

FILED
SUPERIOR COURT
OF GUAM

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CLERK OF COURT

By: _____

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8 **IN THE SUPERIOR COURT**
9 **OF GUAM**

10	D.M.,)	CIVIL CASE NO. 0779-18
11)	
12	Plaintiff,)	
13	vs.)	
14)	
15	ANTHONY SABL AN APURON;)	FIRST AMENDED COMPLAINT
16)	
17	HOLY SEE, (State of the Vatican City), Its)	
18	Instrumentalities and/or Agents – Docs 1-10;)	
19)	
20	ROMAN CATHOLIC ARCHBISHOP OF)	
21	AGAÑA;)	
)	
	CAPUCHIN FRANCISCANS; CAPUCHIN)	
	FRANCISCANS, PROVINCE OF ST.)	
	MARY; CAPUCHIN FRANCISCANS)	
	CUSTODY OF STAR OF THE SEA;)	
)	
	FATHER DUEÑAS MEMORIAL SCHOOL;)	
)	
	Defendants.)	

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I.
JURISDICTION & VENUE

1. This Court has the jurisdiction and authority to hear this lawsuit's subject matter under 7 GCA § 3105.

2. This Court has jurisdiction over the Holy See because the acts complained of involve an activity for which the law provides an exception to sovereign immunity.

3. This Court is the correct venue, since the events that took place between 1994 and 1995 occurred in Guam, a United States territory.

II.
PARTIES

4. Plaintiff D.M. is an adult male. He is a citizen of the United States and he lives on Saipan, Commonwealth of the Northern Mariana Islands. He sues under a fictitious name to protect his privacy.

5. Defendant Anthony Sablan Apuron ("Apuron") is an adult male who resided on Guam from about the 1970's to 2018. Apuron is a former archbishop of the Roman Catholic Archdiocese of Agaña. Apuron was appointed as the Archbishop of the Roman Catholic Archdiocese of Agaña by the Pope in his role as the leader of the Holy See. Apuron was removed from his position by the Pope in his role as the leader of the Holy see.

6. Defendant Holy See (State of the Vatican City), (the "Holy See") is a foreign sovereign. Defendant Holy See is the ecclesiastical, governmental, and administrative capital of the Roman Catholic Church. Defendant Holy See is the composite of the authority, jurisdiction, and sovereignty vested in the Pope and his delegated advisors to direct the world-wide Roman Catholic Church. Defendant Holy See has unqualified and direct power over the Catholic Church, including each and every individual and section of the church. Defendant Holy See directs, supervises, supports, promotes and provides religious, policy, and political mandates to Roman

1 Catholics world-wide. Defendant Holy See engages in these activities through its agents and
2 employees including cardinals, bishops, and clergy, including religious order priests, brothers and
3 sisters. Defendant Holy See dictates and safeguards the morals and standards of conduct of the
4 cardinals, bishops, and clergy of the Catholic Church. Defendant Holy See does this by and through
5 its agents, employees, and instrumentalities, including the Congregation for the Clergy and the
6 Congregation for Religious, which are both delegated by the Pope and act on his behalf. It appoints
7 cardinals and bishops, ordains clergy, and creates, divides and re-aligns dioceses, archdioceses and
8 ecclesiastical provinces. It also gives final approval to the creation, division or suppression of
9 provinces of religious orders. Defendant Holy See promotes the sacred liturgy, and directs and
10 coordinates the spreading of its faith and policy directives and other things necessary to promote
11 the faith. It controls the appointment, assignment and re-assignment of bishops, superiors of
12 religious orders, and through the bishops and superiors of religious orders, has the power to directly
13 assign and remove individual clergy. All bishops, clergy, and priests, including religious order
14 priests, vow to show respect and obedience to the Pope and the Holy See. Defendant Holy See also
15 examines and is responsible for the work and discipline and all those things which concern bishops,
16 superiors of religious orders, priests and deacons of the religious clergy. In furtherance of this duty,
17 Defendant Holy See requires bishops to file a report, on a regular basis, outlining the status of, and
18 any problems with, clergy. Defendant Holy See promulgates and enforces the laws and regulations
19 regarding the education, training and standards of conduct and discipline of its members and those
20 who serve in the governmental, administrative, judicial, educational and pastoral workings of the
21 Catholic church world-wide. Defendant Holy See is also directly responsible for removing
superiors of religious orders, bishops, archbishops and cardinals from service and/or making them
ineligible for positions of leadership in the various divisions and offices of the Catholic church.

