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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 LOS ANGELES COUNTY, CENTRAL DISTRICT

15 JOAQUIN AGUILAR MENDEZ  
16 Plaintiff,

17 vs.

18 CARDINAL ROGER MAHONY, THE  
ROMAN CATHOLIC ARCHBISHOP  
19 OF LOS ANGELES, A  
CORPORATION SOLE, CARDINAL  
20 NORBERTO RIVERA, THE DIOCESE  
OF TEHUACAN, FATHER  
21 NICHOLAS AGUILAR DOES 1-100  
22 \_\_\_\_\_  
Defendants

Case No: BC358718

**PLAINTIFF'S MEMORANDUM IN  
OPPOSITION TO MEXICAN  
DEFENDANTS' MOTION TO DISMISS  
FOR LACK OF PERSONAL  
JURISDICTION**

Date: October 16, 2007  
Time: 8:30 a.m.  
Dept: 42  
Judge: Elihu M. Berle

**FILED**  
LOS ANGELES SUPERIOR COURT

SEP 25 2007

JOHN A. CLARKE, CLERK  
BY RUGENA LOPEZ, DEPUTY

23  
24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **INTRODUCTION**

26 This honorable Court has both general and specific personal jurisdiction over the Mexican  
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28

1 Defendants.<sup>1</sup> This Court has general jurisdiction because the Mexican Defendants' contacts with  
2 California are substantial—they sent a child molesting agent to California where he worked and  
3 molested dozens of children, leaving his California victims profoundly injured for their lives.

4       Regardless of general jurisdiction, the assertion of specific jurisdiction over the Mexican  
5 Defendants is proper. They knowingly derived a benefit when they sent their child molesting agent  
6 to California. They were able to keep him from scrutiny in Mexico where things were too hot for  
7 Aguilar to stay.

8       They also gained a significant benefit from facilitation of Aguilar going back to Mexico after  
9 he was wanted by the Los Angeles Police. The police would have arrested Nicolas Aguilar as soon  
10 as they got the report of his abuse. However, the church officials in Los Angeles, working under the  
11 Mexican Defendants' authority, encouraged or at least allowed Aguilar to leave California before  
12 they reported him to the police. Had this not been done, Aguilar would likely be behind bars and  
13 the Mexican Defendants would have faced a huge scandal. Further the Mexican Defendants operated  
14 a conspiracy in which they used California to hide its priest. Because of these California contacts,  
15 the Mexican Defendants purposefully availed themselves of California.

16       Joaquin's claims are directly related to the Mexican Defendants' contacts. Joaquin brought  
17 negligence claims against the Mexican Defendants for their action in allowing Aguilar to leave the  
18 United States, for failing to investigate Aguilar's whereabouts, and for their conspiracy.

19       The assertion of specific jurisdiction does not offend notions of fair play and substantial  
20 justice because California has a substantial interest in holding the Mexican Defendants accountable  
21 because they sent a known child molester to California and because the modern means of  
22 communication make litigating in California a minimal burden on a huge corporation like the  
23 Mexican Defendants. Accordingly, Plaintiff respectfully requests that this honorable Court deny the  
24 Mexican Defendants' motion in its entirety.

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<sup>1</sup>The Diocese of Tehuacan and Norberto Rivera are grouped together in this brief. Although each defendant is generally viewed separately, here Rivera is sued in his official capacity as head of the Diocese of Tehuacan.

1 **ARGUMENT**

2 **I. California Courts Can Exercise Personal Jurisdiction Over the Mexican Defendants.**

3 California authorizes its Courts to exercise jurisdiction to the full limits of the United States  
4 Constitution. Section 410.10 of the Code of Civil Procedure provides: "A court of the state may  
5 exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United  
6 States." This section authorizes the broadest possible exercise of judicial jurisdiction. Quattrone v.  
7 Superior Court, 44 Cal. App. 3d 296, 302, 118 Cal. Rptr. 548 (1975).

8 **II. California Has General Jurisdiction over the Mexican Defendants Because the Mexican**  
9 **Defendants Sent a Child Molesting Priest to California, Where He Worked for the**  
10 **Mexican Defendants and Was Allowed to Rape Dozens of Children, Causing a Lifetime**  
11 **of Depression, Anxiety, and Suicide Attempts in California.**

12 The Mexican Defendants' contacts with California were substantial and the effects are  
13 continuous to this day. "A defendant is subject to general jurisdiction only where the defendant's  
14 contacts with a forum are substantial or continuous and systematic." Bancroft & Masters, Inc. v.  
15 Augusta Nat'l. Inc., 223 F.3d 1082, 1086 (9th Cir. 2000). "For purposes of personal jurisdiction, the  
16 actions of an agent are attributable to the principal." Sher v. Johnson, 911 F.2d 1357, 1362 (9th Cir.  
17 1990).<sup>2</sup>

