

1 Michael Reck, State Bar No. 209895
mreck@andersonadvocates.com
2 Michael G. Finnegan, State Bar No. 241091
mike@andersonadvocates.com
3 Jennifer E. Stein, State Bar No. 300775
jennifer@andersonadvocates.com
4 **JEFF ANDERSON & ASSOCIATES**
5 11812 San Vicente Boulevard, Suite 503
6 Los Angeles, California 90049
7 Tel: 310-357-2425
8 Fax: 651-297-6543

9 Attorneys for Plaintiff Patricia Harner

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12)
13 PATRICIA HARNER, an individual)

14) Plaintiff,)

15) vs.)

16) THE PROTESTANT EPISCOPAL CHURCH IN)
17) THE DIOCESE OF LOS ANGELES; and DOES)
18) 1-100.)

19) Defendant(s).)

Case No.:

COMPLAINT FOR DAMAGES:

1. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
2. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; and
3. UNFAIR BUSINESS PRACTICES (BUSINESS & PROFESSIONS CODE §17200, ET SEQ.)

DEMAND FOR JURY TRIAL

1 **COMPLAINT FOR DAMAGES**

2 Based upon information and belief available to Plaintiff Patricia Harner (“Plaintiff”) alleges
3 as follows against Defendant, The Protestant Episcopal Church in the Diocese of Los Angeles and
4 DOES 1-100 (collectively “Defendant” or “Defendants”):

5 1. This case presents a dangerous situation whereby Defendant The Protestant Episcopal
6 Church in the Diocese of Los Angeles is aware of the danger posed by Paul Kowalewski
7 (“Kowalewski”) and in spite of this knowledge it presents him as safe and continues to allow him to
8 function as a priest in good standing with access to children, parishioners and the public generally
9 without warning of his true nature. Specifically, Defendant has actual knowledge that Kowalewski
10 was previously a Roman Catholic Priest in the Diocese of Buffalo, New York and sexually assaulted
11 multiple individuals, including both adults and children.

12 2. Rather than defrock him and report him to law enforcement, Defendant allowed and
13 continues to allow Kowalewski to continue as an agent in the employ of Defendant as a member of
14 the clergy. As a result, of Defendant’s cover up, Plaintiff brings this complaint to obtain justice
15 against Defendant.

16 **PARTIES**

17 3. Plaintiff is an adult resident of the State of Florida. Plaintiff was sexually assaulted by
18 Kowalewski in the State of New York.

19 4. Plaintiff was a parishioner at St. Amelia Parish. In approximately 1971, Plaintiff was
20 assaulted, harassed and sexually abused by Kowalewski, then, a Catholic priest.

21 5. Plaintiff is informed and believes and thereon alleges that at all times material hereto,
22 Defendant is a non-profit religious entity, incorporated in California, with its principal place of
23 business in Los Angeles County, California. Defendant purposely conducts substantial business
24 operations in and throughout the State of California and County of Los Angeles. Defendant is
25 responsible for Protestant Episcopal Church operations in Los Angeles County, California.
26 Defendant is the primary entity owning, operating and controlling the activities and behavior of its
27 employees and agents, including Kowalewski, Does 1-100, and all other employees, agents and
28 supervisors of Defendant. Plaintiff is further informed, believes and thereon alleges that Defendant

1 has authority and responsibility to control and supervise Kowalewski.

2 6. Plaintiff is informed and believes and thereon alleges that that true names and
3 capacities, whether individual, corporate, associate or otherwise, of Defendants named herein as
4 Defendant Does 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues Defendants
5 Does 1 through 100 by such fictitious names, and who will amend the Complaint to show their true
6 names and capacities when such names have been ascertained. Plaintiff is informed and believes and
7 thereon alleges that Does 1 through 100 are legally responsible in some manner for the events,
8 happenings, and/or tortious and unlawful conduct that caused the injuries and damages alleged in this
9 Complaint.

10 7. Plaintiff is informed and believes and thereon alleges that at all times material hereto
11 there existed a unity of interest and ownership among Defendants and each of them, such that an
12 individuality and separateness between Defendants ceased to exist. Defendants were the successors-
13 in-interests and/or alter egos of the other Defendants in that they purchased, controlled, dominated
14 and operated each other without any separate identity, observation of formalities, or any other
15 separateness. To continue to maintain the façade of a separate and individual existence between and
16 among Defendants, and each of them, would serve to perpetuate a fraud and injustice.

