

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
Defendant Doe 1, Diocese; Defendant Doe 2, Parish; Defendant Doe Perpetrator 4; and Does 4 through 100, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):
Matthew Carrigan, individually

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
June 15 2009
ALAN CARLSON, Clerk of the Court
C. Pedraza
BY C. PEDRAZA

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at the court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio Web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o póngase en contacto con la corte o el colegio de abogados local. **80-2009**

The name and address of the court is: **Clerk of the Superior Court** **CASE NUMBER: 0 0 1 8 0 1 3 1**
(El nombre y dirección de la corte es): **Civil Complex Center** **(Número del Caso):**
Superior Court of California - County of Orange **751 W. Santa Ana Blvd.** **JUDGE RONALD L. BAUER**
700-Givvie Center Drive West **Santa Ana, Ca 92701** **DEPT. CX103**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Irwin M. Zalkin (89957); Devin M. Storey (234271) - The Zalkin Law Firm, P.C. 858-259-3011
12555 High Bluff Drive, Suite 260, San Diego, CA 92130

DATE: June 15 2009 **ALAN CARLSON** Clerk, by **CECILIA PEDRAZA** Deputy
(Fecha) **(Secretario)** **(Adjunto)**

(For proof of service of this summons, use Proof of Service of Summons form POS-010.)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)
NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.80 (minor)
 CCP 416.20 (defunct corporation) CCP 418.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 418.90 (authorized person)
4. other (specify):
4. by personal delivery on (date):



MAY 05 2009

ALAN CARLSON, Clerk of the Court

BY C. REDRAZA DEPUTY

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2 Devin M. Storey, Esq. SBN 234271
3 Michael J. Kinslow, Esq. SBN 238310
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9 Attorneys for Plaintiff
10 **MATTHEW CARRIGAN, Individually**

11 **JUDGE RONALD L. BAUER**
12 **DEPT. CX103**
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ORANGE**
15 **30-2009**

16 **MATTHEW CARRIGAN, Individually**
17 **Plaintiff,**
18 **CASE NUMBER 0180131**

19 **COMPLAINT FOR DAMAGES FOR:**

- 20 1. RESERVED;
- 21 2. NEGLIGENCE;
- 22 3. NEGLIGENCE SUPERVISION/
23 FAILURE TO WARN;
- 24 4. NEGLIGENCE HIRING/RETENTION
25 FRAUD;
- 26 5. RESERVED;
- 27 6. RESERVED;
- 28 7. RESERVED;
- 1. NEGLIGENCE FAILURE TO WARN,
TRAIN, OR EDUCATE PLAINTIFF;
INTENTIONAL INFLECTION OF
EMOTIONAL DISTRESS;
- 2. RESERVED;
- 3. RESERVED;
- 4. RESERVED;
- 5. RESERVED;
- 6. RESERVED;
- 7. RESERVED;
- 8. RESERVED;
- 9. FRAUD AND DECEIT;
RESERVED;
- 10. RESERVED;
- 11. RESERVED;
- 12. RESERVED;
- 13. RESERVED;
- 14. RESERVED;
- 15. RESERVED;
- 16. FRAUD AND DECEIT;
- 17. RESERVED;
- 18. SEXUAL BATTERY; AND

[Filed Concurrently With Certificates of
Merit]
[Demand for Jury Trial]

COMPLAINT FOR DAMAGES

THIS CASE IS SUBJECT TO
MANDATORY ELECTRONIC FILING
PURSUANT TO RULE 308 OF THE LOCAL RULES
OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

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

3 PARTIES

4 1. Plaintiff MATTHEW CARRIGAN is an adult male. Plaintiff was a minor at the time
5 of the sexual abuse alleged herein.

6 1.1. [Reserved]

7 1.2. [Reserved]

8 2. Defendant Doe 1 ("Defendant Diocese") is a corporation sole, authorized to conduct
9 business and conducting business in the State of California, with its principal place of
10 business in Orange, California. Defendant Diocese has responsibility for Roman Catholic
11 Church operations in Orange County, California. Defendant Diocese is the Diocese in
12 which the sexual abuse of Plaintiff occurred.

13 2.1. Defendant Doe 2 ("Defendant Parish") is a Roman Catholic church, parish or school
14 located in Anaheim, California. Defendant Parish is the school or parish or other
15 organization where Plaintiff was a student, member or altar boy during the period of
16 wrongful conduct.

17 2.2. Perpetrator 1 was at all times relevant an ordained priest in the Roman Catholic
18 Church. During the dates of abuse, Perpetrator 1 was a practicing priest assigned to
19 Defendant Diocese, Defendant Parish and Does 4 through 100, and was under the direct
20 supervision, employ and control of Defendant Diocese, Defendant Parish and Does 4
21 through 100.

22 2.3. Perpetrator 2 was at all times relevant an ordained priest in the Roman Catholic
23 Church. During the dates of abuse, "Perpetrator 2" was a practicing priest assigned to
24 Defendant Diocese, Defendant Parish and Does 4 through 100, and was under the direct
25 supervision, employ and control of Defendant Diocese, Defendant Parish and Does 4
26 through 100.

27 2.4. Perpetrator 3 was at all times relevant an ordained priest in the Roman Catholic
28 Church. During the dates of abuse, "Perpetrator 3" was a practicing priest assigned to

1 Defendant Diocese, St. Polycarp Parish in Stanton, CA and Does 4 through 100, and was
2 under the direct supervision, employ and control of Defendant Diocese and Does 4 through
3 100.

4 2.5. Defendant Doe 3 ("Perpetrator 4") was at all times relevant an ordained priest in the
5 Roman Catholic Church. During the dates of abuse, "Perpetrator 3" was a practicing priest
6 assigned to Defendant Diocese, Defendant Parish and Does 4 through 100, and was under
7 the direct supervision, employ and control of Defendant Diocese, Defendant Parish and
8 Does 4 through 100.

9 2.6. Perpetrator 5 was at all times relevant an agent, servant and/or employee in the
10 Roman Catholic Church. Before and/or during the dates of abuse, Perpetrator 5 was
11 assigned to, working at, and /or performing services for Defendant Diocese, Defendant
12 Parish and Does 4 through 100, and was under the direct supervision, employ and control
13 of Defendant Diocese, Defendant Parish and Does 4 through 100.

14 3. Defendant Does 4 through 100, inclusive, are individuals and/or business or
15 corporate entities incorporated in and/or doing business in California whose true names
16 and capacities are unknown to Plaintiff who therefore sues such defendants by such
17 fictitious names, and who will amend the Complaint to show the true names and capacities
18 of each such Doe Defendant when ascertained. Each such Defendant Doe is legally
19 responsible in some manner for the events, happenings and/or tortious and unlawful
20 conduct that caused the injuries and damages alleged in this Complaint. Defendant
21 Diocese, Defendant Parish and Does 4 through 100 are some times hereinafter referred to
22 as the "Defendants."

23 4. Each Defendant is the agent, servant and/or employee of other Defendants, and
24 each Defendant was acting within the course and scope of his, her or its authority as an
25 agent, servant and/or employee of the other Defendants. Defendants, and each of them,
26 are individuals, corporations, partnerships and other entities which engaged in, joined in
27 and conspired with the other wrongdoers in carrying out the tortious and unlawful activities
28 described in this Complaint, and Defendants, and each of them, ratified the acts of the

1 other Defendants as described in this Complaint.

2 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

3 5. At all times material, Defendant Diocese and Defendant Parish employed Priests,
4 including the Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4, to provide
5 religious and pastoral services. The duties of Perpetrator 1, Perpetrator 2, Perpetrator 3,
6 and Perpetrator 4's employment included, but were not restricted to, teaching the word of
7 God and the law of the church, providing pastoral services, spiritual care, guidance and
8 counseling, and obtaining financial support for the Church. At all times material,
9 Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4 were Roman Catholic priests,
10 employed by and as agents of Defendant Diocese, and were under its direct supervision
11 and control. As Roman Catholic Priests, Perpetrator 1, Perpetrator 2, Perpetrator 3, and
12 Perpetrator 4 were under the direct supervision, employ and control of Defendant Diocese,
13 and at all times material were assigned to parishes within the geographic confines of
14 Defendant Diocese. At all times material, Perpetrator 1, Perpetrator 2, Perpetrator 3, and
15 Perpetrator 4 were employed by and under the direct supervision and control of Defendant
16 Diocese. At all times material, Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator
17 4 were adults at the time of the sexual abuse alleged herein.

