


# EXHIBIT A



# St. Joseph's Church

1813 OAKDALE ROAD • MODESTO, CALIFORNIA 95355 • TELEPHONE 551-4973 • FAX 551-3213

July 5, 2002

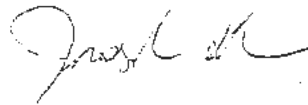
Mrs. Elaine Shields  
1548 Ford Ave.  
Modesto, CA 95350

Dear Elaine,

I am saddened to learn from three of our staff people that you have been making negative comments about me and other priests to them and to chaplain Jerry Roberts at Memorial Hospital. You realize that we priests are not perfect, that we work very hard, and that we all need to work together to accomplish the mission of the Church.

You cannot continue to speak negatively against the pastor and other priests of our parish and at the same time represent our parish at the hospital and nursing homes. If you have concerns about my leadership or work in our parish, I encourage you to speak to me directly and openly. If you continue to speak negatively about me or other priests or staff, I will have to consider dropping you from our ministries.

Yours sincerely in Christ,



Fr. Joseph Illa  
Pastor



1 PAUL N. BALESTRACCI (SBN: 083987)  
NEUMILLER & BEARDSLEE  
2 A PROFESSIONAL CORPORATION  
Post Office Box 20  
3 Stockton, CA 95201-3020  
Telephone: (209) 948-8200  
4 Facsimile: (209) 948-4910

5 Attorneys for Defendants,  
FR. JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN,  
6 BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC  
BISHOP OF STOCKTON, a Corporation Sole  
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN  
9 STOCKTON BRANCH

10 KATHLEEN MACHADO as an individual and )  
11 as Guardian Ad Litem for RACHEL LOMAS )  
and AMBER LOMAS )

12 Plaintiff,

13 vs.

14 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH,  
15 a.k.a. FR. FRANCIS ARAKAL, FR.  
RICHARD RYAN, BISHOP STEVEN  
16 BLAIRE AND THE DIOCESE OF  
STOCKTON

17 Defendant.  
18

Case No. CV 018440

**RESPONSES TO REQUEST FOR  
ADMISSIONS, SET NO. ONE**

19  
20 PROPOUNDING PARTY: Plaintiff, KATHLEEN MACHADO

21 RESPONDING PARTY: Defendant, FATHER JOSEPH ILLO

22 SET NO.: ONE  
23

24 Defendant FATHER JOSEPH ILLO, hereby provides the following Responses to Plaintiff  
25 KATHLEEN MACHADO'S Requests for Admissions, Set No. One. These responses are given  
26  
27

28 Responses to Request for Admissions, Set No. One

1 while discovery is still in progress and without prejudice to amending the responses based upon  
2 things discovered at a later date, or omitted from these responses as a result of good faith oversight.

3 **RESPONSES TO REQUEST FOR ADMISSIONS**

4 **Request to Request No. 1:**

5 Defendant objects to this request on the grounds that it seeks information neither relevant nor  
6 calculated to lead to the discovery of admissible evidence.

7 **Response to Request No. 2:**

8 Deny.

9 **Response to Request No. 3:**

10 Deny.

11 **Response to Request No. 4:**

12 Admit that some information was conveyed to Father Arakal.

13 **Response to Request No. 5:**

14 Admit that some information was conveyed to office staff members.

15 **Response to Request No. 6:**

16 Defendant objects to this request on the grounds that it seeks an opinion as to canon law,  
17 which is not within the jurisdiction of this court, based on the religious freedom clauses of the  
18 United States and California Constitutions. It further seeks information neither relevant nor  
19 calculated to lead to the discovery of admissible evidence.

20 **Response to Request No. 7:**

21 Deny.

22 **Response to Request No. 8:**

23 Deny.

24 **Response to Request No. 9:**

25 Deny.

1 Response to Request No. 10:

2 Deny.

3 Response to Request No. 11:

4 Deny.

5 Response to Request No. 12:

6 Admit.

7 Response to Request No. 13:

8 Deny.

9 Response to Request No. 14:

10 I deny threatening Mrs. Shields. I admit the remaining statements.

11 Response to Request No. 15:

12 Admit.

13 Response to Request No. 16:

14 Admit.

15 Response to Request No. 17:

16 Deny.

17 Response to Request No. 18:

18 Deny.

19 Response to Request No. 19:

20 Admit.

21 Response to Request No. 20:

22 Deny.

23 Response to Request No. 21:

24 Deny.

25 Response to Request No. 22:

26 Deny.

27

28

1 **PROOF OF SERVICE**

2 **CCP 1013a**

3 I am a resident of the State of California, over the age of eighteen years, and not a party to  
4 the within action. My business address is 509 W. Weber Avenue, Stockton, California 95203. On  
5 March 13, 2003, I served the within documents:

6 **RESPONSES TO REQUESTS FOR ADMISSIONS, SET NO. ONE**



(BY MAIL) I am readily familiar with the firm's practice of collection and processing  
8 correspondence for mailing. Under that practice it would be deposited with the U.S.  
9 Postal Service on that same day with postage thereon fully prepaid in the ordinary  
10 course of business. I am aware that on motion of the party served, service is presumed  
11 invalid if postal cancellation date or postage meter date is more than one day after the  
12 date of deposit for mailing in affidavit.



(BY PERSONAL SERVICE) I delivered such envelope by hand to the address(es)  
14 shown below.



(BY FACSIMILE MACHINE) I sent such document from facsimile machine (209)  
16 948-4910 on \_\_\_\_\_, 2003. I certify that said transmission was  
17 completed and that all pages were received and that a report was generated by  
18 facsimile machine (209) 948-4910 which confirms said transmission and receipt. I,  
19 thereafter, mailed a copy to the interested party(ies) in this action by placing a true  
20 copy thereof enclosed in sealed envelope(s) addressed to the parties listed below



(BY FEDERAL EXPRESS) Having placed the document in an envelope(s) or  
22 package(s) designated by Federal Express with delivery fees paid or provided for,  
23 addressed as stated below, I deposited the envelope(s) or package(s) in a box or other  
24 facility regularly maintained by Federal Express or delivered the envelope(s) or  
25 package(s) to a courier or driver authorized by Federal Express to receive documents.

26 **VIA FEDERAL EXPRESS**

27 George Joseph MacKoul, Esq.  
28 SABBAH and MacKOUL  
49 Locust Street  
Falmouth, Mass 02540  
Telephone: (508) 495-4955  
Facsimile: (508) 495-4115

(Attorneys for Plaintiffs, Kathleen Machado,  
Rachel Lomas, and Amber Lomas)

Anthony Boskovich  
Attorney at Law  
28 North First Street, 6<sup>th</sup> Floor  
San Jose, CA 95113  
Telephone: (408) 286-5150  
Facsimile: (408) 286-5170  
(Co-Counsel for Plaintiffs)

Michael D. Coughlan, Esq.  
COUGHLAN & O'ROURKE LLP  
3031 W. March Lane #210 West  
Stockton, CA 95219  
(Attorneys for Defendant, Father Francis  
Arakal)

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 13th day of March 2003, at Stockton, California.

*Cary Nunes*  
\_\_\_\_\_  
CARY NUNES



---

EXHIBIT C

Filed APR 4 2005  
ROSA JUNQUEIRO, CLERK

By Charlene Gray  
DEPUTY

**SUPERIOR COURT OF CALIFORNIA, COUNT OF SAN JOAQUIN**

**Kathleen Machado, et al**  
Plaintiff(s)

**NOTICE OF ENTRY OF  
JUDGMENT**

vs

**Fr. Joseph Ilo, et al**  
Defendant(s)

Case No. CV018440

You are notified that a judgment in this cause was entered on April 4, 2005.

By Charlene Gray  
Deputy Clerk

**ATTORNEYS OF RECORD**

George J. MacKoul  
SABBAH AND MacKOUL  
49 Locust Street  
Falmouth, MA 02540

Tony Boskovich  
LAW OFFICES OF A. BOSKOVICH  
28 N. First Street, Suite 600  
San Jose, CA 95113

Vladimir Kozina  
MAYALL, HURLEY, KNUTSEN, et al  
2453 Grand Canal Blvd., 2<sup>nd</sup> Floor  
Stockton, CA 95207-8253

Michael D. Coughlan  
ATTORNEY AT LAW  
3031 W. March Lane, Suite 210 West  
Stockton, CA 95219

[ ] Addition addresses attached.

I am a Deputy Clerk of the above entitled Court and not a party to the above entitled action. I served the above **NOTICE OF ENTRY OF JUDGMENT** by depositing a true copy thereof in the United States mail in Stockton, CA on **April 4, 2005** enclosed in a sealed envelope with the postage thereon fully prepaid, addressed to each attorney of record at his respective Post Office address as set forth in this notice.

Charlene Gray  
Deputy Clerk

**NOTICE OF ENTRY**

Filed APR 4 2005  
ROSA JUNQUEIRO, CLERK  
By Charlene Gray  
DEPUTY

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN JOAQUIN**

**Kathleen Machado, et al**  
**Plaintiffs**

**Case #CV018440**

**vs.**

**JUDGMENT ON SPECIAL  
VERDICT IN OPEN COURT**

**Fr. Joseph Illo, et al**  
**Defendants**

This action came on regularly for Trial. The parties appeared by their attorneys: George MacKoul & Tony Boskovich, Attorneys at Law, on behalf of the Plaintiff Kathleen Machado as an individual and as Guardian ad Litem for Rachel Lomas (hereafter referred to as "Rachel Lomas") and Amber Lomas (hereafter referred to as "Amber Lomas"); Vladimir Kozina, Attorney at Law, on behalf of Defendants Fr. Joseph Illo, Fr. Richard Ryan, Bishop Steven Blaire and the Roman Catholic Bishop of Stockton, a corporation sole; Michael Coughlan, Attorney at Law, on behalf of Defendant Fr. Francis Arakal.

A jury of 12 persons was regularly empaneled and sworn to try said action. Witnesses on the part of the Plaintiffs and Defendants were sworn and examined. The jury heard the evidence and the arguments of counsel. The jurors were given instructions at which time they retired to consider their special verdict. Subsequently the jury returned to the courtroom and rendered the following special verdict:

[X] see copy of the verdict attached.

Based on this verdict, the Court renders Judgment as follows:

Judgment for Plaintiff Amber Lomas against Defendants Fr. Joseph Illo for economic damages in the sum of \$12,000.00 with interest at the rate of 7% per annum from September 11, 2001 in the sum of \$2,734.70 for a total sum of \$14,734.70 and Fr. Francis Arakal for economic damages in the amount of \$8,000.00 with interest at the rate of 7% per annum from September 11, 2001 in the sum of \$1,783.50 for a total sum of \$9,783.50;

that Defendants Fr. Richard Ryan, Bishop Steven Blaire and the Roman Catholic Bishop of Stockton, a corporation sole have judgment that Plaintiff Kathleen Machado, Rachel Lomas and Amber Lomas take nothing;

that Defendants Fr. Joseph Illo and Fr. Francis Arakal have judgment that Kathleen Machado and Rachel Lomas take nothing;

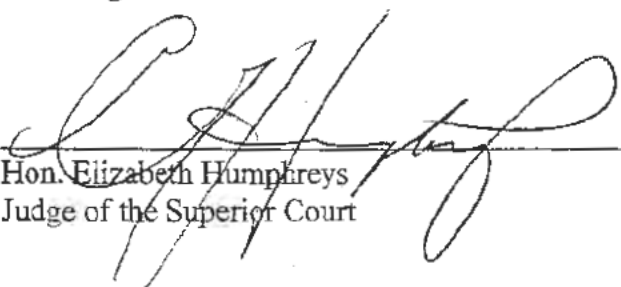
that Plaintiff Amber Lomas recover costs from Defendants Fr. Joseph Illo and Fr. Francis Arakal in the amount of \_\_\_\_\_;

that Defendants Fr. Richard Ryan, Bishop Steven Blair and the Roman Catholic Bishop of Stockton, a corporation sole, recover costs from Plaintiffs Kathleen Machado, Rachel Lomas and Amber Lomas in the amount of \_\_\_\_\_;

that Defendants Fr. Joseph Illo and Fr. Francis Arakal recover costs from Plaintiffs Kathleen Machado and Rachel Lomas in the amount of \_\_\_\_\_.

Costs to be determined by law and entered on the Judgment.

Date: April 4, 2005

  
\_\_\_\_\_  
Hon. Elizabeth Humphreys  
Judge of the Superior Court

**SPECIAL VERDICT**  
**A. SEXUAL BATTERY: RACHEL LOMAS**

Filed MAR 25 2005  
ROSA JUNQUEIRO, CLERK  
*Charlene Gray*  
DEPUTY

1. Did Defendant Fr. Francis Arakal do an act with the intent to cause a harmful or offensive contact with an intimate part of Rachel Lomas?

\_\_\_\_\_ YES                        X   NO

If your answer is YES, go to question 2. If your answer is NO, go to Part B.

2. If you find that Defendant Fr. Francis Arakal did an act with the intent to cause a harmful or offensive contact with an intimate part of Rachel Lomas, did it result in a sexually offensive contact either directly or indirectly?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is YES, go to question 3. If your answer is NO, go to Part B.

3. Did Rachel Lomas consent to the contact?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is NO, go to question 4. If your answer is YES, go to Part B.

4. Did the harmful or offensive contact cause Rachel Lomas to suffer injury, damage, loss, or harm?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is YES, go to question 5. If your answer is NO, go to Part B.

5. Did any of the following ratify the conduct of Fr. Francis Arakal?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

PUNITIVE DAMAGES

6. Has Rachel Lomas proved by clear and convincing evidence that Fr. Francis Arakal acted with malice, oppression, or fraud?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

GO TO PART B

**B. BATTERY – RACHEL LOMAS**

1. Did Fr. Francis Arakal touch Rachel Lomas with the intent to harm or offend her?

\_\_\_\_\_ YES      ~~\_\_\_\_\_~~ NO

If your answer to question 1 is YES, then answer question 2. If you answered NO, go to Part C.

2. Did Rachel Lomas consent to be touched?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 2 is NO, then answer question 3. If you answered YES, go to Part C.

3. Was Rachel Lomas harmed or offended by Fr. Francis Arakal's conduct?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part C.

4. Would a reasonable person in Rachel Lomas' situation have been offended by the touching?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 4 is YES, then answer question 5. If you answered NO, go to Part C.

5. Did any of the following ratify the conduct of Fr. Francis Arakal?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6. Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 7 is YES, then answer question 8. If you answered NO, stop here, go to Part C.

8. Was Fr. Francis Arakal acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

#### PUNITIVE DAMAGES

7. Has Rachel Lomas proved by clear and convincing evidence that Fr. Francis Arakal acted with malice, oppression, or fraud?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Go to Part C.

**C. BATTERY - AMBER LOMAS**

1. Did Fr. Francis Arakal touch Amber Lomas with the intent to harm or offend her?

\_\_\_\_\_ YES      NO

If your answer to question 1 is YES, then answer question 2. If you answered NO, go to Part D.

2. Did Amber Lomas consent to be touched?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 2 is NO, then answer question 3. If you answered YES, go to Part D.

3. Was Amber Lomas harmed or offended by Fr. Francis Arakal's conduct?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part D.

4. Would a reasonable person in Amber Lomas' situation have been offended by the touching?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 4 is YES, then answer question 5. If you answered NO, go to Part D.

5. Did any of the following ratify the conduct of Fr. Francis Arakal?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.



6. Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 6 is YES, then answer question 7. If you answered NO, stop here, go to Part D.

8. Was Fr. Francis Arakal acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Go to Part D.

#### **D. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – RACHEL LOMAS**

1. With respect to Rachel Lomas, was Fr. Francis Arakal or Fr. Joseph Illo's conduct outrageous?

Fr. Francis Arakal?      \_\_\_\_\_ YES      ~~\_\_\_\_\_ NO~~

Fr. Joseph Illo?      \_\_\_\_\_ YES      ~~\_\_\_\_\_ NO~~

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part E.

2(a). Did Fr. Francis Arakal or Fr. Joseph Illo intend to cause Rachel Lomas emotional distress?

Fr. Francis Arakal?      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Fr. Joseph Illo?      \_\_\_\_\_ YES      \_\_\_\_\_ NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Illo act with reckless disregard of the probability that Rachel Lomas would suffer emotional distress, knowing that Rachel Lomas was present when the conduct occurred?

Fr. Francis Arakal?            \_\_\_\_\_ YES            \_\_\_\_\_ NO

Fr. Joseph Illo?                \_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part E.

3. Did Rachel Lomas suffer severe emotional distress?

\_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part E.

4. Was Fr. Francis Arakal or Fr. Joseph Illo's conduct a substantial factor in causing Rachel Lomas's severe emotional distress?

Fr. Francis Arakal?            \_\_\_\_\_ YES            \_\_\_\_\_ NO

Fr. Joseph Illo?                \_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part E.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part E.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

Fr. Francis Arakal      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Fr. Joseph Illo      \_\_\_\_\_ YES      \_\_\_\_\_ NO

PUNITIVE DAMAGES

8. Has Rachel Lomas proved by clear and convincing evidence that Fr. Joseph Illo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part E.

**E. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – AMBER LOMAS**

1. With respect to Amber Lomas, was Fr. Francis Arakal or Fr. Joseph Illo's conduct outrageous?

Fr. Francis Arakal? \_\_\_\_\_ YES       X       NO

Fr. Joseph Illo?       X       YES \_\_\_\_\_ NO

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part F.

2(a). Did Fr. Francis Arakal or Fr. Joseph Illo intend to cause Amber Lomas emotional distress?

Fr. Francis Arakal? \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Illo? \_\_\_\_\_ YES       X       NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Illo act with reckless disregard of the probability that Amber Lomas would suffer emotional distress, knowing that Amber Lomas was present when the conduct occurred?

Fr. Francis Arakal?      \_\_\_\_\_ YES      \_\_\_\_\_ NO  
Fr. Joseph Illo?        X   YES      \_\_\_\_\_ NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part F.

3. Did Amber Lomas suffer severe emotional distress?

\_\_\_\_\_ YES        X   NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part F.

4. Was Fr. Francis Arakal or Fr. Joseph Illo's conduct a substantial factor in causing Amber Lomas's severe emotional distress?

Fr. Francis Arakal?      \_\_\_\_\_ YES      \_\_\_\_\_ NO  
Fr. Joseph Illo?      \_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part F.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part F.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

Fr. Francis Arakal      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Fr. Joseph Illo      \_\_\_\_\_ YES      \_\_\_\_\_ NO

PUNITIVE DAMAGES

8. Has Amber Lomas proved by clear and convincing evidence that Fr. Joseph Illo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part F.

**F. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – KATHLEEN MACHADO**

1. With respect to Kathleen Machado, was Fr. Francis Arakal or Fr. Joseph Illo's conduct outrageous?

Fr. Francis Arakal?	_____ YES	<u>  X  </u> NO
Fr. Joseph Illo?	_____ YES	<u>  X  </u> NO

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part G.

2(a). Did Fr. Francis Arakal or Fr. Joseph Illo intend to cause Kathleen Machado emotional distress?

Fr. Francis Arakal?	_____ YES	_____ NO
Fr. Joseph Illo?	_____ YES	_____ NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Ilo act with reckless disregard of the probability that Kathleen Machado would suffer emotional distress, knowing that Kathleen Machado was present when the conduct occurred?

Fr. Francis Arakal?            \_\_\_\_\_ YES            \_\_\_\_\_ NO

Fr. Joseph Ilo?                \_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part F.

3. Did Kathleen Machado suffer severe emotional distress?

\_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part F.

4. Was Fr. Francis Arakal or Fr. Joseph Ilo's conduct a substantial factor in causing Kathleen Machado's severe emotional distress?

Fr. Francis Arakal?            \_\_\_\_\_ YES            \_\_\_\_\_ NO

Fr. Joseph Ilo?                \_\_\_\_\_ YES            \_\_\_\_\_ NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part G.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Ilo?

YES

NO

Bishop Steven Blaire

\_\_\_\_\_

\_\_\_\_\_

Monsignor Richard Ryan

\_\_\_\_\_

\_\_\_\_\_

Diocese of Stockton

\_\_\_\_\_

\_\_\_\_\_

Go to Question 6.



6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part G.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Kathleen Machado?

Fr. Francis Arakal      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Fr. Joseph Illo      \_\_\_\_\_ YES      \_\_\_\_\_ NO

PUNITIVE DAMAGES

8. Has Kathleen Machado proved by clear and convincing evidence that Fr. Joseph Illo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES    \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES    \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES    \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES    \_\_\_\_\_ NO

Go to Part G.

**G. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS – RACHEL LOMAS**

With respect to Rachel Lomas:

1. Was Fr. Joseph Illo negligent?

\_\_\_\_\_ YES      X   NO

Was Fr. Francis Arakal negligent?

\_\_\_\_\_ YES      X   NO

Was Msgr Richard Ryan negligent?

\_\_\_\_\_ YES      X   NO

Was Bishop Steven Blaire negligent?

\_\_\_\_\_ YES      X   NO

If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part H.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Illo's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Rachel's harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo: \_\_\_\_\_ %

Fr. Francis Arakal: \_\_\_\_\_ %

Monsignor Richard Ryan: \_\_\_\_\_ %

Bishop Steven Blaire: \_\_\_\_\_ %

TOTAL 100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 5.

5(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 5(a) or 5(b) is YES, then answer question 6. If you answered NO to both, stop here, go to Part H.

6. Was either Fr. Francis Arakal or Fr. Joseph Ilo acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

Fr. Francis Arakal            \_\_\_\_\_ YES        \_\_\_\_\_ NO

Fr. Joseph Ilo                \_\_\_\_\_ YES        \_\_\_\_\_ NO

Go to H

### H. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS – AMBER LOMAS

With respect to Amber Lomas:

1. Was Fr. Joseph Ilo negligent?

  X   YES        \_\_\_\_\_ NO

Was Fr. Francis Arakal negligent?

  X   YES        \_\_\_\_\_ NO

Was Msgr Richard Ryan negligent?

  X   YES        \_\_\_\_\_ NO

Was Bishop Steven Blaire negligent?

  X   YES        \_\_\_\_\_ NO

If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part I.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Ilo's negligence a substantial factor in causing harm to Amber Lomas?

  X   YES        \_\_\_\_\_ NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Amber Lomas?

X YES \_\_\_\_\_ NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Amber Lomas?

\_\_\_\_\_ YES X NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Amber Lomas?

\_\_\_\_\_ YES X NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Amber Lomas's harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo: 60 %

Fr. Francis Arakal: 40 %

Monsignor Richard Ryan: \_\_\_\_\_ %

Bishop Steven Blaire: \_\_\_\_\_ %

TOTAL 100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	<u>X</u>
Monsignor Richard Ryan	_____	<u>X</u>
Diocese of Stockton	_____	<u>X</u>

Go to Question 5.

5 (a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

X YES \_\_\_\_\_ NO

Bishop Stephen Blaire

X YES \_\_\_\_\_ NO

Monsignor Richard Ryan

X YES \_\_\_\_\_ NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

X YES \_\_\_\_\_ NO

Bishop Stephen Blaire

X YES \_\_\_\_\_ NO

Monsignor Richard Ryan

X YES \_\_\_\_\_ NO

If your answer to question either 5 (a) or 5(b) is YES, then answer question 6. If you answered NO to both, stop here, go to Part I.

6. Was either Fr. Francis Arakal or Fr. Joseph Illo acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

Fr. Francis Arakal X YES \_\_\_\_\_ NO

Fr. Joseph Illo X YES \_\_\_\_\_ NO

Go to I

**I. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS – KATHLEEN MACHADO**

With respect to Kathleen Machado:

1. Was Fr. Joseph Illo negligent?

\_\_\_\_\_ YES      X   NO

Was Fr. Francis Arakal negligent?

\_\_\_\_\_ YES      X   NO

Was Msgr Richard Ryan negligent?

\_\_\_\_\_ YES      X   NO

Was Bishop Steven Blaire negligent?

\_\_\_\_\_ YES      X   NO

If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part J.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Illo's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_\_ YES    \_\_\_\_\_ NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_\_ YES    \_\_\_\_\_ NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_\_ YES    \_\_\_\_\_ NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Kathleen Machado?



\_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Kathleen Machado harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo: \_\_\_\_\_ %  
Fr. Francis Arakal: \_\_\_\_\_ %  
Monsignor Richard Ryan: \_\_\_\_\_ %  
Bishop Steven Blaire: \_\_\_\_\_ %  
TOTAL 100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 5.

5(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 5(a) or 5(b) is YES, then answer question question 6. If you answered NO to both, stop here, go to Part J.

6. Was Fr. Francis Arakal or Fr. Joseph Illo acting within the scope of his agency when he undertook the conduct toward Kathleen Machado?

Fr. Francis Arakal      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Fr. Joseph Illo      \_\_\_\_\_ YES      \_\_\_\_\_ NO

Go to J

### J. DEFAMATION PER SE – KATHLEEN MACHADO.

1. Did Fr. Joseph Illo make one or more of the following statement(s) to a person or persons other than Kathleen Machado?

“All your mother wants is to have sex with me.”

YES      \_\_\_\_\_ NO

“Kathleen Machado is stalking me.”

\_\_\_\_\_ YES       NO

If your answer to question 1 is YES, then answer question 2 for the defendant for whom you gave a YES answer. If you answered NO, stop here, go to Part K.

2. Did the people to whom the statements were made reasonably understand that the statement(s) were about Kathleen Machado?

"All your mother wants is to have sex with me."

YES       NO

"Kathleen Machado is stalking me".

YES       NO

If your answer to question 2 is YES as to any statement, then answer question 3. If you answered NO to all statements, stop here, and go to Part K.

3. Did these people reasonably understand the statement(s) to mean that Kathleen Machado was an unchaste woman or had committed a crime?

Unchaste woman?

YES       NO

Committed a crime?

YES       NO

If your answer to question 3 is YES in any respect, then answer question 4 for the statement(s) for which you answered YES. If you answered NO to all, stop here and go to Part K.

4. Did Fr. Joseph Illo fail to use reasonable care to determine the truth or falsity of the statement(s)?

"All your mother wants is to have sex with me."

YES       NO

"Kathleen Machado is stalking me".

YES       NO

If your answer to any part of question 4 is YES, then answer question 5. If you answered NO, stop here, and go to Part ~~A~~

K

ACTUAL DAMAGES

5. What are Kathleen Machado's actual damages?

a. Past Noneconomic loss including shame, mortification, or hurt feelings, and harm to Kathleen Machado's reputation.

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

B. Future Noneconomic loss including shame, mortification, or hurt feelings, and harm to Kathleen Machado's reputation

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

If Kathleen Machado has Not proved any actual damages, then answer question 6.

If Kathleen Machado has proved any actual damages, skip question 6 and answer question 7.

ASSUMED DAMAGES TO REPUTATION

6. What are the damages you award Kathleen Machado for the assumed harm to her reputation? You must award at least a nominal sum.

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

Regardless of your answer to question 6, answer question 7.

PUNITIVE DAMAGES

7. Has Kathleen Machado proved by clear and convincing evidence that Fr. Joseph Illo acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

K. DAMAGES

If you found in favor of Rachel Lomas, Amber Lomas, or Kathleen Machado on any cause of action, please answer the following. Otherwise, have the foreperson sign and date this form.

