

1 MICHAEL D. COUGHLAN (SB# 124398)
ATTORNEY AT LAW
2 3031 W. MARCH LANE, Ste. 210 WEST
STOCKTON, CA 95219
3 (209) 952-3878
4 Attorneys for Defendant, FR. FRANCIS ARAKAL JOSEPH

RECEIVED
OCT 20 PM 4:00
DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

9 —ooo0ooo—

10 KATHLEEN MACHADO, as an individual)
and as Guardian Ad Litem for RACHEL LOMAS)
11 and AMBER LOMAS,)
12 Plaintiffs,)
13 -vs-)
14 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH)
aka FR. FRANCIS ARAKAL, FR. RICHARD)
15 RYAN, BISHOP STEVEN BLAIR and THE)
DIOCESE OF STOCKTON,)
16 Defendants.)
17

NO. CV018440
OPPOSITION TO PLAINTIFF'S
MOTION TO COMPEL
RESPONSES TO FORM
INTERROGATORIES
Date: October 30, 2003
Dept: 42

18 —ooo0ooo—

19 **INTRODUCTION**

20 The underlying Complaint in this action is based upon unsubstantiated allegations that
21 defendant Fr. Francis Arakal Joseph ("Arakal") sexually abused plaintiffs Rachel and Amber
22 Lomas ("Lomas"). The Complaint is also based upon allegations that Fr. Joseph Illo ("Illo") and
23 the Diocese of Stockton (the "Diocese") defamed Lomas's mother, and that the Diocese is
24 responsible for the behavior of Arakal and Illo through the respondeat superior doctrine of
25 liability.

26 Subsequent to the filing of this Motion, Arakal amended his responses to most of
27 Lomas's Form Interrogatories. Those amended responses are attached hereto. The only Form
28

1 Interrogatory that remains at issue is Number 2.11, which asks Arakal if at the time of the
2 incident alleged in the Complaint, he was acting as an agent or employee for any person.

3 As Lomas states in her Memorandum of Points & Authorities in support of this Motion,
4 "one of the issues critical to plaintiff's case is the establishment of the employer employee
5 relationship between the molesting priest and the Diocese." By propounding Form Interrogatory
6 Number 2.11, Lomas is essentially asking Arakal to give a legal opinion or conclusion on, what
7 Lomas admittedly calls, one of the major legal issues in this case.

8 Based upon the allegations in the Complaint, it is obvious that the response to this
9 interrogatory is meant to illicit information of a probative nature, rather than probative facts. As
10 such, Arakal's objection to Form Interrogatory Number 2.11 based on the fact that the question
11 calls for an opinion and conclusion is with merit and in good faith.

12 LEGAL ANALYSIS

13 Despite plaintiff's contentions, Arakal has responded to plaintiff's Form Interrogatories to
14 the best of his ability. To the extent that Arakal has not fully responded, his objections are
15 applicable and lawful.

16 Arakal's Objection to Form Interrogatory Number 2.11 Is Proper.

17 In response to Form Interrogatory Number 2.11, Arakal objects on the basis that the
18 question calls for a legal opinion and conclusion. In *West Pico Furniture Company of Los*
19 *Angeles v. Superior Court of Los Angeles County* (1961) 56 Cal.2d 407, the court held that an
20 objection to an interrogatory on the basis that it calls for a legal opinion or conclusion is
21 improper if the interrogatory will lead a party to probative facts. *Id.* At 417. However, the court
22 further held that an objection of this nature is proper "when the answer is intended to have
23 probative value." *Ibid.*

24 In this matter, it is patently obvious that by propounding Form Interrogatory Number
25 2.11, Lomas seeks information based on its probative value, not on its factual nature. It is
26 Arakal's opinion that the purpose of Form Interrogatory Number 2.11 is to unearth facts that
27 would tend to lead to other possible defendants to a cause of action. However, Lomas is privy to
28

1 the names of other possible defendants in this case – these persons are already named defendants.
2 Instead, by propounding this interrogatory, Lomas is attempting to illicit a legal conclusion that
3 goes to the heart of this case – information that Lomas seeks based on its probative value.

4 Arakal is more than willing to admit that he was employed as a Catholic priest for the
5 Diocese at the time the alleged incident occurred. However, through this interrogatory Lomas is
6 asking Arakal to admit that he was acting in the scope of his employment during the supposed
7 incident. Admitting that Arakal was acting in the scope of his employment is tantamount to
8 admitting that the Diocese is vicariously liable for Arakal's actions. This is a legal conclusion
9 that Arakal cannot make.

10 **CONCLUSION**

11 For the reasons stated above, defendant respectfully requests that plaintiff's Motion to
12 Compel Responses to Form Interrogatories and request for sanctions be denied.

13
14 Dated: October 20, 2003

15 By Alisa K. Harris
16 MICHAEL D. COUGHLAN
17 Attorney for Defendant
18 Fr. Francis Arakal
19
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1 PROOF OF SERVICE

2 I declare that:

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

5 I am readily familiar with my business' practice for collection and processing of
6 correspondence for mailing with the United States Postal Service.

7 On October 20, 2003, I served the within OPPOSITION TO PLAINTIFF'S MOTION
TO COMPEL RESPONSES TO FORM INTERROGATORIES

8
9 on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed
envelope with postage thereon duly prepaid, in the United States mail at Stockton, California,
addressed as follows:

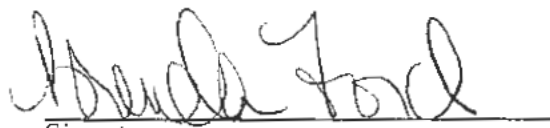
10
11 George J. MacKoul
12 SABBAAH AND MACKOUL
13 49 Locust Street,
Falmouth, MASS 02540

14 Anthony Boskovich
15 LAW OFFICES OF ANTHONY BOSKOVICH
16 28 North First Street, 6th Fl.
San Jose, CA 95113-1210

17 Paul N. Balestracci
18 NUEMILLER & BEARDSLEE
P.O. Box 20
Stockton, CA 95201

19
20
21
22
23
24 I declare under penalty of perjury that the foregoing is true and correct and that this
25 declaration was executed on October 20, 2003, at Stockton, California.

26
27 BRENDA FORD
Type or Print Name


Signature

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 6th 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 and as
17 Guardian ad Litem for, Rachel Lomas and
18 Amber Lomas,
19 Plaintiffs,

20 vs.

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

FILED
OCT - 9 11:12 AM '03
Carmen Carrasco
BY _____
DEPUTY

) Case No.: CV018440
)
) **PLAINTIFF'S NOTICE OF MOTION**
) **AND MOTION TO COMPEL**
) **RESPONSES TO REQUEST FOR**
) **PRODUCTION OF DOCUMENTS SET**
) **ONE FROM DEFENDANT ARAKAL;**
) **REQUEST FOR SANCTIONS**
) **PURSUANT TO C.C.P. 2023**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES IN SUPPORT OF**
) **MOTION, DECLARATION OF GEORGE**
) **J.MACKOUL IN SUPPORT OF MOTION**
) **TO COMPEL.**

[Filed Concurrently with Plaintiffs
California Rules Of Court 335 Statement
Of Questions And Answers In Dispute]

PLEASE TAKE NOTICE THAT ON OCTOBER 30, 2003 AT 9:00 A.M., in Department
42, of the above captioned court, PLAINTIFFS' will move this court for an order compelling
defendant Fr. Francis Arakal for further responses to REQUEST FOR PRODUCTION OF
DOCUMENTS, set. No.1, and will further move this court for an order for monetary sanctions

1 in the amount of \$ **\$1,636.50** defendant and/or his counsel of record for the cost of bringing this
2 motion pursuant to the attached declaration of George J. MacKoul.

3 This motion is based on this notice, the memorandum of points and authorities herein and
4 the attached, CRC 335 statement, the pleadings on file and any oral testimony presented at the
5 hearing on this motion.

6
7 Dated: October 7, 2003

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George J. MacKoul
SABBAH AND MACKOUL
Attorneys for the Plaintiffs

1 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION

2 I.
3 INTRODUCTION

4 This is a lawsuit involving allegations of sexual abuse against 13-year-old Rachel Lomas and 11-
5 year-old Amber Lomas by defendant Joseph Arakal, and the Diocese of Stockton. The balances
6 of the allegations stated in the complaint are against Fr. Joseph Illo and The Diocese of Stockton
7 for defamation against the mother of the minor children and Respondent Superior Liability for
8 the behavior of both priests.

9 As is its custom, the Diocese split off from defending the accused molesting priest and
10 hired or caused defendant Arakal to hire independent counsel. Yet there appears to be joint
11 cooperation between the defendants as will be illustrated in other motions before this court
12 wherein defendants assert a fallacious "joint defense privilege". Defendant Arakal's counsel also
13 admits in responses to discovery have possession of witnesses statements given to him by the
14 attorneys for the Diocese.

15 One of the issues critical to plaintiff's case review of witness statements taken by the co-
16 defendants, Diocese of Stockton, Illo, Bishop Blaire and Ryan, and given to defense counsel for
17 Arakal. On the one hand the Diocese severs the accused priest, but on the other hand provides his
18 counsel with statements, and information that may protect and/or harm Arakal's case. To add
19 insult to injury, counsel for the defendant Arakal, attempts to claim that the witnesses statements
20 and other documents are privilege, when in fact they were taken from employees of the co-
21 defendant Diocese who counsel for Arakal does not even represent! Particularly important are
22 the interviews with the employees of the Diocese who witness the reports of the molestation to
23 Defendant Illo, (supervising priest to Arakal) who on **September 11, 2001**, shamed and defamed
24
25

1 the minor and her mother after the report was made, and further took no discipline of remedial
2 actions against the offending priest.

3 On January 4, 2003 plaintiff, Rachel Lomas Request for Production, Set No. 1 to
4 defendant Arakal (Exhibit A). On February 7, 2003, defendant filed verified responses to the
5 requests (Exhibit B) which contained boilerplate objections and improper responses.

