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VALLEY VIEW
Clerk of the Superior Court

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By _____

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Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCONINO**

JANE L.S. DOE, a single woman,

Plaintiff,

v.

THE FRANCISCAN FATHERS,
PROVINCE OF OUR LADY OF
GUADALUPE, a New Mexico
Corporation; THE FRANCISCAN
FATHERS, PROVINCE OF ST. JOHN
THE BAPTIST, an Ohio Corporation;
SISTERS OF THE BLESSED
SACRAMENT; a Pennsylvania
Corporation; ST. MICHAEL'S
MISSION, an Arizona corporation; ST.
MICHAEL'S INDIAN SCHOOL, an
Arizona Corporation; BROTHER
MARK SHOMACK, OFM, aka
BROTHER MARK SCHORNACK,
OFM a Roman Catholic cleric; JOHN
DOE 1-100; JANE DOE 1-100; and
Black & White Corporations 1-100,

Defendants.

Case No.: CV2015-00277

**SECOND AMENDED
COMPLAINT**

Plaintiff, for her complaint, states and alleges the following:

JURISDICTION

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1. Plaintiff, Jane L.S. Doe, is a resident of Phoenix, Arizona. The acts, events, and or omissions occurred in Arizona. The cause of action arose in Arizona.
2. The Franciscan Friars, Province of St. John the Baptist (Franciscan Friars), a religious order of the Roman Catholic Church, at all times alleged was and is a corporation, organized under the laws of the State of Ohio, having its principal place of business in Ohio.
3. The Sisters of the Blessed Sacrament is a congregation of Catholic nuns established in 1891 organized under the laws of the State of Pennsylvania. In 1895 the Sisters of the Blessed Sacrament convinced the Franciscan Friars, Province of St. John the Baptist to begin a mission among the Navajo people. In 1902, The Sisters of the Blessed Sacrament along with the St. John the Baptist Province of the Franciscan Friars opened St. Michael's Indian School located in St. Michael's, Arizona.
4. St. Michael's Mission is an Arizona corporation that caused acts or events to occur in Arizona.
5. The Catholic school at St. Michael's, Arizona, are owned, operated, and controlled by the Sisters of the Blessed Sacrament.
6. Brother Mark Schornack, aka Brother Mark Schomack was a Roman Catholic cleric. Brother Schornack professed his solemn vows on August 16, 1959. Schornack was a member of the Order of the Friars Minor of the Province of St. John the Baptist when he committed the wrongful acts and events alleged.
7. At all times alleged, Defendant Brother Mark Schornack was a Roman Catholic cleric who caused acts, events, or omissions to occur in Arizona out of which these claims arise. At all times alleged, Defendant Schornack was employed by and was the actual or apparent agent the Franciscan Friars and or the Sisters of the Blessed Sacrament and or St. Michael's Mission and or St. Michael's Indian School.
8. Defendant Schornack was and is under the supervision, employ, or control of

1 the Franciscan Friars and or the Sisters of the Blessed Sacrament and or St.
2 Michael's Mission and or St. Michael's Indian School when he committed
3 the wrongful acts, events, and omission alleged.
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5 9. At all times alleged, the Franciscan Friars, Sisters of the Blessed Sacrament,
6 St. Michael's Mission, St. Michael's Indian School and Brother Schornack,
7 their priests, provincials, Bishops, Archbishops, sisters, nuns, employees and
8 agents were acting within their course and scope of employment or
9 alternatively, acting within their actual or apparent authority caused acts or
10 events to occur in Arizona out of which these claims arise.

11 10. Plaintiff is informed and believes, and on that basis alleges, that at all times
12 mentioned herein, there existed a unity of interest and ownership among
13 Defendants and each of them, such that any individuality and separateness
14 between Defendants, and each of them, ceased to exist. Defendants, and
15 each of them, were the successors-in-interest and / or alter egos of the other
16 Defendants, and each of them, in that they purchased, controlled, dominated
17 and operated each other without any separate identity, observation of
18 formalities, or other manner of division. To continue maintaining the façade
19 of a separate and individual existence between and among Defendants, and
20 each of them, would serve to perpetuate a fraud and an injustice.