18 5.1. Priests are instructed by Canon Law to take a special interest in young people.
19 Priests have an agency responsibility to pay special attention to young boys in the hopes
20 that they would inspire the boys in thoughts of a vocation to the priesthood or religious life.
21 Parish priests are encouraged to make special efforts at gaining the trust and friendship of
22 young boys. Thus, the "grooming" of young boys is considered to be an important part of a
23 priest's ministry. Therefore, inherent in Perpetrator 1, Perpetrator 2, Perpetrator 3, and
24 Perpetrator 4's duties as priests employed by Defendant Diocese, Defendant parish and
25 Does 4 through 100, was an obligation to develop close relationships with young Catholic
26 boys, including altar boys, to gain the trust of such minor males and build friendship with
27 young male parishioners (such conduct is referred to herein as "grooming"). Such
28 "grooming," was a required duty of Perpetrator 1, Perpetrator 2, Perpetrator 3, and

1 Perpetrator 4's agency relationship with Defendant Diocese, Defendant Parish and Does 4
2 through 100, so that Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4 could
3 use the boys' trust, and the friendships engendered by his grooming of the minors, to
4 entice such boys into following Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator
5 4 into the priesthood.

6 5.2. Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4's acts of grooming the
7 Plaintiff herein, as well as the sexual abuse of Plaintiff described more fully herein, were
8 committed within the time and space limits of Perpetrator 1, Perpetrator 2, Perpetrator 3,
9 and Perpetrator 4's respective employment as priests, counselors and spiritual leaders,
10 were committed out of a desire, at least initially and partially, to fulfill their respective
11 employment duties as priests, counselors and spiritual leaders, and the acts of grooming
12 minor males, including Plaintiff, were generally actions of a kind and nature which
13 Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4 were required to perform as
14 priests, counselors and spiritual leaders for Defendant Diocese, which were characteristic
15 of the employment responsibilities of priests serving Defendant Diocese, Defendant Parish,
16 and Does 4 through 100, generally.

17 5.3 That the close relationship the Defendant Diocese and Defendant Parish
18 encouraged the Perpetrators to foster with young boys, including Plaintiff evolved into
19 sexual relationships with Plaintiff was a foreseeable consequence of the Perpetrators'
20 express agency responsibilities, were engendered by their respective agency duties, and
21 were outgrowths of the Perpetrators' employment responsibilities.

22 5.4. In 2002, the United States Conference of Catholic Bishops (USCCB) commissioned
23 the John Jay College of Criminal Justice to conduct an extensive review and analysis of
24 allegations of sexual abuse by Catholic priests nationwide. The study, entitled: "The
25 Nature and Scope of the Problem of Sexual Abuse of Children by Catholic Priests and
26 Deacons within the United States" found that 80.9 percent of allegations of sexual abuse
27 against Catholic priests and deacons involved minor males, while 19.1 percent of the
28 allegations of sexual abuse against Catholic priests and deacons involved minor females.

1 In the Catholic population young males were sexually abused nearly 425 percent more
2 often than minor females.

3 5.5. Conversely, a 1990 study of more than 2,600 men and women conducted by David
4 Finkelhor, demonstrated that more than 27 percent of adult women suffered some form of
5 sexual abuse during minority, compared to approximately 16 percent of adult men. The
6 Study commissioned by the USCCB relied on Finkelhor's study, as well as two additional
7 studies that found minor females to be substantially more likely to be sexually abused than
8 the Finkelhor study (Harriet L. MacMillan and Jan E. Flemming, "Prevalence of Child
9 Physical and Sexual Abuse in the Community." *Journal of the American Medical*
10 *Association* 278 (1997): 131-135 [finding 12.8 percent of minor females were sexually
11 abused, while 4.3 percent of minor males were similarly abused]; K. Moore, K. Nord, and J.
12 Peterson, "Nonvoluntary Sexual Activity Among Adolescents." *Family Planning*
13 *Perspectives* 21 (1989): 110-114 [finding 15.3 percent minor females and 5.9 percent of
14 minor males had been sexually abused].) Thus, in the population at large, studies relied
15 on by the USCCB found that minor females were between 60 and approximately 300
16 percent more likely to be sexually abused than minor males.

17 5.6. Plaintiff is informed and believes and on that basis alleges that the discrepancy
18 between the proportion of sexually abused minor males to sexually abused minor females
19 by Catholic priests and deacons, and the rate in the population at large, is the direct result
20 of the Catholic priests' agency requirement of building close relationships with minor males
21 to entice young boys to become priests.

22 5.7. The John Jay Study found that allegations of childhood sexual abuse had been
23 made against 4,692 priests and deacons from 1950-2002. Moreover, when researchers
24 divided the United States into 14 distinct geographic regions, each region averaged
25 between 3 and 6 percent of all priests had been accused of sexual abuse; thereby
26 evidencing a consistent national problem with childhood sexual abuse by priests.
27 5.8. In light of the widespread national problem of sexual abuse of minors by priests, the
28 more localized state problem of sexual molestation of minors by priests, and the specific

1 prevalence of sexual abuse of minors by priests within Defendant Diocese and Defendant
2 Parish, in the context of Defendants' particular enterprises, it is foreseeable that priests
3 and religious under Defendants' supervision and control would sexually abuse minor
4 children. In light of the priests' employment responsibility to "groom" young males, that
5 some minor males would be sexually abused by priests during the grooming process is a
6 foreseeable outgrowth of the priests' agency responsibilities
7
8 5.9. Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 4's molestations of
9 Plaintiff were outgrowths of their employment responsibilities to foster close relationships
10 with minor parishioners and to gain said minors' trust and friendship.
11
12 5.10. As a matter of course, the primary legislative document for church-lay interactions
13 (Canon Law) demands the Pastor to make "particular provision" that the faith of the young
14 people be "fortified, enlightened, and developed through various means and endeavors."
15 The Canon Law governs a priest's existence 24 hours per day. A priest is never "off-duty"
16 and his conduct is necessary influenced by the Canon Law at all times. As a result, the
17 Canon Law requirement to "groom" young boys did not cease to operate on the
18 Perpetrators during the period of molestation of Plaintiff, but instead influenced the
19 Perpetrators' actions.
20
21 5.11. Catholic children, including Plaintiff, are taught that priests are God's special
22 representatives on Earth and took the place of Jesus Christ, especially when they
23 celebrated mass or heard confession. Priests, including the Perpetrator 1, Perpetrator 2,
24 Perpetrator 3, and Perpetrator 4's, controlled access to the seven sacraments, which
25 Catholics, including Plaintiff, were taught are necessary for eternal salvation. Thus, lay
26 people are groomed to maintain a spirit of docility and unquestioning obedience to priests.
27 Without the authority over parishioners, including Plaintiff, conveyed by Defendant
28 Diocese, Defendant Parish and Does 4 through 100, Perpetrator 1, Perpetrator 2,
Perpetrator 3, and Perpetrator 4 could not have molested Plaintiff.
5.12. Under Catholic teachings, priests, including the Perpetrator 1, Perpetrator 2,
Perpetrator 3, and Perpetrator 4, had unquestioned power over the religious lives of their

COMPLAINT FOR DAMAGES

1 parishioners, including Plaintiff, and a privileged place in Catholic and secular society. A
2 priest's very profession, according to traditional teaching, demanded that they not be
3 questioned, and that they be obeyed in all matters. Moreover, the priest was understood to
4 define right and wrong. Therefore, in Catholic education, it was not permissible to
5 contemplate that a priest would engage in conduct that was "wrong." As a result, Plaintiff
6 did not, at the time of the abuse, understand that the sexual molestations by Perpetrator 1,
7 Perpetrator 2, Perpetrator 3, and Perpetrator 4's were wrongful.

8 6. Plaintiff was born on February 27, 1973, and is currently 36 years old. Plaintiff was
9 raised in the Roman Catholic Church. Plaintiff's family attended Defendant Parish in
10 Anaheim, California, and Plaintiff and his family were enrolled at that parish. Plaintiff was
11 an altar boy at Defendant Parish. Plaintiff as a minor also attended the school associated
12 with, and upon information and belief, operated by, Defendant Parish for eight years from
13 first through eighth grade, from approximately September of 1979 until approximately June
14 of 1987.

15 6.1. During the time Perpetrator 1, Perpetrator 2 and Perpetrator 4 were assigned to,
16 worked at, were present at or performed services at Defendant Parish, Perpetrator 1,
17 Perpetrator 2, Perpetrator 3, and Perpetrator 4 sexually molested Plaintiff when Plaintiff
18 was a minor. Further, during the time that Perpetrator 3 was assigned by Defendant
19 Diocese to St. Polycarp Parish in Stanton, California, Perpetrator 3 sexually abused and
20 molested Plaintiff while Plaintiff was a minor. Further, During the time that Plaintiff was
21 attending the school operated by Defendant Parish, he was sexually abused and molested
22 by Perpetrator 5, a coach and/or teacher at Defendant Parish.

