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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

JOHN BA DOE, an individual,
Plaintiff,

v.

DOE 1, a business entity of form unknown;
DOE 2, a business entity of form unknown;
DOE 3, a business entity of form unknown;
DOE 4, a business entity of form unknown;
DOE 5, an individual; and DOES 6 through
100, inclusive,
Defendants.

Case No.: **37-2008-00094615-CU-PO-CTL**
Judge: Dept.:

COMPLAINT FOR DAMAGES FOR:

- 1) NEGLIGENCE;
- 2) NEGLIGENT SUPERVISION;
- 3) NEGLIGENT HIRING/
RETENTION;
- 4) NEGLIGENT FAILURE TO WARN,
TRAIN OR EDUCATE;
- 5) CONSTRUCTIVE FRAUD (C.C. §
1573);
- 6) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;
- 7) SEXUAL BATTERY (C.C. § 1708.5);
- 8) ASSAULT;
- 9) SEXUAL HARASSMENT (C.C. §
51.9);
- 10) GENDER VIOLENCE (C.C. § 52.4);
- 11) VIOLATION OF BUS. & PROF.
CODE (§ 17200)

[DEMAND FOR JURY TRIAL]

[Filed Pursuant to C.C.P. § 340.1,
Concurrently with Certificates of Merit]

COMES NOW, Plaintiff JOHN BA DOE, who complains and alleges as follows:

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Clerk of the Court
CST 24 2008
FROST

1 Alameda, State of California. At all times herein alleged, DOE 5 was an employee, agent, and/or
2 servant of DOES 1-4, and was under their complete control and/or active supervision.

3 7. At all times mentioned herein, each and every Defendant was an employee, agent,
4 and/or servant of DOE 1 through 5 and DOES 6 through 100, inclusive, and/or was under their
5 complete control and/or active supervision. Defendants and each of them and DOE 5 are
6 individuals, corporations, partnerships and/or other entities that engaged in, joined in, and
7 conspired with DOE 5 and other Defendants and wrongdoers in carrying out the tortuous and
8 unlawful activities described in this Complaint.

9 8. Defendants DOES 6 through 100, inclusive, and each of them, are sued herein
10 under said fictitious names. Plaintiff is ignorant as to the true names and capacities of DOE
11 Defendants, whether individual, corporate, associate, or otherwise, and therefore sue said
12 Defendants by such fictitious names. When their true names and capacities are ascertained,
13 Plaintiff will request leave of Court to amend this Complaint to state their true names and
14 capacities herein.

15 9. Plaintiff is informed and believes, and on that basis alleges, that at all times
16 mentioned herein, each fictitiously named Defendant was responsible in some manner or capacity
17 for the occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were
18 proximately caused by all said DOE Defendants.

19 10. Defendants DOE 1, DOE 2, DOE 3, DOE 4, DOE 5 and DOES 6 through 100,
20 inclusive, are sometimes collectively referred to herein as "Defendants" and/or as "All
21 Defendants"; such collective reference refers to all specifically named Defendants as well as those
22 fictitiously named herein.

23 11. Plaintiff is informed and believes, and on that basis alleges, that at all times
24 mentioned herein, there existed a unity of interest and ownership among Defendants and each of
25 them, such that any individuality and separateness between Defendants, and each of them, ceased
26 to exist. Defendants and each of them, were the successors-in-interest and/or alter egos of the
27 other Defendants, and each of them, in that they purchased, controlled, dominated and operated
28 each other without any separate identity, observation of formalities, or other manner of division.

1 To continue maintaining the facade of a separate and individual existence between and among
2 Defendants, and each of them, would serve to perpetrate a fraud and an injustice.

3 12. At all times mentioned herein, DOE 5 was an adult religious student and summer
4 pastoral intern of DOES 1-4, placed by DOES 1-4 in a residential internship program—an
5 in-service training experience where DOE 5 would be dispatched to local churches, cross-cultural
6 settings and missions, designed to prepare him for active ministry. In so doing, DOES 1-4 held
7 DOE 5 out to the public, Plaintiff and Plaintiff's parents to be of high ethical and moral repute,
8 and to be in good standing with DOES 1-4 and the general public. DOES 1-4 specifically
9 represented to Plaintiff and Plaintiff's parents that DOE 5 was a ministry student/intern in good
10 standing, who Plaintiff and Plaintiff's parents should welcome into their residence for the purpose
11 of completing an internship in ministry. Inherent in this representation was the understanding that
12 DOE 5 was a person of high moral standing, selected to provide spiritual leadership, guidance,
13 mentoring and counseling to clergy members. Further, Plaintiff and his family reasonably
14 assumed that DOE 5 would be a person capable of trust. At all times mentioned herein, DOE 5
15 was an employee, agent, and/or servant of Defendants DOE 1, DOE 2, DOE 3 and DOE 4 and/or
16 was under their complete control and/or supervision.

17 13. Plaintiff is informed and believes, and on that basis alleges, that at all times
18 mentioned herein, Defendants and each of them and DOE 5 were the agents, representatives and/or
19 employees of each and every other Defendant. In doing the things hereinafter alleged, Defendants
20 and each of them, and DOE 5, were acting within the course and scope of said alternative
21 personality, capacity, identity, agency, representation and/or employment and were within the
22 scope of their authority, whether actual or apparent.

23 14. Plaintiff is informed and believes, and on that basis alleges, that at all times
24 mentioned herein, Defendants and each of them and DOE 5 were the trustees, partners, servants,
25 joint venturers, shareholders, contractors, and/or employees of each and every other Defendant,
26 and the acts and omissions herein alleged were done by them, acting individually, through such
27 capacity and within the scope of their authority, and with the permission and consent of each and
28 every other Defendant and that said conduct was thereafter ratified by each and every other

1 Defendant, and that each of them is jointly and severally liable to Plaintiff.

2 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

3 15. At all times material hereto, DOE 5 was under the direct supervision, employ,
4 agency, and control of Defendants, DOE 1, DOE 2, DOE 3 and DOE 4, and DOES 6 through 100,
5 inclusive. At all times material hereto, DOE 5's employment duties and responsibilities with the
6 named Defendants included, in part, providing for the religious, educational, spiritual, and
7 emotional needs and well-being of students and other children, including Plaintiff, of DOE 1, DOE
8 2, DOE 3 and 4, and for the religious, educational, spiritual, and emotional needs and well-being
9 of students and parishioners of the Nazarene Church, and more specifically of DOE 1, a
10 corporation sole, and DOES 6 through 100.

11 16. At all times material hereto, Plaintiff was an adult religious student and pastoral
12 intern at and parishioner at DOE 3, a Nazarene university owned, operated and controlled by
13 Defendants and each of them.

14 17. At all times material hereto, DOE 5 was employed by and/or served as an agent and
15 representative of DOE 3 as a student and pastoral intern. Through his attendance and participation
16 in the pastoral internship program, DOE 5 was sent to Plaintiff and his parents' house, to serve as a
17 mentor and counselor, providing for the religious, educational, spiritual, and emotional needs and
18 well-being of parishioners and students at Plaintiff and his family's Church. It is under these
19 circumstances that Plaintiff came to be under the direction and control of DOE 5, who used his
20 position of authority and trust over Plaintiff to sexually harass, molest and abuse him. DOE 5 did
21 sexually harass, molest and abuse Plaintiff, who was a minor at the time. Such conduct was done
22 for DOE 5's sexual gratification, and was performed on Plaintiff without his free consent, as
23 Plaintiff was a mere minor and thus unable to give valid, legal consent to such sexual acts. These
24 actions upon Plaintiff constituted conduct in violation of California Penal Code sections 266j, 272,
25 273a, 285, 286, 288, 288a, 288.2, 288.5, 289, and 647.6.

26 18. As a helpless child in the home where DOE 5, as a representative and agent of DOE
27 3, was allowed to stay based on Defendants' holding DOE 5 out as a person of high moral repute
28 and strong character, Plaintiff was under DOE 5's supervision, care and control, thus creating a

1 special relationship, fiduciary relationship, and/or special care relationship with Defendants, and
2 each of them. Additionally, as a minor child under the custody, care and control of Defendants,
3 Defendants stood in loco parentis with respect to Plaintiff while he was in the direct control and
4 supervision of DOES 1-4. As the responsible parties and/or employers controlling DOE 5, and as
5 the operators of the Nazarene Church, Defendants were also in a special relationship with Plaintiff,
6 and owed special duties to Plaintiff.

7 19. As employers of DOE 5 with previous knowledge of DOE 5's dangerous
8 propensities and tendencies as a child molester, sexual harasser and sexual abuser, DOE 1, DOE 2,
9 DOE 3 and DOE 4 had a duty to reveal to Plaintiff, Plaintiff's parents, and students and
10 parishioners of Plaintiff and his parents' Church, that DOE 5 had dangerous propensities.
11 Defendants never provided Plaintiff, Plaintiff's parents, or students or parishioners of Plaintiff and
12 his parents' Church with such notice of DOE 5's dangerous propensities.

13 20. Defendants had a duty to disclose to Plaintiff and students, parishioners, minors,
14 parents, caretakers and others under DOE 5's direction and guidance that DOE 5 had in the past
15 engaged, and was continuing to engage, in unlawful sexually-related conduct with minors and with
16 parishioners and/or students of DOE 1, DOE 2, DOE 3 and DOE 4 but negligently and/or
17 intentionally suppressed, concealed or failed to disclose this information. The duty to disclose this
18 information arose by the special, trusting, confidential, and/or fiduciary relationship between
19 Defendants and Plaintiff.

20 21. While Plaintiff was a student and family member of DOE's 5 host family,
21 Defendants DOE 1, DOE 2, DOE 3 and DOE 4 engaged in a pattern and practice of employing
22 other child molesters and/or staff known to be a danger to minors in their care. In addition to
23 employing DOE 5, Defendants employed multiple other pastors, teachers, coaches, staff,
24 counselors, choir directors, employees, assistants, faculty members and others who were known to
25 have sexually abused minors.

26 22. Defendants had a duty to disclose to Plaintiff and his parents, and students,
27 parishioners, minors, parents, caretakers and others under DOE 1, DOE 2, DOE 3 and DOE 4's
28 control, direction, and guidance, that DOE 5 was known to be a child molester.

1 23. Plaintiff is informed and believes, and on that basis alleges, that Defendants were
2 apprised, knew or should have known and/or were put on notice of DOE 5's past sexual abuse of
3 minors, past arrests, charges, claims and/or investigations, and his propensity and disposition to
4 engage in unlawful activity and unlawful sexual activity with minors such that Defendants knew or
5 should have known that DOE 5 would commit wrongful sexual acts with minors, including
6 Plaintiff. This belief is founded on the fact that the personnel and/or school records and other
7 records of DOE 1, DOE 2, DOE 3 and DOE 4 reflect numerous incidents of inappropriate sexual
8 contact and conduct with minors by pastors, teachers, staff, counselors, coaches and others,
9 including incidents involving DOE 5, both on and off the physical premises of such Defendants.
10 Based on these records, Defendants knew and/or should have known of DOE 5's past sexual abuse
11 of minors, past arrests, charges, claims and/or investigations, and his propensity and disposition to
12 engage in unlawful activity and unlawful sexual activity with minors such that Defendants knew or
13 should have known that DOE 5 would commit wrongful sexual acts with minors, including
14 Plaintiff.