18 **A. Mexican Defendants knowingly sent a child molesting priest to California.**

19 In 1986 Nicolas Aguilar was beaten up at his parish residence by a group of kids.  
20 (RIV00019, attached to Declaration of Michael Finnegan as Ex. 3.) The police found blood all over  
21 the residence. (Id.) The police report stated that there were numerous youngsters that came from  
22 different communities and slept in Nicholas Aguilar's bedroom. (Id.) Rivera testified that he heard  
23 that Aguilar had been beat up like this before this assault, but apparently did little to find out if,  
24 when, or why the other assault took place. (See Finnegan Ex. 30, Rivera Depo. p. 135.) Cardinal

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25 <sup>2</sup>The Mexican Defendants' reliance on the Archdiocese of Milwaukee case is misplaced for  
26 general jurisdiction purposes. The issue was not raised or argued before the Court of Appeals.  
27 Archdiocese of Milwaukee v. Superior Court, 112 Cal.App.4th 423, 5 Cal.Rptr.3d 154 (Cal. App.  
28 4 Dist. 2003). Moreover, the Court of Appeals did not address the issue at all, only noting that the  
issue was not being argued. Therefore, the decision is not precedential regarding general  
jurisdiction.

1 Mahony testified that a priest having children sleep in his bedroom was enough that priest could not  
2 work in the Archdiocese. (Finnegan Ex. 33, Mahony Dep. p. 101.) On January 27, 1987, Norberto  
3 Rivera and the Diocese of Tehuacan sent a letter to California to then Archbishop Roger Mahony,  
4 the leader of the Archdiocese of Los Angeles. (Finnegan Ex. 6, RIV00023). In the letter Norberto  
5 Rivera told Mahony that Aguilar was being sent to California for family and health reasons. (Id.)  
6 In his declaration, Rivera stated that the term family and health reasons was used within the Catholic  
7 Church to warn that a priest suffers from some sort of problem. (Finnegan Ex. 29, Rivera  
8 Declaration ¶ 11.) This was a warning to Mahony that Rivera was a problem priest. Norberto Rivera  
9 admitted that he was not sure if Aguilar was even fit to serve as a priest before he allowed him to go  
10 to California. (Finnegan Ex. 29, Rivera Dec. ¶ 12.) Rivera sent another letter to California to  
11 Mahony explaining that the problem was that Aguilar was beaten up in Mexico because of  
12 "homosexuality" and that there were several accusations of homosexuality against Aguilar.  
13 (Finnegan Ex. 9, RIV 00026.) Mahony disputes receiving this letter. (Finnegan Ex. 33, Mahony  
14 Depo. pp. 111, 176.) Within the Catholic Church the term homosexuality in this context was used  
15 as code for child sexual abuse. (Declaration of A.W. Richard Sipe ¶ 20.) Mahony acknowledged  
16 in his 1988 letter that "homosexuality" was such a problem that he would not have even accepted  
17 Aguilar if he had been warned of this. (Finnegan Ex. 19, RIV 00044.) Bishop Curry of the  
18 Archdiocese of Los Angeles also testified that accusations of homosexuality are serious enough for  
19 a priest like Aguilar to not be admitted to work in the Archdiocese. (Finnegan Ex. 32, Curry Depo.  
20 p. 49.) Accordingly the Mexican Defendants knowingly sent a child molesting priest to California.

21 This is one of the most egregious actions that any employer could take - to send a child  
22 molester to California. This egregious contact and the other contacts discussed below are substantial  
23 enough to permit general jurisdiction.

24 **B. Aguilar worked in California.**

25 At all times that Aguilar was in California he was a priest of the Diocese of Tehuacan and  
26 under the control of Norberto Rivera. (Fr. Thomas Doyle Declaration ¶¶ 6-7; Finnegan Ex. 30,  
27 Rivera Depo. p. 118.) The only way that Aguilar could work in California was for the Diocese of  
28 Tehuacan and the Norberto Rivera to give Aguilar permission to do so. (Fr. Doyle Declaration ¶6-7;

