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FILED
Superior Court Of California,
Sacramento
09/15/2014
emuniz
By _____, Deputy
Case Number:
34-2014-00168931

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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SACRAMENTO**

15 JOHN DOE 50 and JOHN DOE 51,

16 Plaintiffs,

17 v.

18 JOHN ROE 1 and ROES 2 through 25,
19 inclusive,

20 Defendants.

CASE NO.

COMPLAINT FOR DAMAGES

1. Negligence
2. Negligent Retention / Supervision and Failure to Warn
3. Fraud
4. Fraudulent Concealment / Intentional Non-Disclosure

21 **GENERAL ALLEGATIONS**

22 1. PLAINTIFF JOHN DOE 50 is a natural person who was a resident of the County
23 of Colusa, State of California, at all relevant times mentioned herein. PLAINTIFF JOHN DOE
24 50's date of birth is in March 1979. PLAINTIFF JOHN DOE 50 was 12 years old when he was
25 first molested by FATHER FRANCISCO JAVIER GARCIA. PLAINTIFF JOHN DOE 50 was
26 molested by FATHER FRANCISCO JAVIER GARCIA from 1991-1994.

27 2. PLAINTIFF JOHN DOE 51 is a natural person who was a resident of the County
28 of Colusa, State of California, at all relevant times mentioned herein. PLAINTIFF JOHN DOE
51's date of birth is in October 1982. PLAINTIFF JOHN DOE 51 was 8 years old when he was
first molested by FATHER FRANCISCO JAVIER GARCIA. PLAINTIFF JOHN DOE 51 was
molested by FATHER FRANCISCO JAVIER GARCIA from 1990-1994.

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1 3. Defendant JOHN ROE I (hereinafter "DIOCESE") is a religious institution
2 organized under the laws of the State of California as a corporation sole with its principle place of
3 business in Sacramento, California. Defendant DIOCESE is responsible for the funding, staffing
4 and direction of the parishes, parochial schools, fraternal organizations and other facilities and
5 institutions within the geographic area of the county of Sacramento, and encompasses 20 other
6 counties in northern California.

7 4. Bishop John Francis Quinn became the Bishop of the Sacramento DIOCESE in
8 1980. Bishop Quinn was the Bishop of the Sacramento DIOCESE at all times FATHER
9 FRANCISCO JAVIER GARCIA was an employee of the DIOCESE.

10 5. FATHER FRANCISCO JAVIER GARCIA (hereinafter "FATHER GARCIA")
11 was an adult male who was ordained as a Catholic priest in 1970. At all times material hereto,
12 FATHER GARCIA was under the direct supervision, employ and control of Defendant
13 DIOCESE. FATHER GARCIA physically perpetrated acts of child sexual abuse upon the
14 PLAINTIFF when PLAINTIFF was a minor.

15 6. FATHER GARCIA first sexually abused minors while in the DIOCESE of
16 Sacramento in or around 1978, while he was serving at Our Lady of Guadalupe Church in
17 Sacramento. FATHER GARCIA subsequently served at St. Pius X, Christian Formation Center in
18 Galt, California from 1978-1980 and was believed to be on a leave of absence in Mexico from
19 approximately 1980-1985.

20 7. FATHER GARCIA was assigned to Holy Rosary Church in Woodland by
21 Defendant DIOCESE in or around 1986. Garcia was transferred to Our Lady of Lourdes Church
22 in Colusa in 1991 and also to Sacred Heart Church in Williams.

23 8. In or around January 1995, a victim of child sexual abuse by Garcia came forward
24 to report his molestations by Garcia to the Woodland Police Department. As a result of police
25 investigations, FATHER GARCIA was charged with 12 counts of child sexual abuse in Colusa
26 County, and an additional 12 counts for child sex abuse in Yolo County. Subsequently, in or
27 around May 1995, FATHER GARCIA fled to Mexico and subsequently avoided extradition which
28 was sought by the Attorney General of California in 1996.

1 9. PLAINTIFFS are informed and believe and based thereon allege that at all times
2 material hereto each Defendant was the agent, servant, employee and/or representative of each
3 remaining Defendant, and was at all times acting within the course and scope of said agency,
4 service, employment and/or representation, and did the acts herein alleged with the permission and
5 consent of each other Defendant. PLAINTIFFS are informed and believe and based thereon allege
6 that at all times material hereto Defendant DIOCESE and ROES 2 through 25, inclusive, and each
7 of them, operated and controlled religious and educational facilities in Sacramento and other
8 counties in California, and through such facilities, provided religious and educational instruction
9 to students, parishioners and others.

