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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
13

14 JANE DOE 11,
15 Plaintiff,
16 vs.

17 THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, a California
18 government corporation, JAMES HEAPS,
M.D., an individual; and ROES 1 through
19 20, inclusive,
20 Defendants.

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) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 11,¹ an individual (“Plaintiff Doe 11” or “Plaintiff” or “Doe 11”)
2 hereby complains against Defendants Regents of the University of California (“UC Regents”),
3 a 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 11 was a recently widowed gynecological oncology patient –
8 suffering from uterine cancer– at UCLA Health (“UCLA Health” or “UCLA”) when she was
9 sexually abused, molested and harassed at the hands of serial sexual predator Defendant Dr.
10 Heaps.

11 2. Dr. Heaps’ conduct was a gross violation of the trust between physician and
12 patient. This is especially true as a gynecological patient is, of course, at her most vulnerable
13 during examination of her intimate body parts and should be able to trust that she will be
14 treated at all times with dignity and in a nonsexual and medically appropriate manner.

15 3. Dr. Heaps engaged in horrific action — he took advantage of Plaintiff Doe 11’s
16 trust in him as her oncologist and molested her under the guise of providing cancer treatment
17 and follow-up care. After performing cancer surgery on her, Dr. Heaps told Doe 11 that she
18 needed frequent follow-up appointments every three months (which Plaintiff Doe 11 now
19 understands were not needed, but which provided Dr. Heaps with additional opportunities to
20 abuse her). In or about 2017, Dr. Heaps conducted an overly lengthy and aggressive breast
21 examination that was not medically necessary or appropriate. During a pelvic exam in or
22 about December 2017, Dr. Heaps engaged in touching which Plaintiff Doe 11 now
23 understands was designed to sexually stimulate Plaintiff Doe 11 and gratify himself . While
24 there were, at times, nurses present in the room when this abuse occurred, the nurses did
25 nothing which indicated to Plaintiff Doe 11 that Dr. Heaps’ conduct was inappropriate or
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 abusive.

2 4. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
3 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
4 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
5 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
6 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2014 story in the
7 Sacramento Bee entitled, *All 35 of the University of California’s highest-paid employees in*
8 *2016 were men*. Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
9 was listed in the *Hollywood Reporter’s* annual *Best Doctors in Los Angeles* issue in 2015.

10 5. Perhaps because of the millions of dollars in income that he generated for UCLA
11 and the fact that he had powerful patients and was celebrated in the community (as recent
12 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
13 failed to protect Plaintiff Doe 11 or other vulnerable women from Dr. Heaps.

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

20 7. In addition, on information and belief, UCLA did not institute basic protections
21 in order to prevent sexual abuse of patients, including having independent, qualified, and
22 trained chaperones present during examinations and/or, if any such protocols were in place,
23 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
24 train or supervise its employees so as to make them aware of how to intervene should any
25 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct.
26 Even though the abuse inflicted upon Plaintiff Doe 11 at times occurred in the presence of a
27 chaperone, the chaperone –who, on information and belief was supervised by Dr. Heaps–did
28 not act to stop the incident or report the incident to authorities.

1 8. As described herein, on information and belief, one nurse/chaperone in
2 particular -who was present at several examinations which Plaintiff Doe 11 has now come to
3 understand involved abusive and medical unnecessary conduct - had a history of criminality
4 prior to being hired by UCLA and eventually left her job with Dr. Heaps after voluntarily
5 surrendering her nursing licenses as a result of drug (including prescription drug) and alcohol
6 abuse and DUI's. The fact that UCLA would hire and retain such an individual purportedly to
7 watch over and care for female patients, is both highly troubling and actionable.

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

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

25 11. Every woman should—of course—at all times be protected from sexual assault
26 and harassment; to be clear, however, Plaintiff Doe 11 is not one of Dr. Heaps' powerful
27 Hollywood patients. She is widow and cancer survivor in her late sixties.

28 12. Dr. Heaps' actions and the inaction of the UC Regents and its employees (both

1 before and after Plaintiff’s horrific encounter with Dr. Heaps as described herein), have caused
2 Plaintiff Doe 11 tremendous and lasting harm, including feelings of fear and powerlessness,
3 symptoms of post-traumatic stress disorder, and other physical and emotional manifestations
4 of the severe emotional distress that she has suffered.

5 13. Dr. Heaps has now been arrested and charged with multiple felony counts,
6 including in connection with alleged sexual battery of his patients. When Dr. Heaps was
7 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents
8 changed course, then issuing a public statement contending that Dr. Heaps was “terminated”
9 and that UCLA has purportedly taken corrective action. This communication was circulated
10 to the UCLA “Campus Community” by the UCLA Chancellor and Vice Chancellor, UCLA
11 Health Services. This is a far cry from the previous communication to patients announcing
12 Dr. Heaps’ “retirement,” a communication that failed to alert the community to his misconduct
13 or offer any assistance or support to Plaintiff Doe 11 or other victims.

14 14. Only after Dr. Heaps’ “retirement” did Plaintiff Doe 11 come to realize that she
15 was subjected to unnecessarily frequent pap smears and breast exams. Her new gynecologist
16 advised her that pap smears were no longer necessary for her (Dr. Heaps had performed them
17 every three months) and her new physician does not perform breast exams at her routine
18 annual visits. Only in the last few weeks, however, has Plaintiff Doe 11 also come to
19 understand that Dr. Heaps’ conduct in the overly-frequent exams to which he subjected her
20 was inappropriate and of a sexual nature, including molesting her under the guise of
21 monitoring her after she received cancer treatment.

22 15. Perhaps equally troubling, when Plaintiff Doe 11 learned that Dr. Heaps was
23 “retiring” she was shocked, but she has now come to learn that Dr. Heaps was under active
24 investigation at the time that Plaintiff Doe 11 saw him for the last time in or about March
25 2018. In fact, Dr. Heaps ceased practicing at UCLA just a few months after Plaintiff Doe 11’s
26 last appointment at his office.