15 24. Defendants failed to take reasonable steps and/or implement reasonable safeguards
16 to avoid acts of unlawful sexual conduct by DOE 5 in the future, including, but not limited to,
17 preventing abuse of Plaintiff by DOE 5, avoiding placement of DOE 5 in a function or
18 environment in which contact with children is an inherent part of that function or environment.
19 Instead, Defendants ignored and/or covered up the sexual abuse of Plaintiff and others by DOE 5
20 that had already occurred. Plaintiff is informed and believes, and on that basis alleges, that
21 Defendants and each of them were given specific notice of incidents of inappropriate conduct by
22 DOE 5, including such facts as those set forth in this Complaint.

23 25. Plaintiff is informed and believes, on that basis alleges, that prior to and during the
24 sexual harassment, molestation and abuse of Plaintiff, Defendants knew or should have known that
25 DOE 5 would commit wrongful sexual acts with minors. This belief is founded on the fact that
26 church, personnel and/or school records and other records of DOE 1, DOE 2, DOE 3 and DOE 4
27 reflect numerous incidents of inappropriate sexual contact and conduct with minors by pastors,
28 teachers, coaches, staff, counselors, choir directors, employees, assistants, faculty members and

1 others, including incidents involving DOE 5, both on and off the physical premises of such
2 Defendants. Additionally, Defendants knew or should have known that DOE 5 had violated his
3 role as a teacher, spiritual advisor, youth counselor and mentor, and used this position of authority
4 and trust acting on behalf of Defendants to gain access to children, including Plaintiff, on and off
5 the church and school facilities and grounds, in which he caused Plaintiff to touch him, to allow
6 him to touch Plaintiff in a sexual manner, and engaged in sexual conduct and abuse, including
7 harassment and molestation, with such children including Plaintiff.

8 26. Because of the relationship between Plaintiff and Defendants, Defendants had an
9 obligation/duty under law not to hide material facts and information about DOE 5's past, including
10 but not limited to, allegations of sexual misconduct lodged against him. Additionally, Defendants
11 had an affirmative duty to inform, warn, and institute appropriate protective measures to safeguard
12 minors who were reasonably likely to come in contact with Defendants' employees and other
13 perpetrators of childhood sexual harassment, molestation and abuse at DOE 3. Plaintiff further
14 alleges that the Defendants willfully refused to notify, give adequate warning and/or to implement
15 appropriate safeguards and thereby created the peril that ultimately damaged Plaintiff.

16 27. With actual or constructive knowledge that Defendant DOE 5 was a child molester,
17 Defendants conspired to and did knowingly fail to take reasonable steps, and failed to implement
18 reasonable safeguards to avoid acts of unlawful sexual conduct in the future by DOE 5, including,
19 but not limited to, preventing or avoiding placement of DOE 5 in a function or environment in
20 which contact with children is an inherent aspect of that function or environment.

21 28. With actual or constructive knowledge that Defendant DOE 5 was incapable of
22 supervising and/or stopping other child molesters, Defendants conspired to and did knowingly fail
23 to take reasonable steps, and failed to implement reasonable safeguards to avoid acts of unlawful
24 sexual conduct in the future by those supervised by DOE 5, including, but not limited to,
25 preventing or avoiding placement of DOE 5 in a function or environment in which supervision of
26 employees whose contact with children is an inherent aspect of that function or environment.

27 29. Plaintiff further alleges that Defendants failed to report and did hide and conceal
28 from students, parents, parishioners, care givers, teachers, law enforcement authorities, civil

1 authorities and others, the true facts and relevant information necessary to bring DOE 5 to justice
2 for the sexual misconduct he committed with minors, as well as protect their fiduciaries, including
3 Plaintiff.

4 30. Plaintiff further alleges Defendants have engaged in a pattern and practice of
5 employing sexual abusers as faculty and staff administration within the ownership and control of
6 DOE 1, at DOE 3. Defendants knowingly and/or negligently concealed these facts from students,
7 their parents, the Nazarene community, the public at large and law enforcement.

8 31. Plaintiff is informed and believes, and on that basis alleges that Defendants
9 intentionally, conspiratorially, and fraudulently attempted to hide and conceal DOE 5's
10 propensities and acts of sexual harassment, molestation and abuse from public scrutiny and
11 criminal investigation. Clifford Stanton Fisher, the former administrator and intern coordinator,
12 created an implemented a "Conspiracy of Silence," a policy and procedure whereby any and all
13 allegations of sexual misconduct by employees and agents of DOE 1, DOE 2, DOE 3 and DOE 4
14 would be immediately squelched, concealed and hidden from the public, parishioners and law
15 enforcement. After Mr. Fisher's retirement, the DOE 3 representative who took over as the
16 administrator and intern coordinator, continued this "Conspiracy of Silence," a policy and
17 procedure of concealing and hiding allegations of sexual misconduct by employees and agents of
18 DOE 1, DOE 2, DOE 3 and DOE 4 from the public, parishioners, and law enforcement.
19 Defendants concealed from Plaintiff, the public and law enforcement the fact that DOE 1, DOE 2,
20 DOE 3 and DOE 4 had multiple individuals working within their ranks who had been accused of
21 sexual misconduct with minors, and/or were at the time sexually abusing minors. After receiving
22 the report of DOE 5's sexual misconduct with Plaintiff, Defendants immediately implemented the
23 "Conspiracy of Silence"- an elaborate scheme, which had already been in place, utilized to conceal
24 the identities and actions of sexual abusers operating within DOE 1 from parishioners, law
25 enforcement personnel, and the public. Individuals with direct knowledge of the sexual abuse
26 being committed by employees of DOE 1, such as DOE 3 administrators and intern coordinators
27 quickly began the process of concealing the identity and actions of DOE 5 and other known
28 abusers from the public. The sexual abuse committed by DOE 5 was a result of the tolerance and

1 culture of sexual abuse fostered by DOE's 1-4.

2 32. Defendants also implemented various measures designed to, or which effectively,
3 made DOE 5's conduct harder to detect including, but not limited to:

- 4 a. Failing to disclose DOE 5's prior record of sexual abuse and molestation of minors
5 and his propensity to commit such acts to the church and school community
6 including parishioners, students, parents, care givers, teachers and staff, the public
7 at large, and law enforcement;
- 8 b. Permitting DOE 5 to remain in a position of authority and trust after Defendants
9 knew or should have known he was a molester of children;
- 10 c. Placing DOE 5 in a separate and secluded environment, including placing him in
11 charge of young children, counseling programs, youth parishioners, and youth
12 programs where they purported to supervise the children, which allowed him to
13 sexually and physically interact with and abuse the children, including Plaintiff;
- 14 d. Allowing DOE 5 to come into contact with minors, including Plaintiff, without
15 supervision;
- 16 e. Failing to adequately hire, screen, supervise or retain DOE 5, who they permitted
17 and enabled to have access to minors, including Plaintiff;
- 18 f. Failing to investigate or otherwise confirm or deny such facts about DOE 5,
19 including prior arrests, charges, claims and investigations for sexual abuse of
20 minors;
- 21 g. Failing to inform, or concealing from Plaintiff, Plaintiff's parents, students,
22 parishioners, the church community, the community as a whole, and law
23 enforcement officials the fact that DOE 5 was or may have been sexually abusing
24 minors;
- 25 h. Failing to inform, or concealing from Plaintiff's parents and law enforcement
26 officials the fact that Plaintiff and others were or may have been sexually abused
27 after Defendants knew or had reason to know that DOE 5 may have sexually abused
28 Plaintiff or others, thereby enabling Plaintiff to continue to be endangered and
sexually abused, and/or creating the circumstance where Plaintiff and others were
less likely to receive medical/mental health care and treatment, thus exacerbating
the harm to Plaintiff;
- i. Holding out DOE 5 to Plaintiff and his parents, students, parishioners, and to the
school and church community as being in good standing and trustworthy;
- j. Cloaking DOE 5's contact and actions within the facade of normalcy, thereby
disguising the nature of his sexual abuse and contact with minors;
- k. Failing to take reasonable steps, and to implement reasonable safeguards to avoid
acts of unlawful sexual conduct by DOE 5 with students and parishioners, who
were minor children, including but not limited to preventing or avoiding placement
of DOE 5 in functions or environments in which his solitary contact with children
was inherent; and
- l. Failing to put in place a system or procedure to supervise or monitor employees,

1 volunteers, representatives or agents to insure that they did not molest or abuse
2 minors in Defendants' care, including Plaintiff.

3 33. By his position within the Defendants' institutions, DOE 5 attained a position of
4 respect and influence over Plaintiff, and others. Defendants' conduct created a situation of peril
5 that was not, and could not be appreciated by Plaintiff. By virtue of Defendants' conspiratorial and
6 fraudulent conduct, and in keeping with their intent to fail to disclose and hide DOE 5's past and
7 present conduct from the parish, school and church community, the public at large, and law
8 enforcement, Defendants allowed molester DOE 5 to remain in a position of influence where his
9 unsupervised or negligently supervised conduct with minors made the molestation and abuse of
10 minors possible.

11 34. By his position within the Defendants' institutions, Defendants and DOE 5
12 demanded and required that Plaintiff respect DOE 5 in his position of pastoral intern, teacher,
13 student, spiritual guide, mentor and counselor representing DOE's 1-4.

