

1 **PRELIMINARY STATEMENT**

2 The Diocese's responses to the Requests are made solely for the purpose of this action.
3 Each response is made subject to all objections as to competence, relevance, materiality,
4 propriety, admissibility, privilege, privacy, proprietary information, trade secrets and the like,
5 and any and all other objections on grounds that would require the exclusion of any response
6 herein if such were offered in Court, all of which objections and grounds are reserved and may
7 be interposed at anytime, including at the time of trial.

8 No incidental or implied admissions are intended in these responses. The Diocese's
9 response to any Request should not be taken as an admission that The Diocese accepts or admits
10 the existence of any fact(s) or any document(s) assumed by that Request or that such response
11 constitutes admissible evidence. The Diocese's response to any such Request is not intended to
12 be, and shall not be construed as, a waiver by The Diocese of any or all objection(s) to the
13 Request.

14 The Diocese has not completed its (a) investigation of the facts relating to this case, (b)
15 discovery in this action, or (c) preparation for trial. The following responses are based upon
16 information known at this time and are given without prejudice to The Diocese's right to amend,
17 supplement or revise these responses with any subsequently discovered information.

18 Further, The Diocese is in the process of searching for responsive documents. Subject to
19 and without waiving the General Objections set forth below and the specific objections to each
20 Request, The Diocese will provide non-privileged, responsive documents, if any exist, within its
21 possession, custody or control pursuant to an appropriate protective order at a mutually
22 convenient time and place.

23 **GENERAL OBJECTIONS**

24 The Diocese makes and hereby incorporates by reference the following general
25 objections, whether or not separately set forth in response to each Request:

26 1. The Diocese objects to each Request to the extent that it seeks information protected
27 by the attorney-client privilege, the work-product doctrine, the doctrine of associational privacy,
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1 a confidentiality agreement and/or information that is otherwise privileged, protected or
2 confidential pursuant to any applicable doctrine, statute, rule or case law. Such responses as may
3 hereafter be given shall not include any information protected by such privileges, doctrines,
4 statutes, rules, or case law and any inadvertent disclosure of such information shall not be
5 deemed a waiver of any such privilege, protection or confidentiality.

6 2. The Diocese objects to the Requests to the extent that they seek the production of
7 documents that contain private, business confidential, proprietary or trade secret information.
8 Such documents are privileged pursuant to the California Constitution and/or the California
9 Evidence Code and may be produced to Plaintiffs only pursuant to a stipulated protective order.

10 3. The Diocese objects to each Request insofar as it assumes facts that are not in
11 evidence. By responding to these Requests, The Diocese does not admit or agree with any
12 explicit or implicit assumption made in these Requests.

13 4. The Diocese objects to the Requests to the extent they seek the production of
14 documents and information unrelated to the issue of whether California courts may lawfully
15 exercise jurisdiction over Defendants Cardinal Norberto Rivera and the Diocese (jointly, the
16 "Defendants"), for which purpose the Court granted limited discovery.

17 5. Notwithstanding the objection raised in Paragraph 4, The Diocese objects to the
18 Requests to the extent that they are not relevant to the subject matter involved in the pending
19 action, not reasonably calculated to lead to the discovery of admissible evidence or seek
20 information that is outside the scope of discovery permitted under the California Code of Civil
21 Procedure.

22 6. The Diocese objects to the definitions of "YOU" and "YOUR" included in the
23 Requests on the ground that they are overly broad, compound, unduly burdensome, oppressive,
24 vague and ambiguous. The Diocese further objects to these definitions to the extent they imply
25 an agency or employment relationship where none exists in fact or in law. The Diocese further
26 objects to these definitions to the extent they improperly seek information regarding third parties.
27 The Diocese will respond on behalf of itself only.

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1 In addition to the above-stated objections to all of the Requests in general, the Diocese
2 also asserts objections to specific Requests, as indicated and explained below.

3 **RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

4 **REQUEST NO. 15:**

5 All DOCUMENTS CONCERNING Father Nicolas Aguilar (aka Nicolas Aguilar
6 Rivera).

7 **RESPONSE TO REQUEST NO. 15:**

8 The Diocese incorporates by reference its General Objections set forth above. The
9 Diocese further objects to this Request because it is overly broad, unduly burdensome and
10 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. Subject to
11 and without waiving its objections, the Diocese responds as follows:

12 The Diocese will produce such relevant, responsive and non-privileged documents as are
13 in its possession, custody or control, which documents have not been produced previously by the
14 Defendants.

15 **REQUEST NO. 16:**

16 All DOCUMENTS containing the name "Father Nicolas Aguilar (aka Nicolas Aguilar
17 Rivera)" in any formulation of those words.

