



J. F. FUNCHEON

# DAMIEN

CONDUCTED BY THE CONGREGATION OF CHRISTIAN BROTHERS  
1401 HOUGHTAILING STREET • HONOLULU, HAWAII 96817 • (808) 841-0195

Rev. Rev. Jan Davidson, C.S.C.  
Crosier Provincialate  
711 Lincoln Avenue  
Saint Paul, Mn. 55105

April 10, 1984

Dear Jan,

As you know I am not returning here at Damien next school year. I have been aware also of your reluctance to reassign me to a Crosier community during the duration of your office.

I have been "job hunting" and have several positions open to me.

A prison chaplain in Phoenix offered a job in prison ministry which would primarily involve teaching basic religion through visual aids. He wants a teacher for the job with flexibility and teaching experience. I've put him and the three sisters he works with on hold until I look into other possibilities.

The Air Force has been asking me during the past two years out here to come back on active duty. The priests at Hickam all have asked me why I don't return, and PACAF Command (run the Pacific theatre) Chaplain invited me last fall to return when the Chief of Chaplains was here from D.C. I asked the priest in charge of personnel to ask HQ to run a computer check to see if I am too old, ect. to come back full time.

A Catholic girls academy here in Honolulu is very interested in having me as their chaplain full time. I know the sisters as I help with their retreat program on weekends occasionally.

The diocese has a coed high school on the Big Island, Hawaii. They do not have a priest and want one on their staff very badly. I have written to the diocesan superintendent of education.

This weekend I go to Salinas, California to look at a teaching/chaplain job at another Christian Brothers High School. The principal there talked with the Religious Superior here and Assistant principal, Brother Stanish, and Salinas is very interested in having me work with them next year.

On the basis of our telephone conversation last month? I presume I am going to Creighton this summer. I told Marcus Fleishhacker I would be able to preach the missions in Omaha weekends.

C-GF00183

fraternally, *J. F. Funcheon* CSC.



## Christian Brothers' Community

Palma High School  
935 Iverson Street  
Salinas, California 93901

NOV 8, 1984

DEAR DAN,

I guess it is time for another update. I have been seeing DR. BRIAN ROBINSON weekly since school began. The BROTHERS have some insurance which MAY help cover the cost. The school has been out of medical forms for some time, but just now today more arrived. So, the bills should begin ARRIVING SOON.

I have very fine RAPOR with two sophomore Religion classes, fine RAPOR with the sophomore P.E. class, although we only supervise; don't teach anything. I have a <sup>discipline</sup> problem with a few students in the 8th grade Religion class. I have been spending a lot of time with these kids outside class during weekends etc. The other teachers told me they are really difficult kids and spoiled. What happens is I lose control and lose my cool in class. The counselor tells me he can certainly see why this is the case. But, here is where I need to learn to adapt and not get angry. This is why he strongly approves of my interest outside class. He observes I am a very structured person - I like the military system - but also am very independent - He says I am very intriguing and can give off very false signals to people. I am very personable and approachable with individuals, but very structured within a system. So outside the classroom I get along super with the kids; inside I get uptight with their "squirliness". He observes I am a super P.E. teacher. He told me I certainly chose the right field to teach in = P.E. The kids are not that tied down to a desk, rows, silence, etc. and I relate extremely well with them. To put it briefly, he advises I get out of the classroom into the gym, field - or - outdoors etc for youth. He is very positive I am gifted with kids and should work with them.

As a psychologist, he explained (I knew this theoretically) that my anger comes from frustration (all anger does.) The frustration comes from not being able (allowed?) to do what I do best. my problem is I do not communicate my needs to my superiors well. I am too willing to take criticism and not defend myself tactfully. In short, my superiors do not ① appreciate my strong points, because I do not share my successes. ② am not willing to allow my superiors into my life. = I am too independent where I don't need to be.

C-GF00679



## Christian Brothers' Community

Palma High School  
935 Iverson Street  
Salinas, California 93901

(5)

In other words, ① I have a false humility in not stating my strong points - to "stake out my turf" and ② to get pissed off at my superiors to whom I overreact as "investigating" me, when they just want to support me. He says he can understand this easily enough from the times I have been hurt by superiors, but this is not healthy. He tells me I do threaten insecure superiors.

Basically, I do not communicate my hurt feelings, but swallow the criticism very gracefully no matter how absurd; then get all bent out of shape inside. I need to learn to communicate my feelings without receiving or giving guilt.

He is very supportive of my good points. He insists whatever I do next year, 10 years from now etc, that what I am doing now is very beneficial for the kids & community here. He tells me I do not see all my very strong qualities, which he says are basically "connecting" abilities. I can make friends almost instantly, with all kinds of people. I am very strongly gifted socially and should be in "P.R." work of some kind. He encourages me to take on larger jobs. He told me I should be shooting for a pastorate, principal, or some leadership job. Particularly? with youth.

(Nov 11) Got sidetracked for a while. Sunday Afternoon with a little leisure time - so will continue. I still have problems with anxiety somewhat, although it is getting better slowly. The psy. (Brian) tells me I need some successes, even small ones. He wonders how I can happily live outside my own order, if I enjoy community. He works with Brothers a lot and wonders if the Brothers are not basically anti-clerical. This is a subtle form of rejection. In Hawaii the Brothers were outgoing for the most part. Here are much more reclusive here. I asked the principal to attend Deacons & clergy meetings during the school day. I also want to attend a monthly day of recollection with the military chaplains. The principal will allow me one day per month, however I want it. Brian wants me to mix with priests as much as possible. Since I get nervous at large masses, I do not help in a parish - so don't know the priests well.

