

4-10-10R

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

JOHN R. DOE,

Plaintiff,

v.

THE CATHOLIC BISHOP FOR THE
DIOCESE OF MEMPHIS,
THE ORDER OF PREACHERS,
A CORPORATION SOLE, d/b/a
DOMINICANS, and FATHER
JUAN CARLOS DURAN, O.P.,

Defendants.

FILED
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DIVISION IV
CIRCUIT COURT CLERK
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APPENDIX TO MOTION IN LIMINE OF DEFENDANT DIOCESE TO
EXCLUDE CERTAIN TRIAL TESTIMONY OF PLAINTIFF'S EXPERT,
FATHER THOMAS P. DOYLE

J. Brook Lathram (# 4804)
David E. Goodman, Jr. (#21493)
Mary C. Hamm (#24464)

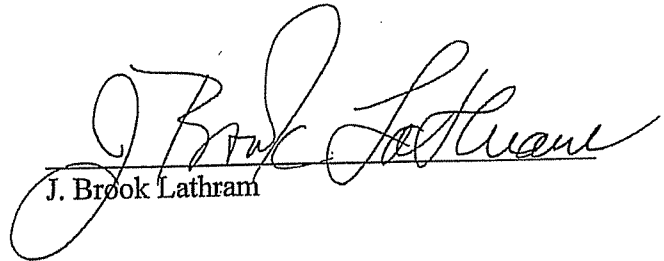
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing was hand delivered to Gary K. Smith, Esq., 100 Peabody Place, Suite 1300, Memphis, Tennessee 38103, and Steven W. Vescovo, Esq., One Commerce Square, 29th Floor, Memphis, Tennessee 38103, on this the 7th day of May, 2008.


J. Brook Lathram

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IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

JOHN R. DOE,

Plaintiff

vs.

NO. CT-004452-04
DIV. II

THE CATHOLIC BISHOP FOR THE
DIOCESE OF MEMPHIS,
THE ORDER OF PREACHERS,
A CORPORATION SOLE, d/b/a
DOMINICANS, and FATHER
JUAN CARLOS DURRAN, O.P.,

Defendants

FILED
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PLAINTIFF'S SUPPLEMENTAL ANSWERS
TO FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY DEFENDANT DIOCESE

COMES NOW the Plaintiff, John R. Doe, and submits the following Supplemental Answers to Interrogatories and Requests for Production of Documents Propounded by Defendant, Diocese of Memphis.

INTERROGATORIES

These are continuing responses that will be updated as more information becomes available.

INTERROGATORY NO. 2: This interrogatory seeks information pertaining to experts covered by Rule 26.02(4)(a) of the Tennessee Rules of Civil Procedure. Please identify each person whom the plaintiff expects to call as an expert witness at trial. For each such expert,

please state the subject matter on which the expert is expected to testify, state the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion the expert intends to express.

ANSWER: Thomas P. Doyle is a Roman Catholic Priest and a member of the Dominican order. He was ordained a priest in 1970. Since October 1984 he has been involved in the issue of sexual abuse of persons, especially children and minors by Catholic Clergy. Thomas Doyle has functioned as a canon lawyer, presenting work shops and seminars to priest groups on the issue of sexual abuse around the country since 1985. He has published articles, contributions to anthologies and a book this subject and has prepared or assisted in the preparation of policies and guidelines for several Catholic dioceses and religious orders on the subject of dealing with accusations of sexual abuse of children by the clergy. He has served as a court expert in numerous cases involving sexual abuse by the clergy and has been a consultant to and witness before grand jury investigations in the U.S. He has also served as a consultant and expert witness in civil cases in other countries including Ireland, the U.K. and Israel. He was an expert witness and consultant to the Fems Commission in Ireland.

Thomas Doyle will testify about the history of the problems of child sexual abuse in the Catholic Church in the United States and how it has been mishandled. He will describe the notice and knowledge to bishops and the risk of sexual abuse to children. Church leaders have known or should have known that transferring an abusing priest from one parish to another, one diocese to another, one order to another will not effectively remedy the problem. Church leadership has adopted a position of secrecy and silence.

Thomas Doyle will testify that the Diocese of Memphis was a microcosm of the global problem of the priest abuse scandal. Generally, predators were allowed to exist, by moving from church to church and diocese to diocese. That also happened in Memphis.

Thomas Doyle will testify that the Diocese of Memphis had been alerted to the problems of pedophilia among Catholic priests as early as the 1980s by the Bishop's own admission because he served on one of the committee's studying the problem. Generally, the body of Catholic bishops has known about the problems of pedophilia among Catholic priests as early as the 1970s.

In the case of Juan Carlos Duran, O.P., the abuser in this case, the Southern Dominican Province knew Duran had committed prior acts of sexual abuse before placing him in Memphis and therefore should never have placed him here. Additionally, the Diocese of Memphis should have inquired further into Duran's background before hiring him because the Diocese had an obligation to check his background. The Diocese failed to request a letter of good standing pursuant to their policy. Additionally, a review of Duran's resume with a 31 year gap should have alerted the Diocese to inquire into his background. This is exactly the type of information that should have raised a red flag to church officials that this was a pedophile priest. The conduct of both entities violated their own policies and was negligent.

Thomas Doyle will testify concerning the role, authority and duties of a priest and his supervisors. He may testify about the inappropriate supervisors of priests and the need for implementation of appropriate policies and practices.

Thomas Doyle will testify on the subject of the Code of Canon law as well as other rules, regulations, policies and procedures of the Roman Catholic Church and particularly as to how they relate to the role of the Catholic Church in causation, investigation and prevention of the

sexual abuse of children and adolescents by Catholic priests. He will testify concerning the historical development of the Catholic Church's treatment of sexual abuse of minors by the clergy.

Thomas Doyle will testify about the canonical and pastoral responsibilities that Church leaders and supervisors have to the victims of sexual abuse by the clergy.

Thomas Doyle will testify that sexual abuse has a variety of harmful effects on victims and from his expertise will testify about the especially harmful spiritual effects sexual abuse by a priest can have on a victim.

See further Expert Qualifications which is attached as Exhibit 1 to this Response.

The grounds which form the basis of Thomas Doyle opinions include the review of various materials pertaining to this case, including depositions, pleadings, and other documents produced as well as Doyle's expertise acquired while actively serving as a priest in the Roman Catholic Church and through years of formal education and training. See further Expert Qualifications which is attached as Exhibit 1 to this Response.

Respectfully submitted,

GARY K. SMITH & ASSOCIATES, PLLC

BY:



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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served upon the following attorneys by placing a copy of same in the U.S. Mail postage prepaid this the 4th day of December, 2007.

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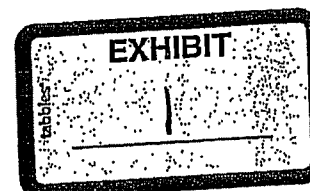
DECLARATION OF

THOMAS P. DOYLE, O.P., J.C.D., C.A.D.C.

ACADEMIC AND PROFESSIONAL BACKGROUND

I, Thomas Patrick Doyle, declare:

1. My name is Father Thomas Patrick Doyle. I am an ordained Catholic priest in the Dominican Order. I also served as an officer in the United States Air Force from 1986 until 2004. I was ordained a Catholic priest in 1970. I currently reside in Vienna, Virginia. My *curriculum vita* is attached.
2. I have earned the following degrees: B.A. in Philosophy, Aquinas Institute of Philosophy, River Forest, Illinois granted in 1966; M.A. in Philosophy, Aquinas Institute of Philosophy, 1968; M.A. in political science, University of Wisconsin, 1971; M.A. in theology, Aquinas Institute of Theology, Dubuque, Iowa, 1971; M.Ch.A., Catholic University of America, Washington, D.C., 1976; M.A. in Canon Law, University of Ottawa, Ottawa, Ontario, 1977; J.C.L. (Pontifical Licentiate in Canon Law) St. Paul University in Ottawa, Canada, 1977 and a J.C.D. (Pontifical Doctorate in Canon Law), Catholic University of America, 1978. I am also a fully certified addictions counselor, having trained at the Naval School of Health Sciences in San Diego and the University of Oklahoma at Norman, Oklahoma.
3. I have held several part-time academic positions from 1974 through 1995. These have included Visiting Lecturer in Canon Law at Catholic Theological Union in Chicago, Illinois from 1979-1981; Visiting Lecturer in Canon Law, Catholic University of America, Washington, D.C. from 1981-1986; and faculty member, Midwestern Tribunal Institute, Mundelein Seminary, Mundelein, Illinois from 1979-1986. In addition, I have served as a part-time Tribunal Judge for the Diocese of Scranton, Pennsylvania from 1986-1990, for the Diocese of Pensacola/Tallahassee and the Archdiocese of Military Services from 1993-1995, and the Diocese of Lafayette in Indiana from 1991-1993.
4. I have extensive experience serving as Advocate, Defender of the Bond, and Tribunal Judge for Marriage Tribunals within the Catholic Church. Following my first assignment as a parochial assistant priest at St. Vincent Ferrer Parish in River Forest, Illinois, I became Advocate and Defender of the Bond in the Matrimonial Tribunal for the Archdiocese of Chicago. I held this position from 1974-1978. In 1978 I became Tribunal Judge in the Matrimonial Tribunal for the Archdiocese of Chicago. I held this assignment from 1978-1981. From 1986-1990 I served as Tribunal Judge and Special Assistant to the Archbishop, Archdiocese for Military Services, U.S.A.



5. In addition to teaching and administrative work, I have also written several books and articles on a variety of subjects related to Canon Law. Included are one book, several articles and contributions to books on subjects directly related to clergy sexual abuse. A complete list of my publications can be found in my curriculum vitae.
6. I continued to do parish work on weekends until I entered the military in 1986. I served as a reserve chaplain with several active duty assignments until 1990 when I became a full-time active duty officer and chaplain. I have held the following permanent assignments: 1990-1993, Grissom Air Force Base, Indiana; 1993-1995, Hurlburt Field, Florida; 1995-1997, Lajes Field, Azores; 1997-2001, Tinker Air Force Base, Oklahoma; 2001-2003, Ramstein Air Base, Germany; and 2003 to 2004, Seymour Johnson Air Force Base, North Carolina. I have also been deployed to Operation Joint Forge, Operation Southern Watch and Operation Iraqi Freedom.

PROFESSIONAL EXPERIENCE IN CLERGY SEXUAL ABUSE CASES

7. From the fall of 1981-1986 I served as secretary and Canon Lawyer on the staff of the Vatican Embassy in Washington, D.C. Among other duties I coordinated the process of investigating candidates for the Episcopacy, i.e., the process of becoming a bishop, and the process whereby new dioceses were created or bishops transferred from one diocese to another. During my tenure at the Vatican Embassy, accusations of child abuse by Catholic priests and bishops as well as members of religious communities of men and women were made against specific individuals and reported to the Vatican Embassy by the local bishops. In these cases I was given responsibility for preparing files, following correspondence and preparing responses to letters received by the Vatican Ambassador. I have had direct involvement in clergy sexual abuse cases since the fall of 1982.
8. My major involvement in clergy sexual abuse cases began in June 1984 concerning the Diocese of Lafayette, Louisiana where Fr. Gilbert Gauthe had been accused of sexually abusing a number of minor boys. The publicity generated from this case involving minor victims had also provoked revelations of widespread clergy sexual abuse in several other Catholic dioceses. As the situation became public, additional similar incidents around the United States were brought to the Vatican Embassy's attention.
9. I have testified as an expert witness and consultant in clergy sexual abuse cases since 1988 and have studied documentation in cases from approximately 190 of the 195 Catholic dioceses in the United States. In the course of this work, I have reviewed more than 1,500 priest personnel files. I have been qualified as an expert witness and/or consultant on clergy sex abuse cases for more than eighteen (18) years involving several hundred separate cases in the United States, Canada, the U.K., Ireland, New Zealand, Australia and Israel. I have appeared before the legislatures of the States of Pennsylvania, Ohio, Colorado, California, Delaware, Maryland and the District of Columbia to testify relative to child protective legislation including matters related to child abuse, clergy reporting statutes and statutes of

limitations. I have also appeared before or consulted with several grand juries in the United States. In addition I have appeared as an expert witness and served as a consultant to the Ferns Commission in Dublin, Ireland and to the Cornwall Public Inquiry, Cornwall, Ontario, Canada.

10. I have worked extensively with clergy sexual abuse victims of both sexes ranging in age from nine years old to 92 years of age. I have provided pastoral care to their families including parents, spouses and children. I have also worked as a canonical consultant with Dioceses and Religious Orders, giving presentations and lectures and developing policies and procedures in this area as well as assisting numerous dioceses in the United States and abroad in compiling similar policies and procedures. I have given workshops to various dioceses around the country on the issue of clerical sexual misconduct against minors. I have lectured extensively and published articles on issues related to sexual abuse by clerics and religious brothers. In addition to working with victims of sex abuse I have also worked since 1984 with accused clerics as a canonical advocate and advisor and as a pastoral support person.
11. In 1985 I collaborated with Fr. Michael Peterson, a psychiatrist, medical doctor and Director of St. Luke Institute, a Catholic treatment center in Suitland, Maryland and Ray Mouton, attorney retained by the Diocese of Lafayette, Louisiana to defend Fr. Gilbert Gauthier on criminal charges. The three of us composed a manual and prepared specific action proposals on the issue of sexual abuse of children by Roman Catholic clerics and religious Brothers. The final title of the 100 page document was titled *The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner*. Our goal was to produce such a manual for the Catholic Bishops of the United States to assist in formulating a response to the problem of the sexual abuse of children by Roman Catholic priests and religious. The proposal expressed two major concerns: the first was prevention of continuing abuse; the second was the care of victims and their families. The proposal contained detailed action plans. The first plan involved the establishment of a multi-disciplinary committee to study all vital aspects of the issue, medical, legal, and pastoral.
12. The second plan involved the creation of a team of experts available to assist bishops at their request when sexual abuse issues arose. The basic text was a question-and-answer format covering detailed explanations and strategy for the canon law, civil law, criminal law, insurance, pastoral and clinical aspects of the problem. The document (which has become known as "The Manual") contained several articles reprinted with permission from professional medical journals describing various aspects of the symptoms, treatment and controllability of pedophilia and related sexual disorders. The recommendations of this report were never implemented by the church hierarchy although the manual was sent to the bishop of every diocese in the United States.

HISTORICAL CONTEXT OF CLERGY SEXUAL ABUSE OF MINORS

13. In this declaration I have been asked to describe the historical background of the institutional Catholic Church's response to reports of sexual abuse of children, minors and vulnerable adults by members of the clergy.
14. The Catholic Church was officially recognized by Emperor Constantine in the early 4th century. With this recognition the religious leaders, soon to be known as the "clergy" gradually evolved into a separate, privileged class, the most exalted members of which were the bishops. Although celibacy did not become a universally mandated state for clerics of the western Church until the 12th century (2nd Lateran Council, 1139) various church leaders began to advocate it by the 4th century. The earliest recorded church legislation is from the council of Elvira (Spain, 306 AD). Half of the canons passed dealt with sexual behavior of one kind or another and included penalties assessed for clerics who committed adultery or fornication or who had sex with minors. Though it did not make specific mention of homosexual activities by the clergy, this early Council reflected the church's official attitude toward same-sex relationships: men who had sex with young boys were deprived of communion even on their deathbed.¹
15. Other gatherings of bishops throughout the Christian world, which encompassed what are now Western Europe, Northern Africa, the Middle East and the British Isles, passed laws attempting to stamp out clerical concubinage, clerical fornication and homosexual activity with minor boys.
16. The Catholic Church is organized in geographic regions known as dioceses, from a Greek word meaning a "group." The term was common from the 4th century. The head of a diocese has traditionally been a bishop. Early church legislation was passed by individual bishops for their own territory but the more important legislation with lasting historical impact, was that passed by groups of bishops who gathered at periodic meetings known as *councils* or *synods* which were generally named after the place where they occurred. Laws were passed throughout the Christian world forbidding illicit sexual activity by the clergy. These laws, whether the product of individual bishops or groups, did not need the approval of the papacy.
17. By the 9th century collections of the growing mass of legislation began to appear. These were unofficial and generally poorly organized attempts at putting at least some of the known legislation in the same place. Several of the more prominent and complete collections have survived as essential sources for the study of the development not only of church law but of the Christian life in general. The first truly systematic collection was produced by the monk

¹ John Boswell, Christianity, Social Tolerance and Homosexuality (Chicago: University of Chicago Press, 1980), p. 42.

Gratian in 1140. Known as the *Concordance of Discordant Canons* or more commonly as *Gratian's Decree* it consisted of a wide spectrum of texts arranged in a dialectic method with Gratian's own opinions added. Though never officially approved, Gratian's decree became the most important resource for the history of Canon Law. Following the medieval period the major legislative sources were the popes themselves and the general or ecumenical councils, the most recent of which was Vatican II (1962-65).

18. The practice of individual confession of sins to a priest started in the Irish monasteries in the late sixth century. With individual confession came the *Penitential Books*, another valuable source for church history. These were unofficial manuals drawn up by various monks to assist in their private counseling with penitents in confession. These books listed the various and sundry acts which the church considered sinful and provided guidance on the acceptable penance to be imposed. The *Penitentials* provide a vivid glimpse into the darker side of Christian life at the time. Though it is not known exactly how many such books were written, the more prominent ones have been preserved, studied and translated.
19. Several of the *Penitentials* refer to sexual crimes committed by clerics against young boys and girls. The *Penitential of Bede* (England, 8th century) advises that clerics who commit sodomy with young boys be given increasingly severe penances commensurate with their rank, the higher ranking (bishops) receiving harsher penalties. The regularity with which mention is made of clergy sex crimes shows that the problem was not isolated, was known in the community and was treated more severely than similar acts committed by lay men. The *Penitential Books* were in use from the mid 6th century to the mid 12th century.²
20. The most dramatic and explicit condemnation of forbidden clergy sexual activity was the *Book of Gomorrah* of St. Peter Damian, completed in 1051.³ The author had been a Benedictine monk and was appointed archbishop and later cardinal by the reigning pope. Peter Damian was also a dedicated Church reformer who lived in a society wherein clerical decadence was not only widespread and publicly known, but generally accepted as the norm.⁴ His work, the circumstances that prompted it and the reaction of the reigning pope (Leo IX) are a prophetic reflection of the contemporary situation.

² See Pierre Payer, *Sex and the Penitentials* (Toronto: University of Toronto Press, 1984).

³ Pierre J. Payer, "Introduction" to *The Book of Gomorrah* (Waterloo, Ontario, Wilfred Laurier University Press, 1982), p. 5. "The *Book of Gomorrah* stands out as a carefully planned and eloquently executed discussion of the subject reflecting both a legalistic concern with correct ecclesiastical censure and a passionate pastoral concern for those caught up in the behavior."

⁴ John Boswell, op. cit., p. 187: "There is in fact a considerable body of evidence to suggest that homosexual relations were especially associated with the clergy. Some Christian authors have rather defensively rejected this idea but with little supporting documentation."

21. Peter Damian begins by singling out superiors who, prompted by excessive and misplaced piety, fail to exclude sodomites (chap. 2). He asserts that those given to "unclean acts" not be ordained or, if they are already ordained, be dismissed from Holy Orders (chap. 3). He holds special contempt for those who defile men or boys who come to them for confession (chap. 6). Likewise he condemns clerics who administer the sacrament of penance (confession) to their victims (chap. 7). The author also provides a refutation of the canonical sources used by offending clerics to justify their proclivities (chap. 11, 12). He also provides chapters which assess the damage done to the church by offending clerics (chap. 19, 20, 21). His final chapter is an appeal to the reigning pope (Leo IX) to take action.
22. The pope's response, included in the cited edition, is an example of inaction similar to that of contemporary church leaders. Pope Leo praised Peter Damian and verified the truth of his findings and recommendations. Yet he considerably softened the reformer's urging that decisive action be taken to root offenders from the ranks of the clergy. The pope decided to exclude only those who had offended repeatedly and over a long period of time. Although Peter Damian had paid significant attention to the impact of the offending clerics on their victims, the Pope made no mention of this but focused only on the sinfulness of the clerics and their need to repent.⁵
23. The repeated violations of clerical celibacy were amply documented in the canonical collections of the medieval period. The most authoritative source is the *Decree of Gratian* already mentioned. Though mandatory celibacy had been decreed by the 2nd Lateran Council in 1139, this law was received with neither universal acceptance nor obedience. Medieval scholars attest that clerical concubinage was commonplace. Adultery, casual sex with unmarried women and homosexual relationships were rampant. Gratian devoted entire sections to disciplinary legislation which attempted to curb all of these vices. He demanded that the punishment for sexual transgressions be more severe for clerics than for lay men. His treatment of same-sex activities was less extensive than that of other celibacy violations, yet his attitude is evident because he cited the ancient Roman law opinion that *stuprum pueri*, the sexual violation of young boys, be punished by death.⁶
24. From the 4th century to the end of the medieval period it is clear that violations of clerical celibacy were commonplace, expected by the laity and highly resistant to official disciplinary attempts to curb and eliminate them. Referring to concubinage for example, one noted scholar said:

⁵ Vern Bullough, *Sexual Practices and the Medieval Church*, p. 61.

⁶ *Decree of Gratian*, D. 1, de pen., c.15 in *Decretum Magistri Gratiani*, editio Lipsiensis Secunda, editor, A.L. Richter, (Graz, Friedberg, 1879, 1959). (The manner of citing Gratian is unique. The citations here noted refer to the first part of the *Decretum*, and each number refers to a section known as a *distinctio*.)

From the repeated strictures against clerical incontinence by provincial synods of the twelfth and thirteenth centuries, one may surmise that celibacy remained a remote and only defectively realized ideal in the Latin West. In England, particularly in the north, concubinage continued to be customary; it was frequent in France, Spain and Norway.⁷

25. Clerical sodomy continued to be a known problem though it did not attract as much legislative attention as clerical concubinage and this quite possibly because of the ongoing attempts to eliminate clergy marriages. The 4th Lateran Council (1215) repeated the previous council's condemnation of celibacy violations. It added however a specific mention of homosexual sex by clerics and decreed that those found guilty of this transgression were either to be dismissed from the clerical state or confined to a monastery for life. The former amounted to social exile and the latter to imprisonment.⁸
26. The documentation from the medieval period indicates that although homosexual liaisons were not uncommon among the secular or diocesan clergy, most celibacy violations involved heterosexual forms of abuse. Illicit sexual activity by the monks was another matter. Although concubinage and even illicit marriages occurred among the monks, the fact that they took vows of chastity precluding marriage and lived a common life theoretically isolated from women meant that their sexual outlets would be considerably restricted. The monks became known for the frequency of homosexual activity especially with young boys. Many monasteries passed local regulations in attempts to curb the rampant abuses. In his Rule, Benedict commanded that no two monks were to sleep in the same bed. Night lights were to be kept burning and the monks were to sleep clothed. Many monasteries enacted their own rules forbidding various kinds of sexual behavior and added punishments that were often more severe than those meted out to the secular clerics.⁹ So common was clerical same-sex activity that some scholars have concluded that homosexual relationships were commonly associated with the clergy.¹⁰

⁷ John Lynch, "Marriage and celibacy of the clergy: the discipline of the western church: an historico-canonical synopsis," *Jurist* 32(1972): 199-200.

⁸ Canon 11, 3rd Lateran Council in H.J. Schroeder, editor, *Disciplinary Decrees of the General Councils*, (St. Louis, B. Herder Book Co. 1937), p. 224.

⁹ John Boswell, *Christianity, Social Tolerance and Homosexuality*, (Chicago, University of Chicago Press, 1980), p. 188.

¹⁰ Michael Goodich, "Sodomy in Ecclesiastical Law and Theory," in *Journal of Homosexuality* 1(1976), p. 427: "in the 13th century, the few references to homosexuality suggest that it was generally regarded as a clerical vice. Both the manuals of penance of the early Middle Ages and the conciliar and synodal legislation initiated in the 12th century placed greater emphasis upon the prevention and suppression of sodomy among the clergy."

27. There are two aspects of the ecclesiastical legislation and overall attitude toward clerical sexual activity that stand in marked contrast to the contemporary period. The first is the documented fact that in addition to a stringent admonition by Peter Damian in the *Book of Gomorrah*, at least two general or ecumenical councils took direct aim at church leaders who supported errant clerics by their failure to take decisive action.¹¹ The 4th Lateran Council (1215) and the Council of Basle (1449) both recognized the fact that curbing the vices depended on cooperative superiors. The canon from the Lateran Council is succinct:

*Prelate who dare support such in their iniquities, especially in view of money or other temporal advantages, shall be subject to a like punishment.*¹²

28. The other unique feature of this period is the collaboration of the church with secular authorities in the enforcement of ecclesiastical laws. The Catholic Church was the only Christian denomination and the dominant social force in the medieval period. Separation of church and state was unheard of which meant that the boundaries between the secular and religious were often blurred. Church authorities considered celibacy violations to be more than a purely religious matter. They caused some degree of scandal and therefore were a matter of public interest. To enhance the opprobrium the church often tried accused clerics in the ecclesiastical tribunals and then turned them over to secular authorities for additional prosecution and punishment. Penalties were harsh and sometimes included execution.¹³
29. No prior reform movement in the Catholic Church had an impact equal the 16th century Protestant Reformation. The reformers were concerned about a number of problems they saw with the Catholic Church and sexual abuses were among them:

The sexual habits of the Roman Catholic clergy, according to reformers, were a

¹¹ See Peter Damian, *Book of Gomorrah*, chapter 2, p. 30: "And some rectors of churches who are perhaps more humane in regard to this vice than is expedient absolutely decree that no one ought to be deposed from his order on account of three of the grades which were enumerated above....Consequently when someone is known to have fallen into this wickedness with eight or even ten other equally sordid men, we see him still remaining in his ecclesiastical position. Surely this impious piety does not cut off the wound but adds fuel to the fire. It does not prevent the bitterness of this illicit act when committed, but rather makes way for it to be committed freely."

¹² Schroeder, *Disciplinary Decrees of the General Councils*, p. 256.

¹³ See Richard Sherr, "A Canon, A Choirboy and Homosexuality in Late 16th Century Italy: A Case Study," in *Journal of Homosexuality* 21(1991), p. 1-22. This is an interesting story of a priest accused of sodomizing a 13 year old choirboy in the town of Loreto. The priest was tried by the church court, defrocked and then turned over to civil authorities who sentenced him to death by decapitation. The victim was whipped and banned from the papal States.

*sewer of iniquity, a scandal to the laity, and a threat of damnation to the clergy themselves.*¹⁴

30. In spite of attempts to propagate revisionist versions of the Reformation, the Church's primary reaction, the ecumenical Council of Trent (1545-1563), was itself proof of the deeply entrenched and wide-ranging corruption in the Church. Secular princes had urged a reforming council but the popes resisted until 1545 when Pope Paul II summoned one to be held in the Italian city of Trento.¹⁵ The council met in 25 sessions with several periods of adjournment. It ended in 1563 after session 25 when most of the major reforms were enacted.
31. The reaffirmation of clerical celibacy did not conclude without strong opposition from a significant number of bishops who argued that mandatory celibacy was simply not working and accomplished no more than denying priests' "wives" and children a share in their estates.¹⁶ A canon was proposed which would have permitted marriage for clergy but this was rejected and mandatory celibacy re-enforced. The canon upholding celibacy was followed by one which extolled it as superior to marriage:

*If anyone says that the married state excels the state of virginity or celibacy, and that it is better and happier to be united in matrimony than to remain in virginity or celibacy, let him be anathema.*¹⁷

32. In spite of the reforming legislation and the establishment of mandatory seminary training, education and formation for priests, the bishops at Trent were no more successful at curbing celibacy violations than their predecessors. Illicit sex with women, men and young boys continued but for a time were much less obvious. By 1566, in the first year of his pontificate, Pope Pius V (1566-72) recognized a need to publicly attack clerical sodomy. The constitution *Romani Pontifices* promulgated legislation against a variety of actions and practices, including the 'crime against nature.' This short canon condemned all who committed this crime and prescribed that they be handed over to secular authorities for punishment. Clerics however were to be first degraded, presumably by an ecclesiastical court, and then handed over to secular authorities.¹⁸

¹⁴ Ibid., p. 554.

¹⁵ See Cross and Livingstone, op. cit., p. 1050. Pope Paul III himself had three sons and a daughter yet promoted the reform.

¹⁶ Brundage, *Law, Sex and Christian Society*, p. 568.

¹⁷ Canon 10, Session XXIV in H.J. Schroeder, editor, *The Canons and Decrees of the Council of Trent*, (St. Louis, B. Herder, 1941), p. 182.

¹⁸ Pope Pius V, "*Romani Pontifices*", 1 April 1566, in P. Gasparri, editor, *Codicem Iuris Canonici Fontes*, Vol. 1, (Vatican, Typis Polyglottis, 1926), p. 200 (Hereinafter identified as

33. Two years later the same pope apparently found it necessary to issue another condemnation of clerical sodomy. The constitution *Horrendum* specifically named clerics who committed "the sin against nature which incurred God's wrath" ("*quae contra naturam est, propter quam ira Dei venit in filios diffidentiae.*") and stipulated that they be punished with deprivation of income, suspension from all offices and dignities and in some cases, degradation.¹⁹
34. Summarizing the medieval period, it is clear that the bishops were not as preoccupied with secrecy as they are today. Clergy sexual abuse of all kinds was apparently well known by the public, the clergy and secular law enforcement authorities. There was a constant stream of disciplinary legislation from the church but none of it was successful in changing clergy behavior. In spite of a millennium of failure, the popes and bishops never gave serious thought to the viability of mandatory celibacy. The variety of spiritual punishments was joined, in the later period, with severe corporal penalties, inflicted by secular authorities. Finally, and most important, at certain periods, church authorities recognized that the problem was not only dysfunctional clerics, but irresponsible leadership.
35. Solicitation in the Confessional. Individual confession of sins by a Catholic to a priest began in the 6th century. Annual confession became mandatory with the Council of Trent. Also, the spirituality of the time prompted many people to go to confession regularly. For some this meant weekly or even daily. By the 17th century the papacy recognized that some priests were using the sacrament of Penance, commonly known as confession, as a way to solicit sex from penitents. The Pope and various regional bishops issued a series of disciplinary laws against solicitation, beginning in 1561 and extending to 2001. Papal laws were promulgated in 1561, 1622, 1741, 1917, 1922, 1962, 1983 and 2001.
36. The church courts prosecuted individual cases in great numbers. The most complete records have been found in the Spanish and Mexican tribunals and reveal a shockingly high volume of complaints from women and men, accusing priests of solicitation and sexual abuse in a variety of forms. The most complete study of cases from the Spanish tribunals revealed that between 1723 and 1820 3775 cases were completed and sentences handed down. The author concluded that this number represents a small portion of the actual cases in that it reflects only those completed and not the total number started and later abandoned.²⁰
37. After the promulgation of the Code of Canon Law in 1917, the Vatican issued special

Fontes.)

¹⁹ Pope Pius V, "*Horrendum*" Papal Constitution, 30 August 1568 in Fontes p. 229.

²⁰ Charles Henry, a History of the Inquisition in Spain. (New York, MacMillan, 1907), p. 135.

legislation on procedures to be followed in solicitation cases in 1922. This document was sent to the world's bishops but otherwise retained in total secrecy. Unlike previous special legislation aimed at curbing solicitation for sex in the confessional which was public, this document was never publicly promulgated. It contained procedures to be followed in the prosecution of cases of solicitation for sex by a cleric. In issuing the document the Vatican stipulated that it was to remain strictly confidential. It was not to be openly published or commented upon. No explicit reason was given for this unusual secrecy nor is any justification given for the document or some of the surprising changes contained therein.

38. The 1922 procedural norms introduced several significant elements including an exceptional degree of confidentiality imposed on the document itself and the persons involved in processing cases. Compared to previous papal documentation confronting clergy sexual abuse this document contains several significant changes which reveal the church's policy on clergy sexual crimes.

- a. Jurisdiction: Local ordinaries (bishops and heads of religious orders) have the right to process cases included in this document. However, they retain the option of sending such cases to the Vatican's Congregation of the Holy Office for prosecution.
- b. Secrecy-officials: Tribunal and other church personnel who are involved in processing cases are obliged to maintain total and perpetual secrecy and are bound by the church's highest degree of confidentiality, known as the Secret of the Holy Office. Those who violate this secrecy are automatically excommunicated and the absolution or lifting of this excommunication is reserved to the pope himself.
- c. Secrecy-parties and witnesses: Even the accuser and witnesses are obliged to take the oath of secrecy. The penalty of automatic excommunication is not attached to the violation of the oath. However the official conducting the prosecution can, in individual cases, threaten accusers and witnesses with automatic excommunication for breaking the secret.
- d. Anonymous denunciations. Anonymous accusations are not automatically ruled out though they are generally to be rejected. They are to be considered and acted upon if circumstances require and if there appears to be some semblance of veracity to the accusation.
- e. Other sex crimes. Title V of the document specifically included homosexual acts between clerics and members of their own sex, bestiality and sexual acts of any kind with children.

39. In 1962 Pope John XXIII approved the publication of renewed special procedural norms for processing solicitation cases. Like the 1922 document this document was buried in the deepest secrecy. Although it was promulgated in the ordinary manner and then printed and distributed by the Vatican press, it was never publicized in the official Vatican legal bulletin, the Acta Apostolicae Sedis.²¹ The document was sent to all bishops in the world as well as

²¹ Acta Apostolicae Sedis or Acts of the Apostolic See is the official periodical that contains Vatican legislation. Canon 9 of the 1917 Code states that official publication takes place through the

to the superiors of religious orders of men.

40. The other sex crimes included under Title V are not crimes connected with solicitation but the actual sexual abuse itself. These are to be processed in the same manner as crimes of solicitation. Thus, the three classes of clergy sexual abuse were cloaked in the highest degree of secrecy. Little was known about either the 1922 or 1962 documents until reference to the 1962 document, commonly known by its Latin name *Crimen sollicitationis*, was included in a 2001 Letter sent to all bishops from the Congregation for the Doctrine of the Faith on more grave crimes reserved for consideration to that same Vatican office.²²
41. The 1962 document was issued prior to the promulgation of the revised Code of Canon law in 1983 and therefore would, under ordinary circumstances, have lost its legal force. The recent letter however clearly indicates that it had been in force until May of 2001.
42. The 1922 and 1962 documents are significant because they reflect the institutional church's urgent desire to maintain the highest degree of secrecy and strictest degree of security about sexual crimes perpetrated by clerics.
43. The public exposure of clergy sexual abuse of youth which began in the mid-eighties was mistakenly believed by many to be a new phenomenon which of course it is not. In spite of a series of high profile cases from around the world the Vatican issued no disciplinary documents until 2001. Although the Pope John Paul II had made eleven public statements about clergy sexual abuse between 1993 and 2004, this was the first attempt by the Vatican to take concrete steps to contain the problem. The document, which is a set of special procedural norms, is not exclusively about sex abuse although that is the predominant theme. It is about the processing of certain crimes considered by the Vatican authorities to be so serious that prosecution of them is reserved to the Vatican itself.
44. The 2001 document reflects much that is found in the 1962 procedural norms. There are significant developments however:
 - a. The bishop or other superior is obliged to send the results of the preliminary investigation of an allegation of sexual abuse to the Vatican congregation. The officials there decide if the case will be processed in the Vatican or returned to the local diocese for prosecution.

Acta.

²² "Sacramentorum Sanctitatis Tutela," May 18, 2001, Congregation for the Doctrine of the Faith, in Acta Apostolicae Sedis, 93(2001), p. 785-788.

- b. The canonical age of a minor was raised from 16 to 18.
- c. The statute of limitations is extended to 10 years. In the case of sexual abuse of a minor this time begins to run from the victim's 18th birthday.
- d. All officials involved in processing cases must be priests
- e. Files of cases completed on the local levels are to be sent to the Vatican for retention.
- f. The Pontifical Secret, formerly known as the Secret of the Holy Office, is imposed on all officials connected to any cases. No mention is made of imposing the secret on accusers or witnesses.

Secrecy

45. Clergy sexual abuse has been enshrouded in a culture of deep secrecy since the mid-nineteenth century and possibly earlier. It appears that the *obligation* of secrecy concerning clergy sexual abuse cases was imposed by Pope Pius IX in 1866. The official document that imposes the secrecy was published on February 20, 1866 by the Sacred Congregation of the Holy Office in the form of an "Instruction". This instruction provided clarification on certain aspects of the previous papal constitution dealing with solicitation in the confessional, *Sacramentum Poenitentiae* (1741) of Pope Benedict XIV. The actual text is as follows:

Par. 14. In handling these cases, either by Apostolic commission or the appropriate ruling of the Bishops, the greatest care and vigilance must be exercised so that these procedures, inasmuch as they pertain to [matters of] faith, are to be completed in absolute secrecy, and after they have been settled and given over to sentencing, are to be completely suppressed by perpetual silence. All the ecclesiastic ministers of the curia [court], and whoever else is summoned to the proceedings, including counsels for the defense, must submit oaths of maintaining secrecy, and even the Bishops themselves and any of the local Ordinaries are obligated to keep the secret. ²³

46. Clergy sexual abuse was unknown by the vast majority of Catholics and the general public until a series of revelations took place beginning in 1984 in the United States and in 1988 in Newfoundland in Canada.²⁴ The culture of secrecy was enabled by the official policy of the Vatican which imposed the highest degree of confidentiality on processing cases of clergy sexual abuse.

²³ *Codicis Iuris Canonici Fontes*, Rome, 1926, vol. IV, n. 990, p. 267.

²⁴ The in U.S. the cases involving Fr. Gilbert Gauthier became public knowledge in 1984. In Canada the major revelations began with the Mt. Cashel scandal, which became public in 1988.

47. Foreseeability and The Contemporary Era

In our contemporary era popes and bishops have been aware of clergy sexual abuse even though the general public has not been aware of this dimension of church life. The revelation of 1984 in the U.S., 1988 in Canada and later 2002 in the U.S. marked the public awareness of a problem Church officials had been aware of for decades. Although the first public cases were in the United States and soon after in Canada, it is erroneous to assume that this is a North American problem or a problem restricted to English speaking countries. Child and adolescent sexual abuse is a problem that crosses ethnic and cultural boundaries. A major difference is not in the existence of the problem but in the manner with which different cultures respond to it.

48. Deviant sexual behavior by Catholic clerics (deacons, priests and bishops) was usually foreseeable by bishops and religious superiors. This assertion can be based on a consistent pattern of disciplinary legislation enacted by church authorities from the fourth century down to the present. It cannot be disputed that the United States bishops as individuals and as a group were aware of the probability of sexual abuse of children and adolescents by clerics, certainly by late 1984 and early 1985, in light of the national publicity given to the celebrated case of Fr. Gilbert Gauthier in Lafayette, Louisiana. The claims that they were unaware of clergy sexual abuse or the serious nature of such abuse prior to this time are empty and contrived in light of information that has been uncovered in the various civil and criminal trials since 1985, centuries old documents issued by church authorities and various studies conducted under church auspices over the past 60 years. Furthermore, in 1946 Fr. Gerald Fitzgerald, a U.S. priest, founded a small religious community known as the *Servants of the Paraclete*. The community had facilities in a number of States and in several foreign countries. The mission of the community was to provide assistance to priests with addiction problems, psychological problems and psycho-sexual problems. Fr. Gerald also founded treatment facilities in New Mexico which provided the beginnings of his apostolate to helping troubled clergy. From the very beginning the Paraclete Fathers were confronted with clergy who had sexually abused young people. Fr. Gerald believed that such men could neither be cured nor controlled and therefore should not be allowed to function as priests. From the beginning he argued that they should be laicized, even against their will, as this would be for the benefit of the church community. He made his thoughts known in letters to various bishops as well as in reports to the Vatican.

1952: Fr. Gerald Fitzgerald wrote to Bishop Robert Dwyer of Reno, NV, about priests afflicted with sexual disorders that cause them to abuse young boys. This letter indicates that Fr. Fitzgerald had already treated a "handful" of men charged with such abuse. He shared his recommendation that such men be laicized since they would never be free of the temptation to act out. This letter is remarkable in that it clearly assesses both the disorder and the risks. He warns against the very solutions that many bishops resorted to in the ensuing years: "Hence, leaving them on duty or wandering from diocese to diocese is contributing to scandal or at least

to the approximate danger of scandal." Fr. Fitzgerald's efforts at helping troubled priests were unique and quickly became known to all US bishops. It is safe to assume that his opinions about sexually abusing priests were known to most if not all bishops. Concerning priests who sexually abused minors he said *"We find it quite common, almost universal with the handful of men we have seen in the past five years who have been under similar charges - we find it quite universal that they seem to be lacking in appreciation of the serious situation. As a class they expect to bound back like tennis balls on the court of priestly activity. I myself would be inclined to favor laicization for any priest, upon objective evidence, for tampering with the virtue of the young, my argument being, from this point onward the charity to the Mystical Body should take precedence over charity to the individual and when a man has so far fallen away from the purpose of the priesthood the very best that should be offered him is his Mass in the seclusion of a monastery. Moreover, in practice, real conversions will be found to be extremely rare. Many bishops believe men are never free from the approximate danger once they have begun. Hence, leaving them on duty or wandering from diocese to diocese is contributing to scandal or at least to the approximate danger of scandal."* (See Fitzgerald Letter, dated Sept. 12, 1952)

1957: Fr. Fitzgerald wrote to Bishop Matthew Brady of Manchester NH on September 26, 1957: *"From our long experience with characters of this type, and without passing judgment on the individual, most of these men would be clinically classified as schizophrenic. Their repentance and amendment are superficial and, if not formally at least subconsciously, is motivated by desire to be again in a position where they can continue their wonted activity. A new diocese means only green pastures."*

1957: Again, Fr. Fitzgerald writes to Archbishop Edwin Byrne (Santa Fe) saying that he thought it unwise to "offer hospitality to men who have seduced or attempted to seduce little boys or girls." He went on to utter an eerie prophecy of the future: *If I were a bishop, I would tremble when I failed to report them to Rome for involuntary laicization. Experience has taught us these men are too dangerous to the children of the parish and the neighborhood for us to be justified in receiving them here.... They should ipso facto be reduced to lay men when they act thus.*²⁵

1957: Fr. Fitzgerald again wrote to Bishop Matthew Brady of Manchester NH about a priest who repeatedly sexually abused young teen-aged girls. In his letter he says *"We feel that the protection of our glorious priesthood will demand, in time, the establishment of a uniform code of discipline and of penalties. We are amazed to find how often a man who would be behind bars if he were not a priest is entrusted with the cura animarum. Whereas a more positive position, such as Your Excellency is taking in*

²⁵ Jason Berry, Vows of Silence (New York: The Free Press, 2004), p. 97-98 citing Eileen Welsome, "Founder Didn't Want Molesters at Paraclete," Albuquerque Tribune, April 2, 1993.

this case, would seem to add up to the prevention of these weak and irresponsible men from trailing their unlovely interpretation of the priesthood here and there throughout the country." Fr. Fitzgerald stated that such men should not be allowed to function in any ministry in any diocese.

- 1959: Pope John XXIII addressed a letter to Fr. Fitzgerald in which he commended the members of the Paraclete Fathers for the work they were doing with offending priests.
- 1960: In a letter to the superior of a religious order, Fr. wrote: *"Father, in God's name, get this man laicized as quickly as possible. This extreme type will never be converted...Men who sin with little children certainly fall under the classification of those who "it were better had they not been born."* (Aug. 11, 1960)
- 1961: Fr. Fitzgerald wrote to Bishop Ernest Primeau of Manchester, NH, who was attending the Vatican Council. His letter urged involuntary laicization for priests with sexual problems: *I am in hopes that this matter will be given serious consideration by the proper committee in the Ecumenical Council. My argument would run like this: obviously this priest has not the capacity for priestly chastity. Therefore not because he wishes it but to protect the good name of the Church, he should be reduced involuntarily to the lay state.* (June 30, 1961).
- 1962: Fr. Gerald had been in communication with the Congregation of the Holy Office, now known as the Congregation for the Doctrine of the Faith. At the request of the prefect, Cardinal Alfredo Ottaviani, he prepared a report dated April 11, 1962. In this report he discussed the various types of sexual problems of priests, including sexual abuse of minors: *"On the other hand, where a priest for many years has fallen into repeated sins which are considered, generally speaking, as abnormal (abuse of nature) such as homosexuality and most especially the abuse of children, we feel strongly that such unfortunate priests should be given the alternative of a retired life within the protection of monastery walls or complete laicization."*
- 1963: Fr. Fitzgerald addressed a letter to Bishop Vincent Hines of Norwich, Connecticut concerning a priest in his care. He said in reference to bishops who have allowed sexually abusive priests to continue in ministry: *"Personally I would want to spend the rest of my life on my knees asking God's mercy, for I know no more terrible threat than the words of Our Lord: 'those who tamper with the innocence of the innocents - it were better if they had never been born.'" (May 7, 1963.)*
- 1963: Fr. Gerald had a private audience with Pope Paul VI (1963-1978) and on August 27, 1963 submitted a report to the pope at the pope's request. Concerning priests who sexually abuse minors he said to the pope: *"Problems that arise from abnormal, homosexual tendencies are going to call for, not only spiritual, but understanding psychiatric counseling. Personally I am not sanguine of the return of priests to*

active duty who have been addicted to abnormal practices, especially sins with the young.....Where there is indication of incorrigibility, because of the tremendous scandal given, I would most earnestly recommend total laicization."

1964: In 1964 Fr. Fitzgerald wrote to Bishop Joseph Durick of Nashville, who was attending the Vatican Council at the time. Fr. Gerald was trying to alert the Vatican authorities and the Council itself about the problem of sexually abusive priests. In this letter he draws attention to the growing numbers of such problems: *"May I take this occasion to bring to your attention what is a growing concern to many of us here in the States. When I was ordained, forty three years ago, homosexuality was a practically unknown rarity. Today it is rampant among men. And whereas seventeen years ago eight out of ten problems here [at the Paraclete facility, Via Coeli] would represent the alcoholic, now in the last year or so our admission ratio would be approximately 5-2-3: five being alcoholic, two would be what we call "heart cases" (natural affection towards women) and three representing aberrations involving homosexuality. More alarming still is that among these of the 3 out of 10 class, 2 out of 3 have been young priests."*²⁶

49. Fr. Gerald retained his opposition to providing hospitality and help to priests who sexually abused minors. Although the documentation clearly points to the fact that he attempted to treat such priests sent by bishops, he also continued his search for a solution to these problems. In addition to his constant commitment to laicization, even if against the priest's will, he also had a plan to set up a retreat on a remote island in the Caribbean in which he would house such priests for the remainder of their lives. He mentions this idea in a letter written in 1957 to Archbishop Byrne, his ecclesiastical sponsor and co-founder of the Paracletes:

*"May I beg your excellency to concur and approve of what I consider a very vital decision on our part - that we will not offer hospitality to men who have seduced or attempted to seduce little boys or girls. These men Your Excellency are devils and the wrath of God is upon them and if I were a bishop I would tremble when I failed to report them to Rome for involuntary laicization.....It is for this class of rattlesnake I have always wished the island retreat - but even an island is too good for these vipers of whom the Gentle master said - it were better they had not been born - this is an indirect way of saying damned, is it not? When I see the Holy Father I am going to speak of this class to his Holiness."*²⁷

²⁶ At that time it was common among Catholic churchmen to use the term "homosexuality" to refer to the condition of priests who sexually abused young boys. The cases Fr. Gerald refers to all constitute sex between priests and minors.

²⁷ Fr. Gerald actually proceeded with concrete plans to purchase an island in the British Virgin Islands. Financial difficulties prompted Archbishop Davis of Santa Fe, Fr. Gerald's

50. The Paraclete Fathers provided the most widely used resource to bishops for treatment of priests with problems for many years. By his own admission Fr. Gerald had encountered many priests accused of sexually abusing children very early on in his career. In addition to his letters to bishops and Vatican officials, there are other sources that demonstrate that the problem was not unknown or non-existent to the Catholic hierarchy from the mid-forties to the present.

1961: The Sacred Congregation for Religious issued an official document entitled, "Careful Selection and Training of Candidates for the States of Perfection and Sacred Orders," 2 Feb. 1961. The document states that one of the common causes of "defection" or departure from the priesthood is "...sexual tendencies of a pathological nature..." which refers to homosexual tendencies. Later in the document reasons for dismissal are listed. The following statement is found: "*Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and the priestly ministry would constitute serious dangers.*"

1966: Bishop Schenk of Duluth, Minnesota in the U.S. sent an open letter to all bishops asking if anyone would be interested in the priestly services of a priest of his diocese who had been treated at the Paraclete facility in New Mexico for "psychosexual problems." He admitted in the letter that he had taken in some former patients of the Paraclete Fathers but that the ventures had turned out miserably.

1966: A workshop for psychologists engaged in the assessment of candidates for the priesthood and religious life is held at the School of Nursing of the Saint Vincent's Hospital and Medical Center in New York. One of the participants stated: "*Perhaps the most troublesome and most frequent appearing sociopathic features or disturbances in assessment work concern the high incidence of effeminacy, heterosexual retardation, psychosexual immaturity, deviations or potential deviations of the homosexual type....A recent study of 107 male candidates, for example, shows that 8% of these were sexually deviant, whereas 70% were described as psychosexually immature, exhibiting traits of heterosexual retardation, confusion*

superior, to sell the island in 1965.

concerning sexual role, fear of sexuality, effeminacy, and potential homosexual dispositions."²⁸

1966: *Southdown*, a treatment center for Catholic clergy, opens in a Toronto suburb in 1966.

1967: The first public discussion of priest sexual abuse of minors took place at a meeting sponsored by the National Association for Pastoral Renewal held on the campus of Notre Dame University in 1967. All U.S. Catholic bishops were invited to attend that meeting.²⁹

1967: A priest named Fr. Rucker of Los Angeles was arrested in El Segundo CA for alleged sexual molestation of a nine year old girl in January of that year. He was arrested again in April and another complaint was filed by the parents of another nine year old girl. The arrest records were not sealed and the information was known to the priest's bishop and other bishops in the region.