23 7. Perpetrator 1 was incardinated by the Archdiocese of Milwaukee in 1967.
24 Perpetrator 1 was criminally convicted of molesting at least one minor boy in approximately
25 1973. Several subsequent allegations arose in 1976. At that time, Perpetrator 1 was
26 under the care of a mental health practitioner, and sought reassignment to the Diocese of
27 Orange. The Diocese of Orange was aware that Perpetrator 1 had previous problems with
28 molesting boys, but nonetheless accepted Perpetrator 1, and assigned him to Defendant

1 Parish, where he was given access to Plaintiff.

2 7.1. Defendant Diocese knew or had reason to know, or was otherwise on notice of acts
3 of unlawful sexual conduct by Perpetrator 2 that predated the abuse of Plaintiff.

4 Perpetrator 2's behavior with children was open, notorious and overly familiar. Parish
5 volunteers witnessed Perpetrator 2 hugging and kissing children on the playground during
6 1982, 1983 and early 1984. The behavior was so startling that one volunteer instructed
7 her son to stay away from Perpetrator 2, and to immediately notify her of any inappropriate
8 conduct by the priest. In early 1984, Perpetrator 2 was abruptly transferred from
9 Defendant Parish to the Diocese of London.

10 7.2. At least as early as 1980, Defendant Diocese received complaints that Perpetrator 3
11 was sexually molesting boys. In response, Defendant Diocese instructed Perpetrator 3 to
12 go through therapy. Perpetrator 3 complied. That treatment appears to have continued
13 until Perpetrator 3 abruptly resigned from his position at St. Polycarp and was transferred
14 to the Diocese of Baker (Oregon.) Plaintiff was sexually abused by Perpetrator 3 after
15 1980.

16 8. Plaintiff was abused by Perpetrator 4 during "counseling sessions." Following an
17 instance of abuse, Plaintiff reported to an employee at Defendant Parish that he no longer
18 wished to attend counseling sessions with Perpetrator 4. Perpetrator 4 continued to abuse
19 Plaintiff.

20 9. Another coach and/or teacher at the school associated with Defendant Parish, who
21 was an agent, employee, or servant of Defendants was suspicious that Perpetrator 5 was
22 engaging in sexually inappropriate conduct, because he asked Plaintiff, and other boys, if
23 Perpetrator 5 was harming the boys.

24 10.1. The sexual abuse and exploitation of Plaintiff and the circumstances under which it
25 occurred caused Plaintiff to develop various psychological coping mechanisms which
26 reasonably made him incapable of ascertaining the resulting damages from that conduct.
27 Within the last three years, Plaintiff discovered or reasonably should have discovered that
28 psychological injury or illness occurring after the age of majority was caused by the sexual

1 abuse.

2 10.2. The sexual abuse and exploitation of Plaintiff and the circumstances under which it
3 occurred caused Plaintiff to develop various psychological coping mechanisms which
4 reasonably made him incapable of ascertaining the wrongfulness of the sexual conduct of
5 Perpetrator 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5.

6 10.3. Moreover, the sexual abuse and exploitation of Plaintiff and the circumstances
7 under which it occurred caused Plaintiff to develop various psychological coping
8 mechanisms which reasonably made him incapable of ascertaining the resulting damages
9 from that conduct. As a result of said psychological coping mechanisms, Plaintiff
10 completely repressed all memory of the sexual abuse by Perpetrator 1, Perpetrator 2,
11 Perpetrator 3, Perpetrator 4 and Perpetrator 5 at the time of the molestation. Throughout
12 the remaining years of his minority, and until in or about August of 2006, Plaintiff had no
13 memory of the sexual molestation.

14 10.3.1. The psychological coping mechanisms developed by Plaintiff as a result of the
15 molestation by Perpetrator 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5
16 manifested subconsciously rather than as a result of Plaintiff's conscious mind. The
17 psychological coping mechanisms developed contemporaneously with the molestation by
18 Perpetrator 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5 and contributed
19 to his inability to recognize the wrongfulness of the sexual conduct by Perpetrator 1,
20 Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5. As a result of the
21 psychological coping mechanisms and repression experienced by Plaintiff, Plaintiff was not
22 immediately aware of the existence of any right of action against Perpetrator 1, Perpetrator
23 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5, and did not become aware of any right of
24 action against Perpetrator 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5
25 until after recovering his memories of the sexual abuse.
26 10.3.2. Plaintiff did not discover that he had suffered adulthood psychological injury as a
27 result of the childhood sexual abuse until in or about August of 2006. As a result of his
28 complete repression of his memory of the molestation by Perpetrator 1, Perpetrator 2,

1 Perpetrator 3, Perpetrator 4 and Perpetrator 5 , Plaintiff could not reasonably have
2 discovered that the molestation had caused him to suffer adulthood psychological injuries
3 until in or about August of 2006.

4 10.4. In approximately July of 2006, Plaintiff began experiencing flashbacks, and
5 experiencing intrusive memories of childhood sexual abuse. Plaintiff met with a
6 psychologist on August 11, 2006 in order to address his concerns over the newly occurring
7 flashbacks and intrusive memories of childhood sexual abuse. Plaintiff informed his
8 psychologist that he believed there was a little boy inside of him that was angry. The
9 doctor instructed Plaintiff to go home, lie on his bed, close his eyes, envision the boy, and
10 ask the boy "why are you so mad?" On August 23, 2007, Plaintiff performed this exercise.
11 At that time, memories of his years of molestation began coming back to him. For the first
12 time in his adult life, Plaintiff realized he had been molested as a child.

13 10.5. Plaintiff did not discover, and could not reasonably have discovered, the fraud of
14 Defendant Diocese and Defendant Parish until in or about August of 2006 when he
15 recovered his previously - repressed memories of the molestation by Perpetrator 1,
16 Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5, and learned that Perpetrator
17 1, Perpetrator 2, Perpetrator 3 had molested children prior to his own victimization, and that
18 Defendant Diocese and Defendant Parish was aware of said molestations prior to his own
19 victimization.

20 10.6. Following Plaintiff's recovery of his previously - repressed memory of the
21 molestation by Perpetrator 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5,
22 Plaintiff became aware that Perpetrator 1, Perpetrator 2 and Perpetrator 3 had molested
23 numerous additional children throughout their respective tenures as Roman Catholic
24 priests.

25 10.7. The repression of Plaintiff's memory of his molestation by Perpetrator 1, Perpetrator
26 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5 was a direct result of the molestation.
27 The repression of Plaintiff's memory of the molestation by Perpetrator 1, Perpetrator 2,
28 Perpetrator 3, Perpetrator 4 and Perpetrator 5 was subconscious and was not voluntary.

1 The repression of Plaintiff's memory of the molestation by Perpetrator 1, Perpetrator 2,
2 Perpetrator 3, Perpetrator 4 and Perpetrator 5 prevented Plaintiff from understanding that a
3 right of action existed against Perpetrator 1, Perpetrator 2, Perpetrator 3, and Perpetrator 5
4 or Defendants until after Plaintiff reached the age of 19; until after Plaintiff reached the age
5 of 26, and; until after the calendar year 2003 had expired. The molestation by Perpetrator
6 1, Perpetrator 2, Perpetrator 3, Perpetrator 4 and Perpetrator 5, and the subsequent and
7 causally-related, involuntary repression of Plaintiff's memory precluded Plaintiff from
8 discovering the existence of any right of action against Defendants until in or about August
9 of 2006, when Plaintiff recovered his memory of the abuse. Defendants' affirmative
10 conduct and inaction caused Plaintiff's inability to pursue his action at any earlier date.
11 11. As a direct result of the wrongful conduct alleged herein, Plaintiff has suffered, and
12 continues to suffer great pain of mind and body, shock, emotional distress, physical
13 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
14 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
15 was prevented and will continue to be prevented from performing Plaintiff's daily activities
16 and obtaining the full enjoyment of life; has sustained and continues to sustain loss of
17 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
18 medical and psychological treatment, therapy, and counseling.