27 16. Quite clearly, at the time of Plaintiff Doe 11’s final appointment with Dr. Heaps,
28 the decision had been made at UCLA that Dr. Heaps inappropriate sexual conduct merited his

1 termination, yet UCLA allowed Dr. Heaps unfettered access to Plaintiff Doe 11 and other
2 vulnerable patients. Had Plaintiff Doe 11 had knowledge of this investigation, of the
3 allegations that had been made against Dr. Heaps and of the fact that UCLA had already
4 concluded that Dr. Heaps constituted a threat to patient safety so as to merit his termination,
5 quite obviously she would never have consented to further examination or treatment by him.
6 Plaintiff Doe 11 was not given such a choice by UCLA and suffered further sexual abuse as a
7 result, abuse which has resulted in serious harm now and continuing into the future.

8 **BACKGROUND FACTS**

9 **Defendant Dr. Heaps Provides Gynecological Services to UCLA Patients**

10 17. Dr. Heaps completed his internship and residency as an obstetrician-
11 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
12 1983–1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
13 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
14 further information and belief, in or about February 2014, Dr. Heaps’ private practice was
15 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
16 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

17 18. In that role, on information and belief, Dr. Heaps continued to provide
18 gynecological services to women, including Plaintiff Doe 11, at his office located at 100
19 Medical Plaza in Westwood. On further information and belief, Dr. Heaps had privileges at
20 Ronald Reagan UCLA Medical Center from 1988 to 2018, where he performed procedures
21 and provided services to hospitalized female patients. On further information and belief,
22 Dr. Heaps was a professor at the University of California Los Angeles David Geffen School of
23 Medicine from 1989 until 2018.

24 19. On information and belief, Dr. Heaps also at times provided gynecological
25 services to students at the UCLA Student Health Center between 1983 and 2010. In addition,
26 in the early 2000s and at other times, on information and belief, Dr. Heaps and his then-
27 partner regularly advertised their gynecological practice in *The Daily Bruin*, UCLA’s daily
28 student newspaper, presumably to attract female UCLA students as patients.

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

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

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

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

16 23. It is unknown to Plaintiff Doe 11 what background information the UC Regents
17 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
18 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any
19 independent investigation of Dr. Heaps or his background when they sought to employ him to
20 provide gynecological services to female patients at his UCLA Health office and at Ronald
21 Reagan UCLA Medical Center.

22 24. Plaintiff is informed and believes, and on this basis alleges, however, that the
23 California Medical Board investigated Dr. Heaps in or about 2014—during, on information
24 and belief—a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
25 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).
26 On information and belief, the 2014 Medical Board investigation arose from an allegation that
27 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
28 On information and belief, the UC Regents had knowledge that the 2014 Medical Board

1 Investigation was taking place at the time that it was ongoing. On information and belief, the
2 UC Regents failed to take corrective action.

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

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

17 27. In or about early December 2017, a patient of Dr. Heaps complained to UCLA
18 in detail about the verbal and physical sexual harassment and abuse that she had been forced
19 to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr. Heaps' conduct,
20 allowing him to continue practicing and seeing patients (including Plaintiff Doe 11)
21 uninterrupted for the better part of a year. Those patients—likely hundreds in number—were
22 seeking routine care and were unwittingly exposed to a serious threat of lasting harm.
23 Notwithstanding these complaints—and despite being on notice of Dr. Heaps' malfeasance—
24 the UC Regents continued to employ or otherwise affiliate with Dr. Heaps and ratify his
25 conduct, allowing him to maintain his practice and see patients, which he did until mid-2018,
26 just months after Plaintiff Doe 11's last appointment with him.

27 28. Plaintiff is further informed and believes that, in or before mid-2018, the UC
28 Regents were informed of an employee complaint against Dr. Heaps involving sexual

1 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
2 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

3 29. The UC Regents failed to take prompt action in response to complaints received
4 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
5 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
6 including young female students at UCLA and female patients at UCLA Health.

7 **Plaintiff Doe 11 Is Sexually Battered and Harassed by Dr. Heaps**
8 **During Routine Gynecological Examinations**

9 30. Plaintiff was a patient of Dr. Heaps from in or about July 2016 until in or about
10 March 2018. Shortly after first consulting with him, Dr. Heaps performed a successful
11 surgery to treat her uterine cancer. Even at an early appointment with Dr. Heaps, which was a
12 pre-operative examination prior to her surgery, however, Dr. Heaps touched and held on to her
13 leg and ankle for an extended period of time (during a discussion of the planned surgery) in a
14 way that she now believes was inappropriate and harassing. Nonetheless, Dr. Heaps garnered
15 her trust by successfully performing her cancer surgery, a trust that Dr. Heaps would grossly
16 abuse, sexually molesting her under the guise of providing follow-up cancer care.

17 31. Following her surgery, Dr. Heaps told Plaintiff Doe 11 that frequent follow-up
18 appointments were needed, and directed her to schedule a follow-up pap smear and breast
19 examination with him every three months. Plaintiff Doe 11 is now informed that such
20 frequent examinations were not medically necessary and were instead designed to allow Dr.
21 Heaps additional opportunities to abuse and harass Plaintiff Doe 11.

22 32. During a routine appointment, in or about 2017, Dr. Heaps performed a
23 prolonged breast examination, groping and massaging her breast – and touching her nipple in
24 an aggressive fashion– in a manner that Plaintiff Doe 11 now understands was not medically
25 necessary or appropriate. At the time, Dr. Heaps told Plaintiff Doe 11 that he believed that he
26 could feel an abnormality in her breast, but no lump or other abnormality in fact proved to be
27 present following this overly-lengthy examination.