18 **RESPONSE TO REQUEST NO. 16:**

19 The Diocese incorporates by reference its General Objections set forth above. The
20 Diocese further objects to this Request because it is overly broad, unduly burdensome and
21 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. Subject to
22 and without waiving its objections, the Diocese responds as follows:

23 The Diocese will produce such relevant, responsive and non-privileged documents as are
24 in its possession, custody or control, which documents have not been produced previously by the
25 Defendants.

26 **REQUEST NO. 17:**

27 All DOCUMENTS containing the personnel file of Father Nicolas Aguilar (aka Nicolas
28

1 Aguilar Rivera).

2 **RESPONSE TO REQUEST NO. 17:**

3 The Diocese incorporates by reference its General Objections set forth above. Subject to
4 and without waiving its objections, the Diocese responds as follows:

5 The Diocese will produce such relevant, responsive and non-privileged documents as are
6 in its possession, custody or control, which documents have not been produced previously by the
7 Defendants.

8 **REQUEST NO. 18:**

9 All DOCUMENTS CONCERNING the ordination of Father Nicolas Aguilar (aka
10 Nicolas Aguilar Rivera).

11 **RESPONSE TO REQUEST NO. 18:**

12 The Diocese incorporates by reference its General Objections set forth above. The
13 Diocese further objects to this Request because the term "ordination" is vague and ambiguous
14 and, as such, the Request does not designate the requested documents with reasonable
15 particularity as required by California Code of Civil Procedure § 2025.220(a)(4). Subject to and
16 without waiving its objections, the Diocese responds as follows:

17 The Diocese will produce such relevant, responsive and non-privileged documents as are
18 in its possession, custody or control, which documents have not been produced previously by the
19 Defendants.

20 **REQUEST NO. 19:**

21 All DOCUMENTS CONCERNING the incardination of Father Nicolas Aguilar (aka
22 Nicolas Aguilar Rivera).

23 **RESPONSE TO REQUEST NO. 19:**

24 The Diocese incorporates by reference its General Objections set forth above. The
25 Diocese further objects to this Request because the term "incardination" is vague and ambiguous
26 and, as such, the Request does not designate the requested documents with reasonable
27 particularity as required by California Code of Civil Procedure § 2025.220(a)(4). Subject to and
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1 without waiving its objections, the Diocese responds as follows:

2 The Diocese will produce such relevant, responsive and non-privileged documents as are
3 in its possession, custody or control, which documents have not been produced previously by the
4 Defendants.

5 **REQUEST NO. 20:**

6 All DOCUMENTS CONCERNING the incardination of Father Nicolas Aguilar (aka
7 Nicolas Aguilar Rivera) from the Archdiocese of Los Angeles to Mexico.

8 **RESPONSE TO REQUEST NO. 20:**

9 The Diocese incorporates by reference its General Objections set forth above. The
10 Diocese further objects to this Request because the term "incardination" is vague and ambiguous,
11 as is the phrase "incardination ... from the Archdiocese of Los Angeles to Mexico;" as such, the
12 Request does not designate the requested documents with reasonable particularity as required by
13 California Code of Civil Procedure § 2025.220(a)(4). Subject to and without waiving its
14 objections, the Diocese responds as follows:

15 The Diocese will produce such relevant, responsive and non-privileged documents as are
16 in its possession, custody or control, which documents have not been produced previously by the
17 Defendants.

18 **REQUEST NO. 21:**

19 All DOCUMENTS containing the passport of Father Nicolas Aguilar (aka Nocolas
20 Aguilar Rivera).

21 **RESPONSE TO REQUEST NO. 21:**

22 The Diocese incorporates by reference its General Objections set forth above. Subject to
23 and without waiving its objections, the Diocese responds as follows:

24 After a reasonably diligent search, the Diocese has not located any documents within its
25 possession, custody or control that are responsive to this Request.

26 **REQUEST NO. 22:**

27 All DOCUMENTS containing the visa of Father Nocolas Aguilar (aka Nicolas Aguilar
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1 Rivera) to travel to the United States in 1987.

2 **RESPONSE TO REQUEST NO. 22:**

3 The Diocese incorporates by reference its General Objections set forth above. Subject to
4 and without waiving its objections, the Diocese responds as follows:

5 After a reasonably diligent search, the Diocese has not located any documents within its
6 possession, custody or control that are responsive to this Request.

7 **REQUEST NO. 23:**

8 All DOCUMENTS containing the United States government documentation allowing
9 Father Nicolas Aguilar (aka Nicolas Aguilar Rivera) to work in the United States in 1987 and
10 1988.

11 **RESPONSE TO REQUEST NO. 23:**

12 The Diocese incorporates by reference its General Objections set forth above. Subject to
13 and without waiving its objections, the Diocese responds as follows:

14 After a reasonably diligent search, the Diocese has not located any documents within its
15 possession, custody or control that are responsive to this Request.

16 **REQUEST NO. 24:**

17 For each priest who worked in YOUR diocese and thereafter worked in a diocese in the
18 United States, the DOCUMENTS CONCERNING the change in location of their place of work.

