Michael Reck, State Bar No. 209895
mreck@andersonadvocates.com
Michael G. Finnegan, State Bar No. 241091
mike@andersonadvocates.com
Joseph George, Jr., State Bar No. 200999
jgeorgejr@andersonadvocates.com
Jennifer E. Stein, State Bar No. 300775
jennifer@andersonadvocates.com
JEFF ANDERSON & ASSOCIATES
11812 San Vicente Boulevard, Suite 503
Los Angeles, California 90049
Telephone: 310.357.2425
Facsimile: 651.297.6543

Richard Simons, State Bar No. 72676
rick@fjslaw.com
FURTADO, JASPOVICE & SIMONS
6589 Bellhurst Lane
Castro Valley, California 94552
Telephone: 510.917.2169

Attorneys for Plaintiff James Bartko

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

JAMES BARTKO , an individual

Plaintiff,

vs.

THE ROMAN CATHOLIC BISHOP OF OAKLAND, a Corporation Sole; St. JOSEPH'S OF PINOLE, a religious entity form unknown; and DOE 3 through DOE 100.

Defendant(s).

Case No. RG 20055438

FIRST AMENDED COMPLAINT FOR DAMAGES FOR CHILDHOOD SEXUAL ASSAULT

[C.C.P. sec. 340.1]

1. Plaintiff is a natural person who was a resident of the County of Contra Costa, State of California, at all relevant times mentioned herein. Plaintiff was born in 1965. Plaintiff was a minor throughout the period of childhood sexual assault alleged herein.

2. Defendant THE ROMAN CATHOLIC BISHOP OF OAKLAND, a corporation sole, ("BISHOP") is a civil corporation authorized to conduct business, incorporated in, and conducting business in the State of California, with its principal place of business in the City of Oakland, Alameda County, California. At all times herein, Defendant BISHOP purposely conducted substantial business operations in and throughout the State of California and Alameda and Contra Costa Counties. Defendant BISHOP is responsible for Roman Catholic Church operations in Alameda and Contra Costa Counties, California. BISHOP is responsible for the funding, staffing and direction of the parishes, parochial schools, fraternal organizations and other facilities and institutions within the geographic area of the Alameda and Contra Costa Counties, and encompasses other counties in Northern California. Defendant BISHOP was the primary entity owning, operating and controlling the property and activities of its Diocese, including those programs, activities, and services conducted for or including minors. Defendant BISHOP at all times herein supervised and controlled the activities and behavior of its employees and agents, including its priests, teachers administrators, and volunteers, and specifically including Father Stephen Kiesle. Fr. Kiesle was a priest hired, selected, trained, employed, and supervised by BISHOP. Defendant BISHOP had sole authority and responsibility to control and supervise PERPETRATOR from at least 1972 through 1978.

3. During the time he was a Priest employed by Defendant BISHOP, Stephen Kiesle physically perpetrated acts of childhood sexual assault upon Plaintiff when Plaintiff was a minor.

4. Plaintiff is informed and believes and thereon alleges that at all times material hereto, Defendant ST. JOSEPH'S OF PINOLE ("ST. JOSEPH'S") was and is a religious institution commonly known as a Parish. ST. JOSEPH'S was at all times organized under the laws of the State of California as a religious entity of form unknown, with its principle place of business in Pinole, California. At all times material, Defendant ST. JOSEPH'S was and continues to be under the direct authority, control and province of Defendant BISHOP. Defendant ST. JSEPH'S was at all times responsible for the funding, staffing, and direction of a Catholic employees, volunteers and agents located in Pinole, California. PERPETRATOR Kiesle was a priest assigned to ST. JOSEPH'S between approximately 1972 through in or around 1975.

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

6. Plaintiff is informed and believes and thereon alleges that at all times material hereto there existed a unity of interest and ownership among Defendants and each of them, such that an individuality and separateness between Defendants ceased to exist. Defendants were the successors-in-interests and/or alter egos of the other Defendants in that they purchased, controlled, dominated and operated each other without any separate identity, observation of formalities, or any other separateness. To continue to

maintain the façade of a separate and individual existence between and among Defendants, and each of them, would serve to perpetuate a fraud and injustice.

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

8. Plaintiff is informed and believes that PERPETRATOR was ordained a Roman Catholic priest on or about May 19, 1972. PERPETRATOR was employed by Defendant BISHOP and remained under the direct supervision, employ, and control of Defendants, and each of them. DEFENDANTS BISHOP and ST. JOSEPH'S each placed PERPETRATOR in positions where he had access to and worked with children as an integral part of his work. DEFENDANT BISHOP has publicly identified PERPETRATOR as one of 60+ deacons, brothers and or priests whom accusations of childhood sexual assault are admitted to be "deemed" "credible." PERPETRATOR was convicted of felony criminal childhood sexual assault and is a Registered Sex Offender in California. PERPETRATOR is known to have sexually assaulted multiple children other than Plaintiff, and was so known prior to his ordination in 1972, including such assaults while a seminarian prior to his

ordination in 1972. Defendant BISHOP had actual knowledge of PERPETRATOR's history and sexual conduct with minors at the time of his ordination, and thereafter, and at all times herein engaged in a cover up by engaging in a concerted effort to hide evidence relating to childhood sexual assaults committed by Kiesle and numerous other priests in its employment. Said cover up was one of the causes of the subsequent childhood sexual assaults committed upon Plaintiff.