28 33. During another routine examination, in or about December 2017, Dr. Heaps

1 touched Plaintiff in a way that was designed to sexually stimulate Plaintiff Doe 11 and gratify
2 himself. Plaintiff Doe 11 now understands this conduct to have been inappropriate, medically
3 unnecessary and abusive.

4 34. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
5 providing services to patients through UCLA Health. On information and belief, on or about
6 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
7 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
8 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
9 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
10 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
11 patients of Dr. Heaps, UCLA Health was aware of Plaintiff Doe’s specific allegations and of
12 the then ongoing California Medical Board Investigation of Dr. Heaps.

13 35. All of the actions of Dr. Heaps alleged in the following causes of action were
14 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
15 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
16 Plaintiff, yet failed to take corrective action to protect Plaintiff or other students or patients.
17 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a
18 position where he could molest, batter, and harass Plaintiff Doe 11, other patients, and
19 students.

20 36. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
21 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of
22 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
23 Doe 11 and other patients (including students) from further harm after reports—and formal
24 California Medical Board investigations—of Dr. Heaps’ sexual assault of patients.

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

1 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
2 at all) to train its employees and agents in how to recognize and report any sexual or medical
3 battery or harassment.

4 38. The female chaperones who were at times in the room during Dr. Heaps’ sexual
5 battery and harassment of Plaintiff Doe 11 acted recklessly and negligently, in that they failed
6 to reasonably perform their duties as a chaperone and failed to act with the ordinary care one
7 would expect. The chaperones—on information and belief, employees of the UC Regents—
8 failed to raise any alarms during Dr. Heaps’ misconduct (which they witnessed) or take any
9 other reasonably expected actions to prevent or stop the misconduct, despite being aware of
10 the lack of medical necessity of Dr. Heaps’ touching and comments to Plaintiff Doe 11.
11 Further, on information and belief, the chaperones did not report Dr. Heaps’ misconduct.

12 39. Plaintiff Doe 11 is now informed and believes, and based thereon alleges, that
13 the UC Regents further breached its duties owed to Plaintiff Doe 11 and other patients by,
14 among other things, failing to conduct reasonable investigation and/or due diligence prior to
15 hiring individuals assigned to assist Dr. Heaps during the relevant time period, including those
16 charged with the important task of chaperoning gynecological examinations.

17 40. On information and belief, this nurse/chaperone who was employed by UCLA
18 Health from in or about 2003 until in or about 2016 was retained despite the fact that she was
19 – in or about 2008– criminally charged with welfare fraud and perjury and pleaded guilty to
20 welfare fraud. On information and belief, during the time she was employed by the UC
21 Regents, this nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why
22 such an individual would be hired into a position of trust, with access to private patient
23 medical and personal information. Nor is it clear why such a person would be called upon to
24 act as a chaperone and purportedly safeguard women’s well-being and safety.

25 41. In addition, on information and belief, during the time in which she was
26 employed by UCLA as a nurse/chaperone in the office of Dr. Heaps, this nurse/chaperone was
27 charged with driving under the influence of alcohol and was again (the next year) charged
28 with driving under the influence of drugs and alcohol. On information and belief, in both

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 47. Plaintiff Doe 11 is informed and believes, and on that basis alleges, that
4 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State
5 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
6 of California to practice medicine, and was the employee and/or agent of the UC Regents.

7 48. Plaintiff Doe 11 is ignorant of the true name of the female nurses/chaperones
8 that were in the room during Dr. Heaps' sexual battery and harassment of Plaintiff Doe 11,
9 and therefore sues these defendants as Roes 1-5. Upon information and belief, Plaintiff Doe
10 alleges that Roes 1-5 were nurses employed by the UC Regents. Plaintiff Doe 11 will amend
11 this Complaint to allege Defendants Roes 1-5's true names and capacities when it has been
12 ascertained or upon proof at trial. Plaintiff Doe 11 alleges that Roes 1-5 are legally
13 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
14 and severally liable.

15 49. Plaintiff Doe 11 is ignorant of the true names and capacities of defendants sued
16 as Roe Nos. 6 through 20, inclusive, and sues these Roe defendants by these fictitious names.
17 Plaintiff Doe 11 will amend this Complaint to allege their true names and capacities when they
18 have been ascertained or upon proof at trial. Plaintiff Doe 11 alleges that each of the
19 fictitiously named Roe defendants is legally responsible in some manner for the occurrences
20 and damages alleged herein and/or is jointly and severally liable for the obligations of the
21 other defendants.

22 50. Plaintiff Doe 11 is informed and believes, and based thereon alleges, that at all
23 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
24 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
25 and that in doing the things alleged, was acting within the course, scope and authority of such
26 agency, employment, supervision, management, ownership and joint venture, and with the
27 consent and permission of each of the other Defendants. Unless otherwise indicated, all
28 Defendants, including the Roe Defendants, are collectively referred to herein as the

1 “Defendants.”

2 51. Plaintiff Doe 11 is informed and believes, and on that basis alleges, that, in
3 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
4 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other
5 employees, including but not limited to the female chaperones who were in the examination
6 room at the time of Dr. Heaps’ examination of Plaintiff Doe 11—as more particularly
7 described above, pursuant to the doctrine of *respondeat superior* and Cal. Gov’t Code § 815.2.
8 Dr. Heaps, the female chaperone, and others were acting in the course and scope of their
9 employment at the time of the allegations herein.

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

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

17 **JURISDICTION AND VENUE**

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

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

22 56. At least some of the wrongful acts alleged herein occurred in the County of Los
23 Angeles; thus venue is properly in the County of Los Angeles.

24 **FIRST CAUSE OF ACTION**

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

26 57. Plaintiff Doe 11 incorporates Paragraphs 1 through 56 as though fully set forth
27 herein.