1 7. Defendant Holy See acted through individuals, corporations, and associations, the
2 true names of which are presently unknown to Plaintiff and because their identities are presently
3 unknown these individuals and entities are designated with the fictitious name of "Doe Defendants
4 1-10." When the true names and capacities of said Doe Defendants 1-10 have been ascertained,
5 Plaintiff will seek leave of court to amend this complaint to allege their true names and capacities.
6 Plaintiff is informed and believes and based thereon alleges that each of the Doe Defendants 1-10,
7 as an agent, employee, and/or instrumentality of Defendant Holy See, is liable in some manner for
8 the acts, occurrences and omissions hereinafter alleged. Any reference or allegation against
9 Defendant Holy See includes Doe Defendants 1-10.

10 8. Defendant Roman Catholic Archbishop of Agaña, a.k.a., Archdiocese of Agaña
11 ("Agaña Archdiocese"), is a sole corporation plus a Guam non-profit corporation with its principal
12 place of business in Mangilao, Guam. It is an entity under the Holy See's control, which is based
13 in the Vatican City, Rome, Italy

14 9. Defendant Capuchin Franciscans (the "Capuchin") and Capuchin Franciscans
15 Province of St. Mary (the "St. Mary's Capuchin") (collectively called, "Capuchins") is a religious
16 order of priests serving various Catholic positions throughout the United States, including Guam.
17 For the United States, defendant Capuchin is divided into geographical areas of provinces. One
18 of those provinces is the defendant St. Mary's Capuchin. St. Mary's Capuchin supervises the Vice-
19 Province of Guam.

20 10. Defendant Father Dueñas Memorial School ("Father Dueñas" or "high school") is
21 an all-male Catholic high school located in Mangilao, Guam. It is within the territory of the Roman
Catholic Archdiocese of Agaña.

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III. FACTS

A. Factual Background Surrounding Child Sexual Abuse in the Catholic Church in the United States

11. The crime of sexual abuse by clergy in the Roman Catholic Church and its concealment by the Holy See, its appointed bishops, and policies is a longstanding problem in the United States.

12. The Apostolic Nunciature is the diplomatic mission of the Holy See to the United States in Washington, DC.

13. From 1981 to 1986, the Rev. Thomas P. Doyle was an employee and canon lawyer for the Apostolic Nunciature, or embassy, for the Holy See in Washington, DC.

14. In 1985, a 92 page report on sexual abuse in the Catholic Church written by Thomas P. Doyle, O.P. I. C.D., Mr. F. Ray Mouton, J.D., and Fr. Michael Peterson, M.D., entitled "The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner" ("1985 Report") was released confidentially to United States bishops. The Report urged immediate action to address a widespread problem of sex abuse of children in the Church.

15. Thomas Doyle shared the 1985 Report with the Papal Nuncio to the United States, Cardinal Pio Laghi, who traveled to the Holy See to discuss the Report.

16. The 1985 Report put the Holy See and United States bishops on notice of "sexual molestation of children by Clerics (Priests, Permanent Deacons, Transient Deacons), non-ordained Religious, lay employees and seminarians" in the Catholic Church, and the need for immediate action.

- 1 a. The 1985 Report addresses "extraordinary issues [that] necessitated an
2 extraordinary response."
- 3 b. The 1985 Report outlines "Criminal Considerations, Civil Considerations,
4 Canonical Considerations, and Clinical Considerations . . . not to mention the
5 other substantial considerations such as Insurance and Public Relations."
- 6 c. The 1985 Report states that "a real, present danger exists," that cases were
7 "arising with increased frequency," which were occurring "across the
8 country."
- 9 d. The 1985 Report states that the problem is not new and expresses concern
10 about "increased awareness, widespread publicity, and the excellent
11 educational programs available to children, which we all support, shall
12 increase the reporting of such incidents and increase the likelihood that both
13 civil and criminal actions shall be instituted against the offender and those
14 sought to be held legally responsible with the wrongdoer."
- 15 e. The 1985 Report notes the "circle of responsibility" for child sex abuse
16 extends to the Holy See and the "Holy Father himself."
- 17 f. The 1985 Report warns that "[t]he effects of sexual abuse of children by
18 adults are long lasting and go well into adulthood" and that the "negative
19 impact of widespread sexual abuse of children and involvement in other forms
20 of illicit sexual activity by Catholic clergy and religious cannot be
21 underestimated. . . ."
- g. The 1985 Report warns that "it is imperative to clearly understand that
transfer or removal [of an abusing priest] isolated from any other action is far

1 from adequate and could in fact lead to a presumption of irresponsibility or
2 even liability.”

3 h. The 1985 Report recommends that records of “alleged sexual abuse or sexual
4 misconduct as well as records of investigations should be kept in the secret
5 archives. . . .”

6 i. The 1985 Report states that the “diocesan bishop is bound to report only to the
7 Holy See in just about every case”

8 j. The 1985 Report recommends the creation of a committee of four bishops, a
9 “Crisis Control Team,” and a “Policy and Planning Group” for “dealing with
10 probably the single most serious and far reaching problem facing our Church
11 today.”

