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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

13 JANE DOE,

14 Plaintiff,

15 vs.

16 THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, a California
17 government corporation, JAMES HEAPS,
M.D., an individual; and ROES 1 through
18 20, inclusive,

19 Defendants.

CASE NO. 19STCV20594

Hon. Laura A. Seigle, Dept. 4B

FIRST AMENDED COMPLAINT FOR:

- (1) Violations of Unruh Act (Civil Code § 51)
- (2) Violations of Bane Act (Civil Code § 52.1)
- (3) Violations of Personal Rights (Civil Code § 51.9)
- (4) Battery
- (5) Sexual Battery
- (6) Intentional Infliction of Emotional Distress
- (7) Negligent Infliction of Emotional Distress
- (8) Negligent Supervision and Retention
- (9) Negligent Ratification
- (10) Negligent Failure to Warn, Train, or Educate
- (11) Negligence
- (12) Gender Violence (Civil Code § 52.4)
- (13) Sexual Assault
- (14) Unfair Business Practices (Business & Professions Code § 17200)
- (15) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe,¹ an individual (“Plaintiff Doe” or “Plaintiff” or “Doe”) hereby
2 complains against Defendants Regents of the University of California (“UC Regents”), a
3 California government corporation, Dr. James Heaps (“Dr. Heaps”), an individual, and Roes
4 1 through 20 and alleges as follows:

5 **GENERAL ALLEGATIONS**

6 1. This case involves an egregious breach of trust and medical ethics by
7 Defendants. Plaintiff Doe was a gynecological patient at UCLA Health (“UCLA Health” or
8 “UCLA”) when she was sexually abused, molested and harassed at the hands of serial sexual
9 predator Defendant Dr. Heaps.

10 2. Dr. Heaps’ conduct was a gross violation of the trust between physician and
11 patient. This is especially true as a gynecological patient is, of course, at her most vulnerable
12 during examination of her intimate body parts and should be able to trust that she will be
13 treated at all times with dignity and in a nonsexual and medically appropriate manner.
14 Dr. Heaps engaged in horrific action — sexual molestation during a June 2017 procedure that
15 caused Doe to fear that he would intentionally harm her if she cried out or stopped his
16 harassment and sexual abuse. A chaperone was present—a female nurse—who looked with
17 distress at Plaintiff Doe when Plaintiff sought her gaze while the abuse and harassment was
18 ongoing, but who did nothing to stop it or report it after the incident.

19 3. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
20 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
21 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
22 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
23 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the
24 Sacramento Bee entitled, *All 35 of the University of California’s highest-paid employees in*
25 *2016 were men*. Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
26 _____

27 ¹ Plaintiff, as a victim of sexual abuse, is identified herein using a pseudonym in order
28 to preserve her confidentiality and privacy in accordance with United States and California
law. See, e.g., *Doe v. Lincoln Unified School Dist.*, 188 Cal. App. 4th 758 (2010).

1 was listed in the *Hollywood Reporter's* annual *Best Doctors in Los Angeles* issue in 2015.

2 4. Perhaps because of the millions of dollars in income that he generated for UCLA
3 and the fact that he had powerful patients and was celebrated in the community (as recent
4 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
5 failed to protect Plaintiff Doe or other vulnerable women from Dr. Heaps.

6 5. In fact, UCLA allowed Dr. Heaps to continue to examine female gynecological
7 patients despite a history of similar complaints of misconduct and abuse, including (1) a
8 California Medical Board investigation in 2014 (at or near the time that UCLA apparently
9 acquired Dr. Heaps' practice), which on information and belief involved allegations of sexual
10 misconduct during a patient examination; and (2) at least one claim that he sexually harassed
11 and molested a UCLA student that was posted online in a public forum in early 2015.

12 6. In addition, on information and belief, UCLA did not institute basic protections
13 in order to prevent sexual abuse of patients, including having independent, qualified, and
14 trained chaperones present during examinations and/or, if any such protocols were in place,
15 UCLA's employees did not follow such protocols. Nor, on information and belief, did UCLA
16 train or supervise its employees so as to make them aware of how to intervene should any
17 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As
18 stated above, even though the abuse inflicted upon Plaintiff Doe occurred in the presence of a
19 chaperone, the chaperone—who, on information and belief was supervised by Dr. Heaps—did
20 not act to stop the incident or report the incident to authorities.

21 7. Although, because of the trauma, Plaintiff Doe was unable to relate what had
22 happened to her for some time following her June 2017 appointment, she did, sometime later,
23 eventually share her story with another UCLA physician. Nevertheless, even after Plaintiff
24 Doe told UCLA in detail the verbal and physical harassment and abuse that she had been
25 forced to endure at the hands of Dr. Heaps, UCLA chose to ratify Dr. Heaps' conduct,
26 allowing him to continue practicing and seeing patients uninterrupted for the better part of a
27 year. Those patients—likely hundreds in number—were seeking routine care and were
28 unwittingly exposed to a serious threat of lasting harm. Notwithstanding these complaints—

1 and despite being on notice of Dr. Heaps’ malfeasance – the UC Regents continued to employ
2 or otherwise affiliate with Dr. Heaps and ratify his conduct, allowing him to maintain his
3 practice and see patients, which he did until mid-2018.

4 8. The UC Regents had a duty to its students and other patients using its services to
5 ensure that physicians employed by or affiliated with it, such as Dr. Heaps, used their
6 positions consistent with the standard of care and did not abuse and harass patients. The UC
7 Regents’ abrogated this duty. The UC Regents violated its students’ and patients’ trust by
8 knowingly exposing them to Dr. Heaps during medical treatments, knowing that inappropriate
9 physical contact and other harassment would occur. On information and belief, the UC
10 Regents actively and deliberately concealed Dr. Heaps’ sexual abuse for years, continuing to
11 grant Dr. Heaps unfettered access to female patients in order to protect UCLA’s reputation and
12 financial coffers.

13 9. On information and belief, in or about late June 2018, Dr. Heaps was forced to
14 resign. UCLA, however, again chose to protect itself and Dr. Heaps and keep this incident
15 (and others known to it) under wraps. In or about mid-June 2018, UCLA sent a letter to
16 patients of Dr. Heaps, stating that “it is with mixed emotions” that UCLA announces
17 Dr. Heaps’ “retirement.” UCLA then continued to feature Dr. Heaps on the webpages of
18 UCLA Health and of the David Geffen School of Medicine for nearly a year following,
19 allowing Dr. Heaps and UCLA to save face in the community, a community unwittingly
20 exposed to a sexual predator by Defendants.

21 10. Every woman should—of course—at all times be protected from sexual assault
22 and harassment; to be clear, however, Plaintiff Doe is not one of Dr. Heaps’ powerful
23 Hollywood patients. She is a married mother of four young children.

24 11. Dr. Heaps’ actions and the inaction of the UC Regents and its employees (both
25 before and after Plaintiff’s horrific encounter with Dr. Heaps as described herein), have caused
26 Plaintiff Doe tremendous and lasting harm, including feelings of fear and powerlessness,
27 symptoms of post-traumatic stress disorder, and other physical and emotional manifestations
28 of the severe emotional distress that she has suffered.

1 in the early 2000s and at other times, on information and belief, Dr. Heaps and his then-
2 partner regularly advertised their gynecological practice in *The Daily Bruin*, UCLA’s daily
3 student newspaper, presumably to attract female UCLA students as patients.

4 16. At all times herein alleged, Dr. Heaps was an agent, servant, and/or employee of
5 Defendant UC Regents and its medical clinics, facilities, and locations, and/or was under its
6 complete control and/or direct supervision. It was through this position of access, trust, and
7 authority that Dr. Heaps sexually exploited and abused Plaintiff Doe.

8 **UCLA Turns a Blind Eye to Sexual Abuse and Harassment by Dr. Heaps**

9 17. UCLA holds itself out as a provider of high quality medical care for women,
10 stating on the UCLA Health website that it is one of the “premier providers of modern
11 medicine to the Los Angeles area and the nation” and that its Obstetrics and Gynecology
12 department is “dedicated to providing comprehensive and personal care for women.” UCLA
13 also publicly touts its purported “serious commitment to addressing and preventing sexual
14 violence and sexual harassment.”

