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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 **19STCV29269**

13 JANE DOE 12,

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.

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
- (13) Unfair Business Practices (Business & Professions Code § 17200)
- (14) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 12,¹ an individual (“Plaintiff Doe 12” or “Plaintiff” or “Doe 12”)
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 12 was a gynecological patient at UCLA Health (“UCLA Health”
8 or “UCLA”) when she was sexually abused, molested and harassed at the hands of serial
9 sexual 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 3. Dr. Heaps engaged in horrific action — when Plaintiff saw him for treatment, he
15 took advantage of her trust and reliance on him to abuse and molest her during a routine visit.
16 At her appointment, Dr. Heaps groped and massaged Plaintiff’s breasts in a manner which
17 Plaintiff Doe 12 has come to understand was sexual in nature and not medically necessary.
18 Plaintiff now understands that this breast “exam” was designed to gratify Dr. Heaps. In
19 addition, Dr. Heaps rested an ungloved hand high up on her inner thigh while speaking to her
20 for an extended period of time (and while her feet were in stirrups and she was fully exposed
21 to Dr. Heaps). In speaking to her while she was in this position and he was touching her,
22 Plaintiff Doe 12 now believes that Dr. Heaps sought to distract and reassure her that his
23 conduct was medically appropriate, which she now understands that it was not. Moreover, a
24 nurse present in the room during this “examination” stared blankly while Dr. Heaps engaged
25 in what Plaintiff Doe 12 now believes was misconduct and gave no indication to Plaintiff Doe
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 12 that there was anything wrong or inappropriate occurring.

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, 2017 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 12 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. As
26 stated above, on information and belief, even though the abuse inflicted upon Plaintiff Doe 12
27 occurred in the presence of a chaperone, the chaperone—who, on information and belief was
28 supervised by Dr. Heaps—did not act to stop the incident or report the incident to authorities.

1 8. As described herein, on information and belief, Plaintiff has now come to
2 understand that one nurse/chaperone in particular was involved in abusive and medical
3 unnecessary conduct. This chaperone had a history of criminality prior to being hired by
4 UCLA and eventually left her job with Dr. Heaps after voluntarily surrendering her nursing
5 licenses as a result of drug (including prescription drug) and alcohol abuse and DUI's. The
6 fact that UCLA would hire and retain such an individual purportedly to watch over and care
7 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 12 is not one of Dr. Heaps' powerful
27 Hollywood patients. She is the owner of a small business who now struggles to keep her
28 business afloat while dealing with the aftermath of Dr. Heaps' abuse.

1 16. In that role, on information and belief, Dr. Heaps continued to provide
2 gynecological services to women, including Plaintiff Doe 12, at his office located at 100
3 Medical Plaza in Westwood. On further information and belief, Dr. Heaps had privileges at
4 Ronald Reagan UCLA Medical Center from 1988 to 2018, where he performed procedures
5 and provided services to hospitalized female patients. On further information and belief,
6 Dr. Heaps was a professor at the University of California Los Angeles David Geffen School of
7 Medicine from 1989 until 2018.

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

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

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

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

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

28 21. It is unknown to Plaintiff Doe 12 what background information the UC Regents

1 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
2 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any
3 independent investigation of Dr. Heaps or his background when they sought to employ him to
4 provide gynecological services to female patients at his UCLA Health office and at Ronald
5 Reagan UCLA Medical Center.

6 22. Plaintiff is informed and believes, and on this basis alleges, however, that the
7 California Medical Board investigated Dr. Heaps in or about 2014—during, on information
8 and belief—a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
9 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).
10 On information and belief, the 2014 Medical Board investigation arose from an allegation that
11 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
12 On information and belief, the UC Regents had knowledge that the 2014 Medical Board
13 Investigation was taking place at the time that it was ongoing. On information and belief, the
14 UC Regents failed to take corrective action.

15 23. In or about January 2015, during Dr. Heaps’ tenure at UCLA Health, a report of
16 sexually inappropriate conduct by Dr. Heaps was posted on Yelp, a public review website.
17 The young woman who posted on Yelp stated that the misconduct she alleged, which included
18 Dr. Heaps groping her breast and making inappropriate comments during a post-operative
19 appointment with her, had occurred several years prior to her Yelp post and while she was a
20 UCLA student. The woman who posted on Yelp detailed her experience with this harassment
21 and molestation by Dr. Heaps and its aftermath, stating that, “7 years later, I still feel
22 violated.”