28 58. Plaintiff Doe 11’s civil rights were violated by Defendants when they abused

1 and harassed Plaintiff Doe 11 and when they intentionally and fraudulently concealed
2 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
3 Heaps from other patients. Plaintiff had a right to be free from gender discrimination, sexual
4 molestation, abuse and harassment under the Unruh Civil Rights Act.

5 59. The Defendants were acting under the color of their authority and in the scope of
6 their employment, during the instances when Plaintiff Doe 11 was a patient at UCLA Health.

7 60. The Defendants denied Plaintiff full and equal accommodations, advantages,
8 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
9 unfettered access to sexually abuse Plaintiff Doe 11, by and through his position of authority
10 as a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
11 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
12 UC Regents ratified.

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

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

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

28 64. As a further direct and proximate result of Defendants' collective and concerted

1 wrongful actions, as herein alleged, Plaintiff Doe 11 has been hurt in her health, strength and
2 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
3 person, which has caused and continues to cause great mental and physical pain, suffering,
4 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event
5 less than the jurisdictional minimum requirements of this Court.

6 **SECOND CAUSE OF ACTION**

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

8 65. Plaintiff Doe 11 incorporates Paragraphs 1 through 64 as though fully set forth
9 herein.

10 66. Defendants' actions, as alleged herein, have had and will continue to interfere
11 with Plaintiff Doe 11's right to be free from gender discrimination in the form of sexual
12 harassment, codified under Cal. Civ. Code § 52.1.

13 67. During Plaintiff Doe 11's time as a patient at UCLA Health, Defendants
14 engaged in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe 11, as well
15 as ignoring, concealing, and suppressing other patients' complaints of being sexually exploited
16 and abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive
17 behavior violated Plaintiff Doe 11's right to be free from discrimination on the basis of her
18 gender, under Cal. Civ. Code § 52.1.

19 68. Defendants' wrongful conduct was intended to, and did successfully interfere
20 with Plaintiff Doe 11's Constitutional Rights to be free from gender discrimination and
21 harassment, as well as interfered with her rights of Due Process under the United States'
22 Constitution, specifically the Fifth and Fourteenth Amendments.

23 69. Defendants unlawfully and wrongfully used, or employed others to wrongfully
24 use, threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
25 Plaintiff, who did not have knowledge that the conduct in which Defendants were engaging
26 was not medically necessary, had no relief except to submit to the Defendants' wrongful
27 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiff's
28 submission involuntary.

1 70. Defendants’ above-noted actions were the legal and proximate causes of
2 physical, psychological, and emotional damages to Plaintiff Doe 11, who has suffered and
3 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe 11
4 incurring, and will require her to incur into the future, expenses for medical and psychological
5 treatment, therapy, and counseling.

6 71. As a result of the above-described conduct, Plaintiff suffered and continues to
7 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
11 has incurred and will continue to incur expenses for medical and psychological treatment,
12 therapy, and counseling.

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

23 73. In subjecting Plaintiff Doe 11 to the wrongful treatment herein described,
24 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
25 disregard of Plaintiff Doe 11’s rights, so as to constitute malice and oppression under
26 California Civil Code section 3294. Plaintiff Doe 11 is therefore entitled to the recovery of
27 punitive damages against Dr. Heaps, in an amount to be determined according to proof.

28 ///

1 **THIRD CAUSE OF ACTION**

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

3 **Civil Code § 51.9)**

4 74. Plaintiff Doe 11 incorporates Paragraphs 1 through 73 as though fully set forth
5 herein.

6 75. During Plaintiff Doe 11's time as a patient at UCLA Health, Defendants
7 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
8 harmful and offensive contact with intimate parts of Plaintiff Doe 11's person, including but
9 not limited to sexual touching of her genitals during a routine pelvic examination and grabbing
10 and fondling of Plaintiff Doe 11's breast, without medical justification, all while Dr. Heaps
11 acted in the course and scope of his employment with the UC Regents. Female chaperones
12 who were at times in the room during Plaintiff Doe 11's examinations by Dr. Heaps sat
13 silently as Plaintiff Doe 11 was mistreated.

14 76. The incidents of abuse outlined herein took place while Plaintiff Doe 11 was
15 under the control of Dr. Heaps and Defendant UC Regents in their capacities and positions as
16 a 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 77. Because of Plaintiff Doe 11's relationships with Defendants Dr. Heaps and the
19 UC Regents, Dr. Heaps' status as a prominent and highly compensated gynecologist employed
20 by the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
21 physician, and Plaintiff Doe 11's vulnerability as a gynecological patient, Plaintiff Doe 11 was
22 unable to easily terminate the relationship she had with the Defendants.

23 78. Because of Dr. Heaps' status, position of authority, physical seclusion of
24 Plaintiff Doe 11, her mental and emotional state, vulnerable position and the fact that she did
25 not understand that Dr. Heaps' conduct was not medically necessary she was unable to, did
26 not, and could not, give consent to such acts.

27 79. Even though Defendant UC Regents knew or should have known of these
28 pervasive, illegal and inappropriate activities by Dr. Heaps, the UC Regents did nothing to

1 84. During the course of treatment of Plaintiff Doe 11, Dr. Heaps used his powers
2 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 11,
3 to sexually batter Plaintiff Doe 11, knowing that she would be vulnerable to this type of sexual
4 battery. Dr. Heaps engaged in sexual touching (including touching designed to sexually
5 stimulate Plaintiff Doe 11) during a routine pelvic exam and conducted a breast “examination”
6 which involved overly-lengthy grabbing and fondling of Plaintiff Doe 11’s breast, without
7 medical justification, all while Dr. Heaps acted in the course and scope of his employment
8 with the UC Regents.

9 85. The female chaperones who were at times in the room during these visits
10 enabled the sexual battery and assault of Plaintiff Doe 11 by failing to reasonably perform
11 their duties as chaperones and failing to raise any alarms during Dr. Heaps’ misconduct or
12 take any other reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 11.

