

Secrets of
Pedophilia
in an.
American
Religion

Jehovah's Witnesses in Crisis

BARBARA ANDERSON

Court Documents

Julianne Wimberly Guiterrez et al

vs

Jehovah's Witnesses

ENDORSED

TEHAMA SUPERIOR COURT

2003 JUL 24 PM 4:50

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and JOSHUA WIMBERLEY

THIS MATTER IS SUBJECT TO THE TRIAL COURT
DELAY REDUCTION ACT, GOVERNMENT CODE
§68600 ET SEQ. AND TEHAMA COUNTY RULES
63.00 ET SEQ.

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF TEHAMA

10 **52598**

11 JULIANNE WIMBERLEY GUTERREZ and)
JOSHUA WIMBERLEY,)

CASE NO:

12 Plaintiffs,)

Jury Trial Demanded

13 vs.)

Complaint for Damages:

14 ROES 1 through 100, and DOES 110 through)
15 120, inclusive,)

1. Sexual Battery and Respondeat Superior
2. Common Law Negligence
3. Negligent Appointment, Retention, and Supervision
4. Gross Negligence - Wilful Misconduct
5. Breach of Fiduciary Duty
6. Negligence Per Se and Common Law Negligence: Failure to Report Suspected Child Abuse
7. Fraud, Fraudulent Concealment, and Conspiracy
8. Ratification
9. Alter Ego and Single Business Enterprise
10. Negligent Usurpation of Investigatory Function
11. Violation of Penal Code § 182
12. Violation of Penal Code § 32

16 Defendants.)
17 _____)
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19)
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24)

25 PLAINTIFFS' ORIGINAL COMPLAINT

26 COMES NOW JULIANNE WIMBERLEY GUTIERREZ and JOSHUA WIMBERLEY,
27 Plaintiffs in the above entitled cause, and file this, their Original Complaint in accordance with Code
28 of Civil Procedure § 340.1, and allege as follows:

I.

PARTIES

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3 1. Plaintiff JULIANNE WIMBERLEY GUTIERREZ, born February 2, 1972, is and
4 at all times mentioned herein, was a resident of Tehama County, California. At all times mentioned
5 herein, Plaintiff was also a child entrusted to the Defendants' care within the State of California.
6 As a child, Plaintiff was sexually abused by an elder appointed by the Defendants' organization
7 within the State of California.

8 2. Plaintiff JOSHUA WIMBERLEY, born June 20, 1975, is and at all times mentioned
9 herein, was a resident of Tehama County, California. At all times mentioned herein, Plaintiff was
10 also a child entrusted to the Defendants' care within the State of California. As a child, Plaintiff was
11 sexually abused by an elder appointed by the Defendants' organization within the State of California

12 3. Plaintiffs allege on information and belief that at all relevant times, defendants ROES
13 1 through 100, inclusive are business or corporate entities incorporated in and/or doing business in
14 California and DOES 110 through 120 inclusive, are individuals.

15 4. The true names and capacities, whether individual, corporate, associate, or otherwise,
16 of defendants ROES 1 through 100 and DOES 110 through 120, inclusive, are known and unknown
17 to Plaintiffs who therefore sue such defendants by such fictitious names in compliance with Code
18 of Civil Procedure § 340.1(m), and will amend the complaint to show the true names and capacities
19 of each known ROE and DOE defendant pursuant to Court Order and to show the true names and
20 capacities of each unknown ROE and DOE defendant when ascertained. Plaintiffs allege on
21 information and belief that each defendant designated as a ROE and DOE is legally responsible in
22 some manner for the events, happenings, and/or tortious, and unlawful conduct that caused the
23 injuries and damages alleged in this complaint.

24 5. Defendant designated herein as ROE 1 is a corporation organized and existing under
25 the laws of the State of New York, and has conducted business within the State of California through
26 its agents and alter egos. ROE 1 is, based upon best information and belief, a corporate religious
27 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
28 entity to be victims of sexual abuse. The identity of ROE 1 is known by Plaintiffs and their

1 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
2 plead the true identity of ROE 1.

3 6. Defendant designated herein as ROE 2 a corporation organized and existing under
4 the laws of the State of Pennsylvania, has conducted business within the State of California through
5 its agents and alter egos. ROE 2 is, based upon best information and belief, a corporate religious
6 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
7 entity to be victims of sexual abuse. The identity of ROE 2 is known by Plaintiffs and their
8 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
9 plead the true identity of ROE 2.

10 7. Defendant designated herein as ROE 3 is a limited liability company organized and
11 existing under the laws of the State of New York, and has conducted business within the State of
12 California through its agents and alter egos. ROE 3 is, based upon best information and belief, a
13 corporate religious entity that has engaged in conduct, or a lack thereof, thereby allowing children
14 affiliated with its entity to be victims of sexual abuse. The identity of ROE 3 is known by Plaintiffs
15 and their attorneys, and an order will be sought in compliance with Code of Civil Procedure §
16 340.1(m) to plead the true identity of ROE 3.

