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2 it and what they did with that information. Defendants Cardinal Norberto Rivera and The
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4 duties prior to sending Father Nicholas Aguilar Rivera to the Archdiocese of Los Angeles. On
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15 Father McClean when these individuals became aware of the allegations leveled against Father
16 Nicholas Aguilar Rivera. The purpose of this line of inquiry was to ascertain if the issue of
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19 not discussed the reasons therefore. It is clear that while Father Nicholas Aguilar was an
20 extern priest in Los Angeles he remained under the authority of his bishop, Bishop Norberto
21 Rivera. It is also clear that while an extern priest in Los Angeles up until present Father
22 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

23 **7. Document Requested:**

24 ALL DOCUMENTS containing the passport of Father Nicolas Aguilar (aka Nicolas
25 Aguilar Rivera).

26 **Response/Objection:**

27 See above discussion between counsel.

28 **Reason production should be compelled:**

Any party may obtain discovery regarding any matter, not privileged, that is relevant to

1 the subject matter involved in the pending action or to the determination of any motion made
2 in that action, if the matter either is itself admissible in evidence or appears reasonably
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23 not discussed the reasons therefore. It is clear that while Father Nicholas Aguilar was an
24 extern priest in Los Angeles he remained under the authority of his bishop, Bishop Norberto
25 Rivera. It is also clear that while an extern priest in Los Angeles up until present Father
26 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

27 **8. Document Requested:**

28 ALL DOCUMENTS containing the visa of Father Nicolas Aguilar (aka Nicolas Aguilar Rivera) to travel to the United States in 1987).

1 **Response/Objection:**

2 See above discussion between counsel.

3 **Reason production should be compelled:**

4 Any party may obtain discovery regarding any matter, not privileged, that is relevant to
5 the subject matter involved in the pending action or to the determination of any motion made
6 in that action, if the matter either is itself admissible in evidence or appears reasonably
7 calculated to lead to the discovery of admissible evidence. (*Code of Civil Procedure Section*
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12 duties prior to sending Father Nicholas Aguilar Rivera to the Archdiocese of Los Angeles. On
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14 Nicholas Aguilar Rivera committing child sexual abuse and thereby his unfitness for priestly
15 duties. On January 9, 1988 Bishop Curry met with Father Nicholas Aguilar Rivera. The Los
16 Angeles Archdiocese did not notify Los Angeles authorities until three days later, January 11,
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18 Aguilar Rivera left Los Angeles never to return and thereby avoided capture. From January 9,
19 1988 until present Father Nicholas Aguilar Rivera has remained a priest incardinated in the
20 Diocese of Tehuacan. During the depositions of Cardinal Roger Mahony and Bishop Thomas
21 Curry plaintiff's counsel attempted to inquire as to what was said between Cardinal Mahony
22 and Bishop Curry, Bishop Curry and Father Nicholas Aguilar Rivera, and Bishop Curry and
23 Father McClean when these individuals became aware of the allegations leveled against Father
24 Nicholas Aguilar Rivera. The purpose of this line of inquiry was to ascertain if the issue of
25 contacting Father Nicholas Aguilar Rivera's Superior, Bishop Norberto Rivera, or contacting
26 Father Nicholas Aguilar Rivera's diocese The Diocese of Tehuacan was discussed and if it was
27 not discussed the reasons therefore. It is clear that while Father Nicholas Aguilar was an
28 extern priest in Los Angeles he remained under the authority of his bishop, Bishop Norberto
Rivera. It is also clear that while an extern priest in Los Angeles up until present Father

1 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

2 **9. Document Requested:**

3 ALL DOCUMENTS containing the United States government documentation allowing
4 Father Nicolas Aguilar (aka Nicolas Aguilar Rivera) to work in the United States in 1987 and
5 1988.