10 10. The true names and capacities, whether individual, corporate, associate or
11 otherwise, of Defendants ROES 2 through 25 are unknown to PLAINTIFFS, who therefore sue
12 said Defendants by such fictitious names. When the true names and capacities of said Defendants
13 have been ascertained, PLAINTIFFS will seek leave of Court to amend this Complaint to allege
14 such true names and capacities. PLAINTIFFS are informed and believe and based thereon allege
15 that each of the Defendants designated as a ROE herein is liable in some manner for the acts,
16 occurrences and omissions hereinafter alleged.

17 11. While religious belief is absolutely protected, conduct is not protected and the
18 actions hereinbelow alleged were illegal, secularly motivated conduct that is regulated by the law.

19 12. In 1962, the Vatican in Rome issued a Papal Instruction binding upon all Bishops
20 throughout the world including the Bishop of Sacramento. The instruction was binding upon the
21 Bishop of Sacramento until 2001. The instruction directed that allegations and reports of sexual
22 abuse of children by priests were required to be kept secret and not disclosed either to civil
23 authorities such as law enforcement, to co-employees or supervisors of parish priests, or to
24 parishioners generally.

25 13. Canon law requires Bishops to keep subsecreto files also known as confidential
26 files. These files are not to be made public.

27 14. Because of problems of sexual misconduct of Catholic clergy, the Catholic Church
28 and other organizations sponsored treatment centers for priests that had been involved in sexual

1 misconduct. One of the treatment centers that existed prior to 1982 was in Albuquerque, New
2 Mexico, and was sponsored by the servants of the Paracletes. Another treatment center for priests
3 who engaged in sexual misconduct was St. Luke's in Suitland, Maryland.

4 15. Sensitive Issues Committees were formed in 13 Dioceses on July 1, 1987. Some
5 Dioceses had committees in effect prior to that time. In fact, the Sacramento Sensitive Issues
6 Committee was formed around 1966. The purpose of Sensitive Issues Committee was to assist the
7 Diocesan attorney, who in turn advised the Bishop, on reports and matters involving sexual
8 misconduct.

9 16. Sexual abuse of clerics by Catholic clergy has been a reality in the Catholic Church
10 for centuries but has remained covered by deep secrecy. This secrecy is rooted in the official
11 policies of the Catholic Church which are applicable to all dioceses and, in fact, are part of the
12 practices of each diocese, including the DIOCESE of Sacramento. Sexual abuse of minors by
13 Catholic clergy and religious leaders became publicly known in the mid 1980's as a result of
14 media coverage of a case in Lafayette, Louisiana. Since that time, the media has continued to
15 expose cases of clergy sexual abuse throughout the United States. In spite of these revelations as
16 well as the many criminal and civil litigations the Church has been involved in as a result of clergy
17 sexual abuse of minors, the bishops and other Church leaders continue to pursue a policy of
18 secrecy.

19 17. All of the procedures required in the so-called "Dallas Charter" have been
20 previously mandated in the Code of Canon Law and in the 1922 and 1962 documents but were
21 consistently ignored by Catholic bishops. In place of the required processes, which would have
22 kept a written record of cases of clergy sexual abuse, the bishops applied a policy of clandestine
23 transfer of accused priests from one local or diocesan assignment to another or from one diocese to
24 another. The receiving parishioners and often the receiving pastors were not informed of any
25 accusations of the sexual abuse of minors.

26 18. Refusal to disclose sexually abusing clerics to parishioners and even fellow clerics
27 has been one way to maintain secrecy utilized by Defendant. Another has been to use various
28 forms of persuasion on victims or their families to convince them to remain silent about incidents

1 of abuse. These forms of persuasion have included methods that have ranged from sympathetic
2 attempts to gain silence to direct intimidation to various kinds of threats. In so doing, the clergy
3 involved, from bishops to priests, have relied on their power to overwhelm victims and their
4 families.

5 19. PLAINTIFFS are informed and believe and based thereon allege that Defendant
6 had knowledge or notice of FATHER GARCIA's prior acts of unlawful sexual conduct before
7 FATHER GARCIA molested PLAINTIFF. This unlawful conduct included, but was not limited
8 to, sexual molestations of minor, preadolescent boys in Woodland and Sacramento before
9 FATHER GARCIA was ever assigned to Sacred Heart in Williams, California, Holy Rosary
10 Church in Woodland and Our Lady of Lourdes Church in Colusa.

11 20. PLAINTIFFS are informed and believe and based thereon allege that Defendant
12 knew or had notice that FATHER GARCIA had preadolescent boys stay overnight in the rectory
13 at Sacred Heart in Williams, California. FATHER GARCIA molested said preadolescent boys.

14 21. PLAINTIFFS are informed and believe and based thereon allege that there were
15 additional instances of unlawful sexual conduct toward minors and that Defendant DIOCESE had
16 knowledge or notice of these instances. PLAINTIFFS allege on information and belief that some
17 of these incidences are documented, and that records documenting incidences or reports of abuse
18 are within the possession and/or control of Defendant DIOCESE. Such records include "Sensitive
19 Issues Committee" minutes, subsecreto personnel files, laitization files and other records.

