

EXHIBIT A

George Woods, Ph.D.
A Professional Corporation
Clinical Psychology and Assessment
PSY 12188

33 946

NOT ACCREDITED
BY
APA

Curriculum Vitae

Education:

- 1968 Ph.D. Clinical Psychology
California Graduate School of Family Psychology, San Rafael, CA
(Acquired by American School of Professional Psychology 7/89)
Doctoral Dissertation: "Brothers and Sisters of the Mentally Retarded: A Retrospective Descriptive Study"
- 1973 M.S. Counseling Psychology
University of Southern California, Los Angeles, CA
- 1969 M.S. Elementary Education
University of Southern California, Los Angeles, CA
- 1968 B.S. Social Studies (emphasis on Anthropology)
University of Southern California, Los Angeles, CA

Doctoral Internships:

- 1968 - 1969 Post-doctoral Intern at Redwood Psychological Services Center, Petaluma, CA
- 1965 - 1968 Pre-doctoral Intern at Petaluma Valley Hospital, Phoenix Program (Inpatient treatment of chemical dependency), Petaluma, CA

Licenses and Credentials:

- 1991 Licensed Psychologist - PSY12188
- 1983 Marriage and Family Therapist - MEE670
- 1976 Administrative Services Credential
- 1973 Pupil Personnel Credential (Lifetime)
- 1969 Standard Elementary Credential (Lifetime)

Specialty Certification:

- 2003 National Registry of Certified Group Psychotherapists
- 1997 APA Certificate in Assessment and Treatment of Alcoholism and Other Substance Abuse

Honors and Awards:

- 2002 Awarded the Lady Vera Scholarship by the Angeles Arden Foundation for Cross-cultural Education and Research. This fund receives no applications.

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Sonjee Weedn, Ph.D.

but acute and awards scholarships as an unexpected blessing to those who have talent and promise and carry an altruistic spirit.

Clinical Experience:

1980 - Present

Private Practice, Novato and Petaluma, CA
 Providing brief and long-term outpatient psychotherapy to individual adults, adolescents, children as young as five years of age, seniors, couples and families. Assessment and treatment of chemical dependency. Consultation to churches, schools and school districts, private business and community organizations in the areas of team building, organizational behavior, conflict resolution and stress management. Group psychotherapy, including four ongoing, long-term women's groups and two ongoing, long-term mixed groups.
 Providing psychological evaluations for children, adolescents and adults and including the Wechsler Intelligence Scales, Rorschach: Comprehensive System, MMPI-II, MCMI-III, MACI, MMPI-A, TAT, Bender-Gestalt and drawings. Assessments provided for City and County of San Francisco, Marin County Child Welfare Department, Child Protective Services of Marin and Sonoma Counties, Workers Compensation, State of California, Board of Registered Nursing and by referral from other mental health professionals, attorneys and insurers.

1985 - 1986

Phoenix Program at Petaluma Valley Hospital, Petaluma, CA
 Clinical psychology internship at inpatient treatment facility for chemically dependent adults. Provided individual, group and couples therapy on inpatient ward; lectured; performed psychological evaluations; directed aftercare program for patients out of the hospital for 90 days or more.

1981 - 1982

Catholic Social Services, Santa Rosa, CA
 Marriage, Family, Child Counselor Internship. Provided outpatient treatment for wide variety of clients.

Teaching and Consultation Experience:

2001 - present

Member Mandatory Continuing Education for Psychologists Accrediting Committee - One of three "Third Reviewers" in the state of California for California Psychological Association ruling on contested applications to provide continuing education for psychologists.

2001 - present

Featured presenter at Midaval Wellness Center, Tucson, AZ on Integration of Spirituality in Group Therapy, Lakota Medicine, Woman's Sexuality and Body Image, and Interpretation of Dreams.

1999 - present

Administrative Director of Continuing Education - Stearns Tucson,

Sonnet Weedin, Ph.D.

- Tucson, AZ - Directing the delivery of continuing education for Registered Nurses, Psychologists, Licensed Clinical Social Workers and Marriage and Family Therapists in the area of group psychotherapy, couples therapy, dream interpretation, the integration of spiritual issues into psychotherapy and eating disorders, etc.
- 1999 - present: Provider of Continuing Education for Licensed Psychologists, Registered Nurses, Marriage and Family Therapists and Licensed Clinical Social Workers on Group Psychotherapy as Transformational Experience, Integration of Spiritual Issues in Group Psychotherapy and Integration of Dream Interpretation in Group Psychotherapy.
- 1997 - present: Owner of Sacred Calling Productions
Presentation of workshops and retreats for individuals and couples to enhance spiritual development and psychological well-being. Providing training for Mental Health Clinicians in Group Psychotherapy as Transformational Experience. Yearly week-long training in Puerto Vallarta, Mexico and Santa Fe, New Mexico. Special events in the past have been sponsored by Sierra Tucson Hospital, Tucson, AZ and have included "The Heroine's Journey", "Archetypes of Healing and Wholeness", "The Power of Two", and "The Medicine Wheel as Sacred Space".
- 2004: Retreat leader and facilitator for Employee Assistance Personnel, Chevron/Texaco
- 2002: Retreat leader for staff of Marin General Hospital Psychiatric Unit.
- 2000: Featured presenter of Northern California Group Psychotherapy Society - "An Evening with the Masters"
- 2000: Provider of Continuing Education for Northern California Group Psychotherapy Society - Women's Group Psychotherapy
- 2000: Featured presenter Northern California Group Psychotherapy Society Allomar Conference
- 1989 - 2000: Provider of Continuing Education for Department of Psychiatry, Kaiser-Permanente, Santa Rosa, CA - Group Therapy and Clinical Interviewing.
- 1988 - 2000: Consultant to Marin County Child Sexual Abuse Treatment Program in Group Psychotherapy and Clinical Interviewing.

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Sonnie Weeds, Ph.D.

- 1992 Consultant to Family Law Judges and Mediators of Sonoma County in the use of psychological assessments received by the court.
- 1986 - 1998 Contributor to feature articles on various topics related to mental health in The Quarterly magazine of Alpha Gamma Delta Fraternity.
- 1998 - 2001 Board of Psychology - oral examination commissioner
- 1985 Instructor, Sonoma County Bar Association - Alcoholism and Chemical Dependency (continuing education provider)
- 1992 - 1998 Partner - Lyda, Caro, Weeds, Inc.
Presenting psychotherapeutic and educational retreats - employing large and small group therapy, psychodrama, play therapy, milieu therapy, meditation instruction and practice, family genogram and art therapy.
- 1986 - 1987 California Graduate School of Family Psychology, Corte Madera, CA
Taught the lab section of the psychological assessment class.
- 1983 - 1985 PCG Seminars, Pleasanton, CA
Taught case presentation skills to MFCC interns; taught seminars for professionals on child abuse, detection, reporting and treatment.

Forensic Experience:

- 1984 - present Custody Evaluator, Marin County, CA, Sonoma County, CA, Napa County, CA, Alameda County, CA, and Contra Costa County, CA
Court stipulated evaluator in child custody cases requiring psychological assessment and recommendations.
- 1982 - present Admitted as expert witness in various jurisdictions, including Sonoma County, Marin County, Contra Costa County, Solano County and Sacramento County in areas of child abuse, child custody and dependency, reliability of child witnesses, and psychological assessment.
- 1982 - present Deposition taken approximately twenty-five times in variety of cases.
- 1993 - 2001 Consultant, Probation Department - Civil Custody Unit, Sonoma County, CA
Providing monthly consultation to Probation Officers regarding disposition of high conflict, complex child custody cases. Approximately 800 cases reviewed and decided.

Sonnia Weisz, Ph.D.

Recent Related Training:

- Relevant Research for Custody Evaluators and Attorneys (3.5 hours)
- Psychological and Legal Issues in Relocation Cases (3.5 hours)
- Domestic Violence Update 2003 (4 hours)
- Addiction as Coping (3 hours)
- Cultural Considerations in Addiction Treatment (3 hours)
- Jung and Shamanism: Retrieving the Cultural Soul (6 hours)
- Report Writing and Testifying for Custody Evaluators (4 hours)
- Child Development Issues for Custody Evaluators (3.5 hours)
- Understanding Assessment & Working with High Conflict Families (3.5 hours)
- Domestic Violence Issues in Family Law (4 hours)
- Group Psychotherapy: Removing Barriers to Relationships Through Trauma Resolution Therapy (3 hours)
- Ethics & Risk Management Issues in Child Custody Evaluations and Family Law (6.5 hours)
- Alienation Issues for Child Custody Evaluators: Assessment and Treatment (4 hours)
- Sexual Abuse Assessment for Child Custody Evaluators (3.5 hours)
- Group Psychotherapy as Transformational Experience: You the Healer (32 hours)
- Rorschach Interpretation: Child and Adolescent (18.5 hours)
- Advanced Rorschach Interpretation (6.5 hours)
- Group Psychotherapy as Transformational Experience (31 hours)
- Women's Group Psychotherapy as Transformational Experience (31 hours)
- Law and Ethics for Psychologists (4 hours)
- Advances in the Treatment of Attention Deficit Disorder in Children and Adults (7 hours)

Sonnet Weedin, Ph.D.

Domestic Violence: Psychological and Legal Dimensions (14 hours)

Domestic Violence: Yearly Legal Updates (4 hours per year)

Advanced Rorschach Interpretation: An Update for Clinical Practice (21 hours)

Substance Abuse Professional (DOT) (7 hours)

The MMPI-II and Rorschach in Court (7 hours)

HIV and AIDS Assessment and Training (7 hours)

Dreams, Life Transitions and Archetypes (8 hours)

EMDR: Level I and Level II (28 hours)

Rorschach Assessment of DSM-IV Personality Disorders (14 hours)

MMCI-III and Rorschach Workshop (3.5 hours)

Post-Traumatic Stress Disorder: use of MMCI in Treatment Planning (3.5 hours)

MACI Workshop (2 hours)

MMCI-III Workshop (2 hours)

Group Psychotherapy Training Institute (12 hours)

**Group Psychotherapy Training in Psychodrama, Women's Groups, Action
Techniques for Verbal Therapists and Shame and Sexual Molestation (12
hours)**

Psychosynthesis: Integration of Psychotherapy and Spiritual Issues (8 hours)

Professional Associations:

- American Psychological Association
- California Psychological Association
- Mann County Psychological Association
- Society for Personality Assessment
- Northern California Group Psychotherapy Society
- Life Member - National Registry of Who's Who 2000

References Available upon Request

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Sonnet Weeder, Ph.D.
A Professional Corporation
Clinical Psychology and Assessment
PSY 12182

November 28, 2004

George MacKoul, Esq.
Sabbath and MacKoul
49 Locust Street
Falmouth, MA 02540

RE: Rachel Lomas and Amber Lomas

Dear Mr. MacKoul:

This report is submitted in compliance with your request for an independent psychological evaluation of Rachel Lomas, age 16, and her sister, Amber Lomas, age 13, in order to provide you with information that would be useful in determining their current mental state and any current or future need for mental health services. My findings and recommendations are based upon clinical interviews, psychological testing, and review of records itemized below.

Sources of Information:

Clinical Interviews and Psychological Testing:

Amber Lomas – I met with Amber Lomas on November 12, 2004, for approximately three hours. During this time she was interviewed and administered The Rorschach: Comprehensive System, The Millon Adolescent Clinical Inventory, and the Minnesota Multiphasic Personality Inventory – Adolescent version.

Rachel Lomas – I met with Rachel Lomas on November 12, 2004, for approximately three hours. During this time she was interviewed and administered The Rorschach: Comprehensive System, The Millon Adolescent Clinical Inventory, and The Minnesota Multiphasic Personality Inventory – Adolescent version.

I spoke very briefly with the sister's mother, Ms. Machado, to explain what my procedures would consist of and what she could expect for the day of evaluation and to obtain her permission for the evaluation process.

B: Records Reviewed:

A letter and case notes from Diane L. Stephens, R.N., M.F.T., dated August 30, 2004.

Suzanne Weedn, Ph.D.

A deposition of Amber Lomas, dated October 7, 2004.
A deposition of Rachel Lomas, dated October 6, 2004.

A report from Johnny Smith Investigations dated October 20, 2004.

Notes made by George MacKoul from the deposition of Yvonne McLoughlin, M.F.T.

Progress notes for Yvonne McLoughlin, M.F.T., dated September 11, 2001.

Introduction:

This report will begin with a brief introduction and statement of the issues under consideration in this evaluation, followed by a report of my clinical evaluations of the individual family members. I will also present information from any relevant information from my review of records. Lastly, I will integrate the findings and make recommendations.

Evaluation of Amber Lomas

Psychological Procedures:

Clinical Interview, The Rorschach: Comprehensive System, The Minnesota Multiphasic Personality Inventory-II (MMPI-A), and The Millon Adolescent Clinical Inventory (MACI), and review of records.

Social History:

Amber Lomas is a thirteen-year-old girl, currently living with her mother and an older and younger sister in Hughson, CA. She is in the 8th grade at Sacred Heart School in Turlock, CA. She transferred to this school from her previous middle school because her grades had dropped and she was associating with children whom her mother judged to be a poor influence on her. At her new school, she is doing better. She believes it was a good move.

Amber's parents are divorced and she reports that she is glad of that fact because her father, Rosalio Machado, was physically abusive to her mother and to the children. Amber says that she does not see him often and does not want to see him because of his abusive behavior. Her mother retains sole physical custody of all the children.

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She is involved in several extra-curricular activities, including raising a meat goat for 4-H.

It is critical to note in understanding this child that Amber comes from a devoutly Catholic family and is used to attending Mass on almost a daily basis. Her daily life and the culture of her family are steeped in religious faith that permeates most aspects of her thinking and value system. She has been an active participant in all phases of Roman Catholic religious life as has been age-appropriate (catechism, altar-serving, first communion, confession, etc.).

Behavior During Evaluation:

Amber Lomas was pleasant and cooperative throughout the process of evaluation. She was shy, but friendly. She appeared forthcoming in all of her answers to my queries. She stated that she has a "good" relationship with her mother. She reports that she has angry outbursts at times that she cannot account for (her mother affirmed this). She believes that she is doing better in school since she moved to Sacred Heart School.

Amber reported that the process of her deposition was very stressful to her. She stated, "It was hard. Sometimes I didn't understand and they jumped from subject to subject."

When asked about her dealings with Father Ilio, she was vehement in stating that the most upsetting thing for her was that he lied to her face about his relationship to her and her family, that she was fired from her job altar serving with no real explanation to her, and that he angrily accused her family of stalking him in front of other parishioners, which was humiliating and seemingly untrue. His handling of her attempt to receive help from him regarding her discomfort and concerns about Father Francis were especially traumatizing and disconcerting to her. She could not understand why he betrayed her and was angry with her. Amber became tearful, but tried to hold back her tears when discussing the details of these events.

From Amber's standpoint, Father Ilio was her priest; a vaunted position denoting his deserving of the utmost respect and trust. He was her confessor and a family friend.

Amber stated that she does no longer receive communion on a regular basis. She said that one should not receive communion without first going to confession. She can only bring herself to go to confession about once a month. She stated that it is frightening for her to go to confession now because it means being alone in the confessional with a priest. She says that she has

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worked out a system in her own mind whereby she makes her confession directly to God and then says an Act of Contrition in order to feel that she is doing what she is supposed to do to honor the requirements of her religion.

Results are believed to be an accurate reflection of her current level of psychological functioning.

Cognitive Aspects:

No tests of cognitive ability were given. Amber was oriented times four and alert. It would appear from observation that Amber falls into at least the Average Range of intelligence when compared to the general population. No signs of cognitive slippage or other cognitive difficulties were noted.

Emotional Aspects:

Psychological testing indicates that Amber Lomas is capable of attending to her own experience in a reasonably open and flexible manner. She shows an adaptive balance between being able to deal with situations in a detached and uninvolved manner sometimes, and, at other times, in a concerned and engaged manner.

She appears extremely committed to seeing the world accurately. She is consequently capable of perceiving people and events realistically, but she is also likely to be highly precise in the impressions she forms of situations. Only rarely will she allow herself the risk of forming an impression that may be inexact.

Her thinking is logical and coherent, and she is, for the most part, as capable as most people of her age of coming to reasonable conclusions about relationships between events and of maintaining a connected flow of associations in which ideas follow each other in a comprehensible manner.

Amber's personality pattern is submissive, dependent, and of the type that seeks affection, attention, and security. Her fear of abandonment often leads her to be overly compliant within her family and obliging with her peers. She may act at times in a socially gregarious and charming manner to attract the positive attention of others. She is likely to be quite naïve and immature about interpersonal and social matters and to show thinking that is more childlike than others her age. When she is faced with family or peer tensions, she is likely to try to be superficially untroubled and buoyant, seeking to deny in a Pollyanna way all disturbing emotions or inner discomforts. In her heterosexual relationships she is likely to be immaturely admiring and accommodating.

Sonnes Weedn, Ph.D.

Despite her need to ally herself with the leadership and competencies of family and friends, she is not sure that these relationships will fulfill her needs fully or even protect her against loss. Because of her disillusionment with others, she has become alert to signs of potential hostility and rejection and seeks to minimize the dangers of their indifference and disapproval.

There are significant indications that situational stress is making more demands on her adaptive capacities than she is ordinarily required or accustomed to confront, and this may be reducing her usual level of effectiveness in making decisions and pursuing courses of action. Her excess situational stress is being imposed on a pre-existing stimulus overload, resulting in considerable vulnerability to becoming upset, anxious, and disorganized. Insufficient psychological resources to meet the demands she is experiencing are also likely to impair her capacity for self-control and to create a marked tendency toward impulsiveness.

Amber was already in a state of stimulus overload resulting from persistent difficulty in mustering adequate psychological resources to cope with the demands being imposed on her by external and internal events in her life. Consequently, she is at risk for recurrent episodes of overt anxiety, tension, nervousness, and irritability. She is at risk for becoming psychologically incapacitated (at least temporarily) and for appearing to others as noticeably agitated and distraught to others.

Though her testing indicates that she has the adaptive capacity to anticipate and establish close, intimate, and mutually supportive relationships with other people, she shows a propensity to appear awkward or inept in social situations. Though she seeks to acquire a measure of independence and maturity, she feels helpless when faced with adult-like responsibilities that demand autonomy or initiative. The loss of a significant source of support or identification may prompt severe dejection on her part. At these times, she will openly seek signs of reassurance. Guilt, illness, anxiety, and depression may be frankly displayed. In addition, she claims greater distress concerning sexuality than is typical for her age. She reports feelings of confusion and unhappiness in this area.

It is clear from the testing that Amber is experiencing episodes of affective disturbance involving depression. Though she may not complain of feeling depressed, indications point to her being disposed to affective malaise that interferes with her ability to function effectively. In addition, she feels atypically apprehensive and she may be experiencing an anxiety disorder.

Sondra Weedin, Ph.D.

Evaluation of Rachel Lomas

Psychological Procedures:

Clinical Interview, The Rorschach: Comprehensive System, The Minnesota Multiphasic Personality Inventory – Adolescent version, (MMPI-A), and The Millon Adolescent Clinical Inventory, (MACI), and review of records.

Social History:

Rachel Lomas is sixteen years old and attends Hughson High School, where she is a junior. She is the eldest daughter of her parents, who are now divorced. She states that she is close to her mother and has a good relationship with her. She says that her mother supports her activities, which include FFA, keeping animals, sports, and 4-H.

She states that when her father lived with them it "was a living hell." He apparently became angry "over stupid things", and if anyone argued with him he became violent. Her mother has sole physical custody of her and her sisters. She says that she sees her father twice a month when he comes by to drop off money for them. Nowadays he is pleasant toward them, but she has no desire to see him or interact with him. She reports that he does not seem to want to see her or her sisters very much.

She does not currently have a boyfriend and says she does not want this type of relationship at the current time.

It is important in understanding this young woman to know that, like her sister, she comes from a family, which is devoutly Catholic. The theology of the church is held sacrosanct, and Rachel has been taught to hold priests in very high regard, believing that priests are called by divine inspiration to the priesthood. In her particular case, having survived the domestic violence and physical abuse of her father, she and the other members of her family looked to the church and its environs as especially important to their sense of safety and coherence. She was used to attending Mass almost every day and had been a regular altar server until she was fired from that job without explanation. Both she and her sister reported altar serving as one of their favorite things to do.

Behavior During Evaluation:

Rachel was pleasant and cooperative during the course of the evaluation. Her story regarding what had transpired with Father Illo and Father Francis was

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essentially as she reported it in her deposition. Therefore, the reader is directed to her sworn deposition for these details. However, Rachel emphasized that Father Francis made her uncomfortable from his first visit to their home. She had tried to distract him from tickling her sister, because this activity was making her uneasy. She stated that it had all happened very quickly and she could not really recount the exact sequence of events because it had happened so fast. In her view, one minute she was distracting Father Francis from Kolleen and the next minute he was on top of her and grabbing her breast. She stated that she had kept this all a secret because she thought no one would believe her because "priests are supposed to be holy people".

Rachel was clearly agitated as she was queried about these various events. Her body language was closed and she became tearful when speaking about not being willing to participate in the sacrament of confession anymore. This should preclude her from participating in the sacrament of holy communion, however, she does receive communion once a month without going to confession. She said that she just hoped no one would stop her from doing this as she cannot tolerate the idea of being alone with a priest in the confessional.

Rachel was also tearful when speaking of having been barred from altar serving. She said, "I loved to serve. I loved being on the altar. I was an active participant in worship and now I can't do it." She said that she would prefer to never see Father Illo again, given his betrayal of her and her family. She said that she had gotten "the vibe of his attraction to my mom" after several years of his friendship with the family. She was quite distressed about his humiliating her mother outside of church by accusing her of gossiping about him. According to Rachel, who overheard the women's conversation, they were actually talking about rosaries they were going to make. Rachel moved her sisters away when father Illo began yelling, but she believes they heard him.

Results are believed to be an accurate description of her current level of psychological functioning.

Cognitive Aspects:

No test of intellectual functioning was given, however it can be assumed that Rachel is functioning in the Above Average or Superior Range of intelligence when compared to the general population based on observation and her reported grades in high school.

She was oriented times four and alert. There were no indications of cognitive slippage or other neurological difficulties.

Sannee Weedn, Ph.D

Emotional Aspects:

Psychological testing indicates that Rachel is capable of attending to her experience in a reasonably open and flexible manner that constitutes a personality asset. She shows an adaptive balance between being able to deal with situations in a detached and uninvolved manner and, at other times, in a concerned and engaged manner.

She demonstrates fairly good abilities to form accurate impressions about herself, to interpret the actions and intentions of others without distortion, to adequately anticipate the consequences of her own actions, and to correctly construe what constitutes appropriate behavior in various kinds of situations. Her adequate reality testing constitutes a personality strength.

She shows a potentially adaptive repertoire of styles for experiencing and expressing affect in which she modulates emotions in much the same way as most people.

She shows an adaptive capacity to establish close, intimate, and mutually supportive relationships with other people. Nevertheless, her limited social skills make it difficult for her to sustain and enjoy interpersonal attachments. She reports that it is very difficult for her to be around other people, and she much prefers to be alone now. She frequently avoids situations where there are likely to be a lot of people. She reports having difficulty making friends and she does not like to meet new people. She seems less capable than most people of dealing effectively with everyday experience, especially with respect to social situations.

Rachel is experiencing a fair amount of stress that is giving rise to unpleasant affect and makes her susceptible to depression. Her scores on testing suggest that she flattens her emotions in an effort to deaden apprehensive and fearful mistrust of others. She exhibits shyness and a chronic social awkwardness that stems from a pattern of avoiding close peer and family relationships. Her desire is for closeness and affection, but this has been self-protectively restrained so severely that there is little spark and vitality to her current existence. Despite her efforts to dampen feelings, she experiences both anxiety and depression. Her thoughts about her self-esteem and social life are often so painful as to be intentionally confused. She is over-concerned with social rebuff and is ever ready to anticipate rejection.

Rachel shows a chronic self-deprecation of aptitudes and a needy and dependent search for supportive persons or institutions. Despite her

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unrequited desire to be accepted and cared for, she has felt it best to bury these needs and maintain a safe distance from others who may prove hurtful. She has learned to fade into the background, assuming a passive role, and willingly submitting to the expectations of others. As a consequence, she is likely to have withdrawn into increasing peripheral social, academic, and social roles. Her self-image of being unattractive and undesirable makes ordinary demands and relationships often seem frightening and potentially dangerous. In addition to her expectation of humiliation, her withdrawal may stem from low energy, anxiety, restrained anger, and depression and hopelessness. Sadly, Rachel reacts to her deep frustration and unhappiness by becoming self-punitive, self-demeaning, and hypersensitive to her shortcomings. She shows diminished capacity for pleasure, sleep difficulties, problems with appetite, and she may have periodic thoughts of suicide.

Discussion:

The discussion section is meant to shed light on the circumstances of both Amber and Rachel Lomas.

In evaluating these sister's current situation and need for current or future mental health services, it is important to keep several factors in mind. First of all, these girls have experienced the trauma of domestic violence in their family. They have a very poor, if currently peaceful relationship with their biological father, who is easily nettled and prone to violence when someone disagrees with him. In addition, there is apparently a restraining order against the paternal grandparents, as they have been deemed a threat to the family safety. This state of affairs reduces the pool of supportive adults for these girls. It is to their mother's credit that she was able to leave this marriage. It is good modeling for her girls, as it is a well-known fact that many, if not most, victims of domestic violence do not leave their abusers. Since she had little work experience, this took courage and determination.

During this very stressful time, this family took refuge in their church. They were deeply involved and faithful participants in the life of the church. This was at a time when they were all extremely vulnerable and had turned to the church as a place of safety, support, community, and meaning. Adults in this type of stressful situation typically seek guidance, healing, companionship, and community from their church. Children and adolescents seek stability, structure, and a place to belong. Male clergy often fill the role of a father for children who have been abandoned or brutalized by their own fathers.

It would appear from the sworn statements of Rachel and Amber Lomas and the evidence in their psychological profiles showing them to be generally

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forthcoming and highly moralistic girls, that there was misconduct on the part of both Father Ilio and Father Francis that has traumatized them both. It is important to note that for the victims of clergy abuse, there are a plethora of variables that complicate a prognosis: age at time of abuse, frequency and severity of abuse, prior history of abuse, educational level, economic resources, etc. All of these variables need to be addressed when treating a survivor of abuse by a spiritual leader. But what makes abuse of any kind by a spiritual leader different from other forms of trauma is the crisis of faith that is inherent in this form of abuse, and which is so obvious in the interviews with both girls.

People who survive this type of abuse are usually left confused or angry with God. Some reject their religion altogether. For many persons of faith, there is an assumed reverence that is given to a spiritual leader. The culture of most religions tends to foster this reverence. Catholic theology teaches that the priesthood is the sacrament of Holy Orders, whereby God calls a man to the priesthood. This call is believed to be divinely inspired. Spiritual leaders are assumed to have an enlightened spirituality, are more knowledgeable about religion, or are considered to be "holy". Again, this view was evident in the interviews with both girls. It is because of this perceived position or perceived special relationship with God that abuse in this milieu can be so catastrophic. When individuals are abused and betrayed by their spiritual leader, many feel abused and betrayed by their God. Any treatment should include an assessment of the impact of the abuse on their relationship with their God and the effects that impact has had on their lives.