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

1 25. In or about early December 2017, a patient of Dr. Heaps complained to UCLA
 2 in detail about the verbal and physical sexual harassment and abuse that she had been forced
 3 to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr. Heaps’ conduct,
 4 allowing him to continue practicing and seeing patients uninterrupted for the better part of a
 5 year. Those patients—likely hundreds in number—were seeking routine care and were
 6 unwittingly exposed to a serious threat of lasting harm. Notwithstanding these complaints—
 7 and despite being on notice of Dr. Heaps’ malfeasance—the UC Regents continued to employ
 8 or otherwise affiliate with Dr. Heaps and ratify his conduct, allowing him to maintain his
 9 practice and see patients, which he did until mid-2018.

10 26. Plaintiff is further informed and believes that, in or before mid-2018, the UC
 11 Regents were informed of an employee complaint against Dr. Heaps involving sexual
 12 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
 13 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

14 27. The UC Regents failed to take prompt action in response to complaints received
 15 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
 16 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
 17 including young female students at UCLA and female patients at UCLA Health.

18 **Plaintiff Doe 12 Is Sexually Battered and Harassed by Dr. Heaps**
 19 **During a Routine Gynecological Examination**

20 28. Doe 12 decided to make an appointment with Dr. Heaps because she had a
 21 history of pre-cancerous cervical cells, and was seeking treatment from a gynecologist
 22 specializing in oncology. Plaintiff Doe 12, believing that Dr. Heaps was a skilled specialist,
 23 placed her trust in him. Dr. Heaps therefore garnered Plaintiff Doe 12’s trust and confidence,
 24 which he then took advantage of in order to sexually abuse and harass her.

25 29. At an appointment with Dr. Heaps, in or about August 2016, Dr. Heaps
 26 performed a pelvic exam on Plaintiff Doe 12. Following this internal examination, Dr. Heaps
 27 asked Doe 12 to sit up and drop her hospital gown to her waist. Dr. Heaps then groped and
 28 massaged Plaintiff Doe 12’s breasts— using both hands at once to push her breasts together, in

1 a lengthy “examination.” Plaintiff now understands that this conduct was designed to gratify
2 Dr. Heaps and was both grossly inappropriate and medically unnecessary. A female
3 chaperone who was in the room at the time of Plaintiff Doe’s examination by Dr. Heaps was
4 silent as Plaintiff Doe was mistreated. Dr. Heaps also spoke to Plaintiff Doe 12 while resting
5 an ungloved hand high on her inner thigh, very close to her external genitalia, for an extended
6 period of time while her feet were in stirrups and she was fully exposed to Dr. Heaps. Dr.
7 Heaps talked to Plaintiff Doe 12 while touching her with his ungloved hand, in a manner
8 which Plaintiff Doe 12 now believes was designed to distract her and lull her into a belief that
9 Dr. Heaps was acting in a medically appropriate manner.

10 30. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
11 providing services to patients through UCLA Health. On information and belief, on or about
12 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
13 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
14 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
15 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
16 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
17 patients of Dr. Heaps, UCLA Health was aware of specific allegations against Dr. Heaps and
18 of the then-ongoing California Medical Board Investigation of Dr. Heaps. Plaintiff Doe 12
19 received this letter in or about June 2018.

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

27 32. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
28 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of

1 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
 2 Doe 12 and other patients (including students) from further harm after reports—and formal
 3 California Medical Board investigations—of Dr. Heaps’ sexual assault of patients.

4 33. As discussed throughout, Defendant UC Regents also failed to put in place
 5 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
 6 imposition of a policy providing for the mandatory presence of an independent and
 7 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
 8 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
 9 at all) to train its employees and agents in how to recognize and report any sexual or medical
 10 battery or harassment.

11 34. The female chaperone who was in the room during Dr. Heaps’ sexual battery
 12 and harassment of Plaintiff Doe 12 acted recklessly and negligently, in that she failed to
 13 reasonably perform her duties as a chaperone and failed to act with the ordinary care one
 14 would expect. The chaperone—on information and belief, an employee of the UC Regents—
 15 failed to raise any alarms during Dr. Heaps’ misconduct (which she witnessed) or take any
 16 other reasonably expected actions to prevent or stop the misconduct, despite being aware of
 17 the lack of medical necessity of Dr. Heaps’ touching and comments to Plaintiff Doe 12.
 18 Further, on information and belief, the chaperone did not report Dr. Heaps’ misconduct.