19 **RESPONSE TO REQUEST NO. 24:**

20 The Diocese incorporates by reference its General Objections set forth above. The
21 Diocese further objects to this Request because it is overly broad, unduly burdensome and
22 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. Subject to
23 and without waiving its objections, the Diocese responds as follows:

24 The Diocese will produce such relevant, responsive and non-privileged documents as are
25 in its possession, custody or control, which documents have not been produced previously by the
26 Defendants.

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1 **REQUEST NO. 25:**

2 All DOCUMENTS containing the policy of YOUR diocese CONCERNING the change
3 in location of a priest from YOUR diocese to another diocese.

4 **RESPONSE TO REQUEST NO. 25:**

5 The Diocese incorporates by reference its General Objections set forth above. The
6 Diocese further objects to this Request because it is overly broad, unduly burdensome and
7 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. The Diocese
8 further objects to this Request because the term "policy" is vague and ambiguous. Subject to and
9 without waiving its objections, the Diocese responds as follows:

10 The Diocese will produce such relevant, responsive and non-privileged documents as are
11 in its possession, custody or control, which documents have not been produced previously by the
12 Defendants.

13 **REQUEST NO. 26:**

14 All DOCUMENTS containing the policy of YOUR diocese CONCERNING the change
15 in location of a priest from another diocese to YOUR diocese.

16 **RESPONSE TO REQUEST NO. 26:**

17 The Diocese incorporates by reference its General Objections set forth above. The
18 Diocese further objects to this Request because it is overly broad, unduly burdensome and
19 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. The Diocese
20 further objects to this Request because the term "policy" is vague and ambiguous. Subject to and
21 without waiving its objections, the Diocese responds as follows:

22 The Diocese will produce such relevant, responsive and non-privileged documents as are
23 in its possession, custody or control, which documents have not been produced previously by the
24 Defendants.

25 **REQUEST NO. 27:**

26 All DOCUMENTS containing the policy of YOUR diocese CONCERNING the
27 incardination of a priest from YOUR diocese to another diocese.
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1 **RESPONSE TO REQUEST NO. 27:**

2 The Diocese incorporates by reference its General Objections set forth above. The
3 Diocese further objects to this Request because it is overly broad, unduly burdensome and
4 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. The Diocese
5 further objects to this Request because the term "policy" is vague and ambiguous. Subject to and
6 without waiving its objections, the Diocese responds as follows:

7 The Diocese will produce such relevant, responsive and non-privileged documents as are
8 in its possession, custody or control, which documents have not been produced previously by the
9 Defendants.

10 **REQUEST NO. 28:**

11 All DOCUMENTS containing the policy of YOUR diocese CONCERNING the
12 incardination of a priest from another diocese to YOUR diocese.

13 **RESPONSE TO REQUEST NO. 28:**

14 The Diocese incorporates by reference its General Objections set forth above. The
15 Diocese further objects to this Request because it is overly broad, unduly burdensome and
16 oppressive, and it imposes an unreasonable burden and expense upon the Diocese. The Diocese
17 further objects to this Request because the term "policy" is vague and ambiguous. Subject to and
18 without waiving its objections, the Diocese responds as follows:

19 The Diocese will produce such relevant, responsive and non-privileged documents as are
20 in its possession, custody or control, which documents have not been produced previously by the
21 Defendants.

22 Dated: August 17, 2007

MAYER, BROWN, ROWE & MAW LLP
MICHAEL L. CYPERS
STEVEN R. SELSBERG
EVAN M. WOOTEN

23
24
25
26
27
28
By: 

Evan M. Wooten

Attorneys for Defendants Appearing Specially
CARDINAL NORBERTO RIVERA AND THE
DIOCESE OF TEHUACAN

DE : Fernández del Castillo y Asoc. NO.DE TEL : 5533 6700

17 AGO. 2007 01:37PM P4

FROM : ObisepadoYde Tehuacán

FAX NO. : 012383831468

Aug. 17 2007 02:23PM P2

VERIFICATION

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

Dated: August 17, 2007

By: Rodrigo Aguilar
Bishop Rodrigo Aguilar Martinez

CARCIONE, CATTERMOLLE, DOLINSKI,
OKIMOTO, STUCKY, UKSHINI,
MARKOWITZ & CARCIONE
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MATTHEW J. McNAUGHTON
Of Counsel

September 5, 2007

BY TELECOPIER, ONLY [(213) 625-0248]

Michael L. Cypers, Esq.
Evan M. Wooten, Esq.
Mayer, Brown, Rowe & Maw LLP
350 South Grand Avenue, 25th Floor
Los Angeles, CA 90071-1503

Re: *Joaquin Mendez v. Cardinal Roger Mahony, et al.*
[Los Angeles County Superior Court No. BC358718]

Dear Counsel:

Please reference the Responses (8/17/07) of the Diocese of Tehuacan to the Plaintiff's Document Demands (Set 2). The purpose of this correspondence is to "meet and confer" in an attempt to avoid motion practice in connection with those responses.