12 17. The Holy See did not follow or institute the recommendations of the 1985 Report.

13 18. In the United States, there have been at least ten grand jury investigation reports
14 issued between 2002 and 2018 involving the sexual abuse of children by Roman Catholic clergy.

15 a. The Sexual Abuse of Children in the Roman Catholic Archdiocese of Boston
16 (Commonwealth of Massachusetts Office of the Attorney General, 2003);

17 b. A Report by the Attorney General on the Allegations of Sexual Abuse of
18 Children by Priests and Other Clergy Members Associated with the Roman
19 Catholic Church in Maine (2004);

20 c. Report of the Grand Jury (Philadelphia District Attorney, 2005) [investigating
21 child sex abuse in the Philadelphia Archdiocese];

d. Report of the Grand Jury (Philadelphia District Attorney, 2011) [investigating
child sex abuse in the Philadelphia Archdiocese];

1 e. Report of the Thirty-Seventh Statewide Investigating Grand Jury
2 (Commonwealth of Pennsylvania, Office of Attorney General, 2016)
3 [investigating child sex abuse in six Pennsylvania dioceses];

4 f. 40th Statewide Investigating Grand Jury (Pennsylvania, 2018) [investigating
5 child sex abuse in six Pennsylvania dioceses].

6 19. In 2002, the Boston Globe issued an investigative report into sexual abuse of
7 children by clergy in the Boston Archdiocese, including facts regarding the cover up of sex abuse
8 by Cardinal Bernard Law, who was awarded by the Holy See with a position as an archpriest at
9 the papal basilica of Saint Mary Major in Rome after he was forced to resign from the Boston
10 Archdiocese. Cardinal Law also maintained posts on Vatican committees, including the one that
11 nominates bishops. The collective knowledge of child sex abuse in the Catholic Church in the
12 United States also has been supplemented by secret settlements and agreements, individual
13 prosecution of individual perpetrators, and civil lawsuits dating back many decades, all of which
14 were required to be reported to the Holy See.

14 **B. Factual Background Surrounding the Multiple Incidents of Child Sexual Abuse**

15 20. D.M.'s parents are Catholic. They are highly educated, and so are their children.
16 In 1993 they were looking at how to advance D.M.'s education. They believed that Guam private
17 schools offered a better education for D.M. than a Saipan school, so they arranged to send their
18 son to Guam for high school.

19 21. D.M.'s parents enrolled their son in Father Duenas. D.M. attended Father Duenas
20 for the School Year 1994-95 ("SY '94-95"). They placed a great deal of trust and faith in the
21 Church and in the high school's ability and willingness to protect their young son from harm.

22. One of the various sacrifices D.M. and his family had to make was D.M. attending
high school on weekdays and occasionally returning to Saipan on weekends for visits. D.M. would

1 return to Saipan approximately one weekend out of the month. Arrangements were made for D.M.
2 to stay with Apuron on weekends. Father Dueñas seminary did not offer boarding on weekends.

3 23. During SY '94-95, D.M. stayed with Apuron at Apuron's residence on multiple
4 weekends (approximately twenty-seven weekends).

5 24. Apurna and Father Dueñas agreed that the best place for D.M. to stay on weekends
6 was at his own personal residence in Agaña Heights.

7 25. D.M. attended school as a 14-15-year-old freshman. As arranged, he slept at Father
8 Dueñas' Seminary on weekday nights. The seminary was adjacent to the high school. D.M. recalls
9 residing in the Seminary with some Father Dueñas faculty.

10 26. About the first weekend of attending Father Dueñas, Apuron drove D.M. to his
11 personal residence in Agaña Heights.

12 27. Apuron showed D.M. the kitchen, dining area, the yard in the back, the restroom
13 on the first floor, and then the downstairs' bedroom where D.M. was to stay.

14 28. Downstairs, D.M. learned he would have a roommate. The roommate was also
15 from Saipan, attending Father Dueñas as a freshman. They were not in the same classes at Father
16 Dueñas. D.M. was in the "B" section and the roommate was in the "A" section.

17 29. The first weekend of attending Father Dueñas, D.M. had the room to himself as his
18 roommate had gone to Saipan for the weekend. D.M. got ready for bed. He put on his pajama top
19 and shorts. He laid down on his bed and then fell asleep. D.M. was awakened by the sound of the
20 bedroom door opening. He could see Apuron entering slowly. Apuron was wearing his normal
21 white T-shirt and some dark shorts or pants.

22 30. D.M. pretended he was asleep thinking that Apuron was probably just checking on
23 him. So D.M. didn't move. He made no sounds.

1 31. But Apuron had not entered the room to make sure D.M. was safe and asleep.
2 Apuron made his way to D.M.'s bed, quietly. He began touching himself. He came closer, then
3 kneeled down on the floor at about the middle of D.M.'s bed. There, D.M. could suddenly feel
4 Apuron glide his hand up and down his thigh area. Apuron did this many times.