1. What are Rachel Lomas's total damages? Do not reduce the damages based on the fault, if any, of others.

a. Past economic loss, including medical expenses]: \$ \_\_\_\_\_

b. Future economic loss, including medical expenses: \$ \_\_\_\_\_

c. Past Noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

d. Future Noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

TOTAL \$ 0

2. What are Amber Lomas's total damages? Do not reduce the damages based on the fault, if any, of others.

a. Past economic loss, including medical expenses]: \$ 0

b. Future economic loss, including medical expenses: \$ 20,000

c. Past noneconomic loss, including physical pain, mental suffering: \$ 0

d. Future noneconomic loss, including physical pain, mental suffering: \$ 0

TOTAL \$ 20,000

3. What are Kathleen Machado's total damages, not including the damages awarded for defamation, if any? Do not reduce the damages based on the fault, if any, of others.

a. Past noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

b. Future noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

TOTAL (excluding defamation) \$ \_\_\_\_\_

+ DEFAMATION DAMAGES \$ \_\_\_\_\_

TOTAL DAMAGES FOR KATHLEEN MACHADO \$ 0 \_\_\_\_\_

Dated: 03/25/05

  
\_\_\_\_\_  
Foreperson



Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
Client: 330	Mackoul, George			0.00
Matter: 020047	Machado v. Joseph			0.00
Dec 27/2002	Lawyer: 1 0.60 Hrs X 0.00		0.00	
81255	Preparation of calendar and letter to Mackoul			
Dec 27/2002	Lawyer: 1 0.30 Hrs X 0.00		0.00	
81256	Telephone Conference with George Mackoul			
Jan 8/2003	Lawyer: 3 0.20 Hrs X 0.00		0.00	
81154	Preparation of file			
Jan 10/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
81294	Preparation of association of counsel			
Jan 10/2003	Lawyer: 1 0.50 Hrs X 0.00		0.00	
81295	Review of discovery			
Jan 13/2003	Lawyer: 3 0.20 Hrs X 0.00		0.00	
81182	Revision of calendar			
Jan 13/2003	Lawyer: 1 0.50 Hrs X 0.00		0.00	
81298	Telephone Conference with George Mackoul			
Feb 5/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
81913	Telephone Conference with George Mackoul			
Feb 11/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
81936	Telephone Conference with George Mackoul			
Feb 12/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
81945	Research Rita M.			
Feb 13/2003	Lawyer: 1 1.10 Hrs X 0.00		0.00	
81969	Research			
Feb 14/2003	Lawyer: 1 0.30 Hrs X 0.00		0.00	
81971	Telephone Conference with George Mackoul			
Mar 4/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
82046	Review of law review article; call George Mackoul			
Mar 21/2003	Lawyer: 1 0.10 Hrs X 0.00		0.00	
82269	Telephone Conference with George Mackoul			
Mar 21/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
82270	Telephone Conference with George Mackoul			
Apr 19/2003	Lawyer: 1 0.10 Hrs X 0.00		0.00	
83971	Review of correspondence			
May 4/2003	Lawyer: 1 0.10 Hrs X 0.00		0.00	
84154	Review of pleadings			
May 7/2003	Lawyer: 1 5.10 Hrs X 0.00		0.00	
84193	Review of discovery			
May 25/2003	Lawyer: 1 0.30 Hrs X 0.00		0.00	
85257	Review of Bishop Blaire's discovery responses			
May 25/2003	Lawyer: 1 0.70 Hrs X 0.00		0.00	
85260	Review of discovery responses from archdiocese			
May 28/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
85545	Telephone Conference with George Mackoul			
Jun 3/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
85563	Telephone Conference with George Mackoul			
Jun 9/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
85636	Revision of interrogatory responses			
Jun 11/2003	Lawyer: 1 0.10 Hrs X 0.00		0.00	
85647	Preparation of e-mail to George Mackoul			
Jun 11/2003	Lawyer: 1 0.80 Hrs X 0.00		0.00	
85648	Telephone Conference with opposing counsel			
Jun 12/2003	Lawyer: 1 0.50 Hrs X 0.00		0.00	
85662	Telephone Conference with George Mackoul			
Jun 25/2003	Lawyer: 1 0.40 Hrs X 0.00		0.00	
86378	Telephone Conference with George Mackoul			
Jul 18/2003	Lawyer: 1 1.80 Hrs X 0.00		0.00	
87512	Revision of discovery responses			
Jul 18/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
87513	Telephone Conference with George			



Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
Jul 21/2003	Mačkoul Lawyer: 3 0.30 Hrs X 0.00		0.00	
87730	Preparation of verifications			
Jul 21/2003	Lawyer: 3 0.10 Hrs X 0.00		0.00	
87731	Preparation of proof of service			
Jul 21/2003	Lawyer: 3 0.20 Hrs X 0.00		0.00	
87732	Preparation of letter to George Mačkoul			
Aug 13/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
87621	Telephone Conference with George Mačkoul			
Oct 7/2003	Lawyer: 1 0.30 Hrs X 0.00		0.00	
89197	Telephone Conference with George Mačkoul			
Oct 29/2003	Lawyer: 1 4.10 Hrs X 0.00		0.00	
89382	Preparation of notes for hearing			
Oct 30/2003	Lawyer: 1 8.70 Hrs X 0.00		0.00	
89386	Attendance at motion hearing			
Oct 30/2003	Lawyer: 1 0.20 Hrs X 0.00		0.00	
90037	Telephone Conference with George Mačkoul			
Jan 9/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
91730	Telephone Conference with George Mačkoul			
Jan 9/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
91731	Review of order			
Jan 21/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
92580	Telephone Conference with George Mačkoul, Mike Ackerman			
Jan 21/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
92581	Telephone Conference with George Mačkoul			
Jan 26/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
92947	Telephone Conference with George Mačkoul			
Jan 26/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
92948	Review of article			
Feb 4/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
92893	Review of motions			
Feb 4/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
92894	Telephone Conference with George Mačkoul			
Feb 6/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
92925	Telephone Conference with George Mačkoul			
Feb 9/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
92935	Telephone Conference with George Mačkoul			
Feb 23/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
93590	Telephone Conference with George Mačkoul			
Feb 23/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
93591	Preparation of PDF files			
Feb 23/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
93592	Telephone Conference with George Mačkoul			
Feb 25/2004	Lawyer: 1 4.90 Hrs X 0.00		0.00	
93618	Research			
Feb 26/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
93619	Research			
Feb 26/2004	Lawyer: 1 0.80 Hrs X 0.00		0.00	
93620	Telephone Conference with George Mačkoul			
Feb 26/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
93621	Telephone Conference with opposing counsel (1/m)			
Feb 27/2004	Lawyer: 1 5.90 Hrs X 0.00		0.00	
93630	Research			
Feb 28/2004	Lawyer: 1 2.20 Hrs X 0.00		0.00	
93631	Research			
Feb 29/2004	Lawyer: 1 7.70 Hrs X 0.00		0.00	
93632	Preparation of reply memorandum re First Amendment			
Feb 29/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
93633	Telephone Conference with George Mačkoul			
Mar 1/2004	Lawyer: 1 3.20 Hrs X 0.00		0.00	

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
Mar 1/2004	93634 Revision of reply memorandum Lawyer: 1 0.90 Hrs X 0.00		0.00	
Mar 1/2004	93637 Review of "Oxy" and speak with George Mckoul			
Mar 1/2004	94088 Lawyer: 3 0.50 Hrs X 0.00 Preparation of reply		0.00	
Mar 2/2004	93639 Lawyer: 1 0.50 Hrs X 0.00 Review of Oxy case and prepare notes		0.00	
Mar 3/2004	93645 Lawyer: 1 8.50 Hrs X 0.00 Attendance at hearing		0.00	
Mar 5/2004	93658 Lawyer: 1 0.20 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Mar 14/2004	93714 Lawyer: 1 0.50 Hrs X 0.00 Preparation of calendar		0.00	
Mar 25/2004	93285 Lawyer: 1 1.20 Hrs X 0.00 Review of witness statement and call George MacKoul		0.00	
Apr 26/2004	94695 Lawyer: 1 0.10 Hrs X 0.00 Review of calendar		0.00	
Apr 30/2004	94762 Lawyer: 1 0.40 Hrs X 0.00 Review of order; call George MacKoul		0.00	
May 5/2004	94777 Lawyer: 1 0.20 Hrs X 0.00 Telephone Conference with Paul Balestracci (1/m)		0.00	
May 6/2004	94786 Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
May 26/2004	95732 Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jun 2/2004	96488 Lawyer: 1 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jun 3/2004	96496 Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence from George MacKoul		0.00	
Jun 3/2004	96500 Lawyer: 1 0.30 Hrs X 0.00 Review of e-mail; call George MacKoul, Paul Balestracci		0.00	
Jun 3/2004	96502 Lawyer: 1 0.10 Hrs X 0.00 Review of e-mail and respond		0.00	
Jun 14/2004	95850 Lawyer: 1 0.40 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jun 17/2004	96944 Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jul 1/2004	97599 Lawyer: 1 0.40 Hrs X 0.00 Attendance at telephonic case management conference		0.00	
Jul 1/2004	97600 Lawyer: 1 0.10 Hrs X 0.00 Preparation of email to George MacKoul		0.00	
Jul 16/2004	98329 Lawyer: 1 0.10 Hrs X 0.00 Review of pleadings		0.00	
Jul 27/2004	98236 Lawyer: 1 0.20 Hrs X 0.00 Review of correspondence and respond		0.00	
Aug 2/2004	99232 Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Aug 4/2004	99253 Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Aug 5/2004	99260 Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Aug 12/2004	99322 Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Aug 16/2004	99377 Lawyer: 1 0.10 Hrs X 0.00 Review of e-mail and prepare instructions		0.00	
Aug 17/2004	99583 Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Jack Williams' office		0.00	
Aug 17/2004	99584 Lawyer: 3 0.30 Hrs X 0.00 Preparation of order		0.00	
Aug 30/2004	99785 Lawyer: 1 0.20 Hrs X 0.00 Telephone Conference with George		0.00	

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
Aug 30/2004	MacKoul and prepare instructions Lawyer: 3 0.10 Hrs X 0.00		0.00	
99931	Telephone Conference with Jack Williams			
Sep 5/2004	Lawyer: 1 3.10 Hrs X 0.00		0.00	
99927	Preparation of order			
Sep 8/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
100359	Telephone Conference with Jack Williams' office			
Sep 8/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
100362	Telephone Conference with Jack Williams' office			
Sep 8/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
100363	Telephone Conference with George MacKoul			
Sep 9/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
100327	Telephone Conference with George MacKoul			
Sep 12/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
100397	Preparation of order and serve on opposing counsel			
Sep 13/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100548	Telephone Conference with George MacKoul			
Sep 17/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
100577	Review of letters from opposing counsel and call opposing counsel (1/m)			
Sep 17/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100576	Telephone Conference with George MacKoul			
Sep 17/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
100584	Telephone Conference with George MacKoul			
Sep 17/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
100601	Review of correspondence			
Sep 18/2004	Lawyer: 1 0.70 Hrs X 0.00		0.00	
100606	Preparation of order and letter to court			
Sep 18/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100607	Preparation of mediation questionnaire			
Sep 19/2004	Lawyer: 1 0.80 Hrs X 0.00		0.00	
100731	Telephone Conference with George MacKoul			
Sep 22/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100745	Telephone Conference with George MacKoul			
Sep 27/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
100771	Review of correspondence			
Sep 28/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
100776	Telephone Conference with George MacKoul			
Sep 28/2004	Lawyer: 1 3.20 Hrs X 0.00		0.00	
100777	Review of file			
Sep 28/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
100778	Review of discovery			
Sep 29/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
100779	Telephone Conference with George MacKoul			
Sep 29/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100781	George MacKoul			
Sep 29/2004	Lawyer: 1 0.70 Hrs X 0.00		0.00	
100782	Review of documents			
Sep 30/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
100800	Review of note from George MacKoul			
Sep 30/2004	Lawyer: 1 0.40 Hrs X 0.00		0.00	
100803	Review of supplemental discovery; telephone conversation with George MacKoul			
Sep 30/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
100813	Review of correspondence			
Oct 1/2004	Lawyer: 1 4.90 Hrs X 0.00		0.00	
100819	Review of documents			
Oct 1/2004	Lawyer: 1 2.10 Hrs X 0.00		0.00	
100841	Office Consultation with George MacKoul re depositions			
Oct 1/2004	Lawyer: 1 6.40 Hrs X 0.00		0.00	

Date	Paid To/Fee/Time	Chg/Inv	Fee/Time	Current A/R Bal.	Current Trust Bal.
Entry#	Explanation				
	100842 Office Consultation with clients in Hughson				
Oct 2/2004	Lawyer: 1 9.40 Hrs X 0.00		0.00		
	100823 Preparation of documents and notes for deposition				
Oct 3/2004	Lawyer: 1 9.10 Hrs X 0.00		0.00		
	100840 Preparation of notes and documents for deposition				
Oct 4/2004	Lawyer: 1 7.90 Hrs X 0.00		0.00		
	100843 Deposition of Father Francis Arakal				
Oct 4/2004	Lawyer: 1 3.00 Hrs X 0.00		0.00		
	100844 Review of DVD of interviews with girls				
Oct 4/2004	Lawyer: 1 3.90 Hrs X 0.00		0.00		
	100845 Preparation of notes for deposition				
Oct 5/2004	Lawyer: 1 3.20 Hrs X 0.00		0.00		
	100846 Preparation of notes and documents for depositions				
Oct 5/2004	Lawyer: 1 8.00 Hrs X 0.00		0.00		
	100847 Deposition of Bishop Blaire				
Oct 5/2004	Lawyer: 3 0.50 Hrs X 0.00		0.00		
	101424 Preparation of documents for depositions				
Oct 6/2004	Lawyer: 1 13.10 Hrs X 0.00		0.00		
	100848 Deposition of Rachel Lomas				
Oct 7/2004	Lawyer: 1 12.10 Hrs X 0.00		0.00		
	100849 Deposition of Amber Lomas				
Oct 8/2004	Lawyer: 1 1.20 Hrs X 0.00		0.00		
	100851 Office Consultation with Pam Wilson				
Oct 13/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00		
	100872 Telephone Conference with George MacKoul				
Oct 14/2004	Lawyer: 1 1.50 Hrs X 0.00		0.00		
	100877 Telephone Conference with George MacKoul, David Clohessy				
Oct 18/2004	Lawyer: 3 0.30 Hrs X 0.00		0.00		
	101499 Preparation of notice of entry of order and proof of service				
Oct 20/2004	Lawyer: 3 0.20 Hrs X 0.00		0.00		
	101528 Telephone Conference with George MacKoul				
Oct 22/2004	Lawyer: 1 2.50 Hrs X 0.00		0.00		
	100908 Telephone Conference with George MacKoul				
Oct 25/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
	100915 Telephone Conference with George MacKoul				
Oct 29/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
	100931 Telephone Conference with George MacKoul				
Nov 1/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
	100934 Telephone Conference with George MacKoul				
Nov 3/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00		
	101038 Review of e-mail and respond				
Nov 3/2004	Lawyer: 1 0.70 Hrs X 0.00		0.00		
	101045 Telephone Conference with George MacKoul				
Nov 8/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
	102070 Telephone Conference with George MacKoul, Larry Drivon				
Nov 10/2004	Lawyer: 1 1.40 Hrs X 0.00		0.00		
	102504 Telephone Conference with George MacKoul				
Nov 10/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00		
	102507 Telephone Conference with Paul Balestracci (1/m)				
Nov 10/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00		
	102509 Telephone Conference with Paul Balestracci				
Nov 10/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00		
	102512 Telephone Conference with George MacKoul				
Nov 15/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00		
	102715 Telephone Conference with George MacKoul				
Nov 16/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
	102719 Telephone Conference with George				

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
	MacKoul (2x)			
Nov 16/2004	Lawyer: 1 5.90 Hrs X 0.00		0.00	
102722	Preparation of notes for deposition			
Nov 17/2004	Lawyer: 1 11.60 Hrs X 0.00		0.00	
102732	Deposition of Elaine Shields, Eva Kristman, Ana Lopea, Yvonne McLoughlin			
Nov 18/2004	Lawyer: 1 12.20 Hrs X 0.00		0.00	
102734	Deposition of Mary Mullins			
Nov 18/2004	Lawyer: 1 1.10 Hrs X 0.00		0.00	
102736	Preparation of notes for depositon			
Nov 19/2004	Lawyer: 1 11.40 Hrs X 0.00		0.00	
102737	Deposition of Yvonne McLoughlin, Kathleen Machado			
Nov 21/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
102738	Preparation of mediation brief			
Nov 22/2004	Lawyer: 1 0.20 Hrs X 0.00		0.00	
102739	Preparation of mediation brief			
Nov 24/2004	Lawyer: 1 3.90 Hrs X 0.00		0.00	
102745	Preparation of mediation brief			
Nov 24/2004	Lawyer: 3 0.50 Hrs X 0.00		0.00	
103399	Preparation of deposition transcripts			
Nov 26/2004	Lawyer: 1 2.10 Hrs X 0.00		0.00	
102747	Preparation of mediation brief			
Nov 27/2004	Lawyer: 1 4.70 Hrs X 0.00		0.00	
102749	Preparation of mediation brief			
Nov 28/2004	Lawyer: 1 6.20 Hrs X 0.00		0.00	
102750	Preparation of mediation brief			
Nov 29/2004	Lawyer: 1 6.70 Hrs X 0.00		0.00	
102751	Attendance at mediation			
Nov 29/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
102752	Telephone Conference with George MacKoul (3x)			
Nov 30/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00	
102765	Office Consultation with George MacKoul			
Dec 1/2004	Lawyer: 1 1.10 Hrs X 0.00		0.00	
102769	Telephone Conference with George MacKoul			
Dec 2/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
102771	Review of e-mail and respond			
Dec 3/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
102780	Telephone Conference with George MacKoul			
Dec 6/2004	Lawyer: 3 0.20 Hrs X 0.00		0.00	
103462	Telephone Conference with George MacKoul			
Dec 6/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103463	Preparation of calendar			
Dec 7/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103467	Telephone Conference with opposing counsel			
Dec 7/2004	Lawyer: 3 0.20 Hrs X 0.00		0.00	
103471	Preparation of demand for expert exchange			
Dec 8/2004	Lawyer: 3 0.20 Hrs X 0.00		0.00	
103481	Preparation of demand for expert exchange			
Dec 9/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
102847	Review of correspondence			
Dec 13/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103514	Telephone Conference with opposing counsel			
Dec 14/2004	Lawyer: 1 0.10 Hrs X 0.00		0.00	
102891	Review of correspondence			
Dec 14/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103524	Telephone Conference with client			
Dec 15/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103537	Preparation of letter to counsel			
Dec 16/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00	
103261	Telephone Conference with George MacKoul			
Dec 16/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103542	Telephone Conference with George MacKoul			
Dec 16/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00	
103543	Preparation of email to Kathleen Mchado			

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.	Current Trust Bal
Entry#	Explanation				
Dec 17/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00		
103263	Telephone Conference with George MacKoul				
Dec 17/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
103264	Telephone Conference with George MacKoul				
Dec 17/2004	Lawyer: 3 0.20 Hrs X 0.00		0.00		
103549	Preparation of letter to opposing counsel				
Dec 27/2004	Lawyer: 1 0.30 Hrs X 0.00		0.00		
103293	Telephone Conference with George MacKoul				
Dec 27/2004	Lawyer: 1 0.90 Hrs X 0.00		0.00		
103296	Preparation of motion				
Dec 27/2004	Lawyer: 3 0.70 Hrs X 0.00		0.00		
103599	Preparation of deposition transcripts				
Dec 29/2004	Lawyer: 1 1.10 Hrs X 0.00		0.00		
103297	Review of depositions				
Dec 30/2004	Lawyer: 1 6.90 Hrs X 0.00		0.00		
103298	Review of depositions				
Dec 30/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00		
104119	Telephone Conference with Mr. Boskovich				
Dec 30/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00		
104124	Telephone Conference with Pacific				
Dec 30/2004	Lawyer: 3 0.10 Hrs X 0.00		0.00		
104129	Telephone Conference with George MacKoul				
Dec 30/2004	Lawyer: 3 0.70 Hrs X 0.00		0.00		
104130	Preparation of calendar				
Dec 31/2004	Lawyer: 1 1.90 Hrs X 0.00		0.00		
103299	Review of depositions				
Dec 31/2004	Lawyer: 1 0.50 Hrs X 0.00		0.00		
103300	Telephone Conference with George MacKoul				
Jan 2/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00		
104018	Telephone Conference with George MacKoul				
Jan 3/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00		
103610	Mr. MacKoul				
Jan 3/2005	Lawyer: 3 1.50 Hrs X 0.00		0.00		
103611	Preparation of expert disclosure				
Jan 3/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00		
104020	Telephone Conference with George MacKoul				
Jan 4/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00		
103624	Telephone Conference with opposing counsel				
Jan 4/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00		
103625	Telephone Conference with George MacKoul				
Jan 4/2005	Lawyer: 2 0.80 Hrs X 0.00		0.00		
104022	Telephone Conference with George MacKoul (2x); Jack Williams; Paul Balestracci (1/m)				
Jan 5/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00		
103642	Telephone Conference with Mr. MacKoul				
Jan 5/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00		
103642	Preparation of letter to Mr. Balestracci				
Jan 5/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00		
104030	Telephone Conference with George MacKoul				
Jan 6/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00		
104031	Telephone Conference with George MacKoul				
Jan 6/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00		
104032	Telephone Conference with Paul Balestracci				
Jan 6/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00		
104964	Telephone Conference with George MacKoul				
Jan 7/2005	Lawyer: 1 0.40 Hrs X 0.00		0.00		
104036	Telephone Conference with George MacKoul				
Jan 8/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00		
104097	Review of correspondence				

Date	Entry#	Paid To/Fee/Time Explanation	Che/Inv	Fee/Time	Current A/R Bal. Current Trust Bal
Jan 9/2005	104102	Lawyer: 1 4.50 Hrs X 0.00 Attendance at site inspection		0.00	
Jan 9/2005	104103	Lawyer: 1 0.90 Hrs X 0.00 Research issue of work product protection and write opposing counsel		0.00	
Jan 10/2005	104369	Lawyer: 1 0.10 Hrs X 0.00 Telephone Conference with Mr. Kozina		0.00	
Jan 10/2005	104370	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 10/2005	104371	Lawyer: 1 0.10 Hrs X 0.00 Telephone Conference with Mike Coughlan		0.00	
Jan 10/2005	104372	Lawyer: 1 0.30 Hrs X 0.00 Preparation of letter to opposing counsel		0.00	
Jan 10/2005	104375	Lawyer: 1 0.80 Hrs X 0.00 Revision of notices		0.00	
Jan 10/2005	105007	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax and mail to Mr. Kozina		0.00	
Jan 10/2005	105017	Lawyer: 3 0.10 Hrs X 0.00 Preparation of deposition notices for service		0.00	
Jan 11/2005	104382	Lawyer: 1 9.20 Hrs X 0.00 Deposition of Deanna Watson		0.00	
Jan 12/2005	104204	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 12/2005	104384	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 12/2005	104386	Lawyer: 1 0.10 Hrs X 0.00 Telephone Conference with Jack Williams (l/m)		0.00	
Jan 13/2005	104313	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with Vladimir Kozina		0.00	
Jan 13/2005	104314	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 14/2005	104318	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 14/2005	105025	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 14/2005	105026	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to Mr. MacKoul		0.00	
Jan 14/2005	105043	Lawyer: 3 0.50 Hrs X 0.00 Preparation of motion for service		0.00	
Jan 16/2005	104322	Lawyer: 1 0.10 Hrs X 0.00 Review of press release		0.00	
Jan 16/2005	104326	Lawyer: 1 0.30 Hrs X 0.00 Review of correspondence and respond		0.00	
Jan 17/2005	104285	Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul (4x)		0.00	
Jan 17/2005	104287	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 18/2005	104290	Lawyer: 1 0.70 Hrs X 0.00 Telephone Conference with George MacKoul, Vladimir Kozina		0.00	
Jan 18/2005	104292	Lawyer: 1 4.20 Hrs X 0.00 Preparation of opposition to motion to continue		0.00	
Jan 18/2005	105047	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to George MacKoul		0.00	
Jan 18/2005	105461	Lawyer: 3 0.40 Hrs X 0.00 Preparation of scan		0.00	
Jan 19/2005	104293	Lawyer: 1 2.80 Hrs X 0.00 Preparation of opposition to motion to continue		0.00	
Jan 19/2005	104294	Lawyer: 1 0.70 Hrs X 0.00 Review of correspondence re depositions and respond (3x)		0.00	
Jan 19/2005		Lawyer: 3 0.10 Hrs X 0.00		0.00	

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
105054	Telephone Conference with Declaration of Anthony Boskovich			
Jan 19/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105058	Preparation of fax to opposing counsel			
Jan 19/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105062	Telephone Conference with George MacKoul			
Jan 19/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105063	Telephone Conference with court reporter			
Jan 19/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105065	Preparation of Declaration of George MacKoul			
Jan 19/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105066	Preparation of fax to opposing counsel			
Jan 19/2005	Lawyer: 3 0.30 Hrs X 0.00		0.00	
105067	Preparation of motion opposition and file and serve			
Jan 20/2005	Lawyer: 1 0.80 Hrs X 0.00		0.00	
104299	Telephone Conference with George MacKoul			
Jan 20/2005	Lawyer: 1 0.90 Hrs X 0.00		0.00	
104301	Review of correspondence and respond			
Jan 20/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105072	Preparation of jury fees for court			
Jan 20/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00	
105073	Research internet re court rules			
Jan 20/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105082	Telephone Conference with Mr. Kozina			
Jan 20/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105083	Telephone Conference with George MacKoul			
Jan 20/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105084	Telephone Conference with Owen Kummerle			
Jan 21/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00	
104303	Telephone Conference with George MacKoul			
Jan 21/2005	Lawyer: 1 0.40 Hrs X 0.00		0.00	
104304	Telephone Conference with Jack Williams			
Jan 24/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
104710	Revision of Mullins deposition notes			
Jan 24/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
104713	Telephone Conference with opposing counsel			
Jan 24/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105478	Telephone Conference with opposing counsel			
Jan 24/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105479	Telephone Conference with court reporter			
Jan 24/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105480	Telephone Conference with opposing counsel			
Jan 24/2005	Lawyer: 3 0.30 Hrs X 0.00		0.00	
105481	Preparation of notices of appear and subpoenae duces teca			
Jan 25/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00	
104728	Telephone Conference with George MacKoul			
Jan 25/2005	Lawyer: 1 5.10 Hrs X 0.00		0.00	
104729	Review of documents			
Jan 25/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105096	Preparation of email to George MacKoul			
Jan 25/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105103	Preparation of letter to Mr. Balestracci			
Jan 26/2005	Lawyer: 1 7.90 Hrs X 0.00		0.00	
104730	Deposition of Owen Kummerle			
Jan 26/2005	Lawyer: 1 0.50 Hrs X 0.00		0.00	
104734	Telephone Conference with George MacKoul			
Jan 26/2005	Lawyer: 1 2.10 Hrs X 0.00		0.00	
104735	Review of documents			
Jan 26/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105123	Preparation of email to George MacKoul			