C-GF00680



## Christian Brothers' Community

Palma High School  
935 Iverson Street  
Salinas, California 93901

(5)

The most difficult thing for me is the anxiety, I cannot control it, and it is depressing. Brian told me I have had to face several rejections in the past few months, and that this depression is the result. He tells me it will be difficult to achieve much self confidence in a Brothers school also. It is their school, etc, even to the point of having a Brother Chaplain for the kids. I had great success at Damien there in ministry, and miss it as a priest here at Palma. I explained my experiences at Damien, and Brian told me that Doug exhibits an alcoholic problem. Brian told me leaving Damien was 85% jealousy by Doug (the Damien Principal), but that I could have stayed there and continued to do great ministry if I knew the techniques for working with such a person. My tendency is to put my head down and try to power my way through, He says my way(s) is/are very successful + worthwhile - this explains my many successes. But I don't know how to handle negative criticism I believe it all too easily and get a very low self-image. Then I get frustrated because I see it isn't all true and blow up - or - suffer from Anxiety, which I now do.

It is still very confusing to me. Brian tells me that is okay. It took many years of holding hurt inside, and will take some time to regain self-confidence. I am quite clear to him, he says, and can see great effort on my part to learn and grow. He says I am making rapid progress, but is not at all sure being here with the Brothers is much of a support for me. The sacramental ministry is lacking (except for daily Brothers Mass) and this is not good for a priest. Relations with the Brothers will never be close. I belong with Crosiers, or at least with priests in sacramental ministry. The classroom is not the best for me too structured. I would be best in Crosier Community working P.E etc or youth ministry. (this is what I hoped to do at Crosier Seminary, and what I did do successfully at St. Odilia's).

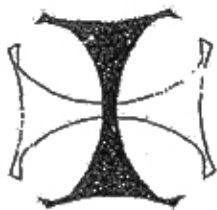
Anyway, I hope this will be seen as a "progress report." It is a difficult year. I am very happy with Brian and very easily talk with him.

Oh yes, the Air Force is picking me up in the Reserves next weekend. I've been in Limbo 2 months. I <sup>(paper work)</sup> enjoy the A.F. a lot; it is a super change - of - pace for me. 2 wks ago I saw the priest who was so difficult for me in Germany - we go along fine. Saw Bill Straka + Myron Etting so far. Will see Jim Lovandowski Thanksgiving - Enjoy Crosier Fraternity much.

C-GF00681

In the Cross - Jerry DSC





COPY

**Crosier Fathers and Brothers Province**

3204 East 43rd Street • Minneapolis, MN 55406

Phone (612) 722-2223

FAX (612) 722-4027

December 9, 1992

Rev. Robert Sell  
Bishop's Office  
P.O. Box 260  
Lafayette, IN 47902

Dear Bob,

My apologies for the long delay in getting this report off to you. Your request for a review of Fr. Jerry Funcheon's file got lost in a shuffle. I am glad that you called and that I now have the opportunity to provide you with the information you requested.

I have reviewed Fr. Jerry's file all the way back to his novitiate. There is little of note with respect to his current difficulties. In his theology years, his Magister commented often that he liked kids, could attract them and was a good disciplinarian with them. The only comment in his earliest evaluations that might merit attention, especially in hindsight, is a remark from an evaluation in 1965 by his Magister when he was a fourth year theologian: "Almost his sole interest is young boys."

The following is a statement prepared by Fr. Steve Henrich, O.S.C., acting provincial while Provincial Dan Davidson was out of the country. It concerns an incident while Fr. Jerry was stationed in Honolulu, Hawaii between 1982 and 1984.

"Jim Vedro called me to say that he had been contacted by the Principal of Damien High School. What follows has been taken care of, but feel that you need to know. Jerry took some students (4) on an outing. One of the students talked to his father about Jerry's behavior and the father went to the Principal of the School. The student indicated that after swimming in the ocean they went to take a shower and Jerry washed them. He told them that they would be spanked later (he was reported to have said that they would have to take down their pants), that he was going to torture them by rubbing his beard on their stomachs (sic.) and suggested that they go skinny-dipping later in the evening. The principal met with all the boys seperately (sic.) and the stories agreed. The principal and vice-principal met with Jerry. He was very shocked by what was said. Jerry is going to meet with the parents of each of the students that he took on the outing. The

Principal has decided that there was nothing sexual going on but that the behavior was inappropriate. As of now, no disciplinary action is planned with Jerry.

The Principal knew Jim and found out from Jerry that you were out of the country so he contacted him. I asked Jim to stay in touch with the Principal and keep me informed which he did. No one else knows of this matter."

In September 1984 Fr. Jerry established a counseling relationship with Brian Robinson, Ph.D., 582 Lighthouse, Suite 6, Pacific Grove, CA 93950. This seems to be the most thorough-going and extensive counseling Fr. Jerry received while he was a Crosier.

The next incident that came to the attention of the Order on July 21, 1992, was through Fr. Kevin McDonough of the Archdiocese of St. Paul and Minneapolis. He reported that a local TV station, KSTP, received a call on a "hot-line" with a complaint of sexual misconduct against a "Fr. Jerry." Given the sparse data on the call, it seems likely that the "Fr. Jerry" referred to was Fr. Funcheon. The caller reported an incident at St. Odilia Parish in Shoreview, MN, sometime in the 1970's. However, there was no way to follow-up on that call since there is no permanent record of it.

In Fr. Jerry's file there is much evidence of "butterflying" between ministries while he was with us and, especially later in his time with us, of growing discomfort between him and the Order. I am sorry that there is nothing else of substance or relevance to the issue that caused your inquiry.

I am enclosing the most up-to-date *Curriculum Vitae* that we have for Fr. Jerry.

If I can be any further assistance to you, please do not hesitate to call on me. My best to you as you handle this difficult business.