15 18. During Dr. Heaps’ tenure at UCLA, however, Plaintiff is informed and believes,
16 and on this basis alleges, that Dr. Heaps sexually abused and molested a number of his female
17 patients, including Plaintiff Doe, through the use of his position and authority as a full-time
18 gynecologist employed by the UC Regents.

19 19. It is unknown to Plaintiff Doe what background information the UC Regents
20 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
21 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any
22 independent investigation of Dr. Heaps or his background when they sought to employ him to
23 provide gynecological services to female patients at his UCLA Health office and at Ronald
24 Reagan UCLA Medical Center.

25 20. Plaintiff is informed and believes, and on this basis alleges, however, that the
26 California Medical Board investigated Dr. Heaps in or about 2014—during, on information
27 and belief—a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
28 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).

1 On information and belief, the 2014 Medical Board investigation arose from an allegation that
2 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
3 On information and belief, the UC Regents had knowledge that the 2014 Medical Board
4 Investigation was taking place at the time that it was ongoing. On information and belief, the
5 UC Regents failed to take corrective action.

6 21. In or about January 2015, during Dr. Heaps' tenure at UCLA Health, a report of
7 sexually inappropriate conduct by Dr. Heaps was posted on Yelp, a public review website.
8 The young woman who posted on Yelp stated that the misconduct she alleged, which included
9 Dr. Heaps groping her breast and making inappropriate comments during a post-operative
10 appointment with her, had occurred several years prior to her Yelp post and while she was a
11 UCLA student. The woman who posted on Yelp detailed her experience with this harassment
12 and molestation by Dr. Heaps and its aftermath, stating that, "7 years later, I still feel
13 violated."

14 22. Subsequent to the 2014 Medical Board Investigation, and despite the existence
15 of at least one accusation of sexual misconduct on a public website detailed above, Dr. Heaps
16 continued to practice as a UCLA gynecologist, both in his UCLA Health office and, on
17 information and belief, at Ronald Reagan UCLA Medical Center. As discussed above,
18 Dr. Heaps was paid one of the highest salaries of any UC system employee in 2016 and, on
19 information and belief, in other years during his UCLA tenure.

20 23. The UC Regents failed to take prompt action in response to complaints received
21 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
22 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
23 including young female students at UCLA.

24 **Plaintiff Doe Is Sexually Battered and Harassed by Dr. Heaps**
25 **During a Routine Gynecological Procedure**

26 24. On June 22, 2017, several years after the reported incidents detailed above,
27 Plaintiff Doe sought medical treatment from her regular UCLA gynecologist, a doctor whom
28 she trusted and who had delivered Plaintiff Doe's four children. During that appointment,

1 which was only a few months following the birth of her youngest child, Plaintiff Doe
2 informed her regular UCLA OBGYN that she would like to use an IUD for birth control and
3 would like to have the IUD inserted that day. Her UCLA OBGYN informed her that she did
4 not have time to insert the IUD, but recommended that Plaintiff Doe have the IUD inserted by
5 her colleague, Dr. Heaps.

6 25. Plaintiff Doe's initial appointment with Dr. Heaps, on or about June 22, 2017,
7 involved the insertion of the IUD. At the appointment, Dr. Heaps met Plaintiff Doe's husband
8 and her young child, who were present at this first visit. During this visit, Dr. Heaps made
9 Plaintiff Doe feel comfortable and garnered her trust and confidence in his professionalism
10 and medical skills.

11 26. Over the weekend that followed this appointment with Dr. Heaps, Plaintiff Doe
12 experienced severe uterine cramping and pain. As a result, Plaintiff Doe made a follow-up
13 appointment, on or about June 27, 2017, with Dr. Heaps, to have the IUD removed. At that
14 appointment, when she was not accompanied by her husband, Dr. Heaps engaged in grossly
15 inappropriate and unprofessional conduct towards Plaintiff Doe, including: sexual touching of
16 her genitals during the IUD removal procedure, making inappropriate verbal comments of a
17 sexual nature during the IUD removal procedure, and grabbing and fondling both Plaintiff
18 Doe's breast and buttock, without medical justification. After sexually touching her genitals,
19 Dr. Heaps asked Plaintiff Doe if she was "experiencing pain" in her breast or buttock; when
20 she replied "no" and that her only issue was with uterine pain relating to the placement of her
21 IUD, Dr. Heaps nonetheless grabbed and groped her breast and buttock. Dr. Heaps' conduct
22 was sexual in nature and constituted sexual battery, sexual harassment and other civil wrongs
23 detailed herein.

24 27. During the course of Dr. Heaps' misconduct, Plaintiff Doe made a conscious
25 decision not to cry out or complain about Dr. Heaps' sexual touching because she feared that
26 Dr. Heaps would hurt her or injure her in a way that might harm her fertility as he was
27 removing her IUD if she protested. Instead, Plaintiff Doe endured this sexual touching and
28 humiliation (including verbal comments and questions of a sexual nature) in order to avoid

1 pain or harm, quietly waiting for the ordeal to be over.

2 28. As discussed above, a female chaperone (a nurse) was present in the room
3 during this harassment and abuse. This unidentified chaperone exchanged a knowing look
4 with Plaintiff Doe while the abuse was happening, a look which Plaintiff Doe believed
5 indicated that the chaperone knew that Dr. Heaps was engaged in inappropriate and medically
6 unnecessary conduct and that the chaperone was uncomfortable.

7 29. On information and belief, this chaperone was an employee and/or agent of
8 Defendant UC Regents, was directly supervised by Dr. Heaps and was dependent for her
9 livelihood on Defendants. On information and belief, this employee never made any
10 complaints nor took any action to protect Plaintiff Doe or other patients.

11 30. In the days and months that followed this appointment, Plaintiff Doe had
12 difficulty processing or talking about what had happened to her. In or about early December
13 2017, some five months after her assault and harassment by Dr. Heaps, Plaintiff Doe returned
14 to her regular UCLA OBGYN for an annual visit and told her OBGYN what had occurred at
15 her appointment with Dr. Heaps.

16 31. Several months later, in or about, February 2018, Plaintiff Doe was contacted by
17 two individuals who identified themselves as Human Resources employees of UCLA Health.
18 They asked Plaintiff Doe about the statements she had made to her regular physician regarding
19 Dr. Heaps' misconduct and abuse. These individuals lulled Plaintiff Doe into a false sense of
20 security that her allegations would be seriously investigated by UCLA and that she would be
21 contacted again to discuss the results of that investigation and any next steps related to
22 discipline of Dr. Heaps and redressing Plaintiff Doe's emotional and physical harm.

23 32. In or about mid-2018, Plaintiff Doe was contacted by the California Medical
24 Board, which was then currently investigating Dr. Heaps with regard to Plaintiff's allegations
25 and similar allegations made by another female patient of Dr. Heaps.

26 33. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
27 providing services to patients through UCLA Health. On information and belief, on or about,
28 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor

1 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
2 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
3 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
4 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
5 patients of Dr. Heaps, UCLA Health was aware of Plaintiff Doe’s specific allegations and of
6 the then ongoing California Medical Board Investigation of Dr. Heaps.

7 34. Plaintiff Doe received this letter in or about June 2018; it is the only other
8 communication that Plaintiff Doe ever received about Dr. Heaps following her discussion
9 with the UCLA Human Resources’ employees. Plaintiff Doe was shocked to receive this
10 letter from UCLA, as it announced Dr. Heaps’ retirement, and suppressed Plaintiff’s
11 complaints of being sexually exploited and abused by Dr. Heaps.

12 35. All of the actions of Dr. Heaps alleged in the following causes of action were
13 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
14 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
15 Plaintiff Doe, yet failed to take corrective action to protect Plaintiff or other students or
16 patients. Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left
17 him in a position where he could molest, batter, and harass Plaintiff Doe, other patients, and
18 students.