Clearly, both girls have been significantly impacted by the events that occurred in their relationships with Father Ilio and Father Francis. The disclosure of the problem with Father Francis by Amber to Father Ilio was horribly mishandled, worsening an already difficult and damaging situation, and further traumatizing Amber. Sadly, the actions of Yvonne McLoughlin, MFT, in her professional capacity, further muddled the waters, harming Amber, and enabling Father Ilio to proceed with his maltreatment of Amber. The behavior of the adults in charge of this situation was largely unhelpful, at the least, and further damaging, at the worst. Subsequent to the events of September 11th, there was further emotional abuse in the form of the girls being dismissed from altar serving, with no explanation, being made to feel unwelcome in the church, and witnessing verbal/emotional abuse of their mother by Father Ilio on church property.

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Recommendations

For Amber Lomas:

- 1) Amber should be evaluated by a psychiatrist to determine if medication is indicated to treat her diffuse anxiety states, and to increase her alertness and vigor. She is plagued by fatigue, lethargy and anxiety.
- 2) Environmental changes, recommended in the testing, in the form of a change of schools have already been implemented. Any determination of damages should take into consideration the need for a change of schools due to her faltering emotional state at the time of the change.
- 3) Long-term psychotherapy is indicated with a clinical psychologist well versed in post-traumatic stress disorder and clergy abuse. The indications for long-term therapy are Amber's excessive dependency and willingness to subjugate herself to anyone she perceives to be strong, helpful or an authority. This extreme submissiveness is problematic. She will resist any overt pressure toward independence and will require slow, gentle progression toward independence and autonomy. Breaking her dependency bond (which she will, hopefully develop with her therapist) too soon can only precipitate intense emotions or erratic behavior. This type of therapy is typically not included in insurance coverage by HMO's and other managed care and will typically cost from \$90 - \$135 an hour. Some treatments for trauma require hour and a half sessions. Weekly psychotherapy is indicated for a period no less than eighteen months at this time. There will likely be a further need for therapy at various developmental milestones in the future, such as when dating commences, when leaving home for the first time (for marriage, job, college, etc.), at the time of further religious sacraments for herself or her children. It will be ideal if Amber can return to therapy on an "as needed" basis whenever she needs to. It is well known that trauma occurring during the development of the brain (in childhood) predisposes victims to the very problems Amber is experiencing (anxiety, dependency).

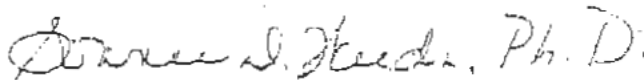
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For Rachel Lomas:

- 1) It is imperative that Rachel be evaluated by a psychiatrist to determine if medication is indicated to treat the depression and anxiety evident in her psychological evaluation.
- 2) It is recommended that Rachel be seen in weekly psychotherapy by a clinical psychologist well versed in the treatment of post-traumatic stress disorder and clergy abuse. This treatment should commence immediately and continue for a minimum of eighteen months. Treatment should focus on countering her withdrawal tendencies, poor interpersonal skills, and diminishing her self-deprecating thoughts and behaviors. As noted previously, psychotherapy with a psychologist generally costs between \$90-\$135 an hour. Some treatments for trauma (such as EMDR) run an hour and a half a session. Rachel will require considerable support at developmental milestones, which will occur when she begins dating, leaves home for college or other pursuits, and especially in her dealings with men who are important to her (husbands, bosses, etc.). It will be ideal if Rachel can return to therapy on an "as needed" basis at these various potentially stressful times.

If there are further questions you may have regarding my evaluation and recommendations in this case, please call me directly.

Signed,



Sonnee D. Weedn, Ph.D.

EXHIBIT B

CURRICULUM VITAE

Thomas Patrick Michael Doyle

Thomas Doyle was born August 3, 1944 in Sheboygan WI, the son of Michael Doyle and Doris Mellenthein. He was baptized Patrick Michael Doyle. He is the eldest of three children. He attended primary and secondary school in Ogdensburg NY and Cornwall, Ontario. Undergraduate studies were at Wadham's Hall College, Ogdensburg NY, and Loras College, Dubuque, Iowa. In August, 1964 he entered the Dominican novitiate at Winona MN and was given the religious name of Thomas. He pronounced simple vows on August 16, 1965 and solemn vows on August 16, 1968.

Graduate studies in philosophy and theology took place at Aquinas Institute of Philosophy, River Forest IL and Aquinas Institute of Theology, Dubuque IA respectively. He pursued graduate studies in Political Science at the University of Wisconsin and graduate studies in Canon Law at the Gregorian University, Rome, Catholic University of America, the University of Ottawa and St. Paul's University, Ottawa. He was ordained a Catholic priest in the Dominican Order on May 16, 1970 in Dubuque, IA. Although he has had only one assignment as a full-time parish priest in civilian parishes, he has consistently worked in parishes on a part-time basis since the time of ordination to the priesthood.

After completing graduate work in theology and several months of clinical pastoral training, he was assigned as an associate pastor in River Forest IL. In 1974 he was appointed an advocate for the Metropolitan Tribunal of the Archdiocese of Chicago. In 1978 he was appointed a judge in the same tribunal. In 1981 he was asked to serve as secretary-canonist at the Vatican embassy in Washington D.C., a post which he held until early, 1986. On June 16, 1986 he was commissioned a reserve officer in the U.S. Air Force. His reserve Air Force assignments were at Dover AFB, Dover DE and Andrews AFB, Maryland. Air Force training took place at Lackland AFB, Texas and Maxwell AFB in Alabama. His active duty assignments have been at Grissom AFB, IN, Hurlburt Field, FL, Lajes Field, Azores, Tinker AFB, OK and Ramstein AB, Germany and Seymour Johnson AFB, North Carolina.

He has had extensive teaching experience in Canon law as a visiting lecturer at Catholic University of America and the Chicago Theological Union. He has also been a lecturer at the Matrimonial Tribunal Institutes of Catholic University of America and Mundelein Seminary as well as at the Institute for Spirituality in River Forest IL.

As a member of the canon law Society of America he served one term as member of the board of governors and three terms as chairman of the Marriage Research Committee. He was asked by the society to be the author of the section on marriage in the commentary prepared on the revised Code of Canon Law. He was also asked by the Commission for the Authentic Interpretation of the Code of Canon Law of the Holy See to prepare the footnotes on marriage for the annotated edition of the Code of Canon Law.

Fr. Doyle has given lectures and seminars on various aspects of Church Law throughout the United States, Canada, Australia and New Zealand. These have included topics in the areas of matrimonial jurisprudence, procedural law, penal law, religious law, property law as well as the theology of marriage among others. In 1986 he was the featured lecturer at the annual convention of the Canon Law Society of Australia and New Zealand.

In late 1984 he became involved with the issue of sexual abuse of children by Catholic clergy while serving at the Vatican Embassy. Since that time he has developed an expertise in the canonical and pastoral dimensions of this problem. He has worked with victims of abuse and their families, priests accused of abuse, bishops and superiors of religious institutes on this issue. He has developed policies and procedures for dealing with cases of sexual abuse by the clergy for dioceses and religious orders in the United States, Canada, Australia and New Zealand. In the capacity as an expert in this area, he has delivered lectures and seminars for clergy and lay groups throughout the U.S. In 1988 he appeared as an expert witness before the legislature of the State of Pennsylvania concerning that State's child protective legislation. He has also served and continues to serve as a consultant/court expert in cases of alleged

sexual abuse by the clergy throughout the United States, Canada, Ireland, Israel and the United Kingdom.

In recognition of his advocacy work for the victims of Catholic clergy sexual abuse Father Dwyne received the Cavallo Award for Moral Courage in 1992, the Priest of Integrity Award from Voice of the Faithful in 2002 and the Isaac Hecker Award from the Paulist Fathers in 2003. In June of 2003 he was issued an official commendation from the Dominican Fathers for his "prophetic work in drawing attention to clergy sexual abuse and for advocating the rights of victims and abusers."

ACADEMIC CREDENTIALS

- B.A.** Philosophy, Aquinas Institute of Philosophy, River Forest, IL , 1966
- M.A.** Philosophy, Aquinas Institute of Philosophy, River Forest, IL, 1968
Dissertation: "Organized Religion in Marxist-Leninist Philosophy."
- M.A.** Political Science, University of Wisconsin, Madison, 1971,
Dissertation: "Vladimir Lenin's Theory of Social Revolution."
- M.A.** Theology, Aquinas Institute of Theology, Dubuque, Iowa, 1971, Dissertation: "Liberation Theology in the Context of Social Needs in South America."
- M. Ch.A.** Administration, Catholic University of America, Washington, D.C., 1976
- M.A.** Canon Law, University of Ottawa, Ottawa, Ontario, 1977
Dissertation: "The Canonical and Legal Foundation of the Dominican Order in Canada."
- J.C.L.** Pontifical Licentiate in Canon Law, St. Paul University, Ottawa, 1977.
- J.C.D.** Pontifical Doctorate in Canon Law, Catholic University of America, Washington, D.C., 1978. Dissertation: "Merital Fidelity in the Canonical Tradition of the Catholic Church."
- Diploma:** Squadron officers School, Air University, May, 1996
- Diploma:** United States Navy Drug and Alcohol Counselor School, October, 2000
- Diploma:** Air Command and Staff College, Air University, July 5, 2002

POSITIONS HELD

- 2003-04 Chaplain, USAF, Seymour Johnson AFB, North Carolina
- 2001-03 Chaplain, USAF, Ramstein AB, Germany
- 1997 -01 Chaplain, USAF, Tinker AFB, Oklahoma
- 1996 -97 Chaplain, USAF, Lajes Field, Azores
- 1993 -95 Chaplain, USAF, Hurlburt Field, Florida
- 1990 -93 Chaplain, USAF, Grissom AFB, Indiana
- 1991-93 Tribunal Judge, Diocese of Lafayette in Indiana

1993-95 Tribunal Judge, Diocese of Pensacola-Tallahassee and Archdiocese for the Military Services, U.S.A.

1986-90 Tribunal Judge and Special Assistant to the Archbishop, Archdiocese for the Military Services, U.S.A.

1986-90 Tribunal Judge, Diocese of Scranton, PA.

1981-85 Secretary-Canonist, Vatican Embassy, Washington, D.C.

1981-85 Visiting Lecturer in Canon Law, Catholic University of America, Washington, D.C.

1979-86 Faculty Member, Midwest Tribunal Institute, Mundelein Seminary, Mundelein, IL.

1978-85 Faculty Member, Tribunal Institute of the Catholic University of America, Washington, D.C.

1979-81 Visiting Lecturer in Canon Law, Catholic Theological Union, Chicago IL.

1978-81 Tribunal Judge, Archdiocese of Chicago, IL.

1974-75 Advocate and Defender of the Bond, Tribunal, Archdiocese of Chicago, IL.

1978-85 Faculty member, Institute of Spirituality, River Forest IL.

1971-74 Associate Pastor, St. Vincent Ferrer Parish, River Forest IL.

1970-71 Graduate Student, Aquinas Institute of Theology, Dubuque, Iowa.

1966-70 Theological studies, Aquinas Institute of Theology

OTHER POSITIONS HELD

1983-85 Consultant to the Canonical Affairs Committee of the National Conference of Catholic Bishops

1978-81 Member, Board of Governors, Canon Law Society of America

1979-86 Chairman, Marriage research Committee, Canon Law Society of America

1979-86 Editor, Marriage Studies, Washington D.C.

1982-85 Weekly columnist, Arlington Catholic Herald

1988-90 Consultant to the Canonical Affairs Committee of the National Conference of Catholic Bishops

1986 Director of the Institute of Spirituality, River Forest, IL.

1971 Clinical Pastoral Training, Minnesota State Prison

PUBLICATIONS: BOOKS

1. Comrades in Revolution. Dayton: Pflaum Press, 1969.
2. The Understanding of the "Bonum Fidei" in the Church's Canonical Tradition. Washington, D.C.: Catholic University of America, 1978.
3. Rights and Responsibilities in the Church. New York: Pueblo Press, 1983.
4. The Homilist's Guide to Scripture, Theology and Canon Law. (With John Burke, O.P.), New York: Pueblo Press, 1987.
5. The Code of Canon Law: A Commentary. Leesburg VA: Catholic Home Study Institute, 1988.
6. Christian Marriage. Leesburg VA: Catholic Home Study Institute, 1988.
7. Meeting the Problem of Sexual Abuse Among the Clergy in a Responsible Way. (With Michael Peterson, M.D. and F. Ray Mouton, J.D.), Suitland MD: St. Luke Institute, 1985.
8. Sex, Priests and Secret Codes. With A.W.R. Sipe and Patrick Wall. Los Angeles. Bonus Books, 2004.

PUBLICATIONS: ARTICLES

1. "A New Look at the 'Bonum Fidei,'" Studia Canonica 12(1978), 6-40.
2. "The Individual's Right to marry in the Context of the Common Good." Studia Canonica 13(1979), 245-302.
3. "Mental Breakdown: The Experience of the Tribunal." The Priest, September 1981.
4. "The Obligation of the Divine Office." The Priest, February, 1980.
5. "The Contemporary Challenge to Christian Marriage." The Priest, November and December, 1981.
6. "Why Some Catholics Get Divorced." U.S. Catholic, August, 1980.
7. "The Effects of Marital Disintegration on Children." The Priest, June, 1981.
8. "The Relationship of Canon law to the Catholic Family." The Priest, February, 1983.
9. "Sacramental Theology: Where We Are Today." The Priest, November, 1983.
10. "The Sacraments in the New Code." The Priest, November and December, 1984.
11. "The Contemporary Challenge to the Christian Family." The Exchange, Winter, 1980.
12. "The Internal Forum Solution." Phoenix, Summer, 1982.
13. "The Roman Catholic Church and Mixed Marriages." Ecumenical Trends, June, 1985.
14. "The Moral Inseparability of the Unitive and Procreative Aspects of Human Sexual Intercourse." Monitor Ecclesiasticus, 108(1964), 447-469.
15. "The Canonical Status of Religious Institutes: Additional Considerations." Studia Canonica 18(1984), 347-364.

16. "The Church and Marital Breakdown." Listening 15(1980), 54-64.
17. "The Canonical Foundations for Pre-Marital Preparation." Marriage Studies, Vol. 1, Washington D.C.: Canon Law Society of America, 1980, 65-77.
18. "Select Bibliography on the Sacrament of Marriage." Marriage Studies, Vol. 1, Washington D.C.: Canon Law Society of America, 1980, 78-101.
19. "The Competent Forum, Matrimonial Trials and Norm 7 of the American procedural Norms." Marriage Studies, Vol. 1, Washington D.C., Canon Law Society of America, 1980, 102-143.
20. "Matrimonial Jurisprudence in the United States." Marriage Studies, Vol. 2, Washington D.C.: Canon Law Society of America, 1982, 111-168.
21. "The Moral Inseparability of the Unitive and procreative Aspects of Sexual Intercourse in the Thought of Pope John Paul II." Marriage Studies, Vol. 3, Washington, D.C.: Canon Law Society of America, 1985.
22. "The Catholic Church and Marital Breakdown." The New Catholic World, February, 1986.
23. "The Canonical Status of Religious Institutes." Monitor Ecclesiasticus 110(1985), 227-245.
24. "The Theology of Marriage." Studia Canonica, 20(1986).
25. "More on the Canonical Status of Religious Institutes." Angelicum, 1987.
26. "The Dignity of the Human Person in the Thought of John Paul II." Social Thought, 1987.
27. "The Clergy In Court: Clergy Malpractice." The Priest, January and February, 1987.
28. "Faith and the Sacrament of Marriage." Proceedings of the Australian Canon Law Society, 1987.
29. "Marriage." In The Code of Canon Law: A Text and Commentary. New York: Paulist Press, 1985. P. 737-834.
30. "Ministry to the Military: Valid or Not." The Priest, June, 1987.
31. "Military Marriages: Some Special problems." Studia Canonica 21(1987).
32. "Military Marriages." Military Chaplain's Review, Spring, 1988.
33. "The Christian Vocation of Marriage." Handbook on Critical Sexual Issues. St. Louis: Pope John XXIII Center, 1983.
34. "The Clergy In Court: recent Developments." The Priest, July and August, 1990.
35. "Canon Law." 336 entries on Canon Law topics in The Concise Catholic Encyclopedia, Huntington IN: Our Sunday Visitor Press, 1990.
36. "The Rights of Priests Accused of Sexual Misconduct." Studia Canonica 24(1990).
37. "Canon Law." 274 entries in The Concise Catholic Dictionary, Huntington IN: Our Sunday Visitor Press, 1993.
38. "Healing the Pain." The Blue Book. Annual Proceedings of the National Catholic Council on Alcohol and Drug Related Problems, 1994.

39. "Privileged Communications in the Military." Hurburt Field, FL, Chaplain Resource Board.
40. "Privileged Communications and Military Chaplains." USAF Cheplain Resource Board
41. "Roman Catholic Clericalism, Religious Duress and Clergy Sexual Abuse." Pastoral Psychology, 51(2003).
42. "Catholic Clergy Sexual Abuse Meets the Civil Law." Fordham Urban Law Journal Jan. 2004.
43. "Canon Law: Failure from Above," in Sin Against the Innocents, Thomas Plante, editor, Greenwood Publishing Group, March 2004.

PROFESSIONAL MEMBERSHIPS

Canon law Society of Great Britain and Ireland
Canon law Society of Australia and New Zealand
Canadian Canon law Society
Societe Internationale de Droit Canonique
National Rifle Association
Titanic Historical Society
Aircraft Owners and Pilots Association
Warbirds of America
Experimental Aircraft Association
Phi Alpha delta law Fraternity
Professional Association of Dive Instructors

MILITARY AWARDS AND DECORATIONS

National Defense Medal (2x)
NATO Service Medal
Kosovo Campaign Medal
Armed Forces Service Medal (2x)
Armed Forces Expeditionary Medal (2x)
Humanitarian Service Medal
Military Outstanding Volunteer Service Medal

- Air Force Achievement Medal (2x)
- US Army Achievement Medal
- Air Force Commendation Medal (3x)
- Meritorious Service Medal (3x)
- "Most Distinguished Graduate," US Navy Drug and Alcohol Counselor School

MISCELLANEOUS

- Winner of the 1992 Cavallo Award for Moral Courage in Government and Business
- Major, United States Air Force, Active Duty
- Member, Order of the Desert Legion (US Army)
- FAA licensed pilot, multi-engine, commercial and instrument rated
- P.A.D.I. certified Master Scuba Diver, Divemaster, Rescue Diver
- "Priest of Integrity Award" from Voice of the Faithful, July, 2002
- Isaac Hecker Award for Achievements in Social Justice, 2003
- Certified Alcohol and Drug Abuse Counselor (CADAC)

PRESENT ADDRESS

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EXHIBIT C

January 2005

Curriculum Vitae

A.W. RICHARD SIPE

EDUCATION

- Loyola College, Baltimore, Maryland, MS 1980
- The Seton Psychiatric Institute, Baltimore, Maryland, Certificate-Resident in Counseling of Religious 1965-1967
- The Menninger Foundation, Topeka, Kansas, Certificate in Counseling 1964-1965
- Saint John's Seminary, Collegeville, Minnesota, Ordained Roman Catholic Priest (M.Div. Equiv.) 1957-1959
- Collegio Sant' Anselmo, Rome, Italy 1955-1957
- Saint John's University, Collegeville, Minnesota — BA 1950-1955
- Saint John's Preparatory School, Collegeville, Minnesota 1946-1950

CERTIFICATION

- Psychiatrist Assistant Registration No. S-00001 The Maryland State Board of Medical Examiners 1982-2000
- National Certified Counselor (NCC) Certificate #03879 1983-2000
- National Academy of Certified Clinical Mental Health Counselors (CCMHC) Certificate No. 183 1981-2000

PROFESSIONAL POSITIONS

- Pastoral Counselor (Volunteer) Owen Clinic, University of California at San Diego 2000-
- Psychiatrist Assistant (State of Maryland) 1982-1999
- Consultant, Task Force on Sexual Abuse — St. John's Abbey & University, Collegeville, Minnesota 1993-1994
- Supervisor in Family Therapy — Child and Adolescent Fellows Program, Johns Hopkins Medical School Department of Psychiatry 1989-1990
- Counselor, (Private Practice Associates) 1970-1980
- Staff, Consultation Center for Clergy and Religious Archdiocese of Baltimore 1975-1982

- Consultant in Family Therapy North Baltimore Mental Health Center 1978-1980
- Counselor, Loyola College Counseling Service (Acting Director 1974) 1971-1979
- Consultant to the Program of Psychiatry and Religion, Spring Grove State Hospital, Baltimore, Maryland 1969
- Personnel Director, St. John's Abbey 1968-1970
- Director of Family Services, the Seaton Psychiatric Institute, Baltimore, Maryland 1967-1970
- Executive Director, Saint John's University Institute for Mental Health, Collegeville, Minnesota 1965-1969
- Counselor, Saint Boniface High School, Cold Spring, Minnesota 1959-1964

ACADEMIC APPOINTMENTS

- Instructor in Psychiatry (part-time), Johns Hopkins School of Medicine, Department of Psychiatry, Baltimore, Maryland 1972-1997
- Adjunct Professor, Pastoral Counseling, Saint Mary's Seminary and University, Baltimore, Maryland 1972-1984
- Adjunct Associate Professor of Psychology Loyola College, Baltimore, Maryland 1971-1978
- Assistant Professor of Pastoral Counseling, St. John's University, Collegeville, Minnesota 1967-1970
- Lecturer in Pastoral Counseling, Woodstock College, Woodstock, Maryland 1968-1970

ARTICLES

- "Cincinnati's 30 pieces of silver," The National Catholic Reporter, December 12, 2003
- "Does the Church Really Care," Census Reports, September/October, 2002.
- "Abuse: From the Eye of the Storm," Bread Raising, June, 2003.
- "Priests Still Die of AIDS as Church Postpones Needed Dialogue," The National Catholic Reporter, March 31, 2000.
- "Perilous Choice to Ignore AIDS Issue," The National Catholic Reporter, March 31, 2000.
- "Road Map and Road Blocks: The Seminarian's Dilemma," The TABLET (London), October 7, 1995

, (p. 1276-1278).

- "Achievement," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, October 1995.
- "Celibate Spirituality—In Search of the Feminine Voice," Sisters Today, September, 1995 (p. 342-346).
- "Transformation," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, September 1995.
- "Integration," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, August 1995.
- "Truth or Consequences," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, July 1995.
- "How I should Have Loved," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, June 1995.
- "Appropriate, Responsible, Mature," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, May 1995.
- "After the Fall," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, April 1995.
- "Authority and Power," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, March 1995.
- "Loneliness," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, February 1995.
- "Desire and Self Knowledge," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, January 1995.
- "Celibacy: Nature and Grace," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, December 1994.
- "How to be Celibate," Reflections on Celibacy series in Priestly People, Jemez Springs, New Mexico, November 1994.
- "Priest sex abuse case stirs political storm in Ireland," The National Catholic Reporter, December 2, 1994, (p. 17).
- "The Problem of Sexual Trauma and Addiction in the Catholic Church," Sexual Addiction and Compulsivity, Vol. 1, No. 2, 1994, (p. 130-137).
- "Celibacy and Power," The Tablet (London), November 26, 1994, (p. 1504-1505).
- "Divine Justice: William F. Love's Bishop Regain and Harry Kermichan's Rabbi Small" (with B.C. Lamb) The Armehajj Detective, Vol. 27, No. 1, winter, 1994.
- "Victims of Clergy Abuse Achieve Rightful Status," Bread Rising, Vol. 4: No. 1, 1994.
- "A Step toward Prevention of Sexual Abuse," Human Development, Vol. 14: No. 4, 1993 (p. 17-23).

- "Clergy Sexual Abuse: The St. John's Initiative" St. John's Magazine, December, 1993.
- "To Enable Healing," The National Catholic Reporter, September 17, 1993 .
- "Celibacy and Imagery: 'Horror Story' in the Making," The National Catholic Reporter, July 2, 1993 .
- "Celibacy in Law and Life," Viewpoint, The Tablet (London), June 12, 1993 .
- "The Celibacy Question," The Tablet (London), June 5, 1993 , (p. 737-738).
- "A House Built on Sand," Viewpoint, The Tablet (London), September 12, 1992 , (p. 1118).
- "Chesterton's Brown and Greeley's Blackie," (with E.C. Lamb), Commonweal, August 14, 1992 , (p.18-25).
- "Double-Talk on Celibacy," The Tablet (London), May 16, 1992 , (p. 605-606).
- "Sex and Celibacy," The Tablet (London), May 9, 1992 , (p. 576-577).
- "Spirituality and Integrity," Fellowship of Prayer, Vol. 43, No. 6, December, 1991.
- "Education for Celibacy: An American Challenge," America , May 18, 1991 , (p. 539-548).
- "Newfoundland Report & Church Reform Manifesto," The National Catholic Reporter, September, 21, 1990 .
- "Outpatient Responses to Sexual Problems of Catholic Religious," The Bulletin of the National Guild of Catholic Psychiatrists, San Francisco , California , Vol. 32, 1988, (p. 42-45).
- "The Mental Health Institute at St. John's 1954-1984," The Scriptorium, Vol. 24, Collegeville , Minnesota , 1985.
- "The Psychological Dimensions of the Rule of St. Benedict," The American Benedictine Review, The American Benedictine Review, Inc., St. Benedict's Abbey, Atchison, Kansas, December, 1983, Vol. 34:4, (p. 424-435).
- "Memento Mori, *Memento Vivere* and the Rule of St. Benedict," The American Benedictine Review, North Central Publishing Co., St. Paul , Minnesota , Vol. XXV: 1, March, 1974, (p. 96-107).
- Introduction to Conflict in Community, Robert J. McAllister, M.D., St. John's University Press, pp. xiii-xv, 1969.
- "The Introduction of Psychiatry into a Religious Setting," (with Ivan D. Junk, M.D.), The American Benedictine Review, North Central Publishing Co., St. Paul, Minnesota, Vol. XXII, September, 1969, (p. 257-271).
- "The Celibate and Community Life," Sisters Today, Sentinel Publishing Co., Collegeville, Minnesota, Vol. 41:4, December, 1969, (p.206-210).
- "The Education of Religious: A Question of Goals," Sisters Today, Sentinel Publishing Co., Collegeville, Minnesota, Vol. 39:7, March, 1968, (p. 337-347).

REVIEWS IN

- Psychiatric Annals; Medical Insight; Theological Studies; American Journal of Psychiatry; Worship

LECTURES

- "Forgiveness of the Church for Sexual Abuse" VOTF, St. Thomas University, St. Paul, Minnesota, November 7, 2004.
- "A Dangerous Business: Questions & Truth Telling" SNAP National Meeting, Denver, CO, June 12, 2004.
- "Sexual abuse and suicides" seminar, SNAP National Meeting, Denver, CO, June 11, 2004.
- "The Consequences of Guilt" Santa Clara Symposium on Sin Against the Innocent, Santa Clara, CA, May 14, 2004.
- "Family Secrets: the extent of abuse" SNAP Retreat, Minneapolis, March 2, 2004
- "Confessions of an Expert Witness" VOTF, Minneapolis, Minnesota, March 1, 2004 . .
- "The Bishops have spoken. Is there hope?" Call to Action San Diego, Pacific Beach, California, March 6, 2004.
- "Beyond Abuse" VOTF Boston, January 24, 2004. .
- "Sexual Abuse: the Crisis Behind the Headlines" Call to Action, Milwaukee, Wisconsin, November 7-9, 2003 .
- "Being Catholic in the 21st Century: Crisis, Challenge, and Opportunity ." VOTF, Fordham University, Bronx, NY, October 25, 2003 .
- "Moral Leadership: Abuse Victims, the Press, Lawyers, and Law Enforcement." Keynote for the West Coast Conference of SNAP, Los Angeles, CA, October 18, 2003 .
- "An Historical Note on Clergy Abuse." National Clergy Abuse Network, Chicago, IL, October 3-4, 2003 .
- "A Theological Reflection in Three Acts-or-The Vegas Showgirl, God/Popeye, and Where the Church Went Wrong." Keynote for the National Meeting of Dignity, Las Vegas, Nevada, August 7-10, 2003 .
- "Does the Church Care?" Keynote for the National Conference of CORPUS, Dallas, Texas, June 27-29, 2003 .
- "View From the Eye of the Storm" Keynote for the 11th annual National Meeting of LINKUP, Louisville, Kentucky, February 22, 2003 .
- "Celibacy in Crisis" Institute for Continued Learning University of California San Diego, March 7, 2003
- "Abuse at the Abbey" Survivors Network of Minnesota, Minneapolis, February 24-25, 2003 .
- "The Pastoral Challenge in a Climate of Distrust" State of California Chaplains' Conference, Oakland, California, October 23, 2002 .

