

1 frivolous, warranting sanctions.

2 First, the Defendant's use of "General Objections" are improper.

3 C.C.P. § 2031.210(a)(3) and § 2031.240(b), require *separate* objections to document  
4 demands, including identification "with particularity" of each document "to which an objection  
5 is being made", and further, a clear statement of the "specific grounds" for the objection,  
6 including but not limited to any privilege.

7 The dual failures of the Defendant to either defend those "General Objections" and  
8 withdraw them during the "meet and confer" process, means the Defendant both conceded they  
9 are improper, and it was a bad faith to waste of everyone's time on such "objections".

10 Second, "overbroad" is not a valid objection to an inspection demand unless either  
11 undue burden or irrelevance to the subject matter is demonstrated. *California Judges*  
12 *Benchbook: Civil Proceedings--Discovery* (Cal CJER 1994), §15.25, p. 243, citing *Perkins v.*  
13 *Superior Court* (1981) 118 Cal.App.3d 761, 764-765, and *Durst v. Superior Court* (1963) 218  
14 Cal.App.2d 460.

15 Third, the objection of "undue burden" is both meritless and frivolous.

16 There is a "burden" inherent in the discovery process in all lawsuits, and a general  
17 "objection" of burden is insufficient to deny a party's discovery rights. *West Pico Furniture*  
18 *Co. v. Superior Court* (1961) 56 Cal.2d 418, 417-418.

19 As further noted in *Cal. Prac. Guide: Civ. Pro. Before Trial* (TRG, 2007), § 8:1476, in  
20 connection with document demands, responding counsel should:

21 Avoid raising the "burdensome and oppressive" objection unless the facts are  
22 *truly unusual* (e.g., very fragile property which could be damaged by any  
23 movement, touching, etc.). If you are going to object in such a case, *state the*  
*reasons* for your objection and *offer* to permit whatever inspection can be  
allowed under the circumstances. [Italics in original.]

24 The statutory test for a protective order on the basis of "burden" is set forth in Code of Civil  
25 Procedure Section 2017(c):

26 (c) The court shall limit the scope of discovery if it determines that the  
27 burden, expense, or intrusiveness of that discovery *clearly outweighs* the  
likelihood that the information sought will lead to the discovery of admissible  
evidence. [Emphasis added.]  
28

1 The California Supreme Court has held that before a trial court may restrict a discovery method  
2 for being unduly burdensome, there must be evidence in the record to sustain that conclusion.  
3 Indeed, there must be evidence specifically quantifying the burden imposed on the responding  
4 party. *West Pico Furniture Co. v. Superior Court, supra*, 56 Cal.2d at 417-419  
5 (interrogatories); and *Cembrook v. Superior Court* (1961) 56 Cal.2d 423, 428 (requests for  
6 admission). Here, the Response did not identify any undue burden.

7 All of the objections are patently meritless, and should be overruled.

8 Additionally, the objections were frivolous, warranting sanctions.

9 Accordingly, the Court is requested to overrule all objections, and make a finding that  
10 Defendant's refusal to produce the documents, dilatory tactics, and failure to "meet and confer"  
11 in good faith constitute discovery misuse, and award sanctions.

12

13 C. Substantive Response

14 As to the Defendant's "substantive" response, it is *evasive*.

15 Again, the Response very ambiguously and conditionally states: "The Diocese will  
16 produce such relevant, responsive and non-privileged documents as are in its possession,  
17 custody or control, which documents have not been produced previously by the Defendants."

18 The Plaintiff does not know whether *any* documents have been produced regarding the  
19 topic of this demand.

20 The Plaintiff is entitled to an unequivocal statement that all documents responsive to  
21 the demand are being produced. C.C.P. Section 2031.220 sets forth the requirements for a  
22 "statement of compliance" to a document demand.

23 A statement that the party to whom an inspection demand has been  
24 directed will comply with the particular demand **shall state** that the  
25 production, inspection, and related activity demanded will be allowed either  
26 in whole or in part, and that **all documents** or things in the demanded  
27 category that are in the possession, custody, or control of that party and to  
28 which no objection is being made will be included in the production.

27 The Defendant's conditional response is completely non-compliant with the Code.  
28 Instead of stating that "all" documents will be produced, the Response unilaterally sets

1 conditions or limits on what is being produced.

2 The Defendant's Response first indicates that the Defendant has unilaterally decided  
3 what is a "relevant" document. The Response means that documents are being withheld that  
4 the Defendant has decided are "not relevant". That is unacceptable under the Code.

5 The Response further indicates that only "non-privileged documents" will be produced.  
6 That is an improper response unless a privilege log was served as part of the response.  
7 Otherwise, there is no identification of the particular documents that are being withheld from  
8 production, and there is no identification of the particular privilege that is being invoked.  
9 Those failures are violations of the Code. The objections have been waived by this non-  
10 compliance with C.C.P. § 2031.240(b).

