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FILED
Clerk of the Superior Court
(Signature)

MAR 01 2013

By: R. LINDSEY-COOPER, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Jose Lopez, Individually,
Plaintiff,

v.

Defendant Doe 1, Linda Vista Church;
Defendant Doe 2, Supervisory
Organization; Defendant Doe 3,
Perpetrator; and Does 4 through 100,
inclusive,
Defendants.

CASE NUMBER: 12-99849

FIRST AMENDED COMPLAINT FOR DAMAGES
FOR:

- 1. NEGLIGENCE;
- 2. NEGLIGENT SUPERVISION/
FAILURE TO WARN;
- 3. NEGLIGENT HIRING/RETENTION
- 4. NEGLIGENT FAILURE TO WARN, TRAIN,
OR EDUCATE PLAINTIFF;
- 5. SEXUAL BATTERY; AND
- 6. SEXUAL HARASSMENT.

[Demand for Jury Trial]
[Filed Concurrently with Certificates of Merit]

1 Based upon information and belief available to Plaintiff, Jose Lopez, at the time of the filing
2 of this First Amended Complaint, Plaintiff makes the following allegations:

3 **PARTIES**

4 1. Plaintiff, Jose Lopez, is an adult male. Plaintiff was a minor at the time of the
5 sexual abuse alleged herein.

6 2. Defendant Doe 1 Linda Vista Church ("Linda Vista Church") is an unincorporated
7 association, authorized to conduct business and conducting business in the State of
8 California, with its principal place of business in the County of San Diego, California.
9 Defendant Linda Vista Church has responsibility for Jehovah's Witness Church operations
10 in the Linda Vista area of California.

11 2.1. Defendant Doe 2, Supervisory Organization ("Supervisory organization") is a branch
12 of the Jehovah's Witness religion located in Brooklyn, New York, and incorporated and
13 conducting business in the State of New York, and elsewhere. Defendant Supervisory
14 Organization is the highest level of Jehovah's Witness governance, and is responsible for
15 administration of the Jehovah's Witness Church worldwide, including operations in
16 California.

17 2.2. Defendant Doe 3, Perpetrator ("Perpetrator ") was at all times relevant a member of
18 the Jehovah's Witness Church. Perpetrator held various leadership positions within
19 Defendant Linda Vista Church and later Playa Pacifica Spanish Congregation of Jehovah's
20 Witnesses. During the dates of abuse of Plaintiffs, Perpetrator was a Baptized Publisher,
21 Auxiliary Pioneer and /or Bible Study instructor in the leadership at Defendant Linda Vista
22 Church and Does 4 through 100, and was under the direct supervision, employ and control
23 of Defendant Linda Vista Church, Defendant Supervisory Organization and Does 4 through
24 100.

25 3. Defendant Does 4 through 100, inclusive, are individuals and/or business or
26 corporate entities incorporated in and/or doing business in California whose true names
27 and capacities are unknown to Plaintiffs, who therefore sue such Defendants by such
28 fictitious names, and who will amend the Complaint to show the true names and capacities
of each such Doe Defendant when ascertained. Each such Defendant Doe is legally

1 responsible in some manner for the events, happenings and/or tortious and unlawful
2 conduct that caused the injuries and damages alleged in this Complaint.

3 4. Each Defendant is the agent, servant and/or employee of other Defendants, and
4 each Defendant was acting within the course and scope of his, her or its authority as an
5 agent, servant and/or employee of the other Defendants. The Defendants, and each of
6 them, are individuals, corporations, partnerships and other entities which engaged in,
7 joined in and conspired with the other wrongdoers in carrying out the tortious and unlawful
8 activities described in this Complaint, and the Defendants, and each of them, ratified the
9 acts of the other Defendants as described in this Complaint.

10 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

11 5. Plaintiff Jose Lopez was born in October of 1978. Plaintiff Jose Lopez was sexually
12 abused by Perpetrator in approximately 1986, when he was approximately seven years old.

13 5.1. Plaintiff's mother was a Baptized Jehovah's Witness associated with Linda Vista
14 Church in the early to mid 1980s. She and her husband received bible study from an Elder
15 associated with Linda Vista Spanish Congregation, Joel Munoz, and his wife. When
16 Plaintiff was approximately six or seven years of age, which was in approximately 1985 or
17 1986, Elder Munoz recommended to Plaintiff's mother that Plaintiff should be receiving
18 bible study instruction. Elder Munoz recommended that Plaintiff's mother should approach
19 Defendant Perpetrator because he was very good with children.