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

24 36. On information and belief, this nurse/chaperone employed by UCLA Health
 25 from in or about 2003 until in or about 2016 was retained despite the fact that she had was – in
 26 or about 2008– criminally charged with welfare fraud and perjury and pleaded guilty to
 27 welfare fraud. On information and belief, during the time she was employed by the UC
 28 Regents, this nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why

1 such an individual would be hired into a position of trust, with access to private patient
2 medical and personal information. Nor is it clear why such a person would be called upon to
3 act as a chaperone and purportedly safeguard women’s well-being and safety.

4 37. In addition, on information and belief, during the time in which she was
5 employed by UCLA as a nurse/chaperone in the office of Dr. Heaps, this nurse/chaperone was
6 charged with driving under the influence of alcohol and was again (the next year) charged
7 with driving under the influence of drugs and alcohol. On information and belief, in both
8 instances, the nurse/chaperone pleaded no contest in response to the charges.

9 38. As a result of these charges, on information and belief, the Board of Vocational
10 Nursing and Psychiatric Technicians, Department of Consumer Affairs, initiated proceedings
11 against this individual’s nursing license (the “Accusation”). The Accusation alleges that this
12 nurse/chaperone’s medical records indicated that she took a bottle of Xanax pills causing her
13 to “black out” while driving. The Accusation also alleges that an outpatient program
14 diagnosed her with “unspecified alcohol dependence, unspecified drinking behavior, and
15 sedative, hypnotic, or anxiolytic dependence.” Quite obviously, the UC Regents was on
16 notice that this nurse was unfit to perform the duties for which she was employed, including
17 chaperoning gynecological procedures and providing medical treatment to patients.

18 39. Dr. Heaps’ misconduct, the chaperone’s silence and inaction—and the UC
19 Regents’ cover up—has resulted in tremendous harm to Plaintiff Doe. The physical and
20 psychological aftermath of her appointment with Dr. Heaps has been severe for Plaintiff Doe.
21 She has suffered from shock, humiliation, embarrassment and other forms of severe emotional
22 distress. This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other
23 physical and psychological manifestations of the distress caused by Defendants’ egregious
24 acts.

25 **THE PARTIES**

26 40. Plaintiff Jane Doe 12 currently resides in the County of Los Angeles, State of
27 California.

28 41. Defendant UC Regents is, and at all times relevant hereto was, a California

1 Corporation having its principal place of business in the State of California. Upon information
2 and belief, the UC Regents is the governing body of the University of California and exercises
3 the ultimate dominion and control of the same. UCLA is an educational institution of higher
4 learning.

5 42. Plaintiff Doe 12 is informed and believes, and on that basis alleges, that UC
6 Regents owned, operated, and maintained UCLA Health, through which medical services
7 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
8 of Health and provided health care as healthcare facilities.

9 43. Plaintiff Doe 12 is informed and believes, and on that basis alleges, that
10 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State
11 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
12 of California to practice medicine, and was the employee and/or agent of the UC Regents.

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

21 45. Plaintiff Doe 12 is ignorant of the true names and capacities of defendants sued
22 as Roe Nos. 6 through 20, inclusive, and sues these Roe defendants by these fictitious names.
23 Plaintiff Doe 12 will amend this Complaint to allege their true names and capacities when they
24 have been ascertained or upon proof at trial. Plaintiff Doe 12 alleges that each of the
25 fictitiously named Roe defendants is legally responsible in some manner for the occurrences
26 and damages alleged herein and/or is jointly and severally liable for the obligations of the
27 other defendants.

28 46. Plaintiff Doe 12 is informed and believes, and based thereon alleges, that at all

1 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
2 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
3 and that in doing the things alleged, was acting within the course, scope and authority of such
4 agency, employment, supervision, management, ownership and joint venture, and with the
5 consent and permission of each of the other Defendants. Unless otherwise indicated, all
6 Defendants, including the Roe Defendants, are collectively referred to herein as the
7 “Defendants.”

8 47. Plaintiff Doe 12 is informed and believes, and on that basis alleges, that, in
9 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
10 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other
11 employees, including but not limited to the female chaperone who was in the examination
12 room at the time of Dr. Heaps’ examination of Plaintiff Doe 12—as more particularly
13 described above, pursuant to the doctrine of *respondeat superior* and Cal. Gov’t Code § 815.2.
14 Dr. Heaps, the female chaperone, and others were acting in the course and scope of their
15 employment at the time of the allegations herein.