1971: Dr. Conrad Baars and Dr. Anna Terruwe presented a scholarly paper to the 1971 Synod of Bishops at the Vatican and to the U.S. Conference of Catholic Bishops. Citing 40 years of combined psychiatric practice treating about 1500 priests, they concluded that 20-25% of U.S. priests had serious psychiatric difficulties and 60-70% suffered from emotional immaturity. They concluded that the psychosexual immaturity manifested itself in heterosexual and homosexual activity.³⁰

1972: Dr. Eugene Kennedy Dr. Victor Heckler published a psychological study of U.S. priests commissioned by the U.S. Bishops' Conference. His findings concurred with those of Baars and Terruwe and concluded that American priests were
7% psychologically and emotionally developed
18% psychologically and emotionally developing
66% underdeveloped
8% maldeveloped.³¹

²⁸ W.J. Coville. "Basic issues in the development and administration of a psychological assessment program for the religious life." In W.J. Coville, P.F. D'Arcy, T.N. McCarthy, and J.J. Rooney, editors, Assessment of candidates for the religious life: Basic psychological issues and procedures (Washington, DC: Center for Applied Research in the Apostolate, 1968), p. 28-29.

²⁹ A.W. Richard Sipe, "Affidavit," Doe v NOSF, District Court of El Paso, Texas, Feb. 9, 2004, . 19, p. 5-6.

³⁰ Conrad Baars, M.D., "The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood." Unpublished, 1971.

³¹ Eugene Kennedy and Victor Heckler, The Catholic Priest in the United States:

Kennedy and Heckler stated that the underdeveloped and maldeveloped priests (74%) had not resolved psychosexual problems and issues usually worked through in adolescence. "*Sexuality is, in other words, non-integrated into the lives of underdeveloped priests and many of them function at a pre-adolescent or adolescent level of psychosexual growth.*"³²

- 1975: The Archdiocese of Los Angeles received the first of a series of complaints about sexual misconduct with minors by Fr. Eleutario (Al) Ramos who died in 2004.
- 1981: Fr. Michael Andre Moody, a priest of the Archdiocese of Los Angeles, was convicted (1-9-81) of "lewd conduct" for sexually abusing a minor male on June 30, 1980.
- 1981: Fr. Donald Roemer of the Archdiocese of Los Angeles was charged with a felony and pleaded guilty to sexual abuse of a minor. The case received widespread media coverage.
- 1981: St. Luke Institute opens in Suitland, Maryland.
- 1981: The summer edition of The Catholic Lawyer, the official publication of the Association of Diocesan Attorneys, published an article by Edward D. Holtz, General Counsel of the Archdiocese of Omaha, entitled "*Diocesan Liability for Negligence of a Priest.*"
- 1982: Bishop Joseph Madera held a mandatory educational meeting for all of the clergy of the Diocese of Fresno, CA at which legal, psychological and pastoral experts discussed clergy sexual abuse. This workshop followed upon the arrest of a priest in the diocese for sexual abuse.
- 1983: The revised Code of Canon Law was promulgated, which included a canon (1395, 2) which explicitly named sex with a minor by clerics as a canonical crime.
- 1984: "*Respondeat Superior - Diocesan Liability for the Torts of its priests,*" was presented as a paper by Bob Gibbons at the annual meeting of the Texas Catholic Conference (September, 1984). The paper discussed cases of clergy sexual abuse of minors.
- 1984: The Times of Acadiana published a series of articles by Jason Berry exposing the Psychological Investigations. (Washington, D.C., U.S. Catholic Conference, 1972).

³² Ibid., p. 11.

mishandling of the case of Fr. Gilbert Gauthé in Lafayette Louisiana.

- 1985: In January Rev. Mel Balthazar was sentenced to seven years for child molestation in a Boise, Idaho court. The presiding judge said at sentencing: "*I think the church has its own atonement to make as well. They helped create you and hopefully will help to rehabilitate you.*" ³³
- 1985: February, 1985 - Fr. John Salazar of Los Angeles sexually abused a minor boy. He was later charged with other similar counts for actions he perpetrated during the ensuing months. On July 30, 1987, Salazar was sentenced to prison following conviction. Following his release from prison (1991) he was hired by the Catholic bishop of Amarillo, Texas and assigned as pastor to a remote parish. He again abused young boys, was tried, convicted and sentenced to life in prison in 2004.
- 1985: In May a comprehensive report entitled *The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner*, commonly known as "The Manual" was written by Michael Peterson, Thomas Doyle and F. Ray Mouton. The 100 page detailed handbook was prepared in on the initiative of the three authors with the support and input of a number of influential bishops. The U.S. Catholic Bishops Conference, though aware of the manual, dismissed it as unnecessary claiming that it already possessed all the data contained in it and had policies and procedures in place by 1985.
- 1986: Dr. Jay Feierman, a psychiatrist formerly associated with the Paraclete Fathers, testified that he had treated over 600 priests for sexual problems over the previous ten years at the Paraclete facility (1976-1986).
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³³ Jason Berry, Lead Us Not Into Temptation (Chicago: University of Illinois Press, 1992), p. 30

- 1986: The Conference of Major Superiors of Men (CMSM) sponsored a conference in Ohio called *A Consultation on Male Sexuality in Men's Religious Orders*. One of the talks was entitled "*When sexual problems become crises; Incidents of Sexual Misconduct and Church personnel - A Legal Perspective*." (October 29, 1986).²⁵
- 1989: Reports of sexual and physical abuse at Mount Cashel orphanage in St. John's Nfld surface.
- 1990: The *Winter Commission*, established by the Archbishop of St. John's, Newfoundland, issued the *Report of the Archdiocesan Commission of Inquiry into Sexual Abuse of Children* in June.
- 1992: The Canadian Catholic Bishops issue *From Pain to Hope*.
- 1993: *James Porter* pleads guilty and is sentenced to 18-20 years in prison. In the midst of the media attention to the pursuit and trial of Porter, Cardinal Law of Boston publicly calls down God's wrath on the *Boston Globe*. Fr. Porter is imprisoned and died in 2006.
- 1993: Pope John Paul II (1978-2005) issued the first of eleven public statements on clergy sexual abuse in a letter directed to the Bishops of the United States. The bishops formed the first *ad hoc* committee to study the sexual abuse issue. The committee published a three-part manual in 1994, 1995 and 1996 successively.
- 1994: The Vatican published the official Catechism of the Catholic Church which contains a remarkable paragraph about child sexual abuse: "*Connected to incest is any sexual abuse perpetrated by adults on children or adolescents entrusted to their care. The offense is compounded by the scandalous harm done to the physical and moral integrity of the young, who will remain scarred by it all their lives; and the violation of responsibility for their upbringing.*"²⁶
- 1994: *Albert Reynolds* resigns as Prime Minister of Ireland when it is learned that one of his appointments to the high court had delayed the extradition of Fr. Brendan Smith to Northern Ireland to face charges of child abuse.
- 1995: The late Bishop Bernard Flanagan, former bishop of Worcester MA, stated in a deposition (June 6, 1995) that in 1971 he had heard of clergy sexual abuse in

²⁵ This talk was given by Fr. Alan Placa, a civil attorney with the Diocese of Rockville Center, NY. In 2002 Fr. Placa was removed from ministry after he himself had been investigated by police for having abused a minor years before.

²⁶ Catechism of the Catholic Church (New York, Doubleday, 1995), no. 2389, p. 574.

dioceses other than his own and that bishops were privately discussing this issue.²⁷

1995: *Hans Hermann Cardinal Groer* resigns as Archbishop of Vienna following credible accusations that he had sexually abused boys while a headmaster at a Benedictine school.

1997: Fr. Rudy Kos civil trial in Dallas, Texas with \$119 million jury award to plaintiffs. Kos is captured in San Diego and sentenced to life in prison in 1998. The diocese denied they knew his whereabouts yet had secretly retained a priest to supervise him in San Diego where he was working.

2001: The *Boston Phoenix* published a series of articles in March exposing the cover-up of Fr. John Goeghan by Cardinal Law.

2002: On January 6 the *Boston Globe* began a series of reports on sexual abuse in Boston.

2002: Pope John Paul II calls all U.S. Cardinals to Rome in April for a 3 day meeting.

2002: The U.S. Bishops meet in June in Dallas to consider the issue and publish the *Charter for the protection of Children and Young People*.

2003: Grand Jury reports: Suffolk County, NY; Boston, MA; Phoenix, AZ; Manchester, NH; Philadelphia PA.

2005: Grand Jury report from Philadelphia PA is issued on Sept. 15, 2005

2005: The *Ferns Report* is issued by the special, independent *Ferns Commission* in Ireland, October, 2005.

51. Predictability of Catholic clergy sexual abuse is based on two basic sets of facts: the first is the historical evidence dating from the fourth century which shows that mandatory celibacy has been consistently violated by Catholic clerics through sexual abuse of minors and vulnerable adults. The second set of facts is the contemporary psychological data from 1952 (the Fr. Fitzgerald letters) at least but especially from 1971 (Baars and Kennedy reports) that demonstrate that a significant percentage of Catholic clerics are emotionally and psychologically immature and that this immaturity manifests itself through inappropriate sexual acting out. The Catholic bishops and other religious leaders have known these facts

²⁷ Deposition of Bishop Bernard Flanagan, June 6, 1995, *Barry vs. Roman Catholic Bishop of Worcester, a Corporation Sole and Thomas A. Kane, defendants*. C.A. No. 93-02438, Commonwealth of Massachusetts, p. 152-153.

for the duration of the contemporary era.

52. The hierarchy of the Catholic Church has known that Catholic clerics and religious order members have engaged in sexual activities with children, adolescents and vulnerable adults for centuries as the historical data clearly demonstrate. In our own era, especially since 1984, revelations of thousands of cases of clergy sexual abuse have shown that the Catholic hierarchy had a standardized method of responding to reports and accusations of clergy sexual abuse. With rare exceptions, the alleged perpetrators were surreptitiously moved from one assignment to another with no warning to the receiving parish or community. The documentation from thousands of cases from the past two decades has also shown that such cases were never reported to Child Protective Services or the equivalent nor did Church authorities ever report abuse cases to the civilian law enforcement authorities. The pattern and practice had been to handle such cases internally with no reference to law enforcement authorities. A significant aspect of the way the church authorities handled them was the manner of dealing with the victims and their families. Often these persons were encouraged or persuaded or even intimidated into remaining silent, not approaching civilian law enforcement authorities, civil attorneys or making public reports.
53. The public scrutiny of clergy sexual abuse cases over the past two decades has also revealed a distinct pattern of response by the institutional church and its hierarchy. This pattern has several distinctive levels:
- a) denial of the accusation usually until the facts became well known,
 - b) minimization of the abuse with a focus on the perpetrator and not the harm done to the victim
 - c) ~~blame-shifting in an attempt to place blame anywhere but on the institutional church, its clerical establishment or one or the other aspect of the ecclesial culture~~
 - d) de-valuation of the victims, their families or their supporters
54. Recent experience with known clergy and religious sexual abusers has shown that Church officials have consistently either been culpably ignorant of the compulsive dimension of the sexual disorders that have afflicted clergy and religious abusers, or they have ignored the warnings of medical experts. The result has been a pattern of moving known abusers from one assignment to another or, in some cases, placing known abusers back in active ministry after a period of therapy or even incarceration. Such actions have not taken into account the propensity of sexual abusers for recidivism or the impact of such reintegration on the community. Traditionally Catholic religious leaders, both male and female, have been deeply suspicious of the behavioral sciences, especially psychiatry and psychology. Human sexuality was viewed almost exclusively from a moral perspective and in a two-dimensional manner. That is, it was studied from a cognitive approach with all forms of sexual acting out residing in the will. There had been little substantive appreciation or acceptance of the advances made by behavioral science into human sexuality. Hence in many instances bishops and religious superiors were not only unaware of these scientific advances, but when

theories, ideas or explanations of behavior were presented, they often rejected them outright. In the realm of sexual abuse by male clerics and male and female religious, bishops and superiors often dismissed suggestions or theories that such acting out could be the result of a highly compulsive disorder. Rather, they remained convinced that all sexual behavior, other than that allowed in marriage, was not only illicit, but immoral and the substance of grievous sin.

55. The canonical history of the Catholic Church clearly reflects a consistent pattern of awareness that celibate clergy regularly violated their obligations in a variety of ways but especially by sexually harassing and abusing minors and even vulnerable adults. The fact of clergy abuse with members of the same sex, with young people and with women has been extensively documented for centuries. At certain periods of church history clergy sexual abuse was publicly known and publicly acknowledged by church leaders. From the late 19th century into the early 21st century the church's leadership has adopted a position of secrecy and silence. This obligation of secrecy, explicitly mandated by the official documents issued in 1922, 1962 and 2001 was promulgated as official policy in 1866 in a Vatican document issued by the Congregation of the Holy Office.²⁸ They have denied the predictability of clergy sexual abuse in one form or another and have claimed that this is a phenomenon new to the post-Vatican II era. The recently published reports of the Bishops' National Review Board and John Jay College Survey have confirmed the fact of known clergy sexual abuse since the 1950's and the church leadership's consistent mishandling of individual cases. The bishops of the United States were no doubt aware of the general problem of sexual abuse by clerics based on the information provided them at various times over the years, such as the Eugene Kennedy study in 1972 and the Conrad Baars study in 1971.
56. Any attempt, official or otherwise, to deny the predictability of clergy sexual abuse in one form or another and claim that this is a phenomenon new to the post-Vatican II era is defeated by the above-cited documentation but also by the recent findings of the officially commissioned studies. The recently published reports of the Bishops' National Review Board and John Jay College Survey (February 2004) have confirmed the existence of known clergy sexual abuse since the 1950's²⁹ and the church leadership's consistent mishandling of individual cases. The John Jay report stated that there had been 4392 known clergy sexual abusers among U.S. priests between 1950 and 2004.
57. The bishops of the U.S., Canada and elsewhere have, at various times, claimed they were unaware of the serious nature of clergy sexual abuse and its impact on victims. This claim is easily offset by the historical evidence. Through the centuries the church has repeatedly condemned clergy sexual abuse, particularly same-sex abuse. The very texts of many of the

²⁸ S.C.S Off. Instruction, 20 February 1866 in Codicis Iuris Canonici Fontes, n. 990.

²⁹ The Nature and Scope of the Problem of Sexual Abuse of Minors by Priests and Deacons (Washington DC., John Jay College of Criminal Justice, USCCB, 2004), Part Two, 2.2.

laws and official statements show that this form of sexual activity was considered harmful to the victims, to society and to the Catholic community. Church leaders may not have been aware of the scientific nature of the different sexual disorders nor the clinical descriptions of the emotional and psychological impact on victims, but they cannot claim ignorance of the fact that such behavior was destructive in effect and criminal in nature.

THE FEAR CAUSED BY RELIGIOUS DURESS

58. Religious duress is an objective reality, experienced by reasonable people who are so influenced by the power of their religious beliefs that the will is unduly and unjustly constrained to perform or omit an act that the person would otherwise intend to do. Religious duress is the internal pressure experienced by a person as a result of certain religious beliefs. These beliefs are about the reaction of an unseen supreme being to something the person either does, or conversely, does not choose to do. In short, religious duress is a very special kind of fear. The ultimate source of this fear is an unseen but all-powerful supreme being. Between the individual and this Supreme Being are religious personages who function as advocates or buffers.
59. From the dawn of history men and women have created religious belief systems and religious societies whereby they attempted to communicate with the unseen god or gods. Some scholars have opined that the concept of religion really came as a result of meteorological phenomena that were regularly observed but not understood by people. They did not know the origin of such phenomena, especially the more spectacular and destructive ones such as thunder, lightning, tornadoes, tidal waves or hurricanes. In their naiveté, people attributed such power to angry supreme beings and sought ways to control or at least influence them so as to ensure their safety. In his book Religion Explained, (New York, Basic Books, 2001) scholar Pascal Boyer sums up the theories of many:

Most accounts of the origin of religion emphasize one of the following suggestions: human minds demand explanations, human hearts seek comfort, human society requires order, human intellect is illusion-prone. (p. 29)

Religion is a creation of mortal men and women and not a creation of the unseen deities, imposed by them on humans. It is found throughout history and in every culture in many different forms. As people share their ideas about the unseen powers they are naturally led to theories about the nature and causal powers of these nonobservable beings.

60. Although religious systems have been created to relieve or displace the fear engendered by the unknown, these same systems have themselves been the origins of fear. In some instances well intentioned religious leaders induce or provoke the fear to influence people to avoid wrongdoing. In other cases the fear is both unjust and irrational in that it is induced by religious personages who claim it to be of supernatural origin when in reality the object of the fear is not obedience to angry gods but control by humans. Thus the world of some organized religions can be every bit as terrifying as a world controlled by unseen angry

supernatural forces. The gloom and fear that seem fundamental to some religions including expressions of Christianity can be as mysterious as the unseen supernatural powers. The Christian philosopher Soren Kierkegaard wrote of the psychological tenor of Christian revelation in such works as The Concept of Anguish and Fear and Trembling.

61. Religious concepts are connected to human emotional systems. These systems react to life-threatening situations such as the power of nature or any other force that threatens a person and cannot be readily controlled. Returning to Boyer, we read:

*It is probably true that religious concepts gain their great salience and emotional load in the human psyche because they are connected to thoughts about various life-threatening circumstances. So we will not understand religion if we do not understand the various emotional programs of the mind.*³⁰

A logical progression leads to human speculation on how to influence the superhuman entities in order to avoid their wrath and to gain their benevolence. Hence the notion of *sacrifice* which is central to primitive and ancient religions as well as to Christianity. Mortals gave the first and best crops, the fatted calf, money and various promises of good behavior to the gods in return for their benevolence. There is even evidence of human sacrifice in several religious systems. With the notion of *sacrifice* comes the concept of *priesthood*.

62. *Priesthood* is the most ancient form of religious office. The *priest* has traditionally but not exclusively been male. It is an office or role given to one who is thought by the community to be in a special, privileged position in the estimation of the unseen powers. The priest is the special person deputed by the community and favored by the gods to lead worship services but especially to offer sacrifices on behalf of individuals and the community. The earliest known religions have priestly offices. Because of their closeness to the deities, the priests themselves have traditionally been thought to have special powers.

THE CATHOLIC PRIESTHOOD WITHIN CATHOLIC CULTURE

63. In the Christian tradition Catholicism is the oldest and in many ways, the prototype for Christian denominations. The priesthood has been central to Catholic theologies because of the essential concept of *sacrifice*. Catholic theology is firmly structured around the belief that the Mass, or the Eucharist as it is called, is the only acceptable sacrifice to God, having replaced all forms of sacrifice that preceded it. The notion of sacrifice presumes a belief that there remains a need for intercession and advocacy before God by mortals. The Mass is the center of Catholicism. The priest is essential to the Mass for without the priest there can be

³⁰ Ibid., p. 23.

no Mass and without the Mass, there could be no Catholicism:

The Eucharist is "the source and summit of the Christian life. "The other sacraments, and indeed all ecclesiastical ministries and works of the apostolate, are bound up with the Eucharist and are oriented toward it. For in the blessed Eucharist is contained the whole spiritual good of the Church, namely Christ himself, our Pasch. (N. 1324, The Catholic Catechism).

The Eucharist is also the sacrifice of the Church. The Church which is the Body of Christ participates in the offering of her Head. With him, she herself is offered whole and entire. She unites herself to his intercession with the Father for all men. In the Eucharist the sacrifice of Christ becomes also the sacrifice of the members of his Body. The lives of the faithful, their praise, sufferings, prayer, and work, are united with those of Christ and with his total offering, and so acquire a new value. Christ's sacrifice present on the altar makes it possible for all generations of Christians to be united with his offering. (N. 1368, The Catholic Catechism)³¹

Thus far we have made a connection between the concepts of an unseen and often stern Supreme Being, humanity born into sin and continuously prone to sin, the essential need for a way to appease and influence the Supreme Being and a class of men who are set apart to act as the advocates for sinful men and women. In Catholic terminology we have a just God viewing created humans who are capable of sin and in need of a means of justification. That means is the Mass and sacraments. Essential to the Mass and sacraments are priests who are therefore essential to safe passage from this world to the next.

64. The Church has traditionally taught the radical distinction between the "priesthood of the laity" which imputes a calling on all persons who confess belief in Jesus Christ, and a special office of priesthood bestowed on selected men through the ceremony of ordination. To this office are attached the powers that are essential for Catholics to attain the fundamental goal of Christianity and indeed most religions and that is safe deliverance of the soul to the afterlife. The two major powers of Catholic priests are the power to celebrate Mass or to reenact the Last Supper and the power to forgive sins in the name of God. Catholicism teaches that both are essential for salvation and fundamental to the very nature and life of the church. The Church claims that the unique priesthood of Catholicism and the powers attached thereto are derived from Christ Himself. Such claims must be understood within the context of a body of critics, especially from the various Protestant denominations, which denied the uniqueness of the Catholic concept of priesthood. Consequently Catholic theologians took great pains to connect the priesthood and its powers with the Lord Himself:

³¹ Catechism of the Catholic Church (Washington DC, United States Catholic Conference, 1994).

*Accordingly, the Catholic priesthood has the indisputable right to trace its origin in this respect also to the Divine Founder of the Church. Both sides of the priesthood were brought into prominence by the Council of Trent (loc. cit., n. 961): "If any one shall say that in the New Testament there is no visible and external priesthood nor any power of consecrating and offering the Body and Blood of the Lord, as well as of remitting and retaining sins, but merely the office and bare ministry of preaching the Gospel, let him be anathema." Far from being an "unjustifiable usurpation of Divine powers," the priesthood forms so indispensable a foundation of Christianity that its removal would entail the destruction of the whole edifice. A Christianity without a priesthood cannot be the Church of Christ.*³²

65. Essential and central to Catholic teaching is the belief that the Mass is the ceremony whereby the Lord Jesus becomes really present under the appearances of bread and wine. Only a valid priest can make this happen. Hence the concept of the priest as the "*alter Christus*" or the "*other Christ*." The 16th century Council of Trent, cited in the above quote, summarized the Church's traditional teaching about priesthood and sacrifice:

*Sacrifice and priesthood are by Divine ordinance so inseparable that they are found together under all laws. Since therefore in the New Testament the Catholic Church has received from the Lord's institution the holy visible sacrifice of the Eucharist it must also be admitted that in the Church there is a new, visible and external priesthood into which the older priesthood has been changed.*³³

66. The life of the Catholic Church is built around a sacramental system. To understand the power of the priesthood and the fear that this office can create one must understand the concept of *sacrament*. A sacrament is a ceremony or ritual that results in an invisible expression of Divine Power for the recipient. The seven sacraments of the Catholic Church all are related to key moments or aspects of life such as birth, death, advancement to adulthood, propagation, leadership and forgiveness. The Church teaches that the sacraments are necessary for salvation in the next life and for membership and participation in the Church community in this life. The necessity of the sacraments has been the subject of theological debate yet the institutional church has determined that this necessity is evident:

³² J. Pohle, "Priesthood," in The Catholic Encyclopedia (New York Benziger, 1911), vol. 11.

³³ Council of Trent, Session XXIII, cap. 1.

*This truth theologians express by saying that the sacraments are necessary, not absolutely but only hypothetically, i.e., in the supposition that if we wish to obtain a certain supernatural end we must use the supernatural means appointed for obtaining that end. In this sense the Council of Trent (Sess. VII, can. 4) declared heretical those who assert that the sacraments of the New Law are superfluous and not necessary, although all are not necessary for each individual. It is the teaching of the Catholic Church and of Christians in general that, whilst God was nowise bound to make use of external ceremonies as symbols of things spiritual and sacred, it has pleased Him to do so, and this is the ordinary and most suitable manner of dealing with men.*³⁴

67. The sacraments, especially Eucharist and Penance, are essential for salvation. The sacraments are controlled by the priests and bishops who are also the ministers whose powers are essential to the celebration or "happening" of each sacrament. Although the actual ministers of the sacrament of marriage are the spouses themselves, Catholic Church law requires that a cleric be part of the ceremony as the "official witness." The only other exception is with baptism for the Church teaches that in a true emergency any person can validly administer this sacrament. Yet for the rest, the presence and action of a priest or bishop is essential. Not only is the ministry of the cleric essential, but access to the sacraments is controlled by the clerics. Though they are bound to follow Church law and theology which theoretically assure a degree of objectivity and equity, the practical application is left with the individual priest or bishop.
68. The concept of *sin* has been and continues to be fundamental in maintaining the stature of the priest. Christian theology defines a sin as an offense committed by a mortal person against the immortal God. Catholic tradition speaks of three kinds of sin: *original sin* which is a negative spiritual condition which all are born with and which can only be relieved by baptism. The traditional teaching held that those who died in original sin would never enjoy heaven but rather would be consigned to a bland state called *limbo* wherein the person remained for eternity without the possibility of enjoying the presence of God. *Venial sin* is defined as a less serious offense against God and one which results in a temporary sentence in purgatory, a kind of mild version of hell but from which there is hope of eventual release into heaven. Finally there is *mortal sin* which is a grave offense against God and which results in eternal damnation in hell if the sinner dies without having been absolved of this sin. Original sin is eliminated by baptism, usually administered by a priest. Venial sins are absolved through confession and future penalties attached to them can be reduced or eliminated by doing a variety of good works or performing various spiritual exercises. Absolution from the effects of mortal sin requires remorse, a purpose of amendment and the intercession of a priest. Fear of divine wrath and everlasting damnation are motivations for believers to change their ways, abandon the acts that result in sin and seek the ministry of a priest. The power of the priest is evident in that he is believed to control deliverance for the

³⁴ D.J. Kennedy, The Catholic Encyclopedia, Vol. XIII.

errant believer. Added to the already powerful role of the ordained cleric is the fact that the church's leadership, all male clerics, claims the authority to define which acts constitute mortal or venial sins. Although the reality of the leadership's role in defining sin is complex, the fact remains that this claim to power has been exaggerated in the minds of believers for centuries. The common belief has invested bishops and especially popes with the God-given authority to determine which human actions are or are not serious sins.

69. Like their historical counterparts from pre-Christian societies, Catholic priests and bishops are cloaked with an aura of mystery and power. Traditionally they have lived apart from the laity. They have dressed differently and been held in a unique form of esteem by religious and secular society. There is no question but that the institutional church has created and sustained this priestly mystique by its official teaching, its regulatory or legal system as well as by a complex collection of mythical stories and traditions surrounding priests and bishops. Mandatory celibacy has served to reinforce this mystique that Catholic priests are somehow removed and above other people, especially the Catholic laity.

70. The Catholic Church has taught for centuries that priests are men set apart and above others. The difference begins with the reception of the sacrament of Holy Orders, commonly referred to as "ordination." At that moment, by divine action, the man is made a priest and is joined to Christ in such a way that he is substantially different from other men. The official Catechism of the Catholic Church describes it thus:

This sacrament configures the recipient to Christ by a special grace of the Holy Spirit, so that he may serve as Christ's instrument for his Church. By ordination one is enabled to act as a representative of Christ, Head of the Church, in his triple office of priest, prophet, and king. (N. 1581)

71. The Catechism restates a doctrine that has been an essential part of Catholic belief for centuries, namely that priests represent Jesus Christ in a very special way.

In the ecclesial service of the ordained minister, it is Christ himself who is present to his Church as Head of his Body, Shepherd of his flock, high priest of the redemptive sacrifice, Teacher of Truth. This is what the Church means by saying that the priest, by virtue of the sacrament of Holy Orders, acts in persona Christi Capitis [in the person of Christ, the head]. It is the same priest, Christ Jesus, whose sacred person his minister truly represents. Now the minister, by reason of the sacerdotal consecration which he has received, is truly made like to the high priest and possesses the authority to act in the power and place of the person of Christ himself (virtute ac persona ipsius Christi). Christ is the source of all priesthood: the priest of the old law was a figure of Christ, and the priest of the new law acts in the person of Christ. (N. 1548)

The ministerial priesthood has the task not only of representing Christ - Head of the Church - before the assembly of the faithful, but also of acting in the name of the whole Church when presenting to God the prayer of the Church, and above all when

offering the Eucharistic sacrifice. (N. 1552

72. The doctrine stated in the Church's contemporary catechism is a continuation of that which has been standard through the centuries. The Catechism of the Council of Trent contains statements that basically summarize the Church's understanding of the priesthood as it was taught up to the era of Vatican Council II (1963-65). The present official understanding is much akin to that found in this document although couched in terms that are less triumphalistic.

In the first place, then, the faithful should be shown how great is the dignity and excellence of this sacrament considered in its highest degree, the priesthood.

Bishops and priests being, as they are, God's interpreters and ambassadors, empowered in his name to teach mankind the divine law and the rules of conduct and holding, as they do, His place on earth, it is evident that no nobler function than theirs can be imagined. Justly therefore are they called not only Angels, but even gods, because of the fact that they exercise in our midst the power and prerogatives of the immortal God.

In all ages priests have been held in the highest honor; yet the priests of the New Testament far exceed all others. For the power of consecrating and offering the body and blood of our Lord and of forgiving sins, which has been conferred on them, not only has nothing equal or like it on earth, but even surpasses human reason and understanding.³⁵

73. ~~The Code of Canon Law of 1917 put into legislation the practical application of traditional teaching on the priesthood. In the first place, only clerics could hold the power of jurisdiction or actual power, in the Church. Only clerics could hold ecclesiastical offices. In general this is repeated in the revised Code. In addition, several other canons or sections of canons point to this exalted position.~~

All the faithful owe reverence to clerics according to their various grades and offices; and they commit a sacrilege if they do real injury to a cleric," (Canon 119)

Clerics could not be summoned before civil courts unless special permission was obtained to do so. (Canon 120)

74. The Catechism of the Council of Trent expressed in more florid terminology the same truths that were expounded to Catholics who received their primary religious education during the years immediately preceding, during and right after the momentous Vatican Council II (1963-65). The Baltimore Catechism was the text used for Catholic religious education from the

³⁵ McHugh and Callan, editors. Catechism of the Council of Trent, (New York. 1923)

pre-Vatican II era into the seventies and is still the preferred text in some circles. Concerning the priesthood the Catechism says:

Q. 280. How should Christians look upon the priests of the Church?

A. Christians should look upon the priests of the Church as the messengers of God and the dispensers of His mysteries.

Q. 997. How do we know that the priests of the Church are the messengers of God?

A. We know that the priests of the Church are the messengers of God, because Christ said to His apostles, and through them to their successors: "As the Father hath sent Me, I also send you"; that is to say, to preach the true religion, to administer the Sacraments, to offer Sacrifice, and to do all manner of good for the salvation of souls.

Q. 999. Why should we show great respect to the priests and bishops of the Church?

A. We should show great respect to the priests and bishops of the Church:

(1) Because they are the representatives of Christ upon earth, and

(2) Because they administer the Sacraments without which we cannot be saved.

Therefore, we should be most careful in what we do, say or think concerning God's ministers. To show our respect in proportion to their dignity, we address the priest as Reverend, the bishop as Right Reverend, the archbishop as Most Reverend, and the Pope as Holy Father.

Q. 1002. How do we know that there is a true priesthood in the Church?

A. We know that there is a true priesthood in the Church:

(1) Because in the Jewish religion, which was only a figure of the Christian religion, there was a true priesthood established by God;

(2) Because Christ conferred on His apostles and not on all the faithful the power to offer Sacrifice, distribute the Holy Eucharist and forgive sins.

Q. 1003. But is there need of a special Sacrament of Holy Orders to confer these powers?

A. There is need of a special Sacrament of Holy Orders to confer these powers:

(1) Because the priesthood which is to continue the work of the apostles must be visible in the Church, and it must therefore be conferred by some visible ceremony or outward sign;

(2) Because this outward sign called Holy Orders gives not only power but grace and was instituted by Christ, Holy Orders must be a Sacrament.

Q. 1004. Can bishops, priests and other ministers of the Church always exercise the power they have received in Holy Orders?

A. Bishops, priests and other ministers of the Church cannot exercise the power they have received in Holy Orders unless authorized and sent to do so by their lawful superiors. The power can never be taken from them, but the right to use it may be withdrawn for causes laid down in the laws of the Church, or for reasons that seem good to those in authority over them. Any use of sacred power without authority is sinful, and all who take part in such ceremonies are guilty of sin.

75. The official church teaching was reflected in popular literature which supported the belief that the priest was a man set apart who was entitled to deference and respect. Popular Catholicism encouraged the exalted role of the priest and surrounded it with an exaggerated form of piety and respect. An excerpt from the writings of St. John Vianney, a 19th century French pastor who is considered the patron saint of all parish priests:

What is a priest! A man who holds the place of God -- a man who is invested with all the powers of God. "Go," said Our Lord to the priest; "as My Father sent Me, I send you. All power has been given Me in Heaven and on earth. Go then, teach all nations. . . . He who listens to you, listens to Me; he who despises you despises Me. "When the priest remits sins, he does not say, "God pardons you"; he says, "I absolve you." At the Consecration, he does not say, "This is the Body of Our Lord," he says, "This is My Body."

If I were to meet a priest and an angel, I should salute the priest before I saluted the angel. The latter is the friend of God; but the priest holds His place. St. Teresa kissed the ground where a priest had passed. When you see a priest, you should say, "There is he who made me a child of God, and opened Heaven to me by holy Baptism; he who purified me after I had sinned; who gives nourishment to my soul." At the sight of a church tower, you may say, "What is there in that place?" "The Body of Our Lord." "Why is He there?" "Because a priest has been there, and has said holy Mass."³⁶

The sentiment expressed by this 19th century priest is still alive among Catholics today. It is expressed in a variety of popular writings including utterances of the present pope:

The ordained ministry, which may never be reduced to its merely functional aspect since it belongs on the level of "being," enables the priest to act "in persona Christi" and culminates in the moment when he consecrates the bread and wine, repeating the actions and words of Jesus during the Last Supper. Before this extraordinary reality we find ourselves amazed and overwhelmed, so deep is the humility by which God

³⁶ St. John Vianney. Catechism on the Priesthood.

"sloops" in order to unite himself with man! If we feel moved before the Christmas crib, when we contemplate the Incarnation of the Word, what must we feel before the altar where, by the poor hands of the priest, Christ makes his Sacrifice present in time? We can only fall to our knees and silently adore this supreme mystery of faith.

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76. Priests are members of the clerical state, a kind of sub-culture within the church. The Church has long maintained that the division between clerics and laity is itself of divine origin. This stratified and unequal society has served to protect the belief that priests are special, removed and exempt from much of the social and legal accountability expected of lay persons. The present Code of Canon Law defines the church as a society made up of the laity and, by divine origin, the hierarchy.³⁸ The hierarchy is made up of deacons, priests and bishops who, in order to function as such, must be members of the clerical state. The stratification of the ecclesial society has been an integral part of Catholic teaching for centuries and is well summed up in an excerpt from a 1906 encyclical letter issued by Pope Pius X (later declared a saint):

It follows that the Church is essentially an unequal society, that is, a society comprising two categories of persons, the Pastors and the flock, those who occupy a rank in the different degrees of the hierarchy and the multitude of the faithful. So distinct are this category that with the pastoral body only rests the necessary right and authority for promoting the end of the society and directing all its members toward that end; the one duty of the multitude is to allow them to be led and, like docile flock, to follow the Pastors.

77. The survival of an attitude of superiority on the part of the clergy is not surprising in light of the fact that the very political structure of the Church was a natural parent. Early on in its history the institutional church began to construct a theology of sacred orders (deacon, priest, bishop) that supported the isolation of clerics into a special caste and easily led to the negative philosophy of clericalism. The common conception, evident from theological and catechetical writings, church law and liturgical practice, is that bishops are direct descendants of the apostles and both bishops and priests are ontologically different from lay persons because they have been singled out by God to take the place of Jesus Christ on earth. In spite of the lack of concrete scriptural and historical evidence of such singularity, this theology

³⁷ Pope John Paul II, "Letter to Priests-Holy Thursday, 2004".

³⁸ Code of Canon Law, C. 207, 1: "Among the Christian Faithful by Divine Institution there exist in the church sacred ministers, who are called clerics in law, and other Christian Faithful, who are called laity."

developed, filling the scriptural gaps with such assertions as "it is the constant tradition that (this or that is so.)"

78. Clericalism is the label given to the radical misunderstanding of the place of clerics (deacons, priests, bishops) in the Catholic Church and in secular society. This pejorative "ism" is grounded in the erroneous belief that clerics form a special elite and, because of their powers as sacramental ministers, they are superior to the laity. These spiritual powers have historically led to a variety of social privileges which in turn have regularly resulted in different levels of corruption.³⁹ The distorted notion of the power and standing of clerics is not new. The negative impact of the clerical culture has been acknowledged for centuries. Well-known Catholic writer Russell Shaw says:

*Yet the clericalist mind set does fundamentally distort, disrupt, and poison the Christian lives of members of the church, clergy and laity alike, and weakens the church in her mission to the world. Clericalism is not the cause of every problem in the church, but it causes many and is a factor in many more. Time and again . . . it plays a role in the debilitating controversies that today afflict the Catholic community in the United States and other countries.*⁴⁰

79. Following the Second Vatican Council many clergy and Catholic laity hoped that the power of clericalism would wane, especially in light of the Council's emphasis on the role of lay members in Church life. Yet recent studies indicate that the present generation of young priests see themselves as essentially different from the laity and as men set apart by God.⁴¹ It appears from this and other indicators that Catholic clericalism is not only alive but malignant. The clericalism of the past and its present-day expressions, have a common goal

³⁹ See J. Sanchez, Anti-clericalism: A Brief History (Notre Dame, Notre Dame University Press, 1972), p. 7.

⁴⁰ Russell Shaw, To Hunt, To Shoot, to Entertain (San Francisco, Ignatius Press, 1993), p. 13.

⁴¹ Dean Hoge, The First Five Years of Priesthood. (Collegeville, MN, The Liturgical Press), 2002. P. 27. Hoge found that the majority of priests ordained ten years or less believed that there is an ontological difference bestowed on priests at ordination which sets them apart from lay people.

which is the retention of the power, prestige and image of the members of the clerical elite, especially the bishops. As such it is not difficult to see clericalism as an *enabler* of the contemporary clergy abuse scandal. In spite of promises to the contrary, the Catholic hierarchy, supported by significant numbers of the laity, will remain defensive. The tension is well expressed by theologian and psychologist Donald Cozzens, a priest of the Diocese of Cleveland, Ohio:

Until we take to heart the understanding of the church as fundamentally the baptized communion of Jesus' disciples . . . the laity will continue to encounter suspicion and mistrust from church authorities. And the church itself, even after promising transparency and accountability as the American bishops did in the wake of the clergy sex abuse scandal, will continue to practice denial. Dissimulation and deception. These characteristics flow, quite naturally, from an understanding of the church as a society made up of unequals.

THE IMPACT ON VICTIMS OF SEXUAL ABUSE

80. The popular belief and official teaching of the exalted role of the priest carries the potential for much good if it is used rightly, for the benefit of all, and is accompanied by a conviction of respect for those served by priests. Experience has also demonstrated that this belief and its supporting theology can result in great harm to believers. Victims of clergy sexual abuse regularly exclaim that they were paralyzed and numb when the abuse occurred because of their disbelief that so sublime a personage would stoop to harm them. For many Catholics any and all expressions of sexuality outside of marriage were considered mortal sins, carrying the potential for eternal damnation. The emotional and psychological turmoil triggered by abuse at the hands of a cleric is difficult to describe or even imagine. The priest represented the divine presence to many victims. The priest was the enforcer of the church's stringent moral code and he was also the source of relief from the sins committed against this moral code. Catholics are taught from the outset that all expressions of sexuality in thought, word, deed or desire are mortally sinful outside of marriage. The confusion is compounded when the abuser is a priest. The youthful Catholic often believed the priest can do no wrong therefore the sinfulness of any sexual actions must be attributed to the victims. It has not been unusual for victims to blame themselves for the abuse and to feel guilt at having led a priest into sin.
81. The impact on Catholic victims is unique and, in the opinion of some experts, particularly devastating precisely because the abuser is a priest. Catholic victims, brought up in a church dominated by clerics, believe the teaching that priests take the place of Christ. In the minds and emotions of the victims the priest is much more than a pastor or minister. He is a very special father figure and the earthly representative of God Himself. Many victims experience a kind of toxic transference and experience in their sexual abuse a form of spiritual death. Dr. Leslie Lothstein of the Institute for the living graphically describes it:

The difference is that the role of the priest puts the priest in close connection with Jesus and with God. And what you hear from the victims - and I've heard this from priests who have been victims - is that they feel that their soul has been murdered. Its soul murder, soul murder, and they can never get over the guilt and shame of what their responsible role was - why was I chosen, how did this happen to me, and can I ever be reconnected with god?⁴²

Victims describe the spiritual impact of abuse by a priest in many ways but the common denominator is spiritual devastation and, as Lothstein puts it so well, *soul murder*. For many the aftermath is a lifetime of painful spiritual loss and acute emptiness. These victims were almost universally devout, believing, and in most cases religiously naive Catholics. Sexual abuse by God's personal representative is often described as a ripping away of their souls. For others their lives are filled with a painful anger that roars to life whenever they see a priest or some other reminder of their abuse. Victims regularly report panic attacks when in or near a church, nausea and violent anxiety reactions to seeing or hearing a priest and even anger at God that He has somehow violated them and then abandoned them.

82. In nearly every case of Catholic clergy sexual abuse the victim is devout, believes in all church teaching without question and is the product of a practicing Catholic family. Such victims have been subjected to a special form of indoctrination from their earliest years which have left them incapable of questioning, doubting or criticizing the word of the priests and bishops for fear of incurring divine wrath. The church teaching, imparted by the clerics and other official representatives, is fortified by the parents who themselves have been raised to treat the church officials with a mixture of fear, awe and respect. They validate the official teaching and encourage their children to defer to clerics by their words but especially by their own attitudes of servility and fear.
83. The stratified ecclesial society with its projection of the superior authority of the clergy can easily prevent Catholics from ever achieving a psychologically healthy and spiritually mature degree of participation in the church. In short, Catholic adults are expected to be docile and obedient and to accept as true all utterances of the priests and bishops much less the popes. Though St. Paul, in his first letter to the Christians in Corinth urged them to maturity, the constant attitude projected by official Catholic leadership has been quite the opposite. Nevertheless the words of Paul are still valid: "*Brothers, stop thinking like children. In regard to evil, be infants, but in your thinking be adults*" (1 Cor 14:20-21). This serious lack of religious maturity has had disastrous results for the victims of clergy sexual abuse as well as for their families. As many victims have matured past the age of their abuse they have

⁴² Katherine DeGiulio, *Interview with Dr. Leslie Lothstein*. National Catholic Reporter Website, August 9, 2002.

remained trapped in a cocoon of fear that prevented them from disclosing the abuse. Parents and other family members have often fallen prey to the deceptive manipulations of clerics when they have disclosed their children's abuse. Their religious immaturity and childish reaction in their communications with clerics have filled them with the irrational fear that disclosure would result in serious sin on their part. Far too many have feared to question the clerics who enjoined their silence by a variety of means ranging from convincing but false solicitude to pleading to intimidation and finally threats. The clerical system has persuaded and intimidated them into believing that the clerical leaders always have the last word and that word is correct. Such naive Catholics are taught that to disagree with, disbelieve or dispute the word of a priest or bishop is a sign of weak faith and probably a sin. They are unable to distinguish between their justifiable anger at clerics, especially abusive clerics, and their faith in God. The seeds of this confusion have been planted by the church's own teaching and nurtured by the clerical elite.

84. Religious duress and the irrational and deep fear that it engenders are both a direct product of a deviant religious indoctrination that is epitomized by clericalism. The impact on victims of clergy sexual abuse is fourfold:
1. *Seduction and grooming.* It is considered a great honor when the priest singles out the son or daughter of such a family for particular attention. Parents have generally been completely unsuspecting of the attention paid to a young son or daughter and have even unwittingly enabled the abuse by allowing and encouraging overnight trips and the like. This process is commonly referred to as "courtship" or "grooming." Eventually the cleric makes the first sexual move and the young victim is, more often than not, stunned into disbelief.
 2. *Moral confusion.* Victims reared in an atmosphere that accepted the traditional Church teaching on sexuality were convinced and could not question the belief that any form of sexual expression, be it thought, word or especially deed, is mortally sinful. Furthermore they were taught that homosexuality is officially deemed unnatural, homosexual people "fundamentally disordered" and all sexual expression particularly sinful. In the face of this the priest, the personification of this stringent sexual morality and one who is theoretically devoid of any potential for sexual temptation, is the very one leading the victim into a forbidden sexual act. The victim is now caught in a powerful dilemma. He or she has been groomed and led along to a place of significant trust. Now, something forbidden has happened. Confusion, guilt and shame set in after the shock begins to wear off. The guilt and confusion are especially toxic if the young victim has experienced pleasurable sexual feelings. The moral theology taught by the clerical world came forth from a source that did not understand much less accept the complex nature of the sexual response. This plunges the victim into deeper confusion. The clerical world has also taught the victim that the only acceptable relief from the guilt of sin is confession and absolution given by the priest. But the very source of relief from sin is also the efficient cause of the sin so the victim is immobilized and the guilt, shame and trauma only intensify.

3. *Nonexistence to prolonged abuse.* Extensive clinical and legal evidence shows that most sexual abuse is not limited to an isolated act. Perpetrators often claim it only happened once but subsequent investigation generally discovers patterns of abuse over days, weeks and sometimes years. Observers often wonder, and rightly so, how some victims remain in such "relationships." Many victims have later reported that they felt trapped and increasingly powerless as the abuse continued. Some reported being conscious of a sort of bond with the abuser which of course further confused the issue by increasing ambivalence and guilt. Uninformed critics have frequently claimed that in such cases the victim was indeed a willing participant and perhaps even an aggressor. The pathological dynamic of the relationship suggests that such suggestions are far from the truth and constitute only defensive, wishful thinking by those incapable of accepting the reality of the scandal.

4. *Failure to report.* The existence of the trauma bond also explains why so many victims failed to report abuse after it started and even for months or years after it had ended. They did not report because they *could not* report. Apart from the fear and shame that often arose from sexual abuse, victims had to deal with the entire Catholic institution that loomed before them. Many believed their abusers who convinced them that no one would believe them. Still others succumbed to implied or direct intimidation and threats from church authorities. The clerical elite, incapable of seeing a victim's report of sexual abuse as anything more than a threat to the Church's security, often responded in a predictable manner. The victim was often turned into a potential victimizer and made to feel guilty for contemplating an action that would embarrass a priest.

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85. The inability to resist prolonged abuse is best explained by the psychological phenomenon known as the *trauma bond*. Dr. William Foote, a psychologist from Arizona and a medical expert on several clergy sexual abuse cases, has explored the phenomenon whereby a kind of relationship or bond is created between a clerical sexual abuser and his victim. The term was first used by Dr. David Dutton, a Canadian psychologist who had done extensive research on domestic violence and child abuse. According to Dr. Foote, Dutton describes traumatic bonding as:

...the development of strong emotional ties between two persons, with one person intermittently harassing, beating, threatening, abusing or intimidating the other. Dr. Dutton notes that this phenomenon is based on the existence of a power imbalance wherein the maltreated person perceives him or herself to be subjugated to be dominated by the other.⁴³

⁴³ William Foote, Ph.D. Affidavit, *Does I, II, III vs. Catholic Diocese of El Paso, Father Irving Klister*, October 9, 1998. N. 11

Catholic victims, conditioned by their religious indoctrination, look on the clergy-abuser with a mixture of awe and fear. The cleric's attitude of superiority and power elicit a certain degree of emotional security in the victim. These strong feelings of security and awe at the clerical state often impede victims from recognizing the seductive patterns the abuser is using to court them. The awe, fear and wonder experienced by the victim are best described as *religious duress*. This is a kind of fear inspired in victims that so constrains them that they cannot extricate themselves from abusers. In many ways *religious duress* is similar to the notion of *reverential fear*, a well-established category in Catholic Canon Law. This is a fear that is induced not from an unjust force from without but from the respect, awe or reverence one has for an authority figure. The victim experiences such fear of causing the displeasure or even wrath of the authority figure that the will is significantly impeded. Child or adolescent victims are especially vulnerable to a priest-abuser. First, the priest is an adult with automatic power over the victim. He is also a priest with vast spiritual authority. Another component that often enters into the relationship is secrecy. The seduction process has created a secret and special relationship that entraps the victim.

86. The trauma bond becomes stronger and even more pathological as the exploitive relationship continues. It is often affirmed in the victim's view, by the Church's apparent approval of the priest's behavior. The clerical world, unwilling or unable to proactively confront clergy sexual abuse, appears to the victim to be unconcerned. The victim feels trapped until either the abuser ends the relationship or some other event from without causes it to terminate. In some instances the abuse had grown so repulsive to the victims that they broke the bond and fled.

87. Summation. The reality of religious duress and the abject fear it causes is not subjective to some few individuals who may be predisposed to it due to other emotional or psychological issues. This reality is objective and found across a broad spectrum of Catholic people regardless of educational or familial background, economic or cultural status or age. The emotional and psychological reaction to the institutional church and to some or all clerics is the result of a systematic pattern of religious indoctrination. This indoctrination is grounded in established teachings and beliefs held by the official church. When these beliefs, epitomized in the belief that priests are sacred personages who stand in the place of God, become interwoven with the natural fear and wonder of the unknown, the result can be a fear so grave that it impedes the normal evaluative thought processes and constrains the will from choosing to act in circumstances that would benefit the individual. The fear that arises from the threat of displeasure of religious officials carries over to a fear of displeasing God and this fear can be overpowering and immobilizing.