- "Crisis in the Church" The Channel Club, Santa Barbara, California, September 27, 2002.
- "Religious Construction of HIV/AIDS Diagnosis in San Diego & its Impact on Decisions about Treatment & Care" Respondent, University of California San Diego Social Sciences Roundtable, February 15, 2002.
- "Was Jesus a Sexual Person?" CORPUS National Conference, Secaucus, New Jersey, June 30, 2001.
- "The Healing Hand of God" The Cathedral of St. John the Baptist, Roman Catholic Diocese of Paterson, New Jersey, October 14, 1998.
- "Is Sexual Abstinence Possible?" Towson State University, Towson, Maryland, May 7, 1997.
- "Religion and Psychiatry" Grand Rounds, Springfield State Hospital, Sykesville, Maryland, April 11, 1997.
- "Celibacy, Sex and Fiduciary Boundaries," Symposium on Boundary Issues and Violations in the Clergy, The Morningstar Foundation, Topeka, Kansas, September 20-21, 1996.
- "Celibacy: A Way of Living, Loving and Serving" (15 lectures) St. John's Seminary, Collegeville, Minnesota, January 8-27, 1996.
- "Denial in Recovery" The Florida Medical Professional Group convention, Ft. Lauderdale, Florida, November 4, 1995.
- "Spirituality and Recovery" Keynote Panel National Council on Sexual Addiction and Compulsivity, Atlanta Georgia, March 23, 1995.
- "The Person of the Priest: Toward a Celibate Integration" (10 lectures) St. John's Seminary, January 10-21, 1995.
- "The Prophetic Role of Victims of Clergy Sexual Abuse," Christian Survivors of Sexual Abuse, the Commonwealth Institute, London, October, 9, 1994.
- "Christian Roots of Abuse" LINKUP, National Conference, Collegeville, Minnesota, August 4, 1994.
- "Christian Leadership: Challenge to Sex and Power" LINKUP Leadership Conference, June 17, 1994.
- "Psychoanalysis and Family Therapy" George Washington University, Washington, D.C., June 14, 1994 and November 8, 1994.
- "The State of Sexual Abuse in the Catholic Church," Conference on Sexual Trauma in the Church, St. John's University, Collegeville, Minnesota, August 12-13, 1993.
- "Sex and the Church" (15 lectures), St. Louis University, Department of Theology, St. Louis, Missouri, July 19-23, 1993.
- "Negotiating Loneliness in the Celibate Process," Vincentian Fathers Annual Convocation, St. Louis, Missouri, June 16, 1993.
- "Sexual Abuse by Clergy: Who and Why," Maryland Governor's Conference on Child Abuse and Neglect, April 29, 1993.
- "The Clergy and Human Sexuality," Maryland Association of Private Practicing Psychiatrists, December 3, 1992.

- "Sexual Abuse by Priests—Why?" VOCAL, Chicago, Illinois, October 18, 1992.
- "Sex and the Clergy," The City Club of Cleveland, October 18, 1991.
- Grand Rounds, the Veterans Hospital of Baltimore, September 17, 1991.
- "Addictions and Spirituality," Prince George's County Health Department, May 20, 1991.
- "The Celibate/Sexual Adjustment of Roman Catholic Priests," Research Conference, Johns Hopkins Medical School, Department of Psychiatry, May 8, 1991.
- "The Celibate/Sexual Agenda," CORPUS National Meeting, New York, June 22, 1991.
- "Outpatient Response to Sexual Problems Among Catholic Religious"—The National Guild of Catholic Psychiatrists, Montreal, Canada, May 2, 1991.
- "Facing Dangerous Questions: An Intellectual Odyssey," (Rolling-Leutkemeyer Lecture), McDonogh School, April 3, 1991.
- "Sexuality—Intimacy and Ministry" (2 lectures), Ministry Formation Program, Archdiocese of Baltimore, March 31, 1991.
- "Spirituality and Integrity" and "Remaining Credible Witnesses to Our Faith," Princeton Theological, December 4, 1990.
- "Sexual/Celibate Pressures of Catholic Priests," The American Psychological Association National Meeting, Boston, Massachusetts, August 11, 1990.
- "Celibacy and Sexuality" (12 lectures with Marianne Bankert, M.D.), St. John's University, July 22-25, 1990.
- "What Questions May a Theologian Ask About Celibacy," St. John's University School of Theology, July 25, 1990.
- "Life, Love and Celibacy" (3 lectures) St. John's Seminary, September 26, 1989.
- "Celibacy, Sex and the Place of Women"—First National Meeting of CORPUS, American University, Washington, D.C., June 17, 1988.
- "The Psychological Aspects of the Aging Process"—Catholic University of America, Washington, D.C., March 21, 1987.
- "Growth of Celibate Self: How? Now, Wow!" (10 lectures) (With Dr. Marianne Bankert), Erie Pennsylvania, August 7 to August 9, 1986.
- "Positive Patterns to Marriage"—Seminar, The United Hospitals of St. Paul, Minnesota, April 25, 1985.
- "Making Marriage Work" (6 lectures), Baltimore Archdiocese Marriage Preparation, July - August 1985.
- "Family Therapy Grows Up"—Springfield Hospital Center, Psychiatric Grand Rounds, Sykesville, Maryland, April 12, 1985.
- "Psychiatry and Religion: Partners in Health"—The United Hospitals of St. Paul, Minnesota, October 18, 1983.

- "Family Therapy: A Perspective Not a Technique" Psychiatric Residence Conference, University of Maryland Medical School, Baltimore, August 11, 1983.
- "Family Therapy." Veterans Administration Hospital, San Juan, Puerto Rico, March 16, 1983.
- "Retired Priests: An Adaptive Task" Stella Maris Hospice, Towson, Maryland, May 6, 1981.
- "Family Therapy as Sole Method of Treatment"—Panel: The Uses and Abuses of Family Therapy—American Orthopsychiatric Meeting, New York, April 15, 1977.
- "Psychic Reconciliation" Loyola College Lecture Lecture, Baltimore, Maryland, May 24, 1976.
- "The Role of the Counselor"—American Orthopsychiatric Association, New York, June, 1973.
- "The Family:—Its Faith and Its Fears"—Wilmington, Delaware, March 10, 1971.
- "The Dilemma of the Hospital Chaplain:—Mid-West Health Congress, Kansas City, Missouri, March, 1970.
- "Occupational Hazards of Helping People"—Johns Hopkins, Medical School, April 1, 1969.
- "What Clergy Learn About Psychiatry"—Maryland Association of Private Practicing Psychiatrists, Baltimore, Maryland, January 30, 1969.
- "The Introduction of Psychiatry into a Religious Setting"—42nd Anniversary Congress of the Pan-American Medical Association, Buenos Aires, Argentina, November 26, 1967.
- "The Role of Benedictines in the Church Today" St. John's Chapter, Collegeville, Minnesota, October 21, 1967.
- "Psychiatric and Religious Intervention in Mental and Emotional Illness," George Washington University Faculty, Department of Psychiatry, Washington, D.C., February 16, 1966.

BOOKS AND CHAPTERS

- Introduction to: Spoils of the Kingdom: Clergy Misconduct and Social Exchange in Religious Life by Anson Shupe, University of Indiana Press, 2005.
- Living the Celibate Life: A Search for Models and Meaning, Triumph Books, Tigouri, Missouri, 2004.
- Sex, Priests & Church Documents: An Introduction to Clergy Sexual Abuse, with Thomas P. Doyle & Patrick J. Wall, Precept Press, Santa Monica, 2005
- "The Crisis of Sexual Abuse and the Celibate Agenda of the Church" in Sin Against the Innocents: Sexual Abuse by Priests and the Role of the Catholic Church, Thomas G. Plante, Ph.D., Editor, Westport, CT: Greenwood, 2004.
- Celibacy in Crisis: A Secret World Revisited, Brunner/Routledge, New York, 2003.
- "Celibacy" The Oxford Companion to Christian Thought Adrian Hastings, editor, Oxford University Press, Oxford, 2000.

- "The Sexual Abuse of Minors by Clergy: Problems of Prevention" in Bless Me Father for I Have Sinned, Thomas G. Plante, Ph.D., Editor, Westport, CT: Greenwood, 1999.
- "Clergy Abuse in Ireland" in Wolves Within the Fold: Religious Leadership and Abuses of Power, Anson Schupe, Editor, Rutgers University Press, New Jersey, 1998.
- Celibacy: A Way of Living, Loving and Serving, Triumph Books, Liguori, Missouri & Gil/MacMillan, Dublin, Ireland 1997/E.J. Dwyer, Sydney, Australia, 1997.
- Sex, Priests and Power: Anatomy of a Crisis, Brunner/Mazel, New York, 1995, Cassell Publishers, London, 1995.
- "Negotiating Loneliness in the Celibate Process" in Living in the Meantime, (pp. 104-117), Paul Philibert, O.P. Editor. Paulist Press, New York, 1994.
- A Secret World: Sexuality and the Search for Celibacy, Brunner/Mazel, New York, 1990.
- Sexualität und Zölibat, Ferdinand Schöningh, Paderborn, 1992.
- Obedience (Roman Catholicism) p. 795-96; Retreats (Roman Catholicism) p. 1082-83; Religions, Pastoral Care of, p. 1060-1061, in: Dictionary of Pastoral Care and Counseling, Rodney J. Hunter, General Editor, Abingdon Press, Nashville, 1990.
- "Sexual Aspects of the Human Condition"—in Changing View of the Human Condition, Paul Prouser, Editor, Mercer University Press, 1987.
- Psychiatry, Ministry and Pastoral Counseling, Editor (with C.J. Rowe, M.D.): The Liturgical Press, Collegeville, Minnesota, September, 1983.
- Beyond Crescent Gate: Fifteen American Poems, Walter O. Jahreis, M.D. (A. W. Richard Sipe, Editor), Garamond/Pridemack, Baltimore, Maryland, 1971.
- Hope: Psychiatry's Commitment, Editor: Brunner/Mazel, New York, 1970.
- A Physician in the General Practice of Psychiatry: The Selected Papers of Leo H. Bartheimer, M.D., Editor (with P.A. Martin, M.D. and G.L. Usdin, M.D.); Brunner/Mazel Publishing Co., New York, 1970.

RESEARCH

- Priests With AIDS—A Desperate Cry: "The Church Has AIDS"
- Project: Celibacy in Literature and Life,—The Minister's Black Veil: Literature of Vocation, with Harris Gruman, Ph.D. & Dr. B.C. Lamb, Ph.D., JD. (T.B.P.).
- Apostles of Celibacy & the Problematic Paradigm (T.B.P.)
- "A Search for Celibacy, 1960-1985: Practice, Process and Achievement."
- "The Pastoral Promise: an Explanation of a Quality of Ministry" Master of Science Thesis, Loyola College, Maryland, December 5, 1979.
- "A Proposal for the Implementation for a Counseling Facility in a Small College Setting," St. John's University, Collegeville, Minnesota, July 1966.

- "The Ego Functioning of a Training Group: An Organizational Case Study Report"—Department of Preventive Psychiatry, The Menninger Foundation, Topeka, Kansas, 1965.
- "An Investigation into Parental Suicide and Adolescent Difficulties: Three Cases" St. Thomas University, St. Paul, 1964.

FORENSIC CONSULTATION

- Consultant and expert witness in over two hundred cases of Catholic clergy abuse of minors and other clergy professional malfeasance, 1983-2005. Witness and consultant in Grand Jury investigations 2002 & 2003.

BOARD, COMMITTEES, FELLOWSHIPS AND HONORS

- St. John's University INTERFAITH SEXUAL TRAUMA INSTITUTE Board of Directors, Chairman of the Board
1994-1996
- Isaac Taylor Institute for Psychiatry and Religion—Advisory Committee
1986-1989
- St. Luke's Institute, Suitland, Maryland, Board of Directors
1986-1988
- Institute for Religion and Human Development, Board of Directors (Chairman 1977-1983) St. John's University
1977-1984
- Archdiocese Commission on Women in the Church (Baltimore)
1977
- Institute for Ecumenical and Cultural Research: Project Fellow (Faith: Human Condition)
1977-1982
- American Medical Association: Consultant, Committee for the AMA Handbook Human Sexuality
1969
- Who's Who in Religion
1975
- American Catholic Who's Who
1978-1979

PROFESSIONAL ASSOCIATIONS

- American Family Therapy Academy
1986-1996
- National Council on Family Relations (S4505)
1971-1995
- American Association of Mental Health Counselors (President 1971)
1971-1980
- American Personnel and Guidance Association (S-4038114)
1973-1995
- American Mental Health Counselors Association
1978-1997
- Maryland Mental Health Counselors Association
1978-1997

MEDIA CONTACTS

- Television:

- o TV Documentary SEXUAL IDENTITY BBC 2003
- o TV Documentary CELIBACY BBC/HBO 2004
- o Participant in ten TV documentaries on clergy sexual abuse, USA, France, & UK during 2003/2004.
- o Court TV, January 2002.
- o CNN, TV January 2002.
- o "Non-Celibate Priests," Religion & Ethics PBS TV, July 2001.
- o "Priests With AIDS," 20/20, ABC TV, January 2001.
- o "St. John's Priest With AIDS," KSTP TV, January 2001.
- o "Sexual Abuse & St. John's Abbey," KSTP TV, November 10-11, 2000.
- o "Priests: A Question of Celibacy," Canada Sex TV, September 2000.
- o NBC, CBS, ABC, Fox, CNBC: England, Yorkshire TV, BBC TV, Oxford TV, Netherlands TV, CBC TV, PBS, etc.
- o "Our Father," HBO, 1996.
- o "Sins of the Fathers," BBC-EVERYMAN September 10, 1995.

- Print Media:

- o Interviews:

People Magazine, The National Review, The Boston Globe, Washington Post, Baltimore Sun, USA Today, New York Times, New York Post, News Day, A.P. News Service, Catholic News Service, The Catholic Register, National Catholic Reporter, London Times, The Chicago Tribune, Los Angeles Times, San Francisco Examiner, Wall Street Journal, Time, Newsweek, Hartford Courant, Miami Herald, Detroit Free Press, Playboy, L'Espresso, New Yorker, etc.

- Radio:

Major US networks: ABC, NBC, CBS, FOX, CNN; NPR, PBC, CBC, BBC-- England, Ireland, Wales; Australian Radio, etc.

- Movies

Consultant in a Dan Wigatow/Sony Studio production. Screen play by Stanley Weiser.

CALENDARED *ut*

F

1-3

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 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,
 FATHER. 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)	Case No. CV 018440
11	as Guardian Ad Litem for RACHEL LOMAS)	
	and AMBER LOMAS)	
12	Plaintiffs,)	DEFENDANT'S DESIGNATION OF
		EXPERT WITNESS INFORMATION [CCP
13	vs.)	§ 2034(f)(1)(a)]
14	FR. JOSEPH ILLO, FR. FANCIS JOSEPH,)	
15	a.k.a. FR. FRANCIS ARAKAL, FR.)	
16	RICHARD J. RYAN, BISHIP STEVEN)	
	BLAIRD, AND THE DIOCESE OF)	
17	STOCKTON)	
	Defendants.)	

18

19

20 Defendants FATHER. JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP

21 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON, submits the

22 following statement in response to the Demand for Exchange of Expert Witness Information,

23 pursuant to Code of Civil Procedure section 2034(f)(1)(A):

24 The name(s) and address(es) of each person whose expert opinion Defendants expect to or

25 may offer into evidence at trial are:

26 **NON-RETAINED EXPERTS:**

- 27 1. Diane Stephens, MFT, 819 - 15th Street, Modesto, CA 95354, (209) 521-1714.
- 28

1 2. Norman Schmidt, M.D., 1069 East Hawkeye, Suite B, Turlock, CA 95380, (209) 634-
2 7266.

3 3. Detective Don Bali, Hughson Police Department, 7018 Pine Street, Hughson, CA
4 95326, (209) 883-4052; also Stanislaus County Sheriff's Department, 250 E. Hackett, Modesto, CA
5 95368, (209) 525-7216.

6 4. Yvonne McLoughlin, LMFT, 2020 Coffee Road, Modesto, CA 95344. (209) 567-
7 1291.

8 5. Nathan Baker, Stanislaus County District Attorney's Office, 800 - 11th Street, Room
9 200, Modesto, CA 95354, (209) 525-5550.

10 6. Officer Pat Munday, Lemoore Police Department, 657 Fox Street, Lemoore, CA
11 93245, (559) 924-9574.

12 Defendants reserve the right to call at trial unlisted expert witnesses in rebuttal.

13 Defendants reserve the right to supplement their expert witness list pursuant to Code of Civil
14 Procedure section 2034(h).

15 Defendants reserve the right to move to augment or amend this disclosure pursuant to Code
16 of Civil Procedure section 2034(k).

17 Defendants reserve the right to designate, and call at trial any and all expert witnesses
18 disclosed or otherwise named by any of the other parties to this action, regardless of whether that
19 party remains a party to the action at the time of trial.

20 Dated: January 3, 2005

NEUMILLER & BEARDSLEE
A PROFESSIONAL CORPORATION

21
22
23 By: Paul N. Balestracci
PAUL N. BALESTRACCI
Attorneys for the Defendants
FATHER. JOSEPH ILLO, MONSIGNOR
RICHARD J. RYAN, BISHOP STEPHEN E.
BLAIRE, and THE ROMAN CATHOLIC
BISHOP OF STOCKTON, a Corporation Sole

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PROOF OF SERVICE
CCP 1013a

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 509 W. Weber Avenue, Stockton, California 95203. On January 3, 2005, I served the within documents:

**DEFENDANT'S DESIGNATION OF EXPERT
WITNESS INFORMATION [CCP § 2034(F)(1)(A)];**

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

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

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

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

George J. MacKoul, Esq.
SABBAH and MacKOUL
49 Locust Street
Falmouth, MA 02540
Telephone: (508) 495-4955
(Attorneys for Plaintiff)

Anthony Boskovich
LAW OFFICES OF ANTHONY BOSKOVICH
28 N. First Street, 6th Floor
San Jose, CA 95113-1210
Telephone: (408) 286-5150
(Attorney for Plaintiff)

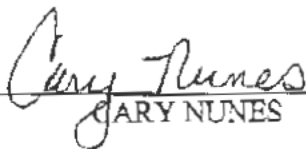
Michael D. Coughlan, Esq.
COUGHLAN & O'ROURKE, LLP
3031 W. March Lane, Ste. 210 West
Stockton, CA 95219
(Attorneys for Defendant, Fr. Francis Arakal)

Vladimir F. Kozina, Esq.
Mayall, Hurley, Knutsen, Smith & Green
2453 Grand Canal Blvd., 2nd Floor
Stockton, CA 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818
(Attorneys for Defendants)

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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 3rd day of January 2005, at Stockton, California.



CARY NUNES

EXHIBIT B

CALENDARED *wh*

F

1-3

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,
 FATHER. JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN,
 6 BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC
 BISHOP OF STOCKTON, a Corporation Sole

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

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

Case No. CV 018440

12 Plaintiffs,

DEFENDANT'S DESIGNATION OF
 EXPERT WITNESS INFORMATION [CCP
 § 2034(f)(1)(a)]

13 vs.

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

17 Defendants.

18
 19
 20 Defendants FATHER. JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP
 21 STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF STOCKTON, submits the
 22 following statement in response to the Demand for Exchange of Expert Witness Information,
 23 pursuant to Code of Civil Procedure section 2034(f)(1)(A):

24 The name(s) and address(es) of each person whose expert opinion Defendants expect to or
 25 may offer into evidence at trial are:

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1 2. Norman Schmidt, M.D., 1069 East Hawkeye, Suite B, Turlock, CA 95380, (209) 634-
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3 3. Detective Don Bali, Hughson Police Department, 7018 Pine Street, Hughson, CA
4 95326, (209) 883-4052; also Stanislaus County Sheriff's Department, 250 E. Hackert, Modesto, CA
5 95368, (209) 525-7216.

6 4. Yvonne McLoughlin, LMFT, 2020 Coffee Road, Modesto, CA 95344. (209) 567-
7 1291.

8 5. Nathan Baker, Stanislaus County District Attorney's Office, 800 - 11th Street, Room
9 200, Modesto, CA 95354, (209) 525-5550.

10 6. Officer Pat Munday, Lemoore Police Department, 657 Fox Street, Lemoore, CA
11 93245, (559) 924-9574.

12 Defendants reserve the right to call at trial unlisted expert witnesses in rebuttal.

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14 Procedure section 2034(h).

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16 of Civil Procedure section 2034(k).

17 Defendants reserve the right to designate, and call at trial any and all expert witnesses
18 disclosed or otherwise named by any of the other parties to this action, regardless of whether that
19 party remains a party to the action at the time of trial.

20
21 Dated: January 3, 2005

NEUMILLER & BEARDSLEE
A PROFESSIONAL CORPORATION

22
23 By: Paul N. Balestracci
PAUL N. BALESTRACCI
Attorneys for the Defendants
FATHER. JOSEPH ILLO, MONSIGNOR
24 RICHARD J. RYAN, BISHOP STEPHEN E.
25 BLAIRE, and THE ROMAN CATHOLIC
26 BISHOP OF STOCKTON, a Corporation Sole

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PROOF OF SERVICE
CCP 1013a

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**DEFENDANT'S DESIGNATION OF EXPERT
WITNESS INFORMATION [CCP § 2034(F)(1)(A)];**

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

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

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

George J. MacKoul, Esq.
SABBAH and MacKOUL
49 Locust Street
Falmouth, MA 02540
Telephone: (508) 495-4955
(Attorneys for Plaintiff)

Anthony Boskovich
LAW OFFICES OF ANTHONY BOSKOVICH
28 N. First Street, 6th Floor
San Jose, CA 95113-1210
Telephone: (408) 286-5150
(Attorney for Plaintiff)

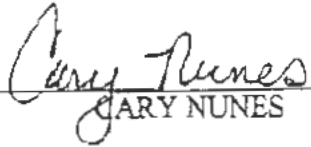
Michael D. Coughlan, Esq.
COUGHLAN & O'ROURKE, LLP
3031 W. March Lane, Ste. 210 West
Stockton, CA 95219
(Attorneys for Defendant, Fr. Francis Arakal)

Vladimir F. Kozina, Esq.
Mayall, Hurley, Knutsen, Smith & Green
2453 Grand Canal Blvd., 2nd Floor
Stockton, CA 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818
(Attorneys for Defendants)

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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 3rd day of January 2005, at Stockton, California.



CARY NUNES

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

A Professional Corporation
2453 Grand Canal Boulevard, Second Floor
Stockton, California 95207-8253
Telephone (209) 477-3833
VLADIMIR F. KOZINA, ESQ.
CA State Bar No. 095422
MICHAEL L. PHILLIPS, ESQ
CA State Bar No. 232978

NEUMILLER & BEARDSLEE

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P.O. Box 20
Stockton, CA 95201-3020
Telephone: (209)948-8200
PAUL N. BALESTRACCI
CA State Bar No. 083987

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

<p>KATHLEEN MACHADO AS AN INDIVIDUAL) AND AS GUARDIAN AD LITEM FOR RACHEL) LOMAS AND AMBER LOMAS, Plaintiffs, vs. FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA) FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,) BISHOP STEVEN BLAIRE AND THE DIOCESE) OF STOCKTON, ET AL., Defendants.</p>	<p>CASE No. CV018440 [PROPOSED] ORDER GRANTING DEFENDANTS' MOTION IN LIMINE TO LIMIT EVIDENCE AND WITNESSES TO THOSE DESIGNATED DEPARTMENT: 41 TRIAL JUDGE: HON. ELIZABETH HUMPHREYS TRIAL DATE: FEBRUARY 22, 2005</p>
---	---

ORDER

The motion in limine of defendants having been considered, and good cause appearing therefore,

IT IS ORDERED, that plaintiff and plaintiff's counsel shall be limited to presenting evidence and witnesses designated in their California Code Of Civil Procedure Section 2034 response.

1 **IT IS FURTHER ORDERED**, that this order shall be effect from the commencement of voir
2 dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors are in
3 the courtroom.

4 **IT IS FURTHER ORDERED**, plaintiff's counsel shall inform each and every witness called by
5 plaintiff of the contents of this order prior to calling such witness in this action.

6
7 DATED:

8 _____
9 JUDGE OF THE SUPERIOR COURT
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1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**
A Professional Corporation
2 2453 Grand Canal Boulevard, Second Floor
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MICHAEL L. PHILLIPS, ESQ.
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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,)
17 **Plaintiffs,)**
18 **vs.)**
19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**
20 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
21 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**
OF STOCKTON, ET AL.,)
22 **Defendants.)**
23 **)**

**DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE ANY OPINION
TESTIMONY FROM THOMAS DOYLE
REGARDING THE CONDUCT OF
FATHER JOSEPH ILLO OR FATHER
FRANCIS ARAKAL**

**DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005**

24 **COMES NOW** defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who
27 hereby moves this court for an order instructing plaintiffs' counsel not to elicit testimony from
28 Defendants' Motion In Limine To Preclude Any Opinion Testimony From Thomas Doyle Regarding The
Conduct Of Father Joseph Illo Or Father Francis Arakal

FILED

05 FEB 14 PM 3:43

ROSA JUNQUEIRO, CLERK

DEPUTY

1 Thomas Doyle regarding the conduct of FATHER JOSEPH ILLO or FATHER FRANCIS
2 ARAKAL.

3 This motion is made on the grounds that such opinions are neither within the permissible
4 scope of lay testimony, nor the proper subject of expert testimony.

5 This motion is based on the memorandum of points and authorities accompanying this
6 motion, on the papers and records on file herein and on such oral and documentary evidence as
7 may be presented at the hearing of this motion.

8
9
10 DATED: February 14, 2005

11 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

12
13 By 

14 MICHAEL L. PHILLIPS
15
16

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 **I**

19 **FACTUAL BACKGROUND**

20 Defendants anticipate that plaintiffs will attempt to elicit opinion testimony from Thomas
21 Doyle regarding the alleged conduct of FATHER JOSEPH ILLO or FATHER FRANCIS
22 ARAKAL.

23 ////

24 ////

25 ////

26 ////

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II

LEGAL ARGUMENT

A. OPINIONS AS TO WHETHER FATHER FRANCIS ARAKAL OR JOSEPH ILLO COMMITTED ACTS OF MISCONDUCT ARE OUTSIDE THE SCOPE OF LAY TESTIMONY

A lay witness may offer opinions only on facts personally observed by the witness. (California Evidence Code Section 800(a); Witkin, California Evidence § 447 (3d Ed. 1986).