6 On May 23, 2003, plaintiff wrote a meet and confer letter to defendants counsel. Said
7 letter is attached as Exhibit C. On March 25, 2003, defendant granted plaintiff an **open ended**
8 **extension** to file this motion to compel to the discovery propounded on January 4, 2003 (Exhibit
9 D).

10
11 **To date there has been no response or no attempt by defense counsel to meet and**
12 **confer on the issues stated in plaintiff may 23 letter inviting defendant and his counsel to**
13 **meet and confer.**

14
15 II.

16 **PURSUANT TO C.C.P. 2031, DEFENDANTS RESPONSES TO REQUEST NUMBER 5,**
17 **7, 15, 16, 17, 26 ARE IMPROPER/INADEQUATE AND DEFENDANT SHOULD BE**
18 **ORDERED TO PRODUCE THE DOCUMENTS REQUESTED AND/OR FILE**
19 **SUPPLEMENTAL RESPONSE.**

20
21 Standards of professionalism govern production of documents in civil discovery in
22 California. A responding party must not hide behind frivolous objections in order to avoid
23 disclosure of the documents requested. "In responding to document demands, counsel should
24 not strain to interpret the request in an artificially restrictive manner in order to avoid disclosure"
25 and "Documents should only be withheld on the grounds of privilege only where appropriate".

(See *Weil and Brown, Civil Procedure Before Trial*, supra at 8:1476.5 citing local court rules as

1 an example of the level of professionalism that must be shown by a party in answering the
2 production request of an adverse party).

3 Indeed the code is quite explicit in how a party must answer responses to an adverse
4 party's production request. A party responding to a C.C.P. 2031 demand must respond
5 separately to each requested with one of the following responses.

6
7 **1. An agreement to comply**

8
9 **2. A response stating an inability to comply which shall state the following**
10 **(C.C.P. 2031 (f) (2) emphasis added)**

11
12 * That a diligent search and reasonable inquiry
13 has been made in an effort to locate the item
14 demanded; and

15 * The reason the party is unable to comply is
16 because the document:

17 -never existed; or

18 -has been lost or stolen; or

19 -is not in the possession, custody or control of the
20 responding party ... in which case, the response **must**
21 **state** the name and address of anyone believed to have
22 the documents [C.C.P. 2031 (f) (2)]

23 **3. The responding party may object to any item or category demanded in**
24 **whole or in part, however to be effective the objection must also:**

1 *IDENTIFY WITH PARTICULARITY THE SPECIFIC DOCUMENT OR
2 DOCUMENTS OBJECTED TO: AND

3
4 *Set forth the specific ground for objection, including claims of privilege or work
5 product protection. See *Standon Co., Inc v. Superior Court* (1990) 225 CA 3d
6 898, 901

7
8 The responding party must not simply state objections without good reason and
9 objections should not be filed without identification of the documents sought to be protected; i.e.
10 a privilege log must be provided, identifying each request objected to. A blanket objection (e.g.,
11 "attorney-client privilege") may not always be enough to preserve the point. You must furnish
12 sufficient information regarding the communication or conversation to enable a judge to rule on
13 a motion to compel; e.g., the person to whom and by whom the communication was made, the
14 date and place, nature or title of any document, etc.

15
16 III.

17 **BOILERPLATE OBJECTIONS AND GENERAL OBJECTIONS TO ALL OF THE**
18 **REQUEST FOR DOCUMENTS ARE NOT ALLOWED OR JUSTIFIABLE**

19 Defendant initiated his Responses with three "General Objections" to the entire set of
20 form interrogatories at the beginning of his responses. The law does not allow these types of
21 objections and defendant should be ordered to remove them and should be ordered to file
22 supplemental responses.
23
24
25

1 IV.

2 **DEFENDANT ATTEMPTS TO ASSERT THE ATTORNEY CLIENT AND WORK**
3 **PRODUCT PROTECTIONS AND A FALSE 'JOINT DEFENSE PRIVILEGE' UPON**
4 **INFORMATION HE HAS NO ATTORNEY CLIENT RELATIONSHIP TOO.**

5 As set forth in the separately filed 335 statement, defendant attempts to assert the
6 attorney client privilege to witnesses statements given to him by the codefendant's employees
7 whom he does not represent.

8 Further no joint defense privilege exists with regard to the documents requested.
9

10 V.

11 **BECAUSE OF DEFENDANTS ABUSE OF THE DISCOVERY PROCESS, SANCTIONS**
12 **ARE APPROPRIATE AND SHOULD BE ASSESSED AGAINST DEFENDANT FOR**
13 **THE COST OF BRINGING THIS MOTION.**

14 Failure to respond to interrogatories, evasive responses, and objections lacking
15 substantial justification are "misuses of the discovery process." Ca Civ Pro § 2023(a)(4)-(6).
16 Ca Civ Pro § 2023(a) sets forth a **nonexclusive** catalog of "misuses" of discovery for which
17 sanctions may be imposed, including:
18

19 -- "Using a discovery method improperly (i.e., "in a manner that does not comply with its
20 specified procedures".

21 -- Using a discovery method so as to cause "unwarranted annoyance, embarrassment or
22 oppression or undue burden and expense."

23 -- Failing to respond or submit to an authorized method of discovery.

24 -- "Making, without substantial justification, an unmeritorious objection to discovery."

25 ----"Making an evasive response to discovery."

1 ---"Failing to meet and confer with regard to discovery responses."

2 Monetary sanctions may be imposed for serving responses containing "boilerplate"
3 objections (objections lacking the specificity required by Ca Civ Pro § 2030(f); see ¶8:1071 ff.)
4 without the necessity of a prior court order compelling responses. [See **Korea Data Systems Co.**
5 **Ltd. v. Sup.Ct. (Amazing Technologies Corp.)** (1997) 51 Cal.App.4th 1513, 1516, 59
6 Cal.Rptr.2d 925, 926--dealing with Ca Civ Pro § 2031 document requests]

7 The court "shall" impose a monetary sanction against the losing party or attorney unless
8 it finds:

- 9 • "The one subject to the sanction acted with substantial justification"; or that
10 • "Other circumstances make the imposition of the sanction unjust." [Ca Civ Pro § 2030(l)
11 (emphasis added)]

12 Unless one of the above excuses is shown, the court apparently may not refuse to
13 impose the monetary sanction. And, the burden is on the losing party to prove such excuse.
14 [Mattco Forge, Inc. v. Arthur Young & Co. (1990) 223 Cal.App.3d 1429, 1441, 273 Cal.Rptr.
15 262, 269--losing party presumptively must pay monetary sanction to prevailing party].

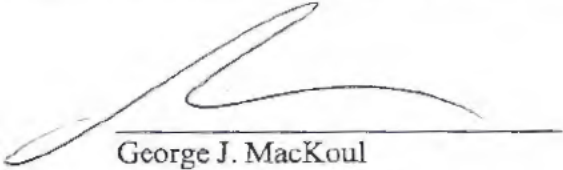
16 There is no substantial justification for the responses or lack thereof given by defendants.
17 Based on the attached declaration of Attorney MacKoul, a request that sanctions be awarded
18 in the amount of **\$1,636.50** against either defendant and/or his counsel.

19 VI.

20 **CONCLUSION**

21 Based on the foregoing plaintiff respectfully requests that his motion be granted.

22
23 Dated October 7, 2003

24 
George J. MacKoul
25 Attorney for Plaintiffs

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. Attached, as Exhibit A is a true and correct copy of Request for Production, Set Number 1, mailed by Plaintiff Rachel Lomas to Defendant Arakal on January 4, 2003.
3. Attached, as Exhibit B is a true and correct copy of Defendants Arakal's Responses to Request for Production Set 1, mailed to Plaintiff's counsel on February 7, 2003.
4. Attached, as Exhibit C is a true and correct copy of a letter dated May 23, 2003 from plaintiff's counsel to defense counsel inviting the same to meet and confer per the code of civil procedure regarding the inadequacy of the responses given by defendant and a request for supplementation.
5. Attached, as Exhibit D is a March 25, 2003 letter from defense counsel to plaintiff's counsel granting an open-ended extension of time to file this motion.
6. To date defense counsel has not even attempted to meet and confer with regard to these responses. Accordingly plaintiff's counsel has no other option but to file this motion.
7. I am requesting the following sanctions for the time it took me to prepare and file this motion.
 - a. May 23, 2003 letter inviting defendant to meet and confer including legal research took approximately **5 hours**.
 - b. Research and drafting of this motion **3 hours** of time.

1 8. My average billable hourly rate is \$200.00 per hour as this is the rate and therefore I am
2 asking the court to award me 8 hours of time or (8 x \$200.00 plus filing fee for this
3 motion of \$36.30) or **\$1,636.50** be awarded to plaintiff's counsel against either defendant
4 or his counsel, for the cost of bringing this motion.

5 I declare under penalty of perjury the foregoing to be true and correct.

6 Date: October 6, 2003

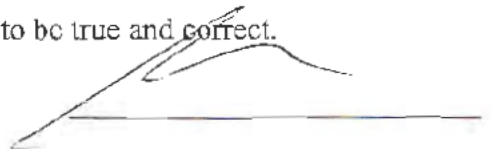
7 
8 George J. MacKoul

EXHIBIT A

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 6th 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 and as)
17 Guardian ad Litem for, Rachel Lomas and)
18 Amber Lomas,)
19 Plaintiffs,)

20 vs.)

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

Case No.: CV018440

REQUEST FOR PRODUCTION OF DOCUMENTS

Propounding Party: **Plaintiff, Rachel Lomas**

Responding Party: **Defendant, Fr. Francis Joseph, A.K.A. Fr. Francis Arakal**

Set No. 1.