20 5.2. Plaintiff's mother followed Elder Munoz's instructions and spoke with Defendant
21 Perpetrator about providing her son bible study lessons. Defendant Perpetrator began
22 giving Plaintiff bible study instruction.

23 5.3. After Defendant Perpetrator had given Plaintiff several bible study lessons, and in
24 the context of a bible study lesson, Defendant Perpetrator molested Plaintiff.

25 5.4. Plaintiff reported the abuse he experienced at the hands of Defendant Perpetrator to
26 his mother, who in turn reported the abuse to Elder Munoz and his wife.

27 5.5. Approximately the next day, several Elders from Defendant Linda Vista Church
28 came to Plaintiff's home and spoke to his mother about the abuse. One of the Elders

1 asked Plaintiff to show him, on a teddy bear or doll, where Defendant Perpetrator had
2 touched him.

3 5.6. At the time of the sexual abuse by Perpetrator, Plaintiff attended religious services
4 at Defendant Linda Vista Church. Perpetrator frequently spoke at religious services at
5 Defendant Linda Vista Church, and also was sent to Plaintiff's home by Defendant Linda
6 Vista Church to instruct Plaintiff.

7 5.7. Plaintiff is informed and believes and on that basis alleges that Defendant
8 Perpetrator filled out a form for each bible study session he gave to any minor, which form
9 identified the bible study student, his address, and the date of the lesson, and Defendant
10 Perpetrator submitted each form to the Secretary of Defendant Linda Vista Church, who is
11 one of the Elders.

12 5.8. Plaintiff is informed and believes and on that basis alleges that Defendant
13 Supervisory Organization exerts influence over which members of the Jehovah's Witness
14 faith are nominated by the local congregations to become Elders, and has the final
15 authority to accept or reject appointments as Elders, Ministerial Servants and Regular
16 Pioneers. Plaintiff is further informed and believes and on that basis alleges that
17 Perpetrator could not have been appointed as an Elder, Ministerial Servant or Regular
18 Pioneer without the approval of Defendant Supervisory Organization, and that it is the
19 action of Defendant Supervisory Organization that makes an individual an Elder, Ministerial
20 Servant or Regular Pioneer.

21 6. The Perpetrator was baptized as Jehovah's Witness on September 27, 1980.
22 Plaintiff is informed and believes that the Perpetrator was extensively involved with
23 Defendant Linda Vista Church from approximately 1979 through at least 1987, when he
24 became associated with the La Jolla Spanish Congregation of Jehovah's Witnesses (which
25 later became known as the Playa Pacifica Spanish Congregation of Jehovah's Witnesses).
26 During that time, the Perpetrator served as an Un-baptized Publisher, Baptized Publisher
27 and Pioneer, preached to the congregation at Defendant Linda Vista Church, preached to
28 families in the community of Defendant Linda Vista Church, and taught bible study to

1 Jehovah's Witness children from Defendant Linda Vista Church. After a person is made a
2 Publisher, he or she is allowed to represent the Jehovah's Witnesses in the community.
3 Before becoming a Publisher, a person cannot represent the Jehovah's Witnesses.

4 6.1. In approximately 1982, the perpetrator sexually molested a young boy from
5 Defendant Linda Vista Church. In the hours and days following the abuse, the victim
6 reported the abuse to his mother, who in turn reported the abuse to two Elders of
7 Defendant Linda Vista Church. Those Elders interviewed the victim, who spoke about the
8 abuse, and the Perpetrator, who confessed to acting inappropriately. No further action was
9 taken by the congregation.

10 6.2. Plaintiff is further informed and believes that in 1988, the Perpetrator was appointed
11 as a Ministerial Servant of La Jolla Spanish Congregation of Jehovah's Witnesses.
12 Ministerial Servants are appointed to assist the Elders with routine work in the local
13 congregation. Plaintiff is further informed and believes that while serving as a Ministerial
14 Servant, the Perpetrator continued to preach to the congregations of Defendant Linda Vista
15 Church and the La Jolla Spanish Congregation of Jehovah's Witnesses, preach in local
16 homes, and teach bible study to children. Plaintiff is further informed that the Perpetrator
17 could not have been appointed as a Ministerial Servant without the approval of Defendant
18 Supervisory Organization.