Sincerely yours in the Holy Cross,



V. Rev. Robert J. Rossi, O.S.C.  
Provincial

enc.

cc: Provincial File



1973-1975 Wawasee Preparatory  
Syracuse, Indiana  
Teacher and Prefect of Discipline

1975-1976 St. Thomas Aquinas High School  
Our Lady Queen of Martyrs Church  
Fort Lauderdale, Florida  
Teacher and Associate Pastor

1976-1979 United States Air Force  
Catholic Chaplain on active duty  
San Antonio, Texas  
  
Wilford Hall Hospital  
Ramstein Air Base, Germany

1979-1980 Crosier Seminary  
Onomia, Minnesota  
Teacher and Prefect of Discipline

1980-1982 Cathedral High School  
St. Cloud, Minnesota  
Teacher and Spiritual Director

1982-1984 Damien High School  
Honolulu, Hawaii  
Chaplain to students and Christian Brothers  
Teacher at High School

1984-1985 Palma High School  
Salinas, California  
Chaplain to Christian Brothers and Teacher at  
High School

1985-1986 St. Stephen's Parish  
Anoka, Minnesota  
Associate Pastor

1986-1987 Central Catholic High School  
Lafayette, Indiana  
Teacher

B.A. Language Arts  
St. Francis College  
Ft. Wayne, Indiana

M.S. Physical Education  
Purdue University  
West Lafayette, Indiana

Additional Awards: Saint George Award - Catholic Boy Scout Award for  
Adults.  
Air Force Commendation - Outstanding Service Award

Additional Ministries: Chaplain: St. Cloud Police Department  
Chaplain: Lafayette Indiana Knights of Columbus  
30 years Volunteer Swim Instructor, American  
Red Cross  
Chaplain: United States Air Force Reserve  
Grissom Air Force Base, Indiana  
Lt. Col.



Novice Master: Rev. Lawrence Kerich, O.S.C.

Formation Directors and Superiors: Rev. Frindolin Michke, O.S.C.  
Rev. Robert Zylla, O.S.C.  
Rev. Leo Sovada, O.S.C.  
Rev. Daniel Richards, O.S.C.  
Rev. John Smerke, O.S.C.  
Rev. James Moeglein, O.S.C.

Other Witnesses: Most Reverend William L. Higi, DD  
Bishop of Lafayette-in-Indiana

Very Reverend Monsignor Arthur A. Segó, J.C.D.  
Chancellor of Lafayette-in-Indiana

Very Reverend Monsignor John Duncan  
Vicar General of Lafayette-in-Indiana

Rev. Patrick Adkins, O.S.C.  
College Prefect of Discipline

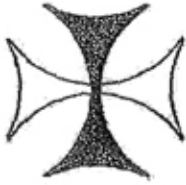
Rev. Marven Tellers, O.S.C.  
High School Prefect of Discipline

Mr. and Mrs. William E. Funcheon, Parents

William E. Funcheon, Jr., Brother

Present Occupations: Teacher of Religion  
Central Catholic High School  
Lafayette, Indiana

in residence: St. Ann Church, Lafayette, Indiana



## St. Odilia Catholic Community

3495 N. Victoria • Shoreview, MN 55126-3895 • (651) 484-6681

November 11, 2003

Rev. Msgr. Robert Sell  
Diocese of Lafayette in Indiana  
Chancery Office  
PO Box 260  
Lafayette, IN 47902-0260

Dear Msgr. Sell,

I am writing to update you on recent events regarding Gerald Funcheon. Last month newspaper articles appeared in the St. Paul and Minneapolis papers with details about Funcheon lawsuits. We communicated with the parish community about the articles and held a debriefing session with parishioners who wished to attend. Since that time many parishioners have been thinking about the past and questioning themselves and those among their relatives who were students at St. Odilia School in the early 70's. I have spoken with the Crosier Provincial, Tom Carkhuff, OSC, updating him with the information given below.

In speaking recently to one victim and family members from a number of parish families, I am alarmed at discovering from these contacts the possible extent of the abuse perpetrated by Gerald Funcheon.

1. There was a third-party contact in 1997 who accused Funcheon of abuse and reported that there were thirteen other classmates whom he considered also to be abuse victims.
2. I later received an anonymous letter from another victim who may or may not be the third-party contact or one of the thirteen.
3. We then learned about the three victims who have named themselves relative to lawsuits. The latest named two other potential victims, one of whom was already known to me.
4. I have spoken to a victim and to family members of victims naming four additional victims who may or may not be among the anonymous victims.
5. This brings the potential count to twenty-four victims.

These contacts described numerous group experiences in gym class, in Funcheon's office, and on camping or car trips. We know that there are some who were not directly abused but who witnessed the abuse of others, often sexual, sometimes physical or psychological.

Victims described "horse play" that they may not have considered to be problematic until later in life when they realized such behavior by a priest and a trusted and admired adult was "way over the line."

The picture I now have is of a predator who has potentially hundreds of direct and secondary victims here at St. Odilia alone. I believe much more will come to light, including more lawsuits.

I am wondering what might be done to elicit Funcheon's help in knowing more about his misconduct at St. Odilia. Has he ever admitted any form of misconduct? Taking his legal situation into account can he or would he be willing to share any information that would make pastoral planning less speculative? This possibility was brought up at the parish meeting and I said I would pursue it. I would appreciate any thoughts you may have about this before moving ahead with attempts to contact Funcheon through his lawyer or directly.

Please contact me by email, letter or phone if you have any comments or questions.