13 86. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
14 11 and had she not been treated by Defendants, she would have never permitted such sexual
15 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
16 touching and battery upon her person.

17 87. Plaintiff Doe 11 did not consent to the sexualized touching and sexual contact.

18 88. Dr. Heaps’ conduct was within the course and scope of his employment with
19 Defendants, and each of them, and was ratified by Defendants and each of them who had
20 advance notice of this misconduct. All of the conduct occurred during the course and scope of
21 Dr. Heaps’ employment at UCLA. Plaintiff suffered severe emotional distress and physical
22 injury as a result of Dr. Heaps’ misconduct and damages as otherwise alleged in this
23 complaint. In addition, at the time she was in the examination room and while she was
24 witnessing Dr. Heaps’ battery of Plaintiff Doe, the female chaperones were acting in the
25 course and scope of their employment with UCLA.

26 89. Defendant UC Regents is vicariously liable for the conduct alleged herein
27 because, even though Defendant UC Regents knew of these pervasive, illegal and
28 inappropriate activities by Dr. Heaps, the UC Regents did nothing to investigate, supervise or

1 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
2 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
3 gynecological patients, including imposition of a policy providing for the mandatory presence
4 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
5 the context of gynecological examinations and procedures. Defendant UC Regents also failed
6 adequately (or at all) to train its employees and agents in how to recognize and report any
7 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps
8 to continue to perform gynecological examinations of female patients despite knowledge that
9 he had committed battery and sexual battery and assault in the past.

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

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

20 92. Dr. Heaps’ conduct alleged herein was despicable, and was done willfully and/or
21 with a conscious disregard of Plaintiff’s rights, and/or intentionally, or maliciously, or in
22 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
23 each of them, were in a special relationship with Plaintiff Doe 11 by virtue of the fact that she
24 was a patient at UCLA Health and receiving their services.

25 93. Defendants, and each of them, further knew that Plaintiff Doe 11 was especially
26 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
27 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
28 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the

1 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
 2 Plaintiff Doe 11, and failing to take proper steps to protect Plaintiff Doe 11 and other patients.
 3 It was reasonably foreseeable Plaintiff Doe 11 would receive physical injury and severe
 4 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
 5 this regard was done with the intent to cause injury to Plaintiff Doe 11 and/or done with a
 6 conscious disregard of the rights and safety of Plaintiff.

7 94. In subjecting Plaintiff Doe 11 to the wrongful treatment herein described,
 8 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
 9 conscious disregard of Plaintiff Doe 11's rights, so as to constitute malice and oppression
 10 under California Civil Code section 3294. Plaintiff Doe 11 is therefore entitled to the
 11 recovery of punitive damages against Defendant Heaps, in an amount to be determined
 12 according to proof.

13 **FIFTH CAUSE OF ACTION**

14 **(Sexual Battery against All Defendants: Civil Code Section 1108.5)**

15 95. Plaintiff Doe 11 incorporates Paragraphs 1 through 94 as though fully set forth
 16 herein.

17 96. During Plaintiff Doe 11's time as a patient with Defendants, Dr. Heaps
 18 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 11 now understands were
 19 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
 20 Doe 11's person, including but not limited to sexual touching (including touching designed to
 21 sexually stimulate Plaintiff Doe 11) during a routine pelvic exam and a breast "examination"
 22 which involved overly-lengthy grabbing and fondling of Plaintiff Doe 11's breast, without
 23 medical justification, all while Dr. Heaps acted in the course and scope of his employment
 24 with the UC Regents. The female chaperones who were at times in the room during these
 25 visits enabled the sexual battery and assault of Plaintiff Doe 11 by failing to reasonably
 26 perform their duties as a chaperone and failing to raise any alarms during Dr. Heaps'
 27 misconduct or take any other reasonably expected actions to prevent the harm inflicted upon
 28 Plaintiff Doe 11.

1 97. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
2 offensive contact with an intimate part of Plaintiff Doe 11's person that would offend a
3 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
4 contact with an intimate part of Plaintiff Doe 11's person that would offend a reasonable sense
5 of personal dignity.

6 98. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
7 11 and had she not been treated by Defendants, she would have never permitted such sexual
8 contact by Dr. Heaps.

9 99. Plaintiff Doe 11 did not consent to this sexualized touching and sexual contact.

10 100. Dr. Heaps' conduct was within the course and scope of his employment with
11 Defendants, and each of them, and was ratified by Defendants and each of them who had
12 advance notice of this misconduct. All of the conduct occurred during the course and scope of
13 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
14 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
15 complaint.

16 101. At the time she was in the examination room and while they were witnessing
17 Dr. Heaps' battery of Plaintiff Doe 11, the female chaperones were acting in the course and
18 scope of their employment with UCLA.

19 102. Defendant UC Regents is vicariously liable for the conduct alleged herein
20 because, even though Defendant UC Regents knew of these pervasive, illegal and
21 inappropriate activities by Dr. Heaps, the UC regents did nothing to investigate, supervise or
22 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
23 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
24 gynecological patients, including imposition of a policy providing for the mandatory presence
25 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
26 the context of gynecological examinations and procedures. Defendant UC Regents also failed
27 adequately (or at all) to train its employees and agents in how to recognize and report any
28 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps

1 to continue to perform gynecological examinations of female patients despite knowledge that
2 he had committed battery and sexual battery and assault in the past.

3 103. In doing the acts alleged herein, Dr. Heaps used the power and authority
4 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
5 Doe 11. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
6 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
7 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
8 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
9 engaging in assaultive conduct. As Such, Dr. Heaps conduct is incident to his agency with the
10 UC Regents, so as to be fairly attributable to them.

