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SANTA BARBARA  
SUPERIOR COURT

AUG 27 2004

GARY M. BLAIR, EXEC. OFFICER  
By Robert A. Villegas  
ROBERT A. VILLEGAS, Deputy Clerk

9 **Attorneys for Plaintiff**

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **For the County of Santa Barbara, Anacapa Division**

12 JOHN ROE 4 , an individual; ) Case No. 1156450  
13 Plaintiff, )  
14 v. ) **IN CAMERA APPLICATION TO**  
15 Does 1 through 100, Inclusive. ) **AMEND COMPLAINT TO IDENTIFY**  
16 Defendants. ) **FICTITIOUS DEFENDANTS**  
Code of Civil Procedure § 340.1(m -  
p)

17  
18 Plaintiff John Roe 4 applies to this court for permission to amend his  
19 complaint to substitute the true names of defendants DOES 1 - 2.

20 I.

21 **AUTHORITY FOR APPLICATION**

22 Before Plaintiff may amend his complaint to identify the defendants in this  
23 action, he must first submit a Confidential Certificate of Corroborative Fact and  
24 receive permission from the Court to amend the complaint based thereon. Code of  
25 Civil Procedure § 340.1 sets forth the contents, procedure and standard for review  
26 of this application, and states as follows:

27 (n) At any time after the action is filed, the plaintiff may apply  
28 to the court for permission to amend the complaint to  
substitute the name of the defendant or defendants for the

1 fictitious designation, as follows:

2 (1) The application shall be accompanied by a certificate of  
3 corroborative fact executed by the attorney for the plaintiff.  
4 The certificate shall declare that the attorney has discovered  
5 one or more facts corroborative of one or more of the  
6 charging allegations against a defendant or defendants, and  
7 shall set forth in clear and concise terms the nature and  
8 substance of the corroborative fact. If the corroborative fact  
9 is evidenced by the statement of a witness or the contents of  
10 a document, the certificate shall declare that the attorney  
11 has personal knowledge of the statement of the witness or  
12 of the contents of the document, and the identity and  
13 location of the witness or document shall be included in the  
14 certificate. For purposes of this section, a fact is  
15 corroborative of an allegation if it confirms or supports the  
16 allegation. The opinion of any mental health practitioner  
17 concerning the plaintiff shall not constitute a corroborative  
18 fact for purposes of this section.

19 (2) Where the application to name a defendant is made prior  
20 to that defendant's appearance in the action, neither the  
21 application nor the certificate of corroborative fact by the  
22 attorney shall be served on the defendant or defendants, nor  
23 on any other party or their counsel of record.

24 The court's determination of the merits of the application shall be based  
25 solely on the certificate and any reasonable inferences drawn therefrom. In this  
26 regard section 340.1 states in part:

27 (o) The court shall review the application and the certificate  
28 of corroborative fact in camera and, based solely on the  
certificate and any reasonable inferences to be drawn from  
the certificate, shall, if one or more facts corroborative of one  
or more of the charging allegations against a defendant has  
been shown, order that the complaint may be amended to  
substitute the name of the defendant or defendants.

21 Finally, the stay of this action pending the coordination judge's ruling on  
22 Defendants' Petition for Add On does not apply to this Application and Certificate of  
23 Corroborative Fact, nor to the Court's *in camera* review of the same. Specifically,  
24 Paragraph 9.B. of the Initial Case Management Order states in relevant part as  
25 follows:

26 **9. Stay of Action Pending Ruling on Petitions for**  
27 **Add On.** By Agreement of defendants, and order of  
28 this Court on July 18, 2003, the following shall apply  
in any action filed against a defendant for sexual  
abuse within the meaning of the Coordination Order:

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- A. **Except as set forth in paragraph 9B below**, if any party has filed or files a Petition or Request for Add On to this coordinated proceeding, that action is stayed in the court where originally filed. Such stay shall remain in place unless vacated by this Court upon motion of any party.
- B. **No stay shall be in place for any Plaintiff with respect to obtaining rulings on his or her Certificates of Merit or Affidavit of Corroborative Facts**, and or serving the summons and the complaint. (emphasis added)

A copy of relevant portions of the Initial Case Management Order is attached hereto as Exhibit 1.

II.

**ORDER REQUESTED**

Plaintiff John Roe respectfully requests this court: 1) review *in camera* the concurrently filed Confidential Certificate of Corroborative Fact and the Declaration of Timothy C. Hale in support of this application; 2) find that facts corroborative of one or more of the charging allegations against each defendant have been shown; and 3) order that the complaint may be amended to substitute the names of the following defendants: DOES 1-2. These defendants are hereinafter collectively referred to as "Defendants."

The concurrently filed Confidential Certificate of Corroborative Fact and Declaration of Timothy C. Hale demonstrate the following:

**a. The Charging Allegations of Childhood Sexual Abuse by the Perpetrator**

Paragraphs 13-14 of the Complaint charge that Fr. Matthew Kelly committed Childhood Sexual Abuse against, among others, Plaintiff, as defined in Code of Civil Procedure section 340.1. Section 340.1 defines Childhood Sexual Abuse as any act under Penal Code sections 266j, 285, 286, 288, 288a, 289 and 647.6. Penal Code section 288 states in part:

- (a) Any person who willfully and lewdly commits any lewd or

1 lascivious act, including any of the acts constituting other  
2 crimes provided for in Part 1, upon or with the body, or any  
3 part or member thereof, of a child who is under the age of 14  
4 years, with the intent of arousing, appealing to, or gratifying  
the lust, passions, or sexual desires of that person or the  
child, is guilty of a felony and shall be punished by  
imprisonment in the state prison for three, six, or eight years.

5 Penal Code section 647.6 states in part:

6 (a) Every person who annoys or molests any child under the  
7 age of 18 shall be punished by a fine not exceeding one  
8 thousand dollars (\$1,000), by imprisonment in a county jail  
not exceeding one year, or by both the fine and  
imprisonment.

9 The corroborative facts set forth in the concurrently filed Confidential Certificate of  
10 Corroborative Fact and the Declaration of Timothy C. Hale ("Hale Declaration")  
11 demonstrate Fr. Matthew Kelly assaulted John Roe 4, and thereby subjected him to  
12 Childhood Sexual Abuse as defined by Code of Civil Procedure section 340.1.

13 **1. The Evidence Which Corroborates the Charging Allegation of**  
14 **Childhood Sexual Abuse**

15 The assaults committed by Fr. Kelly took place in Santa Barbara County at,  
16 among other locations, Fr. Kelly's cabin in the Santa Ynez mountains. Fr. Kelly also  
17 may have assaulted John Roe 4 at locations outside of Santa Barbara County.  
18 From approximately 1958 to at least 1970, and likely much earlier, Fr. Kelly  
19 assaulted numerous young boys who attended church and/or school at Our Lady of  
20 Guadalupe ("Our Lady") and/or lived in the neighborhood around Our Lady. See  
21 Confidential Certificate of Corroborative Fact, Hale Declaration, Paras. 8, 50-53 and  
22 evidence cited therein. The assaults by Fr. Kelly against Plaintiff constitute  
23 Childhood Sexual Abuse as defined in Code of Civil Procedure section 340.1  
24 pursuant to Penal Code sections 288 and 647.6.

25 **b. The Charging Allegations Against DOES 1 - 2**

26 Paragraphs 4, 8-10, and 13-16 of the complaint contain the Charging  
27 Allegations which are the foundation of Plaintiff's complaint against the Defendants,  
28 and which are incorporated into each cause of action against each of said

1 Defendants. Paragraphs 8 and 14 allege that Defendants knew or should have  
2 known of Fr. Kelly's and their other agents' pedophilia/ephebophilia and prior  
3 expressions of sexual attraction to and sexual contact with young boys and of the  
4 unfitness of Fr. Kelly and their other agents to serve as a priest, faculty member,  
5 instructor, rector, and/or counselor or any other authority figure, or to work or have  
6 contact with children. Additionally, Paragraphs 18-19 allege Defendants failed to  
7 terminate, discharge, or at least discipline Fr. Kelly and/or other pedophilic and/or  
8 ephebophilic agents for their criminal conduct. Paragraphs 4 and 13-14 of the  
9 complaint allege Defendants thereby ratified and adopted Fr. Kelly's and their other  
10 agents' acts as their own. Finally, Paragraphs 9-10 allege Defendants knew or  
11 should have known of the history of sexual assaults committed by their agents in  
12 Santa Barbara, and that any child exposed to Defendants' agents faced an undue  
13 and heightened risk of being sexually assaulted.

14 Additionally, Paragraphs 127-130 allege, among other things, that  
15 Defendants created and continue to foster the existence of a public nuisance by  
16 conspiring and engaging in efforts to: 1) conceal from the general public the sexual  
17 assaults committed by, and the pedophilic/ephebophilic tendencies of, the  
18 Perpetrator and Defendants' other pedophilic agents; and 2) protect their  
19 pedophilic/ephebophilic agents from criminal prosecution for their sexual assaults  
20 against children, all in violation of law. The complaint further alleges this ongoing  
21 deception and concealment by Defendants was and is injurious to the health of,  
22 indecent or offensive to the senses of, and an obstruction to the free use of property  
23 by, the general public who live in communities where Defendants conducted, and  
24 continue to conduct, their work and/or ministry. Defendants' conduct interferes with  
25 the general public's comfortable enjoyment of life in that children cannot be left  
26 unsupervised in any location where there are agents of Defendants present as the  
27 general public cannot trust Defendants to 1) prohibit their pedophilic agents from  
28 supervising, caring for, or having any contact with children; nor to 2) warn parents,

1 school administrators or children of the presence of the pedophilic agents of  
2 Defendants. This conduct by Defendants creates an impairment of the safety of  
3 children in the neighborhoods where Defendants conducted, and continue to  
4 conduct, their work and/or ministries.

5 Further, this deception and concealment by Defendants was specially  
6 injurious to Plaintiff's health as he and his family were unaware of the danger posed  
7 to young children left unsupervised with agents of Defendants such as Fr. Kelly. As  
8 a result of this deception, Plaintiff was placed in the custody and control of Fr. Kelly,  
9 an agent of Defendants, who subsequently and repeatedly sexually assaulted  
10 Plaintiff.

11 Finally, the complaint alleges that this continuing public nuisance created by  
12 Defendants was, and continues to be, the proximate cause of the injuries and  
13 damages to the general public, and of Plaintiff's special injuries and damages.

14 **1. The Evidence Which Corroborates the Charging Allegations**  
15 **Against DOES 1 - 2**

16 The corroborative facts and supporting evidence set forth in the Confidential  
17 Certificate of Corroborative Fact, Paras. 6 - 127 support each of the charging  
18 allegations against DOES 1 - 2. Specifically, these facts show that **since at least**  
19 **1960, Santa Barbara County ("County") has had one of the highest – if not the**  
20 **highest – per capita concentrations of clergy pedophiles/ephebophiles in the**  
21 **history of the clergy-abuse scandal in the United States. Id.** As illustrated by  
22 Exhibit 2, the ratio of perpetrators to the census population of the County far  
23 exceeds even that of the ratio for the counties that make up three of the most  
24 notorious Dioceses/Archdioceses in the history of this scandal – Orange, Los  
25 Angeles and Boston. Using the Diocese of Orange as a base, the per capita  
26 concentration of clergy pedophiles/ephebophiles who Defendants have allowed to  
27 live in Santa Barbara County over the last forty years is five times that of Orange,  
28 four times that of Los Angeles, and nearly twice that even of Boston, arguably the

1 most infamous Archdiocese in the history of the clergy-abuse scandal.<sup>1</sup>

2 Since 1936 Defendants have transferred to and/or allowed to live in Santa  
3 Barbara County at least **thirty-one (31) child-abusing clergy**, with at least **thirty**  
4 **(30) such men in the County since 1950**. See Confidential Certificate of  
5 Corroborative Fact, Hale Declaration, Paras. 6 - 127 and evidence cited therein. In  
6 a number of instances the transfers occurred after Defendants had already received  
7 complaints of misconduct about these men. In at least one instance the transfer to  
8 Santa Barbara County occurred after the child-abusing clergy had been convicted of  
9 childhood sexual abuse. And on repeated occasions Defendants allowed such men  
10 to remain in the County after receiving complaints of misconduct from victims, from  
11 members of the community, and even from fellow priests. In none of these  
12 instances did Defendants ever warn County residents of the identities of the child-  
13 abusing clergy in their midst until they knew the truth was about to be made public.

14 The result of this pattern of conduct by Defendants' is that at least **sixty-two**  
15 **(62) Santa Barbara County children** have been sexually assaulted<sup>2</sup> by clergy since  
16 1957.<sup>3</sup> The actual number of child-abusing clergy and victims in Santa Barbara  
17 County is undoubtedly many times higher. Because most victims of childhood  
18 sexual abuse are unwilling or unable to discuss their abuse, the total number of  
19 victims in Santa Barbara County will never be known.