9. Between 1972 and 1975, when Plaintiff was approximately seven to ten years old, Plaintiff was repeatedly sexually assaulted by PERPETRATOR. PERPETRATOR sexually molested, assaulted and abused Plaintiff on the premises owned, operated, and controlled by Defendants.

10. Plaintiff was raised in a devoutly Catholic family, and was baptized, confirmed, and received the sacraments through their Church. At all times herein, Plaintiff belonged to and attended St. JOSEPH'S, where Plaintiff and Plaintiff's family came in contact with PERPETRATOR as an agent, priest, employee and representative of Defendants. While performing his duties as a priest, and for the purpose of furthering the duties required in that role, PERPETRATOR befriended Plaintiff and gained Plaintiff's trust and confidence as a spiritual guide, authority figure, and trustworthy mentor. Seeing PERPETRATOR as a trustworthy mentor, Plaintiff was conditioned to comply with PERPETRATOR's direction and to respect him as a person of authority in spiritual, ethical, and educational matters. PERPETRATOR's conduct constituted "grooming" of Plaintiff and culminated in his sexual assault and abuse of Plaintiff.

11. Plaintiff participated in youth activities and church activities at DOE 2. Plaintiff was educated and taught the theology and tenets of the Roman Catholic Church on

matters of faith, morals and religious doctrine. Plaintiff therefore developed great admiration, trust, reverence, respect for, and obedience to the Roman Catholic Church and clergy who occupied positions of great influence and persuasion as holy men and authority figures. Plaintiff was encouraged to trust, respect, and obey PERPETRATOR by and through Defendants. As a minor, Plaintiff regularly attended mass and engaged in confession with those priests employed by Defendant BISHOP. Accordingly, a special relationship was formed between Plaintiff, then a minor, and Defendants. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and their agents, including PERPETRATOR. Plaintiff was under the custody and control of Defendants during such activities and at all times when PERPETRATOR sexually assaulted him.

12. PERPETRATOR utilized Defendants' facilities and institutions to gain access to Plaintiff. At all relevant times, PERPETRATOR was referred to as "Father" and wore the priest collar and attire. This signified to people that PERPETRATOR was in good standing and authorized by Defendants to act as a priest and agent of the Church. It was by virtue of PERPETRATOR's position as a priest of Defendants that he met and groomed Plaintiff, established trust with Plaintiff, and manipulated that trust in order to sexually assault and abuse Plaintiff.

13. Defendants, and each of them, were at all times herein negligent in the hiring, retention, control, and supervision, of PERPETRATOR, so as to allow him to repeatedly commit sexual assaults upon minors, including Plaintiff. Defendants, and each of them, were further negligent in failing to protect and supervise Plaintiff from sexual assaults by its Priest while Plaintiff was on its property and engaged in its activities. Defendants, and each of them, further ratified PERPETRATOR'S conduct of sexual assault against Plaintiff and other minors by continuing to retain him in their

employment, and continuing to permit his access to minors, both as an employee and as volunteer Youth Minister at St. JOSEPH'S with full knowledge of his long history of recurring sexual abuse of children. At all times herein, Defendants knew or had reason to know, or were otherwise on notice, that PERPETRATOR had engaged in misconduct and or unlawful sexual-related conduct with minors in the past, and/or was continuing to engage in such conduct with minors, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by PERPETRATOR.

14. As a direct and proximate result of PERPETRATOR's childhood sexual assault against Plaintiff, and the negligence of Defendants, and each of them, Plaintiff has suffered and will continue to suffer physical injury, psychological, emotional and economic harm in a sum to be proven at the time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief against Defendants:

1. For damages for past and future medical, psychotherapy, and related expenses according to proof at the time of trial;

2. For general damages for the physical injury of sexual assault and mental pain and suffering and emotional distress in a sum to be proven at the time of trial;

3. For damages for past loss wages and past earning capacity and/or future lost wages and loss of earning capacity according to proof at the time of trial;

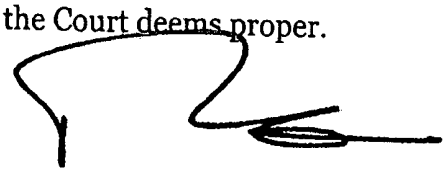
4. For treble damages against Defendant THE ROMMAN CATHOLIC BISHOP OF OAKLAND, a corporation sole; Defendant ST. JOSEPH'S OF PINOLE, a religious entity form unknown, and Defendants DOE 3 through DOE 100, as authorized by section 340.1 of the Code of Civil Procedure;

5. For interest as allowed by law;

6. For costs of suit herein; and

7. For such other and further relief as the Court deems proper.

DATED: March 4, 2020



RICHARD SIMONS SBN 72676
FURTADO, JASPOVICE & SIMONS

JEFF ANDERSON & ASSOCIATES
MICHAEL RECK
MICHAEL G. FINNEGAN
JOSEPH GEORGE, JR.
JENNIFER E. STEIN

Attorneys for Plaintiff James Bartko

DEMAND FOR TRIAL

Plaintiff hereby demands a trial by jury in this matter.

DATED: March 4, 2020

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