14 35. The incidents of abuse outlined herein took place while Plaintiff was under the
15 control of DOE 5, in his capacity and position as a student and pastoral intern, teacher, spiritual
16 guide, mentor and counselor at DOE 3, and while acting specifically on behalf of DOE 1, DOE 2,
17 DOE 3, DOE 4 and DOE's 6 through 100, including, but not limited to, the following:

- 18 a. DOE 5 was at all times relevant to this Complaint a student, pastoral intern, teacher,
19 spiritual guide, mentor and counselor representing DOE 3, an institution wholly
20 owned, controlled and operated by the Nazarene Church, specifically DOE 1 and
21 DOE 2;
- 22 b. Before DOE 5 sexually harassed, molested and abused Plaintiff, DOE 1, DOE 2,
23 DOE 3, DOE 4 and DOES 6 through 100 were well aware that DOE 5 took an
24 unusual interest, and spent an inordinate amount of time with minor parishioners,
25 students, and other minors in his charge;
- 26 c. In full awareness that minors and parishioners were at risk of becoming victims of
27 sexual harassment, molestation and abuse by DOE 5, Defendants (except DOE 5)
28 and each of them did willfully assign DOE 5 as a pastoral intern, teacher, spiritual
advisor, youth counselor and mentor at DOE 3;
- d. In his capacity as a pastoral intern, teacher, spiritual advisor, youth counselor and
mentor for Defendants, DOE 5 was given custody and supervision of minors,
including Plaintiff. DOE 5 was able to use his position as a pastoral intern, teacher,
spiritual advisor, youth counselor and mentor representing DOE 3 to require
children to give into his sexual suggestions, and to use his authority and position of
trust to exploit them physically and emotionally;

- 1 e. In or around the summer of 1982, Plaintiff was a parishioner and host family
2 member of the home where DOE 3 had arranged for DOE 5 to reside during the
3 course of his pastoral internship arranged by DOE 1, DOE 2, DOE 3, DOE 4 and
4 DOES 6-100. During that time period, Plaintiff was a minor, of three years of age;
- 5 f. At no time did Defendants or any of them advise Plaintiff or his family of the past
6 sexual misconduct of DOE 5 involving minors;
- 7 g. At no time did Defendants or any of them take any action to restrict DOE 5's access
8 and/or interaction with minors, including Plaintiff. In fact, Defendants' conduct
9 made it a virtual certainty that Plaintiff and other minors would be victimized;
- 10 h. Plaintiff, as a minor and member of DOE 5's pastoral intern host family, acted as a
11 parishioner performing Church duties for Defendants. While acting as a
12 parishioner and pastoral intern host family under Defendants' control, Plaintiff
13 came under the influence of DOE 5. DOE 5 took a special interest in Plaintiff, and
14 gained Plaintiff's confidence by feigning to be a friend, pastoral intern, counselor,
15 care-giver and mentor to Plaintiff;
- 16 i. While with Plaintiff, DOE 5 attempted to get increasingly and physically closer to
17 Plaintiff during times where DOE 5 was monitoring or babysitting Plaintiff.
18 Additionally, when Plaintiff's parents were sleeping, DOE 5 would wake Plaintiff
19 from his sleep in order to sexually abuse him;
- 20 j. Using his position as a student, pastoral intern, teacher, spiritual guide, mentor and
21 counselor, DOE 5 would initially try to sensually touch Plaintiff, attempting to gain
22 Plaintiff's, friendship, trust and affection. DOE 5 made a concerted effort to gain
23 Plaintiff's trust and confidence. In so doing, DOE 5 was merely beginning the
24 process of grooming Plaintiff for sexual abuse, gaining access to Plaintiff sexually;
- 25 k. In 1982, when Plaintiff was 3 years old, DOE 5 began using his position as a
26 student, pastoral intern, teacher, spiritual guide, mentor and counselor representing
27 DOE 3 to sexually harass, molest and abuse Plaintiff. This sexual harassment,
28 molestation and abuse continued for an extended period of time;
- l. The sexual harassment of Plaintiff, committed by DOE 5, included DOE 5:
touching Plaintiff's arms, legs, buttocks and genitals; forcing Plaintiff to touch his
arms, legs, buttocks and genitals; forcing Plaintiff to masturbate his erect penis;
forcing Plaintiff to orally copulate him; and lying his naked body atop Plaintiff's,
grinding and rubbing his genitals against Plaintiff's body;
- m. The sexual abuse and molestation of Plaintiff included: Defendant DOE 5 fondling
Plaintiff's body and genitals; forcing Plaintiff to masturbate his erect penis until it
ejaculated; fondling Plaintiff's body; forcing Plaintiff's head down toward his erect
penis, attempting to force Plaintiff to orally copulate him; forcing Plaintiff to orally
copulate him; lying his naked body atop Plaintiff's, grinding and rubbing his
genitals against Plaintiff's body;
- n. The sexual harassment, molestation and abuse of Plaintiff, perpetrated by
Defendant DOE 5, occurred in Plaintiff and his parents' home in Berkeley,
California, in such specific locations as in the basement/cellar, garage and
Plaintiff's bedroom; and
- o. All of these acts were done at a time after Defendants knew of sexual abuse by
DOE 5 of other minors and parishioners affiliated with DOE's 1-4.

1 36. As set forth more fully herein above, DOE 5 did sexually harass, molest and abuse
2 Plaintiff, who was a minor at the time. Plaintiff is informed and believes, and on that basis
3 alleges, that such conduct by Defendant DOE 5 was based upon Plaintiff's gender, and was done
4 for his sexual gratification. These actions upon Plaintiff were performed by Defendant DOE 5
5 without the free consent of Plaintiff, who was a minor. These actions upon Plaintiff constitute
6 conduct in violation of California Penal Code sections 226j, 272, 273a, 288, 288.2, 288.5, and
7 647.6.

8 37. Plaintiff is informed and believes, and on that basis alleges, that Defendants and
9 each of them were or should have been aware of DOE 5's prior and continuing wrongful conduct
10 within DOE 1, DOE 2, DOE 3, DOE 4 and elsewhere, his wrongful conduct at or about the time it
11 was occurring, and thereafter, but took no action to obstruct, inhibit or stop such continuing
12 conduct, or to help Plaintiff endure the trauma from such conduct. Despite the authority and
13 ability to do so, Defendants negligently and/or willfully refused to, and/or did not, act effectively
14 to stop the sexual assaults on Plaintiff, to inhibit or obstruct such abuse, or to protect Plaintiff from
15 the results of that trauma.

16 38. During the period of abuse of Plaintiff at the hands of DOE 5, Defendants and each
17 of them had the authority and the ability to obstruct or stop DOE 5's sexual assaults on Plaintiff,
18 but negligently and/or willfully failed to do so, thereby allowing the abuse to occur and to continue
19 unabated. This failure was a part of Defendants' "Conspiracy of Silence"- a conspiratorial plan and
20 arrangement to conceal wrongful acts, to avoid and inhibit detection, to block public disclosure, to
21 avoid scandal, to avoid the disclosure of their tolerance of child sexual molestation and abuse, to
22 preserve a false appearance of propriety, and to avoid investigation and action by public authority
23 including law enforcement. Plaintiff is informed and believes, and on that basis alleges, that such
24 actions were motivated by a desire to protect the reputation of Defendants and each of them, and to
25 protect the monetary support of Defendants while fostering an environment where such abuse
26 could continue to occur.

27 39. Plaintiff immediately and completely repressed any and all memories of the sexual
28 harassment, molestation and abuse he suffered at the hands of Defendant DOE 5, which took place

1 during the year 1982. In or around February, 2008, Plaintiff began having nightmares, night
2 terrors, and flashbacks relating to the abuse. After a psychological and emotional collapse,
3 Plaintiff voluntarily committed himself to two one-week long stays in a mental health facility.
4 After meeting with therapists and discussing his breakdown with his parents, Plaintiff recalled
5 repressed memories of his sexual abuse by DOE 5. It was revealed to Plaintiff at this time that
6 Plaintiff's sister had been sexually abused by DOE 5 at an early age as well. Plaintiff, who was 3
7 years of age at the time of the abuse, without any evidence or pictures, began drawing sketches that
8 bear a striking resemblance to DOE 5. It was during this period of psychological and emotional
9 trauma that Plaintiff, for the first time, began to recall the sexual harassment, molestation and
10 abuse he suffered at the hands of DOE 5. Soon thereafter, Plaintiff began to realize that this recent
11 and uncharacteristic mental, emotional and psychological breakdown was due to the sexual
12 harassment, molestation and abuse he had suffered as a child at the hands of DOE 5. Furthermore,
13 Plaintiff began realizing that the multiple mental, psychological and emotional problems, injuries
14 or illnesses, including, but not limited to: problems maintaining intimate relationships throughout
15 his adult life, including but not limited to, trust and control issues, depression, anxiety,
16 sleeplessness, nervousness and fear, he had been suffering since 1982 were due to the sexual
17 harassment, molestation and abuse he had suffered as a child at the hands of DOE 5

18 40. Subsequent to 1982, Plaintiff began to exhibit a marked shift in his general
19 disposition and character, experienced multiple mental, emotional and psychological problems,
20 due to the sexual harassment, molestation and abuse he suffered at the hands of DOE 5, including,
21 but not limited to: Plaintiff being angry; Plaintiff experiencing major problems with intimacy; and
22 Plaintiff having significant trust and control issues. Plaintiff, subsequent to February 2008, began
23 to discover that his mental, psychological and/or emotional damages, illnesses or issues were and
24 are directly related to the childhood sexual harassment, molestation and abuse he suffered as a
25 child at the hands of DOE 5.

26 41. Prior to February 2008, Plaintiff had no knowledge of the fact that he was sexually
27 harassed, molested and abused and, as a result, made no connection between his present and prior
28 intimacy, mental and emotional problems and the sexual abuse he experienced as a child. It was

1 only upon discovery of these additional facts sometime in February 2008, that Plaintiff reasonably
2 determined and discovered that the psychological injury, illness, and suffering that Plaintiff has
3 endured throughout his childhood and adult life and which actually triggered his emotional,
4 mental, and psychological collapse were actually caused by the childhood sexual harassment,
5 molestation and abuse he suffered at the hands of Defendants, and each of them.

6 42. Plaintiff's delay in discovering the connection between his psychological injury or
7 illness and Defendants' acts was due to his immediate, complete and total repression of memory of
8 the abuse he suffered at the hands of DOE 5. As such, he was completely and blamelessly
9 incapable of discovering that his psychological injury or illness was caused by the sexual
10 harassment, molestation and abuse he endured at the hands of DOE 5 at a date earlier than
11 February, 2008.

12 43. As a direct result of the sexual harassment, molestation and abuse of Plaintiff by
13 DOE 5, Plaintiff has difficulty in reasonably or meaningfully interacting with others, including
14 those in positions of authority over Plaintiff, including supervisors, and in intimate, confidential
15 and familial relationships, due to the trauma of childhood sexual harassment, molestation and
16 abuse inflicted upon him by Defendants. This inability to interact creates conflict with Plaintiff's
17 values of trust and confidence in others, and has caused Plaintiff substantial emotional distress,
18 anxiety, nervousness and fear. As a direct result of Plaintiff's molestation by DOE 5, Plaintiff
19 experienced severe issues with her personal life, including issues with trust and difficulties in
20 maintaining meaningful relationships. As a further direct result of the Plaintiff's molestation by
21 DOE 5, Plaintiff has always had problems maintaining a normal intimate relationship. Further,
22 Plaintiff has realized that Defendants' conduct was responsible for his problems with his own
23 family, as he feels overprotective over his family, constantly fearing that something horrible will
24 happen to them. These feelings have caused Plaintiff substantial emotional distress, anxiety,
25 nervousness and fear.

26 44. As a direct and proximate result of the Defendants' tortuous acts, omissions,
27 wrongful conduct and/or breaches of their duties, whether willful or negligent, Plaintiff's
28 employment and professional development has been adversely affected. Plaintiff has lost wages as

1 a result of the abuse he suffered at the hands of Defendants, and will continue to lose wages in an
2 amount to be determined at trial. Plaintiff has suffered economic injury, all to Plaintiff's general,
3 special and consequential damage in an amount to be proven at trial, but in no event less than the
4 minimum jurisdictional amount of this Court.