6 **Response/Objection:**

7 See above discussion between counsel.

8 **Reason production should be compelled:**

9 Any party may obtain discovery regarding any matter, not privileged, that is relevant to
10 the subject matter involved in the pending action or to the determination of any motion made
11 in that action, if the matter either is itself admissible in evidence or appears reasonably
12 calculated to lead to the discovery of admissible evidence. (*Code of Civil Procedure Section*
13 *2017.010.*) At issue in this matter is the sexual abuse of plaintiff, what defendants knew of
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15 it and what they did with that information. Defendants Cardinal Norberto Rivera and The
16 Diocese of Tehuacan were aware of Father Nicholas Aguilar Rivera's unfitness for priestly
17 duties prior to sending Father Nicholas Aguilar Rivera to the Archdiocese of Los Angeles. On
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19 Nicholas Aguilar Rivera committing child sexual abuse and thereby his unfitness for priestly
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21 Angeles Archdiocese did not notify Los Angeles authorities until three days later, January 11,
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23 Aguilar Rivera left Los Angeles never to return and thereby avoided capture. From January 9,
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25 Diocese of Tehuacan. During the depositions of Cardinal Roger Mahony and Bishop Thomas
26 Curry plaintiff's counsel attempted to inquire as to what was said between Cardinal Mahony
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3 not discussed the reasons therefore. It is clear that while Father Nicholas Aguilar was an
4 extern priest in Los Angeles he remained under the authority of his bishop, Bishop Norberto
5 Rivera. It is also clear that while an extern priest in Los Angeles up until present Father
6 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

7 **10. Document Requested:**

8 For each priest who worked in YOUR Archdiocese and thereafter worked in a diocese
9 in Mexico, the DOCUMENTS CONCERNING the change in location of their place of work.

10 **Response/Objection:**

11 See above discussion between counsel.

12 **Reason production should be compelled:**

13 Any party may obtain discovery regarding any matter, not privileged, that is relevant to
14 the subject matter involved in the pending action or to the determination of any motion made
15 in that action, if the matter either is itself admissible in evidence or appears reasonably
16 calculated to lead to the discovery of admissible evidence. (*Code of Civil Procedure Section*
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24 duties. On January 9, 1988 Bishop Curry met with Father Nicholas Aguilar Rivera. The Los
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8 extern priest in Los Angeles he remained under the authority of his bishop, Bishop Norberto
9 Rivera. It is also clear that while an extern priest in Los Angeles up until present Father
10 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

11 **11. Document Requested:**

12 ALL DOCUMENTS containing the policy of YOUR Archdiocese CONCERNING the
13 change in location of a priest from YOUR diocese to another diocese.

14 **Response/Objection:**

15 See above discussion between counsel.

16 **Reason production should be compelled:**

17 Any party may obtain discovery regarding any matter, not privileged, that is relevant to
18 the subject matter involved in the pending action or to the determination of any motion made
19 in that action, if the matter either is itself admissible in evidence or appears reasonably
20 calculated to lead to the discovery of admissible evidence. (*Code of Civil Procedure Section*
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15 **12. Document Requested:**

16 ALL DOCUMENTS containing the policy of YOUR Archdiocese CONCERNING the
17 change in location of a priest from another diocese to YOUR diocese.

18 **Response/Objection:**

19 See above discussion between counsel.

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18 Nicholas Aguilar Rivera must obey orders from the Bishop of the Diocese of Tehuacan.

19 **13. Document Requested:**

20 ALL DOCUMENTS containing the policy of YOUR Archdiocese CONCERNING the
21 incardination of a priest from YOUR diocese to another diocese.

22 **Response/Objection:**

23 See above discussion between counsel.

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5 Dated: September 26, 2007

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THE DRIVON LAW FIRM


ROBERT T. WATERS

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CONFIDENTIAL

PROOF OF SERVICE

I declare that:

I am employed in the County of San Joaquin, State of California. I am over the age of eighteen (18) years and not a party to the within cause of action; my business address is 215 North San Joaquin Street, Stockton, California 95202.

On September 19, 2007, I served the within:

SEPARATE STATEMENT OF DISPUTED QUESTIONS AND ANSWERS

on all interested parties in said action, addressed as follows:

INTERESTED PARTY	MAIL	HAND DELIVERY	E-MAIL	FAX
Michael L. Cypers Evan M. Wooten Elena G. Griffin MAYER BROWN LLP 350 S. Grand Avenue, 25th Floor Los Angeles, CA 90071-1503 Fax: (213) 625-0248 Email: <u>mcypers@mayerbrown.com</u> <u>ewooten@mayerbrown.com</u> <u>egriffin@mayerbrown.com</u>			XX	
Don Woods James Habel HENNIGAN, BENNETT & DORMAN LLP 865 South Figueroa Street, Suite 2900 Los Angeles, CA 90017 Fax: (213) 694-1234 Email: <u>woods@hbdlawyers.com</u> <u>habelj@hbdlawyers.com</u>			XX	
Steven R. Selsberg (<i>Pro Hac Vice</i>) MAYER, BROWN, ROWE & LAW, LLP 700 Louisiana Street, Suite 3400 Houston, TX 77002-2730 Fax: (713) 238-4888 Email: <u>srselsberg@mayerbrown.com</u>			XX	
Jeffrey Anderson Michael G. Finnegan Jeff Anderson & Associates E-1000 First National Bank Bldg. 332 Minnesota Street St. Paul, MN 55101 Fax: (651) 297-6543 Email: <u>Jeff@andersonadvocates.com</u> <u>Mike@andersonadvocates.com</u> <u>Therese@andersonadvocates.com</u>			XX	