17 8. Plaintiff is informed and believes and thereon alleges that at all times material hereto,
18 Defendants were the agents, representatives and/or employees of each and every other Defendant and
19 were acting within the course and scope of said alternative personality, capacity, identity, agency,
20 representation and/or employment and were within the scope of their authority, whether actual or
21 apparent. At all times material hereto, Defendants were the trustees, partners, servants, joint
22 venturers, shareholders, co-conspirators, contractors, and/or employees of each and every other
23 Defendant, and the acts and omissions alleged herein were done by them, acting individually, through
24 such capacity and within the scope of their authority and with the permission and consent of each and
25 every other Defendant, and that such conduct was thereafter ratified by each Defendant, and that each
26 Defendant is jointly and severally liable to Plaintiff.

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1 **FACTUAL ALLEGATIONS REGARDING THE HISTORY OF**
2 **SEXUAL ABUSE OF CHILDREN AND ADULTS BY KOWALEWSKI**

3 9. Plaintiff is informed and believes that Kowalewski has sexually offended against
4 multiple individuals including children and an adult.

5 10. Kowalewski was ordained and incardinated a Roman Catholic priest for the Diocese
6 of Buffalo, in New York, in 1973. Following his ordination, Kowalewski was assigned to various
7 parishes in the Diocese of Buffalo including St. Amelia, St. Martin, and St. Matthew. While a priest
8 of the Diocese of Buffalo, Kowalewski sexually assaulted multiple children and at least one adult.

9 11. Upon information and belief, Kowalewski was sent to treatment at a church treatment
10 facility in Canada in response to his abuse of children. Kowalewski left and/or was removed from the
11 Diocese of Buffalo in approximately 1977.

12 12. Upon information and belief, in the mid-1980s Kowalewski returned to ministry
13 associated with the United Methodist Church in upstate New York.

14 13. Upon information and belief, in the late-1980s Kowalewski served as a chaplain at
15 Syracuse University.

16 14. In approximately 1990, Kowalewski began his career with Episcopal Diocese of
17 Central New York. He served at various facilities for this organization. In approximately 1998
18 Kowalewski was being considered for elevation to the position of Episcopal Bishop of the Diocese
19 of Western New York. According to reports, Kowalewski withdrew his name from consideration.

20 15. At some point, Kowalewski became a priest of the Episcopal Diocese of Los Angeles.
21 Between approximately 2005 and 2013, Kowalewski was assigned as the Rector of St. James
22 Episcopal Church in Los Angeles, California.

23 16. Kowalewski is currently holding himself out as and works as an Episcopal Priest of
24 the Episcopal Diocese of Los Angeles at the Church of St. Paul in the Desert, in Palm Springs,
25 California (within the Episcopal Diocese of San Diego).

26 17. Upon information and belief, Defendants knew or should have known of claims of
27 childhood sexual abuse involving Kowalewski. Upon information and belief, Defendants have been
28 aware and are aware of Kowalewski's dangerous propensities and history of sexual abuse of children.

1 Upon information and belief, Defendant has not reported Kowalewski to law enforcement. Defendant
2 continues to hold Kowalewski out as a priest in good standing who is safe to the public, safe to
3 children, and safe to parishioners.

4 18. Plaintiff is aware of other victims of childhood sexual abuse by Kowalewski.
5 Defendant continues to affirmatively misrepresent Kowalewski and his nature, history and
6 background, and fitness to serve as a priest, and continues to present him as a priest in good standing
7 who is safe to the public, safe to children, safe to parishioners. Defendant has and continues to
8 represent that Kowalewski is not the subject of allegations of sexual misconduct with parishioners
9 and potentially others. These statements and representations are made in spite of Defendant's
10 knowledge to the contrary. Accordingly, Defendants are engaged and have been engaged in acts of
11 false speech, misrepresentation and unfair tactics.