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21  
22 1. It seems likely the numbers for Los Angeles are behind those of Boston only because the  
23 criminal and civil proceedings in Los Angeles are in their infancy, and have been delayed and/or  
24 stayed altogether for the last two years.

25 2. Rather than describe in graphic detail every known instance of abuse, this Application will  
26 simply refer to "sexual assaults." The assaults against the victims included fondling, masturbation,  
27 digital penetration, forced oral copulation, and rape.

28 3. No Santa Barbara County victims have come forward to date for six of the thirty-one  
perpetrators identified: Fr. John Wishard; Fr. Paul Conn; Bishop Patrick Ziemann; Fr. Christopher  
Kearney; Br. Gerald Chumik; and Fr. James Ford. However, all of these men have been  
identified as perpetrators of childhood sexual abuse in previous and/or current criminal  
investigations/prosecutions (Wishard; Conn; Chumik) and/or civil litigation (Ziemann; Kearney;  
Ford).

1           However, with regards to the actual number of child-abusing clergy  
2 Defendants have allowed to live in Santa Barbara, uncertainty of the actual number  
3 exists for an altogether different reason. As demonstrated by the recent events  
4 involving Br. Gerald Chumik, Defendants cannot be trusted to inform the community  
5 when they allow a known pedophilic clergy member to live within a short distance of  
6 a school or a neighborhood with families. Even when that clergy member is, like Br.  
7 Chumik, a fugitive from criminal justice, Defendants will not warn the public of the  
8 risk he poses until Defendants know they cannot avoid the truth being made public.  
9 For instance, it was not until the Dallas Morning News made clear its intention to  
10 publicize the presence and history of Br. Chumik that Defendants' agents – in an  
11 obvious attempt at public relations damage control – finally admitted to his presence  
12 in the community. Br. Chumik had already been living at the Mission for over a year  
13 by that time, within easy walking distance of two schools and the neighborhood  
14 surrounding the Old Mission. This pattern of conduct by Defendants has created a  
15 dangerous situation for any child exposed to one of Defendants' priests or Religious  
16 brothers as Defendants cannot be trusted to warn of the threat to children some of  
17 these clergy pose. Consequently, as a direct result of Defendants' pattern of  
18 conduct, no clergy can be trusted, and Defendants have created a continuing public  
19 nuisance.

20           The following sets forth an extensive, albeit incomplete, history of the  
21 childhood sexual abuse by Defendants' agents committed around Santa Barbara  
22 County, and evidences Defendants' ongoing practice of transferring child-abusing  
23 clergy into the County without any warning to the families in the communities where  
24 the perpetrators are assigned. Locations within the county where such practices  
25 have and/or continue to take place include in Goleta at St. Raphael's Church; in  
26 Lompoc at Mission La Purisima Concepcion; in Montecito at Our Lady of Mt.  
27 Carmel, in Santa Barbara at San Roque, St. Mary's Seminary, Our Lady of Sorrows,  
28 Our Lady of Guadalupe, and the adjoining properties of St. Anthony's Seminary ("St.



1 Anthony's") and the Old Mission Santa Barbara ("Old Mission"), in Santa Maria at St.  
2 Mary's Church of the Assumption; in Santa Ynez at San Lorenzo Seminary, and in  
3 Solvang at the Old Mission Santa Ines.

4 This Application also provides indisputable evidence – set forth in detail in the  
5 Confidential Certificate of Corroborative Fact – that Defendants were not only well  
6 aware of the abuse that was taking place and the risk these men posed, but  
7 facilitated such abuse by refusing to disclose and/or concealing their propensities  
8 and crimes from the communities in which these men lived. As discussed in greater  
9 detail below, this pattern of conduct by defendants, i.e., the uniform pattern and  
10 practice of harboring and protecting the pedophilic clergy perpetrator while  
11 completely ignoring and discarding the victims, was and is so rampant in the church  
12 that even those many members of the clergy that chose to turn a blind eye to it  
13 certainly knew or should have known of the prolific abuse of children that was going  
14 on all around them

15 Finally, the sheer number of Perpetrators who Defendants have transferred to  
16 and allowed to live in Santa Barbara County illustrates that the County has been and  
17 continues to be a safe haven utilized by Defendants for problem priests and  
18 Religious brothers.

19  
20 **SIX DECADES OF CHILD-ABUSING CLERGY IN SANTA BARBARA COUNTY**

21 The following provides insight into a pattern of criminal conduct that could not  
22 have existed without the knowledge, support, and participation by priests at all levels  
23 of the hierarchy of Defendants. From Defendants' highest ranking official to the  
24 lowest level priests and Religious brothers, there was an active and concerted effort  
25 to conceal from the community the propensities and/or pedophilic criminal acts of at  
26 least thirty-one (31) priests and Religious brothers in Santa Barbara County.  
27 Further, the County – which is located on the Northern-most outskirts of the  
28 Defendants' boundaries – became and remains to this day a location that

1 Defendants apparently are confident is so removed from the center of Defendants'  
2 business in Los Angeles that priests and Religious brothers accused of sexually  
3 assaulting children in Los Angeles may be transferred to Santa Barbara without  
4 incident as they will not be recognized.

5 As illustrated below, the acts of childhood sexual abuse by Defendants'  
6 priests in Santa Barbara County were widespread, regular, and quite often open and  
7 obvious. Defendants' agents assaulted County children in countless different  
8 locations, including but not limited to priest living quarters; parish confessionals;  
9 church vehicles; teachers' offices; rectories; various locations on parish grounds;  
10 local beaches such as Hendry's; historical sites such as the three Old Missions;  
11 camping trips to locations including Cambria, Cachuma Lake and Carpinteria; and  
12 even in their victims' homes. Some of the perpetrators brought children from  
13 outside of California and assaulted them in Santa Barbara County. Other priests  
14 brought orphaned children from Mexico under the pretense of "saving" them, only to  
15 use these children for their own sexual gratification. More often than not they took  
16 advantage of and preyed upon the children who were most vulnerable, i.e. children  
17 who came from broken homes or lower income families. They also used their  
18 victims' strong religious faith against them, knowing that these victims' families  
19 considered clergy the voice of God, and therefore would not believe a child who  
20 actually had the courage to speak out about and against assaults by a Defendants'  
21 priests and Religious brothers. See Confidential Certificate of Corroborative Fact,  
22 Hale Declaration, Paras. 6 - 127 and evidence cited therein.

23 **A. The First Known Instance of Clergy Abuse in Santa Barbara**

24 The first **known** instance of childhood sexual abuse by one of Defendants'  
25 priests in Santa Barbara took place at St. Anthony's and the Mission in  
26  
27  
28

1 approximately 1936-37.<sup>4</sup> Specifically, Victim #1, was a student at St. Anthony's.  
2 During his freshman year he was called to St. Anthony's music room by the choir  
3 director at the time, Fr. Owen Da Silva – Perpetrator #1. Without explanation Fr. Da  
4 Silva told Victim #1 to strip naked from the waist down. Victim #1 complied, and Fr.  
5 Da Silva proceeded to fondle and sexually assault Victim #1 for approximately five  
6 (5) minutes. Eventually, when Victim #1 did not become aroused, the abuse  
7 stopped. It is unknown how many other children Fr. Da Silva assaulted in this  
8 manner. See Confidential Certificate of Corroborative Fact, Hale Declaration, Para.  
9 13 and evidence cited therein.

10 Victim #1 also was an altar boy at the Mission and recalls being grabbed and  
11 touched inappropriately by a Br. Lewis. Victim #1 remembers knowing the behavior  
12 was inappropriate, and consequently warning his fellow altar boys to stay away from  
13 Br. Lewis. Id. at Para. 14.

14 **B. The 1940's-1950's: Fr. Kelly and Our Lady of Guadalupe**

15 In 1942 Fr. Matthew Kelly – Perpetrator #2 – was ordained by Defendants.  
16 By 1943 he had been assigned by Defendants to Our Lady of Guadalupe (“Our  
17 Lady”) in Santa Barbara, where he remained until approximately 1952. Although no  
18 victims of Fr. Kelly from the 1940's have come forward, even Defendants’ agents  
19 have acknowledged that the assaults by such pedophiles and ephobophiles are  
20 never isolated events. Further, plaintiff’s investigation to date has revealed Fr. Kelly  
21 had a voracious appetite for young boys in the 1950's, 60's and 70's. It is highly  
22 unlikely Fr. Kelly waited fifteen years before he first sexually assaulted a child at Our  
23 Lady. More important, multiple witnesses recall there were rumors in the community  
24 in the early 1950's that Fr. Kelly was accused of child abuse, and that such

25 \_\_\_\_\_  
26 4. For the court's information, the following is being presented in a more-or-less chronological  
27 sequence to outline for the court the horrendous pattern and practice of priestly abuse to which the  
28 citizens of Santa Barbara County have been subjected over the past decades. Because many of the  
victims have not publicly identified themselves as victims, their identities will remain anonymous in  
this Application.

1 accusations led Defendants to transfer him out of Santa Barbara in 1952. See  
2 Confidential Certificate of Corroborative Fact, Hale Declaration, Para. 15 and  
3 evidence cited therein.

4 Unfortunately, in approximately 1956, Defendants allowed Fr. Kelly to return  
5 to Our Lady in Santa Barbara. Around this time Fr. Kelly purchased a cabin in the  
6 Santa Ynez mountains. The cabin was one of the locations Fr. Kelly used to assault  
7 numerous young boys from the school and/or the parish at Our Lady. Id. at Para.  
8 16.

9 **i. Fr. Kelly's Assaults Against Victim #3**

10 Victim #3 and his family lived around the corner from Our Lady and attended  
11 mass there regularly. Victim #3 was an altar boy and a member of the Blue Jackets,  
12 a club formed by Fr. Kelly for teenage Catholic boys. Unlike many of Fr. Kelly's  
13 other victims, Fr. Kelly did not assault Victim #3 at Fr. Kelly's cabin. Beginning in  
14 approximately 1958 or 1959, one of the assaults took place when Fr. Kelly took  
15 Victim #3 for a ride to Hendry's Beach. Fr. Kelly had asked Victim #3 to go to the  
16 cabin and Victim #3 had agreed to go. However, Victim #3 ultimately did not show  
17 up at the agreed upon meeting place. Later that evening, around dusk, Fr. Kelly  
18 found Victim #3 and asked him if he wanted to take a ride to the beach. Victim #3  
19 agreed and Fr. Kelly drove them to Hendry's. It became dark while they were there  
20 and Fr. Kelly suggested they go swimming naked, "the way that god put us into the  
21 world." At that time Hendry's was desolate and private. After the two swam they sat  
22 on a towel Fr. Kelly had brought. Fr. Kelly then violently assaulted Victim #3,  
23 stopping only when Victim #3 began to cry out in pain. Fr. Kelly assaulted Victim #3  
24 at least two more times within the next approximately thirty days. The second  
25 assault took place at the rectory at Our Lady. Fr. Kelly lured Victim #3 to this  
26 location under the pretense of asking Victim #3 to help him (Fr. Kelly) move  
27 something. The third assault took place on another trip to Hendry's. Fr. Kelly  
28 suggested they take a ride. Once in Fr. Kelly's car, Fr. Kelly took Victim #3 to

1 Hendry's again. When they arrived at Hendry's they sat on the sand where Fr. Kelly  
2 assaulted Victim #3. After the assault Victim #3 felt so sick and disgusted that he  
3 vomited. In the years that followed, Victim #3 became bolemic and used his  
4 memory of this assault to induce himself to vomit. Id. at Paras. 18-21.

5 Years later, another friend of Victim #3's, Victim #4, would admit to Victim #3  
6 that Fr. Kelly had sodomized him at the cabin many times. Id. at Para. 22.