11 104. As a proximate result of the above, Plaintiff Doe 11 suffered damages as
12 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
13 conduct, Plaintiff Doe 11 sustained serious and permanent injury to her person, all of his
14 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

15 105. Plaintiff Doe 11 is informed and believes and based thereon alleges that the
16 conduct of Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and
17 done in conscious disregard for the rights and safety of others, and was carried out with a
18 conscious disregard of Plaintiff Doe 11's right to be free from tortious behavior, such as to
19 constitute oppression, fraud, or malice pursuant to California Civil Code section 3294,
20 entitling Plaintiff Doe 11 to punitive damages against Dr. Heaps in an amount appropriate to
21 punish and set an example of Dr. Heaps and send a cautionary message to others similarly
22 situated.

23 **SIXTH CAUSE OF ACTION**

24 **(Intentional Infliction of Emotional Distress against All Defendants)**

25 106. Plaintiff Doe 11 incorporates Paragraphs 1 through 105 as though fully set forth
26 herein.

27 107. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 11,
28 as described herein, was outrageous and extreme.

1 108. A reasonable person would not expect or tolerate the sexual harassment,
2 exploitation, molestation, and abuse of Plaintiff Doe 11 by Dr. Heaps, nor tolerate or expect
3 the UC Regents’ knowledge of, and callous indifference to, the abuse. Plaintiff Doe 11 had
4 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
5 has now turned to fear, shame, and humiliation.

6 109. A reasonable person would not expect or tolerate the UC Regents placing
7 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
8 patients—in a position of care of Plaintiff Doe 11, which enabled Dr. Heaps to have access to
9 Plaintiff Doe 11 so that he could commit wrongful sexual acts, including the conduct described
10 herein.

11 110. A reasonable person would not expect or tolerate the Defendants, their agents,
12 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
13 from committing wrongful sexual acts with patients, including Plaintiff Doe 11, or to be
14 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
15 chaperone whose presence was supposed to ensure Plaintiff Doe 11’s comfort and safety
16 during a gynecological exam would sit idly by and not say anything while Plaintiff Doe 11
17 was being sexually abused by a physician. A reasonable person would not expect that UCLA
18 would not vet its nurse/chaperones to determine whether they have criminal histories and
19 remove them from their positions when it is clear that they have alcohol and drug
20 dependencies. Indeed the presence of the silent chaperone has now further exacerbated
21 Plaintiff Doe 11’s extreme embarrassment and harm as she was subjected to what she now
22 understands to be misconduct with a silent audience.

23 111. Defendants’ conduct described herein was intentional and malicious and done
24 for the purpose of causing or with the substantial certainty that Plaintiff Doe 11 would suffer
25 humiliation, mental anguish, and emotional and physical distress.

26 112. As a result of the above-described conduct, Plaintiff Doe 11 has suffered and
27 continues to suffer great pain of mind and body, shock, emotional distress, physical
28 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,

1 shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
2 prevented and will continue to be prevented from performing daily activities and obtaining the
3 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
4 psychological treatment, therapy, and counseling.

5 113. In subjecting Plaintiff Doe 11 to the wrongful treatment described herein,
6 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe 11, and in
7 conscious disregard of her rights, so as to constitute malice and oppression under California
8 Civil Code section 3294. Plaintiff Doe 11 is therefore entitled to recover punitive damages
9 against Defendant Heaps, in an amount to be determined by the court.

10 **SEVENTH CAUSE OF ACTION**

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

12 114. Plaintiff Doe 11 incorporates Paragraphs 1 through 113 as though fully set forth
13 herein.

14 115. A reasonable person would not expect or tolerate the sexual harassment,
15 exploitation, molestation, and abuse of Plaintiff Doe 11 by Dr. Heaps, nor tolerate or expect
16 the UC Regents' knowledge of and callous indifference to the abuse. Plaintiff Doe 11 had
17 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
18 turned to fear, shame, and humiliation.

19 116. A reasonable person would not expect or tolerate the UC Regents placing
20 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
21 patients—in a position of care of Plaintiff Doe 11, which enabled Dr. Heaps to have access to
22 Plaintiff Doe 11 so that he could commit wrongful sexual acts, including the conduct described
23 herein.

24 117. A reasonable person would not expect or tolerate the Defendants, their agents,
25 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
26 from committing wrongful sexual acts with patients, including Plaintiff Doe 11, or to be
27 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
28 chaperone whose presence was supposed to ensure Plaintiff Doe 11's comfort and safety

1 during a gynecological exam would sit idly by and not say anything while Plaintiff Doe 11
2 was being sexually abused by a physician. A reasonable person would not expect that UCLA
3 would not vet its nurse/chaperones to determine whether they have criminal histories and
4 remove them from their positions when it is clear that they have alcohol and drug
5 dependencies. Indeed looking back now on what she understands to be sexual abuse, the
6 presence of the silent chaperone has further exacerbated Plaintiff Doe 11's extreme
7 embarrassment and harm as she was subjected to the misconduct with a silent audience.

8 118. Defendants had a special relationship with Plaintiff Doe 11 and/or had
9 undertaken an obligation to her that necessarily implicated Plaintiff Doe 11's emotional well-
10 being. Specifically, Defendants had a duty to take reasonable measures to prevent harm to
11 Plaintiff Doe 11.

12 119. There was an especially likely risk that Defendants' negligent actions and
13 inactions would cause serious emotional distress to Plaintiff Doe 11. Defendants' failure to
14 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
15 Plaintiff Doe 11 tremendous harm.

16 120. Defendants' negligence was a substantial factor in causing Plaintiff Doe 11
17 serious emotional distress.

18 **EIGHTH CAUSE OF ACTION**

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

20 121. Plaintiff Doe 11 incorporates Paragraphs 1 through 120 as though fully set forth
21 herein.

22 122. By virtue of Plaintiff Doe 11's special relationship with the UC Regents as a
23 patient, and the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiff Doe 11 a duty
24 not to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
25 knew or should have known about.