12 19. Plaintiff is aware of Kowalewski's current status as a priest and continued access to
13 the public, children and parishioners. Plaintiff has suffered and continues to suffer damages because
14 knowing that Kowalewski is a priest and the danger that Kowalewski presents to others, including
15 both unsuspecting children and adults. Among other effects, Plaintiff suffers from anxiety, fear,
16 sleeplessness, guilt, and general suffering as a victim of Kowalewski's abuse because she knows of
17 the danger Kowalewski presents to others, including parishioners of Defendants', including both
18 unsuspecting children and adults.

19 FACTUAL ALLEGATIONS

20 20. Plaintiff was raised in New York in a devoutly Catholic family. Plaintiff was sexually
21 assaulted by Kowalewski, who Plaintiff knew as her priest.

22 21. When Plaintiff was a parishioner at St. Amelia's parish in the Diocese of Buffalo,
23 Plaintiff met Kowalewski who, served as both a deacon and later, the parish priest. It is through
24 Plaintiff's status as a parishioner seeking spiritual guidance and direction that Plaintiff came to know
25 and spend time with Kowalewski, both on and off church premises.

26 22. While performing his duties as a priest, and for the purpose of furthering the duties
27 required in that role, Kowalewski befriended Plaintiff and gained Plaintiff's trust and confidence as
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1 a spiritual guide, authority figure, and trustworthy mentor.

2 23. In approximately 1971, Kowalewski isolated Plaintiff when she sought his spiritual
3 guidance and direction, took Plaintiff to Kowalewski's bedroom in the rectory where he sexually
4 assaulted and abused Plaintiff.

5 24. As a priest, authority figure, and trustworthy mentor, Plaintiff was conditioned to
6 comply with Kowalewski's direction and to respect him as a person of authority in spiritual, ethical,
7 and educational matters. Kowalewski's conduct constituted "grooming" of Plaintiff and culminated
8 in his sexual assault and abuse of Plaintiff.

9 25. As a direct and proximate result of Kowalewski's ongoing access to children and
10 vulnerable adults without warning, which has been and continues to be allowed, enabled, and
11 facilitated by Defendant, Plaintiff has suffered and will continue to suffer severe mental and emotional
12 distress including, but not limited to severe anxiety, fear, lost interest and pleasure in activities, an
13 inability to concentrate, feelings of self-blame, feelings of estrangement from friends and/or family,
14 hypervigilance, and a lost sense of worth.

15 26. As a direct and proximate result of Defendant's action and/or failures to act Plaintiff
16 has suffered economic injury, all to Plaintiff's general, special and consequential damage in an
17 amount to be proven at trial, but in no event less than the minimum jurisdictional amount of this
18 Court.

19 27. Defendants ratified and authorized Kowalewski's conduct by (1) failing to discharge,
20 dismiss, discipline, suspend and/or supervise Kowalewski and/or other priests known by Defendants
21 to have sexually abused children and others, or to have been accused of sexually abusing children and
22 others, (2) actively shielding Kowalewski from responsibility for his sexual assaults, (3) disregarding
23 the existence of sexual assault and sexual abuse complaints against Kowalewski, (4) failing to report
24 such complaints to civil or criminal authorities, and (5) not taking steps to timely remove Kowalewski
25 from the priesthood so as to permanently prevent him from using his authority bestowed upon him
26 by Defendants to gain access to minors and others.

27 28. Defendants have numerous mandatory duties imposed upon them by state and federal
28 law, and written policies and procedures to protect children and others from harm, including but not

1 limited to:

- 2 a. Duty to protect minor children in their care;
- 3 b. Duty to provide adequate supervision to minor children in their care; and
- 4 c. Duty to report suspected incidents of child abuse and more specifically childhood
5 sexual abuse (Penal Code Sections 11166, 11167).

6 29. Defendants knew or should have known, or were otherwise on notice, that Kowalewski
7 had engaged in unlawful sexual conduct with minors in the past, and/or was continuing to engage in
8 such conduct, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid
9 acts of unlawful sexual conduct in the future by Kowalewski.

10 30. Defendants failed to report and concealed from other individuals, including Plaintiff,
11 law enforcement authorities, civil authorities, the true facts and relevant information necessary to
12 bring Kowaleski to justice for the sexual misconduct he committed and to ensure that those entrusted
13 in Defendants' care are protected.