Initially, the "General Objections" are improper, and will not be addressed.

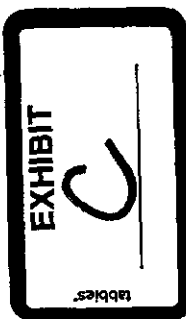
Each response to Document Demand Nos. 15 - 20, and 24 - 28, states: "The Diocese will produce such relevant, responsive and non-privileged documents as are in its possession, custody or control, which documents have not been produced previously by the Defendants."

Said response is improper because it does not state the documents will all be produced, without conditions. Hence, it appears that documents have been withheld on the basis of the Defendant's "secret" views about which documents are "relevant", "responsive", "non-privileged", and "not produced previously".

The responses must be amended to state "the documents will be produced".

If documents have been withheld, they must be identified in a privilege log.

Finally, Evan Wooten's letter dated August 17, 2007, states: "Please find enclosed documents bates labeled RIV 00089 through RIV 00093 on behalf of Defendants Cardinal Norberto Rivera and the Diocese of Tehuacan." Please clarify whether those 5 pages are the only documents that are being produced in response to the Plaintiff's Second Set of Document Demands, and to which Document Demands the documents are specifically being produced for.



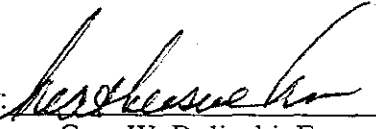
Michael L. Cypers, Esq.
Evan M. Wooten, Esq.
Joaquin Mendez v. Cardinal Roger Mahony, et al.
September 5, 2007
Page 2

By 5:00 p.m. tomorrow, we request that you advise that the Defendant will provide further document demand responses, and further estimate the date either the documents will be produced, or a privilege log served. We also request that your clarification of the produced documents be made in that time period as well.

Absent your cooperation, the Plaintiff will be forced to bring the requisite motion.

Sincerely,

CARCIONE, CATTERMOLE, DOLINSKI, ET AL.

By: 
for Gary W. Dolinski, Esq.

GWD/hs
opeiu3-afl-cio(259)

- cc: Steven R. Selsberg, Esq.
Houston Attorney for Cardinal Rivera and Diocese of Tehuacan
[by telecopier, only (712) 238-4888]
- cc: Laurence E. Drivon, Esq.
David E. Drivon, Esq.
Robert T. Waters, Esq.
Stockton Attorneys for Plaintiff
[by telecopier, only (209) 463-7668]
- cc: Michael Finnegan, Esq.
St. Paul Attorney for Plaintiff
[by telecopier, only (651) 297-6543]
- cc: Martin D. Gross, Esq.
Santa Monica Attorney for Plaintiff
[by telecopier, only (310) 861-1359]

cc: [vertical stamp]

*** MULTI TX/RX REPORT ***

TX/RX NO 3476
PGS 2
TX/RX INCOMPLETE

TRANSACTION OK
(1) 12136250248
(3) 12094637668
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ERROR INFORMATION
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**CARCIONE, CATTERMOLLE, DOLINSKI,
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September 5, 2007

BY TELECOPIER ONLY [(213) 625-0248]

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350 South Grand Avenue, 25th Floor
Los Angeles, CA 90071-1503

Re: *Joaquin Mendez v. Cardinal Roger Mahony, et al.*
[Los Angeles County Superior Court No. BC358718]

Dear Counsel:

Please reference the Responses (8/17/07) of the Diocese of Tehuacan to the Plaintiff's Document Demands (Set 2). The purpose of this correspondence is to "meet and confer" in an attempt to avoid motion practice in connection with those responses.

Initially, the "General Objections" are improper, and will not be addressed.

Each response to Document Demand Nos. 15 - 20, and 24 - 28, states: "The Diocese will produce such relevant, responsive and non-privileged documents as are in its possession, custody or control, which documents have not been produced previously by the Defendants."

Said response is improper because it does not state the documents will all be produced, without conditions. Hence, it appears that documents have been withheld on the basis of the Defendant's "secret" views about which documents are "relevant", "responsive", "non-

MAYER • BROWN

September 6, 2007

BY FAX

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Re: Joaquin Mendez v. Cardinal Roger Mahony, et al.
[Los Angeles County Sup. Ct. No. BC358718];
Various Discovery Responses

Dear Mr. Dolinski:

The purpose of this letter is to respond to your five letters, dated September 5, 2007, regarding the responses of Defendants Cardinal Norberto Rivera and the Diocese of Tehuacan (jointly, the "Defendants") to various discovery requests served by Plaintiff Joaquin Aguilar Mendez. Nothing in this letter should be construed to confirm or admit any of the alleged deficiencies in the Defendants' responses or production to date, and the Defendants hereby maintain and preserve all objections raised in response to Plaintiff's discovery requests.