19 **FIRST CAUSE OF ACTION**

20 **CHILDHOOD SEXUAL ABUSE IN VIOLATION OF**

21 **CODE OF CIVIL PROCEDURE § 340.1**

22 **(Against All Defendants)**

23 **[NO CAUSE OF ACTION ASSERTED, FACTUAL ALLEGATIONS REMAIN]**

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

25 13. [Reserved]

26 13.1. From approximately 1979 through approximately 1986 the Perpetrators engaged in
27 unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiff,
28 thereby satisfying the requirements of California Code Civil Procedure § 340.1. Said

1 conduct was undertaken while the Perpetrators were employees and representatives,
2 and/or agents of Defendant Diocese, Defendant Parish and Does 4 through 100, while in
3 the course and scope of employment with Defendant Diocese, Defendant Parish and Does
4 4 through 100.
5 14. Prior to or during the abuse alleged above, Defendants knew, had reason to know,
6 or was otherwise on notice of unlawful sexual conduct by the Perpetrators. Defendants
7 failed to take reasonable steps and failed to implement reasonable safeguards to avoid
8 acts of unlawful sexual conduct in the future by the Perpetrators, including, but not limited
9 to, preventing or avoiding placement of the Perpetrators in functions or environments in
10 which contact with children was an inherent part of those functions or environments.
11 Furthermore, at no time during the periods of time alleged did Defendants have in place a
12 system or procedure to supervise and/or monitor employees, volunteers, representatives,
13 or agents to insure that they did not molest or abuse minors in Defendants' care, including
14 the Plaintiff.
15 15. [Reserved]
16 15.1 [Reserved]

SECOND CAUSE OF ACTION

NEGLIGENCE

(Against All Defendants)

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20 16. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
21 17. Defendants had a duty to protect the minor Plaintiff when he were entrusted to their
22 care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily
23 entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff.
24 As such, Defendants owed Plaintiff, a minor child, a special duty of care, in
25 addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults
26 dealing with children owe to protect them from harm.
27 18. Defendant Diocese, Defendant Parish and Does 4 through 100, by and through their
28 agents, servants and employees, knew or reasonably should have known of the

1 Perpetrators' dangerous and exploitive propensities and/or that the Perpetrators were unfit
2 agents. It was foreseeable that if Defendants did not adequately exercise or provide the
3 duty of care owed to children in their care, including but not limited to Plaintiff, the children
4 entrusted to Defendants' care would be vulnerable to sexual abuse by the Perpetrators.
5 19. Defendants breached their duty of care to the minor Plaintiff by allowing the
6 Perpetrators to come into contact with the minor Plaintiff without supervision; by failing to
7 adequately hire, supervise, or retain the Perpetrators who they permitted and enabled to
8 have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts
9 about the Perpetrators; by failing to tell or concealing from Plaintiff, Plaintiff's parents,
10 guardians, or law enforcement officials that the Perpetrators were or may have been
11 sexually abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians,
12 or law enforcement officials that Plaintiff was or may have been sexually abused after
13 Defendants knew or had reason to know that the Perpetrators may have sexually abused
14 Plaintiff, thereby enabling Plaintiff to continue to be endangered and sexually abused,
15 and/or creating the circumstance where Plaintiff was less likely to receive medical/mental
16 health care and treatment, thus exacerbating the harm done to Plaintiff; and/or by holding
17 out the Perpetrators to the Plaintiff and his parents or guardians as being in good standing
18 and trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the
19 Perpetrators' contact and/or actions with the Plaintiff and/or with other minors who were
20 victims of the Perpetrators, and/or disguised the nature of the sexual abuse and contact.
21 20. As a result of the above-described conduct, Plaintiff has suffered, and continues to
22 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
23 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
24 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
25 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
26 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
27 capacity; and/or has incurred and will continue to incur expenses for medical and
28 psychological treatment, therapy, and counseling.

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THIRD CAUSE OF ACTION

NEGLIGENT SUPERVISION/FAILURE TO WARN

(Against All Defendants)

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

22. Defendant Diocese, Defendant Parish and Does 4 through 100 had a duty to provide reasonable supervision of the Perpetrators; to use reasonable care in investigating the Perpetrators; and to provide adequate warning to the Plaintiff, the Plaintiff's family, minor students, and minor parishioners of the Perpetrators' dangerous propensities and unfitness.

23. Defendant Diocese, Defendant Parish and Does 4 through 100, by and through their agents, servants and employees, knew or reasonably should have known of the Perpetrators' dangerous and exploitive propensities and/or that the Perpetrators were unfit agents. Despite such knowledge, Defendant Diocese, Defendant Parish and Does 4 through 100 negligently failed to supervise the Perpetrators in their positions of trust and authority as Roman Catholic Priests, religious instructors, counselors, school administrators, school teachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures, where they was able to commit the wrongful acts against the Plaintiff. Defendant Diocese, Defendant Parish and Does 4 through 100 failed to provide reasonable supervision of the Perpetrators, failed to use reasonable care in investigating the Perpetrators, and failed to provide adequate warning to Plaintiff and Plaintiff's family of the Perpetrators' dangerous propensities and unfitness. Defendant Diocese, Defendant Parish and Does 4 through 100 further failed to take reasonable measures to prevent future sexual abuse.

24. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will

COMPLAINT FOR DAMAGES

1 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
2 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
3 capacity; and/or has incurred and will continue to incur expenses for medical and
4 psychological treatment, therapy, and counseling.

5 FOURTH CAUSE OF ACTION

6 NEGLIGENT HIRING/RETENTION

7 (Against All Defendants)

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

9 26. Defendant Diocese, Defendant Parish and Does 4 through 100 had a duty to not
10 hire and/or retain the Perpetrators, and other employees, agents, volunteers, and other
11 representatives, given the Perpetrators' dangerous and exploitive propensities.

12 27. Defendant Diocese, Defendant Parish and Does 4 through 100, by and through their
13 agents, servants and employees, knew or reasonably should have known of the
14 Perpetrators' dangerous and exploitive propensities and/or that the Perpetrators were unfit
15 agents. Despite such knowledge, Defendant Diocese, Defendant Parish and Does 4
16 through 100 negligently hired and/or retained the Perpetrators in their positions of trust and
17 authority as Roman Catholic Priests, religious instructors, counselors, school
18 administrators, school teachers, surrogate parents, spiritual mentors, emotional mentors,
19 and/or other authority figures, where they were able to commit the wrongful acts against
20 the Plaintiff. Defendant Diocese, Defendant Parish and Does 4 through 100 failed to use
21 reasonable care in investigating the Perpetrators and failed to provide adequate warning to
22 Plaintiff and Plaintiff's family of the Perpetrators' dangerous propensities and unfitness.
23 Defendant Diocese, Defendant Parish and Does 4 through 100 further failed to take
24 reasonable measures to prevent future sexual abuse.

25 28. As a result of the above-described conduct, Plaintiff has suffered, and continues to
26 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
27 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
28 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will

1 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
2 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
3 capacity; and/or has incurred and will continue to incur expenses for medical and
4 psychological treatment, therapy, and counseling.

5 FIFTH CAUSE OF ACTION

6 FRAUD

7
8 (Against all Defendants)

9 29. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10 30. Defendants knew and/or had reason to know of the sexual misconduct of the
11 Perpetrators.

12 30.1. Despite knowledge of the sexual misconduct of the Perpetrators, Defendants held
13 the Perpetrators out as men who did not engage in sexual activity.

14 31. Defendants misrepresented, concealed or failed to disclose information relating to
15 sexual misconduct of the Perpetrators as described herein, and that Defendants continued
16 to misrepresent, conceal, and fail to disclose information relating to sexual misconduct of
17 the Perpetrators as described herein.

18 32. Defendants knew that they misrepresented, concealed or failed to disclose
19 information relating to sexual misconduct of the Perpetrators.

20 33. Plaintiff justifiably relied upon Defendants for information relating to sexual
21 misconduct of the Perpetrators.

22 34. Defendants, with the intent to conceal and defraud, did misrepresent, conceal or fail
23 to disclose information relating to the sexual misconduct of the Perpetrators.

24 35. As a direct result of Defendants' fraud, Plaintiff has suffered, and continues to suffer
25 great pain of mind and body, shock, emotional distress, physical manifestations of
26 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
27 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
28 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
enjoyment of life; has sustained and will continue to sustain loss of earnings and earning

1 capacity; and/or has incurred and will continue to incur expenses for medical and
2 psychological treatment, therapy, and counseling.

3 36. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing
4 thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition,
5 when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff
6 experienced extreme and severe mental and emotional distress that Plaintiff had been the
7 victim of the Defendants' fraud; that Plaintiff had not been able to help other minors being
8 molested because of the fraud; and that Plaintiff had not been able because of the fraud to
9 receive timely medical treatment needed to deal with the problems Plaintiff has suffered
10 and continues to suffer as a result of the molestations.

11 36.1 [Reserved]

12 SIXTH CAUSE OF ACTION

13 FIDUCIARY/CONFIDENTIAL RELATIONSHIP FRAUD

14 AND CONSPIRACY TO COMMIT FRAUD

15 (Against All Defendants)

16 [RESERVED]

17 37. [Reserved]

18 38. [Reserved]

19 39. [Reserved]

20 40. [Reserved]

21 41. [Reserved]

22 42. [Reserved]

23 43. [Reserved]

24 44. [Reserved]

25 45. [Reserved]

26 46. [Reserved]

27 47. [Reserved]

28 47.1 [Reserved]

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SEVENTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY AND/OR CONFIDENTIAL RELATIONSHIP

(Against All Defendants)

[RESERVED]

48. [Reserved]

49. [Reserved]

50. [Reserved]

51. [Reserved]

52. [Reserved]

52.1 [Reserved]

EIGHTH CAUSE OF ACTION

NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF

(Against All Defendants)

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

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

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

1 psychological treatment, therapy, and counseling.
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3 **NINTH CAUSE OF ACTION**

4 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

5 **(Against all Defendants)**

6 56. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
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8 57. Defendants' conduct was extreme and outrageous and was intentional or done
9 recklessly.