California Evidence Code Section 800(b) provides that:

“If a witness is not testifying as an expert, his testimony in the form of an opinion is limited to such an opinion as permitted by law, including but not limited to an opinion that is:

“(b) helpful to a clear understanding of his testimony.”

Thomas Doyle is not a percipient witness to any of the events alleged in plaintiffs’ complaint. Furthermore, he has not interviewed or had any contact with the involved individuals. Here, an opinion by a lay witness regarding whether or not FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL committed the alleged acts of misconduct would not assist the jury. The issue is properly decided by the jurors after hearing the factual accounts of plaintiffs’ and defendants’ witnesses.

B. WHETHER FATHER FRANCIS ARAKAL OR JOSEPH ILLO COMMITTED THE ALLEGED ACTS OF MISCONDUCT IS NOT THE PROPER SUBJECT OF EXPERT TESTIMONY

To properly be the subject of expert testimony, a topic must be “sufficiently beyond common experience [so] that the opinion of an expert would assist the trier of fact.” (California Evidence Code Section 801(a)) The expert must possess “special knowledge, skill, experience, training, or education” in a particular field in order to be qualified to render an opinion. (California Evidence Code Section 720)

Here, whether FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL committed the alleged acts of misconduct is a matter within the common experience of a jury. Deciding

1 whether the alleged conduct occurred is a basic jury function involving the very personal task of
2 weighing witness credibility. No expert testimony is necessary on this issue and would serve
3 only to confuse and mislead the jury as to their proper role in this trial.

4 **III**

5 **CONCLUSION**

6 Based on the foregoing, defendants request this Court grant an order in limine instructing
7 plaintiff's counsel not to elicit any opinion testimony from Thomas Doyle regarding the conduct
8 of FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL. .

9
10 DATED: February 14, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

11
12 By 
13 MICHAEL L. PHILLIPS

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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 **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)**

16 **LOMAS AND AMBER LOMAS,)**

17 **Plaintiffs,)**

18 **vs.)**

19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**

FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)

20 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**

OF STOCKTON, ET AL.,)

21 **Defendants.)**

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE ANY OPINION
TESTIMONY FROM THOMAS DOYLE
REGARDING THE CONDUCT OF
FATHER JOSEPH ILLO OR FATHER
FRANCIS ARAKAL**

**DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005**

22 **ORDER**

23 The motion in limine of defendants having been considered, and good cause appearing
24 therefore,

25 **IT IS ORDERED**, plaintiff's counsel shall not elicit opinion testimony from Thomas
26 Doyle regarding the conduct of FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL.

27
28 Defendants' Motion in Limine To Preclude Any Opinion Testimony From Thomas Doyle Regarding The
Conduct Of Father Joseph Illo Or Father Francis Arakal

1 **IT IS FURTHER ORDERED**, that this order shall be effect from the commencement of
2 voir dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors
3 are in the courtroom.

4 **IT IS FURTHER ORDERED**, plaintiff's counsel shall inform each and every witness
5 called by plaintiff of the contents of this order prior to calling such witness in this action.

6 DATED:

7
8
9

JUDGE OF THE SUPERIOR COURT

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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)	
17	LOMAS AND AMBER LOMAS,)	DEFENDANTS' MOTION IN LIMINE TO
	Plaintiffs,)	PRECLUDE ANY OPINION
18	vs.)	TESTIMONY FROM RICHARD SIPE
19	FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)	REGARDING THE CONDUCT OF
20	FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)	FATHER JOSEPH ILLO OR FATHER
21	BISHOP STEVEN BLAIRE AND THE DIOCESE)	FRANCIS ARAKAL
	OF STOCKTON, ET AL.,)	DEPARTMENT: 41
22	Defendants.)	TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
23)	TRIAL DATE: FEBRUARY 22, 2005
)	
)	
)	

24 **COMES NOW** defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who
27 hereby moves this court for an order instructing plaintiffs' counsel not to elicit testimony from
28 Defendants' Motion In Limine To Preclude Any Opinion Testimony From Richard Sipe Regarding The Conduct
Of Father Joseph Illo Or Father Francis Arakal

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ROSA JUNQUEIRO, CLERK

BY Jamela Edwards
DEPUTY

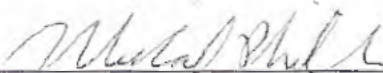
1 Richard Sipe regarding the conduct of FATHER JOSEPH ILLO or FATHER FRANCIS
2 ARAKAL.

3 This motion is made on the grounds that such opinions are neither within the permissible
4 scope of lay testimony, nor the proper subject of expert testimony.

5 This motion is based on the memorandum of points and authorities accompanying this
6 motion, on the papers and records on file herein and on such oral and documentary evidence as
7 may be presented at the hearing of this motion.

8
9 DATED: February 14, 2005

10 MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

11
12 By 
13 MICHAEL L. PHILLIPS

14
15
16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 I

18 **INTRODUCTION/SUMMARY OF ARGUMENT**

19 Defendants anticipate that plaintiffs will attempt to elicit opinion testimony from Richard
20 Sipe regarding the alleged conduct of FATHER JOSEPH ILLO or FATHER FRANCIS
21 ARAKAL. The only testimony Mr. Sipes can offer is in the form of opinions regarding the
22 conduct of DEFENDANTS derived by making determinations as to the credibility of the
23 involved parties. Such testimony is outside the scope of admissible expert opinion and invades
24 the role of the jury. Plaintiffs should be precluded from eliciting any testimony from Mr. Sipes
25 regarding his opinions on the conduct of FATHER JOSEPH ILLO or FATHER FRANCIS
26 ARAKAL.

II
LEGAL ARGUMENT

A. OPINIONS AS TO WHETHER FATHER FRANCIS ARAKAL OR JOSEPH ILLO COMMITTED ACTS OF MISCONDUCT ARE OUTSIDE THE SCOPE OF LAY TESTIMONY

A lay witness may offer opinions only on facts personally observed by the witness. (California Evidence Code Section 800(a); Witkin, California Evidence § 447 (3d Ed. 1986). California Evidence Code Section 800(b) provides that:

“If a witness is not testifying as an expert, his testimony in the form of an opinion is limited to such an opinion as permitted by law, including but not limited to an opinion that is:

“(b) helpful to a clear understanding of his testimony.”

Richard Sipe is not a percipient witness to any of the events alleged in plaintiffs’ complaint. Furthermore, he has not interviewed or had any contact with the involved individuals. Here, an opinion by a lay witness regarding whether or not FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL committed the alleged acts of misconduct would not assist the jury. The issue is properly decided by the jurors after hearing the factual accounts of plaintiffs’ and defendants’ witnesses.

B. WHETHER FATHER FRANCIS ARAKAL OR JOSEPH ILLO COMMITTED THE ALLEGED ACTS OF MISCONDUCT IS NOT THE PROPER SUBJECT OF EXPERT TESTIMONY AND INVADES THE PROVINCE OF THE JURY

To properly be the subject of expert testimony, a topic must be “sufficiently beyond common experience [so] that the opinion of an expert would assist the trier of fact.” (California Evidence Code Section 801(a)) It is well established law that the functions of the jury include the determination of the credibility of the witnesses, the weighing of the evidence, and the drawing of justifiable inferences of fact from proven facts. People v. Ross (1953) 120 Cal.App.2d 882, 886. When the trier of fact is able to draw a conclusion from the facts testified

1 to as easily and intelligently as the expert could, expert testimony is not admissible. McCleery v.
2 City of Bakersfield (1985) 170 CA3d 1059, 1074.

3 The opinions of Plaintiffs' expert Richard Sipe are outside the scope of expert testimony
4 and invade the province of the jury. The entirety of his opinions are based on judgments as to the
5 credibility of the involved parties. (For the court's reference, pertinent portions of the transcript
6 taken during the deposition of Richard Sipe are attached as Exhibit "A" to the Declaration of
7 Michael L. Phillips served and filed herewith)

8 Richard Sipe testified during deposition as follows:

9 76:9 MR. COUGHLIN: Q. your opinion is based upon belief
10 10 in the credibility of the girls.
11 11 Is that correct?
12 12 A. It is.

13 This is only one of numerous points during his deposition at which he acknowledged that
14 the opinions he has formed in this case are based upon his belief in the credibility of Plaintiffs. In
15 fact, Mr. Sipe goes on later to make essentially the same observation and argument regarding the
16 scope of expert opinion and the role of the jury DEFENDANTS are presenting by way of this
17 motion.

18 84:10 Now, getting back to an earlier question, is it
19 11 necessary for you, in order to come to your conclusions
20 12 and opinions in this case, to make a determination as to
21 13 the credibility of one party versus another?
22 14 A. In my opinion, in any case, I try and objectively
23 15 sift what is true, what is fact, what is colored. That's
24 16 the whole purpose.
25 17 Q. I understand that, but is it not true, sir, that
26 18 that necessarily requires you to make a value judgment in
27 19 terms of what is true of the credibility of a witness, a
28 20 party to this action?
29 21 A. I think that you're missing—the point is that
30 22 I make my determination on what's presented to me that
31 23 everybody can see. The judge can see it. The lawyers of
32 24 any side can see. Anybody can see and now this is how I
33 25 read this. This is how I interpret this. This I took as
34 85:1 a fact. This is stated by so and so. This is stated by
35 2 so and so. If they're contradictory, it seems to me that
36 3 that's up to the jury to decide.

1 At one point he later goes so far to say that he would be unable to render an opinion in
2 this matter without making a value judgment as to the true facts of this case.

3 87:3 Mr. Kozina: I want a straight answer on this.

4 4 Without having to make a value judgment as to what the
5 true facts in this case are, are you in a position to
6 render an opinion?

7 A. It seems to me—

8 Q. "Yes" or "No" and then you can explain.

9 A. Well, inn a sense, I would say, no, because I
10 think that's up to the jury.

11 As evidenced by Mr. Sipe's deposition testimony, the opinions he intends to offer during
12 the course of trial in this matter are not within the proper scope of expert testimony and invade
13 the province of the jury. Whether FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL
14 committed the alleged acts of misconduct are matters within the common experience of a jury.
15 Deciding whether the alleged conduct occurred involves the very personal task of weighing
16 witness credibility; a basic jury function. No expert testimony is necessary on this issue and
17 would serve only to confuse and mislead the jury as to their proper role in this trial.

18 III

19 CONCLUSION

20 Based on the foregoing, defendants request this Court grant an order in limine instructing
21 plaintiff's counsel not to elicit any opinion testimony from Richard Sipe regarding the conduct of
22 FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL.

23 DATED: February 14, 2005

24 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

25 By



26 MICHAEL L. PHILLIPS

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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)**

17 **LOMAS AND AMBER LOMAS,)**

18 **Plaintiffs,)**

19 **vs.)**

20 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**
21 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
22 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**
23 **OF STOCKTON, ET AL.,)**

24 **Defendants.)**

DECLARATION OF MICHAEL L. PHILLIPS IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY OPINION TESTIMONY FROM RICHARD SIPE REGARDING THE CONDUCT OF FATHER JOSEPH ILLO OR FATHER FRANCIS ARAKAL
DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005

I, MICHAEL L. PHILLIPS, declare as follows:

1. I am attorney licensed to practice law in the State of California, and am an associate with the law firm of Mayall, Hurley, Knutsen, Smith & Green, attorneys of record for defendants FATHER JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP STEPHEN E. BLAIRE, AND THE Defendants' Motion In Limine To Preclude Any Opinion Testimony From Richard Sipe Regarding The Conduct Of Father Joseph Illo Or Father Francis Arakal

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

3 2. Attached as Exhibit "A" is a true and correct copy of pertinent portions of the transcript of
4 the deposition of A.W. Richard Sipe, M.D. taken on February 8, 2005.

5
6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed on February 14, 2005 at Stockton, California.

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MICHAEL L. PHILLIPS

1 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

2 -o0o--

3 KATHLEEN MACHADO, as an individual)
4 and as Guardian Ad Litem for RACHEL)
5 LOMAS and AMBER LOMAS,)

6 Plaintiffs,)

7 vs.)

No. CV 018440

8 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH)
9 aka FR. FRANCIS ARAKAL, FR. RICHARD)
10 J. RYAN, BISHOP STEVEN BLAIRE, and)
11 THE DIOCESE OF STOCKTON, et al.,)

12 Defendants.)

CERTIFIED
COPY

JN: 14414

13 DEPOSITION OF: A.W. RICHARD SIPE, M.S.

14 DATE: February 8, 2005 at 11:08 a.m.

15 DEPOSITION OFFICER: Terri D. Kinser
16 CSR No. 4393

17 TAKEN IN THE OFFICES OF:
18 Hill & McPherson
19 2453 Grand Canal Boulevard, Suite J
20 Stockton, California 95207

21 -----
22 HILL & McPHERSON
23 Certified Shorthand Reporters
24 2453 Grand Canal Boulevard, Suite J
25 Stockton, California 95207
(209) 957-2841 or Nationwide (800) 222-2841
FAX (209) 957-2400

1 Q. Are those your opinions?

2 A. Well, I believe -- my opinion is that those are
3 facts.

4 Q. Okay. But --

5 MR. COUGHLAN: Excuse me.

6 MR. KOZINA: Go ahead, Mike.

7

8 ** FURTHER EXAMINATION BY MR. COUGHLAN **

9 MR. COUGHLAN: Your opinion is based upon belief
10 in the credibility of the girls.

11 Is that correct?

12 A. It is.

13 Q. Have you interviewed the girls?

14 A. I have not interviewed anybody.

15 Q. Have you interviewed the defendants?

16 A. I have not interviewed anybody.

17 Q. Have you then based your opinions on a belief
18 that what the girls are saying is correct?

19 A. I am saying that I believe what the girls say,
20 because I have seen their testimony on tape or their
21 interview on tape. I have seen the interviews or the
22 depositions that were taken from them. I have seen what
23 the judge says. I have read what the psychologists have
24 said.

25 MR. KOZINA: What judge?

1 intend to change your opinion between now and trial?

2 A. I don't plan to.

3 Q. Okay. If you do change your opinion in any
4 fashion or supplement it in any fashion, will you provide
5 appropriate notice to counsel so we may take a subsequent
6 deposition of you?

7 A. Certainly.

8 Q. I do appreciate that courtesy.

9 A. Certainly.

10 Q. Now, getting back to an earlier question -- is it
11 necessary for you, in order to come to your conclusions
12 and opinions in this case, to make a determination as to
13 the credibility of one party versus another?

14 A. In my opinion, in any case, I try and objectively
15 sift what is true, what is fact, what is colored. That's
16 the whole purpose.

17 Q. I understand that, but is it not true, sir, that
18 that necessarily requires you to make a value judgment in
19 terms of what is true of the credibility of a witness, a
20 party to this action?

21 A. I think that you're missing -- the point is that
22 I make my determination on what's presented to me that
23 everybody can see. The judge can see it. The lawyers of
24 any side can see. Anybody can see and now this is how I
25 read this. This is how I interpret this. This I took as

1 a fact. This is stated by so and so. This is stated by
2 so and so. If they're contradictory, it seems to me that
3 that's up to the jury to decide.

4 MR. KOZINA: In other words, you would agree with
5 me that to the extent that you have to make a
6 determination that a fact is -- requires the credibility
7 of a party -- to the extent that that person's testimony
8 is not credible, then that fact would no longer be a basis
9 for your opinion.

10 MR. MacKOUL: Misstates his testimony.

11 MR. KOZINA: Do I understand you correctly?

12 A. No, I don't believe you do.

13 Q. Okay. Now, what I'm saying is that you have
14 decided -- you for your personal opinion have decided and
15 have had to necessarily decide what the facts of this case
16 are.

17 Is that correct?

18 A. I have read what I have read and I have said what
19 I have read.

20 Q. But you have had to -- you have had to decide,
21 have you not, what the facts are upon which you will base
22 your opinion.

23 Is that correct?

24 A. I have to --

25 MR. MacKOUL: Vague and ambiguous.

1 game here.

2 MR. MacKOUL: You're like master of that.

3 MR. KOZINA: I want a straight answer on this.

4 Without having to make a value judgment as to what the
5 true facts in this case are, are you in a position to
6 render an opinion?

7 A. It seems to me --

8 Q. "Yes" or "No" and then you can explain.

9 A. Well, in a sense, I would say, no, because I
10 think that's up to the jury.

11 MR. KOZINA: Thank you. I have no further
12 questions. He's got some questions.

13

14 ** FURTHER EXAMINATION BY MR. COUGHLAN **

15 MR. COUGHLAN: Let me just ask one question.

16 Did you determine any inconsistencies in the versions
17 of the facts given by any of the parties in this case?

18 A. Actually, I was very impressed by the
19 consistency, given the age of these people. The thing
20 that impressed me about Rachel's video was what she had
21 forgotten, especially about her letters, but I see that as
22 very consistent with -- this is how I read that -- my
23 opinion about what I saw is that that's very consistent
24 with an adolescent who has written letters of great
25 concern about her mother and that that was the

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

**KATHLEEN MACHADO AS AN INDIVIDUAL)
AND AS GUARDIAN AD LITEM FOR RACHEL)
LOMAS AND AMBER LOMAS,)**

Plaintiffs,

vs.

**FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)
FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)
BISHOP STEVEN BLAIRE AND THE DIOCESE)
OF STOCKTON, ET AL.,)**

Defendants.

CASE No. CV018440

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION IN LIMINE TO
PRECLUDE ANY OPINION
TESTIMONY FROM RICHARD SIPE
REGARDING THE CONDUCT OF
FATHER JOSEPH ILLO OR FATHER
FRANCIS ARAKAL**

DEPARTMENT: 41

TRIAL JUDGE: HON. ELIZABETH HUMPHREYS

TRIAL DATE: FEBRUARY 22, 2005

ORDER

The motion in limine of defendants having been considered, and good cause appearing therefore,

IT IS ORDERED, plaintiff's counsel shall not elicit opinion testimony from Richard Sipe regarding the conduct of FATHER JOSEPH ILLO or FATHER FRANCIS ARAKAL.

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IT IS FURTHER ORDERED, that this order shall be effect from the commencement of voir dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors are in the courtroom.

IT IS FURTHER ORDERED, plaintiff's counsel shall inform each and every witness called by plaintiff of the contents of this order prior to calling such witness in this action.

DATED:

JUDGE OF THE SUPERIOR COURT

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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,)
17 **Plaintiffs,)**
18 **vs.)**
19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA) DEFENDANTS' MOTION IN LIMINE TO**
20 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,) EXCLUDE EVIDENCE OF MATTERS**
BISHOP STEVEN BLAIRE AND THE DIOCESE)
21 **OF STOCKTON, ET AL.,)**
22 **Defendants.)**
23 **)**

24 **COMES NOW** defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who
27 hereby moves this court for an order instructing plaintiffs, plaintiffs' counsel, and all witnesses
28 Defendants' Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The
Church

FILED
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ROSA JUNQUEIRO, CLERK
BY Pamela DEPUTY

1 called by any party to refrain from interrogating any witness concerning, commenting on, or
2 attempting to inform the jury in any way of matters relating to the purported efforts of
3 DEFENDANTS to remove Plaintiffs or any of their family members from the parish; the
4 statements purportedly made by DEFENDANTS to parishioners other than Plaintiffs that if they
5 supported Plaintiffs they would be removed from the parish and/or ministry; any aspect of the
6 canonical investigation conducted by DEFENDANTS into the accusations made by Plaintiffs; or
7 any reference to the Charter for the Protection of Children and Young People.

8 This motion is made on the grounds that the above matters are purely ecclesiastical in
9 nature and involve the internal governance of the church. The courts lack jurisdiction over such
10 matters and any interference from the courts would be a violation of the Free Exercise Clauses of
11 the federal and state constitutions.

12 This motion is based on the memorandum of points and authorities accompanying this
13 motion, the Declaration of Michael L. Phillips served and filed herewith, on the papers and
14 records on file herein and on such oral and documentary evidence as may be presented at the
15 hearing of this motion.

16
17 DATED: February 11, 2005

18
19 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

20 By 
21 MICHAEL L. PHILLIPS

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 FACTUAL BACKGROUND

4 The structure of the Roman Catholic Diocese of Stockton is ecclesiastical and hierarchical
5 in nature. The Diocese of Stockton, which is represented in its temporal form as the Roman
6 Catholic Bishop of Stockton, A Corporation sole, was created by Pope John XXIII through papal
7 decree in 1962. The Roman Catholic Diocese of Stockton is part of the Roman Catholic Church
8 and is defined as a portion of the people of God, which is entrusted to a bishop to be nurtured by
9 him with the cooperation of the presbyterium. All bishops in the Roman Catholic Church are
10 appointed by the Holy Father, commonly known as the Pope. A Roman Catholic Bishop is
11 deemed to be in direct Apostolic succession from the Apostles of Jesus Christ. A Roman
12 Catholic Bishop is expected to be, in the exercise of his pastoral office, solicitous to all of
13 Christ's faithful entrusted to his care, whatever their age, condition, or nationality. (Declaration
14 of Monsignor Richard Ryan ¶ 1-5)

15 Bishops are to be the religious authorities within prescribed geographical regions known
16 as diocese. The diocese are juridical in nature and established pursuant to the dictates of Canon
17 Law. Within the United States the juridical structure of the Catholic Church consists of 33
18 Provinces with as many Archdiocese (Metropolitan Sees); 148 Suffragan Sees (Dioceses); The
19 Military Archdiocese; four Eastern-Rite jurisdictions immediately subject to the Holy See in
20 Rome. Each of these jurisdictions is under the direction of an Archbishop and Bishop called an
21 Ordinary, who has the apostolic responsibility and authority for the pastoral service of the people
22 of his care. (Declaration of Monsignor Richard Ryan ¶ 6-9)

23 This structure includes the territorial Episcopal conference known as the National
24 Conference of Catholic Bishops. In and through this body, which is strictly ecclesiastical and
25 had defined juridical authority, the Bishops exercise their collegiate pastorate over the Church in
26 the entire country. The diocesan Bishop under Canon Law is charged with the particular duty to

1 defend the unity of the universal Church, is bound to foster the discipline which is common to the
2 whole Church, and to so press for the observance of all ecclesiastical laws. This structure
3 includes the territorial Episcopal conference known as the National Conference of Catholic
4 Bishops. In and through this body, which is strictly ecclesiastical and had defined juridical
5 authority, the Bishops exercise their collegiate pastorate over the Church in the entire country.
6 (Declaration of Monsignor Richard Ryan ¶ 10-12)

7 SUMMARY OF ARGUMENT

8 It is anticipated Plaintiffs will attempt to introduce evidence related to the purported
9 efforts of DEFENDANTS to remove Plaintiffs or any of their family members from the parish,
10 the statements purportedly made by DEFENDANTS to parishioners other than Plaintiffs that if
11 they supported Plaintiffs they would be removed from the parish and/or ministry, and information
12 regarding the canonical investigation conducted by DEFENDANTS into the accusations made by
13 Plaintiffs. In addition, Plaintiffs may attempt to introduce evidence that DEFENDANTS did not
14 comply with the Charter for the Protection of Children and Young People. All of the above
15 matters are within the internal governance of the Church and are therefore outside the jurisdiction
16 of the court. Therefore, any evidence of or reference to the above matters should be precluded.

17 I

18 LEGAL ARGUMENT

19 A. EVIDENCE OF ACTIONS THAT ARE ECCLESIASTICAL IN NATURE IS 20 OUTSIDE THE JURISDICTION OF THE COURT

21 Free Exercise Clauses of the federal and state constitutions severely circumscribe the role
22 that civil courts may play in addressing actions that involve matters of internal church
23 governance since there is substantial danger that the state will become entangled in essentially
24 religious controversies. A hands-off policy known as the ecclesiastical abstention doctrine has
25 been adopted by the Supreme Court in addressing matters of an ecclesiastical nature within a
26 hierarchical church structure. Serbian Eastern Orthodox Diocese v. Milivojevich (1976) 426 U.S.
27 696.

28 Defendants' Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The
Church

1 The ecclesiastical abstention doctrine provides that the courts lack jurisdiction to inquire
2 into or determine the correctness of an interpretation of religious text or other decision relating to
3 the internal workings or governance of religious entities, especially those of a hierarchical nature
4 such as the Catholic Church. This issue was specifically addressed by the Appellate Court in
5 1989 at which time they held that civil courts can exercise no jurisdiction over matters which
6 concern "theological controversy, church discipline, ecclesiastical government, or the conformity
7 of the members of the church to the standard of morals required of them" because such matters
8 are strictly and purely ecclesiastical in their character. Higgins v. Maher (1989) 210 Cal.App. 3d
9 1168, 1170. The United States Supreme Court has also addressed this issue on numerous
10 occasions. Specifically, in 1976 the Court held that when hierarchical religious organizations
11 establish their own rules and regulations for internal discipline and government, the U.S.
12 Constitution requires that civil courts accept their decisions as binding upon them. Serbian
13 Eastern Orthodox Diocese v. Milivojevich (1976) 426 U.S. 696, 724-725.

14 Where the subject matter of a dispute is purely ecclesiastical in its character, a matter
15 which concerns church discipline or the conformity of its members to the standard of morals
16 required of them, the decision of the church tribunal will not be interfered with by the secular
17 courts either by reviewing their acts or by directing them to proceed in a certain manner or, in
18 fact, to proceed at all. If the civil courts undertook so to do they would deprive such bodies of
19 their right of construing their own church laws including doctrinal theology and the uses and
20 customs of every religious denomination. Maxwell v. Brougher (1950) 99 Cal.App.2d 824, 826.

21 If there is any inclination that the matters sought to be addressed by a civil court are of a
22 religious nature, the court should refrain from any involvement. A trial court should not even
23 attempt to delve into a controversy that is of a religious nature even if only to consider whether or
24 not the conduct is within their jurisdiction because such investigation itself would violate the
25 doctrine of ecclesiastical abstention. As held in New York v. Cathedral Academy, "the prospect
26 of church and state litigating in court about what does or does not have religious meaning touches
27 the very core of the constitutional guarantee against religious establishment, and it cannot be
28 Defendants' Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The
Church

1 dismissed by saying it will happen only once.” New York v. Cathedral Academy (1977) 434
2 U.S. 125, 133.

3 The matters DEFENDANTS seek to exclude from evidence are purely ecclesiastical in
4 nature and thus protected from any interference from the courts by the Free Exercise Clauses of
5 the federal and state constitutions. Clearly, the response of DEFENDANTS to Plaintiffs’
6 conduct—including (1) any efforts to remove Plaintiffs or any of their family members from the
7 parish and (2) the statements purportedly made to parishioners that if they supported Plaintiffs
8 they would be removed from the parish and/or ministry—is a matter of church discipline which
9 the Court cannot review. In addition, the canonical investigation into the accusations made by
10 Plaintiffs is a matter of church governance into which the Court also cannot inquire. If the Court
11 were to allow evidence of the discipline of Plaintiffs and the canonical investigation by
12 DEFENDANTS, the Court would be unconstitutionally interfering with such ecclesiastical
13 matters as the nature and meaning of church membership, the biblical and canonical duties of
14 discipline and investigation, the moral weight given different types of conduct, and the right of a
15 church to develop its own disciplinary rules and investigatory processes.

16 Furthermore the Charter for the Protection of Children and Young People was developed
17 by the United States Conference of Catholic Bishops as an internal mechanism for dealing with
18 issues of sexual abuse within the Church. This Charter is not a statute under United States or any
19 state law and is ecclesiastical in nature. Any introduction of evidence pertaining to this Charter
20 would circumscribe the role that civil courts may play in addressing actions that involve matters
21 of internal church governance.

