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FILED
SUPERIOR COURT
OF GUAM

2016 DEC 22 PM 4: 56

CLERK OF COURT

BY: _____

11 **IN THE SUPERIOR COURT OF GUAM**

12 **RAMON AFAISEN DE PLATA,**

13 **Plaintiff,**

14 **v.**

15 **ROMAN CATHOLIC**
16 **ARCHBISHOP OF AGANA, a Corporation**
17 **sole; DOE ENTITIES 1-5; and DOE-**
18 **INDIVIDUALS 6-50, inclusive**

19 **Defendants.**

CIVIL CASE NO: **CW 1141-16**

20 **VERIFIED COMPLAINT FOR DAMAGES**
21 **FOR**

- 22 **1. Child Sexual Abuse**
- 23 **2. Negligence**
- 24 **3. Negligent Supervision**
- 25 **4. Negligent Hiring and Retention**
- 26 **5. Breach of Fiduciary Duty /**
27 **Confidential Relationship**

28 Plaintiff Ramon Afaisen De Plata ("Ramon") files this Complaint for damages based on prior sexual abuse (the "Complaint") against Defendants Archbishop of Agana, a corporation sole, and DOES 1-50 ("Defendants").

29 **I.**
30 **JURISDICTION**

- 31 1. This Court has jurisdiction pursuant to 7 GCA § 3105.

32 **II.**
33 **PARTIES**

34 2. At all times relevant hereto, Ramon has been and is an individual who resides in Chalan Pago
35 Guam. Ramon is currently 62-years old.

36 3. At all times relevant hereto, and upon information and belief, Roman Catholic Archbishop of
37 Agana, a corporation sole, in accordance with the discipline and government of the Roman Catholic

1 Church, is the legal name for Defendant Archbishop of Agana, also known as Archdiocese of Agana.
2 (“Agana Archdiocese”), which is and has been at all times relevant hereto a non-profit corporation
3 organized and existing under the laws of Guam, authorized to conduct business and conducting business in
4 Guam, with its principal place of business in Guam. Agana Archdiocese is responsible and liable in whole
5 or in part, directly or indirectly, for the wrongful acts complained of herein.
6

7 4. At all times relevant hereto, Father Antonio C. Cruz (“Cruz”), now deceased, was an individual and
8 an agent of the Agana Archdiocese and specifically as a priest in Guam. If not deceased, Cruz would have
9 been individually responsible and liable, in whole or in part, directly or indirectly, for the wrongful acts
10 complained of herein.

11 5. Defendant-entities named herein as DOES 1 - 5, inclusive, are or at all times relevant hereto, were
12 insurance companies that provided general liability coverage and / or excess level liability coverage
13 pursuant to policies issued to the Agana Archdiocese and / or Roman Catholic Church of Guam. Defendant-
14 individuals named here-in as DOES 6-50, inclusive, are at all times relevant hereto, were agents,
15 employees, representatives and / or affiliated entities of the Agana Archdiocese and /or Roman Catholic
16 Church outside of Guam whose true names and capacities are unknown to Ramon who therefore sues such
17 defendants by such fictitious names, and who will amend the Complaint to show the true names and
18 capacities of each such Doe defendant when ascertained. DOES 6 -50 assisted, aided and abetted and / or
19 conspired with Cruz and / or other members of the Agana Archdiocese to conceal, disguise, cover up, and /
20 or promote the wrongful acts complained of herein. As such, each such Doe is legally responsible in some
21 manner for the events, happenings, and / or tortious and unlawful conduct that caused the injuries and
22 damages alleged in this Complaint.
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24 6. Each defendant is the agent, servant and/or employee of other defendants, and each defendant was
25 acting within the course and scope of his, her or its authority as an agent, servant and/or employee of the
26 other defendants. Defendants, and each of them, are individuals, corporations, alter egos and partnerships of
27 each other and other entities which engaged in, joined in and conspired with the other wrongdoers in
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1 carrying out the tortious and unlawful activities described in this Complaint; and defendants, each of them,
2 ratified the acts of the other defendants as described in this Complaint.

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4 **III.**
INTRODUCTORY ALLEGATIONS

5 7. In or about March 1964, in or around the ages of ten (10), Ramon was an altar boy at the Our Lady
6 of Peace and Safe Journey Catholic Church ("Chalan Pago Parish"). At that time, Cruz was a priest at the
7 Chalan Pago Parish.