20 22. PLAINTIFFS were raised in devoutly religious families, were baptized, confirmed,
21 served as altar servers and regularly celebrated weekly mass and received the sacraments through
22 their Church. PLAINTIFFS were educated and taught the theology and tenets of The Roman
23 Catholic Church on matters of faith, morals and religious doctrine. PLAINTIFFS therefore
24 developed great admiration, trust, reverence and respect for, and obedience to, Roman Catholic
25 clergy, who occupied positions of great influence and persuasion as holy men and authority
26 figures. PLAINTIFFS were encouraged to trust, respect and obey FATHER GARCIA.

27 23. PLAINTIFF JOHN DOE 50's parents were devoutly religious and regularly
28 celebrated weekly mass. Defendant encouraged FATHER GARCIA and the parishioners to form

1 close working and personal relationships conducive to promoting Catholic principles and ideals.
2 PLAINTIFF JOHN DOE 50 did, in fact, form a close relationship with FATHER GARCIA.
3 PLAINTIFF JOHN DOE 50 was an altar server for FATHER GARCIA, two to three masses per
4 week for approximately three years. PLAINTIFF JOHN DOE 50 regularly engaged in confession
5 with FATHER GARCIA. Accordingly, a special relationship formed between PLAINTIFF JOHN
6 DOE 50 and Defendant. As delineated in California Evidence Code sections 1030-1034,
7 codifying the clergyman-penitent privilege, the fact that a special relationship between Defendant
8 and parishioners not only exists, but extends to non-spiritual matters.

9 24. Because FATHER GARCIA was a known child molester, it was foreseeable to
10 Defendant DIOCESE and ROES 2 through 25, that FATHER GARCIA would entice, induce,
11 direct and coerce PLAINTIFF JOHN DOE 50 and other altar boys to engage in sexual contact
12 during the course of FATHER GARCIA's normal duties and assignments of counseling and
13 supervising children, including PLAINTIFF JOHN DOE 50.

14 25. By placing FATHER GARCIA and/or allowing him to remain in his position and
15 function as parish priest, Defendant affirmatively represented to minor children and their families
16 at Sacred Heart Church, including PLAINTIFF JOHN DOE 50 and his family, that FATHER
17 GARCIA did not have a history of molesting children and that he was not a danger to children,
18 and that the Defendant had no information to the contrary.

19 26. Because Defendants were in a position of superiority and influence over them,
20 PLAINTIFF JOHN DOE 50 and his parents believed and relied on these misrepresentations.

21 27. In reliance on the Defendants' misrepresentations, FATHER GARCIA was able to
22 gain unsupervised access to PLAINTIFF JOHN DOE 50 and to sexually molest him in FATHER
23 GARCIA's living quarters at the rectory in Sacred Heart Church.

24 28. Had PLAINTIFF JOHN DOE 50 and his family known what Defendants knew—
25 that FATHER GARCIA had sexually molested other minor children who were altar boys before
26 he molested PLAINTIFF JOHN DOE 50 and that he was a danger to children—PLAINTIFF
27 JOHN DOE 50 would not have been sexually molested.

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1 29. PLAINTIFF JOHN DOE 50 first met and came to know FATHER GARCIA as his
2 parish priest and counselor while attending Our Lady of Lourdes in Colusa, California.
3 PLAINTIFF JOHN DOE 50 was an altar server under the supervision of FATHER GARCIA.
4 From approximately 1991-1994, in the course of providing services as an altar server, FATHER
5 GARCIA sexually abused and exploited PLAINTIFF JOHN DOE 50 by engaging in illegal sexual
6 contact with him when he was under the age of eighteen.

7 30. PLAINTIFF JOHN DOE 50 reposed great trust and confidence in the Defendants,
8 and all of them. Defendants, and each of them, accepted PLAINTIFF JOHN DOE 50's trust and
9 confidence. Defendants, through their agents and employees, became intimately involved in
10 PLAINTIFF JOHN DOE 50's family in various ways. As a result of Defendants' relationships to
11 PLAINTIFF JOHN DOE 50 and his family, Defendants, and each of them, owed a fiduciary duty
12 to PLAINTIFF JOHN DOE 50 that was breached by failing to disclose and actively concealing
13 FATHER GARCIA's history of sexual misconduct and his unsuitability to serve in the position in
14 which he was able to gain control over and molest PLAINTIFF JOHN DOE 50.