Pursuant to C.C.P. 2031, Plaintiff Rachel Lomas, by and through her Guardian Ad Litem,
request that produce for inspection and copying the following documents at the Law Office of

1 SABBAH AND MACKOUL 49 Locust Street Falmouth, Massachusetts 02540 and provide
2 written responses under oath in the time period prescribed by C.C.P. 2031.

3 PLEASE TAKE NOTICE THAT AT THE TIME AND PLACE designated for
4 production stated above, Plaintiff Rachel Lomas, by and through her Guardian Ad Litem
5 Kathleen Machado, that the Defendant, Fr. Francis Joseph, A.K.A. Fr. Francis Arakal listed
6 above produce for inspection and copying all of the originals (if the originals do not exist) of the
7 documents identified below pursuant to C.C.P. 2031.

8 In response to this Request for Production of Documents, you should furnish any
9 documents which is available to you, not merely those which you now have in your possession.
10 This means that you are to furnish documents which are in the possession of your agents,
11 employees, attorneys, investigator's for your attorneys, or which are otherwise subject to your
12 custody or control.

13 All documents shall be produced in the form in which they were found in their normal
14 filing places, including the file folder or other binding in which such documents were found.
15 You are also required to produce copies of any documents in which there appear markings not
16 on the original.

17 DEFINITIONS

18 The words in quotes in this "Definitions" section regardless of how they appear in the
19 actual requests below should be taken to be defined as follows, when answering these requests:

20 The term: "Documents" as used in this request means all documents as defined by
21 California Evidence Code Section 250. The term documents also includes any information
22 maintained by electronic means, including but not limited to those maintained on a computer
23 (either personal or network based) or any other electronic device which stores information and
24 further includes e-mail messages, storage components otherwise known as a "Hard Drives"
25 "cookies", palm pilots, laptop computers, voice mail messages,

1 The term: "You" and "Yours" means defendant "Fr. Francis Arakal" which includes and
2 individual authorized to act on behalf of the defendant Fr. Francis Arakal, including but not
3 limited to any past or present employee/employer of the defendant "Fr. Francis Arakal", their
4 agents, assigns, officers, directors, investigators, accountants, priests, nuns, deacons, lay
5 ministers, Bishops and Cardinals. The term: "INCIDENT" means the accident, which is the
6 subject matter of plaintiffs complaint.

7 "Correspondence" or "Communication" and/or "Communications" is defined as all
8 written and oral communications with any human being, including face to face conversations,
9 conferences, telephone conversations, letters, telegrams, or electronic messages.

10
11 **REQUEST FOR PRODUCTION NO. 1:**

12 All documents referring to or relating to any reports of sexual misconduct by YOU directed to
13 any of the named defendants involving any and all minors, Ten years prior to July 1, 2001.

14
15 **REQUEST FOR PRODUCTION NO. 2:**

16 A copy of all documents stored in the memory of YOUR personal computer for calendar year
17 2001 regarding sexual and or pornographic material . This request includes and is not limited to
18 any and all "cookies" from any and all internet sites stored in YOUR computer memory.

19
20 **REQUEST FOR PRODUCTION NO. 3:**

21 A copy of YOUR personal diary and/or Journal for the Calendar Year 2001.

22
23 **REQUEST FOR PRODUCTION NO. 4**

24 All documents referring or relating to any psychological/psychiatric evaluation of YOU
25 regarding this INCIDENT.

1 **REQUEST FOR PRODUCTION NO. 5**

2 A copy of your personal calendar/date book for the year 2001.

4 **REQUEST FOR PRODUCTION NO. 6**

5 A copy of YOUR telephone bill from any and all telephones (cellular or otherwise) which YOU
6 had access to for the year 2001.

8 **REQUEST FOR PRODUCTION NO. 7**

9 All documents in YOUR possession, custody and control, evidencing communications between
10 YOU and any of the other named defendants, of and concerning any of the allegations stated in
11 plaintiffs' complaint.

13 **REQUEST FOR PRODUCTION NO. 8**

14 All documents in YOUR possession, custody and control, evidencing communications between
15 YOU and any of the Plaintiffs to this lawsuit, of and concerning any of the allegations stated in
16 Plaintiffs' complaint.

18 **REQUEST FOR PRODUCTION NO. 9:**

19 The declarations page of any policy of insurance in effect at the time of the INCIDENT which
20 provided coverage for the responding party, regarding the INCIDENT. (This request is not
21 protected by any applicable privilege and defendants must include in their response the
22 identity of the carrier and the nature and limits of the coverage pursuant to *California Civil*
23 *Procedure section 2017(b)*).

1 **REQUEST FOR PRODUCTION NO. 10:**

2 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to any statements, whether
3 written, oral, recorded or unrecorded, transcribed, summarized, or noted, which were made by a
4 party relating to the INCIDENT.
5

6 **REQUEST FOR PRODUCTION NO. 11:**

7 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to any statements, whether
8 written, oral, recorded or unrecorded, transcribed, summarized, or noted, which were made by
9 any witnesses to the INCIDENT.
10

11
12 **REQUEST FOR PRODUCTION NO. 12:**

13 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
14 PLAINTIFF'S FORM INTERROGATORIES, SET ONE, interrogatory number 2.6.
15

16 **REQUEST FOR PRODUCTION NO. 13:**

17 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
18 PLAINTIFF'S FORM INTERROGATORIES, SET ONE, interrogatory number 4.1.
19

20 **REQUEST FOR PRODUCTION NO. 14:**

21 Any and all DOCUMENTS which refer to or relate to or contain information regarding the
22 policies an procedures for sexual abuse/sexual interaction between priest and minors
23 given/distributed/and/or authored by the defendant Diocese of Stockton and given to YOU in the
24 last 10 years.
25

1 **REQUEST FOR PRODUCTION NO. 15:**

2 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
3 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.1.

4
5 **REQUEST FOR PRODUCTION NO. 16:**

6 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
7 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.2.

8
9
10 **REQUEST FOR PRODUCTION NO. 17:**

11 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
12 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.3.

13
14 **REQUEST FOR PRODUCTION NO. 18:**

15 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
16 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.5.

17
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19 **REQUEST FOR PRODUCTION NO. 19:**

20 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
21 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.6.
22
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1 **REQUEST FOR PRODUCTION NO. 20:**

2 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
3 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 12.7
4

5 **REQUEST FOR PRODUCTION NO. 21:**

6 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
7 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 13.1.
8

9 **REQUEST FOR PRODUCTION NO. 22:**

10 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
11 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 13.2.
12

13 **REQUEST FOR PRODUCTION NO. 23:**

14 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
15 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 13.2.
16

17 **REQUEST FOR PRODUCTION NO. 24:**

18 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
19 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 14.1.
20

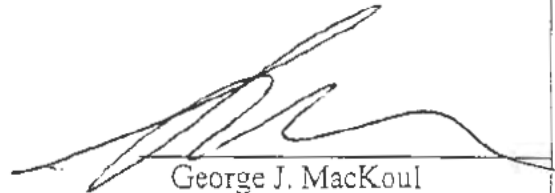
21 **REQUEST FOR PRODUCTION NO. 25:**

22 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
23 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 14.2.
24
25

1 REQUEST FOR PRODUCTION NO. 26:

2 Any and all DOCUMENTS, that pertain to, reflect, refer, or relate to YOUR RESPONSES TO
3 PLAINTIFF'S FORM INTERROGATORIES , SET ONE, interrogatory number 15.1.
4

5 Dated this 4th day of January, 2003
6



7 George J. MacKoul
8 SABBAH AND MACKOUL
9 Attorneys for the Plaintiffs
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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 January 04, 2003, I served the within: **REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE PROPOUNDED BY PLAINTIFF RACHEL LOMAS TO DEFENDANT ARAKAL.**

_____ on the interested parties in said action by transmitting a true copy of said document by facsimile machine. The documents listed above to the fax number(s) set forth below on this date from (508) 495-4115, the transmission was reported as complete and without error. Said fax transmission occurred as stated in the transmission record attached hereto. Said fax transmission was directed to the names and addresses stated below.

_____ 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.

 X 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.

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

Mr. Anthony Boskovich
28 North First Street
Sixth Floor
San Jose, California 95113-1210
(408) 286-5150
408-286-5170

CO-COUNSEL FOR PLAINTIFF

Paul N. Balestracci
Attorney at Law
Neumiller & Beardslee
509 West Weber Avenue
Fifth Floor
Stockton, California 95203

COUNSEL FOR DEFENDANTS DIOCESE OF STOCKTON,
DEFENDANTS BLAIRE, ILLO AND RYAN.

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

COUNSEL FOR DEFENDANT ARAKAL

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

Executed on January 4, 2003 at Falmouth, Massachusetts.

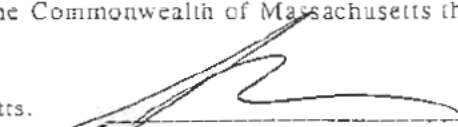

George J. MacKoul

EXHIBIT B

1 MICHAEL D. COUGHLAN (CSB #124398)
2 COUGHLAN & O'ROURKE LLP
3 3031 West March Lane, Suite 210 West
4 Stockton, CA 95219
5 (209) 952-3878

6 Attorneys for Defendant, FR. FRANCIS ARAKAL JOSEPH

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

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

Case No.: CV018440

RESPONSES TO REQUEST FOR
PRODUCTION OF DOCUMENTS

14 vs.


15 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH aka)
16 FR. FRANCIS ARAKAL, FR. RICHARD)
17 RYAN, BISHOP STEVEN BLAIR and THE)
18 DIOCESE OF STOCKTON)
19 Defendants.

