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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19

20 **EMIL ALPERIN, et al.,**

No. C-99-4941 MMC

21 **Plaintiffs,**

**SUPPLEMENTAL CASE MANAGEMENT
STATEMENT AND PROPOSED ORDER**

22 **v.**

23 **VATICAN BANK, et al.,**

Date: February 24, 2006

Time: 10:30 a.m.

Dept.: 7, 19th Floor

24 **Defendants.**

Judge: Hon. Maxine M. Chesney

25 **I. INTRODUCTION**

26 Pursuant to Civil L.R. 16-14(d), plaintiffs Emil Alperin et al. (plaintiffs), defendant
27 Istituto per le Opere di Religione (IOR), and defendant Order of Friars Minor (OFM) certify that
28 they met and conferred on February 13, 2006, a date more than 10 days prior to the subsequent

1 case management conference scheduled in this case and jointly submit this Supplemental Case
2 Management Statement.

3 The parties were unable to reach agreement on a proposed order and therefore submit
4 separate proposed orders for the Court's consideration. By this submission, defendants IOR and
5 OFM do not waive any defenses, jurisdictional or otherwise.

6 **II. RELEVANT PROCEDURAL HISTORY**

7 This case was filed on November 15, 1999, as a class action seeking damages for a
8 defined class of persons who are alleged to have been physically and emotionally injured and
9 had certain of their properties confiscated during and near the end of World War II. Plaintiffs
10 allege the defendants were participants in some of these crimes.

11 This Court granted defendants' Motion to Dismiss as a non-justiciable issue, and on
12 appeal the Ninth Circuit reinstated plaintiffs' property claims for wrongful conversion and for
13 an accounting, and dismissed slave labor and other war related claims as non-justiciable.

14 **III. CASE ACTIVITY SINCE LAST JOINT CASE MANAGEMENT STATEMENT**

15 At the time of the last status conference in September, 2005, the defendants were filing
16 their Application for Writ of Certiorari to the United States Supreme Court. The plaintiffs
17 responded, and on January 17, 2006, the U.S. Supreme Court denied defendants' Application
18 for Writ of Certiorari.

19 At the September, 2005 status conference, the Court assigned January 27th as the deadline
20 for defendants to file their Motions to Dismiss on the issues of Foreign Sovereign Immunity and
21 Standing. The Court granted IOR's motion to sequence the defenses of the Motions to Dismiss.

22 On January 13, 2006, plaintiffs filed their Motion to Amend into their Fourth Amended
23 Complaint. The Court, acting on defendants' motions to extend the defendants' deadline to file
24 their motions on Foreign Sovereign Immunity and Standing, extended those dates until 30 days
25 after the Court rules on Plaintiffs' Motion to Amend. On February 13, 2006, the Court granted
26 plaintiffs' motion.

27 In the meantime, Magistrate Judge Elizabeth D. LaPorte granted plaintiffs' motion to
28 perpetuate the testimony of an elderly fact witness, William Gowen. That deposition was

1 commenced on December 12, 2005, recessed, and is scheduled to resume on March 9th.

2 On February 14, 2006, counsel for the parties conferred regarding this statement.

3 **DISCOVERY AND INITIAL DISCLOSURE OBLIGATION STATUS:**

4 Plaintiffs believe that discovery should be initiated immediately and that they are entitled
5 at a minimum to Initial Disclosures relating to jurisdictional matters and affirmative defenses
6 as noted in the previous motions to dismiss by defendants in November, 2000. Plaintiffs state
7 that the class is composed of now very elderly Holocaust survivors who deserve to see a
8 conclusion while still alive.

9 Defendants believe that the present stays on initial disclosures and discovery should
10 remain in place until the Court acts on their Motions to Dismiss.

11 **IV. ALTERNATIVE REQUESTED ORDERS**

12 **A. PLAINTIFFS REQUEST THE COURT TO MAKE THE FOLLOWING ORDERS:**

13 **Disclosures:** Plaintiffs request the Court to order the parties to Meet and Exchange Initial
14 Case Disclosures within 30 days and file a Joint Report within 14 days after their meeting and
15 exchange of disclosures.

16 **Discovery:** Plaintiffs request the Court to order Jurisdictional and Other Discovery.

17 **B. DEFENDANTS REQUEST THE COURT TO MAKE THE FOLLOWING ORDERS:**

18 **Stay:** Defendants request the Court to continue the Stay of Discovery previously ordered
19 by the Court pending the Court's resolution of defendants' facial challenges to the Complaint.
20 Defendants' respective Motions to Dismiss will be filed on March 13, 2006, as allowed by the
21 Court.

22 DATED: February 14, 2006.

23 s/ Tom Easton

24 TOM EASTON, Of Attorneys for Plaintiffs

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28 s/Windle Turley

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WINDLE TURLEY, Of Attorneys for Plaintiffs

s/Jeffrey Lena

JEFFREY S. LENA, Attorney for Defendant IOR

S/Paul Vallone

PAUL E. VALLONE, Of Attorneys for Defendant OFM

SUPPLEMENTAL CASE MANAGEMENT ORDER

The Supplemental Case Management Statement and Proposed Order of Plaintiffs and/or Defendants is hereby adopted by the Court as Supplemental, Case Management Order(s) and the parties are ordered to comply with this Order. *[In addition, the Court orders as follows:]*

DATED: February __, 2006.

UNITED STATES DISTRICT JUDGE

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Alperin et al. v. Vatican Bank et al., CV-99-4941 MMC (EDL)

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CERTIFICATE OF SERVICE

Thomas Easton hereby certifies that he is a member in good standing of the bar of this court and has served **SUPPLEMENTAL CASE MANAGEMENT STATEMENT AND PROPOSED ORDER** by electronic service (or U.S. Postal Service postage prepaid for Chambers Copy) at the following email addresses:

**CHAMBERS COPY - Hon. Maxine M. Chesney
U.S. District Court - Crtm. 7, 19th Floor
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I declare under penalty of perjury that the foregoing is true and correct, and that this certificate was executed in Eugene, Oregon on February 14, 2006

Thomas Easton
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