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

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

23 **JURISDICTION AND VENUE**

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

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

28 52. At least some of the wrongful acts alleged herein occurred in the County of Los

1 Angeles; thus venue is properly in the County of Los Angeles.

2 **FIRST CAUSE OF ACTION**

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

4 53. Plaintiff Doe 12 incorporates Paragraphs 1 through 52 as though fully set forth
5 herein.

6 54. Plaintiff Doe 12's civil rights were violated by Defendants when they abused
7 and harassed Plaintiff Doe 12 and when they intentionally and fraudulently concealed
8 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
9 Heaps from other patients. Plaintiff had a right to be free from gender discrimination, sexual
10 molestation, abuse and harassment under the Unruh Civil Rights Act.

11 55. The Defendants were acting under the color of their authority and in the scope of
12 their employment, during the instances when Plaintiff Doe 12 was a patient at UCLA Health.

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

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

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

1 65. Defendants unlawfully and wrongfully used, or employed others to wrongfully
2 use, threats, intimidation, harassment, violence, and coercion over Plaintiff’s person, to which
3 Plaintiff, who did not have knowledge that the conduct in which Defendants were engaging
4 was not medically necessary, had no relief except to submit to the Defendants’ wrongful
5 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiff’s
6 submission involuntary.

7 66. Defendants’ above-noted actions were the legal and proximate causes of
8 physical, psychological, and emotional damages to Plaintiff Doe 12, who has suffered and
9 continues to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe
10 12 incurring, and will require her to incur into the future, expenses for medical and
11 psychological treatment, therapy, and counseling.

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

19 68. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
20 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
21 Plaintiff Doe 12’s rights, entitling Plaintiff Doe 12 to compensatory damages in a sum to be
22 shown according to proof, emotional distress damages in a sum to be shown according to
23 proof, punitive and/or exemplary damages (with regard to Dr. Heaps), attorney’s fees, other
24 damages pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a
25 preliminary or permanent injunction ordering Defendants to refrain from conduct or activities
26 as alleged herein, stating “VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE
27 UNDER SECTION 422.77 OF THE PENAL CODE,” and other such relief as the court deems
28 proper.

1 physician and as supervisors of physicians, medical professionals, and other staff at
2 Defendants’ premises, and while acting specifically on behalf of Defendants’ herein.

3 74. Because of Plaintiff Doe’s relationships with Defendants Dr. Heaps and the UC
4 Regents, Dr. Heaps’ status as a prominent and highly compensated gynecologist employed by
5 the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
6 physician, and Plaintiff Doe 12’s vulnerability as a gynecological patient, Plaintiff Doe was
7 unable to easily terminate the relationship she had with the Defendants.

8 75. Because of Dr. Heaps’ status, position of authority, physical seclusion of
9 Plaintiff Doe, her mental and emotional state, vulnerable position and the fact that she did not
10 understand that Dr. Heaps’ conduct was not medically necessary she was unable to, did not,
11 and could not, give consent to such acts.

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

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

1 78. Defendants’ conduct (and the conduct of their agents, servants and/or
2 employees) was a breach of their duties to Plaintiff Doe 12.

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

10 **FOURTH CAUSE OF ACTION**

11 **(Battery against All Defendants)**

12 80. Plaintiff Doe incorporates Paragraphs 1 through 79 as though fully set forth
13 herein.

14 81. During the course of treatment of Plaintiff Doe 12, Dr. Heaps used his powers
15 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 12,
16 to sexually batter Plaintiff Doe 12, knowing that she would be vulnerable to this type of sexual
17 battery. Dr. Heaps groped and massaged Plaintiff Doe 3’s breasts– using both hands at once
18 to push her breasts together, in a lengthy “examination” which Plaintiff now understands was
19 designed to gratify Dr. Heaps and was both grossly inappropriate and medically unnecessary,
20 all under the supervision of Defendant the UC Regents. Dr. Heaps also touched an area high
21 on Plaintiff Doe 12’s inner thigh with his ungloved hand for an extended period of time while
22 Plaintiff Doe 12 was fully exposed to him– which Plaintiff Doe 12 now understands was
23 without medical justification.

24 82. The female chaperone who was in the room during the visit enabled the sexual
25 battery and assault of Plaintiff Doe 12 by failing to reasonably perform her duties as a
26 chaperone and failing to raise any alarms during Dr. Heaps’ misconduct or take any other
27 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 12.