20 PROPOUNDING PARTY: Plaintiff, RACHEL LOMAS

21 RESPONDING PARTY: Defendant, FR. FRANCIS ARAKAL JOSEPH

22 SET NUMBER: ONE (1)

23 These responses to Request for Production of Documents are served pursuant to Code of Civil
24 Procedure section 2031. In answering these requests, the Propounding Party is being furnished
25 with such information as is presently available to this Responding Party, which may not be
26 entirely reliable since discovery is still continuing. Since discovery is still continuing and
27 information is still being ascertained, these responses may not be admissible in evidence. This
28 Responding Party expressly reserves the right to introduce at trial evidence and/or documents
that are presently unknown to this Responding Party and/or are discovered subsequent to the date

EXHIBIT 

RESPONSE TO DEMAND FOR PRODUCTION OF DOCUMENTS AND THINGS

1 of these responses. Further, this Responding Party expressly reserves the right to amend these
2 responses without motion at any time, including up to and at the trial in this matter.

3 **GENERAL OBJECTION NUMBER 1**

4 THIS RESPONDING PARTY OBJECTS TO THESE REQUESTS ON THE GROUNDS THAT
5 THIS RESPONDING PARTY HAS NOT YET FULLY COMPLETED THE
6 INVESTIGATION, DISCOVERY AND TRIAL PREPARATION IN THIS MATTER

7 This Responding Party has not yet fully completed the investigation of the facts relating to
8 this case, and has not completed discovery in this matter, nor completed preparation for trial.

9 All of the responses contained herein are based only upon such information and documents
10 that are presently available to and specifically known to this Responding Party at this time, and
11 discloses only those contentions that presently occur to this Responding Party. It is anticipated
12 that further discovery, independent investigation, legal research and analysis may supply
13 additional facts and add meaning to known facts; as well as establish new factual conclusions
14 and legal contentions, all of which may lead to substantial additions to, changes in, and
15 variations from the conclusions and contentions set forth herein.

16 The responses and objections set forth herein are given without prejudice to this Responding
17 Party's right to produce evidence on any subsequently discovered fact(s), or of fact(s) that this
18 Responding Party may later recall. Accordingly, this Responding Party expressly reserves the
19 right to change any and all responses contained herein as additional facts are ascertained,
20 analyses are made, legal research is completed and additional contentions are developed.

21 The responses contained herein are made in a good faith effort to supply as much factual
22 information and as much specification of legal contentions as is presently known, but should not,
23 in any way, be to the prejudice of this Responding Party in relation to further discovery,
24 research, analysis, or presentation of evidence at trial.

25 **GENERAL OBJECTION NUMBER 2**

26 THIS RESPONDING PARTY OBJECTS TO THESE REQUESTS ON THE GROUNDS AND
27 TO THE EXTENT THAT THEY SEEK PRIVILEGED, CONFIDENTIAL AND
28 UNDISCOVERABLE INFORMATION THAT IS PROTECTED BY THE ATTORNEY-
CLIENT RELATIONSHIP AND/OR THE ATTORNEY WORK PRODUCT DOCTRINE

29 This Responding Party objects to these Requests to the extent that they seek privileged,
30 confidential and undiscoverable information that is absolutely and/or conditionally protected by
31 the attorney-client relationship and/or the attorney work product doctrine.

EXHIBIT C

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

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 February 7, 2003, I served the attached:
8 Responses of Defendant Fr. Francis Arakal Joseph to Plaintiff's Special Interrogatories, Set One

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

10 George J. MacKoul, Esq.

11 Sabbah & MacKoul

12 49 Locust Street

Falmouth, MA 02540

13 Anthony Boskovich, Esq.

14 Law Offices of Anthony Boscovich

15 28 N. First Street, 6th Floor

San Jose, CA 95113

16 Paul N. Balestracci, Esq.

17 Nuemiller & Beardslee

P.O. Box 20

18 Stockton, CA 95201

BY MAIL:

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

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

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

25 Executed on February 7, 2003, at Stockton, California.

26
27 
28 Mary L. Coughlan

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

4 Attorneys for Defendant FR. FRANCIS ARAKAL JOSEPH

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

KATHLEEN MACHADO, et al,)	Case No.: CV018440
Plaintiffs,)	AMENDED
vs.)	RESPONSES TO FORM
)	INTERROGATORIES
FR. JOSEPH ILLO, et al,)	
Defendants)	
)	
)	
)	
)	
)	
)	

PROPOUNDING PARTY: Plaintiff, **RACHEL LOMAS** by her Guardian Ad
Litem, **KATHLEEN MACHADO**
RESPONDING PARTY: Defendant, **FR. FRANCIS ARAKAL JOSEPH**

SET NUMBER: **One**

These responses to form interrogatories are served pursuant to Code of Civil Procedure section 2030. In answering these form interrogatories, the Propounding Party is being furnished with such information as is presently available to this Responding Party, which may not be entirely reliable since discovery is still continuing. Since discovery is still continuing and information is still being ascertained, these responses may not be admissible in evidence. This Responding Party expressly reserves the right to introduce at trial evidence that is presently

1 unknown to this Responding Party and/or is discovered subsequent to the date of these
2 responses. Further, this Responding Party expressly reserves the right to amend these responses
3 without motion at any time, including up to and at the trial of this matter.

4 **GENERAL OBJECTION NUMBER 1**

5 THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON THE
6 GROUNDS THAT THIS RESPONDING PARTY HAS NOT YET FULLY COMPLETED THE
7 INVESTIGATION, DISCOVERY AND TRIAL PREPARATION IN THIS MATTER.

8 This Responding Party has not yet fully completed the investigation of the facts relating
9 to this case, and has not completed discovery in this matter, nor completed preparation for trial.

10 All of the responses contained herein are based only upon such information and
11 documents that are presently available to and specifically known to this Responding Party at this
12 time, and discloses only those contentions that presently occur to this Responding Party. It is
13 anticipated that further discovery, independent investigation, legal research and analysis may
14 supply additional facts and add meaning to known facts; as well as establish new factual
15 conclusions and legal contentions, all of which may lead to substantial additions to, changes in,
16 and variations from the conclusions and contentions set forth herein.

17 The responses and objections set forth herein are given without prejudice to this
18 Responding Party's right to produce evidence on any subsequently discovered fact(s), or of
19 fact(s) that this Responding Party may later recall. Accordingly, this Responding Party expressly
20 reserves the right to change any and all responses contained herein as additional facts are
21 ascertained, analysis are made, legal research is completed and additional contentions are
22 developed.

23 The responses contained herein are made in a good faith effort to supply as much factual
24 information and as much specification of legal contentions as is presently known, but should not,
25 in any way, be to the prejudice of this Responding Party in relation to further discovery,
26 research, analysis, or presentation of evidence at trial.

GENERAL OBJECTION NUMBER 2

THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON THE
GROUNDS AND TO THE EXTENT THAT THEY SEEK PRIVILEGED, CONFIDENTIAL
AND UNDISCOVERABLE INFORMATION THAT IS PROTECTED BY THE ATTORNEY-
CLIENT RELATIONSHIP AND/OR THE ATTORNEY WORK PRODUCT DOCTRINE.

1
2 This Responding Party objects to these interrogatories to the extent that they seek
3 privileged, confidential and undiscoverable information that is absolutely protected by the
4 attorney-client relationship and/or the attorney work product doctrine.

5 The Responses contained herein are made in a good faith effort to supply as much factual
6 information and as much specification of legal contentions as is presently known, but should not,
7 in any way, be to the prejudice of this Responding Party, and to the extent that this Responding
8 Party discloses privileged or confidential information, if any, said disclosure shall not, in any
9 way, be deemed or construed to be a waiver of this Responding Party's right to invoke and assert
10 the attorney-client privilege and/or attorney work product doctrine.

11 **GENERAL OBJECTION NUMBER 3**

12 THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON THE
13 GROUNDS AND TO THE EXTENT THAT THE TERM "INCIDENT" USED
14 THROUGHOUT IS VAGUE AS TO WHICH SPECIFIC EVENT THE PROPOUNING
15 PARTY IS REFERRING.

16 Plaintiff's complaint refers to alleged acts and omissions of various defendants, thereby
17 creating uncertainty and ambiguity as to the definition of the term "incident" as used throughout
18 these interrogatories.

19 For the purposes of these responses, the term "incident" shall be construed by this
20 Responding Party to mean and specifically refer to the incident of July 25, 2001.

21 **RESPONSES TO FORM INTERROGATORIES**

22 1.1 Attorney Michael D. Coughlan.

23 2.1 Francis Arakal Joseph.

24 2.2 India, November 28, 1953.

25 2.5 (a) 1813 Oakdale Road, Modesto, California, for 23 months.

26 (b) 19 Fallett St., Lemmore, California, for 14 months. Prior to that I resided at the
Sacred Heart Philosophy College in Aluva, India.

1
2 2.6 (a) St. Joseph's Parish, Diocese of Stockton, Modesto, California for 23 months.
3 (b) St. Peter's Parish, Diocese of Fresno, Lemoore, California for 14 months. Before that I
4 was on the teaching staff at Sacred Heart Philosophy College in Aluva India.

5 2.7 Graduated from St. Peter's High School in Kumbalanghy, India in 1969. Received B.A
6 Degree form U.G. College, Aluva India, 1983. Attended St. Joseph's Pontifical Institute
7 of Philosophy and Theology in Aluva, India from 1972-79. Master of Arts, Unversity of
8 Kerala, India, 1989.

9 2.8 No.

10
11 2.11 Objection on the grounds that the question calls for a legal opinion and conclusion.
12 Without waiving the objection, defendant responds that he is uncertain as to the exact
13 dates of the visits that he made to plaintiffs' residence, which appear to form the basis of
14 the allegations in plaintiffs' complaint. Without admitting that any incident as described
15 in plaintiffs' complaint ever occurred, defendant responds that his most recent visit to
16 plaintiffs' residence was made to perform a blessing on the home.

17 3.5 No.

18 4.1 Defendant had no such insurance policy.

19
20 4.2 Defendant is not self-insured.

