

1 DONALD H. STEIER [SBN 58391]

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7 Special Appearance by Attorney for Certain Non-Party Priests

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 **COORDINATED PROCEEDING**
11 **SPECIAL TITLE [Rule 1550 (b)]**

12 **The Clergy Cases I**

JUDICIAL COUNCIL COORDINATION
PROCEEDING NOS. 4286

Trial Coordinating Judge:
Hon. Emilie H. Elias
Department 324

13 **DECLARATION OF DONALD H. STEIER**

14 **Date: December 15, 2010**

15 **Time: 11 a.m.**

16 **Dept: JAMS Office**

17 **Hon. Dickran Tevrizian**

18 I, Donald H. Steier, declare as follows:

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20 1. I am an adult, competent to testify in this matter, and the facts set forth herein
21 I personally know to be true.

22 2. I am an attorney licensed to practice law in the State of California. I am
23 familiar with both criminal and civil laws, having served as a Deputy District Attorney for
24 the County of Los Angeles from 1974 to 1979, and have operated my own private
25 practice continuously since then.
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1 dogma that holds that its clergy are representatives of God and Christ on Earth,
2 confidential communication from priests to their superiors is required and has been
3 promised to the priests. Every Roman Catholic priest I have represented has believed
4 his private communications to the Archbishop or Vicar for Clergy or diocesan counsel
5 would be and remain confidential, based on assurances he had been given at all
6 relevant times by the diocese. The security of these confidential communications by
7 priests is exceptionally important to the continuing functioning of the Roman Catholic
8 Church. To give one small illustration, I am aware that the threat that confidential files
9 will be disclosed publicly as a result of the instant process has already caused
10 reluctance on the part of priests and seminarians to be open and candid with their
11 religious superiors, and even to undergo psychological screening designed to "weed
12 out" potential problem priests and better protect the public. In that context, this process
13 is having exactly the opposite effect the court might want, by making it difficult or
14 impossible for priests and seminarians to be open about their emotional or sexual
15 problems.
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18 7. In my defense of priests since 1982, and particularly as to some dozens
19 relating to these Clergy Cases I have investigated, myself or with other members of my
20 staff and private investigators, more than a hundred claims of childhood sexual abuse
21 alleged to have been perpetrated by my clients. In a number of cases, to aid in my
22 investigation, I have had accused priest clients take polygraph examinations performed
23 by very experienced former law enforcement experts, including from L.A.P.D., the
24 Sheriff Department, and F.B.I. In many cases the examinations showed my clients'
25 denial of wrongdoing was "truthful," and in those cases I offered in writing to the accuser
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1 to undergo a similar polygraph examination at my expense. In every case the accuser
2 refused to have his veracity tested by that investigative tool, which is routinely used by
3 intelligence agencies. In my investigation of many cases, I have seen the stories of
4 some accusers change significantly over time, sometimes altering years, locations, and
5 what activity was alleged – in every case, the changes seemed to have enabled or
6 enhanced claims against my clients, or drastically increased alleged damages. In
7 several cases my investigation has provided objective information that could not be
8 reconciled with the truthfulness of the subjective allegations. In other words, in many
9 cases objective facts showed that accusations were false. One retired F.B.I. agent who
10 worked with me to investigate many claims in the Clergy Cases told me, in his opinion,
11 about ONE-HALF of the claims made in the Clergy Cases were either entirely false or
12 so greatly exaggerated that the truth would not have supported a prosecutable claim for
13 childhood sexual abuse. I also recall that the U.S. Justice Department reported a study
14 it did regarding convictions for felony sexual assault, and found that slightly more than
15 30% of the convicts were factually innocent. Recent developments of DNA and other
16 forensic testing have confirmed the phenomenon that an unacceptably high proportion
17 of sexual assault accusations based on human testimony without scientific
18 corroboration are false, what some federal cases euphemistically call "false positives."