19 36. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
20 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of
21 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
22 Doe and other patients (including students) from further harm after reports—and formal
23 California Medical Board investigations—of Dr. Heaps’ sexual assault of patients.

24 37. As discussed throughout, Defendant UC Regents also failed to put in place
25 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
26 imposition of a policy providing for the mandatory presence of an independent and
27 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
28 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or

1 at all) to train its employees and agents in how to recognize and report any sexual or medical
2 battery or harassment.

3 38. The female chaperone who was in the room during Dr. Heaps' sexual battery
4 and harassment of Plaintiff Doe acted recklessly and negligently, in that she failed to
5 reasonably perform her duties as a chaperone and failed to act with the ordinary care one
6 would expect. The chaperone—on information and belief, an employee of the UC Regents—
7 failed to raise any alarms during Dr. Heaps' misconduct (which she witnessed) or take any
8 other reasonably expected actions to prevent or stop the misconduct, despite being aware of
9 the lack of medical necessity of Dr. Heaps' touching and comments to Plaintiff Doe. Further,
10 on information and belief, the chaperone did not report Dr. Heaps' misconduct.

11 39. Dr. Heaps' misconduct, the chaperone's silence and inaction—and the UC
12 Regents' cover up—has resulted in tremendous harm to Plaintiff Doe. The physical and
13 psychological aftermath of her appointment with Dr. Heaps have been severe for Plaintiff
14 Doe. She has suffered from shock, humiliation, embarrassment and other forms of severe
15 emotional distress, both in the terrible moments when she was being assaulted by Dr. Heaps
16 and in the time since. This has resulted in sleeplessness, lack of focus, anxiety, flashbacks,
17 and other physical and psychological manifestations of the distress caused by Defendants'
18 egregious acts.

19 **THE PARTIES**

20 40. Plaintiff Jane Doe is the married mother of four children and currently resides in
21 the County of Los Angeles, State of California.

22 41. Defendant UC Regents is, and at all times relevant hereto was, a California
23 Corporation having its principal place of business in the State of California. Upon information
24 and belief, the UC Regents is the governing body of the University of California and exercises
25 the ultimate dominion and control of the same. UCLA is an educational institution of higher
26 learning.

27 42. Plaintiff Doe is informed and believes, and on that basis alleges, that UC
28 Regents owned, operated, and maintained UCLA Health, through which medical services

1 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
2 of Health and provided health care as healthcare facilities.

3 43. Plaintiff Doe is informed and believes, and on that basis alleges, that Defendant
4 Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State of
5 California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State of
6 California to practice medicine, and was the employee and/or agent of the UC Regents.

7 44. Plaintiff Doe is ignorant of the true name of the female nurse/chaperone that was
8 in the room during Dr. Heaps' sexual battery and harassment of Plaintiff Doe, and therefore
9 sues this defendant as Roe 1. Upon information and belief, Plaintiff Doe alleges that Roe 1
10 was a nurse employed by the UC Regents. Plaintiff Doe will amend this Complaint to allege
11 Defendant Roe 1's true name and capacity when it has been ascertained or upon proof at trial.
12 Plaintiff Doe alleges that Roe 1 is legally responsible in some manner for the occurrences and
13 damages alleged herein and/or is jointly and severally liable.

14 45. Plaintiff Doe is ignorant of the true names and capacities of defendants sued as
15 Roe Nos. 2 through 20, inclusive, and sues these Roe defendants by these fictitious names.
16 Plaintiff Doe will amend this Complaint to allege their true names and capacities when they
17 have been ascertained or upon proof at trial. Plaintiff Doe alleges that each of the fictitiously
18 named Roe defendants is legally responsible in some manner for the occurrences and damages
19 alleged herein and/or is jointly and severally liable for the obligations of the other defendants.

20 46. Plaintiff Doe is informed and believes, and based thereon alleges, that at all
21 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
22 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
23 and that in doing the things alleged, was acting within the course, scope and authority of such
24 agency, employment, supervision, management, ownership and joint venture, and with the
25 consent and permission of each of the other Defendants. Unless otherwise indicated, all
26 Defendants, including the Roe Defendants, are collectively referred to herein as the
27 "Defendants."

28 47. Plaintiff Doe is informed and believes, and on that basis alleges, that, in addition

1 to its own independent conduct, UC Regents is vicariously liable for the acts, misconduct, and
2 omissions—both negligent and intentional—of Dr. Heaps and its other employees, including
3 but not limited to the female chaperone who was in the examination room at the time of
4 Dr. Heaps’ examination of Plaintiff Doe—as more particularly described above, pursuant to
5 the doctrine of *respondeat superior* and Cal. Gov’t Code § 815.2. Dr. Heaps, the female
6 chaperone, and others were acting in the course and scope of their employment at the time of
7 the allegations herein.

8 48. Once the 90 day wait period pursuant to CCP 364 expires without resolution,
9 Plaintiff Doe intends to amend her complaint to add a claim of professional negligence against
10 Defendants.

11 49. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
12 herein, Plaintiff Doe requests leave to amend this Complaint, such that a request for attorneys’
13 fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil Procedure
14 § 1021.4.

15 JURISDICTION AND VENUE

16 50. This Court has personal jurisdiction of the UC Regents as it is, and at all times
17 relevant hereto was, a California corporation doing business in California.

18 51. This Court has personal jurisdiction of Dr. Heaps as he is, and at all times
19 relevant hereto was, an individual residing in the State of California.

20 52. At least some of the wrongful acts alleged herein occurred in the County of Los
21 Angeles; thus venue is properly in the County of Los Angeles.

22 FIRST CAUSE OF ACTION

23 **(Violations of Unruh Act against All Defendants: Civil Code § 51)**

24 53. Plaintiff Doe incorporates Paragraphs 1 through 52 as though fully set forth herein.

25 54. Plaintiff Doe’s civil rights were violated by Defendants when they abused and
26 harassed Plaintiff Doe and when they intentionally and fraudulently concealed complaints of
27 sexual exploitation, sexual abuse, sexual harassment and molestation by Dr. Heaps from
28 Plaintiff Doe, as well as other patients. Plaintiff had a right to be free from gender

1 discrimination, sexual molestation, abuse and harassment under the Unruh Civil Rights Act.

2 55. The Defendants were acting under the color of their authority and in the scope of
3 their employment, during the instances when Plaintiff Doe was a patient at UCLA Health.

4 56. The Defendants denied Plaintiff full and equal accommodations, advantages,
5 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
6 unfettered access to sexually abuse Plaintiff Doe, by and through his position of authority as a
7 UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
8 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
9 UC Regents ratified.

10 57. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,
11 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed
12 female patients, including Plaintiff Doe, to Dr. Heaps' sexual abuse and harassment.
13 Defendants' retention of Dr. Heaps denied Plaintiff Doe, and all of their other female patients,
14 full and equal access to safe medical facilities, treatment and services, based upon their
15 gender.

16 58. The substantial motivating reason for the UC Regents' conduct of actively
17 concealing numerous complaints of Dr. Heaps' sexually abusive nature was Plaintiff's gender,
18 as Defendants knew that only its female patients would seek gynecological treatment from
19 Defendant Heaps and, thus, would be unwittingly subjected to his sexual assault, battery and
20 harassment.

21 59. As a direct and proximate result of Defendants' tortious acts, omissions,
22 wrongful conduct and breaches of their duties, Plaintiff has suffered substantial general,
23 special, and consequential damage in an amount to be proven at trial, but in no event less than
24 the minimum jurisdictional amount of this Court.

25 60. As a further direct and proximate result of Defendants' collective and concerted
26 wrongful actions, as herein alleged, Plaintiff Doe has been hurt in her health, strength and
27 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
28 person, which has caused and continues to cause great mental, physical and nervous pain,

1 suffering, fright, upset, grief, worry and shock in an amount according to proof at trial but in
2 no event less than the jurisdictional minimum requirements of this Court.

3 **SECOND CAUSE OF ACTION**

4 **(Violations of Bane Act against All Defendants: Civil Code § 52.1)**

5 61. Plaintiff Doe incorporates Paragraphs 1 through 60 as though fully set forth
6 herein.

