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

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

12 **19STCV32867**

13 JANE DOE 17,

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 (Civil Code § 52.4)
- (13) Sexual Assault
- (14) Unfair Business Practices (Business & Professions Code § 17200)
- (15) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 17,¹ an individual (“Plaintiff Doe 17” or “Plaintiff” or “Doe 17”)
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 17 was a gynecological patient at UCLA Health (“UCLA Health”
8 or “UCLA”) and loyal UCLA employee (who worked at UCLA Health for thirty years before
9 her recent retirement) when she was sexually abused, molested and harassed at the hands of
10 serial sexual predator Defendant Dr. 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 repeatedly sexually abused Doe 17
16 under the guise of providing gynecological care and cancer screening to Plaintiff Doe 17,
17 whose mother battled two bouts of cancer, the disease which eventually took her life. Dr.
18 Heaps used the trust garnered over a 30-year patient/physician relationship to begin sexually
19 molesting Plaintiff on numerous occasions. Plaintiff Doe 17 also now believes that Dr. Heaps
20 subjected her to overly-frequent ovarian cancer screening because such appointments allowed
21 him the opportunity to engage in touching of a sexual nature during transvaginal ultrasound
22 examinations and to fondle her breasts.

23 4. Shamefully, Plaintiff is now informed and believes that the UC Regents and Dr.
24 Heaps also profited financially from the sexual abuse, harassment and mistreatment which
25 Plaintiff Doe 17 endured. Plaintiff Doe 17 is now informed and believes that Dr. Heaps’
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 insistence that she needed to have transvaginal ultrasound procedures every six months
2 because of her purported ovarian cancer risk, was not medically sound and was greatly
3 excessive.

4 5. As such, Plaintiff Doe 17 must now live with the understanding that she was
5 subjected to painful and uncomfortable procedures and inconvenience, as well as the
6 concomitant worry and anxiety involved in cancer testing, for reasons that had nothing at all to
7 do with appropriate medical care. Rather, on information and belief, Dr. Heaps had dual
8 motives – financial gain from overbilling and the opportunity to sexually abuse Plaintiff Doe
9 17. On information and belief, as discussed throughout, it is clear that the UC Regents (who
10 employed Plaintiff Doe 17 for decades and whom she trusted) were willing – and did—protect
11 Dr. Heaps from being exposed as a sexual predator because the Regents profited to the tune of
12 millions of dollars from this gross misconduct.

13 6. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
14 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
15 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
16 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
17 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the
18 Sacramento Bee entitled, All 35 of the University of California’s highest-paid employees in
19 2016 were men. Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
20 was listed in the Hollywood Reporter’s annual Best Doctors in Los Angeles issue in 2015.

21 7. Perhaps because of the millions of dollars in income that he generated for UCLA
22 and the fact that he had powerful patients and was celebrated in the community (as recent
23 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
24 failed to protect Plaintiff Doe 17 or other vulnerable women from Dr. Heaps.

25 8. In fact, UCLA allowed Dr. Heaps to continue to examine female gynecological
26 patients despite a history of similar complaints of misconduct and abuse, including (1) a
27 California Medical Board investigation in 2014 (at or near the time that UCLA apparently
28 acquired Dr. Heaps’ practice), which on information and belief involved allegations of sexual

1 misconduct during a patient examination; (2) at least one claim that he sexually harassed and
2 molested a UCLA student that was posted online in a public forum in early 2015; (3) and a
3 highly credible report in January 2017 from a UCLA Health employee herself certified to
4 chaperone intimate examinations at UCLA (who went to Dr. Heaps as a patient) that Dr.
5 Heaps had sexually molested her.

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

15 10. As described herein, on information and belief, one nurse/chaperone was
16 involved in criminal conduct during the time she was employed by UCLA. On information
17 and belief, she eventually left her job with Dr. Heaps after voluntarily surrendering her
18 nursing licenses as a result of drug (including prescription drug) and alcohol abuse and DUI’s.
19 The fact that UCLA would hire and retain such an individual purportedly to watch over and
20 care for female patients is both highly troubling and actionable.

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

1 financial coffers.

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

10 13. Dr. Heaps’ actions and the inaction of the UC Regents and its employees (both
11 before and after Plaintiff’s horrific encounters with Dr. Heaps as described herein), have
12 caused Plaintiff Doe 17 tremendous and lasting harm, including feelings of fear and
13 powerlessness, symptoms of post-traumatic stress disorder, and other physical and emotional
14 manifestations of the severe emotional distress that she has suffered.