11 *California Judges Benchbook: Civil Proceedings--Discovery* (Cal CJER 1994, Update  
12 2006), §15.25, p. 188, describes the requirement for a privilege log as follows (in part):

13 **All such documents must be listed and described in** what is  
14 **commonly referred to as a privilege log. This description must be**  
15 **sufficiently specific to enable the judge to evaluate the claim. CCP**  
16 **§2031.240(b) (formerly CCP §2031(g)(3)).**

17 In his "meet and confer" letter reply of September 6, 2007, defense counsel berates  
18 Plaintiffs' counsel about the existence of a "privilege log". See Motion Exhibit "E", hereto.  
19 However, the August 21 privilege log is not compliant with the Code because it is not a  
20 sufficiently specific description of *any document*. Instead, it provides 3 descriptions of  
21 *categories*. No *documents* are described, e.g., with dates, authors, recipients, etc. And, the  
22 "descriptions" are designed to obtain the applications of privileges. That is not a real privilege  
23 log at all, and defense counsel surely is aware it is not Code-compliant.

24 The basic test for an adequate privilege log is set forth in *Kaiser Foundation Hospitals*  
25 *v. Superior Court* (1998) 66 Cal.App.4th 1217, 1228:

26 The law attempts to find a balance between these competing interests in  
27 discovery and the assertion of privilege by requiring a party objecting to  
28 document production to "identify with particularity" any document as to  
which it makes an objection, and "set forth clearly the extent of, and the  
specific ground for, the objection," in accordance with Code of Civil  
Procedure section 2031, subdivision (f)(3). Here, Kaiser has already produced  
a privilege log specifying the documents as to which it has withheld

1 production on a claim of attorney-client privilege or work product doctrine  
2 protection. **The trial court must review Kaiser's privilege log to determine**  
3 **whether the specified documents as to which Kaiser claims the**  
4 **protection of either the privilege or the work product doctrine are in fact**  
5 **so protected. For this purpose, the information in Kaiser's log must be**  
6 **sufficiently specific to permit the trial court to determine whether each**  
7 **withheld document is or is not privileged. Should the trial court find the**  
8 **information in the privilege log insufficiently specific to allow such a**  
9 **determination, it may order Kaiser to prepare a new privilege log**  
10 **containing more particularized information about the nature of each**  
11 **document as to which the attorney-client privilege is claimed.**

12 [Emphasis added.]

13 Specific identification of the *document* is required for a real privilege log.

14 A party claiming privilege in response to an inspection demand should  
15 provide a "privilege log" that **identifies each document for which a**  
16 **privilege is claimed, its author, recipients, date of preparation, and the**  
17 **specific privilege claimed.**

18 [Cal. Practice Guide; Civ. Proc. Before Trial (TRG 2004), § 8:1474.5  
19 (emphasis added); and see also, *In re Grand Jury Investigation*, 974 F.2d  
20 1068, 1071 (9th Cir.1992).]

21 In *OXY Resources California v. Superior Court* (2004) 115 Cal.App.4th 874, 883, the  
22 need to give some indication of the content of the communication was demonstrated.

23 In response to document requests served by Calpine, OXY and EOG withheld  
24 certain documents and provided Calpine with privilege logs identifying the  
25 withheld documents. Among the documents withheld were 204 documents  
26 exchanged between OXY and EOG at various times before and after the close  
27 of the transaction on December 31, 1999.

28 **\*\*630 As reflected in EOG's privilege log, the privilege claimed as to the**  
**withheld documents exchanged between OXY and EOG is either a**  
**combination of joint defense and attorney work product, or a**  
**combination of joint defense, attorney work product, and attorney-client**  
**privilege. EOG's description of each withheld document on its privilege**  
**log gives some indication of the content of the communication. For**  
**example, EOG described one document as "1- page e-mail, re: Attached**  
**draft consent request letter for EOG properties."**

**OXY's privilege log is less revealing than EOG's. Although the document**  
**description in OXY's privilege log identifies the document's senders and**  
**recipients as well as the type of communication (e.g., letter, e-mail, or**  
**facsimile cover sheet), the description gives no indication of the purpose**  
**or content of the communication. The privilege claimed as to the withheld**  
**documents exchanged between OXY and EOG is either just "JDA," referring**  
**to the Joint Defense Agreement, or the Joint Defense Agreement combined**  
**with the attorney-client privilege and/or the work product doctrine. Roughly**  
**70 of the documents on OXY's privilege log were withheld solely on the**  
**ground of the Joint Defense Agreement, without reference to any underlying**  
**privilege, privacy claim, or claim of work product protection.**

Calpine ultimately filed a motion to compel the production of the 204

1 withheld documents that had been exchanged between EOG and OXY.