21 8. In these Clergy Cases, based on my experience, it is my opinion that all of the
22 same factors that lead to a high level of false accusations in sexual assaults generally
23 are present, and they are catalyzed by certain other factors. When the California
24 Legislature suspended the statute of limitations for childhood sexual abuse in 2003,
25 after lobbying by law firms, hundreds of unsworn accusations were filed by those same
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1 law firms and others. A cottage industry exploded, suing the Roman Catholic
2 Archdiocese of Los Angeles, in particular. "Victim advocacy" groups -- working closely
3 with plaintiffs' lawyers in most cases -- maintained hotlines and even a website that
4 presented detailed information on named priests, from which plaintiffs could learn of
5 detailed accusations made by others against those priests. A number of my clients
6 were on that list. The prospect of a lucrative pay-off from the Archdiocese and its
7 insurers certainly affected some accusations. The cases were settled with no trials
8 whatsoever, in a process that excluded those most affected - the accused clergy. In
9 most cases the priests were never named as parties defendant, but the few who were
10 named ALL refused to settle. Thus, there was NO legal process to separate false
11 claims from valid claims. I am aware of several plaintiffs who testified that they realized
12 that they had been abused only after learning that some other person -- sometimes a
13 relative -- had received a financial settlement from the Archdiocese or another Catholic
14 institution. I also know that private advocacy groups, such as Survivors' Network for
15 those abused by Priests [commonly called "S.N.A.P."], are active in supporting victims
16 of sexual abuse. S.N.A.P. in particular also aggressively attempt to locate and identify
17 new people who claim to have been victims, and they maintain an interactive Internet
18 website with a user "Forum" and "Message Board," among other features, where people
19 can share detailed information between alleged victims pertaining to identity of specific
20 alleged perpetrators, their alleged "modus operandi," and other details of alleged
21 molestation. In effect, a person who wanted to make a false claim of sexual abuse by a
22 priest could go to that website and find a "blueprint" of factual allegations to make that
23 would coincide with allegations made by other people. Law enforcement also uses the
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1 S.N.A.P. website to attempt to locate new victims and allegations against Catholic
2 priests.

3 9. To illustrate, I copied the following verbatim from the S.N.A.P. website:

4 "The San Francisco District Attorney's Office is looking for victims of clergy
5 abuse in San Francisco. We currently are prosecuting four priests (names
6 deleted). If you have been a victim of any of these priests, or any other
7 San Francisco priest, please call our hotline at 415/553-1866.

8 Thank you."

9 That entry was posted February 3, 2003, and is still accessible through the
10 S.N.A.P. website.

11 10. I am aware that false memories can also be planted or created by various
12 psychological processes, including by therapists who might be characterized as "sexual
13 victim advocates," if not outright charlatans. For example, it is reported that most of the
14 approximately seven hundred psychiatric "Certificates of Merit" filed in these Clergy
15 Cases, as required by Code of Civil Procedure § 340.1, were signed by the same
16 therapist.
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18 11. It is important to clarify with factual background why some holdings in *Roman*
19 *Catholic Archbishop of Los Angeles v. Superior Court* [2005] 131 Cal. App.4th 417 are
20 factually distinguished from the facts in these Clergy Cases regarding confidential
21 psychotherapist-patient communications. I was counsel of record for the priests
22 involved in that case at all times. That case was a petition for a writ of mandate arising
23 from some decisions of a referee [Hon. Thomas Nuss, ret.] who worked to determine
24 claims of privilege arising from motions to quash subpoenas duces tecum from the Los
25 Angeles County grand jury regarding nearly identical records to those I am informed are
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1 Vitella, Michael Wempe, G. Patrick Ziemann (Deceased). These names are based
2 upon a list I received from counsel for the Roman Catholic Archbishop of Los Angeles of
3 files proposed to be turned over to the court. However, I represent several other priests
4 whose names were not on the list provided by the Archdiocesan lawyers. I have
5 provided a list of those other priest-clients to the court only, and for its "eyes only." If it
6 is proposed to consider the files of any of those other priests for disclosure, I request
7 the same opportunity to defend their respective legal interests.
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9 This declaration is made under penalty of perjury under the laws of the State of
10 California on this 30th day of November, 2010, at Los Angeles, California.
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12 Respectfully submitted,
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16 Donald H. Steier
17 Specially Appearing for Certain Non-Party Priests
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