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7 and Eduardo L.,

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF MONTEREY**

10 In the Matter of:

11 **G. L., MIRTHA L,**) **Case No.: 16CV003338**
12 **AND EDUARDO L.,**)

13) **SECOND AMENDED**
14) **COMPLAINT**

15) **JURY TRIAL DEMANDED**
16)

17) **vs**) **Judge: Hon. Thomas W. Wills**
18) **Dpt.: 14**

19) **DIOCESE OF MONTEREY, KATHLEEN**) **Date:**
20) **RADECKE, individually and on behalf of the**) **Time:**

21) **Diocese; RUEBEN PULIDO, individually and**)
22) **on behalf of the Diocese; NICK PEREZ,**)

23) **individually and on behalf of the Diocese;**)
24) **MAY PANGANIBAN, individually and on**)
25) **behalf of the Diocese, NICHOLAS C., a minor**)
26) **ADAM V., a minor and DOES 1-100,**)

27 **Defendants.**
28 _____

I. NATURE OF COMPLAINT

29 This action on behalf of Plaintiffs, G. L. (a minor at the time of the acts described herein),
30 Mirtha L, AND Eduardo L., (her parents) is for acts and omissions of defendants that resulted
31 from improper student placement at Madonna del Sasso School, for G.L., as well as failure to
32 supervise other students and staff at the school. The causes of action arise from acts of sexual

1 battery and sexual harassment perpetrated on G.L. by defendants (both minors) Nicholas C. and
2 Adam V., G.L.'s classmates during the times that she was a student of Madonna del Sasso, a
3 school run and owned by the Diocese of Monterey County.
4

5 **II. PARTIES**

- 6 1. Plaintiff G. L. is a minor female 16 years old. She is filing this complaint under a
7 pseudonym to protect her privacy. Defendants are fully aware of G. L.'s identity and
8 suffer no prejudice as the result of G. L.'s pseudonymous filing. She is the daughter of
9 Plaintiffs Mirtha L. and Eduardo L. She sues herein by and through her Next Friend,
10 Mirtha L.
11
- 12 2. Plaintiff Mirtha L. is the mother of plaintiff G. L. in this action. She is filing this
13 complaint under the pseudonym to protect her privacy and that of her daughter.
14 Defendants are fully aware of Mirtha L.'s identity and suffer no prejudice as the result of
15 Mirtha L.'s pseudonymous filing. She sues in her individual capacity and as Next Friend
16 for G. L.
17
- 18 3. Plaintiff Eduardo L. is the father of plaintiff G. L. in this action. He is filing this
19 complaint under the pseudonym to protect his privacy and that of his daughter.
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- 21 4. Defendants are fully aware of Eduardo L.'s identity and suffer no prejudice as the result
22 of EDUARDO L.'s pseudonymous filing. He sues in his individual capacity.
23
- 24 5. Defendant DIOCESE OF MONTEREY (hereinafter DIOCESE) was and is now a private
25 school organized and existing under the laws of the State of California and engaged in the
26 owning and operation of Catholic schools, including Madonna del Sasso, in the County of
27 Monterey, State of California. Defendant Diocese is located at 425 Church Street,
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Monterey, CA 93942.

6. Defendant Kathleen RADECKE is an adult female and resident of the State of California. Kathleen RADECKE was at all times herein mentioned employed as the school superintendent of the Diocese. She is sued in her official and individual capacities.

7. Defendant May Panganiban, is an adult female and resident of the State of California. May Panganiban was at all times herein mentioned employed as an Assistant Principal at Madonna del Sasso School of the Diocese. She is sued in her official and individual capacities.

8. Defendant Ruben PULIDO, is an adult male and resident of the State of California. PULIDO was at all times herein mentioned employed as the Principal at Madonna del Sasso School of the Diocese. He is sued in his official and individual capacities.

9. Defendant Nick PEREZ, is an adult male and resident of the State of California. PULIDO was at all times herein mentioned employed as a mathematics teacher at Madonna del Sasso School of the Diocese. He is sued in his official and individual capacities.

10. Defendant NICHOLAS C. is an minor male and resident of the County of Monterey and State of California. NICHOLAS C. was at all times herein mentioned a student at Madonna del Sasso School of the Diocese. Plaintiffs are ignorant of the true identity of NICHOLAS C. Plaintiffs request the court appoint a Guardian ad Litem on behalf of NICHOLAS C.