2 [Emphasis added.]

3  
4 The contents are not necessarily privileged because mere transmission to an attorney  
5 does not render the communication protected under the attorney-client privilege. *Green &*  
6 *Shinee v. Superior Court* (2001) 88 Cal.App.4th 532, 537.

7 At a minimum, there must be an *in camera* inspection for these documents.

8 *OXY Resources California v. Superior Court* (2004) 115 Cal.App.4th 874, 895:

9 Even OXY acknowledges the interests of EOG and OXY in the transaction  
10 were "adversarial, common, and at times, a blend of the two." Yet, **OXY**  
11 **apparently expects the court to rely entirely on the conclusory Peterson**  
12 **and Stevens declarations, which simply state in general terms that EOG**  
13 **and OXY had a common interest in finalizing their transaction and in**  
14 **responding to Calpine's inquiries about the Elkhorn Slough. Neither the**  
15 **privilege log nor the declarations reveal the content of any of the**  
16 **communications, so it would be impossible for Calpine to offer evidence**  
17 **refuting OXY's claims that all of the withheld communication involve**  
18 **matters of common interest. Indeed, without more information about the**  
19 **disputed documents, Calpine cannot demonstrate that each**  
20 **communication between OXY and EOG was not reasonably necessary to**  
21 **accomplish \*\*640 the purpose for which a lawyer was consulted.**

22 As a practical matter, it is impossible to know whether any of the disclosures  
23 of purportedly privileged information between OXY and EOG were  
24 reasonably necessary to accomplish the purpose for which a lawyer was  
25 consulted without knowing in at least a general sense the communication's  
26 content. OXY correctly notes that a privilege claimant is not obliged to reveal  
27 the subject matter of a communication to establish a claim of privilege. (See  
28 Evid.Code, § 917, Comment of Assembly Committee on Judiciary.) The  
issue here, however, is not whether the documents contain privileged  
information. Rather, it is whether any privileges were waived because of  
disclosure to a third party. Moreover, we do not suggest that OXY must  
amend its privilege log to describe the content of each document. Instead, **an**  
**in camera review of the documents would permit the court to determine**  
**whether the disclosures were reasonably necessary to accomplish the**  
**lawyer's role in the consultation. OXY argues that the inviolability of the**  
**attorney-client privilege prohibits even an in camera review of the**  
**communications at issue here. We disagree.**

23 [Emphasis added.]

24  
25 Finally, in this instance, there is no connection between the "privilege log" and the  
26 Defendant's written Response to the Plaintiffs' Document Demands. There is no assurance  
27 that documents are not being withheld. There is no assurance that if documents are being  
28 withheld, that they would only be included in the purported "privilege log". Hence, both the

1 Response and the "privilege log" are patently inadequate, and further response is warranted.  
2 The need for a further, straightforward response is demonstrated by the conditional, ambiguous  
3 nature of the Response itself.

4 An article published in the San Francisco Daily Journal on September 6, 2007, and  
5 authored by Richard M. Coleman, Esq., who is "a full-time neutral with Alternative Resolution  
6 Centers, as well as a discovery referee" in the Los Angeles area, finds that these types of  
7 purported responses that are made with and subject to objections do not comply with the Code.

8 1. After stating objections in general terms, the respondent  
9 concluded with the following language: "Without waiving these objections  
10 and subject to them, and specifically excluding any communications between  
11 attorney and client, defendant responses as follows: Defendant will produce  
12 all responsive documents."

11 **Did the respondent comply with the statutes? No.** The response  
12 "specifically" excludes attorney-client documents, but does not state whether  
13 any in fact exist. If there are privileged documents, they must be identified  
14 with particularity.

13 C.C.P. Section 2031.240(b)(1) provides that the respondent: Identify  
14 *with particularity* any document ... to which an objection is being made.  
[Emphasis added.]

14 The response is also ambiguous: "**Without waiving these objections  
15 and subject to them.**"

15 **What does that mean?** The documents will be produced but  
16 objections made to them are preserved? Or, any documents to which  
17 objection has been made are being withheld?

17 **The movant is entitled to an unequivocal statement that all the  
18 documents responsive to the request are being produced.** If withheld  
19 based on objection, as with claims of privilege, the documents must be  
20 identified with particularity.

19 [Italics in original; bold added.]

20 Also very recently, the 9<sup>th</sup> Circuit Court of Appeals ruled that a responding party must  
21 state unequivocally that no documents are being withheld.

