that Monsignor Curry met with and
16 removed Father Aguilar Rivera on Saturday January 9, 1988, because of concern he was molesting
17 children at the church. If there was no reason to believe he was molesting children, why remove him
18 before Police are notified?

19 On January 28, 1988, an LAPD Captain threatens Monsignor Curry that there would be
20 publicity over this case if the altar boy list was not produced. **Exhibit "33."**

21 LAPD detectives eventually interview altar boys from St. Agatha's by going to the local public
22 elementary school and interviewing children. From January 11, 1988 to March 2, 1988, 26 children
23 confirm to LAPD detectives that they were sexually molested by Father Nicholas Aguilar Rivera
24 during his nine month stay in Los Angeles. **Exhibit "25."**Page 6. All 11 plaintiffs are among the 26
25 who confirmed they were abused.

26 On February 23, 1988, Monsignor Curry writes to Bishop Norberto Rivera Carrera enclosing a
27 copy of the LA Times article regarding Father Aguilar Rivera's molestation of boys in Los Angeles.

1 **Exhibit “35.”** In the article, Los Angeles Police Detectives are highly critical of the lack of
2 cooperation from the Archdiocese and of Monsignor Curry’s informing Aguilar Rivera of the
3 complaints prior to Police being informed. **Exhibit “35”** It is only after this article is published that
4 any announcements are made at Our Lady of Guadalupe church or St. Agatha’s church informing the
5 congregations that Father Aguilar Rivera has been accused of abuse or that therapy is available
6 through the church for victims. **Exhibit “47.”**

7 On March 4, 1988, after coincidentally meeting at a child pornography conference in Long
8 Beach, a Lieutenant of LAPD involved in the investigation of Aguilar Rivera, Archbishop Mahony
9 writes to Bishop Norberto Rivera Carrera seeking information regarding Father Aguilar Rivera and
10 stating the number of children that he molested in Los Angeles is not known but it is large. **Exhibits**
11 **“36” and Exhibit “24.”**

12 On March 17, 1988, Bishop Norberto Rivera Carrera responds to Archbishop Mahony stating
13 that the police in Cuacnopalan can no doubt provide much information and referencing that in his
14 March 23, 1987, letter to Mahony he gave a brief account of the homosexual problems of Aguilar
15 Rivera. **Exhibit “37.”**

16 On March 30, 1988, Archbishop Mahony responds to Bishop Norberto Rivera Carrera stating
17 he never received the March 23, 1987, letter describing Father Aguilar Rivera’s homosexual problems
18 and that the Archdiocese of Los Angeles does not take priests with any “homosexual” problems.
19 **Exhibit “31.”** That the Archdiocese of Los Angeles does not employ priests with “homosexual
20 problems” and that because police are now involved he will be giving the March 30 and March
21 Archbishop Mahony provided his March 17 and March 30, 1988 letters to LAPD. **Exhibit “31.”**
22 Mahony’s March 30, 1988 letter provided to law enforcement contains two lies designed to mislead
23 Police into believing Mahony, Curry and the Archdiocese were not accessories before or after the fact.
24 First it a lie is that the March 23, 1987 letter warning of “homosexual problems” was not received.
25 Curry’s January 11, 1988 memo directly refutes this. The second lie is that the Archdiocese does not
26 take into service priests with “homosexual problems”.

27 On December 17, 1993, Father Nicholas Aguilar Rivera is given an additional parish

1 assignment in the Archdiocese of Mexico City. **Exhibit “38.”**

2 At no time does the Archdiocese of Los Angeles write to Rome to seek the removal of Father
3 Aguilar Rivera from the priesthood, nor even inform Rome of the extensive complaints of abuse in
4 Los Angeles. See **Exhibits “23”** and **“24”** and Declaration of Anthony M. De Marco.