19 6.3. Plaintiff is informed and believes that in approximately June of 1993, the Perpetrator
20 was appointed as an Elder of La Jolla Spanish Congregation of Jehovah's Witnesses
21 (which subsequently became Playa Pacifica Spanish Congregation of Jehovah's
22 Witnesses). Each congregation of Jehovah's Witnesses has a body of Elders who are
23 responsible for the governance of the congregation, including selecting speakers, directing
24 preaching and serving on committees that investigate and decide disciplinary action cases
25 and impose punishments. The Elders are the highest authority at the congregational level.
26 Plaintiff is further informed that the Perpetrator could not have been appointed as an Elder
27 without the approval of Defendant Supervisory Organization.

28 6.4. Plaintiff is informed and believes and on that basis alleges that by October of 1993,

1 at the latest, the Perpetrator had been selected as the Secretary of La Jolla Spanish
2 Congregation of Jehovah's Witnesses, and was therefore a member of the congregation's
3 Service Committee.

4 6.5. Plaintiff is informed and believes and on that basis alleges that prior to his
5 appointment as an Elder of La Jolla Spanish Congregation of Jehovah's Witnesses in
6 1993, the Perpetrator was frequently chosen as a speaker to preach to the congregations
7 of Defendant Linda Vista Church and La Jolla Spanish Congregation of Jehovah's
8 Witnesses by the Elders and was being groomed by the Elders to become an Elder
9 himself.

10 7. Plaintiff is informed and believes and on that basis alleges that Defendant
11 Perpetrator sexually abused at least 8 minor Jehovah's Witnesses between 1982 and
12 1995. John Doe was molested by Perpetrator in approximately 1982. J.D. was molested
13 by Perpetrator between 1983 and 1985. J.C. was molested by Perpetrator in
14 approximately 1984 or 1985. J.R. was molested by Perpetrator between approximately
15 1986 and 1993. R.B. was molested by Perpetrator in the late 1980s and early 1990s.
16 Jo.R. was sexually abused by Perpetrator in the early to mid 1990s. J.G. was sexually
17 abused by Campos between approximately 1988 and 1995.

18 7.1. In April of 1994, J.D. confided in his mother that he had been sexually abused by
19 Perpetrator. On the night that Mrs. D. learned that her son had been sexually abused by
20 Perpetrator, she placed a telephone call to a man she believed to be an Elder at La Jolla
21 Spanish Congregation of Jehovah's Witnesses, Roberto Rivera, and reported the abuse.

22 7.2. After getting off the phone with Mr. Rivera, Mrs. D. called Perpetrator to confront him
23 about the abuse of her son. Perpetrator confessed that he had sexually abused J.D., but
24 defended himself by saying that it had occurred several years earlier, and that he had been
25 "reproved" by the Elders at the congregation, which means that a judicial committee within
26 the congregation determined that Perpetrator was considered to be repentant for his acts.

27 7.3. Approximately the next day, Mrs. D. discussed the abuse with Elder Jesus Martinez
28 from La Jolla Spanish Congregation of Jehovah's Witnesses.

1 7.4. Plaintiff is informed and believes and on that basis alleges that Mrs. D. also spoke to
2 Elders with Defendant Linda Vista Church about the molestation of her son by the
3 Perpetrator.

4 7.5. Within days of learning of the molestation of her son by Perpetrator, Mrs. D.
5 reported the abuse of her son by the Perpetrator to an Elder in her local congregation in
6 Monmouth, Oregon, where she was then living. Mrs. D. wrote a letter outlining the
7 allegation that was sent to Defendant Supervisory Organization.

8 7.6. In June of 1994, approximately two months after receiving a written complaint
9 regarding the molestation of J.D. by Perpetrator, Defendant Supervisory Organization
10 wrote a letter to La Jolla Spanish Congregation of Jehovah's Witnesses asking the Elders
11 to look into the matter. From the date Defendant Supervisory Organization received notice
12 of the J.D. complaint, until the date it wrote to La Jolla Spanish Congregation, Perpetrator
13 continued to serve as an Elder, Congregation Secretary and Auxiliary Pioneer at La Jolla
14 Spanish Congregation and continued to molest J.G. and Jo.R.