22 **B. THE NEUTRAL PRINCIPLES APPROACH IS INAPPLICABLE**

23 Plaintiffs may argue that the evidence sought to be excluded by DEFENDANTS is not
24 subject to the ecclesiastical abstention doctrine because neutrals principle of law are applicable.
25 Essentially, this approach allows the adjudication of religious disputes when they can be resolved
26 according to neutral principles of law. Such is not the case with regard to the matters sought to
27 be excluded by DEFENDANTS.

28 Defendants’ Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The
Church

1 The United States Supreme Court has not sanctioned a neutral principle approach outside
2 the limited context of disputes over church property, and it appears that California courts have
3 fallowed suit. As explained in Vukovich v. Radulovich (1991) 235 Cal.App.3d 281,

4 "The United States Supreme Court has drawn a clear line between those internal church
5 disputes in which civil courts may intervene without transgressing against the First and
6 Fourteenth Amendments to the United States Constitution and those in which they may
7 not. Where an internal church dispute involves a question of ownership or control of
8 church property which the civil courts can adjudicate by applying "neutral principles of
9 law, developed for use in all property disputes," the civil courts may properly decide the
10 issues in controversy. (Jones v. Wolf (1979) 443 U.S. 595, 599-605 [61 L.Ed.2d 775, 782-
11 785, 99 S.Ct. 3020].) But where an internal church dispute turns on "the resolution ... of
12 controversies over religious doctrine and practice," not on a property question resolvable
13 under "neutral principles of law," the civil courts may not adjudicate the dispute.
14 (Presbyterian Church v. Hull Church (1969) 393 U.S. 440, 449 [21 L.Ed.2d 658, 665 [21
15 L.Ed.2d 658, 665, 89 S.Ct. 601].)"

16 The matters sought to be excluded in no way involve a dispute over church property. The
17 response of DEFENDANTS to Plaintiffs' conduct—including (1) any efforts to remove Plaintiffs
18 or any of their family members from the parish and (2) the statements purportedly made to
19 parishioners that if they supported Plaintiffs they would be removed from the parish and/or
20 ministry—is a matter of church discipline which the Court cannot review. In addition, the
21 canonical investigation into the accusations made by Plaintiffs is a matter of church governance
22 into which the Court also cannot inquire. No neutrals principles of law can be applied to the
23 decisions made by DEFENDANTS with regard to the conduct sought to be excluded. The
24 matters sought to be excluded each involved decisions by DEFENDANTS that are purely
25 ecclesiastical in nature.

26 III

27 CONCLUSION

28 As explained above the Roman Catholic Diocese of Stockton is ecclesiastical and
hierarchical in nature. As such, the Free Exercise Clauses of the federal and state constitutions
severely circumscribe the role that civil courts may play in addressing actions that involve
matters of internal church governance since there is substantial danger that the state will become
entangled in essentially religious controversies. Since no neutral principles of law are applicable,
Defendants' Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The
Church

1 the court's should not become involved in matters that are of an ecclesiastical nature. The
2 matters sought to be excluded are clearly of an ecclesiastical nature, therefore outside the
3 jurisdiction of the court and any mention thereof by Plaintiffs should be precluded.

4
5 DATED: February 11, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

6
7 By 
8 MICHAEL L. PHILLIPS

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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,)
17 **Plaintiffs,)**
18 **vs.)**
19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**
20 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
BISHOP STEVEN BLAIRE AND THE DIOCESE)
21 **OF STOCKTON, ET AL.,)**
22 **Defendants.)**
23 **)**
)
)

**DECLARATION OF MONSIGNOR
RICHARD RYAN IN SUPPORT OF
DEFENDANTS' MOTION IN LIMINE TO
EXCLUDE EVIDENCE OF MATTERS
WITHIN THE INTERNAL
GOVERNANCE OF THE CHURCH**
DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005

24 I, RICHARD RYAN, declare as follows:

25 That if called to testify, I could competently state the following:
26
27

1. That I am a Latin Rite Catholic priest and hold the office of Monsignor. That I am the Vicar General of the juridical Diocese of Stockton.

2. That I am a canon lawyer and possess a doctorate in Canon Law.

3. That the structure of the Roman Catholic Diocese of Stockton is ecclesiastical and hierarchical in nature.

4. That the Diocese of Stockton, which is represented in its temporal form as the Roman Catholic Bishop of Stockton, A Corporation sole, was created by Pope John XXIII through papal decree in 1962. The Roman Catholic Diocese of Stockton is part of the Roman Catholic Church and is defined as a portion of the people of God, which is entrusted to a bishop to be nurtured by him with the cooperation of the presbyterium.

5. That all bishops in the Roman Catholic Church are appointed by the Holy Father, commonly known as the Pope. A Roman Catholic Bishop is deemed to be in direct Apostolic succession from the Apostles of Jesus Christ. A Roman Catholic Bishop is expected to be, in the exercise of his pastoral office, solicitous to all of Christ's faithful entrusted to his care, whatever their age, condition, or nationality.

6. That Bishops are to be the religious authorities within prescribed geographical regions known as diocese.

7. That the Dioceses are juridical in nature and established pursuant to the dictates of Canon Law.

8. That within the United States the juridical structure of the Catholic Church consists of 33 Provinces with as many Archdiocese (Metropolitan Sees); 148 Suffragan Sees (Dioceses); The Military Archdiocese; four Eastern-Rite jurisdictions immediately subject to the Holy See in Rome.

9. That each of these jurisdictions is under the direction of an Archbishop and Bishop called an Ordinary, who has the apostolic responsibility and authority for the pastoral service of the people of his care.

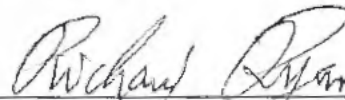
1 10. That this structure includes the territorial Episcopal conference known as the National
2 Conference of Catholic Bishops. In and through this body, which is strictly ecclesiastical and
3 had defined juridical authority, the Bishops exercise their collegiate pastorate over the Church in
4 the entire country.

5 11. That the diocesan Bishop under Canon Law is charged with the particular duty to defend
6 the unity of the universal Church, is bound to foster the discipline which is common to the whole
7 Church, and to so press for the observance of all ecclesiastical laws.

8 12. That this structure includes the territorial Episcopal conference known as the National
9 Conference of Catholic Bishops. In and through this body, which is strictly ecclesiastical and
10 had defined juridical authority, the Bishops exercise their collegiate pastorate over the Church in
11 the entire country.

12 I declare under penalty of perjury under the laws of the State of California that I believe
13 the foregoing is true and correct based on my own knowledge.

14
15 Executed on February 14, 2005 at Stockton, California.

16
17 
18 RICHARD RYAN

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Attorneys for Defendants

Father Joseph Illo, Monsignor Richard J. Ryan, Bishop

Stephen E. Blaire, And The Roman Catholic Bishop Of Stockton,

a Corporation Sole

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

KATHLEEN MACHADO AS AN INDIVIDUAL) CASE No. CV018440

AND AS GUARDIAN AD LITEM FOR RACHEL)

LOMAS AND AMBER LOMAS,)

Plaintiffs,)

vs.)

FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)

FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)

BISHOP STEVEN BLAIRE AND THE DIOCESE)

OF STOCKTON, ET AL.,)

Defendants.)

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION IN LIMINE TO
EXCLUDE EVIDENCE OF MATTERS
WITHIN THE INTERNAL
GOVERNANCE OF THE CHURCH**

DEPARTMENT: 41

TRIAL JUDGE: HON. ELIZABETH HUMPHREYS

TRIAL DATE: FEBRUARY 22, 2005

ORDER

The motion in limine of defendants having been considered, and good cause appearing therefore,

IT IS ORDERED, that plaintiff, plaintiff's counsel, and all witnesses called by any party shall refrain from interrogating any witness concerning, commenting on, or attempting to inform the jury in any way of matters relating to the purported efforts of DEFENDANTS to remove

Defendants' Motion In Limine To Exclude Evidence Of Matters Within The Internal Governance Of The Church

1 Plaintiffs or any of their family members from the parish; the statements purportedly made by
2 DEFENDANTS to parishioners other than Plaintiffs that if they supported Plaintiffs they would
3 be removed from the parish and/or ministry; any aspect of the canonical investigation conducted
4 by DEFENDANTS into the accusations made by Plaintiffs; or any reference to the Charter for
5 the Protection of Children and Young People..

6 **IT IS FURTHER ORDERED**, that this order shall be effect from the commencement of
7 voir dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors
8 are in the courtroom.

9 **IT IS FURTHER ORDERED**, plaintiff's counsel shall inform each and every witness
10 called by plaintiff of the contents of this order prior to calling such witness in this action.

11 DATED:

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JUDGE OF THE SUPERIOR COURT
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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' MOTION IN LIMINE TO
17 Plaintiffs,) REQUIRE AN EVIDENCE CODE
18 vs.) SECTION 402 HEARING PRIOR TO
19 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA) ANY TESTIMONY ON MATTERS
20 FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,) UNRELATED TO THE SPECIFIC
BISHOP STEVEN BLAIRE AND THE DIOCESE) FACTS OF THIS CASE
21 OF STOCKTON, ET AL.,)
22 Defendants.)
23)

24 COMES NOW defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who

27
28 Defendants' Motion In Limine To Require An Evidence Code Section 402 Hearing Prior To Any Testimony On
Matters Unrelated To The Specific Facts Of This Case

FILED

05 FEB 14 PM 3:42

ROSA JUNQUEIRO, CLERK

BY Rosa Junqueiro
DEPUTY

1 hereby moves this court for an order requiring a hearing under California Evidence Code Section
2 402 prior to any testimony regarding matters that are unrelated to the specific facts of this case.

3 This motion is made on the grounds that it is anticipated plaintiffs will attempt to
4 introduce numerous witnesses that have no relevant testimony to offer and will only serve as an
5 undue consumption of time; therefore the court should exclude such witnesses and testimony
6 under Evidence Code Section 352.

7 This motion is based on the memorandum of points and authorities accompanying this
8 motion, the Declaration of Michael L. Phillips served and filed herewith, on the papers and
9 records on file herein and on such oral and documentary evidence as may be presented at the
10 hearing of this motion.

11
12 DATED: February 14, 2005

13 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

14
15 By 
16 MICHAEL L. PHILLIPS

17
18
19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I**

21 **INTRODUCTION/SUMMARY OF ARGUMENT**

22 It is anticipated Plaintiffs will call numerous witnesses that have no direct knowledge of
23 matters related to the specific facts of this case. Such witnesses are likely to include Diana
24 Watson, Elaine Shields, Anna Lopez, and Eva Kristman. To the extent these witnesses have
25 relevant, admissible information to offer, DEFENDANTS have no objection to their testimony.
26 However, the extent of such relevant, admissible information will likely be very limited.

1 DEFENDANTS fear plaintiffs' counsel will take the opportunity, once such witnesses are
2 on the stand, to interrogate them regarding extraneous matters. Such interrogation would be
3 inadmissible. There is no probative value in interrogating witnesses that have no relevant
4 information to offer regarding the specific facts of this case. However, any such evidence would
5 necessitate an undue consumption of time and has a danger of being unduly prejudicial,
6 confusing, and misleading to the jury. Aside from being an undue consumption of time,
7 objections during this sort of questioning will not cure the unduly prejudicial effect such
8 questioning will have on DEFENDANTS. Upon hearing an objection by DEFENDANTS during
9 the course of such testimony, even if sustained, the jury will likely infer the witness had
10 damaging information to offer.

11 An undue consumption of time and potential for undue prejudice should be precluded by
12 the court's exercise of power under California Evidence Code Section 402. The admissibility of
13 any testimony proposed to be offered by witnesses who have no direct knowledge of the facts of
14 this case should be determined outside the hearing of the jury.

15 II

16 LEGAL ARGUMENT

17 A. THE COURT MAY DETERMINE QUESTIONS OF ADMISSIBILITY OF 18 EVIDENCE OUTSIDE THE PRESENCE OF THE JURY

19 The court has the power to conduct an evidentiary hearing on the admissibility of
20 evidence before such evidence is presented before the jury. California Evidence Code Section
21 402 states in pertinent part "the court may hear and determine the question of the admissibility of
22 evidence out of the presence of the hearing of the jury;". As discussed above, it is anticipated
23 plaintiffs will attempt to present testimony from numerous witness that is not only irrelevant, but
24 would constitute an undue consumption of time.
25
26
27

1 California Evidence Code Section 350 states: "No evidence is admissible except relevant
2 evidence." Relevant evidence is defined as "having a tendency in reason to prove or disprove any
3 disputed fact that is of consequence to the determination of the action." California Evidence Code
4 Section 210. It is likely numerous witnesses called by plaintiffs will have no relevant testimony
5 to offer. The testimony offered by these witnesses will have no tendency to prove or disprove
6 any disputed fact that is of consequence to the determination of this action. As such, in order to
7 prevent undue prejudice to defendants and avoid an undue consumption of time, the court should
8 exercise it's power under California Evidence Code Section 402 to conduct an evidentiary
9 hearing on the admissibility of any witness called by plaintiffs who will testify as to matters
10 unrelated to the specific facts of this case.
11

12 **B. ANY OPINIONS AS TO WHETHER FATHER DEFENDANTS**
13 **COMMITTED ACTS OF MISCONDUCT ARE OUTSIDETHE SCOPE OF**
14 **LAY TESTIMONY**

15 A lay witness may offer opinions only on facts personally observed by the witness.
16 (California Evidence Code Section 800(a)); Witkin, California Evidence § 447 (3d Ed. 1986).
17 California Evidence Code Section 800(b) provides that:

18 "If a witness is not testifying as an expert, his testimony in the form
19 of an opinion is limited to such an opinion as permitted by law,
20 including but not limited to an opinion that is:

21 "(b) helpful to a clear understanding of his testimony."

22 Other than the named parties in this matter, there were few, if any, percipient witnesses to
23 the alleged acts of misconduct by defendants. Here, any opinions by lay witnesses regarding
24 whether or not defendants committed the alleged acts of misconduct would not assist the jury.
25 Such witnesses would have no relevant information to offer the jury. The issues presented in
26 plaintiffs' complaint are properly decided by the jurors after hearing the factual accounts of
27 plaintiffs' and defendants' witnesses who have relevant information to offer.

1 **C. EVIDENCE OF SPECIFIC INSTANCES OF CONDUCT IS INADMISSIBLE**
2 **WHEN OFFERED TO PROVE CONDUCT IN CONFORMITY THEREWITH ON**
3 **A SPECIFIC OCCASION**

4 California Evidence Code Section 1101(a) sets forth the law regarding the admissibility of
5 prior acts. The statute states:

6 "Except as provided in this section and in sections 1102, 1103, and
7 1108 evidence of a person's character or a trait of his character
8 (whether in the form of an opinion, evidence of reputation, or
9 evidence of specific instances of his or her conduct), is
10 inadmissible when offered to prove his conduct on a specified
11 occasion."

12 Sections 1102, 1103 and 1108 are limited to criminal actions and therefore inapplicable.

13 Any evidence presented by non percipient witnesses would most likely be in the form of
14 recounts of specific, unrelated, prior acts of defendants. This sort of testimony is inadmissible.
15 It is well established that specific incidents of conduct in the past are not admissible to prove
16 conduct on a particular occasion. (See Deevy v. Tassi (1942) 21 Cal.2d 109, 122-123.) Such
17 evidence would allow plaintiffs to make the argument and inference that that based on the nature
18 of defendants' prior acts, it is more likely they engaged in the conduct alleged in this action. This
19 creates a forbidden chain of inference, one that is specifically excluded by the rules of evidence.

20 In civil cases, California Evidence Code Section 1101 excludes evidence of prior conduct
21 for the following reasons:

22 "*First*, character evidence is of slight probative value and may be
23 very prejudicial. **Second, character evidence tends to distract**
24 **the trier of fact from the main question of what actually**
25 **happened on the particular occasion** and permits the trier of fact
26 to reward the good man to punish the bad man because of their
27 respective characters. *Third*, introduction of character evidence
28 may result in confusion of issues and require extended collateral
inquiry. Trial Attorney's Notebook, Annotated, Division 9 § 1101,
p. 363 (1996). (Emphasis added.)

29 The present case involves several separate causes of action. To allow evidence not at all
30 relevant to the present causes of action would only serve as a deterrent to the judicial process and

1 would lend nothing in aiding the trier of fact in deciding the main question of what actually
2 happened in the present case involving the named parties.

3 **D. EVIDENCE OF ANY PRIOR COMMENTS MADE OR HEARD BY**
4 **ANTICIPATED WITNESSES WOULD BE INADMISSIBLE HEARSAY**

5 Hearsay evidence is evidence of a statement that was made other than by a witness while
6 testifying at the hearing and which is offered to prove the truth of the matter asserted. California
7 Evidence Code Section 1200.

8 Any attempt by plaintiffs to present witnesses to recount conversations heard regarding
9 the incidents alleged in this action would also be inadmissible. Such evidence would be exactly
10 the type intended to be excluded under California Evidence Code Section 1200 as inadmissible
11 hearsay evidence.

12
13 **E. ADMISSION OF SUCH EVIDENCE WOULD BE UNDULY PREJUDICIAL,**
14 **CONFUSING, AND MISLEADING**

15 The law is well established in this area. Where the evidence will create a substantial
16 danger of undue prejudice in excess of the probative value, such evidence is inadmissible.

17 California Evidence Code Section 352 states:

18 "The court in its discretion may exclude evidence if its probative
19 value is substantially outweighed by the probability that its
20 admission will (a) necessitate undue consumption of time or (b)
21 create substantial danger of undue prejudice, of confusing the
22 issues, or of misleading the jury."

23 Evidence is unduly prejudicial when it uniquely tends to evoke an emotional basis that is
24 unrelated to the issues or the legitimate force of the evidence. People v. Yu (1983) 143 Cal.App.
25 3d 358, 377. A danger of undue prejudice may be found when there is a risk that either the
26 evidence will be used for an improper purpose, or, because of its emotional impact, the evidence
27 will be given weight or have an effect that is unrelated or disproportionate to its legitimate
28 probative value, despite limiting instructions. Hrnjak v. Graymar, Inc. (1971) 4 Cal.3d 725, 732-
33; Wineinger v. Bear Brand Ranch (1988) 204 Cal.App.3d 1003, 1007.

Defendants' Motion In Limine To Require An Evidence Code Section 402 Hearing Prior To Any Testimony On
Matters Unrelated To The Specific Facts Of This Case

1 There is no probative value in presenting witnesses that have no relevant information to
2 offer regarding the specific facts of this case. However, any such evidence would necessitate an
3 undue consumption of time and has a danger of being unduly prejudicial, confusing, and
4 misleading to the jury.

5 III

6 CONCLUSION

7 An Evidence Code Section 402 hearing should be conducted prior to any witness being
8 called to testify as to matters unrelated to the specific facts of this case. Such testimony is likely
9 to have little to no relevancy. Furthermore, such testimony is likely to be s improper lay opinion,
10 improper evidence of specific instances of conduct, or inadmissible hearsay. This evidence
11 would necessitate an undue consumption of time and has a danger of being unduly prejudicial,
12 confusing, and misleading to the jury. Therefore, the court should exercise it's power under
13 Evidence Code Section 402 and require an evidentiary hearing prior to the presentation of such
14 testimony to the jury.

15 DATED: February 14, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

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17 By



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28 MICHAEL L. PHILLIPS

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11 Stephen E. Blaire, And The Roman Catholic Bishop Of Stockton,
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12 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

14	KATHLEEN MACHADO AS AN INDIVIDUAL)	CASE No. CV018440
15	AND AS GUARDIAN AD LITEM FOR RACHEL)	
16	LOMAS AND AMBER LOMAS,)	[PROPOSED] ORDER GRANTING
17	Plaintiffs,)	DEFENDANTS' MOTION IN LIMINE TO
18	vs.)	REQUIRE AN EVIDENCE CODE
19	FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)	SECTION 402 HEARING PRIOR TO
20	FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)	ANY TESTIMONY ON MATTERS
21	BISHOP STEVEN BLAIRE AND THE DIOCESE)	UNRELATED TO THE SPECIFIC
	OF STOCKTON, ET AL.,)	FACTS OF THIS CASE
	Defendants.)	DEPARTMENT: 41
		TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
		TRIAL DATE: FEBRUARY 22, 2005

22 **ORDER**

23 The motion in limine of defendants having been considered, and good cause appearing
24 therefore,

25 **IT IS ORDERED**, that the court will conduct a hearing under California Evidence Code
26 Section 402 prior to any testimony regarding matters that are unrelated to the specific facts of this
27 case.

28 Defendants' Motion In Limine To Require An Evidence Code Section 402 Hearing Prior To Any Testimony On
Matters Unrelated To The Specific Facts Of This Case

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IT IS FURTHER ORDERED, that this order shall be effect from the commencement of
voir dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors
are in the courtroom.

IT IS FURTHER ORDERED, plaintiff's counsel shall inform each and every witness
called by plaintiff of the contents of this order prior to calling such witness in this action.

DATED:

JUDGE OF THE SUPERIOR COURT

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

15 **KATHLEEN MACHADO AS AN INDIVIDUAL)**
16 **AND AS GUARDIAN AD LITEM FOR RACHEL)**
17 **LOMAS AND AMBER LOMAS,)**

18 **Plaintiffs,)**

19 **vs.)**

20 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**
21 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
22 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**
23 **OF STOCKTON, ET AL.,)**

24 **Defendants.)**

CASE No. CV018440

**DEFENDANTS' MOTION IN LIMINE
REQUESTING JURY SELECTION BY
QUESTIONNAIRE AND INDIVIDUAL
VOIR DIRE**

DEPARTMENT: 41

**TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005**

25 **COMES NOW** defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
26 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who

27
28 Defendants' Motion In Limine Requesting Jury Selection By Questionnaire And Individual Voir Dire

FILED

05 FEB 14 PM 3:42

ROSA JURQUEIRO, CLERK

BY *Jamela Edwards*
DEPUTY

6,
not in limine motion

1 hereby moves this court for an order permitting the use of jury questionnaires and individual jury
2 voir dire.

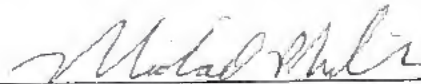
3 This motion will be made on the grounds that the issues involved in this case are of a
4 highly sensitive nature and include religious faith and alleged molestation. The use of jury
5 questionnaires and individual voir dire is necessary in order to ensure a fair and impartial jury is
6 selected.

7 This motion is based on the Memorandum of Points and Authorities accompanying this
8 motion, on the papers and records on file herein, and on such oral and documentary evidence as
9 may be presented at the hearing of this motion.

10 DATED: February 14, 2005.

11 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

12 By



13 MICHAEL L. PHILLIPS

14
15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I**

17 **FACTUAL BACKGROUND**

18 Many of the issues that will arise during the course of trial in this matter will be centered
19 around religious faith and alleged child molestation. Plaintiffs allege in their complaint that on
20 July 25, 2001 defendant FR. FRANCIS ARAKAL intentionally made harmful and offensive
21 contact with plaintiffs AMBER LOMAS and RACHEL LOMAS at their residence. Plaintiffs
22 further allege that defendant FATHER ILLO breached his duty of confidence by revealing
23 matters discussed in the course of a confession.

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28 Defendants' Motion In Limine Requesting Jury Selection By Questionnaire And Individual Voir Dire

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II

LEGAL ARGUMENT

A. DEFENDANTS ARE ENTITLED TO A FAIR AND IMPARTIAL JURY

The use of jury questionnaires and sequestered, individual, voir dire is necessary to ensure a fair and impartial jury in this trial.

1. Jury Questionnaires Are Permitted Under California Rules Of Court Rule 228 And California Code Of Civil Procedure Sections 205 And 222.5

In order to facilitate selection of a fair and impartial jury, the court may order prospective jurors to complete a written questionnaire in advance of voir dire. California Rules of Court Rule 228. This questionnaire may include questions prepared by the court, as well as additional questions prepared by counsel, that are relevant and necessary for assisting in the voir dire process or to ascertain whether a fair cross-section of the population is presented. California Code Of Civil Procedure Section 205. Furthermore, the court should not arbitrarily or unreasonably refuse to submit reasonable written questionnaires when requested by counsel. California Code Of Civil Procedure Section 225.

The use of jury questionnaires is necessary in selecting a jury to decide this matter because this case is one that involves sensitive issues and has already been placed under public scrutiny by the media. In order to select an impartial jury, preliminary questionnaires should be used to aid the court and counsel in determining whether or not any of the prospective jurors have preconceived notions about the specific facts of this case or issues involving child molestation or religious faith in general. The use of questionnaires is permitted under the Rules of Court and the Code of Civil Procedure and should be implemented here in order to aid in efficiently selecting an impartial jury.

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2. Individual Sequestered Voir Dire Is Necessary To Ensure A Fair And Impartial Jury In This Trial

The primary purpose of the voir dire examination process is the selection of a fair and impartial jury. Kelly v. Trans Glode Travel Bureau, Inc. (1976) 60 CA 3d 195, 203. Unlike the jury voir dire process in a criminal trial, there is no requirement in a civil trial that the voir dire of prospective jurors occur in the presence of other jurors.

Many of the issues that will arise during the course of trial in this matter will be centered around religious faith and alleged child molestation. These are both highly sensitive issues. It is likely prospective jurors will be hesitant in providing full and accurate responses during the course of voir dire if they are surrounded by other prospective jurors. Jury voir dire in a case of this sort is best conducted on an individual, sequestered, basis in order to assure full and accurate responses by prospective jurors. This is necessary in order to allow the court and the parties ample opportunity to exercise both peremptory challenges and challenges for cause in selecting a fair and impartial jury.

III

CONCLUSION

The nature of the issues that will be litigated during the course of this trial necessitate the use of jury questionnaires and individual, sequestered, voir dire in selecting a fair and impartial jury.

Dated: February 14, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

By: 

MICHAEL L. PHILLIPS

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

22 **KATHLEEN MACHADO AS AN INDIVIDUAL) CASE NO. CV018440**

23 **AND AS GUARDIAN AD LITEM FOR RACHEL)**

24 **LOMAS AND AMBER LOMAS,)**

25 **Plaintiffs,)**

26 **vs.)**

27 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**

28 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**

29 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**

30 **OF STOCKTON, ET AL.,)**

31 **Defendants.)**

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION IN LIMINE
REQUESTING JURY SELECTION BY
QUESTIONNAIRE AND INDIVIDUAL
VOIR DIRE**

**DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005**

32 **ORDER**

33 The motion in limine of defendants having been considered, and good cause appearing
34 therefore,

35 **IT IS ORDERED** that counsel will be able to submit written jury questionnaires to prospective
36 jurors in this matter.

37 /

38 Defendants' Motion In Limine Requesting Jury Selection By Questionnaire And Individual Voir Dire

1 **IT IS FURTHER ORDERED** that counsel and the court will be permitted to voir dire
2 prospective jurors on an individual basis outside the presence of other prospective jurors.