15 14. Dr. Heaps has now been arrested and charged with multiple felony counts,
16 including in connection with alleged sexual battery of his patients. When Dr. Heaps was
17 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents
18 changed course, then issuing a public statement contending that Dr. Heaps was “terminated”
19 and that UCLA has purportedly taken corrective action. This communication was circulated
20 to the UCLA “Campus Community” by the UCLA Chancellor and Vice Chancellor, UCLA
21 Health Services. This is a far cry from the previous communication to patients announcing
22 Dr. Heaps’ “retirement,” a communication that failed to alert the community to his misconduct
23 or offer any assistance or support to Plaintiff Doe 17 or other victims.

24 15. Only when Dr. Heap’s arrest became public, did Plaintiff Doe 17 come to
25 understand what had been done to her by Dr. Heaps’ misconduct and UCLA’s inaction. Only
26 in the last few weeks has Plaintiff Doe 17 come to realize that she was subjected to
27 unnecessary “examinations” that Dr. Heaps conduct in those exams was inappropriate and of a
28 sexual nature, including molesting her under the guise of providing medical care. She has also

1 come to realize that Dr. Heaps’ claim that she needed such frequent “examinations” was
2 grossly overblown, as a way to manipulate her into allowing him purportedly to care for her
3 and return to his office on a frequent basis.

4 16. Perhaps equally troubling, when Plaintiff Doe 17 received the letter from UCLA
5 informing her that Dr. Heaps was “retiring” she was shocked, but she has now come to learn
6 that Dr. Heaps was under active investigation at the time that Plaintiff Doe 17 saw him for the
7 last time—at which appointment he touched her in a sexual manner. In fact, Dr. Heaps ceased
8 practicing at UCLA just a few months after Plaintiff Doe 17’s last appointment at his office.

9 17. Quite clearly, at the time of Plaintiff Doe 17’s final appointment with Dr. Heaps,
10 the decision had been made at UCLA that Dr. Heaps inappropriate sexual conduct merited his
11 termination, yet UCLA allowed Dr. Heaps unfettered access to Plaintiff Doe 17 and other
12 vulnerable patients. Had Plaintiff Doe 17 had knowledge of this investigation, of the
13 allegations that had been made against Dr. Heaps and of the fact that UCLA had already
14 concluded that Dr. Heaps constituted a threat to patient safety so as to merit his termination,
15 quite obviously she would never have consented to further examination or treatment by him.
16 Plaintiff Doe 17 was not given such a choice by UCLA and suffered further sexual abuse as a
17 result, abuse which has resulted in serious harm now and continuing into the future.

18 **BACKGROUND FACTS**

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

20 18. Dr. Heaps completed his internship and residency as an obstetrician-
21 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
22 1983–1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
23 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
24 further information and belief, in or about February 2014, Dr. Heaps’ private practice was
25 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
26 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

27 19. In that role, on information and belief, Dr. Heaps continued to provide
28 gynecological services to women, including Plaintiff Doe 17, at his office located at 100

1 Medical Plaza in Westwood. On further information and belief, Dr. Heaps had privileges at
2 Ronald Reagan UCLA Medical Center from 1988 to 2018, where he performed procedures
3 and provided services to hospitalized female patients. On further information and belief,
4 Dr. Heaps was a professor at the University of California Los Angeles David Geffen School of
5 Medicine from 1989 until 2018.

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

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

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

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

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

26 24. It is unknown to Plaintiff Doe 17 what background information the UC Regents
27 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
28 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any

1 independent investigation of Dr. Heaps or his background when they sought to employ him to
2 provide gynecological services to female patients at his UCLA Health office and at Ronald
3 Reagan UCLA Medical Center.

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

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

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

27 28. On information and belief, in or about January 2017, a UCLA Health employee
28 (who went to Dr. Heaps for her personal medical care), herself certified to chaperone intimate

1 examinations at UCLA Health, reported to her supervisor (a managerial employee of the
2 Regents) that Dr. Heaps had sexually abused and harassed her during a routine gynecological
3 procedure. On further information and belief, the Regents did nothing to investigate these
4 allegations. Nor, on information and belief, did the Regents report the allegations to the
5 California Medical Board or to law enforcement or take any actions to protect the employee or
6 other patients of Dr. Heaps—including Plaintiff Doe 17 and likely hundreds of women who
7 were examined by Dr. Heaps until his forced “retirement” in or about June 2018— from
8 ongoing sexual abuse.

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

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

23 31. The UC Regents failed to take prompt action in response to complaints received
24 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
25 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
26 including young female students at UCLA and female patients at UCLA Health.