21 12.1 Defendant objects on the grounds that the question is vague and ambiguous to the extent
22 that it does not define which of the alleged incidents described in the complaint it seeks
23 information concerning. Defendant further objects that the question seeks information
24 protected by the attorney client privilege and/or attorney work product doctrine. Without
25 waiving the objection defendant responds that the only persons present at the time of his
26 visits to plaintiffs' residence included defendant and plaintiffs. With regard to the alleged

1 incident described in the complaint as occurring on September 11, 2001, persons who
2 may have witnessed the alleged events and or those occurring immediately after, and
3 either made or overheard statements would include plaintiff Amber Lomas, defendants
4 Illo and Joseph, and possibly others present in the Parish office including Jackie Tucker,
5 Mary Mullins, Owen Kummerle, Rosario Hernandez, Rose Wyeth, Yvonne McLoughlin.

6 12.2 Defendant objects on the grounds that the question is vague and ambiguous. Defendant
7 further objects that question seeks information protected by the attorney client privilege
8 and/or attorney work product doctrine. Without waiving the objections, Canon Lawyers
9 of the Diocese of Stockton may have interviewed individuals concerning the incidents
10 identified in the complaint, however, after a diligent search and reasonable inquiry
11 defendant responds that he is not in possession of any information concerning the names
12 or circumstances of these interviews

13 12.3 Defendant objects on the grounds that the question is vague and ambiguous. Defendant
14 further objects that the question seeks information protected by the attorney client
15 privilege and/or attorney work product doctrine. Without waiving the objections
16 defendant responds as follows:

17 (a) Jackie Tucker, Mary Mullins, Owen Kummerle and Rosario Hernandez, employees
18 of St. Joseph's Church in Modesto.

19 (b) Defendant believes that these statements were obtained by or on behalf of Paul
20 Balestracci, the attorney for the Diocese of Stockton.

21 (c) Defendant believes that the statements were obtained in or about September of 2001.

22 (d) After a diligent search and reasonable inquiry, defendant responds that he is not in
23 possession of any information the people, other than his attorney, who may have
24 copies of the above referenced statements.

25 12.4 Defendant objects on the grounds that the question is vague and ambiguous. Defendant
26 further objects that the question seeks information protected by the attorney client
privilege and/or attorney work product doctrine. Without waiving the objections, no.

1 12.5 Defendant objects on the grounds that the question is vague and ambiguous and also
2 seeks information protected by the attorney client privilege and/or attorney work product
3 doctrine. Without waiving the objections, no.

4 12.6 Defendant objects on the grounds that the question is vague and ambiguous and also that
5 it seeks information protected by the attorney client privilege and/or attorney work
6 product doctrine. Without waiving the objection, it is defendant's understanding that the
7 Hughson Police Department may have made a report and that a report may have been
8 made by Canon Lawyers of the Diocese of Stockton, however, defendant has never seen
9 any such report

10 13.1 Defendant is not aware of any such surveillance.

11 13.2 Not applicable.

12 14.1 Defendant objects on the grounds that the question seeks information protected by the
13 attorney work product doctrine. Without waiving the objection, defendant does not at this
14 so contend, however, discovery has just commenced, and defendant may amend this
15 response based upon later discovered information.
16

17 14.2 Defendant is aware of no such charge or citation.
18

19 15.1 This responding party objects to this interrogatory on the ground that it requests
20 information protected by the attorney client privilege and/or attorney work product
21 doctrine. As a matter of proper pleading and practice, responding party has pled certain
22 affirmative defenses and will not waive them here. This responding party further objects
23 to this interrogatory as it purports to acquire what amounts to a verified response to an
24 unverified complaint and also calls for this responding party to speculate as to what are
25 considered material allegations in the pleadings. This responding party further objects to
26 this interrogatory as it is premature and responding party has not yet conducted
discovery. Without waiving the objections, defendant responds as follows:

1 (a) Defendant did not engage in any inappropriate behavior with the plaintiffs. On
2 information and belief, defendant alleges that plaintiff Kathleen Machado was present
3 at the time the alleged incident occurred at her home. Plaintiff Kathleen Machado also
4 took the minors plaintiffs to the church and continued to do so at times that she knew
5 the defendant would be present. On information and belief, defendant alleges that
6 there may have been others who could have been negligent in regards to the incidents
7 alleged in the complaint.

8 (b) Kathleen Machado, Rachel Lomas, Amber Lomas.

9 (c) After a diligent search and reasonable inquiry, defendant responds that he is unaware
10 of any unprivileged documents that support these facts. Discovery is ongoing and
11 defendant reserves the right to amend his response at any time.

12 17.1 (a) 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19, 19, 20.

13 (b)(c)(d) As to request number 1, defendant did not frequently ask plaintiff Amber Lomas
14 if he could come over to her house for dinner. Persons with knowledge of this would
15 include the answering defendant and the plaintiff. Defendant is not aware of any
16 documents that would support this response.

17 As to request number 2, defendant did not ask plaintiff if she wanted to feel his stomach,
18 nor did he begin pulling down his pants. Persons with knowledge of this would include
19 the plaintiffs this answering defendant and possibly the Hughson Police Department and
20 Stanislaus County District Attorney's Office. Defendant is not aware of the specific dates
21 of visits to plaintiffs' home, and cannot admit to the date of June 28, 2001. Defendant is
22 not aware of any documents that would support this response other than any reports that
23 may have been generated by the above reference governmental agencies.

24 As to request number 3, defendant denies that he ever made the statement attributed to
25 him in the request. People with knowledge of this alleged event would include this
26 responding defendant, the plaintiffs and possibly the Hughson Police Department and
The Stanislaus County District Attorney's Office. Defendant is aware of no documents
that would support this response other than reports that may have been generated b the
above referenced governmental agencies. Defendant is not able to admit as to the specific
dates of any visit to the plaintiffs' home.

1 As to request number 4, defendant denies that he asked if he could bless plaintiff's home.
2 Persons with knowledge of this would include the responding defendant and the
3 plaintiffs. Defendant is not able to admit as to the specific date that he blessed the
4 plaintiffs' home at the request of the plaintiffs. Defendant is not aware of any documents
5 that support this response.

6 As to request number 5, defendant is not able to admit to the specific date that he went to
7 the plaintiffs' home at their request for the purpose of blessing it. Persons with
8 knowledge of this would include plaintiffs and the responding defendant. Defendant is
9 aware of no documents that would support this response.

10 As to request number 6, defendant is not able to admit to the specific date of July 25,
11 2001.

12 As to request number 7, defendant did not commit these alleged acts. Persons with
13 knowledge of this include this defendant, plaintiffs and members of the Hughson Police
14 and Stanislaus County District Attorney's Office and possibly Canon lawyers who may
15 have investigated on behalf of the Diocese of Stockton. Documents in support of this
16 would include any reports of investigations conducted by the above noted governmental
17 agencies, and or the Canon lawyers.

18 As to request number 8, defendant did not commit these alleged acts. Persons with
19 knowledge of this include defendant, plaintiffs and members of the Hughson Police
20 Department and Stanislaus County District Attorney's office and possibly Canon lawyers
21 who investigated on behalf of the Diocese of Stockton. Documents in support of this
22 response would include any reports of investigations conducted by the above noted
23 governmental agencies and/or the Canon Lawyers.

24 As to request number 9, defendant did not commit any such acts as described in the
25 request.

26 As to request number 11, defendant had no notice of any such allegations.

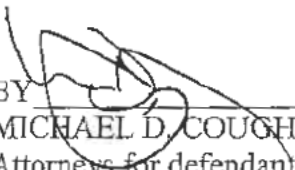
As to request number 12, Father Illo made no such communication to responding
defendant on September 11, 2001. Persons with knowledge of these facts would include
Fr. Illo and this responding defendant. Defendant is aware of no documents that would
support this response.

1 As to request number 14, defendant made no such communication with plaintiff Amber
2 Lomas concerning allegations relating physical contact with the breasts of plaintiff
3 Rachel Lomas. Persons with knowledge of this would include responding defendant,
4 plaintiff, Amber Lomas and possibly Fr. Illo. Defendant is aware of no documents that
5 would support this response.

6 As to request numbers 15-19, this responding party objects to this interrogatory on the
7 grounds that it seeks information protected by the attorney client and/or attorney work
8 product doctrine. As a matter of proper pleading and practice, responding party has pled
9 through counsel certain affirmative defenses and will not waive them here. This
10 responding party further objects to this interrogatory as it purports to acquire what
11 amounts to a verified response to an unverified complaint, and as such constitutes an
12 abuse of the discovery process.

13 As to request number 20, defendant denies making any such specific comment to Ms.
14 Shields and specifically during a meeting with Fr Illo. Persons with knowledge of this
15 would include responding defendant, Fr. Illo and Ms. Elaine Shields. Defendant is aware
16 of no documents that support this response.

17 DATED: 10/16/02

18 BY 
19 MICHAEL D. COUGHLAN
20 Attorneys for defendant
21 Fr. Francis Arakal Joseph
22
23
24
25
26

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 6th 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 and as
17 Guardian ad Litem for, Rachel Lomas and
18 Amber Lomas,
19 Plaintiffs,

20 vs.

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

Case No.: CV018440

PLAINTIFF'S NOTICE OF MOTION
AND MOTION TO COMPEL
RESPONSES TO SPECIAL
INTERROGATORIES FROM
DEFENDANT ARAKAL; REQUEST FOR
SANCTIONS PURSUANT TO C.C.P. 2023
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION, DECLARATION OF GEORGE
J. MACKOUL IN SUPPORT OF MOTION
TO COMPEL.