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DATED:

JUDGE OF THE SUPERIOR COURT

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

15 **KATHLEEN MACHADO As An Individual)**
16 **AND AS GUARDIAN AD LITEM FOR RACHEL)**
LOMAS AND AMBER LOMAS,)

17 **Plaintiffs,)**

18 **vs.)**

19 **FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)**
20 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
21 **BISHOP STEVEN BLAIRE AND THE DIOCESE)**
OF STOCKTON, ET AL.,)

22 **Defendants.)**
23

CASE No. CV018440

**DEFENDANTS' MOTION IN LIMINE
REQUESTING A JURY SITE VISIT**

DEPARTMENT: 41

TRIAL JUDGE: HON. ELIZABETH HUMPHREYS

TRIAL DATE: FEBRUARY 22, 2005

24 **COMES NOW** defendants, FATHER JOSPEH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who
27 hereby moves this court for an order permitting the jury to visit the location of the alleged

28 Defendants' Motion In Limine Requesting A Jury Site Visit

FILED

05 FEB 14 PM 3:41

ROSA JUNQUEIRO, CLERK

BY *Rosa Junqueiro* DEPUTY


1 offensive contact, Plaintiffs' residence 1816 7th Street, Hughson, California, during the course of
2 trial.

3 This motion will be made on the grounds that the alleged incidents of harmful and
4 offensive contacts, as described in Plaintiffs' complaint, occurred at Plaintiffs' residence. A
5 portion of this dispute centers around the location within the house and the proximity of various
6 people on the date of the incident and visual inspection of the residence is necessary to
7 adequately address and resolve these issues.

8 This motion is based on the Memorandum of Points and Authorities accompanying this
9 motion, on the papers and records on file herein, and on such oral and documentary evidence as
10 may be presented at the hearing of this motion.

11 DATED: February 14, 2005.

12 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

13 By 
14 MICHAEL L. PHILLIPS

15
16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I**

18 **FACTUAL BACKGROUND**

19 Plaintiffs allege in their complaint that on July 25, 2001 defendant FR. FRANCIS
20 ARAKAL intentionally made harmful and offensive contact with plaintiffs AMBER LOMAS
21 and RACHEL LOMAS at their residence, 1816 7th Street, Hughson, California. One of the issues
22 in this litigation is the location and proximity of the individuals present in house at the time of the
23 alleged offensive contact. There is a dispute regarding who was present in the room during the
24 alleged offensive contact and the proximity to that room of the remaining individuals within the
25 house.

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28 Defendants' Motion In Limine Requesting A Jury Site Visit

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II

LEGAL ARGUMENT

A. THE TRIER OF FACT MAY VIEW THE SITE INVOLVED IN LITIGATION AND CONSIDER ANY FINDING THEREFROM IN DETERMINING A VERDICT

The trial court may order the jury to view the property that is the subject of the litigation, the place where any relevant event took place, and any object or demonstration relevant and admissible as evidence. California Code of Civil Procedure Section 651(a). Furthermore, it is well-settled law that the trier of fact's view of an area is independent evidence which can be considered in arriving at a conclusion and is substantial evidence in support of findings consonant therewith. Miller v. Johnston (1969) 270 Cal.App.2d 289, 304. In Miller, plaintiff's owned a landlocked parcel and were seeking a continued easement for access over defendant's parcels. The trial judge, in conducting a bench trial, personally observed the land involved in the litigation and made factual finding based on such observations. One such finding was that "It is physically possible but extremely difficulty and impractical to drive a motor vehicle of normal size along the true recorded easement from Cloud View Road to the residence of plaintiffs and it would be an extreme hardship on plaintiffs to require them to confine their vehicular movements to the recorded easement, without using triangle B". Miller at 303. This manner of fact finding was upheld on appeal.

Under California Code of Civil Procedure Section 651(a), the court has the power to order the jury to view the scene where the alleged incident at issue in this occurred. Furthermore, our case is factually similar to Miller in that the unique nature of a location is at issue. An intimate understanding of the layout of plaintiffs' residence by the jury will be necessary in resolving some of the critical issues in this case and it would be very difficult to accurately describe the layout of plaintiffs' residence within the courtroom. As in Miller, it is appropriate and would be

Defendants' Motion In Limine Requesting A Jury Site Visit

1 beneficial for the trier of fact, here the jury, to visit the location of the alleged incidents involved
2 in this litigation. Plaintiffs' residence is of a unique character and personal viewing is necessary
3 to evaluate the claims being made by the parties.

4 **III**


5 **CONCLUSION**

6
7 The trier of fact's view of an area is independent evidence which can be considered in
8 arriving at a conclusion and is substantial evidence in support of findings consonant therewith.
9 This case is one that involved allegations of offensive contact with plaintiffs while at their
10 residence and at issue who was present in the room during the alleged offensive contact and the
11 proximity to that room of the remaining individuals within the house. The jury would greatly
12 benefit from a visit to the involved residence.

13 Defendants are willing to pay any expenses associated with conducting a visit by the jury
14 to plaintiffs' residence, 1816 7th Street, Hughson, California. This will alleviate any hardship
15 such a visit would have on the judicial system. As such, the court should enter an order that
16 during the course of trial in this matter, the jury will on at least one occasion visit the site of the
17 alleged offensive contact involved in this litigation, plaintiffs' residence, 1816 7th Street,
18 Hughson, California.

19 Dated: February 14, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

21 By: 
22 MICHAEL L. PHILLIPS

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a Corporation Sole

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,) [PROPOSED] ORDER GRANTING
16 **Plaintiffs,) DEFENDANTS' MOTION IN LIMINE**
) REQUESTING A JURY SITE VISIT
17 **)**
vs.) DEPARTMENT: 41
18 **) TRIAL JUDGE: HON. ELIZABETH HUMPHREYS**
FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA) TRIAL DATE: FEBRUARY 22, 2005
19 **FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)**
BISHOP STEVEN BLAIRE AND THE DIOCESE)
20 **OF STOCKTON, ET AL.,)**
)
21 **Defendants.)**

22 **ORDER**

23 The motion in limine of defendants having been considered, and good cause appearing
24 therefore,

25
26 //

27 //

28 Defendants' Motion In Limine Requesting A Jury Site Visit

1 **IT IS ORDERED**, during the course of trial in this matter, the jury will on at least one occasion
2 visit the site of the alleged offensive contact involved in this litigation, plaintiffs' residence, 1816
3 7th Street, Hughson, California.

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DATED:

JUDGE OF THE SUPERIOR COURT

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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)	
17 LOMAS AND AMBER LOMAS,)	DEFENDANTS' MOTION IN LIMINE TO
Plaintiffs,)	EXCLUDE EVIDENCE OF
vs.)	SUBSEQUENT REMEDIAL MEASURES
19 FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)	DEPARTMENT: 41
20 FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)	TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
21 BISHOP STEVEN BLAIRE AND THE DIOCESE)	TRIAL DATE: FEBRUARY 22, 2005
22 OF STOCKTON, ET AL.,)	
Defendants.)	
23 _____)	

24 **COMES NOW** defendants, FATHER JOSEPH ILLO, MONSIGNOR RICHARD
25 RYAN, BISHOP STEPHEN E. BLAIRE, and THE ROMAN CATHOLIC BISHOP OF
26 STOCKTON, a Corporation Sole (Hereinafter collectively referred to as DEFENDANTS) who
27 hereby moves this court for an order instructing plaintiffs, plaintiffs' counsel, and all witnesses

28 Defendants' Motion In Limine To Exclude Evidence Of Subsequent Remedial Measures

pp FILED

05 FEB 14 PM 3:41

ROSALBA J. JONQUEIRO, CLERK

Ramela Jonqueiro
BY _____
DEPUTY

1 called by any party to refrain from interrogating any witness concerning, commenting on, or
2 attempting to inform the jury in any way that any of the individual named defendants were the
3 subject of a subsequent investigation or discipline by THE ROMAN CATHOLIC BISHOP OF
4 STOCKTON as a result of any of the alleged incidents in this matter.

5 This motion is made on the grounds such evidence is and would be inadmissible in this
6 action as improper evidence of subsequent remedial measures, and any attempt to convey such
7 information to the jury would be highly improper and prejudicial to defendants, even if the court
8 were to sustain an objection and instruct the jury not to consider such evidence. Peat, Marwick,
9 Mitchell & Co. v. Superior Court (1988) 200 Cal. App. 3d 272, 288.

10 This motion is based on the memorandum of points and authorities accompanying this
11 motion, the Declaration of Michael L. Phillips served and filed herewith, on the papers and
12 records on file herein and on such oral and documentary evidence as may be presented at the
13 hearing of this motion.

14
15 DATED: February 14, 2005

16 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**

17
18 By 
19 MICHAEL L. PHILLIPS

20
21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22
23 **I**

24 **FACTUAL BACKGROUND**

25 It is anticipated Plaintiffs will attempt to introduce evidence related to investigations into
26 the alleged incidents at issue in this matter performed by defendant DIOCESE OF STOCKTON.

27 Defendants move to exclude any such evidence because such investigations are considered

28 Defendants' Motion In Limine To Exclude Evidence Of Subsequent Remedial Measures

1 subsequent remedial measures and are inadmissible at trial.

2
3 **II**

4 **LEGAL ARGUMENT**

5 **A. EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES IS INADMISSIBLE**

6 Evidence of action or measures undertaken after an alleged occurrence is inadmissible to
7 prove negligence or culpable conduct in connection with the alleged occurrence. Evidence Code
8 § 1151. Section 1151 of the Evidence Code reads as follows:

9 When, after occurrence of an event, remedial or precautionary
10 measures are taken, which, if taken previously, would have tended
11 to make the event less likely to occur, evidence of such subsequent
12 measures is inadmissible to prove negligence or culpable conduct
13 in connection with the event.

14 The policy behind this is to encourage employers to undertake actions to create safe and
15 positive working environments. See Hilliard v. A.H. Robins Co. (1983) 148 Cal.App.3d 374. To
16 allow subsequent remedial measures into evidence would serve as a deterrent to other companies
17 and individuals from engaging in subsequent training or other measures that promote a safe and
18 positive work environment.

19 Plaintiffs' theory of liability against defendant DIOCESE OF STOCKTON is one of
20 vicarious liability as the employer of FR. FRANCIS ARAKAL. Any investigation conducted by
21 defendant DIOCESE OF STOCKTON in response to the alleged incidents in Plaintiffs'
22 complaint was remedial in nature. This is acknowledged by Plaintiffs' attorney's statement
23 printed in the Stockton Record on January 30, 2005. Declaration of Michael L. Phillips. The
24 articles describes the action taken by the church in response to the alleged incident as an internal
25 investigation that concluded FR. ILLO might benefit from counseling on gender boundaries.
26 This investigation was not penal in nature, but was an attempt at addressing and remedying any
27 issues that may have existed.

28 Evidence of whether defendant DIOCESE OF STOCKTON took measures after the
alleged incidents to investigate their employees is inadmissible to prove culpability on the part of
Defendants' Motion In Limine To Exclude Evidence Of Subsequent Remedial Measures

1 any defendant. Such evidence would be relevant for no other purpose and therefore the evidence
2 must be excluded.

3 III

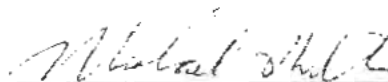
4 CONCLUSION

5 Evidence of action or measures undertaken after an alleged occurrence is inadmissible to
6 prove negligence or culpable conduct in connection with the alleged occurrence. Any evidence
7 related to such measures taken by defendant DIOCESE OF STOCKTON is inadmissible and
8 should be excluded.

9
10 DATED: February 14, 2005

MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

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12 By



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28
MICHAEL L. PHILLIPS

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

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)	
17	LOMAS AND AMBER LOMAS,) DECLARATION OF MICHAEL L.
18	Plaintiffs,) PHILLIPS IN SUPPORT OF
19	vs.) DEFENDANTS' MOTION IN LIMINE TO
20) EXCLUDE EVIDENCE OF
21) SUBSEQUENT REMEDIAL MEASURES
22)
23	FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)	DEPARTMENT: 41
	FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)	TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
	BISHOP STEVEN BLAIRE AND THE DIOCESE)	TRIAL DATE: FEBRUARY 22, 2005
	OF STOCKTON, ET AL.,)
	Defendants.)
)
)

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

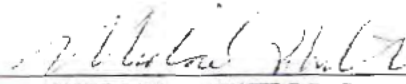
25 1. I am attorney licensed to practice law in the State of California, and am an associate with
26 the law firm of Mayall, Hurley, Knutsen, Smith & Green, attorneys of record for defendants
27 FATHER JOSEPH ILLO, MONSIGNOR RICHARD J. RYAN, BISHOP STEPHEN E. BLAIRE, AND THE
28 Defendants' Motion In Limine To Exclude Evidence Of Subsequent Remedial Measures

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

3 2. Attached as Exhibit 1 is a true and correct copy of an article published in The Record on
4 Sunday, January 30, 2005.
5

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

8 Executed on February 14, 2005 at Stockton, California.

9 

10 _____
11 MICHAEL L. PHILLIPS
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MAYALL, HURLEY, KNUTSEN, SMITH & GREEN

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PAUL N. BALESTRACCI
CA State Bar No. 083987

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

KATHLEEN MACHADO AS AN INDIVIDUAL) CASE No. CV018440

AND AS GUARDIAN AD LITEM FOR RACHEL)
LOMAS AND AMBER LOMAS,)

Plaintiffs,

vs.

FR. JOSEPH ILLO, FR. FRANCIS JOSEPH AKA)
FR. FRANCIS ARAKAL, FR. RICHARD J. RYAN,)
BISHOP STEVEN BLAIRE AND THE DIOCESE)
OF STOCKTON, ET AL.,)

Defendants.

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION IN LIMINE TO
EXCLUDE EVIDENCE OF
SUBSEQUENT REMEDIAL MEASURES**

**DEPARTMENT: 41
TRIAL JUDGE: HON. ELIZABETH HUMPHREYS
TRIAL DATE: FEBRUARY 22, 2005**

ORDER

The motion in limine of defendants having been considered, and good cause appearing
therefore,

IT IS ORDERED, that plaintiff, plaintiff's counsel, and all witnesses called by any party
shall refrain from interrogating any witness concerning, commenting on, or attempting to inform
the jury in any way that any of the individual named defendants were the subject of a subsequent

1 investigation or discipline by defendant DIOCESE OF STOCKTON as a result of any of the
2 alleged incidents in this matter.

3 **IT IS FURTHER ORDERED**, that this order shall be effect from the commencement of
4 voir dire to the rendering of a verdict, and shall be in effect at all times when any juror or jurors
5 are in the courtroom.

6 **IT IS FURTHER ORDERED**, plaintiff's counsel shall inform each and every witness
7 called by plaintiff of the contents of this order prior to calling such witness in this action.

8 DATED:

9

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JUDGE OF THE SUPERIOR COURT

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Sunday, January 30, 2005 ■

Audrey Cooper, City Editor (209) 546-8298

acooper@recordnet.com

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nprice@recordnet.com

Fax: (209) 547-8186

The Record Local

Suit accuses priest of molesting 2 girls

By Jeffrey M. Barker

Record staff writer

STOCKTON — A lawsuit charging a former Stockton priest with molesting two girls while visiting their home has been scheduled for trial next month in San Joaquin County Superior Court.

The suit against the Rev. Francis Arakal and the Diocese of Stockton accuses the priest of fondling two girls in 2001. It also charges another priest and the church with reacting inappropriately when one of the girls attempted to report the molestation.

"Very rarely do these cases get to the point where trials are set," said Anthony Boskovich, a San Jose attorney representing the two girls, who are sisters, and their mother. All three live in Hughson.

Arakal is listed as a parochial vicar for St. Joseph's Church in Modesto.

Attorneys for the Stockton diocese — Paul

Please see PRIEST, B3

PRIEST

Continued from B1

Balestracci and Vladimir Koziina, both of Stockton — and for Arakal, Michael Coughlan of Stockton, each declined to comment on the case.

The case, filed in September 2002, described molestation that allegedly took place in 2001, when the girls were 11 and 13 years old. It accuses Arakal of touching the breasts of the older girl, and both the breasts and pelvic area of the younger girl during a visit to their home.

What's unique about the case, according to Boskovich and co-counsel George MacKoul of Falmouth, Mass., is how the church handled the incidents when they were reported.

On Sept. 11, 2001, the 13-year-old girl reported the acts in a confessional to Father Joseph Illo, another priest at St. Joseph's Church in Modesto, the lawsuit said. Violating the confidentiality of the confessional, Illo brought the girl before Arakal.

During a conversation, the priests browbeat the girl and called her a liar, according to the lawsuit. At one point, attorneys say, Illo told the girl, "All your mother wants to do is have sex with me."

"They terrorized the girl to the point that she was hyperventilating and couldn't move," Boskovich said.

After the confrontation, Arakal "began a systematic campaign [sic] of harassment" of the girls' mother, the lawsuit states.

"They have essentially been ostracized by their church," Boskovich said.

Arakal, 51, was born in India. He came to the United States in 1998, working first at St. Peter's

Parish in Lemoore, under the Diocese of Fresno, and later at St. Joseph's Parish in Modesto, where he still works.

The attorneys have sued Illo before, in a defamation suit.

The mother has also charged both priests "libeled and slandered" her name and reputation, questioning her "chastity, mental capacity and personality."

Responding to that charge, the church delivered to Bishop Stephen E. Blaire an internal investigation that concluded Illo might benefit from counseling on gender boundaries because he is "an attractive man, physically, spiritually and socially." It also recommended a review of Illo's management style.

But the report was much more critical of the mother, suggesting she was at fault for "continued and frustrating attempts at establishing relationships," "the inclusion of her own minor children in the management of adult relationships," and for demanding leadership positions within the church.

The report recommended the mother seek counseling "for dealing with her current state in life."

Boskovich and MacKoul said attorneys for Arakal and the diocese are trying to have the trial delayed, a move they oppose.

David Clohessy, national director for the Survivors' Network for those Abused by Priests, said some kind of closure is important for the victims.

"This mother is very frustrated and worried because this priest is still out there," he said.

■ To reach reporter Jeffrey M. Barker, phone (209) 546-8279 or e-mail jbarker@recordnet.com

PROOF OF SERVICE

FILED
05 FEB 14 PM 3:38

STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN,
MACHADO v. ILLO; CASE NO. CV018440

ROSA JUNQUEIRO, CLERK

[Signature]
BY *[Signature]*

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:

1. DEFENDANT FR. ILLO, FR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE AND THE DIOCESE OF STOCKTON'S MOTION IN LIMINE TO EXCLUDE INSURANCE;

2. FR. JOSEPH ILLO, FR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF WEALTH;

3. FR. JOSEPH ILLO, MSGR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE; AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE'S MOTION IN LIMINE AND ORDER REGARDING SONNEE DELIGHT WEEDN, PH.D;

4. FR. JOSEPH ILLO, MSGR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE, AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE'S MOTION IN LIMINE A.W. RICHARD SIPES;

5. FR. JOSEPH ILL, MSGR. RICHARD J. RYAN, BISHOP STEVEN BLAIRE AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE'S MOTION IN LIMINE TO EXCLUDE ANY TESTIMONY AND JOHNNY SMITH AND ANY PRODUCT OF INVESTIGATION;

6. DEFENDANTS, MOTION IN LIMINE TO PRECLUDE THE USE OF UNVERIFIED PLEADINGS AS SUBSTANTIVE EVIDENCE;

7. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO OR DISCUSSION OF PRIOR UNRELATED COMMENTS BY FATHER ILLO;

8. DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF SUBSEQUENT REMEDIAL MEASURES;

9. DEFENDANTS' MOTION IN LIMINE REQUESTING A JURY SITE VISIT;

10. DEFENDANTS' MOTION IN LIMINE REQUESTING JURY SELECTION BY QUESTIONNAIRE AND INDIVIDUAL VOIR DIRE;

1 11. DEFENDANTS' MOTION IN LIMINE TO REQUIRE AN EVIDENCE CODE
2 SECTION 402 HEARING PRIOR TO ANY TESTIMONY ON MATTERS UNRELATED TO
3 THE SPECIFIC FACTS OF THE CASE;

4 12. DEFENDANTS' MOTION IN LIMINE TO EXCLUDE EVIDENCE OF
5 MATTERS WITHIN THE INTERNAL GOVERNANCE OF THE CHURCH;

6 13. DEFENDANTS' MOTION IN LIMINE TO LIMIT EVIDENCE AND
7 WITNESSES TO THOSE DESIGNATED;

8 14. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY OPINION
9 TESTIMONY FROM RICHARD SIPE REGARDING THE CONDUCT OF FATHER JOSEPH
10 ILLO OR FATHER FRANCIS ARAKAL;

11 15. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY OPINION
12 TESTIMONY FROM THOMAS DOYLE REGARDING THE CONDUCT OF FATHER
13 JOSEPH ILLO OR FATHER FRANCIS ARAKAL;

14 16. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE SIMILAR INJURY
15 ARGUMENT TO JURY;

16 17. DEFENDANTS' MOTION IN LIMINE TO EXCLUDE TESTIMONY FROM OR
17 EVIDENCE PREPARED BY PLAINTIFFS' EXPERT THOMAS DOYLE;

18 18. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO
19 CALIFORNIA'S ABUSE REPORTING STATUTES;

20 19. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY ARGUMENT,
21 EVIDENCE, OR COMMENTS BY PLAINTIFFS REGARDING A REMEDY OTHER THAN
22 MONETARY DAMAGES

23 20. DEFENDANTS' MOTION IN LIMINE TO PRECLUDE ANY REFERENCE TO
24 INAPPROPRIATE TOUCHING OF ANY SORT BY DEFENDANTS AS TO AMBER LOMAS

25 21. DEFENDANTS MOTION IN LIMINE TO EXCLUDE EVIDENCE RELATED
26 TO DALLAS CHARTER AND ALLEGED CLERGY MALPRACTICE

27 22. FR. JOSEPH ILLO, MSGR RICHARD J. RYAN, BISHOP STEVEN BLAIRE
28 AND ROMAN CATHOLIC BISHOP OF STOCKTON A CORPORATION SOLE'S MOTION IN
LIMINE TO EXCLUDE EVIDENCE OF WEALTH

1
2 **NAME(S) AND ADDRESS(ES) OF PERSON(S) SERVED:**

3 GEORGE J. MACKOUL, ESQ.
4 SABBAAH AND MACKOUL
5 49 LOCUST STREET
6 FALMOUTH, MASS 02540

Via Federal Express

7 ANTHONY BOSKOVICH, ESQ.
8 28 NORTH FIRST ST., 6TH FLOOR
9 SAN JOSE, CA 95113-1210

Via Personal Service

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

Via U.S. Mail (Co Counsel)

14 MICHAEL COUGHLAN, ESQ.
15 LAW OFFICES OF MICHAEL D. COUGHLAN
16 3031 W. MARCH LANE, #210 WEST
17 STOCKTON, CA 95219

Via Personal Service

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

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

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

27 [~~xx~~] *BY EXPRESS MAIL; Overnight Delivery*. As Indicated. I caused a true copy thereof to be delivered by
28 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 14, 2005, at Stockton, California.

23 
24 SHERI SIGMAN

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

02/08/05 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

 [PLTF] Kathleen Machado

 [DEFT] Joseph Illo AKA

 [DEFT] Francis Joseph AKA Joseph Arakal
 [DEFT] Richard Ryan

Clerk: Charlene Gray
Reporter/Tape: CARRIE DALL
Baiff: CA - N. Mose
Interpreter:

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

Nature of proceedings: Notice of motion for protective order to prohibit the taking of the deposition of Pltf's Counsel investigator Johnny Smith request for monetary sanctions against Vladimir F. Kosina and the Diocese of Stockton etc...;

- 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 _____

Granted with understanding this witness will not testify as to factual independent factual matters.

- 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

02/08/05 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

02/07/05 02:00 PM 41 met at Stockton, California

Hon. Elizabeth Humphreys

Date Dept Judge

<p>CV018440 KATHLEEN MACHADO ET AL VS FR. JOSEPH ILLO ET AL</p>	<p>Clerk: <u>Charlene Gray</u> Reporter/Tape: _____ Bailiff: _____ Interpreter: _____</p>
<p><input type="checkbox"/> [PLTF] Kathleen Machado <input type="checkbox"/> <input type="checkbox"/> [DEFT] Joseph Illo AKA <input type="checkbox"/> <input type="checkbox"/> [DEFT] Francis Joseph AKA Joseph Arakal <input type="checkbox"/> [DEFT] Richard Ryan</p>	<p>ANTHONY BOSKOVICH <input checked="" type="checkbox"/> GEORGE J MACKOUL <input checked="" type="checkbox"/> VLADIMIR F KOZINA <input checked="" type="checkbox"/> PAUL BALESTRACCI <input checked="" type="checkbox"/> MICHAEL D COUGHLAN <input checked="" type="checkbox"/> PAUL BALESTRACCI <input type="checkbox"/></p>

Nature of proceedings: **Settlement conference;**

- Hearing held
- Matter is continued to _____ at _____ in Dept. _____ due to _____
 - Dropped
 - Case Management Conference
 - Settlement Conference
 - Trial Setting
 - Other _____

Uninsured motorist case--exempt from Fast Track

Trial Management Order signed & attached; copies issued to Counsel.

- Matter is ordered referred to judicial arbitration after
- Discovery remain open 30 days before trial.
- Case is to be tried as a Jury Trial Court Trial.
- Estimated length of time for trial: _____
- Case is set for trial on _____ at _____ in Dept. _____
- Settlement conference set for _____ at _____ in Dept. _____

- Trial setting date on _____
- No settlement--trial to remain as set.
- Case settled. Trial date _____ is vacated.
- Trial date reset to _____

- Issue an OSC re: _____
- No Proof of Service No Case Management Statements
- Failure to appear Other _____

- Clerk's Office to send notice.
 - Arbitration Clerk
 - Fast Track Clerk
 - Counsel
 - Other

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

02/07/05 02:00 PM 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"/>

Additional Parties and Counsel

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN JOAQUIN

Kathleen Machado
Plaintiff(s)

No. CV 018440

vs.

TRIAL MANAGEMENT ORDER

In Joseph Illo, et al
Defendant(s)

Plaintiff(s) Attorney(s)

Defendant(s) Attorney(s)

Sign above indicating presence at Settlement Conference.

The orders checked below are hereby found to be necessary in this case to implement and achieve the purposes of the Trial Court Delay Reduction Act of 1986 as set forth in Government Code Sections 68600, et seq.

1. All exhibits to be used at trial other than those to be used for impeachment or rebuttal shall be pre-marked for identification. Plaintiffs exhibits shall be designated by number ranging from 1 to 100, with defense exhibits designated by numbers 101 - 200, unless otherwise ordered by the court.
2. Originals of all depositions to be available upon request at the first appearance in the trial department. 5 ~~CA~~
3. Motions in limine shall be personally served upon opposing counsel or any unrepresented parties ~~three (3)~~ ⁵ court days before trial and filed with the clerk's office at least ~~five (5)~~ ⁷ days before trial. Motions in limine not served in compliance with this order may not be heard.
4. A list of all witnesses (expert and non-expert), other than those to be called for impeachment or in rebuttal, to be called at trial shall be personally served upon opposing counsel or any unrepresented parties three (3) court days before trial and three (3) copies of said list shall be presented to the trial judge at the first appearance in the trial department. Witnesses not listed may be excluded at trial.
5. Parties shall provide copies of demands for exchange of experts and the lists disclosing the experts.
6. Parties shall personally serve proposed jury instructions upon opposing counsel or any unrepresented parties three (3) court days before trial and also submit proposed jury instructions to the trial judge at the first appearance in the trial department. Jury instructions not personally served and presented may be excluded at trial.
7. A brief statement outlining the facts of the case shall be presented to the court by all parties at the first appearance in the trial department.
8. Other orders and/or comments:

Dated: 2/7/05

[Signature]
Judge of the Superior Court

TRIAL MANAGEMENT ORDER

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

1 these events, and prays to God that justice be done. She feels that her church has abandoned
2 her, and it has led her to question her God. Kathleen's amazing faith is all that sustains her.