21 11. Defendants JOHN DOE 1-100, JANE DOE 1-100, and BLACK AND
22 WHITE CORPORATIONS 1-100, are fictitious names designating an
23 individual or individuals or legal entities not yet identified who have acted
24 with the named Defendants either as principals, agents, or co-participants
25 whose true names Plaintiffs may insert when identified.
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27 12. Plaintiff is informed and believes, and on that basis alleges, that at all times
28 alleged herein, Defendants and each of them and JOHN DOES 1-100, JANE
DOES 1-100, and BLACK and WHITE CORPORATIONS 1-100, inclusive,
were the agents, representatives and or employees of each and every other

1 Defendant. In do the things hereinafter alleged, Defendants, and each of
2 them, JOHN DOES 1-100, JANE DOES 1-100, and BLACK and WHITE
3 CORPORATIONS 1-100, inclusive, were acting within the course and scope
4 of said alternative personality, capacity, indemnity, agency, representation
5 and or employment and were within their actual or apparent authority.
6

7 **GENERAL ALLEGATIONS**

8 **Defendants the Franciscan Friars, Sisters of the Blessed Sacrament, St.**
9 **Michael's Mission & St. Michael's Indian School allowed**
10 **Brother Schornack to relocate to remote parts of Arizona**

- 11 13. Plaintiff incorporates all other paragraphs.
12 14. Brother Mark Schornack was ordained a Roman Catholic priest or cleric.
13 15. The Provincial of the Franciscan Friars and or the Sisters of the Blessed
14 Sacrament assigned Brother Mark Schornack to Catholic school, missions,
15 and parishes in Arizona including but not limited to St. Michael's Mission
16 and or St. Michael's Indian School.
17 16. Defendants, the Franciscan Friars, Sisters of the Blessed Sacrament, St.
18 Michael's Mission, St. Michael's Indian School and Schornack, through its
19 bishop, priests, and agents of any kind, knew or should have known that
20 Brother Mark Schornack would have contact with Catholic children while
21 assigned to Catholic Churches, schools, and missions throughout Northern
22 Arizona including St. Michael's Mission and St. Michael's Indian School.

23 **Schornack sexually abused Jane L.S. Doe**

24 **When she was a young girl living in rural Arizona**

- 25 17. Plaintiff incorporates all other paragraphs.
26 18. To cope with the trauma of sexual abuse Jane L.S. Doe involuntarily and
27 unconsciously blocked the memories of sexual abuse from his mind.
28 19. In the summer of 2013, Jane L.S. Doe began to recover some of the memories
of sexual abuse by Brother Mark Schornack.

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20. Jane L.S. Doe received education and instruction in the Catholic faith from Defendants, including Brother Schornack.

21. Brother Mark Schornack gave Jane L.S. Doe special benefits. Brother Mark Schornack showered Jane L.S. Doe with extra attention.

22. Brother Mark Schornack sexually abused Jane L.S. Doe when she was a young girl at the Catholic church and school located in St. Michael's, Arizona. The sexual abuse included, but was not limited to, touching, fondling, frottage, intercrural sex and penetration.

Defendants, the Franciscan Friars, Sisters of the Blessed Sacrament, St. Michael's Indian School and Schornack covered up and fraudulently concealed Schornack's history and propensity of sexual abuse

23. Plaintiff incorporates all other paragraphs.

24. Defendants, through its priests, sisters, nuns, employees, or agents of any kind knew or should have known that Schornack sexually abused young boys. Defendants knew or should have known of Schornack's propensity to sexually abuse children.

25. Upon information and belief Brother Mark Schornack was a professed member of the Maryknoll Fathers religious community but did not take final vows because of concerns regarding his vocation.

26. Upon information and belief, the Franciscan Friars approved Mark Schoronack's application for admission to the Franciscans when Schornack was a resident and or patient of Via Coeli located in Jemez Springs, New Mexico.

27. Father Gerald Fitzgerald founded the Servants of the Paraclete in 1947 to deal with problem priests. Fr. Fitzgerald established Via Coeli at Jemez Springs, New Mexico, a treatment facility for priests who engaged in sexual misconduct. Plaintiff is informed and believes, and on that basis alleges, that

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Fr. Fitzgerald wrote regularly to bishops in the United States and even the Pope that sexual abusers under his care should be laicized or defrocked.