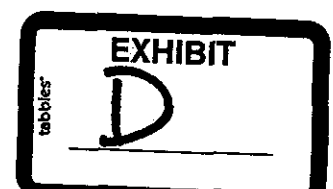
Plaintiff's Second Requests for Production to Cardinal Rivera & the Diocese of Tehuacan

To the extent that you demand that the Defendants redraft their responses to comport with your linguistic preferences, the Defendants do not acquiesce. Plaintiff's suggested response, *i.e.*, "the documents will be produced," is extremely vague and might well obligate the Defendants to produce documents that are not now, nor ever have been, in the Defendants' possession, custody or control. Moreover, to the extent that you imply that the Defendants are required to produce non-responsive, irrelevant or privileged documents, we, of course, do not agree. As the responses make clear and we are now restating in this letter, the Defendants have produced all relevant, responsive and non-privileged documents within their possession, custody or control. Documents withheld on the basis of privilege have been communicated to Plaintiff's counsel. See Letter to Mr. Finnegan Dated Aug. 21, 2007 and Enclosure (which documents also were transmitted via fax to Carcione, Cattermole, Dolinski, et al., LLP on August 21, 2007). We do not understand why you are now demanding a privilege log, three weeks after Mr. Finnegan made a similar request, with which we readily complied. Your obvious failure to communicate with co-counsel wastes the time and resources of all parties.

As to your request that we clarify whether the five documents Bates labeled RIV 00089 to RIV 00093 were the only documents produced in response to the second sets of requests for production, we clarify that the five documents Bates labeled RIV 00089 to RIV 00093 were *not* the only documents produced in response to those sets of requests. Numerous documents

Berlin Brussels Charlotte Chicago Cologne Frankfurt Hong Kong Houston London Los Angeles New York Palo Alto Paris Washington, D.C.

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Gary W. Dolinski, Esq.
September 6, 2007
Page 2

contained in the Defendants' initial production (*i.e.*, Documents Bates Labeled RIV 00001 to RIV 00088) are also responsive to Plaintiff's second sets of requests, several of which are quite broad (*e.g.*, Requests Nos. 13 to Cardinal Rivera and 15 to the Diocese of Tehuacan - "All DOCUMENTS CONCERNING Father Nicolas Aguilar"). As Mr. Selsberg communicated to Messrs. Drivon and Waters during the deposition of Cardinal Rivera, we did not re-produce those documents. For this reason, the Defendants responded to the second sets of requests that they would produce documents "not previously produced." Again, your failure to communicate with your co-counsel wastes time and resources.

In sum, the Defendants are not obligated to amend their discovery responses. Nonetheless, as stated, the Defendants have produced all relevant and responsive documents within their possession, custody or control, with the exception of the three documents indicated in the privilege log communicated to Plaintiff's counsel on August 21, 2007.

Plaintiff's First Special Interrogatories to the Diocese of Tehuacan

You complain that the Diocese of Tehuacan's (the "Diocese") responses to Special Interrogatories Nos. 2-9 and 11 "unilaterally limit the scope of the subject matter to 'current employees' of the Diocese" and that it was improper for Bishop Rodrigo Aguilar Martinez, the current Bishop of the Diocese, to answer the interrogatories. The limitation imposed on Plaintiff's interrogatories, as well the Diocese's responses, is imposed by law and not by the Defendants. At present, Plaintiff is entitled to conduct discovery on the limited issue of jurisdiction only. In analyzing jurisdiction, a defendant's contacts are adjudged at the time "the alleged conduct occurred and at the time of service of summons." See *DVI, Inc. v. Superior Court (Papworth)*, 104 Cal. App. 4th 1080, 1100 (2002). The Diocese's responses, therefore, are limited to the time of the alleged misconduct (*i.e.*, 1987 and 1988, during which time Plaintiff alleges that the Diocese and its Bishop, Cardinal Rivera, "transferred" Nicholas Aguilar to California and, later, aided in Aguilar's flight from California) and the present.¹ Cardinal Rivera is competent to respond to inquiries regarding the former time period (and did so in response to interrogatories directed to him) and Bishop Aguilar Martinez is competent to respond as to the latter time period (and did so). The same response applies to your comments regarding Interrogatories Nos. 16-19, 28-36, 37-41, 51-53,² 69-90 and 98-101, as do discussions below

¹ Because summons was never served in this action, the Diocese responded as to the time period commencing with filing of the Complaint and continuing to the present (*i.e.*, the dates on which the Diocese responded to the first interrogatories and later supplemented its responses to those interrogatories).

² We reject any insinuations you make with regard to the Diocese's claim that, "on information and belief," Nicholas Aguilar has been accused of sexually abusing minors. The preface "on information and belief" simply refers to the following facts: No current member of the Diocese has personal knowledge of the allegations against Nicholas Aguilar, as none were present in California at the time of the allegations, nor privy to communications between the Archdiocese of Los Angeles and then-

(cont'd)

Mayer Brown, LLP

Gary W. Dolinski, Esq.
September 6, 2007
Page 3

pertaining to the documents on which the Defendants base the information in connection with which they have no personal knowledge.