7 **ii. Fr. Kelly's Assaults Against Victim #2**

8 Around the time of Fr. Kelly's assaults against Victim #3, Fr. Kelly also was  
9 grooming and/or assaulting numerous other boys, including Victim #2. Fr. Kelly  
10 continued taking boys from Our Lady on overnight trips to his cabin in Santa Ynez.  
11 It was during these trips that Fr. Kelly assaulted, among others, Victim #2. Before  
12 he was assaulted Victim #2 recalls it was not unusual for one of the boys to sleep  
13 with Fr. Kelly in his room. In this regard, Fr. Kelly's favorite boy at the time was  
14 Victim #2's friend, Victim #5. Another one of Victim #2's friends, Victim #6, also  
15 frequently slept with Fr. Kelly. One boy recalls that on his trips to the cabin, Fr. Kelly  
16 always asked one of the boys to sleep in his (Kelly's) room. Victim #2 never  
17 questioned this as Victim #2 trusted Fr. Kelly completely because of Kelly's status  
18 as a priest. One night Victim #5 informed Victim #2 that Fr. Kelly wanted to sleep  
19 with him because Kelly did not like to sleep alone. Shortly after Victim #2 got into  
20 bed with Fr. Kelly, Fr. Kelly began to sexually assault Victim #2. Victim #2 jumped  
21 from the bed and ran for the door and into the living room where he huddled next to  
22 Victim #5. An enraged Fr. Kelly followed Victim #2 to the door and said "how dare  
23 you?!?!" Victim #2 was paralyzed with fear, and said nothing. Fr. Kelly then went  
24 back to his bedroom and Victim #5 eventually joined him, taking Victim #2's place.  
25 Id. at Paras. 23-25.

26 When Victim #2 went home the next day he told his mother that Fr. Kelly had  
27 tried to touch him. Victim #2's mother responded by telling him never to speak that  
28 way about a priest again, and to wash his mouth out with soap. She also

1 encouraged him to spend time with Fr. Kelly at the cabin. Id. at Para. 26.

2 Eventually, giving Fr. Kelly the benefit of the doubt because he was a priest,  
3 Victim #2 went to the cabin on another overnight trip. This time only Victim #2, Fr.  
4 Kelly, and one other boy – either Victim #5 or Victim #6 – went. That evening Victim  
5 #2 recalls Fr. Kelly telling them how he hated to sleep alone, and recalls sleeping in  
6 Fr. Kelly's bed. Shortly after getting in to bed Fr. Kelly sexually assaulted Victim #2.  
7 Victim #2 discussed these incidents with Victim #6 who informed Victim #2 that Fr.  
8 Kelly liked sleeping with and touching boys. Id. at Para. 27.

9 **iii. Express Notice to Defendants of Fr. Kelly's Assaults and**  
10 **Propensities in 1957 and/or 1958**

11 Fr. Kelly continued to take boys up to the cabin, and Victim #2 was ostracized  
12 and made fun of for refusing to go. An associate pastor at Our Lady, Fr. Edward  
13 Landreau, noticed this, and asked Victim #2 why he had stopped going to the cabin.  
14 In response, sometime in the late 1950's, Victim #2 told Fr. Landreau what had  
15 happened and how Fr. Kelly had assaulted him. Fr. Landreau responded by  
16 downplaying the significance of the assault and stating that perhaps Victim #2  
17 misunderstood Fr. Kelly's intentions. Thus, an agent of Defendants was informed of  
18 conduct by Fr. Kelly placing Defendants on actual notice that he was sexually  
19 assaulting, and was a risk to, children. Id. at Para. 29.

20 Like Victim #2, Victim #3 also spoke to Fr. Landreau about Fr. Kelly. Fr.  
21 Landreau was a younger and friendlier priest, and many of the boys felt more  
22 comfortable talking with him. In this instance, Fr. Kelly had asked for assistance  
23 with something and Fr. Landreau asked Victim #3 to help. When Victim #3 refused  
24 Fr. Landreau asked why. Although Victim #3 did not go into detail regarding the  
25 abuse, he did tell Fr. Landreau that he did not trust Fr. Kelly and never wanted to  
26 see Fr. Kelly again, thus providing further warning signs to one of Defendants'  
27 agents that Fr. Kelly was engaging in inappropriate conduct with young boys. Id. at  
28 Para. 30.

1 **C. The 1960's: the Assaults by Fr. Kelly Continue, and a New Set of Clergy**  
2 **Perpetrators – Fr. Mario Cimmarrusti, Fr. Martin McKeon and Fr. John**  
3 **Hanley – Continue the Cycle of Abuse in Santa Barbara County**

4 While Fr. Kelly continued to groom and assault children from Our Lady, other  
5 agents of Defendants continued to assault children at various locations throughout  
6 Santa Barbara County. For instance, in 1962 at St. Anthony's and the Old Mission,  
7 Fr. Martin McKeon – Perpetrator #3 – sexually abused then St. Anthony's student  
8 Robert Van Handel – Victim #7 – while Van Handel was resting in the school's  
9 infirmary. Van Handel himself would go on to become a priest and a perpetrator,  
10 ultimately returning to St. Anthony's and sexually assaulting numerous other young  
11 boys, thus continuing the pattern of clergy abuse in the County which had  
12 commenced in at least 1936, if not earlier. Id. at Paras. 31-32.

13 Fr. McKeon, St. Anthony's Prefect of Discipline, also assaulted at least two  
14 other students, Victim #8 (Class of '65) and Victim #9 (Class of '66). Fr. McKeon  
15 has been named as a perpetrator in a recent lawsuit filed on by Victim #9. During  
16 this same decade at least two other priests, Fr. Mario Cimmarrusti – Perpetrator #4  
17 – and Fr. Kelly, repeatedly subjected countless boys to sexual abuse in Santa  
18 Barbara, and many to both violent sexual and physical abuse. Id. at Para. 33.

19 **i. Fr. Kelly's Pedophilic Propensities are Discovered by his**  
20 **Neighbors; Defendants Continue to Ignore the Risk Fr. Kelly**  
21 **Poses to Children in Santa Barbara**

22 In the early to mid 1960's, Fr. Kelly's neighbors at the cabin in Santa Ynez  
23 made some disturbing discoveries which further confirmed Fr. Kelly's pedophilia  
24 and/or ephebophilia. Specifically, sometime during the 1961-62 school year one  
25 neighbor inadvertently discovered some of Fr. Kelly's mail. One day he went to get  
26 the mail. The mailboxes for the cabins were all next to each other, and there was  
27 an oversized package placed on top of Fr. Kelly's mailbox. It had been raining, and,  
28 consequently, the package was beginning to fall apart. The neighbor attempted to

1 put the package back together. In doing so he noticed there were numerous  
2 photographs of naked boys in the package, and believes there may have been a  
3 photo of at least one sex act between boys. Id. at Para. 34.

4 A husband and wife purchased a neighboring cabin in approximately 1958,  
5 and lived next to Fr. Kelly's cabin until approximately 1983. They recall that Fr. Kelly  
6 occasionally came to the cabin by himself, but more often was with young boys.  
7 Sometime in the mid-1960's, possibly in 1965, they had an experience at the  
8 mailboxes for the cabins which was quite similar to that previously described.  
9 Specifically, the wife had taken her children to get the mail. One of her children  
10 looked at the base of the mailboxes and saw a package with pictures/slides sticking  
11 out. She walked over to look at them and observed pictures of naked boys in  
12 various poses. The boys appeared to be teenagers. She recalls there were about  
13 thirty slides in the plain brown envelope that was addressed to Fr. Kelly. Ultimately,  
14 the couple reported and turned over the slides to the postmaster without knowing  
15 whether any action was ever taken by law enforcement against Fr. Kelly. Years  
16 later, in approximately 2000, they returned to the cabins to visit their old home. In  
17 doing so they spoke with a woman at Fr. Kelly's old cabin, presumably the wife of  
18 the man who had purchased Fr. Kelly's cabin. She informed them that when she  
19 purchased the cabin she discovered pictures of naked boys on the walls of the  
20 basement. Id. at Paras. 36-38.

21 **ii. At Least Two Priests from Our Lady Complain to One of**  
22 **Defendants' Auxillary Bishops About Fr. Kelly's Excessive**  
23 **Drinking and "Strange Behavior"**

24 During this decade at least two priests from Our Lady had the courage to  
25 complain to Defendants' hierarchy about Fr. Kelly's behavior. Specifically, in  
26 approximately 1958 Priest #1 began attending St. John's Seminary in Camarillo.  
27 During three summer breaks and a few holidays from school Priest #1 lived at Our  
28 Lady, and thus came to know Fr. Kelly. During this time Priest #1 lived in the rectory



1 at Our Lady with Fr. Kelly and observed that Fr. Kelly had a severe drinking problem  
2 and engaged in what Priest #1 describes as "strange behavior." Priest #1 recalls  
3 thinking right away that something was wrong with Fr. Kelly. The "strange behavior"  
4 Priest #1 observed was Fr. Kelly taking what Priest #1 describes as "young men," all  
5 Hispanic, to the cabin on a regular basis. Priest #1 is uncertain of the ages of these  
6 men, but estimates they were anywhere from fifteen to twenty-five years-old. Priest  
7 #1 has reviewed photos of some of these men, discussed below, taken by Fr. Kelly.  
8 Priest #1 confirms these photos depict young men who appear to be around the age  
9 of the young men Fr. Kelly took to the cabin. Plaintiff's investigation has confirmed  
10 most, if not all, of the young men depicted in these photographs were minors. Id. at  
11 Paras. 39-44.

12 When asked to explain why he described Fr. Kelly's behavior as strange, Priest  
13 #1 cited Kelly's cabin and the fact he was taking young men there on a weekly  
14 basis. Priest #1 recalls the existence of the cabin and Fr. Kelly's taking young men  
15 there was something that was simply ignored at Our Lady, a fact Priest #1 found  
16 very disturbing. According to Priest #1, nobody at the parish wanted to talk about  
17 Fr. Kelly's use of the cabin because it was "an embarrassing situation." However,  
18 everyone was aware of the situation, and of the fact the only people Fr. Kelly ever  
19 took to the cabin were these young men. Priest #1 specifically recalls observing  
20 young men coming to the rectory to drive with Fr. Kelly to the cabin. Priest #1  
21 remembers he was shocked at Fr. Kelly's audacity in allowing them to meet him at  
22 the rectory before driving them to the cabin. Priest #1 also recalls the young men  
23 occasionally came to Fr. Kelly's room in the rectory. Id.

24 Priest #1 subsequently was ordained as a priest in 1961. In 1968 he was  
25 assigned to and served as an associate pastor under Fr. Kelly at Our Lady for a little  
26 over one year. In this regard, Priest #1 was assigned to replace Priest #2. Priest #1  
27 recalls Priest #2 telling him (Priest #1) he could not stand to work with Fr. Kelly any  
28 more, and that he (Priest #2) had complained to a high-ranking member of

1 Defendants' hierarchy, an Auxillary Bishop, and in fact told this Bishop that "that  
2 man [Kelly] is not normal." The Bishop's response was to replace Priest #2 (with  
3 Priest #1), and leave Fr. Kelly at Our Lady where he (Kelly) continued to assault  
4 adolescent boys. Id.

5 After approximately one year as Fr. Kelly's associate pastor, Priest #1 also  
6 was compelled to voice his concerns to the Auxillary Bishop about Fr. Kelly's  
7 excessive drinking and unusual use of the cabin. Priest #1 voiced his concerns to  
8 the Auxillary Bishop in Defendants' Los Angeles office. In response, the Auxillary  
9 Bishop stated "I know that he [Fr. Kelly] has problems." It was clear to Priest #1 that  
10 the Auxillary Bishop was not surprised by what Priest #1 was saying about Fr. Kelly.  
11 According to Priest #1, the Auxillary Bishop further stated that "if every priest who  
12 was an alcoholic and had problems was dismissed, there would not be enough  
13 priests to run the parishes." If this matter goes to trial, plaintiff will offer expert  
14 testimony from Richard Sipe and/or Fr. Thomas Doyle that the references to  
15 "strange behavior" and Fr. Kelly's "problems" was code language used by  
16 Defendants to describe pedophilic priests such as Fr. Kelly. In short, when  
17 confronted with yet another red flag regarding Fr. Kelly's behavior, Defendants took  
18 no action, and Fr. Kelly continued to abuse Santa Barbara children. Priest #1 states  
19 he is not surprised by and does not question the allegations of childhood sexual  
20 abuse as Fr. Kelly was "a very weird person." So frustrated was Priest #1 by the  
21 Auxillary Bishop's response he asked for and was granted a one year leave of  
22 absence from the church. Priest #1 never returned to the priesthood. Id.

23 Priest #1 will further testify that the Auxillary Bishop's response to his  
24 complaints about Fr. Kelly epitomized Defendants' approach to problem priests. He  
25 recalls that Defendants' attitude was that priests were the mouthpieces for God, and  
26 that so long as they were doing a good job of conveying God's message, their  
27 human failings could be tolerated and/or ignored. Id.

28 Finally, Priest #1 also observed there were numerous other assistant priests

1 who had problems with Fr. Kelly's behavior and his drinking. However, rather than  
2 do something about Fr. Kelly, Defendants repeatedly reassigned to other parishes  
3 the priests who disapproved and/or complained of Fr. Kelly's behavior. Id.