22 In *Merrick v. Paul Revere Life Ins. Co.*, --- F.3d ----, 2007 WL 2458503 (August 31,  
23 2007), a case venued in Nevada Federal Court, the 9<sup>th</sup> Circuit Court upheld a trial court judge  
24 order *in limine* which barred the defendant from introducing evidence at trial where the  
25 documents were withheld during discovery.

26 The insurers also challenge the district court's order suppressing  
27 certain evidence placed in the claim file after litigation commenced. The  
28 district court granted this motion upon finding that the insurers withheld  
evidence that they were ordered to produce regarding their post-litigation  
treatment of Merrick's claim. The insurers argue that the court erred in finding

1 that they had withheld any evidence. "Courts need not tolerate flagrant abuses  
2 of the discovery process" and have "inherent power" to exclude evidence as a  
3 sanction for such abuses. *Campbell Indus. v. M/V Gemini*, 619 F.2d 24, 27  
4 (9th Cir.1980). We review the imposition of discovery sanctions for abuse of  
5 discretion and the underlying factual determinations for clear error. *Valley*  
6 *Eng'rs Inc. v. Elec. Eng'g Co.*, 158 F.3d 1051, 1052 (9th Cir.1998). Based  
7 upon the record, we cannot conclude that the district court's finding that the  
8 insurers withheld evidence is clearly erroneous. The insurers' pretrial  
9 behavior gives rise to such an inference. **The insurers invoked the privilege**  
10 **in response to a specific document production request, and continued to**  
11 **do so even after the magistrate judge instructed them not to invoke the**  
12 **privilege unless the privilege was actually shielding documents. Their**  
13 **responses expressly objected on the basis of privilege and attested that**  
14 **"subject to these objections," their production was complete. FN3 Only**  
15 **after the magistrate ordered the privileges waived (in response to**  
16 **Merrick's assertion that defendants were withholding evidence), and**  
17 **Merrick brought his motion in limine, did the insurers state**  
18 **unequivocally that no documents were withheld on the basis of privilege.**  
19 FN4 Even then, counsel's statement at the hearing could be understood as  
20 admitting the existence of withheld documents.

21 [Id., at p. 5; bold added.]

22 The 9<sup>th</sup> Circuit Court of Appeals further held that the paucity of documents actually  
23 produced supports an inference that documents are being withheld.

24 In addition, **the existence of withheld documents may be inferred from the**  
25 **paucity of material actually produced.** Although the insurers received over  
26 3000 pages of documents pertaining to Merrick's claim after litigation began,  
27 it produced only three short memos analyzing this material, none of which  
28 was generated by the attorneys who were actively managing the case file after  
Merrick filed his complaint. FN5

Against these facts, the defendants offer only their sworn statement that  
documents were not withheld. While proving a negative is difficult, **the**  
**defendants' pre-trial conduct and the dearth of documents actually**  
**produced support an inference that the defendants withheld documents**  
in violation of the magistrate's order. Given the district court's superior  
position to adjudge the insurers' culpability, we conclude that the district  
court did not clearly err in so finding, and did not abuse its discretion in  
granting Merrick's motion in limine.

[Id., at p. 6; bold added.]

Here, the Mexican Catholic Church authorities assert they have no idea what happened  
to Father Aguilar after he returned from molesting children in California in January 1988, and  
they have produced virtually no discovery for the post-1988 time period. As a result, they have  
managed to fail to disclose the whereabouts of Father Aguilar in Mexico through today's date.  
This means that the primary witness in the case has been kept from criminal justice, and justice

1 in a civil forum, in the form of a deposition under oath and a jury trial in California. The  
2 failure to disclose much of anything about Father Aguilar after 1988 only inurs to the benefit of  
3 the current Defendants in this lawsuit, as they can say anything without fear of contradiction.


4 As to the pre-1988 time period, the Mexican Catholic Church Defendants have  
5 produced *93 pages of documents for a priest who was ordained in Mexico in 1970*, and  
6 worked as a priest in Mexico except for the time period of March 1987 to January 1988 when  
7 he was in California, until perhaps the present day. The “paltry” production of documents  
8 about Father Aguilar is unbelievable. The lack of credibility to the documents produced thus  
9 far supports an inference that documents are being withheld by these highly evasive  
10 “compliance statements”. Plaintiff and the Court need to inspect the documents that normally  
11 accompany the transfer of Mexican priests to California, and back, in order to evaluate the  
12 reliability of the documents productions concerning Father Aguilar, and to evaluate the  
13 credibility of the Defendant’s statements about that process, including their feigned limited  
14 knowledge about anything the priests do, and their feigned lack of communication between the  
15 different “jurisdictions” within the Catholic Church.