17 8. Defendant designated herein as ROE 4 is a corporation organized and existing under
18 the laws of the State of New York, has conducted business within the State of California through
19 its agents and alter egos. ROE 4 is, based upon best information and belief, a corporate religious
20 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
21 entity to be victims of sexual abuse. The identity of ROE 4 is known by Plaintiffs and their
22 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
23 plead the true identity of ROE 4.

24 9. Defendant designated herein as ROE 5 is a corporation organized and existing under
25 the laws of the State of New York, has conducted business within the State of California through
26 its agents and alter egos. ROE 5 is, based upon best information and belief, a corporate religious
27 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
28 entity to be victims of sexual abuse. The identity of ROE 5 is known by Plaintiffs and their

1 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
2 plead the true identity of ROE 5.

3 10. Defendant designated herein as ROE 6 is a corporation organized and existing under
4 the laws of the State of New York, has conducted business within the State of California through
5 its agents and alter egos. ROE 6 is, based upon best information and belief, a corporate religious
6 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
7 entity to be victims of sexual abuse. The identity of ROE 6 is known by Plaintiffs and their
8 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
9 plead the true identity of ROE 6.

10 11. Defendant designated herein as ROE 7 is a corporation organized and existing under
11 the laws of the State of New York, has conducted business within the State of California through
12 its agents and alter egos. ROE 7 is, based upon best information and belief, a corporate religious
13 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
14 entity to be victims of sexual abuse. The identity of ROE 7 is known by Plaintiffs and their
15 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
16 plead the true identity of ROE 7.

17 12. Defendant designated herein as ROE 8 is a corporation organized and existing under
18 the laws of the State of New York, has conducted business within the State of California through
19 its agents and alter egos. ROE 8 is, based upon best information and belief, a corporate religious
20 entity that has engaged in conduct, or a lack thereof, thereby allowing children affiliated with its
21 entity to be victims of sexual abuse. The identity of ROE 8 is known by Plaintiffs and their
22 attorneys, and an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to
23 plead the true identity of ROE 8.

24 13. Defendant designated herein as ROE 9 is a corporation organized and existing under
25 the laws of the State of California, with its place location in Tehama County, California. ROE 9 is,
26 based upon best information and belief, a corporate religious entity that has engaged in conduct, or
27 a lack thereof, thereby allowing children affiliated with its entity to be victims of sexual abuse. The
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1 identity of ROE 9 is known by Plaintiffs and their attorneys, and an order will be sought in
2 compliance with Code of Civil Procedure § 340.1(m) to plead the true identity of ROE 9.

3 14. Defendant designated herein as DOE 110 is an individual whose whereabouts is
4 uncertain, but is believed to be residing in Klamath Falls, Oregon. DOE 110 is and was, based upon
5 best information and belief, an individual who sexually abused and molested children within the
6 religious organization that he was an agent of, which engaged in conduct, or a lack thereof, thereby
7 allowing children affiliated with its entity to be victims of sexual abuse. The identity of DOE 110
8 is known by Plaintiffs and their attorneys, and an order will be sought in compliance with Code of
9 Civil Procedure § 340.1(m) to plead the true identity of DOE 110.

10 15. Defendant designated herein as DOE 111 is an individual who is located in Red
11 Bluff, CA. DOE 111 is and was, based upon best information and belief, an individual who sexually
12 abused and molested children within the religious organization that he was an agent of, which
13 engaged in conduct, or a lack thereof, thereby allowing children affiliated with its entity to be
14 victims of sexual abuse. The identity of DOE 111 is known by Plaintiffs and their attorneys, and
15 an order will be sought in compliance with Code of Civil Procedure § 340.1(m) to plead the true
16 identity of DOE 111.

17 16. The Defendant entities are collectively referred to herein as "ROE DEFENDANTS"
18 and each is the agent and alter ego of each other and operates as a single business enterprise. Each
19 of the ROE DEFENDANTS was acting within the scope and course of his or its authority as an
20 agent, servant, and/or alter ego of the other and each of them engaged in, joined in and conspired
21 with the other wrongdoers in carrying out the unlawful activities alleged in this complaint.

22 II.

23 JURISDICTION AND VENUE

24 17. Each Plaintiff has been damaged in an amount exceeding the minimum jurisdictional
25 requirements of this Court.

26 18. Venue is proper in Tehama County, California because Defendant ROE 9 has its
27 principal place of business in Tehama County and because some of the acts or omissions that give
28 rise to Plaintiffs' claims occurred in Tehama County, California.