3 Amber cannot control herself when she thinks or speaks about these events. She no
4 longer trusts priests, and is questioning her church.

5 The one most devastated by these events is Rachel. Rachel is a beautiful young woman,
6 but is clearly troubled by the events. Although she has recovered in school, it is clear that she is
7 scarred by the molestation. She hides her bosom, and becomes very emotional when she recalls
8 the events. Rachel has withdrawn into herself. She too has questioned her church and her faith.

9
10 **III.**
11 **DAMAGES**

12 Both Amber and Rachel have been evaluated by an expert psychiatrist and have been
13 treated by a psychologist.

14 The psychologist, Dr. Stephen's testified recently in deposition that Fr. Arakal molested
15 Rachel, and that the church had betrayed the family, causing emotional damage.

16 The expert's opinion, Dr. Sonnie Weedn, is that both girls have been deeply scarred and
17 are suffering from a condition very similar to Post Traumatic Stress Disorder, and that the
18 actions of the defendants will cause them severe emotional difficulties in the future.

19 A copy of Dr. Weedn's report is attached as an exhibit to this statement.

20 Further, plaintiffs believe that prior to trial, they will be able to amend and add a claim
21 for **punitive damages** against the Diocese, for ratification of the acts of its agents.

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23 / / /
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IV.

GAG ORDER

There have been two articles printed recently regarding this litigation; one in the Stockton Record, one in the Modesto Bee. Defendants have indicated that they are requesting a gag order, and have accused plaintiffs' counsel with misconduct. Plaintiffs oppose this motion on several grounds.

First and foremost, plaintiffs' counsel never contacted the press; the press contacted them. Upon inquiry, counsel referred the reporters to the court file, and the articles are clear that the file was reviewed prior to the printing of the article. Counsels' comments were minimal. The press and the people have a right to know about these proceedings, and plaintiffs' counsel have been ethical in there commentary. Defendants' accusations to the contrary, plaintiffs' counsel have shown remarkable restraint in this most explosive of matters, and in fact it is apparent that the old saying that "evil fears the light of day" is true in this case.

Immediately upon publishing of the articles, Mr. Kozina wrote plaintiffs' counsel making accusations of misconduct and threatening with a suit for malicious prosecution. Mr. Boskovich immediately called Mr. Kozina from his car as he was on his way to appear for the first day of trial and explained the truth, and counsel discussed ways to deal with the press. There were a few potential inaccuracies in the Stockton Record article that plaintiffs' counsel wished to correct, but were not allowed to because of Mr. Kozina's threats. When the Modesto Bee requested comment from defense counsel, plaintiffs have been informed that counsel for defendants communicated a threat to the newspaper as well. Most disturbingly, even after discussion with counsel, defense counsel continues with his accusations without informing the court of the truth that he knows.

Additionally, the Modesto Bee references information contained in police reports regarding the alleged molestations. These reports were provided by court order from the Stanislaus Superior court which restricted their dissemination, and plaintiffs' counsel have not shown those documents to anybody. **Plaintiffs are concerned that the only source of**

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1 those documents is from the defendants, and the privacy rights of minors have
2 been violated, as well as a court order. Plaintiffs respectfully request that this court make
3 inquiry into how these documents got into the hands of the press.

4 Plaintiffs oppose any gag order on the grounds that trial is imminent, and that the matter
5 will be public virtually immediately. Additionally, counsel for plaintiffs have been scrupulously
6 ethical in this regard, and should not be gagged. This court should not reward defendants
7 because their conduct has been exposed in the press and they are now embarrassed; they have
8 had over **three** years in which to resolve this matter with a family that has always sought
9 reconciliation with their church.

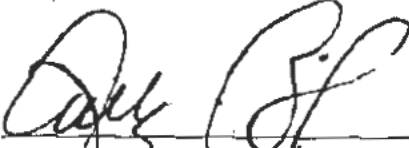
10 In sum, there are no grounds for their request.

11
12 **V.**
13 **DEMAND**

14 Plaintiffs have engaged in good faith mediation efforts, and have made a formal demand
15 with no response other than a ridiculous offer pursuant to code of Code of Civil Procedure
16 section 998. Attorney Jack Williams in San Jose has pursued those mediation efforts. Mr.
17 Williams is an expert in these types of mediations, having resolved many clergy abuse cases all
18 over the state. He has made every effort to resolve this matter, however, the defendants continue
19 to ignore the testimony under oath, and the facts of this case, making settlement difficult.

20 Based upon the conduct of defendants and their counsel, plaintiffs are diligently
21 preparing for trial and are willing to listen to any reasonable offer. Therefore, plaintiffs will defer
22 a demand until a reasonable offer is tendered.

23
24 Dated: 6 February 2005

25
26 
27 Anthony Boskovich
28 Attorney for plaintiffs

November 28, 2004

George MacKoul, Esq.
Sabbath and MacKoul
49 Locust Street
Falmouth, MA 02540

RE: Rachel Lomas and Amber Lomas

Dear Mr. MacKoul:

This report is submitted in compliance with your request for an independent psychological evaluation of Rachel Lomas, age 16, and her sister, Amber Lomas, age 13, in order to provide you with information that would be useful in determining their current mental state and any current or future need for mental health services. My findings and recommendations are based upon clinical interviews, psychological testing, and review of records itemized below.

Sources of Information:

Clinical Interviews and Psychological Testing:

Amber Lomas – I met with Amber Lomas on November 12, 2004, for approximately three hours. During this time she was interviewed and administered The Rorschach: Comprehensive System, The Millon Adolescent Clinical Inventory, and the Minnesota Multiphasic Personality Inventory – Adolescent version.

Rachel Lomas – I met with Rachel Lomas on November 12, 2004, for approximately three hours. During this time she was interviewed and administered The Rorschach: Comprehensive System, The Millon Adolescent Clinical Inventory, and The Minnesota Multiphasic Personality Inventory – Adolescent version.

I spoke very briefly with the sister's mother, Ms. Machado, to explain what my procedures would consist of and what she could expect for the day of evaluation and to obtain her permission for the evaluation process.

B: Records Reviewed:

A letter and case notes from Diane L. Stephens, R.N., M.F.T., dated August 30, 2004.

A deposition of Amber Lomas, dated October 7, 2004.
A deposition of Rachel Lomas, dated October 6, 2004.

A report from Johnny Smith Investigations dated October 20, 2004.

Notes made by George MacKoul from the deposition of Yvonne McLoughlin, M.F.T.

Progress notes for Yvonne McLoughlin, M.F.T., dated September 11, 2001.

Introduction:

This report will begin with a brief introduction and statement of the issues under consideration in this evaluation, followed by a report of my clinical evaluations of the individual family members. I will also present information from any relevant information from my review of records. Lastly, I will integrate the findings and make recommendations.

Evaluation of Amber Lomas

Psychological Procedures:

Clinical Interview, The Rorschach: Comprehensive System, The Minnesota Multiphasic Personality Inventory-II (MMPI-A), and The Millon Adolescent Clinical Inventory (MACI), and review of records.

Social History:

Amber Lomas is a thirteen-year-old girl, currently living with her mother and an older and younger sister in Hughson, CA. She is in the 8th grade at Sacred Heart School in Turlock, CA. She transferred to this school from her previous middle school because her grades had dropped and she was associating with children whom her mother judged to be a poor influence on her. At her new school, she is doing better. She believes it was a good move.

Amber's parents are divorced and she reports that she is glad of that fact because her father, Rosalio Machado, was physically abusive to her mother and to the children. Amber says that she does not see him often and does not want to see him because of his abusive behavior. Her mother retains sole physical custody of all the children.

She is involved in several extra-curricular activities, including raising a meat goat for 4-H.

It is critical to note in understanding this child that Amber comes from a devoutly Catholic family and is used to attending Mass on almost a daily basis. Her daily life and the culture of her family are steeped in religious faith that permeates most aspects of her thinking and value system. She has been an active participant in all phases of Roman Catholic religious life as has been age-appropriate (catechism, altar-serving, first communion, confession, etc.).

Behavior During Evaluation:

Amber Lomas was pleasant and cooperative throughout the process of evaluation. She was shy, but friendly. She appeared forthcoming in all of her answers to my queries. She stated that she has a "good" relationship with her mother. She reports that she has angry outbursts at times that she cannot account for (her mother affirmed this). She believes that she is doing better in school since she moved to Sacred Heart School.

Amber reported that the process of her deposition was very stressful to her. She stated, "It was hard. Sometimes I didn't understand and they jumped from subject to subject."

When asked about her dealings with Father Illo, she was vehement in stating that the most upsetting thing for her was that he lied to her face about his relationship to her and her family, that she was fired from her job altar serving with no real explanation to her, and that he angrily accused her family of stalking him in front of other parishioners, which was humiliating and seemingly untrue. His handling of her attempt to receive help from him regarding her discomfort and concerns about Father Francis were especially traumatizing and disconcerting to her. She could not understand why he betrayed her and was angry with her. Amber became tearful, but tried to hold back her tears when discussing the details of these events.

From Amber's standpoint, Father Illo was her priest; a vaunted position denoting his deserving of the utmost respect and trust. He was her confessor and a family friend.

Amber stated that she does no longer receive communion on a regular basis. She said that one should not receive communion without first going to confession. She can only bring herself to go to confession about once a month. She stated that it is frightening for her to go to confession now because it means being alone in the confessional with a priest. She says that she has

worked out a system in her own mind whereby she makes her confession directly to God and then says an Act of Contrition in order to feel that she is doing what she is supposed to do to honor the requirements of her religion.

Results are believed to be an accurate reflection of her current level of psychological functioning.

Cognitive Aspects:

No tests of cognitive ability were given. Amber was oriented times four and alert. It would appear from observation that Amber falls into at least the Average Range of intelligence when compared to the general population. No signs of cognitive slippage or other cognitive difficulties were noted.

Emotional Aspects:

Psychological testing indicates that Amber Lomas is capable of attending to her own experience in a reasonably open and flexible manner. She shows an adaptive balance between being able to deal with situations in a detached and uninvolved manner sometimes, and, at other times, in a concerned and engaged manner.

She appears extremely committed to seeing the world accurately. She is consequently capable of perceiving people and events realistically, but she is also likely to be highly precise in the impressions she forms of situations. Only rarely will she allow herself the risk of forming an impression that may be inexact.

Her thinking is logical and coherent, and she is, for the most part, as capable as most people of her age of coming to reasonable conclusions about relationships between events and of maintaining a connected flow of associations in which ideas follow each other in a comprehensible manner.

Amber's personality pattern is submissive, dependent, and of the type that seeks affection, attention, and security. Her fear of abandonment often leads her to be overly compliant within her family and obliging with her peers. She may act at times in a socially gregarious and charming manner to attract the positive attention of others. She is likely to be quite naïve and immature about interpersonal and social matters and to show thinking that is more childlike than others her age. When she is faced with family or peer tensions, she is likely to try to be superficially untroubled and buoyant, seeking to deny in a Pollyanna way all disturbing emotions or inner discomforts. In her heterosexual relationships she is likely to be immaturely admiring and accommodating.

Despite her need to ally herself with the leadership and competencies of family and friends, she is not sure that these relationships will fulfill her needs fully or even protect her against loss. Because of her disillusionment with others, she has become alert to signs of potential hostility and rejection and seeks to minimize the dangers of their indifference and disapproval.

There are significant indications that situational stress is making more demands on her adaptive capacities than she is ordinarily required or accustomed to confront, and this may be reducing her usual level of effectiveness in making decisions and pursuing courses of action. Her excess situational stress is being imposed on a pre-existing stimulus overload, resulting in considerable vulnerability to becoming upset, anxious, and disorganized. Insufficient psychological resources to meet the demands she is experiencing are also likely to impair her capacity for self-control and to create a marked tendency toward impulsiveness.

Amber was already in a state of stimulus overload resulting from persistent difficulty in mustering adequate psychological resources to cope with the demands being imposed on her by external and internal events in her life. Consequently, she is at risk for recurrent episodes of overt anxiety, tension, nervousness, and irritability. She is at risk for becoming psychologically incapacitated (at least temporarily) and for appearing to others as noticeably agitated and distraught to others.

Though her testing indicates that she has the adaptive capacity to anticipate and establish close, intimate, and mutually supportive relationships with other people, she shows a propensity to appear awkward or inept in social situations. Though she seeks to acquire a measure of independence and maturity, she feels helpless when faced with adult-like responsibilities that demand autonomy or initiative. The loss of a significant source of support or identification may prompt severe dejection on her part. At these times, she will openly seek signs of reassurance. Guilt, illness, anxiety, and depression may be frankly displayed. In addition, she claims greater distress concerning sexuality than is typical for her age. She reports feelings of confusion and unhappiness in this area.

It is clear from the testing that Amber is experiencing episodes of affective disturbance involving depression. Though she may not complain of feeling depressed, indications point to her being disposed to affective malaise that interferes with her ability to function effectively. In addition, she feels atypically apprehensive and she may be experiencing an anxiety disorder.

Evaluation of Rachel Lomas

Psychological Procedures:

Clinical Interview, The Rorschach: Comprehensive System, The Minnesota Multiphasic Personality Inventory – Adolescent version,(MMPI-A), and The Millon Adolescent Clinical Inventory, (MACI), and review of records.

Social History:

Rachel Lomas is sixteen years old and attends Hughson High School, where she is a junior. She is the eldest daughter of her parents, who are now divorced. She states that she is close to her mother and has a good relationship with her. She says that her mother supports her activities, which include FFA, keeping animals, sports, and 4-H.

She states that when her father lived with them it "was a living hell." He apparently became angry "over stupid things", and if anyone argued with him he became violent. Her mother has sole physical custody of her and her sisters. She says that she sees her father twice a month when he comes by to drop off money for them. Nowadays he is pleasant toward them, but she has no desire to see him or interact with him. She reports that he does not seem to want to see her or her sisters very much.

She does not currently have a boyfriend and says she does not want this type of relationship at the current time.

It is important in understanding this young woman to know that, like her sister, she comes from a family, which is devoutly Catholic. The theology of the church is held sacrosanct, and Rachel has been taught to hold priests in very high regard, believing that priests are called by divine inspiration to the priesthood. In her particular case, having survived the domestic violence and physical abuse of her father, she and the other members of her family looked to the church and its environs as especially important to their sense of safety and coherence. She was used to attending Mass almost every day and had been a regular altar server until she was fired from that job without explanation. Both she and her sister reported altar serving as one of their favorite things to do.

Behavior During Evaluation:

Rachel was pleasant and cooperative during the course of the evaluation. Her story regarding what had transpired with Father Ilio and Father Francis was

essentially as she reported it in her deposition. Therefore, the reader is directed to her sworn deposition for these details. However, Rachel emphasized that Father Francis made her uncomfortable from his first visit to their home. She had tried to distract him from tickling her sister, because this activity was making her uneasy. She stated that it had all happened very quickly and she could not really recount the exact sequence of events because it had happened so fast. In her view, one minute she was distracting Father Francis from Kolleen and the next minute he was on top of her and grabbing her breast. She stated that she had kept this all a secret because she thought no one would believe her because "priests are supposed to be holy people".

Rachel was clearly agitated as she was queried about these various events. Her body language was closed and she became tearful when speaking about not being willing to participate in the sacrament of confession anymore. This should preclude her from participating in the sacrament of holy communion, however, she does receive communion once a month without going to confession. She said that she just hoped no one would stop her from doing this as she cannot tolerate the idea of being alone with a priest in the confessional.

Rachel was also tearful when speaking of having been barred from altar serving. She said, "I loved to serve. I loved being on the altar. I was an active participant in worship and now I can't do it." She said that she would prefer to never see Father Illo again, given his betrayal of her and her family. She said that she had gotten "the vibe of his attraction to my mom" after several years of his friendship with the family. She was quite distressed about his humiliating her mother outside of church by accusing her of gossiping about him. According to Rachel, who overheard the women's conversation, they were actually talking about rosaries they were going to make. Rachel moved her sisters away when father Illo began yelling, but she believes they heard him.

Results are believed to be an accurate description of her current level of psychological functioning.

Cognitive Aspects:

No test of intellectual functioning was given, however it can be assumed that Rachel is functioning in the Above Average or Superior Range of intelligence when compared to the general population based on observation and her reported grades in high school.

She was oriented times four and alert. There were no indications of cognitive slippage or other neurological difficulties.

Emotional Aspects:

Psychological testing indicates that Rachel is capable of attending to her experience in a reasonably open and flexible manner that constitutes a personality asset. She shows an adaptive balance between being able to deal with situations in a detached and uninvolved manner and, at other times, in a concerned and engaged manner.

She demonstrates fairly good abilities to form accurate impressions about herself, to interpret the actions and intentions of others without distortion, to adequately anticipate the consequences of her own actions, and to correctly construe what constitutes appropriate behavior in various kinds of situations. Her adequate reality testing constitutes a personality strength.

She shows a potentially adaptive repertoire of styles for experiencing and expressing affect in which she modulates emotions in much the same way as most people.

She shows an adaptive capacity to establish close, intimate, and mutually supportive relationships with other people. Nevertheless, her limited social skills make it difficult for her to sustain and enjoy interpersonal attachments. She reports that it is very difficult for her to be around other people, and she much prefers to be alone now. She frequently avoids situations where there are likely to be a lot of people. She reports having difficulty making friends and she does not like to meet new people. She seems less capable than most people of dealing effectively with everyday experience, especially with respect to social situations.

Rachel is experiencing a fair amount of stress that is giving rise to unpleasant affect and makes her susceptible to depression. Her scores on testing suggest that she flattens her emotions in an effort to deaden apprehensive and fearful mistrust of others. She exhibits shyness and a chronic social awkwardness that stems from a pattern of avoiding close peer and family relationships. Her desire is for closeness and affection, but this has been self-protectively restrained so severely that there is little spark and vitality to her current existence. Despite her efforts to dampen feelings, she experiences both anxiety and depression. Her thoughts about her self-esteem and social life are often so painful as to be intentionally confused. She is over-concerned with social rebuff and is ever ready to anticipate rejection.

Rachel shows a chronic self-deprecation of aptitudes and a needy and dependent search for supportive persons or institutions. Despite her

unrequited desire to be accepted and cared for, she has felt it best to bury these needs and maintain a safe distance from others who may prove hurtful. She has learned to fade into the background, assuming a passive role, and willingly submitting to the expectations of others. As a consequence, she is likely to have withdrawn into increasing peripheral social, academic, and social roles. Her self-image of being unattractive and undesirable makes ordinary demands and relationships often seem frightening and potentially dangerous. In addition to her expectation of humiliation, her withdrawal may stem from low energy, anxiety, restrained anger, and depression and hopelessness. Sadly, Rachel reacts to her deep frustration and unhappiness by becoming self-punitive, self-demeaning, and hypersensitive to her shortcomings. She shows diminished capacity for pleasure, sleep difficulties, problems with appetite, and she may have periodic thoughts of suicide.

Discussion:

The discussion section is meant to shed light on the circumstances of both Amber and Rachel Lomas.

In evaluating these sister's current situation and need for current or future mental health services, it is important to keep several factors in mind. First of all, these girls have experienced the trauma of domestic violence in their family. They have a very poor, if currently peaceful relationship with their biological father, who is easily nettled and prone to violence when someone disagrees with him. In addition, there is apparently a restraining order against the paternal grandparents, as they have been deemed a threat to the family safety. This state of affairs reduces the pool of supportive adults for these girls. It is to their mother's credit that she was able to leave this marriage. It is good modeling for her girls, as it is a well-known fact that many, if not most, victims of domestic violence do not leave their abusers. Since she had little work experience, this took courage and determination.

During this very stressful time, this family took refuge in their church. They were deeply involved and faithful participants in the life of the church. This was at a time when they were all extremely vulnerable and had turned to the church as a place of safety, support, community, and meaning. Adults in this type of stressful situation typically seek guidance, healing, companionship, and community from their church. Children and adolescents seek stability, structure, and a place to belong. Male clergy often fill the role of a father for children who have been abandoned or brutalized by their own fathers.

It would appear from the sworn statements of Rachel and Amber Lomas and the evidence in their psychological profiles showing them to be generally

forthcoming and highly moralistic girls, that there was misconduct on the part of both Father Illo and Father Francis that has traumatized them both. It is important to note that for the victims of clergy abuse, there are a plethora of variables that complicate a prognosis: age at time of abuse, frequency and severity of abuse, prior history of abuse, educational level, economic resources, etc. All of these variables need to be addressed when treating a survivor of abuse by a spiritual leader. But what makes abuse of any kind by a spiritual leader different from other forms of trauma is the crisis of faith that is inherent in this form of abuse, and which is so obvious in the interviews with both girls.

People who survive this type of abuse are usually left confused or angry with God. Some reject their religion altogether. For many persons of faith, there is an assumed reverence that is given to a spiritual leader. The culture of most religions tends to foster this reverence. Catholic theology teaches that the priesthood is the sacrament of Holy Orders, whereby God calls a man to the priesthood. This call is believed to be divinely inspired. Spiritual leaders are assumed to have an enlightened spirituality, are more knowledgeable about religion, or are considered to be "holy". Again, this view was evident in the interviews with both girls. It is because of this perceived position or perceived special relationship with God that abuse in this milieu can be so catastrophic. When individuals are abused and betrayed by their spiritual leader, many feel abused and betrayed by their God. Any treatment should include an assessment of the impact of the abuse on their relationship with their God and the effects that impact has had on their lives.

Clearly, both girls have been significantly impacted by the events that occurred in their relationships with Father Illo and Father Francis. The disclosure of the problem with Father Francis by Amber to Father Illo was horribly mishandled, worsening an already difficult and damaging situation, and further traumatizing Amber. Sadly, the actions of Yvonne McLoughlin, MFT, in her professional capacity, further muddied the waters, harming Amber, and enabling Father Illo to proceed with his maltreatment of Amber. The behavior of the adults in charge of this situation was largely unhelpful, at the least, and further damaging, at the worst. Subsequent to the events of September 11th, there was further emotional abuse in the form of the girls being dismissed from altar serving, with no explanation, being made to feel unwelcome in the church, and witnessing verbal/emotional abuse of their mother by Father Illo on church property.

Recommendations

For Amber Lomas:

- 1) Amber should be evaluated by a psychiatrist to determine if medication is indicated to treat her diffuse anxiety states, and to increase her alertness and vigor. She is plagued by fatigue, lethargy and anxiety.
- 2) Environmental changes, recommended in the testing, in the form of a change of schools have already been implemented. Any determination of damages should take into consideration the need for a change of schools due to her faltering emotional state at the time of the change.
- 3) Long-term psychotherapy is indicated with a clinical psychologist well versed in post-traumatic stress disorder and clergy abuse. The indications for long-term therapy are Amber's excessive dependency and willingness to subjugate herself to anyone she perceives to be strong, helpful or an authority. This extreme submissiveness is problematic. She will resist any overt pressure toward independence and will require slow, gentle progression toward independence and autonomy. Breaking her dependency bond (which she will, hopefully develop with her therapist) too soon can only precipitate intense emotions or erratic behavior. This type of therapy is typically not included in insurance coverage by HMO's and other managed care and will typically cost from \$90 - \$135 an hour. Some treatments for trauma require hour and a half sessions. Weekly psychotherapy is indicated for a period no less than eighteen months at this time. There will likely be a further need for therapy at various developmental milestones in the future, such as when dating commences, when leaving home for the first time (for marriage, job, college, etc.), at the time of further religious sacraments for herself or her children. It will be ideal if Amber can return to therapy on an "as needed" basis whenever she needs to. It is well known that trauma occurring during the development of the brain (in childhood) predisposes victims to the very problems Amber is experiencing (anxiety, dependency).

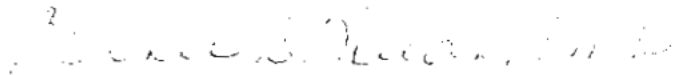
For Rachel Lomas:

- 1) It is imperative that Rachel be evaluated by a psychiatrist to determine if medication is indicated to treat the depression and anxiety evident in her psychological evaluation.

- 2) It is recommended that Rachel be seen in weekly psychotherapy by a clinical psychologist well versed in the treatment of post-traumatic stress disorder and clergy abuse. This treatment should commence immediately and continue for a minimum of eighteen months. Treatment should focus on countering her withdrawal tendencies, poor interpersonal skills, and diminishing her self-deprecating thoughts and behaviors. As noted previously, psychotherapy with a psychologist generally costs between \$90-\$135 an hour. Some treatments for trauma (such as EMDR) run an hour and a half a session. Rachel will require considerable support at developmental milestones, which will occur when she begins dating, leaves home for college or other pursuits, and especially in her dealings with men who are important to her (husbands, bosses, etc.). It will be ideal if Rachel can return to therapy on an "as needed" basis at these various potentially stressful times.

If there are further questions you may have regarding my evaluation and recommendations in this case, please call me directly.

Signed,



Sonnee D. Weedn, Ph.D.

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 7
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 9 Attorneys for Plaintiffs

10
 11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **COUNTY OF SAN JOAQUIN**
 13

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.
 20

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 49 Locust
 23 Street, Falmouth, Massachusetts 02540.

24 On February 7, 2005, I caused to be served the foregoing **PLAINTIFFS' SETTLEMENT**
 25 **CONFERENCE STATEMENT** on the parties involved in said cause by personally delivering
 26 a true copy thereof to:

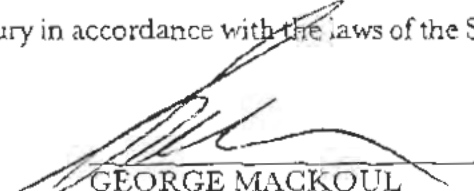
27 / / /

1 Michael Coughlan, Esq.
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2 3031 W. March Lane, Suite 210 West
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3 Vladimir F. Kozina, Esq.
4 Mayall, Hurley, Knutsen, Smith & Green
2453 Grand Canal Blvd., 2nd Floor
5 Stockton, CA 95207-8253

6 Executed on 7 February 2005, at Stockton, California.

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


GEORGE MACKOUL

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

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1 **MAYALL, HURLEY, KNUTSEN, SMITH & GREEN**
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5 Attorney for Defendants

FILED
05 FEB -2 AM 11:31
Rosa Junqueiro, Clerk
BY _____
DEPUTY

6
7
8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

9 **KATHLEEN MACHADO, ET AL**

10 Plaintiffs,

11 vs.

12 **FR. JOSEPH ILLO, ET AL,**

13 Defendants.

) **No. CV018440**

) **DEFENDANTS FR. JOSEPH ILLO,**
) **BISHOP STEPHEN BLAIRE, MONSIGNOR**
) **RICHARD RYAN AND ROMAN CATHOLIC BISHOP**
) **OF STOCKTON, A CORPORATION SOLE'S**
) **SETTLEMENT CONFERENCE STATEMENT**

14 **DATE: FEBRUARY 7, 2005**

15 **TIME: 2:00 P.M.**

16 **DEPT: 41**

17 **PARTIES AND REPRESENTATIVES**

18 Plaintiffs are represented by George MacKoul, Esq. of Patterson, California and Boston,
19 Massachusetts, and Anthony Boskovich, Esq. of San Jose, California. Defendants Bishop Stephen E.
20 Blaire, Monsignor Richard Ryan, Father Joseph Illo and the Roman Catholic Bishop of Stockton, a
21 corporation sole, are represented by trial counsel Vladimir F. Kozina, Esq. and Mayall, Hurley,
22 Knutsen, Smith & Green of Stockton, California in association with Paul N. Balestracci of Neumiller
23 and Beardslee of Stockton, California. Defendant Father Francis Joseph Arakal is represented by
24 Michael Coughlan, Esq. of Stockton, California.