16 Plaintiff requests a court order requiring a further response by Defendant that is not  
17 “conditioned” in any manner, and an unequivocal statement that *all* documents have been  
18 produced. Absent such a court order, the concealment of relevant information and documents  
19 by the Mexican Catholic Church authorities will continue, and will deny justice to the Plaintiff.

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Dated: September 17, 2007

CARCIONE, CATTERMOLE, DOLINSKI,  
OKIMOTO, STUCKY, UKSHINI,  
MARKOWITZ & CARCIONE, LLP

By:   
Attorney for Plaintiff



1 Lawrence E. Drivon, Esq. (State Bar No. 46660)  
David E. Drivon, Esq. (State Bar No. 158369)  
2 Robert T. Waters, Esq. (State Bar No. 196833)  
The Drivon Law Firm  
3 215 North San Joaquin Street  
Stockton, CA 95202  
4 Telephone: (209) 644-1234

5 Michael G. Finnegan, Esq. (State Bar No. 241091)  
Jeff Anderson & Associates  
6 E-1000 First National Bank Building  
332 Minnesota Street  
7 St. Paul, Minnesota 55101  
Telephone: (651) 227-9990  
8

9 Joseph W. Carcione, Jr., Esq. (State Bar No. 56693)  
Gary W. Dolinski, Esq. (State Bar No. 107725)  
Mara W. Feiger, Esq. (State Bar No. 143247)  
10 CARCIONE, CATTERMOLLE, DOLINSKI, OKIMOTO,  
STUCKY, UKSHINI, MARKOWITZ & CARCIONE, L.L.P.  
11 601 Brewster Avenue  
P.O. Box 3389  
12 Redwood City, CA 94064  
Telephone: (650) 367-6811  
13

14 Attorneys for Plaintiff

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT  
17

18 JOAQUIN AGUILAR MENDEZ,

Case No. BC358718

19 Plaintiff,

20 vs.

21 CARDINAL ROGER MAHONY, THE  
ROMAN CATHOLIC ARCHBISHOP OF  
22 LOS ANGELES, A CORPORATION  
SOLE, CARDINAL NORBERTO  
23 RIVERA, THE DIOCESE OF  
TEHUACAN, FATHER NICHOLAS  
24 AGUILAR DOES 1-100,

DECLARATION OF COUNSEL IN SUPPORT  
OF MOTION TO COMPEL FURTHER  
RESPONSES BY DEFENDANT DIOCESE OF  
TEHUACAN TO PLAINTIFF'S SECOND SET  
OF REQUESTS FOR PRODUCTION OF  
DOCUMENTS; and MONETARY SANCTION  
REQUEST AGAINST DEFENDANT AND/OR  
ITS ATTORNEYS OF RECORD

25 Defendants.  
26  
27  
28

Date: October 12, 2007

Time: 8:30 a.m.

Dept: 42

1 I, Gary W. Dolinski, on oath state:

2 (1) I am an attorney at law duly licensed to practice law before all the courts of the  
3 State of California and am a partner with the Law Offices of Carcione, Cattermole, Dolinski,  
4 Okimoto, Stucky, Ukshini, Markowitz & Carcione, L.L.P., one of the attorneys of record for  
5 the Plaintiff in this litigation.

6 (2) Appended as Exhibit "A" is a true and correct copy of Plaintiff's Document  
7 Demands, Set No. 2, to Defendant DIOCESE OF TEHUACAN, served July 13, 2007.

8 (3) Appended as Exhibit "B" is a true and correct copy of Defendant's Responses to  
9 the Document Demands, Set No. 2, mail served August 17, 2007.

10 (4) Appended as Exhibit "C" is a true and correct copy of our "meet and confer"  
11 letter dated and telecopied September 5, 2007.

12 (5) Appended as Exhibit "D" is a true and correct copy of defense counsel's letter  
13 reply dated September 6, 2007.

14 (6) Appended as Exhibit "E" is a true and correct copy of defense counsel's letter  
15 dated August 21, 2007, with an attachment purporting to be a privilege log.

16 (7) Appended as Exhibit "F" is a true and correct copy of an article from the San  
17 Francisco Daily Journal dated September 6, 2007.


18 (8) Appended as Exhibit "G" is a true and correct copy of the opinion in *Merrick v.*  
19 *Paul Revere Life Ins. Co.*, --- F.3d ----, 2007 WL 2458503 (9<sup>th</sup> Cir. (Nev.), August 31, 2007).

