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By _____, Deputy

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02 001 New Civil \$272.50

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO

13 JOHNNY G., Individually;
14 Plaintiff,
15 v.
16 DEFENDANT DOE 1; DEFENDANT DOE
17 2; DEFENDANT DOE 3; and DOES 4
through 1000 inclusive;
18 Defendants.

CASE NUMBER: **GIC 823522**

COMPLAINT FOR DAMAGES FOR:

1. CHILDHOOD SEXUAL ABUSE;
2. NEGLIGENCE;
3. NEGLIGENT SUPERVISION/
FAILURE TO WARN;
4. NEGLIGENT HIRING/RETENTION
7. BREACH OF FIDUCIARY DUTY;
8. NEGLIGENT FAILURE TO WARN,
TRAIN, OR EDUCATE PLAINTIFF;
14. NEGLIGENCE PER SE FOR
STATUTORY VIOLATIONS;
17. PREMISES LIABILITY; AND
18. SEXUAL BATTERY

[Filed Concurrently With Certificates of Merit]

[Demand for Jury Trial]

ACCOUNTING

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1 Based upon information and belief available to Plaintiff at the time of the filing of this
2 Complaint, Plaintiff makes the following allegations:

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5 **PARTIES**

6 1. Plaintiff Johnny G. is an adult male. Plaintiff was a minor at the time of the sexual
7 abuse by Father Robert Nikiliborc.

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9 2. Defendant Doe 1 ("Defendant Diocese") is a corporation sole, authorized to
10 conduct business and conducting business in the State of California, with its principal place
11 of business in San Diego, California. At all times relevant, Defendant Diocese had
12 responsibility for Roman Catholic Church operations in San Diego County and Riverside
13 County, California. Defendant Diocese is the Diocese in which the sexual abuse occurred.

14 2.1 Defendant Doe 2 (School/Parish) is a Roman Catholic church, parish or school
15 located in the City of Banning in Riverside County, California. Defendant Doe 2
16 (School/Parish) is the school or other organization where Robert Nikiliborc was assigned
17 and where Plaintiff Johnny G. was attending when he was molested by Robert Nikiliborc.
18 Plaintiff was a student and/or member of the Defendant Doe 2 (School/Parish) during the
19 period of wrongful conduct.

20 2.2 Defendant Doe 3 (Order) is a Roman Catholic Order of Priests and a non-profit
21 public benefit corporation organized for religious purposes and incorporated under the laws
22 of the State of California, doing business in Riverside County. As the prevailing religious
23 order responsible for conducting Defendant Doe 2 (School/Parish), Defendant Doe 3
24 (Order) had supervisory responsibility over Robert Nikiliborc when Robert Nikiliborc
25 molested Johnny G.

26 2.2 Robert Nikiliborc (the "Perpetrator") was at all times relevant an ordained priest in
27 the Roman Catholic Church. During the dates of abuse, the Perpetrator was a practicing
28 priest assigned to Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3

1 (Order), and/or Does 4 through 1000, and was under the direct supervision, employ and
2 control of Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
3 and/or Does 4 through 1000.

4
5 3. Defendant Does 4 through 1000, inclusive, are individuals and/or business or
6 corporate entities incorporated in and/or doing business in California whose true names
7 and capacities are unknown to the Plaintiff who therefore sues such defendants by such
8 fictitious names, and who will amend the Complaint to show the true names and capacities
9 of each such Doe defendants when ascertained. Each such Defendant Doe is legally
10 responsible in some manner for the events, happenings and/or tortious and unlawful
11 conduct that caused the injuries and damages alleged in this Complaint.

12
13 4. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
14 and Does 4 through 1000 are some times hereinafter referred to as the "Defendants."

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16 5. Each Defendant is the agent, servant and/or employee of other Defendants,
17 and each Defendant was acting within the course and scope of his, her or its authority as
18 an agent, servant and/or employee of the other Defendants. Defendants, and each of
19 them, are individuals, corporations, partnerships and other entities which engaged in,
20 joined in and conspired with the other wrongdoers in carrying out the tortious and unlawful
21 activities described in this Complaint, and Defendants, each of them, ratified the acts of the
22 other Defendants as described in this Complaint.