[mcguire@gabriel.stodilia.org](mailto:mcguire@gabriel.stodilia.org)  
651-415-3337, private office line  
651-308-0415, cell phone

Sincerely,

Richard McGuire, OSC  
Pastor

cc. Rev. Thomas Carkhuff, OSC, Provincial  
Rev. Jerome Schik, OSC, senior Parochial Vicar  
Mr. Ed Kautzer, parish attorney





COMPLAINT

Plaintiff John Roe 1, a fictitious name used to protect plaintiff's privacy interest, alleges the following against Defendants CANONS REGULAR ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC., THE CONGREGATION OF CHRISTIAN BROTHERS OF HAWAII, INC, a Hawaii not for Profit corporation t/a DAMIEN MEMORIAL SCHOOL, ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII, a Hawaii not for profit corporation, and Fr. Gerald Funcheon:

PARTIES

- a. Plaintiff John Roe 1 (hereinafter referred to as "Plaintiff") is an adult male who resides in the City and County of Honolulu, State of Hawaii. Plaintiff was a minor at the time of the sexual abuse alleged herein.
- b. At all times material to the Complaint, Defendant Canons Regular of the Order of the Holy Cross doing business in Minnesota as the Crosier Fathers and Brothers Province, Inc., and Canons Regular of the Order of the Holy Cross, Province of St. Odilia, a/k/a Crosier Fathers and Brothers, Inc., (hereinafter referred to as "Crosiers"), was and continues to be a Roman Catholic religious order of priests and brothers affiliated with the Roman Catholic Church. The Crosiers principle place of business is located at 104 North Crosier Drive, Onamia, Minnesota 56359.

- c. At all times material to the Complaint, Defendant The Congregation of Christian Brothers of Hawaii, Inc., a Hawaii not for Profit corporation trading as and doing business as Damien Memorial School (hereinafter referred to as "Damien") was an all-boys, Catholic, college preparatory institution based on the tradition of the Irish Christian Brothers and their corporate entity, The Congregation of Christian Brothers of Hawaii, Inc., with its principle place of business at 1401 Houghtailing Street, Honolulu, Hawaii 96817.
- d. At all times material to the Complaint, Defendant The Roman Catholic Church in The State of Hawaii ("Diocese") was and continues to be a diocese of the Roman Catholic Church a not for profit religious corporation, authorized to conduct business and conducting business in the State of Hawaii with its principal place of business at 1184 Bishop Street, City and County of Honolulu, State of Hawaii.
- e. At all times material, Defendant Father Gerald Funcheon (hereinafter referred to as "Funcheon"), was a Roman Catholic Priest, a member of, educated by, and under the direct supervision, authority, employ, and control of the Crosiers.

- f. Plaintiff has attempted to ascertain the names and identities of possible defendants who are presently unknown to plaintiff. Plaintiff's efforts include reviewing records and interviewing witnesses including other potential victims.
- g. Plaintiff alleges, upon information and belief, that the conduct of other defendants, presently unknown to plaintiff, was or may have been a proximate or legal cause of the harm that he has suffered as alleged herein.
- h. Plaintiff has satisfied the requirements of Hawaii Revised Statutes, Section 657, specifically Act 68 enacted in 2012.

#### FACTS

1. Plaintiff was born, raised, and resided at all relevant times in the City and County of Honolulu, State of Hawaii, and entered Damien as a freshman in 1983. As a result of his upbringing, Plaintiff developed great admiration, trust, reverence, and respect for, and obedience to persons in authority, including Funcheon.

2. At all times material, Funcheon was a Catholic priest, educated, trained, ordained, and employed by each and all of the defendants and under the direct supervision, employ, agency, and control of each and all of the defendants.

3. Plaintiff alleges, upon information and belief, Funcheon began working as a school-community chaplain/teacher at Damien in approximately 1982.

4. Damien exists within the borders and jurisdiction of defendant Diocese for its benefit and under its control.

5. Generally, Funcheon's employment duties with the Crosiers and Damien included teaching and working with children. Funcheon was a teacher and provided guidance for the spiritual and emotional needs of children, including Plaintiff, entrusted to his care.

6. At all times material, Plaintiff was a student at Damien where he came to know, admire, trust, revere, and respect Funcheon as a person of great influence and persuasion as an authority figure, priest, teacher, spiritual advisor, and counselor.

7. As a student at Damien, each and all of the Defendants were responsible for the minor's care and well-being. Each and all of the Defendants owed a duty of care to Plaintiff. Each and all of the Defendants had responsibility or control over the activities in which Plaintiff and Funcheon were engaged.

8. In approximately 1983 through 1984, when Plaintiff was approximately thirteen years old, Funcheon served as Plaintiff's chaplain, counselor, and teacher at Damien.



9. In approximately 1983 or 1984, when Plaintiff was approximately thirteen years old, Funcheon, using his position of authority, trust, reverence, and control as a Roman Catholic Priest and teacher, engaged in unpermitted, harmful and offensive sexual contact upon the person of Plaintiff. The sexual contact and/or acts constituted or would have constituted a criminal offense under part V or VI of chapter 707 (Haw. Rev. Stat. Sections 707-730 (2011)).

10. The sexual abuse and exploitation occurred while Funcheon took Plaintiff on a trip/retreat to the eastern shore of Oahu, Hawaii and while Plaintiff was entrusted to Defendants' care, custody, and control and while Funcheon was under the direct supervision, employ, and control of Defendants.

11. Before Funcheon sexually abused Plaintiff, several reports were made to the Crosiers about Funcheon's inappropriate sexual conduct towards minors. Before Plaintiff was sexually abused, the Crosiers had serious concerns about Funcheon's interactions with children, Funcheon's sexuality, and Funcheon's abuse of alcohol and prescription drugs. This is all information that Defendants either knew or should have known.

12. As a result of the complaints and concerns regarding Funcheon's inappropriate behavior and sexual abuse of minor students, he was moved by the Defendants between several

different locations before being transferred from Damien.

13. The Defendants allowed Funcheon to have unsupervised and unlimited access to children at Damien.

14. The Defendants did not tell any of the students or their parents, including Plaintiff or his parents, that they knew or should have known that Funcheon was a known child molester. The Defendants also did not tell any of the students or their parents that they had or should have had information that Funcheon had a pattern of grooming and molesting boys.