20 (9) I have spent five (5) hours reviewing the subject discovery responses, preparing  
21 "meet and confer" correspondence, and researching and preparing the present motion papers.  
22 The filing fee for the instant motion is \$40.00. My reasonable hourly fee is \$350.00. I am a  
23 24-year attorney in California, specializing in the representation of catastrophically injured  
24 individuals in complex litigation matters. Plaintiff requests a monetary sanction against the  
25 Defendant and/or their counsel of record, in the sum of \$1,750.00, representing a  
26 reimbursement of legal fees and expenses, on the legal and factual grounds set forth in the  
27 accompanying Memorandum of Points and Authorities, and Separate Statement, and as  
28 documented in the exhibits hereto.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 17th day of September, 2007, at Redwood City, California.

  
\_\_\_\_\_  
Gary W. Dolinski, Esq.

1 Lawrence E. Drivon, Esq. (State Bar No. 46660)  
David E. Drivon, Esq. (State Bar No. 158369)  
2 Robert T. Waters, Esq. (State Bar No. 196833)  
The Drivon Law Firm  
3 215 North San Joaquin Street  
Stockton, CA 95202  
4 Telephone: (209) 644-1234  
5 Michael G. Finnegan, Esq. (State Bar No. 241091)  
Jeff Anderson & Associates  
6 E-1000 First National Bank Building  
332 Minnesota Street  
7 St. Paul, Minnesota 55101  
Telephone: (651) 227-9990  
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STUCKY, UKSHINI, MARKOWITZ & CARCIONE, L.L.P.  
11 601 Brewster Avenue  
P.O. Box 3389  
12 Redwood City, CA 94064  
Telephone: (650) 367-6811

13 Attorneys for Plaintiff  
14

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

17 JOAQUIN AGUILAR MENDEZ, Case No. BC358718  
18 Plaintiff,

19 vs.

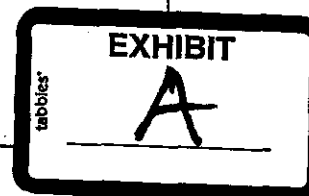
20 CARDINAL ROGER MAHONEY, THE REQUEST FOR IDENTIFICATION AND  
ROMAN CATHOLIC ARCHBISHOP OF PRODUCTION OF DOCUMENTS AND  
21 LOS ANGELES, A CORPORATION THINGS  
22 SOLE, CARDINAL NORBERTO  
RIVERA, THE DIOCESE OF  
23 AGUILAR DOES 1-100,

24 Defendants.  
25

26 PROPOUNDING PARTY: Plaintiff, JOAQUIN AGUILAR MENDEZ

27 RESPONDING PARTY: Defendant, THE DIOCESE OF TEHUACAN

28 SET NUMBER: TWO (2)



1 TO ALL PARTIES THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that Defendant, THE DIOCESE OF TEHUACAN  
3 ("Defendant"), is requested to identify the following documents in the possession, custody  
4 and/or control of the Defendant, and produce any identified documents either by making the  
5 original documents available for inspection and copying at 10:00 a.m. on **August 17, 2007**, at  
6 Carcione, Cattermole, Dolinski, Okimoto, Stucky, Ukshini, Markowitz & Carcione, L.L.P.,  
7 601 Brewster Avenue, Redwood City, California, or by mailing copies of those documents to  
8 Plaintiff counsel, pursuant to the provisions of Section 2031.050 of the Code of Civil  
9 Procedure:

10 **DEFINITIONS**

11  
12 Words in **BOLDFACE CAPITALS** in this Request are defined as follows:

13  
14 (1) **DOCUMENT** means a writing (as defined in Evidence Code section 250), and  
15 includes the original or copy of handwriting, typewriting, printing, photostating,  
16 photographing, and every other means of recording upon any tangible thing, any form of  
17 communication or representation, including letters, words, pictures, sounds, and symbols, or  
18 combinations of them. The term "writing" also includes all information collected by, compiled  
19 on and/or available through computer.

20  
21 (2) The terms "**CONCERNING**" and "**CONCERN**" each mean and include not only  
22 their commonly understood meaning, but the following meaning as well (where applicable):  
23 relating to, embodying, comprising, analyzing, reflecting, evidencing, constituting, pertaining  
24 to, dealing with, showing, referring to or having any logical or factual connections with matters  
25 discussed.

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27 (3) **PERSON** includes a natural person, firm, association, organization,  
28 partnership, business, trust, corporation, or public entity.

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(4) **ADDRESS** means the street address, including the city, state and zip code.

(5) The terms "**YOU**" and "**YOUR**" shall refer to **DEFENDANT** as well as its agents, employees, representatives, attorneys, officers, directors, members and any other person or entity acting under its or their control or on its or their behalf.

(6) The words "**AND**," "**OR**" and "**INCLUDING**" and similar words of guidance are intended merely as such and should not be construed as words of limitation; for example, the word "**OR**" shall include the word "**AND**" as appropriate and vice versa, and the word "**INCLUDING**" shall not be used to limit any general category description that precedes it.

(7) The singular form of a noun or pronoun includes the plural form and vice versa.

