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4 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
5 IN AND FOR THE COUNTY OF ALAMEDA  
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7 Coordinated Proceeding  
8 Special Title (Rule 1550(b))

JUDICIAL COUNCIL COORDINATED  
PROCEEDING NO. 4359

9  
10 THE CLERGY CASES III

ORDER GRANTING MOTION TO  
QUASH BY CASHEL & EMLY.

11 Date: December 20, 2006  
12 Time: 2:00 pm  
13 Dept: 22

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15 The motion of Cashel & Emly to quash service of summons and complaint came on for  
16 hearing on June 2, 2006, in Department 22 of this Court, the Honorable Ronald M. Sabraw  
17 presiding. Counsel appeared on behalf of Plaintiffs and on behalf of Defendants. The Court  
18 continued the motion to permit Plaintiff the opportunity for jurisdictional discovery. Plaintiff  
19 and Defendant made supplemental filings and the Court held a second hearing on December 20,  
20 2006. After consideration of the points and authorities and the evidence, as well as the oral  
21 argument of counsel, the Court issues this order:  
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23 Motion of RCAB of Cashel & Emly to quash service of summons and complaint in *John*  
24 *Doe v. John Doe 1*, San Joaquin Case # CV019901. GRANTED.  
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1 EVIDENCE.

2           When a nonresident defendant challenges personal jurisdiction, the plaintiff bears the  
3 burden of proof by a preponderance of the evidence to demonstrate the defendant has sufficient  
4 minimum contacts with the forum state to justify jurisdiction. If the Plaintiff presents facts  
5 showing minimum contacts with the forum state, then it becomes the defendant's burden to  
6 demonstrate that the exercise of jurisdiction would be unreasonable. *Archdiocese of Milwaukee*  
7 *v. Superior Court* (2003) 112 Cal. App. 4th 423, 434; *Goehring v. Superior Court* (1998) 62 Cal.  
8 App. 4th 894, 903. When a trial court is presented with conflicting evidence on a factual issue  
9 on a jurisdictional motion, the Court weighs the evidence. *Vons Companies, Inc. v. Seabest*  
10 *Foods, Inc.* (1996) 14 Cal. 4th 434, 449 (“When there is conflicting evidence, the trial court's  
11 factual determinations are not disturbed on appeal if supported by substantial evidence.”); *In re*  
12 *Automobile Antitrust Cases I & II* (2005) 135 Cal. App. 4th 100, 111 (similar).

14           Cashel & Emly objects to certain evidence presented by Plaintiff.

15           Venus Soltan Declaration of 5/23/06.

16           Evidence excluded as hearsay. Paras 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 22.

17           Evidence admitted. All other paragraphs and the attachments.

18           Evidence excluded/admitted. Where the Soltan Declaration summarized a document and  
19 attached it, the Court has excluded the summary but has admitted the document.

20           Patrick Wall Declaration of 5/23/06.

21           Evidence excluded as hearsay. Para 3 and Exh A, para 4 and Exh B, para 5,

22           Evidence admitted. All other paragraphs and the attachments. The Court finds that Mr.  
23 Wall is adequately qualified to testify about Church procedures, so his testimony is admissible.  
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1 In the evaluation of evidence, the Court finds that the testimony of the defense witnesses on  
2 matters of church procedures, doctrine, and Canon Law is more credible than that of Mr. Wall.

3 Evidence excluded/admitted. Where the Wall Declaration summarized a document and  
4 attached it, the Court has excluded the summary but has admitted the document.

5 Venus Soltan Declaration of 11/28/06.

6 Evidence excluded as hearsay. Para 2, 3, 4, 5, 6, 7, 8, 15, 23, 25, 26, 29, 30, 31, 38, 39,  
7 41, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58, 64, 65, 66, 68, 69, 70, and 74.

8 Evidence admitted. All other paragraphs and the attachments.

9 Evidence excluded/admitted. Where the Soltan Declaration summarized a document and  
10 attached it, the Court has excluded the summary but has admitted the document.

11 Patrick Wall Declaration of 11/28/06.

12 Evidence excluded. None.

13 Evidence admitted. All other paragraphs and the attachments. The Court finds that Mr.  
14 Wall is adequately qualified to testify about Church procedures, so his testimony is admissible.

15 In the evaluation of evidence, the Court finds that the testimony of the defense witnesses on  
16 matters of church procedures, doctrine, and Canon Law is more credible than that of Mr. Wall.

17 Evidence excluded/admitted. Where the Wall Declaration summarized a document and  
18 attached it, the Court has excluded the summary but has admitted the document.