15 7.7. Despite the written inquiry in June of 1994 by Defendant Supervisory Organization,
16 La Jolla Spanish Congregation did not reply until March 29, 1995. The Elders at La Jolla
17 Spanish Congregation found the allegations were true, but that Perpetrator was repentant
18 and took no action. During the intervening nine months, Perpetrator continued to serve as
19 an Elder, Congregation Secretary and Auxiliary Pioneer at La Jolla Spanish Congregation
20 and continued to molest J.G. and possibly J.R.

21 7.8. Defendant Perpetrator has admitted to the molestation of Plaintiff, J.D., J.R., Jo.R.,
22 R.B., J.G., and John Doe under oath during a deposition. Defendant did not deny the
23 molestation of J.C., but did not specifically admit to it.

24 8. Plaintiff is informed and believes and on that basis alleges that in approximately
25 1995, Mrs. D. was on the telephone with Elders from the La Jolla Spanish Congregation of
26 Jehovah's Witnesses and J.D. was in the room with his father, who were both aware of
27 what was being said in the telephone conversation. The Elders informed Mrs. D. that there
28 was nothing that could be done with respect to her son's claim, and that the criminal and

1 civil statutes of limitation had already expired. This statement was not correct when made.

2 8.1. During her conversation with Mr. Rivera from La Jolla Spanish Congregation of
3 Jehovah's Witnesses, Mrs. D. was told that the Elders were aware that Perpetrator had
4 sexually abused children from La Jolla Congregation, and that she should not pursue the
5 matter any further. Mr. Rivera informed Mrs. D. that this was a church matter, and the
6 Elders would take care of it. Mr. Rivera also relayed a message from the Elders that if Mrs.
7 D. pursued the matter further there would be repercussions that would affect her and her
8 family's standing in the local Jehovah's Witness community.

9 8.2. In May of 1995, the Elders at La Jolla Spanish Congregation were made aware of
10 the molestation of J.G., which was the fourth distinct complaint of molestation by
11 Perpetrator following the complaint in 1982, Plaintiff's complaint in 1986, and J.D.'s
12 complaint in 1994.

13 9. Although Defendant Linda Vista Church was aware that Perpetrator had sexually
14 abused a child in 1982, Defendant Linda Vista Church retained Perpetrator in his position
15 as its agent; took no action to protect children from further abuse by Perpetrator; promoted
16 Perpetrator to the position of Auxiliary Pioneer; held out Perpetrator as safe to be around
17 children; and affirmatively recommended Perpetrator to serve as a Bible Study instructor
18 for Plaintiff despite knowledge that he was unsafe to be around children. By retaining the
19 Perpetrator after learning of his past sexual abuse of children, and taking these other
20 actions, Defendant Linda Vista Church ratified and authorized Perpetrator's conduct.

21 9.1. Plaintiff is aware of two previously filed lawsuits involving six victims of sexual abuse
22 by Perpetrator occurring between 1983 and 1995. Plaintiff is informed and believes and on
23 that basis alleges during the course of that litigation, many Elders from Defendant Linda
24 Vista Church testified that no complaint of childhood sexual abuse by Perpetrator was
25 received by the Elders in or around 1986. Plaintiff is informed and believes and on that
26 basis alleges that this testimony was false and inconsistent with written documents kept by
27 Defendants and / or La Jolla Spanish Congregation of Jehovah's Witnesses, and with the
28 events surrounding the abuse of Plaintiff. By the willful false statements made by

1 Defendants' agents, Defendants have ratified and authorized Perpetrator's conduct.
2 9.2. Although Defendant Supervisory Organization was aware through its agents - the
3 Elders of Defendant Linda Vista and La Jolla Spanish Congregation of Jehovah's
4 Witnesses - prior to appointing the Perpetrator as a Ministerial Servant in 1988 and an
5 Elder in 1993, that Perpetrator had sexually molested multiple children, the Perpetrator was
6 retained and promoted to more senior leadership positions as an agent of Defendant
7 Supervisory Organization. By retaining and promoting Perpetrator after learning of his past
8 sexual abuse of children, Defendant Supervisory Organization ratified and authorized
9 Perpetrator's conduct.