4 **iv. Fr. Kelly's Assaults Against Victim #10**

5 Unfortunately, the child pornography delivered to Fr. Kelly's cabin did not  
6 satiate his sexual appetite for young boys. Like so many victims before him, Victim  
7 #10 attended mass at Our Lady of Guadalupe, from approximately 1967-70. With  
8 Victim #10, Fr. Kelly used his knowledge of rock and roll music and artists to  
9 impress Victim #10 and the children he was grooming for assaults. Fr. Kelly  
10 eventually began inviting Victim #10, as he had so many other victims, to his cabin  
11 in the Santa Ynez mountains under the pretense of, among other things, doing yard  
12 work, playing in the river, and working out in the cabin's basement gym. During  
13 these trips Fr. Kelly would also allow the boys to smoke cigarettes and drink,  
14 sometimes encouraging them to drink. Id. at Paras. 45-49.

15 With regards to Victim #10, Fr. Kelly would either pick Victim #10 up at his  
16 home, or, as with Victim #2, would have Victim #10 come by the Rectory where they  
17 would leave from in Fr. Kelly's car from the parking area directly across the street  
18 from Our Lady. On the way to the cabin Fr. Kelly would buy Victim #10 alcohol  
19 which he would then induce Victim #10 to consume at the cabin. Once Victim #10  
20 was sufficiently intoxicated, Fr. Kelly would then sexually assault Victim #10 in Fr.  
21 Kelly's bed. Fr. Kelly took Victim #10 to the cabin and assaulted Victim #10 at least  
22 seventy-five (75) times. After each assault Fr. Kelly would give Victim #10 money,  
23 generally around twenty-five (25) dollars. Id.

24 Years later, when Fr. Kelly sold the cabin in 2000, the cabin's new owner  
25 found thirty-five (35) photo slides in the basement of naked or nearly naked boys at  
26 a beach that appears to be Hendry's, and of boys – in some cases naked or wearing  
27 nothing but pink thong undergarments – taken in the living room and basement of  
28 Fr. Kelly's cabin. A number of the boys in the photo slides have been located and

1 have identified themselves or other victims. They also have confirmed the  
2 photographs were taken by Fr. Kelly, either at Fr. Kelly's request or with Kelly  
3 making no request whatsoever and simply taking the pictures. Id.

4 Thus, not only was Fr. Kelly sexually assaulting young boys, he was  
5 exploiting them to create child pornography for his own sexual gratification. This  
6 abuse could and should have been prevented altogether had Defendants heeded –  
7 rather than ignored or dismissed – the numerous warning signs presented by Fr.  
8 Kelly's conduct with boys, and the complaints by priests assigned to work with Fr.  
9 Kelly. More important, had Defendants warned the community in response to the  
10 express notice they received from victims such as Victim #2 – almost ten years  
11 before Fr. Kelly's assaults against Victim #10 and Victim #11 began – they would  
12 have saved countless children from childhood sexual abuse by Fr. Kelly. Id.

13 **v. Fr. Kelly's Assaults Against Plaintiff, Victim #11**

14 Victim #11, the plaintiff in this case, was another one of Fr. Kelly's victims.  
15 Victim #11 and his siblings attended mass at Our Lady, and came to know Fr. Kelly.  
16 He recalls meeting Fr. Kelly through his older brother, Joe, and recalls that Joe  
17 always had money despite the fact their family was not wealthy. Id. at Paras. 50-53.

18 Joe recalls seeking Fr. Kelly's advice in approximately 1968 after he (Joe) got  
19 a young woman pregnant. Fr. Kelly invited Joe to the cabin to discuss the problem.  
20 After this it became common for Joe to go to the cabin with Fr. Kelly where he and  
21 Fr. Kelly would "get drunk as all hell." Joe recalls Fr. Kelly would give him  
22 Seagram's Seven and 7-up and "beer like it was popping out of my ears." Joe  
23 recalls that on one occasion after exercising in the weight room in the cabin he  
24 decided to take a bath. While Joe was in the bath and without saying a word or  
25 offering an explanation, Fr. Kelly entered the bathroom and began photographing  
26 Joe naked in the bath tub. Joe recalls covering himself up, and thinking that Fr.  
27 Kelly's actions were caused by the excessive amounts of scotch he (Kelly) had been  
28 drinking. Joe eventually introduced his brothers to Fr. Kelly, including Victim #11.

1 Id.

2 Victim #11 recalls going to Fr. Kelly's cabin for the first time with Joe, and  
3 believes he was in junior high at the time. Victim #11 went to Fr. Kelly's cabin  
4 countless times after this, sometimes with other boys and other times only with Fr.  
5 Kelly. Victim #11 recalls there was usually alcohol and cigarettes available to the  
6 boys at the cabin, and that Fr. Kelly would offer to buy these for the boys. Victim  
7 #11 also recalls seeing photographs of nearly naked boys around the cabin. In the  
8 early 1970's, while Victim #11 was still a minor, Fr. Kelly admitted to Victim #11 to  
9 having taken many of these pictures, and asked Victim #11 if he would pose for  
10 such a picture. Id.

11 Fr. Kelly assaulted Victim #11 numerous times at the cabin, and generally in  
12 Fr. Kelly's bed. He recalls Fr. Kelly would give the boys the option of sleeping in bed  
13 with him or in a very uncomfortable cot. Eventually Fr. Kelly would sexually assault  
14 Victim #11. Many of the assaults by Fr. Kelly took place at the cabin. However,  
15 Victim #11 also traveled with Fr. Kelly while still a minor. For instance, Fr. Kelly took  
16 Victim #11 to Ensenada, Mexico numerous times while Victim #11 was still a minor.  
17 They would stay in the same hotel every time, a Best Western, drink until they were  
18 intoxicated, and then sleep in the same bed. After the assaults at the cabin, Fr.  
19 Kelly would pay Victim #11 substantial sums of money, usually close to \$100. Id.

20 **vi. Fr. Mario Cimmarrusti's Violent Sexual Assaults Against**  
21 **Countless Boys at St. Anthony's Seminary**

22 As Defendants continued to ignore the actual and constructive notice they  
23 received of the assaults committed by Fr. Kelly, yet another Priest in Santa Barbara  
24 was violently sexually assaulting boys less than three miles from Our Lady.  
25 Specifically, throughout the 1960's Perpetrator #4, Fr. Mario Cimmarrusti, Fr.  
26 McKeon's successor as St. Anthony's Prefect of Discipline, employed numerous  
27 schemes and pretenses, and utilized his status as an authority figure, to allow him to  
28 groom and assault St. Anthony's students. His first step was to "screen" the student

1 to see if that student was susceptible to abuse. The screening process involved Fr.  
2 Cimmarrusti fondling the student; if the student became aroused and embarrassed,  
3 Fr. Cimmarrusti used this against the student to force his silence as the abuse  
4 continued. If the student did not become aroused, Cimmarrusti was less likely to  
5 sexually abuse that student further. For instance, with both Victim #12 and Victim  
6 #13, Fr. Cimmarrusti informed them they were overweight. Despite the fact he had  
7 no medical licenses, Cimmarrusti then used this as a pretense to order both boys to  
8 Cimmarrusti's room (at different times) for weigh-ins and purportedly to check their  
9 thyroid glands. Fr. Cimmarrusti assaulted both during the so-called exams. Id. at  
10 Paras. 54 - 69.

11 In addition to the thyroid ploy, Fr. Cimmarrusti used a number of other  
12 fabrications to force Victim #12 and other victims into Cimmarrusti's room. For  
13 instance, Cimmarrusti would order students to his room to conduct supposed hernia  
14 exams. Fr. Cimmarrusti assaulted Victim #14 (Class of '68) numerous times during  
15 these "hernia exams." Cimmarrusti repeatedly sexually assaulted Victim #14 under  
16 the pretense of conducting a medical examination. These faux exams were done  
17 for Fr. Cimmarrusti's own sexual gratification as Cimmarrusti had no medical training  
18 and no legitimate basis, reason, authority or right to conduct any such exam or to  
19 even touch Victim #14 or any other student. According to Victim #15, Fr.  
20 Cimmarrusti conducted so called hernia exams of every freshman at least three to  
21 four times a month. Victim #15 recalls the assaults taking place in the infirmary, in  
22 Cimmarrusti's office, and at least once in the changing room of the pool at the  
23 Mission. With another student, Victim #16 (Class of '71), Cimmarrusti took  
24 advantage of Victim #16 developing a case of athlete's foot and used it as an  
25 excuse to assault Victim #16 on the ridiculous grounds he was making sure it  
26 (athlete's foot) had not spread to Victim #16's genitals. Cimmarrusti also engaged  
27 in other inappropriate behavior such as requiring an entire class of students,  
28 including Victim #14, to strip to their underwear while taking a test. The class was

1 paraded through the school in their underwear, and was done so in full view of other  
2 students, teachers and priests. Additionally, Fr. Cimmarrusti would order Victim #14  
3 to come to his room, order Victim #14 down on his knees directly in front of  
4 Cimmarrusti, order Victim #14 to place his arms around Cimmarrusti's waist, all  
5 while simultaneously giving a blessing and pressing his groin area into Victim #14.  
6 Id.

7 According to Victim #12, if a student injured himself, it was not uncommon for  
8 Fr. Cimmarrusti to order the student to take a whirlpool bath, and then to assault the  
9 student while drying off the student who was perfectly capable of drying himself off.  
10 Additionally, if a student contracted poison oak, Cimmarrusti used this as an excuse  
11 to apply lotion to the student's genitals and assault the student while doing so.  
12 When Fr. Cimmarrusti was feeling less creative, he would simply order his victims to  
13 his office purportedly for counseling or to discuss their grades. Id.

14 If a student was ill and in the infirmary, Fr. Cimmarrusti would give them a  
15 sponge bath and assault them while doing so. Victim #17 recalls spending a week  
16 in the infirmary after having his tonsils removed. Three times Victim #17 awoke to  
17 Cimmarrusti with his hands under the sheets and assaulting Victim #17. On another  
18 occasion Fr. Cimmarrusti gave Victim #17 a sponge bath and assaulted him. Once,  
19 he ordered Victim #17 to take a shower. When Victim #17 finished Fr. Cimmarrusti  
20 was standing naked in front of Victim #17 and urging Victim #17 to get back in the  
21 shower. Victim #17 refused so Cimmarrusti dried Victim #17 off and assaulted him.  
22 Victims #12 and 17 also recall Fr. Cimmarrusti kissing them on a regular basis, and  
23 having to grit their teeth to prevent Fr. Cimmarrusti from inserting his tongue in their  
24 mouths. Id.

25 Worst of all was the pretense of punishment. On at least three occasions, Fr.  
26 Cimmarrusti ordered Victim #12 to Cimmarrusti's room to receive punishment for  
27 misconduct fabricated by Cimmarrusti which Victim #12 did not commit. Once there,  
28 Cimmarrusti ordered Victim #12 to strip naked from the waist down, and bent Victim

1 #12 over Cimmarrusti's lap as Cimmarrusti sat in his chair. Cimmarrusti then  
2 violently beat/spanked Victim #12's naked buttocks/upper thighs over a period of  
3 approximately fifteen to twenty minutes. Cimmarrusti struck Victim #12 with such  
4 force, approximately fifteen to twenty-five times, that by the end of each beating his  
5 buttocks/upper thighs were black and blue. Throughout the beating, Fr. Cimmarrusti  
6 was sexually aroused and Victim #12 could feel Cimmarrusti's erection.  
7 Additionally, with each blow Victim #12 cried and screamed in pain with such  
8 volume other priests, faculty and students had to of known what was taking place.  
9 In fact, Victim #12 himself recalls hearing Fr. Cimmarrusti beat Victim #19 in  
10 Cimmarrusti's room, and recalls being able to hear each of Cimmarrusti's blows and  
11 Victim #19's screams of pain. Cimmarrusti's beating of Victim #19 lasted for  
12 approximately ten minutes. **So loud were 1) the screams by Victim #19 and 2)  
13 Fr. Cimmarrusti's blows that Victim #12 was able to hear both from the St  
14 Anthony's parking lot. Any claim by Defendants that they or there agents were  
15 unaware of the abuse taking place is preposterous. Id.**

16 In addition to Victim #12 and Victim #19, Fr. Cimmarrusti also stripped and  
17 beat many other students for his own sexual gratification. Victim #12's brother,  
18 Victim #17 (Class of '68), recalls seeing bruising on student Victim #20's (Class of  
19 '68) buttocks/upper thighs nearly identical to that on Victim #12's. It was also  
20 common knowledge around the school that Fr. Cimmarrusti had beaten Victim #12,  
21 and Victim #12 recalls at least one student seeing the bruising and commenting  
22 "what a mean bastard" Fr. Cimmarrusti was. Fr. Cimmarrusti also subjected Victim  
23 #17's and Victim #12's brother, Victim #18, to such sexually-charged beatings on at  
24 least three occasions. After at least one of the beatings Cimmarrusti kissed Victim  
25 #18 on the lips. Victim #15 (Class of '70) heard at least one of the beatings of  
26 Victim #18 by Cimmarrusti, and recalls seeing the wounds on the buttocks of at least  
27 two victims. Id.