THE ROLE OF CANON LAW

88. The Role of Canon Law. It is relevant to review the role of Canon Law in this and similar cases of alleged sexual abuse by Catholic clerics. Canon Law is the name for the internal

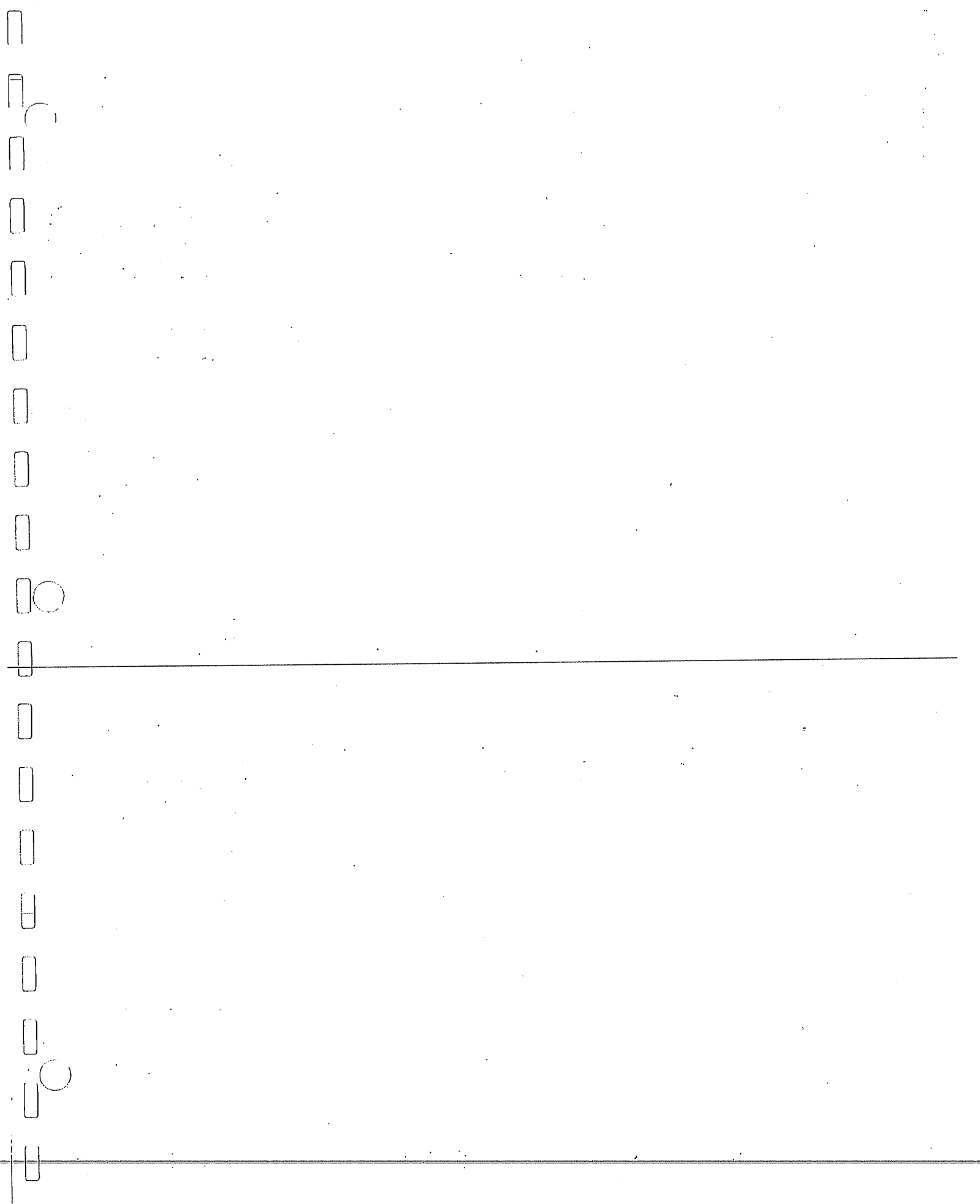
regulatory system of the Catholic Church. The word "canon" is derived from the Greek word *kanon* which meant a rule or a straight line. Canon Law is the oldest continuously functioning legal system in the world. Its roots reach back to the 4th century when group of bishops in Spain met to enact rules in response to various problems encountered by Church communities there. The first recorded legislation dates from 309 and was enacted at the Synod of Elvira. The vast tangle of local rules was first systematized in 1140 for the monk Gratian. Though not official, his massive work, commonly called *Gratian's Decree* remains the single most important historical source for Canon Law. His efforts and those of other scholars at the time were greatly influenced by the discovery of the main works of ancient Roman Law. Thus Canon Law took on many of the attributes of Roman Law in terms of concepts, structure and legal philosophy. The Church's laws, regulations, norms and guidelines remained un-codified until the beginning of the 20th century. The first *Code* as such was officially published or promulgated in 1917. This Code remained the basic collection of Church laws until 1983 when its successor, the revised *Code of Canon Law* replaced it.

89. The Church's internal regulatory system is not a theological document nor is it an article of faith that must be believed by Catholics. It is a collection of internal rules, regulations and norms that give concrete shape to the institutional Church. It is true that certain of the individual laws, or "canons" are directly or indirectly related to theological or religious concepts. This does not mean that the legal system itself is a catalogue of the religious beliefs of Catholics. The Code describes the various offices, bodies and internal political structures of the Catholic Church. It presents the duties, responsibilities and qualifications for the various offices and positions in the Church. It contains a section on procedural laws for settling disputes and providing due process. It contains a section of criminal behavior which lists certain actions that are considered church crimes.

90. The Code of Canon Law is not a substitute for the civil law systems of the various countries where the Church is established. It does not "trump" civil law. In fact, there are canons that stipulate that the civil laws are to be obeyed in all things that are not immoral or contrary to God's law. Canon Law is used in civil cases to explain and clarify the various aspects about the Catholic Church. When it is presented in civil court the purpose is not to expect the civil judges to interpret, apply, critique or explain civil law. Rather, the purpose is to assist in understanding how the institutional Church works. For example, Canon Law contains specific procedures that are mandatory for the investigation of reports of possible canonical crimes such as sexual abuse of minors by clergy. It also contains the basic requirements that bishops should look for in assigning priests to various posts. When the facts of a case are examined in civil court, Canon Law can be helpful to determine what the Church's own internal expectations were of an office-holder in a given situation.
91. Sexual abuse of minors is listed as a canonical crime in the 1917 Code of Canon Law (canon 2359) and in the revised 1983 Code of Canon Law (canon 1395). Both Codes contain a mandatory procedure to be followed by a bishop or religious superior when he receives a report of suspected sexual abuse of a minor. This is known in both Codes as the *Preliminary*

Investigation. It consists of an investigation conducted by the bishop or one appointed by him, into the accusation and the proofs. The investigation is to be documented and the documentation or record kept in the secret archives. Once the bishop or religious superior reviews the results of the investigation he makes the decision as to whether the evidence is such that either an administrative or judicial proceeding is to take place. Such a proceeding amounts to the prosecution of the case. In cases of alleged sexual abuse of a child, since the ultimate penalty can be dismissal from the clerical state, the only option available is a judicial trial. A bishop is forbidden by Canon Law from imposing a permanent suspension or dismissal by an administrative act. These can only be imposed following a canonical trial.

92. Between 1922 and 2001 the bishops were expected to follow the special norms issued in the Vatican documents of 1922 and 1962. In fact there is scant evidence that any preliminary investigations or judicial trials ever took place. In nearly every case bishops handled reports secretly and usually transferred the clerics to new assignments either within the diocese or to another diocese. There are also documented cases wherein accused clerics were sent to assignments in other countries.



16589.G/GKS:

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

JOHN R. DOE,

Plaintiff

vs.

**NO. CT-004452-04
DIV. IV**

**THE CATHOLIC BISHOP FOR THE
DIOCESE OF MEMPHIS;
THE DOMINICAN ORDER,
also known as, THE ORDER OF PREACHERS,
also known as, THE DOMINICANS;
and FATHER JUAN CARLOS DURAN, O.P.,
SOUTHERN DOMINICAN
PROVINCE, USA, also known as THE PROVINCE OF ST.
MARTIN DE PORRES, and THE DOMINICAN
FRIARS OF MEMPHIS, INC.,**

Defendants

**PLAINTIFF'S SUPPLEMENTAL ANSWERS
TO FIRST SET OF INTERROGATORIES
PROPOUNDED BY DEFENDANT DIOCESE**

COMES NOW the Plaintiff, John R. Doe, and submits the following Supplemental
Answers to Interrogatories Propounded by Defendant, Diocese of Memphis.

INTERROGATORIES

These are continuing responses that will be updated as more information becomes available.

INTERROGATORY NO. 2: This interrogatory seeks information pertaining to experts
covered by Rule 26.02(4)(a) of the Tennessee Rules of Civil Procedure. Please identify each

person whom the plaintiff expects to call as an expert witness at trial. For each such expert, please state the subject matter on which the expert is expected to testify, state the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion the expert intends to express.

ANSWER: Thomas P. Doyle is a Roman Catholic Priest and a member of the Dominican order. He was ordained a priest in 1970. Since October 1984 he has been involved in the issue of sexual abuse of persons, especially children and minors by Catholic Clergy. Thomas Doyle has functioned as a canon lawyer, presenting work shops and seminars to priest groups on the issue of sexual abuse around the country since 1985. He has published articles, contributions to anthologies and a book this subject and has prepared or assisted in the preparation of policies and guidelines for several Catholic dioceses and religious orders on the subject of dealing with accusations of sexual abuse of children by the clergy. He has served as a court expert in numerous cases involving sexual abuse by the clergy and has been a consultant to and witness before grand jury investigations in the U.S. He has also served as a consultant and expert witness in civil cases in other countries including Ireland, the U.K. and Israel. He was an expert witness and consultant to the Ferns Commission in Ireland.

Thomas Doyle will testify about the history of the problems of child sexual abuse in the Catholic Church in the United States and how it has been mishandled. He will describe the notice and knowledge to bishops and the risk of sexual abuse to children. Church leaders have known or should have known that transferring an abusing priest from one parish to another, one diocese to another, one order to another will not effectively remedy the problem. Church leadership has adopted a position of secrecy and silence.

Thomas Doyle will testify that the Diocese of Memphis was a microcosm of the global problem of the priest abuse scandal. Generally, predators were allowed to exist, by moving from church to church and diocese to diocese. That also happened in Memphis and with the hiring of Father Duran.

Thomas Doyle will testify that the Diocese of Memphis had been alerted to the problems of pedophilia among Catholic priests as early as the 1980s by the Bishop's own admission because he served on one of the committee's studying the problem. Generally, the body of Catholic bishops has known about the problems of pedophilia among Catholic priests as early as the 1970s.

Thomas Doyle will testify concerning the role, authority and duties of a priest and his supervisors. Bishops are the primary authority in their dioceses. They are responsible for the spiritual and moral welfare of the priests and are also responsible to see that priests live up to their various duties and obligations. (c. 384.)¹ Priests who are members of a religious community (religious order, religious congregation) are subject to their own specific internal rules and their own superiors in matters of internal discipline. However members of religious orders who engage in any form of pastoral ministry (called the "care of souls" in technical canonical terms) are subject to the authority of the bishop of the diocese (c. 678). This includes but is not limited to teaching, parish work, health care, chaplaincy work. Bishops and pastors have a responsibility to safeguard the welfare of all those entrusted to them. This includes all those who actually live in the diocese or parish and also those who are traveling through the territory (c. 369, 383).

In this case, the Bishop was responsible for Father Duran while he was working in the Diocese. There was a lack of supervision of Duran while he was working in the Diocese. Significantly, the Bishop has acknowledged that if a priest in the Diocese abuses a minor the

¹ Code of Canon Law, 1983.

Diocese is responsible for that. (Deposition of Bishop Stoib Aug. 15, 2006, 37).

In many dioceses, members of religious orders administer parishes. In some cases the orders founded these parishes and in other cases the parishes were entrusted to them by the bishop. In any case, all pastoral ministries carried out in a parish whether the parish was founded by a religious order or entrusted to an order by the bishop is subject to the direct authority of the bishop. The bishop appoints the pastors and assistant pastors from among the candidates submitted by the religious order's superiors. He is obliged to obtain from the religious order superiors some form of certification that the candidate to be considered and appointed has the required moral and spiritual virtues to fulfill the pastoral office to be entrusted to him. If the bishop entrusts this task to another such as a chancellor or vicar general or anyone else, the failure of such persons to fulfill their task does not absolve the bishop from his primary responsibility. In other words, the failure to properly investigate a candidate by a diocesan staff member devolves as a failure of the bishop.

~~The Bishop and those under him failed in their responsibility to safeguard those under~~
their care including the Plaintiff in this case. They failed by placing Father Duran in ministry and in contact with the Plaintiff without an adequate background check. In the case of Juan Carlos Duran, O.P., the abuser in this case, the Southern Dominican Province knew Duran had committed prior acts of sexual abuse before placing him in Memphis and therefore should never have placed him in Memphis. The Diocese of Memphis should have inquired further into Duran's background before hiring him because the Diocese had an obligation to check his background and adequately failed to do so. The Bishop acknowledged that the Diocese failed to request a letter of good standing pursuant to their policy which was in place for the protection of the people that the priest would come in contact with. Chancellor Robert Ponticello

acknowledged the Diocese did not conduct an adequate investigation into Duran's background before he was brought to Memphis. Additionally, a review of Duran's resume should have alerted the Diocese to inquire into his background. This is exactly the type of information that should have raised a red flag to church officials that this was a pedophile priest. The conduct of both the Diocese and the Southern Dominican Province violated their own policies.

Thomas Doyle will testify on the subject of the Code of Canon law as well as other rules, regulations, policies and procedures of the Roman Catholic Church and particularly as to how they relate to the role of the Catholic Church in causation, investigation and prevention of the sexual abuse of children and adolescents by Catholic priests. For example, the Catholic Church's internal regulatory system provides norms to be followed by bishops in the process of appointing priests to the roles of pastor and assistant pastor. These norms, or canons, stipulate that a bishop must have positive knowledge of a candidate's moral and spiritual fitness to fulfill the duties of pastor or assistant pastor (cc. 521, 545, 547.) In this case, the Bishop did not have this knowledge that Duran was fit for the job because of the lack of an adequate background investigation. Thus, the Diocese did not take adequate measures to prevent a pedophile from coming into the Diocese. Once in his assignment, the Diocese did not adequately supervise Duran.

Thomas Doyle will testify about the canonical and pastoral responsibilities that Church leaders and supervisors have to the victims of sexual abuse by the clergy. As stated previously, Bishops and pastors have a responsibility to safeguard the welfare of all those entrusted to them. This includes all those who actually live in the diocese (c. 369, 383). The Bishop has acknowledged that the Diocese did not help the family after the abuse was reported and the family did not receive pastoral care from the Diocese.

Sexual abuse of a minor is included as a specific crime in canon law (c. 1395). The Church's regulatory norms stipulate that when a bishop receives any information about the possibility of the commission of such a crime he is obligated to conduct a preliminary, documented investigation after which he has the option of conducting a judicial tribunal process or, if there are no proofs, of dismissing the case (cc. 1717-1719). While Bishop Steib launched an investigation it was not documented in that there was never a written report and no report of the abuse was made to local authorities.

Thomas Doyle will also testify concerning the historical development of the Catholic Church's treatment of sexual abuse of minors by the clergy.

Thomas Doyle will testify that sexual abuse has a variety of harmful effects on victims and from his expertise will testify about the especially harmful spiritual effects sexual abuse by a priest can have on a victim.

See further Expert Qualifications which was previously attached as Exhibit 1 to this Response.

The grounds which form the basis of Thomas Doyle opinions include the review of various materials pertaining to this case, including depositions, pleadings, and other documents produced as well as Doyle's expertise acquired while actively serving as a priest in the Roman Catholic Church and through years of formal education and training. See further Expert Qualifications which was previously attached as Exhibit 1 to the prior Response.

APR-02-2008 WED 02:49 PM

FAX NO.

P. 09/10

Respectfully submitted,

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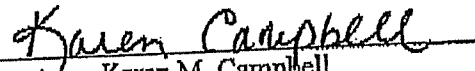
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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served upon the following attorneys by placing a copy of same in the U.S. Mail postage prepaid this the 2nd day of April, 2008.

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16589.G/KMC

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

JOHN R. DOE,

Plaintiff,

vs.

NO. CT-004452-04

DIV. IV

JURY DEMANDED

THE CATHOLIC BISHOP FOR THE
DIOCESE OF MEMPHIS;
THE DOMINICAN ORDER,
also known as, THE ORDER OF PREACHERS,
also known as, THE DOMINICANS;
and FATHER JUAN CARLOS DURAN, O.P.,
SOUTHERN DOMINICAN
PROVINCE, USA, also known as THE PROVINCE OF ST.
MARTIN DE PORRES, and THE DOMINICAN
FRIARS OF MEMPHIS, INC.,

Defendants

**PLAINTIFF'S RESPONSE TO THE FIRST SET OF INTERROGATORIES
PROPOUNDED BY DEFENDANT SOUTHERN DOMINICAN PROVINCE**

COMES NOW the Plaintiff, John R. Doe, and submits the following Responses to
Interrogatories Propounded by Defendant, Southern Dominican Province.

INTERROGATORY NO. 2: State the name, address and qualifications of
each person whom you expect to call as an expert witness at the trial of this case.

RESPONSE: Thomas P. Doyle is a Roman Catholic Priest and a member of the
Dominican order. He was ordained a priest in 1970. Since October 1984 he has been
involved in the issue of sexual abuse of persons, especially children and minors by
Catholic Clergy. Thomas Doyle has functioned as a canon lawyer, presenting work shops

and seminars to priest groups on the issue of sexual abuse around the country since 1985. He has published articles, contributions to anthologies and a book this subject and has prepared or assisted in the preparation of policies and guidelines for several Catholic dioceses and religious orders on the subject of dealing with accusations of sexual abuse of children by the clergy. He has served as a court expert in numerous cases involving sexual abuse by the clergy and has been a consultant to and witness before grand jury investigations in the U.S. He has also served as a consultant and expert witness in civil cases in other countries including Ireland, the U.K. and Israel. He was an expert witness and consultant to the Ferns Commission in Ireland. See his CV attached to this response.

INTERROGATORY NO. 3: For each expert identified in response to the preceding interrogatory, state the subject matter upon which the expert is expected to testify.

RESPONSE: Abuse of minors by Catholic clergy, knowledge of the Dominicans and the Southern Dominican Province and their improper and negligent placement of Juan Carlos Duran in Memphis as well as other locations.

INTERROGATORY NO. 4: For each expert previously identified, state the substance of the facts within the knowledge of the expert which are expected to be elicited in testimony.

RESPONSE: See response to Interrogatory No. 5.

INTERROGATORY NO. 5: For each expert previously identified, state each and every opinion to which the expert is expected to testify at trial, specifically including each and every act or omission of the defendant, which in the opinion of the expert, deviates from the standard of practice in this community, and include the

expert's opinion as to the causal effect of each deviation.

RESPONSE: Thomas Doyle will testify about the history of the problems of child sexual abuse in the Catholic Church and how it has been mishandled. He will describe the notice and knowledge to bishops and provincials and the risk of sexual abuse to children. Church leaders have known or should have known that transferring an abusing priest from one parish to another, one diocese to another, one order to another will not effectively remedy the problem. Church leadership has adopted a position of secrecy and silence.

Thomas Doyle will testify predators were allowed to exist, by moving from church to church and diocese to diocese and that this happened with the hiring of Father Duran. The Dominicans and the Southern Dominican Province knew Duran's background and knew that he was unfit for ministry and posed a risk to children because he had been expelled from the Franciscan order after being caught in a sexual act with a minor.

Thomas Doyle will testify that the Southern Dominican Province had been alerted to the problems of pedophilia by their leader's own admissions. Generally, the body of Catholic bishops has known about the problems of pedophilia among Catholic priests as early as the 1970s. The Southern Dominican Province was put on notice about Father Duran's unfitness for ministry in 1994 when it learned he had been expelled from the Franciscan Order after being caught in a sexual act with a boy.

Thomas Doyle will testify concerning the role, authority and duties of a priest and his supervisors. Bishops are the primary authority in their dioceses. They are responsible for the spiritual and moral welfare of the priests and are also responsible to see that

priests live up to their various duties and obligations. (c. 384.)¹ Priests who are members of a religious community (religious order, religious congregation) are subject to their own specific internal rules and their own superiors in matters of internal discipline. However members of religious orders who engage in any form of pastoral ministry (called the "care of souls" in technical canonical terms) are subject to the authority of the bishop of the diocese (c. 678). This includes but is not limited to teaching, parish work, health care, chaplaincy work. Bishops and pastors have a responsibility to safeguard the welfare of all those entrusted to them. This includes all those who actually live in the diocese or parish and also those who are traveling through the territory (c. 369, 383).

The Dominicans and Southern Dominican Province negligently placed Duran in Memphis and failed to supervise Duran. The Southern Dominican Province knew Duran had committed at least one prior act of sexual abuse before placing him in Memphis and therefore should never have placed him in Memphis. By their own admissions, leaders of the Southern Dominican Province have acknowledged that Duran should have never been assigned to Memphis, Miami or St. Louis, given his history. The conduct of both the Diocese and the Southern Dominican Province violated their own policies.

Thomas Doyle will testify on the subject of the Code of Canon law as well as other rules, regulations, policies and procedures of the Roman Catholic Church and particularly as to how they relate to the role of the Catholic Church in causation, investigation and prevention of the sexual abuse of children and adolescents by Catholic priests. For example, the Catholic Church's internal regulatory system provides norms to be followed by bishops in the process of appointing priests to the roles of pastor and assistant pastor. These norms, or canons, stipulate that a bishop must have positive

¹ Code of Canon Law, 1983.

knowledge of a candidate's moral and spiritual fitness to fulfill the duties of pastor or assistant pastor (cc. 521, 545, 547.) In this case, the Bishop did not have this knowledge that Duran was fit for the job because of the lack of an adequate background investigation. Thus, the Dominicans and the Diocese did not take adequate measures to prevent a pedophile from coming into the Diocese. Once in his assignment, the Diocese and the Dominicans and the Southern Dominican Province did not adequately supervise Duran.

Thomas Doyle will testify about the canonical and pastoral responsibilities that Church leaders and supervisors have to the victims of sexual abuse by the clergy. As stated previously, Bishops and pastors have a responsibility to safeguard the welfare of all those entrusted to them. This includes all those who actually live in the diocese (c. 369, 383).

Sexual abuse of a minor is included as a specific crime in canon law (c. 1395).
~~The Church's regulatory norms stipulate that when a bishop receives any information~~
about the possibility of the commission of such a crime he is obligated to conduct a preliminary, documented investigation after which he has the option of conducting a judicial tribunal process or, if there are no proofs, of dismissing the case (cc. 1717-1719).

Thomas Doyle will also testify concerning the historical development of the Catholic Church's treatment of sexual abuse of minors by the clergy.

Thomas Doyle will testify that sexual abuse has a variety of harmful effects on victims and from his expertise will testify about the especially harmful spiritual effects sexual abuse by a priest can have on a victim.

See further Expert Qualifications which was previously attached as Exhibit 1 to the Diocese's Discovery.

The grounds which form the basis of Thomas Doyle opinions include the review of various materials pertaining to this case, including depositions, pleadings, and other documents produced as well as Doyle's expertise acquired while actively serving as a priest in the Roman Catholic Church and through years of formal education and training. See further Expert Qualifications which was previously attached as Exhibit 1 to the Response to the Diocese's Discovery.

INTERROGATORY NO. 6: For each opinion of each expert identified in the preceding interrogatory, state a summary of the facts and scientific or professional principles upon which the expert relies as a basis to support each opinion.

RESPONSE: See response to Interrogatory No. 5.

Respectfully submitted,

GARY K. SMITH & ASSOCIATES, PLLC

BY: Karen Campbell

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KAREN M. CAMPBELL (17647)
100 Peabody Place, Suite 1300
Memphis, Tennessee 38103
(901) 544-6399 - Phone
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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing has been served upon the following attorneys by hand delivery this the 10th day of April, 2008.

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David Goodman, Esquire
Burch, Porter & Johnson
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Memphis, Tennessee 38103
*Attorney for Defendant Bishop of the
Roman Catholic Diocese of Memphis
of Tennessee*

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40 South Main Street
Memphis, Tennessee 38103-5529
*Counsel for Defendant Southern
Dominican Province USA*

Karen Campbell
Karen M. Campbell

CURRICULUM VITAE

Thomas Patrick Michael Doyle

Thomas Doyle was born August 3, 1944 in Sheboygan WI, the son of Michael Doyle and Doris Mellenthien. He was baptized Patrick Michael Doyle. He is the eldest of three children. He attended primary and secondary school in Ogdensburg NY and Cornwall, Ontario. In August, 1964 he entered the Dominican novitiate at Winona MN and was given the religious name of Thomas. He pronounced simple vows in 1965 and solemn vows on August 18, 1968.

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

After completing graduate work in theology and several months of clinical pastoral training, he was assigned as an associate pastor in River Forest IL. In 1974 he was appointed an advocate for the Metropolitan Tribunal of the Archdiocese of Chicago. In 1978 he was appointed a judge in the same tribunal. In 1981 he was asked to serve as secretary-canonist at the Vatican embassy in Washington D.C., a post which he held until early, 1986. On June 18, 1986 he was commissioned a reserve officer in the U.S. Air Force. His reserve Air Force assignments were at Dover AFB, Dover DE and Andrews AFB, Maryland. Air Force training took place at Lackland AFB, Texas and Maxwell AFB in Alabama. His active duty assignments have been at Grissom AFB, IN, Hurlburt Field, FL, Lajes Field, Azores, Tinker AFB, OK and Ramstein AB, Germany and Seymour Johnson AFB, North Carolina.

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

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

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

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

grand juries in several jurisdictions in the U.S. He has been a consultant to State and Federal legislative officials concerning changes in the law that would benefit victims of sexual abuse.

In recognition of his advocacy work for the victims of Catholic clergy sexual abuse Father Doyle received the Cavallo Award for Moral Courage in 1992, the Priest of Integrity Award from Voice of the Faithful in 2002 and the Isaac Hecker Award from the Paulist Fathers in 2003. In June of 2003 he was issued an official commendation from the Dominican Fathers for his *"prophetic work in drawing attention to clergy sexual abuse and for advocating the rights of victims and abusers."* In July 2005 he was awarded the *"Community Champion Award"* by the Civil Justice Foundation of the Association of Trial Lawyers of America.

ACADEMIC CREDENTIALS

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

ASSIGNMENTS AND POSITIONS HELD

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

1993-95	Tribunal Judge, Diocese of Pensacola-Tallahassee and Archdiocese for the Military Services, U.S.A.
1986-90	Tribunal Judge and Special Assistant to the Archbishop, Archdiocese for the Military Services, U.S.A.
1986-90	Tribunal Judge, Diocese of Scranton, PA.
1981-86	Secretary-Canonist, Vatican Embassy, Washington, D.C.
1981-86	Visiting Lecturer in Canon Law, Catholic University of America, Washington, D.C.
1979-86	Faculty Member, Midwest tribunal Institute, Mundelein Seminary, Mundelein, IL.
1978-86	Faculty Member, Tribunal Institute of the Catholic University of America, Washington, D.C.
1979-81	Visiting Lecturer in Canon Law, Catholic Theological Union, Chicago IL.
1978-81	Tribunal Judge, Archdiocese of Chicago, IL.
1974-78	Advocate and Defender of the Bond, Tribunal, Archdiocese of Chicago, IL.
1978-86	Faculty member, Institute of Spirituality, River Forest IL
1971-74	Associate Pastor, St. Vincent Ferrer Parish, River Forest IL.
1970-71	Graduate Student, Aquinas Institute of Theology, Dubuque, Iowa.
1966-70	Theological studies, Aquinas Institute of Theology

OTHER POSITIONS HELD

1983-86	Consultant to the Canonical Affairs Committee of the National Conference of Catholic Bishops
1978-81	Member, Board of Governors, Canon Law Society of America
1979-86	Chairman, Marriage research Committee, Canon law Society of America
1979-86	Editor, <u>Marriage Studies</u> , Washington D.C.
1982-88	Weekly columnist, <u>Arlington Catholic Herald</u>
1988-90	Consultant to the Canonical Affairs Committee of the National Conference of Catholic Bishops
1986	Director of the Institute of Spirituality, River Forest, IL
1971	Clinical Pastoral Training, Minnesota State Prison

PUBLICATIONS: BOOKS

1. Comrades in Revolution. Dayton: Pflaum Press, 1989.

2. The Understanding of the "Bonum Fidei" in the Church's Canonical Tradition. Washington, D.C.: Catholic University of America, 1978.
3. Rights and Responsibilities in the Church. New York: Pueblo Press, 1983.
4. The Homilist's Guide to Scripture, Theology and Canon Law. (With John Burke, O.P.), New York: Pueblo Press, 1987.
5. The Code of Canon Law: A Commentary. Leesburg VA: Catholic Home Study Institute, 1988.
6. Christian Marriage. Leesburg VA: Catholic Home Study Institute, 1989.
7. Meeting the Problem of Sexual Abuse Among the Clergy in a Responsible Way. (With Michael Peterson, M.D. and F. Ray Mouton, J.D.), Suitland MD: St. Luke Institute, 1985.
8. Sex, Priests and Secret Codes. With A.W.R. Sipe and Patrick Wall. Los Angeles. Bonus Books. 2006.

PUBLICATIONS: ARTICLES

1. "A New Look at the 'Bonum Fidei'," Studia Canonica 12(1978), 6-40.
2. "The Individual's Right to marry in the Context of the Common Good." Studia Canonica 13(1979), 245-302.
3. "Marital Breakdown: The Experience of the Tribunal." The Priest, September 1981.
4. "The Obligation of the Divine Office." The Priest, February, 1980.
5. "The Contemporary Challenge to Christian Marriage." The Priest, November and December, 1981.
6. "Why Some Catholics Get Divorced." U.S. Catholic, August, 1980.
7. "The Effects of Marital Disintegration on Children." The Priest, June, 1981.
8. "The Relationship of Canon law to the Catholic Family." The Priest, February, 1983.
9. "Sacramental Theology: Where We Are Today." The Priest, November, 1983.
10. "The Sacraments in the New Code." The Priest, November and December, 1984.
11. "The Contemporary Challenge to the Christian Family." The Exchange, Winter, 1980.
12. "The Internal Forum Solution." Phoenix, Summer, 1982.
13. "The Roman Catholic Church and Mixed Marriages." Ecumenical Trends, June, 1985.
14. "The Moral Inseparability of the Unitive and Procreative Aspects of Human Sexual Intercourse." Monitor Ecclesiasticus, 109(1984), 447-469.
15. "The Canonical Status of Religious Institutes: Additional Considerations." Studia Canonica 18(1984), 347-364.
16. "The Church and Marital Breakdown." Listening 15(1980), 54-64.
17. "The Canonical Foundations for Pre-Marital Preparation." Marriage Studies, Vol. 1, Washington D.C.: Canon law Society of America, 1980, 65-77.

18. "Select Bibliography on the Sacrament of Marriage." Marriage Studies, Vol. 1, Washington D.C.: Canon Law Society of America, 1980, 78-101.
19. "The Competent Forum, Matrimonial Trials and Norm 7 of the American procedural Norms," Marriage Studies, Vol. 1, Washington D.C., Canon Law Society of America, 1980, 102-143.
20. "Matrimonial Jurisprudence in the United States." Marriage Studies, Vol. 2, Washington D.C.: Canon Law Society of America, 1982, 111-158.
21. "The Moral Inseparability of the Unitive and procreative Aspects of Sexual Intercourse in the Thought of Pope John Paul II." Marriage Studies, Vol. 3, Washington, D.C.: Canon Law Society of America, 1985.
22. "The Catholic Church and Marital Breakdown." The New Catholic World, February, 1986.
23. "The Canonical Status of Religious Institutes." Monitor Ecclesiasticus 110(1985), 227-245.
24. "The Theology of Marriage." Studia Canonica, 20(1986).
25. "More on the Canonical Status of Religious Institutes." Angelicum, 1987.
26. "The Dignity of the Human Person in the Thought of John Paul II." Social Thought, 1987.
27. "The Clergy in Court: Clergy Malpractice." The Priest, January and February, 1987.
28. "Faith and the Sacrament of Marriage." Proceedings of the Australian Canon Law Society, 1987.
29. "Marriage," in The Code of Canon Law: A Text and Commentary. New York: Paulist Press, 1985. P. 737-834.
30. "Ministry to the Military: Valid or Not." The Priest, June, 1987.
31. "Military Marriages: Some Special Problems." Studia Canonica 21(1987).
32. "Military Marriages." Military Chaplain's Review, Spring, 1988.
33. "The Christian Vocation of Marriage." Handbook on Critical Sexual Issues. St. Louis: Pope John XXIII Center. 1983.
34. "The Clergy in Court: recent Developments." The Priest, July and August, 1990.
35. "Canon Law." 336 entries on Canon Law topics in The Concise Catholic Encyclopedia, Huntington IN: Our Sunday Visitor Press, 1990.
36. "The Rights of Priests Accused of Sexual Misconduct." Studia Canonica 24(1990).
37. "Canon Law." 274 entries in The Concise Catholic Dictionary, Huntington IN: Our Sunday Visitor Press, 1993.
38. "Healing the Pain." The Blue Book. Annual Proceedings of the N.C.C.A.
39. "Privileged Communications in the Military." Hurlburt Field, FL, Chaplain Resource Board.
40. "Privileged Communications and Military Chaplains." USAF Chaplain Resource Board
41. "Roman Catholic Clericalism, Religious Duress and Clergy Sexual Abuse." Pastoral Psychology, 51(2003).

42. "Catholic Clergy Sexual Abuse Meets the Civil Law." Fordham Urban Law Journal Jan. 2004.
43. "Canon Law: Failure from Above," in Sin Against the Innocents, Thomas Plante, editor, Greenwood Publishing C
44. "Clericalism-Enabler of Clergy Sexual Abuse." Pastoral Psychology 54(2006). 189-213.
45. "The Darkest of the Dark Side." Consolence 28(2007). 34-37.

PROFESSIONAL MEMBERSHIPS

Canon law Society of Great Britain and Ireland
Canon law Society of Australia and New Zealand
Canadian Canon law Society
Societe Internationale de Droit Canonique
Professional Association of Dive Instructors
National Association of Alcohol and Drug Counselors

MILITARY AWARDS AND DECORATIONS

National Defense Medal (2x)
NATO Service Medal
Kosovo Campaign Medal
Armed Forces Service Medal (2x)
Armed Forces Expeditionary Medal (2x)
Humanitarian Service Medal
Military Outstanding Volunteer Service Medal
Air Force Achievement Medal (2x)
US Army Achievement Medal
Air Force Commendation Medal (3x)
Meritorious Service Medal (3x)
"Most Distinguished Graduate," US Navy Drug and Alcohol Counselor School

AWARDS

1992: Cavallo Award for Moral Courage in Government and Business
2002: "Priest of Integrity Award," Voice of the Faithful
2003: Isaac Hecker Award for Achievements in Social Justice

2005: Community Champion Award, Civil Justice Foundation of the Association of Trial Lawyer
of America.

MISCELLANEOUS

Member, Order of the Desert Legion (US Army)

FAA licensed pilot, multi-engine, commercial and instrument rated

P.A.D.I. certified Master Scuba Diver, Divemaster, Rescue Diver

Certified Alcohol and Drug Abuse Counselor (CADAC)

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4-9-10R

IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT
AT MEMPHIS

JOHN R. DOE,

Plaintiff,

VS.

THE CATHOLIC BISHOP FOR
THE, DIOCESE OF MEMPHIS,
THE ORDER OF PREACHERS,
A CORPORATION SOLE, d/b/a
DOMINICANS, and FATHER
JUAN CARLOS DURAN, O.P.,

Defendants..

DEPOSITION

COPY

OF

THOMAS DOYLE

APRIL 11, 2008

ALPHA REPORTING CORPORATION
236 Adams Avenue
Memphis, TN 38103
901-523-8974
www.alphareporting.com

The deposition of THOMAS DOYLE is taken on this, the 11th day of April, 2008, on behalf of the Defendants, pursuant to notice and consent of counsel, beginning at approximately 10:00 a.m. in the offices of Gary K. Smith & Associates, PLLC, 100 Peabody Place, Suite 1300, Memphis, Tennessee 38103.

This deposition is taken pursuant to the terms and provisions of the Tennessee Rules of Civil Procedure and the Tennessee Rules of Evidence.

All forms and formalities, excluding the signature of the witness, are waived, and objections alone as to matters of competency, irrelevancy and immateriality of the testimony are reserved to be presented and disposed of at or before the hearing.

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CATHOLIC DIOCESE OF MEMPHIS:

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DAVID E. GOODMAN, JR., ESQ..
Burch, Porter & Johnson
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(901) 524-5000

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I N D E X

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COURT REPORTER'S CERTIFICATE333

1 THOMAS DOYLE,
2 having been first duly sworn, was examined
3 and testified as follows:

4 EXAMINATION

5 BY MR. LATHRAM:

6 Q. Father Doyle, we shook hands a few
7 minutes ago. My name is Brook Lathram. I
8 represent the Catholic Diocese Of Memphis.
9 With me is David Goodman, who is with my law
10 firm, and he, of course, also represents the
11 Diocese.

12 I'm going to be asking you some
13 questions. If at any time I ask you a
14 question that you don't understand, please
15 let me know, and I'll be glad to either
16 repeat or rephrase the question. Will you
17 do that?

18 A. I will.

19 Q. State your name, please, sir.

20 A. Thomas Doyle.

21 Q. Where do you live?

22 A. I live in Vienna, Virginia.

23 Q. Are you a Roman Catholic priest?

24 A. Yes, I am.

1 Q. Okay. Are you a member of the
2 Dominican Order or the World Order of
3 Preachers?

4 A. Yes, I am.

5 Q. Have you ever at any time
6 terminated your affiliation with the
7 Dominicans?

8 A. No, I've not. I'm presently still
9 a member.

10 Q. Do you have a copy of your current
11 CV with you?

12 A. Yes, I do.

13 MR. LATHRAM: Is that the same
14 one that you previously provided us?

15 MS. CAMPBELL: It is.

16 A. Yeah. I had thought I brought an
17 up to date, but I think that's up to date.
18 If there's any change, it would be in
19 formatting.

20 BY MR. LATHRAM:

21 Q. The document you handed me is the
22 CV?

23 A. Yeah. Same one I got.

24 MR. LATHRAM: Let's have this

1 marked Exhibit 125.

2 MR. SMITH: I know we have
3 124. I think it's 125. I suggested to
4 Brook let's just do 125.

5 MS. CAMPBELL: Okay.

6 MR. SMITH: If we already have
7 125, we'll just make this one 125A.

8 MS. CAMPBELL: Okay.

9 MR. LATHRAM: That will be just
10 fine.

11 (Whereupon, the above-mentioned
12 document was marked as Exhibit Number 125 to
13 the deposition, and is hereto attached.)

14 BY MR. LATHRAM:

15 Q. Do you have a copy in front of you?

16 A. Do I?

17 Q. Yes.

18 A. I've got one right here. Yeah.

19 Q. On Page 2 down at the bottom, it
20 lists assignments and positions held.

21 A. Yes.

22 Q. And I see the most recent is 2003
23 and 4.

24 A. Yes.

1 Q. Can you bring us up to date from
2 then?

3 A. Yes. Since 2004, I'm -- I live in
4 Virginia. And I don't have an official
5 assignment as a job. I'm self employed, I
6 guess it would be, lack -- for lack of a
7 better term.

8 Q. What do you do in the course of
9 your self employment?

10 A. I'm a certified addictions
11 therapist, and I do hospice work.

12 Q. And where in Virginia do you live?

13 A. Vienna, which it's a suburb. They
14 don't like to say it, but it's kind of a
15 suburb of Washington D.C. It's in northern
16 Virginia.

17 Q. Father Doyle, this is what we refer
18 to as a discovery deposition. And I'm going
19 to try to make this move as efficiently as
20 possible.

21 I just will tell you on the front
22 end that I've read your book. I've read the
23 answers to the interrogatories. I've read
24 some other things about you and that you've

1 written.

2 And I'm going to try to steer clear
3 of asking you questions that you have
4 already answered in your book, okay, or in
5 your other writings.

6 A. Fine.

7 Q. I'm going to do my best to focus on
8 what I deem to be specific to this case.
9 I'm sure that it will branch out to some
10 extent. But I just wanted to let you know
11 that.

12 I think a good way to start would
13 be to make some exhibits.

14 MR. LATHRAM: First of all,
15 this deposition is being taken pursuant to
16 notice. I don't know whether you would been
17 furnished a copy of this or not. But I
18 think we ought to make a copy of the notice
19 itself, which indicates, of course, that
20 it's a discovery deposition, the next
21 exhibit.

22 A. I believe I did -- I have a copy of
23 this.

24 BY MR. LATHRAM:

1 Q. Okay. Fine.

2 A. But I don't -- it's electronic. I
3 didn't print it out. I didn't see the need
4 to do that.

5 Q. That's fine. This is really more
6 -- this is more for the lawyers to have this
7 in the record.

8 MR. LATHRAM: So let's have
9 that marked 126, please.

10 (Whereupon, the above-mentioned
11 document was marked as Exhibit Number 126 to
12 the deposition, and is hereto attached.)

13 BY MR. LATHRAM:

14 Q. And in this case, we served you
15 with a subpoena. And Ms. Campbell was kind
16 enough to accept service. I assume that she
17 -- I will hand it you. I assume that she
18 has -- I just handed that to you. Is that
19 -- have you received that?

20 A. Yeah. Yes.

21 Q. Okay.

22 MR. LATHRAM: Let's have that
23 marked Exhibit 127.

24 (Whereupon, the above-mentioned

1 document was marked as Exhibit Number 127 to
2 the deposition, and is hereto attached.)

3 BY MR. LATHRAM:

4 Q. In a minute I will ask you to tell
5 us about any documents you may have brought
6 in response to that. But first, let's go
7 ahead with this. I'm going to hand you a
8 pleading, actually interrogatory responses,
9 that were filed by the plaintiff in December
10 of 2007. This is styled Plaintiff's
11 Supplemental Answers to First Set of
12 Interrogatories and Request for Production
13 of Documents propounded by Defendant
14 Diocese.

15 It sets forth -- and I'm using my
16 own paraphrasing terminology here -- sort of
17 a summary of your anticipated testimony.
18 Have you seen this?

19 A. Well, I probably have. I've seen a
20 couple of disclosures, if that's what you
21 mean.

22 Q. That's a good way to describe it.

23 A. That's the term I've been used
24 to in other situations.

1 Q. I understand.

2 A. And if I -- if that's -- yeah.

3 That, I've seen.

4 Q. All right.

5 A. Yes.

6 (Whereupon, the above-mentioned
7 document was marked as Exhibit Number 128 to
8 the deposition, and is hereto attached.)

9 A. That's yours.

10 BY MR. LATHRAM:

11 Q. You can hold on to it or keep it in
12 front of you or whatever you want to do.

13 A. And this, I don't need, because
14 I've already got a copy. All right. Fine.

15 Q. Later, we received a supplement to
16 the disclosure that was just marked Exhibit
17 128, to be more precise, a disclosure or
18 supplemental interrogatory answer that was
19 filed in early April, this month.

20 A. Okay.

21 Q. Have you seen this?

22 A. This -- yeah. I saw one yesterday.
23 that looked just like this. I presume it's
24 the same thing.

1 Okay. Shall I put that in the
2 pile, my pile?

3 Q. You may do so.

4 MR. LATHRAM: And we'll have --
5 again, this is a copy. And we'll have it
6 marked Exhibit 129.

7 MR. VESCOVO: They're both
8 filed Supplemental Plaintiff's Responses?

9 MR. LATHRAM: Number 128 is the
10 December 2007 and Number 129 is the April
11 2008.

12 (Whereupon, the above-mentioned
13 document was marked as Exhibit Number 129 to
14 the deposition, and is hereto attached.)

15 BY MR. LATHRAM:

16 Q. And then yesterday we received
17 supplemental responses to interrogatories
18 that were propounded to the plaintiff by the
19 Southern Dominican Province. I'll hand you
20 those and ask you if you've seen those.

21 A. Yes. This, I saw when I got here
22 yesterday afternoon. So who gets this now?

23 Q. Just keep it in front of you for
24 now.

1 A. Okay.

2 MR. LATHRAM: Let's mark this
3 as Exhibit 130.

4 (Whereupon, the above-mentioned
5 document was marked as Exhibit Number 130 to
6 the deposition, and is hereto attached.)
7 BY MR. LATHRAM:

8 Q. Have you been retained to serve as
9 an expert witness in this case?

10 A. Yes, I have.

11 Q. When were you first contacted about
12 serving as an expert in this case?

13 A. I think it was approximately a year
14 ago. It was early in 2007, I believe.

15 Q. By whom?

16 A. By Karen Campbell.

17 Q. What have you been engaged to do in
18 this case?

19 A. Review the documentation and
20 provide opinions about the Diocesan the
21 Order. And I think it's pretty well set
22 forth in the disclosure.

23 Q. Let me follow up on that. You say
24 that your opinions are pretty well set forth

1 in the disclosures. Is that what you're
2 saying?

3 A. That's the -- the outline of the
4 opinions is fairly well set forth in the
5 disclosures. Yes.

6 Q. As you sit here, can you think of
7 any particular opinions that you intend to
8 express at trial that are not embraced by
9 the disclosures?

10 A. I think the disclosures are fairly
11 complete. I can't think of anything that's
12 unique to what is in there.

13 Q. Is your work in this case complete
14 other than appearing in court and
15 testifying?

16 A. That will depend on whether more
17 information comes forward that is sent to me
18 to review, more documents, more deposition
19 testimony, more information about the
20 situation with Father Duran.

21 If more information does come forth
22 because I have several questions, then I
23 would ask that I be allowed to amplify my
24 opinions.

1 Q. Have you asked for some additional
2 information that you have not yet received?

3 A. I've asked questions of the
4 attorneys if they have information about
5 these situations that came up that were in
6 the documentation, I guess gaps in the
7 information that I couldn't find answers to.

8 Q. Tell me about those questions.

9 A. Information about Father Duran's
10 background prior to when he entered the
11 Dominicans. It was not as complete as I
12 think it should have been.

13 Q. What other questions have you asked
14 that -- let me start over. What other
15 questions do you feel you need further
16 information on?

17 A. That particular area right there.
18 Several statements that are in his
19 curriculum vitae and that were made by
20 different members of the Dominican Order, I
21 asked for more information about them, for
22 instance, why was he in Rome studying, who
23 sponsored him when he was over there.

24 I asked for specific information

1 about his involvement in alcohol and
2 addiction work. I asked for information
3 concerning his whereabouts at the present
4 time. And I asked for information
5 concerning the response to the plaintiff's
6 family as far as pastoral care is concerned
7 after the disclosure of the discovery of
8 what had happened with ~~DOE~~

9 Q. Are there any other open questions?

10 A. Other than the fundamental
11 question, why did this even happen.

12 Q. Apart from your desire to obtain
13 this additional information that you've just
14 described, is there anything else you think
15 you need to do in order to be in a position
16 to express opinions at trial?

17 A. Other than have all the information
18 that's humanly available, no.

19 Q. And you've done the best you can to
20 tell us what additional information you --

21 A. Yes.

22 Q. -- would like to have?

23 A. As best I can come up with, I mean,
24 based on my experience on what could be here

1 and what should be here from this kind of
2 case.

3 Q. If you, in the course of your work,
4 formulate any opinions that are not
5 expressed in the interrogatory answers,
6 would you please tell Ms. Campbell or
7 Mr. Smith so that we'll have the opportunity
8 to know about any new opinions that you
9 intend to express at trial?

10 A. Certainly. I mean, my
11 understanding of the process is that I will
12 put this in writing somewhere. And you will
13 be -- all of the attorneys would be -- this
14 would be made available to you and to
15 everyone else.

16 Q. Thank you.

17 A. I'm not going to come in with any
18 hidden bombs or anything like that.

19 Q. The purpose of a deposition is to
20 enable us to avoid being surprised at the
21 trial. Of course, that's dependent in part,
22 I will concede, on the lawyers asking you
23 the questions.

24 But we do want to make sure that

1 the written materials that have been
2 provided to us fairly embrace the opinions
3 that you intend to express at trial. And I
4 can tell from our discussion that you
5 understand that.

6 A. Oh, I understand. I certainly do.

7 Q. Incidentally, you have testified on
8 a number of occasions, have you not?

9 A. Yes, I have.

10 Q. In countless depositions?

11 A. That's a fair statement. Countless
12 is about it.

13 Q. Do you have a number, approximate
14 number?

15 A. Offhand, no.

16 Q. Over a hundred?

17 A. Yes. There are some that I -- that
18 I -- you know, I remember going way back and
19 others that have happened either like this
20 or on the phone or satellite.

21 Q. And of course, you've testified in
22 court before.

23 A. Yes, I have.

24 Q. And in most of these cases, they've

1 been child sexual abuse cases, I assume?

2 A. All but three have involved child
3 or -- child sexual abuse. I've been
4 involved in a couple where it was sexual
5 abuse of an adult, what was considered -- I
6 use the term vulnerable adult but an adult.
7 These did not go to trial.

8 And I've been involved in three
9 cases involving automobile accidents where I
10 was asked to explain or -- my purpose, as I
11 understood it, was to explain the
12 relationship between a member of a religious
13 Order who was working in a Diocesan who had
14 an accident. That's all.

15 Q. On how many occasions have you
16 testified in court in a child sexual abuse
17 case?

18 A. The reason I'm hesitating is
19 because I think it's 14 times. But on two
20 or three of these occasions, it wasn't a
21 full court press. It was a hearing where I
22 was brought in to give testimony as part of
23 a trial process. That's in the United
24 States.

1 I've testified in Canada once at a
2 trial and six times in Ireland at trials.

3 Q. I'd like for you to look at the
4 subpoena, please, which we marked as Exhibit
5 127.

6 A. Okay.

7 Q. And again, I believe you testified
8 that you received a copy of this.

9 A. Yes.

10 Q. All right. Have you brought any
11 documents in response to Item Number 1 on
12 Exhibit A to that subpoena?

13 A. Yes. I've got -- yes. They're
14 right there. Everything in response is
15 right there.

16 Q. You are pointing to a --

17 A. This pile here.

18 Q. All right. For the record, you are
19 pointing to a stack of papers that are in
20 the center of the table. And I understand
21 you to be telling us that these documents
22 are the documents that you are providing in
23 response to the subpoena as a whole.

24 A. That's everything I received before

1 I got here, everything I reviewed before I
2 appeared in Memphis yesterday. And I think
3 there -- it should be in some sort of order.

4 Q. Was yesterday the first time you've
5 been in Memphis in connection with this
6 case?

7 A. Yes, it was.

8 Q. Have you ever been in Memphis on
9 previous occasions for other reasons?

10 A. Yes, I have. I've been to the
11 airport several times changing planes. And
12 I believe I've been in Memphis I think many
13 years ago for a Canon Law Convention in the
14 70s. But that's -- and one time traveling
15 through. Because I remember going to visit
16 Elvis' house.