23
24 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

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26 6. Plaintiff Johnny G. was raised in a devoutly Roman Catholic family, was
27 baptized, confirmed and regularly celebrated weekly mass and received the sacraments
28 through the Roman Catholic Church. Plaintiff Johnny G. therefore developed great

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1 admiration, trust, reverence and respect for, and obedience to, Roman Catholic Priests,
2 who occupied a position of great influence and persuasion as holy men and authority
3 figures. Plaintiff Johnny G. was an active member at Defendant Doe 2 (School/Parish) in
4 Banning, California. Through his membership and participation as a parishioner and/or
5 student, Plaintiff Johnny G. came to know, admire, trust, revere and respect Father Robert
6 Nikiliborc. Empowered by Defendant Diocese, Defendant Doe 2 (School/Parish),
7 Defendant Doe 3 (Order), and Defendant Does 4 through 1000, and each of them, Robert
8 Nikiliborc obtained the trust of Plaintiff's parents. From approximately 1963 through
9 approximately 1965, Robert Nikiliborc sexually molested Johnny G., who was then a minor,
10 while Johnny G. was entrusted to the care, custody and control of Defendant Diocese,
11 Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Robert Nikiliborc. The
12 sexual abuse occurred at many different places including, among other places, on the
13 grounds of the Defendant Doe 2 (School/Parish).

14 7. As a direct result of the wrongful conduct alleged herein, the Plaintiff has suffered
15 and continues to suffer great pain of mind and body, shock, emotional distress, physical
16 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
17 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
18 was prevented and will continue to be prevented from performing Plaintiff's daily activities
19 and obtaining the full enjoyment of life; has sustained and continues to sustain loss of
20 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
21 medical and psychological treatment, therapy, and counseling.

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FIRST CAUSE OF ACTION
CHILDHOOD SEXUAL ABUSE IN VIOLATION OF
CODE OF CIVIL PROCEDURE § 340.1
(Plaintiff Against All Respective Defendants)

28 12. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

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1 13. From approximately 1963 through approximately 1965, Robert Nikiliborc engaged
2 in unpermitted, harmful and offensive sexual conduct and contact upon the person of
3 Plaintiff Johnny G. in violation of Cal. Code Civil Procedure § 340.1. Said conduct was
4 undertaken while Nikiliborc was an employee, volunteer, representative, or agent of
5 Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does
6 4 through 1000, while in the course and scope of employment with Defendant Diocese,
7 Defendant Doe 2 (School/Parish); Defendant Doe 3 (Order), and Does 4 through 1000,
8 and/or was ratified by Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant
9 Doe 3 (Order), and Does 4 through 1000.

10 14. Prior to or during the abuse alleged above, Defendants knew, had reason to know,
11 or was otherwise on notice of unlawful sexual conduct by the Perpetrator. Defendants
12 failed to take reasonable steps and failed to implement reasonable safeguards to avoid
13 acts of unlawful sexual conduct in the future by the Perpetrator, including, but not limited
14 to, preventing or avoiding placement of the Perpetrator in functions or environments in
15 which contact with children was an inherent part of those functions or environments.
16 Furthermore, at no time during the periods of time alleged did Defendants have in place a
17 system or procedure to supervise and/or monitor employees, volunteers, representatives,
18 or agents to insure that they did not molest or abuse minors in Defendants' care, including
19 the Plaintiff.

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

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1 SECOND CAUSE OF ACTION

2 NEGLIGENCE

3 (Plaintiff Against All Respective Defendants)

4 16. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 17. Defendants had a duty to protect the minor Plaintiff when he was entrusted to
6 their care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was
7 temporarily entrusted to Defendants. Defendants voluntarily accepted the entrusted care
8 of Plaintiff. As such, Defendants owed Plaintiff, a minor child, a special duty of care, in
9 addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults
10 dealing with children owe to protect them from harm.

11 17.1 The Perpetrator was, at all times herein, and for many years before, a serial
12 pedophile, performing acts of sexual abuse and molestation upon a series of minor
13 children, including Plaintiff. The Perpetrator was able, by virtue of his unique authority and
14 position as a Priest, to identify vulnerable victims and their families upon which the
15 Perpetrator could perform such sexual abuse; to manipulate his authority as Priest,
16 counselor, and religious advisor, to procure compliance with his sexual demands from his
17 victims; to induce the victims to continue to allow the abuse; and to coerce them not to
18 report it to any other persons or authorities. As a Priest, the Perpetrator had unique
19 access to the physical facilities and finances of the parishes to which he was assigned, and
20 used said facilities and finances to provide resources which allowed him to commit sexual
21 abuse upon children.