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22 **LEGAL STANDARD ON MOTION TO QUASH.**

23 The legal standards for a motion to quash are articulated in *Archdiocese of Milwaukee*,  
24 112 Cal. App. 4th at 435-436, which states, "Personal jurisdiction may be either general or  
25 specific." ... A nonresident defendant is subject to the forum's general jurisdiction where the  
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1 defendant's contacts are " 'substantial ... continuous and systematic.' " ... In that situation, the  
2 cause of action need not be related to the defendant's contacts. ... "Such a defendant's contacts  
3 with the forum are so wide-ranging that they take the place of physical presence in the forum as  
4 a basis for jurisdiction." [P] If the nonresident defendant does not have substantial and  
5 systematic contacts with the forum state, the defendant may be subject to specific jurisdiction if  
6 (1) " 'the defendant has purposefully availed himself or herself of forum benefits' " with respect  
7 to the matter in controversy, (2) " 'the "controversy is related to or 'arises out of' [the] defendant's  
8 contacts with the forum," ' " and (3) the exercise of jurisdiction would comport with fair play and  
9 substantial justice." In *Pavlovich v. Superior Court* (2002) 29 Cal. 4th 262, 268-273, the Court  
10 stated that the purposeful availment portion of the specific jurisdiction analysis "requires  
11 intentional conduct *expressly aimed at or targeting* the forum state in addition to the defendant's  
12 knowledge that his intentional conduct would cause harm in the forum."

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15 MERITS OF MOTION.

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17 O'Grady was ordained at St Patrick's College, which is a seminary in Ireland located  
18 within the Archdiocese of Cashel & Emly. Following O'Grady's ordination, he went to  
19 Stockton, California, where he allegedly molested Plaintiff.

20 Plaintiff has not demonstrated that Cashel & Emly is subject to the general jurisdiction of  
21 California. Cashel & Emly has presented evidence that it has no ongoing residence or  
22 relationships in California. Plaintiff has presented evidence that that seminary students regularly  
23 move to California after ordination and that the seminary keeps in communication with its  
24 former students in California. O'Grady Depo of 3/31/05 at 12. Those contacts are insufficient  
25 to subject Cashel & Emly to the general jurisdiction of California. *Park v. Oxford Univ.* (N.D.  
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1 Cal., 1997) 35 F. Supp. 2d 1165. The fact that many ordained priests leave Ireland and go  
2 elsewhere does not subject the seminary and Cashel & Emly to jurisdiction everywhere.

3 Plaintiff has not demonstrated that Cashel & Emly is subject to the specific jurisdiction of  
4 California. There is no admissible evidence that Cashel & Emly knew that O'Grady had a  
5 propensity to molest children and that the ordination of O'Grady would therefore give him a  
6 position of authority that would permit him to cause harm in other locations. The evidence  
7 suggests that Cashel & Emly did not *expressly aim at or target* California as a location to send  
8 O'Grady upon his ordination. O'Grady was incardinated into the Stockton in 1965, well before  
9 he was ordained. Wall Dec. of 5/23/06, para 7 and Exh C, STK-OGR1266. O'Grady was then a  
10 student at the seminary for several years. As a student, O'Grady was not an agent or employee  
11 of the seminary. *Johnson v. Central Aviation Corp.* (1951) 103 Cal. App. 2d 102, 111. The  
12 seminary educated and ordained O'Grady, and O'Grady then went to Stockton. The ordination  
13 document (Soltan Dec. of 5/23/06, Exh B) does not state that Cashel & Emly assigned O'Grady  
14 to Stockton. The latin can better be read to state that Cashel & Emly ordained O'Grady for the  
15 benefit of Stockton. This reading is consistent with the fact that O'Grady was incardinated in  
16 Stockton in 1965, before his seminary studies. These suggest that Cashel & Emly did not  
17 purposefully avail itself of California. In addition, the assertion of jurisdiction would not  
18 comport with fair play and substantial justice. *Archdiocese of Milwaukee*, 112 Cal. App. at 443.

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1           The Court does not reach the issues of whether (1) the Archbishop Clifford, the current  
2 Bishop of Cashel & Emly, can be held responsible for the action or in action of Archbishop  
3 Morris, the Archbishop in 1971, (2) whether from 1966 through 1971 St. Patrick's college was  
4 owner or controlled by either Archbishop Morris or by the Archdiocese of Cashel & Emly, or (3)  
5 whether as a matter of Irish law the Archdiocese of Cashel & Emly even exists as an entity.  
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8 Dated: December \_\_, 2006

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Hon. Ronald M. Sabraw,  
Coordination Trial Judge