28 83. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe

1 12 and had she not been treated by Defendants, she would have never permitted such sexual
2 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
3 touching and battery upon her person.

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

5 85. Dr. Heaps' conduct was within the course and scope of his employment with
6 Defendants, and each of them, and was ratified by Defendants and each of them who had
7 advance notice of this misconduct. All of the conduct occurred during the course and scope of
8 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
9 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
10 complaint. In addition, at the time she was in the examination room and while she was
11 witnessing Dr. Heaps' battery of Plaintiff Doe, the female chaperone was acting in the course
12 and scope of her employment with UCLA.

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

25 87. In doing the acts alleged herein, Dr. Heaps used the power and authority
26 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
27 Doe 12. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
28 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—

1 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
2 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
3 engaging in assaultive conduct. As such, Dr. Heaps' conduct is incident to his agency with the
4 UC Regents, so as to be fairly attributable to them.

5 88. As a proximate result of the above, Plaintiff Doe 12 suffered damages as
6 otherwise alleged in this Complaint.

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

12 90. Defendants, and each of them, further knew that Plaintiff Doe was especially
13 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
14 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
15 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
16 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
17 Plaintiff Doe 12, and failing to take proper steps to protect Plaintiff Doe 12 and other patients.
18 It was reasonably foreseeable Plaintiff Doe 12 would receive physical injury and severe
19 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
20 this regard was done with the intent to cause injury to Plaintiff Doe 12 and/or done with a
21 conscious disregard of the rights and safety of Plaintiff.

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

28

1 **FIFTH CAUSE OF ACTION**

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

3 92. Plaintiff Doe 12 incorporates Paragraphs 1 through 91 as though fully set forth
4 herein.

5 93. During Plaintiff Doe 12’s time as a patient with Defendants, Dr. Heaps
6 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 12 now understands were
7 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
8 Doe’s person, including but not limited to: groping and massaging Plaintiff Doe 3’s breasts–
9 using both hands at once to push her breasts together, in a lengthy “examination.” Plaintiff
10 now understands that this conduct was designed to gratify Dr. Heaps and was both grossly
11 inappropriate and medically unnecessary. Dr. Heaps also touched an area high on Plaintiff
12 Doe 12’s inner thigh – which Plaintiff Doe 12 now understands was without medical
13 justification– with his ungloved hand for an extended period of time while Plaintiff Doe 12
14 was fully exposed to him. The female chaperone who was in the room during the visit
15 enabled the sexual battery and assault of Plaintiff Doe by failing to reasonably perform her
16 duties as a chaperone and failing to raise any alarms during Dr. Heaps’ misconduct or take any
17 other reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 12.

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 12’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 12’s person that would offend a reasonable sense
22 of personal dignity.

23 95. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
24 12 and had she not been treated by Defendants, she would have never permitted such sexual
25 contact by Dr. Heaps.

26 96. Plaintiff Doe 12 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 they were witnessing
6 Dr. Heaps' battery of Plaintiff Doe 12, the female chaperone was acting in the course and
7 scope of her employment with UCLA.

8 99. Defendant UC Regents is vicariously liable for the conduct alleged herein
9 because, even though Defendant UC Regents knew of these pervasive, illegal and
10 inappropriate activities by Dr. Heaps, the UC regents did nothing to investigate, supervise or
11 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
12 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
13 gynecological patients, including imposition of a policy providing for the mandatory presence
14 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
15 the context of gynecological examinations and procedures. Defendant UC Regents also failed
16 adequately (or at all) to train its employees and agents in how to recognize and report any
17 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps
18 to continue to perform gynecological examinations of female patients despite knowledge that
19 he had committed battery and sexual battery and assault in the past.

20 100. In doing the acts alleged herein, Dr. Heaps used the power and authority
21 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
22 Doe 12. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
23 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
24 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
25 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
26 engaging in assaultive conduct. As Such, Dr. Heaps conduct is incident to his agency with the
27 UC Regents, so as to be fairly attributable to them.

28 101. As a proximate result of the above, Plaintiff Doe 12 suffered damages as

1 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps’
2 conduct, Plaintiff Doe 12 sustained serious and permanent injury to her person, all of his
3 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

4 102. Plaintiff Doe 12 is informed and believes and based thereon alleges that the
5 conduct of Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and
6 done in conscious disregard for the rights and safety of others, and was carried out with a
7 conscious disregard of Plaintiff Doe 12’s right to be free from tortious behavior, such as to
8 constitute oppression, fraud, or malice pursuant to California Civil Code section 3294,
9 entitling Plaintiff Doe to punitive damages against Dr. Heaps in an amount appropriate to
10 punish and set an example of Dr. Heaps and send a cautionary message to others similarly
11 situated.