PRIVILEGES

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3 If any **DOCUMENT** is withheld in response to this production request on the ground  
4 of a privilege not to disclose the **DOCUMENT**, please state with respect to each such  
5 **DOCUMENT**:

6  
7 (1) The type of **DOCUMENT** involved and a general description of the contents of  
8 the **DOCUMENT**;

9  
10 (2) The name, last known address, and last known telephone numbers of each  
11 person who authored or otherwise generated the **DOCUMENT**, and the job title of any such  
12 person(s) at the time the **DOCUMENT** was created;

13  
14 (3) The name, last known address, and last known telephone number of each person  
15 to whom the **DOCUMENT** or a copy of the **DOCUMENT** was sent, including the primary  
16 targeted recipient(s), any recipient(s) of copies, and any recipient(s) of blind carbon copies, and  
17 the job title of any such person(s) at the time the **DOCUMENT** was sent.

18  
19 (4) The date of the **DOCUMENT**;

20  
21 (5) The privilege relied upon in withholding the **DOCUMENT**;

22  
23 (6) The facts relied upon in support of the privilege claim; and

24  
25 (7) The name, last known address, and last known telephone number for each  
26 person possessing knowledge of the factual basis for the privilege claim.

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1                                    DOCUMENT ITEMS (OR CATEGORIES OF DOCUMENTS)

2                                    FOR IDENTIFICATION AND PRODUCTION

3  
4 (15) All DOCUMENTS CONCERNING Father Nicolas Aguilar (aka Nicolas Aguilar  
5 Rivera).

6  
7 (16) All DOCUMENTS containing the name "Father Nicolas Aguilar (aka Nicolas Aguilar  
8 Rivera)" in any formulation of those words.

9  
10 (17) All DOCUMENTS containing the personnel file of Father Nicolas Aguilar (aka  
11 Nicolas Aguilar Rivera).

12  
13 (18) All DOCUMENTS CONCERNING the ordination of Father Nicolas Aguilar (aka  
14 Nicolas Aguilar Rivera).

15  
16 (19) All DOCUMENTS CONCERNING the incardination of Father Nicolas Aguilar (aka  
17 Nicolas Aguilar Rivera) from Mexico to the Archdiocese of Los Angeles.

18  
19 (20) All DOCUMENTS CONCERNING the incardination of Father Nicolas Aguilar (aka  
20 Nicolas Aguilar Rivera) from the Archdiocese of Los Angeles to Mexico.

21  
22 (21) All DOCUMENTS containing the passport of Father Nicolas Aguilar (aka Nicolas  
23 Aguilar Rivera).

24  
25 (22) All DOCUMENTS containing the visa of Father Nicolas Aguilar (aka Nicolas Aguilar  
26 Rivera) to travel to the United States in 1987.



1 (23) All DOCUMENTS containing the United States government documentation allowing  
2 Father Nicolas Aguilar (aka Nicolas Aguilar Rivera) to work in the United States in 1987 and  
3 1988.

4  
5 (24) For each priest who worked in YOUR diocese and thereafter worked in a diocese in the  
6 United States, the DOCUMENTS CONCERNING the change in location of their place of  
7 work.

8  
9 (25) All DOCUMENTS containing the policy of YOUR diocese CONCERNING the  
10 change in location of a priest from YOUR diocese to another diocese.

11  
12 (26) All DOCUMENTS containing the policy of YOUR diocese CONCERNING the  
13 change in location of a priest from another diocese to YOUR diocese.

14  
15 (27) All DOCUMENTS containing the policy of YOUR diocese CONCERNING the  
16 incardination of a priest from YOUR diocese to another diocese.

17  
18 (28) All DOCUMENTS containing the policy of YOUR diocese CONCERNING the  
19 incardination of a priest from another diocese to YOUR diocese.

20

21

22 Dated: July 13, 2007

CARCIONE, CATTERMOLLE, DOLINSKI,  
OKIMOTO, STUCKY, UKSHINI,  
MARKOWITZ & CARCIONE, LLP

23

24

25

26

By: 

Attorney for Plaintiff

27

28

1 *Mendez v. Cardinal Roger Mahony, et al.*  
[Los Angeles Superior Court Case No. BC358718]

2  
3 PROOF OF SERVICE

4 I, the undersigned, declare:

5 I am employed in the County of San Mateo, State of California. I am over the age of  
6 eighteen and not a party to this action. My business address is 601 Brewster Avenue,  
7 Redwood City, California 94063.