5 32. Then, Apuron placed his hand under D.M.'s pajama shorts. He rubbed his hand on
6 D.M.'s genitals, then began fondling them. He did this for some time. He breathed as if he'd been
7 running. And then he stopped. He removed his hand quickly. D.M. could hear Apuron get up,
8 then silence. D.M. cried for a couple hours, then fell asleep.

9 33. Sometime late in the same evening or early morning, D.M. awoke again, this time
10 feeling Apuron on top of him. He felt Apuron's penis going in his asshole. It hurt him. He couldn't
11 move. He was pinned down. D.M. yelled for Apuron to stop, but he kept on thrusting into his ass.
12 The pain seemed like it would never stop. D.M. could hear Apuron moaning. And then Apuron
13 stopped and laid still. He left the room. D.M. could feel his ass was wet.

14 34. D.M. wanted to escape Apuron's house. He wanted to tell someone. But he felt he
15 couldn't. The 14-year-old D.M. just cried himself to sleep.

16 35. During SY'94-95, Apuron entered the room where D.M. was sleeping and had anal
17 sex with D.M., multiple times. Apuron also fondled D.M.'s genitals multiple times throughout the
18 school year.

19 36. D.M. did not know how to handle the sexual assaults by Apuron as Apuron was the
20 Archbishop of Guam. D.M. was alone, afraid, and scared. He felt like he had no one to talk to
21 about what Apuron had done. He had no one to reach out to for help.

 37. D.M. as much as possible tried to visit Saipan on weekends. However, his family
 did not want to pay the travel expense and D.M. could not tell them why he wanted to be away
 from Guam on the weekends out of fear of Apuron and other85513200

1 38. D.M. was so traumatized by the assaults he was suffering on the weekends at
2 Apuron's residence that on information and belief he was demonstrating signs that he was
3 suffering from abuse while he attended classes at Father Dueñas. The faculty and staff of Father
4 Dueñas either knew or should have known that D.M. was suffering from abuse and either
5 intentionally ignored what was going on, or were negligent in their care and supervision of D.M.

6 39. After about the school year's end, D.M. returned to Saipan. D.M. decided he would
7 refuse to return to Father Dueñas, no matter what his parents said. D.M. felt he could not tell
8 anyone what Apuron had done because Apuron was the Archbishop of Guam, and the only way
9 he could stop the sexual abuse from happening again was not to go back to Guam. Ultimately, his
10 refusal to return to Guam convinced his parents to send him to a different school in Hawaii. D.M.
11 attended that school and graduated.

12 40. D.M. attended college. The trauma that D.M. experienced at Father Duenas affected
13 him and he took an extra year to graduate.

14 41. D.M. went on to attend law school. However, he was unable to complete law school
15 beyond his first year. The memories of the trauma continued to intrude into his mind and he could
16 not complete law school.

17 42. D.M. took a break from studies and then applied to attend graduate school. D.M.
18 was accepted to graduate school in the sciences but was not able to complete his studies again
19 because of the stress he was suffering as a result of what happened on Guam.

20 43. D.M. was able to find employment and has been gainfully employed, but not with
21 a salary he could have had as a lawyer or with a degree in the sciences.

22 44. D.M. dealt with the trauma through alcohol abuse. He felt shame. He kept what
happened a secret.

1 45. D.M.'s social life has been difficult. He has had difficulty forming relationships.
2 He has been divorced once. D.M. attributes this to the trauma of the sexual abuse he suffered.

3 46. D.M. has difficulty with mood swings and has difficulty with anger management.
4 D.M. attributes this to the trauma of the sexual abuse he suffered.

5 47. D.M.'s social interactions are often described as not appropriate to the situation,
6 such as arguing over nothing. D.M. attributes this to the trauma of the sexual abuse he suffered.

7 48. D.M. believes, and alleges based on that belief, that the issues he has had with
8 education, drinking, and his personal life are a direct result of the sexual assaults he suffered on
9 Guam.

10 **C. Relationship of the Defendants**

11 49. The Holy See is the overarching parent organization of the Agaña Archdiocese, the
12 Capuchins, and Father Dueñas. The Agaña Archdiocese, the Capuchins, and Father Dueñas are
13 not independent of or separate from the Holy See but are instead alter ego entities of the Holy See
14 (collectively the Agaña Archdiocese, the Capuchins, and Father Dueñas are referred to herein as
15 the "alter ego entities").

16 50. The Holy See, through the Supreme Roman Pontiff, also known as the Pope,
17 appoints the bishop of the Agaña Archdiocese.

18 51. The bishop of the Agaña Archdiocese can only be suspended, removed, transferred,
19 or relieved by the Holy See, through the Supreme Roman Pontiff.