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28III.
FACTS COMMON TO ALL CAUSES OF ACTION

19. In the past, certain Elders, Ministerial Servants, Pioneers, Male Publishers, agents, volunteers and other leaders and representatives of ROE DEFENDANTS' organization, including DOE 110, have used their positions of authority within the ROE DEFENDANTS' organization to sexually abuse minors, including Plaintiffs. The ROE DEFENDANTS were notified of the abuse of these minors by their elders and other leaders, including DOE 110, but failed to take reasonable steps to ensure the safety of Plaintiffs and other minor children entrusted to their care and to prevent future acts of molestation. This suit seeks compensation for Plaintiffs, victims of this sexual abuse.

20. All paragraphs of this Complaint are based on information and belief, except for those allegations, which pertain to the Plaintiffs and their counsel. Plaintiffs' information and belief are based upon, inter alia, the investigation conducted to date by Plaintiffs and their counsel. Each allegation in this Complaint either has, or is likely to have, evidentiary support upon further investigation and discovery.

21. The ROE DEFENDANTS' organization is a hierarchical structure in which the GOVERNING BODY, which is a small group of men who operate out of various entities within the hierarchical structure, sits at the top of a chain of command that extends over each individual and Defendant entity in the organization including its worldwide operations. These individuals and entities act as agents, servants and alter egos of each other. Authority for actions by the organization or its members derive from the GOVERNING BODY.

22. All of the ROE DEFENDANTS are the agents and servants of each other and are vicariously liable for each other's acts. The ROE DEFENDANTS are so organized and controlled and their affairs are so conducted that they are alter egos of each other and operate as a single business enterprise.

23. Through its hierarchical structure, the ROE DEFENDANTS assume responsibility for the development, protection and discipline of its membership, especially the children of members. All male members, whether Elders, Ministerial Servants, Pioneers and/or Publishers, are appointed and empowered by the GOVERNING BODY to carry out this responsibility.

1 24. To further their goals, the ROE DEFENDANTS authorize male members to develop
2 relationships of trust with women, children and families and to assume a role of counselor and
3 advocate for any problems that might arise, including claims of child abuse. It is the responsibility
4 of the Elders and those higher up in the chain of command, including the GOVERNING BODY,
5 to decide if abuse has occurred and how it should be handled.

6 25. Despite knowledge of a problem with sexual abuse of minors by leaders in the ROE
7 DEFENDANTS' organization, the ROE DEFENDANTS acted with willful indifference and/or
8 reckless and/or intentional disregard for the interest and safety of the children entrusted to their care.
9 Rather than implement measures to redress and prevent the sexual molestation of these children, the
10 ROE DEFENDANTS engaged in a systematic pattern and practice of suppression of information
11 to cover-up and hide incidents of child molestation from law enforcement and their membership in
12 order to protect those within the ROE DEFENDANTS' organization who committed acts of sexual
13 molestation against children. The ROE DEFENDANTS have likewise engaged in the routine
14 practice of maintaining secret archival files regarding sexual abuse by Elders, Ministerial Servants,
15 Pioneers, Male Publishers and other leaders in the organization. The existence of these files and the
16 contents thereof were not disclosed to or made available to law enforcement authorities or others
17 to investigate the crimes of these leaders in the ROE DEFENDANTS' organization. The ROE
18 DEFENDANTS furthered this conspiracy of concealment by, among other things, failing to properly
19 report complaints of sexual misconduct to law enforcement authorities and failing to remove
20 molesting leaders or prevent their access to children. Molesting leaders were allowed to remain as
21 leaders in good standing in the organization and were allowed continued frequent and unsupervised
22 access to children in the organization. At all material times, the ROE DEFENDANTS prohibited
23 the victim and/or accuser from warning others or speaking about the matter to anyone under penalty
24 of discipline. Victim/accusers were not permitted to report suspected abuse to outside authorities
25 or to other Publishers within the organization, despite secular laws and duties regarding the
26 reporting of sexual abuse. Violation of this policy would lead to severe sanctions. The ROE
27 DEFENDANTS also failed to provide Plaintiffs and their families with any notice or warning
28 regarding the past misconduct of, and abuse by, leaders in the organization, including Defendants

1 DOE 110 and DOE 111. The ROE DEFENDANTS represented to Plaintiffs, members and the
2 public that these leaders were fit to lead, when in fact they were predator pedophiles. The ROE
3 DEFENDANTS knew or had reason to know that these leader molesters would continue to sexually
4 molest children, using their leadership positions to gain access and control over their victims.

5 26. At all times mentioned herein, Defendant DOE 110 was an appointed leader
6 in good standing in the ROE DEFENDANTS' organization. The ROE DEFENDANTS
7 affirmatively placed him in positions with authority over women and children as a Publisher,
8 Ministerial Servant and Elder.