1 see Finnegan Ex. 6-7, RIV 00023-24; Finnegan Ex. 10, RIV 00027.) Aguilar was appointed as an  
2 associate priest at Our Lady of Guadalupe in Los Angeles, California on March 16, 1987. (Finnegan  
3 Ex. 10, RIV00027.) Aguilar was given full faculties to work in the Archdiocese of Los Angeles.  
4 (Id.) On May 18, 1987 Aguilar was appointed to work at St. Agatha's in Los Angeles, California.  
5 Finnegan Ex. 33, Mahony Depo. Ex. B-CIVAGUIL 000009.) Aguilar worked at that parish until  
6 January of 1988. (Finnegan Ex. 13, RIV 00030.) Aguilar was still an agent of the Diocese of  
7 Tehuacan and Norberto Rivera this whole time. (Fr. Doyle Dec. ¶¶ 6-7.) The Diocese of Tehuacan  
8 and Rivera had the primary authority over Aguilar when he was working in California. (Id.; Finnegan  
9 Ex. 33, Mahony Depo. p. 90; Finnegan Ex. 30, Rivera Depo. 118.) Cardinal Mahony testified that  
10 Cardinal Rivera was Nicholas Aguilar's ultimate superior when Aguilar was in California.  
11 (Finnegan Ex. 33, Mahony Depo. 87.) Therefore Aguilar worked at two different parishes in  
12 California and most likely ministered to thousands of California residents during this time, meaning  
13 that the Diocese of Tehuacan and Rivera likely had thousands of contacts with California through  
14 Aguilar's work in California.

15 **C. The Mexican Defendants did not warn a single child, parent or law enforcement**  
16 **in California that their priest was a problem and unfit before Aguilar came to**  
**California or during the time Aguilar was in California.**

17 The Mexican Defendants have presented no information that they ever warned any of the  
18 children, parents or law enforcement in California that Aguilar was a problem priest who possibly  
19 was unfit to be a priest. In fact the warnings that they did send were internal confidential warnings  
20 only to other Catholic Officials, which those officials deny receiving. (See Finnegan Ex. 9,  
21 RIV00026; Finnegan Ex. 33, Mahony Depo. pp. 111, 176.) The inference here is that the Mexican  
22 Defendants failed to warn the children, parents and law enforcement in Los Angeles, which allowed  
23 Aguilar to have unlimited access to children in California. This failure to take action with regard  
24 to their agent in California led to the abuse of numerous children by Aguilar in California.

25 **D. The Mexican Defendants' employee/agent molested dozens of children in**  
26 **California.**

27 While Fr. Aguilar was in California for roughly nine months, he sexually molested dozens  
28 of children. (Los Angeles Police Report, attached to Declaration of Hector Esparza as Ex. A.) The

1 Los Angeles police interviewed approximately 16 different children who were molested by Aguilar.  
2 (Id.). They charged Aguilar with 19 counts of child molestation in California. (Finnegan Ex. 33,  
3 Los Angeles complaint against Aguilar attached as Mahony Depo. Ex. 101.) Cardinal Mahony wrote  
4 a letter to Cardinal Rivera which stated that "it is impossible to determine precisely the number of  
5 young altar boys that he has sexually molested, but the number is large." (Finnegan Ex. 16, RIV  
6 00038.) The Los Angeles Times reported that the police stated that they had interviewed at least 18  
7 boys who were molested by Aguilar. (Finnegan Ex. 14, RIV 00032.) The 18 boys they interviewed  
8 were out of only half of the 60 total children that were altar boys at the parishes in California,  
9 meaning out of those interviewed, Aguilar had molested approximately 18 out of 30 children. (Id.)  
10 The article stated that the police reported that the boys ranged in age from 9 to 13. (Id.)

11 As discussed above, Aguilar was the Mexican Defendants' agent when he committed these  
12 crimes. The Mexican Defendants knew that Aguilar was a child molester and knew that this was  
13 likely to occur in California. Accordingly, these molestations in California were expected by the  
14 Mexican Defendants.

15 **E. The aftermath of Aguilar's molestation of children in California is lifelong for**  
16 **the victims that were abused and their families.**

17 The Mexican Defendants allowing Aguilar to work in California, even though they knew he  
18 was a child molester, and Aguilar's subsequent abuse of dozens of children in California has had  
19 ongoing ramifications in California since the abuse. Archbishop Mahony wrote to Bishop Rivera  
20 that Father Aguilar's molestation of children in California "has caused terrible pain and suffering  
21 for these youths . . ." (Finnegan Ex. 16, RIV 00038.)

22 The scientific literature regarding childhood sexual abuse overwhelmingly shows that  
23 children who are sexually molested often suffer from depression, anxiety, PTSD, suicide, and other  
24 disorders. For example, the article titled "Sexual Abuse of Boys" appearing in the peer-reviewed  
25 Journal of the American Medical Association in December 1998 (hereafter the "JAMA Article")  
26 reported the findings of 176 peer-reviewed journals relating to symptoms and conditions related to  
27 the sexual abuse of boys. This article only cited to articles that "appeared in peer-reviewed journals;  
28 had clear research designs; reported results for at least 20 male subjects; were not reviews,

1 perspectives, dissertation abstracts, editorials, and letters; and were conducted inside North  
2 America.” (Finnegan Ex. 34 at 1858.) Specifically, the JAMA Article revealed that sexually abused  
3 males were at increased risk for negative clinical sequelae (resulting symptoms) for posttraumatic  
4 stress disorder, depression (4 times more likely than non-abused males), anxiety disorder, borderline  
5 personality disorder, dissociation, somatization, antisocial personality disorder (2 times more likely  
6 than non-abused males), among others. In addition, the following symptoms and disorders were  
7 found in abused boys in higher frequency than in non-abused boys:

- 8 • Attempted Suicide (1.5 to 14 times higher among sexually abused boys versus non-  
9 abused boys)
- 10 • Substance Abuse. Sexually abused boys compared with non-abused boys in an  
11 inpatient chemical addiction center were more likely to report use of alcohol before  
12 age 10 years, marijuana use before 12 years and current drug use. Sexually abused  
13 high school boys compared with non-abused high school boys were 2 times more  
14 likely to use alcohol and 5 times more likely to use drugs. Another article reported  
15 that use of alcohol was 2 times higher, marijuana was 4 times higher, and cocaine  
16 was 10 times higher in sexually abused high school students. In another article  
17 sexually abused and sexually and physically abused sixth-grade boys reported rates  
18 of multi-substance abuse that were 12 to 44 times greater than non-abused boys and  
19 12<sup>th</sup> grade boys reported rates that were 3 and 10 times greater. Another study reports  
20 the rate of injection drug use was 2 times higher in abused versus non-abused.
- 21 • Sexually related problems. Sexually abused males compared with non-abused males  
22 were up to 5 times more likely to report sexually related problems, including sexual  
23 dysfunction.
- 24 • Gender Role Confusion. Numerous investigators reported that sexually abused  
25 compared with non-abused males experienced more gender role confusion and more  
26 fears about intimate relationships.

27 Top Scientists and researchers from around the world have concluded that childhood sexual  
28 abuse has devastating effects. The depression, anxiety, post traumatic stress, suicide, suicide  
attempts and all of the other negative outcomes from childhood sexual abuse have been experienced  
by Aguilar’s victims in California. These outcomes last a lifetime. The negative outcomes of the  
Mexican Defendants knowingly sending a child molester to California and Aguilar’s molestation of  
California children has had a continuous and systematic effect in California. This by itself is enough  
to support general jurisdiction.

**F. The Mexican Defendants facilitated or at least knew that their agent was violating United States Immigration laws.**

On December 20, 1987 Father Aguilar wrote to Rivera and asked for permission to keep

1 working in Los Angeles California. (Finnegan Ex. 12, RIV 00029.) Aguilar specifically mentions  
2 to Rivera that his last permission was not sent to the United States Embassy. (Id.) The letter  
3 indicates that Aguilar would like to have Rivera state that this is his first request, essentially lie to  
4 the United States Embassy. (Id.) Accordingly, Rivera and the Diocese of Tehuacan either facilitated  
5 or at least knew that their agent was violating United States immigration and was misrepresenting  
6 his status to the United States Embassy.

7 **G. The Mexican Defendants had other contacts with California.**

8 Norberto Rivera testified that he allowed another agent to work in California. Rivera gave  
9 Jose Alfanzo del Real permission to work in California for one year. (Finnegan Ex. 30, Rivera Depo.  
10 p. 163.) Further, the Mexican Defendants used the United States Mail to communicate with  
11 California. They sent numerous letters to California and also received many letters from California.  
12 These letters dealt with Aguilar working in California and his molestation of dozens of California  
13 children. (Finnegan Dec. Ex. 5-20.)

14 **H. Overall, the Mexican Defendants' contacts with California are substantial.**

15 The Mexican Defendants knowingly sent a child molesting priest to California, employed  
16 him in California, knew that he was likely to molest children, he did molest numerous children in  
17 California, the wounds from this abuse lasting a lifetime in California. These contacts taken as a  
18 whole are substantial and have had a continuous and systematic effect in California.

19 **III. Regardless of General Jurisdiction, California Has Specific Jurisdiction over the  
20 Mexican Defendants.**

21 For due process to be satisfied, (1) the non-resident defendant must have "minimum  
22 contacts" with the forum state resulting from an affirmative act on the defendant's part; and (2) the  
23 contacts must be such that the exercise of jurisdiction over the person of the defendant does not  
24 offend "traditional notions of fair play and substantial justice." Int'l. Shoe Co. v. Washington, 326  
25 U.S. 310, 316, 66 S. Ct. 154 (1945).

26 **A. The Mexican Defendants purposefully availed themselves of the benefits of  
California by sending a child molesting agent to California.**

27 "[D]efendant's conduct and connection with the forum State [must be] . . . such that he should  
28 reasonably anticipate being haled into court . . ." in California. World-Wide Volkswagen Corp. v.