28 Victim #15 also was sexually assaulted and beaten by Cimmarrusti so badly



1 he bruised like Victim #12 and also bled from his wounds. Victim #15 recalls Fr.  
2 Cimmarrusti requiring him to strip completely naked during one of the beatings, and  
3 then proceeding to strike Victim #15 thirty-three times, "once for each year of our  
4 Lord's life." During these beatings Victim #15 could feel Fr. Cimmarrusti's erection.  
5 Victim #15 also recalls the entire school was aware of the beatings. After the  
6 beatings, Cimmarrusti had the sobbing victims drop to their knees; caressed,  
7 stroked and blessed them while pulling their heads into his crotch; and frequently  
8 threatened them with eternal damnation if they told anyone. In addition to sitting  
9 outside Fr. Cimmarrusti's office and hearing Cimmarrusti beat Victim #18, Victim  
10 #15 also observed a number of his classmates, including Victim #21 (Class of '71)  
11 with the same injuries from Cimmarrusti's beatings, and recalls the screams during  
12 the beatings were so loud other priests, faculty and students had to of heard them.  
13 Id.

14 Victim #22 (Class of '67), the brother of Victim #8, suffered some of the most  
15 violent and vicious beatings by Fr. Cimmarrusti, as well as numerous sexual  
16 assaults. Fr. Cimmarrusti's beatings and sexual abuse of Victim #22 were  
17 especially brutal as Cimmarrusti not only beat but kicked Victim #22, and made sure  
18 only to do so on Victim #22's torso so that the bruises would not be visible when  
19 Victim #22 was fully clothed. Cimmarrusti required Victim #22 to come to his room  
20 twice a week, and Victim #22 recalls being beaten and/or sexually assaulted by Fr.  
21 Cimmarrusti in Cimmarrusti's room. Id.

22 With at least one student, Victim #12, Fr. Cimmarrusti used the bruising and  
23 injury he caused as yet another pretense to order Victim #12 back to Cimmarrusti's  
24 room so that Cimmarrusti could apply lotion to the wound, and in doing so assault  
25 Victim #12. Id.

26 Another student, Victim #9 (Class of '66), was the victim of at least one  
27 violent attempted rape by Fr. Cimmarrusti and numerous other assaults. Additional  
28 victims of Fr. Cimmarrusti are former St. Anthony's students Victim #25 and Victim

1 #26. Id.

2         Given the countless number of victims, and the fact Fr. Cimmarrusti was  
3 conducting numerous purported "medical exams" for which he had no training,  
4 Defendants knew or at least should have known of Cimmarrusti's misconduct. In  
5 light of the numerous students who were able to hear Fr. Cimmarrusti's ongoing  
6 sexually-charged beatings of students, Defendants had to of known, for **years**, of  
7 the ongoing sexual abuse of children by Fr. Cimmarrusti. And in fact Defendants  
8 **did** know of the risk posed to students by, among others, Fr. Cimmarrusti long  
9 before many, if not most, of the assaults took place. In approximately 1965, Victim  
10 #9 went to St. Anthony's rector, Xavier Harris, and reported the attempted rape by  
11 Cimmarrusti. Fr. Harris responded promptly by questioning Victim #9's "vocation"  
12 and expelling him from St. Anthony's. Meanwhile, Fr. Cimmarrusti's abuse of St.  
13 Anthony's students continued. Id.

14         During that same year, 1965, Victim #22 recalls being sexually assaulted by  
15 Cimmarrusti in Cimmarrusti's room and seeing another priest come to Cimmarrusti's  
16 door in a position to see Victim #22 on Cimmarrusti's bed. Approximately one year  
17 later in 1966, Victim #22 also reported to Fr. Harris the weekly beatings and sexual  
18 abuse he was receiving from Fr. Cimmarrusti, and told Harris he could not take it  
19 any more and wanted to leave St. Anthony's. Fr. Harris first told Victim #22 he had  
20 imagined the abuse. When Victim #22 insisted the abuse had happened and that  
21 he wished to drop out of school, Fr. Harris offered to make him, among other things,  
22 class president and captain of the football team if Victim #22 agreed to stay. When  
23 Victim #22 still refused, Fr. Harris threatened to report this to Victim #22's very  
24 traditional catholic family. He reminded Victim #22 he would be seen as a quitter  
25 and a failure, and that his family would be ostracized as they lived in a small town  
26 and everyone would know. He told Victim #22 this would eventually lead to his  
27 parents' divorce and that this would be Victim #22's fault. Victim #22 still insisted  
28 on, and ultimately did, leave St. Anthony's. However, Fr. Harris and Defendants

1 allowed Fr. Cimmarrusti to continue his brutal and twisted reign as St. Anthony's  
2 Prefect of Discipline until 1970. Id.

3 Additionally, in approximately 1967-68, Fr. Gino Piccoli walked in on Fr.  
4 Cimmarrusti orally copulating yet another victim, had a clear view of the abuse, and  
5 turned around and walked out. Fr. Piccoli and Defendants took no action against Fr.  
6 Cimmarrusti, and Cimmarrusti's abuse of students continued. Years later, when a  
7 member of the laity told Fr. Piccoli of Victim #14's anger at Fr. Cimmarrusti, Fr.  
8 Piccoli responded by attacking Victim #14's credibility and stating Victim #14 should  
9 not be believed because he was severely mentally disturbed. Id.

10 Finally, in approximately 1970 Victim #15 told Br. Kevin Dunne – who later  
11 was identified as a perpetrator himself – of the beatings by Fr. Cimmarrusti. Id.

12 Fr. Cimmarrusti's abuse of St. Anthony's students spanned most of the  
13 1960s, and could and should have been stopped by Defendants' agents at least as  
14 early as 1965. Instead, they allowed him to become one of the most prolific abusers  
15 of children in Santa Barbara County, with no less than sixteen (16) of his victims  
16 identified to date. There can be no denying the Defendants were well aware of the  
17 risk of childhood sexual abuse any child faced when exposed to their agents. By  
18 concealing the threat posed by, among others, Fr. Cimmarrusti, Defendants  
19 continued and fostered a public nuisance which placed children in Santa Barbara  
20 County at great risk to be sexually assaulted. Id.

21 **vii. Fr. John Hanley's assaults in Lompoc at Mission La Purisima**  
22 **Concepcion**

23 During this same time yet another agent of Defendants was assaulting  
24 children in Northern Santa Barbara County. Specifically, in the mid-1960's Fr. John  
25 J. Hanley (Perpetrator #5) assaulted at least two children at Mission La Purisima  
26 Concepcion in Lompoc. Fr. Hanley's two known victims were a sister and brother,  
27 Victim #28 and Victim #29. Fr. Hanley became close to their parents as a result of  
28 his status as a priest. Id. at Paras. 70-71.

1 Victim #28 and Victim #29 were very young at the time of the abuse. Victim  
2 #28 was approximately four or five years old, and most likely was the first of the two  
3 to be abused by Fr. Hanley. Victim #29 was around six or seven years old when the  
4 abuse by Fr. Hanley began. Fr. Hanley abused both children during roughly the  
5 same time period. Fr. Hanley's assaults took place on the parish grounds. At some  
6 point after the abuse started Fr. Hanley suddenly disappeared, and was purportedly  
7 sent back to Ireland. Id.

8 **D. The 1970's: After Years of Assaults and Reports of Abuse, Defendants**  
9 **Transfer Fr. Kelly and Fr. Cimmarrusti out of Santa Barbara, and Allow a**  
10 **New Generation of Child-Abusing Clergy Access to Children in Santa**  
11 **Barbara**

12 The following decade saw Fr. Kelly's abuse of Victim #10 and Victim #11  
13 continue at least until Defendants transferred Kelly to St. Marianne's in Pico Rivera.  
14 Further, even after being transferred, Fr. Kelly maintained ownership of the cabin  
15 and continued to bring boys – including Victim #11 – to the cabin, albeit it not as  
16 frequently. Additionally, Fr. Cimmarrusti was transferred from St. Anthony's only to  
17 be replaced by a new and larger group of pedophilic priests and Religious brothers,  
18 a number of whom themselves had been abused as children by Defendants' priests.  
19 Id. at Paras. 72 - 89.

20 These new priests – many of whom were themselves victims of childhood  
21 sexual abuse by clergy – continued grooming and sexually abusing children at  
22 various locations around Santa Barbara County. The seeds planted by Fr.  
23 McKeon's abuse of Van Handel began to bare fruit as Van Handel found himself  
24 attracted to young boys, thus becoming Perpetrator #6. While still in school and  
25 shortly before being hired by and/or granted faculties by Defendants, Van Handel  
26 twice in 1970 told an agent of Defendants' of his attraction to young boys.  
27 Defendants' response to this information was to grant faculties to and/or hire Van  
28 Handel and allow him to begin forming boys choirs as part of his ministry. These

1 choirs, along with the students from St. Anthony's, became a constant source of  
2 victims for Van Handel. Fourteen (14) victims of Fr. Van Handel have been  
3 identified, a total exceeded only by Fr. Cimmarrusti. However, there is good reason  
4 to believe Fr. Van Handel's actual number of victims in Santa Barbara far exceeds  
5 Fr. Cimmarrusti's as Defendants allowed Van Handel to spend in excess of twice  
6 the number of years in Santa Barbara as Fr. Cimmarrusti. Id.

7 In 1975, Defendants' agents sent Van Handel to St. Anthony's and allowed  
8 him to form the Santa Barbara Boys Choir ("SBBC"). Shortly thereafter he began  
9 assaulting young boys, photographing them nude, and making them available for  
10 assaults to at least one of his fellow pedophiles. Id.

11 In approximately 1970-71, Br. Kevin Dunne – Perpetrator #7 – violently  
12 sexually assaulted Victim #30 (Class of '72). Dunne had been at St. Anthony's  
13 since at least 1965. Id.

14 From at least 1970 to 1974, Fr. John H. Dawson – Perpetrator #8 – was  
15 assigned to Mt. Carmel in Montecito. In 1975 defendants transferred Fr. Dawson to  
16 Our Lady of Refuge in Long Beach, and, later, to St. Bernadette. Fr. Dawson has  
17 been identified as the perpetrator of childhood sexual abuse in currently filed  
18 lawsuits by no less than six victims, including two from St. Bernadette and four from  
19 Our Lady of Refuge. At least one Santa Barbara victim, Victim #31 has previously  
20 settled a claim for abuse by Fr. Dawson. Id.

21 In 1973, if not earlier, Defendants' agents assigned Brother Samuel Cabot –  
22 Perpetrator #9 – to the Mission. Br. Cabot – who was supervised by Br. Dunne –  
23 would go on to sexually abuse two cousins, when the girls – Victim #32 and Victim  
24 #33 – were between the ages of five and ten years old, for approximately five years  
25 from the late 1970's into the mid 1980s. Id.

26 On June 6, 1970, Defendants assigned Fr. Donald Patrick Roemer –  
27 Perpetrator #10 – to serve as an associate pastor at St. Raphael's Church in Goleta.  
28 Prior to his ordination and assignment to Santa Barbara in 1970, Fr. Roemer studied

1 at St. John's Seminary in Camarillo to become a priest. Fr. Roemer has been  
2 identified as the perpetrator in a currently filed lawsuit for childhood sexual abuse  
3 against a young boy from 1962-65. Thus, Fr. Roemer commenced his assaults  
4 against children well before defendants assigned him to Santa Barbara. Id.

5 Not surprisingly, Fr. Roemer has admitted that during his eight years in Santa  
6 Barbara County he struggled with feelings of sexual confusion and sought  
7 assistance in this regard from a psychologist employed by Defendants', thus placing  
8 Defendants on notice of his propensities. During this time Defendants also received  
9 complaints from concerned parents regarding a number of priests in Santa Barbara,  
10 including Fr. Roemer. Specifically, in approximately 1976 a number of parents who  
11 served as the directors of Youth Ministry at Santa Barbara parishes were so  
12 concerned by the conduct of priests such as Fr. Roemer that they confronted priests  
13 who were members of Defendants' hierarchy in Los Angeles. Those parents were  
14 aware that Fr. Roemer had been engaging in inappropriate conduct with minors.  
15 Consequently, they confronted the associate directors of Defendants' Office of  
16 Confraternity of Christian Doctrine in Los Angeles. Two of those parents recall the  
17 group described misconduct by priests in Santa Barbara, including Fr. Roemer, and  
18 asked why Defendants were sending priests like this to Santa Barbara. The parents  
19 also asked how they could be expected to run a youth ministry with priests like Fr.  
20 Roemer in their midst. In response, the associate directors stated there simply were  
21 not enough priests, and that the parents were blowing things out of proportion. Id.