15 31. As a result of PLAINTIFF JOHN DOE 50's position as a minor, together with
16 FATHER GARCIA's position as a holy man and authority figure and a revered figure throughout
17 the church community and within his own household, PLAINTIFF JOHN DOE 50 was unable to
18 comprehend fully his own victimization and the injuriousness of his abuse. By his words and
19 actions, FATHER GARCIA assured PLAINTIFF JOHN DOE 50 that his conduct was proper
20 because of his relationship with God. Because FATHER GARCIA was, in PLAINTIFF JOHN
21 DOE 50's eyes, the closest thing to God, PLAINTIFF JOHN DOE 50 blamed himself for his own
22 abuse. The sexual abuse of PLAINTIFF JOHN DOE 50 by FATHER GARCIA filled PLAINTIFF
23 JOHN DOE 50 with fear and caused him to employ psychological coping mechanisms to help him
24 deal with the feelings of fear, shame and self-blame brought about by his molestations.

25 32. As a result of his molestations, PLAINTIFF JOHN DOE 50 became subject to
26 psychological mechanisms of denial and dissociation which, by their natural operation, reasonably
27 and justifiably prevented PLAINTIFF JOHN DOE 50 from being able to know and meaningfully
28 understand the psychological and emotional injuries which were occurring and would in the future

1 continue to occur and develop in him. Said mechanisms naturally and reasonably prevented
2 PLAINTIFF JOHN DOE 50 from being able to discover that psychological injuries occurring in
3 his adult life were causally connected to the child sexual abuse, and from being able to discover
4 the injurious nature of the childhood sexual abuse until within one year of the filing of this
5 Complaint.

6 33. Although PLAINTIFF JOHN DOE 50 never repressed his memories of the abuse,
7 he buried memories of it as far as he could out of his conscious mind. He used alcohol and drugs
8 following the molestations. PLAINTIFF JOHN DOE 50 never disclosed the molestations by
9 FATHER GARCIA to anyone until on or about March 2014.

10 34. It is often only when an adult survivor of childhood sexual abuse enters
11 psychotherapy or at least engages another person in conversation about a child molest that any
12 meaningful understanding of his or her injuries can be developed. Similarly, only when a survivor
13 of abuse discloses the abuse do the psychological defense mechanisms employed to protect the
14 victim's mind begin to break down, exposing the injury. Because of the shame and self-blame
15 caused by the molestation, survivors of abuse cannot reasonably be expected to disclose the abuse
16 until some life event triggers or spurs a need to do so or until a therapist inquires into the subject.

17 35. PLAINTIFF JOHN DOE 50 is filing this Complaint within three years of the date
18 he discovered or reasonably should have discovered that psychological injury or illness occurring
19 after the age of majority was caused by the childhood sexual abuse. PLAINTIFF JOHN DOE 50
20 brings this Complaint pursuant to Cal. Code Civ. Proc. § 340.1.

21 36. PLAINTIFF JOHN DOE 50 did not discover that he had been defrauded until on or
22 about April 15, 2014, after PLAINTIFF JOHN DOE 50 first disclosed the sexual abuse and after
23 he discovered the causal relationship between his adulthood injuries and the molestations. It was
24 at this time that PLAINTIFF JOHN DOE 50 discovered his first two causes of action and
25 contacted an attorney, that PLAINTIFF JOHN DOE 50 received information regarding the
26 Defendants' prior knowledge of FATHER GARCIA's sexual misconduct.

27 37. PLAINTIFF JOHN DOE 50 had no reason to suspect that he had been defrauded
28 before that time. PLAINTIFF JOHN DOE 50 had no reason to entertain the idea that the

1 Defendants would place children in harm's way by concealing their knowledge that known
2 abusers/priests/employees were child molesters and representing that said priests should be trusted
3 and have unsupervised access to minor parishioners. Accordingly, pursuant to Cal. Code Civ.
4 Proc. § 338(d), PLAINTIFF JOHN DOE 50's third and fourth causes of action did not accrue until
5 on or about May 2014, when PLAINTIFF JOHN DOE 50 first learned that, in fact, the Defendants
6 had misrepresented and actively concealed FATHER GARCIA's history before FATHER
7 GARCIA was ever assigned to Sacred Heart Church in Williams, Our Lady of Lourdes in Colusa,
8 and Holy Cross Church in Arbuckle.

9 38. PLAINTIFF JOHN DOE 51's parents were devoutly religious and regularly
10 celebrated weekly mass. Defendant encouraged FATHER GARCIA and the parishioners to form
11 close working and personal relationships conducive to promoting Catholic principles and ideals.
12 PLAINTIFF JOHN DOE 51 did, in fact, form a close relationship with FATHER GARCIA.
13 PLAINTIFF JOHN DOE 51 was an altar server for FATHER GARCIA, two to three masses per
14 week for approximately three years. PLAINTIFF JOHN DOE 51 regularly engaged in confession
15 with FATHER GARCIA. Accordingly, a special relationship formed between PLAINTIFF JOHN
16 DOE 51 and Defendant. As delineated in California Evidence Code sections 1030-1034,
17 codifying the clergyman-penitent privilege, the fact that a special relationship between Defendant
18 and parishioners not only exists, but extends to non-spiritual matters.

