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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA
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GARY McLAIR, Executive Officer
BY *TERRI CHAVEZ*
TERRI CHAVEZ, Deputy Clerk

5 Attorneys for Plaintiff

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 For the County of Santa Barbara, Anacapa Division

8 Ernesto C., an individual,
9 Plaintiffs,

10 v.

11 Franciscan Friars of California, Inc.; Old
12 Mission Santa Barbara, and Does 3
through 100, Inclusive.
13 Defendants.

Case No. 1337577

**FIRST AMENDED COMPLAINT
FOR DAMAGES AND INJUNCTIVE
RELIEF FOR:**

1. PUBLIC NUISANCE
2. NEGLIGENCE
3. NEGLIGENT SUPERVISION/
FAILURE TO WARN;
4. NEGLIGENT
HIRING/RETENTION
5. FRAUD;
6. FIDUCIARY/CONFIDENTIAL
RELATIONSHIP FRAUD AND
CONSPIRACY;
7. BREACH OF FIDUCIARY
DUTY;
8. NEGLIGENT FAILURE TO
WARN, TRAIN, OR EDUCATE
PLAINTIFFS;
9. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;
10. NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS;
11. VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200;
12. FRAUD AND DECEIT;
13. PREMISES LIABILITY.

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25 Based upon information and belief available to Plaintiff Ernesto C. at the time of the
26 filing of this First Amended Complaint, Plaintiff makes the following allegations:

27 **PARTIES**

- 28 1. Plaintiff Ernesto C. is an adult male over the age of 26. Plaintiff was a minor residing

1 in the county of Santa Barbara at the time of the sexual abuse alleged herein.

2 2. Defendant Doe 1/Franciscan Friars of California, Inc. ("Defendant Franciscan Friars"
3 or "the Franciscans" or "Defendant Order") is a Roman Catholic Order and a nonprofit public
4 benefit corporation organized for religious purposes and incorporated under the laws of the
5 State of California, doing business in Santa Barbara. Defendant Order is the religious order
6 that owned and/or operated the properties in Santa Barbara – St. Anthony's Seminary ("St.
7 Anthony's") and Doe 2/Old Mission Santa Barbara – where many of Does 1 -100's other
8 pedophilic and/or ephebophilic agents sexually assaulted children.

9 2.1 Defendant Doe 2/Old Mission Santa Barbara ("Defendant Old Mission"), also known
10 as Saint Barbara Parish, is a Roman Catholic church or parish located in Santa Barbara,
11 California. Doe 2 is the church or parish where the perpetrators were assigned, or in
12 residence, or doing supply work, or volunteering at, or visiting during the period of wrongful
13 conduct. Does 1 through 100 are sometimes referred to collectively as "Defendants."

14 2.2 The Perpetrator, Franciscan Father Dave Johnson, was at all times relevant an
15 individual residing and/or doing business in the City and County of Santa Barbara,
16 California, and was a Roman Catholic priest, member, religious brother, employee, agent
17 and/or servant of the Franciscans and/or Defendant Old Mission and/or Does 3-100. During
18 the dates of abuse, the Perpetrator was assigned, or in residence, or doing supply work, or
19 volunteering, or visiting at Defendant Old Mission, and was under the direct supervision,
20 employ and control of the Franciscans and/or Defendant Old Mission and/or Does 3-100.

21 3. Defendant Does 3 through 100, inclusive, are individuals and/or business or
22 corporate entities incorporated in and/or doing business in California whose true names and
23 capacities are unknown to Plaintiff who therefore sues such defendants by such fictitious
24 names, and who will amend the First Amended Complaint to show the true names and
25 capacities of each such Doe defendant when ascertained. Each such Defendant Doe is legally
26 responsible in some manner for the events, happenings and/or tortious and unlawful conduct
27 that caused the injuries and damages alleged in this First Amended Complaint.

28 4. The Perpetrator and/or each Defendant were and/or are the agent, servant and/or

1 employee of the Franciscans and/or Defendant Old Mission and/or Does 3 -100. The
2 Perpetrator and/or each Defendant were acting within the course and scope of his, her or its
3 authority as an agent, servant and/or employee of the Perpetrator and/or other Defendants.
4 The Perpetrator and/or the Franciscans and/or Defendant Old Mission and/or Does 3 -100,
5 and each of them, are individuals, corporations, partnerships and other entities which engaged
6 in, joined in and conspired with the other wrongdoers in carrying out the tortious and
7 unlawful activities described in this First Amended Complaint, and the Perpetrator and/or
8 each Defendant ratified the acts of the Perpetrator and/or the Franciscans and/or Defendant
9 Old Mission and/or Does 3 -100 as described in this Complaint.

10
11 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

12 5. The Perpetrator and Defendants' other pedophilic and/or ephobophilic agents
13 committed acts of Childhood Sexual Abuse in Santa Barbara before, during, and after the
14 time Ernesto attended St. Anthony's. The Franciscan corporate practice of concealing the
15 identities, propensities, and current assignments and/or residences of these perpetrators has
16 enabled and empowered such men to sexually assault and/or continue to place at risk
17 countless children around the various locations in the Western United States and throughout
18 the world where these Franciscans have conducted their business for nearly a century,
19 including but not limited to Franciscan friaries, missions, parishes, retreat centers and other
20 communities in the western States of Arizona, California, Missouri, Nevada, New Mexico,
21 Oregon, Utah and Washington, and in countries such as Africa, Brazil, El Salvador,
22 Guatemala, Israel, Italy, Mexico, Peru, the Philippines and Thailand. Finally, an unknown
23 number of Defendants' former pedophilic and/or ephobophilic agents, whose propensities
24 Defendants have been aware of for years but have disclosed to no one, continue to sexually
25 assault and/or place at risk countless children around these locations as well as at numerous
26 other locations, such as in the State of Idaho, where these former Franciscans now reside.

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1 **The Origin of the Explosion of Franciscan Sex Crimes in Santa Barbara in the 1960s**

2 6. Franciscan perpetrators have been sexually assaulting children in Santa Barbara since
3 at least 1936. During this time at least forty-four (44) pedophilic and/or ephebophilic Roman
4 Catholic priests or religious brothers have been assigned to work at and were living at and/or
5 visiting various locations around Santa Barbara County, including but not limited to St.
6 Raphael's Church in Goleta, San Roque, Our Lady of Guadalupe, Our Lady of Mt. Carmel in
7 Montecito, and the adjoining properties of St. Anthony's and the Mission. Twenty-seven
8 (27) of those priests or religious brothers were or are Franciscans.

9 Although Franciscan priests and Religious brothers abused Santa Barbara children
10 much earlier in the 20th Century, there was an explosion of Franciscan sex crimes against at
11 least sixty-two (62) local children beginning in the early 1960s. That explosion was triggered
12 by events involving the Franciscans in the Diocese of San Diego in the early 1950s.

13 Prior to Santa Barbara the Franciscans used parishes in communities that at the time
14 were on the outskirts of the Diocese, such as Banning and Beaumont, as havens to send their
15 problem priests and Religious Brothers. Eventually the Diocese ended the Franciscans'
16 conduct. According to a letter written by the Bishop of San Diego on April 26, 1950:

17 "During the thirteen years since this Diocese was erected, to my own
18 personal knowledge, **the Saint Barbara Province of the Franciscan**
19 **Fathers has used this Diocese as a dumping ground for their moral,**
20 **mental and physical problems. It became necessary for me some**
21 **time ago to demand the withdrawal of one misfit after another."** See
22 Exhibit "A" (Emphasis added).

23 The Bishop was so frustrated with the Franciscans that he commenced the process of
24 applying to the necessary religious bodies in Rome to evict the Franciscans from the parishes
25 in the Diocese of San Diego. It would appear the Bishop eventually succeeded, and
26 sometime in the 1950s the Franciscans made Santa Barbara their new dumping ground for
27 Franciscan perpetrators. Beginning in the late 1950s the Franciscans began sending the first
28 of at least twenty-six (26) Franciscan perpetrators to Santa Barbara following their expulsion
from the Diocese. Those perpetrators are identified below in the decades they first appeared
and continued to reside in or visit Santa Barbara based on information known to date:

- 1 1 - Fr. Owen Da Silva (1930s)
- 2 2 - Brother Berard Connolly (1940s, 1980s - 1990s)
- 3 3 - Fr. Martin McKeon (1950s - 1960s)
- 4 4 - Fr. Edward Henriques (1960s)
- 5 5 - Fr. Mario Cimmarrusti (1960s - 1970s)
- 6 6 - Fr. Mel Bucher (1960s)
- 7 7 - Fr. Forrest McDonald (1960s - 1970s)
- 8 8 - Br. Kevin Dunne (1960s - 1970s)
- 9 9 - Br. Sam Cabot (1960s-1980s)
- 10 10 - Fr. Edmund Austin (1970s)
- 11 11 - Fr. Gus Krumm (1970s - 1980s)
- 12 12 - Fr. Paul Conn (1970s - 1980s)
- 13 13 - Fr. Dave Johnson (1970s - 1980s)
- 14 14 - Fr. Joseph Prochnow (1970s - 1980s)
- 15 15 - Br. Matteo Guerrero (1970s, 1990s - 2000s)
- 16 16 - Fr. Robert Van Handel (1970s -1990s)
- 17 17 - Fr. David Carriere (1970s - 2000s)
- 18 18 - Fr. Steve Kain (1980s)
- 19 19 - Fr. Philip Wolfe (1980s)
- 20 20 - Pre-novitiate candidate Ed Byrom (1980s)
- 21 21 - Pre-novitiate candidate Tom Thing (1980s)
- 22 22 - Fr. Chris Berbena (1980s)
- 23 23 - Fr. Remy Rudin (1980s - 1990s)
- 24 24 - Br. Gerald Chumik (2000s)
- 25 25 - Pedro Vasquez (2000s)
- 26 26 - Fr. Claude Riffel (1941-44, 1975-76)
- 27 27¹ - Fr. Fr. Alexander Manville (1960-73).

15 By the 1960s if not sooner these corrupt seeds planted by the Franciscans began bearing
16 poisonous fruit as Franciscan perpetrators abused Santa Barbara children at a horrifying rate.
17 At least eighty-five (85) children have been sexually abused in Santa Barbara by Roman
18 Catholic priests or religious brothers since 1936. Sixty-two (62) of those children were
19 abused by Franciscan priests or religious brothers since 1960. The confirmed number of
20 victims and Franciscan perpetrators grows each year.

21 The consequences of the Franciscans' continuing corporate practices with regards to
22 Franciscan perpetrators have been disastrous both for local children, and for a society that
23 continues to bear the financial burden of the psychological fallout for abuse survivors. Abuse

24
25 1. This number does not include at least two (2) lay perpetrators the Franciscans allowed to sexually
26 assault seminarians or boys choir members on the grounds of St. Anthony's among other locations.
27 Specifically, during the 1970s St. Anthony's faculty member Francisco Moreno sexually assaulted at least
28 one student in Moreno's office, and invited an unknown number of men from the community to assault the
student as well. Additionally, in the 1980s perpetrator Fr. Robert Van Handel allowed and enabled his
pedophilic friend, Gerald Heather, to sexually assault at least three members of the Santa Barbara Boys
Choir.