1	Martin D. Gross Law Offices of Martin D. Gross 2001 Wilshire Blvd., Suite 300 Santa Monica, CA 90403 Fax: (310) 861-1359 Email: <u>martin@lawgross.com</u>			XX	
5	Gary Dolinski Joseph W. Carcione, Jr. CARCIONE, CATTERMOLE, et al. 601 Brewster Avenue P.O. Box 3389 Redwood City, CA 94064 Fax: (650) 367-0367 Email: <u>Gdolinski@carcionelaw.com</u>			XX	
9					

10 **MAIL:** Being familiar with the practice of this office for the collection and the processing of
 11 correspondence for mailing with the United States Postal Service, and deposited in the United
 12 States Mail copies of the same to the business addresses set forth above, in a sealed envelope
 fully prepaid.

13 **HAND:** By placing a true copy thereof in a sealed envelope and causing said envelope to be
 delivered by hand to the address(s) noted above, during normal business hours.

14 **E-MAIL:** By transmitting same via electronic email between the hours of 8:30 a.m. and 5:00
 15 p.m. to the addressee(s) noted above at the email addresses shown.

16 **FAX:** By personally transmitting same via an electronic facsimile machine between the hours of
 8:30 a.m. and 5:00 p.m., to the addressee(s) noted above at the facsimile number shown.

17 I declare under penalty of perjury under the laws of the State of California that the
 18 foregoing is true and correct. Executed on the above date at Stockton, California.

19 
 20 JANIE R. FRANK

1 Laurence E. Drivon, SBN 46660
David E. Drivon, SBN 158369
2 Robert T. Waters, SBN 196833
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3 215 N. San Joaquin Street
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4 Telephone: (209) 644-1234

5 Michael G. Finnegan, SBN 241091
JEFF ANDERSON & ASSOCIATES
6 E-1000 First National Bank Building
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7 St. Paul, MN 55101
Telephone: (651) 227-9990

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9 Martin D. Gross, SBN 147426
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10 Santa Monica, CA 90403
Telephone: (310) 453-8320

11 Joseph W. Carcione, Jr., SBN 56693
12 Gary W. Dolinski, SBN 107725
CARCIONE, CATTERMOLE, et. al.
13 601 Brewster Avenue
P. O. Box 3389
14 Redwood City, CA 94064-3389
Telephone: (650) 367-6811

15 Attorneys for Plaintiff

16
17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 LOS ANGELES COUNTY, CENTRAL DISTRICT

19
20 JOAQUIN AGUILAR MENDEZ,

CASE NO. BC358718

21 Plaintiff,

DECLARATION OF ROBERT T.
WATERS IN SUPPORT OF MOTION
FOR ORDER COMPELLING
ANSWERS TO DEPOSITION
QUESTIONS AND PRODUCTION
OF DOCUMENTS

22 v.

23 CARDINAL ROGER MAHONY, et
al.,

24 Defendants.

DATE: 11/20/07
TIME: 8:30 A.M.
DEPT: 42

25
26 I, ROBERT T. WATERS DO HEREBY DECLARE:

27
28 I. I am an attorney with The Drivon Law Firm, one of the attorneys of record for
plaintiff JOAQUIN AGUILAR MENDEZ. I am over the age of 18 and have personal

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1 knowledge of the facts put forth herein and would testify thereto if called to do so.

2 2. I was present at the depositions of both CARDINAL ROGER MAHONY and
3 Bishop Thomas Curry. I examined Bishop Curry at his deposition. Plaintiff's counsel Jeffrey
4 Anderson examined CARDINAL MAHONY.

5 3. The depositions of CARDINAL MAHONY and Bishop Curry were taken on
6 September 13, 2007, in Los Angeles, California, before a certified shorthand reporter and
7 videographer pursuant to each respective's deponents amended notice of taking deposition. A
8 true and correct copy of CARDINAL MAHONY's notice of taking deposition is attached
9 hereto as Exhibit "A". A true and correct copy of Bishop Curry's notice of taking deposition is
10 attached hereto as Exhibit "B".