Date	Entry#	Paid To/Fee/Time Explanation	Che/Inv	Fee/Time	Current A/R Bal. Current Trust Bal
Jan 26/2005	105126	Lawyer: 3 0.20 Hrs X 0.00 Review of file and deposition transcripts		0.00	
Jan 26/2005	105127	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to George MacKoul		0.00	
Jan 27/2005	104736	Lawyer: 1 4.40 Hrs X 0.00 Deposition of Mary Mullins		0.00	
Jan 27/2005	104741	Lawyer: 1 2.10 Hrs X 0.00 Review of file		0.00	
Jan 27/2005	104744	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 27/2005	105128	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with opposing counsel		0.00	
Jan 27/2005	105129	Lawyer: 3 0.30 Hrs X 0.00 Review of file for witness information		0.00	
Jan 28/2005	104747	Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 28/2005	105133	Lawyer: 3 1.00 Hrs X 0.00 Preparation of subpoenas		0.00	
Jan 28/2005	105135	Lawyer: 3 1.20 Hrs X 0.00 Preparation of notices to appear and subpoenas duces tecum		0.00	
Jan 29/2005	104559	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 29/2005	104569	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 29/2005	104754	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 29/2005	104764	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 29/2005	104765	Lawyer: 1 0.10 Hrs X 0.00 Review of proofs of service		0.00	
Jan 29/2005	104767	Lawyer: 1 0.10 Hrs X 0.00 Review of correspondence		0.00	
Jan 30/2005	104571	Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Jan 30/2005	104573	Lawyer: 1 0.60 Hrs X 0.00 Revision of subpoenas		0.00	
Jan 30/2005	105137	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Johnny Smith		0.00	
Jan 30/2005	105138	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to Johnny Smith		0.00	
Jan 30/2005	105139	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Mr. MacKoul's office		0.00	
Jan 30/2005	105140	Lawyer: 3 0.10 Hrs X 0.00 Preparation of proof of service		0.00	
Jan 30/2005	105141	Lawyer: 3 0.20 Hrs X 0.00 Preparation of notices to appear		0.00	
Jan 30/2005	105149	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to Johnny Smith		0.00	
Jan 30/2005	105150	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Jack Williams' office		0.00	
Jan 31/2005	104575	Lawyer: 1 0.20 Hrs X 0.00 Telephone Conference with opposing counsel		0.00	
Jan 31/2005	104587	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb 1/2005	104589	Lawyer: 1 0.90 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb 2/2005	104593	Lawyer: 1 0.50 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb 2/2005	104594	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb 2/2005	105159	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Mr. Boskovich		0.00	
Feb 2/2005	105163	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Mr. MacKoul		0.00	

Date	Entry#	Paid To/Fee/Time Explanation	Che/Inv	Fee/Time	Current A/R Bal. Current Trust Bal
Feb	2/2005 105164	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Jack Williams' office		0.00	
Feb	3/2005 104598	Lawyer: 1 0.40 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	3/2005 105186	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with court reporter		0.00	
Feb	3/2005 105187	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with opposing counsel		0.00	
Feb	3/2005 105190	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Mr. MacKoul		0.00	
Feb	4/2005 104602	Lawyer: 1 0.80 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	4/2005 105198	Lawyer: 3 0.20 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	4/2005 105199	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to George MacKoul		0.00	
Feb	4/2005 105200	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Detective Ball		0.00	
Feb	4/2005 105205	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	4/2005 105206	Lawyer: 3 0.10 Hrs X 0.00 Preparation of email to George MacKoul		0.00	
Feb	6/2005 104603	Lawyer: 1 0.40 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	6/2005 104604	Lawyer: 1 3.10 Hrs X 0.00 Preparation of settlement conference statement		0.00	
Feb	6/2005 104786	Lawyer: 1 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	6/2005 105207	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	6/2005 105208	Lawyer: 3 0.30 Hrs X 0.00 Preparation of settlement conference statement		0.00	
Feb	6/2005 105209	Lawyer: 3 0.10 Hrs X 0.00 Preparation of proof of service		0.00	
Feb	6/2005 105210	Lawyer: 3 0.10 Hrs X 0.00 Preparation of fax to George MacKoul		0.00	
Feb	7/2005 104790	Lawyer: 1 5.30 Hrs X 0.00 Attendance at mandatory settlement conference		0.00	
Feb	7/2005 104791	Lawyer: 1 6.10 Hrs X 0.00 Office Consultation with Richard Sipe		0.00	
Feb	7/2005 105227	Lawyer: 3 0.20 Hrs X 0.00 Preparation of letter to opposing counsel		0.00	
Feb	8/2005 104792	Lawyer: 1 0.30 Hrs X 0.00 Telephone Conference with George MacKoul		0.00	
Feb	8/2005 104796	Lawyer: 1 5.90 Hrs X 0.00 Preparation of notes for Ryan deposition		0.00	
Feb	9/2005 104797	Lawyer: 1 11.80 Hrs X 0.00 Deposition of Monsignor Ryan		0.00	
Feb	9/2005 104798	Lawyer: 1 6.80 Hrs X 0.00 Trial Preparation		0.00	
Feb	10/2005 104800	Lawyer: 1 8.20 Hrs X 0.00 Preparation of notes for deposition for Bishop Blaire		0.00	
Feb	10/2005 105257	Lawyer: 3 0.10 Hrs X 0.00 Telephone Conference with Owen Kummerle		0.00	
Feb	11/2005 104801	Lawyer: 1 8.60 Hrs X 0.00 Deposition of Bishop Blaire		0.00	
Feb	14/2005 104806	Lawyer: 1 4.40 Hrs X 0.00 Trial Preparation		0.00	

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
Feb 14/2005	Lawyer: 1 1.90 Hrs X 0.00		0.00	
104959	Trial Preparation			
Feb 14/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105577	Telephone Conference with opposing counsel			
Feb 15/2005	Lawyer: 1 0.40 Hrs X 0.00		0.00	
104961	Telephone Conference with George MacKoul			
Feb 15/2005	Lawyer: 1 7.20 Hrs X 0.00		0.00	
104962	Trial Preparation			
Feb 15/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105578	Preparation of documents			
Feb 15/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00	
105580	Preparation of witness list			
Feb 15/2005	Lawyer: 1 3.20 Hrs X 0.00		0.00	
104964	Trial Preparation			
Feb 16/2005	Lawyer: 1 4.50 Hrs X 0.00		0.00	
104965	Trial Preparation			
Feb 17/2005	Lawyer: 1 9.90 Hrs X 0.00		0.00	
104968	Trial Preparation			
Feb 18/2005	Lawyer: 1 10.20 Hrs X 0.00		0.00	
104969	Trial Preparation			
Feb 18/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105482	Telephone Conference with George MacKoul			
Feb 19/2005	Lawyer: 1 10.20 Hrs X 0.00		0.00	
104971	Trial Preparation			
Feb 20/2005	Lawyer: 1 12.10 Hrs X 0.00		0.00	
104972	Trial Preparation			
Feb 21/2005	Lawyer: 1 4.70 Hrs X 0.00		0.00	
104973	Trial Preparation			
Feb 22/2005	Lawyer: 1 5.40 Hrs X 0.00		0.00	
104974	Trial Preparation			
Feb 22/2005	Lawyer: 1 6.10 Hrs X 0.00		0.00	
104975	Attendance at court to file documents			
Feb 23/2005	Lawyer: 1 7.10 Hrs X 0.00		0.00	
104976	Trial Preparation			
Feb 24/2005	Lawyer: 1 12.20 Hrs X 0.00		0.00	
104977	Attendance at hearing			
Feb 25/2005	Lawyer: 1 8.50 Hrs X 0.00		0.00	
104978	Attendance at hearing			
Feb 26/2005	Lawyer: 1 3.20 Hrs X 0.00		0.00	
104979	Trial Preparation			
Feb 27/2005	Lawyer: 1 2.20 Hrs X 0.00		0.00	
104980	Preparation of juror questionnaire			
Feb 27/2005	Lawyer: 1 2.10 Hrs X 0.00		0.00	
105319	Research First Amendment			
Feb 28/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105499	Telephone Conference with Rose Wyeth			
Feb 28/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105500	Telephone Conference with Dr. Katz			
Feb 28/2005	Lawyer: 3 0.30 Hrs X 0.00		0.00	
105503	Telephone Conference with witnesses re trial schedule			
Feb 28/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
105506	Telephone Conference with client			
Feb 28/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
105321	Telephone Conference with George MacKoul			
Feb 28/2005	Lawyer: 1 1.90 Hrs X 0.00		0.00	
105322	Preparation of opposition to further motion			
Feb 28/2005	Lawyer: 1 0.60 Hrs X 0.00		0.00	
105324	Telephone Conference with George MacKoul, Elaine Shields			
Mar 1/2005	Lawyer: 1 0.60 Hrs X 0.00		0.00	
105323	Revision of opposition to further motion			
Mar 1/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	
105325	Review of report from Johnnie Smith; telephone call with George MacKoul			
Mar 1/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
105332	Review of pleading			
Mar 2/2005	Lawyer: 1 12.20 Hrs X 0.00		0.00	
105338	Trial Preparation			
Mar 2/2005	Lawyer: 3 0.40 Hrs X 0.00		0.00	
105885	Preparation of deposition transcripts			

Date	Entry#	Paid To/Fee/Time Explanation	Chg/Inv	Fee/Time	Current A/R Bal. Current Trust Bal.
Mar	3/2005	Lawyer: 1 22.10 Hrs X 0.00		0.00	
	106339	Trial			
Mar	4/2005	Lawyer: 1 15.30 Hrs X 0.00		0.00	
	106340	Trial			
Mar	6/2005	Lawyer: 1 8.10 Hrs X 0.00		0.00	
	106028	Trial Preparation			
Mar	7/2005	Lawyer: 1 7.20 Hrs X 0.00		0.00	
	106029	Trial Preparation			
Mar	7/2005	Lawyer: 3 0.50 Hrs X 0.00		0.00	
	106421	Telephone Conference with witnesses			
Mar	8/2005	Lawyer: 1 16.10 Hrs X 0.00		0.00	
	106030	Trial			
Mar	8/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106428	Telephone Conference with Rose Wyeth			
Mar	9/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106429	Telephone Conference with Owen Kummerle			
Mar	9/2005	Lawyer: 1 14.90 Hrs X 0.00		0.00	
	106031	Trial			
Mar	9/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106437	Telephone Conference with Johnnie Smith			
Mar	9/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106439	Telephone Conference with Jean Hobler			
Mar	10/2005	Lawyer: 1 22.70 Hrs X 0.00		0.00	
	106032	Trial			
Mar	10/2005	Lawyer: 3 0.30 Hrs X 0.00		0.00	
	106352	Telephone Conference with Debbie Landrath			
Mar	10/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106355	Telephone Conference with Owen Kummerle			
Mar	10/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106356	Telephone Conference with Rose Wyeth			
Mar	10/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106363	Telephone Conference with Owen Kummerle			
Mar	11/2005	Lawyer: 1 12.10 Hrs X 0.00		0.00	
	106033	Trial			
Mar	11/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106365	Telephone Conference with Dr. Katz			
Mar	11/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106366	Telephone Conference with Owen Kummerle			
Mar	13/2005	Lawyer: 1 7.20 Hrs X 0.00		0.00	
	106035	Trial Preparation			
Mar	14/2005	Lawyer: 1 7.10 Hrs X 0.00		0.00	
	106036	Trial			
Mar	14/2005	Lawyer: 1 8.90 Hrs X 0.00		0.00	
	106037	Trial Preparation			
Mar	14/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00	
	106374	Telephone Conference with witnesses			
Mar	14/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	106375	Telephone Conference with Eva Kristman			
Mar	15/2005	Lawyer: 1 6.90 Hrs X 0.00		0.00	
	106038	Trial			
Mar	15/2005	Lawyer: 1 10.40 Hrs X 0.00		0.00	
	106039	Trial Preparation			
Mar	16/2005	Lawyer: 1 7.20 Hrs X 0.00		0.00	
	106040	Trial			
Mar	16/2005	Lawyer: 1 8.40 Hrs X 0.00		0.00	
	106042	Trial Preparation			
Mar	17/2005	Lawyer: 1 3.10 Hrs X 0.00		0.00	
	106043	Trial Preparation			
Mar	17/2005	Lawyer: 1 6.90 Hrs X 0.00		0.00	
	106044	Trial			
Mar	17/2005	Lawyer: 1 5.70 Hrs X 0.00		0.00	
	106045	Trial Preparation			
Mar	18/2005	Lawyer: 1 2.10 Hrs X 0.00		0.00	
	106046	Trial Preparation			
Mar	18/2005	Lawyer: 1 6.90 Hrs X 0.00		0.00	
	106047	Trial			
Mar	20/2005	Lawyer: 1 3.60 Hrs X 0.00		0.00	
	106674	Preparation of jury instructions			
Mar	21/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
	106678	Telephone Conference with Mr. Korina			
Mar	21/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	

Date	Paid To/Fee/Time	Che/Inv	Fee/Time	Current A/R Bal.
Entry#	Explanation			Current Trust Bal
	106679 Telephone Conference with George MacKoul			
Mar 21/2005	Lawyer: 1 1.50 Hrs X 0.00		0.00	
	106680 Trial Preparation			
Mar 22/2005	Lawyer: 1 9.20 Hrs X 0.00		0.00	
	106681 Trial			
Mar 22/2005	Lawyer: 1 7.90 Hrs X 0.00		0.00	
	106682 Trial Preparation			
Mar 23/2005	Lawyer: 1 1.20 Hrs X 0.00		0.00	
	106683 Trial Preparation			
Mar 23/2005	Lawyer: 1 6.90 Hrs X 0.00		0.00	
	106684 Trial			
Mar 24/2005	Lawyer: 1 7.00 Hrs X 0.00		0.00	
	106685 Trial			
Mar 25/2005	Lawyer: 1 6.40 Hrs X 0.00		0.00	
	106686 Trial			
Apr 6/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	
	106263 Preparation of calendar			
Apr 11/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	106635 Preparation of e-mail to George MacKoul			
Apr 11/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
	106637 Review of email from George MacKoul and respond			
Apr 13/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	
	106644 Telephone Conference with George MacKoul			
Apr 15/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	
	107016 Telephone Conference with George MacKoul			
Apr 15/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	107017 Telephone Conference with opposing counsel (1/m)			
Apr 21/2005	Lawyer: 1 0.20 Hrs X 0.00		0.00	
	107133 Telephone Conference with opposing counsel			
Apr 22/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	
	107200 Telephone Conference with George MacKoul			
Apr 22/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	107384 Preparation of fax to George MacKoul			
Apr 25/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	107210 Review of correspondence			
Apr 26/2005	Lawyer: 1 0.80 Hrs X 0.00		0.00	
	107217 Telephone Conference with George MacKoul; Mike Coughlan			
Apr 26/2005	Lawyer: 1 2.10 Hrs X 0.00		0.00	
	107218 Preparation of motion for new trial			
Apr 26/2005	Lawyer: 3 0.50 Hrs X 0.00		0.00	
	107420 Review of file			
Apr 26/2005	Lawyer: 1 2.40 Hrs X 0.00		0.00	
	107452 Preparation of motion for new trial			
Apr 27/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	107429 Preparation of FedEx			
Apr 27/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	107453 Review of correspondence			
Apr 27/2005	Lawyer: 1 0.60 Hrs X 0.00		0.00	
	107455 Preparation of motion for new trial			
Apr 27/2005	Lawyer: 1 4.80 Hrs X 0.00		0.00	
	107457 Preparation of motion for new trial			
Apr 28/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	107442 Telephone Conference with George MacKoul			
Apr 28/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	107443 Telephone Conference with court			
Apr 29/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	107462 Review of correspondence			
Apr 29/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00	
	107576 Review of discovery			
Apr 30/2005	Lawyer: 1 0.10 Hrs X 0.00		0.00	
	107465 Review of correspondence			
May 2/2005	Lawyer: 3 0.10 Hrs X 0.00		0.00	
	107590 Telephone Conference with court			
May 2/2005	Lawyer: 3 0.20 Hrs X 0.00		0.00	
	107591 Preparation of letter to court and opposing counsel			
May 9/2005	Lawyer: 1 0.30 Hrs X 0.00		0.00	

Date	Entry#	Paid To/Fee/Time Explanation	Che/Inv	Fee/Time	Current A/R Bal.	Current Trust Bal
May 12/2005	108125	Telephone Conference with client; George MacKoul Lawyer: 3 0.90 Hrs X 0.00		0.00		
May 17/2005	107995	Telephone Conference with George Mage MacKoul Lawyer: 1 6.10 Hrs X 0.00		0.00		
May 19/2005	107780	Attendance at hearing Lawyer: 1 0.10 Hrs X 0.00		0.00		
May 23/2005	107877	Review of correspondence Lawyer: 3 0.10 Hrs X 0.00		0.00		
May 23/2005	107956	Telephone Conference with court Lawyer: 3 0.10 Hrs X 0.00		0.00		
May 23/2005	107957	Telephone Conference with opposing counsel Lawyer: 1 0.10 Hrs X 0.00		0.00		
May 23/2005	108205	Review of order Lawyer: 1 0.20 Hrs X 0.00		0.00		
May 23/2005	108209	Telephone Conference with George MacKoul Lawyer: 1 0.80 Hrs X 0.00		0.00		
May 24/2005	108211	Telephone Conference with Kathleen Machado Lawyer: 3 0.10 Hrs X 0.00		0.00		
May 24/2005	108228	Telephone Conference with court Lawyer: 3 0.10 Hrs X 0.00		0.00		
May 24/2005	108229	Telephone Conference with court Lawyer: 3 0.10 Hrs X 0.00		0.00		
May 24/2005	108230	Telephone Conference with opposing counsel Lawyer: 1 7.20 Hrs X 0.00		0.00		
May 26/2005	108163	Attendance at hearing				

Last Entry	May 26/2005	Unbilled	Current	31-60 Days	61-90 Days	91-120 Days	>=121 Days	Total
Last Bld	Not Billed	Hours	16.60	13.90	261.10	183.30	339.50	814.40
		+ Fees	0.00	0.00	0.00	0.00	0.00	0.00
		+ Disbs	0.00	0.00	0.00	0.00	0.00	0.00
		- Retainers	0.00	0.00	0.00	0.00	0.00	0.00
		Total:	0.00	0.00	0.00	0.00	0.00	0.00

\*\*\* Work In Progress - Summary by Working Lawyer \*\*\*

	Unbilled	Current	31-60 Days	61-90 Days	91-120 Days	>120 Days	Total	Percent
1 - Anthony Boskovich								
Number of Matters 1	Hours	14.90	12.80	258.70	179.30	323.50	789.20	96.91
	+ Fees	0.00	0.00	0.00	0.00	0.00	0.00	
	+ Disbs	0.00	0.00	0.00	0.00	0.00	0.00	
	- Retainers	0.00	0.00	0.00	0.00	0.00	0.00	
	Total:	0.00	0.00	0.00	0.00	0.00	0.00	

	Unbilled	Current	31-60 Days	61-90 Days	91-120 Days	>120 Days	Total	Percent
3 - Pam Wilson								
Number of Matters 1	Hours	1.70	1.10	2.40	4.00	16.00	25.20	3.09
	+ Fees	0.00	0.00	0.00	0.00	0.00	0.00	
	+ Disbs	0.00	0.00	0.00	0.00	0.00	0.00	
	- Retainers	0.00	0.00	0.00	0.00	0.00	0.00	
	Total:	0.00	0.00	0.00	0.00	0.00	0.00	

\*\*\* Work In Progress - Firm Summary \*\*\*

	Unbilled	Current	31-60 Days	61-90 Days	91-120 Days	>120 Days	Total
	Hours	16.60	13.90	261.10	183.30	339.50	814.40
	+ Fees	0.00	0.00	0.00	0.00	0.00	0.00
	+ Disbs	0.00	0.00	0.00	0.00	0.00	0.00
	- Retainers	0.00	0.00	0.00	0.00	0.00	0.00
	Total:	0.00	0.00	0.00	0.00	0.00	0.00

REPORT SELECTIONS

Report: Work-in-Progress  
 Layout Template: All  
 Requested by: ADMIN  
 Finished: Monday, May 30, 2005 at 04:47:47 PM  
 Date Range: To May 30/2005  
 Matters: 020047  
 Clients: All  
 Select From: Active, Inactive Matters  
 Major Clients: All  
 Responsible Lawyer: All  
 Client Intro Lawyer: All  
 Assigned Lawyer: All  
 Working Lawyer: All  
 Type of Law: All  
 Matters Sort By: Default

Totals Only: No  
 Matter balances only: No  
 Incl. Time/Fee Entries: Yes  
 Incl. Disbursement Entries: No  
 Incl. Retainers Entries: No  
 Incl. Matters with Neg Unbld Disb: No  
 Ignore matter if Fees less than: 0.00

Date	Debit To/Fee/Time		Che/Inv		Fee/Time	Current A/R Bal.
Entry#	Explanation					Current Trust Bal
New Page for Each Lawyer:	No			Ignore matter if Disbs less than:	0.00	
New Page for Each Matter:	No			Ignore matter if Chrgs less than:	0.00	
Client balances only:	No			Incl. only Entries older than:	0	
Summarize by Working Lawyer:	Yes			Age From:	5/30/2005	
Summarize by Client Intr. Lawyer:	No			Summarize by Resp. Lawyer:	No	
Ver:	7.21c					





Matter #	Client Name	Resp	Law Type				Amount Billed	
	Description							
	Date	Ref#	Explanation					
020047	Mackoul, George			i	2			
	Machado v. Joseph							
	5/28/2004		Telephone				0.48	N
	5/28/2004		Telephone				0.08	N
	5/28/2004		Telephone				0.08	N
	5/28/2004		Telephone				0.08	N
	1/10/2005	2083050	Service of Process				87.50	N
	1/10/2005	2083051	Service of Process				87.50	N
			<b>Total Other</b>				<b>175.72</b>	
	1/21/2003	01748	51 Photocopies				0.60	N
	8/31/2003	01761	51 Photocopies				6.45	N
	5/25/2004	01781	51 Photocopies				35.70	N
	11/9/2004	01794	51 Photocopies				22.35	N
	1/5/2005	01798	51 Photocopies				81.60	N
	3/1/2005	01802	51 Photocopies				324.00	N
			<b>Total Photocopies</b>				<b>470.70</b>	
	3/28/2004		52 Facsimiles				0.59	N
	3/28/2004		52 Facsimiles				0.08	N
	9/28/2004		52 Facsimiles				0.16	N
	1/28/2005		52 Facsimiles				0.35	N
	1/28/2005		52 Facsimiles				0.97	N
	1/28/2005		52 Facsimiles				0.51	N
	1/28/2005		52 Facsimiles				2.83	N
	1/28/2005		52 Facsimiles				0.53	N
	3/28/2005		52 Facsimiles				0.48	N
	2/28/2005		52 Facsimiles				0.45	N
	2/28/2005		52 Facsimiles				0.37	N
	2/28/2005		52 Facsimiles				2.28	N
	2/28/2005		52 Facsimiles				0.09	N
	2/28/2005		52 Facsimiles				0.63	N
	4/28/2005		52 Facsimiles				0.16	N
			<b>Total Facsimiles</b>				<b>10.48</b>	
	2/29/2004	2/29/04	53 Lexis, Westlaw				6.10	N
			<b>Total Lexis, Westlaw</b>				<b>6.10</b>	
	12/27/2002	01747	54 Postage				0.37	N
	1/10/2003	01747	54 Postage				0.37	N
	7/21/2003	01760	54 Postage				2.72	N
	3/1/2004	01773	54 Postage				0.37	N
	9/12/2004	01792	54 Postage				1.66	N
	9/18/2004	01792	54 Postage				2.63	N
	9/18/2004	01792	54 Postage				0.37	N
	10/19/2004	01792	54 Postage				4.94	N
	12/8/2004	01797	54 Postage				0.74	N
	12/8/2004	01797	54 Postage				0.74	N
	1/14/2005	01799	54 Postage				3.18	N
	1/14/2005	01799	54 Postage				0.37	N
	1/16/2005	01799	54 Postage				0.37	N
	1/19/2005	01799	54 Postage				2.67	N
	1/19/2005	01799	54 Postage				9.12	N
	1/20/2005	01799	54 Postage				1.11	N
	1/4/2005	01800	54 Postage				7.92	N
	1/10/2005	01800	54 Postage				0.74	N
	1/13/2005	01800	54 Postage				0.37	N
	1/25/2005	01801	54 Postage				0.37	N
	1/31/2005	01801	54 Postage				3.32	N
	4/15/2005	01806	54 Postage				0.60	N
	4/15/2005	01806	54 Postage				0.37	N
	4/22/2005	01806	54 Postage				0.97	N
	4/27/2005	01807	54 Postage				1.20	N
	5/2/2005	01807	54 Postage				1.11	N
			<b>Total Postage</b>				<b>48.70</b>	
	3/9/2004	1-627-43	55 Courier, Delivery				47.43	N
	3/8/2004	1-627-43	55 Courier, Delivery				1.85	N
	1/21/2005	7-967-39	55 Courier, Delivery				37.29	N
	1/28/2005	7-979-85	55 Courier, Delivery				14.75	N
	1/28/2005	7-979-85	55 Courier, Delivery				1.26	N
	1/28/2005	7-979-85	55 Courier, Delivery				13.50	N
	1/28/2005	7-979-85	55 Courier, Delivery				1.15	N
	1/28/2005	7-979-85	55 Courier, Delivery				11.45	N
	1/28/2005	7-979-85	55 Courier, Delivery				0.98	N
	2/18/2005	5-377-43	55 Courier, Delivery				31.50	N
	2/18/2005	5-377-43	55 Courier, Delivery				-2.96	N
	4/22/2005	5-487-93	55 Courier, Delivery				53.32	N
	5/6/2005	3-812-03	55 Courier, Delivery				14.53	N
	5/6/2005	3-812-03	55 Courier, Delivery				22.90	N
			<b>Total Courier, Delivery</b>				<b>248.95</b>	

Matter #	Client Name	Description	Ref#	Explanation	Resp	Law Type	Amount	Billed
		Date						
		12/28/2002		56 Telephone			0.08	N
		12/28/2002		56 Telephone			0.08	N
		2/28/2003		56 Telephone			0.68	N
		3/28/2003		56 Telephone			0.08	N
		3/28/2003		56 Telephone			0.15	N
		3/28/2003		56 Telephone			0.08	N
		4/28/2003		56 Telephone			0.16	N
		5/28/2003		56 Telephone			1.65	N
		6/28/2003		56 Telephone			0.23	N
		6/28/2003		56 Telephone			0.15	N
		6/28/2003		56 Telephone			2.63	N
		6/28/2003		56 Telephone			2.40	N
		6/28/2003		56 Telephone			0.15	N
		7/28/2003		56 Telephone			0.75	N
		7/28/2003		56 Telephone			0.83	N
		8/28/2003		56 Telephone			0.42	N
		11/13/2003		56 Telephone			4.20	N
		11/13/2003		56 Telephone			0.80	N
		1/28/2004		56 Telephone			0.17	N
		1/28/2004		56 Telephone			0.17	N
		3/28/2004		56 Telephone			1.66	N
		3/28/2004		56 Telephone			2.58	N
		3/28/2004		56 Telephone			0.17	N
		3/28/2004		56 Telephone			1.00	N
		3/28/2004		56 Telephone			1.91	N
		6/28/2004		56 Telephone			0.33	N
		7/28/2004		56 Telephone			0.32	N
		7/28/2004		56 Telephone			4.08	N
		10/28/2004		56 Telephone			5.52	N
		10/28/2004		56 Telephone			2.32	N
		10/28/2004		56 Telephone			0.28	N
		10/28/2004		56 Telephone			0.08	N
		10/28/2004		56 Telephone			2.96	N
		10/28/2004		56 Telephone			0.08	N
		10/28/2004		56 Telephone			0.08	N
		10/28/2004		56 Telephone			1.60	N
		10/28/2004		56 Telephone			0.18	N
		10/28/2004		56 Telephone			0.09	N
		10/28/2004		56 Telephone			3.05	N
		10/28/2004		56 Telephone			1.12	N
		10/28/2004		56 Telephone			0.08	N
		9/28/2004		56 Telephone			0.48	N
		9/28/2004		56 Telephone			0.08	N
		9/28/2004		56 Telephone			0.36	N
		9/28/2004		56 Telephone			0.09	N
		9/28/2004		56 Telephone			0.96	N
		9/28/2004		56 Telephone			0.18	N
		9/28/2004		56 Telephone			0.96	N
		9/28/2004		56 Telephone			0.08	N
		9/28/2004		56 Telephone			0.08	N
		9/28/2004		56 Telephone			0.48	N
		9/28/2004		56 Telephone			0.08	N
		8/28/2004		56 Telephone			1.60	N
		8/28/2004		56 Telephone			0.09	N
		11/13/2004		56 Telephone			0.08	N
		11/13/2004		56 Telephone			0.55	N
		11/13/2004		56 Telephone			4.96	N
		11/13/2004		56 Telephone			0.08	N
		11/13/2004		56 Telephone			0.64	N
		11/13/2004		56 Telephone			0.08	N
		11/13/2004		56 Telephone			0.48	N
		11/13/2004		56 Telephone			3.84	N
		11/13/2004		56 Telephone			0.18	N
		11/13/2004		56 Telephone			5.76	N
		12/28/2004		56 Telephone			0.16	N
		12/28/2004		56 Telephone			0.08	N
		12/28/2004		56 Telephone			0.08	N
		12/28/2004		56 Telephone			0.09	N
		12/28/2004		56 Telephone			0.18	N
		12/28/2004		56 Telephone			0.18	N
		12/28/2004		56 Telephone			0.08	N
		12/28/2004		56 Telephone			0.56	N
		12/28/2004		56 Telephone			0.18	N
		12/28/2004		56 Telephone			4.50	N
		12/28/2004		56 Telephone			1.44	N
		12/28/2004		56 Telephone			0.08	N



Matter #	Client Name	Description	Resp	Law Type	Amount	Billed
	Date	Ref#	Explanation			
	3/28/2005		56 Telephone		0.18	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.37	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.36	N
	3/28/2005		56 Telephone		0.96	N
	3/28/2005		56 Telephone		0.27	N
	3/28/2005		56 Telephone		0.08	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.16	R
	3/28/2005		56 Telephone		0.37	N
	3/28/2005		56 Telephone		0.08	N
	3/28/2005		56 Telephone		0.56	N
	3/28/2005		56 Telephone		0.09	N
	3/28/2005		56 Telephone		0.27	N
	3/28/2005		56 Telephone		0.36	N
	3/28/2005		56 Telephone		0.41	N
	3/28/2005		56 Telephone		1.18	N
	3/28/2005		56 Telephone		1.60	N
	3/28/2005		56 Telephone		0.40	N
	3/28/2005		56 Telephone		2.30	N
	2/28/2005		56 Telephone		1.38	N
	2/28/2005		56 Telephone		0.18	N
	2/28/2005		56 Telephone		0.16	N
	2/28/2005		56 Telephone		1.70	N
	2/28/2005		56 Telephone		3.22	R
	2/28/2005		56 Telephone		0.43	N
	2/28/2005		56 Telephone		0.24	N
	2/28/2005		56 Telephone		0.46	N
	2/28/2005		56 Telephone		0.27	N
	2/28/2005		56 Telephone		0.18	N
	2/28/2005		56 Telephone		0.09	N
	2/28/2005		56 Telephone		0.08	N
	2/28/2005		56 Telephone		0.16	F
	2/28/2005		56 Telephone		1.20	F
	2/28/2005		56 Telephone		5.12	N
	2/28/2005		56 Telephone		2.56	N
	2/28/2005		56 Telephone		1.44	N
	2/28/2005		56 Telephone		0.08	N
	2/28/2005		56 Telephone		0.24	N
	2/28/2005		56 Telephone		0.16	N
	2/28/2005		56 Telephone		0.08	N
	2/28/2005		56 Telephone		0.08	N
	2/28/2005		56 Telephone		0.08	N
	2/28/2005		56 Telephone		1.61	N
	2/28/2005		56 Telephone		0.18	N
	2/28/2005		56 Telephone		0.09	N
	2/28/2005		56 Telephone		0.90	N
	2/28/2005		56 Telephone		3.16	N
	2/28/2005		56 Telephone		0.09	N
	2/28/2005		56 Telephone		2.49	N
	2/28/2005		56 Telephone		1.04	N
	2/28/2005		56 Telephone		0.40	R
	2/28/2005		56 Telephone		1.77	N
	2/28/2005		56 Telephone		1.37	N
	2/28/2005		56 Telephone		5.20	N
	2/28/2005		56 Telephone		5.33	R
	2/28/2005		56 Telephone		3.77	N
	2/28/2005		56 Telephone		4.80	N
	2/28/2005		56 Telephone		2.00	N
	2/28/2005		56 Telephone		0.09	N
	2/28/2005		56 Telephone		8.11	N
	2/28/2005		56 Telephone		0.09	N
	2/28/2005		56 Telephone		0.57	F
	4/28/2005		56 Telephone		0.09	N
	4/28/2005		56 Telephone		0.18	N
	4/28/2005		56 Telephone		3.41	N
	4/28/2005		56 Telephone		1.52	N
	4/28/2005		56 Telephone		0.08	N
	4/28/2005		56 Telephone		0.08	N
	4/28/2005		56 Telephone		0.26	N
	4/28/2005		56 Telephone		1.67	N
	4/28/2005		56 Telephone		0.80	N

Matter #	Client Name Description	Resp	Law Type				Amount	Billed
Date	Ref#	Explanation						
4/28/2005		56 Telephone					0.09	N
4/28/2005		56 Telephone					0.55	N
4/28/2005		56 Telephone					4.67	N
4/28/2005		56 Telephone					0.17	N
4/28/2005		56 Telephone					1.68	N
4/28/2005		56 Telephone					8.51	N
4/28/2005		56 Telephone					0.09	N
		<b>Total Telephone</b>					<b>239.16</b>	
1/14/2005	7419	57 Filing Fees					36.30	N
4/15/2005	7611	57 Filing Fees					36.30	N
4/27/2005	7666	57 Filing Fees					36.30	N
4/27/2005	7667	57 Filing Fees					36.30	N
		<b>Total Filing Fees</b>					<b>145.20</b>	
10/30/2003	6383	62 Travel					52.50	N
10/30/2003		62 Travel					20.70	N
3/3/2004	00269	62 Travel					53.00	N
3/3/2004		62 Travel					38.90	N
10/1/2004	00331	62 Travel					57.20	N
10/5/2004	00332	62 Travel					49.50	N
10/6/2004	00333	62 Travel					49.50	N
10/7/2004	00334	62 Travel					86.39	N
11/17/2004	00351	62 Travel					56.70	N
11/17/2004	00352	62 Travel					50.10	N
11/17/2004	00352	62 Travel					19.30	N
11/19/2004	00353	62 Travel					45.60	N
11/16/2004	00354	62 Travel					3.49	N
1/9/2005	00377	62 Travel					64.27	N
1/11/2005	00385	62 Travel					72.84	N
1/26/2005	00394	62 Travel					55.84	N
1/27/2005	00395	62 Travel					54.28	N
2/7/2005	00398	62 Travel					57.00	N
2/8/2005	00400	62 Travel					60.00	N
2/11/2005	00402	62 Travel					48.00	N
2/22/2005	00405	62 Travel					54.00	N
2/24/2005	00406	62 Travel					69.90	N
2/25/2005	00407	62 Travel					56.00	N
4/3/2005	7560	62 Travel 104856					9.00	N
3/3/2005		62 Travel					42.75	N
3/4/2005		62 Travel					22.63	N
3/9/2005		62 Travel					14.00	N
3/15/2005		62 Travel					21.50	N
3/8/2005	00409	62 Travel					66.00	N
3/9/2005	00410	62 Travel					64.50	N
3/10/2005	00411	62 Travel					67.95	N
3/11/2005	00412	62 Travel					35.70	N
3/14/2005	00413	62 Travel					63.00	N
3/15/2005	00414	62 Travel					54.60	N
3/16/2005	00415	62 Travel					26.40	N
3/18/2005	00416	62 Travel					26.40	N
3/2/2005	00420	62 Travel					69.95	N
3/3/2005	00421	62 Travel					63.00	N
3/4/2005	00422	62 Travel					54.00	N
3/9/2005		62 Travel					120.00	N
3/22/2005	00426	62 Travel					36.60	N
3/25/2005	00427	62 Travel					36.60	N
2/10/2005	7626	62 Travel 104900					9.00	N
2/24/2005		62 Travel					23.05	N
3/18/2005		62 Travel					180.00	N
3/22/2005		62 Travel					60.00	N
3/23/2005		62 Travel Travel					59.40	N
3/17/2005		62 Travel					16.00	N
3/22/2005		62 Travel					16.16	N
3/24/2005		62 Travel					31.20	N
5/17/2005	00430	62 Travel					51.60	N
5/26/2005	00434	62 Travel					70.18	N
		<b>Total Travel</b>					<b>2586.18</b>	
3/14/2005	7514	66 Witness Fees					63.20	N
		<b>Total Witness Fees</b>					<b>63.20</b>	
1/19/2005	7429	68 Jury Fees					200.00	N
		<b>Total Jury Fees</b>					<b>200.00</b>	
3/3/2005		155 Copy records					62.24	N
		<b>Total Copy records</b>					<b>62.24</b>	
		<b>Total</b>					<b>4256.63</b>	
		<b>Firm Total</b>					<b>4256.63</b>	

Matter #	Client Name	Resp	Law Type
	Description		
	Date	Ref#	Explanation
			Amount Billed

Report: Disbursement Analysis and Interest  
 Layout Template: All  
 Requested by: ADMIN  
 Finished: Monday, May 30, 2005 at 06:17:00 PM  
 Selection: Disbursement History  
 Matters: 020047  
 Clients: All  
 Major Clients: All  
 Responsible Lawyer: All  
 Client Intro Lawyer: All  
 Assigned Lawyer: All  
 Include Billed: Billed and unbilled  
 Type of Law: All  
 Show Totals Only: No  
 Select From: Active, Inactive Matters  
 Billed up to: All  
 Summarize by Resp. Lawyer: No  
 Summary By Explanation Codes: No  
 Ver: 7.21c

Matters Sort By: Default  
 New Page for Each Lawyer: No  
 Calculate Interest: No  
 Calc Interest To: 5/30/2005  
 Include Paid: Paid and unpaid  
 Interest Rate: 0.00  
 Show Firm Totals: No

Summarize by Type of Law: No  
 Receipt up to: 5/30/2005

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7  
8 408-286-5150  
9 Attorneys for Plaintiffs

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN JOAQUIN**

14 KATHLEEN MACHADO, individually and  
in her capacity as Guardian ad Litem for  
15 RACHEL LOMAS and AMBER LOMAS,  
*Plaintiffs,*  
16 v.  
17 FATHER JOSEPH ILLO; FATHER FRANCIS  
JOSEPH a.k.a. FATHER FRANCIS ARAKAL;  
18 FATHER RICHARD RYAN; BISHOP STEVEN  
BLAIRE; THE DIOCESE OF STOCKTON;  
19 DOES 1 through 100,  
*Defendants.*

No. CV 018440

PLAINTIFFS' MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION FOR  
ATTORNEYS' FEES

Date: 30 June 2005  
Time: 9:00 A.M.  
Department: 41  
Judge: Hon. Elizabeth Humphreys

22 **INTRODUCTION**

24 Defendant Father Joseph Illo was asked early in this litigation to admit that on 11 September  
25 2001 he had made the statement to then 10 year old Amber Lomas that all her mother wanted was  
26 to have sex with him. Because of Father Illo's denial, and because of his standing as a charismatic  
27

FILED  
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ROSA J. BUEIRO, CLERK  
*Jamela Edwards*  
DEPUTY

1 Roman Catholic priest, extensive discovery was necessary in order to show his character and that  
2 he was indeed the sort of person who would make such a despicable comment to a child, and that  
3 he in fact did so. Up until and during trial itself, Father Illo adamantly denied making the comment,  
4 and his defenses was character assassination of the plaintiffs. Upon deliberation, the jury determined  
5 that Father Illo had perjured himself and indeed had made the comment. Pursuant to Code of Civil  
6 Procedure section 2033, attorney's fees and expenses must be awarded against Father Illo.

7  
8  
9 **STATEMENT OF FACTS**  
10

11 On 6 January 2003, plaintiffs propounded requests for Admission on defendant Father  
12 Joseph Illo, set one, which included Request 11, which requested that Father Illo admit that he  
13 communicated to Amber Lomas on 11 September 2001 that "[a]ll your mother wants is to have sex  
14 with me". (Exhibit A to Declaration of Anthony Boskovich) On 13 March 2003, Father Illo served  
15 his verified response denying that he had made the statement. (Exhibit B to Declaration of Anthony  
16 Boskovich)

17 Because of the denials, extensive discovery was required by both plaintiffs and defendants,  
18 much of which was designed to determine both directly and indirectly who was telling the truth  
19 about whether the statement was made. (See Declarations of Anthony Boskovich and George  
20 MacKoul)

21 At trial, Father Illo repeatedly on direct examination and cross examination denied ever  
22 making the statement despite the fact that Amber Lomas testified that he said it and that Rose Wyeth  
23 had testified that he admitted to her that he made the statement. (Declaration of Anthony  
24 Boskovich) Upon hearing the testimony and evaluating its weight, the jury in this matter made a  
25 factual finding that Father Illo perjured himself and did indeed make this statement. (Exhibit C to  
26 Declaration of Anthony Boskovich)  
27



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**ARGUMENT**

**A. ATTORNEY’S FEES AND EXPENSES MUST BE AWARDED PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 2033 FOR FATHER ILLO’S FAILURE TO ADMIT THE COMMENT AND REQUIRING PLAINTIFFS TO PROVE THAT HE INDEED MADE THE STATEMENT.**

A party who fails to make an admission propounded in a Request for Admission is subject to a sanction for his or her failure to so admit. Subdivision (o) of Code of Civil Procedure section 2033 provides:

If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this section, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney’s fees. The court shall make this order unless it finds that (1) an objection to the request was sustained or a response to it was waived under subdivision (l), (2) the admission sought was of no substantial importance, (3) the party failing to make the admission had reasonable ground to believe that that party would prevail on the matter, or (4) there was other good reason for the failure to admit.

“The determination of whether a party is entitled to expenses under section 2033, subdivision (o) is within the sound discretion of the trial court.” (Citation) More specifically, “[Code of Civil Procedure] [s]ection 2033, subdivision (o) clearly vests in the trial judge the authority to determine whether the party propounding the admission thereafter proved the truth of the matter which was denied.” (Citation) An abuse of discretion occurs only where it is shown that the trial court exceeded the bounds of reason. (Citation)” (*Stull v. Sparrow* (2001) 92 Cal.App.4th 860, 864 [112 Cal.Rptr.2d 239, 242]) Notably, this provision does not require that the party who seeks to recover expenses be the prevailing party in the matter. Rather, unlike other discovery sanctions, an award of expenses under this provision is designed to reimburse a party’s reasonable expenses in proving the truth of some matter on the theory that trial would have been expedited or shortened had the request been admitted. (*Stull, supra*, 92 Cal.App.4th at p. 865 [112 Cal.Rptr.2d 239, 242-43]; *Brooks v. American*

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1 *Broadcasting Company* (1986) 179 Cal.App.3d 500, 509 224 Cal.Rptr. 838]; *Wimberly v. Derby Cycle*  
2 *Corporation* (1997) 56 Cal.App.4th 618, 634 65 Cal.Rptr.2d 532) Its purpose is directed toward  
3 saving counsel's and, naturally, the court's time and resources. The trial court must exercise its  
4 discretion to determine whether the amount of attorney fees requested is reasonable. (*Garcia v. Hyster*  
5 *Company* (1994) 28 Cal.App.4th 724, 737 [34 Cal.Rptr.2d 283]) If the trial court determines that the  
6 amount requested is unreasonable, it must determine and award a reasonable amount. (*Id.* at pp.  
7 737-738 [34 Cal.Rptr.2d 283]) Sanctions are particularly appropriate when a party provides  
8 obviously false answers. (*Rosales v. Thermex-Thermatron, Inc.* (1998) 67 Cal.App.4th 187, 198 [78  
9 Cal.Rptr.2d 861])

10 Here, Father Illo was not asked to interpret some legal standard nor apply facts to a legal  
11 doctrine; he was asked a simple and straightforward question of fact: Admit you made the statement.  
12 He denied it. There can simply be no argument that he was confused or that there could be any  
13 basis for his refusal to admit it other than he decided to lie about his action. The jury's response to  
14 the interrogatory on the Special Verdict form leaves no room for discussion: they unequivocally  
15 believed that Father Illo made the statement. Father Illo had no reason to believe that the jury  
16 would find otherwise other than to believe that they would accept his falsehood. That is not a good  
17 reason for failing to admit.

18 The statement also was not an insignificant fact in this trial. It was the crux of Amber Lomas'  
19 claim for emotional distress, as evidenced by her demeanor on the stand when she told the jury  
20 about it, and it was the crux of Kathleen Machado's defamation claim. Without proof of that  
21 statement, it is questionable whether Amber would have prevailed on her claim at all. There can  
22 be little doubt that under no scenario would making that statement be appropriate under any  
23 circumstances by an adult, much less a Roman Catholic priest, and the testimony of Monsignor  
24 Richard Ryan corroborated that fact. As the Declaration of Anthony Boskovich explains, the  
25 comment was the lynchpin of plaintiffs' case against Father Illo.

1 The more difficult question is how to value the sanction against Father Illo for his failure to  
2 admit his words. At first blush, one might say that all that was needed was to ask Father Illo and  
3 have him deny it, and then ask Amber Lomas and Rose Wyeth and have them say that he indeed  
4 made the comment, and then let the jury decide, giving a sanction of a few hours of attorney time.  
5 But that analysis is much too simplistic because it ignores the reality of this litigation and litigation  
6 general.

7 As this Court could see, Father Illo came into court with some significant advantages. The  
8 juror questionnaires indicated that some jurors, including the eventual presiding juror Mr.  
9 McMahon, would be more willing to believe a priest because of his devotion and his vows. That a  
10 significant percentage of the population would hold this view is only common sense, so to prove that  
11 a priest is lying is more difficult for a plaintiff than to show than another ordinary citizen is lying.  
12 Additionally, Father Illo is extremely charismatic and has a cadre of supporters. In the same vein,  
13 there was very strong feeling against Kathleen Machado and her family with respect to Father Illo.  
14 The defense was crystal clear that their theory was that Kathleen Machado had sent Amber to set  
15 up Father Illo, and that Amber had been coerced to lie about the statement.

16 Given the above, it was incumbent upon plaintiffs to embark upon a trial strategy that would  
17 both cause Father Illo to show his true colors and have independent corroboration of his character,  
18 pattern, and practice, in order to show the jury that Father Illo was not only capable of committing  
19 this outrageous act, but also did it. As the Declaration of Anthony Boskovich makes clear, the  
20 strategy was to not take Father Illo's deposition to increase the pressure on him, and to do extensive  
21 and painstaking discovery about Father Illo and his dealings with the Machado family and others,  
22 thereby exposing his true nature, and then, after laying the foundation for his propensity before the  
23 jury, to then and only then allow his true colors to come out on cross examination. As can be seen,  
24 this strategy worked, and the jury saw the truth.

25 First and foremost, plaintiffs had to get as many documents as possible regarding Father Illo  
26 and the Diocese to prepare for depositions of percipient witnesses. Defendants were recalcitrant in  
27

1 responding, and plaintiffs were forced to file multiple motions to compel in order to get the necessary  
2 documents and information. Once turned over, these documents formed the foundation for  
3 plaintiffs' decision who to call as witnesses at deposition, and served as the basis for each and every  
4 deposition. Each deposition was designed to lay a foundation regarding the character, custom, and  
5 practice of Father Illo (and some of Father Arakal). The only way to expose the truth was to  
6 painstakingly examine on the content of documents, and to microscopically examine what these  
7 witnesses saw and heard on 11 September 2001. Most of the witnesses were strongly in favor of  
8 Father Illo, so care had to be taken to ensure that the witness was neither given a tip of the purpose  
9 of the questions as well as a chance to spin the facts or documents in Father Illo's favor. This caused  
10 the depositions to be lengthy.

11 This strategy involved extensive and painstaking review of all of the documents, and  
12 painstaking and detailed depositions of witnesses. Plaintiffs also had to endure lengthy depositions  
13 by defendants in their attempt to besmirch the plaintiffs and discredit them. This time should also  
14 be a part of the sanction because maintaining plaintiffs' credibility was a key part of the strategy  
15 necessary to prove the statement was made. Additionally, the cost to prove that the statement was  
16 made includes the time required to refute the defense, which means attendance at defense  
17 depositions and trial testimony of plaintiffs and defense witnesses.

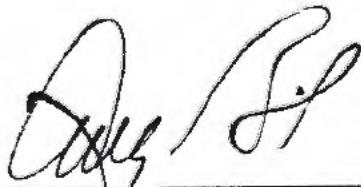
18 As the Declaration of Anthony Boskovich shows, he expended 182.5 hours of time and  
19 \$1,125.25 in expenses to prove the truth with respect to the statement, resulting in a sanction of  
20 \$46,750.25 payable to him. As the Declaration of George MacKoul makes clear, his reasonable  
21 time and expenses in proving the statement had been made was \$25,536.83. In the interests of  
22 justice, and as required by law, this Court must award these amounts to counsel.

23 //  
24 //  
25 //  
26 //

1 **CONCLUSION**

2  
3 Father Illo had the opportunity to admit his statement and significantly shorten the trial in  
4 this matter, and, in fact, an admission might very well have fostered a settlement of the entire matter.  
5 Father Illo chose not to do so, and thereby necessitated a much longer trial and many more hours  
6 of attorney time than if he had simply spoken the truth. The law and justice both demand that  
7 Father Illo be required to pay the reasonable attorney's fees and expenses in proving that he made  
8 the statement. The motion must be granted.

9  
10 Dated: 31 May 2005

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16 \_\_\_\_\_  
17 Anthony Boskovich  
18 Attorney for plaintiffs  
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27

Law Offices of Anthony Boskovich 28 North First Street, 6<sup>th</sup> Floor, San Jose, CA 95113 (408) 286-5150

Law Offices of Anthony Boskovich 28 North First Street, 6<sup>th</sup> Floor, San Jose, CA 95113 (408) 286-5150

1 George J. MacKoul, No. 170586  
Sabbah and MacKoul  
2 Attorneys and Counselors at Law  
49 Locust Street  
3 Falmouth, Massachusetts 02540  
4 508-495-4955  
5 Anthony Boskovich, No. 121198  
Law Offices of Anthony Boskovich  
6 28 N. First Street, 6<sup>th</sup> Floor  
San Jose, California 95113-1210  
7  
8 408-286-5150  
9 Attorneys for Plaintiffs

FILED  
05 JUN -2 PM 1:32  
ROSA JUNQUERO, CLERK  
BY Pamela Edwards  
DEPUTY

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN JOAQUIN**

14 KATHLEEN MACHADO, individually and  
in her capacity as Guardian ad Litem for  
15 RACHEL LOMAS and AMBER LOMAS,  
*Plaintiffs,*  
16 v.  
17 FATHER JOSEPH ILLO; FATHER FRANCIS  
JOSEPH a.k.a. FATHER FRANCIS ARAKAL;  
18 FATHER RICHARD RYAN; BISHOP STEVEN  
BLAIRE; THE DIOCESE OF STOCKTON;  
19 DOES 1 through 100,  
*Defendants.*

No. CV 018440  
PROOF OF SERVICE

21 I am employed in the County of Santa Clara, State of California.

22 I am over the age of 18 and not a party to the within action; my business address is 28 North  
23 First Street, Sixth Floor, San Jose, CA 95113-1210.

24 On June 1, 2005, I caused to be served the foregoing :

- 25 **1. Points and Authorities in Support of Motion for Attorneys' Fees;**
- 26 **2. Notice of Motion to Tax Costs;**

Law Offices of Anthony Boskovich 28 North First Street, 6<sup>th</sup> Floor, San Jose, CA 95113 (408) 286-5150

1           **3.     Declaration of Anthony Boskovich in support of Motion for Attorneys'**  
2                           **Fees**

3           on the parties involved in said cause by placing a true and correct copy of the document(s)  
4 listed above enclosed in a sealed envelope(s) and causing said envelope(s) to be delivered to an  
5 overnight delivery carrier with delivery fees provided for, addressed to the following person(s) on  
6 whom it is to be served

7 Michael Coughlan, Esq.  
8 Coughlan & O'Rourke, LLP  
9 3031 W. March Lane, Suite 210 West  
10 Stockton, CA 95219

11 Vladimir F. Kozina, Esq.  
12 Mayall, Hurley, Knutsen, Smith & Greer  
13 2453 Grand Canal Blvd., 2<sup>nd</sup> Floor  
14 Stockton, CA 95207-8253

15           Executed on 1 June 2005, at San Jose, California.

16           I declare under penalty of perjury in accordance with the laws of the State of California that  
17 the foregoing is true and correct.

18   
19 PAMELA WILSON

Law Offices of Anthony Boskovich 28 North First Street, 6<sup>th</sup> Floor, San Jose, CA 95113 (408) 286-5150

1 George J. MacKoul, No. 170586  
Sabbah and MacKoul  
2 Attorneys and Counselors at Law  
49 Locust Street  
3 Falmouth, Massachusetts 02540

4 508-495-4955

5 Anthony Boskovich, No. 121198  
Law Offices of Anthony Boskovich  
6 28 N. First Street, 6<sup>th</sup> Floor  
San Jose, California 95113-1210

8 408-286-5150

9 Attorneys for Plaintiffs

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN JOAQUIN**

#36.30-200506028007

14 KATHLEEN MACHADO, individually and  
in her capacity as Guardian ad Litem for  
15 RACHEL LOMAS and AMBER LOMAS,  
*Plaintiffs,*

16 v.

17 FATHER JOSEPH ILLO; FATHER FRANCIS  
JOSEPH a.k.a. FATHER FRANCIS ARAKAL;  
18 FATHER RICHARD RYAN; BISHOP STEVEN  
BLAIRE; THE DIOCESE OF STOCKTON;  
19 DOES 1 through 100,  
*Defendants.*

No. CV 018440

NOTICE OF MOTION AND  
MOTION FOR ATTORNEYS'  
FEES

Date: 30 June 2005  
Time: 9:00 A.M.  
Department: 41  
Judge: Hon. Elizabeth Humphreys

22 **TO DEFENDANT FR. JOSEPH ILLO AND TO HIS ATTORNEYS OF RECORD:**

23 **NOTICE IS HEREBY GIVEN** that on 30 June 2005 at 9:00 A.M, or as soon thereafter  
24 as the matter may be heard, in Department 41 of this court, located at 222 E. Weber Avenue,  
25 Stockton, California 95202, plaintiff Kathleen Machado, individually and as Guardian ad Litem for  
26 Amber Lomas and Rachel Lomas, will move this court for an order awarding attorneys' fees and  
27

Under Sub  
FILED  
05 JUN -2 PM 1:32  
ROSA J. RODRIGO, CLERK  
[Signature]

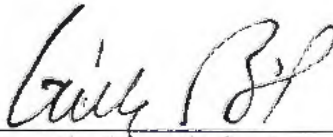


Law Offices of Anthony Boskovich 28 North First Street, 6<sup>th</sup> Floor, San Jose, CA 95113 (408) 286-5150

1 expenses in the amount of \$46,750.25 payable to Anthony Boskovich and \$25,536.83 payable to  
2 George MacKoul pursuant to Code of Civil Procedure section 2033, subdivision (o), for failure to  
3 admit in a request for admission that Father Illo made the statement to Amber Lomas and others  
4 that “[a]ll your mother wants is to have sex with me”, which statement was proven at trial.

5 This motion will be based on this notice of motion, the Declarations of Anthony Boskovich  
6 and George MacKoul and the exhibits attached thereto, the memorandum of points and authorities  
7 served and filed herewith, on the records and file herein, and on such evidence as may be presented  
8 at the hearing of the motion.

9  
10 Dated: 31 May 2005

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\_\_\_\_\_  
Anthony Boskovich  
Attorney for plaintiffs

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

05/26/05 09:00 AM      41      met at Stockton, California  
 Date                          Dept

Hon. Elizabeth Humphreys  
 Judge

**CV018440**    KATHLEEN MACHADO ET AL  
                     VS  
                     FR. JOSEPH ILLO ET AL

Clerk: Charlene Gray  
 Reporter/Tape: CARRIE DALL  
 Bailiff: CA - N. Moya  
 Interpreter: \_\_\_\_\_

- [PLTF] Kathleen Machado
- 
- [DEFT] Joseph Illo AKA
- 
- [DEFT] Francis Joseph AKA Joseph Arakal
- [DEFT] Richard Ryan

- ANTHONY BOSKOVICH
- Call Call* - GEORGE J MACKOUL
- VLADIMIR F KOZINA
- PAUL BALESTRACCI
- MICHAEL D COUGHLAN
- PAUL BALESTRACCI

**Nature of proceedings:** Deft's Notice of motion and motion to strike memorandum of costs; memorandum of points and authorities; declaration of Michael L. Phillips;

- Hearing held
- Matter is continued to \_\_\_\_\_ at \_\_\_\_\_ in Dept. \_\_\_\_\_
- Dropped
- Plaintiff duly sworn and testified       Defendant duly sworn and testified
- Witness sworn and testified \_\_\_\_\_
- Tentative Ruling     Remains     Set aside     Matter argued and submitted     Matter taken under submission
- MOTION       GRANTED  
                      DENIED
- DEMURRER     Sustained \_\_\_\_\_  
                      Overruled \_\_\_\_\_

- Grounds \_\_\_\_\_
- Points and authorities to be submitted by \_\_\_\_\_
- Response to be filed by \_\_\_\_\_       Reply to be filed by \_\_\_\_\_
- Judgment Debtor \_\_\_\_\_ sworn and retired with Counsel/Judgment Creditor  
 for examination.     OEX Discharged
- Judgment Debtor failed to appear.     Bench warrant to be issued for the arrest of \_\_\_\_\_
- Bail fixed in the amount of \_\_\_\_\_     Surrender can be any Court Day at 9:00 a.m., in Dept. \_\_\_\_\_
- Judgment Debtor surrendered.
- Judgment Debtor has not shown good cause why he/she should not be held in contempt of Court.
- OSC Re: Contempt be issued as to debtor named above.
- OSC Re: Contempt is discharged as to debtor named above.
- Clerk's Office to send notice.
- Attorney \_\_\_\_\_ prepare order.       Opposing counsel to approve as to form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

05/26/05 09:00 AM      41      met at Stockton, California  
Date                      Dept

Hon. Elizabeth Humphreys  
\_\_\_\_\_  
Judge

CV018440	Clerk: <u>Charlene Gray</u> Reporter/Tape: _____ Bailiff: _____ Interpreter: _____
<input type="checkbox"/> <input type="checkbox"/> [DEFT] Bishop Steven Blaire <input type="checkbox"/> <input type="checkbox"/> [DEFT] The Diocese of Stockton <input type="checkbox"/> <input type="checkbox"/>	VLADIMIR F KOZINA <input type="checkbox"/> PAUL BALESTRACCI <input type="checkbox"/> VLADIMIR F KOZINA <input type="checkbox"/> PAUL BALESTRACCI <input type="checkbox"/> VLADIMIR F KOZINA <input type="checkbox"/> <input type="checkbox"/>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

05/26/05 09:00 AM 41 met at Stockton, California  
Date Dept

Hon. Elizabeth Humphreys  
Judge

CV018440 KATHLEEN MACHADO ET AL  
VS  
FR. JOSEPH ILLO ET AL

Clerk: Charlene Gray  
Reporter/Tape: CARRIE DALL  
Bailiff: CA - N. Maua  
Interpreter:

- [PLTF] Kathleen Machado
- 
- [DEFT] Joseph Illo AKA
- 
- [DEFT] Francis Joseph AKA Joseph Arakal
- [DEFT] Richard Ryan

- Call* ANTHONY BOSKOVICH
- Call* GEORGE J MACKOUL
- VLADIMIR F KOZINA
- PAUL BALESTRACCI
- MICHAEL D COUGHLAN
- PAUL BALESTRACCI

Nature of proceedings: Notice of motion to tax costs;

- Hearing held
- Matter is continued to \_\_\_\_\_ at \_\_\_\_\_ in Dept. \_\_\_\_\_
- Dropped
- Plaintiff duly sworn and testified  Defendant duly sworn and testified
- Witness sworn and testified \_\_\_\_\_
- Tentative Ruling  Remains  Set aside  Matter argued and submitted  Matter taken under submission
- MOTION  GRANTED  DENIED
- DEMURRER  Sustained \_\_\_\_\_  Overruled \_\_\_\_\_

- Grounds \_\_\_\_\_
- Points and authorities to be submitted by \_\_\_\_\_
- Response to be filed by \_\_\_\_\_  Reply to be filed by \_\_\_\_\_
- Judgment Debtor \_\_\_\_\_ sworn and retired with Counsel/Judgment Creditor for examination.  OEX Discharged
- Judgment Debtor failed to appear.  Bench warrant to be issued for the arrest of \_\_\_\_\_
- Bail fixed in the amount of \_\_\_\_\_  Surrender can be any Court Day at 9:00 a.m., in Dept. \_\_\_\_\_
- Judgment Debtor surrendered.
- Judgment Debtor has not shown good cause why he/she should not be held in contempt of Court.
- OSC Re: Contempt be issued as to debtor named above.
- OSC Re: Contempt is discharged as to debtor named above.
- Clerk's Office to send notice.
- Attorney \_\_\_\_\_ prepare order.  Opposing counsel to approve as to form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

05/26/05 09:00 AM

41

met at Stockton, California

Hon. Elizabeth Humphreys

Date

Dept

Judge

CV018440

Clerk: Charlene Gray

Reporter/Tape: \_\_\_\_\_

Bailiff: \_\_\_\_\_

Interpreter: \_\_\_\_\_

[DEFT] Bishop Steven Blaire

[DEFT] The Diocese of Stockton

VLADIMIR F KOZINA

PAUL BALESTRACCI

VLADIMIR F KOZINA

PAUL BALESTRACCI

VLADIMIR F KOZINA

1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**  
A Professional Corporation  
2 2453 Grand Canal Boulevard, Second Floor  
Stockton, California 95207-8253  
3 Telephone (209) 477-3833  
VLADIMIR F. KOZINA, ESQ.  
4 CA State Bar No. 095422

5 **NEUMILLER & BEARDSLEE**  
A Professional Corporation  
6 P.O. Box 20  
Stockton, CA 95201-3020  
7 Telephone: (209)948-8200  
PAUL N. BALESTRACCI  
8 CA State Bar No. 083987

9 Attorneys for Defendants  
FATHER JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP  
10 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON,  
a Corporation Sole  
11



12 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

13  
14 **KATHLEEN MACHADO as an individual** ) **CASE NO. CV018440**  
15 **and as Guardian Ad Litem for RACHEL** )  
**LOMAS and AMBER LOMAS,** ) **NOTICE OF RULING**  
16 ) **[CCP §1019.5]**  
**Plaintiffs,** )  
17 )  
**vs.** )  
18 )  
**FR. JOSEPH ILLO, FR. FRANCIS** )  
19 **JOSEPH aka FR. FRANCIS ARAKAL, FR.** )  
**RICHARD J. RYAN, BISHOP STEVEN** )  
20 **BLAIRE and THE DIOCESE OF** )  
**STOCKTON, et al.,** )  
21 )  
**Defendants.** )  
22 )

23 Plaintiffs' Motion for New Trial came on regularly for hearing on May 17, 2005, in  
24 Department 41 of the above-entitled court with Anthony Boskovich appearing in person for  
25 plaintiffs; George MacKoul appearing by telephone for plaintiffs; Vladimir F. Kozina appearing  
26  
27

1 for Defendants Father Joseph Illo, Monsignor Richard Ryan, Bishop Stephen E. Blaire and the  
2 Roman Catholic Bishop of Stockton; and Michael Coughlan appearing for Fr. Francis Arakal, Jr.

3 The court having heard oral argument by counsel rendered its decision denying plaintiffs'  
4 Motion for a New Trial.

5 Dated: May 17, 2005

**Mayall, Hurley, Knutsen, Smith & Green**

6  
7 By:   
8 VLADIMIR F. KOZINA

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## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN)

I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED: NOTICE OF RULING**

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

GEORGE J. MACKOUL, ESQ.  
SABBAH AND MACKOUL  
49 LOCUST STREET  
FALMOUTH, MASS 02540

ANTHONY BOSKOVICH, ESQ.  
28 NORTH FIRST ST., 6<sup>TH</sup> FLOOR  
SAN JOSE, CA 95113-1210

PAUL N. BALESTRACCI, ESQ.  
NEUMILLER & BEARDSLEE  
P.O. BOX 20  
STOCKTON, CA 95201-3020

MICHAEL COUGHLAN, ESQ.  
LAW OFFICES OF MICHAEL D. COUGHLAN  
3031 W. MARCH LANE, #210 WEST  
STOCKTON, CA 95219

\_\_\_\_\_*BY FACSIMILE* Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.


*BY MAIL*. . I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

\_\_\_\_\_*BY PERSONAL DELIVERY*. I caused such document to be delivered to the party in said action by delivering a true copy thereof to the law offices of the person listed above where indicated (By Personal Service).

*BY EXPRESS MAIL; Overnight Delivery*. I caused a true copy thereof to be delivered by depositing for collection on this same date, a sealed envelope addressed to the person(s) at the address(es) set forth above, into a depository box of the overnight service listed next to each address, at Stockton, California.



1 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
2 Served and executed on May 18, 2005, at Stockton, California.

3   
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5 SHERI SIGMAN  
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

05/17/05 09:00 AM 41 met at Stockton, California  
Date Dept

Hon. Elizabeth Humphreys  
Judge

CV018440 KATHLEEN MACHADO ET AL  
VS  
FR. JOSEPH ILLO ET AL

Clerk: Charlene Gray  
Reporter/Tape: Lyndi Hatch  
- Bailiff: CA - N. Moya  
Interpreter:

- [PLTF] Kathleen Machado
- 
- [DEFT] Joseph Illo AKA
- 
- [DEFT] Francis Joseph AKA Joseph Arakal
- [DEFT] Richard Ryan

- ANTHONY BOSKOVICH
- et Call* - GEORGE J MACKOUL
- VLADIMIR F KOZINA
- PAUL BALESTRACCI
- MICHAEL D COUGHLAN
- PAUL BALESTRACCI

Nature of proceedings: Notice of intention to move for New Trial;

- Hearing held
- Matter is continued to \_\_\_\_\_ at \_\_\_\_\_ in Dept. \_\_\_\_\_
- Dropped
- Plaintiff duly sworn and testified  Defendant duly sworn and testified
- Witness sworn and testified \_\_\_\_\_
- Tentative Ruling  Remains  Set aside  Matter argued and submitted  Matter taken under submission
- MOTION  GRANTED  DENIED
- DEMURRER  Sustained \_\_\_\_\_  Overruled \_\_\_\_\_

See pg. 2

- Grounds \_\_\_\_\_
- Points and authorities to be submitted by \_\_\_\_\_
- Response to be filed by \_\_\_\_\_  Reply to be filed by \_\_\_\_\_
- Judgment Debtor \_\_\_\_\_ sworn and retired with Counsel/Judgment Creditor for examination.  OEX Discharged
- Judgment Debtor failed to appear.  Bench warrant to be issued for the arrest of \_\_\_\_\_
- Bail fixed in the amount of \_\_\_\_\_  Surrender can be any Court Day at 9:00 a.m., in Dept. \_\_\_\_\_
- Judgment Debtor surrendered.
- Judgment Debtor has not shown good cause why he/she should not be held in contempt of Court.
- OSC Re: Contempt be issued as to debtor named above.
- OSC Re: Contempt is discharged as to debtor named above.
- Clerk's Office to send notice.
- Attorney \_\_\_\_\_ prepare order.  Opposing counsel to approve as to form

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

05/17/05 09:00 AM      41      met at Stockton, California  
Date                      Dept

Hon. Elizabeth Humphreys  
\_\_\_\_\_  
Judge

<b>CV018440</b>	Clerk: <u>Charlene Gray</u> Reporter/Tape: _____ Bailiff: _____ Interpreter: _____
<input type="checkbox"/> <input type="checkbox"/> [DEFT] Bishop Steven Blaire <input type="checkbox"/> <input type="checkbox"/> [DEFT] The Diocese of Stockton <input type="checkbox"/> <input type="checkbox"/>	VLADIMIR F KOZINA <input type="checkbox"/> PAUL BALESTRACCI <input type="checkbox"/> VLADIMIR F KOZINA <input type="checkbox"/> PAUL BALESTRACCI <input type="checkbox"/> VLADIMIR F KOZINA <input type="checkbox"/> <input type="checkbox"/>

The Court ruled in open court on Plaintiffs' Motion for New Trial as follows:

- 1) insufficient evidence to justify the verdict. The Court finds there was sufficient evidence to sustain the verdict.
- 2) the claim of error of law at the trial by excluding Nate Baker's testimony. The Court found the district attorney telling his findings in court was inappropriate.
- 3) judicial misconduct or irregularity in proceedings of the Court. The Court allowed counsel to use a questionnaire, appropriated adequate time for voir dire and did not use counsels' allotted time for voir dire.
- 4) insufficient time allowed for closing argument. The Court's allotted time was reasonable. The Court's vacation and schedule were never taken into consideration. The facts of the case were a simple set and were presented to the jury many times. The same facts applied to each cause of action. The verdict form was easy to follow. The Court reviewed the situation at the end of the trial and found the issue of credibility was determined by the jury.

The Motion is denied based on the standard for new trial motion.

1 George J. MacKoul (Bar No. 170586)  
2 SABBAH AND MACKOUL  
3 Attorneys and Counselors at Law  
4 49 Locust Street  
5 Falmouth, Mass 02540  
6 Phone: 508-495-4955  
7 Fax: 508-495-4115

8 Anthony Boskovich  
9 LAW OFFICES OF ANTHONY BOSKOVICH  
10 28 North First Street 6<sup>th</sup> Floor  
11 San Jose, California 95113-1210  
12 Phone: 408-286-5150  
13 Fax: 408-286-5170  
14 Attorneys for the Plaintiffs

15 SUPERIOR COURT IN AND FOR THE COUNTY OF SAN JOAQUIN

16 Kathleen Machado as an individual )  
17 and as Guardian ad Litem for, Rachel )  
18 Lomas and Amber Lomas, )  
19 Plaintiffs, )

20 vs. )

21 Fr. Joseph Illo, Fr. Francis Joseph )  
22 a.k.a. Fr. Francis Arakal, Fr. Richard )  
23 Ryan, Bishop Steven Blaire and The )  
24 Diocese of Stockton and Does 1-100, )  
25 Defendants )

Case No.: CV018440

**PLAINTIFF'S OPPOSITION TO  
DEFENDANT, FR. JOSEPH ILLO'S  
MOTION TO STRIKE  
MEMORANDUM OF COSTS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF  
GEORGE J. MACKOUL.**

**MAY 26, 2005  
9:00 A.M.  
DEPARTMENT 41**

I.

**THE DEFENDANT'S MOTION TO STRIKE COSTS IS REALLY A MOTION TO  
TAX COST, WHICH FAILS TO DIRECT THE COURT TO THE PARTICULAR  
ITEMS COMPLAINED.**

The motion, to strike costs with regard to Amber Lomas, a prevailing party, is not directed to any particular item in the plaintiff's cost bill. **The challenged items must be referred to in the same order they appear in the**

FILED

05 MAY 13 AM 11:43

ROSA JUNQUEIRO, CLERK

BY [Signature]  
DEPUTY

1 cost memorandum CRC 870 (b) (2). Neither the declaration nor the motion  
2 itself argues which costs should or should not apply to Amber Lomas.

3 Based on this alone the motion should be denied.

4 **II.**

5 **EVEN IF THE MOVING PARTY DID SPECIFY WHICH COSTS WERE TO BE**  
6 **TAXED, ALL OF THE COSTS WERE REASONBLY NECESSARY TO**  
7 **CONDUCT THE LITIGATION ON BEHALF OF AMBER LOMAS.**

8 The crux of the defendant motion is that Amber Lomas cannot recover  
9 her costs because some of them are not related to the single cause of action  
10 she prevailed upon, negligent infliction of emotional distress. This is not  
11 correct.

12 First and foremost, as long as the party obtains a "net monetary  
13 recovery" he or she is entitled to recover costs as a matter of right. *Michell v.*  
14 *Olick* (1996) 49 CA4th 1194, 1199.

15 All of the costs listed in the plaintiff's cost bill are either directly related  
16 or indirectly related to establish proof of the negligent infliction of emotional  
17 distress claim against Fr. Illo.

18 The most important aspect of plaintiff's case was the purported cover up  
19 with regard to the reporting of sexual abuse of Rachel by Amber to Fr. Illo, in  
20 the presence of Fr. Arakal on September 11, 2001. Just because the jury did  
21 not believe that Fr. Arakal committed a sexual battery on Rachel does not  
22 mean that the jury did *not* believe that Amber made a report of abuse to Fr. Illo  
23 on September 11, 2001. Otherwise why would they have awarded \$20,000.00  
24 for negligent infliction of emotional distress?

25 As the court may recall, plaintiff's had to file (9) motions to compel,  
because Fr. Illo's counsel would not even release non privileged information

1 during discovery. They further frustrated plaintiff discovery efforts by relying  
2 on the "ecclesiastical" privilege, which this court held did not exist.

3 Some of the information withheld were the statements of percipient  
4 witnesses to the September 11, 2001 incident, including but not limited to  
5 Anna Lopez, Rosario Hernandez, Mary Mullins, Owen Kummerle and Yvonne  
6 McGlaughlin. Finally plaintiff's "damages" witnesses, including Dr. Sonnie  
7 Weedn and Diane Stevens M.F.C.C. were necessary to prove plaintiff emotional  
8 distress damages, which the jury did award to Amber.

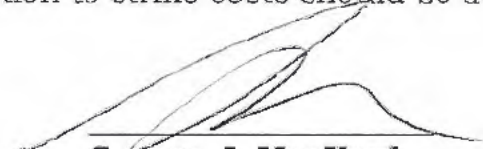
9 The balance of the depositions, including Eva Kritzman, Elaine Shields,  
10 Fr. Illo, Fr. Arakal, Bishop Blaire and Msg. Ryan were all-necessary as the each  
11 had either direct or indirect knowledge about the facts before, during and after  
12 September 11, 2001.

13 C.C.P. 1033.5 (c) (1) allows costs if incurred by the prevailing party, while  
14 C.C.P. 1033.5 (c) (2) (3) allow costs, which are reasonably necessary to the  
15 conduct of the litigation.

16 In addition, the jury fees, service of process fees and witness fees, were  
17 all reasonable and necessary to prove the negligent infliction of emotional  
18 distress defense claim.

19 Based on the foregoing, the motion to strike costs should be denied.

20 Dated: May 12, 2005

21   
22 **George J. MacKoul**  
23 **SABBAH & MACKOUL**  
24 **ATTORNEY FOR THE PLAINTIFFS**

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**DECLARATION OF GEORGE J. MACKOUL**

I George J. MacKoul declare and state:

1. I am attorney of record for all of the plaintiffs in the above captioned matter. As such, I am responsible for the day to day handling of this file. If called to testify, I would and could state from my own personal knowledge the following facts
2. All of the costs set forth in the plaintiff's cost memorandum on file with this court on April 18, 2005, were reasonable and necessary for either proving directly or indirectly the acts of Fr. Illo and Fr Arakal with respect to the September 11, 2001 incident with Amber Lomas which the jury found said defendants to have committed emotional distress upon the plaintiff, by way of liability or damages.

**I DECLARE UNDER THE PAINS AND PENALTIES OF PURGERY THE FORGOING TO BE TRUE AND CORRECT**

**Date: May 12, 2005**

  
George J. MacKoul

PROOF OF SERVICE

COMMONWEALTH OF MASSACHUSETTS  
BARNSTABLE COUNTY

I am employed in the County of Barnstable, Commonwealth of Massachusetts. I am over the age of 18 and not a party to the within action; my business address is 49 Locust Street, Falmouth Massachusetts 02540

On May 12, 2005, I served the within: **PLAINTIFF'S OPPOSITION TO DEFENDANT, FR. JOSEPH ILLO'S MOTION TO STRIKE MEMORANDUM OF COSTS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF GEORGE J. MACKOUL.**

by placing the documents(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Falmouth, Massachusetts addressed as set forth below. (To Mr. Boskovich AND Coughlin only).

by placing the documents(s) listed above in a sealed envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to an overnight carrier for delivery TO Mr. Kosina.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by facsimile to the to the person(s) listed below.

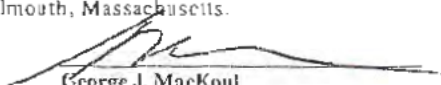
Mr. Vladimir F. Kozina  
Attorney at Law  
Mayall, Hurley, Knutsen, Smith & Green  
2453 Grand Canal Boulevard  
Second Floor  
Stockton, California 95207-8253

Michael D. Coughlan  
Attorney at Law  
Coughlan & O'Rourke L.L.P.  
3031 W. March Lane, Suite 210 West  
Stockton, California 95219

Mr. Anthony Boskovich  
Law Offices of Anthony Boskovich  
28 North First Street  
Sixth Floor  
San Jose, California 95113-1210

I declare under penalty of perjury under the laws of the Commonwealth of Massachusetts that the above is true and correct.

Executed on May 12, 2005 at Falmouth, Massachusetts.

  
George J. MacKoul



1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**  
A Professional Corporation  
2 2453 Grand Canal Boulevard, Second Floor  
Stockton, California 95207-8253  
3 Telephone (209) 477-3833  
4 **VLADIMIR F. KOZINA, ESQ.**  
CA State Bar No. 095422  
5 **MICHAEL L. PHILLIPS, ESQ.**  
CA State Bar No. 232978

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MAY 24 2005  
BY \_\_\_\_\_

6 **NEUMILLER & BEARDSLEE**  
A Professional Corporation  
7 P.O. Box 20  
Stockton, CA 95201-3020  
8 Telephone: (209)948-8200  
9 **PAUL N. BALESTRACCI**  
CA State Bar No. 083987

10 Attorneys for Defendants  
Father Joseph Illo, Monsignor Richard J. Ryan, Bishop  
11 Stephen E. Blaire, And The Roman Catholic Bishop Of Stockton,  
a Corporation Sole

12  
13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

14  
15 **KATHLEEN MACHADO AS AN INDIVIDUAL) CASE No. CV018440**  
16 **AND AS GUARDIAN AD LITEM FOR RACHEL )**  
**LOMAS AND AMBER LOMAS, ) DEFENDANTS' OPPOSITION TO PLAINTIFFS'**  
17 **) MOTION TO TAX COSTS**  
**Plaintiffs, )**  
18 **) DATE: MAY 24, 2005**  
**vs. ) TIME: 9:00 A.M.**  
19 **) DEPARTMENT: 41**  
**FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA ) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**  
20 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, )**  
**BISHOP STEVEN BLAIRE AND THE DIOCESE )**  
21 **OF STOCKTON, ET AL., )**  
22 **Defendants. )**  
23 **)**

24 Defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD RYAN, BISHOP  
25 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON, a  
26 Corporation Sole (Hereinafter collectively referred to as DEFENDANTS), herein opposes  
27 Plaintiff's Motion to Tax Costs.

28 DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO TAX COSTS

1           **A. Filing and Motion Fees –**

2           Plaintiffs contest the filing fee associated with the motion to strike punitive damages as to  
3 THE ROMAN CATHOLIC BISHOP OF STOCKTON as not reasonably necessary to conduct  
4 this litigation. Plaintiff also incorrectly states that the motion to strike punitive damages was  
5 filed on behalf of a party who did not file a cost bill. The memorandum of costs was filed and  
6 served on behalf of FATHER JOSEPH ILLO, MONSIGNOR RICHARD RYAN, BISHOP  
7 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON, a  
8 Corporation Sole, collectively. Plaintiff does correctly state that as a general rule filing fees are  
9 recoverable costs. California Code of Civil Procedure §1033.5. In addition, the motion to strike  
10 punitive damages filed by THE ROMAN CATHOLIC BISHOP OF STOCKTON was necessary  
11 to this litigation because as a matter of law plaintiffs were not entitled to recover punitive  
12 damages from THE ROMAN CATHOLIC BISHOP OF STOCKTON. As such, DEFENDANTS  
13 are entitled to recover the filing fee associated with their motion to strike punitive damage.  
14

15           Plaintiffs also contest the filing fee associated with DEFENDANTS' motion to continue  
16 the trial. As stated above, as a general rule filing fees are recoverable costs. California Code of  
17 Civil Procedure §1033.5. The law is clear, and has been previously briefed to this court, that  
18 DEFENDANTS are entitled to counsel of their choosing. At the time this motion was filed trial  
19 counsel for DEFENDANTS had a conflict that would have precluded him from being present  
20 during the scheduled trial in this matter. As such, it was necessary for DEFENDANTS to file a  
21 motion to continue the trial. The fact that the motion was subsequently withdrawn due to the  
22 conflict resolving is immaterial. DEFENDANTS are entitled to recover the costs associated with  
23 filing this necessary motion.  
24

25 //

26 //

1 **B. Deposition Costs:**

2 DEFENDANTS are entitled to the costs associated with preparing a transcript of the  
3 deposition of Dr. Roger Katz. At the time of the deposition Dr. Katz was an expert retained by  
4 defendant FATHER FRANCIS ARAKAL, it was not until the deposition had been completed  
5 that Dr. Katz was withdrawn as an expert. In order to protect the rights of DEFENDANTS in this  
6 matter, it was necessary to have a transcript of the deposition of Dr. Katz prepared as there was  
7 no way for DEFENDANTS to know he would be withdrawn as an expert and would not be  
8 testifying during the course of this trial. As such, the costs associated with preparing the  
9 transcript of his deposition are recoverable under California Code of Civil Procedure §1033.5.

10 **C. Witness Fees**

11 DEFENDANTS agree that witness fees for Diane Stephens, Donna Yarnell, and Norman  
12 Schmidt are not recoverable. However, those fees paid to Ed Tobias are recoverable. Ed Tobias  
13 attended and testified during the course of this trial and therefore was entitled to receive ordinary  
14 witness fees and DEFENDANTS are entitled to reimbursement of those fees from  
15 DEFENDANTS.  
16  
17

18 **D. Expert Witness Fees**

19 DEFENDANTS are entitled to their expert witness fees under California Code of Civil  
20 Procedure §998 as described in the memorandum of costs. Plaintiff cites numerous points of  
21 authority for the proposition that a settlement offer pursuant to Section 998 must be reasonable  
22 and in good faith. DEFENDANTS do not dispute such authority. However, the offers made to  
23 all plaintiffs in this matter were in good faith and reasonable in light of the circumstances facing  
24 both parties. DEFENDANTS had evidence that no sexual molestation of any sort had occurred  
25 and that any claim of intentional infliction of emotional distress was fabricated by KATHLEEN  
26 MACHADO. In light of this evidence DEFENDANTS felt confident they could prevail in a jury  
27

1 trial in this matter and, in fact, did prevail on all counts as to KATHLEEN MACHADO and  
2 RACHEL LOMAS and five of the six counts as to AMBER LOMAS. The only recovery by  
3 plaintiffs in this matter was in the amount of \$20,000.00 by AMBER LOMAS on her claim of  
4 negligent infliction of emotional distress. The jury verdicts in this matter therefore support  
5 DEFENDANTS view of virtually no liability to plaintiffs. As such, the combined settlement  
6 offers to plaintiffs totaling \$100,000.00 were in good faith and reasonable given the evidence  
7 circumstances of this case at the time the offers were made. Therefore, pursuant to California  
8 Code of Civil Procedure §998, DEFENDANTS are entitled to recover their expert witness fees as  
9 outlined in the memorandum of costs.  
10

11 **E. Jury Questionnaire Copies**

12 The costs associated with preparing copies of the jury questionnaires used in this matter  
13 are recoverable under California Code of Civil Procedure §1033.5 because the use of such  
14 questionnaires was reasonably necessary to conduct this litigation.  
15

16 In order to facilitate selection of a fair and impartial jury, the court ordered prospective  
17 jurors to complete a written questionnaire in advance of voir dire pursuant to California Rules of  
18 Court Rule 228. The use of jury questionnaires was necessary to aid in selecting a jury to decide  
19 this matter because this case was one that involved sensitive issues and had already been placed  
20 under public scrutiny by the media. In order to select an impartial jury, preliminary  
21 questionnaires were used to aid the court and counsel in determining whether or not any of the  
22 prospective jurors had preconceived notions about the specific facts of this case or issues  
23 involving child molestation or religious faith in general. The use of questionnaires is permitted  
24 under the Rules of Court and the Code of Civil Procedure and were implemented here in order to  
25 aid in efficiently selecting an impartial jury. As such, the cost associated with preparing copies  
26  
27

1 of these questionnaires as outlined in the memorandum of costs is recoverable under California  
2 Code of Civil Procedure §1033.5.

3 Dated: May 1, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

4  
5 By: 

VLADIMIR F. KOZINA

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN}

I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED:** DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO TAX COSTS

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

GEORGE J. MACKOUL, ESQ. Via Federal Express  
SABBAH AND MACKOUL  
49 LOCUST STREET  
FALMOUTH, MASS 02540

ANTHONY BOSKOVICH, ESQ. Via California Overnight  
28 NORTH FIRST ST., 6<sup>TH</sup> FLOOR  
SAN JOSE, CA 95113-1210

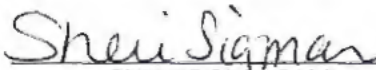
PAUL N. BALESTRACCI, ESQ.  
NEUMILLER & BEARDSLEE  
P.O. BOX 20  
STOCKTON, CA 95201-3020

MICHAEL COUGHLAN, ESQ. Via California Overnight  
LAW OFFICES OF MICHAEL D. COUGHLAN  
3031 W. MARCH LANE, #210 WEST  
STOCKTON, CA 95219

\_\_\_\_ BY FACSIMILE Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.

xx BY MAIL. . I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Served and executed on May 4, 2005, at Stockton, California.

  
SHERI SIGMAN

1 MICHAEL D. COUGHLAN, SBN 124398  
2 ATTORNEY AT LAW  
3 3031 W. MARCH LN., SUITE 210 WEST  
4 STOCKTON, CA 95219  
5 (209)952-3878

6 Attorneys for Defendant FR. FRANCIS ARAKAL JOSEPH

cy  
Filed                      MAY 4 2005  
ROSA JUNQUEIRO, CLERK  
By Charlene Gray  
DEPUTY

7  
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN  
9

10 KATHLEEN MACHADO, et al,  
11 Plaintiffs,  
12 vs.  
13 FR. JOSEPH ILLO, et al,  
14 Defendants

) Case No.: CV018440  
)  
) **OPPOSITION OF DEFENDANT FR.**  
) **FRANCIS ARAKAL JOSEPH TO**  
) **PLAINTIFFS' MOTION FOR NEW**  
) **TRIAL**  
)  
) **Date: May 17, 2005**  
) **Time: 9:00 a.m.**  
) **Department: 41**  
)  
)  
)

15  
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17  
18 **INTRODUCTION**

19 By their motion for new trial plaintiffs seek to undue the decision of a jury of twelve  
20 citizens of San Joaquin County who heard three weeks of testimony following a week of pretrial  
21 motions in limine. Plaintiffs bring forth no evidence in support of the motion and instead rely on  
22 speculation and conjecture to bolster their contentions that the verdict, produced after over 11  
23 hours of deliberation, was the result of a combination of errors and/or abuse of discretion by the  
24 trial judge coupled with apparent misconduct on the part of the presiding juror. As will be  
25 discussed herein, there was no irregularity in the proceedings arising from either the rulings of  
26

1 the court or conduct of the jury. Furthermore, the plaintiffs having raised no objection to the  
2 alleged irregularities during trial have waived any grounds for new trial. Based upon the totality  
3 of the evidence, the verdict is proper, and should not be vacated to any degree.

4 II

5 **POINTS AND AUTHORITIES**

6  
7 **A. PLAINTIFFS DID NOT RAISE OBJECTIONS TO THE TIME LIMITS**  
8 **IMPOSED BY THE COURT FOR VOIR DIRE AND CLOSING ARGUMENT**

9 Plaintiffs allege that they were prejudiced and that the verdict should be set aside due to  
10 irregularity in the proceedings arising from the allegedly inadequate time to prepare for and  
11 conduct jury selection and to deliver closing argument. While their motion states that the court  
12 allowed the use of a jury questionnaire over their objection, they avoid any similar contention  
13 concerning the time limit imposed by the court relating to the actual questioning of jurors in the  
14 courtroom due to the fact that they remained silent and made no formal objection at that time.

15 In point of fact, the only attorney raising objection to the time provided to conduct voir  
16 dire, was counsel for the defendants Diocese, et al, who did formally complain to the judge in  
17 chambers immediately prior to the start of voir dire, based upon instances of apparent bias of  
18 several prospective jurors raised in the questionnaires. Plaintiff's counsel made no formal  
19 objection to the voir dire process, and likewise made no record of any problem that they may  
20 have had concerning the time limits imposed for closing argument.

21 California law is clear that a party may not remain quiet taking his chances on a favorable  
22 verdict, and after verdict against him, raise the point of which he knew, and which he could have  
23 raised during progress of the trial, as basis for new trial. *Gray v Robinson (1939) 33 CalApp2d*  
24 *77, 91P2d 194*. The party aggrieved by an error in procedure should seek relief at the earliest  
25 possible moment, by objection, request for mistrial, or continuance. If instead he awaits the  
26



1 outcome of the trial and falls back on the new trial motion, the judge may properly deny the  
2 motion. *Sepulveda v Ishimaru (1957) 149 CalApp2d 543,547*

3 Plaintiffs having chosen to not to make any record by objecting to what they now  
4 characterize as irregularity in the trial based upon the time limits for jury selection and closing  
5 argument have waived any right to complain, and it should be noted that had they and the  
6 defense counsel simply checked with the court clerk on the day that the jury completed the  
7 questionnaires, the order of selection of the jurors would have been made available to them for  
8 use the next morning. Their failure to exercise reasonable diligence should not upset the jury  
9 verdict.  
10

11 With regard to the closing arguments, each of the defense lawyers were able to argue  
12 their respective cases in 30 minutes, and did not require the one hour and 15 minutes allocated by  
13 the court. Regardless, the trial court judge has discretion to do so and may set and enforce  
14 reasonable time limits on the attorneys' closing arguments. *Eley v Currzon (1953)121 CalApp2d*  
15 *280; Bates v Newman (1953)121 CalApp2d 800*. Again, the tactical decision of the plaintiff  
16 attorneys on how to allocate the timing of their argument does not render the time granted by the  
17 court unreasonable and result in an irregularity of the proceeding justifying the retrial of the case.  
18

19 **B. PLAINTIFFS FAIL TO ESTABLISH THAT THE VERDICT WAS THE**  
20 **RESULT OF PREJUDICIAL ERROR**

21 The trial court has broad discretion in considering a motion for a new trial. *Caldwell v*  
22 *Paramount Unified School District (1995) 41 CalApp4th 189*, and a new trial motion will not be  
23 granted based upon an abuse of discretion of the trial court if there is no evidence that such abuse  
24 prejudiced the jury and if the evidence in the case is sufficient to sustain the verdict. *Sheehan v*  
25 *Hammond (1905) 2 CalApp 371,375*. Prejudicial error is the basis for a new trial but the court  
26

1 has no discretion to grant a new trial motion for harmless error. *Osborne v Cal-Am Financial*  
2 *Corp. (1978) 80CalApp3d 259,265-66.* Pursuant to California law, the trial court is expressly  
3 enjoined by Article VI of the California Constitution from granting a new trial for error in law  
4 unless such error is prejudicial. If it clearly appears that the error could not have affected the  
5 outcome of the trial, court is bound to deny the motion. *Bristow v Ferguson (1981)121CalApp3d*  
6 *823,826.*

7  
8 Plaintiffs by their motion seek to attack the verdict by establishing that they lacked the  
9 opportunity to question juror Jeffrey McMahan, who went on to become presiding juror, and  
10 who (along with almost every other juror) voted against them on virtually every issue. Plaintiffs  
11 conveniently forget that Mr. McMahan, like several other prospective jurors by both sides, was  
12 the subject of a challenge for cause that was denied by the court. Plaintiff's argument that  
13 additional time to review the questionnaires would have resulted in Mr. McMahan's exclusion  
14 by preemptory challenge is simply without merit, as having had sufficient information to mount  
15 their unsuccessful challenge for cause; they clearly had some knowledge of what they were  
16 getting. That they chose not to exercise a peremptory challenge on this or any other juror is  
17 simply a tactical decision made by attorneys in all cases. Again, having failed to make a record  
18 of their concern, their objection is simply too late.

19  
20 Despite plaintiffs' speculation that Mr. McMahan, who had only one vote, was biased  
21 against their clients, they offer absolutely no evidence to support their attack on his character,  
22 and in the absence of a showing of prejudice from an alleged irregularity in impaneling a juror  
23 with concealed bias or prejudice, a motion for new trial is properly denied. *City of Pleasant Hill*  
24 *v First Baptist Church (1969)1CalApp3d 384,432-33.*

1 Plaintiffs next argue that the exclusion of Stanislaus Deputy District Attorney Nate Baker  
2 pursuant to motion in limine, somehow prevented them from having a fair trial. Plaintiffs forget  
3 that the motion sought not the exclusion of Mr. Baker's testimony, but only his improper,  
4 irrelevant and highly prejudicial personal/expert opinions concerning the credibility of the  
5 plaintiff's claims and the lack thereof of the defense position. In short, plaintiffs sought to allow  
6 Mr. Baker to simply tell the jury what testimony they should believe.  
7

8 Plaintiffs, neither at the time of their opposition to the in limine motion or in the present  
9 version, cite any authority that the Court, in ruling that neither side could introduce opinion  
10 evidence concerning the failure to prosecute Fr. Arakal, a ruling that cut both ways, was  
11 incorrect on the law. In actuality, the Court's exclusion of any such evidence concerning the  
12 irrelevant thought process of law enforcement officials based upon Evidence Code sections 352  
13 and 801 was a correct exercise of its inherent discretion, and the trial court has no discretion to  
14 grant new trial unless the original ruling as a matter of law was erroneous. *Ramirez v USAA Cas.*  
15 *Ins. Co.(1991)234CalApp3d 391.*

16 In addition, although plaintiffs' counsel had at one point suggested a special jury  
17 instruction concerning the differing standards of proof in civil and criminal proceedings, none  
18 was ever offered. Again, their complaint now raised in hindsight by the present motion, is simply  
19 too late.  
20

21 That the Court allowed the introduction of evidence from Detective Bali, who testified  
22 that the defendant Diocese had contacted law enforcement officials and requested that they  
23 conduct an investigation of defendant Arakal, was likewise a correct exercise of discretion based  
24 upon the allegations in the plaintiffs' complaint. Plaintiffs seem to forget that it is they who sued  
25 the Diocese alleging that it had responded improperly to the alleged complaints of child abuse by  
26

1 Fr. Arakal. It was likewise the plaintiffs who spent excessive amounts of time eliciting evidence  
2 relating to the Diocese' child abuse policies leaving the court no choice but to allow the defense  
3 evidence in the form of Bali's testimony concerning the Diocese' response to the allegations.

4 While Bali's testimony may have implied to the jury that Fr. Arakal had not been charged with a  
5 crime, the same point was well evidenced by Arakal's mere presence in the courtroom as a free  
6 man along with and his continued employment as a priest. Pursuant to the Court's ruling, counsel  
7 for defendant Arakal never even suggested that his client had been cleared by law enforcement  
8 officials; did not call Bali as a witness, and did not ask him a single question during trial.  
9

10 Regardless, plaintiffs have again totally failed to establish that the Court's limitations (he  
11 was never excluded) on Mr. Baker's testimony had any affect on the jury's verdict, and the court  
12 is not required to grant a new trial motion for alleged error in excluding evidence when it is  
13 extremely unlikely that a different result would have accrued from the admission of the evidence.  
14 *Dankert v Lamb Finance Co.(1956)146CalApp2d 499*. There being no evidence to suggest any  
15 error by the court, let alone one resulting in prejudice affecting the outcome of the trial,  
16 plaintiffs' motion must be denied.

17 **C.PLAINTIFF AMBER LOMAS HAS FAILED TO ESTABLISH THAT THE**  
18 **DAMAGES AWARDED WERE INADEQUATE**

19 Plaintiff Amber Lomas was awarded the amount of \$20,000 for negligent infliction of  
20 emotional distress and now complains that these damages were inadequate justifying a new trial.  
21 In actuality, based upon the jury's findings that no sexual battery, battery or any form of  
22 intentional conduct was committed by the defendants in this action, it is they who should  
23 question the damage award, which in effect compensates the plaintiff for making very serious  
24 allegations, which the same jury unanimously found to be false and without merit. In short, the  
25  
26

1 question must be raised as to why Amber Lomas should receive any compensation for making  
2 false allegations that Fr. Arakal committed a serious crime.

3 Code of Civil Procedure Section 657 sets forth the standards for new trial motions, and  
4 states in pertinent part that:

5 ...” A new trial shall not be granted upon ground of insufficiency of evidence  
6 of the evidence to justify the verdict or other decision, nor upon the ground of  
7 excessive or inadequate damages, unless after weighing the evidence from the  
8 entire record, including reasonable inferences therefrom, that the court or  
9 jury clearly should have reached a different verdict or decision.”

10 Beyond the obvious inconsistency in the award of any damages to a plaintiff in these  
11 circumstances, regardless of her youth, a review of the evidence reveals that contrary to  
12 plaintiff's allegations, the damages as awarded are more than adequate. While plaintiff points to  
13 the testimony of Dr. Sonnee Delight Weedn in support of her position, the testimony of this  
14 handpicked expert witness failed to establish any set amount of special damages, and instead  
15 produced nothing more than an estimated range of hourly charges for therapy, which the plaintiff  
16 might possibly need in the future. In support of her position plaintiff relies on the case of  
17 Gallantine v Richardson (1967) 248 CalApp2d 152; however, as is reflected in plaintiff's own  
18 moving papers, in that case, the jury awarded plaintiff the exact amount of special damages ,  
19 which is clearly not the case in the present matter, in which an exact amount of such damages  
20 was never even approached through the evidence.

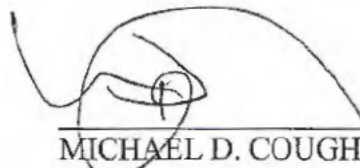
21 It should also be noted that the award arose not from a finding that Amber was the victim  
22 of child molestation, but that she was allegedly traumatized by a single episode involving two  
23 adults who quite reasonably and understandably questioned her credibility, found to be lacking  
24 by the same jury. In short, while Amber may have become upset at having her honesty called  
25 into question, evidence at trial established that within a few hours after the incident, she had  
26

1 recovered to the point that her self admitted over protective mother saw fit to return to work and  
2 allow her "traumatized child" to spend the day at the home of her babysitter, without the need for  
3 any medical and/or psychological treatment.

4 The trial court exercises broad discretion in granting a new trial on grounds of  
5 insufficiency of damages, *Hughes v Schwartz (1942) 51CalApp2d 362*, and after a review of the  
6 total record in this case, it is clear that if anything, plaintiff Amber Lomas was over compensated  
7 in this action. Plaintiffs cite no authority requiring new trial on the inadequacy of damages, and  
8 the court should not alter the verdict of the jury.  
9

10 For the aforementioned reasons, plaintiffs' motion for new trial should be denied and the  
11 verdict left undisturbed.

12  
13 DATED: May 3, 2005

  
\_\_\_\_\_  
MICHAEL D. COUGHLAN  
Attorney for Defendant  
FR. FRANCIS ARAKAL JOSEPH

1 PROOF OF SERVICE BY OVERNIGHT DELIEVERY SERVICE

2  
3 STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN

4 I am employed in the County of San Joaquin, State of California.  
5 I am over the age of 18 years and not a party to the within action.  
6 My business address is 3031 W. March Lane, Suite 210 West, Stockton,  
California 95219.

7 On May 4, 2005, I caused to be served the foregoing:  
8 **Opposition to Plaintiffs' Motion for New Trial**

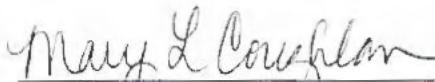
9 On the parties set forth below by placing a true and correct copy of the document(s) listed  
10 above enclosed in sealed envelope(s) and causing said envelope(s) to be delivered to an  
overnight delivery carrier with delivery fees provided for addressed to the following  
11 person(s) on whom it was served

11 George J. MacKoul, Esq.  
12 Sabbah & MacKoul  
49 W. Locust St  
13 Falmouth, Massachusetts 02540

14 Anthony Boskovich, Esq.  
15 Law Offices of Anthony Boskovich  
28 N. First Street, 6<sup>th</sup> Floor  
16 San Jose, CA 95113

17 I declare under penalty of perjury under the laws of the  
18 State of California that the above is true and correct.

19 Executed on May 4, 2005, at Stockton, California.

20  
21   
22 Mary W. Coughlan

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PROOF OF SERVICE BY MAIL  
CCP SECTION 1013(a) (3)

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN

I am employed in the County of San Joaquin, State of California. I am over the age of 18 years and not a party to the within action. My business address is 3031 W. March Lane, Suite 210 West, Stockton, California 95219.

On May 4, 2005, I served the attached:

**Defendant's Opposition to Plaintiffs' Motion for New trial**

By placing true copies thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Vladimir F. Kozina, Esq.  
Mayall, Hurley et al  
2453 Grand Canal, 2<sup>nd</sup> Floor  
Stockton, CA 95207

Paul N. Balestracci, Esq.  
Neumiller & Beardslee  
P.O. Box 20  
Stockton, CA 95201

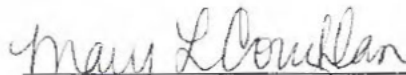
**BY MAIL:**

I caused such envelope to be deposited in the mail at Stockton, California. I am readily familiar with the firm's practice for the collection and processing of correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business.

I deposited such envelope in the mail at Stockton, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 4, 2005, at Stockton, California.

  
\_\_\_\_\_  
Mary L. Coughlan



1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**  
A Professional Corporation  
2 2453 Grand Canal Boulevard, Second Floor  
Stockton, California 95207-8253  
3 Telephone (209) 477-3833  
VLADIMIR F. KOZINA, ESQ.  
4 CA State Bar No. 095422  
MICHAEL L. PHILLIPS, ESQ.  
5 CA State Bar No. 232978

PG  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN  
2005 MAY -6 AM 11:46  
Rita L. Young

6 **NEUMILLER & BEARDSLEE**  
A Professional Corporation  
7 P.O. Box 20  
Stockton, CA 95201-3020  
8 Telephone: (209)948-8200  
PAUL N. BALESTRACCI  
9 CA State Bar No. 083987

10 Attorneys for Defendants  
Father Joseph Illo, Monsignor Richard J. Ryan, Bishop  
11 Stephen E. Blaire, And The Roman Catholic Bishop Of Stockton,  
a Corporation Sole  
12

13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
14

15 **KATHLEEN MACHADO AS AN INDIVIDUAL ) CASE No. CV018440**  
16 **AND AS GUARDIAN AD LITEM FOR RACHEL )**  
**LOMAS AND AMBER LOMAS, ) DEFENDANTS' OPPOSITION TO PLAINTIFFS'**  
17 **Plaintiffs, ) MOTION FOR NEW TRIAL**  
**vs. ) DATE: MAY 17 2005**  
18 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA ) TIME: 9:00 A.M.**  
19 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, ) DEPARTMENT: 41**  
20 **BISHOP STEVEN BLAIRE AND THE DIOCESE ) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**  
21 **OF STOCKTON, ET AL., )**  
22 **Defendants. )**  
23 **)**

24 Defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD RYAN, BISHOP  
25 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON, a  
26 Corporation Sole (Hereinafter collectively referred to as DEFENDANTS), herein opposes  
27 Plaintiffs' motion for new trial.

28 DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR NEW TRIAL

ARGUMENT

A. AMBER LOMAS IS NOT ENTITLED TO A NEW TRIAL BASED ON A CLAIM OF INADEQUATE DAMAGES

AMBER LOMAS is seeking a new trial on her claims for negligent and intentional infliction of emotional distress based on the jury returning a verdict that included \$20,000 in special damages and no award of general damages. The crux of plaintiffs' argument is that based on AMBER LOMAS' testimony she was clearly disturbed by the events at the church on September 11, 2001 and should therefore be entitled to an award of general damages for emotional distress. This is not an adequate basis for an award of a new trial. A new trial cannot be ordered merely because a dissatisfied litigant requests it. Cronk v. Cronk (1962) 210 Cal.App.2d 502.

A verdict for the exact amount of medical expenses, or for a less amount, is not necessarily inadequate as a matter of law if there is a conflict as to whether the plaintiff suffered any substantial injury or pain. Randles v. Lowry (1970) 4 Cal.App.3d 68, 73-74, Miller v. San Diego Gas & Elec. Co. (1963) 212 Cal.App.2d 555, 558. The evidence presented to the jury in this matter was conflicted regarding whether or not AMBER LOMAS suffered any substantial injury or pain. After consideration of this evidence the jury in this case returned a verdict in favor of AMEBR LOMAS in an amount commiserate with plaintiff's expert's testimony regarding the costs associated with potential future psychological treatment. The jury's failure to award any amount of compensation for pain and suffering to AMBER LOMAS is not a sufficient ground for awarding a new trial. The jury was not required to believe that AMBER LOMAS in fact suffered any substantial pain or suffering and chose not to award her any general damages.

The "factual question of compensation [is] a matter long within the exclusive province of the jury." Bigboy v. County of San Diego (1984) 154 Cal.App.3d 397, 405. "The judge is not

1 permitted to substitute his [or her] judgment for that of the jury on the question of damages  
2 unless it appears from the record the jury verdict was improper." Id. at 406. The trial court may  
3 grant a new trial only if "after weighing the evidence the court is convinced from the entire  
4 record, including reasonable inferences therefrom, that the ... jury clearly should have reached a  
5 different verdict or decision." California Code of Civil Procedure Section 657.

6 "It is the province of the jury, and then of the trial court, upon motion for new trial, to  
7 determine and fix the amount of damages awarded a litigant. They have the witnesses before  
8 them and can weigh and consider all the circumstances of the case. All presumptions are in favor  
9 of the correctness of the judgment." In addition, it is said that pain and suffering have no market  
10 price. They are not capable of being exactly and accurately determined and there is no fixed rule  
11 or standard whereby damages for them can be measured. Hence, the amount of damages awarded  
12 for them must be left to the judgment of the jury, subject only to correction by the courts for  
13 abuse and passionate exercise. 15 American Jurisprudence, page 482, section 72. The jury in  
14 this matter had all the witnesses and evidence in front of them and awarded AMBER LOMAS  
15 \$20,000 in special damages and determined that she was not entitled to any award of general  
16 damages for pain and suffering.  
17  
18

19 AMBER LOMAS is not entitled to general damages as a matter of law. The trial court  
20 should not grant AMBER LOMAS a new trial based on inadequate damages because the  
21 evidence does not clearly show that the jury should have reached a different verdict. In light of  
22 all the evidence presented, it is not clear that the jury erred by not awarding any amount for  
23 general damages to AMBER LOMAS.  
24

25 **B. PLAINTIFFS ARE NOT ENTITLED TO A NEW TRIAL BASED ON THE**  
**COURT'S EXCLUSION OF TESTIMONY FROM NATE BAKER**

26 It is well established law that an erroneous ruling by the court in excluding certain  
27 testimony, is not ground for a new trial where, from the mode of submission to the jury and their  
28 DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR NEW TRIAL

1 finding, it is evident that the testimony offered could have had no influence on the verdict.  
2 Carpenter v. Norris (1862) 20 Cal 437. In addition, as explained by plaintiffs in their moving  
3 papers, while admission of relevant and material evidence should not be hindered, the adversary  
4 system must give way to reasonable restraints. In re Ferguson (1971) 5 Cal.3d 525, 531. As  
5 outlined in the motion in limine filed by defendant FATHER FRANCIS ARAKAL, the proposed  
6 testimony of Stanislaus County Deputy District Attorney Nate Baker was not within the scope of  
7 admissible expert testimony and had no relevance to the present matter. As such, the court was  
8 within its discretion to exclude such irrelevant and immaterial evidence under Evidence Code  
9 Sections 801 and 352.

11 To properly be the subject of expert testimony, a topic must be "sufficiently beyond  
12 common experience [so] that the opinion of an expert would assist the trier of fact." California  
13 Evidence Code Section 801(a). It is well established law that the functions of the jury include the  
14 determination of the credibility of the witnesses, the weighing of the evidence, and the drawing  
15 of justifiable inferences of fact from proven facts. People v. Ross (1953) 120 Cal.App.2d 882,  
16 886. When the trier of fact is able to draw a conclusion from the facts testified to as easily and  
17 intelligently as the expert could, expert testimony is not admissible. McCleery v. City of  
18 Bakersfield (1985) 170 CA3d 1059, 1074; People v. Valdez (1997) 58 Cal.App.4<sup>th</sup> 494.

20 Nate Baker had the benefit of reviewing a substantial amount of evidence in order to  
21 determine whether or not criminal charges would be filed against FATHER FRANCIS  
22 ARAKAL. Following his review of this evidence, he made an administrative decision not to  
23 prosecute based on his assessment of how a jury would react to the case. As such, Nate Baker  
24 could not have offered any opinion on any subject that is beyond the common experience of the  
25 jurors who ultimately arrived at their own opinions based on the same evidence. In addition, any  
26 opinion from Nate Baker regarding the guilt or innocence of FATHER FRANCIS ARAKAL  
27

1 would have been inadmissible; an expert opinion that a defendant is guilty of the charged crime is  
2 not admissible. People v. Coffman (2004) 34 Cal 4<sup>th</sup> 1.

3 Pursuant to Evidence Code Section 352 the court was within its discretion to preclude any  
4 testimony from Nate Baker. Testimony from Nate Baker regarding his personal belief that  
5 FATHER FRANCIS ARAKAL is guilty of a crime has no probative value and would have only  
6 served to confuse the jury and cause undue prejudice to FATHER FRANCIS ARAKAL.

7 **C. PLAINTIFFS WERE NOT DENIED THEIR RIGHT TO SELECT A FAIR AND**  
8 **IMPARTIAL JURY**

9 The use of jury questionnaires and the court's time limits during jury voir dire did not  
10 deprive plaintiffs of their right to select a fair and impartial jury. First, at no time during the  
11 course of this trial did plaintiffs object to the use of jury questionnaires or to the voir dire process  
12 as it was being conducted. Declaration of Vladimir F. Kozina ¶2. The only objection was in fact  
13 made by DEFENDANTS regarding the extent of obvious bias against DEFENDANTS evidenced  
14 by the responses to the questioned asked on the jury questionnaires. Declaration of Vladimir F.  
15 Kozina ¶3. It is well established law that in order to preserve an issue for appeal or grounds for  
16 new trial, an objection must be made during the course of trial. Plaintiffs should not be able to  
17 raise this issue for the first time in their motion for a new trial.  
18

19 In order to facilitate selection of a fair and impartial jury, the court may order prospective  
20 jurors to complete a written questionnaire in advance of voir dire. California Rules of Court Rule  
21 228. In determining what questions are to be contained within the questionnaire, the court may  
22 require prospective jurors to complete questions that are deemed relevant and necessary for  
23 assisting in the voir dire process or to ascertain whether a fair cross section of the population is  
24 represented as required by law. California Code of Civil Procedure Section 205. The court was  
25 well within its discretion to order the use of, and approve, the jury questionnaires in this matter.  
26  
27

1 The use of jury questionnaires was necessary to aid in selecting a jury to decide this  
2 matter because this case was one that involved sensitive issues and had already been placed under  
3 public scrutiny by the media. In order to select an impartial jury, preliminary questionnaires  
4 were used to aid the court and counsel in determining whether or not any of the prospective  
5 jurors had preconceived notions about the specific facts of this case or issues involving child  
6 molestation or religious faith in general. The use of questionnaires is permitted under the Rules  
7 of Court and the Code of Civil Procedure and was implemented here in order to aid in efficiently  
8 selecting an impartial jury. The court did not abuse its discretion in ordering the use of these  
9 questionnaires.  
10

11 In addition, plaintiffs argue that they were denied their right to conduct an adequate jury  
12 voir dire based on the time limits placed on the voir dire by the court. As acknowledged by  
13 plaintiffs, under California Code of Civil Procedure Section 222.5, the scope of examination by  
14 counsel during jury voir dire shall be within reasonable limits prescribed by the trial judge in the  
15 judge's sound discretion. Furthermore, it is the duty of the trial judge to restrict examination of  
16 jurors within reasonable bounds so as to expedite the trial. People v. Dorsey (1974) 43  
17 Cal.App.3d 953. The time limits prescribed for examination of prospective jurors in this matter  
18 were reasonable and not an abuse of the court's discretion.  
19

20 **D. IT IS WITHIN THE COURT'S DISCRETION TO PLACE TIME LIMITS ON**  
21 **THE DURATION OF CLOSING ARGUMENTS**

22 The final pitch for a new trial by plaintiffs is that the court erred in limiting the time  
23 allowed for each party to make their closing argument. The appellate courts have addressed this  
24 issue on numerous occasions. Under California law, it is the duty of the trial judge to control the  
25 course of the trial and to confine argument within reasonable lengths. In the absence of a showing  
26 of abuse of discretion on such matter, the trial court's designation of the limits of the argument  
27 will not be set aside on appeal. Rosenfield v. Vosper (1948) 86 Cal.App. 2d 687, 695. The  
28 DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR NEW TRIAL

1 burden is on the party complaining of the order to establish an abuse of discretion. Unless a clear  
2 case of abuse is shown and unless there has been a miscarriage of justice, an appellate court will  
3 not substitute its opinion and thereby divest the trial court of its discretionary power. Eley v.  
4 Curzon (1953) 121 Cal.App.2d 280, 286. A miscarriage of justice occurs only when it appears  
5 that a result more favorable to the appealing party would have been reached in the absence of the  
6 alleged errors. County of Los Angeles v. Nobel Ins. Co. (2000) 84 Cal.App.4<sup>th</sup> 939, 945.

7 Here, the trial judge, in an effort to control the course of the trial, placed reasonable time  
8 limits on the closing arguments of all parties. Plaintiffs have failed to establish a clear case of an  
9 abuse of discretion by the court in subscribing these limitations. In addition, plaintiffs have  
10 failed to establish that a miscarriage of justice has occurred; they have not shown they would  
11 have received a more favorable result absent the time limits placed on the closing arguments by  
12 the trial judge. As such, plaintiffs are not entitled to a new trial based on the time limits on  
13 closing arguments prescribed by the court.  
14

#### 15 CONCLUSION

16 Plaintiffs have no viable grounds for a new trial in this matter. AMBER LOMAS is not  
17 entitled to a new trial based on inadequate damages because the evidence does not clearly show  
18 that the jury should have reached a different verdict. In light of all the evidence presented, it is  
19 not clear that the jury erred in not awarding any amount for general damages to AMBER  
20 LOMAS. Also, the proposed testimony of Stanislaus County Deputy District Attorney Nate  
21 Baker was not within the scope of admissible expert testimony and had no relevance to the  
22 present matter. As such, the court was within its discretion to exclude such evidence under  
23 Evidence Code Sections 801 and 352. Next, the use of jury questionnaires and time limits  
24 prescribed for examination of prospective jurors in this matter were reasonable and not an abuse  
25 of the court's discretion. Finally, in an effort to control the course of the trial, reasonable time  
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1 limits were placed by the court on the closing arguments of all parties. Plaintiffs have failed to  
2 establish a clear case of an abuse of discretion by the court in subscribing these limitations and  
3 are therefore not entitled to a new trial on such basis.

4  
5  
6 Dated: May 3, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

7  
8 By:   
9 VLADIMIR F. KOZINA



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A Professional Corporation  
2 2453 Grand Canal Boulevard, Second Floor  
Stockton, California 95207-8253  
3 Telephone (209) 477-3833  
4 **VLADIMIR F. KOZINA, ESQ.**  
CA State Bar No. 095422

5 **NEUMILLER & BEARDSLEE**  
A Professional Corporation  
6 P.O. Box 20  
Stockton, CA 95201-3020  
7 Telephone: (209)948-8200  
8 **PAUL N. BALESTRACCI**  
CA State Bar No. 083987

9 Attorneys for Defendants  
10 **FATHER JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP**  
**STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON,**  
a Corporation Sole

11  
12 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
13

14 **KATHLEEN MACHADO AS AN INDIVIDUAL ) CASE NO. CV018440**  
15 **AND AS GUARDIAN AD LITEM FOR RACHEL )**  
**LOMAS AND AMBER LOMAS, ) DECLARATION OF VLADIMIR F. KOZINA IN**  
16 **Plaintiffs, ) SUPPORT OF OPPOSITION TO MOTION FOR**  
**) NEW TRIAL**  
17 **)**  
18 **vs. )**  
**)**  
19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA )**  
**FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, ) DATE: 5-17-05**  
20 **BISHOP STEVEN BLAIRE AND THE DIOCESE ) TIME: 9:00 A.M.**  
**OF STOCKTON, ET AL., ) DEPARTMENT: 41**  
21 **Defendants. ) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**  
**) TRIAL DATE: FEBRUARY 22, 2005**  
22 **)**  
**)**

23 I, VLADIMIR F. KOZINA, declare as follows:

24  
25 1. I am attorney licensed to practice law in the State of California, and am a partner with the  
26 law firm of Mayall, Hurley, Knutsen, Smith & Green, attorneys of record for defendants FATHER  
27 JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP STEPHEN E. BLAIRE, AND THE ROMAN  
28 Declaration Of Vladimir F. Kozina In Support Of Opposition To Motion For New Trial

1 CATHOLIC BISHOP OF STOCKTON, a Corporation Sole. I make this declaration based on personal  
2 knowledge and, if called to testify, could and would testify consistently herewith.

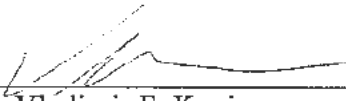
3 2. I am unaware of any time at which counsel for plaintiffs objected to the use of jury  
4 questionnaires in this matter.

5 3. I am unaware of any objection by plaintiffs' counsel during the course of jury selection and  
6 the only objection I know of that was made during the course of jury selection was made by  
7 defendants FATHER JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP STEPHEN E. BLAIRE,  
8 AND THE ROMAN CATHOLIC BISHOP OF STOCKTON, a Corporation Sole regarding the extent of  
9 obvious bias against defendants evidenced by the responses to the questioned asked on the jury  
10 questionnaires.  
11

12 I declare under penalty of perjury under the laws of the State of California that the  
13 foregoing is true and correct.

14 Executed on May 3, 2005 at Stockton, California.

15  
16 By \_\_\_\_\_

  
Vladimir F. Kozina

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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN}

I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED:** DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO TAX COSTS

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

GEORGE J. MACKOUL, ESQ. Via Federal Express  
SABBAH AND MACKOUL  
49 LOCUST STREET  
FALMOUTH, MASS 02540

ANTHONY BOSKOVICH, ESQ. Via California Overnight  
28 NORTH FIRST ST., 6<sup>TH</sup> FLOOR  
SAN JOSE, CA 95113-1210

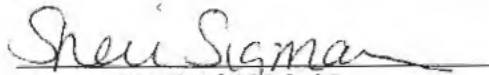
PAUL N. BALESTRACCI, ESQ.  
NEUMILLER & BEARDSLEE  
P.O. BOX 20  
STOCKTON, CA 95201-3020

MICHAEL COUGHLAN, ESQ. Via California Overnight  
LAW OFFICES OF MICHAEL D. COUGHLAN  
3031 W. MARCH LANE, #210 WEST  
STOCKTON, CA 95219

\_\_\_\_ BY FACSIMILE Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.

xx BY MAIL. . I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Served and executed on May 4, 2005, at Stockton, California.

  
SHERI SIGMAN

FILED  
SUPERIOR COURT - STOCKTON  
05 APR 29 PM 3:57  
BY \_\_\_\_\_

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11 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON,  
a Corporation Sole

12  
13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

14  
15 **KATHLEEN MACHADO AS AN INDIVIDUAL ) CASE No. CV018440**  
16 **AND AS GUARDIAN AD LITEM FOR RACHEL )**  
**LOMAS AND AMBER LOMAS, ) DECLARATION OF MICHAEL L. PHILLIPS IN**  
17 **) SUPPORT OF MOTION TO STRIKE**  
**Plaintiffs, ) MEMORANDUM OF COSTS**  
18 **)**  
19 **vs. )**  
20 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA ) DATE: MAY 26, 2005**  
**FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, ) TIME: 9:00 A.M.**  
21 **BISHOP STEVEN BLAIRE AND THE DIOCESE ) DEPARTMENT: 41**  
**OF STOCKTON, ET AL., ) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**  
22 **Defendants. )**  
23 **)**

24  
25 I, MICHAEL L. PHILLIPS, declare as follows:

- 26 1. I am attorney licensed to practice law in the State of California, and an associate in the

1 law firm of Mayall, Hurley, Knutsen, Smith & Green, attorneys of record for defendants FATHER  
2 JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP STEPHEN E. BLAIRE, AND THE ROMAN  
3 CATHOLIC BISHOP OF STOCKTON, a Corporation Sole. I make this declaration based on personal  
4 knowledge and, if called to testify, could and would testify consistently herewith.

5 2. Attached as Exhibit A is a true and correct copy of the judgment entered in this matter.

6 3. Attached as Exhibit B is a true and correct copy of the California Code Of Civil  
7 Procedure Section 998 offer served on plaintiff AMBER LOMAS on February 10, 2005.

8 4. Plaintiff AMBER LOMAS did not accept the terms of the California Code Of Civil  
9 Procedure Section 998 offer she was served with on February 10, 2005.  
10

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct.

13 Executed on April 29, 2005 at Stockton, California.

14  
15   
16 MICHAEL L. PHILLIPS





Filed APR 4 2005  
ROSA JUNQUEIRO, CLERK  
By Charlene Gray  
DEPUTY

**SUPERIOR COURT OF CALIFORNIA, COUNT OF SAN JOAQUIN**

**Kathleen Machado, et al**  
Plaintiff(s)

**NOTICE OF ENTRY OF JUDGMENT**

vs

**Fr. Joseph Illo, et al**  
Defendant(s)

Case No. CV018440

You are notified that a judgment in this cause was entered on April 4, 2005

By Charlene Gray  
Deputy Clerk

**ATTORNEYS OF RECORD**

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ATTORNEY AT LAW  
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[ ] Addition addresses attached.

I am a Deputy Clerk of the above entitled Court and not a party to the above entitled action. I served the above **NOTICE OF ENTRY OF JUDGMENT** by depositing a true copy thereof in the United States mail in Stockton, CA on **April 4, 2005** enclosed in a sealed envelope with the postage thereon fully prepaid, addressed to each attorney of record at his respective Post Office address as set forth in this notice.

Charlene Gray  
Deputy Clerk

**NOTICE OF ENTRY**



Filed APR 4 2005  
ROSA JUNQUEIRO, CLERK  
By *Charlene Gray*  
DEPUTY

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN JOAQUIN**

**Kathleen Machado, et al**  
**Plaintiffs**

**Case #CV018440**

**vs.**

**JUDGMENT ON SPECIAL  
VERDICT IN OPEN COURT**

**Fr. Joseph Illo, et al**  
**Defendants**

This action came on regularly for Trial. The parties appeared by their attorneys: George MacKoul & Tony Boskovich, Attorneys at Law, on behalf of the Plaintiff Kathleen Machado as an individual and as Guardian ad Litem for Rachel Lomas (hereafter referred to as "Rachel Lomas") and Amber Lomas (hereafter referred to as "Amber Lomas"); Vladimir Kozina, Attorney at Law, on behalf of Defendants Fr. Joseph Illo, Fr. Richard Ryan, Bishop Steven Blaire and the Roman Catholic Bishop of Stockton, a corporation sole; Michael Coughlan, Attorney at Law, on behalf of Defendant Fr. Francis Arakal.

A jury of 12 persons was regularly empaneled and sworn to try said action. Witnesses on the part of the Plaintiffs and Defendants were sworn and examined. The jury heard the evidence and the arguments of counsel. The jurors were given instructions at which time they retired to consider their special verdict. Subsequently the jury returned to the courtroom and rendered the following special verdict:

see copy of the verdict attached.

Based on this verdict, the Court renders Judgment as follows:

Judgment for Plaintiff Amber Lomas against Defendants Fr. Joseph Illo for economic damages in the sum of \$12,000.00 with interest at the rate of 7% per annum from September 11, 2001 in the sum of \$2,734.70 for a total sum of \$14,734.70 and Fr. Francis Arakal for economic damages in the amount of \$8,000.00 with interest at the rate of 7% per annum from September 11, 2001 in the sum of \$1,783.50 for a total sum of \$9,783.50;

that Defendants Fr. Richard Ryan, Bishop Steven Blaire and the Roman Catholic Bishop of Stockton, a corporation sole have judgment that Plaintiff Kathleen Machado, Rachel Lomas and Amber Lomas take nothing;

that Defendants Fr. Joseph Illo and Fr. Francis Arakal have judgment that Kathleen Machado and Rachel Lomas take nothing;

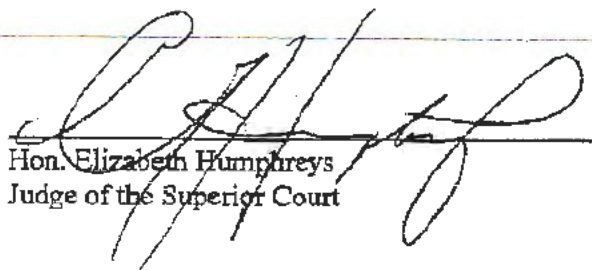
that Plaintiff Amber Lomas recover costs from Defendants Fr. Joseph Illo and Fr. Francis Arakal in the amount of \_\_\_\_\_;

that Defendants Fr. Richard Ryan, Bishop Steven Blair and the Roman Catholic Bishop of Stockton, a corporation sole, recover costs from Plaintiffs Kathleen Machado, Rachel Lomas and Amber Lomas in the amount of \_\_\_\_\_;

that Defendants Fr. Joseph Illo and Fr. Francis Arakal recover costs from Plaintiffs Kathleen Machado and Rachel Lomas in the amount of \_\_\_\_\_.

Costs to be determined by law and entered on the Judgment.

Date: April 4, 2005

  
Hon. Elizabeth Humphreys  
Judge of the Superior Court

**SPECIAL VERDICT**  
**A. SEXUAL BATTERY: RACHEL LOMAS**

Filed  
MAR 25 2005  
ROSA JUNQUEIRO, CLERK  
*Charlene Gray*  
DEPUTY

1. Did Defendant Fr. Francis Arakal do an act with the intent to cause a harmful or offensive contact with an intimate part of Rachel Lomas?

\_\_\_\_\_ YES                        X   NO

If your answer is YES, go to question 2. If your answer is NO, go to Part B.

2. If you find that Defendant Fr. Francis Arakal did an act with the intent to cause a harmful or offensive contact with an intimate part of Rachel Lomas, did it result in a sexually offensive contact either directly or indirectly?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is YES, go to question 3. If your answer is NO, go to Part B.

3. Did Rachel Lomas consent to the contact?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is NO, go to question 4. If your answer is YES, go to Part B.

4. Did the harmful or offensive contact cause Rachel Lomas to suffer injury, damage, loss, or harm?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

If your answer is YES, go to question 5. If your answer is NO, go to Part B.

5. Did any of the following ratify the conduct of Fr. Francis Arakal?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

**PUNITIVE DAMAGES**

6. Has Rachel Lomas proved by clear and convincing evidence that Fr. Francis Arakal acted with malice, oppression, or fraud?

\_\_\_\_\_ YES \_\_\_\_\_ NO

GO TO PART B

**B. BATTERY - RACHEL LOMAS**

1. Did Fr. Francis Arakal touch Rachel Lomas with the intent to harm or offend her?

\_\_\_\_\_ YES  NO

If your answer to question 1 is YES, then answer question 2. If you answered NO, go to Part C.

2. Did Rachel Lomas consent to be touched?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 2 is NO, then answer question 3. If you answered YES, go to Part C.

3. Was Rachel Lomas harmed or offended by Fr. Francis Arakal's conduct?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part C.

4. Would a reasonable person in Rachel Lomas' situation have been offended by the touching?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 4 is YES, then answer question 5. If you answered NO, go to Part C.

5. Did any of the following ratify the conduct of Fr. Francis Arakai?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6. Was the conduct of Fr. Francis Arakai undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question 7 is YES, then answer question 8. If you answered NO, stop here, go to Part C.

8. Was Fr. Francis Arakai acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

PUNITIVE DAMAGES

7. Has Rachel Lomas proved by clear and convincing evidence that Fr. Francis Arakai acted with malice, oppression, or fraud?

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Go to Part C.

**C. BATTERY - AMBER LOMAS**

1. Did Fr. Francis Arakal touch Amber Lomas with the intent to harm or offend her?

\_\_\_\_\_ YES      NO

If your answer to question 1 is YES, then answer question 2. If you answered NO, go to Part D.

2. Did Amber Lomas consent to be touched?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 2 is NO, then answer question 3. If you answered YES, go to Part D.

3. Was Amber Lomas harmed or offended by Fr. Francis Arakal's conduct?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part D.

4. Would a reasonable person in Amber Lomas' situation have been offended by the touching?

\_\_\_\_\_ YES     \_\_\_\_\_ NO

If your answer to question 4 is YES, then answer question 5. If you answered NO, go to Part D.

5. Did any of the following ratify the conduct of Fr. Francis Arakal?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6. Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 6 is YES, then answer question 7. If you answered NO, stop here, go to Part D.

8. Was Fr. Francis Arakal acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part D.

**D. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – RACHEL LOMAS**

1. With respect to Rachel Lomas, was Fr. Francis Arakal or Fr. Joseph Illo's conduct outrageous?

Fr. Francis Arakal? \_\_\_\_\_ YES ~~\_\_\_\_\_ NO~~

Fr. Joseph Illo? \_\_\_\_\_ YES ~~\_\_\_\_\_ NO~~

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part E.

2(a). Did Fr. Francis Arakal or Fr. Joseph Illo intend to cause Rachel Lomas emotional distress?

Fr. Francis Arakal? \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Illo? \_\_\_\_\_ YES \_\_\_\_\_ NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Illo act with reckless disregard of the probability that Rachel Lomas would suffer emotional distress, knowing that Rachel Lomas was present when the conduct occurred?

Fr. Francis Arakal? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Fr. Joseph Illo? \_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part E.

3. Did Rachel Lomas suffer severe emotional distress?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part E.

4. Was Fr. Francis Arakal or Fr. Joseph Illo's conduct a substantial factor in causing Rachel Lomas's severe emotional distress?

Fr. Francis Arakal? \_\_\_\_\_ YES \_\_\_\_\_ NO  
Fr. Joseph Illo? \_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part E.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.



6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part E.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

Fr. Francis Arakal \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Illo \_\_\_\_\_ YES \_\_\_\_\_ NO

**PUNITIVE DAMAGES**

8. Has Rachel Lomas proved by clear and convincing evidence that Fr. Joseph Illo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part E.

**E. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – AMBER LOMAS**

1. With respect to Amber Lomas, was Fr. Francis Arakal or Fr. Joseph Illo's conduct outrageous?

Fr. Francis Arakal?	_____ YES	<u>  X  </u> NO
Fr. Joseph Illo?	<u>  X  </u> YES	_____ NO

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part F.

2(a). Did Fr. Francis Arakal or Fr. Joseph Illo intend to cause Amber Lomas emotional distress?

Fr. Francis Arakal?	_____ YES	<u>      </u> NO
Fr. Joseph Illo?	_____ YES	<u>  X  </u> NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Illo act with reckless disregard of the probability that Amber Lomas would suffer emotional distress, knowing that Amber Lomas was present when the conduct occurred?

Fr. Francis Arakal?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Fr. Joseph Illo?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part F.

3. Did Amber Lomas suffer severe emotional distress?

<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
------------------------------	--

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part F.

4. Was Fr. Francis Arakal or Fr. Joseph Illo's conduct a substantial factor in causing Amber Lomas's severe emotional distress?

Fr. Francis Arakal?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Fr. Joseph Illo?	<input type="checkbox"/> YES	<input type="checkbox"/> NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part F.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	<input type="checkbox"/>	<input type="checkbox"/>
Monsignor Richard Ryan	<input type="checkbox"/>	<input type="checkbox"/>
Diocese of Stockton	<input type="checkbox"/>	<input type="checkbox"/>

Go to Question 6.

6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part F.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

Fr. Francis Arakal \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Illo \_\_\_\_\_ YES \_\_\_\_\_ NO

PUNITIVE DAMAGES

8. Has Amber Lomas proved by clear and convincing evidence that Fr. Joseph Ilo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Ilo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part F.

F. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS -- KATHLEEN MACHADO

1. With respect to Kathleen Machado, was Fr. Francis Arakal or Fr. Joseph Ilo's conduct outrageous?

Fr. Francis Arakal? \_\_\_\_\_ YES  X  NO

Fr. Joseph Ilo? \_\_\_\_\_ YES  X  NO

If your answer to question 1 is YES to either defendant, then answer question 2 for that defendant. If you answered NO for both defendants, stop here, go to Part G.

2(a). Did Fr. Francis Arakal or Fr. Joseph Ilo intend to cause Kathleen Machado emotional distress?

Fr. Francis Arakal? \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Ilo? \_\_\_\_\_ YES \_\_\_\_\_ NO

2(b) Did Fr. Francis Arakal or Fr. Joseph Ilo act with reckless disregard of the probability that Kathleen Machado would suffer emotional distress, knowing that Kathleen Machado was present when the conduct occurred?

Fr. Francis Arakal?        \_\_\_\_\_ YES        \_\_\_\_\_ NO  
 Fr. Joseph Ilo?        \_\_\_\_\_ YES        \_\_\_\_\_ NO

If your answer to question 2(a) or 2(b) is YES for either defendant, then answer question 3 for that defendant. If you answered NO to each question in 2(a) and 2(b), stop here, and go to Part F.

3. Did Kathleen Machado suffer severe emotional distress?

\_\_\_\_\_ YES        \_\_\_\_\_ NO

If your answer to question 3 is YES, then answer question 4. If you answered NO, go to Part F.

4. Was Fr. Francis Arakal or Fr. Joseph Ilo's conduct a substantial factor in causing Kathleen Machado's severe emotional distress?

Fr. Francis Arakal?        \_\_\_\_\_ YES        \_\_\_\_\_ NO  
 Fr. Joseph Ilo?        \_\_\_\_\_ YES        \_\_\_\_\_ NO

If your answer to question 4 is YES for either defendant, then answer question 5 for the defendant for whom you answered YES. If you answered NO for both defendants, stop here and go to Part G.

5. Did any of the following ratify the conduct of Fr. Francis Arakal /Fr. Joseph Ilo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 6.

6(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

6(b). Was the conduct of Fr. Joseph Ilo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question either 6 (a) or 6 (b) is YES, then answer question 7 with respect to such defendant. If you answered NO, stop here, go to Part G.

7. As to any defendant for whom you answered YES as to question 6, was that defendant acting within the scope of his agency when he undertook the conduct toward Kathleen Machado?

Fr. Francis Arakal \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Ilo \_\_\_\_\_ YES \_\_\_\_\_ NO

PUNITIVE DAMAGES

8. Has Kathleen Machado proved by clear and convincing evidence that Fr. Joseph Illo, Fr. Francis Arakal, Msgr. Richard Ryan, or Bishop Steven Blaire acted with malice, oppression, or fraud?

As to Fr. Joseph Illo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Fr. Francis Arakal:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Msgr. Richard Ryan:

\_\_\_\_\_ YES \_\_\_\_\_ NO

As to Bishop Steven Blaire:

\_\_\_\_\_ YES \_\_\_\_\_ NO

Go to Part G.

**G. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS – RACHEL LOMAS**

With respect to Rachel Lomas:

1. Was Fr. Joseph Illo negligent?

\_\_\_\_\_ YES   X   NO

Was Fr. Francis Arakal negligent?

\_\_\_\_\_ YES   X   NO

Was Msgr Richard Ryan negligent?

\_\_\_\_\_ YES   X   NO

Was Bishop Steven Blaire negligent?

\_\_\_\_\_ YES   X   NO



If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part H.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Illo's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Rachel Lomas?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Rachel's harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo: \_\_\_\_\_ %

Fr. Francis Arakal: \_\_\_\_\_ %

Monsignor Richard Ryan: \_\_\_\_\_ %

Bishop Steven Blaire: \_\_\_\_\_ %

TOTAL 100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 5.

5(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES      \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES      \_\_\_\_\_ NO

If your answer to question either 5(a) or 5(b) is YES, then answer question 6. If you answered NO to both, stop here, go to Part H.

6. Was either Fr. Francis Arakal or Fr. Joseph Illo acting within the scope of his agency when he undertook the conduct toward Rachel Lomas?

Fr. Francis Arakal             YES     NO

Fr. Joseph Illo                 YES     NO

Go to H

**H. NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS - AMBER LOMAS**

With respect to Amber Lomas:

1. Was Fr. Joseph Illo negligent?

YES     NO

Was Fr. Francis Arakal negligent?

YES     NO

Was Msgr Richard Ryan negligent?

YES     NO

Was Bishop Steven Blaire negligent?

YES     NO

If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part I.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Illo's negligence a substantial factor in causing harm to Amber Lomas?

YES     NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Amber Lomas?

YES  NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Amber Lomas?

YES  NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Amber Lomas?

YES  NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Amber Lomas's harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo: 60 %

Fr. Francis Arakal: 40 %

Monsignor Richard Ryan: \_\_\_\_\_ %

Bishop Steven Blaire: \_\_\_\_\_ %

TOTAL 100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	<input checked="" type="checkbox"/>
Monsignor Richard Ryan	_____	<input checked="" type="checkbox"/>
Diocese of Stockton	_____	<input checked="" type="checkbox"/>

Go to Question 5.

5 (a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

YES  NO

Bishop Stephen Blaire

YES  NO

Monsignor Richard Ryan

YES  NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

YES  NO

Bishop Stephen Blaire

YES  NO

Monsignor Richard Ryan

YES  NO

If your answer to question either 5 (a) or 5(b) is YES, then answer question 6. If you answered NO to both, stop here, go to Part I.

6. Was either Fr. Francis Arakal or Fr. Joseph Illo acting within the scope of his agency when he undertook the conduct toward Amber Lomas?

Fr. Francis Arakal  YES  NO

Fr. Joseph Illo  YES  NO

Go to I

**I. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS - KATHLEEN MACHADO**

With respect to Kathleen Machado:

1. Was Fr. Joseph Ilo negligent?

\_\_\_\_ YES  NO

Was Fr. Francis Arakal negligent?

\_\_\_\_ YES  NO

Was Msgr Richard Ryan negligent?

\_\_\_\_ YES  NO

Was Bishop Steven Blaire negligent?

\_\_\_\_ YES  NO

If you answered YES in any part of question 1, then answer question 2. If you answered NO to all parts of question 1, stop here, go to Part J.

2. For each defendant that received a "YES" answer in question 1, answer the following:

Was Fr. Joseph Ilo's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_ YES \_\_\_\_ NO

Was Fr. Francis Arakal's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_ YES \_\_\_\_ NO

Was Msgr Richard Ryan's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_ YES \_\_\_\_ NO

Was Bishop Steven Blaire's negligence a substantial factor in causing harm to Kathleen Machado?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If you answered YES in any part of question 2 with respect to one or more of the defendants, then answer question 3 as to that/those defendants. If you answered NO regarding all persons in question 2, then insert the number zero next to their names in question 3 and answer question 3.

3. What percentage of responsibility for Kathleen Machado harm do you assign to the following? Insert a percentage for only those who received "YES" answers in question 2:

Fr. Joseph Illo:	_____ %
Fr. Francis Arakal:	_____ %
Monsignor Richard Ryan:	_____ %
Bishop Steven Blaire:	_____ %
TOTAL	100 %

4. Did any of the following ratify the conduct of Fr. Francis Arakal or Fr. Joseph Illo?

	YES	NO
Bishop Steven Blaire	_____	_____
Monsignor Richard Ryan	_____	_____
Diocese of Stockton	_____	_____

Go to Question 5.

5(a). Was the conduct of Fr. Francis Arakal undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

5(b). Was the conduct of Fr. Joseph Illo undertaken as the agent of:

Roman Catholic Bishop of Stockton, a corporation sole

\_\_\_\_\_ YES \_\_\_\_\_ NO

Bishop Stephen Blaire

\_\_\_\_\_ YES \_\_\_\_\_ NO

Monsignor Richard Ryan

\_\_\_\_\_ YES \_\_\_\_\_ NO

If your answer to question either 5(a) or 5(b) is YES, then answer question question 6. If you answered NO to both, stop here, go to Part J.

6. Was Fr. Francis Arakal or Fr. Joseph Illo acting within the scope of his agency when he undertook the conduct toward Kathleen Machado?

Fr. Francis Arakal \_\_\_\_\_ YES \_\_\_\_\_ NO

Fr. Joseph Illo \_\_\_\_\_ YES \_\_\_\_\_ NO

Go to J

**J. DEFAMATION PER SE - KATHLEEN MACHADO.**

1. Did Fr. Joseph Illo make one or more of the following statement(s) to a person or persons other than Kathleen Machado?

"All your mother wants is to have sex with me."

YES \_\_\_\_\_ NO

"Kathleen Machado is stalking me."

\_\_\_\_\_ YES  NO

If your answer to question 1 is YES, then answer question 2 for the defendant for whom you gave a YES answer. If you answered NO, stop here, go to Part K.



2. Did the people to whom the statements were made reasonably understand that the statement(s) were about Kathleen Machado?

"All your mother wants is to have sex with me."

YES  NO

"Kathleen Machado is stalking me"..

YES  NO

If your answer to question 2 is YES as to any statement, then answer question 3. If you answered NO to all statements, stop here, and go to Part K.

3. Did these people reasonably understand the statement(s) to mean that Kathleen Machado was an unchaste woman or had committed a crime?

Unchaste woman?

YES  NO

Committed a crime?

YES  NO

If your answer to question 3 is YES in any respect, then answer question 4 for the statement(s) for which you answered YES. If you answered NO to all, stop here and go to Part K.

4. Did Fr. Joseph Illo fail to use reasonable care to determine the truth or falsity of the statement(s)?

"All your mother wants is to have sex with me."

YES  NO

"Kathleen Machado is stalking me".

YES  NO

If your answer to any part of question 4 is YES, then answer question 5. If you answered NO, stop here, and go to Part ~~A~~

K

ACTUAL DAMAGES

5. What are Kathleen Machado's actual damages?

a. Past Noneconomic loss including shame, mortification, or hurt feelings, and harm to Kathleen Machado's reputation.

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

B. Future Noneconomic loss including shame, mortification, or hurt feelings, and harm to Kathleen Machado's reputation

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

If Kathleen Machado has Not proved any actual damages, then answer question 6.

If Kathleen Machado has proved any actual damages, skip question 6 and answer question 7.

ASSUMED DAMAGES TO REPUTATION

6. What are the damages you award Kathleen Machado for the assumed harm to her reputation? You must award at least a nominal sum.

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

As to Fr. Joseph Illo:

\$ \_\_\_\_\_

Regardless of your answer to question 6, answer question 7.

PUNITIVE DAMAGES

7. Has Kathleen Machado proved by clear and convincing evidence that Fr. Joseph Ilo acted with malice, oppression, or fraud?

As to Fr. Joseph Ilo:

\_\_\_\_\_ YES \_\_\_\_\_ NO

K. DAMAGES

If you found in favor of Rachel Lomas, Amber Lomas, or Kathleen Machado on any cause of action, please answer the following. Otherwise, have the foreperson sign and date this form.

1. What are Rachel Lomas's total damages? Do not reduce the damages based on the fault, if any, of others.

- a. Past economic loss, including medical expenses]: \$ \_\_\_\_\_
  - b. Future economic loss, including medical expenses: \$ \_\_\_\_\_
  - c. Past Noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_
  - d. Future Noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_
- TOTAL \$ 0

2. What are Amber Lomas's total damages? Do not reduce the damages based on the fault, if any, of others.

- a. Past economic loss, including medical expenses]: \$ 0
  - b. Future economic loss, including medical expenses: \$ 20,000
  - c. Past noneconomic loss, including physical pain, mental suffering: \$ 0
  - d. Future noneconomic loss, including physical pain, mental suffering: \$ 0
- TOTAL \$ 20,000

3. What are Kathleen Machado's total damages, not including the damages awarded for defamation, if any? Do not reduce the damages based on the fault, if any, of others.

a. Past noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

b. Future noneconomic loss, including physical pain, mental suffering: \$ \_\_\_\_\_

TOTAL (excluding defamation) \$ \_\_\_\_\_

+ DEFAMATION DAMAGES \$ \_\_\_\_\_

TOTAL DAMAGES FOR KATHLEEN MACHADO \$ 0 \_\_\_\_\_

Dated: 03/25/05

  
Foreperson

⊗

EXHIBIT A

**MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

Vladimir F. Kozina, Esq., **SB No. 95422**  
2453 Grand Canal Blvd., Second Floor  
Stockton, California 95207-8253  
Telephone: (209) 477-3833 Fax: (209) 473-4818

**Neumiller & Beardslee**

Paul N. Balestracci, Esq. **SB No. 83987**  
Post Office Box 20  
Stockton, CA 95201-3020  
Telephone: (209) 948-8200 Facsimile: (209) 948-4910

Attorneys for: Bishop Stephen Blaire, Msgr. Richard Ryan, Fr. Joseph Illo,  
Roman Catholic Bishop of Stockton, a corporation sole, St. Joseph's Church

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

**KATHLEEN MACHADO INDIVIDUALLY AND AS  
GUARDIAN AD LITEM FOR RACHEL LOMAS AND  
AMBER LOMAS**

**No. CV 018440**

Plaintiff,

vs.

**OFFER TO COMPROMISE  
(Code Civ. Proc. § 998)**

**FR. JOSEPH ILLO, FR. FANCIS JOSEPH, A.K.A.  
FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,  
BISHOP STEVEN BLAIRE, AND THE DIOCESE OF  
STOCKTON, ET AL,**

Defendants.

TO PLAINTIFFS, **KATHLEEN MACHADO INDIVIDUALLY AND AS GUARDIAN AD LITEM FOR RACHEL  
LOMAS AND AMBER LOMAS**, AND THEIR ATTORNEY OF RECORD:

YOU, AND EACH OF YOU, WILL TAKE NOTICE that pursuant to Section 998 of the Code of Civil  
Procedure of the State of California, defendants, **FR. JOSEPH ILLO, FR. FANCIS JOSEPH, A.K.A. FR.  
FRANCIS ARAKAL, FR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE, AND ROMAN CATHOLIC BISHOP  
OF STOCKTON, A CORPORATION SOLE (INCORRECTLY NAMED HEREIN AS THE DIOCESE OF  
STOCKTON)**, offer in full settlement of the above action by PLAINTIFFS, **KATHLEEN MACHADO**

1 INDIVIDUALLY AND AS GUARDIAN AD LITEM FOR RACHEL LOMAS AND AMBER LOMAS to pay the  
2 following sums

3 PLAINTIFF **KATHLEEN MACHADO** the sum of FIFTEEN THOUSAND DOLLARS AND <sup>00</sup>/<sub>100</sub> CENTS  
4 (\$15,000.<sup>00</sup>)

5 PLAINTIFF **RACHEL LOMAS BY AND THROUGH HER GUARDIAN AD LITEM KATHLEEN**  
6 **MACHADO** the sum of SIXTY THOUSAND DOLLARS AND <sup>00</sup>/<sub>100</sub> CENTS (\$60,000.<sup>00</sup>)

7 PLAINTIFF **AMBER LOMAS BY AND THROUGH HER GUARDIAN AD LITEM KATHLEEN**  
8 **MACHADO** the sum of TWENTY FIVE THOUSAND DOLLARS AND <sup>00</sup>/<sub>100</sub> CENTS (\$25,000.<sup>00</sup>)

9 in exchange for each and all of the following:

10 A dismissal with prejudice by PLAINTIFFS, **KATHLEEN MACHADO INDIVIDUALLY AND AS**  
11 **GUARDIAN AD LITEM FOR RACHEL LOMAS AND AMBER LOMAS'** action against DEFENDANTS **FR.**  
12 **JOSEPH ILLO, FR. FRANCIS JOSEPH, A.K.A. FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, BISHOP**  
13 **STEVEN BLAIRE, AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE**  
14 **(INCORRECTLY NAMED HEREIN AS THE DIOCESE OF STOCKTON)** and each of them.

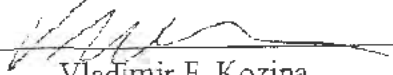
15 The execution and delivery of a general release including indemnification as to any liens,  
16 medical or otherwise by PLAINTIFFS **KATHLEEN MACHADO INDIVIDUALLY AND AS GUARDIAN AD**  
17 **LITEM FOR RACHEL LOMAS AND AMBER LOMAS** in favor of DEFENDANTS **FR. JOSEPH ILLO, FR.**  
18 **FRANCIS JOSEPH, A.K.A. FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE, AND**  
19 **ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE (INCORRECTLY NAMED HEREIN AS**  
20 **THE DIOCESE OF STOCKTON)** and each of them;

21 That each party will bear its own costs, liens of whatever nature and kind and attorneys fees.

22 This offer is conditioned upon PLAINTIFFS **KATHLEEN MACHADO INDIVIDUALLY AND AS**  
23 **GUARDIAN AD LITEM FOR RACHEL LOMAS AND AMBER LOMAS** executing a dismissal with prejudice  
24 and general release. This offer does not provide for entry of judgment in the favor of plaintiff(s)  
25 **\*\*(Goodstein v Bank of San Pedro (1994) 27 CA4th 899, 906).** Instead, the offer may be accepted in a  
26 writing sent to defendant's attorney of record within the statutory period.

1 Dated: February 10, 2005

Mayall, Hurley, Knutsen, Smith & Green

2 By 

Vladimir F. Kozina

3 Attorneys for Defendant(s)

4 Fr. Joseph Illo, Msgr. Richard J. Ryan, Bishop  
5 Steven Blaire, And Roman Catholic Bishop of  
6 Stockton, a corporation sole (Incorrectly  
7 named herein as The Diocese Of Stockton)

8 Law Offices of Micheal D. Coughlan

9 

Michael D. Coughlan

10 Attorney for Defendant

11 Fr. Fancis Joseph, A.K.A. Fr. Francis Arakal



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**PROOF OF SERVICE**

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*STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN}*

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I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED:** CCP 998

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

GEORGE J. MACKOUL, ESQ.

Via Personal Service

SABBAH AND MACKOUL

at deposition of Sonnee Weedne

49 LOCUST STREET

taken at office of Mayall Hurley

FALMOUTH, MASS 02540

on 2-10-05

STOCKTON, CA 95219

\_\_\_\_\_*BY FACSIMILE* Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.

\_\_\_\_\_*BY MAIL*. . I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

xx *BY PERSONAL DELIVERY*. I caused such document to be delivered to the party in said action by delivering a true copy thereof to the law offices of the person listed above where indicated (By Personal Service).

*BY EXPRESS MAIL; Overnight Delivery*. I caused a true copy thereof to be delivered by depositing for collection on this same date, a sealed envelope addressed to the person(s) at the address(es) set forth above, into a depository box of the overnight service listed next to each address, at Stockton, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Served and executed on February 10, 2005, at Stockton, California.

  
VLADIMIR F. KOZINA

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**PROOF OF SERVICE**

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*STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN}*

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I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED:** OFFER TO COMPROMISE (CCP §998)

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

ANTHONY BOSKOVICH, ESQ.  
28 NORTH FIRST ST., 6<sup>TH</sup> FLOOR  
SAN JOSE, CA 95113-1210

PAUL N. BALESTRACCI, ESQ.  
NEUMILLER & BEARDSLEE  
P.O. BOX 20  
STOCKTON, CA 95201-3020

MICHAEL COUGHLAN, ESQ.  
LAW OFFICES OF MICHAEL D. COUGHLAN  
3031 W. MARCH LANE, #210 WEST  
STOCKTON, CA 95219

       *BY FACSIMILE* Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.

*BY MAIL.* I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

       *BY PERSONAL DELIVERY.* I caused such document to be delivered to the party in said action by delivering a true copy thereof to the law offices of the person listed above where indicated (By Personal Service).

*BY EXPRESS MAIL; Overnight Delivery.* I caused a true copy thereof to be delivered by depositing for collection on this same date, a sealed envelope addressed to the person(s) at the address(es) set forth above, into a depository box of the overnight service listed next to each address, at Stockton, California.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Served and executed on February 10, 2005, at Stockton, California.

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3 SHERI SIGMAN  
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1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**  
A Professional Corporation  
2 2453 Grand Canal Boulevard, Second Floor  
Stockton, California 95207-8253  
3 Telephone (209) 477-3833  
VLADIMIR F. KOZINA, ESQ.  
4 CA State Bar No. 095422  
MICHAEL L. PHILLIPS, ESQ.  
5 CA State Bar No. 232978

05 APR 29 PM 3:56  
CLERK  
BY \_\_\_\_\_ DEPUTY

6 **NEUMILLER & BEARDSLEE**  
A Professional Corporation  
7 P.O. Box 20  
Stockton, CA 95201-3020  
8 Telephone: (209)948-8200  
PAUL N. BALESTRACCI  
9 CA State Bar No. 083987

10 Attorneys for Defendants  
Father Joseph Illo, Monsignor Richard J. Ryan, Bishop  
11 Stephen E. Blaire, And The Roman Catholic Bishop Of Stockton,  
a Corporation Sole

\$36.90 205D429 (033)

12  
13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

14  
15 **KATHLEEN MACHADO AS AN INDIVIDUAL ) CASE NO. CV018440**  
16 **AND AS GUARDIAN AD LITEM FOR RACHEL )**  
**LOMAS AND AMBER LOMAS, ) DEFENDANTS' NOTICE OF MOTION AND**  
17 **) MOTION TO STRIKE MEMORANDUM OF**  
**Plaintiffs, ) COSTS; MEMORANDUM OF POINTS AND**  
18 **) AUTHORITIES; DECLARATION OF MICHAEL**  
**vs. ) L. PHILLIPS**  
19 **)**  
20 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA ) DATE: MAY 26, 2005 ✓**  
**FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN, ) TIME: 9:00**  
21 **BISHOP STEVEN BLAIRE AND THE DIOCESE ) DEPARTMENT: 41**  
**OF STOCKTON, ET AL., ) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**  
22 **)**  
**Defendants. )**  
23 **)**

24 To plaintiff KATHLEEN MACHADO, as an individual and as guardian ad litem for RACHEL  
25 LOMAS and AMBER LOMAS and to their attorney of record:

26 NOTICE IS HEREBY GIVEN that on May 26, 2005, at 9:00 a.m., or as soon as the  
27 matter may be heard in Department 41 of this court, defendants FATHER JOSEPH ILLO,  
28 Notice Of Motion And Motion To Strike Memorandum Of Costs; Memorandum Of Points And Authorities

1 MONSIGNOR RICHARD RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN  
2 CATHOLIC BISHOP OF STOCKTON, a Corporation Sole (Hereinafter collectively referred to  
3 as DEFENDANTS) will move the court for an order under Rule 870(b)(1) of the California Rules  
4 of Court taxing the costs of this action by striking plaintiffs KATHLEEN MACHADO, as an  
5 individual and as guardian ad litem for RACHEL LOMAS and AMBER LOMAS's  
6 memorandum of costs in its entirety.

7  
8 This motion will be made on the grounds that plaintiffs KATHLEEN MACHADO, as an  
9 individual and as guardian ad litem for RACHEL LOMAS and AMBER LOMAS were not  
10 prevailing parties in this matter and are therefore not entitled to recovery any costs.

11 This motion is based on this notice of motion, the memorandum of points and authorities  
12 served and filed herewith, the declaration of Michael L. Phillips served and filed herewith, on the  
13 papers and records on file herein, and on such oral and documentary evidence as may be  
14 presented at the hearing of this motion.

15  
16  
17 DATED: April 28, 2005.

18 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

19 By   
20 MICHAEL L. PHILLIPS

21  
22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **SUMMARY OF ARGUMENT**

24 The memorandum of costs served and filed by plaintiffs KATHLEEN MACHADO,  
25 RACHEL LOMAS and AMBER LOMAS should be stricken in its entirety because none of the  
26 plaintiffs are entitled to recover costs as a prevailing party or pursuant to any other statutory  
27

1 authority. Plaintiffs KATHLEEN MACHADO and RACHEL LOMAS recovered nothing by  
2 way of their Complaint as judgment was entered in favor of DEFENDANTS on all their causes  
3 of action and AMBER LOMAS was only awarded damages in the amount of \$20,000 as against  
4 DEFENDANTS on one of her six causes of action and no damages on her remaining causes of  
5 action. In addition, AMBER LOMAS should be precluded from recovering post offer costs  
6 against DEFENDANTS under California Code Of Civil Procedure Section 998 because  
7 DEFENDANTS made a pretrial offer to compromise in the amount of \$25,000, AMBER  
8 LOMAS did not accept this offer, and failed to obtain a more favorable judgment at trial. As  
9 such, plaintiffs KATHLEEN MACHADO, RACHEL LOMAS and AMBER LOMAS are not  
10 prevailing parties in this action and are therefore not entitled to recover any costs from  
11 DEFENDANTS.  
12

### 13 ARGUMENT

#### 14 **A. MOTION TO STRIKE**

15 A motion to strike a memorandum of costs may be served and filed 15 days after the  
16 memorandum of costs was served, or, if the memorandum was served by mail, within the  
17 extended time authorized by Section 1013 of the Code of Civil Procedure. California Ruled of  
18 Court, Rule 870(b)(1).  
19

#### 20 **B. NO JUDGMENT HAS BEEN ENTERED IN FAVOR OF PARTY FILING** 21 **MEMORANDUM OF COSTS**

22 A memorandum of costs and disbursements should be stricken when no judgment has  
23 been entered in favor of the party who filed the memorandum. Gonzalez v. Derrington (1961) 56  
24 Cal.2d 130, 134. California Rules of Court, Rule 870(a)(1).

25 //

26 //

1           **1. Plaintiffs KATHLEEN MACHADO And RACHEL LOMAS Recovered**  
2           **Nothing By Way Of Their Complaint**

3           Plaintiffs KATHLEEN MACHADO and RACHEL LOMAS recovered nothing by way of  
4           their Complaint and no judgment was entered in favor of KATHLEEN MACHADO or RACHEL  
5           LOMAS as against DEFENDANTS. (Declaration of Michael L. Phillips, Exhibit A) As such,  
6           the memorandum of costs filed on behalf of KATHLEEN MACHADO and RACHEL LOMAS  
7           should be stricken in its entirety.

8           **2. Plaintiff AMBER LOMAS Did Not Prevail On All Causes Of Action And**  
9           **Failed To Receive A More Favorable Judgment Than DEFENDANTS C.C.P.**  
10           **998 Offer**

11           The Complaint filed by plaintiffs contained six causes of action on behalf of AMBER  
12           LOMAS against DEFENDANTS. Plaintiff AMBER LOMAS received a judgment in her favor  
13           in the amount of \$20,000 on the single cause of action for negligent infliction of emotional  
14           distress and failed to recover any amount on the remaining causes of action. (Declaration of  
15           Michael L. Phillips, Exhibit A) In addition, DEFENDANTS served plaintiff AMBER LOMAS  
16           with an offer to compromise in the amount of \$25,000 pursuant to California Code of Civil  
17           Procedure Section 998 on February 10, 2005. (Declaration of Michael L. Phillips, Exhibit B)  
18           AMBER LOMAS rejected this offer. (Declaration of Michael L. Phillips, ¶4)

19           California Code of Civil Procedure Section 998 states in pertinent part:  
20           (c)(1) If an offer made by a defendant is not accepted and the plaintiff  
21           fails to obtain a more favorable judgment or award, the plaintiff shall not  
22           recover his or her postoffer costs and shall pay the defendant's costs from  
23           the time of the offer.

24           AMBER LOMAS was not the prevailing party on at least five of her causes of action and,  
25           although she received a monetary award on one cause of action, the award was not more  
26           favorable than DEFENDANTS California Code of Civil Procedure Section 998 offer. The  
27           manner in which plaintiffs prepared their memorandum of costs makes it impossible to determine

1 which costs are being allocated to each individual plaintiff. As discussed above, KATHLEEN  
2 MACHADO and RACHEL LOMAS are not entitled to recover any costs because they were not  
3 the prevailing party on any of the causes of action contained within the Complaint.

4 Assuming arguendo that AMBER LOMAS was the prevailing party as to the single cause  
5 of action for negligent infliction of emotional distress, the only costs she is entitled to recover are  
6 those associated with prosecuting and prevailing on that single cause of action. All of the costs  
7 presented in plaintiffs' memorandum of costs were incurred jointly by all three plaintiffs in  
8 prosecuting all causes of action contained within their Complaint. AMBER LOMAS recovered  
9 nothing pursuant to five of her six causes of action and therefore is not entitled to recover any  
10 costs associated with prosecuting those causes of action. In fact, as the prevailing party on those  
11 causes of action, DEFENDANTS are entitled to recover all their costs incurred in defending  
12 against those causes of action. As such, the entire scope of costs claimed by plaintiffs' is  
13 therefore inappropriate.

14  
15 In addition, if the court, in its discretion, determines that AMBER LOMAS is entitled to  
16 any costs under California Code of Civil Procedure Section 1032, any award of such costs would  
17 be subject to offset by the costs available to DEFENDANTS by virtue of being the prevailing  
18 party on the remaining five causes of action presented by AMBER LOMAS and the post offer  
19 costs available to DEFENDANTS under California Code of Civil Procedure Section 998.

### 21 **3. Right To Recover Costs Is Statutory**

22 The right to recover costs is entirely statutory, with the measure of the statute as the  
23 measure of the right. Posey v. State of California (1986) 180 Cal.App.3d 836, 852. Plaintiffs in  
24 this matter are presumably attempting to recover costs pursuant to California Code Of Civil  
25 Procedure Section 1032. As will be discussed in the following sections, plaintiffs are not the  
26 prevailing party in this matter and therefore are precluded from recovering costs under California  
27



1 Code Of Civil Procedure Section 1032. As such, absent additional statutory authority, plaintiffs  
2 have no means by which to recover costs in this matter and the memorandum of costs filed on  
3 their behalf should be stricken in its entirety.

4 **CONCLUSION**

5 The memorandum of costs served and filed by plaintiffs KATHLEEN MACHADO,  
6 RACHEL LOMAS and AMBER LOMAS should be stricken in its entirety because none of the  
7 plaintiffs are entitled to recover costs as a prevailing party or pursuant to any other statutory  
8 authority. In addition, if the court, in its discretion, determines that AMBER LOMAS is entitled  
9 to any costs under California Code of Civil Procedure Section 1032, any award of such costs  
10 would be subject to offset by the costs available to DEFENDANTS by virtue of being the  
11 prevailing party on the remaining five causes of action presented by AMBER LOMAS and the  
12 post offer costs available to DEFENDANTS under California Code of Civil Procedure Section  
13 998.

14  
15  
16 Dated: April 29, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

17  
18 By: 

19 MICHAEL L. PHILLIPS  
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**PROOF OF SERVICE**

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*STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN}*

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I am a citizen of the United States. My business address is 2453 Grand Canal Boulevard, Second Floor, Stockton, California 95207. I am employed in the County of San Joaquin. I am over the age of 18 years and not a party to the within cause. On the date set forth below, I served the document(s) described as follows on the following person(s) in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

**DOCUMENT(S) SERVED:** DEFENDANTS' NOTICE OF MOTION AND MOTION TO STRIKE MEMORANDUM OF COSTS; DECLARATION OF MICHAEL L. PHILLIPS

(PROPOSED ORDER)

**NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

GEORGE J. MACKOUL, ESQ.  
SABBAH AND MACKOUL  
49 LOCUST STREET  
FALMOUTH, MASS 02540

Via Federal Express

ANTHONY BOSKOVICH, ESQ.  
28 NORTH FIRST ST., 6<sup>TH</sup> FLOOR  
SAN JOSE, CA 95113-1210

Via California Overnight

PAUL N. BALESTRACCI, ESQ.  
NEUMILLER & BEARDSLEE  
P.O. BOX 20  
STOCKTON, CA 95201-3020

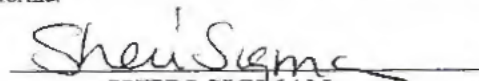
MICHAEL COUGHLAN, ESQ.  
LAW OFFICES OF MICHAEL D. COUGHLAN  
3031 W. MARCH LANE, #210 WEST  
STOCKTON, CA 95219

Via California Overnight

\_\_\_\_\_*BY FACSIMILE* Facsimile to the Facsimile telephone number(s) and at the time(s) indicated above, on the date of execution of this document, as set forth below.

xx *BY MAIL.* . I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Mail at Stockton, CA. I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope(s) and placed it/them for collection and mailing on the date of execution of this document, as set forth below, following ordinary business practices to the persons above where indicated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Served and executed on April 29, 2005, at Stockton, California.

  
SHERI SIGMAN