1 survivors often engage in addictive, self-destructive, and, unfortunately, often criminal
2 behavior as they deal with the psychological scars caused by childhood sexual abuse. These
3 behaviors in turn result in things such as divorce proceedings on court calendars, substance
4 abuse, arrests, and incarcerations, all of which are paid for by the common taxpayer rather
5 than by the truly culpable but tax-exempt organizations that protected the perpetrators. The
6 evidence of the Franciscans' culpability in this regard is overwhelming.

7
8 **THE FRANCISCANS' CONTINUING REFUSAL TO PUBLICLY IDENTIFY ALL**
9 **OF THEIR CURRENT OR FORMER PEDOPHILIC MEMBERS HAS CREATED A**
10 **DEADLY ENVIRONMENT FOR TODAY'S CHILDREN**

11 7. Time and again the Franciscans have had the opportunity to end the cycle of abuse by
12 reporting perpetrators to law enforcement, and by warning the general public when a
13 Franciscan has been accused of sexually assaulting a child. Tragically, the Franciscans'
14 ongoing efforts to protect their pedophilic members, and to protect the corporation's financial
15 interests, establish a continuing pattern of conduct causing new harm to today's children, new
16 trauma to adult survivors of Franciscan childhood sexual abuse, and causing the continuing
17 financial burden to a society paying for the resulting psychological fallout.

18 8. Since at least 1964 the Franciscans have known their perpetrators were sexually
19 assaulting Santa Barbara children, and of the fact any child exposed to their agents was at a
20 heightened risk of being sexually assaulted. Since at least 1964 the Franciscans have been
21 concealing these crimes, and shielding their criminal members from discovery. Sadly, even
22 with the global settlement of the 2003-2006 litigation, the Franciscans have not changed their
23 ways. The following are examples only of some of the most recent known Franciscan
24 conduct placing today's children at risk. These examples illustrate the Franciscans' conduct
25 remains a present day threat to children wherever the Franciscans conduct their business:

26 ● In July of 2003, the Franciscans assigned an admitted perpetrator – Father Gus
27 Krumm – to a Sacramento parish next door to a school without any warning to the
28 community. One Franciscan priest readily admitted he was aware of Father Krumm's prior
abuses but did not think it was appropriate to share such information with parishioners.

1 Despite the fact the Franciscans claimed Father Krumm was forbidden contact with young
2 children, he did in fact have direct contact with young children while at this assignment.

3 • In January 2004 it was revealed that the Franciscans had assigned perpetrator
4 Brother Kevin Dunne to a Franciscan-run parish in Phoenix, St. Mary's Basilica. The
5 Franciscans warned neither the parishioners nor the community of the risk Dunne posed, and
6 the Phoenix community had no means of identifying Dunne as a perpetrator as – thanks to the
7 Franciscans never having reported Dunne's crimes to law enforcement – he had never been
8 prosecuted and is not a registered sex offender. Thus, the fact Dunne had raped at least one
9 St. Anthony's student, and the fact the Franciscans had settled a claim made by that student,
10 was known only to the Franciscans. The parish manager stated the Franciscans had never
11 advised him of Dunne's criminal conduct, and that "they probably should have."

12 • In July 2004 the Franciscans admitted – albeit only after a reporter from the
13 Dallas Morning News made the facts public – that yet another predator had been calling the
14 Old Mission Santa Barbara home for over two years. Specifically, in the early to mid-1970's
15 Franciscan Brother Gerald Chumik assaulted at least one victim in Canada. Canadian
16 authorities attempted to prosecute Brother Chumik in the 1990s, but Chumik fled to the
17 United States. The Franciscans successfully and secretly harbored Brother Chumik, a
18 fugitive from justice, behind the walls of the Mission for over two years. The Franciscans
19 provided no warning to the public, much less to neighboring schools, of the threat Brother
20 Chumik posed until the Dallas Morning News published the truth about Chumik.

21 • In July 2005, the Franciscan Vicar Provincial, Brother Tom West, admitted
22 Mission resident, Franciscan Pedro Vasquez, had been accused of sexually assaulting a
23 person West described as a "young man." The Franciscans had allowed Vasquez to live at
24 the Mission for three years without any warning to the community, and admitted to this fact
25 in July of 2005 only when they knew its publication was inevitable.

26 • In 2005, the former rector of St. Anthony's, Father Xavier Harris, testified that
27 while he was assigned at St. Williams in Los Altos in 2001, a well-known Franciscan
28 perpetrator, Father Steve Kain, assisted there as well. Father Harris did not warn any of the

1 parishioners of Father Kain's propensities, nor, to his knowledge, did any other Franciscans
2 warn any parishioners about Father Kain. With no shortage of victims who were unaware of
3 the risk he posed, Father Kain abused again. Father Harris testified that Father Kain was then
4 forced to stop assisting at St. Williams due to the abuse allegations, and was transferred to St.
5 Boniface in San Francisco. Once again, Father Harris testified he had no knowledge of any
6 warnings to parishioners at St. Boniface regarding Father Kain's propensities.

7 ● In late 2006 a victim spoke with Father Virgil Cordano at the Mission and
8 informed Cordano he had been raped in 1976 by a Franciscan religious brother, Brother
9 Mateo Guererro. Cordano did not act surprised at this information, admitted there had been
10 other complaints against Mateo, and admitted that Mateo had been transferred as a result. To
11 date, the Franciscans have taken no steps to make this information public, no steps to
12 determine whether there are any other victims of Mateo who have not come forward, no steps
13 to notify the communities in which Mateo has been assigned over the course of his career as a
14 Franciscan, and no steps to warn the current community where Mateo is assigned.

15 ● From approximately 1994 to at least 2007 the Franciscans assigned another
16 admitted perpetrator – Fr. Mel Bucher – to Old Mission San Luis Rey. Fr. Bucher sexually
17 assaulted at least one adolescent boy in Oregon in the early 1970s. Despite this admission,
18 the Franciscans allowed Fr. Bucher to manage the Mission San Luis Rey retreat center. The
19 retreat center conducts retreats for, among others, high school-aged children, including
20 overnight retreats for students from, among other locations, Mater Dei High School in Santa
21 Ana. At least one current Franciscan and former Mater Dei faculty member has stated he
22 would not discuss the allegations of abuse by Fr. Bucher with Mater Dei faculty or
23 administrators because he does not “see any purpose being served in that.” The Franciscans
24 have never warned the families of these students of Fr. Bucher's history of abuse.

25 ● In February 2009, Father Claude Riffel was accused of sexually assaulting a
26 boy at another Franciscan seminary, St. Francis Minor Seminary in Troutdale, Oregon, in the
27 early 1960s. Riffel was dean of discipline for the school when he would call the teenager out
28 of class on the pretext of assigning work and then abuse him. To date, the Franciscans have

1 taken no steps to make this information public, and no steps to determine whether there are
2 any other victims of Riffel who have not come forward. The Franciscans also have taken no
3 steps to notify the communities in which Riffel has been assigned during his career as a
4 Franciscan, including but not limited to the Santa Barbara community where from
5 approximately 1941-44, and again from 1975-76, Riffel was assigned to St. Anthony's and
6 worked with boys the same age as those he is accused of abusing at the seminary in Oregon.

7 ● In June 2009 Franciscan Father Alexander Manville was accused of the sexual
8 abuse of an approximately eight-year-old boy in 1992-93. To date, the Franciscans have
9 taken no steps to make this information public, and no steps to determine whether there are
10 any other victims of Manville who have not come forward. The Franciscans also have taken
11 no steps to notify the communities in which Manville has been assigned over the course of
12 his career as a Franciscan, including but not limited to the Santa Barbara community where
13 for approximately thirteen years, from 1960-73, Manville served on the faculty at Bishop
14 Diego High School.

15 Such action and inaction by the Franciscans has and will continue to produce
16 disastrous results, as evidenced by the case of Fr. Louis Ladenburger. Ladenburger left the
17 priesthood and the Franciscan order in 1996. However, early in his career as a Franciscan
18 Ladenburger was treated for what former St. Anthony's rector and Franciscan Provincial
19 Minister, Mel Jurisich, has described only as "inappropriate professional behavior and
20 relationships." Such vague terms are standard procedure for the Franciscans when describing
21 acts of childhood sexual abuse by their priests and religious brothers. After sending
22 Ladenburger for treatment for his criminal conduct twice in the 1980s, the Franciscans
23 allowed him to continue to work as a priest, including working at high schools. After another
24 psychological review in 1993 the Franciscans were sufficiently concerned to restrict
25 Ladenburger's ministry. However, at no time did the Franciscans report Ladenburger's
26 criminal acts to law enforcement. At no time did the Franciscans warn any families or
27 communities where Ladenburger had worked or was working as a priest. As a result, when
28 he left the priesthood nearly twenty-years after the Franciscans first learned of and began to

1 conceal the risk he posed to children, Ladenburger had never been convicted of a sex crime,
2 was not a registered sex offender, and only the Franciscans were aware of his pedophilic
3 propensities. An unknown number of children have been sexually assaulted by Ladenburger
4 as a result. In May of 2007 Ladenburger was arrested for sexually assaulting several children
5 in Idaho.

6 When first contacted shortly after Ladenburger's arrest the Franciscans denied having
7 any record of past abuses by Ladenburger. After this initial denial, Fr. Jurisich finally
8 admitted to Ladenburger's sordid history, and the Franciscans' knowledge since the 1980s of
9 the risk he posed to children. Ladenburger has since pleaded guilty to lewd conduct with two
10 boarding school students, and on March 24, 2008, was sentenced to five years in prison. The
11 sentencing judge, the Honorable John Luster, found Ladenburger's conduct so severe that he
12 rejected a joint request by the prosecution and the defense of a suspended sentence.

13 Ladenburger has admitted he is a sex addict. These latest victims are further evidence of the
14 continuing threat to all children posed by the Franciscans' refusal to warn the public of their
15 current and former members who have been accused of sexual abuse.

16 Four months after the Franciscans first denied then admitted they knew about the
17 threat posed by Ladenburger, they were at it again. One would hope that after decades of
18 Franciscan sexual abuse and cover-ups, at some point – perhaps, for instance, now that the
19 number of confirmed Santa Barbara victims of Franciscan childhood sexual abuse has risen
20 to **sixty-three** – the Franciscan hierarchy would **finally** reconsider the corporation's horribly
21 flawed strategy of lying about and refusing to identify Franciscan priests and brothers accused
22 of sexual abuse. One would hope that after seeing **today's children** continuing to be
23 victimized as a result of this failed corporate strategy they would finally recognize that for the
24 sake of both past and future victims, it was time to tell the truth. However, as evidenced by
25 their conduct toward survivor Maria Cunningham, the Franciscans have learned nothing from
26 the sad events involving Ladenburger, much less from their sordid history. Instead, they
27 continue to re-victimize survivors of Franciscan sexual abuse, to create new victims, and to
28 increase the resulting financial burden on society, by continuing to lie, conceal and cover-up

1 the identities of Franciscans who pose a risk to children.