17 Q. When did you first meet
18 Ms. Campbell?

19 A. First met her physically yesterday.

20 Q. When did you first meet Mr. Smith?

21 A. Yesterday.

22 Q. And your first contact with
23 Ms. Campbell, I take it, was by telephone?

24 A. I can't recall offhand if it was

1 telephone or e-mail. But it was one or the
2 other. And there was both in a close
3 proximity in time.

4 Q. And you believe that this was about
5 a year ago?

6 A. I believe it was a year ago.

7 Q. I've now taken a look at this stack
8 of papers to which you've just referred.
9 Are there any printouts of e-mails in here?

10 A. No. And there aren't any printouts
11 of e-mails yet. And the only reason that
12 that's happened is because when I tried to
13 print it out yesterday, I was out of paper,
14 and it was 5:00 o'clock in the morning, and
15 I was getting ready to leave for the
16 airport.

17 But I brought my computer. So I
18 can print them out. I put them on my
19 laptop. All the e-mails that I exchanged
20 between Karen and I, I have on my laptop
21 here. So I can -- before the end of the
22 day, I can print them out here for you.

23 Q. We would very much like for you to
24 do that.

1 A. Okay. Mainly, most of that is
2 logistical things, setting up the date for
3 the deposition and so on and so forth. But
4 this wasn't -- anything substantial,
5 documents or actual discussion of the case,
6 is here on paper, either in that stack.

7 Q. All right. In the interest of
8 moving this along, I'm not going to stop and
9 pour over each of these papers. But I do
10 see one particular document that's a letter
11 dated April 13th, 2007, addressed to you,
12 and it's from Ms. Campbell.

13 I will ask you if that is, in fact,
14 a letter that you received shortly after
15 April 13th, 2007.

16 A. Yes, it is.

17 MR. LATHRAM: Let's have this
18 marked as the next exhibit.

19 (Whereupon, the above-mentioned
20 document was marked as Exhibit Number 131 to
21 the deposition, and is hereto attached.)

22 BY MR. LATHRAM:

23 Q. There is some highlighting with a
24 yellow highlighter. Is that yours?

1 A. That's mine.

2 Q. And again, that's in Exhibit 131?

3 A. Yeah.

4 Q. There's also a little bit of
5 handwriting in ink on Page 3. Is that
6 yours?

7 A. Let me see. Probably is. Because
8 nobody else gets their hands on my stuff
9 except me. Yes, it is mine.

10 Q. Okay.

11 A. Anything on that -- let me just
12 quickly look at it. Yeah. Everything --
13 the phone number on the front and the other
14 stuff, the highlighting, everything else, I
15 did.

16 MR. LATHRAM: Gary, while I'm
17 looking at this, could we get some copies
18 made of this so that others can be looking
19 at it?

20 MR. SMITH: Sure.

21 BY MR. LATHRAM:

22 Q. Let me hand you -- again, this is
23 from the stack of papers that you referred
24 to a minute ago.

1 A. Yes.

2 Q. What is that?

3 A. That's an index. I asked if there
4 were any indices, because there was so much
5 in the depositions. And this was sent as
6 kind of like a guide to help me get through
7 the depositions.

8 Q. And that's specifically the
9 deposition of whom?

10 A. Bishop Steib.

11 Q. On what dates?

12 A. Well, I believe August 14th --
13 15th. I think it's just the first part,
14 because there were -- I got three volumes of
15 his deposition.

16 Q. All right. And you understand that
17 to be something that was prepared by the
18 attorneys for the plaintiff?

19 A. I believe so.

20 MR. LATHRAM: Let's have that
21 marked Exhibit 132.

22 A. I mean, I didn't do it. And I
23 just -- I often ask for that to help me get
24 through the -- sometimes there are long gaps

1 where it's discussions between lawyers that
2 I don't really need to get involved in.

3 (Whereupon, the above-mentioned
4 document was marked as Exhibit Number 132 to
5 the deposition, and is hereto attached.)

6 BY MR. LATHRAM:

7 Q. I'll hand you something else. Can
8 you identify that for us?

9 A. Same thing.

10 Q. For a different deponent?

11 A. For a deponent, Ponticello. It was
12 the same -- the index.

13 MR. LATHRAM: Let's have that
14 marked the next exhibit.

15 (Whereupon, the above-mentioned
16 document was marked as Exhibit Number 133 to
17 the deposition, and is hereto attached.)

18 BY MR. LATHRAM:

19 Q. Before we're through today, we'll
20 try to figure out what's the best way to
21 identify for the record the other documents
22 in the stack that you showed me that I've
23 not yet made exhibits to the deposition.
24 Most of them are things that I've already

1 seen, of course, depositions and the like.

2 And you have told us you're going
3 to print out the e-mails for us.

4 A. Yeah.

5 Q. Okay.

6 A. There's not that many.

7 MR. SMITH: Before you move off
8 of that, though, Brook, let me supplement
9 that in two ways. What we have provided you
10 are the things that have been associated
11 peculiar to this case that were provided to
12 him to review.

13 Now, yesterday when he came in,
14 he looked at some things that we all have,
15 some documents that have been produced in
16 the case. If you want to ask him about
17 which ones those were, they're things you
18 already have.

19 We didn't copy those again.
20 You already got them. And plus, we didn't
21 have time to do it.

22 And secondly, we did not -- the
23 way you phrased this question, I mean, it
24 could be construed to include things that he

1 knows historically from church documents and
2 the like that are, for instance, mentioned
3 in his book.

4 We didn't -- I mean, it would
5 have been impossible to have accumulated all
6 that stuff in order to retract it.

7 MR. LATHRAM: I appreciate
8 that. I understood that.

9 BY MR. LATHRAM:

10 Q. Now, I understand this stack of
11 papers that you've referred us to, to be
12 documents that you produced that you have
13 reviewed and that you have produced in
14 response to the subpoena.

15 A. That's everything I had at home.

16 Q. Right. Everything you had at
17 home. And we've made a couple of two or
18 three -- I can't remember right now -- we've
19 made separate exhibits, and I'm just saying
20 we'll have to figure out, before the
21 deposition is over, how to identify these
22 other things that you've produced in
23 response to the subpoena.

24 A. I can tell you if you want.

1 There's depositions of Bishop Steib, one
2 taken in August I believe 2007 and one taken
3 in December. There's a deposition of Father
4 Ponticello that was taken -- I'm not sure
5 what the date is. The deposition of Father
6 Trutter, the deposition of Father Rodriguez,
7 the deposition of the plaintiff,
8 the deposition of Father Monsignor
9 Buchignani.

10 Q. Buchignani?

11 A. Buchignani. Then there are the
12 topical indices that were sent to me for
13 Steib's deposition, Ponticello's, Rodriguez
14 and Carl Trutter. Then in addition to that,
15 there are some exhibits that accompanied --
16 all of the exhibits that accompanied Steib's
17 deposition, which were a lot of letters
18 which I had copies of; and I think two or
19 three copies of the complaint and the letter
20 that you saw as well as -- I think that's
21 it.

22 There may be some other things I
23 forgot. But basically, that's it.

24 Q. You've just identified some things

1 that are not in the stack of papers produced
2 in response to the subpoena.

3 A. No. I think I identified
4 everything that's produced that's there.

5 Q. Okay. I didn't see any topical
6 indexes, for example, for Trutter and
7 Rodriguez.

8 A. Well, they could be right behind
9 stapled to their deposition. If you'll look
10 at their deposition --

11 MR. SMITH: If they not in
12 there, we'll put them in there. But I think
13 they're in there.

14 MR. LATHRAM: I could have
15 easily missed them.

16 A. Because I didn't look at the ones
17 from Trutter and Rodriguez, because I had
18 already reviewed their depositions
19 thoroughly. And the only other thing in
20 there that you -- that's in there -- give me
21 just one second.

22 This is a -- these are documents of
23 different exhibits pertaining to the
24 relationship of Carlos -- Juan Carlos to the

1 Order and to the Diocese.

2 I'm just offering this out if it's
3 going to save any time. But if you want to
4 go through each one individually, that's
5 fine. It's up to you.

6 BY MR. LATHRAM:

7 Q. I'm all for trying to move this
8 along.

9 A. So am I.

10 Q. Okay. You've now -- we want the
11 record to be clear about this. You've now
12 handed me something that is a smaller group
13 of papers that is different from the stack
14 of papers to which we have been referring.

15 A. I'm sorry. That should have been
16 on that stack. That, also, I had at home.

17 Q. Oh, okay.

18 A. That was produced to me beforehand.

19 Q. What you've just handed me was
20 produced beforehand?

21 A. That was produced this morning.

22 Q. Okay. The record's not going to
23 pick up that and that. So --

24 A. Okay.

1 Q. -- I'm going to -- I want everybody
2 to watch what I'm doing. This smaller stack
3 that you've just handed me needs to go into
4 the larger stack that was produced in
5 response to the subpoena, and to be more
6 precise, the stack of documents that you had
7 at home.

8 A. That's correct.

9 Q. Okay. Now, and again, that stack
10 that's been produced in response to the
11 subpoena, we'll continue to look through
12 that maybe at a break. And we'll try to
13 figure out a way we can identify those for
14 the record, if we even think that's
15 necessary.

16 Now, you've also handed me another
17 stack of documents, several.

18 A. It's about six.

19 Q. About five or six it looks like.

20 A. Yes.

21 Q. And I believe you were about to
22 tell me or did tell me that these are
23 documents that you reviewed either yesterday
24 or this morning.

1 A. That's right.

2 Q. Okay.

3 A. And those are -- I reviewed a lot
4 more than that, but I wanted copies of
5 those.

6 Q. Okay. So what we're now talking
7 about is a subset of larger documents that
8 you've reviewed. This particular subset
9 consists of documents that you wanted to
10 have copied.

11 A. That's correct.

12 MR. LATHRAM: This might be a
13 mistake, but again, I'm trying to move
14 things along. I recommend that we make this
15 last group of documents a collective exhibit
16 and --

17 MR. SMITH: Separate
18 collective?

19 MR. LATHRAM: A separate
20 collective exhibit.

21 MR. SMITH: That's fine.

22 MR. LATHRAM: So it will be
23 given the next number exhibit. But these
24 particular documents that he requested

1 copies of will now --

2 MR. SMITH: Go ahead and mark
3 it, and we'll get them copied.

4 (Whereupon, the above-mentioned
5 documents were marked as Collective Exhibit
6 Number 134 to the deposition, and are hereto
7 attached.)

8 BY MR. LATHRAM:

9 Q. Let me see if I can summarize where
10 we are with regard to the subpoena and the
11 broader subject of documents that you
12 reviewed. You have brought to this
13 deposition all of the documents that you had
14 at home. Correct?

15 A. Correct.

16 Q. As I understand it, you have -- you
17 have reviewed all of the documents that you
18 had at home.

19 A. That's correct.

20 Q. In other words, you didn't receive
21 something and determine that you didn't need
22 to read it or look at it.

23 A. I read everything.

24 Q. Okay.

1 A. I can't say I remember everything,
2 but I read it all.

3 Q. Yes, sir. And then we've just had
4 marked as a collective exhibit some
5 additional documents that you had not seen
6 until yesterday? Is that right?

7 A. That's correct.

8 Q. And again, they're documents that
9 you asked to be copied?

10 A. Correct.

11 Q. What other documents did you review
12 yesterday, that is, what documents did you
13 review and decide you didn't need copied?

14 A. I reviewed three binders this size
15 (indicating) of documents that were given to
16 me that I reviewed last night and this
17 morning. And it all consisted of internal
18 -- there were no depositions here. It's all
19 letters and statements -- letters from the
20 personnel file, I suspect, of Father Duran
21 from the Dominicans. And there appear to be
22 some letters that were generated out of a
23 file from the Diocese.

24 Q. And it was out of these binders

1 that you selected the documents. --

2 A. Yes.

3 Q. -- to be copied?

4 A. Correct. Absolutely.

5 MR. LATHRAM: Gary, can you
6 tell me, are these all documents that have
7 previously --

8 MR. SMITH: They are.

9 MR. LATHRAM: -- been produced
10 in discovery?

11 MR. SMITH: They are. And this
12 binder is what was produced on Duran and
13 runs from Bates Page --

14 MS. CAMPBELL: That's the
15 Southern Dominican Province.

16 MR. SMITH: -- looks like
17 Province 0018 through 0526. That's that
18 binder.

19 MR. LATHRAM: Okay. Thank
20 you.

21 MS. CAMPBELL: And he looked at
22 this one, which is Southern Dominican
23 Province 01 to 529, which was the full
24 notebook that they produced.

1 MR. LATHRAM: Okay.

2 BY MR. LATHRAM:

3 Q. Is that all?

4 MR. SMITH: No. There's one
5 more.

6 MR. LATHRAM: Okay.

7 MR. SMITH: Which one was that,
8 Karen?

9 MS. CAMPBELL: It was -- Brook,
10 it was the production the Diocese made of
11 Duran's material.

12 MR. LATHRAM: Personnel file?

13 MR. SMITH: Yeah.

14 MR. LATHRAM: Okay.

15 MS. CAMPBELL: And I'm going to
16 try to find those numbers. But it was
17 materials you produced. You want the
18 numbers on that?

19 MR. LATHRAM: No.

20 MS. CAMPBELL: Okay.

21 MR. LATHRAM: I mean, if I
22 understand, it's from the Duran.

23 MS. CAMPBELL: Right.

24 MR. LATHRAM: Duran documents.

1 MS. CAMPBELL: What the Diocese
2 has produced for Father Duran.

3 MR. LATHRAM: Okay.

4 MR. VESCOVO: He didn't review
5 that entire notebook. You pulled out
6 portions for him to review.

7 MS. CAMPBELL: Well, he took
8 the notebook with him.

9 THE WITNESS: I reviewed the
10 whole thing.

11 MS. CAMPBELL: Okay. I'm
12 sorry.

13 THE WITNESS: I reviewed three
14 of them in entirety. Trust me.

15 MR. VESCOVO: I trust you.

16 THE WITNESS: If I fall asleep
17 in the middle of this, you're going to --
18 that's proof that I have. I was --

19 MR. VESCOVO: Okay.

20 THE WITNESS: I was up at 5:00
21 this morning going into this again.

22 BY MR. LATHRAM:

23 Q. Incidentally, we appreciate you
24 coming to Memphis for this deposition.

1 A. Well, you know, I always try to go
2 to where it's easiest. And this -- I know
3 this would have been a manic undertaking for
4 everybody to come to me.

5 I'm -- right now, I'm sandwiched in
6 between. My travel schedule is a bit crazy.

7 Q. Okay. I think we've now -- well,
8 you tell me. Have we now identified all of
9 the documents that you have reviewed in
10 connection with this case?

11 A. Yes.

12 Q. Okay. And by asking that question,
13 I don't mean to imply that you may not have
14 looked at your book or thought about things
15 you've written in your book or about more
16 general documents, the charter or whatever,
17 the John Jay Study, et cetera.

18 But as far as documents specific to
19 this case, we've now identified --

20 A. You have.

21 Q. -- all of those you've reviewed.
22 Okay. I realize that you are a member of
23 the World Order of Preachers and that -- and
24 so therefore, I'm -- it's a little bit funny

1 to ask this question. But are you being
2 paid for your services in this case?

3 A. Yes.

4 Q. Okay. How are you paid?

5 A. Well, there's been nothing yet. We
6 haven't even discussed it.

7 Q. Are you typically paid in these
8 cases?

9 A. Usually, yes.

10 Q. Okay. How are you typically paid?

11 A. By the hour.

12 Q. What is your hourly rate?

13 A. The hourly rate often varies
14 depending on the area and on the -- what the
15 attorneys and I come to an agreement on.

16 As I said, I don't -- I don't
17 know -- I still don't know how to be a
18 professional expert witness. So there have
19 been times when there's been no payment and
20 times when it's been minimal up to anything
21 from zero. The most I've ever gotten was
22 500 an hour for trial work in a couple of
23 cases, I think one.

24 Q. Have you reached an agreement with

1 plaintiff's counsel in this case on your
2 remuneration for your services?

3 A. No, we haven't . . The only
4 discussion which was passing was
5 reimbursement for travel expenses for this
6 trip. That's all.

7 Q. So at this point, you don't know
8 what you're going to charge?

9 A. I don't.

10 Q. Do you anticipate reaching some
11 agreement before you testify at trial?

12 A. Probably. But again, that's not
13 written in stone.

14 Q. And when you do --

15 MR. LATHRAM: I'll just ask
16 Mr. Smith. Please let us know what the
17 agreement is so that we'll know it before he
18 gets on the stand.

19 MR. SMITH: We will do it.

20 MR. LATHRAM: I mean, I'd like
21 to know it at the first opportunity.

22 MR. SMITH: As soon as we know,
23 you will know.

24 MR. LATHRAM: That's what I

1 want to know. That's good.

2 BY MR. LATHRAM:

3 Q. What do you do with the money that
4 you receive?

5 A. I support myself. I give a certain
6 amount of it away.

7 Q. To what?

8 A. I give a certain amount of it away,
9 some that I use to support myself.

10 Q. Okay.

11 A. And some I give to the Government,
12 unwilling.

13 Q. If between today and the time of
14 the trial you review any additional
15 information either because you request it or
16 because it's provided to you, will you, in
17 cooperation with Counsel, make sure that we
18 are advised about that prior to trial?

19 A. Certainly.

20 Q. And again, you understand why I'm
21 asking that. We don't want to find out at
22 trial that you've looked at something that
23 hadn't been -- something specific to this
24 case that hasn't been identified today.

1 A. Absolutely. I mean, I'll tell you
2 flat out, I don't -- I would not participate
3 in any of this if there were any under-the-
4 table stuff going on.

5 Q. Now, let me refer you to the
6 December 2007 disclosures or supplemental
7 answers to the interrogatories.

8 A. Okay. That was the long one?

9 MR. VESCOVO: It's 128?

10 BY MR. LATHRAM:

11 Q. 128, I believe.

12 A. You mean Number 128?

13 Q. Yes, sir. The document that's been
14 marked as Exhibit 128.

15 A. See, I don't have any markings on
16 it. I'm just guessing that this is what it
17 is. It's the thickest one?

18 Q. I believe it is.

19 A. I got it. Okay.

20 Q. Now, the first five pages, as I
21 understand, were prepared by the attorneys
22 for the plaintiff.

23 A. Yes. I reviewed it.

24 Q. Right....

1 A. But they were.

2 Q. Right. And incidentally, that's
3 standard practice. I mean, that's nothing
4 --

5 A. I understand.

6 Q. I didn't mean to insinuate anything
7 sinister about that at all. But you
8 reviewed this -- is it your understanding
9 you reviewed this before this was filed?

10 A. Yes.

11 Q. Did you make any changes?

12 A. I may have, but I don't recall
13 exactly. If I made any changes, they would
14 have been where factual information was
15 incorrect or information that I couldn't
16 provide was included that I couldn't
17 provide.

18 But I don't recall anything earth
19 shattering.

20 Q. I assume that prior to the
21 preparation and filing of these, you had had
22 one or more conversations with Ms. Campbell
23 or --

24 A. Yes.

1 Q. -- Mr. Smith?

2 A. Yes, I had.

3 Q. And you discussed this case. You
4 provided them with information. And then
5 subsequent to that, these -- this
6 supplemental interrogatory was prepared. Is
7 that right?

8 A. That's correct.

9 Q. Now, attached to this is a long
10 document marked as Exhibit 1 to Exhibit
11 128. Do you see that?

12 A. Yes, I do.

13 Q. And --

14 A. This here?

15 Q. Yes, sir. At the top, it says
16 Declaration of Thomas P. Doyle. What is
17 this document?

18 A. That's a declaration that I believe
19 I was asked -- I must have been asked to do
20 it, because it wouldn't be here otherwise,
21 that basically is very, very long and
22 somewhat detailed, creating or summarizing
23 the historical context of the issue of
24 sexual abuse of children within the Catholic

1 Church as well as -- it's mostly
2 historical.

3 And then I think there's some
4 information in there that I've put in on the
5 place of the Catholic Church's legal system
6 called Canon Law.

7 Q. Did you yourself prepare this
8 declaration?

9 A. Every word of it.

10 Q. Did you prepare it specifically for
11 this case?

12 A. I had parts of it from other
13 situation -- other articles I'd written or
14 research that I'd done, and some of it was
15 done for this case.

16 But there's no -- I don't believe
17 there's any reference in this document to
18 this specific case. This is all like a
19 contextual document.

20 Q. I've read it, and I think you're
21 right.

22 A. Yeah.

23 Q. Have you filed or caused to be
24 filed similar declarations in other cases?

1 A. Yes.

2 Q. In a number of cases?

3 A. Yes.

4 Q. Is that, for want of a better way
5 of saying it, your typical way of proceeding
6 in these cases?

7 A. If the issue comes up, if I'm asked
8 to provide historical or contextual
9 information, yes. I will do that.

10 But I will tell you right off that
11 other than the professional experience which
12 gets changed as that in fact changes, the
13 historical information itself is changed on
14 a regular basis. Because I'm continually
15 doing research and reading into a lot of
16 these issues, not case specific but just in
17 general.

18 And so that -- these will -- every
19 one of them is different just about.

20 Q. The supplemental interrogatory
21 answer to which this declaration was
22 attached was filed in December. When did
23 you provide this declaration to the
24 attorneys for the plaintiff?

1 A. I'd have to look back on -- because
2 I probably did -- I know I did it at home,
3 and I sent it as an e-mail attachment. So I
4 would have to look on the e-mails and see
5 exactly when I sent it.

6 Q. Do you believe that that e-mail
7 still exists?

8 A. It's one that I sent, and it might
9 still exist. I've had a few semi-minor
10 problems with my computer and lost some
11 stuff. But it probably still exists. But I
12 will see when I look.

13 Q. Okay. On how many occasions have
14 you spoken with Ms. Campbell on the phone?

15 A. I want to say maybe six or eight.

16 Q. Did you take handwritten notes
17 during those conversations?

18 A. No. The only notes that I believe
19 I ever took in those conversations were with
20 regard to the travel arrangements and to
21 come here and dates and that kind of thing.

22 Q. But you didn't take any notes
23 discussing the facts of the case?

24 A. No. Everything that -- when I

1 asked for facts of the case, they were -- it
2 was provided for me like in the terms of
3 that -- in the form of that letter that you
4 mentioned earlier from Ms. Campbell to
5 myself. Or I may have asked for documents
6 that were referenced but were not there.

7 For example, the other day I called
8 her up and asked if I could have I think two
9 or three exhibit documents that were
10 referenced in Bishop Steib's deposition, and
11 those were sent to me.

12 Q. Have you had occasion to speak with
13 Mr. Smith on the phone?

14 A. I spoke with him maybe three times.

15 Q. Did you take notes of those phone
16 conversations?

17 A. No, I didn't.

18 Q. Have you met with the plaintiff?

19 A. No, I have not.

20 Q. Have you met with any members of
21 the plaintiff's family?

22 A. No, I have not.

23 Q. Do you know Bishop Steib?

24 A. I may have met him years ago, but I

1 don't know him.

2 Q. I assume, therefore, that you've
3 not had any conversations with him about the
4 child sexual abuse crises in the Catholic
5 Church?

6 A. I have not.

7 Q. Have you had such conversations
8 with any current or former priest in the
9 Catholic Diocese of Memphis?

10 A. I believe I did. And I didn't know
11 this until yesterday. I believe in '85, I
12 had a conversation with Peter Sartain,
13 because a letter was produced that I had
14 sent to him in reference to a particular
15 priest.

16 I don't remember the contact. I
17 don't remember the conversation, and I don't
18 remember writing the letter. But it's got
19 my name on it.

20 But this was back in '85. So I
21 don't recall. I believe it was December
22 1985.

23 Q. You referred to a -- I'm sorry. I
24 missed something. You referred to a

1 particular document that reminded you of
2 this?

3 A. Yes. They had found a letter that
4 apparently --

5 Q. They, being?

6 A. The attorneys.

7 Q. Is this one of the documents that's
8 among those?

9 MR. SMITH: It's produced in
10 the case.

11 A. Produced. It was one that was
12 produced.

13 MR. LATHRAM: I don't care who
14 tells me which document we're talking
15 about.

16 MS. CAMPBELL: In Priest Number
17 3, it came up that Tom Doyle wrote a letter
18 to Peter Sartain about Priest Number 3,
19 about his laicization. It's in the record.
20 If you want me to give you the number, I
21 can.

22 MR. LATHRAM: Has it been made
23 an exhibit?

24 MR. SMITH: Not a separate one.

1 MR. LATHRAM: No. I don't mean
2 to his testimony. Has it previously been
3 made an exhibit?

4 MR. SMITH: No.

5 MS. CAMPBELL: No.

6 MR. SMITH: Not a separate
7 exhibit. I don't know if we've made all the
8 production an overall exhibit or not. I
9 just don't recall.

10 MS. CAMPBELL: I was trying to
11 think. Because I thought in Buchignani
12 deposition yesterday -- but it wasn't made
13 an exhibit, I don't think.

14 MR. LATHRAM: All right. If
15 you could give me the Bates number, that
16 would be great. You don't have to do it
17 right now.

18 MS. CAMPBELL: Okay.

19 MR. LATHRAM: But I just would
20 like to know what you're talking about.

21 MS. CAMPBELL: Okay.

22 MR. LATHRAM: And we'll
23 identify it for the record when you do.

24 MS. CAMPBELL: Okay.

1 BY MR. LATHRAM:

2 Q. But I understand that, Father
3 Doyle, reading that letter didn't jog your
4 memory as to any of the context?

5 A. No. Because when I wrote it at the
6 time, there was a great deal of interest and
7 attention being given to the issue of clergy
8 sexual abuse of minors. And I was still
9 working in the Vatican Embassy and would
10 regularly receive inquiries from priests for
11 procedural issues.

12 And if my boss, the Archbishop, got
13 inquiries, he regularly referred them to me,
14 you know, answer this letter, phone this
15 priest or this Bishop and give them some
16 direction. And that's what this was about.

17 Q. Apart from this communication with
18 then Father Sartain, have you had any
19 communications of any type with any current
20 or former priest in this Diocese about the
21 child sexual abuse crises?

22 A. Not that I can recall.

23 Q. Do you know Father Alberto
24 Rodriguez?

1 A. I've never met him.

2 Q. Do you know Father Carl Trutter?

3 A. Yes, I do.

4 Q. How do you know Father Trutter?

5 A. We were both members of the same
6 Dominican province, the Central Province,
7 until he joined the Southern Province. We
8 lived in the same community when I was in --
9 studying theology prior to my ordination.
10 That was in Dubuque, Iowa.

11 After that time, I would see him on
12 occasion at gatherings of Dominicans when I
13 was still living within the community in the
14 Central Province.

15 Q. When did you last have any
16 communication with Father Trutter?

17 A. I think the last communication I
18 had with Father Trutter would have been
19 several years ago when I wrote him a letter
20 or note of condolence when his brother died.

21 Q. I assume you've not had any
22 discussions with Father Trutter about this
23 particular case?

24 A. No, I have not.

1 Q. Have you had any discussions with
2 any current or former priest of the Southern
3 Dominican Province about this particular
4 case?

5 A. No, I have not.

6 Q. Prior to being retained to work on
7 this case, did you have any particular
8 knowledge of or familiarity with the
9 Catholic Diocese of Memphis?

10 A. Nothing in particular other than
11 that it existed. And when I worked at the
12 Vatican Embassy between '80 and '86, I
13 believe I handled the -- I managed the
14 process whereby Bishop Stafford was selected
15 to be the Ordinary or the Bishop of the
16 Diocese back in 1983. But that's all.

17 Q. You know, of course, that Father
18 Duran was interviewed back in December 1998,
19 I believe? Is that --

20 A. Yes.

21 Q. -- right?

22 A. That's correct.

23 Q. I'd like for you to tell us the
24 state of knowledge of the child sexual abuse

1 crises in the Catholic Church in the United
2 States back in -- as of December 1998. And
3 before you do, let me make it clear that
4 when I refer to the Catholic Church in the
5 United States, I refer not only to dioceses
6 throughout the country but also religious
7 orders.

8 I know this is a subject that you
9 have written about and know a good bit
10 about. And I just would like for you to
11 tell us generally, what was the state of
12 knowledge within the Catholic Church in the
13 United States in December 1998?

14 A. Okay. In December of 1998, the
15 state of knowledge among religious order
16 superiors and Bishops and clergy was I think
17 detailed. I think it was -- I don't know
18 the right word to use. But they were well
19 aware of the existence of sexual abuse by
20 sexually dysfunctional clerics and well
21 aware of the damage, I believe, that sexual
22 abuse has on children and young
23 adolescents. I believe they were well aware
24 of the civil law consequences of sexual

1 abuse of children.

2 There had by 1998, been several
3 widely reported cases around the country.
4 And by widely reported, I mean these not
5 only received national news coverage but
6 international news coverage.

7 By 1998, many dioceses, and I
8 cannot tell you how many, but many dioceses
9 and many religious orders had had specific
10 seminars and study programs devoted to
11 sexual abuse of children. By 1998, many
12 dioceses and religious orders had also had
13 policies that they had drawn up, procedures
14 drawn up that were to be used in the event
15 of reports.

16 I believe it's fair to say that no
17 Bishop in this country, including the
18 Bishops of Memphis, could claim that this
19 was an unknown quantity to them by the year
20 1998. When it first --

21 Q. Would you say the same thing about
22 the superiors of religious orders?

23 A. Absolutely. Because the -- the
24 Bishops of the United States have an

1 organization called the -- now it's called
2 the United States Conference of Catholic
3 Bishops that's mandated by church law. It's
4 an umbrella organization. And every Bishop
5 is a member. That generates a great deal of
6 documentation. They have meetings and so
7 on.

8 The religious orders, men and women
9 each, have similar organizations that are
10 comprised of the leadership. By that, I
11 mean the provincial leadership, not the
12 local community leadership. But every
13 provincial, which is, as you know, the
14 geographic head of a religious order of a
15 specific area, is an automatic member.

16 And the one for men is known as the
17 Conference of Major Superiors of Men. And
18 they had workshops and generated
19 documentation about this I believe going
20 back to the early 90s. You know, I can't
21 tell you exactly as I sit here, but I could
22 find out. I've got a file at home that has
23 most of the documentation they've generated.

24 Q. Let's see if we can --

1 MR. SMITH: He was in the
2 middle of continuing his answer when you
3 stopped him to ask about the order. Let him
4 go ahead and finish where you were.

5 BY MR. LATHRAM:

6 Q. Oh, I'm sorry.

7 A. Okay. So what I'm saying -- what I
8 was saying is this information -- the idea
9 or the reality of sexual abuse of children
10 by Catholic clergy first received
11 significant publicity in 1984 and 1985 based
12 on, for lack of a better term, a notorious
13 case in Louisiana.

14 Q. Gilbert Gauthé?

15 A. Gilbert Gauthé.

16 Q. Gauthé.

17 A. But it was not --

18 Q. That's in Lafayette, Louisiana.

19 A. Lafayette. This was not the first
20 time it had ever happened. There has been
21 documented awareness on the part of church
22 leadership going back centuries. If you
23 read that book, you know that.

24 Secondly, after this pop happened

1 in Louisiana '84 and '85, there was a good
2 deal of discussion by church leadership.
3 I'm sorry. Both Diocesan religious order
4 leadership, between that period, 1984, 1985
5 and 1998 and the present.

6 Some of it, I was involved in
7 directly, some of it indirectly, and some
8 not at all.

9 Q. Let's talk about some specific
10 events that occurred between 1984 and 1998.
11 You've mentioned the notorious case in
12 Lafayette involving Gilbert Gauthier.

13 A. That's right.

14 Q. That, of course, received
15 widespread publicity.

16 A. Yes, it did.

17 Q. I believe, also, there were a
18 number of civil suits filed against the
19 Diocese of New Mexico. Is that correct?

20 A. That -- yes. That was the Diocese
21 of Santa Fe, New Mexico, which includes
22 Albuquerque and is in fact just about all
23 the state.

24 There were a number of suits filed

1 against the Diocese of Santa Fe I think
2 beginning in the very early 90s, maybe '90,
3 '91. I don't know when the first one was
4 filed. But there were a number.

5 Q. I think it was 1991. Does that
6 sound right?

7 A. That sounds right.

8 Q. Then in 1992, there were
9 allegations, a number of allegations,
10 against Father James Porter in Fall River,
11 Massachusetts? Is that right?

12 A. Yes. That also received a very
13 high degree of publicity.

14 Q. Are you familiar with the Five
15 Principles? Have you heard of that term,
16 the Five Principles?

17 A. The Five Principles that the
18 Bishops Conference issued?

19 Q. Yes, sir.

20 A. I can't -- I didn't -- I don't have
21 them memorized. But I'm aware of them.
22 I've seen them from documents that was
23 generated out of the Bishops Conference in
24 that period.

1 Q. And is it consistent with your
2 recollection that these were issued in 1992?

3 A. I believe -- I want to say '92 or
4 '93. But yes.

5 Q. And then there was something called
6 Restoring Trust 1 and Restoring Trust 2?

7 A. Yes.

8 Q. Tell us what those were.

9 A. In 1993, the Bishops of the United
10 States established a special committee to
11 deal with the problem of sexual abuse by the
12 clergy. And that committee sponsored the
13 publication of I think a three or four part
14 handbook in restoring trust one, restoring
15 trust two, and I think there's three and
16 four, also, were published on three or four
17 successive years by the Bishops committee.

18 Q. Beginning in 1994?

19 A. I believe '94 was the first year.
20 Because the committee was started in '93.

21 Q. Do you remember who the chairman of
22 the committee was?

23 A. I believe the first one was Bishop
24 Kenny, John Kenny, who at the time was in

1 Bismarck, North Dakota, somewhere off in the
2 middle of nowhere in the Midwest.

3 Q. What was the general subject of
4 these?

5 A. The --

6 Q. Would we call them decrees, or what
7 was the right word?

8 A. No. They were -- they were
9 actually like handbooks. They were -- they
10 were -- they weren't mandated as law, but
11 they were to assist Bishops. And they had a
12 lot of information, copies of a lot of
13 articles, a lot of other information about
14 treatment centers, about the issue of what
15 sexual dysfunction is, things of that
16 nature. I think there were suggestions.

17 They weren't -- they weren't
18 mandated into legislation of any kind. It
19 was -- procedures were only suggested or
20 urged.

21 Q. Were they widely disseminated?

22 A. That, I don't know. I suspect that
23 every Bishop got copies of them. But other
24 than that, I don't think they were ever set

1 out for public consumption, because I've
2 never seen them. And I've got just about
3 everything that was ever published in
4 English and in other languages on this.

5 So there -- and I don't -- I have
6 not seen copies of them except in situations
7 such as this since then.

8 Q. Do you agree that by 1998, there
9 was much more known about the child sexual
10 abuse crises than there had been known, say,
11 in the early 1980s?

12 A. Yes.

13 Q. By 1998, was there a greater
14 awareness within the entire Catholic Church
15 in the United States that pedophilia and
16 ephebophilia could not be completely cured?

17 A. I don't think I'm in a position to
18 answer that question. Because you're
19 talking about 125 million people.

20 But I think there's -- I would
21 agree that there's a general awareness,
22 based on all the events that have happened,
23 that neither of these disorders were
24 curable. A lot of people who didn't even

1 know what they were after it started
2 reaching the news, were asking questions, and
3 they did become aware after that.

4 Q. I need you to look at the
5 plaintiff's answers to the supplemental
6 interrogatories propounded by the Southern
7 Dominican Province. And that's going to be
8 Exhibit 130.

9 A. Okay. I think I've got it.

10 Q. Look at the bottom of Page 2, to
11 begin with.

12 A. Okay.

13 Q. And you'll see that the plaintiff
14 was asked in interrogatories specified as
15 Interrogatory Number 5. Do you see that?

16 A. Yeah.

17 Q. And then if you to Page 3, you'll
18 see that this is a response.

19 A. Okay.

20 Q. Okay. Now, this was provided to us
21 I think yesterday.

22 MR. LATHRAM: Is that --

23 MS. CAMPBELL: That's right.

24 MR. LATHRAM: Okay.

1 BY MR. LATHRAM:

2 Q. Did you get a chance to review your
3 answer -- the plaintiff's answers to these
4 interrogatories?

5 A. I reviewed them last night.

6 Q. Okay.

7 A. Yesterday afternoon.

8 Q. Okay. I assume that you have read
9 in its entirety the response to
10 Interrogatory Number 5, begins on Page 3?

11 A. Uh-huh (affirmative response).

12 Q. Is there anything in there you
13 disagree with?

14 A. I'll read it again here.

15 Q. Feel free to take your time and
16 read the entire thing or whatever you want
17 to do.

18 (BRIEF PAUSE)

19 MR. SMITH: I need a recess.
20 We've been going about an hour and ten
21 minutes.

22 MR. LATHRAM: Sure.

23 (SHORT BREAK)

24 BY MR. LATHRAM:

1 Q. Father Doyle, have you had the
2 opportunity to read the answer to
3 Interrogatory Number 5?

4 A. Yes, I have.

5 Q. And again, this is Interrogatory 5
6 in Exhibit 130, the supplemental answers to
7 the interrogatories propounded by the
8 Southern Dominican Province?

9 A. Uh-huh, yes.

10 Q. And again, I understand this is not
11 the first time you've read these.

12 A. No, it's not.

13 Q. Okay. Does this interrogatory
14 answer fairly set forth the opinions that
15 you hold in this case?

16 A. Yes. The only thing that I've given
17 up trying to change is the consistent
18 referral of this -- to this issue as a
19 pedophilia problem. It was identified as
20 that because Gilbert Gauthé was a true
21 pedophile. But it's a -- it's a misnomer,
22 because most of the priests aren't, as you
23 know.

24 But I mean, that's only a technical

1 issue, I think. For our purposes, it's not
2 that major.

3 Q. Most of the cases involve
4 ephebophilia?

5 A. They do.

6 MR. VESCOVO: Involve -- I
7 couldn't hear you.

8 MR. LATHRAM: Ephebophilia.

9 BY MR. LATHRAM:

10 Q. Explain what that is.

11 A. It's a disorder whereby an adult
12 male or female is sexually attracted, either
13 exclusively or intermittently, to younger
14 adolescents of either sex. I mean, it's not
15 exclusively male-male or male-female, but
16 it's also possibly female-male, female-
17 female.

18 Q. Now, look at Page 3 of Exhibit
19 130. And I'll call your attention to the
20 second paragraph of the response.

21 A. Right.

22 Q. And in the second sentence of that
23 paragraph, it states and I'll quote, the
24 Dominicans and the Southern Dominican

1 Province knew Duran's background and knew
2 that he was unfit for ministry and posed a
3 risk to children because he had been
4 expelled from the Franciscan Order after
5 being caught in a sexual act with a minor,
6 closed quote.

7 Did I read that correctly?

8 A. You did.

9 Q. And is that, in fact, your
10 understanding?

11 A. It is my understanding.

12 Q. Is that your understanding from
13 reviewing documents in this case?

14 A. That's my understanding from
15 reviewing the documents produced.

16 Q. And let me show you --

17 A. The ones that -- the ones that had
18 that letter, the Franciscan letter.

19 Q. We're getting ready to --

20 A. Okay. This is --

21 Q. Hold on just a second so I can give
22 it to other people, too.

23 I've just handed you a document
24 that's -- it was produced by the Southern

1 Dominican Province in this case. It bears
2 Number SDP 0343. It's dated -- there's a
3 date at the top, December 19, 1994. I can
4 represent that it was previously made an
5 exhibit to one of the depositions in this
6 case.

7 Have you seen this before today?

8 A. Yes, I have.

9 MR. LATHRAM: Let's have this
10 document marked the next exhibit number.

11 (Whereupon, the above-mentioned
12 document was marked as Exhibit Number 135 to
13 the deposition, and is hereto attached.)

14 A. What I wanted to get back if I
15 could is the --

16 MR. VESCOVO: Is that 135?

17 THE REPORTER: Yes.

18 A. -- a small little additional bunch
19 of documents that I had that somebody took.

20 MR. SMITH: The stuff that was
21 copied yesterday?

22 THE WITNESS: No. The stuff
23 that I brought with me. And the stuff that
24 was copied yesterday --

1 MR. VESCOVO: It's on the
2 bottom of that stack right here is where it
3 is. Look on the bottom of the stack.

4 A. This may be it here. That's it.
5 This is -- yeah. This is what I want.
6 Right here. Okay. Good.

7 BY MR. LATHRAM:

8 Q. All right. Please go ahead and
9 identify whatever it is you're looking for.

10 A. What I was looking for was the
11 letter itself from the Franciscan Superior
12 to the Dominican Superior in response to an
13 inquiry dated January 5th, 1994.

14 MR. SMITH: What's the page
15 number on that, Brook?

16 MR. LATHRAM: It's SDP 0436.

17 BY MR. LATHRAM:

18 Q. Tell us the date at the top of that
19 letter, please, Father Doyle.

20 A. January 5th, 1994.

21 Q. Tell us, based on your
22 understanding, the author of the letter and
23 the addressee.

24 A. Okay. The author of the letter is

1 Father Carlos Folgado, F-O-L-G-A-D-O. And
2 he addressed that letter to Father -- Father
3 Folgado was a Franciscan. He was the
4 provincial superior of the Franciscans in
5 Bolivia. He addressed the letter to Father
6 Gerard Rojas, R-O-J-A-S, a Dominican.

7 I'm not exactly certain what his
8 position was. But he apparently was in
9 charge of formation of the students for the
10 Dominicans in Cochabamba.

11 Q. And what province are we talking
12 about?

13 A. That's the Dominican Vicariate of
14 Bolivia, which is a Vicariate of the Central
15 Province of the Dominicans.

16 Q. All right. Now, you decided you
17 wanted to look at that particular letter
18 while I was questioning you. Why did you
19 want to see that document?

20 A. Because that is the letter that
21 Father Trutter refers to in this document
22 where he says in this document --

23 MR. SMITH: This document being
24 Exhibit 135.

1 THE WITNESS: This document
2 being 135. I'm sorry.

3 MR. SMITH: And if we may,
4 Brook, let's mark this letter he's
5 referencing as 136 since we're talking about
6 it. And we'll substitute that later if you
7 want.

8 MR. LATHRAM: That's fine.

9 MR. SMITH: Go ahead. But
10 let's just save for Number 136.

11 MR. LATHRAM: Let's stop for a
12 second, Father, and let the court reporter
13 do that. All I want to do is mark this
14 document right now 136.

15 (Whereupon, the above-mentioned
16 document was marked as Exhibit Number 136 to
17 the deposition, and is hereto attached.)

18 MR. LATHRAM: For the record,
19 the document marked 136 is the one that
20 Father Doyle referred to and has been
21 discussing from Father Folgado to Father
22 Rojas, dated January 5, 1994.

23 BY MR. LATHRAM:

24 Q. Now, please go ahead. You were --

1 MR. SMITH: Do you need that
2 letter?

3 BY MR. LATHRAM:

4 Q. You were talking about that
5 document and how you believe it to be
6 referred to in Exhibit 135? Is that right?

7 MR. SMITH: Hold on just one
8 second, Brook, until we get it back.

9 (BRIEF PAUSE)

10 A. Okay.

11 BY MR. LATHRAM:

12 Q. Go ahead.

13 A. This letter Number 135 is from
14 Father Pat Rearden, who I believe at the
15 time was a Dominican superior in Bolivia.
16 And he sent this letter to Father Trutter,
17 who at the time was in the Southern
18 Dominican Province.

19 And he refers in the second --
20 third, actually, the third paragraph, to the
21 fact that Father Juan Carlos Duran was
22 previously expelled from the Franciscan
23 order here, meaning in Bolivia, for immoral
24 behavior.

1 And the only documentation that
2 refers to that expulsion is the letter sent
3 by the Franciscan Provincial that I
4 referenced, which is Exhibit 136. And that
5 letter from the Franciscan provincial
6 mentions the fact that he was not allowed to
7 renew his temporary vows and therefore had
8 to leave the Franciscan Order.

9 Q. Let me show you another document.

10 A. Okay.

11 Q. I've just handed to you a document
12 numbered SDP 0342?

13 A. Yes.

14 Q. It has a date at the top January 2,
15 1995?

16 A. That's correct.

17 Q. Is this another document that
18 you've seen --

19 A. Yes, I have.

20 Q. -- in this case? And you've read
21 Father Trutter's deposition?

22 A. Yes, I have.

23 Q. Do you understand this, then, to be
24 a letter that Father Trutter wrote on

1 January 2, 1995 in response to Father
2 Rearden's letter that we just marked as
3 Exhibit 135?

4 A. Yes, I do.

5 Q. Okay. Father Doyle, is it your
6 opinion that the Southern Dominican Province
7 should have told my client, the Catholic
8 Diocese of Memphis, that Duran had at one
9 time been a member of the Franciscan Order
10 and had been expelled from that Order
11 because of immoral behavior?

12 A. Yes.

13 Q. You have seen the curriculum vitae
14 that was presented to the Diocese at the
15 time Duran was interviewed?

16 A. I believe it's the only one -- the
17 one that was presented. I've seen in the
18 documentation two or three documents that I
19 believe were various curriculum vitae that
20 were created by someone.

21 But I do see one, this one here, I
22 believe is --

23 Q. You're referring to something that
24 was produced by my client numbered C00362,

1 and it's a curriculum vitae for Juan Carlos
2 Duran dated July 10, 1998.

3 MR. LATHRAM: I have some
4 copies of that. So let me just go ahead
5 and --

6 A. I don't know who produced it. But
7 this was the one that I was given to
8 understand was the one sent by Father
9 Trutter to Deacon Wells.

10 BY MR. LATHRAM:

11 Q. I believe your understanding is
12 correct. In fact, so that the record will
13 be clear what we're talking about, let me,
14 first of all, hand you -- again, this is a
15 document that has previously been produced
16 and discussed on more than one occasion.

17 It's C 00361. I'll ask you if
18 you've seen that.

19 A. Yes, I have.

20 Q. Okay.

21 MR. LATHRAM: This is the
22 November 23, 1998 fax from Father Trutter to
23 Deacon Charles Wells. Let's have it marked
24 as the next exhibit, please.

1 Let's have the January 2, 1995
2 letter from Father Trutter to Father Rearden
3 marked as 137. And then we'll have the
4 November 1998 fax from Father Trutter to
5 Deacon Wells marked Exhibit 138.

6 (Whereupon, the above-mentioned
7 documents were marked as Exhibits Numbers
8 137 and 138 to the deposition, and are
9 hereto attached.)

10 A. I've got a copy of this here. So
11 who gets this?

12 BY MR. LATHRAM:

13 Q. It's real easy to do, Father, but
14 you're getting ahead of me. So just hold
15 your horses here. We're going to get to
16 that.

17 MR. LATHRAM: Off the record
18 for a second.

19 (Whereupon, a brief discussion was
20 held off the record.)

21 MR. LATHRAM: We're going to
22 mark the Duran CV, which was dated July
23 1998, as the next exhibit when it gets back
24 here.

1 BY MR. LATHRAM:

2 Q. You've seen that CV, of course.

3 A. I have it right here in front of
4 me.

5 Q. And it's your understanding that
6 that CV was provided to the Diocese,
7 particularly to Deacon Wells, in November
8 1998. Correct?

9 A. That's correct.

10 Q. Okay. Is it your opinion, Father
11 Doyle, that that CV should have referred to
12 the fact that at one time, Duran was a
13 member of the Franciscan Order?

14 A. Yes, it should have.

15 MR. LATHRAM: Here's the CV,
16 and we'll mark it as the next exhibit.

17 (Whereupon, the above-mentioned
18 document was marked as Exhibit Number 139 to
19 the deposition, and is hereto attached.)

20 BY MR. LATHRAM:

21 Q. Is it your opinion, Father Doyle,
22 that the Southern Dominican Province
23 withheld from the Catholic Diocese of
24 Memphis information materially bearing on

1 Duran's fitness to be a priest?

2 A. The only conclusion that I can draw
3 is they withheld information that they had
4 that was directly bearing on his fitness.

5 Q. You've not seen any indication in
6 any of the documents you've reviewed that
7 the Catholic Diocese of Memphis was aware
8 that Duran had been a member of the
9 Franciscan Order, have you?

10 A. I have not.

11 Q. Okay. Are you aware, also, that
12 Duran was involved in an incident at Saint
13 Louis University?

14 A. Yes, I am.

15 Q. Have you seen -- have you had an
16 occasion, during the course of your work in
17 this case, to review a report of an incident
18 that occurred at Saint Louis University?

19 A. Yes, I have.

20 Q. I'll hand you a document and ask
21 you if that is the report that you have had
22 occasion to review during the course of your
23 work in this case.

24 A. It is.

1 MR. LATHRAM: Please hand that
2 to the court reporter, and we'll have it
3 marked as the next exhibit, which is 140.

4 (Whereupon, the above-mentioned
5 document was marked as Exhibit Number 140 to
6 the deposition, and is hereto attached.)

7 BY MR. LATHRAM:

8 Q. Do you have an opinion, Father
9 Doyle, on whether the information contained
10 in this report should have been provided to
11 the Catholic Diocese of Memphis?

12 A. Yes, it should have.

13 Q. Why?

14 A. Because it pertains to his fitness
15 for ministry.

16 Q. Is it your opinion that Father
17 Duran was not fit to be a priest?

18 A. Yes, it is.

19 Q. Is it your opinion that Father
20 Duran was a risk to minors?

21 A. Yes, it is.

22 Q. Let me -- I'm going to show you
23 another document that has been produced in
24 this case. It's numbered SDP 0260. It is a

1 July 10, 1998 letter from Father Trutter to
2 the Archbishop of Miami. Please take a look
3 at that.

4 Have you seen this document during
5 the course of your work on this case?

6 A. Yes, I have.

7 MR. LATHRAM: Let's have that
8 marked the next exhibit.

9 (Whereupon, the above-mentioned
10 document was marked as Exhibit Number 141 to
11 the deposition, and is hereto attached.)

12 BY MR. LATHRAM:

13 Q. Do you understand this to be a
14 letter that Father Trutter wrote and sent to
15 the Most Reverend John C. Favalora,
16 Archbishop of Miami, in July 1998?