19 39. Because FATHER GARCIA was a known child molester, it was foreseeable to
20 Defendant DIOCESE and ROES 2 through 25, that FATHER GARCIA would entice, induce,
21 direct and coerce PLAINTIFF JOHN DOE 51 and other altar boys to engage in sexual contact
22 during the course of FATHER GARCIA's normal duties and assignments of counseling and
23 supervising children, including PLAINTIFF JOHN DOE 51.

24 40. By placing FATHER GARCIA and/or allowing him to remain in his position and
25 function as parish priest, Defendant affirmatively represented to minor children and their families
26 at Sacred Heart Church, including PLAINTIFF JOHN DOE 51 and his family, that FATHER
27 GARCIA did not have a history of molesting children and that he was not a danger to children,
28 and that the Defendant had no information to the contrary.

1 41. Because Defendants were in a position of superiority and influence over them,
2 PLAINTIFF JOHN DOE 51 and his parents believed and relied on these misrepresentations.

3 42. In reliance on the Defendants' misrepresentations, FATHER GARCIA was able to
4 gain unsupervised access to PLAINTIFF JOHN DOE 51 and to sexually molest him in FATHER
5 GARCIA's living quarters at the rectory in Sacred Heart Church.

6 43. Had PLAINTIFF JOHN DOE 51 and his family known what Defendants knew—
7 that FATHER GARCIA had sexually molested other minor children who were altar boys before
8 he molested PLAINTIFF JOHN DOE 51 and that he was a danger to children—PLAINTIFF
9 JOHN DOE 51 would not have been sexually molested.

10 44. PLAINTIFF JOHN DOE 51 first met and came to know FATHER GARCIA as his
11 parish priest and counselor while attending Sacred Heart Church in Williams, California.
12 PLAINTIFF JOHN DOE 51 was an altar server under the supervision of FATHER GARCIA.
13 From approximately 1990-1993, in the course of providing services as an altar server, FATHER
14 GARCIA sexually abused and exploited PLAINTIFF JOHN DOE 51 by engaging in illegal sexual
15 contact with him when he was under the age of eighteen.

16 45. PLAINTIFF JOHN DOE 51 reposed great trust and confidence in the Defendants,
17 and all of them. Defendants, and each of them, accepted PLAINTIFF JOHN DOE 51's trust and
18 confidence. Defendants, through their agents and employees, became intimately involved in
19 PLAINTIFF JOHN DOE 51's family in various ways. As a result of Defendants' relationships to
20 PLAINTIFF JOHN DOE 51 and his family, Defendants, and each of them, owed a fiduciary duty
21 to PLAINTIFF JOHN DOE 51 that was breached by failing to disclose and actively concealing
22 FATHER GARCIA's history of sexual misconduct and his unsuitability to serve in the position in
23 which he was able to gain control over and molest PLAINTIFF JOHN DOE 51.

24 46. As a result of PLAINTIFF JOHN DOE 51's position as a minor, together with
25 FATHER GARCIA's position as a holy man and authority figure and a revered figure throughout
26 the church community and within his own household, PLAINTIFF JOHN DOE 51 was unable to
27 comprehend fully his own victimization and the injuriousness of his abuse. By his words and
28 actions, FATHER GARCIA assured PLAINTIFF JOHN DOE 51 that his conduct was proper

1 because of his relationship with God. Because FATHER GARCIA was, in PLAINTIFF JOHN
2 DOE 51's eyes, the closest thing to God, PLAINTIFF JOHN DOE 51 blamed himself for his own
3 abuse. The sexual abuse of PLAINTIFF JOHN DOE 51 by FATHER GARCIA filled PLAINTIFF
4 JOHN DOE 51 with fear and caused him to employ psychological coping mechanisms to help him
5 deal with the feelings of fear, shame and self-blame brought about by his molestation.

6 47. As a result of his molestations, PLAINTIFF JOHN DOE 51 became subject to
7 psychological mechanisms of denial and dissociation, which by their natural operation, reasonably
8 and justifiably prevented PLAINTIFF JOHN DOE 51 from being able to know and meaningfully
9 understand the psychological and emotional injuries which were occurring and would in the future
10 continue to occur and develop in him. Said mechanisms naturally and reasonably prevented
11 PLAINTIFF JOHN DOE 51 from being able to discover that psychological injuries occurring in
12 his adult life were causally connected to the child sexual abuse, and from being able to discover
13 the injurious nature of the childhood sexual abuse until within one year of the filing of this
14 Complaint.