28. Defendants did not disclose or report the sexual abuse. Instead, the priests, provincials, bishops, sisters, nuns, dioceses, and archdioceses, Defendants kept the news of Schornack's sexual abuse and propensity to engage in sexual abuse from church members, including Plaintiff and her family.

29. Defendants, their priests, provincials, Bishops, Archbishops, sisters, nuns, and agents of any kind followed the orders, commandments, directives, policies, or procedures of the Roman Catholic Church mandated by the priests, Bishops, Archbishops, Cardinals, Vatican, the Holy See, the Holy Office, and the Holy Father requiring that all matters and details regarding clergy sexual abuse be kept absolutely secret. The secrets of priest sexual abuse were commonly regarded as a secret of the Holy Office.

30. Defendants, their priests, provincials, Bishops, Archbishops, sisters, nuns and agents of any kind also followed the orders, commandments, directives, policies, or procedures of the Roman Catholic Church mandated by the Vatican, the Holy See, the Holy Office, Bishops, Archbishops, Cardinals and the Holy Father allowing a priest accused of sexual abuse to be transferred to a new assignment without ever disclosing the priest's history of sexual abuse.

31. Defendants through their priests, bishops, archbishops, sisters, nuns, and agents engaged in a pattern and practice of protecting priests and clerics who sexually abused parishioners and children by ratifying, concealing, failing to report, or failing to investigate clergy sexual abuse, molestation, and or sexual misconduct.

Defendants are estopped from alleging the statute of limitations as a defense because they fraudulently concealed Brother Schornack's sexual abuse of Catholic children and his propensity to sexually abuse Catholic Children.

32. Plaintiff incorporates all other paragraphs.

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- 33. Defendants through its priests, provincials, Bishops, Archbishops, sisters, nuns, and agents of any kind assigned Brother Mark Schornack to parishes throughout Northern Arizona, including the Catholic churches and schools located in St. Michael's, Arizona and Fort Defiance, Arizona.
- 34. Defendants, and each of them, did not reveal to the congregation of faithful Catholics, including Plaintiff and her family, that Brother Mark Schornack sexually abused Catholic children and or had a propensity to engage in sexual misconduct including sexual misconduct with children.
- 35. Defendants knew or should have known that Brother Mark Schornack continued to engage in sexual misconduct throughout his time working for Defendants.
- 36. Defendants, through their priests, provincials, bishops, archbishops, sisters, nuns, and agents of any kind, led the congregation of faithful Catholics in the Navajo Nation and specifically at St. Michael's, Arizona, Kayenta, Arizona and Fort Defiance, Arizona to believe that Brother Mark Schornack was fit to serve as a Roman Catholic cleric ministering to Catholic children. In keeping with the orders, commandments, directives, policies, or procedures of the Roman Catholic Church mandated by the priests, provincials, Bishops, Archbishops, Cardinals, Vatican, the Holy See, the Holy Office, and the Holy Father requiring that all matters and details regarding clergy sexual abuse be kept absolutely secret. Defendants did not reveal to the congregation of faithful Catholics in the Diocese of Gallup and its parishes, including Plaintiff and her family, that Brother Mark Schornack sexually abused Catholic children.
- 37. Defendants are equitably estopped from alleging the statute of limitations as a defense in this case because of the inequitable conduct of Defendants, because of their attempts to fraudulently conceal the abuse and breaches of fiduciary duties.

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- 38. All Defendants, with their pattern and practice of ignoring, covering up, and or fraudulently concealing Brother Schornack's sexual abuse of Jane L.S. Doe and other Catholic children, demonstrated deliberate indifference, conscious disregard, and reckless disregard to Jane L.S. Doe's mental and physical well-being.
- 39. All Defendants' pattern and practice of ignoring, covering up, and fraudulently concealing repeated and frequent sexual abuse perpetrated by Brother Schornack and other clergy was done pursuant to the Catholic Church's official and unofficial policies and practices.
- 40. The allegations set forth in the General Allegations render the Defendants liable for Brother Schornack's sexual abuse of Jane L.S. Doe and other children because such abuse was and should have been foreseeable and reasonable precautionary measures would have prevented sexual abuse by Brother Schornack and other clergy within the purview and/or control of Defendants.