11. Defendant ADAM V. is an minor male and resident of the County of Monterey and State of California. ADAM V. was at all times herein mentioned a student at Madonna del Sasso School of the Diocese. Plaintiffs are ignorant of the true identity of ADAM V.

- 1 Plaintiffs request the court appoint a Guardian ad Litem on behalf of ADAM V.
- 2
- 3 12. The true names or capacities, whether individual, corporate, associate, or otherwise, of
- 4 Defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs, who therefore sue
- 5 such Defendants by such fictitious names, and will amend this complaint to show their
- 6 true names and capacities when ascertained. Plaintiff is informed and believes and
- 7 thereon alleges that each of the Defendants designated as a DOE is responsible in some
- 8 manner for the torts herein referred to, and thereby proximately caused injuries and
- 9 damages to the Plaintiff as herein alleged.
- 10
- 11 13. In doing the things herein alleged, all defendants and each of them, except NICHOLAS
- 12 C. and ADAM V., acted in concert with each of the remaining defendants.
- 13
- 14 14. Plaintiffs allege that all defendants and each of them, except NICHOLAS C. and Adam
- 15 V. were the agents and employees of DIOCESE, and in doing the things hereinafter
- 16 alleged, joint and severely, were acting within the course and scope of such agency and
- 17 employment.
- 18
- 19 15. In doing the things herein alleged, all defendants and each of them, except Nicholas C.
- 20 and ADAM V., acted as the agent, servant, employee and in concert of Defendant
- 21 DIOCESE and, therefore, DIOCESE, joint and severely, is responsible and liable to
- 22 plaintiffs on the basis of respondeat superior in addition to its individual liability.
- 23
- 24 16. In doing the things herein alleged, defendants NICHOLAS C. and ADAM V., each of
- 25 them, joint and severely, acted in concert with each other.

26 **III. FACTUAL ALLEGATIONS**

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- 28 17. On and in the two years prior to Oct. 24, 2014, at Madonna del Sasso School, 20 Santa

1 Teresa Way, Salinas, CA, while students there Adam V., Nicholas C., Sexually Harassed
2 and Battered G.L. during school hours by touching her inappropriately and threatening to
3 “rape” her.
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5 18. While in classes at the school, as well as, generally, on the school campus, Defendants
6 Adam V. and Nicholas C. began to sexually harass and batter G.L.

7 19. Adam V. repeatedly would threaten to “rape” G.L.
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9 20. While sitting in class, Defendants Nicholas C. would taunt G.L., by repeatedly touching
10 her by running his hands up and down her thighs in a sexual manner, while he made lewd
11 comments, suggestions, and solicitations.
12

13 21. These touchings would occur in each class that G.L. shared with Nicholas C. and occur
14 on most every day in class. Nicholas C.’s threats would occur on the playground and
15 around the school in front of other students and when alone with G.L.

16 22. While in class on the campus, Adam V. would threaten to “rape” G.L.
17

18 23. In December, 2014, Adam sent G.L. sexually harassing text messages calling her a “slut”
19 and a “ho.”

20 24. Even though G.L. blocked his texts, Adam continued to harass her at school, yelling those
21 names at her at school in front of other students.
22

23 25. On several occasions G.L. complained to her teachers, in particular Mr. Nick Perez, and
24 the principal, Mr. Pulido, that she was being sexually harassed by Nicholas C. and Adam
25 V.

26 26. The teachers either did nothing at all nor let her to move her seat.
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28 27. It wasn’t until Plaintiff Mirtha L. got upset about the lack of response at the school, did

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Defendant Nick Perez do something about the situation.

28. When Mr. Perez temporarily moved G.L.'s, he made an announcement to the class that it was only a "temporary" move, thereby embarrassing her even more because everyone in the class now knew for sure what was happening.

29. This put even more stress upon G.L. and it was worse because she thought she would have to sit by him again eventually.

30. The announced move also increased the harassment and G.L. again complained, but, nothing was done.

31. Mirtha L. repeatedly called and wrote to the school principal and administration complaining that nothing was being done to protect G.L. Her husband, Eduardo L., was physically present during some of Mirtha L.'s attempts to get the school to act to protect their daughter.

32. Although the principal, Defendant Pulido, responded once saying he would do something, nothing was done and the harassment continued.