7 62. Defendants' actions, as alleged herein, have had and will continue to interfere
8 with Plaintiff Doe's right to be free from gender discrimination in the form of sexual
9 harassment, codified under Cal. Civ. Code § 52.1.

10 63. During Plaintiff Doe's time as a patient at UCLA Health, Defendants engaged in
11 oppressive and unlawful tactics in abusing and harassing Plaintiff Doe, as well as ignoring,
12 concealing, and suppressing Plaintiff Does and other patient's complaints of being sexually
13 exploited and abused by Dr. Heaps. Plaintiff was threatened, intimidated and coerced by
14 Dr. Heaps' intimidating and humiliating conduct during her assault, as well as the
15 conspiratorial silence and inaction of UCLA Health's staff and chaperone. These intentional
16 acts of concealment of Dr. Heaps' abusive behavior violated Plaintiff Doe's right to be free
17 from discrimination on the basis of her gender, under Cal. Civ. Code § 52.1.

18 64. Defendants' wrongful conduct was intended to, and did successfully interfere
19 with Plaintiff Doe's Constitutional Rights to be free from gender discrimination and
20 harassment, as well as interfered with her rights of Due Process under the United States'
21 Constitution, specifically the Fifth and Fourteenth Amendments.

22 65. Defendants unlawfully and wrongfully used, or employed others to wrongfully
23 use, threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
24 Plaintiff had no relief except to submit to the Defendants' wrongful threats, intimidation,
25 harassment, violence, and coercion, which rendered Plaintiff's submission involuntary.

26 66. Defendants' above-noted actions were the legal and proximate causes of
27 physical, psychological, and emotional damages, and damage to Plaintiff Doe, who has
28 suffered and continue to suffer to this day. The actions of Defendants have also resulted in

1 Plaintiff Doe incurring, and will require her to incur into the future, expenses for medical and
2 psychological treatment, therapy, and counseling.

3 67. As a result of the above-described conduct, Plaintiff suffered and continues to
4 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
5 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
6 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to
7 be prevented from performing daily activities and obtaining the full enjoyment of life; and
8 has incurred and will continue to incur expenses for medical and psychological treatment,
9 therapy, and counseling.

10 68. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
11 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
12 Plaintiff Doe's rights, entitling Plaintiff Doe to compensatory damages in a sum to be shown
13 according to proof, emotional distress damages in a sum to be shown according to proof,
14 punitive and/or exemplary damages (with regard to Dr. Heaps), attorney's fees, other damages
15 pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a preliminary or
16 permanent injunction ordering Defendants to refrain from conduct or activities as alleged
17 herein, stating "VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER
18 SECTION 422.77 OF THE PENAL CODE," and other such relief as the court deems proper.

19 69. In subjecting Plaintiff Doe to the wrongful treatment herein described,
20 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
21 disregard of Plaintiff Doe's Rights, so as to constitute malice and oppression under California
22 Civil Code section 3294. Plaintiff Doe is therefore entitled to the recovery of punitive
23 damages against Dr. Heaps, in an amount to be determined according to proof.

24 **THIRD CAUSE OF ACTION**

25 **(Committing and Enabling Sexual Harassment against All Defendants:**

26 **Civil Code § 51.9)**

27 70. Plaintiff Doe incorporates Paragraphs 1 through 69 as though fully set forth
28 herein.

1 71. During Plaintiff Doe’s time as a patient at UCLA Health, Defendants
2 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
3 harmful and offensive contact with intimate parts of Plaintiff Doe’s person, including but not
4 limited to sexual touching and molestation during a pelvic procedure and the groping and
5 fondling of Plaintiff Doe’s breast and buttock, without medical justification, all under the
6 supervision of Defendant the UC Regents. A female chaperone who was in the room at the
7 time of Plaintiff Doe’s examination by Dr. Heaps sat silently as Plaintiff Doe was mistreated.

8 72. During Plaintiff Doe’s time as a patient at UCLA Health, Defendants also
9 intentionally, recklessly and wantonly made, and enabled, sexual and exploitative statements
10 of a prurient nature, based on Plaintiff’s gender that were unwelcome, pervasive and severe,
11 all under the supervision of Defendant the UC Regents. Again, the female chaperone who was
12 in the room at the time of Plaintiff Doe’s examination sat silently as Plaintiff Doe was
13 subjected to these comments.

14 73. The incidents of abuse outlined herein took place while Plaintiff Doe was under
15 the control of Dr. Heaps and Defendant UC Regents in their capacities and positions as a
16 physician and as supervisors of physicians, medical professionals, and other staff at
17 Defendants’ premises, and while acting specifically on behalf of Defendants’ herein.

18 74. Because of Plaintiff Doe’s relationships with Defendants Dr. Heaps and the UC
19 Regents, Dr. Heaps’ status as a prominent and highly compensated gynecologist employed by
20 the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
21 physician, and Plaintiff Doe’s vulnerability as a gynecological patient, Plaintiff Doe was
22 unable to easily terminate the relationship she had with the Defendants.

23 75. Because of Dr. Heaps’ status, position of authority, physical seclusion of
24 Plaintiff Doe, her mental and emotional state, vulnerable position and fear that she would be
25 harmed, she was unable to, did not, and could not, give consent to such acts.

26 76. Even though Defendant UC Regents knew or should have known of these
27 pervasive, illegal and inappropriate activities by Dr. Heaps, the UC Regents did nothing to
28 investigate, supervise or monitor Dr. Heaps to ensure the safety of the patients in their charge.

1 Nor did Defendant UC Regents put in place—or enforce—safeguards to prevent foreseeable
2 harm to female gynecological patients, including imposition of a policy providing for the
3 mandatory presence of an independent and properly trained chaperone, to prevent, deter and
4 report any misconduct in the context of gynecological examinations and procedures.
5 Defendant UC Regents also failed adequately (or at all) to train its employees and agents in
6 how to recognize and report any sexual or medical battery or harassment.

7 77. With regard specifically to the liability hereunder of Defendant UC Regents, a
8 corporation is a “person” within the meaning of Civil Code Section 51.9, which subjects
9 persons to liability for sexual harassment within a business, service or professional
10 relationship, and such an entity defendant may be held liable under this Statute for the acts of
11 its employees. *C.R. v. Tenet Healthcare Corp.*, 169 Cal.App.4th 1094 (2009). Further,
12 principles of ratification apply when the principal ratifies the agent’s originally unauthorized
13 harassment, as is alleged to have occurred herein.

14 78. Defendants’ conduct (and the conduct of their agents, servants and/or
15 employees) was a breach of their duties to Plaintiff Doe.

16 79. As a result of the above-described conduct, Plaintiff has suffered and continues
17 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
18 emotional distress including embarrassment, loss of self-esteem, disgrace, humiliation, and
19 loss of enjoyment of life; has suffered and continues to suffer and was prevented and will
20 continue to be prevented from performing daily activities and obtaining the full enjoyment of
21 life; and/or has incurred and will continue to incur expenses for medical and psychological
22 treatment, therapy, and counseling.

23 **FOURTH CAUSE OF ACTION**

24 **(Battery against All Defendants)**

25 80. Plaintiff Doe incorporates Paragraphs 1 through 79 as though fully set forth
26 herein.

27 81. During the course of treatment of Plaintiff Doe, Dr. Heaps used his powers and
28 abilities as a physician, and his knowledge and background and access to Plaintiff Doe, to

1 sexually batter Plaintiff Doe, knowing that she would be vulnerable to this type of sexual
2 batter. Dr. Heaps engaged in sexual touching of her genitals during a routine procedure and
3 grabbing and fondling Plaintiff Doe’s breast and buttock, without medical justification.

4 82. The female chaperone who was in the room during the visit enabled the sexual
5 battery and assault of Plaintiff Doe by failing to reasonably perform her duties as a chaperone
6 and failing to raise any alarms during Dr. Heaps’ misconduct or take any other reasonably
7 expected actions to prevent the harm inflicted upon Plaintiff Doe.