5 45. As a further direct and proximate result of Defendants' wrongful actions, as herein
6 alleged, Plaintiff has been hurt in his health, strength and activity. Plaintiff has sustained
7 permanent and continuing injury to his nervous system and person, which has caused and
8 continues to cause great mental, emotional, physical and nervous pain, suffering, fright, upset,
9 grief, worry and shock in an amount according to proof at trial, but in no event less than the
10 jurisdictional minimum requirements of this Court.

11 46. As is set forth herein, Defendants and each of them have failed to uphold numerous
12 mandatory duties imposed upon them by state and federal law, and by written policies and
13 procedures applicable to Defendants, including but not limited to the following:

- 14 * Duty to use reasonable care to protect students from known or foreseeable dangers
(Government Code §§ 820, 815.2);
- 15 * Duty to refrain from taking official action that contradicts the provisions of Article
16 1, section 28(c) of the California Constitution;
- 17 * Duty to enact policies and procedures that are not in contravention of the Federal
18 Civil Rights Act, section 1983, and the 14th Amendment of the United States
Constitution;
- 19 * Duty to protect students and staff, and provide adequate supervision;
- 20 * Duty to ensure that any direction given to parishioners and students is lawful, and
21 that adults act fairly, responsibly and respectfully towards parishioners and
students;
- 22 * Duty to properly train pastors pastoral interns, teachers, spiritual advisors, youth
23 counselors, mentors, administrators, and staff so that they are aware of their
individual responsibility for creating and maintaining a safe environment;
- 24 * Duty to review the criminal history of pastors, pastoral interns, teachers, spiritual
25 advisors, youth counselors, mentors, administrators, and staff, applicants and
current employees;
- 26 * Duty to supervise parishioners and students and enforce rules and regulations
27 prescribed for schools, exercise reasonable control over students as is reasonably
28 necessary to maintain order, protect property, or protect the health and safety of
parishioners and students or to maintain proper and appropriate conditions
conducive to learning;

- 1 * Duty to exercise careful supervision of the moral conditions in the church and school;
- 2
- 3 * Duty to properly monitor students, prevent or correct harmful situations or call for help when a situation is beyond their control;
- 4
- 5 * Duty to ensure that personnel are actually on hand and supervising students;
- 6 * Duty to provide enough supervision to students;
- 7 * Duty to supervise diligently;
- 8 * Duty to act promptly and diligently and not ignore or minimize problems;
- 9 * Duty to refrain from violating Plaintiff's right to protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations (Civil Code § 43);
- 10 * Duty to abstain from injuring the person or property of Plaintiff, or infringing upon any of his rights (Civil Code § 1708); and
- 11
- 12 * Duty to report suspected incidents of child abuse and more specifically childhood sexual abuse (Penal Code §§ 11166, 11167).

13 47. Compulsory education laws create a special relationship between students/children
14 and Defendants, and students/children have a constitutional guarantee to a safe, secure and
15 peaceful school environment. Defendants and each of them failed to acknowledge unsafe
16 conditions, and therefore failed to guarantee safe surroundings in an environment in which
17 Plaintiff was not free to leave, specifically including but not limited to allowing DOE 5 to take
18 children for purposes of sexual activity and allowing DOE 5 to operate isolated environments,
19 incapable of monitoring from the outside, wherein Defendants sexually harassed, molested and
20 abused Plaintiff and others.

21 48. Defendants and each of them had and have a duty to protect students and
22 parishioners, including Plaintiff. Defendants were required to, and failed, to properly screen
23 pastoral interns or provide adequate church and off-site event supervision, and failed to be
24 properly vigilant in seeing that supervision was sufficient to ensure the safety of Plaintiff and
25 others.

26 49. Defendants and each of them lodged with DOE 5 the color of authority, by which
27 he was able to influence, direct and abuse Plaintiff and others, and to act illegally, unreasonably
28 and without respect for the person and safety of Plaintiff.

1 the first incident of DOE 5's sexual harassment, molestation and abuse of Plaintiff, through the
2 present, Defendants, knew or should have reasonably known that DOE 5 had or was capable of
3 sexually, physically, and/or mentally abusing Plaintiff or other victims.

4 56. Defendants and each of them had special duties to protect the minor Plaintiff and
5 the other students within DOE 1, DOE 2, DOE 3 and DOE 4, when such students were entrusted
6 to their care by their parents. Plaintiff's care, welfare and/or physical custody was entrusted to
7 Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff. As such, Defendants
8 owed Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary care, and
9 owed Plaintiff the higher duty of care that adults dealing with children owe to protect them from
10 harm. The duty to protect and warn arose from the special, trusting, confidential, and/or fiduciary
11 relationship between Defendants and Plaintiff. Plaintiff and Plaintiff's parents felt great trust, faith
12 and confidence in Defendants, and in DOE 5 as an intern selected and screened by DOE 1, DOE 2,
13 DOE 3, and DOE 4.

14 57. Plaintiff is informed and believes, and on that basis alleges, that Defendants
15 breached their duties of care to the minor Plaintiff by allowing DOE 5 to come into contact with
16 the minor Plaintiff and other students, without supervision; by failing to adequately screen, hire,
17 supervise and/or retain DOE 5 who they permitted and enabled to have access to Plaintiff; by
18 failing to investigate or otherwise confirm or deny such facts about DOE 5; by failing to tell or
19 concealing from Plaintiff, his parents, guardians and law enforcement officials that DOE 5 was or
20 may have been sexually harassing, molesting and abusing minors; by failing to tell or concealing
21 from Plaintiff's parents, guardians or law enforcement officials that Plaintiff was or may have been
22 sexually harassed, molested and abused after Defendants knew or had reason to know that DOE 5
23 may have sexually harassed, molested and abused Plaintiff or others, thereby enabling Plaintiff to
24 continue to be endangered and sexually harassed, molested and abused, and/or creating the
25 circumstance where Plaintiff was less likely to receive medical/mental health care or treatment,
26 thus exacerbating the harm done to Plaintiff; and/or by holding out DOE 5 to Plaintiff and to his
27 parents as being in good standing and trustworthy. Defendants cloaked within the facade of
28 normalcy Defendants' conduct, contact and actions with Plaintiff and/or other children who were

1 DOE 5's victims, and/or disguised the nature of the sexual harassment, molestation and abuse and
2 contact.

3 58. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, failing
4 to investigate or otherwise confirm or deny such facts, failing to reveal such facts to Plaintiff,
5 Plaintiff's parents, the Church community, minors, and law enforcement agencies, placing and
6 continuing to place DOE 5 in positions of trust and authority within DOE 1, DOE 2, DOE 3 and
7 DOE 4, and holding out, and continuing to hold out DOE 5 to Plaintiff, Plaintiff's parents, the
8 Church community, minors, and law enforcement agencies as being in good standing and
9 trustworthy.

10 59. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by
11 failing to adequately monitor and supervise DOE 5 and/or stopping DOE 5 from committing
12 wrongful sexual acts with minors including Plaintiff. This belief is founded on the facts that
13 church, personnel and/or school records of DOE 1, DOE 2, DOE 3 and DOE 4 reflect previous
14 incidents of inappropriate sexual contact and conduct with minors by teachers, staff, coaches,
15 counselors and others, including incidents involving DOE 5, both on and off the premises of such
16 Defendants. Based on these records, Defendants knew and/or should have known of DOE 5's
17 propensity towards committing wrongful sexual acts with minors, including Plaintiff.

18 60. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through
19 their employees and agents, were child care custodians and were under a statutory duty to report
20 known or suspected incidents of sexual harassment, molestation or abuse of minors to a child
21 protective agency, pursuant to California Penal Code section 11166, and/or not to impede the
22 filing of any such report.

23 61. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
24 or should have known that DOE 5, their agent, representative, pastoral intern, student, spiritual
25 advisor, youth counselor and mentor and other pastors, pastoral interns, and staff of DOE 1, DOE
26 2, DOE 3 and DOE 4 had sexually molested, abused, or caused touching battery, harm, and other
27 injuries to minors, including Plaintiff, giving rise to a duty to report such conduct under California
28 Penal Code section 11166.

1 62. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
2 or should have known in the exercise of reasonable diligence, that an undue risk to minors,
3 including Plaintiff, existed because Defendants did not comply with California's mandatory
4 reporting requirements.

5 63. By failing to report the continuing molestations and abuse, which Defendants and
6 each of them knew or should have known, and by ignoring the fulfillment of the mandated
7 compliance with the reporting requirements provided under California Penal Code section 11166,
8 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting
9 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual
10 molestation and abuse.

11 64. Plaintiff was a member of the class of persons for whose protection California
12 Penal Code section 11166 was specifically adopted to protect.

13 65. Had Defendants adequately reported the molestation of Plaintiff and other minors
14 as required by California Penal Code section 11166, further harm to Plaintiff and other minors
15 would have been avoided.

16 66. As a proximate result of Defendants' failure to follow the mandatory reporting
17 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and
18 other minors, the intervention of child protection services. Such public agencies would have
19 changed the then-existing arrangements and conditions that provided the access and opportunities
20 for the molestation of Plaintiff by DOE 5.

21 67. The physical, mental, and emotional damages and injuries resulting from the sexual
22 molestation of Plaintiff by DOE 5, were the type of occurrence and injuries that the Child Abuse
23 and Neglect Reporting Act was designed to prevent.

24 68. As a result, Defendants' failure to comply with the mandatory reporting
25 requirements of California Penal Code section 11166 also constituted a per se breach of
26 Defendants' duties to Plaintiff.

27 69. As a result of the above-described conduct, Plaintiff has suffered and continues to
28 suffer great pain of mind and body, shock, emotional distress, physical manifestations of

1 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
2 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
3 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
4 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
5 medical and psychological treatment, therapy, and counseling.

6 **SECOND CAUSE OF ACTION**
7 **NEGLIGENT SUPERVISION**
8 **(Against ALL Defendants)**

9 70. Plaintiff re-alleges and incorporates by reference herein each and every allegation
10 contained herein above as though fully set forth and brought in this cause of action.

11 71. By virtue of Plaintiff's special relationship with Defendants, and Defendants'
12 relation to DOE 5, Defendants owed Plaintiff a duty to provide reasonable supervision of DOE 5,
13 to use reasonable care in investigating DOE 5's background, and to provide adequate warning to
14 the Plaintiff, the Plaintiff's family, and minor students of DOE 5's dangerous propensities and
15 unfitness.