9 27. At all times mentioned herein, Defendant DOE 111 was also an appointed leader in
10 good standing with the ROE DEFENDANTS' organization. The ROE DEFENDANTS
11 affirmatively placed Defendant DOE 111 with authority over women and children in the
12 congregation as an Elder.

13 28. By 1976, if not before, the ROE DEFENDANTS had received non-confidential
14 notice that their appointed agent, Defendant DOE 110, had used his appointed leadership position
15 of authority to sexually molest children entrusted to the care of the ROE DEFENDANTS'
16 organization. Despite this information, the ROE DEFENDANTS took no action to report the abuse
17 to authorities, discipline their agent, Defendant DOE 110, or warn members of the organization of
18 the abuse by Defendant DOE 110. Instead, with knowledge of Defendant DOE 110's propensity to
19 use his position of authority to abuse children in the organization, the ROE DEFENDANTS
20 continued to appoint Defendant DOE 110 to positions of leadership in the organization with
21 authority over women and children in the organization and even elevated him to positions of higher
22 authority within the local congregation. This sexual predator used his position of authority within
23 the ROE DEFENDANTS' organization to gain access to and abuse children in the ROE
24 DEFENDANTS' organization.

25 29. Beginning in 1976 or 1977 and continuing until 1981, ROE DEFENDANTS' agent,
26 DOE 110 used his position of authority within the ROE DEFENDANTS' organization to gain
27 access to and repeatedly sexually abuse Plaintiff JULIANNE WIMBERLY GUTIERREZ who was
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1 under the care of ROE DEFENDANTS. She was four (4) or five (5) years old when the abuse
2 began.

3 30. In 1980 and continuing until approximately 1982, the ROE DEFENDANTS' agent,
4 Defendant DOE 110, used his position of authority to gain access to and repeatedly sexually abuse
5 Plaintiff JOSHUA WIMBERLY. He was four (4) or five (5) years old when the abuse began.

6 31. Through non-confidential communications, the ROE DEFENDANTS were notified
7 of the admitted ongoing abuse of Plaintiffs and others. Unknown to Plaintiffs, but well known to
8 the ROE DEFENDANTS, one of their agents, to whom the abuse by Defendant DOE 110 was
9 reported, was Defendant DOE 111. Defendant DOE 111 was himself a longtime child molester who
10 had used his leadership position in the ROE DEFENDANTS' organizations to gain access to his
11 victims. Despite their knowledge of Defendant DOE 111's sexual abuse, the ROE DEFENDANTS
12 vested him with the authority to make decisions about the reporting and handling of reports of
13 sexual abuse within the congregation, subject to their ultimate control and authority. Defendant
14 DOE 111 and the ROE DEFENDANTS did not notify any authorities or take any steps to discipline
15 Defendant DOE 110. Nor did they provide Plaintiffs with any assistance in dealing with the trauma
16 or warn other members of Defendant ROE 9 that leaders appointed by the ROE DEFENDANTS
17 were dangerous sexual predators. Instead, the ROE DEFENDANTS criticized Plaintiffs for
18 reporting the abuse, thereby exacerbating their trauma.

19 32. For almost two decades, the ROE DEFENDANTS knew or should have known that
20 their appointed agents, Defendants DOE 111 and DOE 110, were using their positions of authority
21 in the organization to gain access to and sexually molest and physically abuse adolescents under the
22 care of the organization. Nevertheless, the ROE DEFENDANTS continued to appoint Defendants
23 DOE 111 and DOE 110 to leadership positions in their local congregations, entrusting them with
24 the welfare of numerous adolescents in the ROE DEFENDANTS' local congregations. The ROE
25 DEFENDANTS' agents then used their positions of authority in the organization to sexually molest
26 children in the organization entrusted to their care. The ROE DEFENDANTS failed to notify
27 anyone that Defendants DOE 111 and DOE 110 were molesting or had sexually molested
28 adolescents. They further failed to take any steps to protect these young victims from their abuse.

1 Instead, they knowingly concealed this information from Plaintiffs and others. The ROE
2 DEFENDANTS also aided, abetted and ratified the abuse by disciplining the victims who reported
3 the abuse to the ROE DEFENDANTS, allowing Defendants DOE 111 and DOE 110 to exercise
4 increased power over them and to further exacerbate the injuries they had suffered.

5 34. Plaintiffs and their families sought the advice and protection of the ROE
6 DEFENDANTS and told them about the abuses perpetrated by Defendant DOE 110. The ROE
7 DEFENDANTS assumed the role of advocate and counselor to Plaintiffs and their families and
8 instructed them to keep the abuse matters within the ROE DEFENDANTS' organization and not
9 to disclose the abuses to any other members or outside authorities. Thus, the ROE DEFENDANTS
10 aided and abetted the perpetrators and ratified their conduct, causing further damage to Plaintiffs.