2 In Maria's case, she contacted the Franciscans for help when she finally began to
3 make the connection between her injuries and the abuse she suffered. Because of her young
4 age at the time of the abuse, and the trauma she suffered during the abuse, she had been
5 unable to recall the name of her Franciscan perpetrator. She informed the Franciscans of her
6 age at the time of the abuse (6 years old), of her perpetrator's grooming techniques (such as
7 buying Maria candy), of the nature of the abuse (primarily digital penetration), of the fact her
8 perpetrator often abused her while they sat under a blanket, and of the fact he appeared to
9 come and go quite a lot and may not have lived at the Old Mission. She also informed the
10 Franciscans her perpetrator's name might be "Ed" or "Sam." In response, the Franciscan
11 Vicar Provincial, Br. Tom West, informed Maria in September 2007 and during a meeting in
12 November 2007 that the Franciscans had been "**unable to find [any possible Franciscan**
13 **perpetrator] of either name.**" This response led Maria falsely to believe she was the only
14 child abused by her perpetrator, thus triggering new emotional distress, shame and self-
15 loathing in Maria. As is all too common in many victims of childhood sexual abuse, she
16 wondered what she had done wrong to make her the perpetrator's only target. Feeling
17 horribly alone and ashamed after the meeting, Maria suffered through new injuries as a result
18 of the Franciscans' supposed inability to identify her perpetrator: a debilitating panic attack
19 and migraine, and repeated vomiting throughout the night after the meeting with Br. Tom.
20 Thankfully, Maria was able to weather this attack with the support of her family. However,
21 for many survivors such a reaction frequently leads to depression, anger, self-medication and
22 substance abuse, and extreme acting out, all of which often result in the involvement of
23 medical and/or law enforcement personnel. The costs of such services are then born by the
24 general public.

25 Unbeknownst to Maria at the time, this new trauma could have been avoided. The
26 Franciscans and Br. Tom undoubtedly had, in fact, identified a possible Franciscan
27 Perpetrator named Sam: Br. Sam Cabot. In 2006 both Br. Tom and the Franciscans'
28 Provincial Minister, Fr. Jurisich, participated in multiple mediation sessions in Los Angeles

1 involving, among others, two victims of Br. Sam. Br. Tom and Fr. Jurisich knew from their
2 involvement in those two claims that Br. Sam had sexually abused two young girls who, like
3 Maria, were six years old during the periods of abuse; they knew that one of Br. Sam's
4 favorite grooming techniques, as with Maria, was to buy his victims candy; they knew that, as
5 with Maria, Br. Sam's abuse consisted primarily of digital penetration; they knew Br. Sam
6 used to abuse these two girls, as with Maria, as he sat with them under a blanket; and they
7 knew that Br. Sam had continued to abuse both these young girls in Santa Barbara even
8 while, as may have been the case with Maria, he was neither assigned nor living in Santa
9 Barbara at the time. Despite his knowledge of these obvious parallels, Br. Tom denied any
10 knowledge even of a **possible** Franciscan perpetrator named Sam. In fact, although during
11 his November 2007 meeting with Maria Br. Tom acknowledged that these two young cousins
12 had been abused by a Franciscan, he never disclosed to Maria the fact their perpetrator's
13 name was "Sam." Nor did he disclose his awareness of another possible Franciscan
14 perpetrator named "Ed," Fr. Edward Henriques, who also spent time in Santa Barbara during
15 the period of abuse.

16 Such Franciscan deception inevitably triggers further psychological fallout by victims
17 who find the courage to come forward, and results in new victims such as those of Louis
18 Ladenburger. Clearly, seeing yet another example in the Ladenburger case of the tragedy
19 Franciscan deception and duplicity has wrought has done nothing to change Franciscan
20 business practices when dealing with pedophilic priests and religious brothers. The
21 Franciscans' first and only loyalty is to their corporation and its members, pedophilic or
22 otherwise. As a result, both adult survivors of Franciscan childhood sexual abuse and today's
23 children exposed to Franciscan perpetrators continue to be chewed up and spat out by the
24 Franciscan corporate machine. And the number of past and present victims of this Franciscan
25 corporate scheme continues to grow.

26 Meanwhile, at least as recently as Spring 2007 the Franciscans allowed Br. Sam
27 Cabot to work within half a mile of an elementary school in Los Angeles. A school that most
28 likely is attended by numerous young girls the age of Br. Sam's prior victims. A school, and

1 a community, that undoubtedly had no idea that a predator such as Br. Sam is within easy
2 walking distance of their children. A predator who would be a registered sex offender had
3 the Franciscans first reported him to law enforcement when they learned of his crimes. A
4 predator who undoubtedly has many more victims in addition to those identified to date.

5
6 **THE COMPELLING STATE INTEREST IN PREVENTING CHILDHOOD**
7 **SEXUAL ABUSE**

8 9. In 2004, when asked whether any Franciscan perpetrators were still in ministry,
9 Franciscan spokesman Brother John Kiesler refused to respond to that question and argued
10 “[t]heir privacy has a right to be respected.” Brother Kiesler’s response graphically illustrates
11 the Franciscan mindset that has created an actionable Public Nuisance. The Franciscans
12 unequivocally and defiantly continue to place the interests of Franciscan perpetrators ahead
13 of the welfare of today’s children. In addition to being revolting, the Franciscans’ priorities
14 are unsupportable under California law. To the extent Franciscan perpetrators retain any
15 privacy interests, those interests are outweighed by the compelling state interest in preventing
16 childhood sexual abuse.

17 California courts and the state legislature have recognized, repeatedly, the compelling
18 state interest in preventing childhood sexual abuse. Fredenburg v. Fremont, 119
19 Cal.App.4th 408, 412-13 (2004) (discussing enactment and legislative history of Megan’s
20 Law); Burt v. County of Orange, 120 Cal.App.4th 273, 285 (2004) (“concerns with protecting
21 children from harm is a compelling interest supporting its efforts in gathering information
22 and filing reports concerning persons suspected of child abuse”); Roe v. Superior Court, 229
23 Cal.App.3d 832, 838 (1991) (recognizing the state’s compelling interest in protecting children
24 from abuse); People v. Gonzalez, 81 Cal.App.3d 274, 277 (1978) (recognizing compelling
25 state interest in the protection of children from sexual molestation); People v. Mills, 81 Cal.
26 App.3d 171, 181 (1978) (person who sexually assaults a child has waived his right to
27 privacy). However, for decades the Franciscans have successfully frustrated law enforcement
28 efforts to enforce this compelling state interest, shielding Franciscan perpetrators from

1 criminal prosecution by concealing their crimes. Time and again the Franciscans' efforts
2 have helped such criminals escape prosecution by concealing their crimes until the expiration
3 of the applicable criminal statutes of limitation.

4 One of the ways the Franciscans have helped their perpetrators escape prosecution
5 and registration is by instructing their members not to inform law enforcement of complaints
6 of abuse by Franciscans. Beginning at least as early as 1993, the Franciscans' Provincial
7 Minister met with each Franciscan community and instructed them on the procedure
8 regarding reporting allegations of sexual abuse. Those instructions required Franciscans who
9 suspected or received complaints of acts of childhood sexual abuse to report them only to the
10 Guardian of the local Franciscan community. The expectation was that the Guardian would
11 then tell the Provincial Minister. According to the Provincial's instructions, individual
12 Franciscans were not to report to law enforcement, and the decision as to whether there
13 would be a report to law enforcement was left entirely to the Provincial.

14
15 **The Franciscans' Abuse of the First Amendment to the U.S. Constitution to Protect**
16 **Franciscan Perpetrators from Criminal Prosecution**

17 9.1 Even worse, the Franciscans now are exploiting the religious freedoms protection
18 provided by the First Amendment in order to avoid their obligations as mandatory reporters
19 under Penal Code section 11166. In July of 2009 a former parishioner at a Franciscan parish
20 reported the Franciscans' latest child-endangering ploy. That parishioner met with the
21 Franciscan pastor at his parish in 2008 to report notorious Franciscan perpetrator Father Gus
22 Krumm's inappropriate conduct with his (the parishioner's) wife. When the parishioner
23 stated he wished to discuss Father Krumm, the pastor's response was immediate and
24 premeditated: before the parishioner could say anything further about Krumm, the pastor
25 insisted that any discussion regarding Krumm be in the context of the confessional, thus
26 rendering the communication penitential.

27 Under Penal Code section 11166(c)(1), clergy can avoid their obligations to notify
28 law enforcement of reports of childhood sexual abuse if their knowledge or suspicion is

1 acquired in the context of a penitential communication. Thus, by insisting the parishioner
2 make any disclosure regarding Krumm as a penitential communication, the Franciscan pastor
3 insured he would have no reporting obligation under section 11166 in the event of a report of
4 childhood sexual abuse. The legislature could not have intended section 11166(c) to be used
5 as a shield by entities that protect perpetrators of childhood sexual abuse, but that is exactly
6 what the pastor and the Franciscans have accomplished by insisting that any reports of
7 misconduct by Franciscans be made in the context of penitential communications. In so
8 doing the Franciscans have turned the Constitution on its head, using First Amendment
9 protections to shield Franciscan perpetrators from law enforcement and to make the world a
10 much more dangerous place for children.

11 As a result of such efforts by the Franciscans efforts to protect their predatory
12 members, very few of these men have been prosecuted, convicted, and forced to register as
13 sex offenders. Thus, the Franciscans have successfully concealed the identities of an
14 unknown number of Franciscan perpetrators.

15 As evidenced by the new victims in the Ladenburger case, and the continuing pattern
16 of deceit evidenced by the Franciscans' conduct towards Maria, the clergy-abuse crisis has
17 not been abated by the 2006 Franciscan litigation. To the contrary, it is business as usual at
18 Franciscan corporate headquarters. For this reason, the legal system cannot sit back and wait
19 for current or former Franciscan perpetrators such as Ladenburger to reveal themselves
20 through new victims. The ongoing lies, deceit, and concealment by the Franciscans mandate
21 **proactive efforts** to save today's children from new abuse like that suffered by
22 Ladenburger's recent victims. The public needs to know where Br. Cabot is currently
23 working, particularly when he is less than half a mile away from an elementary school. They
24 need to know about the abuse committed by Br. Matteo, and where he is currently assigned or
25 in residence. They need to know about Fr. Bucher's history of abuse, particularly where he is
26 allowed to conduct or have access to retreats for adolescents. And they need to know about
27 every other current or former Franciscan who, like Ladenburger until he was caught sexually
28 abusing more children in 2007, have been accused of childhood sexual abuse but have not yet

1 been identified.²

2 It is an abomination that of the twenty-seven (27) Franciscan perpetrators who have
3 lived in Santa Barbara since 1936, only two have been criminally prosecuted in Santa Barbara
4 County. The sad reality is the criminal courts' hands have been tied by the Franciscans'
5 successful efforts to conceal Franciscan criminal acts until the applicable statutes of
6 limitation have expired. As a result, absent immediate action by the civil courts, today's
7 children will continue to be victimized by Franciscan perpetrators throughout the Western
8 United States at the numerous locations where the Franciscans of the Province of St. Barbara
9 conduct their business. Pursuant to the compelling state interest in preventing acts of future
10 childhood sexual abuse, the Franciscans must be ordered to disclose immediately the
11 identities, histories of abuse, and last known locations of all current and former Franciscans
12 accused of childhood sexual abuse while they were members of the order. They also must be
13 ordered not to insist that reports of misconduct by Franciscans be made only in the context of
14 a penitential communication.