COUNT I
SEXUAL ASSAULT / SEXUAL ABUSE / MOLESTATION
(A.R.S. § 13-1406 and the common law)
(Bro. Mark Schornack)

- 41. Plaintiff incorporates all other paragraphs.
- 42. Defendant Brother Mark Schornack intentionally, knowingly, recklessly, or negligently engaged in sexual conduct with Jane L.S. Doe.
- 43. Defendant Brother Schornack intentionally, knowingly, recklessly, or negligently engaged in sexual conduct with Jane L.S. Doe without her consent and when she was a minor incapable of consenting to such sexual conduct.
- 44. As a direct and proximate cause of Defendants' wrongful acts Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace,

1 humiliation, anger, rage, frustration, loss of enjoyment of life, loss of
2 consortium, loss of love and affection, sexual dysfunction, past and future
3 medical expenses for psychological treatment, therapy, and counseling.

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5 45. The allegations set forth in this Count constitute traditional negligence and
6 negligence per se for violation of A.R.S. § 13-3623 and other relevant statutes
7 and laws, including the common law, enacted for the protection of a specific
8 class of persons of which John C.V. Doe is a member.

9 **COUNT II**

10 **BREACH OF FIDUCIARY DUTY**

11 **(All Defendants)**

- 12 46. Plaintiff incorporates all other paragraphs.
- 13 47. Defendants' relationship with Plaintiff Jane L.S. Doe was one of spiritual
14 guide, teacher, counselor, and shepherd. As a fiduciary to Plaintiff,
15 Defendants owed a duty to investigate, obtain, and disclose sexual
16 misconduct, sexual assault, sexual abuse, molestation, sexual propensities,
17 and other inappropriate acts of its priests, including Defendant Brother Mark
18 Schornack. As fiduciary, counselor, teacher and spiritual guide, Defendants
19 owed Plaintiff a duty to work solely for her benefit.
- 20 48. Defendants breached their fiduciary duties owed to Plaintiff.
- 21 49. As a direct and proximate cause of Defendants' breach Plaintiff suffered and
22 will continue to suffer in the future great pain of mind and body, shock,
23 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation,
24 anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of
25 love and affection, sexual dysfunction, past and future medical expenses for
26 psychological treatment, therapy, and counseling.
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COUNT III
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Defendants)

- 50. Plaintiff incorporates all other paragraphs.
- 51. Defendants' wrongful conduct, including sexual abuse, failure to report Schornack's sexual abuse of children, acquiescence, affirmance, and ratification of Schornack's sexual abuse exceeded the bounds of decency and were extreme and outrageous causing Plaintiff to suffer severe emotional and psychological distress.
- 52. As a direct and proximate cause of Defendants' wrongful conduct Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

COUNT IV
INTENTIONAL / NEGLIGENT MISREPRESENTATION
(All Defendants)

- 53. Plaintiff incorporates all other paragraphs.
- 54. Defendants have a duty to provide true, accurate, and or complete information to prevent a substantial and foreseeable risk of injury to young Catholic children, including Plaintiff.
- 55. Instead of reporting and disclosing the incidents of sexual abuse, Schornack's history of sexual abuse, or Schornack's propensity to sexually abuse children, Defendants breached their duties to Plaintiff by providing vague, incomplete, and inconsistent information regarding Schornack's ability to serve as a Roman Catholic priest.

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56. As a direct and proximate cause of Defendants' breach Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

**COUNT V
NEGLIGENT SUPERVISION / RETENTION**

57. Plaintiff incorporates all other paragraphs.
58. Defendants, and each of them, had a duty to hire, fire, train, retain, supervise, and or counsel employees, priests, brothers, and or clerics who had the knowledge, education, training, physical, psychological, and spiritual ability to serve as Roman Catholic cleric and or priest.
59. Defendants breached their duties to Plaintiff.
60. As a direct and proximate cause of Defendants' breach Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

**COUNT VI
ENDANGERMENT
(All Defendants)**

61. Plaintiff incorporates all other paragraphs.
62. Defendants have a duty to protect children from foreseeable and unjustifiable risks of harm.
63. Defendants knew or should have known Brother Schornack posed a significant risk of injury to Catholic children, including Plaintiff.