[Filed Concurrently with Separate
Statement Of Questions and Answers in
Dispute, Pursuant to California Rule of
Court 335]

YOU ARE HEREBY NOTIFIED THAT at 9 a.m. October 30, 2003 or as soon thereafter
as the matter can be heard, in Department 42 of this Court, Plaintiff will move this Court for an
order compelling defendant Fr. Francis Arakal to furnish further responses to the Special
Interrogatories, set no. 1, propounded by Plaintiff Rachael Lomas and shown on the Statement of

FILED

OCT-30 12:42

CLERK

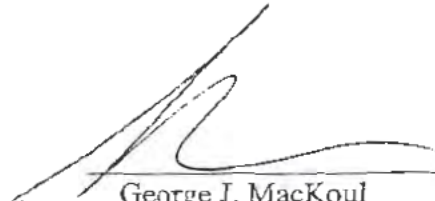
BY Carmen Carrasco
DEPUTY

11/02/03

1 Questions and Answers in Dispute, (Rule of Court 335) attached hereto and served and filed
2 separately herewith; AND ALSO FOR AN ORDER THAT said defendant and/or his counsel of
3 record pay a monetary sanction to moving party in the sum of **\$3,436.30** for the reasonable
4 expenses and attorney's fees incurred by the moving party in connection with this proceeding.
5 Said motion will be made on the ground that the said interrogatories are relevant to the subject
6 matter of this action, and do not relate to privileged matters, and that the said defendant's refusal
7 to properly and thoroughly answer same is without substantial justification.

8 Said motion will be based on this notice, the points and authorities set forth below, the
9 attached declaration of George J. MacKoul and the complete files and records in this action.

10
11 Dated this 1st day of October, 2003


George J. MacKoul
SABBAH AND MACKOUL
Attorneys for the Plaintiffs

1 invitation to plaintiff's meet and confer letter (Please see Exhibit E), standing by most of his
2 objections. Plaintiff responded to this letter on June 16, 2003 explaining to defense counsel that
3 his objections had no substantial justification and that based on established case law the
4 interrogatories had to be supplemented (Exhibit F).

5 To date no supplemental responses to the form interrogatories have been filed by
6 defendant and no further meet and confer efforts have been made by the same. Therefore,
7 plaintiff was left with no choice but to file this motion.

8
9
10
11 II.

12 **DEFENDANT HAS A DUTY TO INVESTIGATE AND RESPOND FULLY TO SPECIAL**
13 **INTERROGATORIES. INSTEAD DEFENDANT FILED BASELESS OBJECTIONS TO**
14 **SPECIAL INTERROGATORIES NOS. 1,4,5,8,9,16, AND 17 AND THEREFORE**
15 **FURTHER RESPONSES WITHOUT OBJECTION SHOULD BE ORDERED.**

16 The code requires that a party who responds to interrogatories must fulfill two separate
17 and distinct duties, when providing responses an opposing party. The first duty is the *duty to*
18 *obtain information*. "If the responding party does not personal knowledge sufficient to respond
19 fully to an interrogatory, that party shall so state, but *shall make a reasonable effort to obtain*
20 *information* by inquiry to other natural persons or organizations, except where that information is
21 equally available to the propounding party" *C.C.P.* Section 2030 (f) (1) (emphasis added), also
22 see *Deyo v. Kilbourne* (1979) 84 CA 3d 771, 783). "...unlike depositions, interrogatory answers
23 are prepared with the assistance of counsel. Therefore, a broader duty of response is justified"
24 See *Weil and Brown, Civil Procedure Before Trial* (1998) Chapter 8 page 8F-36, Section 8:1053.
25

1 In fulfilling a party's duty to "obtain information", case law is specific: *A party must obtain*
2 *information from sources under the parties control.* "A party cannot plead ignorance to
3 information which can be obtained from sources under his control" *Weil and Brown, Civil*
4 *Procedure Before Trial*, supra at Section 8:1054, citing *Deyo v. Kilbourne*, supra at 782.

5 The second duty a responding party has is the "*duty to provide complete answers*". Each
6 answer given in a parties response must be "as complete and straightforward as the information
7 reasonably available to the responding party permits. *If an interrogatory cannot be answered*
8 *completely, it shall be answered to the extent possible.*" C.C. P. 2030 (f) (1) (emphasis added).
9 Evasive answers are contrary to the rule of law, and are therefore improper. "An answer which
10 supplies only part of the information requested is insufficient." See, *Weil and Brown, Civil*
11 *Procedure Before Trial*, supra, Section 8:1048. "***Nor may a party, by deftly-worded conclusion***
12 ***answers, evade a series of explicit questions.***" See, *Deyo v. Kilbourne*, supra at 771, 783
13 (emphasis added). "Interrogatories should not be read by the recipient in an artificial manner
14 designed to assure that answers are not truly responsive" See, *Weil and Brown, Civil Procedure*
15 *Before Trial*, supra at Section 8:1048. "***Parties must state the truth, and nothing but the truth***
16 ***in answering written interrogatories.***" See, *Union Bank v. Superior Court* (1995) 31 CA 4th
17 573, 580 (emphasis added).
18

19 As set forth in the concurrently filed Statement of Questions and Answers in Dispute, it
20 is clear that defendant has failed in each of the duties described above.
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III.

**BOILERPLATE OBJECTIONS AND GENERAL OBJECTIONS TO ALL OF THE
SPECIAL INTERROGATORIES ARE NOT ALLOWED OR JUSTIFIABLE.**

Objections to the **entire** set of interrogatories *will not be sustained* if any of the questions is proper. *Wooldridge v. Mounts* (1962) 199 Cal.App.2d 620, 628, 18 Cal.Rptr. 806, 811. (Emphasis added). As set forth in the Separate Statement of Questions and Answers, **defendant initiated three "General Objections" to the entire set of Special Interrogatories at the beginning of his responses.** The law does not allow these types of objections and defendant should be ordered to remove them and should be ordered to file supplemental responses.

IV.

DEFENDANT FURTHER FILES IDENTICAL OBJECTIONS TO EACH OF THE SPECIAL INTERROGATORIES, ARGUEING THAT EACH ONE IS HARRASSING, OVERBROAD AND CALLING FOR IRRELEVENT INFORMATION, WHEN IN FACT ALL OF THE QUESTIONS ARE INTELLEGIBLE AND SEEK RELEVANT INFORMATION.

1 As set forth in the Separate Statement of Questions and Answers filed separately herein,
2 the court will see that plaintiff propounded clear and intelligent questions which were met with
3 obstreperous objections. In fact the leading practice guide in California Weil and Brown, Civil
4 Procedure Before Trial Chapter 8: "Courts generally do not sustain this kind ("ambiguous,
5 confusing or overbroad) objections unless the question is totally unintelligible. The answering
6 party owes a duty to respond in good faith as best he or she can. *Deyo v. Kilbourne* (1978) 84
7 Cal App. 3d 771, 783.

8 All of the interrogatories in issue were clear questions seeking relevant information, such
9 as other minors the defendant had contact with, defendants communications with other named
10 parties and the identity of witnesses. The objections are therefore unjustified.

11
12
13 V.

14 **DEFENDANTS PRIVACY OBJECTIONS ARE ALSO IMPROPER.**

15 Unlike privilege, the protection afforded "privacy" is qualified, not absolute. In each
16 case, the court must carefully balance the right of privacy against the need for Disclosure may be
17 ordered if a "compelling public interest" would be served thereby. *Britt v. Sup.Ct. (San Diego*
18 *Unified Port Dist.)*, supra, 20 Cal.3d at 855-856, 143 Cal.Rptr. at 702; *United Farm Workers v.*
19 *Sup.Ct. (Maggio)* (1985) 170 Cal.App.3d 391, 394, 216 Cal.Rptr. 469, 471

20 Issues regarding the sexual practices of the defendant are **directly** relevant to the issues in
21 the complaint and any privacy objection should be narrowly construed against defendant.

22 "Disclosure of such information may be compelled only if it is directly relevant to issues in the
23 case. A waiver by tendering such issues will be narrowly construed". *Barrenda L. v. Sup.Ct. (Los*
24 *Angeles County)* (1998) 65 Cal.App.4th 794, 800, 803, 76 Cal.Rptr.2d 727, 730, 732.

1 Defendants privacy objections as to the identity of other victims or third parties is also
2 without merit.

3 VI.

4 **BECAUSE OF DEFENDANTS ABUSE OF THE DISCOVERY PROCESS, SANCTIONS**
5 **ARE APPROPRIATE AND SHOULD BE ASSESSED AGAINST DEFENDANT FOR**
6 **THE COST OF BRINGING THIS MOTION.**

7 Failure to respond to interrogatories, evasive responses, and objections lacking substantial
8 justification are "misuses of the discovery process." Ca Civ Pro § 2023(a)(4)-(6).

9 Ca Civ Pro § 2023(a) sets forth a **nonexclusive** catalog of "misuses" of discovery for which
10 sanctions may be imposed, including:

11 -- " Using a discovery method improperly (i.e., "in a manner that does not comply with its
12 specified procedures".

13 -- Using a discovery method so as to cause "unwarranted annoyance, embarrassment or
14 oppression or undue burden and expense."

15 -- Failing to respond or submit to an authorized method of discovery.

16 -- "Making, without substantial justification, an unmeritorious objection to discovery."

17 ---"Making an evasive response to discovery."

18 Monetary sanctions may be imposed for serving responses containing "**boilerplate**"
19 objections (objections lacking the specificity required by Ca Civ Pro § 2030(f); see ¶8:1071 ff.)
20 without the necessity of a prior court order compelling responses. [See Korea Data Systems Co.
21 Ltd. v. Sup.Ct. (Aamazing Technologies Corp.) (1997) 51 Cal.App.4th 1513, 1516, 59
22 Cal.Rptr.2d 925, 926--dealing with Ca Civ Pro § 2031 document requests]

23 The court "**shall**" impose a monetary sanction against the losing party or attorney unless
24 it finds:

- 25 • "The one subject to the sanction acted with substantial justification"; or that

1 • "Other circumstances make the imposition of the sanction unjust." [Ca Civ Pro § 2030(l)
2 (emphasis added)

3 Unless one of the above excuses is shown, the court apparently may not refuse to
4 impose the monetary sanction. And, the burden is on the losing party to prove such excuse.
5 [Mattco Forge, Inc. v. Arthur Young & Co. (1990) 223 Cal.App.3d 1429, 1441, 273 Cal.Rptr.
6 262, 269--losing party presumptively must pay monetary sanction to prevailing party].