15 48. Although PLAINTIFF JOHN DOE 51 never repressed his memories of the abuse,
16 he buried memories of it as far as he could out of his conscious mind. PLAINTIFF JOHN DOE
17 51 used alcohol and drugs following the molestations. PLAINTIFF JOHN DOE 51 never
18 disclosed the molestations by FATHER GARCIA to anyone until on or about April 2014.

19 49. It is often only when an adult survivor of childhood sexual abuse enters
20 psychotherapy or at least engages another person in conversation about a child molest that any
21 meaningful understanding of his or her injuries can be developed. Similarly, only when a survivor
22 of abuse discloses the abuse do the psychological defense mechanisms employed to protect the
23 victim's mind begin to break down, exposing the injury. Because of the shame and self-blame
24 caused by the molestation, survivors of abuse cannot reasonably be expected to disclose the abuse
25 until some life event triggers or spurs a need to do so or until a therapist inquires into the subject.

26 50. PLAINTIFF JOHN DOE 51 is filing this Complaint within three years of the date
27 he discovered or reasonably should have discovered that psychological injury or illness occurring.

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1 51. after the age of majority was caused by the childhood sexual abuse. PLAINTIFF
2 JOHN DOE 51 brings this Complaint pursuant to Cal. Code Civ. Proc. § 340.1.

3 52. PLAINTIFF JOHN DOE 51 did not discover that he had been defrauded until on or
4 about May 1, 2014, after PLAINTIFF JOHN DOE 51 first disclosed the sexual abuse and after he
5 discovered the causal relationship between his adulthood injuries and the molestations. It was at
6 this time that PLAINTIFF JOHN DOE 51 discovered his first two causes of action and contacted
7 an attorney, that PLAINTIFF JOHN DOE 51 received information regarding the Defendant's prior
8 knowledge of FATHER GARCIA's sexual misconduct.

9 53. PLAINTIFF JOHN DOE 51 had no reason to suspect that he had been defrauded
10 before that time. PLAINTIFF JOHN DOE 51 had no reason to entertain the idea that the
11 Defendants would place children in harm's way by concealing their knowledge that known
12 abusers/priests/employees were child molesters and representing that said priests should be trusted
13 and have unsupervised access to minor parishioners. Accordingly, pursuant to Cal. Code Civ.
14 Proc. § 338(d), PLAINTIFF JOHN DOE 51's third and fourth causes of action did not accrue until
15 on or about May 2014, when PLAINTIFF JOHN DOE 51 first learned that, in fact, the Defendants
16 had misrepresented and actively concealed FATHER GARCIA's history before FATHER
17 GARCIA was ever assigned to Sacred Heart Church in Williams, Our Lady of Lourdes in Colusa,
18 and Holy Cross Church in Arbuckle.

19 54. Defendants are estopped from asserting a statute of limitations defense.
20 Defendants' fraudulent concealment as set forth below in the Fourth Cause of Action prevents it
21 from being able to use any statute of limitations to protect itself. Defendants' conduct brought
22 about and exacerbated the very emotional conditions that prevented PLAINTIFFS JOHN DOE 50,
23 and JOHN DOE 51 from bringing a cause of action sooner.

24 55. At least one of the Defendants has its primary place of business in Sacramento
25 County; therefore, venue is properly placed in Sacramento County.

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**FIRST CAUSE OF ACTION
(Negligence)**

56. PLAINTIFFS incorporate herein by reference each and every General Allegation as if fully set forth herein and with the same force and effect.

57. Defendant DIOCESE and Defendants ROES 2 through 25, and each of them, had a duty to protect PLAINTIFFS while they were minors. Defendant DIOCESE and Defendants ROES 2 through 25, and each of them, knew or had reason to know, or were otherwise on notice, of FATHER GARCIA's dangerous propensities and prior acts of unlawful sexual misconduct and failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by FATHER GARCIA, including but not limited to, preventing or avoiding placement of FATHER GARCIA in a function or environment in which contact with children is an inherent aspect of that function or environment.

58. Defendant DIOCESE and Defendants ROES 2 through 25, and each of them, breached their duty to the PLAINTIFFS while PLAINTIFFS were minors.

59. Said conduct was undertaken while FATHER GARCIA was a managing agent of Defendant DIOCESE and Defendants ROES 2 through 25, and each of them, while in the course and scope of FATHER GARCIA's employment with Defendant DIOCESE and Defendants ROES 2 through 25, and each of them, and/or was ratified by Defendant DIOCESE and Defendants ROES 2 through 25, and each of them.

60. As a result of the conduct herein alleged, PLAINTIFFS have been harmed as more fully set forth below.

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**SECOND CAUSE OF ACTION
(Negligent Retention/Supervision and Failure to Warn)**

61. PLAINTIFFS incorporate herein by reference all allegations contained in the First Cause of Action as if fully set forth herein and with the same force and effect.

62. PLAINTIFFS are informed and believe and based thereon allege, Defendants DIOCESE and ROES 2 through 25, and each of them, by and through their agents, servants and employees, knew or reasonably should have known of FATHER GARCIA's dangerous and

1 exploitive propensities, specifically his prior acts of unlawful sexual misconduct, and that
2 FATHER GARCIA was an unfit agent, and despite such knowledge, Defendant DIOCESE
3 negligently retained and/or failed to supervise FATHER GARCIA in his position of trust and
4 authority as a priest and spiritual counselor, where he was able to commit the harmful and
5 wrongful acts upon PLAINTIFFS. Defendants DIOCESE and ROES 2 through 25 failed to take
6 reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual
7 conduct in the future by FATHER GARCIA, including but not limited to preventing or avoiding
8 placement of FATHER GARCIA in a function or environment in which contact with children is
9 an inherent aspect of that function or environment.

10 63. Defendant DIOCESE failed to provide reasonable supervision of FATHER
11 GARCIA, failed to use reasonable care in investigating FATHER GARCIA and failed to provide
12 adequate warning to PLAINTIFFS and their families of FATHER GARCIA's dangerous
13 propensities and unfitness.

14 64. Said conduct was undertaken while FATHER GARCIA was a managing agent of
15 Defendants DIOCESE and ROES 2 through 25 and each of them, while in the course and scope of
16 FATHER GARCIA's employment with Defendant DIOCESE and Defendants ROES 2 through 25
17 and each of them and/or was ratified by Defendant DIOCESE and Defendants ROES 2 through 25
18 and each of them.

19 65. As a direct result of Defendants' negligence, PLAINTIFFS were caused harm as
20 more fully set forth below.

21 **THIRD CAUSE OF ACTION**
22 **(Fraud)**

23 66. PLAINTIFFS incorporate herein by reference each and every General Allegation as
24 if fully set forth herein and with the same force and effect.

25 67. A priest was and is directly answerable to the Bishop as his superior. Bishop
26 Quinn wanted his pastors to be well respected by the parishioners in their parish. He also wanted
27 the parishioners to have belief and trust in their pastors.

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1 68. Bishop Quinn wanted parishioners to have a belief that their priest would never do
2 anything to harm them and also a belief that the priest would always act in their best interest.

3 69. The Bishop's fundamental responsibility to the laypeople and the priests is to
4 safeguard and nurture their spiritual and moral life. This responsibility requires that a bond of
5 complete trust exists between the bishop and each person entrusted to him, meaning those who
6 live in his diocese and those who may be there temporarily.

7 70. The trust relationship that exists between a bishop and the people of his diocese is
8 deeper and more inclusive than the trust relationship that exists between any secular superior and
9 his other subject. The lay parishioner is taught by the institutional Church that he or she must trust
10 the bishop to administer the laws of the Church in a fair and impartial manner (canon 221).

11 71. When the bishop assigned a priest to a parish, in doing so he was implicitly
12 assuring the people that the priest fulfilled the qualities required and that he would certainly not
13 pose any threat to their spiritual and moral welfare. The bishop was always forbidden to appoint a
14 priest to a parish if he is in doubt about the priest's ability and willingness to always do what is
15 best for each and every parishioner. If the bishop has any negative information he cannot appoint
16 a priest. There are no options to this because the priest is assigned to a parish to serve and not be
17 served.

18 72. Defendants affirmatively represented to minor children and their families at Sacred
19 Heart in Williams, Our Lady of Lourdes in Colusa, and Holy Cross in Arbuckle, including
20 PLAINTIFFS and their families, that FATHER GARCIA did not have a history of molesting
21 children and that he was not a danger to children, and that they had no information to the contrary.

22 73. FATHER GARCIA, in fact, had a history of sexually molesting children and posed
23 a danger to children. Defendants DIOCESE and ROES 2 through 25, and each of them, knew,
24 should have known or were otherwise on notice of FATHER GARCIA's history of sexual
25 misconduct with other minor parishioners.

26 74. Because FATHER GARCIA was a danger to children, it was not safe for parents to
27 allow their children to be altar servers for FATHER GARCIA at Sacred Heart, Our Lady of
28 Lourdes, and Holy Cross in Arbuckle where FATHER GARCIA would be unsupervised and have

1 access to their children in a private setting, including the rectory where FATHER GARCIA lived.
2 PLAINTIFFS justifiably relied upon Defendants' misrepresentation which caused them to be
3 sexually molested by FATHER GARCIA and suffer the other damages described herein.

4 75. Defendants knew that the misrepresentations were false or at least were reckless
5 and without care of whether these representations were true or false.