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- 64. Defendants assigned Brother Mark Schornack to the missions, Catholic schools, and or parish on the Navajo Reservation and or throughout Northern Arizona.
- 65. Brother Schornack posed a substantial risk of significant physical and psychological injury to Catholic children, including Plaintiff.
- 66. Defendants negligently and or recklessly endangered the health and well being of Catholic children, including Plaintiff by exposing them to Brother Schornack who was a substantial risk of significant physical and mental injury to young Catholic children including Plaintiff.
- 67. Defendants negligently and or recklessly endangered the health and well being of Catholic children, including Plaintiff, by employing and engaging in pattern and practice, customs and traditions, of ignoring, covering up, and or fraudulently concealing clergy sexual abuse.
- 68. As a direct and proximate cause of Defendants' negligent and or reckless endangerment, Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

**COUNT VII
CHILD ABUSE
(A.R.S. § 13-3623 and the common law)
(All Defendants)**

- 69. Plaintiff incorporates all other paragraphs.
- 70. Brother Schornack had the care and custody of Jane L.S. Doe both because she was a parishioner and or student under the control and authority of Brother Schornack, given to him by Defendants the Franciscan Friars, the Sisters of the Blessed Sacrament, St. Michael's Mission and or St.

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Michael's Indian School.

- 71. Defendants had the care and custody of Jane L.S. Doe both because they assigned and/or permitted Brother Schornack to serve in the Navajo Nation and at missions, parishes, and or schools throughout Northern Arizona and because of their pattern, practice, custom, and tradition of training and educating children in the Catholic faith.
- 72. Defendants had the care and custody of Jane L.S. Doe through traditional agency law.
- 73. Under circumstances likely to produce serious and significant physical and psychological injury and while Jane L.S. Doe was under the care and custody of all Defendants, Defendants permitted, allowed, and/or established patterns, practices, customs, and traditions that placed Jane L.S. Doe in a situation in which her person, physical health, and mental/emotional health were endangered.
- 74. Defendants intentionally, recklessly and or negligently endangered and sexually abused Plaintiff.
- 75. As a direct and proximate cause of Defendants' sexual abuse of Plaintiff, Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

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COUNT VIII
ASSAULT AND BATTERY
(A.R.S. §§ 13-1204, 13-1203, and the common law)
(All Defendants)

76. Plaintiff incorporates all other paragraphs.
77. At all times relevant to this complaint, Brother Schornack was over the age of 18 and Jane L.S. Doe was under the age of 15.
78. Brother Schornack intentionally, knowingly and/or recklessly caused serious physical and mental/emotional injury to Plaintiff.
79. Brother Schornack intentionally, knowingly, recklessly and/or negligently placed Plaintiff in reasonable apprehension of imminent physical injury.
80. Brother Schornack intentionally, knowingly, recklessly and/or negligently touched Plaintiff with the intent to injure, insult or provoke.
81. The allegations set forth in this Count constitute negligence and negligence per se for violation of A.R.S. §§ 13-1204, 13-1203 and other relevant statutes and laws, including the common law, enacted for the protection of a specific class of persons of which Plaintiff is a member.
82. As a direct and proximate cause of Defendants' abuse of Plaintiff, Plaintiff suffered and will continue to suffer in the future great pain of mind and body, shock, emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of consortium, loss of love and affection, sexual dysfunction, past and future medical expenses for psychological treatment, therapy, and counseling.

PRAYER FOR RELIEF


83. Plaintiff requests judgment in favor of Plaintiff and against Defendants as follows to:
- a. For Plaintiff's general and special damages in an amount to be proven at trial by jury;

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- b. For Plaintiff's incurred costs together with interest at the highest lawful rate on the total amount of all sums awarded from the date of judgment until paid;
- c. For the fair and reasonable monetary value of Plaintiff's past, present, and future pain and suffering in an amount to be proven at trial by jury;
- d. For the medical expenses incurred up to the date of trial and any additional expenses necessary for future medical care and treatment;
- e. For punitive damages or exemplary damages to be set by a jury in an amount sufficient to punish Defendants for their outrageous conduct and to make an example out of them so that others do not engage in similar conduct in the future;
- f. For such other and further relief as this Court may deem just and proper.

DATED this 15th day of March, 2016.

MONTOYA, JIMENEZ & PASTOR, P.A.

By 
Robert E. Pastor
Attorneys for Plaintiff