You also allege that the term "irrevocable resignation" from the parish is either inaccurate or misleading. As [you] understand Cardinal Rivera's deposition testimony, the 'irrevocable resignation' claim has been withdrawn, and the Diocese may want to change the interrogatory responses that rely upon a falsehood." Once again, your refusal to liaise with your colleagues, or digest the testimony, wastes the time and resources of all parties. As Mr. Selsberg communicated to Messrs. Waters and Drivon at the depositions of Cardinal Rivera and Bishop Aguilar Martinez, it was error to state that Nicholas Aguilar irrevocably resigned from the Diocese; rather, as the supplemental responses make plain, the Diocese meant to state that Aguilar irrevocably resigned from the Parish of San Sebastian Martir, Cuacnopalan in the Diocese. We thanked Messrs. Waters and Drivon for bringing the error to our attention and indicated that we supplement the responses to correct the error. Moreover, Cardinal Rivera's testimony comports with this understanding of the error and correction. Further, to imply that the Diocese is "rely[ing] upon a falsehood" reveals that you have not reviewed the Defendants' document production, as the term "irrevocable resignation" is a direct quote from the document Bates labeled RIV 00022.

In addition, you state that that "the claim that Father Aguilar went to California for 'family and health reasons' is another inaccuracy and should be corrected since Cardinal Rivera's Declaration made it clear those were codes for a sexual molester." This statement is so patently inaccurate and obviously incendiary as to not even warrant a response, and we are disappointed that you would so distort Cardinal Rivera's declaration in an alleged effort to "meet and confer."

Plaintiff's Second Special Interrogatories to the Diocese of Tehuacan

With regard to Interrogatory No. 55, your salacious accusation that the Defendants "are evading revealing the past and current whereabouts of Father Aguilar" by providing a last known address for Aguilar from 1987 in order to "mak[e] it impossible for the Plaintiff to find Father Aguilar and take his deposition" serves no purpose, other than to impugn the Defendants, and does not warrant a response. Nonetheless, it bears stating the obvious: the address is the last address evident in the personnel file of Nicholas Aguilar. As Cardinal Rivera testified, Nicolas Aguilar did not return to Tehuacan subsequent to fleeing California and Cardinal Rivera has had no contact with Aguilar since the latter's December 20, 1987 letter (from which letter the last known address was obtained). Nor has Nicholas Aguilar returned to Tehuacan during the tenure of the Bishop Aguilar Martinez despite the Bishop's public requests that Aguilar reveal himself

(... cont'd)

Bishop Rivera. Nonetheless, accusations against Nicolas Aguilar are widely known in Mexico due to vast media coverage ("belief") and evinced in documents contained in the personnel file of Nicholas Aguilar ("information"), which documents have been delivered to Plaintiff.

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(as the Bishop testified). Your suggestion that the Diocese is required to investigate Nicholas Aguilar's whereabouts beyond surveying its documents, records and the knowledge/memories of its employees is absurd. The Diocese is not required to act as a private investigator on Plaintiff's behalf.

With regard to Interrogatory No. 56, you ought not to find incredible the fact that the Diocese "has no knowledge of the address at which Fr. Aguilar was ordained." The Diocese is aware that Nicholas Aguilar was ordained on July 12, 1970 because of documents contained in Aguilar's personnel file (*see* RIV 00001 and RIV 00002); yet, these documents do not identify the address at which Aguilar was ordained. Moreover, no priests currently serving in the Diocese recall Aguilar's ordination; it was, after all, nearly forty years ago.³

With regard to Interrogatories Nos. 57 and 59, documents contained in Nicholas Aguilar's personnel file from the Diocese of Tehuacan demonstrate the parishes and the dioceses in which Aguilar worked prior to 1987. This statement is one which the Diocese can assert with personal knowledge; any other statements pertaining to Aguilar's history can only be based on information gleaned from documents contained in the file, which you can do as easily as we can.

With regard to Interrogatories Nos. 58 and 60, documents procured from the Archdiocese of Mexico list parishes and archdioceses in which Aguilar may have worked subsequent to 1988. Aguilar's personnel file in Tehuacan contains no documents pertaining to his service subsequent to 1988, as he never returned to Tehuacan and, as such, no member of the Diocese has knowledge of that service. You complain that the Diocese ought to conduct a "reasonable investigation" to discern Aguilar's post-1988 service; yet, this is exactly what the Defendants did. If anything, the Defendants were overly generous to the Plaintiff in their search. Plaintiff can hardly complain that the Defendants have been less than solicitous with documents pertaining to Nicholas Aguilar's service history. In short, the Defendants have produced every non-privileged document that it is in their power to produce.