7 There is no substantial justification for the responses or lack thereof given by defendants.

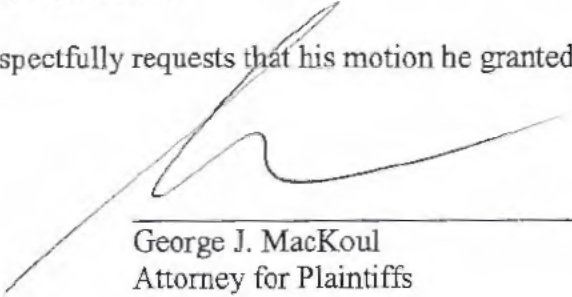
8 Based on the attached declaration of Attorney MacKoul, a request that sanctions be
9 awarded in the amount of **\$\$3,436.30** against either defendant and/or his counsel.

10
11 **IX.**

12 **CONCLUSION**

13 Based on the foregoing plaintiff respectfully requests that his motion be granted.

14
15 Dated: 7/6/07

16 
17 _____
18 George J. MacKoul
19 Attorney for Plaintiffs
20
21
22
23
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25

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. Attached, as Exhibit A is a true and correct copy of Special Interrogatories, Set Number 1, mailed by Plaintiff Rachel Lomas to Defendant Arakal on January 4, 2003.
3. Attached, as Exhibit B is a true and correct copy of Defendants Arakal's Responses to Special Interrogatories Set 1, mailed to Plaintiff's counsel on February 7, 2003.
4. Attached, as Exhibit C is a true and correct copy of a letter dated March 20, 2003 from plaintiff's counsel to defense counsel inviting the same to meet and confer per the code of civil procedure regarding the inadequacy of the responses given by defendant and a request for supplementation.
5. Attached, as Exhibit D is a March 25, 2003 letter from defense counsel to plaintiff's counsel granting an open-ended extension of time to file this motion.
6. Attached, as Exhibit E is March 29, 2003 letter from defense counsel to plaintiffs counsel responding to plaintiff's invitation to meet and confer and in essence affirming his intent to stand by his objections.
7. Attached, as Exhibit F is a June 16, 2003 letter from plaintiff's counsel which was in response to defendants March 29 letter explaining why his arguments with regard to standing by his objections and improper answers was not correct.

1 8. To date defense counsel has not contact plaintiff's counsel with any further information
2 or shown any intent to compromise his position with regard to his improper and illegal
3 responses to these interrogatories. Accordingly plaintiff's counsel has no other option but
4 to file this motion.

5 9. I am requesting the following sanctions for the time it took me to prepare and file this
6 motion.

7
8 a. March 20, 2003 letter inviting defendant to meet and confer including legal
9 research took approximately 10 hours (14 page letter). (The court can divide this
10 in half or **5 hours** for purposes of assigning the time for this as it applies to this
11 motion and the Motion to Compel Answers to Form interrogatories as the letter
12 addressed each set of responses.)

13 b. Read and review defense counsel's May 29th letter/response to my March 20,
14 2003 letter, and research of the case law cited in defense counsels letter took
15 approximately 2 hours (for purposes of this motion one half of this time can be
16 divided between this motion and the Motion to Compel Responses to Form
17 Interrogatories as the letter addressed issues to each set of responses or **1 Hour** of
18 time).

19 c. Researched and drafted June 16, 2003 response letter to defenses counsels May
20 29th letter (9 page letter with case cites), 10 hours of time (for purposes of this
21 motion one half of this time can be divided between this motion and the Motion to
22 Compel Responses to Form interrogatories as the letter addressed issues to each
23 set of responses or **5 hours** of time).

24 d. Research and drafting of this motion **5 hours** of time.
25

1 e. Anticipation of **1 hour** of court time to argue and resolve this motion.

2 10. My average billable hourly rate is \$200.00 per hour as this is the rate and therefore I am
3 asking the court to award me 17 hours of time or (17 x \$200.00 plus filing fee for this
4 motion of \$36.30) or **\$3,436.30** be awarded to plaintiff's counsel against either defendant
5 or his counsel, for the cost of bringing this motion.

6 I declare under penalty of perjury the foregoing to be true and correct.

7 Date: October 6, 2003

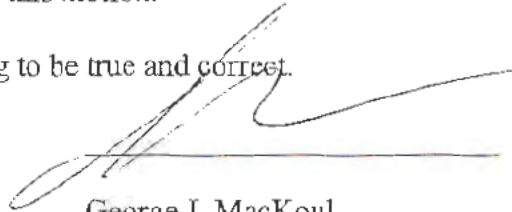
8 
9 George J. MacKoul

EXHIBIT A

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 6th 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 and as)
17 Guardian ad Litem for, Rachel Lomas and)
18 Amber Lomas,)
19 Plaintiffs,)

20 vs.)

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

Case No.: CV018440

) SPECIAL INTERROGATORIE
) 1 DIRECTED TO DEFENDANT
) FRANCIS JOSEPH A.K.A. FR.
) ARAKAL)

Propounding Party: Plaintiff, Rachel Lomas

Responding Party: Defendant, Fr. Francis Arakal

Set No. 1.

DEFINITIONS

The term: "Documents" as used in this request means all documents as defined
California Evidence Code Section 250. The term documents also includes any information

1 maintained by electronic means, including but not limited to those maintained on a computer
2 (either personal or network based) or any other electronic device which stores information
3 further includes e-mail messages, storage cookies otherwise known as "cookies", cell
4 phones, laptop computers, voice mail messages.

5 The term: "You" and "Yours" means the identified responding party to the
6 discovery which includes and individual authorized to act on behalf of the responding party
7 agents, assigns, officers, directors, investigators, consultants, priests, nuns, deacons, lay
8 ministers, Bishops, Cardinals, Pope John Paul II, any member of the Vatican.

9 The term "INCIDENT" means the accident which is the subject matter of plaintiff's
10 complaint.

11

12 SPECIAL INTERROGATORY NO. 1:

13 YOUR personal and professional telephone numbers used by YOU during the calendar
14 year 2001.

15

16 SPECIAL INTERROGATORY NO. 2:

17 YOUR personal and/or professional e-mail addresses used by YOU in the year 2001.

18

19 SPECIAL INTERROGATORY NO. 3:

20 The name and address of any internet providers you were subscribed to in the year 2001.

21

22 SPECIAL INTERROGATORY NO. 4:

23 Please list the name, address and telephone number of YOUR treating physician during
24 the year 2001.

25

1 SPECIAL INTERROGATORY NO. 5:

2 The names, addresses and telephone numbers of each and every employee, agent or
3 representative of the Diocese of Stockton involved in the INCIDENT or to whom YOU
4 communicated any information regarding the INCIDENT.

5
6 SPECIAL INTERROGATORY NO. 6:

7 The account numbers of all credit cards used by YOU during the calendar year 2001.

8
9 SPECIAL INTERROGATORY NO. 7:

10 Please identify each and every document exchanged between YOU and any of the other named
11 defendants regarding the INCIDENT.

12
13 SPECIAL INTERROGATORY NO. 8:

14 Please state your Social Security Number.

15
16 SPECIAL INTERROGATORY NO. 9:

17 Please identify the name address and telephone number of individual, for whom YOU performed
18 a blessing on their home, for the months of May, June, July and August 2001.

19
20 SPECIAL INTERROGATORY NO. 10:

21 Please identify all documents YOU received from defendant Diocese of Stockton, since YOUR
22 ordination as a priest, regarding and/or referring to the prevention and/or protection of minors
23 from sexual misconduct by Catholic Priests.

24
25

1 SPECIAL INTERROGATORY NO. 1

2 Please identify each and every organization, club, and/or youth group, whose membership
3 consisted of minors that YOU participated in for the last 5 years.

4
5 SPECIAL INTERROGATORY NO. 2

6 Please identify each and every Catholic Church that YOU have been a residence at for the past 10
7 years.

8
9 SPECIAL INTERROGATORY NO. 3

10 Please identify the name address and telephone number of the seminary YOU attended when
11 YOU trained for YOUR current occupation as a Catholic Priest.

12
13 SPECIAL INTERROGATORY NO. 4

14 Please identify the name address and telephone number of each and every supervisor YOU have
15 had in YOUR capacity as a Catholic Priest in the past 10 Years.

16
17 SPECIAL INTERROGATORY NO. 5

18 Please identify each and every Canon of the Code of Canon Law that YOU have knowledge of which applies to
19 maintaining the confidential communications made to YOU by members of YOUR church.

20
21 SPECIAL INTERROGATORY NO. 6

22 Please identify each and every minor (not named in the plaintiffs to this action) their name, address
23 and telephone number who YOU visited at home/residence in the year 2001.

24
25

1 SPECIAL INTERROGATORY NO. 17:

2 Please identify each and every minor (other than the plaintiffs to this action) their name, address
3 and telephone number who YOU had telephone contact with in the year 2001.

4
5 SPECIAL INTERROGATORY NO. 18:

6 Please identify each and every person, who interviewed YOU regarding the INCIDENT, the
7 name, address and telephone number of the person who conducted the interview.

8
9 SPECIAL INTERROGATORY NO. 19:

10 Please list the name, address and telephone number of each and every psychiatrist, psychologist
11 or other mental health care provider for whom YOU have treated with over the last 10 years.

12
13
14 Dated this 4th day of December, 2003



George J. MacKoul
SABBAH AND MACKOUL
Attorneys for the Plaintiffs.

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 January 04, 2003, I served the within: **SPECIAL INTERROGATORIES SET ONE. TO DEFENDANT ARAKAL.**

_____ on the interested parties in said action by transmitting a true copy of said document by facsimile machine. The documents listed above to the fax number(s) set forth below on this date from (508) 495-4115, the transmission was reported as complete and without error. Said fax transmission occurred as stated in the transmission record attached hereto. Said fax transmission was directed to the names and addresses stated below.

_____ 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.

X 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.