15
16 **DEFENDANTS' OPPORTUNITIES TO PREVENT THE ABUSE OF AND INJURY**
17 **TO ERNESTO**

18
19 **Notice to the Franciscans of the Threat Posed by Johnson Before he Abused Ernesto**

20 9.2 Defendants knew or should have known of the risk posed by Johnson before he
21 assaulted Ernesto. At least as early as the Fall of 1979 and again in the Summer of 1980, the
22 Franciscans, including the rector, Father Mel Jurisich, received notice that Johnson was
23 sexually assaulting St. Anthony's students. Specifically, in the Fall of 1979 Johnson sexually
24 assaulted St. Anthony's student Craig Clover³. It was a physically violent and terrifying

25
26 _____
27 2. In a June 19, 2008, article in the Santa Barbara *Independent* the Franciscans admit to knowledge of
28 twenty-seven (27) Franciscan perpetrators but, again, provide no information regarding their identities,
assignment histories, or propensities.

3. At that time Craig was known by his step-father's last name, Jenkins.

1 assault involving Johnson's forcible attempted rape of Craig with a foreign object. Also
2 present during the assault was at least one other Franciscan. Thus, at least one agent of the
3 Franciscans not only was put on notice of Johnson's propensities but observed and likely
4 participated in one of his sexual assaults long before Johnson assaulted Ernesto.

5 The Franciscans were put on notice of Johnson's crimes against students again the
6 following Summer of 1980 when Craig returned home to Phoenix once school ended. Craig
7 reported the abuse to the pastor at Craig's home parish, Father Thomas O'Brien, a priest who
8 would go on to become the Bishop of the Diocese of Phoenix. Craig described the assault by
9 Brother Johnson and another by Franciscan Brother Gus Krumm. Craig also showed O'Brien
10 photographs of Krumm and Johnson from his yearbook. O'Brien in turn asked to hold on to
11 the yearbook until they met again, telling Craig to return 2 or 3 days later.

12 Unfortunately Craig had placed his faith and hope in a man who ultimately would be
13 proven to be complete ethical and moral failure both as a priest and as a human being.
14 O'Brien would later admit – in exchange for immunity from prosecution for his actions – that
15 beginning at least as early as 1979 and throughout his 22-year career as a bishop he
16 repeatedly placed children at risk to be sexually abused by transferring known perpetrator
17 priests to new parishes without any warning to the parish or the community. Further
18 evidence of O'Brien's moral depravity came within weeks of this agreement on June 16,
19 2003, when O'Brien was arrested and later convicted of felony hit and run after the vehicle he
20 was driving struck and killed a six-foot tall, 235 lb. man. Despite the size of the victim and
21 the fact the impact had caved in O'Brien's windshield, O'Brien claimed he thought someone
22 had thrown a rock at his car, or that he had struck an animal.

23 The grand jury investigation that led to O'Brien's admissions in exchange for
24 immunity revealed that in 1979 O'Brien had received reports of the abuse of a ten year-old
25 boy by another priest, and that instead of reporting the priest to law enforcement or warning
26 parents, O'Brien transferred him to another parish where he continued to abuse children.

27 Craig, of course, was ignorant of O'Brien's conduct, knowing only that the man was a
28 priest and believing accordingly that he was both trustworthy and had Craig's best interests at

1 heart. Unfortunately, O'Brien's response to Craig was consistent with his conduct uncovered
2 by the grand jury in 2003 of defending perpetrator priests and attacking their victims.

3 During their second meeting O'Brien quickly showed his true colors and also revealed
4 he had placed St. Anthony's rector on notice that Johnson had been accused of sexual abuse.
5 He asked Craig if he knew Father Mel Jurisich, St. Anthony's rector, and then declared he
6 had spoken to Jurisich about Craig's reports of abuse by Johnson and Krumm. After pausing,
7 a now clearly angry O'Brien verbally attacked Craig, telling him that based on his
8 (O'Brien's) discussion with Jurisich, Craig's allegations were not only untrue, they were
9 preposterous. As Craig sat in shocked silence O'Brien continued his attack accusing Craig of
10 slandering Johnson and Krumm, who according to O'Brien were good men and were trying
11 to help people. O'Brien then asked Craig if he realized it was a mortal sin to lie to a priest.
12 Bewildered and terrified, Craig mustered the courage to say he knew lying to a priest was a
13 mortal sin, but that he was not lying. Thus, long before Johnson assaulted Ernesto, Father
14 Jurisich and the Franciscans were put on notice again of the risk posed by Johnson in the
15 Summer of 1980.

16 Despite this notice the Franciscans assigned Johnson to work with adolescent boys
17 and allowed him to have contact with Ernesto, doing nothing to stop the contact or to warn
18 Ernesto's parents of the risk to Ernesto. Even worse, they allowed Johnson to take Ernesto
19 camping with one other Franciscan perpetrator and one other student. The Franciscans could
20 have saved Ernesto from Johnson's abuse, and undoubtedly could have saved other boys
21 from subsequent abuse by Johnson. Instead, they told no one, protected their clearly
22 pedophilic brethren and their own financial interests, and as a result the abuse continued.

23
24 **The Resulting Abuse of Ernesto C.**

25 10. Plaintiff Ernesto C. grew up in Richmond, CA, and was raised in a devout Roman
26 Catholic family. They attended Mass every Sunday and Ernesto served as an altar boy. He
27 began attending Catholic School in sixth grade, and soon thereafter decided he wanted to
28 become a priest. During 8th grade he applied to several seminaries, ultimately deciding on St.

1 Anthony's.

2 Like so many victims of clergy abuse he also was the product of a broken home. The
3 absence of a father figure in his life made Ernesto all the more dependent on paternal figures
4 such as priests, and made him all the more vulnerable to predators willing to exploit this void
5 in Ernesto's life. St. Anthony's was home to a horrific number of such predators.

6 When Ernesto enrolled at St. Anthony's for his freshman year in 1979, it was
7 immediately clear Franciscan perpetrator Dave Johnson was everywhere at the school, and
8 was permitted to have extensive and inappropriate physical contact with students. Johnson
9 openly touched and massaged students, wrestled with them, and engaged in regular physical
10 contact with students in public places. Such conduct between students and faculty was part
11 of the accepted culture created and fostered by the Franciscans at St. Anthony's.

12 During Ernesto's sophomore year in 1980-81 he was a frequent recipient of Johnson's
13 abusive conduct. On a sometimes weekly basis that year Johnson would approach from
14 behind and without invitation massage Ernesto's shoulders when walking down the halls.
15 Johnson was openly and inappropriately affectionate towards Ernesto, and was observed
16 massaging Ernesto's chest while in public on school grounds. During Spring break of this
17 school year Johnson escalated his conduct into more extreme abuse.

18 Johnson asked Ernesto and another student, Victim #85⁴, to go camping at Yosemite
19 with Johnson and another perpetrator, Br. Berard Connolly. The entire school and faculty
20 were aware that these two men were taking the two boys on an overnight trip as, at least
21 amongst the students, Ernesto and Victim #85 were considered lucky and cool to have been
22 chosen. No efforts were made by the Franciscans to stop the trip from happening, and the
23 four left from the school without objection by the Franciscans.

24 The two men and the two boys drove to Yosemite in a school van. Ernesto
25 remembers thinking it was a bit strange he and Victim #85 had been invited as they were not

27 4. Victim #85 unfortunately was a favorite target of the perpetrator priests and religious brothers at St.
28 Anthony's. At least one other perpetrator, Father Gus Krumm, has admitted Victim #85 was one of many
students he abused while assigned to St. Anthony's.

1 friends. The fact they had been targeted for abuse never crossed Ernesto's mind. At the
2 campground there were two tents, with Victim #85 and Connolly in one, and Johnson and
3 Ernesto in the other.

4 Over the next two days Johnson sexually assaulted Ernesto on at least two occasions,
5 including an assault while hiking and another the first night in the tent they shared. Before
6 the assault in the tent the four had been sitting around the campfire. Connolly and Victim
7 #85 eventually went to their own tent and Ernesto found himself alone with Johnson. After
8 they left Johnson smiled and said "I've got a surprise for you," pulling out a bottle of
9 Bacardi. Ernesto was euphoric, believing Johnson meant this as a celebration for their having
10 completed a long hike together earlier that day. Ernesto looked up to Johnson as a spiritual
11 counselor, an authority figure, and, most important, as someone who spoke with the voice of
12 God. Johnson in many ways filled the paternal void created when Ernesto's father
13 abandoned their family. The fact Johnson now wanted to provide him with alcohol to
14 celebrate something they accomplished together made Ernesto feel special, and provided
15 Ernesto with feelings of paternal validation he had long craved.

16 Johnson handed the bottle to the boy and induced him to drink about half the bottle.
17 Once Ernesto was very inebriated, Johnson walked the boy to the tent where Ernesto fell
18 face-first onto his sleeping bag, drunk, groggy and wanting nothing more than to go to sleep.
19 Johnson had other plans. Knowing he had rendered the boy into a vulnerable state Johnson
20 exploited the situation and sexually assaulted Ernesto. Ernesto recalls struggling against the
21 assault, hearing the noise of the struggle from the rustling of the sleeping bags, but being too
22 groggy and intoxicated to stop the abuse by the much bigger and stronger man.

23 10.1 The sexual abuse and exploitation of Plaintiff and the circumstances under which it
24 occurred caused Plaintiff to develop various psychological coping mechanisms which
25 reasonably made him incapable of ascertaining the resulting damages from that conduct.
26 Within the last 3 years, Plaintiff discovered or reasonably should have discovered that
27 psychological injury or illness occurring after the age of majority was caused by the sexual
28 abuse.

1 Johnson, acting as a managing agent of the Defendants, utilized the trust and
2 reverence inherent in his status as a Franciscan to isolate and abuse Ernesto. Ernesto was
3 raised in a devout Roman Catholic family that idolized priests, was taught by Defendants to
4 trust, revere and obey priests as God's representatives on earth, and had enrolled at St.
5 Anthony's with the dream of himself becoming a priest. Ernesto also was the product of a
6 broken home and was desperate for paternal validation. Johnson exploited these things to
7 manipulate Ernesto, who was approximately fifteen (15) years of age.

8 When Johnson showered Ernesto with praise and affection while grooming him for
9 abuse, Ernesto was euphoric at receiving such long-craved paternal attention from a man he
10 considered the voice of God and thus infallible. When Johnson's grooming became sexual
11 abuse Ernesto's subconscious was unwilling and unable to recognize the wrongfulness of
12 Johnson's conduct as doing so would have destroyed his long-held faith in the infallibility of
13 Roman Catholic priests. It also would have ripped away the newfound paternal validation
14 that he craved and that Johnson had mercilessly recognized and exploited during the
15 grooming process. As a result, when the abuse began Ernesto was overwhelmed with shock
16 and confusion. Unable to acknowledge that this man he had been groomed to trust, admire
17 and depend on was sexually assaulting him, Ernesto shut-down and disconnected,
18 dissociating himself from the horror of what was taking place and repressing all memory of
19 the abuse.