14 31. Defendants negligently and/or intentionally suppressed, concealed, or hid this
15 information for the purposes of maintaining Kowalewski's image as an ethical, wholesome, safe, and
16 trusted spiritual leader at and within the institution run by the Defendants.

17 32. Defendants ignored and/or dismissed the sexual abuse perpetrated by Kowalewski and
18 instead, continued to allow numerous children, adults, parishioners and members of the public to be
19 exposed to Kowalewski, despite knowledge of Kowalewski's prior sexually abusive acts toward
20 minors.

21 33. Plaintiff is informed, believes and thereon alleges that Defendants were given notice
22 of inappropriate conduct committed by Kowalewski, including the facts alleged herein.

23 34. Defendants also implemented various measures designed to make or which effectively
24 made Kowalewski's conduct harder to detect, including but not limited to:

- 25 a. Permitting Kowalewski to remain in a position of authority and trust after Defendants
26 knew that he was a danger to the public, including both children and adults;
- 27 b. Holding Kowalewski out to the community and the public as being in good standing,
28 trustworthy, and safe to be around the public, including minor children;

- 1 c. Failing to adequately supervise Kowalewski; and
2 d. Failing to take reasonable steps and to implement reasonable safeguards to prevent
3 Kolalewski from accessing children to whom he poses a risk.

4 **RESERVATION OF RIGHT TO PLEAD PUNITIVE DAMAGES**

5 35. Based on information and belief, Defendant is a religious corporation, organized under
6 the laws of California and believed to be afforded the protection of Code of Civil Procedure Section
7 425.14. Plaintiff expressly reserves the right to file a Motion to Amend the Complaint, in order to
8 allege facts sufficient to constitute punitive damages against Defendants, in accord with evidence that
9 substantiates a finding of the clear and convincing evidentiary requirement of Civil Code Section
10 3294.

11 **FIRST CAUSE OF ACTION**
12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
13 **(Against All Defendants)**

14 36. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent
15 paragraphs of this Complaint as if fully set forth herein.

16 37. Defendants' conduct toward Plaintiff, as described herein, was outrageous and
17 extreme.

18 38. A reasonable person would not expect or tolerate Defendants' putting Kowalewski in
19 positions of authority, which enabled Kowalewski to have access to the public, including minor
20 children, in the position of a priest, including minor children, given his known history of committing
21 wrongful sexual acts against others, including minor children.

22 39. A reasonable person would not expect or tolerate Defendants' failure to terminate
23 and/or supervise their agents and employees, including Kowalewski so as to prevent them from
24 committing wrongful sexual acts with minor children in their charge.

25 40. Defendants' conduct described herein was intentional and malicious and done for the
26 purpose of causing or with the substantial certainty that it would cause Plaintiff to suffer anxiety, fear,
27 humiliation, mental anguish and emotional and physical distress.

28 41. As a result, Plaintiff suffered and continues to suffer great pain of mind and body,

1 shock, fear, emotional distress, physical manifestations of emotional distress, embarrassment, loss of
2 self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer
3 and was prevented and will continue to be prevented from performing daily activities and obtaining
4 the full enjoyment of life; will sustain loss of earnings an earning capacity, and has incurred and/or
5 will continue to incur expenses for medical and psychological treatment, therapy, and counseling.
6 Plaintiff is thereby entitled to general and compensatory damages in amounts to be proven at trial.

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8 **SECOND CAUSE OF ACTION**
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
9 **(Against All Defendants)**

10 42. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent
11 paragraphs of this Complaint as if fully set forth herein.

12 43. Through the conduct described above, Defendants were negligent. It was reasonably
13 foreseeable that Defendants' negligent conduct would cause Plaintiff severe mental anguish and
14 emotional distress.

15 44. As a direct and proximate result of Defendants' actions Plaintiff has suffered and will
16 continue to suffer economic loss, pain and suffering, and extreme and severe mental anguish and
17 emotional distress. Plaintiff is thereby entitled to general and compensatory damages in amounts to
18 be proven at trial.