16 72. As a representative of the Church of the Nazarene, and a college, where all of the
17 students and interns represented the Church and DOE 1, DOE 2, DOE 3 and/or DOE 4, pastoral
18 interns explicitly and implicitly served as representatives and agents of DOE 1, DOE 2, DOE 3,
19 and DOE 4. DOE 5 was represented by DOE 1, DOE 2, DOE 3, and DOE 4 to be an exemplary
20 young man, dedicated to becoming a pastor within the Church of the Nazarene. Plaintiff and
21 Plaintiff's parents had no reason to question DOE 1, DOE 2, DOE 3 and/or DOE 4 regarding DOE
22 5's fitness as a pastoral intern.

23 73. Plaintiff is informed and believes, and on that basis alleges, that DOE 1, DOE 2,
24 DOE 3, and DOE 4 and other Defendants, by and through their respective agents, servants and
25 employees, knew or should have reasonably known of DOE 5's dangerous and exploitive
26 propensities and/or that DOE 5 was an unfit agent. Despite such knowledge, Defendants
27 negligently failed to supervise DOE 5 in his position of trust and authority as pastoral intern and/or
28 other authority figure, where he was able to commit wrongful acts against the Plaintiff.
Defendants failed to provide reasonable supervision of DOE 5, failed to use reasonable care in

1 investigating DOE 5, and failed to provide adequate warning to Plaintiff and Plaintiff's family of
2 DOE 5's dangerous propensities and unfitness. Defendants further failed to take reasonable
3 measures to prevent sexual harassment, molestation and abuse of minors, including Plaintiff.

4 74. Plaintiff is informed and believes, and on that basis alleges, that at no time during
5 the periods of time alleged did Defendants have in place a system or procedure to reasonably
6 investigate, supervise and/or monitor teachers, including DOE 5, to prevent pre-sexual grooming
7 and/or sexual harassment, molestation and abuse of children, nor did they implement a system or
8 procedure to oversee or monitor conduct toward minors, students and others in Defendants' care.

9 75. Defendants and each of them were or should have been aware and understood how
10 vulnerable children were to sexual harassment, molestation and abuse by a pastoral intern with a
11 previous history of sexually abusing children, living in the residence of a host family with small
12 children.

13 76. Plaintiff is informed and believes, and on that basis alleges, that Defendants were
14 put on notice, and knew or should have known, that DOE 5 had previously engaged and was
15 continuing to engage in unlawful sexual conduct with minors, for his own personal gratification,
16 and that it was, or should have been foreseeable that he was engaging, or would engage in illicit
17 sexual activities with Plaintiff, and others, under the cloak of their authority, confidence, and trust,
18 bestowed upon him through Defendants, and each of them.

19 77. Plaintiff is informed and believes, and on that basis alleges, that Defendants were
20 placed on actual and/or constructive notice that DOE 5 had molested other minors, both before his
21 attendance at DOE 1, DOE 2, DOE 3, and DOE 4 institutions, and/or during that attendance.

22 Plaintiff is informed, and thereon alleges, that other third parties, minor parishioners, law
23 enforcement officials and/or parents informed Defendants of molestations committed by DOE 5 or
24 of conduct that would put a reasonable person on notice of such propensity to molest and abuse.

25 78. Even though Defendants knew or should have known of these activities by DOE 5,
26 Defendants did nothing to investigate, supervise or monitor DOE 5 to ensure the safety of the
27 minor parishioners and minor members of the pastoral internship host family.

28 79. Defendants' conduct was a breach of their duties to Plaintiff.

1 80. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through
2 their employees and agents, were child care custodians and were under a statutory duty to report
3 known or suspected incidents of sexual molestation or abuse of minors to a child protective
4 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any
5 such report.

6 81. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
7 or should have known that their representative, agent, and pastoral intern, DOE 5, had sexually
8 molested, abused or caused touching, battery, harm, and other injuries to minors, including
9 Plaintiff, giving rise to a duty to report such conduct under California Penal Code section 11166.

10 82. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,
11 or should have known in the exercise of reasonable diligence, that an undue risk to minors,
12 including Plaintiff, existed because Defendants did not comply with California's mandatory
13 reporting requirements.

14 83. By failing to report the continuing molestations and abuse, which Defendants and
15 each of them knew or should have known, and by ignoring the fulfillment of the mandated
16 compliance with the reporting requirements provided under California Penal Code section 11166,
17 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting
18 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual
19 molestation and abuse.

20 84. Plaintiff was a member of the class of persons for whose protection California
21 Penal Code section 11166 was specifically adopted to protect.

22 85. Had Defendants adequately reported the molestation of Plaintiff and other minors
23 as required by California Penal Code section 11166, further harm to Plaintiff and other minors
24 would have been avoided.

25 86. As a proximate result of Defendants' failure to follow the mandatory reporting
26 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and
27 other minors the intervention of child protection services. Such public agencies would have
28 changed the then-existing arrangements and conditions that provided the access and opportunities

1 for the molestation of Plaintiff by DOE 5.

2 87. The physical, mental, and emotional damages and injuries resulting from the sexual
3 molestation of Plaintiff by DOE 5, were the type of occurrence and injuries that the Child Abuse
4 and Neglect Reporting Act was designed to prevent.

5 88. As a result, Defendants' failure to comply with the mandatory reporting
6 requirements of California Penal Code section 11166 also constituted a per se breach of
7 Defendants' duties to Plaintiff.

8 89. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by
9 failing to adequately monitor and supervise DOE 5 and/or stopping DOE 5 from committing
10 wrongful sexual acts with minors including Plaintiff. This belief is founded on the facts that
11 church, personnel and/or school records of DOE 1, DOE 2, DOE 3 and DOE 4 reflect previous
12 incidents of inappropriate sexual contact and conduct with minors by DOE 5. Based on these
13 records, Defendants knew and/or should have known of DOE 5 propensity towards sexually
14 harassing, molesting or abusing children.

15 90. As a result of the above-described conduct, Plaintiff has suffered and continues to
16 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
17 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
18 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
19 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
20 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
21 medical and psychological treatment, therapy, and counseling.

22 **THIRD CAUSE OF ACTION**
23 **NEGLIGENT HIRING/RETENTION**
24 **(Against ALL Defendants)**

25 91. Plaintiff re-alleges and incorporates by reference herein each and every allegation
26 contained herein above as though fully set forth and brought in this cause of action.

27 92. By virtue of Plaintiff's special relationship with Defendants and each of them, and
28 Defendants' relation to DOE 5, Defendants owed Plaintiff a duty to not hire and/or retain and/or
allow DOE 5 to represent himself as a DOE 1, DOE 2, DOE 3 and/or DOE 4 pastoral intern, given

1 his dangerous and exploitive propensities, which Defendants knew or reasonably should have
2 known had they engaged in a meaningful and adequate investigation of his background prior to
3 DOE 5 being sent to live with Plaintiff's family..

4 93. As a representative of the Church of the Nazarene, and a college, where all of the
5 students and interns represented the Church and DOE 1, DOE 2, DOE 3 and/or DOE 4, pastoral
6 interns explicitly and implicitly served as representatives and agents of DOE 1, DOE 2, DOE 3,
7 and DOE 4. DOE 5 was represented by DOE 1, DOE 2, DOE 3, and DOE 4 to be an exemplary
8 young man, dedicated to becoming a pastor within the Church of the Nazarene. Plaintiff and
9 Plaintiff's parents had no reason to question DOE 1, DOE 2, DOE 3 and/or DOE 4 regarding DOE
10 5's fitness as a pastoral intern.

11 94. Plaintiff is informed and believes, and on that basis alleges, that at no time during
12 the periods of time alleged did Defendants have in place a system or procedure to reasonably
13 investigate, supervise and/or monitor pastoral interns, including DOE 5, to prevent pre-sexual
14 grooming and/or sexual harassment, molestation and abuse of children, nor did they implement a
15 system or procedure to oversee or monitor conduct toward other minors in Defendants' care.

16 95. Defendants and each of them were or should have been aware and understood how
17 vulnerable children were to sexual harassment, molestation and abuse by a pastoral intern with a
18 previous history of sexual abuse, living in the home of Plaintiff's family, serving as a
19 representative and agent of DOE 1, DOE 2, DOE 3, and DOE 4.

20 96. Plaintiff is informed, and believes, and on that basis alleges, that the Defendants
21 were put on notice, and should have known that DOE 5 had previously engaged and continued to
22 engage in unlawful sexual conduct with minors, for his own personal gratification, and that it was,
23 or should have been foreseeable that he was engaging, or would engage in illicit sexual activities
24 with Plaintiff, and others, under the cloak of his authority, confidence, and trust, bestowed upon
25 him through DOE 1, DOE 2, DOE 3, and DOE 4.

26 97. Defendants were placed on actual and/or constructive notice that DOE 5 had
27 molested and/or was molesting minors, both before his attendance at DOE 1, DOE 2, DOE 3 and
28 DOE 4 institutions, and/or during that attendance. Plaintiff is informed, and thereon alleges, that

1 other third parties, minors, law enforcement officials and/or parents informed Defendants of
2 inappropriate conduct and molestations committed by DOE 5.

3 98. Even though Defendants knew or should have known of these activities by DOE 5,
4 Plaintiff is informed that Defendants failed to use reasonable care in investigating DOE 5 and did
5 nothing to investigate, supervise or monitor DOE 5 to ensure the safety of the minor parishioners.

6 99. Defendants' conduct was a breach of their duty to Plaintiff.

7 100. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through
8 their employees and agents, were child care custodians and were under a statutory duty to report
9 known or suspected incidents of sexual molestation or abuse of minors to a child protective
10 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any
11 such report.

12 101. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
13 or should have known that their representative, agent, and pastoral intern, DOE 5, had sexually
14 molested, abused or caused touching, battery, harm, and other injuries to minors, including
15 Plaintiff, giving rise to a duty to report such conduct under California Penal Code section 11166.

16 102. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,
17 or should have known in the exercise of reasonable diligence, that an undue risk to minors,
18 including Plaintiff, existed because Defendants did not comply with California's mandatory
19 reporting requirements.

20 103. By failing to report the continuing molestations and abuse, which Defendants and
21 each of them knew or should have known, and by ignoring the fulfillment of the mandated
22 compliance with the reporting requirements provided under California Penal Code section 11166,
23 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting
24 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual
25 molestation and abuse.

26 104. Plaintiff was a member of the class of persons for whose protection California
27 Penal Code section 11166 was specifically adopted to protect.

28 105. Had Defendants adequately reported the molestation of Plaintiff and other minors

1 as required by California Penal Code section 11166, further harm to Plaintiff and other minors
2 would have been avoided.

3 106. As a proximate result of Defendants' failure to follow the mandatory reporting
4 requirements of California Penal Code section 11166, Defendants wrongfully denied Plaintiff and
5 other minors the intervention of child protection services. Such public agencies would have
6 changed the then-existing arrangements and conditions that provided the access and opportunities
7 for the molestation of Plaintiff by DOE 5.

8 107. The physical, mental, and emotional damages and injuries resulting from the sexual
9 molestation of Plaintiff by DOE 5, were the type of occurrence and injuries that the Child Abuse
10 and Neglect Reporting Act was designed to prevent.