1 Woodson, 444 U.S. 286, 297 (1980). That is, “[w]hen a corporation ‘purposefully avails itself of  
2 the privilege of conducting activities within the forum State,’ [citation] it has clear notice that it is  
3 subject to suit there, and can act to alleviate the risk of burdensome litigation by procuring insurance,  
4 passing the expected costs on to customers, or, if the risks are too great, severing its connection with  
5 the state.” Vons Companies, Inc. v. Seabest Foods, Inc., 14 Cal.4th 434, 926 P.2d 1085, 1092-93  
6 (Cal. 1996) (citing World-Wide Volkswagon). “Thus, purposeful availment occurs where a  
7 nonresident defendant . . . purposefully derive[s] benefit from its activities in the forum, . . . create[s]  
8 a substantial connection with the forum . . . [or] . . . deliberately’ has engaged in significant activities  
9 within the forum.” Snowney v. Harrah's Entertainment, Inc., 35 Cal.4th 1054, 112 P.3d 28, 39 (Cal.  
10 2005) (internal citations omitted. “McGee stands for the principle a single act may be sufficient to  
11 support jurisdiction if that act reflects a substantial connection with the state.” Pennsylvania Health  
12 & Life Ins. Guaranty Assn. v. Superior Court, 22 Cal.App.4th 477, 484, 27 Cal.Rptr.2d 507 (1994)  
13 (McGee v. International Life Ins. Co., 355 U.S. 220, 223 (1957)).

14 In 1986 Nicolas Aguilar was beaten up in Mexico and the police found that youngsters were  
15 sleeping in Aguilar’s bedroom. (Finnegan Ex. 3, RIV 00019.) Cardinal Mahony testified that this  
16 a priest sleeping with children was a problem. (See Finnegan Ex. 33, Mahony Dep. p. 101.) On  
17 January 27, 1987, Norberto Rivera and the Diocese of Tehuacan sent a letter to California to then  
18 Archbishop Roger Mahony, the leader of the Archdiocese of Los Angeles. (Finnegan Ex. 6, RIV  
19 00023). In the letter Norberto Rivera told Mahony that Aguilar was being sent to California for  
20 family and health reasons. (Id.) In his declaration, Rivera stated that the term family and health  
21 reasons was used within the Catholic Church to warn that a priest suffers from some sort of problem.  
22 (Finnegan Ex. 29, Rivera Dec. ¶11.) This was a warning to Mahony that Rivera was a problem  
23 priest. Norberto Rivera admitted that he was not sure if Aguilar was even fit to serve as a priest  
24 before he allowed him to go to California. (Ex. 29, Rivera Dec. ¶ 12.) Rivera sent another letter to  
25 California to Mahony explaining that the problem was that Aguilar was beaten up in Mexico because  
26 of “homosexuality” and that there were several accusations of homosexuality against Aguilar.  
27 (Finnegan Ex. 9, RIV 00026). Mahony disputes receiving this letter. (Finnegan Ex. 33, Mahony  
28 Depo. pp. 111, 176.) Within the Catholic Church the term homosexuality in this context was used

1 as code for child abuse. (Declaration of Richard Sipe ¶ 15, 19, 20.) Mahony acknowledged in his  
2 1988 letter that "homosexuality" was such a problem that he would not have even accepted Aguilar  
3 if he had been warned of this. (Finnegan Ex. 19, RIV 00044.) Accordingly the Mexican Defendants  
4 knowingly sent a child molesting priest to California.

5 At all times that Aguilar was in California he was a priest of the Diocese of Tehuacan and  
6 under the control of Norberto Rivera. (Fr. Thomas Doyle Dec. ¶¶ 6-7; Finnegan Ex. 30, Rivera  
7 Depo. p. 118.) The only way that Aguilar could work in California was for the Diocese of Tehuacan  
8 and the Norberto Rivera to Aguilar permission to do so. (Fr. Doyle Dec. ¶ 6; see Finnegan Ex. 6-7,  
9 RIV00023-24; Ex. 10, RIV 00027) The Diocese of Tehuacan and Rivera had the primary authority  
10 over Aguilar when he was working in California. (Id.; Finnegan Ex. 33, Mahony Depo. p. 90; Ex.  
11 30, Rivera Depo. p. 118.) Cardinal Mahony testified that Cardinal Rivera was Nicholas Aguilar's  
12 ultimate superior when Aguilar was in California. (Finnegan Ex. 33, Mahony Depo. p. 87.)

13 While Fr. Aguilar was in California for roughly nine months, he sexually molested dozens  
14 of children. (Los Angeles Police Report, attached to Declaration of Hector Esparza as Ex. A.) The  
15 Los Angeles police interviewed approximately 16 different children who were molested by Aguilar.  
16 (Id.). They charged Aguilar with 19 counts of child molestation in California. (Finnegan Ex. 33,  
17 Los Angeles complaint against Aguilar attached as Mahony Depo. Ex. 101.) Cardinal Mahony wrote  
18 a letter to Cardinal Rivera which stated that "it is impossible to determine precisely the number of  
19 young altar boys that he has sexually molested, but the number is large." (Finnegan Ex. 16, RIV  
20 00038.) The Los Angeles Times reported that the police stated that they had interviewed at least 18  
21 boys who were molested by Aguilar. (Finnegan Ex. 14, RIV 00032.) The 18 boys they interviewed  
22 were out of only half of the 60 total children that were altar boys at the parishes in California,  
23 meaning out of those interviewed, Aguilar had molested approximately 18 out of 30 children. (Id.)  
24 The article stated that the police reported that the boys ranged in age from 9 to 13. (Id.)