8 8. During the period in which he served as an altar boy, Cruz attempted to sexually molest
9 and / or rape Ramon, by enticing and luring Ramon to engage in acts of sexual conduct which occurred on
10 multiple occasions.

11 9. For example, one night after mass, during Lenten week, Cruz sought and obtained permission from
12 the parents and / or guardians of several altar boys, including Ramon, to spend the night at the Chalan Pago
13 Parish Rectory ("Rectory"), where Cruz resided at the time. During the night at the Rectory, Ramon
14 witnessed Cruz sexually molest and abuse an altar boy together with a seminarian name Anthony Sablan
15 Apuron ("Apuron"), who would later become an ordained priest on Guam and ultimately serve as the
16 Archbishop of the Agana Archdiocese.

17 10. In or about November 1986, Cruz died on or around the age of 62

18 11. At all times relevant hereto, Cruz, prior to his death, sexually abused and molested Ramon when
19 Ramon was a minor and committed such acts while serving as a priest in the Chalan Pago Parish, in his
20 capacity as an agent and employee of the Agana Archdiocese, which is vicariously liable for his actions.

21 12. The Agana Archdiocese and DOES 1-50, inclusive, knew that Cruz had sexually abused and
22 molested Ramon, and rather than reporting the matter to law enforcement and without intervening so as to
23 prevent Cruz from engaging in additional instances of sexual abuse, and without seeking to have Cruz
24 acknowledge and take responsibility for his wrongful actions, they assisted Cruz with the specific purpose
25 or design to keep Cruz's misconduct hidden and secret; to hinder or prevent Cruz's apprehension and
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1 prosecution; and to protect the Agana Archdiocese, as well as the Roman Catholic church as an
2 international institution.

3 13. To this day, the Agana Archdiocese and DOES 1-50 never contacted Ramon, Ramon's family, or
4 children they know Cruz had sexual contact or sexual conduct with. The Agana Archdiocese and DOES 1-
5 50 have been content that any other children that were sexually abused by Cruz while he was serving as a
6 priest, will remain affected by guilt, shame and emotional distress.

7
8 14. The criminal offense of Child Abuse is defined in 9 GCA § 31.30, which states in pertinent part as
9 follows:

10 (a) A person is guilty of child abuse when:

- 11 (1) he subjects a child to cruel mistreatment; or
12 (2) having a child in his care or custody or under his control, he:

13 * * *

14 (B) subjects that child to cruel mistreatment; or

15 (C) unreasonably causes or permits the physical or, emotional health of
16 that child to be endangered

17 15. Under 19 GCA § 13101, the following relevant definitions are provided:

18 * * *

19 (b) Abused or neglected child means a child whose physical or mental health or
20 welfare is harmed or threatened with harm by the acts or omissions of the
21 person(s) responsible for the child's welfare;

22 * * *

23 (d) Child means a person under the age of 18 years;

24 * * *

25 (t) Harm to a child's physical health or welfare occurs in a case where there exists
26 evidence of injury, including but not limited to:

27 * * *

28 (2) Any case where the child has been the victim of a sexual offense as defined
in the Criminal and Correctional Code; or

(3) Any case where there exists injury to the psychological capacity of a child
such as failure to thrive, extreme mental distress, or gross emotional or
verbal degradation as is evidenced by an observable and substantial
impairment in the child's ability to function within a normal range of
performance with due regard to the child's culture(.)

16. Under 9 GCA § 13.10, "attempt" is defined as follows:

A person is guilty of an attempt to commit a crime when, with intent to
engage in conduct which would constitute such crime were circumstances as

1 he believes them to be, he performs or omits to perform an act which
2 constituted a substantial step toward commission of the crime.

3 17. Under 9 GCA § 25A201, “sexual conduct” with a minor is defined as follows:

4 (o) Sexual Conduct means acts of sexual penetration, sexual contact, masturbation,
5 bestiality, sexual penetration, deviate sexual intercourse, sadomasochistic abuse,
6 or lascivious exhibition of the genital or pubic area of a minor.

7 18. Under 9 GCA § 28.65, the crime of Indecent Exposure is set forth in pertinent part as follows:

8 A person is guilty of indecent exposure if he exposes his genitals or performs any
9 other lewd act under circumstances in which his conduct is likely to be observed by
10 any person who would be offended or alarmed.