8 83. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
9 and had she not been treated by Defendants, she would have never permitted such sexual
10 contact by Dr. Heaps, which acts constituted a harmful or offensive touching and battery upon
11 her person.

12 84. Plaintiff Doe did not consent to the sexualized touching and sexual contact.

13 85. Dr. Heaps’ conduct was within the course and scope of his employment with
14 Defendants, and each of them, and was ratified by Defendants and each of them who had
15 advance notice of this misconduct. All of the conduct occurred during the course and scope of
16 Dr. Heaps’ employment at UCLA. Plaintiff suffered severe emotional distress and physical
17 injury as a result of Dr. Heaps’ misconduct and damages as otherwise alleged in this
18 complaint. In addition, at the time she was in the examination room and while she was
19 witnessing Dr. Heaps’ battery of Plaintiff Doe, the female chaperone was acting in the course
20 and scope of her employment with UCLA.

21 86. Even though Defendant UC Regents knew or should have known of these
22 pervasive, illegal and inappropriate activities by Dr. Heaps, the UC Regents did nothing to
23 investigate, supervise or monitor Dr. Heaps to ensure the safety of the patients in his charge.
24 Nor did Defendant UC Regents put in place—or enforce—safeguards to prevent foreseeable
25 harm to female gynecological patients, including imposition of a policy providing for the
26 mandatory presence of a properly trained independent chaperone, to prevent, deter and report
27 any misconduct in the context of gynecological examinations and procedures. Defendant UC
28 Regents also failed adequately (or at all) to train its employees and agents in how to recognize

1 and report any sexual or medical battery or harassment.

2 87. In doing the acts alleged herein, Dr. Heaps used the power and authority
3 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
4 Doe. It is predictable and foreseeable, given Defendants’ negligent supervision of Dr. Heaps,
5 and failure put in place—or enforce—safeguards to prevent foreseeable harm to female
6 gynecological patients, that someone in Dr. Heaps’ position would abuse the power and
7 authority the UC Regents conferred upon him by engaging in assaultive conduct. As such,
8 Dr. Heaps’ conduct is incident to his agency with the UC Regents, so as to be fairly
9 attributable to them.

10 88. As a proximate result of the above, Plaintiff Doe suffered damages as otherwise
11 alleged in this Complaint.

12 89. Dr. Heaps’ conduct alleged herein was despicable, and was done willfully and/or
13 with a conscious disregard of Plaintiff’s Rights, and/or intentionally, or maliciously, or in
14 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
15 each of them, were in a special relationship with Plaintiff Doe by virtue of the fact that she
16 was a patient at UCLA Health and receiving their services.

17 90. Defendants, and each of them, further knew that Plaintiff Doe was especially
18 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
19 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
20 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
21 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
22 Plaintiff Doe, and failing to take proper steps to protect Plaintiff Doe and other patients. It
23 was reasonably foreseeable Plaintiff Doe would receive physical injury and severe emotional
24 distress as a result of Dr. Heaps’ malfeasance. Defendant UC Regents’ conduct in this regard
25 was done with the intent to cause injury to Plaintiff Doe and/or done with a conscious
26 disregard of the rights and safety of Plaintiff.

27 91. In subjecting Plaintiff Doe to the wrongful treatment herein described,
28 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in

1 conscious disregard of Plaintiff Doe’s Rights, so as to constitute malice and oppression under
2 California Civil Code section 3294. Plaintiff Doe is therefore entitled to the recovery of
3 punitive damages against Defendant Heaps, in an amount to be determined according to proof.

4 **FIFTH CAUSE OF ACTION**

5 **(Sexual Battery against All Defendants: Civil Code Section 1708.5)**

6 92. Plaintiff Doe incorporates Paragraphs 1 through 91 as though fully set forth
7 herein.

8 93. During Plaintiff Doe’s time as a patient with Defendants, Dr. Heaps
9 intentionally, recklessly, and wantonly did acts which were intended to, and did, result in
10 harmful and offensive contact with intimate parts of Plaintiff Doe’s person, including but not
11 limited to, sexual touching of her genitals during a routine procedure and grabbing and
12 fondling both Plaintiff Doe’s breast and buttock, without medical justification, all while
13 Dr. Heaps acted in the course and scope of his employment with the UC Regents. The female
14 chaperone who was in the room during the visit enabled the sexual battery and assault of
15 Plaintiff Doe by failing to reasonably perform her duties as a chaperone and failing to raise
16 any alarms during Dr. Heaps’ misconduct or take any other reasonably expected actions to
17 prevent the harm inflicted upon Plaintiff Doe.

18 94. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
19 offensive contact with an intimate part of Plaintiff Doe’s person that would offend a
20 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
21 contact with an intimate part of Plaintiff Doe’s person that would offend a reasonable sense of
22 personal dignity.

23 95. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
24 and had she not been treated by Defendants, she would have never permitted such sexual
25 contact by Dr. Heaps.

26 96. Plaintiff Doe did not consent to this sexualized touching and sexual contact.

27 97. Dr. Heaps’ conduct was within the course and scope of his employment with
28 Defendants, and each of them, and was ratified by Defendants and each of them who had

1 advance notice of this misconduct. All of the conduct occurred during the course and scope of
2 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
3 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
4 complaint.

5 98. At the time she was in the examination room and while she was witnessing
6 Dr. Heaps' battery of plaintiff Doe, the female chaperone was acting in the course and scope
7 of her employment with UCLA.

8 99. Even though Defendant UC Regents knew or should have known of these
9 pervasive, illegal and inappropriate activities by Dr. Heaps, Defendant UC Regents did
10 nothing to investigate, supervise or monitor Dr. Heaps to ensure the safety of the patients in
11 their charge. Nor did Defendant UC Regents put in place – or enforce– safeguards to prevent
12 foreseeable harm to female gynecological patients, including imposition of a policy providing
13 for the mandatory presence of an independent and properly trained chaperone, to prevent,
14 deter and report any misconduct in the context of gynecological examinations and procedures.
15 Defendant UC Regents also failed adequately (or at all) to train its employees and agents in
16 how to recognize and report any sexual or medical battery or harassment.

17 100. In doing the acts alleged herein, Dr. Heaps used the power and authority
18 conferred upon him by Defendant UC Regents to get access to patients such as Plaintiff Doe.
19 It is predictable and foreseeable, given Defendants' negligent supervision of Dr. Heaps, and
20 failure put in place—or enforce—safeguards to prevent foreseeable harm to female
21 gynecological patients, that someone in Dr. Heaps' position would abuse the power and
22 authority the UC Regents conferred upon him by engaging in assaultive conduct. As such,
23 Dr. Heaps' conduct is incident to his agency with the UC Regents, so as to be fairly
24 attributable to them.

25 101. As a proximate result of the above, Plaintiff Doe suffered damages as otherwise
26 alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps' conduct,
27 Plaintiff Doe sustained serious and permanent injury to her person, all of his damage in an
28 amount to be shown according to proof and within the jurisdiction of the Court.

1 gynecological exam would sit idly by and not say anything while Plaintiff Doe was being
2 sexually abused by a physician. Indeed the presence of the silent chaperone further
3 exacerbated Plaintiff Doe's extreme embarrassment and harm as she was subjected to the
4 misconduct with a silent audience.

5 108. Defendants' conduct described herein was intentional and malicious and done
6 for the purpose of causing or with the substantial certainty that Plaintiff Doe would suffer
7 humiliation, mental anguish, and emotional and physical distress.

8 109. As a result of the above-described conduct, Plaintiff Doe has suffered and
9 continues to suffer great pain of mind and body, shock, emotional distress, physical
10 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
11 shame, humiliation, and loss of enjoyment of life; have suffered and continue to suffer and
12 were prevented and will continue to be prevented from performing daily activities and
13 obtaining the full enjoyment of life; and has incurred and will continue to incur expenses for
14 medical and psychological treatment, therapy, and counseling.

15 110. In subjecting Plaintiff Doe to the wrongful treatment described herein,
16 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe, and in
17 conscious disregard of her rights, so as to constitute malice and oppression under California
18 Civil Code section 3294. Plaintiff Doe is therefore entitled to recover punitive damages
19 against Defendant Heaps, in an amount to be determined by the court.