25 The Mexican Defendants' act of allowing their agent, whom they knew was a child molester  
26 should have put them on notice that they could be sued in California over their actions in connection  
27 with Aguilar's contacts and their contacts in California. Further, by 1987 the Catholic Church  
28 hierarchy, one of which was Cardinal Rivera, knew that there was a problem of priests sexually

1 molesting children. (Fr. Doyle Dec. ¶ 17; see Finnegan Ex. 33, Mahony Depo. p. 107.) The  
2 Mexican Defendants knew that Aguilar was working at a parish in California. (Finnegan Ex. 10,  
3 RIV 00027.) The Mexican Defendants knew that Aguilar was a danger and would have access to  
4 children through his parish work. Accordingly, the Mexican Defendants knowingly took this risk  
5 and purposefully availed themselves of California.

6 **B. The Mexican Defendants Purposefully Derived a Benefit from Sending Their**  
7 **Agent Aguilar to California.**

8 The Mexican Defendants purposefully derived the benefit of minimizing scandal and harm  
9 to the church by sending Aguilar to California. In 1986 Nicolas Aguilar was beaten up at his parish  
10 residence by a group of kids. (RIV00019, attached to Declaration of Michael Finnegan as Ex. 3.)  
11 The police found blood all over the residence. (*Id.*) The police report stated that there were numerous  
12 youngsters that came from different communities and slept in Nicholas Aguilar's bedroom. (*Id.*)  
13 Rivera testified that he heard that Aguilar had been beat up like this before this assault, but  
14 apparently did little to find out if, when, or why the other assault took place. (See Finnegan Ex. 30,  
15 Rivera Depo. p. 135.) Cardinal Mahony testified that a priest having children sleep in his bedroom  
16 was enough that priest could not work in the Archdiocese. (Finnegan Ex. 33, Mahony Dep. p. 101.)

17 Cardinal Rivera also indicated in other correspondence that Aguilar was being sent to  
18 California because he was a problem priest and because of "homosexual" problems. (Finnegan Ex.  
19 29, Rivera Dec. ¶; Ex. 9, RIV 00026.) "Homosexual" problems was a code for child sexual abuse.  
20 (Sipe Dec. ¶¶ 15, 19, 20.) Accordingly, the Mexican Defendants were attempting to rid themselves  
21 of a child molesting priest. According to the Los Angeles officials they received no warnings.  
22 ((Finnegan Ex. 33, Mahony Depo. pp. 82, 111.) The Mexican Defendants purposefully did this in  
23 order to avoid scandal and make sure that Aguilar was not caught or prosecuted in Mexico for his  
24 crimes.

25 **C. The Mexican Defendants Derived a Significant Benefit from California when**  
26 **they facilitated or authorized Aguilar's escape from California law enforcement**  
27 **who had enough information to detain Aguilar based on the information**  
28 **received by the church officials.**

29 The only way that Aguilar could work in California was for the Diocese of Tehuacan and  
30 the Norberto Rivera to Aguilar permission to do so. (Fr. Doyle Dec. ¶ 6; see Finnegan Ex. 6-7,

1 RIV00023-24; Finnegan Ex. 10, RIV 00027.) By giving Aguilar permission to work in Los Angeles,  
2 the Mexican Defendants gave permission to the Archdiocese of Los Angeles and its officials to  
3 assert a certain portion of control over Aguilar. (Fr. Doyle Dec. ¶¶ 7-8.) By this time the Bishops,  
4 including Mahony and Rivera, were on notice that childhood sexual abuse by priests was a problem  
5 and also that the Catholic Church required secrecy around these allegations. (See Fr. Doyle Dec.  
6 ¶¶ 13, 16, 17.) On January 8, 1988, the Archdiocese of Los Angeles received reports that Aguilar had  
7 molested children. (Esparza Dec. ¶¶ 6, 7.) The Archdiocese of Los Angeles did not report the  
8 allegations of child sexual abuse to the Los Angeles police at that time, even though they knew that  
9 they had to report these allegations (Finnegan Ex. 13, RIV 00030; Ex. 32, Curry Depo. p. 71;  
10 Esparza Dec. ¶¶ 6, 7.) Rather, the Archdiocese of Los Angeles, acting under the authority that was  
11 given to it by the Mexican Defendants to exert control over Aguilar, met with Aguilar on Saturday  
12 January 9, 1988. (Finnegan Ex. 13, RIV 00030.) Under this same authority granted by the Mexican  
13 Defendants, the Archdiocese notified Aguilar that he was going to be reported to the authorities  
14 soon. (*Id.*) These documents alone show that the Archdiocese contacted Aguilar and either helped  
15 him leave the country or told him to leave before the police were notified.

16 Police Officer Hector Esparza investigated the Nicholas Aguilar case. (Esparza Dec. ¶¶ 2,  
17 3.) During that investigation Officer Esparza found that:

- 18 ● Several church employees failed to report Aguilar's abuse to the police. (Esparza  
19 Dec. ¶¶ 6, 7.)
- 20 ● "The three day delay (Friday January 8, 1988; Saturday January 9, 1988; and Sunday  
21 January 10, 1988) in reporting the child sexual abuse allegations facilitated Father  
22 Aguilar's departure from California." (Esparza Dec. ¶ 9.)
- 23 ● "[H]ad the Archdiocese of Los Angeles reported the allegations of child sexual abuse  
24 to the Los Angeles Police Department on January 8, 1988 steps could have been  
25 initiated to detain Father Aguilar and make sure he remained in California where he  
26 would answer for his crimes. There were sufficient facts in existence for me as the  
27 investigating detective to detain Father Aguilar on site based on the information  
28 received by Sister Renee and Father McClean on January 8, 1988. Unfortunately this  
information was not reported to the Los Angeles Police Department until January 11,  
1998." (Esparza Dec. ¶ 11.)
- "When interviewing personnel affiliated with the Archdiocese of Los Angeles I  
formed the impression that the Archdiocese intentionally delayed the report of the  
child sexual abuse allegations as a means of assisting Father Aguilar in avoiding  
criminal prosecution." (Esparza Dec. ¶ 12.)

1 Accordingly, had the allegations of sexual abuse been reported right away and Aguilar not helped  
2 out of the country or at least allowed to leave, Aguilar would have been detained and he would have  
3 had to face numerous counts of child sexual abuse and most likely spent the rest of his life in prison.

4 The Mexican Defendants derived a significant benefit from Aguilar being helped or allowed  
5 to leave California. The Mexican Defendants were spared the embarrassment and scandal which  
6 would have went along with their priest being convicted of child abuse. Without a prosecution and  
7 trial, there were only a few media articles about Aguilar. Moreover, they were spared from having  
8 Aguilar speak to the police which would have implicated the Mexican Defendants knowledge of  
9 Aguilar's past problems in Mexico. Allowing Aguilar to get of California also alleviated the  
10 Mexican Defendants from facing scandal over this type of decision. It saved them from further  
11 scrutiny of its actions with other priests that molest children. Therefore, the Mexican Defendants  
12 purposefully availed themselves of California because they derived a benefit from these contacts in  
13 California.

14 **D. Though they knew that Aguilar, their agent, was wanted by law enforcement in**  
15 **California, the Mexican Defendants created a substantial connection with**  
16 **California when they failed to take any steps to ensure that he would return to**  
17 **California to face prosecution.**

18 Even if the Mexican Defendants did not have such extensive contacts with California, if it  
19 creates "a substantial connection with the forum," even a single act can support jurisdiction in the  
20 foreign state. McGee v. International Life Ins. Co., 355 U.S. 220, 223 (1957). "McGee stands for  
21 the principle a single act may be sufficient to support jurisdiction if that act reflects a substantial  
22 connection with the state." Pennsylvania Health & Life Ins. Guaranty Assn. v. Superior Court, 22  
23 Cal.App.4th 477, 484, 27 Cal.Rptr.2d 507 (1994).

24 On January 11, 1988 the Archdiocese of Los Angeles wrote to Cardinal Rivera regarding  
25 Nicholas Aguilar. (Finnegan Ex. 13, RIV 00030.) The letter to Cardinal Rivera stated:

26 it has come to our attention that **several families** in Our Lady of Guadalupe Parish,  
27 Los Angeles, where Fr. Nicholas Aguilar-Rivera served for some months on his first  
28 coming here, **accuse him of acting very inappropriately with their children.**

(Id.)(emphasis added.) The letter from California to Cardinal Rivera also stated that the allegations  
had to be reported to the police and also that Aguilar intended to return to Mexico. (Id.) After an

1 investigation it was found that while Fr. Aguilar was in California for roughly nine months he  
2 sexually molested dozens of children. (Los Angeles Police Report, Esparza Ex. A.) The Los  
3 Angeles police interviewed approximately 18 different children who were molested by Aguilar. (Id.).  
4 They charged Aguilar with 19 counts of child molestation in California. (Los Angeles complaint  
5 against Aguilar, Mahony Depo. Ex. 101--attached as Finnegan Ex. 33.) Again on February 23, 1988  
6 the Archdiocese of Los Angeles wrote to Cardinal Rivera enclosing newspaper articles which told  
7 about the ongoing police investigation in California and that Aguilar was charged with molesting  
8 children in California. (Finnegan Ex. 14, RIV 00031-00035.) The letter to Rivera also urged him  
9 to send Aguilar back to California. (Id.) Bishop Curry of the Archdiocese of Los Angeles testified  
10 that he sent the letter to Rivera to show the seriousness of Aguilar's actions in California and for  
11 Rivera to have Aguilar return to California. (Finnegan Ex. 32, Curry Depo. pp. 84-85, 87.) On  
12 March 4, 1988, Cardinal Mahony wrote a letter to Cardinal Rivera which stated that "it is impossible  
13 to determine precisely the number of young altar boys that he has sexually molested, but the number  
14 is large." (Finnegan Ex. 16, RIV 00038.) In the letter Mahony describes the situation involving  
15 Aguilar's abuse of children in California as "grave and urgent." (Finnegan Ex. 16, RIV 00038.) The  
16 letter to Rivera also stated that "it is necessary that this priest [Aguilar] be detained and returned to  
17 Los Angeles in order to suffer the consequences of his immoral actions." (Id.) Mahony testified that  
18 this letter Rivera acknowledged that there was a credible report of child sexual abuse against Aguilar  
19 in the United States. (Finnegan Ex. 33, Mahony Depo. p. 118.) Cardinal Mahony indicated to  
20 Cardinal Rivera that he wanted him to return Aguilar to California so he could face civil authorities.  
21 (Finnegan Ex. 33, Mahony Depo. p. 161.)

22 Rivera admitted that by this time he had determined that Aguilar needed to return to  
23 California so that he could face the judicial and civil authorities in California. (Finnegan Ex. 30,  
24 Rivera Depo. p. 160.) Fr. Aguilar remained a priest of the Diocese of Tehuacan and under an oath  
25 of obedience to Rivera and the Diocese of Tehuacan after Aguilar returned to Mexico. (Finnegan  
26 Ex. 30, Rivera Depo. pp. 158, 160.) Cardinal Mahony testified that the promise of obedience, which  
27 Aguilar had to Rivera and the Diocese of Tehuacan, meant that "directives of the bishop or the  
28 diocese in which the priest is ordained and serves are to be followed." (Finnegan Ex. 33, Mahony

1 Depo. p. 24.) Despite this Rivera never informed any Catholic clergies in Mexico to search for  
2 Aguilar. (Finnegan Ex. 30, Rivera Depo. p. 160.) Rivera also never attempted to tell any individuals  
3 in Mexico about Aguilar's alleged sexual molestation of dozens of children in California. (Finnegan  
4 Ex. 30, Rivera Depo. p. 159.) Finally, Cardinal Rivera testified that at no time since 1987 has he  
5 initiated an investigation into Fr. Aguilar's whereabouts. (Finnegan Ex. 30, Rivera Depo. p. 147.)

6 These inactions show that the Mexican Defendants failed to take any action to aid Aguilar's  
7 prosecution in California. Accordingly, the Mexican Defendants' contacts with California and their  
8 response to these contacts created a substantial connection to California.

9 **E. The Mexican Defendants transacted business in California by agreeing to and  
10 licensing their agent to work in California**

11 The Mexican Defendants transacted business within the state of California by facilitating and  
12 executing an agreement to have their agent, Nicholas Aguilar, work in California so that he could  
13 escape scrutiny in Mexico for his abuse of children and getting beaten up. By willingly entering into  
14 this agreement, the Mexican Defendants can be held to have transacted business in the state of  
15 California even though no officials of Diocese or Cardinal Rivera were physically present in the  
16 state. See Burger King v. Rudzewicz, 471 U.S. 462, 477 ("jurisdiction . . . may not be avoided  
17 merely because the defendant did not physically enter the forum state. . . a substantial amount of  
18 business is transacted solely by mail and wire communications across state lines, thus obviating the  
19 need for physical presence within a state in which business is conducted").

20 In Burger King, the defendants were franchisees who purchased a Burger King franchise and  
21 then fell behind in their rent payments. Id. at 468. The plaintiff Burger King was a Florida  
22 corporation. Burger King drew up the franchise agreement in Florida and included a provision that  
23 Florida law would govern disputes. Id. at 466. The contract was negotiated by Burger King's  
24 headquarters in Miami and called for delivery of payments and notices to Miami. Id. These were  
25 the only contacts the defendants had with the state of Florida, other than a short training attended in  
26 Florida by one of the defendants. Id. The defendants argued that they should have been sued in  
27 Michigan because the franchise was in Michigan, the property which they rented was in Michigan,  
28 and the money from the business was in Michigan. Id. at 469, 479. The United States Supreme