11 35. The ROE DEFENDANTS did not report the abuse to law enforcement authorities
12 nor did they warn any other members of the ROE DEFENDANTS' organization that they had
13 appointed dangerous sexual predators to teach and supervise their children. The ROE
14 DEFENDANTS did not act to help Plaintiffs or their families deal with the trauma of abuse and
15 actively prevented them from obtaining help from trained professionals and other available sources.
16 They also took no steps to hold their agents, Defendants DOE 110 and DOE 111, accountable for
17 their conduct or to assist them in addressing their propensities until 1994, when DOE 111's conduct
18 was reported to the police by one of his victims. Even then, the only step the ROE DEFENDANTS
19 took was to remove Defendant DOE 111 from his position as an Elder. No steps were taken with
20 respect to their agent DOE 110.

21 36. Defendant DOE 110 used the authority of his position in the ROE DEFENDANTS'
22 organization to sexually abuse Plaintiffs. The ROE DEFENDANTS directly and vicariously caused
23 foreseeable harm to Plaintiffs by, among other things:

- 24 a. aiding, abetting and ratifying the abuse of children by their appointed agents;
25 b. blaming, humiliating, sanctioning and/or disciplining victims/accusers of sexual
26 abuse instead of the perpetrator;
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- 1 c. negligently failing to report such sexual abuse, including the abuse by Defendant
2 DOE 110 to law enforcement and governmental child welfare agencies and requiring
3 that members not make such reports;
- 4 d. negligently failing to warn Plaintiffs, their families, and others of the risk of
5 Defendant DOE 110's abuse after they knew or should have known of Defendant
6 DOE 110's propensities to use his positions of leadership to engage in acts of sexual
7 abuse against children entrusted to the ROE DEFENDANTS' care;
- 8 e. negligently failing to train its Elders, Overseers, Ministerial Servants and other
9 appointed leaders to prevent, identify, investigate, respond to or report child abuse;
- 10 f. negligently failing to adopt adequate policies and procedures for the protection of
11 children and other members and/or to implement and comply with such procedures
12 that did exist;
- 13 g. failing to properly investigate matters brought to the ROE DEFENDANTS' attention
14 involving child sexual abuse and/or suspicions of child sexual abuse;
- 15 h. negligently failing to provide child abuse victims and their families with any
16 assistance in coping with the trauma of abuse and preventing Plaintiffs and their
17 families from reporting the abuse to outside authorities and obtaining outside help
18 to deal with the trauma of abuse;
- 19 j. concealing from Plaintiffs and their families that the ROE DEFENDANTS had
20 information that their agent, Defendant DOE 110 was using his position of authority
21 to abuse young children entrusted to their care by the ROE DEFENDANTS;
- 22 k. negligently failing to undertake a sexual offender evaluation, provide sexual offender
23 treatment and/or obtain psychiatric evaluation and treatment of Defendant DOE 110
24 after they knew or should have known of his propensities to use his position of
25 leadership to engage in acts of sexual abuse;
- 26 l. negligently retaining and failing to properly supervise Defendants DOE 111 and
27 DOE 110 leaders in the organization or to monitor their activities after they knew or
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1 should have known of their propensities to use their position of leadership to engage
2 in acts of sexual abuse.

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4 **FIRST CAUSE OF ACTION**
SEXUAL BATTERY AND RESPONDEAT SUPERIOR

5 37. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 36
6 of this Complaint as if fully set forth herein.

7 38. Plaintiffs allege that for a number of years, beginning in 1976, as agents and alter
8 egos of the ROE DEFENDANTS, Defendant DOE 110 used his respective positions of authority
9 to gain access to Plaintiffs and to engage in un-permitted, harmful, and offensive sexual contact
10 upon the bodies of Plaintiffs and each of them, as described herein, without either Plaintiff's
11 consent, committing sexual abuse upon the persons of Plaintiffs in the State of California in
12 violation of Code of Civil Procedure § 340.1.

13 39. Plaintiffs further allege each of the ROE DEFENDANTS was in the chain of
14 command and acted pursuant to the authority granted to them as agents and alter ego of the
15 GOVERNING BODY and each other, utilized such leadership and authority to carry out and/or aid,
16 abet and ratify the sexual abuse of Plaintiffs. In such capacity, the ROE DEFENDANTS are liable
17 for the sexual abuse of Plaintiffs under the legal theory of *respondeat superior*.

18 40. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
19 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
20 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
21 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
22 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
23 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
24 and psychological treatment, therapy, and counseling.

25 **SECOND CAUSE OF ACTION**
26 **COMMON-LAW NEGLIGENCE**

27 41. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 40
28 of this Complaint as if fully set forth herein.