20 52. The Supreme Roman Pontiff appointed and later removed Archbishop Apuron.

21 53. The Holy See operates in Guam as a business, and on information and belief turns
a profit, through the alter ego entities. Doc Defendants 1-10 manage and operate the alter ego
entities on behalf of and at the direction of the Holy See.

1 54. As an example, Father Dueñas was a school that charged tuition and D.M.'s parents
2 and other parents paid substantial money to Father Dueñas for educational services. On
3 information and belief the revenue generated by Father Dueñas was sent directly or indirectly to
4 the Holy See and the business activities of Father Dueñas benefited the Holy See in the Holy See's
5 revenue generating activities on Guam.

6 55. Apuon was an employee of the Holy See through the alter ego entities.

7 56. Apuon was an agent of the Holy See.

8 57. Apuon sexually assaulted D.M. and many other children while an employee and
9 agent of the Holy See.

10 58. When the awful truth of what Apuon had done to children while he was acting in
11 his capacity as an agent of the Holy See, Apuon answered directly to the Pope in Rome, the head
12 officer of the Holy See, for Apuon's crimes of molesting children on Guam.

13 59. However, the Holy See only acted when the truth could no longer be hidden or
14 denied, and as a result of the Holy See's failure to act with regard to the conduct of its agent
15 Apuon, D.M. was allowed by the Holy See to be repeatedly raped.

16 60. The Holy See had notice of the problem of sexual abuse of children in the Church
17 in the United States.

18 61. The Holy See holds the power to control the alter ego entities, and the obligation to
19 protect those in its care like the children attending Father Dueñas from sexual abuse and assaults
20 by the Holy See's agents and employees. At all times material, the alter ego entities were the agents
21 of the Holy See, during the kind of acts they were engaged to perform, and were motivated, at least
22 in part, to further the purposes of the Holy See.

 62. The Holy See, by and through its agents, granted Apuon the authority to perform
 as a Roman Catholic priest. The Holy See, by and through its agents, also certified and held Apuon

1 out to the community of the faithful as a fit and a competent agent of the Holy See and as a minister
2 of Christ. Apuron was acting as the agent in ministering to the community of the faithful, including
3 performing sacraments, teaching the word of God and the law of the Church, and providing aid,
4 comfort and counseling, and obtaining financial revenue for the Church and for the Holy See.

5 63. D.M. was repeatedly raped by Apuron while D.M. was under the authority and
6 influence and control of Apuron. Apuron exercised that control over D.M. as a Roman Catholic
7 priest with authority granted to him by the Holy See and its alter ego entities.

8 64. The sexual assaults on D.M. occurred while Apuron was acting in the scope of his
9 employment, the agency relationship with the Holy See and its alter ego entities and/or this conduct
10 was committed within the apparent authority arising from this employment and/or agency. Apuron
11 was executing the very employment duties which he was assigned to perform when he used his
12 position of employment to sexually assault D.M.

13 65. The Holy See knew or should have known of the rampant sexual abuse of minors
14 on Guam by its employees, including the abuses perpetrated by Apuron upon D.M.

15 66. The Holy See took no action to stop the abuses committed by Apuron and others,
16 but instead ignored those abuse, and covered them up so that it could continue to enjoy the revenue
17 that Apuron and the alter ego entities provided to the Holy See through their business activities.

18 IV. 19 CLAIMS FOR RELIEF

20 First Cause of Action: Child-Sexual Abuse

21 67. Plaintiff restates and incorporates paragraphs 1 through 66 as if restated in full here.

68. This First Cause of Action is pled against Defendant Apuron ("Defendant" for this
cause of action) for Child-Sexual Abuse in the First Degree and Child Abuse.

1 69. Defendant committed the offense of First Degree Criminal Sexual Misconduct
2 under 9 GCA § 25.15 by engaging in sexual penetration of D.M., who was about 14-15 years old
3 during SY '94-95, in Defendant's residence in Agaña Heights, Guam.

4 70. Defendant committed Child Abuse under 9 GCA § 31.34. Defendant subjected D.M.
5 to cruel mistreatment when he was about 14-15 years old under 19 GCA § 13101(d). D.M. was
6 also under this Defendant's care, custody and control. Defendant unreasonably caused the physical
7 and emotional health of D.M. to be harmed.

8 71. As a direct and proximate result of Defendant's conduct, D.M. was an abused
9 neglected child under 19 GCA § 13101(b), because his physical and mental health and welfare
10 were (and continue to be) harmed by this Defendant's acts. Defendant was responsible for D.M.'s
11 welfare. Also, Defendant's misconduct in the commission of criminal offenses, caused harm to a
12 child's physical health and welfare under 19 GCA § 13101(1)(2). D.M. was the victim of a sexual
13 offense under the Criminal and Correctional Code (9 GCA).