11 108. As a result, Defendants' failure to comply with the mandatory reporting
12 requirements of California Penal Code section 11166 also constituted a per se breach of
13 Defendants' duties to Plaintiff.

14 109. As a result of the above-described conduct, Plaintiff has suffered and continues to
15 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
16 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
17 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
18 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
19 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
20 medical and psychological treatment, therapy, and counseling.

21 **FOURTH CAUSE OF ACTION**
22 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**
23 **(Against ALL Defendants)**

24 110. Plaintiff re-alleges and incorporates by reference herein each and every allegation
25 contained herein above as though fully set forth and brought in this cause of action.

26 111. Defendants owed Plaintiff a duty to take reasonable protective measures to protect
27 Plaintiff and other minor parishioners from the risk of childhood sexual harassment, molestation
28 and abuse by DOE 5 by properly warning, training or educating Plaintiff and/or Plaintiff's parents
about how to avoid such a risk.

1 112. Defendants breached their duty to take reasonable protective measures to protect
2 Plaintiff and other minor parishioners from the risk of childhood sexual harassment, molestation
3 and abuse by DOE 5, such as the failure to properly warn, train or educate Plaintiff and other
4 minor parishioners about how to avoid such a risk.

5 113. Defendants breached their duty to take reasonable protective measures to protect
6 Plaintiff and other minor students from the risk of childhood sexual harassment, molestation and
7 abuse by DOE 5, by failing to supervise and/or failing to adequately screen representatives and
8 agents of Defendants, including DOE 5, from committing wrongful sexual acts with minors,
9 including Plaintiff.

10 114. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through
11 their employees and agents, were child care custodians and were under a statutory duty to report
12 known or suspected incidents of sexual molestation or abuse of minors to a child protective
13 agency, pursuant to California Penal Code section 11166, and/or not to impede the filing of any
14 such report.

15 115. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
16 or should have known that their representative, agent, and pastoral intern, DOE 5 had sexually
17 molested, abused or caused touching, battery, harm, and other injuries to minors, including
18 Plaintiff, giving rise to a duty to report such conduct under California Penal Code section 11166.

19 116. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew,
20 or should have known in the exercise of reasonable diligence, that an undue risk to minors,
21 including Plaintiff, existed because Defendants did not comply with California's mandatory
22 reporting requirements.

23 117. By failing to report the continuing molestations and abuse, which Defendants and
24 each of them knew or should have known, and by ignoring the fulfillment of the mandated
25 compliance with the reporting requirements provided under California Penal Code section 11166,
26 Defendants created the risk and danger contemplated by the Child Abuse and Neglect Reporting
27 Act, and as a result, unreasonably and wrongfully exposed Plaintiff and other minors to sexual
28 molestation and abuse.

1 allowing him to take up residence in the house of a Nazarene pastor, Defendants entered into a
2 fiduciary relationship and special confidential relationship with Plaintiff.

3 126. By holding themselves out as a qualified institution of instruction for the academic,
4 spiritual, and emotional instruction of future pastors and religious leaders, DOE 1, DOE 2, DOE 3,
5 and DOE 4 entered into a fiduciary relationship and special confidential relationship with Plaintiff
6 and other parishioners at the host Church.

7 127. Defendants, and each of them, breached their fiduciary duty and/or special duties to
8 Plaintiff by the wrongful and negligent conduct described or incorporated in this Complaint, and in
9 doing so gained an advantage over Plaintiff in matters relating to Plaintiff's safety, security and
10 health. In particular and without limiting the generality of the foregoing, in breaching such duties
11 as alleged, Defendants among other things, was able to sustain the status of DOE 1, DOE 2, DOE
12 3 and DOE 4 as institutions of high moral repute, and preserve the reputation of DOE 1, DOE 2,
13 DOE 3 and DOE 4, including their administrators and staff, all at the expense of Plaintiff's further
14 injury and in violation of Defendants' and each of their mandatory duties.

15 128. By virtue of their fiduciary relationship and/or special relationship with Plaintiffs,
16 Defendants and each of them owed Plaintiff a duty to:

- 17 a. Investigate or otherwise confirm or deny such claims of sexual abuse;
- 18 b. Reveal such facts to Plaintiff, Plaintiff's parents and caretakers, the church
19 community, and law enforcement agencies;
- 20 c. Refuse to place DOE 5 and other molesters in positions of trust and authority
21 within Defendants' institutions;
- 22 d. Refuse to hold out DOE 5 and other molesters to the public, students, minors,
23 parents and law enforcement agencies as being in good standing and, trustworthy in
24 keeping with his and their position as a spiritual leader, pastoral intern, and
25 authority figure;
- 26 e. Refuse to assign DOE 5 and other molesters to work and live with small children.
- 27 f. Disclose to Plaintiff, his parents, the public, the church community, minors, and
28 law enforcement agencies the wrongful, tortious, and criminal acts of DOE 5 and
other molesters.

129. Plaintiff is informed, and on that basis alleges, that Defendants' breach of their
respective duties included, but were not limited to:

- 1 a. Making no or inadequate investigations of DOE 5 before sending him to live with
2 Plaintiff and Plaintiff's family;
- 3 b. Issuing no warnings about DOE 5 before sending him to live with Plaintiff and
4 Plaintiff's family;
- 5 c. Permitting DOE 5 to routinely be alone and in control of minors, unsupervised;
- 6 d. Not having adopted a policy to prevent DOE 5 from routinely having minors,
7 parishioners, and minors in his unsupervised control;
- 8 e. Making no reports of any allegations of DOE 5's abuse of students, parishioners, or
9 of minors prior to his attendance institutions DOE 1, DOE 2, DOE 3 and DOE 4
10 represent; and
- 11 f. Assigning DOE 5 to duties which placed him in positions of authority and trust
12 over minors, positions in which DOE 5 could easily isolate and sexually abuse
13 minors.

14 130. At the time that Defendants engaged in such suppression and concealment of acts,
15 such acts were done for the purpose of causing Plaintiff to forbear on Plaintiff's rights.

16 131. Defendants' misconduct did reasonably cause Plaintiff to forbear on Plaintiff's
17 rights.

18 132. Plaintiff is informed and believes, and on that basis alleges, that the
19 misrepresentation, suppressions and concealment of facts were likely to mislead Plaintiff and
20 others to believe that Defendants had no knowledge of any charges, or that there were no other
21 charges of unlawful and/or sexual misconduct against DOE 5 or others and that there was no need
22 for them to take further action or precaution.

23 133. Plaintiff is informed, and on that basis alleges, that the misrepresentation,
24 suppressions and concealment of facts by Defendants was likely to mislead Plaintiff and others to
25 believe that Defendants had no knowledge of the fact that DOE 5 was a molester, and was known
26 to commit wrongful sexual acts with minors, including Plaintiff.

27 134. Plaintiff is informed, and on that basis alleges, that Defendants, and each of them,
28 knew or should have known at the time they suppressed and concealed the true facts regarding
DOE 5 and others' sexual molestations, that the resulting impressions were misleading.

135. Plaintiff is informed, and on that basis alleges, that Defendants, and each of them,
suppressed and concealed the true facts with the purpose of: preventing Plaintiff, Plaintiff's

1 parents, and others, from learning that DOE 5 had a history of sexually harassing, molesting, and
2 abusing children, with complete impunity; inducing people, including Plaintiff and Plaintiff's
3 parents, to take DOE 5 into their home and Church community. Further, Defendants sought to
4 suppress and conceal DOE 5's history of sexual abuse to avoid damaging Defendants' reputations,
5 protecting Defendants' power and status in the community and the academic community, avoiding
6 damaging the reputation of DOE 1, DOE 2, DOE 3, and DOE 4 or Defendants' institutions; and
7 avoiding the civil and criminal liability of Defendants, of DOE 5.

8 136. Plaintiff is informed, and on that basis alleges, that at all times mentioned herein,
9 Defendants, with knowledge of the tortious nature of their own and each others' conduct,
10 negligently, recklessly, knowingly and/or intentionally gave each other substantial assistance to
11 perpetrate the misrepresentations, fraud and deceit alleged herein.

12 137. Plaintiff is informed, and on that basis alleges, that Plaintiff and others were misled
13 by Defendants' suppressions and concealment of facts, and in reliance thereon, were induced to act
14 or induced not to act, exactly as intended by Defendants. Specifically, Plaintiff and Plaintiff's
15 parents were induced to believe that there were no allegations of criminal or sexual abuse against
16 DOE 5 prior to allowing him into their house. Had Plaintiff or Plaintiff's parents known the true
17 facts, they would have not participated in the internship program and would have declined
18 allowing the pastoral intern to live with Plaintiff and Plaintiff's family; they would have reported
19 the matters to the proper authorities, to other minor parishioners and potential host families so as
20 to prevent future recurrences; they would not have allowed children, including Plaintiff, to be
21 alone with, or have any relationship with DOE 5; they would not have allowed children, including
22 Plaintiff, to reside in the same house as, or be under the control of, DOE 1, DOE 2, DOE 3, and
23 DOE 4; they would have undertaken their own investigations which would have led to discovery
24 of the true facts; and they would have sought psychological counseling for Plaintiff, and for other
25 children molested and abused by DOE 5.

26 138. By giving DOE 5 the position of spiritual leader and pastoral intern, Defendants
27 impliedly represented that DOE 5 was safe and morally fit to work with the Congregation and all
28 of its members and to live in the Plaintiff's family's home, knowing that Plaintiff's parents had

1 two small children.

2 139. Plaintiff is informed, and on that basis alleges, that when Defendants made these
3 affirmative or implied representations and/or non-disclosures of material facts, Defendants knew
4 or should have known that the facts were otherwise. Defendants knowingly and intentionally
5 suppressed the material facts that DOE 5 had a history of sexually harassing, molesting, and
6 abusing minors and/or knew of or learned of conduct, or should have learned of conduct by DOE 5
7 which placed Defendants on notice that DOE 5 had previously been suspected, charged, arrested
8 and/or convicted of felonies, including unlawful sexual conduct with minors, and was likely
9 abusing children.

10 140. Because of Plaintiff's young age, DOE 5's position as an authority figure, and
11 because DOE 5 was living in the same house as Plaintiff and Plaintiff's family, Plaintiff was
12 vulnerable to DOE 5. DOE 5 sought Plaintiff out, and was empowered by and accepted Plaintiff's
13 vulnerability. Plaintiff's vulnerability also prevented Plaintiff from effectively protecting himself
14 from the sexual advances of DOE 5.

15 141. Defendants had the duty to obtain and disclose information relating to sexual
16 misconduct of DOE 5.

17 142. Defendants misrepresented, concealed or failed to disclose information relating to
18 sexual misconduct of DOE 5.

19 143. Defendants knew that they had misrepresented, concealed or failed to disclose
20 information related to sexual misconduct of DOE 5.

21 144. Plaintiff and Plaintiff's parents justifiably relied upon Defendants for information
22 relating to sexual misconduct of DOE 5.