22 Despite receiving this notice, during his eight years in Santa Barbara  
23 Defendants assigned Fr. Roemer to and allowed him to work at locations giving him  
24 unfettered access to countless adolescent and pre-adolescent boys. These  
25 assignments included St. Raphael's, an assignment as an associate pastor at San  
26 Roque in 1974, and, most disturbingly, assignments to work with the most  
27 vulnerable youth in 1975 as the chaplain at Santa Barbara Juvenile Hall, and in  
28 1977 at Los Prietos Boy's Camp. In 1976 Defendants assigned him to serve as the

1 Coordinator for Confraternity of Christian Doctrine in Santa Barbara. Even worse,  
2 from 1975-77 Defendants assigned Fr. Roemer to its Vocations Board. This  
3 assignment required him to go to junior high school and high schools to recruit boys  
4 to attend Defendants' seminaries, and often involved Fr. Roemer arranging for  
5 overnight stays for these boys. During his eight years in Santa Barbara County Fr.  
6 Roemer was accused of sexually assaulting boys in Santa Barbara. Included  
7 among his victims was Victim #34. Another current plaintiff is Victim #35, who also  
8 was assaulted by Fr. Roemer in the 1970s. Defendants subsequently transferred  
9 Fr. Roemer from Santa Barbara to a parish in Thousand Oaks. Ultimately, in 1981,  
10 Fr. Roemer pled nolo contendere to three counts of childhood sexual abuse under  
11 Penal Code section 288(a). He later admitted to sexually assaulting at least thirty  
12 boys from 1970 to 1981. Fr. Roemer is the subject of no less than eight currently  
13 pending civil lawsuits, two of which involve assaults against the abovementioned  
14 Santa Barbara victims at San Roque and St. Raphael's. The identities of Fr.  
15 Roemer's other Santa Barbara victims are unknown at this time. Id.

16 Due to the numerous assaults, reports of abuse, and the open and obvious  
17 nature of the assaults being committed by Defendants' agents such as Fr. Roemer,  
18 Defendants had to be known of the rampant sexual assaults that had been  
19 committed and were continuing to be committed by other clergy in Santa Barbara.  
20 For instance, beginning in the mid-1970's, three brothers, Victim #36, Victim #37  
21 and Victim #38 were victimized by numerous priests as members of Fr. Van  
22 Handel's Santa Barbara Boys Choir ("SBBC") and, subsequently, as students at St.  
23 Anthony's. Victim #36 was repeatedly sexually assaulted by as many as five  
24 different priests, including Fr. Van Handel, Fr. Steven Kain (Perpetrator #11), Fr.  
25 Philip Wolfe<sup>5</sup> (Perpetrator #12), pre-novitiate candidate Ed Byrom (Perpetrator #13),  
26

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27 5. Both Wolfe and Van Handel would later serve sentences in state prison for the childhood  
28 sexual abuse they committed while at St. Anthony's. These two men, along with Fr. Specialle, are  
the only perpetrators to have been criminally prosecuted in Santa Barbara County. Three others

1 and pre-novitiate candidate Tom Thing (Perpetrator #14). Victim #37 was  
2 repeatedly assaulted by Fr. Van Handel and Fr. Steve Kain. Victim #38 was able to  
3 fight off an assault by Fr. Van Handel. Id.

4 In approximately 1977, Br. Dave Johnson (Perpetrator #15) – yet another St.  
5 Anthony's alum (Class of [REDACTED]) who also was a pedophile – was assigned to St.  
6 Anthony's. Br. Johnson eventually became a priest. Johnson has admitted he, too,  
7 like Fr. Van Handel, was a victim of childhood sexual abuse by a priest while he  
8 (Johnson) was a student at St. Anthony's. Fr. Johnson assaulted Victim #39 (Class  
9 of '79) in, among other locations, Johnson's room at St. Anthony's on at least three  
10 occasions in the fall of 1977. Id.

11 Victim #39's experience at St. Anthony's and the Mission was one of the most  
12 horrific. After the assaults by Johnson ended, Fr. David Carriere (Perpetrator #16),  
13 a priest stationed at the Mission, began to assault Victim #39 on a weekly basis in  
14 various locations around the Mission, including the Mission pool's changing room  
15 and unused living quarters in the Mission. The assaults by Fr. Carriere went on for  
16 most of Victim #39's junior and senior years. During Victim #39's senior year, he  
17 was assaulted by St. Anthony's Spanish teacher, Francisco Moreno, in Moreno's  
18 office. Moreno also began to summon Victim #39 to Moreno's office and on at least  
19 three occasions brought in men from the community who then assaulted Victim #39.  
20 Moreno is not identified as a perpetrator of childhood sexual abuse because Victim  
21 #39 was eighteen at the time of these assaults. However, Victim #39's age does not  
22 change the fact that a teacher (Moreno) was so comfortable in the St. Anthony's  
23 environment as to essentially pimp out a student to men from the community for  
24 sexual assaults during school hours on the grounds at St. Anthony's. This boldness  
25 was reflective of and fostered by an environment of childhood sexual abuse created  
26 by Defendants. The assaults by Carriere, Moreno and others against Victim #39

27 \_\_\_\_\_  
28 (Wishard, Conn and Rodriguez) were prosecuted in other counties.



1 continued until Victim #39 finally graduated in 1979. Id.

2 In approximately 1977-78, Defendants assigned Fr. Willebaldo Castro  
3 (Perpetrator #17) to St. Mary's Church of the Assumption in Santa Maria. Shortly  
4 thereafter Victim #40, began seeing Fr. Castro for counseling. Fr. Castro took  
5 advantage of Victim #40's vulnerability and began introducing sex education into the  
6 counseling sessions. Fr. Castro then began assaulting Victim #40, who was an  
7 adolescent at the time. Fr. Castro sexually assaulted Victim #40, at, among other  
8 locations, the grounds of the parish. The assaults by Fr. Castro are now the subject  
9 of a currently filed lawsuit. Additionally, Fr. Castro has been identified as the  
10 perpetrator in no less than three (3) Currently filed lawsuits from his time while  
11 assigned to St. Mary's in Santa Maria, and St. Alphonsus in Los Angeles. Id.

12 Fr. Castro was not the only perpetrator Defendants assigned to St. Mary's in  
13 Santa Maria. Specifically, Defendants assigned Fr. John Wishard (Perpetrator #18)  
14 there in 1994. Fourteen years earlier, in 1980, Fr. Wishard had pleaded no contest  
15 to "felony oral copulation" of a young boy. Despite this conviction, Defendants  
16 allowed Fr. Wishard to serve at St. Mary's until at least 1998. Defendants did not  
17 warn the community of Fr. Wishard's propensities or criminal record. Id.

18 In 1979, if not earlier, Br. Gus Krumm<sup>6</sup> (St. Anthony's Class of '72) began  
19 work at St. Anthony's. Br. Krumm (Perpetrator #19) would go on to assault a  
20 number of students at St. Anthony's before finally being transferred out of Santa  
21 Barbara county. Id.

22 Also during this time a priest candidate by the name of Paul Conn  
23 (Perpetrator #20) studied at St. Anthony's in a pre-novitiate program, and worked as  
24 a teacher in St. Anthony's Social Sciences department. Fr. Conn eventually would  
25 move to the state of Washington where he worked in Port Angeles at a parish,  
26 Queen of Angels. In 1988, Fr. Conn pleaded guilty to assaulting at least six altar  
27

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28 6. Brother Krumm would eventually become Father Krumm.

1 boys at Queen of Angels, and was sentenced to four years in prison. Id.

2 By 1979 Fr. Roemer's abuse of children in Santa Barbara had necessitated  
3 Defendants transferring him to the unsuspecting community in Thousand Oaks.  
4 However, just as Defendants transferred one perpetrator from San Roque, they  
5 replaced him with another. Specifically, in 1979 Fr. Michael Terra (Perpetrator #21)  
6 assumed Fr. Roemer's position at San Roque. Whereas Fr. Roemer preferred  
7 young boys, Fr. Terra's victims of choice were young girls. Shortly after he was  
8 assigned to San Roque he began sexually assaulting Victim #41. Victim #41 sought  
9 counseling from Fr. Terra. Fr. Terra recognized and took advantage of Victim #41's  
10 vulnerability and began sexually assaulting her. The assaults took place in, among  
11 other locations, Fr. Terra's office in the rectory at San Roque; the Santa Barbara  
12 Botanical Gardens; and at a local beach. Worst of all, Fr. Terra would tell Victim  
13 #41 to attend confession at San Roque on Saturday afternoons. After hearing her  
14 confession, Fr. Terra would assault Victim #41 within the confessional. Fr. Terra's  
15 abuse of Victim #41 continued for approximately a year and a half. Defendants  
16 transferred Fr. Terra from San Roque and out of Santa Barbara in 1981. Id.

17 **E. The 1980's: Defendants' Transfers of Perpetrators in and Out of Santa**  
18 **Barbara County Continues, and Spreads to New Locations**

19 During the summer of 1980, if not earlier, Fr. Krumm – yet another St.  
20 Anthony's alum who became a priest-pedophile – commenced his assaults against  
21 St. Anthony's students. Specifically, Fr. Krumm invited a St. Anthony's student,  
22 Victim #42, to visit St. Anthony's for a weekend during the summer break. Krumm  
23 then proceeded to buy Victim #42 liquor, induce Victim #42 to drink until Victim #42  
24 was intoxicated, and then violently assaulted Victim #42 in the St. Anthony's  
25 infirmary. By the time Krumm assaulted Victim #42 Defendants had been receiving  
26 actual and constructive notice for at least twenty-two years of numerous acts of  
27 childhood sexual abuse committed by priests in Santa Barbara County. Id. at Paras.  
28 90 - 119.

1 During the following school year, Fr. Krumm twice assaulted another St.  
2 Anthony's student, Victim #43, in Fr. Krumm's office, and later threatened Victim  
3 #43 with violence when Victim #43 fled from Fr. Krumm after Fr. Krumm ordered  
4 Victim #43 to his office yet again. A few days later Victim #43 was questioned by no  
5 less than three priests about the assaults by Fr. Krumm. Shortly thereafter Fr.  
6 Krumm disappeared, and Victim #43 heard Krumm had been sent to a program for  
7 troubled priests in Arizona or New Mexico. Id. Victim #43 filed a lawsuit against  
8 Defendants and their agents. Defendants' agents denied Fr. Krumm's acts  
9 constituted sexual abuse, but settled the lawsuit for an undisclosed amount

10 Despite their knowledge of Fr. Krumm's propensities, Defendants continued  
11 to allow him to spend time with children. Consequently, from 1984-87, Fr. Krumm  
12 also assaulted Victim #44. Victim #44 met Fr. Krumm while Fr. Krumm was a priest  
13 at St. John's Catholic Church in Overton, Nevada in approximately 1983 when  
14 Victim #44 was 11 years old. Fr. Krumm took a strong interest in Victim #44,  
15 became a very good friend of the family, baptized Victim #44 in approximately 1985,  
16 and became Victim #44's godfather. Victim #44 became Fr. Krumm's personal altar  
17 boy for approximately 2.5 years, assisting Fr. Krumm both at St. John's in Overton  
18 and at St. John's in Las Vegas in performing weddings and baptisms. Krumm would  
19 also take Victim #44 on overnight trips to stay in a cabin on Mt. Charlston, Nevada.  
20 Victim #44 has specific recollections of being plied with alcohol and being sexually  
21 abused when at this cabin. In 1986 Fr. Krumm took Victim #44 with him to St.  
22 Anthony's, where Victim #44 lived for approximately one month. Defendants made  
23 no efforts to stop Victim #44 from having contact with Fr. Krumm. During this time,  
24 Victim #44 recalls that he was sexually abused by Fr. Krumm while at St. Anthony's  
25 in a similar manner to the abuse he endured at the cabin at Mt. Charlston. Fr.  
26 Krumm has admitted to assaulting Victim #42 and Victim #44, among others. Id.

27 During this same period, a former teacher at St. Anthony's recalls that various  
28 priests would come to him after the boys were in bed at night and say "I need to

1 counsel this kid," or "I need to have a discussion with this child." The priest would  
2 then go off with the child for an hour or so. The teacher recalls Fr. Krumm was the  
3 priest who most often did this. The teacher recalls Fr. Van Handel doing this  
4 occasionally also. Id.