14 72. As a direct and proximate result of the Defendant's conduct here, D.M. has suffered
15 (and still suffers) these injuries: (a) great pain of mind and body; (b) shock; (c) emotional distress;
16 (d) physical manifestations of emotional distress; (e) embarrassment; (f) loss of self-esteem; (g)
17 disgrace; (h) humiliation; (i) loss of enjoyment of life; and (j) future expenses for
18 medical/psychological treatment, therapy, and counseling.

19 73. Defendant acted with malice and oppression by committing the alleged conduct in
20 this Complaint. D.M. is therefore entitled to exemplary and punitive damages.

21 **Second Cause of Action: Child-Sexual Abuse (Vicarious Liability) Against All Defendants
Except Defendant Apuron**

 74. Plaintiff restates and incorporates paragraphs 1 through 73 as if restated in full here.

1 75. This Second Cause of Action is pled against Defendants Holy See, Agaña
2 Archdiocese, Capuchins, and Father Dueñas only (collectively for this cause of action
3 "Defendants"), for Child Sexual Abuse under Vicarious Liability.

4 76. Defendants are vicariously liable for Apuron's sexual abuse of D.M. Defendants
5 here are responsible for Apuron's wrongful conduct under *Respondent Superior*.

6 77. On information and belief, it is alleged that Defendants ratified and approved
7 Apuron's sexual abuse by:

- 8 a. failing to adequately investigate, discharge, and supervise him (and other Priests)
9 known by Defendants Agaña Archdiocese, Father Dueñas, and Does 1-10 to have
10 sexually abused children (or accused of the same);
- 11 b. concealing Apuron's sexual-abuse;
- 12 c. failing to intervene to prevent ongoing and further sexual abuse;
- 13 d. failing to report the sexual abuse under 19 C.R.A. § 13201(b);
- 14 e. failing to institute adequate procedures to identify child sex abusers and to prevent
15 child sex abuse; and
- 16 f. allowing Apuron to continue in service as an Archbishop working for the Agaña
17 Archdiocese.

18 78. For the reasons stated in this Complaint, the sexual abuse of D.M. arose from (and
19 was incidental to) Apuron's employment with the Agaña Archdiocese. Apuron purported to act
20 or to speak on behalf of the Defendants. Further, there was reliance from the Plaintiff upon
21 Apuron's apparent authority to act or speak on behalf of the Defendants.

 79. On information and belief, it is alleged that Apuron was aided by the Defendants in
 a way that the Defendants provided a position to Apuron where he could have proximity and
 regular contact with potential victim.

1 80. There are numerous similar incidents occurred before and Apuron's acts here were
2 foreseeable to Defendants.

3 81. On information and belief, it is alleged that Defendants knew or should have known
4 about the sexual harassment committed by Apuron but failed to stop it.

5 82. Despite a sexual misconduct policy/procedure to investigate and address child-
6 sexual-abuse instances by priests, Defendants implemented it for no other purpose than to avoid
7 scandal, maintain secrecy, preserve loyalty to fellow clergy (including child-molesting clergy),
8 rather than for the protection of children. These Defendants' conduct has served to systematically
9 encourage, perpetuate, and promote sexually abusive conduct by priests in the Agaña Archdiocese.

10 83. On information and belief, it is alleged that Defendants had actual knowledge of
11 Apuron's sexual abuse of D.M. (or could have and should have reasonably foreseen that he would
12 commit sexual abuse to D.M.) during his employment as a priest serving Father Dueñas (and any
13 like church or related organization), as an agent and employee of the Agaña Archdiocese, and
14 while D.M. was a student at Father Dueñas.

15 84. As a direct and proximate result of the conduct of Defendants, D.M. has suffered
16 (and still suffers) these injuries: (a) great pain of mind and body; (b) shock; (c) emotional distress;
17 (d) physical manifestations of emotional distress; (e) embarrassment; (f) loss of self-esteem; (g)
18 disgrace; (h) humiliation; (i) loss of enjoyment of life; and (j) future expenses for
19 medical/psychological treatment, therapy, and counseling.

20 85. Defendants acted with malice, oppression, and/or fraud by committing the alleged
21 conduct in this Complaint. D.M. is therefore entitled to exemplary and punitive damages.

Third Cause of Action: Negligence Against All Defendants

22 86. Plaintiff restates and incorporates paragraphs 1 through 85 as if restated in full here.

 87. This Third Cause of Action is pled against all Defendants.

1 88. Defendants Holy See, Apuron, Capuchins, Agaña Archdiocese, and Father Dueñas
2 (collectively "Defendants" as alleged in this cause of action) had a duty to protect D.M. when he
3 was entrusted to them by D.M.'s parents.

4 89. Defendants accepted that duty to care for D.M., and all the duties that go with caring
5 for a minor child in their custody and control.

6 90. Defendants owed D.M. a special duty of care (for minors); an ordinary duty of care;
7 and a higher duty of care for adults to protect minors from harm.