10 10. Defendants acted with willful and conscious disregard of the rights and safety of
11 others by repeatedly ignoring warnings and complaints that the Perpetrator had committed
12 acts of sexual abuse upon minors and allowing the Perpetrator to attain and retain elevated
13 positions within the Jehovah's Witness religion. Where he had access to unsuspecting
14 minors.

15 11. The sexual abuse and exploitation of Plaintiff Jose Lopez and the circumstances
16 under which it occurred caused Plaintiff Jose Lopez physical injury and caused him to
17 develop various psychological coping mechanisms which reasonably made him incapable
18 of ascertaining the resulting damages from that conduct, or the wrongfulness of
19 Perpetrator's conduct. Plaintiff Jose Lopez did not begin to discover the causal
20 relationship between the molestation and adulthood psychological injuries until April of
21 2012. Thus, within the three years prior to the filing of this Complaint, Plaintiff discovered
22 that the psychological injury or illness occurring after the age of majority was caused by the
23 sexual abuse.

24 **FIRST CAUSE OF ACTION**

25 **NEGLIGENCE**

26 **(Plaintiff Jose Lopez Against Defendant Linda Vista Congregation, Defendant**
27 **Supervisory Organization and Does 4 through 100)**

28 12. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

1 13. Defendants had a duty to protect the minor Plaintiff when he was entrusted to their
2 care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily
3 entrusted to Defendants. Defendants voluntarily accepted the entrusted care of Plaintiff.
4 As such, Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a
5 duty of ordinary care, and owed Plaintiff the higher duty of care that adults dealing with
6 children owe to protect them from harm.

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

13 15. Defendants breached their duty of care to the minor Plaintiff by allowing the
14 Perpetrator to come into contact with the minor Plaintiff without supervision; by failing to
15 adequately hire, supervise, or retain the Perpetrator who they permitted and enabled to
16 have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts
17 about the Perpetrator; by failing to tell or concealing from Plaintiff, Plaintiff's parents,
18 guardians, or law enforcement officials that the Perpetrator was or may have been sexually
19 abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians, or law
20 enforcement officials that Plaintiff was or may have been sexually abused after Defendants
21 knew or had reason to know that the Perpetrator may have sexually abused Plaintiff,
22 thereby enabling Plaintiff to continue to be endangered and sexually abused, and/or
23 creating the circumstance where Plaintiff was less likely to receive medical/mental health
24 care and treatment, thus exacerbating the harm done to Plaintiff; and/or by holding out the
25 Perpetrator to the Plaintiff and his parents or guardians as being in good standing and
26 trustworthy. Defendants cloaked within the facade of normalcy Defendants' and/or the
27 Perpetrator's contact and/or actions with the Plaintiff and/or with other minors who were
28 victims of the Perpetrator, and/or disguised the nature of the sexual abuse and contact.

1 16. As a result of the above-described conduct, Plaintiff has suffered, and continues to
2 suffer physical injury, great pain of mind and body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
4 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
5 was prevented and will continue to be prevented from performing Plaintiff's daily activities
6 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
7 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
8 medical and psychological treatment, therapy, and counseling.

9 **SECOND CAUSE OF ACTION**

10 **NEGLIGENT SUPERVISION/FAILURE TO WARN**

11 **(Plaintiff Jose Lopez Against Defendant Linda Vista Congregation, Defendant
12 Supervisory Organization and Does 4 through 100)**

13 17. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

14 18. Defendants had a duty to provide reasonable supervision of the Perpetrator; to use
15 reasonable care in investigating the Perpetrator; and to provide adequate warning to the
16 Plaintiff, the Plaintiff's family, minor students, and minor parishioners of the Perpetrator's
17 dangerous propensities and unfitness.

18 19. Defendants, by and through their agents, servants and employees, knew or
19 reasonably should have known of the Perpetrator's dangerous and exploitive propensities
20 and/or that the Perpetrator was an unfit agent. Despite such knowledge, Defendants
21 negligently failed to supervise the Perpetrator in the position of trust and authority as a
22 Jehovah's Witness Baptized Publisher, Auxiliary Pioneer, Bible Study Instructor, religious
23 instructor, counselor, surrogate parent, spiritual mentor, emotional mentor, and/or other
24 authority figure, where he was able to commit the wrongful acts against the Plaintiff.
25 Defendants failed to provide reasonable supervision of the Perpetrator, failed to use
26 reasonable care in investigating the Perpetrator, and failed to provide adequate warning to
27 Plaintiff and Plaintiff's family of the Perpetrator's dangerous propensities and unfitness.
28 Defendants further failed to take reasonable measures to prevent future sexual abuse.