5 Similarly, a St. Anthony's student in the late 1970's recalls that at times he  
6 and some of his classmates would observe a freshmen student leaving Fr. Van  
7 Handel's room around 1:00 am, and that they would tease the freshman about being  
8 in Fr. Van Handel's room for sexual reasons. The freshman would claim he was  
9 simply in the room for "counseling." Id.

10 Yet another pedophile priest who assaulted young boys during this time was  
11 Fr. Chris Berbena (Perpetrator #22). Fr. Berbena assaulted St. Anthony's student  
12 Victim #45 (Class of '83) on the grounds at St. Anthony's on multiple occasions in  
13 the early 1980s. Id. These assaults are the subject of a currently filed lawsuit.

14 While young boys were the primary victims of Defendants' pedophilic agents,  
15 these agents continued to victimize young girls in the Santa Barbara community as  
16 well. For instance, Br. Samuel Cabot (Perpetrator #9) sexually assaulted two  
17 cousins, when the girls – Victim #32 and Victim #33 – were between the ages of five  
18 and ten years old, on a regular basis from approximately 1979 to 1985. Id.

19 Another student recalls Br.<sup>7</sup> Dave Johnson – the St. Anthony's alum who also  
20 assaulted, among others, Victim #39 – attempting to grope the student on the way  
21 to the showers in the early 80's. When the student challenged Br. Johnson, Br.  
22 Johnson backed off. A different student walked in on Br. Johnson in bed with Victim  
23 #46 (Class of '85). The student believed Br. Johnson was having sex with Victim  
24 #46. When Victim #46 stood up the student observed Victim #46 was wearing only  
25 a towel or underwear. Id.

26 In approximately 1971 Fr. Roger Anderson (Perpetrator #23) was assigned to  
27

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28 7. Like Fr. Krumm, Br. Johnson also would go on to become Fr. Johnson.

1 the Old Mission Santa Ines. In 1978 Victim #47 began attending catechism classes  
2 there, and became an altar boy. When Victim #47 was approximately twelve years  
3 old in 1981, Fr. Anderson began sexually assaulting Victim #47. The assaults took  
4 place in, among other locations, Fr. Anderson's office and in the confessional at the  
5 Old Mission Santa Ines. Victim #47 recalls that on one occasion either a priest or  
6 Religious Brother walked in on an assault taking place. On another occasion, it was  
7 apparent to Victim #47 that someone had either been watching the abuse, or had  
8 entered the room and observed the abuse only to turn around and leave. Sometime  
9 later another perpetrator took Victim #47 to a storage area and assaulted him.  
10 Victim #47 has not been able to identify this second perpetrator at the Old Mission  
11 Santa Ines, but believes he (Perpetrator #24) was either a priest or a Religious  
12 Brother. The assaults against Victim #47 took place from approximately 1981-83.  
13 Id.

14 From 1975 to 1993, Fr. Van Handel assaulted numerous members of the  
15 Santa Barbara Boys Choir and St. Anthony's students. In 1977 Victim #63 was  
16 assaulted by Fr. Van Handel while in the infirmary. During the 1979-80 school year,  
17 Fr. Van Handel assaulted St. Anthony's student Victim #48. Id.

18 On SBBC trips, he assaulted two brothers, Victim #49 and Victim #50. On  
19 one trip to Europe Fr. Van Handel assaulted Victim #50 and then photographed him  
20 nude. During this same trip Fr. Van Handel repeatedly assaulted Victim #49; he  
21 also assaulted Victim #49 on multiple occasions at St. Anthony's. Van Handel also  
22 photographed, among others, Victim #36 naked at various locations around St.  
23 Anthony's. During this same time-frame a St. Anthony's alum (Class of '82) recalls  
24 seeing Fr. Van Handel taking an SBBC member into a room at the top of the tower  
25 at St. Anthony's. The former student recalls thinking at the time that this was  
26 unusual. Fr. Van Handel has admitted to taking "dozens of photos" of nude boys  
27 during his time in Santa Barbara, some in the tower at St. Anthony's. Van Handel  
28 also has admitted to developing the photographs at St. Anthony's school lab. Id.

1 From 1982-83 Fr. Van Handel assaulted SBBC member, Victim #51, on two  
2 separate occasions. The first assault took place at St. Anthony's while the SBBC  
3 was watching a movie. Victim #51 was approximately nine years old and recalls Fr.  
4 Van Handel was sitting behind Victim #51 and was massaging his shoulders. There  
5 was another priest sitting behind Victim #51, on Victim #51's left, who was in a  
6 position to see what Fr. Van Handel was doing. Fr. Van Handel began reaching  
7 around Victim #51 and assaulting him. Victim #51 resisted and tried to get Fr. Van  
8 Handel to stop, but was afraid to make any noises because there were so many  
9 other people around. Id.

10 The second assault took place during a SBBC camp in Cambria. Victim #51  
11 was approximately ten years old at the time. A group of boys had been playing  
12 baseball and Victim #51 had gone back to a cabin to take a nap. Victim #51 had  
13 fallen asleep, and he remembers waking up to find the covers had been pulled back,  
14 his underpants were down around his ankles, and Fr. Van Handel was masturbating  
15 himself. Fr. Van Handel then sat on the bed and forcefully sexually assaulted Victim  
16 #51. Victim #51 recalls trying to push Fr. Van Handel's hands away and trying to get  
17 him to stop, but Van Handel would not. Id.

18 Victim #51 filed a lawsuit against Defendants in 1999. After **Defendants'**  
19 **agents publicly denied the abuse took place, and argued – during the litigation**  
20 **– that a priest had a right to privacy with regards to sexual activities with**  
21 **children**, Defendants settled the lawsuit for \$1.7 million.

22 In 1981-82 Victim #52 was a student at St. Anthony's where he was  
23 repeatedly molested by Fr. Steve Kain and Fr. Robert Van Handel. These attacks  
24 occurred in the dormitory cubicles at St. Anthony's. During this same time Victim  
25 #53 was a member of the Santa Barbara Boys' Choir and, eventually, a student at  
26 St. Anthony's. He was also molested by Fr. Van Handel in the boys' dormitory.

27 From 1982-86 Victim #54 was a member of the SBBC and, subsequently, a  
28 student at St. Anthony's. He was molested by Fr. Wolfe – yet another St. Anthony's

1 alum who became a priest pedophile – and Fr. Van Handel under circumstances  
2 where Defendants knew or should have known that such misconduct was occurring.  
3 Victim #54 reported the abuse by Fr. Wolfe to Br. Jeff McNabb. Id.

4 From 1983-88 or 89 Victim #55 was a member of the SBBC. Defendants  
5 allowed Fr. Van Handel to take Victim #55 and other boys, such as Victim #57, on  
6 numerous trips to places such as Yosemite, Long Beach, Washington, San  
7 Francisco, Cambria, Vancouver and others. Many of these trips involved no adult  
8 supervision other than Fr. Van Handel. Sometimes Van Handel would only take a  
9 small number (two to three) of his favorite boys. Additionally, Defendants allowed  
10 Victim #55 to spend the night in Fr. Van Handel's living quarters. Initially, Victim #55  
11 stayed with Fr. Van Handel in the general living quarters for the priests in the  
12 seminary. Later, when Fr. Van Handel became the rector of St. Anthony's, Victim  
13 #55 would stay with Van Handel at the Casa, Fr. Van Handel's residence on the St.  
14 Anthony's property. Victim #43 also lived at the Casa during this time, and recalls  
15 seeing Victim #55 and other young boys with Van Handel in the Casa on a regular  
16 basis. From 1983-84, Victim #55 was repeatedly sexually assaulted by Fr. Van  
17 Handel, who either took Victim #55 into his room or climbed into bed with him in the  
18 dormitories and sexually abused him. The assaults also happened on the trips  
19 Victim #55 took with Van Handel and the SBBC. Victim #55 has also testified that  
20 he was allowed to eat dinner at the special table for priests, taken to a priest's room  
21 for the night and brought to breakfast the next morning. With regards to Victim #55,  
22 Van Handel recalls he was "really out of control" and would basically do whatever  
23 his imagination came up with. Van Handel has stated with regards to Victim #36 "it  
24 was as though I felt I could do anything to him that I wanted." Id.

25 From 1984-87 Victim #56 was a member of the Santa Barbara Boys' Choir  
26 and, subsequently, a student at St. Anthony's. He was repeatedly molested by both  
27 Fr. Van Handel and Fr. Philip Wolfe. Id.

28 From 1985-92 Victim #57 was a member of the Santa Barbara Boys' Choir.

1 He was repeatedly molested by Fr. Van Handel, who watched and assaulted Victim  
2 #57 while showering in the dormitories or while in Van Handel's room. Id.

3 In approximately 1985, Fr. Stephen E. Speciale (Perpetrator #25) was  
4 assigned to Our Lady of Sorrows in Santa Barbara. On at least two occasions Fr.  
5 Speciale sexually assaulted Victim #58 on the grounds of Our Lady of Sorrows.  
6 These assaults occurred when Victim #58 was approximately 11 years old, and  
7 caused great emotional harm and distress to Victim #55 and his mother. Id.

8 In the Fall of 1986 Victim #59 enrolled at St. Anthony's. Br. Berard Connolly  
9 (Perpetrator #26) served as, among other things, the school's Vocation Director. Br.  
10 Connolly would often walk the halls of the school at night, purportedly to ensure that  
11 lights were turned off and students were in bed. Much like Fr. Krumm, Br. Connolly  
12 would spend extra time with his favorite students, including Victim #59. Br. Connolly  
13 would enter the room, sit on Victim #59's bed, and make conversation with him while  
14 placing his hand on Victim #59's thigh. Eventually, after one such conversation, Br.  
15 Connolly began sexually assaulting Victim #59. These assaults continued into  
16 Victim #59's sophomore year at St. Anthony's. Id.

17 In approximately 1987, Defendants assigned Perpetrator #27 – Fr. Carlos  
18 Rene Rodriguez – to work in Defendants' Office of Family Life in Santa Barbara,  
19 and allowed him to live at St. Mary's Seminary in the foothills above St. Anthony's  
20 and the Old Mission. During this time Defendants allowed Rodriguez to conduct  
21 couples' retreats in Ventura and Santa Barbara Counties. Fr. Rodriguez used these  
22 retreats to gain access to children for his own sexual gratification. On March 12,  
23 2004, Fr. Rodriguez was sentenced to eight years in prison after admitting to  
24 molesting two brothers in Ventura County. Id.

25 Before Defendants assigned Fr. Rodriguez to Santa Barbara he abused at  
26 least one altar boy at St. Vincent de Paul Church in downtown Los Angeles. After  
27 this abuse, Defendants sent Fr. Rodriguez for treatment in 1987 to St. Luke Institute  
28 in Maryland, one of the many pedophile priest treatment facilities opened by



1 Defendants years before they informed the public of the threat posed by such  
2 clergy. After nearly a year of treatment at St. Luke, Defendants transferred him to  
3 Santa Barbara without warning to the community. Fr. Rodriguez abused at least two  
4 of his victims, Victim #s 60 and 61, in the County at St. Mary's Seminary. At least  
5 one victim recalls Fr. Rodriguez always being in the company of boys from various  
6 locations, including Santa Maria, Simi Valley and Ventura. Defendants are currently  
7 the subject of no less than four civil lawsuits alleging abuse by Fr. Rodriguez and  
8 concealment of his propensities. Id.

9         Shortly before Defendants transferred Fr. Rodriguez to Santa Barbara, then  
10 Auxillary Bishop Patrick Ziemann (Perpetrator #28) was appointed the Regional  
11 Bishop for the Santa Barbara Pastoral Region. Fr. Ziemann's offices were located  
12 in Santa Barbara. Before Defendants assigned Fr. Ziemann to Santa Barbara, he  
13 spent time at Queen of the Angels Junior Seminary in Los Angeles in the 1970s.  
14 Plaintiff John Doe 5 has filed a lawsuit alleging Fr. Ziemann sexually assaulted him  
15 on seminary grounds during this time. In that same lawsuit plaintiff John Doe 6  
16 alleges he was the victim of childhood sexual abuse by Fr. Ziemann from 1968-69 at  
17 a parish and school in Huntington Park. Fr. Ziemann later was appointed Bishop of  
18 Santa Rosa, a position he ultimately was forced to resign because of allegations he  
19 blackmailed a younger priest into having sex with him. Id.