22 17.2 The risk of abuse of priestly authority, the risk of misuse of parish and diocese
23 resources, facilities, and funds, and the risk of misuse of access to intimate personal
24 information by priests, all to allow them to commit sexual abuse upon children, are, and
25 have been for centuries, risks known to the Bishops and Officers of the Roman Catholic
26 Church, who have enacted policies and procedures, prior to Plaintiff's molestation by the
27 Perpetrator, to address such conduct and its consequences. Such policies and procedures
28 have included the enactment of Canon Law policies and punishments, maintaining secret

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1 files concerning such conduct, and an ongoing policy and procedure of failing and refusing
2 to notify or warn parishioners or law enforcement when reports of sexual abuse of children
3 by priests have been received by such Bishops and Officers, including Defendants.

4 18. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
5 and Does 4 through 1000, by and through their agents, servants and employees, knew or
6 reasonably should have known of the Perpetrator's dangerous and exploitive propensities
7 and/or that the Perpetrator was an unfit agent. It was foreseeable that if Defendants did
8 not adequately exercise or provide the duty of care owed to children in their care, including
9 but not limited to the Plaintiff, the children entrusted to Defendants' care would be
10 vulnerable to sexual abuse by the Perpetrator.

11 19. Defendants breached their duty of care to the minor Plaintiff by allowing the
12 Perpetrator to come into contact with the minor Plaintiff without supervision; by failing to
13 adequately supervise, or negligently retaining the Perpetrator who they permitted and
14 enabled to have access to Plaintiff; by failing to investigate or otherwise confirm or deny
15 such facts about the Perpetrator; by failing to tell or concealing from Plaintiff, Plaintiff's
16 parents, guardians, or law enforcement officials that the Perpetrator was or may have been
17 sexually abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians,
18 or law enforcement officials that Plaintiff was or may have been sexually abused after
19 Defendants knew or had reason to know that the Perpetrator may have sexually abused
20 Plaintiff, thereby enabling Plaintiff to continue to be endangered and sexually abused,
21 and/or creating the circumstance where Plaintiff was less likely to receive medical/mental
22 health care and treatment, thus exacerbating the harm done to Plaintiff; and/or by holding
23 out the Perpetrator to the Plaintiff and his parents or guardians as being in good standing
24 and trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the
25 Perpetrator's contact and/or actions with the Plaintiff and/or with other minors who were
26 victims of the Perpetrator, and/or disguised the nature of the sexual abuse and contact.

27 20. As a result of the above-described conduct, Plaintiff has suffered and continues to
28 suffer great pain of mind and body, shock, emotional distress, physical manifestations of

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1 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
2 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
3 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
4 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
5 capacity; and/or has incurred and will continue to incur expenses for medical and
6 psychological treatment, therapy, and counseling.

7 **THIRD CAUSE OF ACTION**

8 **NEGLIGENT SUPERVISION/FAILURE TO WARN**

9 **(Plaintiff Against All Respective Defendants)**

10 21. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

11 22. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
12 and Does 4 through 1000 had a duty to provide reasonable supervision of the Perpetrator;
13 to use reasonable care in investigating the Perpetrator; and to provide adequate warning to
14 the Plaintiff, the Plaintiff's family, minor students, and minor parishioners of the
15 Perpetrator's dangerous propensities and unfitness.

16 23. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
17 and Does 4 through 1000, by and through their agents, servants and employees, knew or
18 reasonably should have known of the Perpetrator's dangerous and exploitive propensities
19 and/or that the Perpetrator was an unfit agent. Despite such knowledge, Defendant
20 Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through
21 1000 negligently failed to supervise the Perpetrator in the position of trust and authority as
22 a Roman Catholic Priest, religious instructor, counselor, school administrator, school
23 teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure,
24 where he was able to commit the wrongful acts against the Plaintiff. Defendant Diocese,
25 Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000
26 failed to provide reasonable supervision of the Perpetrator, failed to use reasonable care in
27 investigating the Perpetrator, and failed to provide adequate warning to Plaintiff and
28 Plaintiff's family of the Perpetrator's dangerous propensities and unfitness. Defendant

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1 Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through
2 1000 further failed to take reasonable measures to prevent future sexual abuse.

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

11 **FOURTH CAUSE OF ACTION**

12 **NEGLIGENT HIRING AND RETENTION**

13 **(Plaintiff Against All Respective Defendants)**

14 25. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

15 26. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
16 and Does 4 through 1000 had a duty to not hire and/or retain the Perpetrator, and other
17 employees, agents, volunteers, and other representatives, given the Perpetrator's
18 dangerous and exploitive propensities.