12 **SIXTH CAUSE OF ACTION**

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

14 103. Plaintiff Doe 12 incorporates Paragraphs 1 through 102 as though fully set forth
15 herein.

16 104. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 12,
17 as described herein, was outrageous and extreme.

18 105. A reasonable person would not expect or tolerate the sexual harassment,
19 exploitation, molestation, and abuse of Plaintiff Doe 12 by Dr. Heaps, nor tolerate or expect
20 the UC Regents’ knowledge of, and callous indifference to, the abuse. Plaintiff Doe 12 had
21 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
22 has now turned to fear, shame, and humiliation.

23 106. A reasonable person would not expect or tolerate the UC Regents placing
24 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
25 patients—in a position of care of Plaintiff Doe 12, which enabled Dr. Heaps to have access to
26 Plaintiff Doe 12 so that he could commit wrongful sexual acts, including the conduct described
27 herein.

28 107. A reasonable person would not expect or tolerate the Defendants, their agents,

1 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
2 from committing wrongful sexual acts with patients, including Plaintiff Doe 12, or to be
3 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
4 chaperone whose presence was supposed to ensure Plaintiff Doe 12's comfort and safety
5 during a gynecological exam would stay silent while Plaintiff Doe 12 was being sexually
6 abused by a physician. A reasonable person would not expect that UCLA would not vet its
7 nurse/chaperones to determine whether they have criminal histories and remove them from
8 their positions when it is clear that they have alcohol and drug dependencies. Indeed the
9 presence of the silent chaperone has now further exacerbated Plaintiff Doe 12's extreme
10 embarrassment and harm as she was subjected to what she now understands to be misconduct
11 with a silent audience.

12 108. Defendants' conduct described herein was intentional and malicious and done
13 for the purpose of causing or with the substantial certainty that Plaintiff Doe 12 would suffer
14 humiliation, mental anguish, and emotional and physical distress.

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

22 110. In subjecting Plaintiff Doe 12 to the wrongful treatment described herein,
23 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe 12, and in
24 conscious disregard of her rights, so as to constitute malice and oppression under California
25 Civil Code section 3294. Plaintiff Doe 12 is therefore entitled to recover punitive damages
26 against Defendant Heaps, in an amount to be determined by the court.

27
28

SEVENTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress against all Defendants)

111. Plaintiff Doe 12 incorporates Paragraphs 1 through 110 as though fully set forth herein.

112. A reasonable person would not expect or tolerate the sexual harassment, exploitation, molestation, and abuse of Plaintiff Doe 12 by Dr. Heaps, nor tolerate or expect the UC Regents’ knowledge of and callous indifference to the abuse. Plaintiff Doe 12 had great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct, turned to fear, shame, and humiliation.

113. A reasonable person would not expect or tolerate the UC Regents placing Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other patients—in a position of care of Plaintiff Doe 12, which enabled Dr. Heaps to have access to Plaintiff Doe 12 so that he could commit wrongful sexual acts, including the conduct described herein.

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

115. Defendants had a special relationship with Plaintiff Doe 12 and/or had undertaken an obligation to her that necessarily implicated Plaintiff Doe 12’s emotional well-

1 being. Specifically, Defendants had a duty to take reasonable measures to prevent harm to
2 Plaintiff Doe 12 and to protect her from Dr. Heaps.

3 116. There was an especially likely risk that Defendants' negligent actions and
4 inactions would cause serious emotional distress to Plaintiff Doe 12. Defendants' failure to
5 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
6 Plaintiff Doe 12 tremendous harm.

7 117. Defendants' negligence was a substantial factor in causing Plaintiff Doe serious
8 emotional distress.

9 **EIGHTH CAUSE OF ACTION**

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

11 118. Plaintiff Doe 12 incorporates Paragraphs 1 through 117 as though fully set forth
12 herein.

13 119. By virtue of Plaintiff Doe 12's special relationship with the UC Regents as a
14 patient, and the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
15 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
16 knew or should have known about.