5 In 2006, the Diocese of Tehuacan finally removes Father Aguilar Rivera from the list of active
6 priests submitted to the Mexican government. **Exhibit “43” 18:16-22:22.**

7 On June 18, 2009, the present action is filed. See Complaint on file.

8 In July of 2009 it is reported in Mexico that Father Aguilar Rivera has finally been removed
9 from the priesthood by the Vatican. **Exhibit “44.”**

10 **VII. THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE CHURCH**
11 **DEFENDANTS KNEW FATHER AGUILAR RIVERA WAS AN UNFIT AGENT**
12 **PRIOR TO HIS ABUSE OF PLAINTIFF**

13 If an employer had advance knowledge of the unfitness of the employee and employed him or
14 her with a conscious disregard of the rights or safety of others, the employer can be liable for punitive
15 damages. *California Civil Code Section 3294.* The Defendants were informed on numerous
16 occasions that Father Nicholas Aguilar Rivera was a child molester, and did nothing to protect
17 children of the Archdiocese likely to have contact with him including Plaintiff.

18 **A. The Defendants Received Numerous Warnings that Father Aguilar Rivera was a**
19 **Child Molester**

20 Plaintiff was molested by Father Aguilar Rivera in September of 1987. **Exhibit “2” 45:21-**
21 **46:17.** The Roman Catholic Archbishop of Los Angeles, a Corporation Sole and its affiliate entities
22 received the following warnings before the end of Plaintiff’s abuse:

- 23 - January 23, 1987 Letter Bishop Norberto Rivera advising Father Aguilar Rivera’s reason
24 for coming to work in Los Angeles is “Health and Family” reasons, code within the
25 Church hierarchy for issues that need to be inquired of confidentially. **Exhibits “7”, “14”**
26 **3:17-4:3,** and **“17” 377:1-380:11, 381:2-383:17.** Prior to coming to Los Angeles Aguilar
27 Rivera had been molesting children and routinely having them spend the night alone with

1 him in his rectory bedroom. **Exhibit "5"** *Para 5* and **Exhibit "6."** This had caused his
2 beating, a police report, and his Bishop to reprimand him and counsel him to seek
3 psychiatric help. **Exhibit "6"**, **Exhibit "14"** *3:11-12* and **Exhibit "16"** *67:12-70:15*.
4 - March 4, 1987, Father Aguilar Rivera writes a letter to Monsignor Thomas Curry advising
5 that for his own security his Bishop has given him permission to travel to and work in Los
6 Angeles. **Exhibit "18."** The letter makes reference to a beating he received.
7 - March 23, 1987, Bishop Norberto Rivera at the request of Monsignor Thomas Curry sends
8 a confidential letter to Archbishop Mahony and Monsignor Curry. **Exhibits "8"** and **"14"**
9 *4:9-17*. The letter warns that Father Nicholas has been sent away because he was severely
10 beaten and that it is suspected the beating arose out of problems with homosexuality.
11 **Exhibit "8."** The letter states there are several accusations of homosexuality, none have
12 been proven, and everything is just accusations and suspicions. **Exhibit "8."**
13 - Starting in March of 1987, until his removal in May of 1987, Father Aguilar Rivera
14 regularly has altar boys alone with him in his rectory office and bedroom under the
15 auspices of the underage altar boys teaching him English. **Exhibit "9"** *88:5-13, 93:13-15*
16 and **Exhibit "28"** *Paragraphs 5-7 and 16*. Parish secretaries as well as the Pastor of the
17 Parish witnessed this. **Exhibit "9"** *83:5-11, 94:17-24, 95:19-96:24, 103:19-104:20,*
18 **Exhibit "26"** *128:2-130:25*.
19 - Father Aguilar Rivera is transferred from Our Lady of Guadalupe immediately after one of
20 the altar boys admits, after questioning by a parish secretary that he is being sexually
21 molested by Father Aguilar Rivera. **Exhibit "9"** *109:8-110:21, 157:14-158:9,* and
22 **Exhibit "27."** The transfer record is signed by Monsignor Curry. **Exhibit "27."**
23 - Within weeks after his arrival at St. Agatha's church in May 1987, the Pastor of the parish,
24 witnesses Father Aguilar Rivera fondling the genitals of an altar boy in the altar boy
25 changing room. **Exhibit "10"** *Para 9*. The pastor who witnesses the abuse later resists
26 giving a list of the altar boys to police. **Exhibit "29"** *47:22-49:4*.