20 It was not until many years later that Ernesto began to recover memories of Johnson's
21 abuse. To this day there remain parts of Johnson's assault in the tent that he has been unable
22 to recall, and he still has no memory of waking up the next morning. In an illustration of
23 both his desperation for a trusted father figure and the strength of his repression he recalls
24 having a special feeling towards Johnson the morning after the assault, as if they were family
25 and shared a strong familial connection. He recalls thinking it was nice to have such a
26 wonderful connection with a father-figure who Ernesto also considered a brother in the Lord.
27 Ernesto has been able to recall little of the remainder of the trip. He knows they spent a
28 second night at the camp, but has been unable to recall what occurred.

1 Further illustration of the extent of the repression of the memory of the abuse is the
2 fact until relatively recently Ernesto considered Johnson a special person in his life. Ernesto
3 asked Johnson to officiate at his wedding in 1985, wrote Johnson for guidance, felt
4 compelled to share with Johnson in approximately 1998 the fact he (Ernesto) had a profound
5 religious experience at a Cursillos, and as recently as 2000 or 2001 felt compelled to tell
6 Johnson he loved him (Johnson) as a brother in the Lord. When contacted by an investigator
7 in the late 1990s and asked whether he had been abused at St. Anthony's, Ernesto was
8 adamant in stating he had not. It was not until Ernesto began to recover these memories that
9 he realized Johnson, his perceived savior, had crossed the line into sexual abuse.

10 As a result of his reverence for Johnson and his repression of memories of the abuse
11 Ernesto could not understand the wrongfulness of Johnson's conduct, and internalized
12 feelings of shame, self-blame, and self-loathing, while blocking out and dissociating from
13 those feelings, rendering him unable to perceive the injuries he suffered from Johnson's
14 abusive conduct and its effect on his life

15 After the abuse Ernesto's life began a downward spiral. Without understanding his
16 own behavior, Ernesto rebelled against authority figures and abused alcohol and drugs. The
17 alcohol abuse went on for decades, and remains a continuing challenge for Ernesto.

18 In the summer of 2006, Ernesto's abuse-related self-medication with alcohol had
19 grown so out of control that he began treatment for alcoholism that required substantial self-
20 analysis and introspection. It was during this process that Ernesto first realized Johnson's
21 abuse had caused him injury. He also began for the first time to understand his own feelings
22 surrounding the abuse, how the abuse has affected him, and how it continues to affect him.
23 Prior to the summer of 2006, Ernesto did not know or understand his own feelings regarding
24 the abuse, much less that it had caused him injuries as an adult.

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

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

5
6 **FIRST CAUSE OF ACTION**

7 **PUBLIC NUISANCE**

8 **(Against The Defendants)**

9 12. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
10 forth herein.

11 13. Defendants continue to conspire and engage in efforts to: 1) conceal from the general
12 public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic
13 tendencies of, the Perpetrator and Defendants' other pedophilic agents; 2) attack the
14 credibility of the victims of the Perpetrator and Defendants' other pedophilic/ephebophilic
15 agents; 3) protect the Perpetrator and Defendants' other pedophilic/ephebophilic current and
16 former agents from criminal prosecution and registration as sex offenders for their sexual
17 assaults against children; and 4) exploit and abuse the protection for religious freedom
18 provided by the 1st Amendment to the U.S. Constitution for the purpose of escaping their
19 obligation to report childhood sexual abuse under California Penal Code section 11166, all in
20 violation of law.

21 14. The negligence and/or deception and concealment by Defendants was and is injurious
22 to the health of, indecent or offensive to the senses of, and an obstruction to the free use of
23 property by, the general public, including but not limited to residents of the County of Santa
24 Barbara and all other members of the general public who live in communities where
25 Defendants conducted, and continue to conduct, their work and/or ministry, and was and is
26 indecent and offensive to the senses, so as to interfere with the general public's comfortable
27 enjoyment of life in that children cannot be left unsupervised in any location where there are
28 agents of Defendants present as the general public cannot trust Defendants to prohibit their

1 pedophilic agents from supervising, caring for, or having any contact with children, nor to
2 warn parents of the presence of the pedophilic agents of Defendants, nor to identify their
3 pedophilic agents, nor to identify and/or report to law enforcement their agents accused of
4 childhood sexual abuse, thus creating an impairment of the safety of children in the
5 neighborhoods where Defendants conducted, and continue to conduct, their work and/or
6 ministries.

7 Defendants' conduct has caused further injury to the public and severely impaired the
8 safety of children where Defendants have protected and concealed the Perpetrator and
9 Defendants' other pedophilic/ephebophilic agents from criminal prosecution and registration
10 as sex offenders for their sexual assaults, where the Perpetrator and/or Defendants' other
11 pedophilic/ephebophilic agents subsequently have left Defendants' employ, and where
12 Defendants have disavowed any responsibility for the Perpetrator and/or Defendants' other
13 pedophilic/ephebophilic former agents despite the fact Defendants facilitated these former
14 agents' avoiding criminal prosecution and having to register as sex offenders. As a result of
15 Defendants' conduct, when Defendants' former agents have sought employment placing them
16 in positions of trust with children, Defendants are the only ones aware of the risk posed by
17 these former agents, and potential employers, childcare custodians, and parents have no
18 means of identifying the risk to their children posed by such men. Today's children continue
19 to be put at risk and abused under these circumstances by Defendants' former agents, at least
20 as recently as 2007.

21 15. The negligence and/or deception and concealment by Defendants was specially
22 injurious to Plaintiff's health as he and his family were unaware of the danger posed to
23 children left unsupervised with agents of Defendants, and as a result of this deception,
24 Plaintiff was placed in the custody and control of the Perpetrator, an agent of Defendants,
25 who subsequently sexually assaulted Plaintiff.

26 16. The continuing public nuisance created by Defendants was, and continues to be, the
27 proximate cause of the injuries and damages to the general public alleged in paragraph 14,
28 and of Plaintiff's special injuries and damages as alleged in paragraph 15.

1 17. In doing the aforementioned acts, Defendants acted negligently and/or intentionally,
2 maliciously and with conscious disregard for Plaintiff's rights.

3 18. As a result of the above-described conduct, Plaintiff has suffered, and continues to
4 suffer special injury in that they suffer great pain of mind and body, shock, emotional
5 distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem,
6 disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer
7 spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily
8 activities and obtaining the full enjoyment of life; has sustained and will continue to sustain
9 loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses
10 for medical and psychological treatment, therapy, and counseling. As a proximate result of
11 these injuries, Plaintiff has suffered general and special damages in an amount in excess of
12 the jurisdictional minimum of this Court.

13 As a further result of the above-described conduct by Defendants Plaintiff further
14 requests injunctive relief prohibiting Defendants from, among other things: allowing their
15 pedophilic/ephebophilic agents to have any unsupervised contact with children; transferring
16 their pedophilic/ephebophilic agents to communities whose citizens are unaware of the risk to
17 children posed by said agents; failing/refusing to disclose to and/or concealing from the
18 general public and/or law enforcement when Defendants have transferred a
19 pedophilic/ephebophilic agent into their midst; failing/refusing to disclose to and/or
20 concealing from law enforcement and/or the general public the identities and the criminal
21 acts of their pedophilic/ephebophilic agents; failing/refusing to disclose to and/or concealing
22 from the public and/or law enforcement reports, complaints, accusations or allegations of acts
23 of childhood sexual abuse committed by Defendants' current or former agents; and insisting
24 that reports, complaints, accusations or allegations of acts by Defendants' agents be made
25 only in the context of a penitential communication. Defendants should be ordered to stop
26 failing/refusing to disclose to and/or concealing and instead should identify each and every
27 one of their current and former agents who have been accused of childhood sexual abuse, the
28 dates of the accusation(s), the date(s) of the alleged abuse, the location(s) of the alleged

1 abuse, and the accused agents' assignment histories.

2
3 **SECOND CAUSE OF ACTION**

4 **NEGLIGENCE**

5 **(Against All Defendants)**

6 19. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
7 forth herein.

8 20. Sometime in approximately 1981 the Perpetrator repeatedly engaged in unpermitted,
9 harmful and offensive sexual conduct and contact with Plaintiff. Said conduct was
10 undertaken while the Perpetrator was an employee, volunteer, representative, or agent of
11 Defendants, while in the course and scope of employment with Defendants, and/or was
12 ratified by Defendants.

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

25 22. Defendants had a duty to protect the minor Plaintiff when he was entrusted to their
26 care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily
27 entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff. As
28 such, Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of

1 ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children owe
2 to protect them from harm.

3 23. Defendants, by and through their agents, servants and employees, knew or reasonably
4 should have known of the Perpetrator's and Defendants' other pedophilic and/or
5 ephebophilic agents' dangerous and exploitive propensities and that they were unfit agents. It
6 was foreseeable that if Defendants did not adequately exercise or provide the duty of care
7 owed to children in their care, including but not limited to Plaintiff, the child entrusted to
8 Defendants' care would be vulnerable to sexual abuse by the Perpetrator and Defendants'
9 other pedophilic and/or ephebophilic agents.

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

1 contact.

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

10
11 **THIRD CAUSE OF ACTION**

12 **NEGLIGENT SUPERVISION/FAILURE TO WARN**

13 **(Against All Defendants)**

14 26. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
15 forth herein.

16 27. Defendants had a duty to provide reasonable supervision of the Perpetrator and
17 Defendants' other pedophilic and/or ephebophilic agents, and to use reasonable care in
18 investigating the Perpetrator and Defendants' other pedophilic and/or ephebophilic agents.
19 Additionally, because Defendants knew or should have known of the heightened risk the
20 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents posed to all
21 children, Defendants had a heightened duty to provide reasonable supervision and protection
22 to children with whom Defendants allowed the Perpetrator and Defendants' other pedophilic
23 and/or ephebophilic agents to have contact and/or custody and control of; and to provide
24 adequate warning to the Plaintiff, the Plaintiff's family, minor students, and minor
25 parishioners of the Perpetrator's and Defendants' other pedophilic and/or ephebophilic
26 agents' dangerous propensities and unfitness.

27 28. Defendants, by and through their agents, servants and employees, knew or reasonably
28 should have known of the Perpetrator's and Defendants' other pedophilic and/or

1 ephebophilic agents' dangerous and exploitive propensities and that they were unfit agents.
2 Defendants also knew that if they failed to provide children who had contact with the
3 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents sufficient
4 supervision and protection, those children would be vulnerable to sexual assaults by the
5 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents. Despite such
6 knowledge, Defendants negligently failed to supervise the Perpetrator and Defendants' other
7 pedophilic and/or ephebophilic agents in the position of trust and authority as a Roman
8 Catholic Priest, religious brother, religious instructor, counselor, school administrator, school
9 teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure,
10 where he was able to commit the wrongful acts against the Plaintiff. Defendants failed to
11 provide reasonable supervision of the Perpetrators and Defendants' other pedophilic and/or
12 ephebophilic agents, failed to use reasonable care in investigating the Perpetrator and
13 Defendants' other pedophilic and/or ephebophilic agents, and failed to provide adequate
14 warning to Plaintiff and Plaintiff's family of the Perpetrator's and Defendants' other
15 pedophilic and/or ephebophilic agents' dangerous propensities and unfitness. Defendants
16 further failed to provide Plaintiff with adequate supervision and protection, and failed to take
17 reasonable measures to prevent future sexual abuse.