11 19. Under 19 GCA § 13201(b), the following are required to report child abuse:

12 (b) Persons required to report suspected child abuse under Subsection (a)
13 include, but are not limited to, ... clergy member of any religious faith, or
14 other similar functionary or employee of any church, place of worship, or
15 other religious organization whose primary duties consist of teaching,
16 spreading the faith, church governance, supervision of a religious order, or
17 supervision or participation in religious ritual and worship, ...

18 20. The above-quoted sex offenses and terms are hereafter referred to for the purposes of this pleading
19 as “sexual abuse”.

20 **IV.**
21 **FIRST CAUSE OF ACTION**

22 **Child Sexual Abuse**
23 **[Against All Defendants]**

24 21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 of this Complaint as if
25 fully set forth herein.

26 22. Defendants Agana Archdiocese and DOES 6 - 50 (collectively “Defendants” as alleged in this
27 cause of action) are vicariously liable for the sexual abuse committed upon Ramon by Cruz. Public policy
28 dictates that Defendants should be held responsible for Cruz’s wrongful conduct under the theory
commonly referred to as *Respondeat Superior*.

23 23. Cruz, prior to his death, committed the offenses of Indecent Exposure, as set forth in 9 GCA §
24 28.65, by exposing his genitals and masturbating in the presence of Ramon, and when Cruz subjected

1 Ramon to watch Cruz sexually abusing another altar boy together with Apuron, all of which frightened and
2 traumatized Ramon.

3 24. Cruz, prior to his death, also committed the offense of Child Abuse, as set forth in 9 GCA § 31.30
4 by subjecting Ramon, who was a child at the time pursuant to 19 GCA § 13101(d) and was under the care,
5 custody or control of Cruz, to cruel mistreatment which included unreasonably causing or permitting the
6 physical or emotional health of the child to be endangered.
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8 25. As a direct and proximate consequence of Cruz's misconduct, Ramon was an abused or neglected
9 child within the meaning of 19 GCA § 13101(b) because his physical or mental health or welfare was and
10 continues to be harmed by the acts or omissions of Cruz, who was responsible for the child's welfare.

11 Moreover, as Cruz's misconduct constitutes the commission of one or more criminal offenses, Ramon has
12 suffered harm to a child's physical health or welfare within the meaning of 19 GCA § 13101(t)(2) because
13 Ramon was the victim of a sexual offense as defined in the Criminal and Correctional Code (9 GCA)
14

15 26. For the reasons set forth in the incorporated paragraphs of this Complaint, the sexual abuse of
16 Ramon arose from and was incidental to Cruz's employment with the Agana Archdiocese, and while Cruz,
17 was acting within the scope of his employment with the Agana Archdiocese at the time he committed the
18 acts of sexual abuse, which were foreseeable to Defendants.
19

20 27. Defendants ratified and / or approved of Cruz's sexual abuse by failing to adequately investigate,
21 discharge, discipline and / or supervise Cruz and other priests known by Defendants to have sexually
22 abused children, or to have been accused of sexually abusing children; by concealing evidence of Cruz's
23 sexual abuse; failing to intervene to prevent ongoing and / or further sexual abuse; by failing to report the
24 sexual abuse as required under 19 GCA 13201(b); by allowing Cruz to continue in service as a Catholic
25 priest working for the Agana Archdiocese.
26

27 28. Despite the pretense of policies and procedures to investigate and address instances of child sexual
28 abuse by priests, Defendants in fact implemented such policies and procedures for no other purpose than to
avoid scandal, maintain secrecy and preserve loyalty to fellow clergy, including child molesting clergy,

1 rather than the protection of children. Such hypocritical conduct by Defendants has served to
2 systematically encourage, perpetuate and promote sexually abusive conduct by priests in the Agana
3 Archdiocese.

4 29. Defendants either had actual knowledge of Cruz's sexual abuse of Ramon, or could have and
5 should have reasonably foreseen that Cruz would commit sexual abuse to Ramon in the course of his
6 employment as a priest in the Chalan Pago Parish, as an agent and employee of the Agana Archdiocese.

7 30. As a direct and proximate result of the Defendants' above – described conduct, Ramon has
8 suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical
9 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
10 enjoyment of life; and has incurred and / or will continue to incur expenses for medical and psychological
11 treatment, therapy and counseling.

12 31. By engaging in the conduct described herein, Defendants acted with malice, oppression, and/or
13 fraud, entitling Ramon to exemplary and punitive damages.

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16 **V.**
17 **SECOND CAUSE OF ACTION**

18 **Negligence**
19 **[Against All Defendants]**

20 32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 31 of this Complaint as if
21 fully set forth herein.