20 **SEVENTH CAUSE OF ACTION**

21 **(Negligent Infliction of Emotional Distress against all Defendants)**

22 111. Plaintiff Doe incorporates Paragraphs 1 through 110 as though fully set forth
23 herein.

24 112. A reasonable person would not expect or tolerate the sexual harassment,
25 exploitation, molestation, and abuse of Plaintiff Doe by Dr. Heaps, nor tolerate or expect the
26 UC Regents' knowledge of and callous indifference to the abuse. Plaintiff Doe had great
27 faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct, turned
28 to fear, shame, and humiliation.

1 113. A reasonable person would not expect or tolerate the UC Regents placing
2 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
3 patients—in a position of care of Plaintiff Doe, which enabled Dr. Heaps to have access to
4 Plaintiff Doe so that he could commit wrongful sexual acts, including the conduct described
5 herein.

6 114. A reasonable person would not expect or tolerate the Defendants, their agents,
7 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
8 from committing wrongful sexual acts with patients, including Plaintiff Doe, or to be
9 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
10 chaperone whose presence was supposed to ensure Plaintiff Doe’s comfort and safety during a
11 gynecological exam would sit idly by and not say anything while Plaintiff Doe was being
12 sexually abused by a physician. Indeed the presence of the silent chaperone further
13 exacerbated Plaintiff Doe’s extreme embarrassment and harm as she was subjected to the
14 misconduct with a silent audience.

15 115. Defendants had a special relationship with Plaintiff Doe and/or had undertaken
16 an obligation to her that necessarily implicated Plaintiff Doe’s emotional well-being.
17 Specifically, Defendants had a duty to (1) take reasonable measures to prevent harm to
18 Plaintiff Doe and (2) to promptly, adequately, reliably, fairly, and impartially investigate and
19 resolve Plaintiff Doe’s complaint against Dr. Heaps, and to protect her from Dr. Heaps.

20 116. There was an especially likely risk that Defendants’ negligent actions and
21 inactions would cause serious emotional distress to Plaintiff Doe. Defendants’ failure to take
22 reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
23 Plaintiff Doe tremendous harm. In addition, Defendants’ failure to promptly, adequately,
24 reliably, fairly, and impartially investigate and resolve Plaintiff Doe’s complaint was likely to
25 cause her to continue to feel unsafe, demeaned, and harassed, and to subject her to further
26 abuse from her attacker by sending the message that her sexual abuse and harassment would
27 not be taken seriously.

28 117. Defendants’ negligence was a substantial factor in causing Plaintiff Doe serious

1 emotional distress.

2 **EIGHTH CAUSE OF ACTION**

3 **(Negligent Supervision and Retention against UC Regents)**

4 118. Plaintiff Doe incorporates Paragraphs 1 through 117 as though fully set forth
5 herein.

6 119. By virtue of Plaintiff Doe’s special relationship with the UC Regents as a
7 patient, and the UC Regents’ relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
8 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
9 knew or should have known about.

10 120. Defendants expressly and implicitly represented that Dr. Heaps was a legitimate
11 gynecologist, and not a sexual threat to his female patients. As discussed throughout,
12 Dr. Heaps was well-compensated (a fact that was publically reported) and was acclaimed on
13 UCLA’ websites as a highly skilled and professional physician.

14 121. At no time during the periods of time alleged herein did the UC Regents have in
15 place a reasonable system or procedure to investigate, supervise, and monitor its UCLA
16 physicians and healthcare personnel, including Dr. Heaps, to prevent sexual harassment,
17 sexual exploitation, molestation, and abuse of patients, nor did they implement a system or
18 procedure to oversee or monitor conduct toward patients and others in their care.

19 122. The UC Regents were aware, or should have been aware, and understood how
20 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
21 and abuse by physicians and other persons of authority within the control of the UC Regents
22 prior to Plaintiff Doe’s sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
23 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
24 female gynecological patients, including imposition of a policy providing for the mandatory
25 presence of an independent, properly trained chaperone, to prevent, deter and report any
26 misconduct in the context of gynecological examinations and procedures. Defendant UC
27 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
28 and report any sexual or medical battery or harassment.

1 123. The UC Regents were put on notice, and should have known, that Dr. Heaps had
2 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
3 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
4 or would engage in, misconduct directed towards Plaintiff Doe and others, under the
5 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,
6 their agents, servants, and employees.

7 124. The UC Regents were placed on actual or constructive notice that Dr. Heaps had
8 molested or was molesting female patients during his employment. Defendants had
9 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
10 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
11 Plaintiff Doe.

12 125. Despite the fact that the UC Regents knew, or should have known, of these
13 sexually exploitive activities being perpetrated by Dr. Heaps, the UC Regents failed to use
14 reasonable care in investigating Dr. Heaps and did nothing to reasonably investigate,
15 supervise, monitor, or terminate Dr. Heaps to ensure the safety of their patients.

16 126. The UC Regents' conduct in enabling Dr. Heaps to serially sexually assault his
17 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
18 to Plaintiff Doe.

19 127. Because the UC Regents:

- 20 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
21 being committed by Dr. Heaps;
22 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
23 reporting him to the California State Medical Board as mandated by Federal
24 Laws;
25 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
26 exploit, abuse, and harass female patients by failing to take any of the above
27 action; and
28 (d) Consciously and intentionally kept all of Dr. Heaps' exploitive, abusive,

1 and harassing behaviors secrets from patients and the public at large;
2 the UC Regents have enabled and permitted the conduct of Dr. Heaps as set forth herein.

3 128. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
4 sexually exploiting, abusing, and harassing female patients and refused to take any action to
5 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
6 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
7 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
8 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe. The
9 UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps' acts
10 of sexual exploitation, sexual assault, battery, and harassment.

11 129. As a result of the above-described conduct, Plaintiff Doe has suffered and
12 continues to suffer great pain of mind and body, shock, emotional distress, physical
13 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
14 shame, humiliation, and loss of enjoyment of life; have suffered and continue to suffer and
15 were prevented and will continue to be prevented from performing daily activities and
16 obtaining the full enjoyment of life; and has incurred and will continue to incur expenses for
17 medical and psychological treatment, therapy, and counseling.

18 **NINTH CAUSE OF ACTION**

19 **(Negligent Ratification against the UC Regents)**

20 130. Plaintiff Doe incorporates Paragraphs 1 through 129 as though fully set forth
21 herein.

22 131. At all times relevant herein, each Defendant was the agent, partner, joint
23 venturer, representative, servant, employee and/or co-conspirator of each of the other
24 Defendants, and was at all times mentioned herein acting within the course and scope of said
25 agency and employment, and that all acts or omissions alleged herein were duly committed
26 with the ratification, knowledge, permission, encouragement authorization and consent of
27 each Defendant designated herein.

28 132. Defendants and each of them were agents, principals, joint venturers, partners,

1 representatives, servants, employees and/or co-conspirators of each of the other Defendants,
2 each Defendant condoned and ratified the conduct of all other defendants, and was at all times
3 mentioned herein acting within the course and scope of said agency and employment,
4 authority and ratification.

5 133. The UC Regents learned Dr. Heaps had molested or was molesting female
6 patients during his employment. Defendants had knowledge of inappropriate conduct, and
7 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
8 continue interacting with patients, including Plaintiff Doe.

9 134. Despite the fact that the UC Regents learned about these sexually exploitive
10 activities being perpetrated by Dr. Heaps, the UC Regents failed to use reasonable care in
11 investigating Dr. Heaps and did nothing to reasonably investigate, supervise, monitor, or
12 terminate Dr. Heaps to ensure the safety of their patients.

13 135. The UC Regents' conduct in enabling Dr. Heaps to serially sexually assault his
14 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
15 to Plaintiff Doe.