26 123. Defendants expressly and implicitly represented that Dr. Heaps was a legitimate
27 gynecologist, and not a sexual threat to his female patients. As discussed throughout,
28 Dr. Heaps was well-compensated (a fact that was publically reported) and was acclaimed on

1 UCLA' websites as a highly skilled and professional physician.

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

7 125. The UC Regents were aware, or should have been aware, and understood how
8 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
9 and abuse by physicians and other persons of authority within the control of the UC Regents
10 prior to Plaintiff Doe 11's sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
11 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
12 female gynecological patients, including imposition of a policy providing for the mandatory
13 presence of an independent, properly trained chaperone, to prevent, deter and report any
14 misconduct in the context of gynecological examinations and procedures. Defendant UC
15 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
16 and report any sexual or medical battery or harassment.

17 126. In fact, on information and belief, Defendant UC Regents knowingly hired at
18 least one individual which the UC Regents knew or should have known had a history of
19 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
20 Dr. Heaps' office—was arrested multiple times for DUI's stemming from alcohol and
21 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
22 appropriate and skilled staff who could properly oversee intimate examinations and protect
23 female patients.

24 127. The UC Regents were put on notice, and should have known, that Dr. Heaps had
25 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
26 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
27 or would engage in, misconduct directed towards Plaintiff Doe 11 and others, under the
28 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,

1 their agents, servants, and employees.

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

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

11 130. The UC Regents' conduct in enabling Dr. Heaps to serially sexually assault his
12 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
13 to Plaintiff Doe 11.

14 131. Because the UC Regents:

- 15 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
16 being committed by Dr. Heaps;
- 17 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
18 reporting him to the California State Medical Board as mandated by Federal
19 Laws;
- 20 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
21 exploit, abuse, and harass female patients by failing to take any of the above
22 action;
- 23 (d) Consciously and intentionally kept all of Dr. Heaps' exploitive, abusive,
24 and harassing behaviors secrets from patients and the public at large; and
- 25 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
26 intimate examinations and report misbehavior;

27 the UC Regents have enabled and permitted the conduct of Dr. Heaps as set forth herein.

28 132. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was

1 sexually exploiting, abusing, and harassing female patients and refused to 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 continue to interact with patients, including Plaintiff Doe 11.
6 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'
7 acts of sexual exploitation, sexual assault, battery, and harassment.

8 133. As a result of the above-described conduct, Plaintiff Doe 11 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; has suffered and continues to suffer and was
12 prevented and will continue to be prevented from performing daily activities and obtaining the
13 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
14 psychological treatment, therapy, and counseling.

15 **NINTH CAUSE OF ACTION**

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

17 134. Plaintiff Doe 11 incorporates Paragraphs 1 through 133 as though fully set forth
18 herein.

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

25 136. Defendants and each of them were agents, principals, joint venturers, partners,
26 representatives, servants, employees and/or co-conspirators of each of the other Defendants,
27 each Defendant condoned and ratified the conduct of all other defendants, and was at all times
28 mentioned herein acting within the course and scope of said agency and employment,

1 authority and ratification.

2 137. The UC Regents learned Dr. Heaps had molested or was molesting female
3 patients during his employment. Defendants had knowledge of inappropriate conduct, and
4 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
5 continue interacting with patients, including Plaintiff Doe 11.

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

10 139. In fact, on information and belief, Defendant UC Regents knowingly hired at
11 least one individual which the UC Regents knew or should have known had a history of
12 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
13 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and
14 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
15 appropriate and skilled staff who could properly oversee intimate examinations and protect
16 female patients.

17 140. The UC Regents’ conduct in enabling Dr. Heaps to serially sexually assault his
18 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
19 to Plaintiff Doe 11.

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

- 1 (d) Consciously and intentionally kept all of Dr. Heaps' exploitative, abusive,
2 and harassing behaviors secrets from patients and the public at large; and
3 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
4 intimate examinations and report misbehavior.

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

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

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

21 **TENTH CAUSE OF ACTION**

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

23 144. Plaintiff Doe 11 incorporates Paragraphs 1 through 143 as though fully set forth
24 herein.

25 145. Defendant UC Regents owed Plaintiff Doe 11 a duty to take reasonable
26 protective measures to safeguard Plaintiff and other female patients from the risk of sexual
27 battery by Dr. Heaps by properly warning, training or educating others, including their own
28 medical personnel, medical staff, administrators, and other agents, servants, and/or employees

1 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
2 conduct is witnessed, reported, and/or discovered.

3 146. Defendant UC Regents breached its duty to take reasonable measures to protect
4 Plaintiff Doe 11 and other female patients from the risk of sexual harassment and abuse by
5 Dr. Heaps, such as the failure to properly warn, Plaintiff and other patients about Dr. Heaps.

6 147. Defendant UC Regents breached its duty to take reasonable protective measures
7 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
8 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
9 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe
10 11.

11 148. In fact, on information and belief, Defendant UC Regents knowingly hired at
12 least one individual which the UC Regents knew or should have known had a history of
13 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
14 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and
15 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
16 appropriate and skilled staff who could properly oversee intimate examinations and protect
17 female patients.

18 149. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
19 exposed Plaintiff Doe 11 and other patients to sexual battery and abuse.

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

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ELEVENTH CAUSE OF ACTION

(Ordinary Negligence against Defendants UC Regents and Roes)

151. Plaintiff Doe 11 incorporates Paragraphs 1 through 150 as though fully set forth herein.

152. Defendants committed the negligent acts and/or negligent failures to act, as set forth above, and those acts caused the emotional and physical harm endured by Plaintiff Doe 11.

153. Defendants owed Plaintiff a duty of care to act.

154. Defendants breached that duty of care by way of their conduct and failed to exercise reasonable care, as detailed and alleged above.