The responses with regard to Interrogatories Nos. 57-60, *see supra*, also apply to Interrogatories Nos. 61-63.

The Diocese maintains its objection that the request for "every known fact" regarding Nicholas Aguilar, contained in Interrogatory No. 68, is overly broad.

With regard to Interrogatories Nos. 65 and 66, your opinion that it is "incredible" that the Diocese has no knowledge of Nicholas Aguilar's Mexican Federal Tax Registration Number or his Tributary Card number does not alter the fact that the Diocese does not possess such knowledge. Such information is not contained in the Diocese's personnel file on Nicholas

³ Plaintiff's counsel seems conveniently to forget that so many of the events in question occurred twenty or more years ago, making it difficult, if not impossible, at times to respond to interrogatories with personal knowledge.

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Aguilar and no person currently serving in the Diocese has knowledge of those numbers (if any person ever serving in the Diocese ever did).

With regard to Interrogatories Nos. 95 and 96, you state the addresses of Fathers Antonio Nunez and Candido are "known to the Catholic Church" as the two are "priest[s] in Mexico." *The Catholic Church, however, is not a party to this lawsuit.* The Diocese of Tehuacan and Cardinal Norberto Rivera in his former capacity as Bishop of that Diocese are parties to this lawsuit to whom interrogatories are directed. You may fancy that the entire Catholic Church is on trial here but, in truth, the Defendants, and their relative knowledge and authority, are far more circumscribed; and, at present, those Defendants are not even on trial, as they are not yet subject to the jurisdiction of the California courts. Your attempts to implicate the entire Catholic Church, if such a legal entity exists, in this action through jurisdictional discovery demands display delusions of grandeur.

Your description of Interrogatories Nos. 102 and 103, *i.e.*, as "request[ing] information about the knowledge of the Diocese concerning child molestations by *any* priest" (emphasis original), reveals the flaw in those requests. Knowledge of molestation apart from that of which Nicholas Aguilar is accused is irrelevant to the merits of this lawsuit, as well as to the issue of whether the California courts may exercise jurisdiction over the Defendants. As the Catholic Church is not a defendant in this lawsuit, nor are the Defendants implicated in every alleged act of molestation perpetrated by a Catholic priest.

Plaintiff's Second Special Interrogatories to Cardinal Rivera

Cardinal Rivera responds to your concerns regarding Interrogatory No. 47 as the Diocese responded to concerns regarding Interrogatories No. 55, *see supra*. Moreover, with regard to your contention that Cardinal Rivera is required to make a "reasonable investigation," Cardinal Rivera ordered an exhaustive search. Although that search did not reveal an address for Nicholas Aguilar, it did yield information as to Aguilar's possible service history subsequent to departing the Diocese, which the Defendants produced to Plaintiff. The Defendants reject any implication on the part of Plaintiff that either Cardinal Rivera or the Diocese were required to comb the records of other dioceses or archdioceses throughout the Federal Republic of Mexico (or the Defendants have the authority or means to so search).

Cardinal Rivera responds to your concerns regarding Interrogatory No. 49 as the Diocese responded to concerns regarding Interrogatory No. 56, *see supra*.

Cardinal Rivera responds to your concerns regarding Interrogatories Nos. 50-56 as the Diocese responded to concerns regarding Interrogatories No. 57-61, *see supra*. Further, when complaining as to the state of Cardinal Rivera's personal knowledge with regard to Nicholas Aguilar's history in the Diocese of Tehuacan, you should bear in mind that Cardinal Rivera became Bishop of Tehuacan on December 21, 1985, approximately thirteen months prior to Aguilar's departure from the Diocese. Similarly, when complaining as to the state of Cardinal Rivera's personal knowledge with regard to Nicholas Aguilar's history subsequent to his flight

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from California, you should bear in mind that Aguilar did not return to Tehuacan during Cardinal Rivera's tenure.⁴ Also, to repeat, Plaintiff's repeated references to "the Mexican Church," "the Catholic Church," and "the Catholic Church in Mexico" make no sense in the context of this lawsuit.

Cardinal Rivera responds to your concerns regarding Interrogatories Nos. 58 and 59 as the Diocese responded to concerns regarding Interrogatories Nos. 65 and 66, *see supra*.

Cardinal Rivera maintains his objection that the request for "every known fact" regarding Nicholas Aguilar, contained in Interrogatory No. 61, is overly broad.