23 145. Defendants, in concert with each other and with the intent to conceal and defraud,
24 conspired and came to a meeting of the minds whereby they would misrepresent, conceal or fail to
25 disclose information relating to the sexual misconduct of DOE 5, the inability of Defendants to
26 supervise or stop DOE 5 from sexually harassing, molesting and abusing small children, including
27 Plaintiff, and their own failure to properly investigate, supervise and monitor his conduct with
28 minor parishioners and other children.

1 146. By so concealing, Defendants committed at least one act in furtherance of the
2 conspiracy.

3 147. As a result of the above-described conduct, Plaintiff has suffered and continues to
4 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
5 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
6 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
7 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
8 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
9 medical and psychological treatment, therapy, and counseling.

10 148. In addition, when Plaintiff finally discovered the fraud of Defendants, and
11 continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In
12 addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter,
13 Plaintiff experienced extreme and severe mental anguish and emotional distress that Plaintiff had
14 been the victim of Defendants' fraud; that Plaintiff had not been able to help other minors being
15 molested because of the fraud, and that Plaintiff had not been able because of the fraud to receive
16 timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to
17 suffer as a result of the sexual harassment, molestation and abuse.

18 149. Plaintiff is informed and based thereon alleges that the conduct of Defendants was
19 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for
20 the rights and safety of others, and were carried out with a conscious disregard of his right to be
21 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to
22 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 5 in an
23 amount appropriate to punish and set an example of DOE 5. Plaintiff further reserves the right,
24 pursuant to California Code of Civil Procedure section 425.14, to seek leave of court to pursue an
25 award of punitive damages against Defendants DOE 1, DOE 2, DOE 3, and DOE 4 in a sum to be
26 shown according to proof.

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SIXTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against All Defendants)

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3 150. Plaintiff re-alleges and incorporates by reference herein each and every allegation
4 contained herein above as though fully set forth and brought in this cause of action.

5 151. DOE 5's conduct toward Plaintiff, as described herein, was outrageous and extreme.

6 152. A reasonable person would not expect or tolerate the sexual harassment,
7 molestation and abuse of Plaintiff by DOE 5. Plaintiff had great trust, faith and confidence in
8 DOE 5 and in Defendants, which, by virtue of DOE 5's and Defendants' wrongful conduct, turned
9 to fear.

10 153. Defendants' conduct toward Plaintiff, as described herein, was outrageous and
11 extreme.

12 154. A reasonable person would not expect or tolerate Defendants putting DOE 5, who
13 was known to Defendants to be a child molester and child abuser, in a position where he would
14 certainly have contact with, and live with a family that has, small children so that he could commit
15 wrongful sexual acts, including the conduct described herein, with minors, including Plaintiff.
16 Plaintiff had great trust, faith and confidence in Defendants, which, by virtue of Defendants'
17 wrongful conduct, turned to fear.

18 155. A reasonable person would not expect or tolerate Defendants to be incapable of
19 supervising and/or stopping DOE 5 from living with a family with small children, from
20 committing wrongful sexual acts with minors, including Plaintiff, or to supervise DOE 5.
21 Plaintiff had great trust, faith and confidence in Defendants, which, by virtue of Defendants'
22 wrongful conduct, turned to fear.

23 156. DOE 5's and Defendants' conduct described herein was intentional and malicious
24 and done for the purpose of causing or with the substantial certainty that Plaintiff would suffer
25 humiliation, mental anguish, and emotional and physical distress.

26 157. As a result of the above-described conduct, Plaintiff has suffered and continues to
27 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
28 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of

1 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
2 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
3 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
4 medical and psychological treatment, therapy, and counseling.

5 158. Plaintiff is informed and based thereon alleges that the conduct of Defendants was
6 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for
7 the rights and safety of others, and were carried out with a conscious disregard of his right to be
8 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to
9 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 5 in an
10 amount appropriate to punish and set an example of DOE 5. Plaintiff further reserves the right,
11 pursuant to California Code of Civil Procedure section 425.14, to seek leave of court to pursue an
12 award of punitive damages against Defendants DOE 1, DOE 2, DOE 3, and DOE 5 in a sum to be
13 shown according to proof.

14 **SEVENTH CAUSE OF ACTION**
15 **SEXUAL BATTERY: CIVIL CODE § 1708.5**
16 **(Against All Defendants)**

17 159. Plaintiff re-alleges and incorporates by reference herein each and every allegation
18 contained herein above as though fully set forth and brought in this cause of action.

19 160. During the time where DOE 5 was serving as a representative, agent, and pastoral
20 intern for DOE 1, DOE 2, DOE 3, and DOE 4, living with Plaintiff and his family, Defendant
21 DOE 5 intentionally, recklessly and wantonly did acts which were intended to, and did result in
22 harmful and offensive contact with intimate parts of Plaintiff's person, including but not limited to
23 Defendant DOE 5: forcing Plaintiff to masturbate his erect penis; forcing Plaintiff to orally
24 copulate him; and lying his naked body atop Plaintiff's, grinding and rubbing his genitals against
25 Plaintiff's body, all while DOE 5 was in the course and scope of his attendance at and
26 representations of institutions associated with DOE 1, DOE 2, DOE 3, and DOE 4 and in the
27 context of his pastoral internship arranged through Defendants.

28 161. Defendant DOE 5 did the aforementioned acts with the intent to cause a harmful or
offensive contact with an intimate part of Plaintiff's person, and would offend a reasonable sense

1 of personal dignity. Further, said acts did cause a harmful or offensive contact with an intimate
2 part of Plaintiff's person that would offend a reasonable sense of personal dignity.

3 162. Because of DOE 5's position of authority over Plaintiff, and Plaintiff's mental and
4 emotional state, and Plaintiff being only 3 years of age, well under the age of consent, Plaintiff was
5 unable to, and did not, give meaningful consent to such acts.

6 163. As a direct, legal and proximate result of the acts of Defendant DOE 5, Plaintiff
7 sustained serious and permanent injuries to his person, all to his damage in an amount to be shown
8 according to proof and within the jurisdiction of the Court.

9 164. As a direct result of the sexual abuse by DOE 5, Plaintiff has difficulty in
10 reasonably or meaningfully interacting with others, including those in positions of authority over
11 Plaintiff including supervisors, and in intimate, confidential and familial relationships, due to the
12 trauma of childhood sexual abuse inflicted upon him by Defendants. This inability to interact
13 creates conflict with Plaintiff's values of trust and confidence in others, and has caused Plaintiff
14 substantial emotional distress, anxiety, nervousness and fear. As a direct result of the molestation
15 and abuse by DOE 5, Plaintiff has had issues with his personal life, as Plaintiff has issues with
16 trust and difficulties maintaining close relationships. As a further direct result of the molestation
17 by DOE 5, Plaintiff has suffered anxiety and intimacy issues associated with his relationship with
18 his wife and children. Further, Plaintiff has realized that Defendants' conduct was responsible for
19 his problems with his own family, as he feels overly protective of his own family, constantly
20 fearing that something horrible will happen to them. These feelings have caused Plaintiff
21 substantial emotional distress, anxiety, nervousness and fear.

22 165. Plaintiff is informed and based thereon alleges that the conduct of Defendants was
23 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for
24 the rights and safety of others, and were carried out with a conscious disregard of his right to be
25 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to
26 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 5 in an
27 amount appropriate to punish and set an example of DOE 5. Plaintiff further reserves the right,
28 pursuant to California Code of Civil Procedure section 425.14, to seek leave of court to pursue an

1 award of punitive damages against Defendants DOE 1, DOE 2, DOE 3 and DOE 4 in a sum to be
2 shown according to proof.

3 **EIGHTH CAUSE OF ACTION**
4 **ASSAULT**
5 **(Against All Defendants)**

6 166. Plaintiff re-alleges and incorporates by reference herein each and every allegation
7 contained herein above as though fully set forth and brought in this cause of action.

8 167. Defendant DOE 5, in doing the things herein alleged, including, but not limited to:
9 forcing Plaintiff to masturbate his erect penis; forcing Plaintiff to orally copulate him; and lying
10 his naked body atop Plaintiff's, grinding and rubbing his genitals against Plaintiff's body.

11 168. In doing the things herein alleged, Plaintiff was put in imminent apprehension of a
12 harmful or offensive contact by DOE 5, and actually believed DOE 5 had the ability to make
13 harmful or offensive contact with Plaintiff's person.

14 169. Plaintiff did not consent to DOE 5's intended harmful or offensive contact with
15 Plaintiff's person, or intent to put Plaintiff in imminent apprehension of such contact. Further,
16 given the fact that Plaintiff was just 3 years of age, Plaintiff lacked the ability to consent to sexual
17 contact with any person.

18 170. In doing the things herein alleged, DOE 5 violated Plaintiff's right, pursuant to Civil
19 Code section 43, of protection from bodily restraint or harm, and from personal insult. In doing
20 the things herein alleged, DOE 5 violated his duty, pursuant to Civil Code section 1708, to abstain
21 from injuring the person of Plaintiff or infringing upon his rights.

22 171. As a result of the above-described conduct, Plaintiff has suffered and continues to
23 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
24 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
25 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
26 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
27 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
28 medical and psychological treatment, therapy, and counseling.

172. Plaintiff is informed and based thereon alleges that the conduct of Defendants was

1 oppressive, malicious and despicable in that it was intentional and done in conscious disregard for
2 the rights and safety of others, and were carried out with a conscious disregard of his right to be
3 free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to
4 California Civil Code section 3294, entitling Plaintiff to punitive damages against DOE 5 in an
5 amount appropriate to punish and set an example of DOE 5. Plaintiff further reserves the right,
6 pursuant to California Code of Civil Procedure section 425.14, to seek leave of court to pursue an
7 award of punitive damages against Defendants DOE 1, DOE 2, DOE 3, and DOE 5, in a sum to be
8 shown according to proof.

9
10 **NINTH CAUSE OF ACTION**
SEXUAL HARASSMENT: CIVIL CODE § 51.9
(Against ALL Defendants)

11 173. Plaintiff re-alleges and incorporates by reference herein each and every allegation
12 contained herein above as though fully set forth and brought in this cause of action.

13 174. During the time where DOE 5 was serving as a representative, agent, and pastoral
14 intern for DOE 1, DOE 2, DOE 3, and DOE 4, living with Plaintiff and his family, Defendant
15 DOE 5 intentionally, recklessly and wantonly made sexual advances, solicitations, requests,
16 demands for sexual compliance of a hostile nature based on Plaintiff's age and gender that were
17 unwelcome, pervasive and severe, including, but not limited to, Defendant DOE 5 forcing Plaintiff
18 to masturbate his erect penis; forcing Plaintiff to orally copulate him; and lying his naked body
19 atop Plaintiff's, grinding and rubbing his genitals against Plaintiff's body, all while DOE 5 was
20 serving as a representative, agent, and pastoral intern for DOE 1, DOE 2, DOE 3, and DOE 4,
21 living with Plaintiff and his family.

22 175. The incidents of abuse outlined herein above took place while Plaintiff was under
23 the control of DOE 5, in his capacity and position as representative, agent, and pastoral intern
24 residing with Plaintiff and his parents, and while acting specifically on behalf of DOE 1, DOE 2,
25 DOE 3, and DOE 4.

26 176. During the time where DOE 5 was serving as a representative, agent, and pastoral
27 intern for DOE 1, DOE 2, DOE 3, and DOE 4, living with Plaintiff and his family, Defendant
28 DOE 5 intentionally, recklessly and wantonly did acts which resulted in harmful and offensive

1 contact with intimate parts of Plaintiff's person, including but not limited to, using his position as a
2 guest and pastoral intern to force Plaintiff to give into his sexual suggestions, and to use his
3 authority and position of trust to exploit Plaintiff physically and emotionally.

4 177. Because of Defendants position as a representative, agent, and pastoral intern
5 representing DOE 1, DOE 2, DOE 3, and DOE 4 at all times, DOE 5 living with Plaintiff and
6 Plaintiff's parents, and Plaintiff's young age, Plaintiff was unable to easily terminate the
7 relationship he had with Defendant DOE 5.

8 178. Because of DOE 5's position of authority over Plaintiff, Plaintiff's mental and
9 emotional state, and Plaintiff being only 3 years of age, well under the age of consent, Plaintiff was
10 unable to, and did not give meaningful consent to such acts.

11 179. Even though the Defendants knew or should have known of these activities by
12 Defendant DOE 5, Defendants did nothing to investigate, supervise or monitor Defendant DOE 5
13 to ensure the safety of minor parishioners and the host family's children.

14 180. Defendants' conduct was a breach of their duties to Plaintiff.

15 181. As a result of the above-described conduct, Plaintiff has suffered and continues to
16 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
17 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliations, and loss of
18 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
19 prevented from performing daily activities and obtaining the full enjoyment of life; will sustain
20 loss of earnings and earning capacity, and/or has incurred and will continue to incur expenses for
21 medical and psychological treatment, therapy, and counseling.

22 182. Plaintiff is informed and believes that the aforesaid acts directed towards the
23 Plaintiff were carried out with a conscious disregard of his right to be free from such tortious
24 behavior, such as to constitute oppression, fraud or malice pursuant to California Civil Code
25 section 3294, entitled Plaintiff to punitive damages in an amount appropriate to punish and set an
26 example of Defendant DOE 5. Plaintiff is informed and based thereon alleges that the conduct of
27 Defendants was oppressive, malicious and despicable in that it was intentional and done in
28 conscious disregard for the rights and safety of others, thereby Plaintiff reserves the right, pursuant

1 to California Code of Civil Procedure section 425.14, to seek leave of court to pursue an award of
2 punitive damages against Defendants DOE 1, DOE 2, DOE 3, and DOE 4 subject to California
3 Code of Civil Procedure section 425.14 in a sum to be shown according to proof.

4 **TENTH CAUSE OF ACTION**
5 **GENDER VIOLENCE: CIVIL CODE § 52.4**
6 **(Against ALL Defendants)**

7 183. Plaintiff re-alleges and incorporates by reference herein each and every allegation
8 contained herein above as though fully set forth and brought in this cause of action.

9 184. Defendants' acts committed against Plaintiff, as alleged herein, including the sexual
10 harassment, molestation and abuse of the minor Plaintiff constitute gender violence and a form of
11 sex discrimination in that one or more of Defendants' acts of would constitute a criminal offense
12 under state law that has as an element the use, attempted use, or threatened use of physical force
13 against the person of another, committed at least in part based on the gender of the victim, whether
14 or not those acts have resulted in criminal complaints, charges, prosecution, or conviction.

15 185. Defendants' acts committed against Plaintiff, as alleged herein, including the sexual
16 harassment, molestation and abuse of the minor Plaintiff constitute gender violence and a form of
17 sex discrimination in that Defendants' conduct caused a physical intrusion or physical invasion of a
18 sexual nature upon Plaintiff under coercive conditions, whether or not those acts have resulted in
19 criminal complaints, charges, prosecution, or conviction.

20 186. As a proximate result of Defendants' acts, Plaintiff is entitled to actual damages,
21 compensatory damages, punitive damages, injunctive relief, any combination of those, or any other
22 appropriate relief. Plaintiff is also entitled to an award of attorney's fees and costs pursuant to Civil
23 Code section 52.4, against DOE 5. Plaintiff also reserves the right to, pursuant to California Code
24 of Civil Procedure sections 52.4 and 425.14, to seek leave of court to pursue an award of punitive
25 damages against Defendants DOE 1, DOE 2, DOE 3 and DOE 4 subject to California Code of
26 Civil Procedure section 425.14 in a sum to be shown according to proof.

27 **ELEVENTH CAUSE OF ACTION**
28 **VIOLATION OF BUS. & PROF. CODE SECTION 17200, ET SEQ.**
(Against All Defendants)

187. Plaintiff re-alleges and incorporates by reference herein each and every allegation

1 contained herein above as though fully set forth and brought in this cause of action.

2 188. Plaintiff is informed and believes and on that basis alleges that Defendants have
3 engaged in unlawful, unfair and deceptive business practices, including making statements to the
4 public, law enforcement and the courts that Defendants disclosed any and all information in their
5 possession regarding religious and lay employees, agents and pastors of Defendants who had
6 previously been accused of engaging in sexual misconduct, knowing full and well that Defendants
7 were in possession of information including allegations of sexual misconduct lodged against their
8 lay and religious employees, agents and pastors that the failed to disclose to the courts, public and
9 law enforcement. Such was done for the purpose of misleading the courts, law enforcement and
10 the public into believing Defendants' institutions of worship and education were safe and free from
11 pedophiles, when in fact they were not, all in an attempt to continue the flow of revenue to
12 Defendants from the public, and maintain the image of Defendants as institutions of high moral
13 repute. The unlawful, unfair and deceptive business practices also included Defendants knowingly
14 employing, and continuing to employ lay and religious employees and pastors who had been
15 accused of sexual misconduct involving minors, placing them in direct contact with minors
16 thereafter, to the peril of said minors and their parents. Defendants refused to design, implement,
17 and oversee policies regarding sexual harassment and abuse of these minors in a reasonable
18 manner that is customary in similar corporate environments, so as to allow Defendants to
19 effectuate their mission of profitability, which is essential to their future success. Plaintiff is
20 informed and believes and on that basis alleges that Defendants engaged in unlawful, unfair and
21 deceptive business practices, including concealing sexual harassment, abuse and molestation
22 claims such as Plaintiff's so as to retain parishioners and patrons of Defendants' services, including
23 educational services for parents and youth, who were not apprized of such illicit sexual
24 misconduct by Defendants' lay and religious employees and pastors.

25 189. By engaging in unlawful, unfair and deceptive business practices, Defendants
26 benefitted financially to the detriment of its competitors, which had to comply with the law.

27 190. Unless restrained, Defendants will continue to engage in the unfair acts and
28 business practices described above, resulting in great and irreparable harm to Plaintiff and/or other

1 similarly situated employees.

2 191. Plaintiff seeks restitution for all amounts improperly obtained by Defendants
3 through the use of the above-mentioned unlawful business practices, as well as the disgorgement
4 of all ill-gotten gains and restitution on behalf of Plaintiff and all other similarly situated
5 employees who were also subjected to Defendants' illegal and unfair business practices within the
6 last four years.

7 192. Pursuant to section 17203 of the California Business and Professions Code and
8 available equitable powers, Plaintiff is entitled to a preliminary and permanent injunction,
9 enjoining Defendants from continuing the unlawful and unfair business practices described above.
10 In addition, Plaintiff is entitled to recover reasonable attorneys' fees pursuant to the California
11 Business and Professions Code and section 1021.5 of the California Code of Civil Procedure.

12 **WHEREFORE**, Plaintiff prays for a jury trial and for judgment against Defendants, and
13 each of them, as follows:

14 **FOR ALL CAUSES OF ACTION**

- 15 1. For past, present and future general damages in an amount to be determined at trial;
- 16 2. For past, present and future special damages, including but not limited to past, present
17 and future lost earnings, economic damages and others, in an amount to be determined at trial;
- 18 3. Any appropriate punitive or exemplary damages against Defendant DOE 5;
- 19 4. Plaintiff reserves his right, pursuant to California Code of Civil Procedure sections 52.4
20 and 425.14, to seek leave of Court via noticed motion to pursue an appropriate award of punitive
21 damages against Defendants DOE 1, DOE 2, DOE 3, and DOE 4 subject to California Code of
22 Civil Procedure section 425.14.
- 23 5. Any appropriate statutory damages;
- 24 6. For costs of suit;
- 25 7. For interest as allowed by law;
- 26 8. For attorney's fees pursuant to California Code of Civil Procedure sections 1021.5, 52,
27 and 52.4, or otherwise as allowable by law;
- 28 9. For attorney's fees pursuant to California Business and Professions Code section 17200,

1 et seq., or otherwise as allowable by law;

2 10. For attorney's fee pursuant to California Government Code section 12965(b), or
3 otherwise as allowable by law;

4 11. For injunctive relief, enjoining Defendants from continuing the unlawful and unfair
5 business practices;

6 12. For restitution for all amounts improperly obtained by Defendants through the use of
7 unlawful business practices, and disgorgement of all ill-gotten gains and restitution on behalf of
8 Plaintiff and all other similarly situated employees who were also subjected to Defendants' illegal
9 and unfair business practices; and

10 13. For such other and further relief as the court may deem proper.

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Manly & Stewart

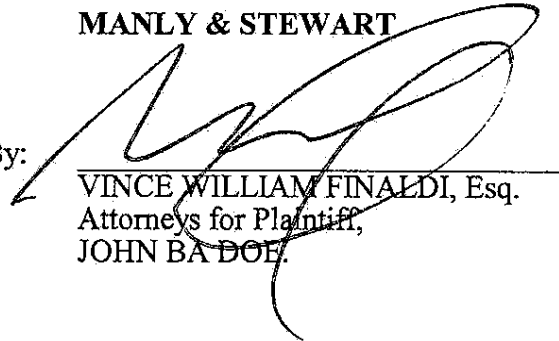
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Filed Pursuant to California Code of Civil Procedure section 340.1.

Dated: October 20, 2008

MANLY & STEWART

By:



VINCE WILLIAM FINALDI, Esq.
Attorneys for Plaintiff,
JOHN BA DOE.

DEMAND FOR JURY TRIAL

Plaintiff JOHN BA DOE, an individual, HEREBY demands a trial by jury.

Dated: October 20, 2008

MANLY & STEWART

By:



VINCE WILLIAM FERNALDI, Esq.
Attorney for Plaintiff,
JOHN BA DOE

Manly & Stewart

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