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

Mr. Anthony Boskovich
28 North First Street
Sixth Floor
San Jose, California 95113-1210
(408) 286-5150
408-286-5170

CO-COUNSEL FOR PLAINTIFF

Paul N. Balestracci
Attorney at Law
Neumiller & Beardslee
509 West Weber Avenue
Fifth Floor
Stockton, California 95203

COUNSEL FOR DEFENDANTS DIOCESE OF STOCKTON,
DEFENDANTS BLAIRE, ILLO AND RYAN.

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

COUNSEL FOR DEFENDANT ARAKAL

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

Executed on January 4, 2003 at Falmouth, Massachusetts.

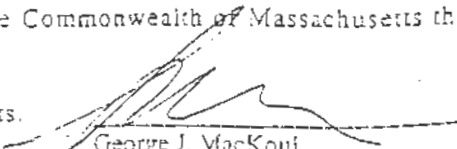

George J. MacKoui

EXHIBIT B

1 MICHAEL D. COUGHLAN SBN 124398
2 COUGHLAN & O'ROURKE LLP
3 3031 W. MARCH LN., SUITE 210 WEST
4 STOCKTON, CA 95219
5 (209)952-3878

6 Attorneys for Defendant, FR. FRANCIS ARAKAL JOSEPH

7
8 SUPERIOR COURT OF CALIFORNIA
9 FOR THE COUNTY OF SAN JOAQUIN
10

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

14 Plaintiffs)

15 vs.)

16 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH,)
17 aka FR. FRANCIS ARAKAL, FR. RICHARD)
18 RYAN, BISHOP STEVEN BLAIR AND THE)
19 DIOCESE OF STOCKTON)

20 Defendants

Case No. CV018440

RESPONSES TO SPECIAL
INTERROGATORIES

21 PROPOUNDING PARTY: Plaintiff, RACHEL LOMAS

22 RESPONDING PARTY: Defendant, FR. FRANCIS ARAKAL JOSEPH

23 SET NUMBER: One

24 These responses to special interrogatories are served pursuant to Code of Civil Procedure
25 section 2030. In answering these interrogatories, the Propounding Party is being furnished with
26

1 such information as is presently available to this Responding Party, which may
2 reliable since discovery is still continuing. Since discovery is still continuing and
3 still being ascertained, these responses may not be admissible in evidence. This
4 Party expressly reserves the right to introduce at trial evidence that is presently
5 Responding Party and/or is discovered subsequent to the date of these responses.
6 Responding Party expressly reserves the right to amend these responses without
7 time, including up to and at the trial of this matter.

8 GENERAL OBJECTION NUMBER 1

9 THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON
10 GROUNDS THAT THIS RESPONDING PARTY HAS NOT YET FULLY COMPLETED
11 INVESTIGATION, DISCOVERY AND TRIAL PREPARATION IN THIS MATTER.

12 This Responding Party has not yet fully completed the investigation of
13 to this case, and has not completed discovery in this matter, nor completed preparation.

14 All of the responses contained herein are based only upon such information from
15 documents that are presently available to and specifically known to this Responding
16 time, and discloses only those contentions that presently occur to this Responding
17 anticipated that further discovery, independent investigation, legal research and
18 supply additional facts and add meaning to known facts; as well as establish new
19 conclusions and legal contentions, all of which may lead to substantial additional
20 and variations from the conclusions and contentions set forth herein.

21 The responses and objections set forth herein are given without prejudice to
22 Responding Party's right to produce evidence on any subsequently discovered
23 fact(s) that this Responding Party may later recall. Accordingly, this Responding
24 reserves the right to change any and all responses contained herein as additional
25 ascertained, analysis are made, legal research is completed and additional contentions
26 developed.

27 The responses contained herein are made in a good faith effort to supply
28 information and as much specification of legal contentions as is presently known.
29 In any way, be to the prejudice of this Responding Party in relation to further
30 research, analysis, or presentation of evidence at trial.

1
2 **GENERAL OBJECTION NUMBER 2**

3 THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON THE
4 GROUNDS AND TO THE EXTENT THAT THEY SEEK PRIVILEGED, CONFIDENTIAL
5 AND UNDISCOVERABLE INFORMATION THAT IS PROTECTED BY THE ATTORNEY-
6 CLIENT RELATIONSHIP AND/OR THE ATTORNEY WORK PRODUCT DOCTRINE.

7 This Responding Party objects to these interrogatories to the extent that they seek
8 privileged, confidential and undiscoverable information that is absolutely protected by the
9 attorney-client relationship and/or the attorney work product doctrine.

10 The Responses contained herein are made in a good faith effort to supply as much factual
11 information and as much specification of legal contentions as is presently known, but should not,
12 in any way, be to the prejudice of this Responding Party, and to the extent that this Responding
13 Party discloses privileged or confidential information, if any, said disclosure shall not, in any
14 way, be deemed or construed to be a waiver of this Responding Party's right to invoke and assert
15 the attorney-client privilege and/or attorney work product doctrine.

16 **GENERAL OBJECTION NUMBER 3**

17 THIS RESPONDING PARTY OBJECTS TO THESE INTERROGATORIES ON THE
18 GROUNDS AND TO THE EXTENT THAT THE TERM "INCIDENT" USED
19 THROUGHOUT IS VAGUE AS TO WHICH SPECIFIC EVENT THE PROPOUNING
20 PARTY IS REFERRING.

21 Plaintiff's complaint refers to alleged acts and omissions of various defendants, thereby
22 creating uncertainty and ambiguity as to the definition of the term "incident" as used throughout
23 these interrogatories.

24 **RESPONSES TO SPECIAL INTERROGATORIES**

- 25 1. This responding defendant objects to the question as calling for information that is
26 privileged and protected by the defendant's right of privacy. Responding defendant
further objects that the question is harassing, overbroad and calling for the discovery
of information that is neither relevant to any issue in this matter nor reasonably
calculated to lead to the discovery of admissible evidence.

- 1 2. This responding defendant objects to the question as calling for information that is
2 privileged and protected by the defendant's rights of privacy. Responding defendant
3 further objects that the question is harassing, overbroad and calling for a discovery
4 of information that is neither relevant to any issue in this matter nor reasonably
5 calculated to lead to the discovery of admissible evidence.
- 6 3. This responding defendant objects to the question as calling for information that is
7 privileged and protected by the defendant's right of privacy. Responding defendant
8 further objects that the question is harassing, overbroad and calling for a discovery
9 of information that is neither relevant to any issue in this matter nor reasonably
10 calculated to lead to the discovery of admissible evidence.
- 11 4. This responding defendant objects to the question as calling for information that is
12 privileged and protected by the defendant's right of privacy. Responding defendant
13 further objects that the question is harassing, overbroad and calling for a discovery
14 of information that is neither relevant to any issue in this matter nor reasonably
15 calculated to the discovery of admissible evidence.
- 16 5. This responding defendant objects to the question as vague, ambiguous, compound
17 and complex.
- 18 6. This responding defendant objects to the question as calling for information that is
19 privileged and protected by the defendant's right of privacy. Responding defendant
20 further objects that the question is harassing, overbroad and calling for a discovery
21 of information that is neither relevant to any issue in this matter nor reasonably
22 calculated to lead to the discovery of admissible evidence.
- 23 7. This responding defendant objects to the question as vague, ambiguous, overbroad,
24 burdensome, oppressive and calling for the identification of documents protected by
25 the attorney client privilege and/or attorney work product doctrine. Without waiving
26 the objections, this responding defendant provided a memorandum dated October 5,
2001 to defendant Diocese of Stockton. Defendant Diocese of Stockton is provided
responding defendant with copies of statements of St. Joseph's Parish staff members,
Jackie Tucker, Mary Mullins, Owen Kummerle, and Rosario Hernandez. Defendant
Diocese of Stockton has also provided this responding defendant with letters written

- 1 by plaintiff Kathleen Machado to Defendant Bishop Steven Blair, and was written
2 by Defendants Bishop Steven Blair and Fr. Joseph Illo to plaintiff Kathleen Machado.
- 3 8. This responding defendant objects to the question as calling for information that is
4 privileged and protected by the defendant's right of privacy. Responding defendant
5 further objects that the question is harassing, overbroad and calling for discovery
6 of information that is neither relevant to any issue in this matter nor calculated to lead
7 to the discovery of admissible evidence.
- 8 9. This responding defendant objects to the question on the grounds that it is to
9 obtain information in violation of the rights of privacy and/or religious freedom of
10 individuals, not party to this lawsuit. Responding defendant further objects that the
11 question is harassing, overbroad and calling for the discovery of information that is
12 neither relevant to any issue in this matter nor calculated to lead to the discovery of
13 admissible evidence.
- 14 10. Defendant is not aware of any such documents received from the Diocese of
15 Stockton.
- 16 11. This responding defendant objects that the question is vague, ambiguous,
17 overbroad. Without waiving the objection, defendant responds that he has attended
18 CCD classes and participated in the celebration of Mass with minor altar servers.
- 19 12. Responding defendant objects that the question is vague, ambiguous and
20 unintelligible. Without waiving the objections, while living in the United States,
21 defendant has served as a priest at St. Joseph's Parish in Modesto, California
22 and at St. Peter's Parish in Lemmore, California. While in India, defendant served as
23 a priest at Good Shepherd Church located in Kottayam, India.
- 24 13. St. Joseph's Pontifical Institute of Philosophy and Theology, Aluva, Kerala, India.
- 25 14. This responding defendant objects on the grounds that the question is vague and
26 ambiguous, without waiving the objections, Fr. Darius, who the defendant believes is
currently living in Redlands, California, Fr. Eric Sweringen, who defendant believes
is currently at Holy Spirit Church in Fresno, California, and Fr. Joseph [redacted] pastor
of St. Joseph's Parish in Modesto.
15. This responding defendant objects on the grounds that he is not a canon lawyer and
that the question calls for an opinion and conclusion beyond his expertise as defendant