15. Before Plaintiff was first sexually abused by Funcheon, the Defendants knew or should have known material facts regarding Funcheon's sexual misconduct, impulses and behavior, but failed to act on that knowledge thereby increasing the likelihood that Plaintiff would be harmed. The Defendants' failure to act on that knowledge also contributed to Plaintiff's injuries and his inability to: appreciate the abuse and resulting injuries he sustained; or obtain help for the abuse and injuries he suffered.

16. The Defendants engaged in a pattern and practice of fraudulent conduct in order to conceal the criminal and harmful acts of its agents and employees. The Defendants, by and through their agents, persons controlling and/or directing the Defendants' organizations, misrepresented and/or failed to

present the facts of known sexual misconduct to victims, their families, students, the public and/or law enforcement authorities for the furtherance of a scheme to protect predatory priests and other clergy from criminal prosecution, to maintain or increase charitable contributions and/or avoid public scandal thereby creating and perpetuating a conspiracy of silence and/or misrepresentation.

17. By holding out Funcheon as a qualified priest and teacher, employed by the Defendants, and by undertaking the instruction and spiritual and emotional guidance of the minor Plaintiff, Defendants entered into a special relationship with Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the then vulnerable Plaintiff, the Defendants held a position of empowerment over Plaintiff.

18. Further, Defendants and others within the Church held themselves out to students and their parents, including Plaintiff, as counselors and instructors on matters that were spiritual, moral, and ethical. Accordingly, Plaintiff placed trust in Defendants so that Defendants gained superiority and influence over Plaintiff. Defendants, by maintaining and encouraging such a relationship with Plaintiff and preventing

the then minor Plaintiff from effectively protecting himself, entered into a fiduciary relationship with Plaintiff.

19. This fiduciary relationship with Plaintiff established a duty of good faith, fair dealing and the duty to act with the highest degree of trust and confidence. This fiduciary relationship includes the duty to warn, and to disclose, and the duty to protect children from sexual abuse and exploitation by Catholic employees whom the Defendants promote as being safe with children. The Defendants' fiduciary relationship with Plaintiff was based upon a justifiable trust on Plaintiff's side and superiority and influence on Defendants' side.

20. At all times material, by accepting custody of then minor Plaintiff, the Defendants accepted custody *in loco parentis*, as a parent, and owed Plaintiff the duty of full disclosure of all the information they had or should have had regarding Funcheon's history of sexual misconduct.

21. Further, the leaders of the Defendants were in a specialized or superior position to receive and did receive specific information regarding misconduct by priests and other agents and employees that was of critical importance to the well-being, protection, care and treatment of innocent victims, including Plaintiff. This knowledge was not otherwise readily available. The Defendants exercised its special or superior

position to assume control of said knowledge and any response thereto.

22. Plaintiff, on the other hand, was in a subordinate position of weakness, vulnerability, and inequality and was lacking in such knowledge. Further, the ability of Plaintiff or his family to monitor the use or misuse of the power and authority of the Defendants was compromised, inhibited or restricted by Defendants.

23. The Defendants had a secular standard of fiduciary duty that they breached by failing to act upon, or insufficiently acted upon or responded to, information that they had obtained by virtue of their superior status, known only or secretly to them, that was indicative or highly suggestive of a pattern of wrongful, unlawful or criminal behavior on their parts.

24. The Defendants breached this duty, as well as other duties, through inaction, manipulation, intimidation, evasion, intended deception, undue influence, duress or otherwise, as more fully described and set forth elsewhere in this complaint, resulting in negative consequences to the welfare and well-being of Plaintiff.

25. By tradition, Roman Catholics and those within their custody and control including Plaintiff, are taught to hold

religious figures in the highest esteem as earthly representatives of God, and that religious figures, unlike lay people, belong to a separate and higher state in life, which they represent to be of divine origin and which they represent entitles them to special privileges. For these and other reasons relating to the practices of the Church, religious figures and other persons in leadership positions in the Church have traditionally occupied a position of great trust and allegiance among parents and youth, including Plaintiff.

26. By placing Funcheon at Damien in approximately 1982 through 1984, the Defendants, through their agents, affirmatively represented to minor children and their families at the school, that Funcheon did not have a history of molesting children, that the Defendants did not know that Funcheon had a history of molesting children and that the Defendants did not know that Funcheon was a danger to children.

27. By allowing Funcheon to remain in active ministry, the Crosiers and Damien, through their agents, made continuing affirmative representations to minor children and their families, including Plaintiff and his family, that Funcheon did not have a history of molesting children, that the Crosiers and Damien did not know that Funcheon had a history of molesting children and that the Crosiers and Damien did not know that



Funcheon was a danger to children.

28. Apart from the representations made directly to Plaintiff, the Defendants, through their agents, made these representations with the knowledge and intent that they would be communicated to the minor Plaintiff through his parents' words and actions. The Defendants also had reason to believe that the representations made to Plaintiff's parents would influence Plaintiff and particularly that the representations would influence the amount and type of time spent alone with Funcheon, Funcheon's access to Plaintiff, and Funcheon's ability to molest Plaintiff.

29. The Defendants were in a specialized position where they had knowledge that Plaintiff did not. The Defendants were in a position to have this knowledge because they were Funcheon's employer and because the Defendants were responsible for Funcheon. Plaintiff, on the other hand, was a child. As a child he was not in a position to have information about Funcheon's inappropriate tendencies towards children.

30. Particularly, the Defendants knew or should have known that Funcheon had sexually molested numerous children and that Funcheon was a danger to children before Funcheon molested Plaintiff.

31. Because Defendants were in positions of superiority

and influence over him, Plaintiff believed and relied upon these misrepresentations.

32. Had Plaintiff or his family known what the Defendants knew or should have known that Funcheon had sexually molested numerous children before Plaintiff and that Funcheon was a danger to children, Plaintiff would not have been sexually molested.