33. The last straw was when G.L. began to have suicidal thoughts. She wanted to kill herself because he was unable to cope with what was happening to her.

34. She began to self-mutilate by cutting her arms.

35. Plaintiff Mirtha L. would have to hug her tight to prevent G.L. from hurting herself.

36. G.L. would have to be checked on day and night such that both parents would awake in the middle of the night and early in the mornings to see that G.L. was alright.

37. The disturbance was so upsetting to G.L. that her parents removed her from the school.

FIRST CAUSE OF ACTION

1 **ASSAULT AND BATTERY**

2 (G.L. vs Nicholas C.)

3 38. Plaintiffs herein reallege and incorporate by reference paragraphs 1 - 37 as set forth
4 above.

5 39. By making the threats to rape G.L., Defendant Nicholas C. put G.L. in apprehension of
6 personal harm.

7
8 40. The acts of Nicholas in touching G.L. on her leg and thigh were unwanted, intentional,
9 and caused G.L. to suffer anguish and serious physical and emotional distress. These acts
10 of this Defendant were wanton and with reckless disregard of the consequences to
11 Plaintiff G.L.

12
13 41. This torment led to G.L. cutting herself.

14 42. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
15 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
16 destructive conduct and suicidal thoughts.

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18 43. As a result of said defendant's intentional acts, Plaintiffs, and each of them, have suffered
19 as alleged herein, and are entitled to damages in an amount according to proof.

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21 44. Defendant Nicholas C. did the acts alleged herein maliciously, fraudulently, oppressively,
22 and/or with reckless and conscious disregard for the rights and safety of G.L. and/or with
23 an improper and evil motive amounting to malice.

24 45. Plaintiff G.L. is thus entitled to recover punitive damages from Nicholas C. in an amount
25 according to proof.

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27 46. WHEREFORE, the plaintiffs request relief as set forth below.

28 **SECOND CAUSE OF ACTION**

1 **ASSAULT**

2 (G.L. vs Adam V.)

3 47. Plaintiffs herein reallege and incorporate by reference paragraphs 1 - 46 as set forth
4 above.

5 48. By making the threats to rape G.L., Defendant Adam V. put G.L. in apprehension of
6 personal harm.

7
8 49. This torment led to G.L. cutting herself.

9 50. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
10 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
11 destructive conduct and suicidal thoughts.

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13 51. Defendant Adam V. did the acts alleged herein maliciously, fraudulently, oppressively,
14 and/or with reckless and conscious disregard for the rights and safety of G.L. and/or with
15 an improper and evil motive amounting to malice.

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17 52. Plaintiff G.L. is thus entitled to recover punitive damages from Adam V. in an amount
18 according to proof.

19 53. WHEREFORE, the plaintiffs request relief as set forth below.
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21 **THIRD CAUSE OF ACTION**

22 **SEXUAL BATTERY**

23 California Civil Code Sec.1708.5.

24 (G.L. vs Nicholas C. and Adam V.)

25 54. Plaintiffs herein reallege and incorporate by reference every allegation as stated in the
26 paragraphs 1 - 53 above.

27 55. By committing the acts described above, these Defendants acted with the intent to cause a
28 harmful or offensive contact with an intimate part of another, and a sexually offensive

1 contact with that person directly resulted.

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3 56. This torment led to G.L. cutting herself.

4 57. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
5 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
6 destructive conduct and suicidal thoughts.

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8 58. These touchings were unwanted, sexually offensive, intentional, and caused G.L. to suffer
9 anguish and serious physical and emotional distress. These acts of Defendants were
10 wanton and with reckless disregard of the consequences to plaintiffs.

11 59. Defendant Adam V. did the acts alleged herein maliciously, fraudulently, oppressively,
12 and/or with reckless and conscious disregard for the rights and safety of G.L. and/or with
13 an improper and evil motive amounting to malice.

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15 60. Plaintiff G.L. is thus entitled to recover punitive damages from Defendants Nicholas C
16 and Adam V. in an amount according to proof.

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18 61. WHEREFORE, the plaintiffs request relief as set forth below.

19 **FOURTH CAUSE OF ACTION**
20 **NEGLIGENCE PER SE**
21 **COMMISSION OF CRIMINAL**
22 **ASSAULT AND BATTERY**

As to Nicholas C. and Adam V.

23 62. Plaintiffs herein reallege and incorporate by reference every allegation as stated in
24 paragraphs 1 - 61 above.