1 20. As a result of the above-described conduct, Plaintiff has suffered, and continues to
2 suffer physical injury, great pain of mind and body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
4 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
5 was prevented and will continue to be prevented from performing Plaintiff's daily activities
6 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
7 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
8 medical and psychological treatment, therapy, and counseling.

9 **THIRD CAUSE OF ACTION**

10 **NEGLIGENT HIRING/RETENTION**

11 **(Plaintiff Jose Lopez Against Defendant Linda Vista Congregation, Defendant**
12 **Supervisory Organization and Does 4 through 100)**

13 21. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

14 22. Defendants had a duty to not hire and/or retain the Perpetrator, and other
15 employees, agents, volunteers, and other representatives, given the Perpetrator's
16 dangerous and exploitive propensities.

17 23. Defendant Linda Vista Church, Defendant Supervisory Organization and Does 4
18 through 100, by and through their agents, servants and employees, knew or reasonably
19 should have known of the Perpetrator's dangerous and exploitive propensities and/or that
20 the Perpetrator was an unfit agent. Despite such knowledge, Defendants negligently hired
21 and/or retained the Perpetrator in the position of trust and authority as a Jehovah's
22 Witness Baptized Publisher, Auxiliary Pioneer, Bible Study Instructor, religious instructor,
23 counselor, surrogate parent, spiritual mentor, emotional mentor, and/or other authority
24 figure, where he was able to commit the wrongful acts against the Plaintiff. Defendants
25 failed to use reasonable care in investigating the Perpetrator and failed to provide
26 adequate warning to Plaintiff and Plaintiff's families of the Perpetrator's dangerous
27 propensities and unfitness. Defendants further failed to take reasonable measures to
28 prevent future sexual abuse.

24. As a result of the above-described conduct, Plaintiff has suffered, and continues to

1 suffer physical injury, great pain of mind and body, shock, emotional distress, physical
2 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
3 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
4 was prevented and will continue to be prevented from performing Plaintiff's daily activities
5 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
6 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
7 medical and psychological treatment, therapy, and counseling.

8 **FOURTH CAUSE OF ACTION**

9 **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF**

10 **(Plaintiff Jose Lopez Against Defendant Linda Vista Congregation, Defendant
11 Supervisory Organization and Does 4 through 100)**

12 33. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

13 34. Defendants breached their duty to take reasonable protective measures to protect
14 Plaintiff and other minor parishioners and/or students from the risk of childhood sexual
15 abuse by the Perpetrator, such as the failure to properly warn, train, or educate Plaintiff
16 and other minor parishioners and/or students about how to avoid such a risk, pursuant to
17 Juarez v. Boy Scouts of America, Inc., 97 Cal.Rptr.2d 12, 81 Cal.App.4th 377 (2000).

18 35. As a result of the above-described conduct, Plaintiff has suffered, and continues to
19 suffer physical injury, great pain of mind and body, shock, emotional distress, physical
20 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
21 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
22 was prevented and will continue to be prevented from performing Plaintiff's daily activities
23 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
24 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
25 medical and psychological treatment, therapy, and counseling.

26 **FIFTH CAUSE OF ACTION**

27 **SEXUAL BATTERY (Civil Code § 1708.5)**

28 **(Plaintiff Jose Lopez Against All Defendants)**

1 36. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

2 37. During approximately 1986, the Perpetrator engaged in unpermitted, harmful and
3 offensive sexual contact upon the person of Plaintiff Jose Lopez, and Defendant Linda
4 Vista Church, Defendant Supervisory Organization and Does 4 through 100 ratified or
5 approved of that sexual contact.

6 38. As a result of the above-described conduct, Plaintiff has suffered, and continues to
7 suffer physical injury, great pain of mind and body, shock, emotional distress, physical
8 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
9 humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually;
10 was prevented and will continue to be prevented from performing Plaintiff's daily activities
11 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
12 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
13 medical and psychological treatment, therapy, and counseling. Pursuant to Civil Code §
14 1708.5(c), Plaintiff is also entitled to injunctive relief for this cause of action pursuant, in
15 which the Perpetrator is enjoined from committing further acts of sexual battery.