33. In instances where the Church, including leaders of the Defendants, had actual knowledge or should have known about offending clerics, including Funcheon, they failed to warn children and their parents and denied knowledge thereof.

34. Despite having actual or constructive knowledge of Funcheon's pedophile propensities and previous instances of molestation of other children, the Crosiers, Damien and others concealed the danger which he and other offending clerics presented by misrepresenting them as clerics in good standing, thus enabling those offending clerics to retain their continued, unrestricted access to minor children.

35. Plaintiff had the right to rely, and did rely, on the representations and teachings of the Church, the Crosiers, and Damien including, but not limited to, representations regarding clerics in general and Funcheon in particular (including the representation that Funcheon was a cleric in good standing).

Plaintiff also expected and believed that the Church, the Crosiers, and Damien would not tolerate criminal misconduct that represented a known threat to children by any cleric.

36. As a result of his early instruction and indoctrination, it would never have occurred to Plaintiff that any cleric would engage in criminal behavior, or knowingly or actively conceal criminal behavior. Accordingly, even after Funcheon had sexually molested him, Plaintiff assumed that he was somehow the guilty party, rather than Funcheon.

37. Further, as a result of that early instruction and indoctrination, Plaintiff assumed that Funcheon's sexual molestation of him was an isolated occurrence and that the Defendants were unaware and uninvolved, regarding both the criminal sexual behavior and the wide-ranging efforts to conceal that criminal conduct from him and others.

38. The sexual abuse of Plaintiff and the circumstances under which it occurred caused Plaintiff to develop confusion, various coping mechanisms and symptoms of psychological disorders, including post-traumatic stress disorder, anxiety, depression, repression and disassociation. As a result of: 1) these disorders; and 2) Defendants' fraudulent conduct, Plaintiff formed a reasonable and rational fear that he would be disbelieved and was unable to fully perceive or know that: 1)

the conduct of Funcheon was pervasive; 2) the Church and Defendants knew or had reason to know that Funcheon was a pedophile prior to his abuse; 3) the Defendants were responsible for the abuse; and 4) the injuries he suffered were the result of the abuse. Because Plaintiff's emotional and psychological injuries manifested themselves in ways seemingly unconnected to the sexual abuse by Funcheon, Plaintiff was unable to perceive or know the existence or nature of his psychological and emotional injuries and their causal connection to the sexual abuse.

39. As a direct result of the sexual abuse and sexual exploitation and other wrongful conduct described herein, Plaintiff has suffered and continues to suffer from injuries including, but not limited to: great pain of mind and body; severe and permanent emotional distress; physical manifestations of emotional distress; psychological injuries, including post-traumatic stress disorder and depression; feelings of shame, embarrassment, and powerlessness; was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity.

COUNT ONE

SEXUAL ASSAULT AND BATTERY AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

40. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

41. In approximately 1983 or 1984, while Plaintiff was a minor, Funcheon intentionally touched and manipulated the body and genitals of Plaintiff in a sexual manner.

42. At all times material, the aforesaid conduct of Funcheon was offensive to Plaintiff and done without Plaintiff's consent.

43. Funcheon knew or should have known that Plaintiff would find such conduct offensive.

44. As a direct result of Funcheon's intentional conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT TWO

VICARIOUS LIABILITY AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

45. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

46. The Defendants hired, trained, and educated Funcheon for his employment.

47. At all times material, the Defendants granted Funcheon power to perform as a priest, spiritual leader, teacher, and to work with children.

48. The Defendants, their agents, servants, and employees, held out Funcheon to children and their parents, including Plaintiff and his family, as a fit and competent agent of Defendants.

49. In approximately 1983 or 1984, Funcheon engaged in unpermitted, harmful and offensive sexual contact upon the person of Plaintiff. Said conduct was undertaken while Funcheon was an employee and agent of the Defendants, while in the course and scope of employment with the Defendants, was ratified by the Defendants, and/or was accomplished by virtue of Funcheon's job-created authority.

50. Plaintiff alleges upon information and belief, at all times material, Funcheon was under the direct supervision and control of the Defendants when he negligently, grossly negligently and/or intentionally performed his duties and committed the wrongful acts described herein.

51. Funcheon was acting at least in part to serve the interests of his employer when he committed the sexual abuse.

Specifically, Funcheon was acting as a priest and teacher, as well as using the trust, power, and authority of the position granted, while he was with Plaintiff. Simultaneously, Funcheon used that same power and authority to gain Plaintiff's confidence and trust to sexually abuse Plaintiff.

52. By using his position as a teacher, priest and spiritual leader, and the trust, power, and authority of the position conferred upon him, Funcheon purported to act and/or speak on behalf of the Defendants when he committed the tortious and/or criminal acts alleged herein. Plaintiff further relied on Funcheon's apparent authority to act on behalf of the Crosiers and Damien.

53. Funcheon would not have been able to commit the sexual abuse were he not given the authority to act as a religious leader by the Defendants under their direct supervision. Funcheon conducted his tortious and/or criminal conduct during his agency relationship with the Defendants while providing ministry and educational instruction to Plaintiff. Therefore, the Defendants are liable for the negligent and/or wrongful conduct of Funcheon under the law of vicarious liability, including the doctrine of respondeat superior.

54. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.



COURT THREE

GROSS NEGLIGENCE AGAINST THE CANNONS REGULAR OF THE ORDER OF  
THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS  
AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN  
BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE  
OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

55. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

56. Defendants assumed a duty to Plaintiff by:

- a. holding Funcheon out to the public, including Plaintiff, as a competent and trustworthy employee, representative, priest, teacher and counselor of high morals;
- b. holding out its facilities and school as a safe environment for children;
- c. taking and inviting children into its facilities;
- d. entrusting children to the care of Funcheon during extracurricular activities; and
- e. fostering an environment in which Plaintiff was inhibited from reporting the sexual abuses against him.