1 42. Plaintiffs allege that at all times herein mentioned, ROE DEFENDANTS assumed
2 a duty to protect Plaintiffs from sexual predators within the ROE DEFENDANTS' organization.
3 The ROE DEFENDANTS further knew or should have known that Plaintiffs were at risk of
4 foreseeable harm by their agents, Defendants DOE 111 and DOE 110, but failed to act to protect
5 them from said harm. The ROE DEFENDANTS breached their duty to Plaintiffs, thereby causing
6 great harm of Plaintiffs.

7 43. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
8 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
9 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
10 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
11 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
12 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
13 and psychological treatment, therapy, and counseling.

14 **THIRD CAUSE OF ACTION**
15 **NEGLIGENT APPOINTMENT, RETENTION AND SUPERVISION**

16 43. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 42
17 of this Complaint as if fully set forth herein.

18 44. Plaintiffs allege that at all times herein mentioned, the ROE DEFENDANTS knew
19 or should have known of their agents, Defendants DOE 111, and DOE 110, propensities to use their
20 positions as leaders in the local congregations to engage in and/or aid and abet acts of sexual abuse.
21 The ROE DEFENDANTS failed to adequately investigate, evaluate, and otherwise research the
22 background of their agents, Defendants DOE 110 and DOE 111, prior to their appointing him to
23 leadership positions and entrusting children to their care.

24 45. Plaintiffs further allege that after Defendants DOE 110 and DOE 111 were retained
25 by ROE DEFENDANTS acting on behalf of and under the supervision of the ROE DEFENDANTS,
26 ROE DEFENDANTS failed to adequately investigate, evaluate and otherwise monitor the conduct
27 of their agents, Defendants DOES 110 and DOES 111, during their interactions with children
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1 entrusted by ROE DEFENDANTS to their care, thereby also failing to adequately supervise, and
2 discipline the conduct Defendants DOE 110 and DOE 111.

3 46. Plaintiff's further allege that ROE DEFENDANTS failed to provide adequate
4 warning to Plaintiffs and their families of their agents' dangerous propensities and unfitness to lead.

5 47. Plaintiffs further allege the ROE DEFENDANTS negligently investigated, appointed,
6 retained and supervised Defendants DOE 110 and DOE 111 in the organization at a time when they
7 knew or should have known of their propensities to use their appointed positions to engage in acts
8 of sexual abuse against Plaintiffs and other young children under the ROE DEFENDANTS' care.

9 48. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
10 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
11 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
12 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
13 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
14 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
15 and psychological treatment, therapy, and counseling.

16 **FOURTH CAUSE OF ACTION**
17 **GROSS NEGLIGENCE/WILFUL MISCONDUCT**

18 49. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 48
19 of this Complaint as if fully set forth herein.

20 50. Plaintiffs allege the behavior of the ROE DEFENDANTS as described hereinabove
21 demonstrates a conscious indifference to the safety and welfare of Plaintiffs, in that ROE
22 DEFENDANTS knew or should have known of the dangerous propensities of their agents,
23 Defendant DOE 110 and DOE 111, yet failed to act to protect the health, safety and welfare of
24 children in the custody and care of ROE DEFENDANTS, thereby allowing Plaintiffs to be sexually
25 abused, which could have been prevented but for ROE DEFENDANTS' wilful misconduct and
26 gross negligence in failing to implement safeguards to protect Plaintiffs, in violation of ROE
27 DEFENDANTS' duty to protect the children entrusted to Defendants DOE 110 and DOE 111 care
28 and custody.

1 57. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
2 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
4 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
5 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
6 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
7 and psychological treatment, therapy, and counseling.

8 **SIXTH CAUSE OF ACTION**
9 **NEGLIGENCE PER SE and COMMON-LAW NEGLIGENCE:**
10 **FAILURE TO REPORT SUSPECTED CHILD ABUSE**

11 58. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 57
12 of this Complaint as if fully set forth herein.

13 59. Plaintiffs allege that the ROE DEFENDANTS had a duty, under California Child
14 Abuse and Neglect Reporting Act, California Penal Code § 11164, *et. seq.*, (and predecessor
15 provisions) and the common-laws, to report the abuse or suspected abuse of children.

16 60. Plaintiffs further allege the ROE DEFENDANTS failed to report to law enforcement
17 the abusive and illegal acts of their agent, Defendants DOE 110 and DOE 111, both prior to and
18 after the abuse inflicted on Plaintiffs. By failing to report the actions Defendants DOE 110 and
19 DOE 111, the ROE DEFENDANTS violated the California Child Abuse and Neglect Reporting Act,
20 which is intended to safeguard and enhance the welfare of abused children. Plaintiffs were members
21 of the class of persons the California Child Abuse and Neglect Reporting Act was designed to
22 protect and each was injured as a result of the ROE DEFENDANTS' violation of the statutes. Such
23 violation constitutes negligence *per se*.