16 **SIXTH CAUSE OF ACTION**

17 **SEXUAL HARASSMENT**

18 **(Plaintiff Jose Lopez Against All Defendants)**

19 39. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

20 40. During Plaintiff Jose Lopez's time as a congregant, church member and student at
21 Defendant Linda Vista Church, Perpetrator intentionally, recklessly and wontonly made
22 sexual advances, sexual solicitations, sexual comments and sexual requests and engaged
23 in other visual, verbal or physical conduct of a sexual nature based on Plaintiff Jose
24 Lopez's gender that were unwelcome, pervasive and severe, including but not limited to
25 engaging in sexual talk with Jose Lopez and touching Jose Lopez in a sexually motivated
26 and illegal manner, all while Perpetrator was acting in the course and scope of his agency
27 with Defendant Linda Vista Church, Supervisory Organization and Does 4 through 100.

28 41. The incidents of sexual misconduct and sexual harassment outlined herein took

1 place while Plaintiff Jose Lopez was under the control of Perpetrator, in his capacity as a
2 Baptized Publisher, Auxiliary Pioneer, Bible Study Instructor, and teacher at Defendant
3 Linda Vista Church and while specifically acting on behalf of the Defendant Linda Vista
4 Church, Defendant Supervisory Organization and Does 4 through 100.

5 42. During Plaintiff Jose Lopez's time as a church member, congregant and student at
6 Defendant Linda Vista Church, Perpetrator intentionally, recklessly and wontonly did acts
7 which resulted in harmful and offensive contact with intimate parts of Plaintiff Jose Lopez's
8 person, including but not limited to, using his position as a Baptized Publisher, Auxiliary
9 Pioneer, Bible Study Instructor, and teacher to require Plaintiff Jose Lopez to give into his
10 sexual suggestions, and used his authority and position of trust to exploit Jose Lopez
11 physically, sexually and emotionally.

12 43. Because of Plaintiff Jose Lopez's relationship with Perpetrator, Plaintiff Jose
13 Lopez's young age as a minor congregant and student, and Plaintiff Jose Lopez's
14 inexperience, Plaintiff Jose Lopez was emotionally unable to terminate the contact he had
15 with Perpetrator.

16 44. Because of Perpetrator's position of authority over Plaintiff Jose Lopez, Plaintiff Jose
17 Lopez's mental and emotional state, and Plaintiff Jose Lopez's young age under the age of
18 consent, Plaintiff Jose Lopez was unable to, and did not, give meaningful consent to such
19 acts.

20 45. Even though Defendant Linda Vista Church, Defendant Supervisory Organization
21 and Does 4 through 100 knew or should have known of these activities by Perpetrator,
22 Defendants did nothing to investigate, supervise or monitor Perpetrator to ensure the
23 safety of the minor students and congregants.

24 46. Defendant Linda Vista Church, Defendant Supervisory Organization and Does 4
25 through 100 ratified or approved the conduct of the Perpetrator in committing the acts of
26 sexual misconduct described herein.

27 47. Defendant Linda Vista Church, Defendant Supervisory Organization, and Does 4
28 through 100's conduct was a breach of their duties to Plaintiff.

1 48. As a result of the above-described conduct, Plaintiff has suffered and will continue
2 to suffer physical injury, great pain of mind and body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
4 humiliation, and loss of enjoyment of life; has suffered and will continue to suffer spiritually;
5 was prevented and will continue to be prevented from performing Plaintiff's daily activities
6 and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of
7 earnings and earning capacity; and/or has incurred and will continue to incur expenses for
8 medical and psychological treatment, therapy, and counseling.

9 WHEREFORE, Plaintiff prays for damages; costs; interest; statutory/civil penalties
10 according to law; punitive damages against all Defendants; attorney's fees and such other
11 relief as the court deems appropriate and just.

12 **JURY DEMAND**

13 Plaintiff demands a jury trial on all issues so triable.

14 THE ZALKIN LAW FIRM, P.C.

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16 Dated: 2-5-13

17 By: Devin M. Storey
18 Devin M. Storey
19 Attorney for Plaintiff
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