17 A. Yes, I do.

18 Q. Is it your opinion that there are
19 certain statements in that letter that are
20 inconsistent with the facts as Father
21 Trutter knew them at the time?

22 A. Yes, there -- yes.

23 Q. Do you see in particular -- in
24 particular --

1 A. Wait. I've got a copy here. I've
2 got my own. I don't need this one.

3 Q. Do you see in particular the
4 statement in there where Father Trutter
5 states, and I quote, I assure you that
6 nothing in his background in any way would
7 limit him or disqualify him from service in
8 your organization, closed quote? Did I read
9 that correctly?

10 A. You did.

11 Q. Do you agree that Father Trutter
12 should not have made that representation to
13 the Archbishop of Miami?

14 A. I agree, he should not have.

15 Q. And is it your opinion that, in
16 fact, he should not have sent this letter to
17 the Archbishop?

18 A. I agree with that, also.

19 Q. Let me also show you a letter
20 that's numbered SDP 0229. This is a letter
21 that's dated January 18, 19 -- January 18,
22 1999 from Father Trutter to the Most
23 Reverend Michael J. Sheridan, auxiliary
24 Bishop of St. Louis.

1 Is that a document that you have
2 had occasion to review during the course of
3 your work in this case?

4 A. Yes, it is.

5 MR. LATHRAM: Let's have it
6 marked the next exhibit, please.

7 (Whereupon, the above-mentioned
8 document was marked as Exhibit Number 142 to
9 the deposition, and is hereto attached.)

10 BY MR. LATHRAM:

11 Q. It's self evident, is it not, that
12 this is virtually the same letter, maybe
13 even an identical letter, to the one that
14 Father Trutter sent to the Archbishop in
15 Miami in 19 -- in July 1998. Correct?

16 A. I believe it is. Let me just --
17 yes. Looks like the same letter.

18 Q. Okay. And you understand that in
19 January 1998, Duran had not yet come to
20 Memphis?

21 MR. SMITH: In January of '99,
22 you mean?

23 A. January of '99.

24 BY MR. LATHRAM:

1 Q. January of '99?

2 A. Yes. I understand that.

3 Q. All right. You understand that he
4 was interviewed in December 1998 and that he
5 ultimately came to Memphis in July 1999?

6 A. That's correct.

7 Q. Okay. Is it your opinion that this
8 letter that's been marked as Exhibit 142
9 should not have been sent by the Southern
10 Dominican Province to the Arch Diocese of
11 St. Louis?

12 A. It certainly is, especially in
13 light of the fact the report on the incident
14 in St. Louis were dated December 1998, not
15 even a month prior.

16 Q. Let me ask you some questions about
17 these last two letters. Would you refer to
18 them as letters of good standing?

19 A. I believe so. Let me just say that
20 the letter of good standing, there's no
21 uniform, precise wording that is to be --
22 that's set forth in any church document that
23 says this is exactly what you have to say.
24 So it varies on the circumstances.

1 But a letter of good standing would
2 be something equivalent to those two.

3 Q. When did the practice of submitting
4 a letter of good standing in connection with
5 a transferee of priest start?

6 A. Well, it's required in the 1917
7 Code of Canon Law. And the 1917 Code of
8 Canon Law in the footnotes to that
9 particular requirement where they talk about
10 the process to be followed when a man -- a
11 priest from one diocese goes to another
12 diocese or from a religious order to serve
13 in a Diocese, that process is set forth in
14 the 1917 Code. And it's repeated in the
15 1983 revision.

16 And in the 1917 Code, there are
17 what they call fontes, that's F-O-N-T-E-S,
18 or footnotes which give the sources for that
19 particular Canon. And these sources predate
20 1917.

21 I don't have them in front of me.
22 But I think it's safe to assume that this
23 requirement goes back to the 19th Century at
24 least.

1 Q. Have the letters of good standing
2 evolved in terms of their content over the
3 years?

4 A. I think they have evolved in terms
5 of their content. Again, there's been no
6 specific legislation that says they have to
7 say this.

8 But the letter of good standing
9 certainly has evolved in the past maybe 15
10 to 20 years in response to the -- in
11 response to the awareness of sexual
12 dysfunction by clergy as well as in response
13 to the high mobility rate of clergy from one
14 diocese to another or one country to
15 another, which was not something that was
16 experienced in the 19th through 18th
17 Centuries.

18 Q. The last letter that we made an
19 exhibit, the one to St. Louis, which I
20 believe we marked as Exhibit 142, contain
21 some specific certifications regarding
22 Duran, does it not?

23 A. Yes, it does. Excuse me. I
24 think. I mean, it had some stuff that's

1 specific to him.

2 Q. Right. But there are specific
3 certifications regarding his fitness in that
4 letter.

5 A. That's correct.

6 Q. In other words, this is not simply
7 a letter that just states very generally,
8 the transferee priest is in good standing in
9 this Diocese.

10 A. It says more than that.

11 Q. It goes on to certify, among other
12 things, that there are no problems -- that
13 he has exhibited no problems that would make
14 him unfit to be with minors. Correct?

15 A. That's correct.

16 Q. Okay. When did letters that
17 contained this kind of specificity become
18 the standard practice? Or did they ever --
19 did letters of this kind ever become the
20 standard practice? Let's establish that.

21 A. Letters mentioning, for instance,
22 alcohol abuse, substance abuse, or
23 suitability to work with minors I believe
24 became standard practice in the 90s, the

1 1990s.

2 The letters have to attest to the
3 fact that the priest is morally and
4 spiritually fit to function as a priest.
5 Now, the concept of moral fitness and
6 spiritual fitness involves a number of
7 things. And by simply stating that, it was
8 presumed that a Bishop or religious superior
9 is assuring that he knows.

10 And the commentators on the Code of
11 Canon Law and Catholic legi -- Catholic
12 legislation generally will say that what the
13 person writing the letter should do is base
14 this on what's called positive information
15 and not simply the lack of evidence, if he's
16 never abused a child, therefore, he's
17 morally fit, but on some observation that
18 says we have positive awareness that he is
19 morally and spiritually fit.

20 In the 90s, it became common for
21 religious superiors and Bishops to
22 specifically request information about
23 suitability of working with minors and
24 children.

1 Q. Do you know when in the 1990s?

2 A. There was -- I don't recall there
3 ever having been a decree, so to speak, that
4 went out either from the Vatican or from the
5 National Conference of Bishops saying,
6 henceforth, letters of good standing will
7 mention this. But I think it was more
8 sporadic.

9 As the Bishops grew in their
10 awareness of the -- of the extent of the
11 problem and as more and more civil cases
12 brought to their attention the fact that if
13 you do accept men with this kind of baggage
14 or if you send them elsewhere with this kind
15 of baggage, there will be serious
16 consequences, that resulted in the practice
17 of specific mention and requests for this
18 kind of information about suitability to
19 work with minors.

20 Q. Look at Exhibit 142, the letter to
21 St. Louis. And in the second paragraph, it
22 begins, I have consulted with those with
23 whom Father Duran has ministered. Do you
24 see that?

1 A. Yes, I do.

2 Q. Okay. Now, is that -- is that what
3 you were referring to a minute ago when the
4 requirement evolved that the author of one
5 of these letters needed to affirm that he
6 had -- that he had spoken with people who
7 actually know something about the priest and
8 know about the priest's characteristics?

9 A. Yes. The practice has been, even
10 before all of this, is the Bishop would
11 consult with -- if it's an assistant pastor,
12 you consult with the pastor or others with
13 whom he has worked. If it's a religious
14 order, you consult with the local superior.

15 The Provincial, for instance, would
16 call the superior of such and such a house
17 and say Father so and so is going to go work
18 for the Diocese of New York City, tell me
19 how he's been doing in his ministry. Well,
20 he's a great community man, and he's very
21 active, he's very enthusiastic or so on,
22 that kind of thing. So that's what you do.
23 That's -- I suspect that that's what this
24 refers to.

1 Q. Have you ever had occasion to work
2 on another case where similar to this case,
3 the transferor withheld from the transferee
4 information materially bearing on the
5 priest's fitness?

6 A. Yes, I have.

7 Q. How many?

8 A. I'm referring only to cases
9 involving religious order member of priests
10 going to a diocese.

11 Q. Well, why not also include maybe
12 where a priest went from one diocese to
13 another?

14 A. Fine. Either way. I mean, I just
15 -- you said similar to this case. I can't
16 tell you exactly how many, but I'd have to
17 go back and look at the facts of each one.
18 Because I don't have a complete recall of
19 the facts.

20 But I do know a number of instances
21 where this very line of questioning took
22 place and in circumstances just like this
23 with different names and different places
24 and different dates.

1 Q. In other words, cases where --
2 again, you know what I mean when I'm using
3 transferor --

4 A. Sure.

5 Q. -- and transferee? Where the
6 transferor possessed information that
7 indicated that the priest was not fit to be
8 with minors and the transferor withheld that
9 information.

10 A. That's correct.

11 Q. Okay. What is the most recent
12 example of that to your knowledge?

13 A. I believe it was a case I was
14 involved in. I gave a deposition. And it
15 may be within the past month. But I'd have
16 to be -- I could stand corrected on the
17 exact details.

18 But it involved a religious order
19 priest who had a significant amount of known
20 dysfunctional behavior in his background,
21 serving in a number of dioceses.

22 Q. Is this a lawsuit that's pending
23 somewhere in this --

24 A. Not spending anymore.

1 Q. It got resolved?

2 A. It was settled.

3 Q. Okay. Where was the lawsuit filed?

4 A. I believe it was in Houston.

5 Q. Who were the defendants?

6 A. The defendants were the Oblates of
7 Mary Immaculate, OMI. And I think they only
8 have one province in the United States now.
9 They were in Texas at the time. That's
10 where it all took place.

11 Q. Was the Diocese of Houston a
12 defendant?

13 A. I don't think so. I think the
14 Diocese of -- the Diocese -- the Diocese
15 part had been taken care of before I got
16 involved. That had been settled out. And
17 my part was only involving the religious
18 order.

19 That was the -- the only people at
20 the deposition at that point in the
21 settlement were the attorneys for the Order.

22 Q. And you think this deposition was
23 about a month ago?

24 A. Yes.

1 Q. By whom were you retained?

2 A. I was retained -- the attorney's
3 name is Tahira, T-A-H-I-R-A, Kham, K-H-A-M.
4 And she's in Dallas.

5 Q. Did she represent the plaintiff?

6 A. Yes, she did.

7 Q. Was there just one plaintiff?

8 A. At that stage of the game, there's
9 only one plaintiff.

10 Q. Is the plaintiff's name public, or
11 was it a John Doe?

12 A. No. It was a John Doe. If you
13 need it, I can probably get you more precise
14 information.

15 Q. We would like that.

16 A. I just can't do it off the top of
17 my head. If I remembered each and every
18 detail about each and every case I've been
19 involved in, I'd be locked up in cool, dark
20 place right now.

21 Q. Who represented the OMI?

22 A. I don't remember the gentleman's
23 name.

24 Q. I take it that it was this

1 gentleman who was questioning you in the
2 deposition?

3 A. Yes, it was.

4 Q. Do you have a copy of the
5 transcript of your deposition in that case?

6 A. I think I have one at home.
7 Electronic, I think.

8 Q. Would you provide that to
9 Mr. Smith, please?

10 A. If I've got one, I will.

11 Q. If you have it.

12 MR. LATHRAM: And will you
13 agree to give it to us?

14 MR. SMITH: Yes. Assuming
15 there's no order in that case -- we'll have
16 to verify that -- that would prevent it.
17 But I have no problem with it.

18 BY MR. LATHRAM:

19 Q. In that particular case, Father
20 Doyle, when did the transfer take place?

21 A. Which?

22 Q. Well, let's be more specific. As I
23 understand it, the OMI, is that a religious
24 order?

1 A. Yeah.

2 Q. Okay. And as I understand it,
3 the -- what's the name of the priest?

4 A. Priest's name was Antonio Gonzalez.

5 Q. At some point -- well, Father
6 Gonzalez was a member of the OMI.

7 A. That's right.

8 Q. And at some point, Father Gonzalez
9 was transferred from the OMI to a diocese?

10 A. He always was in the Order, but I
11 believe he went to work in different
12 dioceses, and there were several of them.
13 Because his career ended in 1985, I think.
14 And then he was laicized in maybe '87, '86
15 or '87.

16 But it spanned about 30 years.

17 Because he was ordained I think in 1957.

18 Q. So the withholding of information
19 took place some time in the 80s or -- and
20 even prior to that?

21 A. Yes. Oh, yes.

22 Q. Are you aware of any cases where
23 the withholding of the information took
24 place in the 1990s?

1 A. Off the top of my head, I can't
2 tell you. I'd have to go back and look at
3 my cases that I've been involved in. So I
4 don't want to guess or say yes, no, or
5 maybe.

6 Q. Will you agree to look into that?

7 A. Sure. If someone reminds me.

8 Q. And if, in fact, you are able to
9 identify for us an instance where
10 withholding of this kind of information,
11 that is, information bearing on a priest's
12 fitness to be with minors, was withheld some
13 time in the 1990s, will you provide that
14 information to Mr. Smith?

15 A. Yes.

16 MR. LATHRAM: Gary, will you
17 provide that to us?

18 MR. SMITH: I will. However,
19 you're asking him to do something for you,
20 and you should be the one to pay him for the
21 time for doing that.

22 THE WITNESS: A thousand
23 dollars an hour, I'll do anything for you.

24 MR. SMITH: In fairness,

1 Brook. I mean, that is something that
2 you're literally asking him to go beyond
3 what I would be having him do. So whatever
4 time associated with that endeavor should be
5 your responsibility.

6 Think about that, and we can
7 talk about it after lunch.

8 MR. LATHRAM: I'll sure think
9 about it over lunch. Because I may modify
10 that some. That's a fair point. Why don't
11 we go to lunch.

12 (LUNCH BREAK)

13 BY MR. LATHRAM:

14 Q. When we broke for lunch, we were
15 discussing whether there had been, to your
16 knowledge, any incidents in the 1990s when
17 the transferor, be it a diocese or a
18 religious order, withheld information
19 bearing on the priest's fitness to be with
20 minors.

21 A. Yes.

22 Q. And you -- I think you indicated
23 before lunch that you -- as you were sitting
24 here, you're not aware of any in the 1990s.

1 Is that correct?

2 A. Well, I wasn't -- I'm aware --

3 Q. Have you thought of one?

4 A. I'm not aware of any specific ones
5 that I can remember right now as we sit
6 here. But that doesn't mean that I'm not
7 aware. I know it did happen in the 90s, but
8 I can't give you any specific examples.

9 Q. I don't need for you to go back and
10 do any independent research on this. I'm
11 not asking you to do that.

12 A. Okay.

13 Q. What I am asking you, though, is if
14 you do, between now and the trial, remember
15 an incident where this kind of information
16 bearing on a priest's fitness was withheld,
17 to let Mr. Smith and Ms. Campbell know about
18 it. Will you agree to do that?

19 A. Yes, I will.

20 MR. LATHRAM: And will you
21 agree to tell us if he provides you with
22 that information?

23 MR. SMITH: Yes. And I take it
24 that you're amending your prior request.

1 MR. LATHRAM: You are correct,
2 to the extent that I -- I'm sure you're
3 accurately characterizing my prior request,
4 and I think you are.

5 BY MR. LATHRAM:

6 Q. I may have indicated that I wanted
7 you to go back and do research.

8 A. I understand.

9 Q. I just don't want to be surprised
10 at trial. I mean, this --

11 A. Sure.

12 Q. We're all up front about this, you
13 know. When you're on the stand, I don't
14 want to hear you talking about I can tell
15 you about eight or ten or fifteen incidents
16 that occurred in the 1990s. If that
17 happens, I would like to know about them,
18 and we'll have to figure out how I can find
19 out what you know. We may do it by
20 telephone deposition or -- I don't know what
21 we'll do.

22 A. I mean, if somebody asks me a
23 question at trial and it's an answer that
24 pops into my head that I didn't reveal.

1 beforehand, all I can do is answer the
2 question.

3 Q. Right.

4 A. But as we -- I understand what
5 you're looking for.

6 Q. I know you do.

7 A. I assure you, I respect
8 your request. Excuse me. I respect your
9 request, and I understand it.

10 Q. Thank you. As you know, the
11 Chancellor of this Diocese at the time Duran
12 was interviewed and hired was Deacon Chuck
13 Wells -- Charles Wells. He goes by the name
14 Chuck.

15 A. Yes.

16 Q. You've learned that, of course.

17 A. I've learned that.

18 Q. Have you read Deacon Wells'
19 deposition?

20 A. Yes, I have.

21 Q. Okay. You know that he
22 acknowledged that he should have obtained a
23 letter of good standing?

24 A. I do know that.

1 Q. And you also know from the Bishop's
2 testimony that that was the policy, that he
3 was supposed to have done it, and he didn't
4 do it.

5 A. That's correct.

6 Q. Do you have an opinion on whether
7 that made a difference?

8 A. I think it made a difference on the
9 integrity of their process that they should
10 have asked and insisted upon the letter of
11 good standing.

12 There were a couple of remarks made
13 in the Bishop's deposition that I could have
14 misunderstood. But I believe what I thought
15 he was saying was that he had asked Chuck
16 Wells about this letter of good standing,
17 and Deacon Wells admitted to him subsequent
18 to the interview that they had, that he had
19 forgotten to send the letter out.

20 At that point, if I understand that
21 sequence of events correctly in that
22 conversation that took place well after the
23 incident of abuse had been revealed, if in
24 fact that happened, I believe the Bishop

1 should have said, well, we need to follow up
2 on that now and obtain that letter of good
3 standing.

4 And the reason I would say that I
5 would insist on that had I been one of his
6 advisors is this was 1999, I believe was the
7 year. This wasn't 1949, and it wasn't
8 something that could reasonably be allowed
9 to pass.

10 Now, I believe the questioning in
11 the depositions subsequent to that about
12 would the letter have made any difference
13 and so on is also important. But I'll --
14 I'll not comment on that unless you ask me
15 to.

16 Q. You, of course, do not know whether
17 the Bishop in fact knew prior to Duran's
18 being hired, that the letter of good
19 standing had not been obtained. Correct?

20 A. Well, the dialogue in the
21 depositions indicates that he was aware that
22 it had not been obtained. But when he
23 became aware of that, I don't know.

24 Q. Okay.

1 A. As I said, I may have misunderstood
2 the line of questioning. But I got the
3 impression was that he became aware after
4 Duran had been hired.

5 Q. But before the incident?

6 A. Before the incident.

7 Q. Is that your understanding?

8 A. That's -- and again, it could be
9 that I was misreading the way the question
10 went.

11 Q. For whatever it's worth, I think
12 you're wrong.

13 A. Okay. That's fine.

14 Q. We'll go from there.

15 A. I mean, it's -- as I said, I read
16 it, and I wondered myself, and I think I put
17 a question mark by that to clarify that.
18 Because when it took place would be very
19 important for me.

20 Q. You're aware from your work in this
21 case that Deacon Wells wrote a letter to
22 Father Trutter subsequent to the interview
23 that he and Father Sartain had with Duran.
24 Right?

1 A. Yes, I am.

2 Q. Let me show you that letter.

3 A. I probably have it in this pile
4 here.

5 Q. Here we go.

6 A. You have it?

7 Q. Yes, sir, I do.

8 A. Great.

9 Q. It's a letter dated December 16,
10 1998.

11 A. Okay.

12 Q. For the record, this letter is
13 numbered SDP 0261. I'll also represent to
14 you that it was produced in discovery by my
15 client, as well.

16 A. Okay.

17 Q. Is this a letter that you have had
18 occasion to review during the course of your
19 work?

20 A. Yes, I have.

21 MR. LATHRAM: I'll have that
22 marked the next exhibit, please.

23 (Whereupon, the above-mentioned
24 document was marked as Exhibit Number 143 to

1 the deposition, and is hereto attached.)

2 MR. LATHRAM: Off the record.

3 (Whereupon, a brief discussion was
4 held off the record.)

5 BY MR. LATHRAM:

6 Q. I'm going to ask you if you have an
7 opinion, and if you don't mind, I'd like for
8 you to answer yes or no. And I'll obviously
9 give you an opportunity to explain when you
10 need to.

11 But first of all, I just want to
12 ask you, do you have an opinion on whether
13 Father Trutter would have provided the
14 letter of good standing to Deacon Wells if
15 in fact Deacon Wells had followed up on his
16 December 16th letter and asked for the
17 letter of good standing?

18 A. Do I have an opinion?

19 Q. Yes, sir. Do you have an opinion?

20 A. Yes, sir.

21 Q. Do you intend to express that
22 opinion at the trial?

23 A. If I'm asked.

24 Q. And what is that opinion?

1 A. My opinion is that if Father
2 Trutter had been asked for a letter of good
3 standing based on previous requests and
4 their responses for similar letters, that he
5 would have responded and probably with a
6 letter similar to those sent to Bishop
7 Sheridan in St. Louis and Archbishop
8 Favalora in Miami, Florida. Because the
9 sequence of events and the timing is so
10 close.

11 Q. Let's take a look at Exhibit 129,
12 which is your -- I shouldn't say your. It's
13 the second supplemental disclosure to the
14 diocese's interrogatories.

15 A. The second one?

16 Q. Yes, sir. The one that was filed
17 on April 2 of this year, nine days ago, I
18 guess.

19 A. Well --

20 Q. Exhibit 129. Can you find that
21 one?

22 A. Okay. Yeah. I've got it.

23 Q. All right. If you would, take a
24 look at Page 3, second paragraph.

1 A. Okay.

2 Q. Read just that paragraph to
3 yourself.

4 A. Okay.

5 Q. Please.

(BRIEF PAUSE)

6
7 A. Okay.

8 BY MR. LATHRAM:

9 Q. It is stated here that the Diocese
10 of Memphis has known as early as the 1980s
11 about the sexual abuse crises. Is that a
12 fair summary of this paragraph?

13 A. Yes.

14 Q. Okay. And it's stated here that
15 the Bishop himself knew it by his own
16 admission.

17 A. That's correct.

18 Q. Okay. Is that your understanding?

19 A. That's what I read in the -- in his
20 deposition.

21 Q. That's what I wanted to ask. And
22 that's an understanding that you have
23 developed as a result of reading his
24 deposition?

1 A. That's correct.

2 Q. Okay. Do you have any other
3 evidence to support that understanding?

4 A. That this --

5 Q. That the Bishop was aware of the
6 problem in the 1990s. In other words, is
7 your understanding derived solely from the
8 Bishop's testimony, or do you have some
9 other independent evidence that Bishop Steib
10 was aware of?

11 A. And we're talking only about Bishop
12 Steib? The only other evidence is the fact
13 that he was -- he was a member of the
14 Bishop's ad hoc committee to deal with
15 sexual abuse, and I believe he served on it
16 for about six years. And I think that was
17 after the 80s.

18 So we're talking about in the 80s
19 -- I mean, that statement is based on what
20 he said in his deposition. Other Bishops
21 here, that's another issue, other Bishops
22 who had been here.

23 Q. Do you have evidence of that
24 concerning the knowledge of other Bishops of

1 this diocese?

2 A. I did see -- as far as paper
3 evidence, yes. I saw some letters in the
4 file that were sent by Bishop Stafford to I
5 think Bishop -- I can't pronounce his name.
6 Buechlein? Buechlein?

7 Q. Buechlein.

8 A. Buechlein. Also, I'm aware of the
9 fact that at least from 1984 and '85, all of
10 the Bishops in the United States who were
11 Bishops at the time -- and I'm not sure when
12 Steib was consecrated. I think it was the
13 late 80s. I may be wrong. But I think it
14 was somewhere in the 80s.

15 But I know that the other -- that
16 Stafford and his predecessor, who is Dozier,
17 knew at least from 1985 -- the Bishops all
18 had a meeting in Collegeville, Minnesota in
19 June of '85. A full day of executive
20 session discussion was devoted to this
21 issue.

22 And subsequent to that meeting,
23 there were a number of memos and directives
24 sent out from the Catholic Bishops

1 Conference to all the Bishops in this United
2 States with reference to the response to
3 reports of sexual abuse of children by
4 Catholic clergy.

5 Q. You co-authored something that is
6 often referred to as The Manual?

7 A. That's right.

8 Q. Is that right?

9 A. That's right.

10 Q. And your co-authors were Mr. Mouton
11 and Dr. Peterson?

12 A. That's correct.

13 Q. And I believe that was submitted to
14 the U.S. Conference of Catholic Bishops in
15 1985?

16 A. Yes.

17 Q. Was that at Collegeville?

18 A. Well, actually what happened was we
19 did that on our own. It was a -- and we did
20 with the -- under the -- with the
21 encouragement of a number of Bishops and
22 some fairly high ranking ones, including the
23 encouragement of my own superior at the time
24 who was the Papal Nuncio.

1 And it was initially intended --
2 well, it was intended all the way through --
3 simply to be something that would assist and
4 help the Bishops in responding to reports.
5 And we predicted that this would increase
6 exponentially as time went on rather than
7 decrease. And we hoped that this would help
8 them respond.

9 We weren't sure at the time what
10 the proper procedures were to introduce this
11 into the Bishops Conference as a political
12 entity, the one that existed in Washington.
13 And that's because I was not that cognizant
14 of exactly how they operated. In other
15 words, do you send this as a proposed
16 amendment to a motion or what is it.

17 So we did have some dialogue with a
18 number of individual Bishops, myself and
19 Father Peterson especially, on how to
20 introduce this idea and set up a separate
21 committee that would respond through study
22 and direct response to reports of sexual
23 abuse.

24 Q. Did you ever testify or appear

1 before these committees?

2 A. No.

3 Q. Or --

4 A. There wasn't any committee until
5 1993.

6 Q. Okay. Have you ever appeared at
7 any of the committee meetings of the USCCB?

8 A. No. Never.

9 Q. I asked you earlier if you knew
10 Bishop Steib, and I think you said you may
11 have met him casually?

12 A. I may have met him. And the only
13 reason I say I may have met him because when
14 I was in that position at the Vatican
15 Embassy, we'd regularly have gatherings, and
16 the Bishops would come there for social
17 events. But I don't recall.

18 Q. Okay. Look at again Exhibit 129.

19 A. That's the same one I'm looking at?

20 Q. Yes, sir.

21 A. Okay.

22 Q. Look at the bottom of Page 3.

23 A. Okay.

24 Q. There's a paragraph that begins at

1 the bottom of Page 3 and carries over to
2 Page 4.

3 A. Yes.

4 Q. And let me read that, and I quote,
5 In this case, the Bishop was responsible for
6 Father Duran while he was working in the
7 diocese. There was a lack of supervision of
8 Duran while he was working in the diocese.

9 Significantly, the Bishop has
10 acknowledged that if a priest in the Diocese
11 abuses a minor, the Diocese is responsible
12 for that. Then there's a parenthetical,
13 cite the deposition of Bishop Steib, August
14 15, 2006, Page 37, close the paren.

15 Did I read that correctly?

16 A. You did.

17 Q. I want to ask you about that last
18 sentence there about the Bishop's testimony.

19 A. Okay.

20 Q. What is it that you say the Bishop
21 has acknowledged?

22 A. The Bishop, I think, has
23 acknowledged that he understood that as
24 Bishop of the diocese, he was responsible

1 for -- let me look at the wording again.

2 Q. Yeah. Please, do. It says for
3 that. What is that?

4 A. He was responsible for the ministry
5 that was conducted or the activities of
6 Father Duran in a ministerial setting in the
7 diocese. Father Duran worked at a Diocesan
8 parish and was working -- even though he was
9 a member of the Dominican order, according
10 to church internal regulations, the Diocesan
11 Bishop has authority over and responsibility
12 for all ministerial activities in a diocese
13 whether they're conducted by Diocesan
14 priests, lay people or religious order
15 priests.

16 Q. You are not saying that the Bishop
17 in this part of his deposition was
18 acknowledging legal responsibility for the
19 abuse of John Doe by Duran, are you?

20 A. No. I didn't -- that's another
21 issue. I mean, that's not my
22 responsibility. I'm not a civil law expert
23 witness.

24 MR. LATHRAM: I didn't bring

1 Bishop Steib's deposition. Do you have a
2 copy of his transcript here?

3 MR. SMITH: Yes.

4 MR. LATHRAM: Could we get him
5 to look at that page?

6 MR. SMITH: Yes.

7 MS. CAMPBELL: It may be right
8 here.

9 MR. LATHRAM: Oh, okay.

10 THE WITNESS: I've probably got
11 it in my own notes here.

12 MR. SMITH: That's not the
13 right page.

14 MR. LATHRAM: Page 37 is the
15 page.

16 MR. SMITH: That's not the
17 right page.

18 THE WITNESS: Which 37?

19 Because there's two 37s. There's a one
20 little box 37 and then there's a big 37.

21 MR. LATHRAM: Page 37 of the
22 transcript.

23 THE WITNESS: Okay.

24 MS. CAMPBELL: Oh, it's in the

1 second volume. They didn't start -- they
2 didn't keep going in the page number
3 starting the second volume.

4 MR. LATHRAM: I don't have it
5 in front of me. But I just want him to be
6 looking at the --

7 MS. CAMPBELL: Okay.

8 MR. LATHRAM: -- testimony
9 that's referenced here in Exhibit 129.
10 BY MR. LATHRAM:

11 Q. What I would like for you to do,
12 Father Doyle, is read Pages 36 and 37. And
13 if in order to answer my question, you want
14 to look at any other pages, that's perfectly
15 fine.

16 A. Sure.

17 Q. But I would like for you to read to
18 yourself Pages 136 and 137 and tell me --

19 MR. SMITH: 36 and 37.

20 BY MR. LATHRAM:

21 Q. I beg your pardon. I would like
22 for you to read Pages 36 and 37 of --

23 MR. LATHRAM: Which transcript
24 are we talking about?

1 MR. SMITH: The second one.

2 MS. CAMPBELL: I think it's

3 August 15th.

4 BY MR. LATHRAM:

5 Q. August 15th. Okay. I'd like for
6 you to read Pages -- to yourself, Pages 36
7 and 37 of the August 15 transcript. And
8 then I would like for you to give me your
9 opinion on what it was the Bishop was
10 talking about when he said the diocese is
11 responsible for that.

12 A. Okay.

13 (BRIEF PAUSE)

14 A. Okay. My understanding from the
15 line of questioning on Page 36, it appears,
16 from what I see here, that -- it says here,
17 the Diocesan authorities have believed the
18 investigation and victim outreach were
19 completely the responsibility of the
20 Dominicans. The board believes -- and I
21 presume they're referring to the Diocesan
22 review board?

23 Q. Correct.

24 A. The Diocese to be ultimately

1 responsible for the welfare of the Catholics
2 in their territory. And what I think -- and
3 I wasn't there. It says here, which side of
4 that did Bishop Steib come down on? The
5 Dominicans having responsibility or
6 ultimately, the Diocese to be ultimately
7 responsible for the welfare of the Catholics
8 in its territory?

9 Then the answer, well, that -- and
10 this is the Bishop's answer. In the case
11 that the Dominicans have responsibility,
12 well, it's a bit of both. And the Diocese
13 is responsible for the people -- for the
14 folks in the -- and then it's some two lines
15 and then in its diocese.

16 And the question is, just so that I
17 can have an appreciation of what your
18 position is, you as the Bishop's position,
19 that if one of the priests in your Diocese
20 abuses a minor, do you feel that the Diocese
21 is responsible? Answer: The diocese is
22 responsible for that. That's what it says.

23 Now, I wasn't there to question the
24 Bishop. My understanding is that from the

1 question that the board put out, who's
2 responsible for what happened to the people
3 -- to the people in the diocese, the
4 Dominicans if the Dominican is ministering
5 to them or the Diocese?

6 And my response to that, my expert
7 opinion is that in a sense, the Bishop is
8 right. It is a bit of both. But
9 ultimately, the Bishop -- and this is
10 clearly set forth in the internal church
11 regulations -- is responsible for all the
12 pastoral ministerial activities of anyone
13 including religious order members in his
14 diocese.

15 And the religious order superiors
16 are responsible for the internal discipline
17 of their members. In this case, Father
18 Duran was working at a Diocesan parish. And
19 I believe he was living at the Dominican
20 Parish of St. Peter. So it's not clear to
21 me.

22 Q. Your understanding is correct. He
23 was living at St. Peter.

24 A. He was living at St. Peter?

1 Q. Yes.

2 A. Because it wasn't clear whether he
3 was actually living there and working like
4 on a daily basis at the other parish, which
5 I think was Ascension?

6 Q. That is correct.

7 A. He's working at Ascension as an
8 employee of the Diocese for -- with the
9 Diocesan people. The order is responsible
10 to see that he obeys his vows and that he
11 follows his responsibilities and
12 obligations. So there's a dual
13 responsibility there.

14 But the primary responsibility for
15 anything that happens in a parish, even if
16 it was St. Peter's Parish, because even that
17 comes under the control and the authority of
18 the Bishop, is the local Bishop.

19 Q. Do you know what a Diocesan review
20 board is?

21 A. Yes, I do.

22 Q. Do you know that all the dioceses
23 now have them?

24 A. They're supposed to.

1 Q. Supposed to. Right.

2 A. Yeah.

3 Q. And that's by operation of the
4 charter that was adopted by them?

5 A. Yeah. Which is now law.

6 Q. Okay. And did you realize that
7 there was a discussion or debate within this
8 diocese concerning whether the diocese --
9 the Diocesan review board for this diocese
10 was supposed to investigate a matter
11 involving a priest who was not a Diocesan
12 priest, specifically in the Duran case?
13 Were you familiar with that?

14 A. I was aware of the fact that I
15 believe I saw something alluded. I hadn't
16 seen a complete transcript of the whole
17 discussion, but I know that it was brought
18 up as to who was responsible for that.

19 And I don't see a problem. But
20 that's okay.

21 Q. What do you mean you don't see a
22 problem?

23 A. I mean, he was -- he was a priest
24 functioning in the diocese in a Diocesan

1 parish. And you know, the Diocesan review
2 board I believe does have the authority to
3 do that. I'm not sure what --

4 Q. And ultimately, that's what was
5 determined here. Is that your
6 understanding?

7 A. That's my understanding.

8 Q. That the Diocesan review board did
9 look into the Duran matter?

10 A. Yeah. The Order does not have a
11 review board as such, because it's in
12 different dioceses around the country.

13 Q. Do you agree that the Bishop, when
14 he -- do you need to look at this again?

15 A. Sure.

16 Q. Do you agree that when the Bishop
17 was talking about this, he was talking about
18 whether the Diocesan review board had
19 jurisdiction over this matter or whether
20 this was something that should have been
21 left up solely to the Dominican?

22 A. I'm not quite sure what the Bishop
23 was talking about. But I can tell you this,
24 that the Diocesan review board has no

1 authority to act on its own, that the Bishop
2 is the ultimate authority in the diocese.
3 And no matter what -- how they structure it,
4 what kind of verbiage is used, it's the
5 Bishop's ultimate responsibility.

6 He can counteract the review board
7 if he wants to. He can go above them,
8 beyond them or under them.

9 Q. Do you agree that -- sometimes --
10 let me just preface this. Sometimes we ask
11 questions that almost seem silly, but we
12 still have to get it on the record. Okay?

13 A. I understand. I didn't think it
14 was a silly question.

15 Q. Oh, no. I'm getting ready to ask
16 one that I think is fairly self evident.
17 When a priest abuses a child, clearly, the
18 priest is not performing his duties as a --
19 sacred duties as a priest?

20 A. Absolutely.

21 Q. I understand that much of what
22 you've written has to do with the
23 responsibility for a Diocesan Bishop, the
24 responsibility that the Diocesan Bishop has

1 over his priests. But would you agree with
2 me that the priest does not have control
3 over all of the acts of a -- excuse me. Let
4 me start over.

5 Would you agree that the Bishop
6 does not have control over all of the acts
7 of a priest?

8 A. I would agree in the sense that the
9 Bishop does not have micromanagement
10 authority. He may have the authority to do
11 that, but he does not in fact monitor each
12 and every act, whether it's an official
13 priestly act, sacramental act, ceremonial
14 act or each and every non-official act of a
15 priest.

16 Q. And unless there's some evidence to
17 suggest otherwise, a priest -- I can't seem
18 to talk today. Let me start over.

19 Unless there's some other evidence
20 to indicate otherwise, a Bishop can presume,
21 can he not, that the priests are going to
22 behave properly and not abuse children?

23 A. The presumption that they're going
24 to not abuse children and behave properly

1 begins with the fact that they're accepted
2 by the Bishop. He has to have positive
3 evidence that he can live on that
4 presumption or function under that
5 presumption that they won't abuse children
6 in their ministry and in their private time,
7 too.

8 Q. Well, you've certainly indicated in
9 these disclosures that you think my client
10 should have conducted a better investigation
11 of Duran prior to hiring him. Is that --

12 A. I do.

13 Q. You hold that opinion, do you not?

14 A. Yes, I do.

15 Q. Well, let's talk about that. I'm
16 going to ask you an open-ended question and
17 just let you tell me. Tell me what my
18 client did wrong in its investigation of
19 Duran. I'm talking about the prehiring
20 investigation.

21 A. Prehiring of Duran. Now, first
22 off, I understand that Bishop Steib was not
23 directly involved in the interview, that
24 Father Sartain was and I believe --

1 Q. Deacon Wells.

2 A. Deacon Wells.

3 Q. You are correct.

4 A. But these men do not act on their
5 own authority. They're acting under the
6 authority of the Bishop.

7 I also understand that Deacon Wells
8 dropped the ball and did not send the
9 request for the letter of good standing.
10 Hypothetically, had that letter of good
11 standing come here and looked like these
12 other two, which we can presume is a fair
13 amount of possibility that that's what would
14 have happened, since this Bishop and the
15 people who work for him are not mind readers
16 or seers, it's probably likely that they
17 never would have come to know of Duran's
18 background. And I think this was brought
19 out under questioning in the deposition.

20 However, the only issue I would
21 have there is that there should have been
22 somewhere along the line an insistence that
23 this letter of good standing could have been
24 obtained.

1 There were two other things that
2 came through to me that I questioned. One
3 is the fact that I believe it was one of the
4 diocesan officials picked up a mention that
5 Duran had had some experience or involvement
6 in substance abuse work while he was in
7 Bolivia, and they were going to have him do
8 work in substance abuse, alcohol drug abuse
9 in the Hispanic community in Memphis because
10 they perceived that there was a serious need
11 for this and he would fit that need. And I
12 think this might have been correspondence
13 between Father Ponticello and the Dominicans
14 possibly. I have to go back and look.

15 When Duran was interviewed and
16 when -- now, I presume also that the only
17 documentation that the Dominicans sent was
18 that very abbreviated and sparse curriculum
19 vitae. Am I correct in that, or did they
20 give him a full background file, or is that
21 all they gave him?

22 Q. You know, I want to be totally fair
23 with you. There was communications back and
24 forth. But the CV was what was provided

1 with the fax back in November. And it was
2 that July '98 CV that was before Father
3 Sartain and Deacon Wells when they
4 interviewed Duran in December.

5 A. Okay. That's what I presumed.

6 Q. Okay.

7 A. And my other remark, which is not
8 directly related to sexual abuse, but I
9 think it's something that's important, is
10 the fact that if they were going to get him
11 involved in any kind of work in substance
12 abuse, they failed to see or to ask for any
13 proof of certification and training. He was
14 presented as such without any proof of
15 certification and training. And I could
16 find none in the entire batch of files I
17 looked at.

18 And the other -- since it's open
19 ended, the other --

20 Q. Please.

21 A. -- I guess remark that I would
22 make, comment, criticism, whatever you want
23 to call it, is that from my experience in
24 dealing in church administration, when a man

1 such as this is placed in a Diocesan parish,
2 there is a clear understanding of his duties
3 and of the supervisory relationship he has
4 either with the pastor or someone who is
5 actually functioning as his day-to-day
6 supervisor. Maybe it's another priest in
7 the community, another priest in the area.

8 It seemed to me, based on a number
9 of things that I read, that Duran made some
10 presumptions that Father Mickey was not his
11 supervisor when, in fact, Mickey was the
12 pastor and was automatically the supervisor
13 of anybody working in that parish.

14 Q. And you changed subjects a little
15 bit on me. I know it was an open-ended
16 question, but I really wanted to limit the
17 inquiry at this point to the subject of the
18 adequacy of the prehiring investigation of
19 Duran.

20 A. Okay. Then --

21 Q. And you moved into supervision.

22 A. Okay.

23 Q. Why don't we let's stick with one.

24 A. Okay. I'm sorry.

1 Q. That's okay.

2 A. Because I thought that was all part
3 of it. You know, that -- we'll take
4 supervision and leave that go.

5 The pre -- the pre hiring
6 investigation, they should have expected
7 more than just that curriculum vitae. There
8 was no evidence that the documents attesting
9 to his ordination or his academic record
10 were presented.

11 The letter of good standing or the
12 letter of reference was never presented nor
13 offered. And I think that there's -- I
14 would fault both the Diocesan the order in
15 that score. And that, to me, is very
16 important, especially in 1999.

17 Q. All right. When I leave this
18 deposition today, I want to make sure I
19 understand exactly what you're saying. So
20 I'm going to have to go back over something.

21 A. Sure.

22 Q. Because maybe I misunderstood.
23 Let's talk about the letter of good
24 standing. We can -- you and I can both

1 agree that Deacon Wells should have
2 gotten -- should have asked for the letter
3 of good standing. Deacon Wells has
4 testified to that unequivocally. The Bishop
5 has also testified that that was the policy,
6 and Deacon Wells' failure to obtain that
7 letter of good standing was clearly a breach
8 of the Diocese policy. Okay?

9 A. That's correct.

10 Q. So we don't need to debate that
11 particular point. But we also know that in
12 July 1998, Father Trutter wrote a letter of
13 good standing with specific certifications
14 to the Archdiocese of Miami. Correct?

15 A. Correct.

16 Q. We also know that in January 1999,
17 he wrote the identical letter to Bishop
18 Sheridan in St. Louis. Correct?

19 A. Correct.

20 Q. Given the fact that he wrote those
21 two letters, it is very likely, is it not,
22 that Father Trutter would have, had Deacon
23 Wells followed up on his December 16th
24 letter and asked for it, provided the

1 Diocese of Memphis with a letter of good
2 standing. Correct?

3 A. That's what I -- I said that.

4 Q. Okay.

5 A. I tried to make myself clear. I
6 believe that.

7 Q. Okay.

8 A. I believe that's exactly what would
9 have happened.

10 Q. Okay. Good. Now, you've talked
11 about the CV, and you've -- let's get the CV
12 out.

13 A. Sure.

14 Q. I can't remember the exhibit
15 number.

16 A. Okay. Got it.

17 Q. It is 139. And by the CV, I am
18 referring to the July 1998 CV that was sent
19 to my client by Father Trutter via fax in
20 November of 1998. And you now have that in
21 front of you?

22 A. Yes, I do.

23 Q. Bear with me.

24 MR. LATHRAM: Let's go off the

1 record.

2 (Whereupon, a brief discussion was
3 held off the record.)

4 BY MR. LATHRAM:

5 Q. I'm following up on what you were
6 talking about a minute ago, and what I'm
7 specifically talking about is previous --
8 supposed previous experience in drug
9 counseling.

10 A. Yes.

11 Q. Right?

12 A. That's correct.

13 Q. Now, there is a reference to that
14 topic down toward the bottom of the CV,
15 Exhibit 139?

16 A. That's right.

17 Q. And it's specifically under the
18 heading ministerial experience?

19 A. That's right.

20 Q. And the first word I see there is
21 one in Spanish and it's A-M-A-N-E-C-E-R. Is
22 that in Spanish?

23 A. It's probably the name of the
24 place.

1 Q. Okay.

2 A. Yeah.

3 Q. I beg your pardon, then. That's
4 probably right. I guess it's a Spanish
5 name, though.

6 A. I think so.

7 Q. Okay. And that apparently is a
8 shelter for the rehabilitation of street
9 use, at least according to this CV.

10 A. That's what it is.

11 Q. And what is represented on the CV
12 is that he worked at that shelter in
13 Cochabamba, Bolivia for four years from 1986
14 to 1990. Is that right?

15 A. That is correct.

16 Q. And what I think you told me a few
17 minutes ago was that further inquiry should
18 have been made about this particular part of
19 the CV. Right?

20 A. Yes. And the reason I said that is
21 not simply because of what I read in the
22 CV. I have noticed in reading throughout
23 the documentation that's been presented to
24 me at least two or possibly three different

1 versions of a CV. Who produced them, I'm
2 not sure. Either the Dominicans produced
3 them or he produced his own.

4 But some are more complete than
5 others, but there are gaps in all of them.
6 That's not the Bishop's problem. What I'm
7 saying on this, there's a reference here,
8 shelter for rehabilitation street use.
9 Doesn't mention the word alcohol or drugs,
10 however. Doesn't say whether there was
11 moral rehabilitation or any kind of
12 rehabilitation.

13 But there is in the documentation
14 mention of the fact that he had had some
15 presumed expertise in dealing with alcohol
16 and drugs. And I believe this was
17 documentation that was sent to the diocesan
18 officials. And there was an indication in
19 some of the letters -- I would have to go
20 back and find them -- that he would be a
21 good fit for the Diocese because they've
22 noticed there's an increased need in the
23 Hispanic community for people who can work
24 with youths with alcohol and drug problems

1 or with anybody with alcohol and drug
2 problems.

3 And I guess except for the fact
4 that I am very much involved in that and
5 more sensitive to it, that's why I picked it
6 up. Otherwise, I may not have.

7 Q. You said there's -- that in your
8 opinion, there are gaps in the CV?

9 A. Yes.

10 Q. Okay.

11 A. Now, let me get back to your
12 question. My response there, I go back to a
13 letter from Deacon Wells to Juan Carlos,
14 dated January 28th, 1999, where he mentioned
15 specifically, lastly, you would use your
16 skills and training in therapeutic
17 counseling to those -- to help those who
18 suffer from alcohol and drug abuse.
19 Depending on how widespread these problems
20 might be, this could demand a greater part
21 of your time.

22 And my problem with that statement
23 from the Chancellor is at least I have seen
24 no evidence that he was presented with any

1 certification or proof of expertise in this
2 regard by the Dominicans other than what
3 might have transpired in the course of the
4 interview.

5 Q. And you think that that kind of
6 certification should have been requested?

7 A. Absolutely. If the man is going to
8 be holding himself out as a -- as a
9 therapist in drug and alcohol addiction, it
10 would be -- most of us in this room have a
11 doctorate of some sort. If we said doctor
12 himself justifies that I'm going to go to the
13 poor in Haiti and work as a brain surgeon,
14 even I have doctorate of law, he may have
15 taken a course of two or worked in a shelter
16 for youths. That in no way certifies him.

17 You have to have a certification to
18 function as a drug and alcohol counselor in
19 the United States and in most other
20 countries.

21 Q. Do you know whether or not he did
22 ever obtain that kind of certification?

23 A. If he did, I saw no mention of it,
24 no evidence of it whatsoever. And it's not

1 something you get over the Internet.

2 To be certified in the United
3 States requires academic preparation and
4 6,000 -- proof of 6,000 supervised hours
5 before you are qualified to take the battery
6 of exams for certification.

7 Q. You said at one point that there
8 are gaps in this CV?

9 A. Yeah.

10 Q. I guess -- I guess would you
11 characterize as a gap what you've just been
12 talking about?

13 A. Yes.

14 Q. The failure to, what, detail the
15 certification that he had?

16 A. Yeah. Let me get back to the CV.
17 It's right here. The first gap I think is
18 between Line 2, baptism and the Bishop.
19 There's 31 years there. And most of the
20 time -- traditionally, when a man entered in
21 novitiate for a religious order, it was
22 either after high school or during college
23 years. There's nothing there.

24 So it's unusual that he would be 31

1 before he entered the Dominican novitiate.
2 And there's no mention of what happened in
3 between that time.

4 The other gap is going down to
5 education. It says only that he'd attended
6 the Dominican -- the University -- Catholic
7 University Bolivia in Cochabamba 1880 to
8 1890 [sic], licentiate. In what? A
9 licentiate is a degree that's given in what
10 they call pontifical universities. It's
11 sort of like a master's level, maybe a
12 little bit lower or higher depending on the
13 subject matter.

14 So a licentiate, that's what it
15 is. It's not a -- not a professional
16 license. But it's an Anglicized word of a
17 Latin word, licentiate which means master's
18 level, the equivalent of master's level.

19 There's no information here as to
20 what that is in. Ordinarily, when you're
21 ordained a priest at the -- at any age, you
22 have to have completed two basic levels of
23 post undergraduate work, one in philosophy
24 and one in theology. And there's no

1 evidence of his theological education, where
2 he went to seminary at all.

3 There's mention of el programa
4 CEIS, Rome, Italy. That should have been
5 investigated. What is that? Why was he
6 there? Who sponsored him? What was it?

7 Q. What is CEIS?

8 A. I have no idea. But it's
9 somewhere. In one of his other -- in one of
10 the other CVs that he presented, there's
11 more information on that. And I'd have to
12 dig around to find exactly where that is.
13 Just a minute.

14 Yeah. For education, I have
15 another CV of his. I don't know who it was
16 given to.

17 Q. Can you identify it for us, please,
18 sir?

19 A. Yeah. It's right here.

20 Q. Why don't you -- does it have a
21 Bates number at the bottom?

22 A. It's got an SDP number at the
23 bottom.

24 Q. All right. He's just handed it to

1 me. It's number SDP 0359. And this one
2 does not have any date up at the top. That
3 is to say it does not have a date for the
4 CV.

5 I'll hand it back to you.

6 A. Okay. There's no date. But it
7 obviously was after.

8 Q. You think it was after?

9 A. Here's my presumption. On the date
10 of this I think was after July 27th, 1996
11 but before December of 1996. Because the
12 reason I say that, it lists his simple
13 profession, his solemn profession, his
14 ordination as a deacon. But it does not
15 list his ordination as a priest, which took
16 place in December of 1996.