22 33. Defendants Agana Archdiocese and DOES 6 - 50 (collectively "Defendants" as alleged in this
23 cause of action) had a duty to protect Ramon when he was entrusted to Cruz's care by Ramon's parents.
24 Ramon's care, welfare, and / or physical custody were temporarily entrusted to Defendants, and Defendants
25 accepted the entrusted care of Ramon. As such, Defendants owed Ramon, as a child at the time, a special
26 duty of care, in addition to a duty of ordinary care, and owed Ramon the higher duty of care that adults
27 dealing with children owe to protect them from harm.
28

1 34. By virtue of his unique authority and position as a Roman Catholic priest, Cruz was able to identify
2 vulnerable victims and their families upon which he could perform such sexual abuse; to manipulate his
3 authority to procure compliance with his sexual demands from his victims; to induce the victims to
4 continue to allow the abuse; and to coerce them not to report it to any other persons or authorities. As a
5 priest, Cruz had unique access to a position of authority within Roman Catholic families like the family of
6 Ramon. Such access, authority and reverence was known to the Defendants and encouraged by them.

7
8 35. Defendants, by and through their agents, servants and employees, knew or reasonably should have
9 known of Cruz's sexually abusive and exploitative propensities and / or that Cruz was an unfit agent. It was
10 foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to children in
11 their care, including but not limited to Ramon, the children entrusted to Defendants' care would be
12 vulnerable to sexual abuse by Cruz.

13
14 36. Defendants breached their duty of care to the minor Ramon by allowing Cruz to be in the company
15 of minor children, including Ramon, without supervision; by failing to adequately supervise, or negligently
16 retaining Cruz whom they permitted and enabled to have access to Ramon; by failing to properly
17 investigate; by failing to inform or concealing from Ramon's parents, guardians, or law enforcement
18 officials that Cruz was or may have been sexually abusing minors; by holding out Cruz to Ramon's parents
19 or guardians, and to the community of Guam at large, as being in good standing and trustworthy as a person
20 of stature and integrity. Defendants cloaked within the facade of normalcy Cruz's contact with Ramon and
21 / or with other minors who were victims of Cruz, and deliberately concealed and disguised the sexual abuse
22 committed by Cruz.

23
24 37. As a direct and proximate result of the Defendants' above – described conduct, Ramon has
25 suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical
26 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
27 enjoyment of life; and have incurred and / or will continue to incur expenses for medical and psychological
28 treatment, therapy and counseling.

1 38. By engaging in the conduct described herein, Defendants acted with malice, oppression, and/or
2 fraud, entitling Ramon to exemplary and punitive damages.

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4 **VI.**
THIRD CAUSE OF ACTION

5 **Negligent Supervision**
6 **[Against All Defendants]**

7 39. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 38 of this Complaint as if
8 fully set forth herein.

9 40. Defendants Agana Archdiocese and DOES 6 - 50 (collectively "Defendants" as alleged in this
10 cause of action) had a duty to provide reasonable supervision of both Cruz and minor child Ramon; to use
11 reasonable care in investigating Cruz; and to provide adequate warning to Ramon's family, and to families
12 of other children who were entrusted to Cruz, of Cruz's sexually abusive and exploitative propensities and
13 unfitness.
14

15 41. Defendants, by and through their agents, servants and employees, knew or reasonably should have
16 known of Cruz's sexually abusive and exploitative propensities and/or that Cruz was an unfit agent. Despite
17 such knowledge, Defendants negligently failed to supervise Cruz in his position of trust and authority as a
18 parish priest, where he was able to commit the wrongful acts against Ramon alleged herein. Defendants
19 failed to provide reasonable supervision of Cruz, failed to use reasonable care in investigating Cruz, and
20 failed to provide adequate warning to Ramon's family regarding Cruz's sexually abusive and exploitative
21 propensities and unfitness. Defendants further failed to take reasonable measures to prevent future sexual
22 abuse.
23

24 42. As a direct and proximate result of the Defendants' above – described conduct, Ramon has
25 suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical
26 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
27 enjoyment of life; and have incurred and / or will continue to incur expenses for medical and psychological
28 treatment, therapy and counseling.

1 43. By engaging in the conduct described herein, Defendants acted with malice, oppression, and/or
2 fraud, entitling Ramon to exemplary and punitive damages.