24 61. Plaintiffs further allege that the ROE DEFENDANTS' failure to report constitutes
25 common-law negligence. The ROE DEFENDANTS asserted their authority over both Plaintiffs and
26 their abusers and agents, Defendants DOE 110 and DOE 111, creating a special relationship of trust
27 and confidence and power over Plaintiffs. In the context of this special relationship and the unequal
28 relationship among the parties, the ROE DEFENDANTS assumed a duty to handle all reports of
child abuse, and in so doing caused Plaintiffs and their families from reporting the abuse to, or

1 seeking help from, sources and authorities outside the ROE DEFENDANTS' organization. The
2 ROE DEFENDANTS acted with conscious disregard for the safety and welfare of Plaintiffs and
3 violated their duty to Plaintiffs' detriment.

4 62. As a legal result of the ROE DEFENDANTS' failure to report the illegal conduct of
5 their agents, Defendants DOE 110 and DOE 111, to law enforcement, Plaintiffs were deprived of
6 the benefits provided by the State of California and other trained officials that could have decreased
7 further harm to Plaintiffs and prevented further abuse. Plaintiffs have suffered, and will continue
8 to suffer great pain of mind, body, shock, emotional distress, physical manifestations of emotional
9 distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life.
10 Further, Plaintiffs were prevented and will continue to be prevented from performing daily activities
11 and obtaining the full enjoyment of life. Each Plaintiff has sustained loss of earnings and earning
12 capacity. Each Plaintiff has incurred and will incur expenses for medical and psychological
13 treatment, therapy, and counseling.

14
15 **SEVENTH CAUSE OF ACTION**
FRAUD AND FRAUDULENT CONCEALMENT AND CONSPIRACY

16 63. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 63
17 of this Complaint as if fully set forth herein.

18 64. Plaintiffs allege that after receiving reports that their agents, Defendants DOE 111
19 and DOE 110, were using their positions of authority in the organization to abuse adolescents, the
20 ROE DEFENDANTS, willfully and intentionally kept the information from Plaintiffs, other victims
21 similarly situated and the community-at-large. The ROE DEFENDANTS intentionally
22 misrepresented to Plaintiffs and their families that Defendants DOE 111 and DOE 110 were leaders
23 in good standing with authority to instruct Plaintiffs and other children in spiritual, ethical and moral
24 matters and that these agents were to be obeyed. The ROE DEFENDANTS further intentionally
25 misrepresented that they would act in the best interests of Plaintiffs and other children entrusted to
26 their care. The ROE DEFENDANTS failed to disclose that they knew of their agents, Defendants
27 DOE 111 and DOE 110, propensities to use their leadership positions to sexually abuse children and
28 that they were doing nothing to protect the children under their care. Plaintiffs did not know of the

1 falsity of the ROE DEFENDANTS' representations, were entitled to rely upon them and did in fact
2 rely upon them causing each of them serious injury and harm.

3 65. Plaintiffs further allege that by holding out Defendants DOE 110 and DOE 111 as
4 leaders, qualified to provide religious instruction and counsel, and by undertaking the religious
5 instruction and spiritual and emotional counseling and training of Plaintiffs, and by accepting,
6 through their agents Defendants DOE 110 and DOE 111 and other Elders and leaders, the control
7 and responsibility of the Plaintiffs as minors, the ROE DEFENDANTS and each of them entered
8 into a fiduciary relationship with the minor Plaintiffs.

9 66. Plaintiff further allege that as fiduciaries to Plaintiffs, the ROE DEFENDANTS, had
10 a duty to obtain and disclose information relating to sexual misconduct by their agents, Defendants
11 DOE 110 and DOE 111. The ROE DEFENDANTS failed to disclose and later conspired to conceal
12 such information from Plaintiffs.

13 67. The ROE DEFENDANTS, in concert with each other and with the intent to conceal
14 and defraud, conspired whereby they would misrepresent, conceal or fail to disclose information
15 relating to the misconduct of their agents, Defendants, DOE 110 and DOE 111. By concealing such
16 information, the ROE DEFENDANTS and each of them committed at least one act in furtherance
17 of the conspiracy.

18 68. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
19 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
20 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
21 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
22 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
23 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
24 and psychological treatment, therapy, and counseling.

25 **EIGHTH CAUSE OF ACTION**
26 **RATIFICATION**

27 69. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 68
28 of this Complaint as if fully set forth herein.