8 On July 13, 2007, I served the attached document(s):

9 **REQUEST FOR IDENTIFICATION AND PRODUCTION OF DOCUMENTS AND**  
10 **THINGS (Set No. 2) [pounded to Diocese of Tehuacan]**

11 x **By MAIL**, being familiar with the practice of this office for the collection and the  
12 processing of correspondence for mailing with the United States Postal Service, and  
13 deposited in the United States Mail copies of same to the business addresses set forth  
14 below, in a sealed envelope fully prepaid.

15 **Attorneys for Plaintiff, Joaquin Mendez:**

16 Laurence E. Drivon, Esq.

17 David E. Drivon, Esq.

18 Robert T. Waters, Esq.

19 The Drivon Firm

20 215 North San Joaquin Street

21 Stockton, CA 95202

22 Telephone: (209) 644-1234

Facsimile: (209) 463-7668

23 **Co-Counsel for Plaintiff**

24 Jeff Anderson, Esq.

25 Michael Finnegan, Esq.

26 Jeff Anderson & Associates, P.A.

27 E-1000 First National Bank Building

28 332 Minnesota Street

St. Paul, MN 55101

Telephone: (651) 227-9990

Facsimile: (651) 297-6543

**Co-Counsel for Plaintiff**

Martin D. Gross, Esq.

The Law Offices of Martin D. Gross

2001 Wilshire Boulevard, Suite 205

Santa Monica, CA 90403

Telephone: (310) 453-8320

Facsimile: (310) 861-1359

**Attorneys for Defendant: The Roman Catholic Archbishop of Los Angeles**

Lee W. Potts, Esq.

J. Michael Hennigan, Esq.

Donald F. Woods, Jr., Esq.

James Habel, Esq.

HENNIGAN, BENNETT & DORMAN LLP

865 South Figueroa Street, Suite 2900

Los Angeles, CA 90017

Telephone: (213) 694-1200

Facsimile: (213) 694-1234

1 Attorneys for Defendant: Cardinal Norberto Rivera and the Diocese of Tehuacan

Michael L. Cypers, Esq.  
Evan M. Wooten, Esq.  
Mayer, Brown, Rowe & Maw LLP  
350 South Grand Avenue, 25th Floor  
Los Angeles, CA 90071-1503  
Telephone: (213) 229-9500

Facsimile: (213) 625-0248

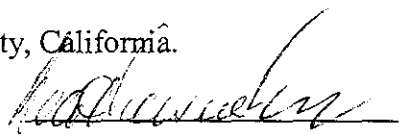
5 Co-Counsel for Defendant: Cardinal Norberto Rivera and the Diocese of Tehuacan

Steven R. Selsberg (*pro hac vice*)  
700 Louisiana Street, Suite 2400  
Houston, TX 77002-2730  
Telephone: (713) 238-3000

Facsimile: (712) 238-4888

8 I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

9 Executed on the above date at Redwood City, California.



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1 MAYER, BROWN, ROWE & MAW LLP  
MICHAEL L. CYPERS (SBN 100641)  
2 EVAN M. WOOTEN (SBN 247340)  
350 South Grand Avenue, 25th Floor  
3 Los Angeles, CA 90071-1503  
Telephone: (213) 229-9500  
4 Facsimile: (213) 625-0248

VED

5 MAYER, BROWN, ROWE & MAW LLP  
STEVEN R. SELSBERG (PRO HAC VICE)  
6 700 Louisiana Street, Suite 3400  
Houston, TX 77002-2730  
7 Telephone: (713) 238-3000  
8 Facsimile: (713) 238-4888

07  
CODESUMC  
LLP

9 Attorneys for Defendants Appearing Specially  
CARDINAL NORBERTO RIVERA AND THE  
DIOCESE OF TEHUACAN

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT  
12

13 JOAQUIN AGUILAR MENDEZ,  
14 Plaintiff,  
15 v.  
16 CARDINAL ROGER MAHONY, THE  
ROMAN CATHOLIC ARCHBISHOP OF LOS  
17 ANGELES, A CORPORATION SOLE,  
CARDINAL NORBERTO RIVERA, THE  
18 DIOCESE OF TEHUACAN, FATHER  
NICHOLAS AGUILAR DOES 1-100,  
19 Defendants.  
20

Case No. BC358718  
DEFENDANT THE DIOCESE OF  
TEHUACAN'S RESPONSES TO  
PLAINTIFF'S SECOND SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS REGARDING  
JURISDICTION

21 PROPOUNDING PARTY: Plaintiff Joaquin Aguilar Mendez

22 RESPONDING PARTY: Defendant The Diocese of Tehuacan

23 SET NUMBER: Two [Nos. 15 - 28]

24 Defendant the Diocese of Tehuacan (the "Diocese") hereby responds to Plaintiffs'  
25 Second Set of Requests for Production of Documents (collectively, the "Requests," individually,  
26 a "Request") as follows:  
27  
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