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

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

26 122. The UC Regents were aware, or should have been aware, and understood how
27 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
28 and abuse by physicians and other persons of authority within the control of the UC Regents

1 prior to Plaintiff Doe 12’s sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
2 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
3 female gynecological patients, including imposition of a policy providing for the mandatory
4 presence of an independent, properly trained chaperone, to prevent, deter and report any
5 misconduct in the context of gynecological examinations and procedures. Defendant UC
6 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
7 and report any sexual or medical battery or harassment.

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

15 124. The UC Regents were put on notice, and should have known, that Dr. Heaps had
16 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
17 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
18 or would engage in, misconduct directed towards Plaintiff Doe 12 and others, under the
19 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,
20 their agents, servants, and employees.

21 125. The UC Regents were placed on actual or constructive notice that Dr. Heaps had
22 molested or was molesting female patients during his employment. Defendants had
23 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
24 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
25 Plaintiff Doe.

26 126. Despite the fact that the UC Regents knew, or should have known, of these
27 sexually exploitive activities being perpetrated by Dr. Heaps, the UC Regents failed to use
28 reasonable care in investigating Dr. Heaps and did nothing to reasonably investigate,

1 supervise, monitor, or terminate Dr. Heaps to ensure the safety of their patients.

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

5 128. Because the UC Regents:

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

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

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

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

16 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
17 intimate examinations and report misbehavior;

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

19 129. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
20 sexually exploiting, abusing, and harassing female patients and refused to take any action to
21 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
22 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
23 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
24 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 12.
25 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'
26 acts of sexual exploitation, sexual assault, battery, and harassment.

27 130. As a result of the above-described conduct, Plaintiff Doe 12 has suffered and
28 continues to suffer great pain of mind and body, shock, emotional distress, physical

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

6 **NINTH CAUSE OF ACTION**

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

8 131. Plaintiff Doe 12 incorporates Paragraphs 1 through 130 as though fully set forth
9 herein.

10 132. At all times relevant herein, each Defendant was the agent, partner, joint
11 venturer, representative, servant, employee and/or co-conspirator of each of the other
12 Defendants, and was at all times mentioned herein acting within the course and scope of said
13 agency and employment, and that all acts or omissions alleged herein were duly committed
14 with the ratification, knowledge, permission, encouragement authorization and consent of
15 each Defendant designated herein.

16 133. Defendants and each of them were agents, principals, joint venturers, partners,
17 representatives, servants, employees and/or co-conspirators of each of the other Defendants,
18 each Defendant condoned and ratified the conduct of all other defendants, and was at all times
19 mentioned herein acting within the course and scope of said agency and employment,
20 authority and ratification.

21 134. The UC Regents learned Dr. Heaps had molested or was molesting female
22 patients during his employment. Defendants had knowledge of inappropriate conduct, and
23 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
24 continue interacting with patients, including Plaintiff Doe.

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

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

8 137. The UC Regents’ conduct in enabling Dr. Heaps to serially sexually assault his
9 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
10 to Plaintiff Doe 12.

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

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

25 139. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps
26 was sexually exploiting, abusing, and harassing female patients and refused take any action to
27 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
28 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With

1 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
2 Regents and he was allowed to be alone with gynecological patients. The UC Regents, their
3 agents, servants, and/or employees thus approved, ratified, and are responsible for Dr. Heaps'
4 acts of sexual exploitation, sexual assault, battery, and sexual harassment.

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

12 **TENTH CAUSE OF ACTION**

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

14 141. Plaintiff Doe 12 incorporates Paragraphs 1 through 140 as though fully set forth
15 herein.

16 142. Defendant UC Regents owed Plaintiff Doe 12 a duty to take reasonable
17 protective measures to safeguard Plaintiff and other female patients from the risk of sexual
18 battery by Dr. Heaps by properly warning, training or educating others, including their own
19 medical personnel, medical staff, administrators, and other agents, servants, and/or employees
20 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
21 conduct is witnessed, reported, and/or discovered.

22 143. Defendant UC Regents breached its duty to take reasonable measures to protect
23 Plaintiff Doe 12 and other female patients from the risk of sexual harassment and abuse by
24 Dr. Heaps, such as the failure to properly warn, Plaintiff and other patients about Dr. Heaps.

25 144. Defendant UC Regents breached its duty to take reasonable protective measures
26 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
27 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
28 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe

1 12.

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

9 146. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
10 exposed Plaintiff Doe 12 and other patients to sexual battery and abuse.

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

18 **ELEVENTH CAUSE OF ACTION**

19 **(Ordinary Negligence against Defendants UC Regents and Roes)**

20 148. Plaintiff Doe 12 incorporates Paragraphs 1 through 147 as though fully set
21 forth herein.