19 27. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
20 and Does 4 through 1000, by and through their agents, servants and employees, knew or
21 reasonably should have known of the Perpetrator's dangerous and exploitive propensities
22 and/or that the Perpetrator was an unfit agent. Despite such knowledge Defendant
23 Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through
24 1000 negligently hired and retained the Perpetrator in the position of trust and authority as
25 a Roman Catholic Priest, religious instructor, counselor, school administrator, school
26 teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure,
27 where he was able to commit the wrongful acts against the Plaintiff. Defendant Diocese,
28 Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000

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1 failed to use reasonable care in investigating the Perpetrator and failed to provide
2 adequate warning to Plaintiff and Plaintiff's family of the Perpetrator's dangerous
3 propensities and unfitness. Defendant Diocese, Defendant Doe 2 (School/Parish),
4 Defendant Doe 3 (Order), and Does 4 through 1000 further failed to take reasonable
5 measures to prevent future sexual abuse.

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

14 **SEVENTH CAUSE OF ACTION**

15 **BREACH OF FIDUCIARY DUTY AND/OR CONFIDENTIAL RELATIONSHIP**

16 **(Plaintiff Against All Respective Defendants)**

17 48. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

18 49. Because of Plaintiff's young age, and because of the status of the Perpetrator as
19 an authority figure to Plaintiff, Plaintiff was vulnerable to the Perpetrator. The Perpetrator
20 sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability. Plaintiff's
21 vulnerability also prevented Plaintiff from effectively protecting himself.

22 50. By holding the Perpetrator out as a qualified Roman Catholic Priest, religious
23 instructor, counselor, school administrator, school teacher, surrogate parent, spiritual
24 mentor, emotional mentor, and/or any other authority figure, and by undertaking the
25 religious and/or secular instruction and spiritual and/or emotional counseling of Plaintiff,
26 Defendants entered into a fiduciary and/or confidential relationship with the minor Plaintiff.

27 51. Defendants and each of them breached their fiduciary duty to Plaintiff by engaging
28 in the negligent and wrongful conduct described herein.

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1 52. As a direct result of Defendants' breach of their fiduciary duty, Plaintiff has
2 suffered and continues to suffer great pain of mind and body, shock, emotional distress,
3 physical manifestations of emotional distress, embarrassment, loss of self-esteem,
4 disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer
5 spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily
6 activities and obtaining the full enjoyment of life; has sustained and will continue to sustain
7 loss of earnings and earning capacity; and/or has incurred and will continue to incur
8 expenses for medical and psychological treatment, therapy, and counseling.

9 **EIGHTH CAUSE OF ACTION**

10 **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF**

11 **(Plaintiff Against All Respective Defendants)**

12 53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

13 54. Defendants breached their duty to take reasonable protective measures to protect
14 Plaintiff and other minor parishioners and/or students from the risk of childhood sexual
15 abuse by the Perpetrator, such as the failure to properly warn, train, or educate Plaintiff
16 and other minor parishioners and/or students about how to avoid such a risk, pursuant to
17 Juarez v. Boy Scouts of America, Inc., 97 Cal. Rptr. 2d 12, 81 Cal. App. 4th 377 (2000).

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

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1 FOURTEENTH CAUSE OF ACTION

2 NEGLIGENCE PER SE FOR STATUTORY VIOLATIONS

3 (Plaintiff Against All Respective Defendants)

4 91. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 92. At all times or sometimes herein mentioned, there was in full force and effect Penal
6 Code §§ 32; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2);
7 288a(c); 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time
8 these acts described herein were committed. These laws made unlawful certain acts
9 relating to the sexual abuse of minors.

10 93. At the times mentioned herein, Defendants were in violation of the aforesaid
11 statutes in doing the acts set forth herein.

12 94. Plaintiff was within the class of persons to be protected by Penal Code §§ 32;
13 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c);
14 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time these acts
15 described herein were committed.

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

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1 SEVENTEENTH CAUSE OF ACTION

2 PREMISES LIABILITY

3 (Plaintiff Against All Respective Defendants)

4 111. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

5 112. At all times herein mentioned, Defendant Diocese, Defendant Doe 2
6 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000 were in possession of
7 the property where the Plaintiff was groomed and assaulted by the Perpetrator, and had
8 the right to manage, use and control that property.

9 113. At all times herein mentioned, Defendant Diocese, Defendant Doe 2
10 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000 knew that the
11 Perpetrator had a history of committing sexual assaults against children, and that any child
12 at, among other locations, Defendant Doe 2 (School/Parish), was at risk to be sexually
13 assaulted by the Perpetrator.