25 **FACTS**

26 The present litigation involves allegations of sexual abuse and battery made by Rachel and
27 Amber Lomas, minor children of plaintiff Kathleen Machado, as against Father Joseph Arakal.
28

1 In addition, the litigation involves allegations that Bishop Stephen Blaire, Monsignor Richard
2 Ryan, Father Joseph Illo, Father Francis Arakal and Roman Catholic Bishop of Stockton, a corporation
3 sole were involved in a civil conspiracy and acted to defame plaintiffs.

4 To understand the present litigation, the court needs to be made aware of some background
5 concerning the history of plaintiff Machado and the key role it plays in the allegations made in this
6 litigation.

7 Plaintiff Machado was married to a man that would regularly beat her. This would occur with
8 such frequency and severity that her now ex-husband was incarcerated for domestic violence on a
9 number of occasions. His violence was also aimed at his daughters, including the plaintiffs Lomas
10 herein, according to the testimony of plaintiff Machado. Through all this, her three daughters,
11 including plaintiffs Rachel Lomas and Amber Lomas, would witness and try to protect her.

12 At this time, plaintiffs were attending St. Anthony's Church in Hughson, around the corner
13 from the home they still live in, at no more than one-quarter mile away.

14 Fr. Illo, who, at the time, was assigned to St. Anthony's Parish in Hughson, actually first met
15 plaintiff Machado when he was summoned from the parish rectory by a staff member that informed
16 him that there was a police action occurring on or at the church property. He observed that members of
17 the Hughson Police Department (in actuality members of the Stanislaus County Sheriff's Office
18 contracted to provide police services to the City of Hughson) were apparently acting to arrest plaintiff
19 Machado's husband. At this scene, plaintiff Machado was apparently trying to prevent the arrest by
20 pleas that appeared to indicate she did not want her now ex-husband arrested. This apparently
21 circulated around a domestic violence issue. Fr. Illo attempted to comfort plaintiff Machado, who was
22 quite distraught.

23 Plaintiff Machado, following the above incident, attended counseling, which Fr. Illo, in the
24 course of his pastoral duties, provided. A friendship developed between the two and Mrs. Machado's
25 children, including the two of whom are plaintiff's in this case.

26 It should be noted at this point that there are and have never been any allegations concerning Fr.
27 Illo and any alleged improprieties concerning these or any other children.

1 Plaintiff, Kathleen Machado, had obviously deep feelings for Fr. Illo, communicating to him in
2 one letter that she was "deeply in love" with him, could "feel" his "breath" and other such comments.
3 She even persuaded her children to write letters, including comments intimating the children wanted
4 Fr. Illo to be their father. In fact, she apparently wanted Fr. Illo to be her lover, something Fr. Illo could
5 not and would not be. Fr. Illo made this very clear to plaintiff Kathleen Illo, something that angered
6 her.

7 Despite this, Kathleen Machado would not give up. After Fr. Illo was transferred to St.
8 Joseph's in Modesto to take the place of Fr. O'Hare, who had died, plaintiff Machado stopped
9 attending St. Anthony's and began to attend daily and Sunday Mass at St. Joseph's in Modesto. Again,
10 this was only after Fr. Illo was assigned there. It should be noted that, unlike the location of St.
11 Anthony's that is literally around the corner and down the block from plaintiff's house, the drive to St.
12 Joseph's takes approximately 15-17 minutes in a light traffic day.

13 Plaintiff Kathleen Machado would attend daily Mass, sitting in the front pew with her three
14 children, whom she always took with her. She continued to write what can only be called love notes to
15 Father Illo. She had feelings, that Fr. Illo could not and would not return. During this entire time, the
16 children also wrote notes, including one from Rachel that stated "I love you as much as my mother".

17 It got to the point that Fr. Illo had to dispel any notions Mrs. Machado had, and to terminate the
18 distraction she had become to his ministry, which included caring for the spiritual, emotional and
19 physical needs of 4,500 families in the parish. This occurred prior to the time that Father Arakal came
20 to Saint Joseph's

21 It is at this point that Fr. Arakal enters the picture. When Fr. Illo made it abundantly clear that
22 nothing was to come of the relationship with Mrs. Machado, she invited Fr. Arakal over for dinner on 2
23 occasions and a third time for a house blessing.

24 Father Arakal's relationship with the plaintiffs dates to the late spring of 2001, within a few
25 months after moving to Modesto from a parish in Lemoore, when he accepted a dinner invitation to the
26 home of plaintiff Machado, who routinely attended daily Mass with her daughters. Plaintiffs have
27 testified that Arakal allegedly badgered them into the dinner. invitation which the family reluctantly
28

1 agreed to. Both Rachel and Amber Lomas have testified that with the exception of their much younger
2 sister, no member of the family ever even remotely liked Father Arakal, who; they claim had always
3 made them "uncomfortable". In short plaintiffs agreed that there was never any semblance of a close
4 trusting relationship between themselves and Father Arakal.

5 It was on the last of these visits, for a house blessing, that the allegations of improper conduct
6 arose.

7 The plaintiff's allege that Fr. Arakal pulled up his shirt. Exposing his belly and patting it after
8 one dinner. Plaintiff's also claim that Fr. Arakal put his collar in his front pocket and told the youngest
9 child to take it out. Of interest, plaintiff Rachel Lomas claims this happened at the house, while
10 plaintiff Amber Lomas has stated it occurred in the very public area of the front of St. Joseph's Church,
11 with many people around. The only consistent statements of these two plaintiffs is that the youngest
12 girl never did pull out the collar, being prevented from doing so by the mother. Father Arakal denies
13 the collar incident occurred at all.

14 Further background is necessary at this point. The scene of the alleged abuse and battery,
15 Machado house can best be described as small. The kitchen has an opening below the cabinets where
16 one can view the living room area in an unobstructed fashion. The living room and the couch that is
17 relevant to this proceeding are located, is not more than 2½ to 3 feet away from the counter. There are
18 no barriers that would prevent a person in the kitchen from hearing, and seeing everything that goes on
19 in the living room.

20 After the 3rd dinner, in July, 2001, the plaintiff children went into the living room with Fr.
21 Arakal. Colleen Lomas, admits that, as the four sat there, she began to tickle Fr. Arakal and her sister
22 Amber Lomas. She and her sister also tickled plaintiff Rachel Lomas, who tickled all back, including
23 Fr. Arakal. Fr. Arakal also tickled back and soon all four were engaged in a tickling contest.

24 At this point the story not only converges, but there are exaggerations and additions made by
25 the plaintiffs as they related an ever more engrossing tale to successive individuals over a course of
26 time and circumstances.

1 Plaintiff Amber Lomas claims that Father Arakal tickled her on the upper legs and abdomen. In
2 an interview undertaken by the Stanislaus County District Attorneys office as part of the Hughson
3 Police Departments investigation (an investigation that was initiated, it should be added, by the
4 defendants themselves as soon as a claim of inappropriate conduct was made to defendants) Amber
5 expressly denied any touching of breast or vaginal areas. She has also testified accordingly. Despite
6 this, and with full knowledge of the falsity of such claims, the plaintiff's and their counsel have alleged
7 and put into the public domain, claims that plaintiff Amber Lomas was molested by sexually motivated
8 touching of her breasts and vaginal areas by Father Arakal. Discovery and law enforcement
9 investigation have made it an undisputed fact that the occurrence with Amber Lomas never happened.

10 Plaintiff Rachel Lomas also claims inappropriate conduct on the part of Father Arakal in the
11 same incident. Although plaintiff Amber Lomas claims that Father Arakal had pinned plaintiff Rachel
12 Lomas to the floor by holding both of her hands down out to her side with both of his hands and, in
13 what can only be described as a feat extraordinaire, was, while having both of his hands on her hands,
14 able to brush against her breasts with his.

15 Plaintiff Rachel Lomas also claims that Father Arakal had pinned her to the floor, telling the
16 Stanislaus County District Attorney sexual abuse investigator that she had blacked out a large part of
17 the incident and could not remember details, then going into vivid detail in the interview, that Father
18 Arakal took his right hand off of her right hand and proceed to first brush his hand against her breast
19 and then also touch a breast with a cupped hand.

20 It should be noted that this conduct was in the living room in full view of Kathleen Machado,
21 who was in the kitchen, 2 – 3 feet away.

22 The plaintiff's have differing versions of what transpired next. One is that Rachel Lomas
23 commanded Father Arakal to get off of her, another that she just left without saying anything. Father
24 Arakal is claimed to have said, or strongly commented, or yelled, depending on the version, "I didn't
25 do anything wrong." Allegedly plaintiff Kathleen Machado, after this incident ordered Father Arakal
26 out of the house.

1 According to the testimony of Rachel Lomas and Amber Lomas, as well as Kathleen Machado,
2 nothing was said to Kathleen Machado or anyone about the alleged incident. Neither did Kathleen
3 Machado do anything, as one might expect a mother to do if she suspected inappropriate conduct by
4 someone against her own daughter in the very living room of her home. There was not call to the
5 police, nor report to a child abuse agency, no call to Fr. Illo or to anyone at the Diocese of Stockton.

6 It was not until almost three months later that some claim was made concerning Father Arakal.
7 And it was not a claim of inappropriate conduct. In fact, the incident, occurring September 11, 2001
8 wherein a statement was made that Father Arakal made Amber Lomas feel "uncomfortable" can only
9 be described as bizarre.

10 Amber allegedly asks her mother to speak to Fr. Illo after a weekday mass. Despite the
11 tempestuous relationship between her family and Illo, Ms. Machado had no hesitation in leaving her 11
12 year old daughter in the company of Illo and then departing for work, Ms. Machado alleges that she
13 had no clue that Amber had allegedly intended to unburden herself to Illo of the secret of the alleged
14 molestation by Arakal. Discovery has revealed that while Amber may have informed Father Illo about
15 her feelings that Arakal made her feel uncomfortable, the majority of her concerns revolved around her
16 anger toward Illo, pictures of whom she had brought to the meeting, There was absolutely no report of
17 any molestation made to Illo who was told only about the shirt lifting episode and the alleged collar
18 event.

19 Illo upon hearing the claim about his associate, made the decision to summon Arakal, who
20 already bearing rumors being spread about him by Ms. Machado, understandably became defensive.
21 Amber, now in the presence of two upset adults likewise became upset to the point where parish staff
22 members summoned not only her mother, but also a counselor. This counselor expressly informed
23 Father Illo that she was a designated reporter and if she had any information of a possible abuse or
24 molestation she would have to report it.

25 The counselor, Yvone McLoughlin, conducted an interview of Amber Lomas, in the presence
26 of the girl's mother, aunt and a friend. Based on the interview and her education, training and
27 experience, Ms. McLoughlin ascertained that no abuse had occurred.

1 Since this professional made a determination contrary to what plaintiff's are trying to claim in
2 this litigation, plaintiffs now try to assert that the counselor, Yvonne McLoughlin, is also part of
3 parish/diocesan, conspiracy to cover up Arakal's acts.

4 In reality, no claim of inappropriate touching, abuse or inolestation was made. It was not until
5 approximately spring of 2002, apparently after Machado had consulted her attorneys, that the
6 grandfather of the minor plaintiffs approached Monsignor Ryan after a Confirmation in Ceres and said
7 something inappropriate had occurred. This was on a Friday night and Monsignor Ryan met with the
8 family as early as a meeting could be arranged, the following Monday.

9 The Diocese of Stockton, due to the allegations of inappropriate touching, made for the first
10 time in 2002, immediately contacted the Hughson Police Department. The Hughson Police Department
11 and the Stanislaus County. Pursuant to Diocesan policy, Father Arakal was suspended pending the
12 results of the investigations. None of the investigations determined that there was a credible allegation
13 nor did the investigations reveal any basis for requiring a report of potential abuse to the Department of
14 Justice. Father Arakal, after being completely cleared, was reinstated.

15 Despite independent investigation and findings clearly indicating that the allegations were
16 meritless, the plaintiffs alleged that the events occurred, alleged a conspiracy to cover up the
17 allegations, claiming that a report of abuse was made on September 11, 2001 and that even neutral
18 professionals that clearly indicated they would report any suspected child abuse, were involved in a
19 grand scheme to cover up the allegations and to defame the plaintiffs.

20 The facts are otherwise.

21 ISSUES

22 The issues involve the allegations of abuse and battery, alleged conspiracy not to report
23 allegations of child abuse and defamation of plaintiffs and damages consequent thereto. The
24 defendants deny and vigorously contest the allegations and claims as without merit.

25 Motions

26 A motion for a gag order will be made at the settlement conference, as will be more fully
27 discussed below. Other than such request, no motions, save and except motions in limine are
28

1 anticipated at this time. There is a motion for protective order, filed by plaintiffs, is pending regarding
2 witness Johnny Smith, a plaintiff's investigator designated in discovery responses as a person with
3 knowledge of the facts that, to this party's information and belief, has told at least one witness, a police
4 officer in Lemoore, that this case involved a rape, something entirely false and intended to prejudice
5 the potential witness.

6 SETTLEMENT DISCUSSIONS/COMMENTS

7 Mediation has been attempted. However, the plaintiff's by virtue of their conduct in, at
8 minimum failing to correct the facts with a reporter for the Record, allowing a factually inaccurate
9 report to be broadcast not only in the newspaper but on the internet (due to the Record's publication on
10 the Internet) where it will remain worldwide for years to come due to the technology, and in apparently
11 violating the terms of a confidentiality agreement concerning an earlier case that was totally irrelevant
12 and differed from the present matter completely, have seriously jeopardized negotiations, almost
13 ensuring the matter will have to be tried.

14 Although plaintiff's deny any hand in it, based on statements of the reporter to this party's
15 counsel, it is clear that information on this four year old case, was for the first time given to the press to
16 be published less than one month prior to trial. The source of the information can be reasonably
17 inferred.

18 It is this party's contention that this conduct was expressly designed to poison the potential jury
19 pool and to attempt, in the current public hysteria of alleged clerical abuse cases, to intimidate the
20 defendants.

21 This conduct has raised further issues and potential future litigation as against all entities and
22 persons who, without privilege have libeled Father Arakal, Father Illo and the other defendants in this
23 matter, seriously harming their reputations and ability to carry out their priestly ministry with
24 knowingly innacurrate accusations designed to expose them to scorn and ridicule and question their
25 character.

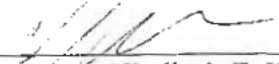
1 TRIAL/MISCELLANEOUS ISSUES

2 Trial of this matter is anticipated to take 12-15 court days. A jury questionnaire will be
3 proposed and individual voir dire will be requested.

4 In addition, due to the matters discussed above, a gag order is requested to preclude any party,
5 witness or counsel in this matter from communicating, disseminating or commenting upon any aspect
6 of this litigation, except in actual court proceedings, or with prior approval of the court, until the
7 conclusion of this matter.

8 Dated: 2-1-05

MAYALI, HURLEY, KNUTSEN, SMITH & GREEN

9 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 FR. JOSEPH ILLO, BISHOP STEPHEN BLAIRE, MONSIGNOR RICHARD RYAN AND ROMAN CATHOLIC BISHOP OF STOCKTON, A CORPORATION SOLE'S SETTLEMENT CONFERENCE STATEMENT

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., 6TH 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.

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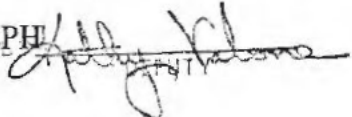
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Served and executed on February 1, 2005, at Stockton, California.


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

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2005-2 JUN 10 01
STOCKTON, CALIF.

Attorneys for Defendant FR. FRANCIS ARAKAL JOSEPH



8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

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

) Case No.: CV018440
)
) SETTLEMENT CONFERENCE
) STATEMENT

2-7-05

17 **I.**
18 **PARTIES AND REPRESENTATION**

19 Plaintiffs are represented by George J. MacKoul and Anthony Boskovich. Defendant Fr.
20 Francis Arakal Joseph is represented by Michael D. Coughlan. Defendants, Fr. Joseph Illo,
21 Bishop Stephen Blair, Fr. Richard Ryan and the Diocese of Stockton are represented by Vladimir
22 F. Kozina and Paul N. Balestracci.

23 **II.**
24 **FACTUAL BACKGROUND**

25 This action involves allegations of sexual abuse and battery made by Rachel and Amber
26 Lomas, the minor children of plaintiff Kathleen Machado against defendant, Fr. Francis Arakal

1 Joseph(hereinafter, Arakal), a Catholic priest assigned to St. Joseph's Church in Modesto. In
2 addition to the claims involving the alleged abuse, plaintiffs have alleged that Fr. Arakal and
3 other defendants were involved in acts of defamation and a civil conspiracy.

4 Discovery has revealed that the alleged act of abuse revolves around a tickling episode
5 involving Arakal and the three Lomas children that occurred in the living room of the family's
6 small home, with their mother, Ms. Machado, present in the adjoining kitchen within sight and
7 sound of the living room. A visit to the plaintiff home has revealed that the kitchen and
8 living/family room consist of an open area separated only by a partition wall that does not reach
9 the ceiling. The configuration effectively results in one large open room.

10
11 Plaintiff Rachel Lomas claims that during this tickling, defendant somehow pinned her
12 to the ground and touched the area of her clothed breasts while her two sisters stood by. Ms.
13 Machado, who had literally been only a few feet away, came into the room, to allegedly find
14 Arakal hovering over her daughter and denying that any thing had happened. After her daughter
15 ran to her bedroom in a state of emotional upset, Machado, who was concerned enough to
16 immediately order Arakal from her bouse, subsequently made only minimal inquiry of her
17 daughters. Ms. Machado made no effort to report the incident. Ms. Machado denies any
18 knowledge of the details concerning the alleged inappropriate touching until the spring of 2002,
19 when her daughters allegedly broke their self imposed silence.

20
21 It was the defendant Diocese, which upon learning of the allegations, immediately
22 contacted law enforcement officials. A subsequent investigation by the Hughson Police
23 Department (Stanislaus Sheriff) and the Stanislaus County District Attorney's office, which
24 included detailed interviews with the Lomas girls, determined that the allegations were not
25
26

1 substantiated. Fr. Arakal, who had been suspended from his duties and removed from the parish
2 during the investigation, was allowed to return to the parish where he still serves.

3 Fr. Arakal's relationship with the plaintiffs dates to the late spring of 2001, within a few
4 months after moving to Modesto from a parish in Lemoore, when he accepted a dinner invitation
5 to the home of plaintiff Machado, a single mother of three daughters, who routinely attended
6 daily mass. Plaintiffs have testified that Arakal allegedly badgered them into the dinner
7 invitation, which the family reluctantly agreed to. Both Rachel and Amber Lomas have testified
8 that with the exception of their much younger sister, no member of the family ever even
9 remotely liked Arakal, who they claim had always made them "uncomfortable". In short,
10 plaintiffs all agree that there was never any semblance of a close trusting relationship between
11 them and Arakal.

13 This opinion was shared by Ms. Machado who claims that prior to the event involving
14 the alleged touching of Rachel in July 2001, she had personally witnessed Arakal lift his shirt to
15 expose his bare stomach while complimenting her on her cooking. On another occasion, Ms.
16 Machado allege that Arakal removed his clerical collar, which he then placed into his front
17 trouser pocket and in full view of all the plaintiffs invited the youngest Lomas child to see if she
18 could retrieve it or anything else that she might find in the pocket. Based upon these alleged acts
19 of conduct, it seems inconceivable that Machado would have even allowed Fr. Arakal back into
20 her home, let alone grant him unsupervised access to her children. While Arakal admits to lifting
21 his shirt during a discussion about his need for exercise, he adamantly denies the collar incident
22 as characterized by the plaintiffs, or that he ever intentionally touched any of the children in an
23 inappropriate manner.
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1 By way of background, Ms. Machado and her children had a rather long and apparently
2 close relationship with St. Joseph's pastor Fr. Joseph Illo, who had counseled Machado when she
3 was in the process of ending an abusive marriage while he was assigned to St. Anthony's Parish
4 in Hughson during a brief period in the late 1990's. The relationship between the plaintiffs and
5 Fr. Illo had soured long before Fr. Arakal's arrival at St. Joseph's to the point that Illo had
6 considered seeking a restraining order against Ms. Machado, whose behavior had already
7 resulted in her being barred from participation in parish activities such as religious education.
8

9 Discovery has produced several letters written to Fr. Illo, not only by Ms. Machado, but
10 also her children, in which they discuss the broken relationship between Illo and Machado. The
11 letters, which include some where the girls express their love for Illo as a father and discuss
12 their mother crying herself to sleep over the loss of the relationship, are unusual, to say the least,
13 when considering both the mature subject matter and ages of the authors.

14 The facts of the case become even more bizarre when on September 11, 2001, Amber
15 allegedly asks her mother to speak to Fr. Illo after a weekday mass. Despite the tempestuous
16 relationship between her family and Illo, Ms. Machado had no hesitation in leaving her 11 year-
17 old daughter in the company of Illo and then departing for work. Ms. Machado alleges that she
18 had no clue that Amber had allegedly intended to unburden herself to Illo of the secret of the
19 alleged molestation by Arakal. Discovery has revealed that while Amber may have informed Illo
20 about her feelings that Arakal made her feel uncomfortable, the majority of her concerns
21 revolved around her anger toward Illo, pictures of whom she had brought to the meeting. There
22 was absolutely no report of any molestation made to Illo, who was told only about the shirt
23 lifting episode and that relating to the collar.
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1 Illo upon hearing the claims about his associate, made the decision to summon Arakal,
2 who already hearing rumors allegedly being spread about him by Ms. Machado, became
3 defensive. Amber, now in the presence of two upset adults likewise became upset to the point
4 where parish staff members summoned not only her mother, but also a counselor, who in the
5 presence of the girl's mother, aunt and a friend ascertained that no abuse had occurred with the
6 focus of the interview, the plaintiff's relationship with Fr. Illo. Plaintiffs now try to asset that the
7 counselor, Yvonne McLoughlin, is also part of parish/diocesan conspiracy to cover up Arakal's
8 acts.
9

10 **II**
ISSUES REMAINING

11 Defendant Arakal denies any intentional wrongdoing connected with this matter, and if
12 anything is culpable of being naïve and exhibiting poor judgment in allowing himself to be
13 placed in the position where innocent acts of a relative newcomer to the United States could later
14 be characterized as something sinister by litigants in a civil case. There has been no evidence of
15 any defamation on the part of Arakal towards any of the plaintiffs. As such, liability and
16 damages in this matter are completely disputed by this defendant.
17

18 **III**
DISCOVERY, LAW AND MOTION AND TRIAL

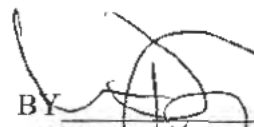
19 As of the time of this statement, discovery is ongoing with depositions of parties,
20 witnesses and experts still scheduled prior to the February 22, 2005 trial date. Defendant Arakal
21 does not anticipate the filing of any law and motion matters other than in limine motions. It is
22 anticipated that trial of this matter will last 10 days. Defendant requests the maximum number of
23 preemptory challenges as allowed by law.
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IV
SETTLEMENT NEGOTIATIONS

This matter was the subject of a private mediation in November Of 2004, which although ongoing, has to date has failed to advance the matter towards a resolution.

DATED: 2/2/05


BY _____
MICHAEL D. COUGHLAN
Attorney for Defendant,
FR. FRANCIS ARAKAL JOSEPH

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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 September 1, 2004, I served the attached:

Defendant's Request for Inspection of Documents and Land, Set One to Plaintiff Kathleen Machado

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

George J. MacKoul, Esq.
Sabbah & MacKoul
49 Locust Street
Falmouth, MA 02540

Anthony Boskovich, Esq.
28 N. First Street, 6th Floor
San Jose, CA 95113

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

Vladimir F. Kozina, Esq.
2453 Grand Canal Blvd., Second Floor
Stockton, CA 95207


BY MAIL:

[x] 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 November 30, 2004, at Stockton, California.


Mary L. Coughlan

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

FEB 1 2005
02/02/05 09:00 AM

41

met at Stockton, California

Hon. Elizabeth Humphreys

Date

Dept

Judge

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

Clerk: Charlene Gray
Reporter/Tape: _____
Bailiff: _____
Interpreter: _____

[PLTF] Kathleen Machado

[DEFT] Joseph Illo AKA

[DEFT] Francis Joseph AKA Joseph Arakal

[DEFT] Richard Ryan

ANTHONY BOSKOVICH

GEORGE J MACKOUL

VLADIMIR F KOZINA

PAUL BALESTRACCI

MICHAEL D COUGHLAN

PAUL BALESTRACCI

Nature of proceedings: Notice of moten and motion for continuance;

Hearing held

Matter is continued to _____ at _____ in Dept. _____

Dropped - **ROC**

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

MINUTE ORDER -- LAW AND MOTION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

02/02/05 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

CALENDAR RESERVATIONS

CASE # CV018440
CASE NAME MACIADO VS ILLO
HEARING DATE 2/2/05 DEPT. # 41

- ADD
- ROC DROP
- ROC CONTINUED TO _____
- ATTORNEY CALLING KOZINA
- DATE AND TIME CALLED 1/31/05 @ 8:13 AM
- CONFIRMATION TO BE SENT BY FAX
- STIPULATION TO BE FILED _____
- COUNSEL HAS NOTIFIED ALL PARTIES RIGHT NOW
- REASON: PARTIES NO LONGER NEED CON'T

- ADPN
- APPL
- CDIS
- CVLA
- DOSC
- EMPM
- FLSC
- FSD OEX

- FMLA
- FSDC
- FTRK
- FTRL
- LWMN
- MNTL
- PROB

- SCAP
- SPHR
- STCF
- STML
- TRLS
- TSCF
- UNHR

LAW OFFICES
MAYALL, HURLEY, KNUTSEN, SMITH & GREEN
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 1926-1971
 EDWIN MAYALL
 1907-1958

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 ALYN E. SMITH
 DENNIS L. GREEN
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WILLIAM W. RAFF
 MARK STEPHEN ADAMS
 J. ANTHONY ABBOTT
 VLADIMIR F. KOZINA
 KEVIN M. BROWN
 STEVEN A. MALCOUN
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 WILLIAM J. GORMAN III
 JOSEPH A. SALAZAR, JR.
 JEFFREY D. SETNESS
 QUEENRITH L. MACEDO
 JAY W. HIRSHOP
 DAVID CHENG
 ROBERT RODRIGUEZ
 CHAD L. WOOD
 KEENA O. MIROYA
 AMANDA R. DEVLIN
 MICHAEL L. MILLER

January 31, 2005

San Joaquin County Superior Court
 222 E. Weber Avenue
 Stockton, CA 95202

Via Fax: 468-0539

Re: *Machado v. Ilo, et al.*
 Case No. CV018440

*Done
 1-31-05*

Dear Sir/Madam:

This letter will confirm that the Motion to Continue Trial which was scheduled for February 2, 2005 has been taken off calendar.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,
Mayall, Hurley, Knutsen, Smith & Green

By 
 VLADIMIR F. KOZINA

VFK/sas

cc	George J. MacKoul	Via Fax: (508)495-4115
	Anthony Boskovich	Via Fax: (408)286-5170
	Paul Balestracci	Via Fax: 948-4910
	Michael D. Coughlan	Via Fax: 957-5338