20         **i. Defendants Continue to Ignore Reports of Abuse**

21         In 1982, Victim #14 reported his abuse by Fr. Cimmarrusti to Defendants'  
22 agents' Provincial Minister at the time, Fr. Louis Vitale. Victim #14 told Fr. Vitale all  
23 about the sexual assaults, violence, and other abusive behavior that occurred at St.  
24 Anthony's when Victim #14 was a student. Fr. Vitale said that he "was not  
25 surprised," and that "others had complained" about Fr. Cimmarrusti. Vitale also said  
26 that Defendants' agents had sent Fr. Cimmarrusti to Mexico but that he got into  
27 similar trouble with the Mexican authorities who wanted to throw Fr. Cimmarrusti in  
28 prison for events that took place in Guaymas. Vitale did not specify what events

1 except that they were of a sexual nature with kids and that – in keeping with the  
2 official and unofficial practice of Defendants in denying the truth about their  
3 pedophilic priests, and their corporate practice of concealing childhood sexual abuse  
4 from the civil authorities, the faithful and the unsuspecting public – Defendants'  
5 agents had made arrangements with the Mexican authorities to have Fr.  
6 Cimmarrusti deported in lieu of serving prison time. Fr. Vitale told Victim #14 that  
7 Fr. Cimmarrusti had been placed at St. Mary of Assumption Church in Stockton,  
8 which was a place where Fr. Cimmarrusti would not come in contact with children.  
9 Id. at Paras. 118-19.

10 Victim #14 later learned, in the early 1990's, that Fr. Vitale had not told him  
11 the truth as Fr. Cimmarrusti had in fact been transferred to a parish duties in the  
12 San Juaquin Valley. Shortly thereafter Victim #14 confronted the Provincial Minister  
13 at the time, Fr. Joseph Chinnici, in the provincial offices in Oakland. Victim #14  
14 restated what he had told the last Provincial Minister, Fr. Vitale, and said that it was  
15 unreasonable for Fr. Cimmarrusti to be stationed as pastor of a parish and allowed  
16 to minister. Chinnici claimed he was unaware of Fr. Cimmarrusti's history of abuse.  
17 Id.

18 **F. The 1990's to the Present: Defendants Close St. Anthony's but Continue**  
19 **to Send Child-Abusing Clergy and Brothers to Santa Barbara County**

20 Despite St. Anthony's closure in 1987, Fr. Van Handel's assaults against  
21 young boys continued at least until he was forced to leave the seminary in 1992. Fr.  
22 Van Handel's assaults against Victim #57 continued until at least 1992. Additionally,  
23 from approximately 1990-92 Van Handel repeatedly assaulted, among others, choir  
24 member Victim #62, and also allowed him to be abused by Van Handel's an  
25 Englishman who was Van Handel's friend and fellow pedophile. Victim #49 also  
26 was abused by this Englishman during a SBBC trip to Magic Mountain, and recalls  
27 being terrified in a hotel room in his sleeping bag as the man lay on top of him,  
28 stroked and kissed his head, and told him how beautiful he (Victim #49) was. In

1 another instance, the Englishman asked a young choir boy whether he wanted a  
2 foot rub. When the boy said yes, Van Handel's friend instead placed his hands  
3 down the boys pants and assaulted the boy. In short, Van Handel gave his fellow  
4 pedophile access to members of the SBBC Van Handel had selected for his sexual  
5 gratification. Fr. Van Handel assaulted an unknown but undoubtedly high number of  
6 SBBC members in the early 1990's before being sent to prison for eight years in  
7 1994 for childhood sexual abuse. Id. at Para. 120.

8 **i. The Board of Inquiry**

9 In 1992, Defendants' agents formed their so-called "Independent" Board of  
10 Inquiry ("Board") to investigate the abuse that had been going on at St. Anthony's.  
11 The Board was anything but "independent" of Defendants' agents as Board  
12 members were reporting to one of Defendants' agents who could  
13 approve/disapprove of the report. Not surprisingly, **no reference is made in the**  
14 **Board's report to the reports of abuse made to Defendants' agents.** Victim #22  
15 has confirmed he told the Board of reporting Cimmarrusti's criminal conduct to Fr.  
16 Harris. A truly independent report would have referenced and addressed this fact,  
17 as well as the numerous other incidents of actual notice to Defendants of the acts of  
18 childhood sexual abuse committed by priests and Religious brothers. Instead, the  
19 Board's report continued the concealing and covering up of the truth, publicizing as  
20 little information as possible, and utterly ignoring the responsibility of Defendants'  
21 hierarchy for allowing and enabling the abuse of children by priests and Religious  
22 brothers. Id. at Paras. 121-26.

23 Defendants' conduct in this regard – protecting and concealing their  
24 pedophilic brethren while sacrificing the children in Santa Barbara County – was not  
25 a mistake or the result of misinformation on the part of the hierarchy. Rather, the  
26 conduct by the hierarchy represents a complete moral, ethical and spiritual failure  
27 which resulted in the consummate misuse and abuse of the tremendous power they  
28 wield as Defendants' representatives. Defendants made and continue to make

1 deliberate decisions to protect pedophilic priests while placing the children of Santa  
2 Barbara County, among other locations, at risk. Defendants also continue to  
3 mischaracterize this conduct as “mistakes,” or “errors of judgement.” Id. Arguing,  
4 as Defendants’ agents have, that a priest has a right to privacy when he sexually  
5 assaults a child is not a “mistake” or an “error of judgment.”

6         Meanwhile, the aforementioned moral, ethical and spiritual failure on the part  
7 of Defendants has continued into the 21<sup>st</sup> Century. From the late 1960s until the  
8 early 1980's Fr. Christopher Kearney (Perpetrator #29) was assigned to St. Francis  
9 High School in La Canada, located within Defendants’ boundaries. Fr. Kearney has  
10 been identified as the perpetrator in multiple currently filed lawsuits alleging abuse of  
11 at least ten different victims from 1968 to at least 1983. In 1995, without warning to  
12 the community, Defendants transferred Fr. Kearney to San Lorenzo Seminary and  
13 Prayer Center in Santa Ynez. Defendants allowed Fr. Kearney to live and work in  
14 the County for almost seven years without any warning or word of caution to the  
15 community. In 2003, Defendants transferred Fr. Kearney from Santa Ynez. Id.

16         Fr. James M. Ford (Perpetrator #30) has been assigned to multiple locations  
17 throughout Santa Barbara County, including St. Raphael’s in Goleta from  
18 approximately 1972 to 1976, Our Lady of Mt. Carmel from approximately 1977 to  
19 1981 and, currently, at San Roque since 1995. Prior to Fr. Ford’s transfer to Santa  
20 Barbara in approximately 1971, the plaintiff in a currently filed lawsuit – involving  
21 allegations of abuse by Fr. Ford between 1968-71 – told three priests about Fr.  
22 Ford. Two of those priests – Fr. David LaPierre and Fr. Patrick Ziemann – are the  
23 subject of currently filed lawsuits for childhood sexual abuse. Despite receiving  
24 such reports, Defendants transferred Fr. Ford to Santa Barbara without warning to  
25 the community. Further, Defendants continue to allow Fr. Ford to serve in Santa  
26 Barbara at San Roque while the prosecution of the current lawsuit goes forward. Id.

27         A little over one year ago, in July of 2003, it was revealed Defendants’ agents  
28 had assigned an admitted perpetrator – Fr. Gus Krumm – to a parish in Sacramento

1 which was next door to a school. Again, Defendants assigned Fr. Krumm without  
2 any warning to the community. In fact, one priest readily admitted he was aware of  
3 Fr. Krumm's prior abuses but did not think it was appropriate to share the  
4 information even with the parish's own parishioners. Even worse, despite the fact  
5 Defendants claim Fr. Krumm was forbidden contact with young children, he did in  
6 fact have direct contact with young children while at this assignment. Id.

7         The most recent such case to which Defendants have admitted – albeit only  
8 after Defendants learned a reporter from the Dallas Morning News, Brooks Egerton,  
9 intended to make the facts public – involves a Religious brother. Specifically, in the  
10 early to mid-1970's Br. Gerald Chumik (Perpetrator #31) assaulted at least one  
11 victim in Canada. Canadian authorities attempted to prosecute Br. Chumik in the  
12 1990s, but Br. Chumik fled Canada to the United States. Now, Defendants' agents  
13 harbor Br. Chumik, a fugitive from justice, behind the walls of the Mission. They do  
14 so with the full support of Defendants. Most important, despite the fact Br. Chumik  
15 has lived in the Santa Barbara community for over a year, it was not until Mr.  
16 Egerton's story was about to be published that Defendants provided any warning to  
17 the public, much less to neighboring schools or families with children in the  
18 neighborhood around the Mission, of the threat Br. Chumik poses. Instead,  
19 Defendants' agents have taken the position that they "can't ask him (Br. Chumik) to  
20 do something he doesn't want to do," i.e. turn himself over to Canadian authorities.  
21 In short, Defendants' pattern of conduct – placing perpetrators of childhood sexual  
22 abuse into communities without any warning to families or schools – is ongoing, and  
23 creates a continuing public nuisance. Id.

24         Finally, even if there were no evidence of this pattern of conduct the number  
25 of assaults – not to mention the numerous locations of the assaults – committed by  
26 Defendants' agents since 1936 make it impossible and unbelievable for Defendants  
27 to claim they were and/or are not aware of the risk a child in Santa Barbara County  
28 faces when he or she comes into contact with Defendants' agents. At the least,

1 Defendants' should have known of and protected children from the risk they faced in  
2 Santa Barbara due to the rampant acts of pedophilia and/or ephebophilia of  
3 Defendants' agents. In fact, saying Defendants **should have known** is not  
4 accurate, as the evidence shows that not only should Defendants have known of the  
5 criminal acts of their priests, they repeatedly received **actual notice** of the  
6 commission of these acts, and **constructive notice** of the likelihood of such acts.  
7 Unfortunately, the evidence shows Defendants failed to act in response to this  
8 actual notice and took no steps to protect the children they placed at risk. Instead,  
9 Defendants increased that risk exponentially by concealing from the community the  
10 pedophilic and/or ephebophilic propensities of their agents.

11 In John Roe 4's case, had Defendants heeded the constructive notice  
12 provided by Fr. Kelly regularly and openly taking adolescent boys to his cabin, or the  
13 actual notice provided by individuals who observed or suffered Fr. Kelly's pedophilic  
14 behavior, Fr. Kelly's assaults against John Roe 4 never would have occurred. For  
15 these reasons, plaintiff respectfully requests the Court grant this Application to  
16 Amend his complaint to identify DOES 1 and 2.

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III.

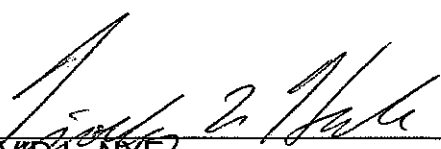
**REQUEST FOR CONFIDENTIALITY**

Plaintiffs further request that the Court keep the concurrently filed Confidential Certificate of Corroborative Fact under seal and confidential from the public and all the parties to the litigation pursuant to Code of Civil Procedure § 340.1 which states:

(p) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (n).

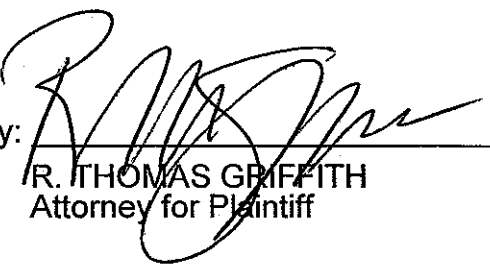
DATED: August 18, 2004

Respectfully submitted,  
NYE, PEABODY & STIRLING, LLP

By:   
DAVID L. NYE  
TIMOTHY C. HALE  
Attorneys for Plaintiff

DATED: August 18, 2004

LAW OFFICES OF R. THOMAS GRIFFITH

By:   
R. THOMAS GRIFFITH  
Attorney for Plaintiff

## PROOF OF SERVICE

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen years and not a party to this action. My business address is 33 West Mission Street, Suite 201, Santa Barbara, California 93101.

On the date stated below, I served the following document: **IN CAMERA APPLICATION TO AMEND COMPLAINT TO IDENTIFY FICTITIOUS DEFENDANTS** on the interested parties in this action, by placing A COPY thereof in sealed envelope(s) addressed as follows:

Lee W. Potts  
Hennigan, Bennett & Dorman, LLP  
601 South Figueroa Street, Ste. 3300  
Los Angeles, CA 90017

Attorney for Defendants

- By Mail.** I deposited such envelope(s) with postage thereon fully prepared in the United States mail at Santa Barbara, California on August 20, 2004.
- By Personal Service.** I delivered such envelope(s) by hand to the office(s) of the addressee(s) on August 20, 2004.
- By Fax Service.** I transmitted such document via facsimile transmission machine to the above-listed addressee(s) on August 20, 2004.
- By Express Service Carrier.** I delivered such envelope(s) to a driver of Federal Express, an express service carrier, with delivery fees provided for on August 20, 2004 for next day delivery.

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

Dated: August 20, 2004

  
\_\_\_\_\_  
RENEE FAIRBANKS