With regard to Interrogatories Nos. 62-68 and 69-70, Cardinal Rivera rejects the implication that because he permitted Nicholas Aguilar to depart Tehuacan for California, he must therefore have personal knowledge of, among other things, government authorization Aguilar may have obtained prior to his departure, family members of Aguilar who lived in California, or modes of transportation used by Aguilar to travel to California. It is possible that Nicholas Aguilar was already in possession of government documentation or that he traveled into the United States without such authorization; the simple fact is Cardinal Rivera does not/did not know the details of Aguilar's travel, as stated in the interrogatory responses. Nor does/did Cardinal know the details of Aguilar's return travel. As he testified, Cardinal Rivera was first made aware of Nicholas Aguilar's return to Mexico via letter from Msgr. Thomas Curry after Aguilar allegedly fled California. As discussed below, your insistence on personal knowledge where non exists makes little sense. The purpose of discovery responses is to provide known facts, not to speculate or investigate beyond what is required by the rules. Proving your allegations is your responsibility, not ours.

Cardinal Rivera responds to your concerns regarding Interrogatories Nos. 80-83 as the Diocese responded to concerns regarding Interrogatories Nos. 57-63, *see supra*. With regard to authority over Nicholas Aguilar while he was in California, Cardinal Rivera has stated and testified that he did not have authority to permit Aguilar to serve in the Los Angeles Archdiocese, only to permit Aguilar to depart Tehuacan.

Cardinal Rivera responds to your concerns regarding Interrogatory No. 88 as the Diocese responded to concerns regarding Interrogatory No. 95, *see supra*.

With regard to Interrogatory No. 89, we find it incredible that you take issue with the statement that, "[t]o Cardinal Rivera's knowledge, Father Candido no longer lives." Semantics asides, if the aim of the interrogatory was to determine Father Candido's whereabouts, then you cannot seriously find fault in Cardinal Rivera's response.

⁴ This statements is not meant to imply that Nicholas Aguilar returned to the Diocese after Cardinal Rivera's tenure as Bishop; rather, Cardinal can only speak to the period during which he was Bishop with personal knowledge.

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Cardinal Rivera responds to your concerns regarding Interrogatories Nos. 91-94 as the Diocese responded to concerns regarding Interrogatories Nos. 2-9 etc., *see supra*. Further, your demand that "both types of knowledge [*i.e.*, personal knowledge and, information and belief] need to be applied" makes no sense. Nor do the repeated complaints about the Defendants' states of knowledge in your letters make sense. Cardinal Rivera cannot alter his state of knowledge to satisfy your preferences: of some events/facts, Cardinal Rivera has personal knowledge; of others, his "knowledge" is limited to information and/or belief (of yet others, he knows nothing). To attempt to state with personal knowledge that which Cardinal Rivera "knows" only because of information and belief, or *vice versa*, would be to lie under oath.

Cardinal Rivera responds to your concerns regarding Interrogatories Nos. 95 and 96 as the Diocese responded to concerns regarding Interrogatories No. 102 and 103, *see supra*.

Concluding

Your letters seem to suggest that anything other than absolute acquiescence to your demands will result in motion practice and our prior experience with Carcione, Cattermole, Dolinski, et al., LLP in this matter suggests that you have little interest in discussing the issues contained herein or otherwise attempting accommodation. Nonetheless, we welcome attempts to resolve these issues via discourse and without burdening the Court or the parties with motion practice. You state that the purpose of your letters "is to 'meet and confer' in an attempt to avoid motion practice" We would hope that your conception of 'meet and confer' encompasses more than the issuance of demands, which, if not met, portend a motion to compel.

Please be advised the Defendants will oppose any attempt to continue the hearing date of October 16, 2007, to which all parties stipulated before the Court on Monday, August 27, 2007. This is the second time during the course of jurisdictional discovery that counsel for the Plaintiff has sought to continue the hearing on the Defendants' motion to quash service on grounds other than discovery disputes,⁵ only to later use the extended time period to pursue its previously unmentioned discovery concerns, which disputes were not considered in continuing the hearing date. Such tactics, and further attempts at continuance, will no longer be tolerated. Furthermore, the Defendants would appreciate it if Plaintiff's various counsels would attempt more robust communications with one another, so as to avoid the contradictions that appear to occur when the Defendants communicate with specific counsel individually. Frankly, we found several of the demands in your letter unprofessional because they reflect a lack of knowledge of the rules and

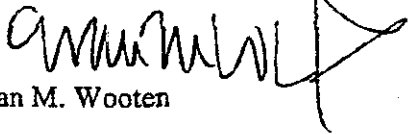
⁵ The stated motivation for the first continuance (*i.e.*, from June 19, 2007 to September 11, 2007), to which the Defendants agreed, was to permit the depositions of Cardinal Rivera and Bishop Aguilar Martinez. The stated motivation for the second continuance (*i.e.*, from September 11, 2007 to October 16, 2007), which the Defendants opposed but to which date they stipulated, was to permit the depositions of Cardinal Roger Mahony and Msgr. Thomas Curry of the Los Angeles Archdiocese.

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the record, and if you persist with them we will request sanctions.

Sincerely,



Evan M. Wooten

cc: Steven R. Selsberg, Esq.
Michael Finnegan, Esq.
David E. Drivon, Esq.
Martin D. Gross, Esq.

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