1 70. Plaintiffs allege that upon learning that their agent, Defendant DOE 110 had sexually
2 abused Plaintiffs and others, the ROE DEFENDANTS failed to take any steps to hold DOE 110
3 accountable for his actions and continued to appoint or maintain Defendants DOE 111 and DOE 110
4 to leadership positions in the organization throughout the period of abuse. The ROE
5 DEFENDANTS thereby ratified both their agent, Defendant DOE 111'S conduct in aiding and
6 abetting the conduct of DOE 110 and their agent DOE 110'S conduct in using his appointed position
7 of authority to sexually abuse Plaintiffs and other children.

8 71. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
9 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
10 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
11 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
12 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
13 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
14 and psychological treatment, therapy, and counseling.

15 **NINTH CAUSE OF ACTION**
16 **ALTER EGO AND SINGLE BUSINESS ENTERPRISE**

17 73. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 72
18 of this Complaint as if fully set forth herein.

19 74. Plaintiffs allege that the ROE DEFENDANTS are organized and controlled and their
20 affairs are so conducted that they are in fact mere instrumentalities and alter egos of each other and
21 liable for each other's acts. Alternatively, the ROE DEFENDANTS were all engaged, at all times
22 hereinabove mentioned, in a single business enterprise and are liable for each other's acts.

23 75. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
24 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
25 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
26 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
27 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
28

1 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
2 and psychological treatment, therapy, and counseling.

3 **TENTH CAUSE OF ACTION**
4 **NEGLIGENT USURPATION OF INVESTIGATORY FUNCTION**

5 76. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 75
6 of this Complaint as if fully set forth herein.

7 77. Plaintiffs allege that California Penal Code Section 11164, *et seq.*, requires officials
8 to perform specific responsibilities to carry out the policy of the statute described in the Act (and
9 its predecessors). The ROE DEFENDANTS assumed these duties and responsibilities, but
10 negligently failed to perform them.

11 78. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
12 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
13 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
14 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
15 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
16 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
17 and psychological treatment, therapy, and counseling.

18 **ELEVENTH CAUSE OF ACTION**
19 **VIOLATION OF CALIFORNIA PENAL CODE SECTION 182**

20 79. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 78
21 of this Complaint as if fully set forth herein.

22 80. Plaintiffs allege that the ROE DEFENDANTS' acts described herein violate
23 California Penal Code Section 182 in that the ROE DEFENDANTS conspired with one or more
24 other persons to commit acts injurious to the public health, to public morals, or to pervert or obstruct
25 justice, or the due administration of the laws.

26 81. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
27 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
28 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and

1 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
 2 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
 3 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
 4 and psychological treatment, therapy, and counseling.

5 **TWELFTH CAUSE OF ACTION**
 6 **VIOLATION OF CALIFORNIA PENAL CODE SECTION 32**

7 82. Plaintiffs incorporate herein by this reference and re-allege paragraphs 1 through 81
 8 of this Complaint as if fully set forth herein.

9 83. Plaintiffs allege that the ROE DEFENDANTS' acts described herein violate
 10 California Penal Code Section 32 in that the ROE DEFENDANTS harbored, concealed and/or aided
 11 their agents, Defendants DOE 110 and DOE 111 after their agents, Defendants DOE 110 and DOE
 12 111, had committed a felony, with the intent that their agents, Defendants DOE 110 and DOE 111,
 13 might avoid or escape arrest, trial, conviction and/or punishment, and the ROE DEFENDANTS
 14 having knowledge that their agents, Defendants DOE 110 and DOE 111 had committed a felony.

15 84. As a legal result of Defendants' conduct as described hereinabove, Plaintiffs have
 16 suffered, and will continue to suffer great pain of mind, body, shock, emotional distress, physical
 17 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and
 18 loss of enjoyment of life. Further, Plaintiffs were prevented and will continue to be prevented from
 19 performing daily activities and obtaining the full enjoyment of life. Each Plaintiff has sustained loss
 20 of earnings and earning capacity. Each Plaintiff has incurred and will incur expenses for medical
 21 and psychological treatment, therapy, and counseling.

22 **PRAYER**

23 WHEREFORE, Plaintiffs demand judgment against the ROE DEFENDANTS
 24 individually, jointly and severally as follows:

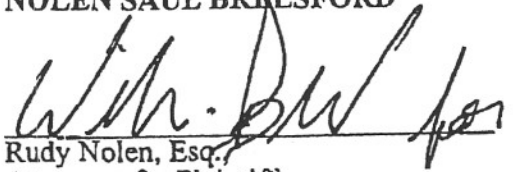
- 25 1. For general damages according to proof;
- 26 2. For past and future medical expenses according to proof;
- 27 3. For past and future loss of earnings according to proof;
- 28 4. For prejudgment interest;

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- 5. For costs of suit incurred herein; and
- 6. For such other and further relief as the Court deems just and proper.

Dated: 7/24/03

NOLEN SAUL BRELSFORD



Rudy Nolen, Esq.
Attorneys for Plaintiffs.