14 ~~114.~~ Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
15 and Does 4 through 1000 knew or should have known that the Perpetrator had a history of
16 sexual assaults against children committed by the Perpetrator and that any child at, among
17 other locations, the Defendant Doe 2 (School/Parish), was at risk to be sexually assaulted.
18 It was foreseeable to Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant
19 Doe 3 (Order), and Does 4 through 1000, that the Perpetrator would sexually assault
20 children if they continued to allow the Perpetrator to teach, supervise, instruct, care for, and
21 have custody and control of and/or contact with children.

22 115. At all times herein mentioned, Defendant Diocese, Defendant Doe 2
23 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000 knew or should have
24 known the Perpetrator was repeatedly committing sexual assaults against children.

25 116. It was foreseeable to Defendant Diocese, Defendant Doe 2
26 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000 that the sexual
27 assaults being committed by the Perpetrator would continue if Defendant Diocese,
28 Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000

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1 continued to allow the Perpetrator to teach, supervise, instruct, care for, and have custody
2 of and/or contact with young children.

3 117. Because it was foreseeable that the sexual assaults being committed by the
4 Perpetrator would continue if Defendant Diocese, Defendant Doe 2 (School/Parish),
5 Defendant Doe 3 (Order), and Does 4 through 1000 continued to allow him to teach,
6 supervise, instruct, care for, and have custody of and/or contact with young children,
7 Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does
8 4 through 1000 owed a duty of care to all children, including Plaintiff, exposed to the
9 Perpetrator. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3
10 (Order), and Does 4 through 1000 also owed a heightened duty of care to all children,
11 including Plaintiff, because of their young age.

12 118. By allowing the Perpetrator to teach, supervise, instruct, care for, and have custody
13 of and/or contact with young children, and by failing to warn children and their families of
14 the threat posed by the Perpetrator, Defendant Diocese, Defendant Doe 2 (School/Parish),
15 Defendant Doe 3 (Order), and Does 4 through 1000 breached their duty of care to all
16 children, including Plaintiff.

17 119. Defendant Diocese, Defendant Doe 2 (School/Parish), Defendant Doe 3 (Order),
18 and Does 4 through 1000 negligently used and managed Defendant Doe 2
19 (School/Parish), and created a dangerous condition and an unreasonable risk of harm to
20 children by allowing the Perpetrator to teach, supervise, instruct, care for and have custody
21 of and/or contact with young children at, among other locations, Defendant Doe 2
22 (School/Parish).

23 120. As a result of the dangerous conditions created by Defendant Diocese, Defendant
24 Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000, numerous
25 children were sexually assaulted by the Perpetrator.

26 121. The dangerous conditions created by Defendant Diocese, Defendant Doe 2
27 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000 were the proximate
28 cause of Plaintiff's injuries and damages.

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1 122. As a result of these dangerous conditions, Plaintiff has suffered and continues to
2 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
3 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
4 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
5 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
6 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
7 capacity; and/or has incurred and will continue to incur expenses for medical and
8 psychological treatment, therapy, and counseling.

9 **EIGHTEENTH CAUSE OF ACTION**

10 **SEXUAL BATTERY (Civil Code § 1708.5)**

11 **(Plaintiff Against All Respective Defendants)**

12 123. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

13 124. For the reasons set forth in the incorporated paragraphs of this Complaint, the
14 sexual abuse of Plaintiff by the Perpetrator arose from, was incidental to, and was in the
15 course and scope of the Perpetrator's employment with Defendant Diocese, Defendant
16 Doe 2 (School/Parish), Defendant Doe 3 (Order), and Does 4 through 1000, and each of
17 these Defendants ratified or approved of that sexual contact.

18 125. As a result of the above-described conduct, Plaintiff has suffered and continues
19 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
20 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
21 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
22 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
23 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
24 capacity; and/or has incurred and will continue to incur expenses for medical and
25 psychological treatment, therapy, and counseling. Pursuant to Civil Code § 1708.5(c),
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28 WHEREFORE, Plaintiff prays for damages; injunctive relief; costs; interest; attorneys'

1 fees; statutory/civil penalties according to law; and such other relief as the court deems
2 appropriate and just.

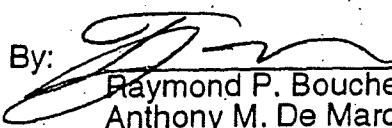
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JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

DATE: December 29, 2003

KIESEL, BOUCHER & LARSON LLP

By: 
Raymond P. Boucher, Esq.
Anthony M. De Marco, Esq.
Attorneys for Plaintiff

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