10 58. As a result of Defendants' conduct, Plaintiff experienced and continues to
11 experience severe emotional distress resulting in bodily harm.

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

20 59.1 [Reserved]

21 **TENTH CAUSE OF ACTION**

22 **VIOLATION OF PENAL CODE § 32**

23 **(Against All Defendants)**

24 **[RESERVED]**

25 60. [Reserved]

26 61. [Reserved]

27 62. [Reserved]

28 63. [Reserved]

64. [Reserved]

1 64.1 [Reserved]
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6 65. [Reserved]
7 66. [Reserved]
8 67. [Reserved]
9 68. [Reserved]
10 69. [Reserved]
11 70. [Reserved]
12 71. [Reserved]
13 72. [Reserved]
14 73. [Reserved]
15 74. [Reserved]
16 74.1 [Reserved]
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21 75. [Reserved]
22 76. [Reserved]
23 77. [Reserved]
24 78. [Reserved]
25 79. [Reserved]
26 79.1 [Reserved]
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ELEVENTH CAUSE OF ACTION

VIOLATION OF PENAL CODE § 11166

(Against All Defendants)

[RESERVED]

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TWELFTH CAUSE OF ACTION

VIOLATION OF PENAL CODE §§ 273a(a), (b)

(Against All Defendants)

[RESERVED]

1 THIRTEENTH CAUSE OF ACTION

2 UNFAIR COMPETITION -

3 VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200

4 (Against all Defendants)

5 [RESERVED]

6 80. [Reserved]

7 81. [Reserved]

8 82. [Reserved]

9 83. [Reserved]

10 84. [Reserved]

11 85. [Reserved]

12 86. [Reserved]

13 87. [Reserved]

14 88. [Reserved]

15 89. [Reserved]

16 90. [Reserved]

17 FOURTEENTH CAUSE OF ACTION

18 NEGLIGENCE PER SE FOR STATUTORY VIOLATIONS

19 (Against All Defendants)

20 **[NO CAUSE OF ACTION ADVANCED, FACTUAL ALLEGATIONS REMAIN]**

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

22 92. At all times or sometimes herein mentioned, there was in full force and effect Penal
23 Code §§ 32; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2);
24 288a(c); 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time
25 these acts described herein were committed. These laws made unlawful certain acts
26 relating to the sexual abuse of minors.

27 93. At the times mentioned herein, Defendants were in violation of the aforesaid
28

1 statutes in doing the acts set forth herein.

2 94. Plaintiff was within the class of persons to be protected by Penal Code §§ 32;
3 111166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c);
4 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time these acts
5 described herein were committed.

6 95. As a result of the above-described conduct, Plaintiff has suffered, and will continue
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 will continue 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 **FIFTEENTH CAUSE OF ACTION**

15 **VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS**

16 **AND STATUTORY STATE CIVIL RIGHTS**

17 [State Civil Code §§ 51.7, 51.9, 52.1, 52.4]

18 (Against All Defendants)

19 [RESERVED]

20 96. [Reserved]

21 97. [Reserved]

22 98. [Reserved]

23 99. [Reserved]

24 100. [Reserved]

25 101. [Reserved]

26 102. [Reserved]

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1 capacity; and/or has incurred and will continue to incur expenses for medical and
2 psychological treatment, therapy, and counseling.

3 110. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing
4 thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition,
5 when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff
6 experienced extreme and severe mental and emotional distress that Plaintiff had been the
7 victim of the Defendants' fraud; that Plaintiff had not been able to help other minors being
8 sexually abused because of the fraud; and that Plaintiff had not been able because of the
9 fraud to receive timely medical treatment needed to deal with the problems Plaintiff had
10 suffered and continues to suffer as a result of the molestations.
11 110.1. In doing the things herein alleged, Perpetrator 4 acted willfully and with intent to
12 cause injury to Plaintiff, subjected Plaintiff to cruel and unjust hardship in conscious
13 disregard of Plaintiff's rights, and intentionally misrepresented, deceived, and concealed
14 material facts known to Perpetrator 4, thereby depriving Plaintiff of legal rights and causing
15 injury to Plaintiff. Perpetrator 4 was therefore guilty of malice, oppression, and fraud in
16 conscious disregard of Plaintiff's rights, and Plaintiff is therefore entitled to an award of
17 exemplary or punitive damages as against Perpetrator 4.

18 **SEVENTEENTH CAUSE OF ACTION**

19 **PREMISES LIABILITY**

20 (Against All Defendants)

21 **[RESERVED]**

22 111. [Reserved]

23 112. [Reserved]

24 113. [Reserved]

25 114. [Reserved]

26 115. [Reserved]

27 116. [Reserved]

28

COMPLAINT FOR DAMAGES

1 117. [Reserved]
2 118. [Reserved]
3 119. [Reserved]
4 120. [Reserved]
5 121. [Reserved]
6 122. [Reserved]

7 **EIGHTEENTH CAUSE OF ACTION**

8 **SEXUAL BATTERY**

9 **(Against All Defendants)**

10 123. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.
11 124. From approximately 1986 until approximately 1988, Perpetrator 4 engaged in
12 unpermitted, harmful and offensive sexual contact upon the person of Plaintiff, and
13 Defendants ratified or approved of that sexual contact.

14 125. As a result of the above-described conduct, Plaintiff has suffered, and continues to
15 suffer great pain of mind and body, shock, emotional distress, psychological injury, 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 will continue 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.

22 126. In doing the things herein alleged, Perpetrator 4 acted willfully and with intent to
23 cause injury to Plaintiff, subjected Plaintiff to cruel and unjust hardship in conscious
24 disregard of Plaintiff's rights, and intentionally misrepresented, deceived, and concealed
25 material facts known to Perpetrator 4, thereby depriving Plaintiff of legal rights and causing
26 injury to Plaintiff. Perpetrator 4 was therefore guilty of malice, oppression, and fraud in
27 conscious disregard of Plaintiff's rights, and Plaintiff is therefore entitled to an award of
28

COMPLAINT FOR DAMAGES

1 exemplary or punitive damages as against the Defendant Perpetrator 4.
2 WHEREFORE, Plaintiff prays for damages; costs; interest; punitive damages
3 against Defendant Doe 3, Perpetrator 4; statutory/civil penalties according to law; and such
4 other relief as the court deems appropriate and just.


5
6 **JURY DEMAND**

7 Plaintiff demands a jury trial on all issues so triable.

8 Respectfully submitted,

9
10 **THE ZALKIN LAW FIRM, PC**

11 DATE: May 15, 2009

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13 By: 
14 Devin M. Storey, Esq.
15 Attorney for Plaintiff,
16 MATTHEW CARRIGAN
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 15 2009

ALAN CARLSON, Clerk of the Court
J. Frausto
BY J FRAUSTO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MATTHEW CARRIGAN, Individually
Plaintiff,
v.
Defendant Doe 1, Diocese 1; Defendant
Doe 2, Parish; Defendant Doe Perpetrator
4; and DOES 4 through 100, inclusive
Defendants.

CASE NO.: 30-2009-00180131
ORDER TO SERVE
Judge: Ronald L. Bauer
Dept: CX103

This Court has reviewed the Certificates of Merit of Psychologist and of Counsel for plaintiff, Matthew Carrigan, pursuant to the requirements of C.C.P. 340.1(h) and (i) and finds that there is a meritorious basis for this Complaint. Accordingly, it is hereby ordered that the Complaint herein may be served upon Defendants Doe 1, Doe 2, and Doe 4.

IT IS SO ORDERED
Date: *15 June 2009*
Ronald L. Bauer
JUDGE OF THE SUPERIOR COURT

ORDER TO SERVE

ELECTRONICALLY
RECEIVED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

**ALTERNATIVE DISPUTE RESOLUTION (ADR)
INFORMATION PACKAGE**

NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):

Rule 3.221(c) of the California Rules of Court requires you to serve a copy of the ADR Information Package along with the complaint and/or cross-complaint.

California Rules of Court – Rule 3.221
Information about Alternative Dispute Resolution (ADR)

- (a) Each court shall make available to the plaintiff, at the time of filing of the complaint, an ADR Information Package that includes, at a minimum, all of the following:
- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes.
 - (2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.
 - (3) Information about the availability of local dispute resolution programs funded under the Dispute Resolutions Program Act (DRPA), in counties that are participating in the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.
 - (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.
- (b) A court may make the ADR Information Package available on its Web site as long as paper copies are also made available in the clerk's office.
- (c) The plaintiff must serve a copy of the ADR Information Package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR Information Package on any new parties to the action along with the cross-complaint.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE

ADR Information

Introduction.