155. For example, the chaperones who were at times in the room during Dr. Heaps' sexual assault and harassment of Plaintiff Doe 11 acted negligently, in that they failed to reasonably perform their duties as a chaperone and failed to act as a reasonably prudent person. The chaperones failed to raise any alarms during Dr. Heaps' misconduct or take any other reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 11, despite the fact that (a) the purpose of the chaperones was to protect Plaintiff Doe 11 and ensure that she was comfortable and safe during the gynecological visit; and (b) the chaperones were aware of the lack of medical necessity of Dr. Heaps' touching and questioning of Plaintiff Doe 11. Further, the chaperones did not report Dr. Heaps' misconduct. At the time they were in the examination room and while she was silently witnessing Dr. Heaps' infliction of harm to Plaintiff Doe 11, the female chaperones were acting in the course and scope of their employment with UCLA.

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

1 psychological treatment, therapy, and counseling.

2 **TWELFTH CAUSE OF ACTION**

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

4 157. Plaintiff Doe 11 incorporates Paragraphs 1 through 156 as though fully set forth
5 herein.

6 158. By (a) holding Dr. Heaps out as an agent and trusted employee of UCLA Health,
7 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
8 such as Plaintiff; and (c) holding themselves out as a preeminent healthcare facility and
9 provider, Defendants entered into a confidential, fiduciary and special relationship with
10 Plaintiff.

11 159. Defendants breached their confidential, fiduciary and special duties to Plaintiff
12 by the wrongful and negligent conduct described above, and in doing so gained an advantage
13 over Plaintiff in matters relating to Plaintiff’s safety, security, and health.

14 160. By virtue of their confidential, fiduciary, and special relationship with Plaintiff,
15 Defendants owed Plaintiff a duty to:

- 16 (a) promptly and thoroughly investigate claims of sexual abuse or
17 harassment committed by its employees, agents, or affiliates (such as Dr.
18 Heaps) and reveal any such negative findings to Plaintiff, the
19 community, the Medical Board, and law enforcement;
- 20 (b) refuse to place Dr. Heaps in a position of trust and authority within the
21 UC Regents’ controlled and affiliated institutions and facilities;
- 22 (c) refuse to hold Dr. Heaps out to Plaintiff, other patients, students, and the
23 community at large as being a trustworthy physician in good standing, a
24 faculty member, and authority figure; and
- 25 (d) promptly disclose to Plaintiff, UCLA students, and the community at
26 large the reasons for his “retirement” in June 2018.

27 161. On information and belief, Defendants breached their respective duties by:

- 28 (a) failing to promptly and thoroughly investigate claims of sexual abuse or

- 1 harassment against Dr. Heaps;
- 2 (b) failing to disclose to Plaintiff, UCLA students, and the community at
- 3 large the reasons for Dr. Heaps' retirement in June 2018;
- 4 (c) issuing no warnings about Dr. Heaps;
- 5 (d) permitting Dr. Heaps to routinely examine gynecological patients either
- 6 entirely unsupervised or supervised by untrained chaperones who were
- 7 derelict in their duty to report Dr. Heaps;
- 8 (e) failing to adopt policies that mandated the use of chaperones at all
- 9 gynecological visits or properly training their chaperones;
- 10 (f) hiring at least one nurse/chaperone with a history of criminality and who,
- 11 on information and belief, had alcohol and prescription drug addictions
- 12 during the time in which she was rendering nurse and chaperone services
- 13 to patients, including Plaintiff Doe 11;
- 14 (g) continuing to assign Dr. Heaps to duties which placed him in positions
- 15 of trust and authority over other patients;
- 16 (h) continuing to impliedly represent that Dr. Heaps was safe and morally fit
- 17 to give medical care and provide gynecological treatment; and
- 18 (i) continuing to promote Dr. Heaps as a faculty member and trusted
- 19 physician on the UCLA School of Medicine website even after he had
- 20 forcibly "retired."

21 162. Defendant made affirmative or implied representations and nondisclosures of

22 material facts about Dr. Heaps and his suitability to provide gynecological care to patients,

23 and knowingly and intentionally suppressed material facts about past allegations of

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

25 163. Given her need for medical treatment, and her trust and care in Defendants,

26 Plaintiff was vulnerable to Defendants.

27 164. At the time Defendants engaged in such suppression and acts of concealment,

28 such acts were done for the purpose of causing Plaintiff to forebear on her rights.

1 165. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and
2 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

3 166. The misrepresentations, suppressions, and concealment of facts by Defendants
4 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
5 no knowledge of any misconduct by Dr. Heaps.

6 167. Defendants knew or should have known at the time they suppressed and/or
7 concealed the true facts about Dr. Heaps that the resulting impressions were misleading.

8 168. On information and belief, Defendants suppressed and concealed the true facts
9 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and
10 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and
11 abuse patients, (b) inducing Plaintiff and other people to participate and financially support
12 Defendants’ programs and enterprises; (c) preventing further reports and investigations of
13 Defendants’ misconduct; (d) avoiding damage to Defendants’ reputations; and (e) protecting
14 Defendants’ power, status, and reputation in the community.

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

19 170. Plaintiff was misled by Defendants’ suppression and acts of concealment, and in
20 reliance thereon, was induced to act or not act as intended by Defendants. Specifically,
21 Plaintiff was induced to believe there were no allegations of prior misconduct against
22 Dr. Heaps and that he was safe to be around patients and students. Had Plaintiff known the
23 true facts about Dr. Heaps, she would not have seen him for gynecological or other medical
24 care, and she would have acted sooner in reporting him or pursuing her claims.

25 171. As a direct and proximate result of the UC Regents’ actions and/or inactions,
26 Plaintiff has been damaged as more fully set forth above.

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WHEREFORE, Plaintiff Doe 11 prays for a jury trial and for judgment against Defendants as follows:

FOR ALL CAUSES OF ACTION

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

DATED: August 16, 2019 THEODORA ORINGER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 11

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 11 hereby demands a trial by jury in this action.

DATED: August 16, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 11