8 91. Using his unique authority and archbishop position, Apuron was able to identify
9 vulnerable victims (both minors and their family) to accomplish these things:

- 10 a. perpetuate the sexual abuse alleged in this Complaint;
- 11 b. manipulate his victims using his authority, compel his victims to comply with his
12 sexual demands;
- 13 c. induce his victims to allow further sexual abuse; and
- 14 d. coerce his victims to refrain from disclosing or reporting the sexual abuse here to
15 anyone (i.e., individual or entity).

16 92. Defendants Holy See, Agaña Archdiocese, Capuchin and Father Dueñas knew (or
17 should have known) of Apuron's unique access and position of authority over his victims.

18 93. On information and belief it is alleged that Defendants Agaña Archdiocese,
19 Capuchin and Father Dueñas encouraged Apuron to exercise his unique access and position of
20 authority over other potential victims, which resulted in actual victims such as D.M.

21 94. Defendants Agaña Archdiocese, Capuchin and Father Dueñas (and their agents)
knew (or should reasonably have known) of Apuron's alleged sexually abusive-and-exploitative
propensities and unfitness.

1 95. It was foreseeable that if Defendants Agaña Archdiocese, Capuchin and Father
2 Dueñas (and their agents) did not adequately exercise or provide the duty of care owed to minor
3 children in their care, including D.M., these children would be vulnerable to Apuron's sexual abuse.

4 96. Defendants Holy See, Agaña Archdiocese, Capuchin and Father Dueñas broke their
5 duty of care to D.M., as follows:

- 6 a. allowing Apuron to encounter D.M. without supervision;
- 7 b. failing to adequately supervise Apuron, which gave him access to D.M.;
- 8 c. negligently retaining Apuron, which gave him even further access to D.M. (and
9 others like him);
- 10 d. failing to investigate all adults allowed contact with children, including Apuron;
- 11 e. failing to inform (and on information and belief knowingly conceal from D.M.'s
12 parents and proper authorities under federal and state laws of Apuron's sexual abuse
13 of minors; and
- 14 f. negligently holding Apuron out as a trustworthy (and in good standing) person of
15 stature and integrity to D.M.'s parents, parishioners, and the Guam community.

16 97. Defendants Agaña Archdiocese and Father Dueñas had these duties:

- 17 a. to provide reasonable supervision of both Apuron and D.M.;
- 18 b. to use reasonable care to investigate Apuron; and
- 19 c. to provide adequate warning to D.M.'s family (plus other like families with minors
20 entrusted to Apuron) of Apuron's alleged sexually-abusive-and-exploitative
21 propensities and unfitness.

 98. Defendants Holy See, Agaña Archdiocese and Father Dueñas failed these duties:

- a. to provide reasonable supervision of Apuron;

- 1 h. to provide reasonable supervision of D.M. on weekends when D.M. stayed with
- 2 Apuron;
- 3 c. to use reasonable care to investigate Apuron;
- 4 d. to use reasonable care to investigate and monitor D.M.'s living circumstances at
- 5 Apuron's residence;
- 6 e. to provide adequate warning to D.M.'s family (plus other like families with minors
- 7 entrusted to Apuron) of Apuron's sexually-abusive and-exploitative propensities and
- 8 unfitness that were known to Defendants' or should have been known to them;
- 9 f. to recognize the signs that D.M. was suffering from some abuse or trauma while he
- 10 attended classes and then to investigate and find out what was happening to D.M.;
- 11 g. to regulate time spent alone by employees with minors, and
- 12 h. to take reasonable measures to prevent future sexual abuse of minors under their care,
- 13 supervision, and trust.

13 99. Defendants Holy See, Agaña Archdiocese, Capuchin and Father Dacñas (through

14 their agents) knew (or should reasonably have known) of Apuron's sexually-abusive-and-

15 exploitative propensities and unfitness.

16 100. As a direct and proximate result of the conduct of Defendants, D.M. has suffered

17 (and still suffers) these injuries: (a) great pain of mind and body; (b) shock; (c) emotional distress;

18 (d) physical manifestations of emotional distress; (e) embarrassment; (f) loss of self-esteem; (g)

19 disgrace; (h) humiliation; (i) loss of enjoyment of life; and (j) expenses for medical/psychological

20 treatment, therapy, and counseling.

21 101. Defendants were negligent in their care and supervision of D.M. as alleged above,

entitling D.M. to recover damages from them.

1 102. Defendants acted with malice, oppression, and/or fraud by committing the alleged
2 conduct in this Complaint. D.M. is therefore entitled to exemplary and punitive damages.

3 **Fourth Cause of Action: Negligent Supervision Against All Defendants**

4 103. Plaintiff restates and incorporates paragraphs 1 through 102 as if restated in full
5 here.