27 ///

1 **VIII. THERE IS CLEAR AND CONVINCING EVIDENCE THE RCALA RATIFIED**
2 **FATHER AGUILAR RIVERA'S MISCONDUCT AND ENGAGED IN CONDUCT**
3 **WITH MALICE**

4 As in *C.R. v. Tenet Healthcare Corp* (2009) 169 Cal.App.4th 1094 and *Greenfield v. Spectrum*
5 *Investment Corp* (1985) 174 Cal.App.3d. 111 there is clear and convincing evidence Defendants after
6 learning of Aguilar Rivera's molestation of Plaintiff and other children materially aided Father
7 Aguilar Rivera and attempted to cover-up for his misdeeds and their own. Defendants after learning
8 of Father Aguilar Rivera's molestation of Plaintiff and other children, in fact took the action that more
9 than any possible act aided Father Aguilar Rivera. They warned him that police would be coming for
10 him and encouraged Father Aguilar Rivera to leave the country, thereby protecting him from spending
11 the rest of his life in jail. The Defendants in concert instructed witnesses not to report his crimes to
12 law enforcement, obstructed law enforcement efforts to find his victims, and lied to law enforcement
13 regarding Defendants knowledge of his history in Mexico.

14 In *C.R. v. Tenet Healthcare Corp* (2009) 169 Cal.App.4th 1094, 1112, managing agents of the
15 Defendant hid their knowledge of the employee abuser, and intentionally or negligently destroyed
16 documents concerning other sexual assaults by the employee.

17 In *Greenfield v. Spectrum Investment Corp* (1985) 174 Cal.App.3d. 111, 120, evidence
18 suggesting a supervisor coached a physically abusive employee to lie about an altercation in
19 anticipation of litigation supported an award of punitive damages.

20 **A. Defendants' Actions in Relation to Father Aguilar Rivera Demonstrate Both**
21 **Ratification and Malice, Oppression and Fraud**

22 In the present action there is clear and convincing evidence the Defendants through their
23 managing agents criminally aided Father Aguilar Rivera, obstructed investigation, and lied to
24 parishioners and police about their knowledge of his actions.

25 - Monsignor Thomas Curry on January 9, 1988, warned Father Aguilar Rivera that
26 parents were complaining that he sexually molested their children, that police would be notified, that
27 Father Aguilar Rivera was in danger and that Father Aguilar Rivera should leave Los Angeles.

1 **Exhibit “30.”** Father Aguilar Rivera indicated he would leave the country within the next few days.

2 - Monsignor Thomas Curry on January 8, 1988 told Father McLean, who was also a
3 mandated child abuse reporter, to keep the complaints he heard about confidential, and not report them
4 to law enforcement. **Exhibit “26”** 75:76:16, 85:24-86:11. After receiving guidance from Monsignor
5 Curry the school principal nun, who had been informed of parental complaints on Friday, January 8,
6 1987, did not contact law enforcement until Monday, January 11, 1987, after Father Aguilar Rivera
7 had left the country. **Exhibit “30”, Exhibit “25” Page 9, Exhibit “26”** 77:4-15, 84:19-85:4.

8 - On or before January 8, 1988 Father Mclean told at least one parent to keep her
9 complaint confidential and not tell anyone. **Exhibit “16”** 51:14-52:13, **Exhibit “26”** 107:15-108:10.

10 - On Friday, January 8, 1988, Monsignor Curry advised Father James Barnes to lie to his
11 congregation on Sunday, regarding the reason for Father Aguilar Rivera’s sudden departure. **Exhibit**
12 **“29”** 57:4-59:6.

13 - After Police were notified of the parental complaints Monsignor Curry lied to police
14 when asked by them if he knew whether Father Aguilar Rivera had plans to leave the country.

15 - After police asked for altar boys lists to attempt to interview potential victims,
16 Monsignor Curry with the express approval of Archbishop Mahony instructed Father Barnes and
17 Father Mclean to not provide altar boy lists to law enforcement. **Exhibits “26”** 93:5-96:11, **Exhibit**
18 **“29”** 93:5-96:11, **“33”** and **“34”**.

19 - On March 30, 1988, Cardinal Mahony sends a letter to Bishop Norberto Rivera and
20 states he is providing the letter to police. **Exhibit “31.”** In the letter Mahony states he never received
21 the March 23, 1987 letter from Bishop Norberto Rivera warning of Father Aguilar Rivera’s
22 “homosexual problems.” The letter also states that in the Archdiocese priests are not taken into
23 service if they have any “homosexual problems.”