6 76. Defendants made the misrepresentations with the intent to deceive PLAINTIFFS
7 and to induce them to act on the misrepresentations. On information and belief, Defendants
8 concealed FATHER GARCIA's history of abuse and the danger he posed to children to avoid
9 scandal, embarrassment and liability to other possible victims.

10 77. As a direct result of Defendants' fraud, PLAINTIFFS were caused harm as more
11 fully set forth below.

12 **FOURTH CAUSE OF ACTION**
13 **(Fraudulent Concealment / Intentional Non-Disclosure)**

14 78. PLAINTIFFS incorporate herein by reference all allegations contained in the Third
15 Cause of Action as if fully set forth herein and with the same force and effect.

16 79. PLAINTIFFS reposed great trust and confidence in the Defendants, and all of
17 them. Defendants, and each of them, accepted PLAINTIFFS' trust and confidence. Defendants
18 were aware of the difficulties at PLAINTIFFS' homes. Defendants, through their agents and
19 employees, became intimately involved in PLAINTIFFS' families in various ways. Defendants
20 provided counseling to PLAINTIFFS and their families, in both religious and secular matters. As
21 a result of Defendants' relationship to PLAINTIFFS and their families, Defendants, and each of
22 them, owed a fiduciary duty to PLAINTIFFS that was breached by failing to disclose and actively
23 concealing FATHER GARCIA's history of sexual misconduct and his unsuitability to serve in the
24 position in which FATHER GARCIA was able to gain control over and molest PLAINTIFFS.

25 80. Further, as FATHER GARCIA's employer, and with exclusive knowledge of his
26 prior acts of sexually molesting minor parishioners, Defendants had a duty to warn other minor
27 parishioners to whom FATHER GARCIA would have foreseeable unsupervised access, including
28 PLAINTIFFS.

1 81. Whether or not FATHER GARCIA had a history of sexually abusing children was
2 a material fact to PLAINTIFFS.

3 82. Defendants concealed or intentionally failed to disclose information relating to
4 FATHER GARCIA's history of sexual misconduct with the intent of inducing PLAINTIFFS to
5 rely on these non-disclosures.

6 83. Defendants knew they concealed or failed to disclose information relating to
7 FATHER GARCIA's history of sexual misconduct.

8 84. PLAINTIFFS justifiably relied upon Defendants for information relating to
9 FATHER GARCIA's history of sexual misconduct, which caused them to be abused by FATHER
10 GARCIA.

11 85. As a direct result of Defendants' fraudulent concealment, PLAINTIFFS were
12 caused harm as more fully set forth below.

13 DAMAGES

14 86. As a direct, legal and proximate result of each and all of the Causes of Action
15 hereinabove alleged, PLAINTIFFS have been damaged as herein below set forth.

16 87. PLAINTIFFS have suffered psychological and emotional injuries and harm,
17 including not only the immediate distress caused by Defendants and their conduct, but also long-
18 term psychological injuries which were, to a large extent, only latent at the time of the wrongful
19 conduct, and which have developed and occurred, and will in the future continue to develop and
20 occur in PLAINTIFFS, all to PLAINTIFFS' general damages in a sum to be proven.
21 PLAINTIFFS have further suffered an exacerbation of any emotional difficulties which were pre-
22 existing the harmful treatment they received from Defendants.

23 88. PLAINTIFFS have suffered physical, mental and emotional health problems as a
24 result of which they have had to employ, and will in the future continue to have to employ,
25 medical and mental health professionals for diagnosis and treatment and have incurred and will in
26 the future continue to incur expenses therefor, in a sum as yet unascertained. PLAINTIFFS will
27 ask leave of Court to amend this Complaint to state the exact amount of expenses when they are
28 ascertained.

1 89. PLAINTIFFS have suffered and will in the future continue to suffer a loss of
2 earnings and of earning capacity, in a sum as yet unascertained. PLAINTIFFS will ask leave of
3 Court to amend this Complaint to state the exact amount of such losses when the sums are
4 ascertained.

5 **WHEREFORE**, PLAINTIFFS pray for judgment as follows:

- 6 1. For damages for past and future medical, psychotherapy, and related expenses
7 according to proof at the time of trial;
- 8 2. For general damages for physical and mental pain and suffering and emotional
9 distress in a sum to be proven at the time of trial;
- 10 3. For damages for past and future lost wages and loss of earning capacity according
11 to proof at the time of trial;
- 12 4. For prejudgment interest pursuant to statute;
- 13 5. For costs of suit herein; and
- 14 6. For such other and further relief as the Court deems proper.

15
16 Dated: September 15, 2014

LAW OFFICES OF JOSEPH C. GEORGE, Ph.D.

17
18 By: 

19 _____
20 Joseph C. George
21 Attorneys for Plaintiffs
22 JOHN DOE 50 and JOHN DOE 51
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