19 **THIRD CAUSE OF ACTION**
VIOLATION OF BUSINESS AND PROFESSION CODE
20 **SECTION 17200, ET SEQ.**
21 **(Against all Defendants)**

22 45. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent
23 paragraphs of this Complaint as if fully set forth herein.

24 46. Plaintiff is informed and believes and thereon alleges that Defendants have engaged
25 in unlawful, unfair and deceptive business practices, including making statements and representations
26 to the public, law enforcement and the court that Defendant's agents and priests, including
27 Kolalewski, are safe, not sexually abusive and do not engage in sexual misconduct, knowing full and
28 well that Defendants had knowledge that others did not have, including allegations of sexual

1 misconduct involving their agents and employees, including Kowalewski.

2 47. Defendants' conduct was done for the purpose of misleading law enforcement, and the
3 public into believing Defendants' institutions of worship and education were safe and free from child
4 molesters, when in fact they were not.

5 48. Defendants' conduct was for the purpose of continuing the flow of revenue to
6 Defendants from the public and to maintain the image of Defendants as institutions of high moral
7 repute.

8 49. Defendants' unlawful, unfair, and deceptive business practices also included
9 knowingly employing, and continuing to employ, employees and agents who had been accused of
10 sexual misconduct involving minors, and placing them in direct contact with minors thereafter, to the
11 peril of said minors and their parents.

12 50. Defendants failed to design, implement, and oversee policies regarding sexual
13 harassment and abuse of these minors in a reasonable manner that is customary in similar corporate
14 environments, so as to allow Defendants to effectuate their mission of profitability, with is essential
15 to their future success.

16 51. Plaintiff is informed and believes and thereon alleges that Defendants engaged in
17 unlawful, unfair, and deceptive business practices, including concealing sexual harassment, abuse and
18 molestation claims so as to retain parishioners and patrons of Defendants' services, including
19 educational services for parents and youth, who were not apprised of such illicit sexual misconduct
20 by Defendants' employees and agents, including Kowalewski.

21 52. By engaging in unlawful, unfair, and deceptive business practices, Defendants
22 benefitted financially to the detriment of its competitors, which comply with the law.

23 53. Unless restrained, Defendants will continue to engage in the unfair acts and business
24 practices described above, resulting in great and irreparable harm to Plaintiff and/or others similarly
25 situated participants and parishioners.

26 54. Pursuant to section 17203 of the California Business and Professions Code and
27 available equitable powers, Plaintiff is entitled to a preliminary and permanent injunction, enjoining
28 Defendants from continuing the unlawful, unfair and deceptive business practices described above.

1 In addition, Plaintiff is entitled to recover reasonable attorneys' fees pursuant to California Business
2 and Professions Code and section 1021.5 of the California *Code of Civil Procedure*.


3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for the following relief against Defendants:

- 5 1. For past, present and future general damages in an amount to be determined at trial;
- 6 2. For past, present and future special damages, including but not limited to past, present and
7 future lost earnings, economic damages and others in an amount to be determined at trial;
- 8 3. Any appropriate statutory damages;
- 9 4. For cost of suit;
- 10 5. For interest as allowed by law;
- 11 6. For any appropriate punitive or exemplary damages;
- 12 7. Plaintiff reserves her right, pursuant to *Code of Civil Procedure* sections 425.14, to seek
13 leave of Court via noticed motion to pursue an appropriate award of punitive damages
14 against Defendant;
- 15 8. For attorney's fees pursuant to *Code of Civil Procedure* section 1021.5 or otherwise as
16 allowable by law;
- 17 9. For injunctive relief, enjoining Defendants from continuing the unlawful, unfair and
18 deceptive business practices; and
- 19 10. For such other and further relief as the Court may deem proper.

20
21 DATED: July 22, 2019

JEFF ANDERSON & ASSOCIATES

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24 MICHAEL RECK
25 MICHAEL G. FINNEGAN
26 JENNIFER E. STEIN
27 Attorneys for Plaintiff
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DEMAND FOR TRIAL

Plaintiff hereby demands a trial by jury in this matter.

DATED: July 22, 2019

JEFF ANDERSON & ASSOCIATES



MICHAEL RECK
MICHAEL G. FINNEGAN
JENNIFER E. STEIN
Attorneys for Plaintiff