57. The Defendants grossly breached this duty by exposing Plaintiff to Funcheon, an unfit agent with dangerous and exploitive propensities.

58. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT FOUR

FRAUD (INTENTIONAL MISREPRESENTATION) AGAINST THE CANNONS  
REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA,  
a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE  
CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN  
CATHOLIC CHURCH IN THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND  
ALL DOE DEFENDANTS

59. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

60. The Defendants affirmatively represented to Plaintiff that Funcheon did not have a history of molesting children, that the Defendants did not know that Funcheon had a history of molesting children, and/or that the Crosiers and Damien did not know that Funcheon was a danger to children.

61. The Defendants knew or should have known that Funcheon had a history of sexually molesting children and/or was a danger to children.

62. Whether Funcheon had a history of molesting children, whether the Defendants knew or should have known that Funcheon had a history of molesting children, and/or whether the Defendants knew or should have known that Funcheon was a danger to children were all material facts to Plaintiff.

63. Had Plaintiff known that Funcheon had a history of sexually molesting children and/or that the Defendants knew or

should have known that Funcheon had a history of sexually molesting children, Plaintiff would have acted differently and would never have spent unsupervised time with Funcheon.

64. The Defendants made the misrepresentations with the intent to induce Plaintiff to act on the misrepresentations, which Plaintiff did to his detriment.

65. Plaintiff justifiably relied upon the Defendants' misrepresentations which caused him to be sexually molested by Funcheon and suffer the other damages described herein.

66. The Defendants knew that their misrepresentations were false or at least were reckless and without care of whether these representations were true or false.

67. The Defendants' misrepresentations were the proximate cause of Plaintiff's damages.

68. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

#### COUNT FIVE

FRAUD (GROSSLY NEGLIGENT MISREPRESENTATION) AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

69. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth in this count.

70. The Defendants, through their agents, represented to Plaintiff and his family that Funcheon did not have a history of molesting children and that Funcheon was not a danger to children.

71. Funcheon did have a history of sexually molesting children and was a danger to children.

72. The Defendants owed a duty of care to Plaintiff because they knew or should have known that Funcheon would have access to children, including Plaintiff, knew or should have known that Funcheon was a danger to children, should have known that Funcheon had molested children before he molested Plaintiff, and knew or should have known that parents and children would place the utmost trust in Funcheon.

73. The Defendants, through their agents, in acts separate from and before their representation, grossly failed to use ordinary care in making the representation or in ascertaining facts related to Funcheon. The Defendants knew or reasonably should have foreseen that its representation would subject Plaintiff to the unreasonable risk of harm.

74. The Defendants grossly failed to use ordinary care to determine Funcheon's history of molesting children and whether he was safe for work with children before the Defendants made their representations about Funcheon.

75. Plaintiff believed and justifiably relied upon the Defendants' representations that caused him to be sexually molested by Funcheon.

76. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT SIX**

**FRAUD (INTENTIONAL NON-DISCLOSURE) AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS**

77. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth in this count.

78. As a result of Plaintiff being a minor and the relationships between the Plaintiff and the Defendants described herein, and by the Defendants undertaking the care and guidance of the then vulnerable Plaintiff, the Defendants held a position of empowerment over Plaintiff to such an extent that Plaintiff was prevented from effectively protecting himself from Funcheon, absent the disclosure of the material facts described herein.

79. The Defendants had special knowledge of the material facts that priests including, but not limited to Funcheon regularly participated in sexual activity. The Defendants also had knowledge or should have had knowledge of the material facts that priests generally, and Funcheon particularly, participated

in sexual activity with minors. Plaintiff did not have access to these material facts that prevented Plaintiff from effectively protecting himself against Funcheon.

80. The Defendants had special knowledge or should have had knowledge of the material facts that Funcheon, participated in sexual activity with minors prior to Funcheon having sexual contact with Plaintiff. Plaintiff did not have access to these material facts that prevented Plaintiff from effectively protecting himself from Funcheon.

81. The Defendants, through their agents, had a duty to disclose to Plaintiff the material facts described in this Complaint.

82. The Defendants, through their agents, intentionally did not disclose the facts described in this Complaint to the then minor Plaintiff in order to induce him to act on the misrepresentations to his detriment.

83. Plaintiff relied upon this intentional non-disclosure, which caused him to be sexually molested by Funcheon.

84. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

#### COUNT SEVEN

GROSSLY NEGLIGENT RETENTION AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSTIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN

**THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS**

85. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

86. The Defendants, by and through their agents, knew or should reasonably have known of Funcheon's dangerous and exploitive propensities as a child sexual abuser and his tendencies towards inappropriate sexual relationships, and despite such knowledge, the Defendants employed and continued to employ Funcheon in a position of trust and authority as a priest, counselor, and teacher without proper or adequate supervision, thereby providing him the opportunity to commit the wrongful acts against Plaintiff described herein.

87. Despite such knowledge, the Defendants grossly negligently deemed Funcheon a fit agent for ministry and teaching and employed and continued to employ Funcheon in a position of trust and authority as a priest and teacher without proper or adequate supervision, thereby providing him the opportunity to commit the wrongful acts against Plaintiff described herein.

88. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT EIGHT**

**GROSSLY NEGLIGENT SUPERVISION AGAINST THE CANNONS REGULAR OF**



THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a  
CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF  
CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN  
THE STATE OF HAWAII; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

89. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

90. Plaintiff alleges, upon information and belief, that at all times material Funcheon was employed by the Defendants and was under the direct supervision and control of the Defendants when he intentionally and/or grossly negligently performed his duties and committed the wrongful acts described herein. Funcheon had apparent and actual authority on behalf of the Defendants and engaged in the wrongful conduct while acting in the course and scope of his employment with the Defendants and/or accomplished the sexual abuse by virtue of his job-created authority.