6 104. This Fourth Cause of Action is pled against Defendants Holy See, Agaña
7 Archdiocese, Capuchins, and Father Ducdas for Negligence (collectively for this cause of action
8 "Defendants").

9 105. Defendants had a duty to provide reasonable supervision of both Apuron and the
10 minor child, D.M.; to use reasonable care in investigating Apuron; and to provide adequate
11 warning to D.M.'s family, and to families of other children who were entrusted to Apuron, of
12 Apuron's sexually abusive and exploitative propensities and unfitness.

13 106. Defendants, by and through their agents, servants and employees, knew or
14 reasonably should have known of Apuron's sexually abusive and exploitative propensities and/or
15 that Apuron was an unfit agent. Despite such knowledge, Defendants negligently failed to
16 supervise Apuron in his position of trust and authority as an archbishop where he was able to
17 commit the wrongful acts against D.M. alleged herein. Defendants failed to provide reasonable
18 supervision of Apuron, failed to use reasonable care in investigating Apuron, and failed to provide
19 adequate warning to D.M.'s family regarding Apuron's sexually abusive and exploitative
20 propensities and unfitness. Defendants further failed to take reasonable measures to prevent future
21 sexual abuse.

 107. As a direct and proximate result of the Defendant's above-described conduct, D.M.
suffered, and continues to suffer these injuries: (a) great pain of mind and body; (b) shock; (c)
emotional distress; (d) physical manifestations of emotional distress; (e) embarrassment; (f) loss

1 of self-esteem; (g) disgrace; (h) humiliation; (i) loss of enjoyment of life; and (j) expenses for
2 medical/psychological treatment, therapy, and counseling.

3 108. Defendants acted with malice, oppression, and/or fraud by committing the alleged
4 conduct in this Complaint. D.M. is therefore entitled to exemplary and punitive damages.

5 **Fifth Cause of Action: Negligent Hiring and Retention Against All Defendants**

6 109. Plaintiff restates and incorporates paragraphs 1 through 108 as if restated in full
7 here.

8 110. This Fifth Cause of Action is pled against Defendants Holy See, Agaña
9 Archdiocese, Capuchins, and Father Dueñas for Negligence (collectively for this cause of action
10 "Defendants").

11 111. Defendants had a duty not to hire, retain, or engage in the services of Apuron in
12 light of his sexually abusive and exploitative propensities.

13 112. Defendants, by and through their agents, servants and employees, knew or
14 reasonably should have known of Apuron's sexually abusive and exploitative propensities and/or
15 that Apuron was an unfit agent and employee. Despite such knowledge and/or an opportunity to
16 learn of Apuron's misconduct, Defendants negligently hired, retained, or engaged in the service of
17 Apuron in his position of trust and authority as an archbishop where he was able to commit the
18 wrongful acts against D.M. alleged herein. Defendants failed to properly evaluate Apuron in
19 advance by failing to conduct necessary screening; failed to properly evaluate Apuron's conduct
20 and performance as an employee of, or provider of services to Defendants; and failed to exercise
21 the due diligence incumbent upon employers to investigate employee misconduct, or to take
appropriate disciplinary action, including immediate termination and reporting and referral of
Apuron's sexual abuse to appropriate authorities. Defendants negligently continued to retain

1 Apurum in service as an archbishop, working or providing services for Defendants, which enabled
2 him to continue engaging in the sexually abusive and predatory behavior described herein

3 113. As a direct and proximate result of the Defendant's above-described conduct, D.M.
4 suffered, and continues to suffer these injuries: (a) great pain of mind and body; (b) shock; (c)
5 emotional distress; (d) physical manifestations of emotional distress; (e) embarrassment; (f) loss
6 of self-esteem; (g) disgrace; (h) humiliation; (i) loss of enjoyment of life; and (j) expenses for
7 medical/psychological treatment, therapy, and counseling. Defendants acted with malice,
8 oppression, and/or fraud by committing the alleged conduct in this Complaint. D.M. is therefore
9 entitled to exemplary and punitive damages.

10 **VI.**
PRAYER FOR RELIEF

11 PLAINTIFF D.M. asks this Honorable Court for this relief:

- 12 a. Damages in an amount in accordance with proof.
13 b. Exemplary Damages.
14 c. Punitive Damages.
15 d. Reasonable Attorneys' Fees and Costs.
16 e. Other Relief this Court Rules is Just.

17 Dated: January 14, 2019

18 LAW OFFICE OF CHARLES H. McDONALD II

19 By: 

20 Charles H. McDonald II
21 Attorney for Plaintiff D.M.


VII.
JURY DEMAND

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Plaintiff demands trial by jury on all issues and claims so triable.

Dated: January 14, 2019

LAW OFFICE OF CHARLES H. MCDONALD II



Charles H. McDonald II
Attorney for D.M