17 Q. So apparently, this is a CV that
18 was prepared some time before Exhibit 139.

19 A. I believe so?

20 MR. LATHRAM: Let's mark that
21 as an exhibit, if we may.

22 A. And then there's another one --

23 BY MR. LATHRAM:

24 Q. Hold on just one second.

1 A. Okay.

2 MS. CAMPBELL: Brook, can I
3 make that a copy and give him back his
4 stuff?

5 MR. LATHRAM: I think we should
6 do that. Thank you very much.

7 MS. CAMPBELL: You're welcome.

8 (Whereupon, the above-mentioned
9 document was marked as Exhibit Number 144 to
10 the deposition, and is hereto attached.)

11 BY MR. LATHRAM:

12 Q. We've just marked the CV that's
13 numbered SDP 0359, the one you referred to.

14 A. Yes.

15 Q. Now, did you say there was another
16 one you also --

17 A. Here's another one. This is SDP
18 249.

19 Q. All right. It's actually two
20 pages, SDP 24 -- well, they both -- you've
21 handed me two pages, each of which is
22 numbered SDP 0249. The first is in
23 handwriting, and the other one is typed.

24 A. I presume one is a copy of the

1 next. I wasn't sure.

2 Q. It would appear that way.

3 MS. CAMPBELL: May I see that,
4 Brook?

5 MR. LATHRAM: You surely may.

6 MS. CAMPBELL: This was in
7 Spanish, the first page, and the second page
8 is the translation that we had done.

9 MR. LATHRAM: Okay. So
10 that's -- okay. I gotcha.

11 MS. CAMPBELL: So it's one page
12 in Spanish. The second page is the
13 translator.

14 (SHORT BREAK)

15 BY MR. LATHRAM:

16 Q. You had referred to another
17 document. We're getting that copied.

18 A. Sure.

19 Q. And it will be brought in in a
20 minute. Let's continue to look at Exhibit
21 139, the July 10, 1998 CV.

22 Under ministerial experience, the
23 third word down is spelled
24 S-A-Y-A-R-I-C-U-Y. Do you know what that

1 is?

2 A. I have no idea.

3 Q. You stated that there were gaps in
4 the CV. And I just want to make sure that I
5 understand all of the gaps you say were in
6 the CV.

7 A. Sure.

8 Q. Would you characterize as a gap the
9 failure to provide further information on
10 the CV about the work with street use? Is
11 that -- would that be one of the gaps?

12 I know you said that there should
13 have been further inquiry. Do you
14 characterize that as a gap in the CV?

15 A. Yeah. Because based on Deacon
16 Wells' letter, that letter which was
17 written -- this thing was composed in '98.
18 Deacon Wells' letter is dated -- I don't
19 know. I just looked at it.

20 I think it was after interview --

21 Q. It was in January of '99.

22 A. January of '99. There's nothing
23 here -- as I said, nothing about his
24 education other than these two statements.

1 Q. All right. So that's education and
2 the --

3 A. Ministerial experience --

4 Q. So that's two of them.

5 A. -- is sparse. Pastoral ministry in
6 villages near David Panama. There's no
7 expansion on what kind of pastoral
8 ministry.

9 Instructor intercongregational
10 formation program. No example -- nothing on
11 what that's all about or what he was an
12 instructor in.

13 Now, possibly, when they had this
14 interview, all this was brought out, and
15 they questioned it all. I don't know. But
16 I would think if I had gotten this as a --
17 as a church administrator and said this guy
18 is coming in next week for an interview, I
19 would have said, whoa, whoa, wait a minute,
20 we need to have some more information on
21 this.

22 And I would have wanted certainly
23 to know what he did between the time he got
24 out of high school and went into the Bishop

1 of the Dominicans 31 years later or 20 years
2 later.

3 Q. When would you assume he would have
4 gotten out of high school?

5 A. When he was 17 or 18.

6 Q. Okay. So that would have been
7 around '78?

8 A. Yeah. That's right.

9 Q. Now, just looking at the CV --

10 A. Correct.

11 Q. -- there is a reference, is there
12 not, to the period 1980 to 1990 under
13 education?

14 A. Yes.

15 Q. All right.

16 A. Now, I already mentioned that this
17 el programa CEIS, which is not expanded on
18 here at all, there's no information as to
19 what that is, where it is. Well, Rome,
20 Italy.

21 Then the next line doesn't say any
22 -- licentiate in what? I mean, it could
23 have been in engineering. And he was
24 applying to be a priest.

1 Q. How many years of college and
2 theological education would a Bolivian man
3 receive typically? Do you know?

4 A. To be a priest or just in general?

5 Q. To be a priest. Starting with his
6 undergraduate college up through -- up
7 through graduation from theological school.

8 A. Okay. I don't know about the
9 Diocesan priest down there. But I can tell
10 you what a Dominican would have been
11 required to fulfill, which is generally the
12 standard around the Order, which would have
13 been prior to entrance into the Order, at
14 that time, some form of college education.
15 And if they didn't have all the proper
16 background that would have been required,
17 they would have had to supplement that.

18 So let's say they came in when it
19 was all hard sciences, nothing in languages
20 or the -- or the liberal studies, let's say,
21 or philosophy. They would have had to say,
22 well you've got to have a couple of courses
23 in this.

24 So college background, what we

1 consider college, not college equals high
2 school but college equals post high school.

3 Then the next level would have been
4 probably at that time I believe at least two
5 years of some form of academic formation
6 after what we call novitiate, which is like
7 call boot camp, basic training. That's a
8 year. And no academic work goes on in that
9 year. So about two years after that.

10 And then following that period, two
11 or three, I went -- when I went through it
12 was three, three years. Then you took
13 solemn vows and then four years of
14 theological training.

15 In my case, several of us were
16 ordained after three years, and then we
17 completed our fourth year even though we
18 were already ordained.

19 And that's why I say here, there's
20 no date either for when he made his final
21 vows.

22 Q. On the surface, just looking at the
23 CV, is it farfetched for someone to have
24 spent ten years in education? Again, I'm

1 referring you now to the line that says
2 Universidad Catholica Boliviana, Cochabamba,
3 Bolivia, 1980 to '90.

4 A. If all he got out of it was a
5 licentiate, that's very farfetched.

6 Q. Okay.

7 A. That's a one or two-year program.

8 Q. All right. And we look down below
9 that. And we see that at some point, he did
10 the work with street use from 1986 to 1990.
11 Correct? Again, you and I are looking solely
12 at the CV right now. Okay?

13 A. That's right.

14 Q. I understand you to be saying that
15 the CV raises questions.

16 A. That's right.

17 Q. I'm not quibbling with you. Okay?

18 A. Yeah.

19 Q. I'm just -- I'm just asking you
20 right now for your understanding of what the
21 CV itself is telling us.

22 A. All right. I have more questions
23 than answers.

24 Q. Okay.

1 A. Another question is this 1996 to
2 1990, is that full-time employment? Was it
3 conjunction with a program he was involved
4 in? There's questions.

5 I certainly -- if I look at 1980 to
6 1990, I'd say, well, he's got to have more
7 to show for this than a licentiate, ten
8 years in college.

9 Q. I suppose he could have been
10 getting his theology degree during that
11 period of time. But what you would say is,
12 that's not reflected on here?

13 A. It's not reflected on there. It
14 should have been, but it wasn't.

15 Q. Have you identified for us all of
16 the gaps that you see in the CV? You don't
17 need to go back and repeat what you've
18 already told me. I just want to see if
19 there's anything else.

20 A. I mean, there's some other minor
21 gaps, like what was he doing between '98 and
22 2000 when he came up to the states. Because
23 this says pastoral ministry in these
24 villages '95 to '98. What happened after

1 '98?

2 Q. Well, keep in mind, this CV is
3 dated July 10, '98.

4 A. Okay. But I mean, even though it's
5 dated '98, he's coming up for his interview
6 in 19 -- I think -- was it 2000 or '99?

7 Q. If you're talking about the
8 interview that he had with Father Sartain --

9 A. Yes.

10 Q. -- and Deacon Wells, that was in
11 December 1998.

12 A. Okay. That's -- that's -- I don't
13 want to push this and go -- and exaggerate
14 the gaps. But I think the gaps I found are
15 fairly significant. They are to me, at
16 least.

17 Q. The ones you've discussed?

18 A. Yes.

19 Q. Okay. During the course of this
20 past discussion, you've pulled out a
21 document and brought it to our attention,
22 and we went to get that copied. And again,
23 this is SDP 0249.

24 A. Uh-huh (affirmative response).

1 Q. And we've -- that's in Spanish.

2 And we have an English translation that was
3 done by Ms. Campbell.

4 MS. CAMPBELL: Well, it was not
5 done --

6 MR. LATHRAM: Not by
7 Ms. Campbell but somebody that knows
8 Spanish. Right?

9 MS. CAMPBELL: Correct.

10 MR. LATHRAM: Let's have this
11 marked as the next exhibit.

12 MS. CAMPBELL: Just so the
13 record is clear, the second page of 0249 was
14 not produced by the Southern Dominican
15 Province. That page was our page.

16 (Whereupon, the above-mentioned
17 document was marked as Exhibit Number 145 to
18 the deposition, and is hereto attached.)

19 MR. VESCOVO: You translated --

20 MR. SMITH: The translated
21 version is our page. The untranslated
22 version is your page.

23 MR. VESCOVO: I know. But it's
24 got a Bates stamp on it as if it was our

1 page. That's what's throwing me off.

2 MR. SMITH: Which is signifying
3 that it's translating the original 249.

4 MR. VESCOVO: I gotcha.

5 BY MR. LATHRAM:

6 Q. I'm going to ask you about it
7 because you pulled it out during the --

8 A. Sure.

9 Q. -- course of the discussion. So I
10 guess I'll just ask you an open-ended
11 question. What significance -- what is the
12 significance of this document?

13 A. Well, it's another -- it looks like
14 a form that was presented to him by
15 somebody, probably -- possibly the
16 Dominicans up here that was filled out that
17 has some more information that doesn't seem
18 to appear in subsequent CVs, namely,
19 military experience. And there's a bit
20 more -- at least as far as the names are
21 concerned, the so-called special school,
22 this school of formation in Castelgandolfo,
23 which is in Italy, study in special
24 psychology in Cochabamba and Rome.

1 Then it says certificate, operator
2 in communities in rehabilitation of drug
3 addicts.

4 You know, well, the -- nobody seemed to
5 -- the diocese people didn't seem to see
6 this. So they couldn't have asked any
7 questions about that. But I certainly
8 would.

9 Q. Well, let's take a look and see
10 what we do learn about Duran from this
11 document that's been made Exhibit 145.

12 A. Uh-huh (affirmative response).

13 Q. Needless to say, I'm looking at the
14 translation.

15 A. Okay. I'm with you.

16 Q. Looks like he was in the military?

17 A. That's correct.

18 Q. For less than a year in 1979.

19 A. That's right.

20 Q. That might have been shortly after
21 he got out of high school, I suppose?

22 A. My impression there is it's
23 conscription probably.

24 Q. Looks like he graduated from high

1 school in a town in Bolivia in 1978.

2 A. Correct.

3 Q. It would appear that he -- again,
4 from this document -- that he went to
5 college and got what I would call an
6 undergraduate degree in philosophy during
7 the years 1979 through 1984?

8 A. Correct.

9 Q. And then it appears that he became
10 licensed in theology in 1988?

11 A. Yeah. Licensed in theology, that
12 is a fairly inaccurate translation of the
13 fact the degree he received, according to
14 the Spanish version, a licenciatura, which
15 means he received a license or a licentiate,
16 as I mentioned before, which was not a
17 professional license. It's just a degree.

18 Q. Right. And then there's the
19 heading special schools. You see that?

20 A. Yes, I do.

21 Q. What do you understand it to be
22 telling us there?

23 A. That's what I don't know. I don't
24 know what the formation school in

1 Castelgandolfo is. I know where
2 Castelgandolfo is. I know what that is.
3 But I don't --

4 Q. I don't. Tell me what it is.

5 A. Castelgandolfo is a town near --
6 it's outside of Rome. It's about maybe 25
7 to 30 miles outside of Rome. That's where
8 the Pope goes for his summer vacation.

9 So apparently, there's some sort of
10 a school there that this guy went to. It
11 doesn't say what kind of school other than
12 what's here or who ran it.

13 Q. What else do we learn under the
14 heading special schools?

15 A. It says here he studied in special
16 psychology in Cochabamba and Rome. But
17 again, what did he study, where did he study
18 and -- you know, certificate. Well, that
19 can mean anything.

20 I'm not sure what a operator -- a
21 community operator, that's a Spanish word
22 that's common also in some other like
23 Italian or French languages. French would
24 use the word animateur, which is a

1 community -- a worker, somebody who does
2 like social work in the community. But it
3 doesn't mean you're -- we would -- if
4 somebody said to me I'm a social worker, I
5 presume that that means they're degreed and
6 licensed.

7 And in some of the other countries,
8 you can use the term operator or animateur
9 in French, and it doesn't mean you're
10 degreed and licensed. It means you have a
11 lower level of certification.

12 Bottom line is this isn't clear
13 enough, wouldn't be clear enough, to satisfy
14 me that he has the qualifications to be a
15 therapist in alcohol and drugs.

16 Q. I began this dialogue by asking you
17 an open-ended question, what did my client
18 do wrong in its pre-hiring investigation of
19 Duran. And you've told me that the Diocese
20 should have asked a number of questions --

21 A. Yes.

22 Q. -- upon seeing this CV and made the
23 inquiries of the type that you've been
24 talking about.

1 A. That's right.

2 Q. What else -- broad question here.
3 What else in it in terms of its activities
4 prior to the hiring of Duran and his coming
5 to Memphis did my client do wrong?

6 A. My understanding is that there was
7 a number of months in between the interview
8 in January of 1999 and when he arrived in
9 Memphis, which was in the spring, early.

10 Q. This is not a memory test. So I'm
11 going to correct you. The interview was
12 actually in December of '98.

13 A. Okay.

14 Q. And he ended up arriving in
15 Memphis, I believe, in July of '99.

16 A. Okay. That's fine. There was a
17 letter here that I alluded to before from
18 Deacon Wells to Father Trutter -- no. To
19 Juan -- to Juan himself, where he referred
20 to what he was going to do. And in that, he
21 said that he -- Deacon Wells also mentioned
22 the fact that he would in the future ask for
23 this letter of his good standing if they
24 agreed that they were going to bring Juan

1 Carlos on board.

2 So apparently, it was not decided
3 for sure that he was not -- that he was
4 going to be brought into the Diocese at that
5 time. And in fact, when the decision was
6 made -- and it was clear from Deacon Wells.
7 He was very open and honest. He forgot. He
8 dropped the ball and forgot to make the
9 request. What else can you say? He didn't
10 do it. And that's a problem.

11 And again, I agree with you. If
12 the letter that they'd received was like the
13 ones that were sent to Miami and St. Louis,
14 what difference would it have made?

15 Q. What else, if anything, did my
16 client do wrong in connection with the
17 prehearing investigation of Duran?

18 A. Other than exercise omniscience, I
19 don't know.

20 Q. Well --

21 A. And that's expected in these
22 situations, and sometimes it doesn't happen.

23 Q. I think the record should reflect
24 that we're both smiling. Well, I started to

1 say let me be devil's advocate, but that
2 might not be a good thing to do.

3 I'm representing the Diocese. So
4 obviously, I'm asking from the stand point
5 of an advocate. But put yourself in the
6 position of Father Sartain and Deacon Wells
7 back in '98, December of '98.

8 What could they, given the point in
9 time we're dealing with, 1998, have
10 reasonably expected from the Southern
11 Dominican Province in terms of the
12 information they were being supplied about
13 Duran?

14 A. What could they have expected?

15 Q. Yes.

16 A. A lot more than they got. They
17 could have reasonably expected a much more
18 complete curriculum vitae. They could have
19 reasonably expected written letters of
20 recommendation. They could have reasonably
21 expected some concrete documentation of what
22 he was about between -- detailed
23 documentation between his high school years
24 and admission to the Dominican Order.

1 Q. Could Father Sartain and Deacon
2 Wells also have expected the Southern
3 Dominican Province to provide them with
4 information showing that Duran was not fit
5 to be with minors?

6 A. If the Southern Dominican Province
7 knew that he was not fit, they certainly
8 could have expected that this would have
9 been disclosed. In fact, if they knew that
10 he was not fit to function in a ministerial
11 position, they could have expected that the
12 interview would have never taken place.

13 Q. Deacon wells and Father Sartain had
14 a right to expect Father Trutter to be
15 honest with them. Correct?

16 A. Correct.

17 Q. Have you ever written anything on
18 the subject of hiring priests?

19 A. I think I've written a couple of
20 like memos or like position papers. I
21 didn't use the word hiring, but it was on
22 what we call the concept of transfiliation,
23 which is a priest going from one entity to
24 which he's officially attached to another.

1 Q. Are those identified in your CV?

2 A. I don't think so, because they
3 weren't published. These were just for
4 publication. But I know a couple of times,
5 I've asked -- I wrote something when I was
6 asked to provide -- I think it was when I
7 was in the Vatican Embassy.

8 Q. When did you write those? Oh, you
9 just told me.

10 A. In the 80s.

11 Q. I'm sorry.

12 A. Yeah. This would have been the
13 80s.

14 Q. Can you put your hands on them? I
15 don't mean right now.

16 A. I may be able to. I'd have to look
17 back in my files. It was -- I do remember
18 doing the work and the research, and it was
19 with regard to the type of inquiries that
20 were supposed to be asked.

21 And it was a fairly complicated
22 situation of an individual coming over to
23 the United States. And I believe the priest
24 was from Vietnam. And this was not long

1 after the Vietnam war era. And it was
2 without documentation and how do we supply
3 for this if he's going to be asked to be
4 accepted by a Bishop without proper
5 documentation and certain other requirements
6 in Canon law.

7 Q. Would you mind checking to see if
8 you have it?

9 A. Oh, sure. I'd be glad to check.
10 Something tells me I'm not going to be very
11 successful, but I'll check, anyway.

12 Q. Have you ever --

13 MR. SMITH: Brook, the way
14 we've been doing this all the way through is
15 at the end, you remind us of what you've
16 asked --

17 MR. LATHRAM: I knew that's
18 what you were going to do.

19 MR. SMITH: -- to comply.

20 MS. CAMPBELL: I've been making
21 a list -- trying to make a list.

22 MR. LATHRAM: Very fair. It's
23 incumbent upon David and me to get back to
24 you.

1 MS. CAMPBELL: Write us a
2 letter.

3 MR. LATHRAM: I agree.

4 BY MR. LATHRAM:

5 Q. Have you ever developed a manual or
6 guidelines for hiring priests?

7 A. No.

8 Q. Okay. Have you ever been
9 personally involved in hiring priests?

10 A. You mean the interview process, the
11 selection process?

12 Q. Yes.

13 A. I was more than once, I believe,
14 asked to be part of a process, an interview
15 process, because I was a Canon lawyer and
16 asked, you know, to represent those
17 interests when a man was a couple of times
18 seeking admission to the Dominicans. It was
19 coming from I think a diocese. He was a
20 diocesan priest, maybe two or three times.

21 But I don't remember that -- it was
22 not anything of great import in the sense
23 that there weren't any problems attached to
24 it.

1 Q. When was this?

2 A. Oh, this was back in the 80s.

3 Q. Apart from that, have you had
4 any -- have you -- apart from that, have you
5 participated in the hiring of any priests?

6 A. Not that I can recall. No.

7 Q. Is it your opinion that my client
8 failed to properly supervise Duran after he
9 got -- let's -- we had been -- I'm shifting
10 gears here.

11 For a while, I've been talking
12 about the prehiring investigation. Now,
13 we're going to focus on the time when Duran
14 has come to Memphis.

15 A. Okay.

16 Q. And he -- as you have indicated,
17 he, among other things, served as an
18 assistant pastor at a Diocesan church, the
19 Church of the Ascension. I also will
20 represent to you, as we previously
21 discussed, that he lived at St. Peter.

22 Now, I'll represent to you that to
23 the best of my understanding, he started in
24 July of '99. As you know, the events that

1 are the subject of this lawsuit culminated
2 in early February of 2000.

3 A. I know.

4 Q. Okay. Now, my question is, is it
5 your opinion that the Catholic Diocese of
6 Memphis failed to properly supervise Duran
7 during that period of time he was here?

8 A. I cannot give you an opinion
9 that's -- that says exactly that, because I
10 have not seen sufficient information. I
11 do -- am aware of the fact from Father
12 Mickey's deposition that he had difficulties
13 with Duran and that Duran and he apparently
14 had differences of opinion, and Duran did
15 not acknowledge Father Mickey as his
16 supervisor.

17 I'd have to look back and see.
18 Nothing came out of note in that regard that
19 Father Mickey could or should have done at
20 that time.

21 Q. I think you just said that at this
22 time, you -- I don't want to put words in
23 your mouth. I'm going to tell you what I
24 think you said, and you correct me if I'm

1 wrong.

2 A. Go ahead.

3 Q. But I think you said that at this
4 time, you are unable to express the opinion
5 that my client failed to properly supervise
6 Duran. Is that what you're telling me?

7 A. That's what I'm telling you.

8 Q. Okay.

9 A. I want to go back over my notes, if
10 you don't mind just for a moment.

11 Q. You go right ahead.

12 (BRIEF PAUSE)

13 A. I may have an opinion quite
14 opposite of that, but I can't -- I don't
15 have total recall of all of the facts,
16 unfortunately.

17 BY MR. LATHRAM:

18 Q. By the way, what are you looking
19 at?

20 A. These are notes.

21 Q. Notes that you prepared when?

22 A. In the course of reviewing all the
23 documentation. You didn't ask me about
24 them. I brought them. The subpoena said

1 bring your notes. I got my notes. They're
2 right here. You never got that far.

3 Q. Listen, I make mistakes all the
4 time, and you have just pointed out one of
5 them. But I'm going to rectify it.

6 MR. SMITH: We'll make a copy
7 for you, and you can mark it as the next
8 exhibit.

9 MR. LATHRAM: Great.

10 A. Here are my notes. And so I have
11 to qualify that response. I believe that it
12 should have been clarified at the beginning
13 of the time that Duran was going to be
14 working in the parish with Father Mickey
15 what the supervisory relationship was
16 between Father Mickey and Duran. Because
17 Father Duran -- or Father Mickey said in his
18 deposition that he did not see himself as
19 Father Duran's supervisor, that the
20 Dominicans were.

21 Now, the Dominicans were only
22 Father Duran's supervisor in internal
23 matters, whether he obeyed the Order's
24 rules. Father Mickey, of course, was his

1 supervisor in the parish. And I believe
2 that came through in the deposition that I
3 read. I believe the Bishop understood that,
4 as well, that Father Mickey was his
5 supervisor in anything pastoral that he
6 did.

7 And I believe that was the root of
8 the rub between Father Mickey and Father
9 Duran. Because Duran apparently didn't
10 think of himself as under any supervision in
11 the parish.

12 This is an impression that I got
13 from reading the documentation. I may be
14 totally wrong on that, but that's an
15 impression I received.

16 And I would say that at the outset,
17 before this relationship began, it's common
18 to expect if there's a religious order of
19 priests working in this type of a context,
20 that there be a written document expressing
21 the expectations of both parties, the
22 supervision, who's going to be supervising
23 whom.

24 Now, the term supervisor is not one

1 that's commonly used to describe the
2 relationship between a pastor and an
3 assistant. It's presumed. So it could
4 theoretically have been that if there was
5 another priest or person in the community,
6 that that person could have been appointed
7 the supervisor of Father Duran.

8 However, departing from all of
9 that, it's clear from the way the internal
10 structures of the church are set up, that a
11 pastor is the one who has the authority over
12 anything that happens ministerially in his
13 parish including what Duran was doing.

14 So he clearly was Duran's
15 supervisor. And that should have been made
16 very clear to Duran at the get go from the
17 outset as well as to everyone else involved,
18 including the Dominicans.

19 Q. So there should have been a
20 clarification of the relationship between
21 Father Mickey as pastor and Father Duran as
22 associate pastor?

23 A. That's right.

24 Q. And that should have been made

1 clear at the outset?

2 A. That's correct.

3 Q. And would you characterize that as,
4 for want of a better word, a deficiency or
5 flaw in the supervision of Duran?

6 A. I could characterize it as a
7 deficiency in the process whereby he was
8 brought on board.

9 Q. Okay. Apart from what you've just
10 discussed, is it your opinion that there was
11 any deficiency in the Diocese's supervision
12 of Duran while he was here in Memphis?

13 A. I couldn't find any evidence in any
14 of the depositions that they knew -- I mean,
15 it didn't -- it wasn't -- if it had been,
16 you know, a lengthy period of time, there
17 might have been more there. But no. That's
18 all I would be able to criticize on right
19 there.

20 You know, when the offense was
21 reported, they went into action immediately.

22 Q. They being the Diocese?

23 A. The Diocese.

24 Q. Well, actually, the Southern

1 Dominican Province came up here at the same
2 time.

3 A. Yes.

4 Q. You knew about that?

5 A. I know about that. Yeah.

6 Q. Okay. You've written that at some
7 point -- I shouldn't say you've written. In
8 one of the disclosures, it is stated that
9 the Diocese should have prepared a written
10 report of the investigation of the Duran/Doe
11 incident. Do you recall that?

12 A. Yes, I did.

13 Q. Is that your opinion, that there
14 should have been a written report?

15 A. That's my opinion. Yes.

16 Q. Did that make any difference in
17 this case? Did that contribute in any way
18 to the plaintiff's injuries?

19 A. May have contributed to the after
20 care of the plaintiff. But there wasn't
21 any -- I don't think -- it's hard for me to
22 say. I couldn't say that.

23 As far as the injuries are
24 concerned, that's -- that would be more of a

1 medical issue, you know, what the degree of
2 his injuries were. But there was no
3 evidence of a written report, although, it
4 was alluded to in a couple of the
5 depositions. But I saw no -- nothing, no
6 description of what exactly happened as far
7 as a written report is concerned.

8 There was mention of this meeting
9 that took place at somebody's home, and a
10 number of players were present at the
11 meeting.

12 Q. And you're aware -- and again, I'm
13 not representing to you or trying to argue
14 that this a report, as you would
15 characterize it. But I will ask, are you
16 aware that one of the attendees at the
17 meeting was Jim Kleiser who was, among other
18 things, chief legal counsel for the Diocese?

19 A. Yes. I believe I was aware of
20 that.

21 Q. Have you seen his notes of those
22 meetings?

23 A. I probably did if I -- I think I
24 saw them.

1 Q. You don't need to find them. I
2 just want to know if you've seen them.

3 A. I can't recall specifically if they
4 -- they don't jump out at me right now, but
5 I may well have seen them.

6 Q. Okay. Is it your opinion that the
7 Diocese failed to help the plaintiff
8 following the incident? Do you intend to
9 express any opinions about the Diocese's --

10 A. I do.

11 Q. -- relationship with this boy, this
12 now young man, following the incident?

13 (BRIEF PAUSE)

14 BY MR. LATHRAM:

15 Q. Are you now looking at your notes?

16 A. Yes, I am. I am. Because I -- I
17 have -- I want to make sure that I've got
18 some substance to what I'm going to say.

19 (BRIEF PAUSE)

20 A. Yes. The lawyer was present at the
21 meeting with the family.

22 BY MR. LATHRAM:

23 Q. Pardon me. I know I'm interrupting
24 you. Are your notes numbered by any -- are

1 the pages numbered by any chance?

2 A. The pages of the notes are
3 numbered. Those pages refer to the pages of
4 deposition in the deposition.

5 I'll give you -- I mean, you're
6 going to get the whole thing in a minute.

7 Q. That's right. I just want to
8 know -- may I see this just for a second?

9 A. You can't read my writing.

10 Q. That's all right.

11 A. You probably can't

12 (BRIEF PAUSE)

13 BY MR. LATHRAM:

14 Q. I attempted to kind of count the
15 pages there very quickly, and it looks like
16 you're on the 20th page. I realize that I
17 could be wrong about that.

18 A. Okay.

19 Q. But when we're going back through
20 this at some point, it will help us if we
21 know approximately where you're reading
22 from. I shouldn't say reading from, where
23 you are looking to answer this question.

24 A. I'm referring back to when this

1 question came up in the deposition of Bishop
2 Steib. And Bishop Steib said that the
3 Diocese did nothing. And this was on Page
4 56 of Volume I. "The Diocese did not help
5 the family, presuming that the Dominicans
6 would."

7 And I certainly believe that the
8 Diocese had an obligation, because the
9 family were here, they were taking part in
10 the spiritual religious life of the
11 Diocese. And it would have been an
12 obligation out of charity and out of I think
13 a canonical and legal obligation to extend
14 pastoral care to the family. And I don't
15 think that that happened. If it did happen,
16 I don't see any documentation mentioning it.

17 Q. You said there was an obligation
18 out of charity, and you said there was a
19 canonical.

20 A. Canonical obligation.

21 Q. Did you also say there was a legal
22 obligation?

23 A. That's not what I meant. Not civil
24 law.

1 Q. Okay.

2 A. I'm sorry. When I use the word
3 legal, I'm referring to internal. I'll use
4 the word canonical.

5 Q. Okay.

6 A. Though, I don't generally like to
7 use it. I'd prefer to use -- you know, our
8 own -- our own norms of behavior would have
9 said that the Diocese should have responded
10 to the needs of this family at the time.

11 Q. What do you understand the Southern
12 Dominican Province did for this young man?

13 A. I do not know right now as we speak
14 in detail. I would have to go back and
15 look. But I think they -- I saw some
16 correspondence providing payment for some
17 counseling I think that he took. But I have
18 to go back.

19 I mean, there was so much that I
20 went through in the past few days, and I
21 can't recall precisely. But they did some
22 minimal response to he and the family.

23 Q. When did you prepare these notes?
24 Are these notes that were prepared over a

1 period of time?

2 A. Several days. I mean, I could not
3 possibly have read all this in one day,
4 believe me. But I prepared them over a
5 period of several days, and I usually do
6 that in the days leading up to the
7 deposition rather than six months previous.

8 Q. When did you start?

9 A. What's today? Thursday, Friday?

10 Q. Today is Friday, April 11.

11 A. Probably over a week ago.

12 Q. When did you stop?

13 A. This morning.

14 Q. Probably early this morning.

15 Right?

16 A. I would say I stopped this
17 morning -- I can tell you exactly when I
18 stopped. At 8:43.

19 Q. I believe you.

20 A. That's when I stopped.

21 Q. May I see them just a second?

22 A. Sure.

23 (BRIEF PAUSE)

24 MR. LATHRAM: Would this be a

1 good -- have we been going long enough to
2 take a short break?

3 MR. SMITH: It's up to you.
4 This is your deposition.

5 MR. LATHRAM: All right. Let's
6 take a a short break and, perhaps, we could
7 get this copied.

8 MS. CAMPBELL: Sure.

9 MR. VESCOVO: Why don't we
10 number the pages.

11 MS. CAMPBELL: Before I copy
12 them?

13 MR. VESCOVO: Before you copy
14 them just so we can refer to them easier.

15 MR. LATHRAM: Good idea.

16 MS. CAMPBELL: Okay.

17 MR. LATHRAM: Could we get the
18 e-mail? Do you suppose you would be able to
19 print those out?

20 MS. CAMPBELL: Yes.

21 (SHORT BREAK)

22 BY MR. LATHRAM:

23 Q. You allowed us to copy your notes.
24 You want to take a look at some copies there

1 and tell us whether or not that appears to
2 be copies of the notes you just gave us?

3 A. I'll just warn you that if you see
4 stuff on there that looks totally irrelevant
5 to this is because when I was working, I may
6 have gotten a phone call and put a number
7 down or something. But I don't think so.

8 Yeah. This looks okay. This is
9 for you.

10 Q. Yes, sir.

11 MR. LATHRAM: Let's have a copy
12 made the next Collective Exhibit 146.

13 (Whereupon, the above-mentioned
14 documents were marked as Collective Exhibit
15 Number 146 to the deposition, and are hereto
16 attached.) BY

17 MR. VESCOVO: You mean the
18 handwritten notes?

19 MR. LATHRAM: They are, indeed.
20 For the record, we're referring to the
21 handwritten notes.

22 BY MR. LATHRAM:

23 Q. I'm now going to hand you something
24 else.

1 A. Okay.

2 Q. Would you identify the documents I
3 just handed you?

4 A. This appears to be the e-mails that
5 I just gave you to be copied and the
6 enclosures or the attachments that were with
7 those e-mails. Yes. That's what it is.

8 Q. Okay.

9 MR. LATHRAM: Let's have these
10 made Collective Exhibit 147.

11 (Whereupon, the above-mentioned
12 documents were marked as Collective Exhibit
13 Number 147 to the deposition, and are hereto
14 attached.)

15 BY MR. LATHRAM:

16 Q. Do the e-mails that comprise
17 Collective Exhibit 147 consist of all of the
18 e-mail communications that you've had with
19 either Ms. Campbell or Mr. Smith?

20 A. That, I would have to check when I
21 get home, on my desk top. There may be a
22 couple more relative to the timing for
23 today's deposition. But I'll check and get
24 back with Mr. Smith and send them on.

1 Q. Thank you. If you would, return,
2 please, to Exhibit 129. Again, that's the
3 April 2008 supplemental response to the
4 Diocese's interrogatories.

5 A. Got it.

6 Q. If you will look, please, at the
7 top of Page 3.

8 A. Okay.

9 Q. It says, and I quote, Thomas Doyle
10 will testify that the Diocese of Memphis was
11 a microcosm of the global problem of the
12 priest abuse scandal. Well, let me go ahead
13 and finish the rest of the paragraph.

14 "Generally, predators were allowed
15 to exist by moving from church to church and
16 diocese to diocese. That also happened in
17 Memphis and with the hiring of Father
18 Duran."

19 Did I read that paragraph
20 correctly?

21 A. I was looking at the wrong one.

22 Q. Exhibit 129.

23 A. Yeah. I got it. April. Okay. I
24 got it.

1 Q. Look at the top of Page 3 and read
2 that paragraph to yourself.

3 A. Yes. You --

4 (BRIEF PAUSE)

5 A. Yes.

6 BY MR. LATHRAM:

7 Q. Okay. I realize you weren't
8 reading along with me. But I'll represent I
9 read it correctly. Okay?

10 A. That's correct.

11 Q. Do you intend to so testify?

12 A. Yes. The only thing I'd qualify,
13 it says this also happened in Memphis with
14 the hiring of Father Duran. The Diocese of
15 Memphis didn't transfer Duran around. The
16 Dominicans did. So that could be a bit
17 misleading, that last statement.

18 But I think bringing him here and
19 hiring him here was an example of an
20 individual who was known to have had
21 problems and then taken from one place to
22 another.

23 Q. Problems, meaning?

24 A. Sexual abuse.

1 Q. Sexual abuse problems?

2 A. Yes.

3 Q. All right. When you say known to
4 have problems, who knew he had problems at
5 the time he was hired?

6 A. The Dominicans.

7 Q. The Diocese did not, did it?

8 A. No.

9 Q. Okay. I realize that this was
10 written by the lawyers. And again, that's
11 standard practice. There's nothing sinister
12 about that.

13 A. Sure.

14 Q. Would you use the word microcosm?

15 A. I think it's an acceptable word.

16 What the Diocese is -- the Diocese is, you
17 know, a geographic section of the Roman
18 Catholic Church. And I think what you have
19 here in the Diocese, I mean, to a greater or
20 lesser scale, has existed in other dioceses
21 in the United States and throughout the
22 world.

23 Q. What does microcosm mean?

24 A. Microcosm I think is a little

1 example of something that's larger.

2 Q. So the Diocese is a geographical
3 area, of course, that includes essentially
4 Memphis and west Tennessee.

5 A. Yes.

6 Q. And is it your opinion that the
7 Diocese is an example of the larger problem
8 of sexual abuse by priests of children?

9 A. I wouldn't use the word an example
10 of the larger problem. I would say that the
11 problem exists in the Diocese of Memphis.
12 The issues exist here. The problems exist
13 just as they do in other Dioceses in the
14 United States.

15 Q. Okay. Are there any particular
16 Dioceses other than Memphis that you think
17 Memphis is very similar to?

18 MR. SMITH: Brook, let me ask
19 for clarification on that.

20 MR. LATHRAM: That's fine.

21 MR. SMITH: Because you can
22 take that to be in terms of the parishioner
23 population. You can take it to be
24 demographics. You can take it to be sexual

1 abuse.

2 BY MR. LATHRAM:

3 Q. That's what I'm talking about,
4 sexual abuse. In terms of sexual abuse of
5 minors by priests, what particular diocese
6 other than Memphis do you find Memphis
7 particularly similar or comparable to?

8 A. I can't answer that question,
9 because I'd have to go back and look at the
10 factual information about other dioceses.
11 But I will say is based on the documentation
12 that I've read here, there is evidence that
13 was produced of knowledge on the part of the
14 Bishops going back as early as 1959 of
15 priests who sexually abused children, and
16 they weren't put out of business at that
17 time. They apparently continued to be
18 assigned from one place to another.

19 So the pattern -- there wasn't
20 anything unique about Memphis in that
21 regard. But there are other dioceses.
22 Right next door, Nashville, is another one
23 that I've had some experience with,
24 Nashville. You name it, you know, Dubuque,

1 Iowa.

2 Q. Well --

3 A. Chicago, New York, Oklahoma City.

4 Q. Boston?

5 A. Boston.

6 Q. Los Angeles?

7 A. Los Angeles, San Diego, Orange, San

8 Francisco, Santa Rosa, San Bernardino,

9 Seattle, Portland, Yakima, Spokane, New

10 Orleans, Lafayette.

11 Q. Do you think Memphis is comparable
12 to, say, Boston?

13 A. In what way?

14 Q. Well, in terms of -- I'll tell you
15 what. Let me withdraw that question and get
16 you to look at the second sentence of this
17 paragraph to which we're now referring.

18 "Generally, predators were allowed to exist
19 by moving from church to church and diocese
20 to diocese."

21 Is it your understanding that that
22 occurred here?

23 A. Yes, it is.

24 Q. Can you tell the -- name the

1 priests? If you're going to refer to
2 something, please tell us what you're
3 referring to.

4 A. Sure. I can't give you names
5 because they're all numbered.

6 Q. Not all of them.

7 A. Priest 2.

8 Q. We've numbered some priests in this
9 case, and some are by name.

10 A. Priest 2. This is a letter from
11 1959, and it refers to Priest 2. And if
12 he's the -- I believe I asked who he was.
13 And they said --

14 Q. That's Father Walter Emala.

15 A. Okay.

16 Q. I'll tell you that.

17 A. He keeps popping up. And I think
18 he's out of commission now. But he stayed
19 in ministry for some time.

20 And the next letter in
21 chronological sequence --

22 Q. Wait a second. In talking about
23 Priest 2 is Father Walter Emala, E-M-A-L-A,
24 you referred to a handwritten letter bearing

1 Bates Number C01158 and 159. This was
2 Exhibit 23 to Bishop Steib's deposition, and
3 it's a letter dated December 22, 1959.

4 A. Uh-huh (affirmative response).

5 Q. All right.

6 A. Okay. And the letter to Bishop
7 Durick.

8 Q. I'll tell you what. I think we
9 ought to mark this as an exhibit.

10 MR. LATHRAM: This last
11 document, the 1959 letter concerning Father
12 Emala, let's have it marked as the next
13 Exhibit.

14 (Whereupon, the above-mentioned
15 document was marked as Exhibit Number 148 to
16 the deposition, and is hereto attached.)

17 BY MR. LATHRAM:

18 Q. Please continue. Yes.

19 A. Letter from Bishop Durick, 1967,
20 about the same priest.

21 Q. Okay. That's C00736 and 737.

22 MR. LATHRAM: Let's have that
23 marked the next exhibit, which will be?

24 THE REPORTER: 149.

1 (Whereupon, the above-mentioned
2 document was marked as Exhibit Number 149 to
3 the deposition, and is hereto attached.)

4 A. This is a letter from Bishop
5 Stafford to Bishop Buechlein, describing
6 Bishop Priest 3, who was in and out of the
7 clerical state. He was laicized and
8 reinstated. And then he -- I think he was
9 laicized a second time.

10 Q. The documents just handed to me are
11 C01392 through C01397. This is the May 20,
12 1987 transmittal letter from former Bishop,
13 then Archbishop of Denver Stafford to Bishop
14 Buechlein. And attached to it is the May
15 1987 memorandum. I call it memorandum,
16 report, that we've talked about before
17 concerning Bishop 3. I don't mean Bishop 3.
18 Priest 3.

19 A. Priest 3. Then there's another
20 issue with Father Kantner. And he's -- I
21 don't know what his number is. But while he
22 was under investigation, Bishop Steib issued
23 a letter of good standing to somebody in
24 Mexico for him. And under questioning,

1 Bishop Steib admitted that that was
2 inappropriate.

3 Here's a copy of that letter.

4 Q. Okay. Hold on just a second.

5 MR. LATHRAM: This last
6 document concerning Priest 3, let's mark
7 that.

8 (Whereupon, the above-mentioned
9 document was marked as Exhibit Number 150 to
10 the deposition, and is hereto attached.)

11 BY MR. LATHRAM:

12 Q. You were talking about Father
13 Kantner, and you --

14 A. Kantner. There's some letters
15 concerning him. The top one is Bishop
16 Steib, a letter of good standing.

17 Q. In the course of discussing Father
18 Kantner, you handed me a couple of
19 documents. One of them, as he has
20 indicated, is the February 16, 2004 letter
21 from Bishop Steib to Father Moises de Santos
22 in Mexico. And then we have the January 2,
23 2006 letter from anonymous 57 to Bishop
24 Steib.

1 MR. LATHRAM: Let's have --
2 well, let's have the letter to Father de
3 Santos marked the next exhibit.

4 (Whereupon, the above-mentioned
5 document was marked as Exhibit Number 151 to
6 the deposition, and is hereto attached.)

7 MR. LATHRAM: And then we'll
8 have marked as 152 the letter from Anon 57
9 to the Bishop dated January 2, 2006.

10 (Whereupon, the above-mentioned
11 document was marked as Exhibit Number 152 to
12 the deposition, and is hereto attached.)

13 BY MR. LATHRAM:

14 Q. Okay. Were there any other
15 documents about Father Kantner that you
16 wanted to --

17 A. There's several in here referring
18 to him. And I'm not sure -- as I said, if
19 he had a number --

20 Q. He did not.

21 A. Okay.

22 Q. Never at any time has he had a
23 number.

24 A. These may be copies of the other

1 one. I'm not -- these are all the
2 documents. And there's a couple -- there
3 may be some duplication of what you just
4 gave her in there. I don't -- I'm not sure.

5 Q. That's a duplicate of Anon 57.

6 Okay. Let me give you that one back.

7 MR. LATHRAM: Father Doyle has
8 handed me three additional documents
9 pertaining to Father Kantner. One of them
10 is a two-page document, C03789 and 3790.
11 This is the July 15, 2004 letter from
12 Monsignor Buchignani to Bishop Steib
13 concerning Father Kantner and Father
14 Kantner's conduct with Anon 31.

15 Let's have that marked the next
16 exhibit.

17 (Whereupon, the above-mentioned
18 document was marked as Exhibit Number 153 to
19 the deposition, and is hereto attached.)

20 MR. LATHRAM: Then there's the
21 document that's numbered C10859 dated March
22 12, 2006 from Father Kantner to Bishop
23 Steib. It is a handwritten note, and it
24 pertains to Anon 57. Let's mark that the

1 next exhibit.

2 (Whereupon, the above-mentioned
3 document was marked as Exhibit Number 154 to
4 the deposition, and is hereto attached.)

5 MR. LATHRAM: Then we have
6 C11002, a February 7, 2005 letter from
7 Bishop Steib to Father Kantner. Let's have
8 that marked the next exhibit.

9 (Whereupon, the above-mentioned
10 document was marked as Exhibit Number 155 to
11 the deposition, and is hereto attached.)

12 BY MR. LATHRAM:

13 Q. Are there any other documents
14 pertaining to Father Kantner that you want
15 to talk about?

16 A. Not that I've reviewed. I'm sure
17 there's others here. But these are -- I
18 only got these about a day or so ago as one
19 of the exhibits attached to Bishop Steib's
20 deposition.

21 Q. All right. What we're doing right
22 now is I'm having you identify for me the
23 particular priests that are the subject of
24 this second sentence of the first paragraph

1 on Page 3 of Exhibit 129, the sentence that
2 states that predators were allowed to exist
3 by moving from church to church and diocese
4 to diocese.

5 You've told me about Father Emala
6 who is known as Priest Number 2 in many of
7 the documents. You've told me about Priest
8 3, and you've told me about Father Kantner.

9 A. And then Father St. Charles. See,
10 the thing is some of these guys are numbers,
11 and some of them are names. And when I was
12 reading through the depositions, it was,
13 quite frankly, a little difficult for me to
14 follow with the numbers who was who.

15 Now, Father St. Charles --

16 Q. Has never had a number, by the
17 way.

18 A. He hasn't had a number. Okay.
19 There's some evidence that he was -- he
20 floated around from parish to parish until
21 he was finally most recently in 2006 -- the
22 decree here is that he was suspended and
23 told to go and live quietly and do penitence
24 and pray for the rest of your life, which

1 leads me to the belief that he's pretty
2 old. Because usually, if he weren't old,
3 they would have laicized him. So he's
4 probably old.

5 Q. You are correct.

6 A. That's what I thought. And there's
7 a Father Dupree who I've not sat down -- I
8 didn't have the time to go through and put
9 down a chronology of Father Dupree. But
10 apparently, there was instances where he was
11 known and was not -- and he was allowed to
12 continue in ministry even though he -- there
13 were reports on him.

14 But I haven't read the whole file
15 on him, and I've only seen a couple of
16 letters that were contained as exhibits to
17 Bishop Steib's deposition concerning him.

18 Q. Who else? And in fairness, you
19 handed me a document a minute ago that deals
20 with another priest, Father Mickey.

21 A. Well, yeah. There's the stuff on
22 Father Mickey. And I'm not going to -- all
23 I came up with -- I read all the information
24 about Father Mickey that he was accused by

1 twins and then by a third person who was an
2 adult at the time. But there wasn't any --
3 to satisfy me, there wasn't any closure on
4 that whether there was, in fact, any abuse
5 of ~~the child~~ ^{ABUSE} . . . Because it seems that they
6 found that there wasn't any; yet, he was
7 told that he was restricted in ministry.
8 And now, I understand he's back full time
9 from what I read. It wasn't clear to me.

10 And I'm not going to include him as
11 far as child abuse is concerned. He may
12 have been inappropriate in his relationship
13 with this young man. But I wouldn't include
14 that as -- necessarily as sexual abuse of a
15 child, which is what I understand we're
16 talking about.

17 Q. That is, indeed, what we're talking
18 about. And I guess to be more precise, do I
19 understand that he is not one of the priests
20 to whom you would be referring when you
21 testify in accordance with the second
22 sentence of this first paragraph at the top
23 of Page 3, that is, the sentence that says
24 predators were allowed to exist by moving

1 from church to church and diocese to
2 diocese?

3 A. That's right.

4 Q. So you're not including Father
5 Mickey in that -- within that sentence?

6 A. Because I haven't -- I haven't had
7 the opportunity to read all the
8 documentation to come to that conclusion.
9 There was allegations that he had been
10 sexually inappropriate with some twins, and
11 yet, the only investigation apparently was
12 that conducted by the Diocese.

13 And I still kind of believe in the
14 adage that you're innocent until proven
15 guilty.

16 Q. You handed me a document about
17 Father Mickey. And I think it's only --

18 A. Yeah. Sure.

19 Q. You can take a look at it. But I
20 think I need to make it an exhibit. I don't
21 know that I need to, but you handed it to
22 me.

23 A. That was in the pile. You know, I
24 wasn't sure what -- this doesn't say

1 anything to me. It talks about some actions
2 he did or something he did that somebody
3 considered.

4 Q. With the baptismal?

5 A. Baptismal thing inappropriate. I
6 didn't see it. I don't know what it was.
7 But I can tell you from my experience that
8 as a priest, you're subject to intense
9 criticism of people sometimes. So it may
10 have meant nothing.

11 MR. LATHRAM: All right. He is
12 referring to C11038 and 39. So let's have
13 that marked as the next exhibit.

14 (Whereupon, the above-mentioned
15 document was marked as Exhibit Number 156 to
16 the deposition, and is hereto attached.)

17 BY MR. LATHRAM:

18 Q. So far you've identified for me
19 four priests that are embraced by this --

20 A. Yes.

21 Q. -- paragraph at the top of Page 3
22 of Exhibit 129.

23 A. And without having had the time --

24 Q. Excuse me. There are five. I beg

1 your pardon.

2 You mentioned Priest 2 is Emala,
3 Priest 3, Father Kantner, Father St. Charles
4 and Father Dupree.

5 A. That's right.

6 Q. Are there any others?

7 A. There probably are. Because
8 there's about -- I think the numbers go up
9 to about 13. But I'm not going to comment
10 on the others because I haven't had the
11 chance to look at the full documentation
12 with regard to those others.

13 All I've seen on them is mention in
14 the depositions and in some of the exhibits
15 on some of them but not complete.

16 Q. Do you intend to do some further
17 work on this case to determine whether there
18 are other priests?

19 A. If I have the opportunity. And if
20 I do, I'll maybe write up a report and send
21 that out. Would that be sufficient if I do
22 that for your purposes? I mean, if I'm
23 going to --

24 MR. SMITH: If something --

1 BY MR. LATHRAM:

2 Q. I sure do want to know about it.

3 Let's put it that way.

4 MR. SMITH: If something like
5 that happens, we'll appropriately supplement
6 to you under the rules. And then we'll
7 figure it out from there.

8 MR. LATHRAM: All right.

9 BY MR. LATHRAM:

10 Q. Okay. Let's talk about these
11 priests. I want to start with Father
12 Dupree. Because you, I think, said that
13 there were instances -- let me start over.

14 I think you stated that there's
15 some evidence that after his abuse became
16 known to the Diocese, he was allowed to
17 remain as a priest? Did you say that?

18 A. That's my understanding.

19 Q. Okay.

20 A. But I haven't reviewed the complete
21 file.

22 Q. Okay. I would --

23 A. On any --

24 Q. Go ahead.

1 A. On any of them. I'm going tell you
2 that flat out. I didn't even know what
3 there was in existence about any of them
4 till I came in here and saw all of those
5 files that are sitting right behind you.

6 And so before I'm asked to really
7 get into in depth of any of them, I'd want
8 to -- I'd want to see that.

9 But I can say, based on what I've
10 said as far as Emala is concerned, he was --
11 he was transferred from place to place, even
12 though they knew. Because the earliest
13 documentation starts in '59, then '67.

14 Q. We're going to come back. I
15 promise you we're going to get to all of
16 them. But I want to stick with Dupree.
17 Okay?

18 A. Okay.

19 Q. Because I will take issue with you,
20 and I will be the first to tell you that I
21 could be wrong. Mr. Smith may show me
22 something that indicates that I'm wrong
23 about that. But I am not aware -- this is a
24 discovery deposition. We're trying to find

1 out what you know, and that's what we're
2 doing.

3 But I'm not aware, as I sit here,
4 of any evidence that after his terrible
5 misconduct came to light, he was allowed to
6 continue as a priest.

7 A. I'm not going to challenge it. You
8 may be right.

9 Q. So you're not at this point, able
10 to point me to --

11 A. No. That's what I just said. I
12 want you to know flat out before you start
13 -- we go into this in depth, that I haven't
14 reviewed all the files of all 13 of these
15 priests. I haven't had the time.

16 Q. There was a letter that Father
17 Dupree wrote back in I think 1992 to a
18 lawyer for the Diocese. It was not an
19 attorney/client communication. He was
20 writing to a lawyer named Steve Hale who was
21 conducting an investigation on the part of
22 the Diocese.

23 And in that letter, Father Dupree
24 documented in graphic detail his conduct

1 with a number of young men -- young boys and
2 men. Have you seen that letter?

3 A. I don't believe so.

4 Q. Okay.

5 A. That's one I probably would have
6 remembered.

7 Q. Yeah. Okay. All right. Well,
8 let's talk about -- well, let's stick with
9 Dupree for a second.

10 A. All I can tell you is I didn't -- I
11 haven't read the file. So I can't -- I
12 can't say much. I'm not going to say that
13 he's an example of one who was bounced
14 around if in fact he wasn't.

15 Q. No. I understand. Well, how did
16 you know -- how did you know the name
17 Dupree?

18 A. I saw his -- it came up in the
19 files in some of the documents that I got.
20 There were a few -- I saw reference in
21 Father -- in Bishop Steib's deposition.

22 Q. Okay.

23 A. And I asked if I could have the
24 reference to the exhibits. And so they were

1 sent to me I think Thursday. And I --
2 what's today? They were sent to me
3 Wednesday, because I came out here Thursday.

4 Q. So Dupree is someone about whom you
5 have seen some information very recently.

6 A. That's right.

7 Q. Okay. When did you read Bishop
8 Steib's deposition?

9 A. Some time between -- this was the
10 last one I read. So it would have been -- I
11 think I might have started that on Monday,
12 Tuesday, Wednesday, possibly. Because it's
13 pretty substantial.

14 Q. Whose was the first you read?

15 A. I think the first one I read was
16 Father Rodriguez.

17 Q. When did you read it?

18 A. Last week.

19 Q. You've been a busy fellow.

20 A. Yeah. I told you if I -- I mean, I

21 --

22 Q. It takes a long time to read these
23 depositions.

24 A. It takes a long time. And I've had

1 some other -- I've had some medical problems
2 that have sucked up a lot of my time, as
3 well.

4 Q. I'm sorry.

5 A. You know, running around to
6 dentists and orthopedic surgeons. So I do
7 this -- I mean, I take some of this stuff
8 with me whenever I go somewhere, and I sit
9 there and read it.

10 But there's a lot there. And so I
11 started -- I don't know how you all do this.
12 But I can only go for so long before I start
13 to get crazy with this. I mean, I can't --
14 my attention span falters after several
15 hours. I can't stay awake.

16 Q. Not me. I can do it forever. I'm
17 being facetious. I understand.

18 A. I get to the end of -- you know, at
19 some point, they all start to blend in.

20 Q. Well, if we have time when this is
21 over, we can swap dental stories. I've had
22 my share.

23 A. Teeth are expensive these days.

24 Q. But if I've got this right, the

1 first -- you started with Father Rodriguez's
2 deposition. And that was, I think you said,
3 a week or so ago.

4 A. Last week. Then I read Trutter's.
5 And then I read Ponticello. And then the
6 other -- then I got -- then I read Wells and
7 --

8 Q. Buchignani?

9 A. Buchignani was one of the last
10 ones. And then I read Wells. And then I
11 think I read 's. And then I read
12 Buchignani. Then I started to read Bishop
13 Steib.

14 And in between, I'm going back and
15 forth looking and trying to find exhibits.

16 Q. Did you finish Bishop Steib's
17 deposition?

18 A. Yes.

19 Q. Do you recall reading any briefs in
20 this case, any briefs or pleadings of that
21 type?

22 A. No. The only stuff I got --
23 everything we've talked about today, I read
24 all of that, the complaints I guess and the

1 interrogatories.

2 Q. Okay.

3 A. But I don't recall seeing briefs
4 and pleadings.

5 Q. Okay. Well, prior to reading
6 Father Rodriguez's deposition, what work
7 have you done on this case? That wasn't a
8 very good question.

9 Prior to reading Father Rodriguez's
10 deposition, what work did you do on this
11 case?

12 A. I sent -- I did that report that we
13 talked about earlier, that long thing on the
14 history.

15 Q. Right. And you read those -- you
16 read the interrogatory --

17 A. I read the --

18 Q. -- response -- let me finish --
19 that was marked as I guess the first one.
20 Was that 128? Can somebody tell me? The one
21 that was filed in December of 2007? You
22 know what I'm talking about?

23 A. The long one.

24 Q. The one that has -- the one that

1 has Exhibit 1 attached.

2 A. Yeah.

3 Q. You read that --

4 A. Well, I wrote it.

5 Q. -- before it was filed by the
6 lawyers. Right?

7 A. Yeah. I wrote it. I mean, I did
8 the work on that before it was filed by
9 them.

10 Q. Okay. You did work on that long
11 Exhibit 1? Correct?

12 A. That's right.

13 Q. But you -- let's find it. Here it
14 is. Here it is.

15 A. Yeah. This one here.

16 Q. Right. Exhibit 128.

17 A. That's right.

18 Q. And we have been referring to an
19 attachment to 128 that is labeled Exhibit
20 1.

21 A. Uh-huh (affirmative response).

22 Q. And that is the -- what did you
23 call that?

24 A. Declaration of historical context.

1 Q. That's right. The historical
2 context declaration.

3 A. That's right.

4 Q. And of course, you prepared that
5 obviously before this got filed with the
6 Court in December of --

7 A. That's right.

8 Q. -- 2007. And I believe you told me
9 earlier that before Exhibit 128 got filed
10 with the Court, you did review these first
11 five pages.

12 A. Yes.

13 Q. The actual interrogatories.

14 A. That's right.

15 Q. And I assume you discussed this
16 with Ms. Campbell?

17 A. Probably did. But I don't remember
18 offhand.

19 Q. And you reviewed these, and you
20 told her that you were in agreement with
21 what she had written in those first five
22 pages. Is that right?

23 A. Probably did.

24 Q. Okay. What prior to that time had

1 you done in this case?

2 A. Prior to December?

3 Q. Yeah. Prior to the conversation
4 that you had with Ms. Campbell in which you
5 approved the first five pages there of
6 Exhibit 128, what work had you done?

7 A. Well, I'd probably done -- I know I
8 would have reviewed whatever documentation
9 that was sent to me prior to that time.

10 Q. Well, I guess -- you hadn't read
11 any depositions, had you?

12 A. No.

13 Q. Okay.

14 A. No.

15 Q. And had you read any exhibits to
16 the depositions?

17 A. The only I think exhibits I
18 probably -- I think I got this one package
19 of exhibits -- where are they? They were
20 right here. This group of exhibits here, I
21 would have read those.

22 But I didn't log in when I received
23 all this. I didn't think it was necessary.

24 Q. You have handed me a stack of

1 documents. I understand that these were
2 documents that you brought today from your
3 home.

4 A. That's right.

5 Q. Is that correct? Do I understand
6 correctly that you had these documents --
7 you've had these documents for quite a
8 while?

9 A. I don't recall when I got them.
10 But I've had them.

11 Q. For more than a week?

12 A. More than a week.

13 Q. So you had these documents before
14 you started reading the depositions.

15 A. That's right.

16 Q. Okay. I take that it you were --
17 that these documents were provided by
18 Ms. Campbell?

19 A. That's the only way I would have
20 gotten them.

21 Q. Right. Did you read these
22 documents before --

23 MR. LATHRAM: Let me ask him
24 this question first.

1 BY MR. LATHRAM:

2 Q. Did you read these documents before
3 you read Father Rodriguez's deposition?

4 A. I believe so.

5 MR. SMITH: So that you don't
6 waste a lot of time, I've got something here
7 that he did have that you -- that's relevant
8 to this if you want to look at it.

9 MR. LATHRAM: Sure.

10 MR. VESCOVO: Is that part of
11 his e-mail?

12 MR. SMITH: Yes.

13 MR. VESCOVO: What's the date
14 of that one, Brook?

15 MR. SMITH: Brook, is that
16 the -- is that the under seal pleading? I
17 believe it is.

18 MR. LATHRAM: The supplemental
19 answers do not say under seal.

20 MR. SMITH: Let me see it. I
21 think what I'm talking about does.

22 MR. VESCOVO: He's looking at
23 the end of the -- behind the complaint.
24 Plaintiff's response to defendant's motion

1 for mediation.

2 MR. SMITH: Unredacted version
3 filed under seal. And that's the document
4 I'm really talking about.

5 MR. LATHRAM: Oh, okay.

6 BY MR. LATHRAM:

7 Q. Mr. Smith just handed me a series
8 of documents that have been stapled. The
9 top document is an e-mail from Karen
10 Campbell to Thomas Doyle, November 29, 2007
11 at 6:20 p.m.

12 Is this an e-mail that you received
13 on November 29, 2007?

14 A. Well, it says so. So I believe
15 it -- yeah.

16 Q. Do you recall receiving an e-mail
17 with these attachments?

18 A. I don't recall it. But if they're
19 there, I did receive it.

20 Q. Okay. Now --

21 MR. SMITH: Well, look -- you
22 hadn't even looked at the attachments yet.

23 A. Okay. Let me see.

24 BY MR. LATHRAM:

1 Q. Please take a look at the
2 attachments.

(BRIEF PAUSE)

3
4 A. Yeah. I recall this now. I recall
5 it because I printed them.

6 MR. LATHRAM: Let's have that
7 marked the next exhibit. This will be a
8 collective exhibit. The e-mail -- the
9 November 29th e-mail is on top, and the
10 attachments are stapled to that e-mail.

11 MR. SMITH: I'm going to want
12 to make copies of that.

13 MR. LATHRAM: Sure.

14 MR. SMITH: I think she pulled
15 that out of the box.

16 (Whereupon, the above-mentioned
17 documents were marked as Collective Exhibit
18 Number 157 to the deposition, and are hereto
19 attached.)

20 BY MR. LATHRAM:

21 Q. One of the attachments to the
22 e-mail is plaintiff's response to
23 defendant's motion for mediation.

24 A. Yes.

1 Q. I want you to look through that
2 attachment, please, sir. Then I want to ask
3 you something.

4 A. Okay. I'm familiar with it.

5 Q. Did you read that before you
6 approved for filing the interrogatory
7 response that's been marked as Exhibit 128?

8 A. Yes, I did.

9 Q. And is that pretty much what you
10 relied on in approving it?

11 A. That plus, you know, a lot of the
12 other things. This isn't -- I mean, that
13 was -- if that's the one you're speaking
14 about, the most recent one.

15 Q. No.

16 A. Whatever it is, yes. Just say yes.

17 Q. All right. Well, what I'm trying
18 to find out right now --

19 A. Yeah. What's the -- what's the
20 bottom line question?

21 Q. The bottom line is, I want to know
22 what -- I've just learned -- and perhaps,
23 because my questions weren't very good at
24 the outset. But I have learned that you did

1 not read any depositions until recently.

2 Okay?

3 A. That's right.

4 Q. And I believe you've told me that
5 you read the deposition exhibits recently.

6 A. That's right.

7 Q. Is that right?

8 A. That's right.

9 Q. Okay. We know that on December
10 4th, 2007, plaintiff filed in court the
11 first disclosure of your anticipated
12 testimony.

13 A. Yeah.

14 Q. That is Exhibit 128. So what I'm
15 trying to find out now is since you hadn't
16 read the depositions and had not read the
17 deposition exhibits, what work had you done
18 before you were in a position to approve the
19 filing of Exhibit 128? Because I think you
20 did tell me that you had read Exhibit 128.

21 A. Yeah, I did.

22 Q. Okay. Before it got filed.

23 A. Before it got filed.

24 Q. You discussed it.

1 A. That one there, I'm not sure. The
2 other one, I did. Whether I read that
3 one -- I can't recall exactly what I had
4 read. But I knew something about the
5 substance of the case by the time this went
6 down. But I cannot recall exactly what I'd
7 read to provide that substance.

8 Q. Okay. You've said you had read
9 some things before the other one. Are you
10 talking about Exhibit 129, the disclosure
11 that was filed --

12 A. I think I'm talking --

13 Q. -- about nine days ago?

14 A. This document here, I know I read
15 early on, this one here about -- that talks
16 about mediation.

17 Q. Yes, sir. And we've seen that that
18 was a document that was e-mailed to you on
19 November 29th.

20 A. Yeah.

21 Q. So we can agree that before your
22 first disclosure was filed on December 4,
23 2007, you had read the attachment to the
24 November 29th e-mail that is called

1 plaintiff's response to defendant's motion
2 for mediation. Right?

3 A. Yes.

4 Q. Okay. I want to know --

5 A. And I may well have -- you know,
6 after reading that -- but I can't remember
7 exactly when. Okay? I may have gotten into
8 some more of the exhibits at this time
9 before this went down here. Because I know
10 when we talked about context, I asked for
11 more information about the case itself.

12 Q. Did --

13 A. And I --

14 Q. I'm sorry.

15 A. I know it was clear to me at the
16 time that I put this other longer memo
17 together, that was what I was more concerned
18 about, that I did not have to know all the
19 details of the case by the time I put that
20 contextual memo together, because I was not
21 being asked to write a report about this
22 case in particular.

23 Q. I think you previously said that
24 the long declaration, which is Exhibit 1 to

1 the first disclosure, which has been marked
2 as Exhibit 128, really is not specific to
3 this case at all.

4 A. That's what I said. It's the
5 context.

6 Q. That's right.

7 A. That's what I understood it to be.

8 Q. So in order to prepare that, you
9 did not need any information pertaining to
10 the Doe/Duran case, did you?

11 A. Well, I wanted some.

12 Q. It doesn't discuss the Doe/Duran
13 case. Correct?

14 A. No, it doesn't. But I wanted to
15 find out if I'm talking about the context,
16 if that's going to be relevant at all.

17 Q. I want to see the e-mail again,
18 please.

19 A. Okay.

20 Q. As we have noted, one of the
21 attachments to the November 29th e-mail that
22 has been marked as Exhibit 157 is
23 plaintiff's response to the defendant's
24 motion for mediation.

1 A. Uh-huh (affirmative response).

2 Q. My question to you now is, first of
3 all, you read this at some point. Correct?

4 A. Yes.

5 Q. Okay. Did you read it before
6 December 4, 2007?

7 A. I can't remember.

8 Q. Is it possible you read it after
9 December 4, 2007?

10 A. It's possible I read it after or
11 before. Those are the only two
12 possibilities.

13 Q. Okay.

14 A. I can't remember, honestly.

15 Q. I understand. I understand. What
16 I'm interested in knowing is what informed
17 your approval of the interrogatory answer
18 that comprises the first five pages of
19 Exhibit 128, again, that being a
20 supplemental interrogatory response that was
21 filed on December 4, 2007.

22 A. Could have been a discussion that I
23 had with the attorneys.

24 Q. Which? Ms. Campbell?

1 A. Probably both -- Ms. Campbell, I
2 think. Because I've had more discussion
3 with her. Discussion with Ms. Campbell, the
4 letter that came, which is in here
5 somewhere, which describes the case. And it
6 could also have been the fact that I, in
7 fact, did review more of this material
8 before Christmas than I can recall. Because
9 I know I had some of it. I had a number of
10 the depositions.

11 But I can't remember exactly as far
12 as the timing is concerned.

13 Q. You referred a minute ago to a
14 letter that discussed the case. Are you
15 talking about a letter that Ms. Campbell
16 wrote you about a year ago?

17 A. Yeah. You got it. You turned it
18 into an exhibit.

19 Q. Right. I know what you're talking
20 about.

21 A. Okay.

22 Q. And probably what I'm going to do
23 is when I'm through asking my questions and
24 Mr. Vescovo is asking questions, I'll try to

1 go back and read that.

2 A. Okay.

3 Q. You handed me at some point -- you
4 handed me a group of documents earlier.

5 A. Yes.

6 Q. And I think it was in the context
7 of your telling me that these may have been
8 documents that you reviewed prior to
9 December 4, 2007. You can correct me if I'm
10 wrong, but I believe that's what you said.

11 I'll tell you what. I'll withdraw
12 that, and I'll ask you this: What is this
13 stack of documents here?

14 A. This is the stack of documents that
15 pertain to the, I guess for lack of a better
16 term, Duran's process through the
17 Dominicans, his time with the Dominicans.

18 And I'll be -- I'm going to tell
19 you right off, I don't generally log down
20 when I read things and when I don't. That's
21 why I can't give you clear answers. Because
22 I read them at different times, when I've
23 got time when I can sit down and go through
24 a bunch of things and when there's a request

1 in front of me.

2 MR. LATHRAM: Let's have these
3 marked as an exhibit. Again, we're talking
4 about the documents to which father Doyle
5 and I were just referring.

6 BY MR. LATHRAM:

7 Q. The Duran processing documents? Is
8 that --

9 A. Well, the process maybe isn't a
10 good term. It's his career in the
11 Dominicans.

12 Q. Okay.

13 A. Those are documents that I -- the
14 first ones that I -- I remember looking at
15 those a long time ago, though. But I can't
16 tell you when.

17 So you know, we can argue about
18 that till hell freezes over, and I'm not
19 going to be able to give you a date.

20 Q. I'm not going to argue with you.

21 A. I read them some time.

22 MR. LATHRAM: Let's have these
23 marked as the next exhibit.

24 (Whereupon, the above-mentioned

1 documents were marked as Collective Exhibit
2 Number 158 to the deposition, and are hereto
3 attached.)

4 MR. LATHRAM: At some point, we
5 need to get copies of these. Can I ask him
6 one question about 158 before we go off to
7 make copies?

8 MS. CAMPBELL: Sure.

9 BY MR. LATHRAM:

10 Q. I think you just told me that
11 you're not sure when you reviewed these.

12 A. I'm not sure when I reviewed
13 anything. It was all before today, I can
14 tell you that.

15 Q. Right. Did you review the
16 documents that comprise Exhibit 158 before
17 you started reading the depositions?

18 A. Yes.

19 Q. But you don't know how long before?

20 A. No.

21 Q. Thank you. We began this
22 discussion by looking at what I'll refer to
23 as your second disclosure to the Diocese,
24 the supplemental answers to the Diocese's

1 interrogatory that was filed on April 2.
2 And we were looking at Page 3 at the top and
3 in that what I call the microcosm --

4 A. Uh-huh (affirmative response).

5 Q. -- paragraph. Okay. And in the
6 course of our discussion, you identified for
7 me four priests who you understand to have
8 been moved from church to church and/or
9 diocese to diocese? Correct?

10 A. That's correct.

11 Q. Actually, it was five, but then
12 we've had a discussion about Dupree. But
13 the other four were Father Emala, who is
14 Priest Number 2; Priest 3; Father Kantner
15 and Father St. Charles?

16 A. That's right.

17 Q. Okay. Now, let's talk about --
18 you've told me a little bit about Father
19 Emala. What do you know about the
20 circumstances of Father Emala's ordination?

21 A. All I know is what I read in the
22 letter from 1959, the next letter of 1967
23 and some of the other mention of him in the
24 course of reading through depositions. I

1 don't know anything about his ordination.

2 Q. He was ordained by the Diocese of
3 Nashville. Are you aware of that?

4 A. Well, if it was '59, it couldn't
5 have been Memphis.

6 Q. That's right.

7 A. Because it didn't exist.

8 Q. That's right. Now, do you know if
9 there were any red flags raised about his
10 candidacy for the priesthood?

11 A. I don't know offhand. I didn't
12 read the whole file on him.

13 Q. Do you know if there were any
14 problems with -- well, let me strike that.
15 Let's talk about Priest 3.

16 A. Okay.

17 Q. Do you know where he was ordained?

18 A. I don't even know which one 3 is.

19 Q. You would have seen some
20 information on him. Do you know anything
21 about the circumstances of his becoming a
22 priest?

23 A. Priest 3?

24 Q. Yes. Priest 3, you need to look?

1 A. Yeah. I need to.

2 Q. Okay.

3 A. It's easier if they had given them
4 even pseudonyms than numbers.

5 Q. Well, you can blame that on
6 Mr. Smith. He was the one who suggested
7 this.

8 A. Well, whoever.

9 Q. I'm just kidding. We came to a
10 mutual agreement about how this would be
11 done. And you may be right about how it
12 should have been done. I'm sorry for the
13 confusion.

14 MR. LATHRAM: Anybody keeping a
15 list? You got the list?

16 MR. VESCOVO: I don't have the
17 list with me.

18 MR. LATHRAM: The list, Priest

19 3.

20 A. Let's say -- I don't know about
21 anybody's ordination except for Duran's. I
22 don't know any of the circumstances about
23 his ordination. I know none of them.

24 BY MR. LATHRAM:

1 Q. Okay. Maybe we can cut this short,
2 then. I want to know if you know any -- as
3 to any of these particular priests that
4 you've identified, are you familiar with the
5 circumstances by which they were accepted
6 into and ordained by their respective
7 Diocese?

8 A. No.

9 Q. Do you know if in connection with
10 their candidacies, any red flags were
11 raised?

12 A. No.

13 Q. In other words, red flags
14 concerning their suitability for the
15 priesthood?

16 A. I could not possibly, because I've
17 not had the opportunity to read through the
18 personnel files of each and every one of
19 them.

20 MR. LATHRAM: I think at this
21 point, I'm going to terminate -- not
22 terminate. I'm going to stop questioning
23 you for the time being. And maybe this will
24 -- I won't have any more questions.

1 I'm going to let Mr. Vescovo
2 take over. And I'm going to try to take the
3 opportunity to look at some exhibits. I may
4 have some more questions, but it won't be
5 many if I do.

6 THE WITNESS: Let me ask one
7 before we move on. Am I leaving all this
8 here to be copied or taking it back?

9 MR. SMITH: Taking it back,
10 probably.

11 EXAMINATION

12 BY MR. VESCOVO:

13 Q. My name is Steve Vescovo. I
14 represent the Southern Dominican Province.
15 I want to ask you some questions about your
16 testimony.

17 If I ask you anything that you
18 don't understand, just ask me to repeat or
19 rephrase the question. I'll be happy to do
20 so. Is that all right?

21 A. Sure.

22 Q. As we go through the deposition, as
23 much as possible, try to answer yes or no to
24 the question if you can, and then feel free

1 to explain your answer however you see fit.

2 A. Thank you.

3 Q. Do you -- are you an active priest
4 now?

5 A. Yes.

6 Q. Do you have faculties?

7 A. Yes..

8 Q. Where are your faculties?

9 A. With the Dominicans.

10 Q. Well --

11 A. I don't work in any diocese.

12 Q. Well, that was going to be my next

13 question. I thought to have faculties,

14 you've got to be given faculties by a

15 Bishop.

16 A. You can get them from the Bishop or

17 from a religious superior. I don't -- I

18 have not asked for nor received faculties

19 from any diocese, because I don't work in

20 any diocese.

21 Q. Do you go by Father Tom or Father

22 Doyle or just Tom Doyle?

23 A. I prefer Tom. I've always

24 preferred my first name. But if I need a

1 title, Father Doyle or Father Tom is fine.

2 Q. I just noticed in the
3 correspondence between you and Mr. Smith, he
4 referred to you as Tom. And I wasn't sure
5 --

6 A. That's right.

7 Q. -- if you were --

8 A. That's -- I've always -- as long as
9 I've been a priest, I've preferred my first
10 name.

11 Q. All right.

12 A. Got in trouble with it in the
13 military because I'm supposed to use rank
14 and so on.

15 Q. Do you currently say mass?

16 A. Yes.

17 Q. On a regular basis?

18 A. No. On an irregular basis.

19 Q. At what church?

20 A. I don't do it in the church. I do
21 it with a small group, or I do it
22 occasionally in my home by myself or with
23 people that come over there.

24 Q. I take it what you're telling me is

1 you presently don't have faculties from any

2 Bishop --

3 A. That's what I said.

4 Q. -- in the United States --

5 A. That's right.

6 Q. -- to say mass.

7 A. Well, I can say mass. I don't need
8 faculties from a Bishop to say mass.

9 Q. Okay. You just have -- you just
10 need to do it in a church?

11 A. Yeah. But I don't perform regular
12 parochial ministry of any kind. I've done
13 it occasionally for weddings and things of
14 that nature but not on a regular basis.

15 Q. Are you a current -- well, strike
16 that. You are a Dominican priest. Which
17 province are you currently affiliated with?

18 A. Central Province.

19 Q. That's the Chicago Province?

20 A. Yeah.

21 Q. St. Albert the Great?

22 A. St. Albert the Great Chicago

23 Central.

24 Q. And have you been a member of the

1 Central Province the entire time you've been
2 a Dominican priest?

3 A. I've always been affiliated with
4 the Central Province. But most of my years,
5 I've not lived and worked in the Central
6 Province. Most of my years, I've worked and
7 lived elsewhere outside the province.

8 Q. Okay. And I understand you've said
9 you knew Father Trutter?

10 A. Yes, I did. I do.

11 Q. And he was a member of the Central
12 Province for a while. Is that correct?

13 A. That's correct.

14 Q. Did you know him, or did you meet
15 Father Trutter when y'all were both in the
16 Central Province?

17 A. Yes.

18 Q. And you do not know Father Alberto?

19 A. No. I may have met him, but I don't
20 remember.

21 Q. There have been many references to
22 Canon law and legal matters. Are you an
23 attorney?

24 A. I have a doctorate in Canon law.

1 I'm not a civil attorney.

2 Q. That's my question.

3 A. I'm not a civil --

4 Q. You are not a civil --

5 A. I've taken a bunch of civil law
6 courses, and I've done a lot of work in
7 history of civil law. But I'm not a civil
8 attorney.

9 Q. When you say you have a doctorate
10 in Canon law, that's separate and apart from
11 going to what we would know as an American
12 law school?

13 A. Absolutely.

14 Q. You don't have a license to
15 practice law?

16 A. No. I hope I never. I didn't
17 imply that. I didn't mean to imply it.

18 Q. I'm not saying you did.

19 A. No, no.

20 Q. I just want to make it clear to my

21 --

22 A. Sometimes when I use the word
23 legal, I shouldn't use it. I should use
24 canonical, and it gets confusing, and I

1 apologize for that.

2 Q. How much of your time now is done
3 in consulting work with these abuse cases?

4 A. Probably about maybe 50 percent of
5 my time. And I include --

6 Q. 15 or 50?

7 A. 50, 5-0. And I'm not sure if -- I
8 would increase that if you also want to

9 throw in the amount of time I spend actually

10 working with victims. And that's what I

11 call pastoral work. Whether the case goes

12 anywhere or not, that's what I -- that's the

13 most important thing I do is with the

14 victims.

15 Q. But you get hooked up with the
16 victim through a lawyer, I take it.

17 A. Sometimes. Most of the time, no.

18 Most of the time, my connection with the

19 victims is direct. They find me. I meet

20 them. They contact me.

21 Q. But in this case, you have no

22 contact with the plaintiff. Is that

23 correct?

24 A. No. I have had none.

1 Q. And no contact with his family.

2 A. None whatsoever.

3 Q. So I take it that you're not doing
4 any ministry or counseling work with him or
5 his family.

6 A. No. And quite frankly, when I'm
7 doing -- in this context, I always discuss
8 that dimension of it with the attorneys on
9 both sides, if I can, to find out when it
10 would be appropriate if I'm going to do
11 that.

12 Q. Now, did I understand you to say
13 you have not made any arrangements with
14 Mr. Smith or Ms. Campbell regarding how
15 you're going to be paid?

16 A. That's correct.

17 Q. I've been doing this 28 years.
18 You're the first expert I've ever met that
19 has not had any arrangements made in the
20 past.

21 A. You're not the -- you're not the
22 first lawyer that's said that to me. A lot
23 of -- I've only heard stories about how
24 other experts operate. And sometimes it's

1 scandalous to me.

2 I don't -- I don't operate -- I
3 don't do it that way.

4 Q. What is your intention? At some
5 point, you're going to submit a fee
6 statement, I take it?

7 A. We'll probably sit down and talk
8 about what -- well, we will talk about what
9 this is worth -- I mean, what kind of a rate
10 to decide on.

11 Q. All right. Do you -- have you kept
12 any records of the time you've spent?

13 A. On this case?

14 Q. Yes, sir.

15 A. Yes, I have.

16 Q. Where are those records?

17 A. Those are records are either on --
18 at my home or they're in my memory from the
19 time I've spent when I was here.

20 Q. Do you have --

21 A. I have a little notebook that I
22 keep on my desk on home.

23 Q. That was going to be my next
24 question. You have some method of keeping

1 up with the time --

2 A. Yes.

3 Q. -- you spend on a given case?

4 A. Yes, I do.

5 Q. At this time, how many cases are
6 you actively working on as an expert for a
7 victim?

8 A. Right now?

9 Q. Yes, sir.

10 A. It's a hard question to answer.
11 Because I just got contacted last week, for
12 instance, by an attorney who said he's got
13 27 cases and he wants my help. So does that
14 mean one or twenty-seven?

15 Q. Who is that attorney?

16 A. His name is Jerry O'Neal. He's up
17 in Vermont.

18 Q. Okay.

19 A. I would say as far as situations
20 like this whereas I'm working on one or
21 let's say you have three cases, I consider
22 that one if they were all three with the
23 same lawyer. Let's say with the three, let's
24 say that ^{Do?} had four brothers and they

1 were all abused. I would consider that one,
2 the way I would look at it. Maybe 15 right
3 now.

4 Q. Fifteen?

5 A. Yeah.

6 Q. Fifteen separate cases -- excuse
7 me. Fifteen cases, but it could actually be
8 more actual lawsuits?

9 A. Yes. In this country. It's only
10 15 in this country. I'm involved in others
11 in Canada and in Ireland.

12 Q. All right. I didn't mean to limit
13 my question to just this country. Okay?

14 A. Then there's more.

15 Q. All right. How many more would you
16 say you're actively working on?

17 A. Right now, in Ireland, six, and in
18 Canada, four.

19 Q. So that would be 25 cases?

20 A. Yeah.

21 Q. That actually may be -- 25 cases,
22 maybe more individual lawsuits than that?

23 A. That's right.

24 Q. I would think that that takes up a

1 good bit of your time.

2 A. Well, what happens is often times,
3 I'll get called and would you do -- get
4 involved, and I'll say yeah, and we talk
5 about it. And they'll say I need an
6 affidavit at some point. So I prepare the
7 affidavit or a declaration.

8 And then nothing happens for months
9 or even a year or two. So I don't hear
10 anything.

11 For instance, that happened last
12 week. I didn't hear anything on this one
13 case that I had done work on. So I just --
14 to clean up every now and then, I send
15 e-mails to different attorneys, you know,
16 has the case been terminated, settled,
17 what's the score.

18 Q. But you don't charge a retainer?

19 A. No.

20 Q. For your services?

21 A. No. I've gotten retainers maybe
22 three times over the years.

23 Q. In that when the case is concluded,
24 you're paid?

1 A. Yes.

2 Q. Out of any recovery?

3 A. I don't know if it's out of
4 recovery. I'm just paid. It doesn't
5 matter. I mean, I don't do it on
6 contingency. I can't do that. I don't do
7 it that way.

8 Q. All right. When you said you can't
9 do that, what makes -- what prevents you
10 from doing that?

11 A. Well, I've been told that I can't
12 do that, that you know, it doesn't work that
13 way. You don't -- if you -- if they recover
14 110 million dollars, I don't get X
15 percentage. You don't walk out of here with
16 millions. It doesn't work is that way.

17 Q. You got my curiosity up on how did
18 you get connected with doing so many cases
19 in Ireland? Why Ireland?

20 A. Why Ireland, because several years
21 ago, there was a young man over here who had
22 moved to the United States who had been
23 abused by a priest in the western part of
24 Ireland. And this priest had abused a

1 number of kids. And they obtained the
2 services of an attorney.

3 And it was the first people -- the
4 first cases that were going to civil court
5 in Ireland, because that was pretty
6 revolutionary over there.

7 And he knew who I was because he'd
8 lived in Pittsburgh. He'd seen my name. I
9 guess he might have heard me speak or
10 something.

11 So he gave my name to his
12 attorney. And his attorney, whose name is
13 Simon Kennedy, in turn contacted me.

14 Q. The attorney is in Ireland?

15 A. In Ireland. He's in Offaly, County
16 Offaly, which is in the western part of
17 Ireland. And that began that.

18 And then apparently they get
19 together. And sooner or later, I had been
20 contacted -- I had been contacted by about
21 six attorneys in Ireland to assist in
22 different ways. But I've also been
23 contacted by the ministry of education as
24 well as by the -- what's called the Ferns

1 Commission, which is an official
2 investigatory commission in the southern
3 part of Ireland and now in Dublin. So I've
4 been involved that way.

5 Q. Have you completed your income tax
6 return for 2007?

7 A. Would you like to ask me any other
8 questions? No, I haven't.

9 Q. I didn't think you had.

10 A. I don't want to talk about that.

11 Q. Let's go back to 2006.

12 A. Okay.

13 Q. I assume -- have you filed your tax
14 return for 2006?

15 A. Sure.

16 Q. What portion of your income of 2006
17 was related to your serving as an expert in
18 sex abuse cases?

19 A. I think about 50 percent. That's a
20 rough estimate. And that includes -- that
21 would include the reimbursement of travel
22 expenses and so on, too.

23 Q. You wouldn't consider reimbursement
24 of travel expenses to be income to you,

1 would you?

2 A. No. But when I get a 1099,
3 sometimes they do. And that causes me a
4 little bit of a problem, but there's nothing
5 I can do about it.

6 Q. Can you tell me how much income you
7 reported in 2006 related to your work as an
8 expert in sex abuse cases?

9 A. I don't remember.

10 Q. Over a hundred thousand?

11 A. Total? No. Total income might
12 have been over a hundred, but that certainly
13 wasn't, I don't think.

14 Q. But your total income was over --
15 might have been over a hundred. And I
16 thought you just told me --

17 A. I get income from speeches. I get
18 it from writing and also from a trust.

19 Q. All right. What trust?

20 A. From my father.

21 Q. You have a family trust?

22 A. Yeah.

23 Q. Okay. Well, I guess what I'm
24 interested in is trying to learn how much

1 income you make on average. You've told me
2 it's 50 percent from consulting work and sex
3 abuse cases.

4 In a vacuum, that doesn't really
5 tell me a whole lot.

6 A. Yeah.

7 Q. If I knew that you made \$200,000 a
8 year, then I would be able to know that you
9 made \$100,000 a year from consulting.

10 A. Well, it's less than a hundred.
11 I'll tell you flat out.

12 Q. Okay.

13 A. It's less than a hundred. But I
14 can't tell you right now exactly how much.

15 Q. All right. Is it more than 75?

16 A. Maybe around there.

17 Q. Somewhere --

18 A. Somewhere around there.

19 Q. 75,000?

20 A. Might have been around there.

21 Q. Is that typical?

22 A. I'd have to go back and compare.

23 Because it's hard for me to say because, you
24 know, I was active duty military for many

1 years.

2 Q. Well, in 2007, the tax return
3 you're getting ready to file, you think your
4 income from consulting work in the sex abuse
5 cases is more than that, more than 75,000?

6 A. Probably about the same. Might be
7 more but may be the same.

8 Q. Do you presently live in community?

9 A. No.

10 Q. Do you know what I mean when I say
11 live in community?

12 A. I'll cut to the chase. I'm
13 exclaustrated. You know what that means?

14 Q. Well, spell it for us.

15 A. E-X-C-L-A-U-S-T-R-A-T-E-D. It
16 means I got official permission to live
17 outside community and live on my own,
18 support myself.

19 Q. Claustrated?

20 A. It means cloister. I don't have to
21 live in the cloister. And it was not a
22 punitive damage or punitive measure. It's
23 not -- it's nothing. It just means that I
24 wanted to do it that way.

1 Q. That's something you asked for.

2 A. That's right.

3 Q. They didn't kick you out or
4 anything?

5 A. No.

6 Q. They being the Central Province.

7 A. No.

8 Q. Okay.

9 A. They were very supportive.

10 Q. Ordinarily as a member of the
11 Dominicans, you would live in community?

12 A. Not anymore. Ordinarily, the hope
13 is that you live in community. But a lot of
14 men don't live in community. They live on
15 their own depending on what they do. A
16 number of men choose not to live in
17 community, even though there's community
18 available for them to live. They live
19 either on their own or in a very small
20 community with one or two others.

21 Q. Well, typically, it would be you
22 would live in community and you would pool
23 all your money.

24 A. Yes.

1 Q. Any income that you earn goes to
2 the whole group.

3 A. Yes. That's right.

4 Q. The nature of communal living,
5 isn't it?

6 A. Well, that worked well until, you
7 know, the past few decades. And it's just
8 not that practical.

9 Q. Right. But my point being --

10 A. I don't live in community.

11 Q. -- you don't live in community, you
12 don't share your income.

13 A. Yes. I do share my income. I give
14 them -- I give them -- I send them part of
15 my income.

16 Q. You send part of your income to the
17 Central Province?

18 A. Yeah.

19 Q. All right. Why -- how and why do
20 you do that?

21 A. I just do.

22 Q. I mean, how much of your income do
23 you send to them?

24 A. I can't give you a -- I don't know

1 on what the percentage is. It's when I've
2 got, you know, spare money and I feel like,
3 you know, usually three or four -- four or
4 five times a year, I send them a check.

5 Q. You just send them a check out of
6 your own --

7 A. Yeah.

8 Q. -- good will?

9 A. That's right.

10 Q. All right.

11 A. And I send money also to the --
12 it's like a -- it's a contribution to the
13 retirement for the -- for men who don't have
14 enough money to retire on.

15 Q. Do you wear a collar?

16 A. No. I haven't for years.

17 Q. You have been published on numerous
18 occasions on the issue of priest abuse and
19 the scandal that the Catholic church has
20 endured.

21 A. That's right.

22 Q. And is enduring now. Have you done
23 any research in regards to any other
24 religions?

1 A. Yes.

2 Q. And abuse by members -- ministers
3 in those religions?

4 A. Yes, I have.

5 Q. All right. Tell me what you've
6 done.

7 A. I've done documentary research to
8 find out the -- first off, the incidents of
9 sexual abuse and reported sexual abuse in
10 other denominations, some Christian and some
11 non-Christian.

12 I've done research into the impact
13 or the effects on victims of sexual abuse by
14 ministers of other religions and tried to
15 find out what the age groupings are of the
16 victims of ministers of other religions.
17 And I've also looked into how the other
18 denominations have responded officially,
19 knowing -- keeping in mind that there are
20 several different governmental structures.

21 Q. Is there any common denominator
22 between the abuse within the Catholic Church
23 and the abuse in these other religions?

24 A. The only common denominator I think

1 that there is between abuse of any kind of
2 clergy person and the victim is the power
3 differential, the fact that a clergyman or
4 clergy woman has a significant amount of
5 power over a victim. And 99 percent of the
6 time, another common denominator is that the
7 victims are nearly always devout, practicing
8 members of the denomination.

9 Q. Whatever the denomination is?

10 A. Whatever the denomination. As I've
11 often said, you know, no priest is going to
12 get his hands on Jimmy Swaggart's grandson.

13 So usually, that's the entree, not
14 always, but in 90 some percent.

15 Q. They have to be of the same
16 religion?

17 A. They don't have to be, but often
18 times they are. Because that's -- that's
19 where you get -- you begin the relationship,
20 and the trust and the dependency is already
21 built in.

22 Q. And you said -- have you published
23 anything, any of your research regarding
24 that?

1 A. No. I've mentioned it in some of
2 my articles that I've written, but I haven't
3 published anything. Because unfortunately,
4 there is not that much available on -- I'm
5 getting ready to publish an article, I've
6 sent the draft in, that talks about the
7 spiritual effects of sexual abuse by
8 clergy. And in that, I'm speaking about the
9 spiritual effects not only of Catholics but
10 some of other denominations. And that's
11 based on some concrete information.

12 Q. How did you obtain information
13 regarding abuse of other religions?

14 A. I did it by contacting people who
15 deal with this in other religions by doing
16 as complete a literature search as I could
17 do to see if any other studies had been
18 done, and there had been. Some very
19 restrictive studies have been done, and
20 certainly, a lot of writing has been done in
21 some other religions but not as much
22 prominent research as with regard to the
23 Catholic Church.

24 Q. Did your research indicate that

1 members of a religious -- in other
2 denominations were moving around from
3 location to location?

4 A. No. Because most of the other
5 denominations, the governmental structure is
6 not such that there's an authority figure
7 who can move the clergymen around from place
8 to place. For instance, I've done work with
9 the Jehovah's Witnesses, with the Latter Day
10 Saints, with the Baptists, of the Church of
11 God in Christ. And none of them have a
12 governmental structure such as the Roman
13 Catholics where priests are simply
14 assigned.

15 You're not hired by a parish or by
16 a religious order. So that's the
17 difference.

18 Q. I understand that the abuser is not
19 being moved by a person with higher
20 authority. But did your research indicate
21 where the abuser himself is moving from
22 location to location?

23 A. Yes.

24 Q. And committing the acts again?

1 A. Yes. There is -- there is
2 significant evidence that in some
3 denominations, the abuser has gone from one
4 parochial environment, one parish, to
5 another or from one ministerial setting,
6 whether it's parish or college to another,
7 and been hired by another community who
8 either didn't take proper precautions in
9 getting him or hired in spite.

10 Q. Is that peculiar to any
11 denomination, or is that pretty much across
12 the board?

13 A. It's hard for me to say, because
14 there's so many different denominations,
15 and -- like the Baptist. There's, you know,
16 27 different kinds of Baptists. So I can't
17 tell you. I've dealt with Southern Baptist
18 Convention and I think American Baptist.

19 But I can't sit here and tell you
20 that this is a theme with them, because I've
21 not had that extensive experience.

22 Q. Were you retained by the Southern
23 Baptist to do research, or did you do it on
24 your own?

1 A. No, no. I've -- there were some
2 incidents came up, and it was reported. And
3 I got interested to see.

4 Because the question -- the line of
5 questioning that you're asking me right now
6 comes up regularly. And I'm interested to
7 find out what the answers are.

8 Q. What has your research indicated to
9 you thus far?

10 A. Thus far, is that the -- as you
11 said, the common line, the common
12 denominator is the power differential or
13 imbalance between the clergyman or clergy
14 woman and the victim. Another common
15 denominator is that the victims are very
16 devout members of the congregation and that
17 there -- the sexual abuse takes place within
18 the context of pastoral work by the minister
19 or the priest or the Rabbi and the victim.

20 Q. Unfortunately, your research has
21 indicated it could happen in any church.

22 A. It could.

23 Q. You had indicated earlier in
24 response to a question to Mr. Lathram

1 that -- I think your words were your travel
2 schedule is a bit crazy right now. Are you
3 traveling as part of your work as an expert
4 in sexual abuse cases?

5 A. That's part of it.

6 Q. How often are you on the road
7 giving depositions or trial testimony?

8 A. I'd have to go back and look at my
9 schedule. Because I give a lot of talks
10 about this and about other issues.

11 Q. All right. Give me some estimate
12 of how often you were on the road last year
13 giving either deposition testimony or trial
14 testimony or assisting lawyers in cases.

15 A. Maybe 40 trips.

16 Q. Forty trips?

17 A. That's a rough estimate. I can't
18 give you anything intelligent, because I
19 don't have a calendar in front of me.

20 Q. You said repeatedly that you've
21 given talks on several occasions. Who were
22 you giving your talks to?

23 A. Different groups wanting me to give
24 a talk. They asked me if I'd give a talk on

1 either issues relative to the Catholic
2 Church, on Canon law, on sexual abuse.

3 Q. Are you -- are those -- I mean, are
4 you speaking before lawyer groups?

5 A. I've spoken before lawyer groups.

6 Q. Which lawyer groups have you spoken
7 before?

8 A. I've spoken before the ATLA.

9 Q. That's American College of Trial
10 Lawyers?

11 A. That's right.

12 Q. Excuse me. American Trial Lawyers
13 Association?

14 A. That's right.

15 Q. The plaintiff's lawyers.

16 A. Yeah.

17 Q. All right. How often have you
18 spoken before them?

19 A. Once.

20 Q. All right. When was that?

21 A. About two years ago, I think, a
22 year or two.

23 Q. Do you know where that was?

24 A. Toronto.

1 Q. And what was the subject of your
2 talk?

3 A. I gave a talk after they gave me an
4 award.

5 Q. They gave you an award. Okay.

6 A. Yeah.

7 Q. What award did they give you?

8 A. Community Hero award.

9 Q. Was that having to do with anything
10 in particular?

11 A. I think it was in -- had to do in
12 particular with the -- with the work I'd
13 done with victims.

14 Q. Any particular victims?

15 A. No.

16 Q. How long have you been serving as
17 an expert?

18 A. 1988 was the first time, '88 or
19 '89.

20 Q. That's the first time you were
21 hired by some lawyer to serve as an expert?

22 A. Well, I wasn't hired. I was an
23 expert. But I didn't think I got any money
24 out of that one. I didn't know enough to

1 ask for it.

2 Q. Okay. You got hired but didn't ask
3 to get paid.

4 A. Yeah. That's -- that's happened a
5 lot.

6 Q. Okay.

7 A. I didn't even know I was an expert
8 witness until after the whole thing was
9 over.

10 Q. When were you exclaustrated?

11 A. In I think 2005, 4 or 5.

12 Q. Prior to that, what was your
13 involvement with the Central Province?

14 A. Well, I was just a member.

15 Q. Why were you exclaustrated in 2005?

16 A. Because I wasn't going to be living
17 in community. I had come -- I was concerned
18 that I wanted to do -- have my situation --
19 a lot of the men that live on their own
20 either just get simple permission to do it
21 or they get what's called a leave of
22 absence.

23 And I preferred, probably because
24 of my legal background, to have an

1 exclausturation, which is much more formal,
2 more formal in the sense it's more
3 traditional.

4 Q. You mentioned Father Sartain, Peter
5 Sartain?

6 A. Yeah.

7 Q. Do you know Bishop Sartain now?

8 A. No. In fact, I didn't even know I
9 knew him until I came in here the other day
10 and saw that letter that I exchanged with
11 him back in 1985.

12 Q. Were you involved in the Lafayette,
13 Louisiana case?

14 A. Yes.

15 Q. What was your involvement in that
16 case?

17 A. That's how I first got involved
18 with this whole issue. I was working at the
19 Vatican Embassy. And I was tasked by my
20 boss, Archbishop Laghi, to follow the
21 documentation and apprise him of what was
22 going on in the case as it developed.

23 Q. Did you act as an expert for either
24 side in that case?

1 A. No. No.

2 Q. You just monitored it and followed
3 the developments?

4 A. I monitored it. I was like the
5 middleman.

6 Q. Middleman for?

7 A. Between the Papal Nuncio and the
8 Diocese.

9 Q. Earlier in your testimony, you made
10 the statement that neither of these
11 disorders can be cured. And I assume one of
12 them you're talking about was pedophilia?

13 A. That's right.

14 Q. What's the other one?

15 A. Ephebophilia.

16 Q. Spell that.

17 A. E-P-H-O-B. Wait a minute. Let me
18 write it down. E-P-H-E-B-O-P-H-I-L-I-A.

19 Q. And what is ephebophilia?

20 A. It's a -- it's a disorder, a sexual
21 disorder, whereby an individual is either
22 exclusively or intermittently sexually
23 attracted to young adolescents, an adult,
24 male or female, that's sexually attracted to

1 young adolescents.

2 Q. And it's different from pedophilia
3 because of what?

4 A. It's different from pedophilia
5 because I believe of the intensity and
6 because of the nature of the object of the
7 attraction. Pedophilia refers to
8 pre-pubescent children, male or female.

9 And I'm not a psychologist, as you
10 know. So all I can tell you is what I've
11 read and what I've heard. I understand that
12 the compulsion level of a pedophile is much
13 greater than that of an ephebophile. And
14 I'm sure there are other clinical
15 differences that I'm not competent to get
16 into.

17 Q. Mr. Lathram asked you some
18 questions about the incident at Saint Louis
19 University. You know what I'm talking
20 about?

21 A. I believe so.

22 Q. And he showed you the police
23 report?

24 A. That's right.

1 Q. That would make that incident
2 unusual when dealing with these priests
3 abuse cases, wouldn't it, just the fact that
4 you have a police report?

5 A. No. There's a lot of police
6 reports. I've seen a lot of them over the
7 years in my experience.

8 Q. In any of the cases that you
9 mentioned earlier with Mr. Lathram, was
10 there a police report besides the St. Louis
11 incident?

12 A. You mean the ones --

13 Q. All those priests you mentioned
14 earlier.

15 A. I don't know. Because as I said to
16 Mr. Lathram, I haven't reviewed all the
17 complete files on each and every one of
18 those. I believe there's 13 or 14, and I
19 haven't had the opportunity to do that. So
20 I don't know.

21 Q. But I mean, one of the hallmarks of
22 an abuse case is secrecy. Right?

23 A. That's right.

24 Q. If there's a police report, you no

1 longer have any secrecy, do you?

2 A. What's secret about it is the fact
3 that usually the individual in the time of
4 acting out or having engaging themselves in
5 either complete sexual contact with the
6 individual or the grooming is often times
7 secret.

8 Q. Well, isn't the actual act that's
9 being the history of it secret, also?

10 A. Yeah. Usually, it's secret. I
11 mean, I don't know of cases -- I mean,
12 ordinarily, if you're going to move in and
13 have sex with a child, you would have to do
14 it with much --

15 Q. You'd prefer no one to know about
16 that, wouldn't you?

17 A. Most people would.

18 Q. Okay. So here you've got the
19 police where they actually made an
20 investigation in St. Louis. Right?

21 A. That's right.

22 Q. Okay. And what was the result of
23 the investigation?

24 A. All I can tell you is what I read

1 in the report. The result of the
2 investigation was that there was some sort
3 of gestures that he was accused of making in
4 front of these two boys.

5 Now, there's also reference in one
6 of the letters of Father Rodriguez to
7 Timothy Radcliffe that there were -- no. I
8 take that back.

9 There's a reference to a letter, I
10 think it was from Bishop Sheridan to the
11 Dominicans, that there were two actual
12 victims in St. Louis. I'm not sure if they
13 were the same ones or others. It wasn't
14 clear to me.

15 Q. I'll represent to you, I think
16 they're different.

17 A. Okay.

18 Q. I want to just focus on the one
19 thing that I was asking you about --

20 A. Yeah.

21 Q. -- which is the St. Louis incident.

22 A. I wasn't sure if they were the same
23 or different. So all I can tell you about
24 St. Louis is what I read in the report that

1 was given to me, which I'll dig out right
2 now.

3 Here it is right here. Okay.

4 Q. And on that case, the police
5 investigated but didn't see fit to make an
6 arrest.

7 A. That's right.

8 Q. You think the police made a
9 mistake?

10 A. I'm not making any statement or any
11 judgment on that at all. All I know is that
12 it was something that happened here. They
13 observed something. But it didn't
14 constitute enough to raise to the level of
15 criminal behavior on his part.

16 Didn't mean it was inappropriate;
17 it was not inappropriate. But that's all
18 there was.

19 I don't think -- I don't know that
20 the Order conducted any in depth
21 investigation, either.

22 Q. All right. You've lost me a little
23 bit. Are you saying that there's no way of
24 knowing whether abusive conduct took place.

1 at that time?

2 A. I didn't see any evidence of actual
3 physical conduct. But there was some sort
4 of gestures that something these boys saw
5 that they took exception to.

6 Q. And the police met with Duran on
7 two occasions?

8 A. Yes.

9 Q. And he gave them some explanation
10 that apparently they thought was plausible?

11 A. That's it.

12 Q. And yet, you still -- it's your
13 opinion that the fact of this Saint Louis
14 University incident should have been
15 disclosed?

16 A. Yes.

17 Q. Do you speak Spanish?

18 A. No.

19 Q. You've made several statements
20 earlier that made me think that you spoke
21 Spanish. Do you speak any other foreign --
22 any foreign languages?

23 A. French.

24 Q. Do you know what the word joven

1 means?

2 A. Youth, young people.

3 Q. Okay. How do you know that?

4 A. Because I read it here. Somebody
5 asked that in part of the interrogation, and
6 I know enough Spanish to know that. I can
7 also -- I'm fluent in Latin, as well.

8 Q. That would be a foreign language.
9 I don't where you would go to speak it.

10 A. Well, you know, you would be
11 surprised.

12 Q. Okay. All right.

13 A. You can go to any -- the
14 universities in Rome, you can hear it
15 spoke. Doesn't mean you're going to
16 understand it, but you can hear it.

17 Q. But your knowledge of the term
18 joven came from your review of records in
19 this case.

20 A. That's right.

21 Q. Okay. And you say young person.
22 What is the age of a joven?

23 A. A youth, I suspect, is -- you know,
24 it would be someone that was anywhere from

1 zero to 13 or 14 or 15. I don't know.

2 Q. Who told you that?

3 A. Nobody. I just said that.

4 Q. Well, how did you -- if you didn't
5 know what the word joven meant --

6 A. Well, it means youth. I mean, what
7 do you normally consider to be a youth or
8 teenager or below. We could dick about
9 numbers from now till next week. But not
10 exactly sure that there's a specific legal
11 definition of what joven means. It's a
12 youth.

13 Q. Okay. Did you read Father
14 Rodriguez's deposition?

15 A. Yes, I did.

16 Q. And in that deposition, the subject
17 of a joven came up? You recall that?

18 A. I believe it did.

19 Q. And Father Rodriguez testified, if
20 I recall, that a joven is a young person but
21 it could be an elderly teenager.

22 A. Sure.

23 Q. Do you agree or disagree with that?

24 A. I don't disagree, because I don't

1 speak Spanish. He does.

2 Q. There was a discussion regarding
3 the supervision of Duran. Do you recall
4 that discussion you had with Mr. Lathram?

5 A. Supervision here in Memphis?

6 Q. That's what I think he was talking
7 about.

8 A. Yeah.

9 Q. Do you recall that? Who was
10 Duran's employer?

11 A. The Diocese of Memphis.

12 Q. Do you know how Duran was paid?

13 A. I saw some documentation on that,
14 and I believe he was paid by the Diocese.

15 Q. Half by the Diocese and maybe half
16 by the parish?

17 A. Could have been. I mean, it wasn't
18 that vital to my information. I didn't
19 absolutely need to know how exactly he's
20 paid. That doesn't determine the
21 supervisory duties at all.

22 Q. Okay. And why do you say that?

23 A. Because I mean, he could be -- who
24 his supervisor is, who has authority over

1 him and what he does is not determined by
2 who pays him.

3 Q. All right. Is that a legal
4 statement you're making?

5 A. It's a canonical statement.

6 Q. I'm sorry?

7 A. It's a canonical statement. He
8 could have been paid by a grant from the
9 Knights of Columbus for all I know.

10 Q. Okay.

11 A. But his supervisor, his superior
12 while working in the parish is the pastor
13 for what he does in that parish.

14 Q. He was, no doubt in your mind,
15 supposedly supervised by Father Mickey?

16 A. That's right.

17 Q. And his ultimate boss would have
18 been Bishop Steib?

19 A. And the Dominican Provincial or the
20 superior.

21 Q. You had made the statement you were
22 aware that Father Mickey had difficulties
23 with Duran.

24 A. That's right.

1 Q. Did you see anywhere where Father
2 Mickey relayed those difficulties to anyone
3 at the province?

4 A. I'd have to go back and look at
5 Father Mickey's deposition again. But
6 something sticks in my mind that he did
7 communicate something to someone about the
8 fact that Father Duran was not accepting the
9 fact that he was his supervisor. He thought
10 that he was acting independently.

11 Q. You don't know if that was where he
12 communicated with the province or someone
13 else with the diocese?

14 A. Might have been with the diocese.
15 I don't know if he had that much
16 communication with the Dominicans.

17 Q. You made the statement that the
18 supervisory relationship between Father
19 Mickey and Duran should have been clarified.

20 A. That's right.

21 Q. What needed to be clarified?

22 A. What needed to be clarified was,
23 you know, what his duties were in the
24 parish. Should have been -- there should

1 have been a written document or written
2 contract. That's normally how it's done
3 from my experience, at least.

4 I don't know how the Southern
5 Province does it in other instances nor the
6 Diocese in Memphis. But in a situation like
7 this from my experience is you go in there,
8 Father so and so is a member of the
9 religious Order. There's a -- there's a
10 document that's drawn up indicating what his
11 duties would be, what his recompense would
12 be, who he's going to be answering to in the
13 parish, whether it's the pastor, whether
14 it's a director of religious education or
15 someone else. And that wasn't clarified.

16 Q. I think you made it clear that the
17 Dominican Province failed to relay
18 information to the Diocese that you thought
19 the Diocese should have been told. Is that
20 correct?

21 A. That's correct.

22 Q. All right. I want to ask -- I want
23 to ask you some questions about after the
24 fact. After the incident came to light,

1 okay, do you have an opinion as to whether
2 it was handled correctly or incorrectly?

3 A. After it came to light, my
4 understanding is that a report was made to
5 the Dominicans and the Dominicans relayed
6 this to the Diocese pretty quickly is what I
7 recall.

8 Q. I'll represent to you I think it
9 was backwards. I think you've got it
10 backwards.

11 A. The Diocese got it first?

12 Q. I think on February 7th was the
13 night of the incident at the church.

14 A. Okay.

15 Q. And somewhere either on February
16 8th or February 9th, Carmen Graves notified
17 the Diocese.

18 A. That's right.

19 Q. And then by the end of that week,
20 that's when Father Rodriguez came to
21 Memphis.

22 A. Rodriguez came to Memphis, and
23 there was a meeting at I believe Carmen
24 Grave's home.

1 Q. Right.

2 A. She was there. Rodriguez was
3 there. ~~He~~ was there. His family was
4 there.

5 Q. And representatives of the
6 Diocese.

7 A. And what's the lawyer --

8 Q. Deacon Wells?

9 A. Deacon Wells was there.

10 Q. And Jim Kleiser?

11 A. Okay. But nobody else.

12 Q. I think.

13 A. That's right.

14 Q. Do you have an opinion as to

15 whether the Southern Dominican Province

16 handled their investigation correctly after

17 being notified of the incident involving

18 Duran?

19 A. All I know is what I saw and that
20 that's all they did. I think they provided
21 some support for ~~the~~ after as far as

22 financial support and so on.

23 I don't know if there was follow-up

24 with the family, which there should have

1 been some sort of pastor follow-up. The one
2 thing I did take objection to is the fact
3 that I believe Bishop or Father Rodriguez
4 said in his deposition that the family
5 didn't want -- they wanted to keep it quiet
6 and not make any noise about it. Whether
7 the family wanted that or not, somebody
8 should have explained to them that this is a
9 criminal act and this has to be taken beyond
10 this, it has to go to another level.

11 Q. All right. Let's talk about that.
12 Did you see in the records that the parties
13 contacted a doctor? I'll call
14 her ^{Dr.} because I'll misspell her
15 last name.

16 A. No.

17 Q. I'll represent to you that she was
18 called and advised that if he comes to see
19 me, I'm going to report it to the police.

20 A. I didn't know that.

21 Q. All right. Well, I'll represent to
22 you that's true.

23 A. Okay.

24 Q. Assume that's true.

1 A. Assume that's true.

2 Q. -- And that the family decided they
3 didn't want him to go to Dr. Do you
4 think that was right, wrong?

5 A. No. I think that was incorrect. I
6 think the family should have been advised
7 and counseled that this is very serious and
8 that there could be other people involved
9 and that that report has to be made to both
10 Child Protective Services and to the police.

11 Q. I'll represent to you,
12 subsequently, the young man was seen by
13 three separate counselors here in Memphis,
14 Tennessee --

15 A. Okay.

16 Q. -- over the next few years. I'll
17 represent to you that not one of those
18 counselors reported it to the police. I
19 take it then it's your opinion each one of
20 them were in error.

21 A. I'm not talking about them. I'm
22 just talking about the Dominicans. They
23 should have reported it.

24 Q. I want to make sure I understand

1 your contention. They should have reported
2 it, also. Right?

3 A. I don't know what they did. Based
4 on what you're saying -- I don't know how
5 old he was when they saw him or what the
6 reporting rules for those counselors, what
7 their ethical responsibilities were. I
8 don't know that.

9 Q. Why is that important?

10 A. Because that would be important as
11 far as whether it's a legal obligation or an
12 ethical obligation as far as counselors in
13 the state of Tennessee. If they had come to
14 me, let's say in the state of Virginia, at
15 15 years old and said I was sexually abused
16 by somebody, I've got to report that as a
17 counselor.

18 Q. If somebody had come to you that
19 was 15 years old and said they were sexually
20 abused, they would have to report it?

21 A. I would have to report it.

22 Q. Okay. Do you know what the law is
23 in the state of Tennessee?

24 A. No. I could guess that if he was

1 14 at the time, he's still a minor.

2 Q. But you don't know what the law
3 is --

4 A. No.

5 Q. -- on reporting these type of
6 claims?

7 A. No, I don't.

8 Q. Okay. You don't have an opinion as
9 to whether the counselors should have
10 reported the claim, the act?

11 A. No. I don't think I'm competent to
12 do that because I don't know anything about
13 the --

14 Q. And if the young man and his family
15 didn't want the police involved, you think
16 they still should have called the police?

17 A. No. I think what should have
18 happened is that they should have been
19 counseled and they should have been -- and I
20 understand what their apprehensions were.
21 They're very strong Catholics. They were
22 probably filled with a lot of confusion and
23 a lot of fear at the time.

24 But I think they should have been

1 counseled and advised that, you know, this
2 is -- this has to happen, this is not just
3 involving us, it could involve others.

4 Q. What if they still didn't want the
5 police called?

6 A. Sure. They still didn't, but it
7 should have happened, anyway.

8 Q. I said what if they -- you did that
9 counseling --

10 A. Oh.

11 Q. -- and advised them of that and
12 they still didn't want the police called?

13 A. Sexual abuse of a 14-year-old, as
14 far as I understand, is a crime, and I think
15 they should have been notified. My opinion
16 is, yes, just as a --

17 Q. Notify them? Why would they even
18 need to counsel them to notify them? Why
19 not just call the police?

20 A. They should have done that.

21 Q. Okay. So I'm trying to -- well, I
22 want to get your opinion on --

23 A. My opinion is they should have
24 called the police right away.

1 Q. Anybody that counseled this young
2 man and didn't call the police made a
3 mistake as far as you're concerned?

4 A. No. I said that the Dominicans or
5 somebody, when they first found out about
6 this, should have notified the police. And
7 they're the ones that made the mistake,
8 either the Diocese or the Dominicans or as
9 both. Because both of them had authority
10 over Duran.

11 Q. In your book, Sex Priests and
12 Secret Codes, there's a statement in there
13 about you. It says you have interviewed
14 over 2,000 survivors?

15 A. I've talked with over 2,000
16 survivors. I wouldn't use the term
17 interviewed. In some cases, I've
18 interviewed. Sometimes that has been
19 extensive relationships, sometimes just one
20 or two sessions. But that's I think more
21 than that by now.

22 Q. All right. I'm reading. There's
23 no page at the back of your book, but it's
24 where the -- the page about the authors.

1 And it says he -- it's talking about you
2 now -- is a long-time advocate for victims
3 of clerical sex abuse and has interviewed
4 over 2,000 survivors.

5 A. I understand. I got it.

6 Q. Were most of those -- what
7 percentage of those people were actually
8 plaintiffs in lawsuits or potential
9 plaintiffs?

10 A. I would probably say most of them
11 weren't.

12 Q. Most of them were not?

13 A. When I was involved with them, I
14 didn't -- most of the people that I've done
15 extensive work with have not -- some of them
16 have been plaintiffs in lawsuits but not
17 necessarily lawsuits I was involved in.

18 Q. How did you get connected with
19 those 2,000 survivors?

20 A. I've been involved with survivors
21 that have known who I am. They'd call me.
22 I meet them at gatherings. I'm referred to
23 them. I visit them. In any number of
24 ways.

1 Q. Are all of these what you refer to
2 as survivors, are they all actual victims,
3 or are some of them family members of the
4 victims?

5 A. In addition to the -- those are the
6 victims. Then in addition to that, I got the
7 family members that I've dealt with a lot,
8 too.

9 Q. When you refer to survivors, you're
10 talking about a victim, not somebody related
11 to the victim.

12 A. That's right.

13 Q. You may have been asked this, but I
14 don't recall. Had you ever met Duran
15 before?

16 A. No, I haven't. I don't think I
17 even heard of him.

18 Q. Do you know when the Southern
19 Dominican Province was formed?

20 A. Yeah. I think I do. I think
21 1973. I may be wrong on that. But it was
22 in the 70s. '77 or '73.

23 Q. From your review of the documents
24 in this case, are you aware that Duran was

1 originally a member of the Central Province?

2 A. Yes.

3 Q. And that would have been at a time
4 when you were also a member of the Central
5 Province?

6 A. Well, I've been a member of the
7 Central Province all the way through. He
8 was only a member of the Central Province
9 from 19, I believe, 91 until '94 or 5.

10 Q. But you were in the Central
11 Province at that time?

12 A. Yes.

13 Q. And do you know -- what do they --
14 what's the name -- what's the term for when
15 everyone in the Province gets together?

16 A. Well, they have two things.
17 Provincial assembly is when everybody gets
18 together, and provincial chapter is when
19 representatives to the chapter get together,
20 elected or appointed representatives.

21 Q. Provincial assembly is when
22 everyone in that province gets together.

23 A. That's right.

24 Q. And how often are there assemblies?

1 A. Usually, every three to four --
2 three years, I think.

3 Q. Do you have an estimate of the
4 number of members of the Central Province
5 back in the early 1990s?

6 A. The number of members?

7 Q. Yes, sir.

8 A. Just a ballpark, couple hundred,
9 maybe.

10 Q. Would you go to the assemblies?

11 A. I've gone to them before. I
12 haven't gone to them recently, because I was
13 in the air force for 20 some years and never
14 could. But I went -- I went to two or three
15 of them while I was in the air force when I
16 was available.

17 Q. All right. If available, if
18 present and available, is attendance
19 mandatory?

20 A. No.

21 Q. All right. If you would, tell me
22 your criticisms regarding the actions of the
23 Province. When I say the Province, I mean
24 the Southern Dominican Province.

1 A. Southern Dominican Province?

2 Q. Yes, sir.

3 A. Okay.

4 Q. While you're looking up something,

5 let me ask you this question.

6 A. Sure.

7 Q. Do you know Father Martie Gleason?

8 A. No. I may have met him, but I

9 can't recall.

10 Q. Go ahead.

11 A. Okay. The basic criticism of the
12 -- of the Southern Dominican Province is
13 that they had a document that said this man
14 was in the Franciscans and he was expelled
15 from the Franciscans. And that document was
16 known by them, and it was never disclosed
17 nor taken into consideration when they
18 allowed Father Juan Carlos to make his final
19 vows in 1996 or his ordination in '96 to
20 diaconate or priesthood.

21 That information was -- they were
22 aware of that. Father Trutter was aware of
23 that. And I can presume -- I'm only
24 presuming, but I'm not certain, that Father

1 Rodriguez was aware of that.

2 Q. Do you know what it was that caused
3 Duran to be expelled by the Franciscans?

4 A. Yeah. It was reported that he was
5 caught sexually involved in one degree or
6 another with a young -- a joven, a youth,
7 who was a child of a lay employee at a
8 Franciscan community in Bolivia.

9 Q. Any other criticisms of the
10 province?

11 A. As I said, there's a lot of gaps in
12 the -- we spoke at length about the
13 curriculum vitae. And there's a lot of gaps
14 in that curriculum vitae that should have
15 been investigated by the Southern Dominican
16 Province before they affiliated this man or
17 before they gave him final vows, but there
18 weren't.

19 There's no mention of his studies.
20 It's simply unclear where he attended
21 seminary, how he did in the seminary.
22 There's nothing -- no mention. There was no
23 follow-up on the letter from the
24 Franciscans. And that should have been

1 done.

2 Q. You're referring to the CV dated
3 1998?

4 A. Yes, I am.

5 Q. Why would that have been important
6 to the Province?

7 A. Why would that have been important
8 to the Province?

9 Q. Yes.

10 A. Because it's required first off by
11 Canon law before you give a man final vows,
12 which they gave him in --

13 Q. What's required of the Province?

14 A. If he's been in another diocese or
15 another community, that there be information
16 provided as to how he did in that
17 community.

18 And in this particular case,
19 because he was -- he was evicted from that
20 community for reasons involving, you know,
21 sexual interaction with a joven, a youth,
22 that should have been investigated. It
23 wasn't investigated thoroughly by the
24 Central Province when he initially applied

1 for entrance into the Dominican Order. That
2 should have been made available to them.
3 That should have been asked in 1991 before
4 he even got in novitiate, but it wasn't.

5 It was not investigated during his
6 novitiate year by the Central province,
7 which it should have been -- it should have
8 been done.

9 There were problems with Juan
10 Carlos while he was in the -- in the
11 Bolivian Vicariate that are made clear in
12 the letter which Pat Rearden sent to Father
13 Trutter.

14 Q. What was that -- what were those
15 problems?

16 A. Well, first off, he talks about the
17 fact that Juan Carlos -- he talked about
18 his -- he said his entrance into our
19 vicariate was very dubious, to say the
20 least. He was previously expelled from the
21 Franciscan Order for immoral behavior --

22 Q. Let me write this down.

23 MR. SMITH: Let him finish.

24 MR. VESCOVO: I just want him

1 to identify what he's reading.

2 MR. SMITH: I'm sorry. Go
3 ahead.

4 A. I'm reading from this letter
5 December 19th, 1994 sent by Pat Rearden, the
6 superior in the Bolivian Vicariate.

7 BY MR. VESCOVO:

8 Q. The date, again?

9 A. December 19th, 1994. And he sent
10 that letter to --

11 Q. Hold on just a second. I want you
12 to read it. I just want you to identify
13 it.

14 A. Okay.

15 Q. December 19th, '94.

16 A. '94.

17 Q. From?

18 A. Pat Rearden.

19 Q. Do you know Father Rearden?

20 A. Yes, I do.

21 Q. Is he in Chicago?

22 A. No. He's in Bolivia.

23 Q. He's in Bolivia now?

24 A. Yeah. He's been in Bolivia most --

1 as long as I've known him, he's been in
2 Bolivia.

3 Q. When is the last time you spoke to
4 Father Pat?

5 A. Years ago. I think I saw him at a
6 provincial chapter.

7 Q. Okay. At the time -- this letter
8 is to -- this letter has previously been
9 marked as an exhibit.

10 A. Yeah. It's SDP 343.

11 Q. And this is letter from Pat Rearden
12 to Father Trutter?

13 A. Carl Trutter. That's right.

14 Q. And at this time, Duran is still in
15 the Central Province?

16 A. Yes.

17 Q. I take it you have criticism of the
18 Central Province even wanting him to
19 transfiliate to the Southern Province. Is
20 that right?

21 A. Sure.

22 MR. SMITH: Now, are you going
23 to let him read it?

24 MR. VESCOVO: Now, I'm going to

1 let him read it.

(BRIEF PAUSE)

2
3 A. Father Pat is transmitting
4 information about Juan Carlos Duran to Carl
5 Trutter. And I'm not sure if Trutter asked
6 him for this information. It's not clear.
7 But he's telling him quite clearly, though,
8 that his entrance to the Central Province
9 was dubious, that he's not even sure how the
10 guy got into the Central Province in the
11 first place, based on the information he had
12 from the Franciscans.

13 And the next letter --

14 BY MR. VESCOVO:

15 Q. What you were reading from is
16 Exhibit 135?

17 A. Yeah.

18 Q. Okay.

19 A. Now, then there's another letter
20 whereby Carl Trutter responded to Pat
21 Rearden. This is dated January 2nd, 1995.
22 And it says at the top Exhibit 14, SDP 342.

23 MR. LATHRAM: I believe today,

24 that's Exhibit 137.

THE WITNESS: Okay.

1

2 BY MR. VESCOVO:

3 Q. Okay.

4 A. Now, this is interesting. Because
5 Carl Trutter says to Rearden, in regard to
6 Juan Carlos, we did have rather thorough
7 information -- skip the word him --
8 including the past. Both provincial
9 councils voted in favor of his
10 transfiliation, and Timothy approved it.

11 Q. Now, when he says both provincial
12 councils, he's referring to the Central
13 Province and the Southern Province?

14 A. And the Southern Province. And my
15 question is, I don't know the answer to
16 this. Did the Southern Province have the
17 information that he had been kicked out of
18 the Franciscan in 1985 for reasons relative
19 to sexual problems?

20 Q. Did the Southern Province -- did
21 the Southern Dominicans know that?

22 A. And it's not clear. Because Father
23 Rodriguez says in his deposition he didn't
24 know anything about this until just before

1 he was deposed. And Trutter says that he
2 gave the information to Father Rodriguez.

3 Q. When it says that both -- what's
4 the term, houses? Both --

5 A. Both councils.

6 Q. Both councils. Were you involved
7 in the council for the Central Province back
8 in '94 or '95?

9 A. No. I was on active duty at the
10 time.

11 Q. Active duty in the military?

12 A. Yeah.

13 Q. How long were you in the military?

14 A. Nineteen years.

15 Q. You've been a busy fellow, haven't
16 you?

17 A. Yeah. I get around a lot.

18 So I wasn't involved in any of
19 this. In fact, I was not involved -- most
20 of my time as a Dominican, I lived outside
21 the province.

22 Q. I want to come back to Exhibit 135.

23 A. Which one is that?

24 Q. That's the December 19 letter.

1 A. Okay.

2 Q. About halfway down, it references a
3 two -- the fourth paragraph down starts off
4 these three students.

5 A. Yes.

6 Q. The second sentence says two are
7 involved in a questionable apostolate, which
8 neither I nor the house knew anything about?

9 A. That's right.

10 Q. Do you know what that's referring
11 to?

12 A. I believe he's talking about that
13 and a student from England. I think his
14 name was Allison, as I recall it. I've seen
15 documentation on him in here. It was some
16 sort of a ministry to homosexuals in
17 Bolivia.

18 Q. Some people in the house were
19 opposed to that?

20 A. That's right. That's what I
21 gathered from what I read.

22 Q. And you think one of the people
23 that was involved in it was Duran?

24 A. Well, yeah. It became clear in

1 subsequent documentation that one of the
2 people was involved was Duran.

3 Q. Duran wanted to do a gay ministry,
4 and some of the people of the house were
5 opposed to that?

6 A. Yeah. And also, there were
7 indications in the documentation that he
8 declared that he was gay. Well, that in
9 itself is neither here nor there as far as
10 I'm concerned.

11 Q. There's nothing to prevent a gay
12 person from being a member of the Southern
13 Dominican Province?

14 A. No.

15 Q. There's nothing to prevent a gay
16 person from being a priest, is there?

17 A. No.

18 Q. A gay person just like a
19 heterosexual person is supposed to be
20 celibate.

21 A. That's it.

22 Q. So he has come out of the closet,
23 so to say -- so to speak, and wants to be
24 active -- wants to have an active gay

1 ministry, and some people in the house don't
2 want him to do that.

3 A. Didn't like that.

4 Q. Okay.

5 A. Apparently, the local Archbishop
6 didn't like it, either.

7 Q. Okay. I mean, is that one of the
8 reasons that you can gather from this letter
9 why Duran left this house?

10 A. I can't get anything clear cut on
11 why he left this house. Although, it's
12 alluded to in several of the letters he
13 didn't get along with people, there were
14 interpersonal problems in regard to that.

15 And I would not -- it's not my
16 opinion professionally or personally that
17 simply because a man is gay or engaged in
18 gay ministry, that that's a reason to
19 exclude him from anything, depending on what
20 it is. I mean, you could -- I have
21 ministered to people that are dying of
22 cancer. It doesn't mean I've got to have
23 cancer to do it or that I've got to contract
24 the disease to do it effectively.

1 Q. Okay. All right. Then you were
2 reading from Exhibit 137. That's the
3 January 2nd --

4 A. That's right.

5 Q. -- 1995 letter?

6 A. That's right.

7 Q. That appears to be Father Carl's
8 response to Father Pat's letter dated
9 December 19, doesn't it?

10 A. It is. That's right. I got it.

11 Q. He says both provincial councils
12 voted in favor of this transfiguration and
13 Timothy approved it.

14 A. That's right.

15 Q. Who's Timothy?

16 A. Testimony Radcliffe was the master
17 general of the order at the time.

18 Q. Timothy Radcliffe would be above a
19 prior provincial?

20 A. He's the top of the heap.

21 Q. All right. Now, at this time, Juan
22 Carlos has not taken his vows as a priest,
23 has he?

24 A. Well, you don't take vows as a

1 priest. You're ordained as a priest.

2 Q. Ordained.

3 A. I understand what you're saying,
4 though. But he was not -- does not get --
5 he was not ordained as a priest until
6 December of 1996. And this was in -- he
7 would have made his first vows in 1992.

8 When he came up to be -- take his
9 solemn vows, they renewed -- they didn't let
10 him take solemn vows at the time. He had to
11 renew for one year, which he did. And he
12 took his solemn vows in 1996.

13 Q. All right. In that Exhibit 137,
14 January 2nd letter?

15 A. That's right.

16 Q. Where Carl Trutter says, as far as
17 I can judge, the events of the past are
18 truly the past, do have you have any way of
19 knowing, as you sit here today, what he's
20 referring to?

21 A. No.

22 Q. You don't know if he's referring to
23 Duran's active gay ministry in Cochabamba or
24 wherever else he was?

1 A. I'm not going to make -- I can
2 only -- I could guess what he's referring
3 to, but I'm not going to. Because Carl
4 knows that Rearden knows about what happened
5 in the Franciscans, and Rearden knows that
6 Carl knows what happened in the
7 Franciscans.

8 It probably was that. But since
9 it's not clear and there was no subsequent
10 contact with the Franciscans to clarify
11 exactly what happened or how he did else
12 wise with the Franciscans, I can't say.

13 Q. Okay. I think when we got started
14 on this subject, the question on the table
15 was what criticisms of the Province did you
16 have.

17 A. Yes.

18 Q. What other criticisms do you have
19 that we haven't discussed?

20 A. Oh, another criticism is the fact
21 that Father Trutter wrote two letters of
22 good standing with regard to Juan Carlos
23 Duran knowing well that he had been in
24 trouble in his past with regard to sexual

1 activities with young people, one of them in
2 1999, when he was aware of the police report
3 and the investigation in 1998.

4 That should have at least been
5 mentioned. Even though it wasn't conclusive
6 that it constituted sexual abuse, it
7 certainly could have constituted
8 inappropriate behavior that was not fitting.

9 Q. And in your opinion, regardless, it
10 should have been reported,

11 A. It should have been reported. And
12 the business about the Franciscans
13 absolutely should have been reported and
14 should have been part of this all the way
15 along.

16 And in addition to that, in letters
17 that Father Rodriguez sent to the master
18 general when it came time for -- they were
19 trying to get Duran laicized or dispensed
20 from his vows, he mentions the fact -- well,
21 they, first off -- let me backtrack the
22 criticisms.

23 The Vicariate of Bolivia and the
24 Central Dominican Province refused to

1 give -- to allow Carlos, Juan Carlos, to
2 remain in solemn vows. They wouldn't give
3 him solemn vows. That's very serious.

4 And the Southern Province took
5 him. And in spite of knowing this, they
6 went ahead and gave him solemn profession.
7 Maybe -- you know, maybe they just took it
8 on faith. I don't know. But I think --

9 Q. He got voted out of the house when
10 he was in the Central Province, didn't he?

11 A. Yeah.

12 Q. Kind of like --

13 A. If you get voted out of --

14 Q. Kind of like Big Brother if you get
15 voted out.

16 A. No. He got voted -- well, that's
17 what happened. Solemn vows is the end of
18 the line if you're religious. If you take
19 solemn vows, you're in for life. That's
20 separate from ordination.

21 So they gave him solemn vows in the
22 Southern Dominican Province, even though he
23 had been voted out in the -- in the other
24 province. And that is very, very serious to

1 --

2 Q. That never should have happened.
3 Is that your contention?

4 A. It never -- he never should have
5 been accepted in the Southern Province. And
6 I'm looking for -- it's a letter -- it's
7 several letters here that leave a lot of
8 dangling participles, so to speak. There's
9 one from Lucio Vargas, who was in -- I
10 believe in Panama. This is dated --

11 Q. Give me the date.

12 A. -- April 20, 1994. And it's a
13 letter of reference for Juan Carlos Duran.
14 This is the English translation. And I
15 would like to just read the paragraph.

16 Q. Can I see what you're looking at
17 first?

18 A. Sure.

19 Q. What you've just handed me is a
20 copy that's already been introduced as
21 Exhibit 134 to your deposition. And on the
22 second page, there is something that
23 purports to be an English translation?

24 A. That's right.

1 Q. And as I understand it, you don't
2 read Spanish?

3 A. No. I mean, I could get through
4 it. But I'm not going to -- at least today,
5 I'm not going to read from Spanish and try
6 to -- you know, I'll rely on the
7 translation. But I've looked back at the
8 Spanish in each case.

9 Q. But you don't know if that's
10 accurate or not is my point.

11 A. No.

12 Q. Okay.

13 A. But I'm presuming it is. It's
14 clumsy, but it's accurate.

15 He says, I understand there are
16 certain matters that the Advisory of the
17 Vicariato -- that, I think, means -- consejo
18 del Vicariato, which means the council.

19 Q. I'm listening. Go ahead.

20 A. Okay. There's certain -- he says
21 here, there are certain matters that came up
22 with regard to Juan Carlos discussed
23 apparently by the Vicariate council, which
24 would have been the five members, elected

1 members of the Vicariate council, that were
2 responsible for passing on certain
3 decisions.

4 And it says here, Juan Carlos
5 personally can explain these. No follow up
6 on that.

7 Q. Just a second.

8 MR. LATHRAM: Off the record.
9 (Whereupon, a brief discussion was
10 held off the record.)

11 BY MR. VESCOVO:

12 Q. All right. What else you got?

13 A. There's a letter in the file from
14 Father David Wright who was the assistant
15 Provincial Central Province where he
16 indicates that he sent the entire file from
17 Bolivia to Father Trutter or Father
18 Rodriguez. I can't remember which one. And
19 this was dated 1995.

20 And in that -- by that, I would
21 have presumed that that would have contained
22 the copy of the letter from the
23 Franciscans.

24 Q. All right. You say you presume

1 it. Why do you presume that?

2 A. Because that file -- that letter
3 was sent to the Dominican vicariate in
4 Bolivia in 1994 in response to an inquiry.
5 And that letter would have been kept in the
6 file in Bolivia. And Father Wright, who was
7 the Vicar Provincial in the Dominicans in
8 the Central Province stated in his letter
9 that he sent this -- he received this file
10 from the Bolivians, and he sent it on to the
11 Southern Province in response to an inquiry
12 prior to Juan Carlos getting solemn vows.

13 Q. There's no way for you to tell
14 actually when that letter -- if in fact,
15 that letter was part of that package or not?

16 A. No, no. I'm just presuming.

17 Q. You have to make an assumption
18 there. Is that right?

19 A. Yeah. That's right.

20 Q. Okay. What else do you have?

21 A. Just a sec here. I'm looking.

22 There's something else here.

23 Q. What are you looking at?

24 A. This is a letter to Father Timothy

1 Radcliffe by Father Rodriguez.

2 Q. What's the Bate stamp on that?

3 A. There isn't one, but it's SDP
4 0328. That may be it.

5 MR. LATHRAM: What's the date,
6 please, sir?

7 THE WITNESS: The date of the
8 letter is February 24, 2000.

9 A. And there's another one. This is a
10 letter that was sent to Father Timothy
11 Radcliffe dated November 29th, 2000. It's
12 after the fact. But Rodriguez says in this
13 letter, quote, he, meaning Duran, uses the
14 words professor from a Latin American
15 perspective. As you can see, he lacks the
16 credentials for such a title, but the
17 courses he mentions, he did teach. The same
18 happens with his psychological training. He
19 says stretched his abilities.

20 I must give it to him that he knows
21 how to use whatever he has received to the
22 utmost. They didn't declare this to the
23 Memphis people when they had their -- any
24 betting of his suitability to be a priest in

1 Memphis.

2 Q. You're looking at a letter dated,
3 what did you say, November 29th of 2000?

4 A. Yeah.

5 Q. So what's that, nine months after
6 the fact?

7 A. Yeah. Now, did Rodriguez -- was
8 this his opinion in 2000, that he'd just
9 suddenly come upon this, or was that their
10 concern --

11 Q. May I see that?

12 A. -- a few months earlier?

13 Q. Where is the resume that he's
14 referring to in this letter?

15 A. The resume would be probably the
16 curriculum vitae that we're talking about.
17 We've got three of them floating around.
18 I'm not sure which one it was.

19 Q. That's my question. You say
20 probably. You really don't know, do you?

21 A. I don't know which one. But
22 whatever one it is, it's the one that makes
23 reference to the fact that he listed himself
24 -- apparently, he wrote his own resume as a

1 professor at some of these schools in
2 Bolivia and also as a professional or
3 director of some sort in drug and alcohol.

4 Q. Can you show me what resume you're
5 referring to?

6 A. Yeah, I can. This one here. I
7 suspect it's that one.

8 Q. All right. I'm looking at the same
9 one.

10 A. Okay.

11 Q. It's Exhibit 145?

12 A. Yeah.

(SHORT BREAK)

13
14 BY MR. VESCOVO:

15 Q. Look at that. I don't see where
16 he's holding himself out as a professor on
17 any of these things.

18 A. Well, one of these -- I'm not sure
19 which one they're referring to, because he's
20 not clear. But he did -- in one of the ones
21 that I saw in here, it was listed he was a
22 professor of something or other. And
23 apparently, that was also on Father
24 Rodriguez's screen. He was aware of it, as

1 well, because he mentioned it to Timothy
2 Radcliffe.

3 Q. Do you know if that could have been
4 a resume that Duran had prepared after
5 February 7 of 2000?

6 A. I have no idea. I can only presume
7 it was prepared before that.

8 Q. I take it, sir, you're not
9 intending to give any testimony regarding
10 the damages sustained by the plaintiff in
11 this case?

12 A. The only testimony I can give in
13 that regard would be the spiritual damage.
14 And I have to talk to them. And I haven't
15 had that opportunity, and I've not been
16 asked to do that. But as far as other
17 damages --

18 Q. How does this case -- go ahead.
19 I'm sorry. I didn't mean to interrupt you.

20 A. I mean, I wouldn't -- that's an
21 issue for the psychologist, I think.

22 Q. You're not -- you have not been
23 asked to give testimony regarding any
24 spiritual damage that the young man

1 sustained.

2 A. No.

3 Q. And as we sit here today, you
4 hadn't talked to him. So you wouldn't
5 know --

6 A. Can't tell.

7 Q. -- what spiritual damage.

8 A. That's right.

9 Q. All right. How does -- I want you
10 to compare this case with these 2,000 other
11 cases that you've interviewed or
12 investigated victims on.

13 The window of the abuse in this
14 case, is it average, above average, below
15 average for these cases that you've --

16 A. What do you mean by window?

17 Q. -- investigated?

18 A. I mean, how do you want me to
19 compare them?

20 Q. All right. I'll tell you how to
21 compare them. Okay?

22 A. Give me some basis, and I can
23 compare them.

24 Q. On a time frame. Was the typical

1 abuse by a priest to a victim long
2 standing? Was it a short period of time?

3 A. There's no typical, because I've
4 seen it across the board. I've seen it
5 where it's happened one or two times and the
6 victim has come forward or it's been
7 discovered. Sometimes they're engaged in a
8 very toxic relationship that goes on for a
9 prolonged period of time.

10 Q. Well, would you call -- would you
11 call this a prolonged period of time?

12 A. I can't -- it was several weeks at
13 least, I think, maybe longer.

14 Q. All right. I'll represent to you
15 that it was some time around the first of
16 the year till February the 7th, first of the
17 year of 2000 till February the 7th.

18 A. Yeah. So it's a few weeks.

19 Q. All right. In that regard, let's
20 say five weeks, maybe six weeks?

21 A. Yeah.

22 Q. Is that typical, not typical?

23 A. It's -- I don't know what's typical
24 and what isn't typical. All I know is it

1 really doesn't matter. What happened is
2 what's important. And what happened is that
3 this young man sustained -- you know, he was
4 sexually abused by Father Duran.

5 Q. What was the nature of the abuse by
6 Duran?

7 A. My understanding is that it was
8 some form of mutual masturbation or one --
9 and I'm not sure if there was oral sex,
10 attempts at anal sex. There were some -- he
11 got involved -- he gave him alcohol. And I
12 think that was what blew the whole thing
13 apart at the end when he came home drunk and
14 his mother was up and Father Duran was
15 dropping him off.

16 Q. Any information you have about the
17 actual abuse either came from the
18 plaintiff's lawyers or from your review of
19 several depositions?

20 A. It didn't come from them. I
21 haven't talked to any of them, any of the
22 family.

23 Q. It didn't come from the plaintiff?

24 A. It didn't come from the plaintiff.

1 That's right.

2 Q. Did you read the plaintiff's
3 deposition?

4 A. Yes.

5 Q. All right. And did you believe the
6 abuse that he testified to in that case?

7 A. Yes.

8 Q. Having actually occurred?

9 A. Yes.

10 Q. And I take it, then -- well, let me
11 ask you this: Do you know if the plaintiff
12 in this case ever came in contact with the
13 genitalia of the abuser, of Duran?

14 A. I believe he did. But I'd have to
15 go back and look.

16 Q. All right. What's the nature of
17 the contact that you recall?

18 A. That it was that. But I'd have to
19 go look -- I mean, I --

20 Q. You say it was that. What was it?

21 A. It was he touched him. I mean, he
22 either masturbated in front of him or he did
23 it to himself. I think there was -- he
24 embraced him or kissed him, perhaps.

1 I don't -- I didn't dwell so much
2 on the details of it, but it happened. And
3 I believe what he said is true.

4 Q. And in your opinion, are the
5 details and the facts, underlying facts, are
6 they important?

7 A. They are important. But I'm not a
8 physician or a psychologist. So I don't get
9 into that with as much interest as others
10 would.

11 Q. Do you know if the young man
12 received any medical attention from a
13 physician?

14 A. I believe afterwards, there was
15 some -- there was some contact with
16 physicians but certainly not before.

17 Q. What is your knowledge of the
18 plaintiff's contact with the physician
19 relating to injuries he sustained in this
20 incident?

21 A. You'd have to ask the physician. I
22 don't know what the degree was, what the
23 degree of injuries were. I just know that
24 he's talked about, you know, his emotional

1 reaction after that. And that's what I'm
2 more concerned about.

3 Q. When I say physician, I mean a
4 medical doctor as opposed to a Ph.D.

5 A. Oh, okay. That, I don't know. I
6 can't recall.

7 Q. You're not aware of any medical
8 treatment that the young man received as a
9 result of injuries he sustained from the
10 abuser, do you?

11 A. I'd have to go back and look. I
12 don't recall immediately right now.

13 Q. I'll represent to you that I'm not
14 aware of any.

15 A. Okay.

16 Q. All right. Is there a typical
17 scenario that the abuser follows as far as
18 what he's trying to do to the victim?

19 A. How do you mean?

20 Q. Let me rephrase that question.

21 That was a horrible question.

22 In this case, what I recall the
23 plaintiff saying is that Duran constantly
24 wanted to give the victim oral sex as

1 opposed to the other way around.

2 A. Yes.

3 Q. All right. Whereas, the young man
4 would be the recipient.

5 A. That's right.

6 Q. All right. Is that typical, not
7 typical, or is there such a thing as a
8 typical case?

9 A. I don't think there is any -- I
10 can't tell you what's typical. But I can
11 tell you what I've experienced in my contact
12 with victims over the years.

13 There's been a significant number
14 where the predator or the perpetrator wants
15 to have oral -- they're compelled to have
16 some form of oral sex with the victim.

17 Q. Be it the giver or receiver?

18 A. Well, performing oral sex on the --
19 on the victim including little children and
20 in some young adolescents such as this. In
21 fact, what I've -- I would say in some
22 instances, that's where it would -- I've
23 seen it begin that way and then escalate to
24 other forms of sexual contact usually

1 culminating in actual -- you know, some form
2 of penetration. In the case of males, it's
3 usually anal penetration.

4 But I can't tell you the typical
5 scenario, because there isn't one.

6 Q. From your review of the plaintiff's
7 deposition, do you believe that there was
8 any anal penetration in this case?

9 A. He was asked that, and I think he
10 said, no, that there wasn't, but there was
11 attempts, but I think he said, no, there
12 wasn't.

13 Q. Is it your understanding that,
14 basically, Duran constantly wanted to give
15 him a blow job?

16 A. He wanted that, and I think he
17 wanted anal sex, as well, but I'd have to go
18 back and look at the details.

19 Q. What makes you say that he wanted
20 that?

21 A. I think. As I said, I'm not -- I'm
22 just not sitting here giving you an ex --
23 you know, ex cathedra statement. I think
24 that -- I think that that's what he said,

1 but I would have to go back and review his
2 deposition.

3 I don't dwell on the details of the
4 sexual content. I look at it. If it was
5 there, it was there.

6 Q. It's your recollection that Duran
7 wanted to perform oral -- excuse me -- anal
8 sex on the young man?

9 A. Maybe. Yeah.

10 Q. Or the other way around?

11 A. No, no. That Duran wanted to do
12 it. I think. I can't -- I'd have to go
13 back and look again, as I said.

14 Q. When is the last time you've
15 reviewed the deposition of the plaintiff?

16 A. Maybe last week.

17 Q. Had you reviewed it prior to that
18 time?

19 A. Yes.

20 Q. On how many occasions have you
21 reviewed --

22 A. About three times, I've looked it
23 over.

24 Q. -- the plaintiff's deposition?

1 A. That's right.

2 Q. Do you have an opinion as to the
3 present status or well being of the
4 plaintiff?

5 A. I've asked. And I understand that
6 his present status is not that good, that
7 he's still emotionally upset. But I don't
8 know what it is.

9 Q. Who told you it's not that good?

10 A. I asked the attorneys how he was
11 doing. And not that good is my term.
12 That's my word. I was just told that he's,
13 perhaps, still suffering the after effects
14 of this.

15 I would not be surprised if that's
16 true.

17 Q. Do victims ever get over this?

18 A. Generally, never. It depends on
19 how -- to what degree. Depends on the kind
20 of professional intervention that takes
21 place to help them heal.

22 Q. But your expertise is not in the
23 damage to the victim?

24 A. No.

1 Q. Your expertise is in the history of
2 the abuse?

3 A. History of the abuse, the
4 responsibilities of the church and the
5 authorities of the church and spiritual
6 damage done.

7 Q. Okay. Have you previously
8 testified in cases involving Dominican
9 priests?

10 A. No.

11 Q. This is -- do you have any other
12 cases currently ongoing involving Dominican
13 priests?

14 A. One.

15 Q. Besides this one?

16 A. Yes.

17 Q. Where is that case?

18 A. In -- well, it's in two places.
19 It's in Washington, D.C. and in New York.

20 Q. Same priest?

21 A. Same priest.

22 Q. Is that the same province?

23 A. Yes.

24 Q. Which province is that?

1 A. New York Province, the Eastern
2 Province.

3 Q. Who was the -- what's the abuser's
4 name?

5 A. Aaron Joseph Cote, C-O-T-E.

6 Q. C-O-T-E?

7 A. That's right.

8 Q. Did you know Mr. Cote?

9 A. Yes, I did.

10 Q. I just have a couple more
11 questions. Coming back to the attachment to
12 the plaintiff's supplemental answers, the
13 declaration of Thomas Doyle.

14 A. Yeah.

15 Q. When I reviewed that, it kind of
16 struck me as that's like a generic
17 affidavit.

18 A. Well, it could be used -- it
19 presents the general context of the
20 institutional Catholic Church.

21 Q. I say generic affidavit because it
22 does not have any particular factual detail
23 regarding the case with Duran. Is that
24 right?

1 A. That's right.

2 Q. This is a declaration you could
3 attach to your discovery response in the
4 2,000 cases that you've been involved in.

5 A. I could.

6 Q. Okay.

7 A. But that was done specifically.
8 That's what they wanted, was a generic
9 declaration on the overall contextual
10 picture.

11 Q. The first time this declaration was
12 ever used was in this case?

13 A. The first time that one was ever
14 used, that particular one, was in this
15 case. Because no two of them are alike.

16 Q. All right. Well, if this one
17 doesn't reference Duran, how is it different
18 from the --

19 A. Because I'm continually doing
20 research into the historical information,
21 the analysis of the historical information
22 and so on. So there's always additions.

23 Q. Do I understand you correctly,
24 then, that you use a declaration in many of

1 your cases, and you're constantly updating
2 them?

3 A. That's right.

4 Q. This was the most recent update.
5 But it didn't have any particular
6 involvement with the facts at hand.

7 A. That's right.

8 MR. VESCOVO: Okay. Give me
9 one minute.

10 (BRIEF PAUSE)

11 BY MR. VESCOVO:

12 Q. My navy partner here wanted me to
13 ask about your service in the Air Force.
14 Did you receive an honorable discharge?

15 A. Yes.

16 Q. When were you discharged?

17 A. August 3rd of 2004.

18 Q. And how many years were you with
19 the Air Force?

20 A. Between 18 to 19.

21 Q. What was your rank upon discharge?

22 A. Major.

23 Q. Major?

24 A. Yeah.

1 Q. And are you collecting a pension
2 from the Air Force?

3 A. No.

4 Q. You didn't have enough years or --

5 A. That's right.

6 Q. -- not old enough?

7 A. I didn't have enough years. But
8 the problem was I had to leave because of my
9 age.

10 Q. That's cold blooded on their part,
11 wasn't it?

12 A. It was cold blooded.

13 MR. VESCOVO: That's all I
14 have.

15 EXAMINATION

16 BY MR. LATHRAM:

17 Q. Just one question. Have you ever
18 testified for the defense in a child sexual
19 abuse case?

20 A. Never been asked to.

21 MR. LATHRAM: That's it.

22 MR. SMITH: Wait a minute.

23 Might not be it.

24 (BRIEF PAUSE)

1 MR. SMITH: Okay. I have no
2 questions.
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C E R T I F I C A T E

STATE OF TENNESSEE:

COUNTY OF SHELBY:

I, KORIAN NEAL, RPR, CCR and
Notary Public, Shelby County, Tennessee,
CERTIFY:

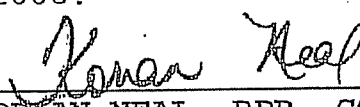
The foregoing proceedings were
taken before me at the time and place stated
in the foregoing styled cause with the
appearances as noted.

Being a Court Reporter, I then
reported the proceeding in Stenotype, and
the foregoing pages contain a true and
correct transcript of my said Stenotype
notes then and there taken.

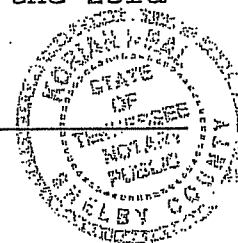
I am not in the employ of and am
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counsel, and I have no interest in the
matter involved.

I FURTHER CERTIFY that this
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in violation of Tennessee Code Annotated
39-14-149, Theft of Services.

Witness my signature, this the 23rd
day of April, 2008.


KORIAN NEAL, RPR, CCR

Notary Public at Large
For the State of Tennessee



My Commission Expires,
May 12, 2010