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts and others offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

BENEFITS OF ADR.

Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case. Some potential benefits of ADR are summarized below.

Save Time. A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome. In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships. ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction. In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

Improve Attorney-Client Relationships. Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

DISADVANTAGES OF ADR.

ADR may not be suitable for every dispute.

Loss of protections. If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.

Less discovery. There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

Additional costs. The neutral may charge a fee for his or her services. If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Effect of delays if the dispute is not resolved. Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

TYPES OF ADR IN CIVIL CASES.

The most commonly used ADR processes are arbitration, mediation, neutral evaluation and settlement conferences.

Arbitration. In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. *Nonbinding* arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate. Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate. If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation. In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate. Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate. Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation. In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is

often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate. Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate. Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences. Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

ADDITIONAL INFORMATION.

In addition to mediation, arbitration, neutral evaluation, and settlement conferences, there are other types of ADR, including conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, 1-800-852-5210
- Contact the Orange County Bar Association at (949) 440-6700
- Look in the Yellow Pages under "Arbitrators" or "Mediators"

Free mediation services are provided under the Orange County Dispute Resolution Program Act (DRPA) For information regarding DRPA, contact:

- Institute for Conflict Management (714) 288-6600
- Community Service Programs, Inc. (949) 851-3168
- Orange County Human Relations (714) 834-7198
- Fair Housing Council of Orange County (714) 569-0827

For information on the Superior Court of California, County of Orange court ordered arbitration program, call (714) 834-3774 or refer to Local Rules 360 and 446.

The Orange County Superior Court is offering pilot programs for Civil Mediation and Early Neutral Evaluation (ENE) for civil cases filed at the Central Justice Center. For the Civil Mediation pilot program, mediators on the Court's panel have agreed to accept a fee of \$300 for up to the first two hours of a mediation session. For the ENE program, members of the Court's panel have agreed to accept a fee of \$300 for up to three hours of an ENE session. Additional information on the Orange County Superior Court Civil Mediation and Early Neutral Evaluation (ENE) pilot programs is available on the Court's website at www.occourts.org, or by calling (714) 834-5309.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name & Address):

FOR COURT USE ONLY

Telephone No.:
E-Mail Address (Optional):
ATTORNEY FOR (Name):

Fax No. (Optional):
Bar No:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
JUSTICE CENTER:
 Central - 700 Civic Center Dr. West, Santa Ana, CA 92701-4045
 Civil Complex Center - 751 W. Santa Ana Blvd., Santa Ana, CA 92701-4512
 Harbor-Laguna Hills Facility - 23141 Moulton Pkwy., Laguna Hills, CA 92653-1251
 Harbor - Newport Beach Facility - 4601 Jamboree Rd., Newport Beach, CA 92660-2595
 North - 1275 N. Berkeley Ave., P. O. Box 5000, Fullerton, CA 92838-0500
 West - 8141 13th Street, Westminster, CA 92683-0500

PLAINTIFF/PETITIONER:
DEFENDANT/RESPONDENT:

ALTERNATIVE DISPUTE RESOLUTION (ADR) STIPULATION

CASE NUMBER:

Plaintiff(s)/Petitioner(s), _____

and defendant(s)/respondent(s), _____

agree to the following dispute resolution process:

- Mediation
- Arbitration (must specify code)
 - Under section 1141.11 of the Code of Civil Procedure
 - Under section 1280 of the Code of Civil Procedure
- Neutral Case Evaluation
- Other (specify): _____

The ADR process must be completed no later than 90 days after the date of this Stipulation.

Plaintiff(s)/Petitioner(s) and defendant(s)/respondent(s) further agree as follows:

The ADR Neutral Selection and Party List is attached to this Stipulation.

We understand that there may be a charge for services provided by neutrals. We understand that participating in an ADR process does not extend the time periods specified in California Rules of Court rule 3.720 et seq.

Date: _____ (SIGNATURE OF PLAINTIFF OR ATTORNEY) _____ (SIGNATURE OF PLAINTIFF OR ATTORNEY)

Date: _____ (SIGNATURE OF DEFENDANT OR ATTORNEY) _____ (SIGNATURE OF DEFENDANT OR ATTORNEY)

ALTERNATIVE DISPUTE RESOLUTION (ADR) STIPULATION

Plaintiff must serve a copy of these Guidelines with the Summons and Complaint.



GUIDELINES

ALL COMPLEX CIVIL DEPARTMENTS

Welcome to the Complex Civil Litigation Program. Orange County Superior Court is one of six courts designated by the California Judicial Council as pilot project courts to handle solely complex civil litigation. These pilot courts were established to apply case management principles to improve the effective administration of justice by reducing the time and expense normally associated with the litigation of complex civil cases. It has been our experience that these principles make it easier to prepare these cases for trial by providing a more orderly framework for the pre-trial phase of the litigation.

The result is a greater opportunity for early case resolution through mediation and settlement, and improving the way complex cases are tried by encouraging the use of technology.

Counsel's familiarity with the applicable California Rules of Court ["Local Rules"], Local Rules – Superior Court of California, County of Orange, and these Guidelines is expected. The Guidelines should answer most procedural questions and assist you in feeling comfortable in our courtrooms.

COURTROOM DEMEANOR, CONDUCT AND ETIQUETTE

Counsel are expected to adhere to the provisions of the California Attorney Guidelines of Civility and Professionalism. (State Bar of the State of California, adopted July 20, 2007, attached to these Guidelines as Appendix 1.)

I. GENERAL MATTERS

1. When issued by the court, the provisions of the Case Management Order in the particular action shall govern over these Guidelines. Procedural matters not provided for in these Guidelines or in a Case Management Order shall be governed by the pertinent provisions of the California statutes, the California Rules of Court, and the California Standards of Judicial Administration. The purpose of these Guidelines is to supplement but not contradict the law governing civil procedure.
2. The Superior Court of California, County of Orange has established a system for e-filing in accordance with Code of Civil Procedure §1010.6 and California Rules of Court, rule 2.250 *et seq*. All papers filed in complex civil cases must be electronically filed unless a party has been specifically excused by the Court from the requirement, pursuant to the *Local Rules – Superior Court of California, County of Orange* ("local rules"), rule 308. To register for the program and to obtain additional information, go to: www.occourts.org/complexcivil/.
3. Cross-complainants must serve a copy of these guidelines and give notice of any scheduled hearings and depositions at the time the cross-complaint is served.
4. Information about filing requirements or fees is available on the court's Internet home page at: <http://www.occourts.org>, or by telephone at (714) 568-4700. The local rules are available on the court's public internet home page.
5. Telephone appearances are conducted through CourtCall, pursuant to the provisions of California Rules of Court, Rule 3.670. Parties are encouraged to seek further information concerning guidelines and protocols from CourtCall at (310) 342-0888 or (888) 88-COURT.

II. Initial Case Management Conference:

The Initial Case Management Conference shall take place in conformance with the requirements set forth in California Rules of Court, rule 3.750. The Initial Case Management Conference is generally scheduled approximately 90 days after the action is filed. Plaintiff is required to give notice of this conference date to all other parties. Thereafter, Status Conferences shall be set in consultation with the Court, according to the needs of the parties.

III. Case Management Conference and Status Conference Statements:

The judges of the Civil Complex Center have determined that Judicial Council form CM-110, *Civil Case Management Statement* required by California Rules of Court, Rule 3.725(c) for some civil cases, is inadequate to provide the judges the information they need when determining how a particular complex case should be managed. ***Form CM-110 should not be used in any action designated or provisionally designated as complex.*** Instead, the parties shall file with the court either a Case Management Conference Statement or a Status Conference Statement as described below.

Counsel must file an updated Conference Statement for each Case Management or Status Conference. The Conference Statement is due no later than 5 court days prior to the hearing.

A Status Conference Statement may be filed as an alternative to the Case Management Conference Statement when appropriate. A Status Conference Statement is generally less detailed than a Case Management Conference Statement and is to be used to advise the court of progress or developments in the case which have occurred since the last review hearing.

A joint statement of the parties is preferred by the court whenever possible.

IV. CASE MANAGEMENT ORDERS:

Case Management Orders are not required in all cases, but they may be helpful in cases where the sequencing and timing of key events is necessary in the management of the litigation and preparation of the case for trial. However, even if a Case Management Order is not necessary in a particular case, *all complex cases must be managed by counsel, or the court, or both.*

The goal of case management is to bring about a just resolution as speedily and economically as possible. To be effective, case management should be tailored to the needs of the particular litigation and to the resources available; make-work activity should be avoided. The parties or the court should develop and monitor an effective plan for the orderly conduct of pretrial and trial proceedings. A case management plan should prescribe a series of procedural steps, with firm dates, giving direction and order to the case as it progresses through pretrial proceedings to summary disposition or trial. The setting of interim time limits and deadlines is often a necessary part of an effective case management plan.

V. LAW AND MOTION:

1. **Meet and Confer.** This court adopts the view that pre-filing conferences between counsel may be useful in avoiding useless or unnecessary motions. Therefore, prior to the hearing of any motion, petition or application, except applications to appear *pro hac vice* and motions to withdraw as counsel of record, all counsel and parties appearing in *propria persona* shall confer in a good faith attempt to eliminate the necessity of the hearing or resolve as many disputes as possible.

Counsel for the moving party shall arrange the conference to meet and confer and, at least 3 calendar days before the hearing, file with the court a statement entitled "Meet and Confer," summarizing the issues remaining in dispute and the respective positions taken.

2. **Tentative Rulings:** Members of the Complex Civil Panel may publish tentative law and motion rulings by any system described in Local Rule 382.

3. **Off Calendars and Continuances:** In order to promote judicial economy and avoid wasting court resources, counsel for moving parties must notify the courtroom clerk as soon as possible if any matter will be taken off calendar. Stipulations between the parties to continue a matter must be approved by the court.

VI. EX PARTE APPLICATIONS:

1. The court's consideration of an *ex parte* application will not interfere with or delay any trial in progress. The moving party is expected to adhere to the provisions of California Rules of Court, Rule 3.1200 – 3.1207. All papers necessary to the determination of the application, including any proposed pleading, motion or order, must be submitted with the *ex parte* application. Counsel should contact the courtroom clerk to verify any specific deadlines for the submission of moving papers or other preferences applicable to that department. Counsel may also contact the courtroom clerk to inquire if oral argument will be permitted, or if the court will rule based on the application and any written opposition.
2. The application shall include a declaration of Notice of Ex Parte Hearing and a proposed order; and shall state in the notice the irreparable harm, immediate danger or other basis for *ex parte* relief that will result if the requested relief is not granted until a regularly noticed motion may be heard.

VII. MANDATORY SETTLEMENT CONFERENCES ("MSC's"):

Compliance with Local Rule 448 is required.

All of the judges at the Civil Complex Center are willing to help another judge in the settlement of a complex case depending upon the judge's available calendar. If the parties agree to have a mandatory settlement conference conducted by a judge other than the assigned judge, the parties should first determine the other judge's availability before asking the assigned judge to order the settlement conference. However, it is not presumed that the judge to whom a case is assigned should not conduct the mandatory settlement conferences in his or her cases. If a party objects to the trial judge's participation in the MSC, the party must advise the judge or the courtroom clerk of its objection prior to the setting of the MSC. Counsel are advised to check with the court to determine its preference in this regard.

VIII. Pre-trial Conferences

1. A Pre-trial Conference may be scheduled 30-90 days before trial for the purpose of determining the readiness of the parties and resolving procedural issues concerning the trial. The goal of the Pre-trial Conference is to make the trial proceed as predictably and smoothly as possible. The Pre-trial Conference is not a substitute for the Issues Conference required by Local Rule 450.

2. At the Pre-trial Conference, counsel should be prepared to state whether his or her client will be using the electronic presentation of evidence at the trial. Using electronic equipment to present evidence at trial requires preparation, organization and cooperation by the parties. The court expects that the parties will work together in devising a protocol for the pre-marking of exhibits by using prefixes or a super-numeration system to designate the proponent of the evidence. Where there are multiple pages to a single exhibit, each page should be bates-stamped. Counsel should contact the courtroom clerk to determine if the trial judge has a specific preference for how exhibits should be marked.
3. In a case where it is reasonable to presume voluminous documents will be produced during discovery, counsel are urged to agree upon a protocol for the pre-marking of exhibits at the earliest time possible, preferably before the initiation of discovery and delivery to a document depository. It is less expensive to mark and index voluminous documents as they are deposited than when it is done on the eve of trial.
4. Counsel are required to cooperate throughout the trial so that one party's electronic exhibits are available to the other side to display during cross-examination.
5. The electronic version of documents, photographs, charts or other demonstrative evidence may be substituted for the actual exhibit at trial upon the stipulation of the parties and order of the court. This guideline is not meant to alter the rules of discovery or the obligation of a party to make available the original of a document for inspection by another party through discovery or at the Issues Conference.
6. Physical exhibits and documents are not required to be presented in a digitalized format. However, evidence which has not been presented in electronic form customarily will be ordered by the court returned at the end of the appeal period to the party which offered it. Before trial commences, counsel will be asked to sign a stipulation for the return and maintenance of the exhibits. Plaintiff will maintain joint exhibits unless the court orders otherwise.

IX. Use of the Court's Evidence Presentation Systems

1. **On-Site Electronic Evidence Presentation Systems:** Every courtroom has the capability of being equipped with court-based evidence presentation systems for use by the parties. Counsel are strongly encouraged to take advantage of the benefits of the electronic presentation of evidence when in trial at the Civil Complex Center to enhance the orderly and effective presentation of evidence, reduce concerns about the custody and security of exhibits, and reduce the work and expense associated with the tagging, storing and transporting of exhibits. In an appropriate case, the court may require the use of an electronic evidence presentation system. Electronic evidence presentation systems must be compatible with the court's infrastructure (video distribution amplifier, wiring, conduit, floor receptacles and connectors).

2. **Electronic Evidence Standard Format:** Counsel presenting evidence that is exclusively electronic in form must present the evidence in PDF file format and stored on CD-R. Whenever evidence is presented electronically, the physical custody of exhibits by the clerk is replaced by the electronic record of the exhibits. Evidence must be in sequential order with the exception of JPEG and MPEG files which shall be stored on separate discs. Counsel may also prepare electronic evidence using alternate non-proprietary formats subject to the approval of the court. The compact discs (CDs) must be labeled as follows:

Case # _____
Case Name _____
Exhibits _____ to _____
(Original or Backup copy)

The courtroom clerk will maintain an updated exhibit list. When evidence is electronically presented at the trial, the court may require counsel to periodically submit to the clerk an up-to-date CD containing exhibits received into evidence.

It is counsels' responsibility to identify and track redactions, modifications, and substitution of exhibits. Counsel are expected to be prepared to submit an up-to-date evidence CD with all redactions, modifications, and substitutions, as well as impeachment documents used, upon the courtroom clerk's request.

Impeachment exhibits are not pre-marked. However, counsel are responsible for having the document electronically recorded upon being offered into evidence (exhibit numbers may be reserved for this purpose).

If the jury will be provided the evidence in electronic format for its deliberation, the parties are required to meet and confer and submit the final joint exhibit list containing only those exhibits received into evidence. The CD used by the jurors must include the joint exhibit list and the electronically stored exhibits which have been entered into evidence. Submission of the joint evidence CD also serves as a stipulation that all exhibits presented in electronic form to the jury are complete and correct. Any disagreement must be brought to the attention of the court at the earliest reasonable time. Counsel must lodge two (2) evidence CDs of all exhibits received into evidence.

X. TRIALS – MOTIONS IN LIMINE

Counsel should attempt to resolve evidentiary disputes at the Local Rule 450 Issues Conference before resorting to filing a motion *in limine*. It is frequently more productive of court time, and the client's money for counsel to informally address at the Issues Conference the issues which could be raised in motions *in limine* and, instead of a motion, present a stipulation to the court on uncontested issues. Matters of day-to-day trial logistics and common professional courtesy should not be the subject of motions *in limine*. These are matters of common professional courtesy that should be accorded counsel in all trials. See, Kelly v. New West Federal Savings (1996) 49 Cal.App.4th 659,671.

APPENDIX 1
California Attorney Guidelines of Civility and Professionalism
(Abbreviated, adopted July 20, 2007)

INTRODUCTION. As officers of the court with responsibilities to the administration of justice, attorneys have an obligation to be professional with clients, other parties and counsel, the courts and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution.

These are guidelines for civility. The Guidelines are offered because civility in the practice of Law promotes both the effectiveness and the enjoyment of the practice and economical client representation. The legal profession must strive for the highest standards of attorney behavior to elevate and enhance our service to justice. Unequivil or unprofessional conduct not only disservices the individual involved, it demeans the profession as a whole and our system of justice.

These voluntary Guidelines foster a level of civility and professionalism that exceed the minimum requirements of the mandated Rules of Professional Conduct as the best practices of civility in the practice of law in California. The Guidelines are not intended to supplant these or any other rules or laws that govern attorney conduct. Since the Guidelines are not mandatory rules of professional conduct, nor rules of practice, nor standards of care, they are not to be used as an independent basis for disciplinary charges by the State Bar or claims of professional negligence.

The Guidelines are intended to complement codes of professionalism adopted by bar associations in California. Individual attorneys are encouraged to make these guidelines their personal standards by taking the pledge that appears at the end. The Guidelines can be applicable to all lawyers regardless of practice area. Attorneys are encouraged to comply with both the spirit and letter of these guidelines, recognizing that complying with these guidelines does not in any way denigrate the attorney's duty of zealous representation.

SECTION 1. The dignity, decorum and courtesy that have traditionally characterized the courts and legal profession of civilized nations are not empty formalities. They are essential to an atmosphere that promotes justice and to an attorney's responsibility for the fair and impartial administration of justice.

SECTION 2. An attorney should be mindful that, as individual circumstances permit, the goals of the profession include improving the administration of justice and contributing time to persons and organizations that cannot afford legal assistance.

An attorney should encourage new members of the bar to adopt these guidelines of civility and professionalism and mentor them in applying the guidelines.

SECTION 3. An attorney should treat clients with courtesy and respect, and represent them in a civil and professional manner. An attorney should advise current and potential clients that it is not acceptable for an attorney to engage in abusive behavior or other conduct unbecoming a member of the bar and an officer of the court.

As an officer of the court, an attorney should not allow clients to prevail upon the attorney to engage in uncivil behavior.

An attorney should not compromise the guidelines of civility and professionalism to achieve an advantage.

SECTION 4. An attorney's communications about the legal system should at all times reflect civility, professional integrity, personal dignity, and respect for the legal system. An attorney should not engage in conduct that is unbecoming a member of the Bar and an officer of the court.

Nothing above shall be construed as discouraging the reporting of conduct that fails to comply with the Rules of Professional Conduct.

SECTION 5. An attorney should be punctual in appearing at trials, hearings, meetings, depositions and other scheduled appearances.

SECTION 6. An attorney should advise clients that civility and courtesy in scheduling meetings, hearings and discovery are expected as professional conduct.

In considering requests for an extension of time, an attorney should consider the client's interests and need to promptly resolve matters, the schedules and willingness of others to grant reciprocal extensions, the time needed for a task, and other relevant factors

Consistent with existing law and court orders, an attorney should agree to reasonable requests for extensions of time that are not adverse to a client's interests.

SECTION 7. The timing and manner of service of papers should not be used to the disadvantage of the party receiving the papers.

SECTION 8. Written materials directed to counsel, third parties or a court should be factual and concise and focused on the issue to be decided.

Superior Court of the State of California, County of Orange
Civil Complex Center
751 W. Santa Ana Blvd.
Santa Ana, CA 92701

SECTION 9. Attorneys are encouraged to meet and confer early in order to explore voluntary disclosure, which includes identification of issues, identification of persons with knowledge of such issues, and exchange of documents.

Attorneys are encouraged to propound and respond to formal discovery in a manner designed to fully implement the purposes of the California Discovery Act.

An attorney should not use discovery to harass an opposing counsel, parties or witnesses. An attorney should not use discovery to delay the resolution of a dispute.

SECTION 10. An attorney should consider whether, before filing or pursuing a motion, to contact opposing counsel to attempt to informally resolve or limit the dispute.

SECTION 11. It is important to promote high regard for the profession and the legal system among those who are neither attorneys nor litigants. An attorney's conduct in dealings with nonparty witnesses should exhibit the highest standards of civility.

SECTION 12. In a social setting or otherwise, an attorney should not communicate ex parte with a judicial officer on the substance of a case pending before the court, unless permitted by law.

SECTION 13. An attorney should raise and explore with the client and, if the client consents, with opposing counsel, the possibility of settlement and alternative dispute resolution in every case as soon possible and, when appropriate, during the course of litigation.

SECTION 14. To promote a positive image of the profession, an attorney should always act respectfully and with dignity in court and assist the court in proper handling of a case.

SECTION 15. An attorney should not take the default of an opposing party known to be represented by counsel without giving the party advance warning.

SECTION 16. An attorney should avoid even the appearance of bias by notifying opposing counsel or an unrepresented opposing party of any close, personal relationships between the attorney and a judicial officer, arbitrator, mediator or court-appointed expert and allowing a reasonable opportunity to object.

SECTION 17. An attorney should respect the privacy rights of parties and non-parties.

SECTION 18. An attorney should negotiate and conclude written agreements in a cooperative manner and with informed authority of the client.

In addition to other applicable Sections of these Guidelines, attorneys engaged in a transactional practice have unique responsibilities because much of the practice is conducted without judicial supervision.

SECTION 19. In addition to other applicable Sections of these Guidelines, in family law proceedings an attorney should seek to reduce emotional tension and trauma and encourage the parties and attorneys to interact in a cooperative atmosphere, and keep the best interests of the children in mind.

SECTION 20. In addition to other applicable Sections of these Guidelines, criminal law practitioners have unique responsibilities. Prosecutors are charged with seeking justice, while defenders must zealously represent their clients even in the face of seemingly overwhelming evidence of guilt. In practicing criminal law, an attorney should appreciate these roles.

SECTION 21. Judges are encouraged to become familiar with these Guidelines and to support and promote them where appropriate in court proceedings.

ATTORNEY'S PLEDGE. I commit to these Guidelines of Civility and Professionalism and will be guided by a sense of integrity, cooperation and fair play.

I will abstain from rude, disruptive, disrespectful, and abusive behavior, and will act with dignity, decency, courtesy, and candor with opposing counsel, the courts and the public.

As part of my responsibility for the fair administration of justice, I will inform my clients of this commitment and, in an effort to help promote the responsible practice of law, I will encourage other attorneys to observe these Guidelines.

Superior Court of California
County of Orange

CIVIL COMPLEX CENTER
751 W. Santa Ana, Blvd. Santa Ana, CA 92701
PO BOX 22028 927 02-2028

DEPT	CIVIL JUDGES	NOTICED MOTIONS HEARD	EX PARTES HEARD	TELEPHONIC NOTICE TO COURTROOM NO LATER THAN	EX PARTE APPLICATION PRESENTED IN COURTROOM NO LATER THAN
CX101	Velasquez (714) 568-4802	Thursdays 1:30 P.M. *	M - F, 1:30 P.M.	Noon, day before ex parte hearing	10:00 a.m., day of ex parte hearing
CX102	Audler (714) 568-4822	Thursdays, 1:30 P.M.	M-Th, 9:00 A.M.	10:00 am, day before ex parte hearing Ex parte papers shall be lodged directly in dept. CX102 and not filed with the clerk's office unless otherwise ordered by the court.	12:00 p.m., day before ex parte hearing; opposition must be in writing
CX103	Bauer / Sundvold (714) 568-4812	Mondays, 10:30 A.M.	Tu, Th 1:30 P.M.	Noon, day before ex parte hearing	10:00 a.m., day of ex parte hearing
CX104	Colaw (714) 568-4818	Fridays 9:00 A.M. *	M, T, W and F, 1:30 P.M.	10:00 a.m., day before ex parte hearing	10:00a.m., day of ex parte hearing
CX105	Stock (714) 568-4807	Fridays, 9:00 A.M. *	M - F, 1:30 P.M.	10:00 a.m., day before ex parte hearing	12:00 p.m., day before ex parte hearing; opposition must be in writing

*Law and Motion Tentative Rulings are issued and posted on the Internet.

- The consideration of ex parte applications shall not interfere with or delay the trial in progress. Requirements pursuant to California Rules of Court (CRC) 3.1200-3.1207 shall apply. All paperwork, including proposed pleadings or motions and orders, must be submitted with ex parte application.

Moving party shall submit on moving papers unless the Court invites oral argument. Moving papers must:

- Include a declaration of Notice of Ex Parte Hearing and a proposed order.
- State in first paragraph of the application the irreparable harm that will occur if the relief requested is not granted until after a formally noticed hearing.

- For information regarding fees or the Orange County Superior Court Local Rules, go to: <http://www.occourts.org>.
- Moving and responding parties shall be in the department at the appointed time. No check-ins will be received after the appointed time without good cause. There will be no second call.
- Teleconference appearances are available through CourtCall, LLC at (310) 914-7884 or (888) 88-COURT. Teleconference appearance is voluntary and does not require consent of the other attorneys or parties in the case. The Court does, however, reserve the right to reject any request.
- The Complex Litigation Panel requires the filing of a Meet and Confer statement at least 10 calendar days prior to the hearing of any motion, petition or application except discovery motions and Motions to Withdraw as Counsel of Record.
- The direct Fax filing number is (714) 568-5180. Refer to Orange County Superior Court Local Rule 380. (Not applicable if for complex cases subject to the Electronic Filing Order.)

PLAINTIFF SHALL SERVE A COPY OF THE COMPLEX GUIDELINES WITH THE SUMMONS AND COMPLAINT