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26 63. In committing the threats of assault and the actual battery, crimes under Penal Code
27 Sections 240, 242, 243, of which their enactment was intended is to protect persons such
28 as G.L., Defendants Nicholas C. and Adam V. committed negligence per se.

- 1 64. By the acts and omissions set forth above, defendants breached their duty of due care with
2 respect to follow-up and retaliation.
3
4 65. Additionally, under California Evidence Code Section 669, the negligence of defendants
5 may be presumed, for the reason that:
6 a. Defendants, and each of them, violated Penal Code Sections 240, 242 and 243;
7
8 b. The violations proximately caused injury to plaintiffs;
9 c. The injuries to plaintiffs were occurrences of the nature which Penal Code
10 Sections 240, 242 and 243 were designed to prevent; and,
11 d. Plaintiffs were members of the class of persons for whose protection these statutes
12 e. As a result of defendants' negligent follow-up and retaliation, plaintiffs have been
13 damaged in an amount according to proof.

13 **FIFTH CAUSE OF ACTION**
14 **NEGLIGENCE: FAILURE TO PROTECT OR**
15 **WARN OF CRIMINAL CONDUCT OF THIRD PARTY**
16 (G.L. vs Diocese, Radecke, Pulido, and Paganiban)

- 16 66. Plaintiffs herein reallege and incorporate by reference every allegation as stated in
17 paragraphs 1 - 66 above.
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19 67. On or about two years prior 10-24-14 and following through to 12-17-14, under
20 California law, Defendants Diocese, Radecke, Pulido and Paganiban, had a special
21 relationship to children entrusted to their care. Such special relationship gave rise to a
22 heightened duty of care that defendants owed to plaintiffs to ensure that they were safe
23 from sexual assault and abuse at the hands of other students.
24
25 68. By undertaking the role of teachers and school administrators, defendants created a
26 fiduciary relationship involving a heightened duty of care owed plaintiffs by defendants,
27 and that fiduciary relationship existed at all times mentioned herein.
28

1 69. In particular, defendants breached their duties to the parent plaintiffs, who entrusted
2 defendants with the care of their children and delegated to defendants their legally
3 mandated duties to provide a safe environment for G.L. Said delegations and heightened
4 duty of care that parents owe children creates a heightened duty of care on the part of
5 defendants, who accepted the responsibility by accepting the delegations.
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7 70. By the acts and omissions described above, including but not limited to, the failing to
8 prevent the acts of sexual harassment and assault, in addition to the actions and omissions
9 subsequent to the sexual harassment, Defendants Diocese, Radecke, Pulido and
10 PAGANIBAN breached their fiduciary duties to plaintiffs.
11

12 71. The loss of faith in the Church's institution increased the degree that the torment and
13 vexation experienced by G.L. affected her.
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15 72. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
16 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
17 destructive conduct and suicidal thoughts.
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19 73. WHEREFORE, the plaintiffs request relief as set forth below.
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21 **SIXTH CAUSE OF ACTION**

22 **GENERAL NEGLIGENCE**

23 (All Plaintiffs vs. vs Diocese, Radecke, Pulido, and Paganiban)

24 74. Plaintiffs herein reallege and incorporate by reference every allegation as stated in
25 paragraphs 1 - 73 above.
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27 75. On and about two years prior to Oct. 24, 2014, and to Dec. 17, 2014, Defendants
28 Kathleen Radecke, Rueben Pulido, May PAGANIBAN, and Does 1 - 100 had statutory
and common law duties to maintain a school environment that was safe for children and

1 not to interfere with the civil rights of plaintiffs.

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3 76. In the months preceding and following Oct. 20, 2014, G.L. and her mother, M.L.
4 informed Madonna del Sasso employees that the assaults and battery were occurring.

5 77. Defendants Kathleen Radecke, Rueben Pulido, May PAGANIBAN, and Does 1 - 100,
6 failed to act to properly supervise and protect G.L. when she was assaulted by Defendants
7 Adam V. and Nicholas C. when the assaults occurred and after she reported their conduct
8 to school officials.

9
10 78. All plaintiffs experienced a continued torment and vexation as a result of the failures of
11 the Church to protect G.L.

12 79. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
13 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
14 destructive conduct and suicidal thoughts.