24 The above conduct demonstrates a coordinated series of actions to keep the complaints from
25 parents from reaching police or other families before Monsignor Curry could meet personally with
26 Father Aguilar Rivera and encourage him to flee the jurisdiction. This conduct meets the definition of
27 criminal accessory after the fact under *California Penal Code* Section 32. “When a felony has been

1 completed and a person knowingly and intentionally harbors, conceals or aids the escape of one of the
2 felons, that person is guilty as an accessory to a felony under section 32, whatever his or her prior
3 participation in the predicate felony.” *People v. Riley* (1993) 20 Cal.App.4th 1808, 1816.

4 **B. Defendants Have Engaged in a Pattern of Conduct Designed to Thwart Possible**
5 **Criminal or Civil Prosecution of Known Pedophile Priests**

6 As troubling and detrimental this conduct was in relation to Father Nicholas Aguilar Rivera
7 and the multitude of victims he left in his wake, what is troubling on a broader scale, community wide
8 scale, is that Defendants were engaging in a practice of thwarting law enforcement investigations into
9 numerous other pedophile priests. The practice of Defendants assisting other known pedophile priests
10 to thwart criminal prosecution is strong evidence of the intent to do so in the present action. From the
11 limited files Plaintiff has thus far received this practice is amply demonstrated.

12 See **Exhibit “45”** and specifically Bates numbered documents 011490, 011546; **Exhibit “54”**
13 and specifically Bates numbered document 018288. See **Exhibit “46”** and specifically see Bates
14 numbered document 21288. See **Exhibit “50”** and specifically Bates Numbered Documents 014465
15 and 014468, 014309, 014310. See **Exhibit “55”** and specifically Bates Numbered Document 018901.

16 A review of these files shows the Archdiocese has routinely and intentionally sent and kept
17 pedophile priests out of the state, so as to avoid possible criminal and civil actions and has
18 purposefully sent pedophile priests to therapists that would not report the sexual abuse of minors by
19 these priests to law enforcement.

20 The present case and a review of files of pedophile priests from the 1980’s demonstrates the
21 Archdiocese of Los Angeles was driven by the need to cover-up and to keep the presbyterate and
22 public happily ignorant rather than the need to protect children; a conclusion that has been echoed by
23 one individual within the hierarchy of the Archdiocese with knowledge of their practices during the
24 relevant time period. See **Exhibit “45”** Bates Numbered Document LAARCH 011942-3. The
25 Archdiocese continuing efforts to keep secret the files of pedophile priests is a continuation of these
26 efforts to cover-up and keeps the presbyterate and the public ignorant of their actions.


27 ///

1 **IX. CONCLUSION**

2 For the foregoing reasons, Plaintiff respectfully requests that the grant the motion to amend the
3 complaint to allow a prayer for punitive damages.

4
5 DATED: October 31, 2013

LAW OFFICE OF ANTHONY M. DE MARCO

6
7 By: 
8 ANTHONY M. DE MARCO
9 JOANNA ROBLES
Attorneys for Plaintiff, JOHN DOE

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PROOF OF ELECTRONIC SERVICE

I, Annette Requena, declare as follows:


1. I am employed in the County of Los Angeles, am an employee at the law firm of Anthony M. De Marco, located at 234 E. Colorado Blvd., 8th Floor, Pasadena, California.

2. I am over the age of 18 and not a party to the within action.

3. On 11-4, 2013, I served the following documents: **NOTICE OF MOTION AND MOTION TO AMEND PLAINTIFF'S COMPLAINT TO ALLEGE PUNITIVE DAMAGES, PURSUANT TO CCP SECTION 425.14; DECLARATION OF ANTHONY M. DE MARCO IN SUPPORT THEREOF [FILED CONCURRENTLY]**, via electronic filing in accordance with the terms of Initial Case Management Order governing The Clergy I & II litigation matters requiring all documents to be served upon interested parties via www.casehomepage.com.

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

Executed this 4th day of 11 2013, at Pasadena, California.


ANNETTE REQUENA