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

24 150. Defendants owed Plaintiff a duty of care to act.

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

27 152. For example, the chaperone who was in the room during Dr. Heaps’ sexual
28 assault and harassment of Plaintiff Doe 12 acted negligently, in that she failed to reasonably

1 perform her duties as a chaperone and failed to act as a reasonably prudent person. The
 2 chaperone failed to raise any alarms during Dr. Heaps’ misconduct or take any other
 3 reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 12, despite the fact
 4 that (a) the purpose of the chaperone was to protect Plaintiff Doe 12 and ensure that she was
 5 comfortable and safe during the gynecological visit; and (b) the chaperone was aware of the
 6 lack of medical necessity of Dr. Heaps’ touching and questioning of Plaintiff Doe 12. Further,
 7 the chaperone did not report Dr. Heaps’ misconduct. At the time they were in the examination
 8 room and while she was silently witnessing Dr. Heaps’ infliction of harm to Plaintiff Doe 12,
 9 the female chaperone was acting in the course and scope of her employment with UCLA.

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

17 **TWELFTH CAUSE OF ACTION**

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

19 154. Plaintiff Doe 12 incorporates Paragraphs 1 through 153 as though fully set forth
 20 herein.

21 155. California Civil Code § 52.4 provides that gender violence is a form of sexual
 22 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
 23 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”
 24 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
 25 § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
 26 gender violence may bring a civil action for damages against any responsible party, and may
 27 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

28 156. Plaintiff Doe 12 is female.

1 and abuse of patients in a reasonable manner, as is customary in similar healthcare and
2 student-active environments. Further, Plaintiff is informed and believes, and on that basis
3 alleges, that Defendants engaged in unlawful, unfair, and/or deceptive business practices by
4 concealing the aforementioned sexual harassment, abuse, and/or molestation in order to retain
5 other patients who were not apprised of such misconduct.

6 162. Plaintiff is informed and believes, and on that basis alleges, that Defendants
7 engaged in a common scheme, arrangement or plan to actively conceal allegations against
8 sexual abusers like Dr. Heaps who were employees, agents, members, and/or otherwise
9 affiliated with UCLA Health or the UC Regents so that Defendants could maintain their public
10 image, be insulated from public scrutiny and embarrassment, and otherwise avoid the
11 detection of such abuse and abusers, all in an effort to project a false sense of safety and
12 security for patients and students and benefit financially.

13 163. By engaging in the unlawful, unfair, and/or deceptive business practices
14 described above, Defendants benefitted financially to the detriment of competitors and the
15 public.

16 164. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
17 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiff
18 and the public.

19 165. Plaintiff seeks restitution of all amounts improperly obtained by Defendants
20 through the use of the above-described unlawful, unfair and/or deceptive business practices, as
21 well as disgorgement of any ill-gotten gains on behalf of Plaintiff and all others similarly
22 situated.

23 166. Pursuant to Section 17203 of the California Business & Professions Code and
24 available equitable powers of the Court, Plaintiff is entitled to and seeks an injunction
25 enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business
26 practices. Further, Plaintiff is entitled to recover reasonable attorneys' fees pursuant to the
27 California Business & Professions Code and California Code of Civil Procedure § 1021.5.

28

FOURTEENTH CAUSE OF ACTION

(Constructive Fraud against all Defendants)

167. Plaintiff Doe 12 incorporates Paragraphs 1 through 166 as though fully set forth herein.

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

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

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

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

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

- (a) failing to promptly and thoroughly investigate claims of sexual abuse or harassment against Dr. Heaps;

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

20 172. Defendant made affirmative or implied representations and nondisclosures of
21 material facts about Dr. Heaps and his suitability to provide gynecological care to patients,
22 and knowingly and intentionally suppressed material facts about past allegations of
23 misconduct against Dr. Heaps that the UC Regents knew or should have known about.

24 173. Given her need for medical treatment, and her trust and care in Defendants,
25 Plaintiff was vulnerable to Defendants.

26 174. At the time Defendants engaged in such suppression and acts of concealment,
27 such acts were done for the purpose of causing Plaintiff to forebear on her rights.

28 175. Defendants' conduct did reasonably cause Plaintiff to forebear on her rights, and

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

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

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

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

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

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

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

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WHEREFORE, Plaintiff Doe 12 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 19, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 12

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 12 hereby demands a trial by jury in this action.

DATED: August 19, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 12