16 136. Because the UC Regents:

17 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
18 being committed by Dr. Heaps;

19 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
20 reporting him to the California State Medical Board as mandated by Federal
21 Laws;

22 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
23 exploit, abuse, and harass female patients by failing to take any of the above
24 action; and

25 (d) Consciously and intentionally kept all of Dr. Heaps' exploitive, abusive,
26 and harassing behaviors secrets from patients and the public at large;

27 the UC Regents have ratified the conduct of Dr. Heaps as set forth herein.

28 137. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps

1 was sexually exploiting, abusing, and harassing female patients and refused take any action to
2 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
3 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
4 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
5 Regents and he was allowed to be alone with gynecological patients. The UC Regents, their
6 agents, servants, and/or employees thus approved, ratified, and are responsible for Dr. Heaps'
7 acts of sexual exploitation, sexual assault, battery, and harassment.

8 138. As a result of the above-described conduct, Plaintiff Doe has suffered and
9 continues to suffer great pain of mind and body, shock, emotional distress, physical
10 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
11 shame, humiliation, and loss of enjoyment of life; have suffered and continue to suffer and
12 were prevented and will continue to be prevented from performing daily activities and
13 obtaining the full enjoyment of life; and will continue to incur expenses for medical and
14 psychological treatment, therapy, and counseling.

15 **TENTH CAUSE OF ACTION**

16 **(Negligent Failure to Warn, Train, or Educate against the UC Regents)**

17 139. Plaintiff Doe incorporates Paragraphs 1 through 138 as though fully set forth
18 herein.

19 140. Defendant UC Regents owed Plaintiff Doe a duty to take reasonable protective
20 measures to safeguard Plaintiff and other female patients from the risk of sexual battery by
21 Dr. Heaps by properly warning, training or educating others, including their own medical
22 personnel, medical staff, administrators, and other agents, servants, and/or employees
23 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
24 conduct is witnessed, reported, and/or discovered.

25 141. Defendant UC Regents breached its duty to take reasonable measures to protect
26 Plaintiff Doe and other female patients from the risk of sexual harassment and abuse by
27 Dr. Heaps, such as the failure to properly warn, train Plaintiff and other patients about
28 Dr. Heaps.

1 comfortable and safe during the gynecological visit; and (b) the chaperone was aware of the
2 lack of medical necessity of Dr. Heaps’ touching and questioning of Plaintiff Doe. Further,
3 the chaperone did not report Dr. Heaps’ misconduct. At the time she was in the examination
4 room and while she was silently witnessing Dr. Heaps’ infliction of harm to Plaintiff Doe, the
5 female chaperone was acting in the course and scope of her employment with UCLA.

6 150. As a result of the above-described conduct, Plaintiff Doe suffered and continues
7 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
8 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
9 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to
10 be prevented from performing daily activities and obtaining the full enjoyment of life; and has
11 incurred and will continue to incur expenses for medical and psychological treatment, therapy,
12 and counseling.

13 **TWELFTH CAUSE OF ACTION**

14 **(Gender Violence (Civil Code § 52.4) against all Defendants)**

15 151. Plaintiff Doe incorporates Paragraphs 1 through 150 as though fully set forth
16 herein.

17 152. California Civil Code § 52.4 provides that gender violence is a form of sexual
18 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
19 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”
20 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
21 § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
22 gender violence may bring a civil action for damages against any responsible party, and may
23 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

24 153. Plaintiff Doe is female.

25 154. Dr. Heaps intentionally and without consent physically intruded and/or invaded
26 Plaintiff’s body during medical examinations in a sexual manner in violation of Cal. Civ.
27 Code § 52.4. The conditions were coercive in that Plaintiff placed her trust and confidence in
28 Dr. Heaps as a physician and in the UC Regents as a premier provider of patient care (via

1 UCLA Health).

2 155. The UC Regents participated in the physical intrusion and/or invasion of
3 Plaintiff's body during a medical examination by either (a) the presence of chaperones or
4 other staff members during the medical examinations; and/or (b) UCLA staff members or
5 other personnel bringing Plaintiff into the examination room and directing her to remove her
6 clothing, knowing that Dr. Heaps would assault her in a sexual manner; and/or (c) providing
7 Dr. Heaps the facilities and location to assault Plaintiff in a sexual manner and touting him as
8 an expert in gynecological care.

9 156. As more fully set forth above, Plaintiff was injured as a result of the gender
10 violence, and seeks all remedies provided for in California Civil Code § 52.4, including but
11 not limited to, actual damages, compensatory damages, punitive damages, costs, and
12 attorney's fees.

13 **THIRTEENTH CAUSE OF ACTION**

14 **(Sexual Assault against all Defendants)**

15 157. Plaintiff Doe incorporates Paragraphs 1 through 156 as though fully set forth
16 herein.

17 158. During Plaintiff's time as a patient with Defendants, Dr. Heaps intended to cause
18 harmful or offensive contact with Plaintiff, or intended to put Plaintiff in imminent
19 apprehension of such conduct.

20 159. In doing the things herein alleged, Plaintiff was in imminent apprehension of a
21 harmful or offensive contact by Dr. Heaps and actually believed Dr. Heaps had the ability to
22 make harmful or offensive contact with Plaintiff.

23 160. Plaintiff did not consent to Dr. Heaps' intended harmful or offensive contact, or
24 intent to put Plaintiff in imminent apprehension of such contact.

25 161. Dr. Heaps' conduct was within the course and scope of his employment with
26 Defendants, and each of them, and was ratified by Defendants and each of them who had
27 advance notice of this misconduct.

28 162. Plaintiff suffered severe emotional distress and physical injury as a result of

1 Dr. Heaps' misconduct and damages as otherwise alleged in this complaint.

2 163. Even though Defendant UC Regents knew or should have known of these
3 pervasive, illegal and inappropriate activities by Dr. Heaps, Defendant UC Regents did
4 nothing to investigate, supervise or monitor Dr. Heaps to ensure the safety of the patients in
5 their charge. Nor did Defendant put in place – or enforce – safeguards to prevent foreseeable
6 harm to female gynecological patients, including imposition of policy providing for the
7 mandatory presence of an independent and properly trained chaperone, to prevent, deter and
8 report any misconduct in the context of gynecological examinations and procedures,
9 Defendant UC Regents also failed to adequately (or at all) train its employees and agents in
10 how to recognize and report any sexual assault.

11 164. In doing so the acts alleged herein, Dr. Heaps used the power and authority
12 conferred upon him by Defendant UC Regents to get access to patients such as Plaintiff Doe.
13 It is predictable and foreseeable, given Defendants' negligent supervision of Dr. Heaps, and
14 failure to put in place – or enforce – safeguards to prevent foreseeable harm to female
15 gynecological patients, that someone in Dr. Heaps' position would abuse the power and
16 authority the UC Regents conferred upon him by engaging in assaultive conduct. As such,
17 Dr. Heaps' conduct is incident to his agency with the UC Regents, so as to be fairly
18 attributable to them.

19 165. In doing the things herein alleged, Defendants violated Plaintiff's rights,
20 pursuant to California Civil Code § 43, of protection from bodily restrain or harm, and from
21 personal insult. In doing the things herein alleged, Defendants violated the duty, pursuant to
22 California Civil Code § 1708, to abstain from injuring the person of Plaintiff or infringing
23 upon her rights.

24 166. As a proximate result of the above, Plaintiff suffered damages as otherwise
25 alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps' conduct,
26 Plaintiff sustained serious and permanent injury to her person, all of this damage in an amount
27 to be shown according to proof and within the jurisdiction of this Court.

28 167. Plaintiff Doe is informed and based thereon alleges that the conduct of

1 Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and done in
2 conscious disregard for the regard for the rights and safety of others, and was carried out with
3 a conscious disregard for Plaintiff Doe’s right to be free from tortious behavior, such as to
4 constitute oppression, fraud, or malice pursuant to California Civil Code section 3294,
5 entitling Plaintiff Doe to punitive damages against Dr. Heaps in an amount appropriate to
6 punish and set an example of Dr. Heaps and send a cautionary message to others similarly
7 situated.

8 **FOURTEENTH CAUSE OF ACTION**

9 **(Unfair Business Practices (Business & Professions Code § 17200) against all**
10 **Defendants)**

11 168. Plaintiff Doe incorporates Paragraphs 1 through 167 as though fully set forth
12 herein.