91. The Defendants had a duty to exercise care in supervising Funcheon in his assignment and failed to prevent the injuries sustained by Plaintiff as a result of the foreseeable misconduct of their employee, Funcheon.

92. The aforesaid occurrences were caused by or contributed to by the negligence, carelessness and recklessness and the willful, wanton, reckless, and grossly negligent conduct of the Defendants, their agents, servants and/or employees, in failing to properly and adequately supervise the conduct of

Funcheon as it related to the Plaintiff, other young children, and other parishioners.

93. The Defendants knew or should have known of Funcheon's inappropriate propensities towards sexual conduct with youth and with whom he came in contact with as a result of his position as a priest and teacher.

94. That as a result of the Defendants' inadequate supervision of Funcheon, Plaintiff was sexually abused by Funcheon when Plaintiff was approximately thirteen years old.

95. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT NINE**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST THE  
CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF  
ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.;  
THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE  
ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; AND FUNCHEON;  
FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS**

96. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

97. Funcheon's conduct toward Plaintiff, as described herein, was outrageous and extreme.

98. A reasonable person would not expect or tolerate the sexual harassment, molestation and abuse of Plaintiff by Funcheon. Plaintiff had great trust, faith and confidence in

Funcheon, and in Defendants, which, by virtue of Funcheon's and Defendants' wrongful conduct, turned to fear.

99. Defendants' conduct toward Plaintiff, as described herein, was outrageous and extreme.

100. A reasonable person would not expect or tolerate Defendants putting Funcheon who was known to Defendants to be a child molester and a child abuser, in contact with minors at Damien. Defendants' acts and/or failures to act enabled Funcheon to have access to minor students and so that he could commit wrongful sexual acts, including the conduct described herein, with minors, including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants, which by virtue of Defendants' wrongful conduct, turned to fear.

101. A reasonable person would not tolerate or expect Defendants to be incapable of supervising and/or stopping employees of Defendants, including Funcheon, from committing wrongful sexual acts with minors, including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants, which, by virtue of Defendants' wrongful conduct, turned to fear.

102. Defendants' conduct described herein was intentional and malicious and done for the purpose of causing or with the

substantial certainty that Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress.

103. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer pain and suffering, including but not limited to, anxiety, embarrassment and emotional distress.

104. Plaintiff, based on information and belief, alleges that the conduct of Defendants was oppressive, malicious and despicable in that it was intentional and done in conscious disregard for the rights and safety of others, and were carried out with a conscious disregard of their right to be free from such tortious behavior, such as to constitute oppression, fraud or malice.

COUNT TEN

GROSSLY NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; AND FUNCHEON; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS

105. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

106. Funcheon's conduct toward Plaintiff, as described herein, was outrageous and extreme.

107. A reasonable person would not expect or tolerate the sexual harassment, molestation and abuse of Plaintiff by Funcheon. Plaintiff had great trust, faith and confidence in Funcheon, and in Defendants, which, by virtue of Funcheon's and Defendants' wrongful conduct, turned to fear.

108. Defendants' conduct toward Plaintiff, as described herein, was outrageous and extreme.

109. A reasonable person would not expect or tolerate Defendants putting Funcheon who was known to Defendants to be a child molester and a child abuser, in contact with minors at Damien. Defendants' acts and/or failures to act enabled Funcheon to have access to minor students and so that he could commit wrongful sexual acts, including the conduct described herein, with minors, including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants, which by virtue of Defendants' wrongful conduct, turned to fear.

110. A reasonable person would not tolerate or expect Defendants to be incapable of supervising and/or stopping employees of Defendants, including Funcheon, from committing wrongful sexual acts with minors, including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants, which, by virtue of Defendants' wrongful conduct, turned to fear.

111. Defendants' conduct described herein was grossly negligent and done for the purpose of causing or with the substantial certainty or reckless or conscious disregard of the likelihood that Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress.

112. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer pain and suffering, including but not limited to, anxiety, embarrassment and emotional distress.

113. Plaintiff, based on information and belief, alleges that the conduct of Defendants was grossly negligent, oppressive, malicious and despicable in that it was done in reckless manner or with a conscious disregard for the rights and safety of others, and were carried out with a conscious disregard of their right to be free from such tortious behavior, such as to constitute oppression, fraud or malice.

**COUNT ELEVEN**

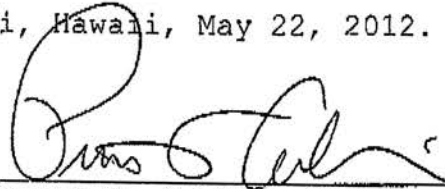
**PUNITIVE DAMAGES AGAINST THE CANNONS REGULAR OF THE ORDER OF THE HOLY CROSS, PROVINCE OF ST. ODILIA, a/k/a CROSIER FATHERS AND BROTHERS PROVINCE, INC.; THE CONGREGATION OF CHRISTIAN BROTHER OF HAWAII, INC.; THE ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII; AND FUNCHEON; FR. GERALD FUNCHEON; AND ALL DOE DEFENDANTS**

114. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

115. The conduct of the defendants or each of them constituted gross negligence, intentional, willful and wanton, or malicious misconduct or was conducted with such a want of care as to constitute a conscious indifference to the rights of others including plaintiff warranting the imposition of punitive damages.

WHEREFORE, plaintiff prays that judgment be entered in his favor, and against defendants, jointly and severally for general, special, and punitive damages, together with costs of suit, attorney's fees, pre- and post-judgment interest, and other relief pursuant to Rule 54 of the Hawaii Rules of Civil Procedure.

DATED: Wailuku, Maui, Hawaii, May 22, 2012.



Peter T. Cahill, ESQ.

John M. O'Neill, ESQ.

Jeffrey R. Anderson, Esq. pending  
Pro Hac Vice Admission