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

28

FOURTH CAUSE OF ACTION
NEGLIGENT HIRING/RETENTION

(Against All Defendants)

1
2
3
4 30. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
5 forth herein.

6 31. Defendants had a duty not to hire and/or retain the Perpetrator and Defendants' other
7 pedophilic and/or ephebophilic agents given their dangerous and exploitive propensities.

8 32. Defendants, by and through their agents, servants and employees, knew or reasonably
9 should have known of the Perpetrator's and Defendants' other pedophilic and/or
10 ephebophilic agents' dangerous and exploitive propensities and/or that they were unfit agents.

11 Despite such knowledge, Defendants negligently hired and/or retained the Perpetrator and
12 Defendants' other pedophilic and/or ephebophilic agents in the position of trust and authority
13 as a Roman Catholic Priest, religious brother, religious instructor, counselor, school
14 administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor, and/or
15 other authority figure, where he was able to commit the wrongful acts against the Plaintiff.
16 Defendants failed to use reasonable care in investigating the Perpetrator and/or Defendants'
17 other pedophilic and/or ephebophilic agents and failed to provide adequate warning to
18 Plaintiff and Plaintiff's family of the Perpetrator's and Defendants' other pedophilic and/or
19 ephebophilic agents' dangerous propensities and unfitness. Defendants further failed to take
20 reasonable measures to prevent future sexual abuse.

21 33. 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. As a proximate result of these injuries,

1 Plaintiff has suffered general and special damages in an amount in excess of the
2 jurisdictional minimum of this Court.

3
4 **FIFTH CAUSE OF ACTION**

5 **FRAUD**

6 **(Against All Defendants)**

7 34. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
8 forth herein.

9 35. Defendants knew and/or had reason to know of the sexual misconduct of the
10 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents.

11 36. Defendants misrepresented, concealed or failed to disclose information relating to
12 sexual misconduct of the Perpetrator and Defendants' other pedophilic and/or ephebophilic
13 agents as described herein, and Defendants continue to misrepresent, conceal, and fail to
14 disclose information relating to sexual misconduct of the Perpetrator and Defendants' other
15 pedophilic and/or ephebophilic agents as described herein.

16 37. Defendants knew that they misrepresented, concealed or failed to disclose
17 information relating to sexual misconduct of the Perpetrator and Defendants' other
18 pedophilic and/or ephebophilic agents.

19 38. Plaintiff justifiably relied upon Defendants for information relating to sexual
20 misconduct of the Perpetrator and Defendants' other pedophilic and/or ephebophilic agents.

21 39. Defendants, with the intent to conceal and defraud, did misrepresent, conceal or fail to
22 disclose information relating to the sexual misconduct of the Perpetrator and Defendants'
23 other pedophilic and/or ephebophilic agents.

24 40. 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 emotional
26 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of
27 life; has suffered and continues to suffer spiritually; was prevented and will continue to be
28 prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life;

1 has sustained and will continue to sustain loss of earnings and earning capacity; and/or has
2 incurred and will continue to incur expenses for medical and psychological treatment,
3 therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered general
4 and special damages in an amount in excess of the jurisdictional minimum of this Court.

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

13
14 **SIXTH CAUSE OF ACTION**

15 **FIDUCIARY/CONFIDENTIAL RELATIONSHIP FRAUD**

16 **AND CONSPIRACY TO COMMIT FRAUD**

17 **(Against All Defendants)**

18 42. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
19 forth herein.

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

24 44. By holding the Perpetrator and Defendants' other pedophilic and/or ephebophilic
25 agents out as a qualified Roman Catholic clergy, religious brother, religious instructor,
26 counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional
27 mentor, and/or other authority figure, and by undertaking the religious and/or secular
28 instruction and spiritual and emotional counseling of Plaintiff, Defendants held special

1 positions of trust and entered into a fiduciary and/or confidential relationship with the minor
2 Plaintiff.

3 45. Having a fiduciary and/or confidential relationship, Defendants had the duty to obtain
4 and disclose information relating to sexual misconduct of the Perpetrator and Defendants'
5 other pedophilic and/or ephebophilic agents.

6 46. Defendants misrepresented, concealed or failed to disclose information relating to
7 sexual misconduct of the Perpetrator and Defendants' other pedophilic and/or ephebophilic
8 agents, and Defendants continued to misrepresent, conceal, and/or fail to disclose information
9 relating to sexual misconduct of the Perpetrator and Defendants' other pedophilic and/or
10 ephebophilic agents as described herein.

11 47. Defendants knew that they misrepresented, concealed or failed to disclose
12 information relating to sexual misconduct of the Perpetrator and Defendants' other
13 pedophilic and/or ephebophilic agents.

14 48. Plaintiff justifiably relied upon Defendants for information relating to sexual
15 misconduct of the Perpetrator and Defendants' other pedophilic and/or ephebophilic agents.

16 49. Defendants, in concert with each other and with the intent to conceal and defraud,
17 conspired and came to a meeting of the minds whereby they would misrepresent, conceal or
18 fail to disclose information relating to the sexual misconduct of the Perpetrator and/or
19 Defendants' other pedophilic and/or ephebophilic agents.

20 50. By so concealing, Defendants committed at least one act in furtherance of the
21 conspiracy.

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

1 medical and psychological treatment, therapy, and counseling. As a proximate result of these
2 injuries, Plaintiff has suffered general and special damages in an amount in excess of the
3 jurisdictional minimum of this Court.

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

12
13 **SEVENTH CAUSE OF ACTION**

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

15 **(Against All Defendants)**

16 53. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
17 forth herein.

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

22 55. By holding the Perpetrator and Defendants' other pedophilic and/or ephebophilic
23 agents out as a qualified Roman Catholic clergy, religious, religious instructor, counselor,
24 school administrator, school teacher, surrogate parent, spiritual mentor, emotional mentor,
25 and/or any other authority figure, by allowing the Perpetrator to have custody and control of
26 and/or contact with the Plaintiff, and by undertaking the religious and/or secular instruction
27 and spiritual and/or emotional counseling of Plaintiff, Defendants entered into a fiduciary
28 and/or confidential relationship with the minor Plaintiff.

1 56. Defendants and each of them breached their fiduciary duty to Plaintiff by engaging in
2 the negligent and wrongful conduct described herein.

3 57. As a direct result of Defendants' breach of their fiduciary duty, Plaintiff has suffered,
4 and continues to suffer great pain of mind and body, shock, emotional distress, physical
5 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
6 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
7 was prevented and will continue to be prevented from performing Plaintiff's daily activities
8 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
9 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
10 medical and psychological treatment, therapy, and counseling. As a proximate result of these
11 injuries, Plaintiff has suffered general and special damages in an amount in excess of the
12 jurisdictional minimum of this Court.

13
14 **EIGHTH CAUSE OF ACTION**

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

16 **(Against All Defendants)**

17 58. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
18 forth herein.

19 59. Defendants breached their duty to take reasonable protective measures to protect
20 Plaintiff and other minor parishioners and/or students from the risk of childhood sexual abuse
21 by the Perpetrator and/or Defendants' other pedophilic and/or ephebophilic agents, such as
22 the failure to properly warn, train, or educate Plaintiff, his parents, Defendants' agents,
23 employees and volunteers, and other minor parishioners and/or students about how to avoid
24 such a risk and/or defend himself or herself if necessary, pursuant to Juarez v. Boy Scouts of
25 America, Inc., 81 Cal.App.4th 377 (2000).

26 Defendants knew, or in the exercise of reasonable diligence should have known, of
27 the general risk of sexual assaults against children and, specifically, of the Perpetrator's and
28 Defendants' other pedophilic and/or ephebophilic agents' propensities to commit, and history

1 of committing, sexual abuse of children, and that an undue risk to children in their custody
2 and care, such as Plaintiff, would exist because of this propensity to commit sexual assaults,
3 and the history of sexual assaults against children, unless Defendants adequately taught,
4 educated, secured, oversaw, and maintained students, including Plaintiff, as well as other
5 children in the custody and control of, or in contact with, Catholic clergy and Defendants'
6 other pedophilic and ephebophilic agents. Defendants were put on actual and/or constructive
7 notice, at least as early as 1979, that the Perpetrator and Defendants' other pedophilic and/or
8 ephebophilic agents were sexually assaulting children at countless locations, including Santa
9 Barbara County. From that date forward, Defendants repeatedly and negligently ignored
10 complaints from victims and/or their parents, as well as warnings from Catholic clergy, that
11 pedophilic and/or ephebophilic Catholic clergy were assaulting children in, among other
12 locations, Santa Barbara County.

13 Defendants also knew or should have known that the general risk of sexual assaults
14 against children and, specifically, the risk posed by the Perpetrator and Defendants' other
15 pedophilic and/or ephebophilic agents' propensities to commit, and history of committing,
16 sexual abuse of children, could be eliminated, or at least minimized, if they took steps to
17 educate, warn and train children in Defendants' custody and control, as well as those
18 children's parents, and Defendants' employees, agents and volunteers, regarding the danger
19 posed by pedophilic and ephebophilic clergy, how to recognize and avoid this danger, and
20 how a child should defend herself or himself when assaulted by pedophilic and/or
21 ephebophilic clergy. Based on their knowledge of the risk posed by the Perpetrator and
22 Defendants' other pedophilic and/or ephebophilic agents, and the history of sexual assaults
23 around Santa Barbara since at least 1936, Defendants had a duty to take the aforementioned
24 steps.

25 Notwithstanding the knowledge of the general risk of sexual assaults against children
26 and, specifically, that the Perpetrator and Defendants' other pedophilic and/or ephebophilic
27 agents had such propensities to commit, and had committed, sexual abuse of children, and
28 notwithstanding that Defendants knew it was not only reasonably foreseeable but likely that

1 the Perpetrator and Defendants' other pedophilic and/or ephebophilic agents would sexually
2 assault children, Defendants breached their duty to adequately teach, educate, secure, oversee,
3 and maintain students, including Plaintiff, as well as all other children in the custody and
4 control of, or in contact with, Catholic clergy, and breached their duty to educate, warn and
5 train children in Defendants' custody and control, as well as those children's parents and
6 Defendants' employees, agents and volunteers, regarding the danger to children posed by
7 pedophilic and/or ephebophilic clergy, how to recognize and avoid this danger, and how a
8 child should defend himself or herself when assaulted by pedophilic and/or ephebophilic
9 clergy.

10 Defendants knew or should have known that their failure to exercise reasonable care,
11 as discussed above, would cause Plaintiff severe emotional distress and physical injury.
12 Because of the foreseeability and likelihood of sexual assaults by the Perpetrator and
13 Defendants' other pedophilic and/or ephebophilic agents against Plaintiff and other children,
14 Defendants breached their duty of care to Plaintiff and other children in their custody and
15 control.

16 The failure of Defendants to educate, warn and train children in Defendants' custody
17 and control, as well as those children's parents and Defendants' employees, agents and
18 volunteers, regarding the danger to children posed by pedophilic and/or ephebophilic clergy,
19 how to recognize and avoid this danger, and how a child should defend himself or herself
20 when assaulted by pedophilic and ephebophilic clergy, was the proximate cause of Plaintiff's
21 injuries as alleged herein.

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

1 psychological treatment, therapy, and counseling. As a proximate result of these injuries,
2 Plaintiff has suffered general and special damages in an amount in excess of the
3 jurisdictional minimum of this Court.

4
5 **NINTH CAUSE OF ACTION**

6 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

7 **(Against all Defendants)**

8 61. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
9 forth herein.

10 62. Defendants' conduct was extreme and outrageous and was intentional or done
11 recklessly. Defendants knew or should have known the Perpetrator and Defendants' other
12 pedophilic and/or ephebophilic agents were spending time in the company of and assaulting
13 numerous children, including Plaintiff, around Santa Barbara and other locations, including
14 on school grounds, in the parishes, and in the Perpetrator's rectory rooms. Defendants also
15 knew or should have known the Perpetrator and Defendants' other pedophilic and/or
16 ephebophilic agents were high risks to all children as Defendants had received numerous
17 complaints and other notice of prior acts of childhood sexual abuse by the Perpetrator and
18 Defendants' other pedophilic and/or ephebophilic agents, and had sent the Perpetrator and/or
19 Defendants' other pedophilic and/or ephebophilic agents for treatment for their pedophilia,
20 prior to and/or after assigning them to work in Santa Barbara. Given their knowledge of
21 numerous prior acts of abuse by the Perpetrator and Defendants' other pedophilic and/or
22 ephebophilic agents, Defendants knew or should have known that every child exposed to the
23 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents, including Plaintiff,
24 was substantially certain to be assaulted by the Perpetrator and Defendants' other pedophilic
25 and/or ephebophilic agents. Defendants knew or should have known, and had the
26 opportunity to learn of, the intentional and malicious conduct of the Perpetrator and
27 Defendants' other pedophilic and/or ephebophilic agents, and thereby ratified and joined in
28 said conduct by failing to terminate, discharge, or at least discipline the Perpetrator and

1 Defendants' other pedophilic and/or ephebophilic agents, and/or by failing to prevent them
2 from having contact with children. The conduct of Defendants in confirming, concealing and
3 ratifying that conduct was done with knowledge that Plaintiff's emotional and physical
4 distress would thereby increase, and was done with a wanton and reckless disregard of the
5 consequences to Plaintiff and other children in their custody and control.

6 63. As a result of Defendants' conduct, Plaintiff experienced and continues to
7 experience severe emotional distress resulting in bodily harm.

8 64. As a result of the above-described conduct, Plaintiff has suffered, and continues to
9 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
10 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
11 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
12 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
13 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
14 capacity; and/or has incurred and will continue to incur expenses for medical and
15 psychological treatment, therapy, and counseling. As a proximate result of these injuries,
16 Plaintiff has suffered general and special damages in an amount in excess of the
17 jurisdictional minimum of this Court.

18
19 **TENTH CAUSE OF ACTION**

20 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

21 **(Against All Defendants)**

22 65. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
23 forth herein.

24 66. Defendants knew or should have known that their failure to exercise reasonable care
25 in the selection, approval, employment and supervision of the Perpetrator and Defendants'
26 other pedophilic and/or ephebophilic agents would cause Plaintiff severe emotional distress.
27 Because of the foreseeability of sexual assaults by the Perpetrator and Defendants' other
28 pedophilic and/or ephebophilic agents against Plaintiff and other children, Defendants

1 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
2 capacity; and/or has incurred and will continue to incur expenses for medical and
3 psychological treatment, therapy, and counseling. As a proximate result of these injuries,
4 Plaintiff has suffered general and special damages in an amount in excess of the
5 jurisdictional minimum of this Court.

6 In addition, when Plaintiff finally discovered the negligent misrepresentations of
7 Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental and
8 emotional distress that Plaintiff had been the victim of the Defendants' negligent
9 misrepresentations; that Plaintiff had not been able to help other minors being molested
10 because of the negligent misrepresentations; and that Plaintiff had not been able because of
11 the negligent misrepresentations and failure to disclose to receive timely medical treatment
12 needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of
13 the molestations.

14
15 **ELEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION –**

17 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200**

18 **(Against all Defendants)**

19 71. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
20 forth herein.

21 72. At all times herein mentioned, Defendants conspired and engaged in unlawful, unfair
22 or fraudulent business acts, within the meaning of Business & Professions Code § 17200.

23 73. At all times herein mentioned, Defendants were and are engaged in nonprofit business
24 activities, including but not limited to: providing public service which the Catholic Church
25 refers to as its "ministry"; operating hospitals, schools, universities, orphanages, or other
26 institutions; providing religious, psychological, emotional and social counseling; conducting
27 various charitable activities and providing services whether or not within the scope of 26
28 U.S.C. § 501(c)(3); and soliciting charitable donations.

1 breached their duty of care in engaging in the conduct referred to in the preceding paragraphs.

2 67. Defendants knew or should have known that their failure to exercise reasonable care
3 in providing adequate supervision to Plaintiff and other children in their custody and control,
4 despite the fact they knew or should have known of the threat to children posed by the
5 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents, would cause
6 Plaintiff severe emotional distress. Defendants also knew or should have known that their
7 failure to disclose information relating to sexual misconduct of the Perpetrator and
8 Defendants' other pedophilic and/or ephebophilic agents as described herein would cause
9 Plaintiff severe emotional distress and subject him to further assaults. Because of the
10 foreseeability of sexual assaults by the Perpetrator and Defendants' other pedophilic and/or
11 ephebophilic agents against Plaintiff and other children, Defendants breached their duty to
12 exercise reasonable care in failing to provide adequate supervision to Plaintiff and other
13 children in their custody and control, and in failing to disclose information to Plaintiff, his
14 family, and the general public relating to sexual misconduct of the Perpetrator and
15 Defendants' other pedophilic and/or ephebophilic agents.

16 68. Finally, Defendants knew or should have known that their creation and continuance of
17 the Public Nuisance set forth in the preceding paragraphs would cause Plaintiff severe
18 emotional distress. Because of the foreseeability of sexual assaults by the Perpetrator and
19 Defendants' other pedophilic and/or ephebophilic agents against Plaintiff and other children
20 as a result of this conduct, Defendants breached their duty of care in creating and continuing
21 the Public Nuisance referred to in the preceding paragraphs.

22 69. Plaintiff experienced and continues to experience severe emotional distress resulting
23 in bodily harm.

24 70. As a result of the above-described conduct, Plaintiff has suffered, and continues to
25 suffer 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

1 74. At all times herein mentioned, Defendants have as a significant source of revenue the
2 receipt of charitable donations from persons who worship or associate themselves with the
3 Catholic Church.

4 75. At all times herein mentioned, Defendants conducted and continue through the
5 present to conduct their respective business affairs as set forth in Paragraphs 72 through 74 in
6 such a manner as to willfully and negligently: foster an environment conducive to predatory
7 pedophilic and ephebophilic behavior; conceal from the general public the sexual assaults
8 committed by, the identities of, and the pedophilic and ephebophilic tendencies of, Catholic
9 clergy; protect the pedophilic and ephebophilic clergy from civil and criminal prosecution;
10 respond to allegations of sexual misconduct against the Catholic clergy with blanket denials
11 and/or the creation of entities controlled by the Church hierarchy that are misrepresented as
12 taking appropriate action but instead perpetuate the concealment of sexual misconduct;
13 represent to the Catholic laity and the general public that appropriate action is being taken by
14 the Church concerning allegations of sexual misconduct and child molestation when in fact it
15 is engaging in concealment and suppression of the truth; place predatory clergy into
16 communities with children without any warning to those communities; and attempting to
17 shield themselves from their reporting obligations of suspected childhood sexual abuse under
18 Penal Code section 11166 by insisting that anyone making a report of misconduct by a
19 Franciscan do so in the context of penitential communications to the Franciscan receiving the
20 report.

21 Further, on information and belief, Defendants represent to the Catholic laity, the
22 general public and survivors of clergy abuse that they have created entities, such as the
23 Independent Response Team and/or the Office of Pastoral Outreach and/or the Province
24 Review Board, which purport to “offer help . . . for those affected by Friar misconduct.”
25 Defendants further represent to the public that these entities will handle each “claim with the
26 strictest sensitivity and confidentiality.” In reality, and notwithstanding any good intentions
27 of the lay people who work within these entities, the information obtained by such entities
28 ultimately is harvested by the Franciscans and provided to their attorneys for use against

1 survivors of Franciscan sexual abuse who attempt to make a claim for the injuries they have
2 suffered.

3 76. The activities described in Paragraph 75 violate various civil and criminal laws of
4 California and of the United States;

5 77. The activities described in Paragraph 75 violate various civil and criminal laws of
6 California and of the United States, including the duty to report incidents of childhood sexual
7 abuse as required by Penal Code § 11166;

8 78. The activities described in Paragraph 75 offend public policy; are immoral, unethical,
9 oppressive, and unscrupulous; are substantially injurious to persons who utilize the services
10 described in Paragraph 75; and are undertaken without any valid reason, justification or
11 motive.

12 79. Defendants all conducted their business activities in such a way that members of the
13 public are likely to be deceived regarding those business activities.

14 80. As a result of the acts of unfair competition by Defendants, Plaintiff has suffered, and
15 continues to suffer great pain of mind and body, shock, emotional distress, physical
16 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
17 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
18 was prevented and will continue to be prevented from performing Plaintiff's daily activities
19 and obtaining the full enjoyment of life; has sustained and 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. As a proximate result of these
22 injuries, Plaintiff has suffered general and special damages in an amount in excess of the
23 jurisdictional minimum of this Court.

24 81. As a further result of the above-described conduct by Defendants Plaintiff further
25 requests injunctive relief prohibiting Defendants from, among other things: allowing their
26 pedophilic/ephebophilic agents to have any unsupervised contact with children; transferring
27 their pedophilic/ephebophilic agents to communities whose citizens are unaware of the risk to
28 children posed by said agents; failing/refusing to disclose to and/or concealing from the

1 general public and/or law enforcement when Defendants have transferred a
2 pedophilic/ephebophilic agent into their midst; failing/refusing to disclose to and/or
3 concealing from law enforcement and/or the general public the identities and the criminal
4 acts of their pedophilic/ephebophilic agents; failing/refusing to disclose to and/or concealing
5 from the public and/or law enforcement reports, complaints, accusations or allegations of acts
6 of childhood sexual abuse committed by Defendants' current or former agents; insisting that
7 reports, complaints, accusations or allegations of acts by Defendants' agents be made only in
8 the context of a penitential communication; and representing to the public that Defendants
9 have created entities to assist survivors of childhood sexual abuse when in reality Defendants
10 use such entities to obtain information used to attack survivors who make claims for injuries
11 caused by that abuse. Defendants should be ordered to stop failing/refusing to disclose to
12 and/or concealing and instead should identify each and every one of their current and former
13 agents who have been accused of childhood sexual abuse, the dates of the accusation(s), the
14 date(s) of the alleged abuse, the location(s) of the alleged abuse, and the accused agents'
15 assignment histories.

16
17 **TWELFTH CAUSE OF ACTION**

18 **FRAUD AND DECEIT**

19 **(Against All Defendants)**

20 82. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
21 forth herein.

22 83. The Perpetrator and Defendants' other pedophilic and/or ephebophilic agents held
23 himself out to Plaintiff as a Roman Catholic Priest, religious brother, religious instructor,
24 counselor, school administrator, school teacher, surrogate parent, spiritual mentor, emotional
25 mentor, and/or other authority figure. The Perpetrator and Defendants' other pedophilic
26 and/or ephebophilic agents represented to Plaintiff and Plaintiff's parents that he would
27 counsel and guide Plaintiff with his educational, spiritual, and/or emotional needs.

28 84. These representations were made by the Perpetrator and Defendants' other pedophilic

1 and/or ephebophilic agents with the intent and for the purpose of inducing Plaintiff and
2 Plaintiff's parents to entrust the educational, spiritual and physical well being of Plaintiff
3 with the Perpetrator and Defendants' other pedophilic and/or ephebophilic agents.

4 85. The Perpetrator and Defendants' other pedophilic and/or ephebophilic agents
5 misrepresented, concealed or failed to disclose information relating to his true intentions to
6 Plaintiff and Plaintiff's parents when they entrusted Plaintiff to his care, which were to
7 sexually molest and abuse Plaintiff. Plaintiff justifiably relied upon the Perpetrator's and
8 Defendants' other pedophilic and/or ephebophilic agents' representations.

9 86. The Perpetrator and Defendants' other pedophilic and/or ephebophilic agents were
10 employees, agents, and/or representatives of Defendants. At the time he fraudulently induced
11 Plaintiff and Plaintiff's parents to entrust the care and physical welfare of Plaintiff to the
12 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents, the Perpetrator and
13 Defendants' other pedophilic and/or ephebophilic agents were acting within the course and
14 scope of their employment with Defendants.

15 87. Defendants are vicariously liable for the fraud and deceit of the Perpetrator and
16 Defendants' other agents.

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

27 89. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing
28 thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition,

1 when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff
2 experienced extreme and severe mental and emotional distress that Plaintiff had been the
3 victim of the Defendants' fraud; that Plaintiff had not been able to help other minors being
4 molested because of the fraud; and that Plaintiff had not been able because of the fraud to
5 receive timely medical treatment needed to deal with the problems Plaintiff had suffered and
6 continues to suffer as a result of the molestations.

7
8 **THIRTEENTH CAUSE OF ACTION**

9 **PREMISES LIABILITY**

10 **(Against All Defendants)**

11 90. Plaintiff incorporates all paragraphs of this First Amended Complaint as if fully set
12 forth herein.

13 91. At all times herein mentioned, Defendants were in possession of the property where
14 the Plaintiff was groomed and assaulted by the Perpetrator, and had the right to manage, use
15 and control that property.

16 92. At all times herein mentioned, Defendants knew that the Perpetrator and Defendants'
17 other pedophilic and/or ephebophilic agents had a history of committing sexual assaults
18 against children, and that any child at, among other locations in Santa Barbara, the Mission
19 and St. Anthony's, was at risk to be sexually assaulted by the Perpetrator and Defendants'
20 other pedophilic and/or ephebophilic agents.

21 93. Defendants knew or should have known that the Mission and St. Anthony's had a
22 history of grooming of and/or sexual assaults against children committed by the Perpetrator
23 and/or Defendants' other pedophilic and/or ephebophilic agents and that any child at, among
24 other locations in Santa Barbara, the Mission and St. Anthony's, was at risk to be sexually
25 assaulted. It was foreseeable to Defendants that the Perpetrator and Defendants' other
26 pedophilic and/or ephebophilic agents would sexually assault children if they continued to
27 allow the Perpetrator and/or Defendants' other pedophilic and/or ephebophilic agents to
28 teach, supervise, instruct, care for, and have custody and control of and/or contact with

1 children.

2 94. At all times herein mentioned, Defendants knew or should have known the
3 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents were repeatedly
4 committing sexual assaults against children.

5 95. It was foreseeable to Defendants that the sexual assaults being committed by the
6 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents would continue if
7 Defendants continued to allow the Perpetrator and Defendants' other pedophilic and/or
8 ephebophilic agents to teach, supervise, instruct, care for, and have custody of and/or contact
9 with young children.

10 96. Because it was foreseeable that the sexual assaults being committed by the
11 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents would continue if
12 Defendants continued to allow them to teach, supervise, instruct, care for, and have custody
13 of and/or contact with young children, Defendants owed a duty of care to all children,
14 including Plaintiff, exposed to the Perpetrator and/or Defendants' other pedophilic and/or
15 ephebophilic agents. Defendants also owed a heightened duty of care to all children,
16 including Plaintiff, because of their young age.

17 97. By allowing the Perpetrator and/or Defendants' other pedophilic and/or ephebophilic
18 agents to teach, supervise, instruct, care for, and have custody of and/or contact with young
19 children, and by failing to warn children and their families of the threat posed by the
20 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents, Defendants
21 breached their duty of care to all children, including Plaintiff.

22 98. Defendants negligently used and managed the Mission and St. Anthony's, and created
23 a dangerous condition and an unreasonable risk of harm to children by allowing the
24 Perpetrator and Defendants' other pedophilic and/or ephebophilic agents to teach, supervise,
25 instruct, care for and have custody of and/or contact with young children at, among other
26 locations, the Mission and St. Anthony's.

27 99. As a result of the dangerous conditions created by Defendants, numerous children
28 were sexually assaulted by the Perpetrator and Defendants' other pedophilic and/or

1 ephebophilic agents.

2 100. The dangerous conditions created by Defendants were the proximate cause of
3 Plaintiff's injuries and damages.

4 101. As a result of these dangerous conditions, Plaintiff has suffered, and continues to
5 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
6 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
7 enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will
8 continue to be prevented from performing Plaintiff's daily activities and obtaining the full
9 enjoyment of life; has sustained and will continue to sustain loss of earnings and earning
10 capacity; and/or has incurred and will continue to incur expenses for medical and
11 psychological treatment, therapy, and counseling. As a proximate result of these injuries,
12 Plaintiff has suffered general and special damages in an amount in excess of the
13 jurisdictional minimum of this Court.

14

15 WHEREFORE, Plaintiff prays for damages; injunctive relief; attorney's fees and costs;
16 statutory/civil penalties according to law; and such other relief as the court deems appropriate
17 and just.

18


19 **JURY DEMAND**

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

21

22 DATE: October 5, 2009 NYE, PEABODY, STIRLING & HALE, LLP

23

24 By: 
25 DAVID L. NYE
26 TIMOTHY C. HALE

26

27

28

April 26, 1950

The Reverend James T. Booth
North American College.
Via dell Umilta 30
Rome, Italy

Dear Father Booth:

We will indeed be grateful to have the benefit of your priestly ministrations for what looks like a possible three months. Before coming to a final decision, however, will you kindly check the possible cost of a trip by boat or plane to the United States and from New York to San Diego? You understand, of course, that with our limited resources we must watch the overhead.

Please read over the inclosed petition and note the difficulties that confront us in regard to the tenure of the Franciscan Fathers in Banning and Beaumont. The fact is that the majority of Franciscan priests are not trained for parish work. Last summer a committee of some fourteen parishioners, representing the rank and file of the Precious Blood Parish in Banning, made a trip to San Diego to petition that a diocesan priest replace the Franciscan Father who, although a good priest, "was too old to do anything". This group pointed out that the diocesan priests had built churches and schools all around them but their parish had made no progress within the last fifty years — all of which is only too true.

Another angle that is of importance. The late Archbishop Cantwell obtained a Beneplacitum for the Franciscan Fathers to enjoy at Banning, Beaumont and other parishes because of their willingness at that time to accept the Indian Missions in this Diocese. Over a year ago, the Franciscan Fathers gave up the Indian Missions on the plea that their Fathers were needed in China.

During the thirteen years since this Diocese was erected, to my own personal knowledge, the Santa Barbara Province of the Franciscan Fathers has used this Diocese as a dumping ground for their moral, mental and physical problems. It became necessary for me some time ago to demand the withdrawal of one misfit after another. To be specific, in a more recent case, they sent a man whose health had broken in China — Father Emmanuel — and who had never had a parish in the United States before to take charge of the Precious Blood Parish in Banning. He has not only failed but he has caused a decided rift in the parish there as the people are all on edge through lack of experience, imprudence and sudden change of judgement regarding the purchase of property for the proposed school. The fact is that the parish has to be directed from this Chancery because the incumbent there is incompetent. Several weeks ago we requested the Provincial to remove him and to replace him with an experienced, competent pastor. The Very Reverend Provincial Augustine Hobrecht called here yesterday and requested more time because he had no priest available to send to Banning. In the meantime, religion suffers. Note copies of inclosed letters from two Franciscans who had parishes in this Diocese.

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The Reverend James T. Booth
April 26, 1950 -- #2

After studying the matter, will you kindly advise me regarding a Canonist in Rome who through experience and other qualities would be the best to represent me in petitioning the Congregation to set aside the Beneplacitum and restore the two parishes of Banning and Beaumont to the Diocese for the good of religion.

About two years ago the mission across the tracks for Mexicans in Beaumont was wrecked by an earthquake. Since that time we have been begging and pleading with the pastor in charge to assemble somekind of an outline for the rebuilding of the Mexican Mission; but we can't even get a response to our letters. I asked for the removal of the sick priest the Franciscans had sent to Beaumont and now it becomes necessary to request the removal of his successor. It is the same old story. The Franciscans simply do not have men trained for this work.

My first thought was if these matters could be presented to the present Franciscan General he might consider giving up the two parishes of Beaumont and Banning. They still have two other parishes -- one in San Diego and one in Fort Yuma. Both have been poorly staffed and have been spiritually dead for the past thirteen years to my personal knowledge. In Old Town, San Diego, we have tried to get the Franciscan Fathers to build a parochial school. During World War II they purchased a vast amount of land adjoining their property but got it tied up by lease for government property. If they had built a school when requested, it would have been paid for now. If you think it wise to request the San Diego parish, that could be included in our petition. It is indeed most regrettable that these parishes were given to the Franciscans because they are absolutely needed for our own Diocesan priests in view of the fact that the intense heat of Imperial Valley and the Coachella Valley requires a change after two or three years for the priests who serve in these difficult climes.

You surely get the picture and you can be a great help to us in collaborating with one of the leading Canonists in Rome to adjust this difficulty. If, after due consideration, the Very Reverend General declines to release the parishes under consideration, then you and the Canonist retained could complete a petition to the Congregation that handles these matters. It is possible that you will require more details before whipping the case into final shape for presentation.

With kindest regards and renewed appreciation,

Devotedly your servant in Christ,

Bishop of San Diego.

x