13 169. Plaintiff is informed and believes, and on that basis alleges, that Defendants
14 have engaged in unlawful, unfair and/or deceptive business practices, including by allowing
15 Dr. Heaps to engage in repeated sexual abuse and harassment of patients, including Plaintiff,
16 and by failing to take all reasonable steps to prevent such sexual abuse and harassment from
17 occurring. The unlawful, unfair and/or deceptive business practices also included failing to
18 adequately and promptly investigate, vet, and evaluate individuals for employment with
19 UCLA Health and the UC Regents, as well as refusing to design, implement, and oversee
20 appropriate policies regarding sexual harassment and abuse of patients in a reasonable manner,
21 as is customary in similar healthcare and student-active environments. Further, Plaintiff is
22 informed and believes, and on that basis alleges, that Defendants engaged in unlawful, unfair,
23 and/or deceptive business practices by concealing the aforementioned sexual harassment,
24 abuse, and/or molestation in order to retain other patients who were not apprised of such
25 misconduct.

26 170. Plaintiff is informed and believes, and on that basis alleges, that Defendants
27 engaged in a common scheme, arrangement or plan to actively conceal allegations against
28 sexual abusers like Dr. Heaps who were employees, agents, members, and/or otherwise

1 affiliated with UCLA Health or the UC Regents so that Defendants could maintain their public
2 image, be insulated from public scrutiny and embarrassment, and otherwise avoid the
3 detection of such abuse and abusers, all in an effort to project a false sense of safety and
4 security for patients and students and benefit financially.

5 171. By engaging in the unlawful, unfair, and/or deceptive business practices
6 described above, Defendants benefitted financially to the detriment of competitors and the
7 public.

8 172. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
9 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiff
10 and the public.

11 173. Plaintiff seeks restitution of all amounts improperly obtained by Defendants
12 through the use of the above-described unlawful, unfair and/or deceptive business practices, as
13 well as disgorgement of any ill-gotten gains on behalf of Plaintiff and all others similarly
14 situated.

15 174. Pursuant to Section 17203 of the California Business & Professions Code and
16 available equitable powers of the Court, Plaintiff is entitled to and seeks an injunction
17 enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business
18 practices. Further, Plaintiff is entitled to recover reasonable attorneys' fees pursuant to the
19 California Business & Professions Code and California Code of Civil Procedure § 1021.5.

20 **FIFTEENTH CAUSE OF ACTION**

21 **(Constructive Fraud against all Defendants)**

22 175. Plaintiff Doe incorporates Paragraphs 1 through 174 as though fully set forth
23 herein.

24 176. By (a) holding Dr. Heaps out as an agent and trusted affiliate of UCLA Health,
25 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
26 such as Plaintiff; and (c) holding themselves out as a preeminent healthcare facility and
27 provider, Defendants entered into a confidential, fiduciary and special relationship with
28 Plaintiff.

1 177. Defendants breached their confidential, fiduciary and special duties to Plaintiff
2 by the wrongful and negligent conduct described above, and in doing so gained an advantage
3 over Plaintiff in matters relating to Plaintiff's safety, security, and health.

4 178. By virtue of their confidential, fiduciary, and special relationship with Plaintiff,
5 Defendants owed Plaintiff a duty to:

- 6 (a) promptly and thoroughly investigate claims of sexual abuse or
7 harassment committed by its employees, agents, or affiliates (such as Dr.
8 Heaps) and reveal any such negative findings to Plaintiff, the
9 community, the Medical Board, and law enforcement;
10 (b) refuse to place Dr. Heaps in a position of trust and authority within the
11 UC Regents' controlled and affiliated institutions and facilities;
12 (c) refuse to hold Dr. Heaps out to Plaintiff, other patients, students, and the
13 community at large as being a trustworthy physician in good standing, a
14 faculty member, and authority figure; and
15 (d) promptly disclose to Plaintiff, UCLA students, and the community at
16 large the reasons for his "retirement" in June 2018.

17 179. On information and belief, Defendants breached their respective duties by:

- 18 (a) failing to promptly and thoroughly investigate claims of sexual abuse or
19 harassment against Dr. Heaps;
20 (b) failing to disclose to Plaintiff, UCLA students, and the community at
21 large the reasons for Dr. Heaps' retirement in June 2018;
22 (c) issuing no warnings about Dr. Heaps;
23 (d) permitting Dr. Heaps to routinely examine gynecological patients either
24 entirely unsupervised or supervised by untrained chaperones who were
25 derelict in their duties to report Dr. Heaps;
26 (e) failing to adopt policies that mandated the use of chaperones at all
27 gynecological visits or properly training their chaperones;
28 (f) continuing to assign Dr. Heaps to duties which placed him in positions

- 1 of trust and authority over other patients;
- 2 (g) continuing to impliedly represent that Dr. Heaps was safe and morally fit
- 3 to give medical care and provide gynecological treatment; and
- 4 (h) continuing to promote Dr. Heaps as a faculty member and trusted
- 5 physician on the UCLA School of Medicine website even after he had
- 6 forcibly “retired.”

7 180. Defendant made affirmative or implied representations and nondisclosures of

8 material fact about Dr. Heaps and his suitability to provide gynecological care to patients, and

9 knowingly and intentionally suppressed material facts about past allegations of misconduct

10 against Dr. Heaps that the UC Regents knew or should have known about.

11 181. Given her need for medical treatment, and her trust and care in Defendants,

12 Plaintiff was vulnerable to Defendants.

13 182. At the time Defendants engaged in such suppression and acts of concealment,

14 such acts were done for the purpose of causing Plaintiff to forebear on her rights;

15 183. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and

16 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

17 184. The misrepresentations, suppressions, and concealment of facts by Defendants

18 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had

19 no knowledge of any misconduct by Dr. Heaps.

20 185. Defendants knew or should have known at the time they suppressed and/or

21 concealed the true facts about Dr. Heaps that the resulting impressions were misleading.

22 186. On information and belief, Defendants suppressed and concealed the true facts

23 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and

24 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and

25 abuse patients, (b) inducing Plaintiff and other people to participate and financially support

26 Defendants’ programs and enterprises; (c) preventing further reports and investigations of

27 Defendants’ misconduct; (d) avoiding damage to Defendants’ reputations; and (e) protecting

28 Defendants’ power, status, and reputation in the community.

1 187. Defendants knowingly conspired and gave each other substantial assistance to
2 perpetuate the misrepresentations, fraud, and deceit alleged herein in order to allow Dr. Heaps
3 to remain in his position as a physician, faculty member, and doctor (or retire with a good
4 reputation) so that they could maintain their standing in the community.

5 188. Plaintiff was misled by Defendants' suppression and acts of concealment, and in
6 reliance thereon, was induced to act or not act as intended by Defendants. Specifically,
7 Plaintiff was induced to believe there were no allegations of prior misconduct against
8 Dr. Heaps and that he was safe to be around patients and students. Had Plaintiff known the
9 true facts about Dr. Heaps, she would not have seen him for gynecological or other medical
10 care, and she would have acted sooner in reporting him or pursuing her claims.

11 189. As a direct and proximate result of the UC Regents' actions and/or inactions,
12 Plaintiff has been damaged as more fully set forth above.

13
14 **WHEREFORE**, Plaintiff Doe prays for a jury trial and for judgment against
15 Defendants as follows:

16 **FOR ALL CAUSES OF ACTION**

- 17 1. For compensatory damages, in an amount to be determined at trial;
18 2. For costs of suit;
19 3. For interest based on damages, as well as pre-judgment and post-judgment
20 interest as allowed by law;
21 4. For declaratory and injunctive relief, including but not limited to court
22 supervision of the UC Regents;
23 5. For attorneys' fees as provided by statute;
24 6. For punitive damages as to Dr. Heaps;
25 7. For restitution and disgorgement; and
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8. For such other and further relief as the Court may deem proper.

DATED: June 26, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE



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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe hereby demands a trial by jury in this action.

DATED: June 26, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE