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16 80. As a result of the immediacy of witnessing their daughter's misery at home and at school,
17 Mirtha L. and Eduardo L. suffered a gnawing grief beyond description, anguish, anxiety,
18 frustration, fears for their daughter, betrayal by the school and its staff, family discord and
19 a loss of faith in the church's ability to supervise and control its students.

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21 81. Mirtha L. and Eduardo L., after finding no resolution in their direct contact with the
22 school officials, developed a gloom and bitterness that overshadowed their lives. Such a
23 heartache was their plight it drove them to abandon the school where G.L. had grown
24 emotionally and spiritually.

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26 82. As a result of the negligence of defendants, and each of them, plaintiffs were injured in an
27 amount according to proof.
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SEVENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Plaintiffs vs All Defendants)

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4 83. Plaintiffs herein reallege and incorporate by reference every allegation as stated in
5 paragraphs 1 - 82 above.
- 6 84. On or about two years prior Oct. 24, 2014 and following through to Dec.17, 2014, the
7 acts of all defendants as alleged herein were extreme, outrageous, intentional, malicious,
8 and calculated to cause the plaintiffs to suffer anxiety, severe and serious emotional and
9 physical distress and suffering. All Defendants' conduct was done with wanton and
10 reckless disregard of the consequences to plaintiffs.
- 11
12 85. Furthermore, specifically, Defendants Adam V. and Nicholas C. committed the acts
13 described herein with the purpose of achieving their own sexual arousal and gratification.
- 14
15 86. In addition, the remaining defendants consciously and intentionally failed to act in fear of
16 exposure of the school to ridicule and potential loss of students (ie: tuition and fees) in a
17 time when the school enrollment was sparse.
- 18
19 87. As a result, G.L. suffered psychological symptoms, including embarrassment, anguish,
20 anxiety, fears, loss of sleep, difficulty in concentrating, poor school performance, self
21 destructive conduct and suicidal thoughts.
- 22
23 88. As a result of the immediacy of witnessing their daughter's misery at home and at school,
24 Mirtha L. and Eduardo L. suffered a gnawing grief beyond description, anguish, anxiety,
25 frustration, fears for their daughter, betrayal by the school and its staff, family discord and
26 a loss of faith in the church's ability to supervise and control its students.
- 27
28 89. Mirtha L. and Eduardo L., after finding no resolution in their direct contact with the

1 school officials, developed a gloom and bitterness that overshadowed their lives. Such a
2 heartache was their plight it drove them to abandon the school where G.L. had grown
3 emotionally and spiritually.
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5 90. In addition to the damages and harm herein described, Plaintiff's Mirtha L. and Eduardo
6 L., have had their faith in people seriously shaken, causing them much emotional pain
7 through guilt, humiliation and shame.

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9 91. As a result of said defendant's intentional infliction of emotional distress, the plaintiffs
10 have suffered damages in an amount according to proof.

11 92. Said defendants did the acts alleged herein maliciously, fraudulently, oppressively, and/or
12 with reckless and conscious disregard for the rights and safety of G.L. and her parents,
13 and/or with an improper and evil motive amounting to malice. Plaintiffs, and each of
14 them, are thus entitled to recover punitive damages from defendants in an amount
15 according to proof.
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17 **REQUEST FOR RELIEF**

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19 Against Defendant Nicholas C.:

- 20 a. Compensatory damages on the First, Third, Fourth, and Seventh claims for relief in the
21 amount of \$10,000,000.
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23 b. Punitive damages on the First, Third, and Seventh claims for relief, in the amount of
24 \$5,000,000.
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26 c. Costs of Suit.
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28 d. Any other relief the court may deem just and proper.

Against Defendant Adam V.:

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- a. Compensatory damages on the Second, Third, Fourth, and Seventh claims for relief in the amount of \$10,000,000.
- b. Punitive damages on the Second, Third and Seventh claims for relief in the amount of \$5,000,000.
- c. Costs of Suit.
- d. Any other relief the court may deem just and proper.

Against Defendants Diocese, Radecke, Pulido and Panganiban.:

- a. Compensatory damages on the Fifth, Sixth and Seventh claims for relief in the amount of \$10,000,000.
- b. Punitive damages on the Seventh claims for relief in the amount of \$10,000,000.
- c. Costs of Suit.
- d. Any other relief the court may deem just and proper.

Dated: May 8, 2017

/s/ Seth L. Goldstein
Seth L. Goldstein,
Attorney for Plaintiffs