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4 **VII.**
FOURTH CAUSE OF ACTION

5 **Negligent Hiring And Retention**
6 **[Against All Defense]**

7 44. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 43 of this Complaint as if
8 fully set forth herein.

9 45. Defendants Agana Archdiocese and DOES 6 - 50 (collectively "Defendants" as alleged in this
10 cause of action) had a duty not to hire and / or retain Cruz in light of his sexually abusive and exploitative
11 propensities.

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

21 Defendants negligently continued to retain Cruz in service as a Catholic priest, working for Defendants,
22 which enabled him to continue engaging in the sexually abusive and predatory behavior described herein.

23 47. As a direct and proximate result of the Defendants' above – described conduct, Ramon has
24 suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical
25 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
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1 enjoyment of life; and have incurred and / or will continue to incur expenses for medical and psychological
2 treatment, therapy and counseling.

3 48. By engaging in the conduct described herein, Defendants acted with malice, oppression, and/or
4 fraud, entitling Ramon to exemplary and punitive damages.

5
6 **VIII.**
FIFTH CAUSE OF ACTION

7 **Breach of Fiduciary Duty And / Or Confidential Relationship**
8 **[Against All Defendants]**

9 49. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 48 of this Complaint as if
10 fully set forth herein.

11 50. By holding Cruz out as a qualified priest and a person of stature and integrity within the Catholic
12 Archdiocese, Defendants Agana Archdiocese and DOES 6 - 50, together with Cruz himself, invited,
13 counseled, encouraged and induced the Catholic community of Guam, including parents or guardians of
14 children, and particularly parents or guardians of children serving as altar boys and children eligible to
15 serve as altar boys, to have trust and confidence in the Agana Archdiocese and its priests and to entrust
16 their children to the company of priests and specifically to Cruz, including allowing their children to be
17 alone with Cruz without supervision, at a church facility where Cruz resided. Through such actions,
18 Defendants collectively created and entered into a fiduciary and / or confidential relationship with its
19 parishioners, including Catholic parents or guardians and their children, and in particular, children who
20 provided services to the Agana Archdiocese that included serving as altar boys. Accordingly, Defendants
21 collectively created and entered into a fiduciary and / or confidential relationship specifically with the
22 minor child Ramon.
23

24 51. Through such fiduciary and / or confidential relationship, Defendants collectively caused parents or
25 guardians to entrust their children to priests, and specifically to Cruz, including the parents of Ramon,
26 which resulted in Ramon serving as an altar boy at a church facility where Cruz resided, resulting in the
27 subject acts of sexual abuse described herein.
28

1 52. Defendants collectively breached their fiduciary and / or confidential relationship with the minor
2 child Ramon by violating the trust and confidence placed in them by parishioners and specifically by the
3 minor child Ramon, and by engaging in the wrongful acts described in this Complaint.

4 53. As a direct and proximate result of the Defendants' above – described conduct, Ramon has
5 suffered, and continues to suffer, great pain of mind and body, shock, emotional distress, physical
6 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
7 enjoyment of life; and have incurred and / or will continue to incur expenses for medical and psychological
8 treatment, therapy and counseling.
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10 54. By engaging in the conduct described herein, Defendants acted with malice, oppression, and/or
11 fraud, entitling Ramon to exemplary and punitive damages.
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13 **IX.**
REQUEST FOR RELIEF

14 WHEREFORE, Plaintiff Ramon Afaisen De Plata requests judgment against all Defendants on all counts as
15 follows:
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- 17 1. For all general damages, in a sum to be proven at trial;
- 18 2. For all special damages, in a sum to be proven at trial;
- 19 3. For exemplary and punitive damages as allowed by law and in a sum to be proven at trial;
- 20 4. For costs and fees incurred herein;
- 21 5. Attorneys' fees, as permitted by law; and
- 22 6. For other such and further relief as the Court may deem just and proper.
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X.
DEMAND FOR JURY TRIAL

Plaintiff Ramon Afaisen De Plata, through his counsel, David J. Lujan, hereby demands a jury trial of six (6) in the above-entitled action.

The amount in controversy between the parties herein exceeds the amount of Twenty-Five Dollars (\$25.00).

Respectfully submitted this 22nd day of December, 2016.



DAVID J. LUJAN,
Attorney for Plaintiff,
Ramon Afaisen De Plata

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I declare, under penalty of perjury, this 22nd ^{RDP} day of December, 2016, that the foregoing is true and correct to the best of my knowledge.

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