11 4. At each deposition, CARDINAL MAHONY and Bishop Curry refused to answer
12 certain questions on the advice of Donald F. Woods, Jr., who was acting as counsel for the
13 deponents.

14 5. For purposes of this motion, I have prepared and have filed with this declaration a
15 Statement of Questions and Responses in Dispute, setting forth the questions and the
16 deponent's refusal to answer. For the reasons stated in that Statement, the deponents should be
17 ordered to answer the respective questions.

18 6. Each deposition notice attached hereto required the respective deponent to bring to
19 the deposition certain documents. Good cause exists for the production of these documents in
20 that these documents are not privileged, are in the sole possession and control of each deponent
21 and plaintiff has no other means of obtaining the documents, such documents are necessary to
22 the prosecution of plaintiff's case. Each category of documents in the respective deposition
23 notice addresses issues highly relevant to the jurisdictional issue pending before the Court. In
24 my view, the Defendants in this case, and the Deponent and his attorneys, have blocked
25 discovery about AGUILAR to a point where the Plaintiff cannot prepare meaningfully to
26 oppose the MEXICAN DEFENDANTS' Motion To Quash Service of Summons which is to be
27 heard before this court on October 11, 2007. It is improper for the Deponent's attorneys to
28 withhold documents on the basis of "relevance", when they are the sole arbiters of

1 "relevance". The Plaintiff must be allowed to examine all of the documents, in order to make
2 an independent evaluation of "relevance".

3 7. While each deponent brought certain documents to the deposition; other documents
4 were unilaterally removed the files of documents sought.

5 In particular, the personnel file of AGUILAR (plaintiff's request No. 3 in both
6 amended notices of taking deposition) who counsel Mr. Woods referred at deposition to as
7 being in two files (i.e., a "P" file for Personnel File and the "C" file for Confidential File) had
8 been bate-stamped and as produced by MAHONY and Bishop Curry had gaps of numbered
9 pages missing. Neither deponent produced a privilege log at deposition.

10 8. At the time of the deposition, plaintiff made a good faith attempt to informally
11 resolve the issue of the production of documents which resulted as follows:

12 As pertaining to the deposition and production of documents from CARDINAL
13 MAHONY, the following ensued:

14 Mr. Anderson: Counsel, I wasn't suggesting you give us the document on
15 which you're asserting the privilege. I was suggesting you give us - identify the
16 nature of the document and the privilege on which it's being withheld so that
17 that can be scrutinized. I'm not suggesting you give us the document.

18 As - as to the documents being withheld on the basis of relevancy
19 pertaining to jurisdiction, I am suggesting as the alternative proposal, you give
20 us those documents. Do you understand?

21 Mr. Woods: I hear it.

22 Mr. Anderson: Okay.

23 Mr. Woods: You have my response, and we'll - we'll let the judge decide.

24 (The deposition of Cardinal Mahony, Exhibit C, P. 14-22:15 - cited here is P.22:1-15)

25 As pertaining to the deposition and production of documents from Bishop Curry, the following
26 ensued:

27 Mr. Waters:...Have you brought any documents responsive to this deposition
28 notice?

29 Mr. Woods: Let me just - let me just say on behalf of the witness that the
30 documents we presented this morning at the deposition of Cardinal Mahony are
31 the documents that, as he testified, Bishop Curry pulled from the file. And
32 everything I said about those documents would apply here, as well.

33 Mr. Waters: Okay. And then our objection to the fact the entire file wasn't
34 produced here today for our inspection, you understand that that's still an issue?

35 Mr. Woods: We assert all the same objections. Everything I said this morning
36 applies, we understand everything you said applies, and we will seek guidance
37 from the judge.

38 (The deposition of Bishop Thomas Curry, Exhibit D, P. 14:14-15:3).

1 9. Attached hereto as Exhibits "C" and "D" are true and correct certified copies of the
2 entire depositions of CARDINAL MAHONY and Bishop Curry, respectively. The entire
3 depositions are lodged with the Court herein as the questions, objections, and counsel
4 discussion relative to this motion is throughout each respective deposition.

5 10. The deponents' refusal to answer the proper and relevant questions and produce
6 the documents request was without substantial justification.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Signed this 19th day of September, 2007, in Stockton California.

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12 ROBERT T. WATERS
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