27 32. Plaintiff Doe 17 is further informed and believes that UCLA’s own internal
28 investigation of Dr. Heaps’ practices and billing found that he systemically overbilled

1 patients, their private insurance companies and Medicare and other public agencies, including
 2 by representing that he personally provided patient procedures or services that he did not and
 3 by assigning improper “billing codes” by which patients were overbilled for services. The
 4 report further recommends that UCLA Health issue refunds to those affected. The internal
 5 UCLA Health System Office of Compliance Services also stated in a confidential
 6 memorandum that Dr. Heaps had “an unusually high utilization rate” for transvaginal
 7 ultrasounds and colposcopies, which are both procedures which are expensive, uncomfortable
 8 and which cause significant anxiety and worry for patients about results.

9 33. On information and belief, Plaintiff Doe 17 was over-treated and overcharged by
 10 UCLA and Dr. Heaps. Because she trusted in his skills as a physician (and specifically as an
 11 oncologist), Dr. Heaps was able to convince Plaintiff Doe 17 that she in fact needed
 12 transvaginal ultrasounds on a very frequent basis. This subjected Plaintiff Doe 17 to
 13 unnecessary physical pain and discomfort in connection with these procedures and exams,
 14 worry, anxiety and concern about potential results and – far worse—gave Dr. Heaps additional
 15 opportunities to sexually abuse and harass her with impunity.

16 **Plaintiff Doe 17 Is Sexually Battered and Harassed by Dr. Heaps**
 17 **During Routine Gynecological Procedures**

18 34. For approximately 30 years, beginning in or about the early 1990’s, Plaintiff
 19 Doe 17 received routine gynecological treatment from Dr. Heaps, over which time Dr. Heaps
 20 garnered Plaintiff’s trust. As early as 1997, when Dr. Heaps recommended that Plaintiff Doe
 21 17 have a hysterectomy as a result of her severe uterine fibroids, however, Dr. Heaps engaged
 22 repeatedly in what Plaintiff Doe 17 now understands was inappropriate and harassing conduct.
 23 Prior to the surgical procedure, for example, Plaintiff made certain inquiries of Dr. Heaps
 24 about post-operative expectations, including regarding whether she would experience any
 25 change in sexual response. Dr. Heaps responded, whispering to her that he “hears it’s even
 26 better.” Nonetheless, Dr. Heaps successfully performed the hysterectomy and continued to
 27 garner Plaintiff Doe 17’s trust in his skills and competence for many years thereafter.

28 35. Years later, from in or about 2014 to her last visit on or about February 1, 2018,

1 however, Dr. Heaps continued abusing Plaintiff Doe 17's trust and engaging in a pattern of
2 sexual abuse and harassment. Not surprisingly, because of the long-standing physician/patient
3 relationship and the level of trust Plaintiff placed in Dr. Heaps, Plaintiff continued to seek
4 medical care from Defendant as detailed below. Only after the criminal investigation was
5 reported in the news did Plaintiff Doe 17 realize the wrongfulness of Dr. Heaps' behavior
6 during these examinations.

7 36. At certain of these appointments, Dr. Heaps groped and massaged Plaintiff Doe
8 17's breasts— using both hands at once to push her breasts together, in a lengthy “examination”
9 that Plaintiff now understands was both grossly inappropriate and medically unnecessary. Dr.
10 Heaps would perform these “exams” while Plaintiff Doe 17 was sitting upright and would
11 often again grab, massage and “play with” one or both of her breasts while talking to Plaintiff
12 Doe 17 during her appointment. Dr. Heaps often spoke to Plaintiff Doe 17 during these breast
13 “exams,” distracting Plaintiff Doe 17 and lulling her into a belief that nothing inappropriate or
14 sexual in nature was in fact occurring. During these “examinations,” there were sometimes
15 female chaperones present. However, the chaperones looked away or appeared uninterested.
16 The chaperones did nothing to intervene or stop the abuse and, on information and belief, did
17 not report the abuse. The conduct of the chaperones likewise lulled Plaintiff Doe 17 into a
18 belief that nothing inappropriate was occurring during these “exams.”

19 37. At certain of these appointments, Dr. Heaps also performed overly-lengthy
20 pelvic examinations, which were aggressive in nature. During the course of these pelvic
21 “exams” Dr. Heaps would touch Plaintiff Doe 17 in a manner which she now believes was
22 intended to sexually stimulate her and gratify Dr. Heaps.

23 38. Insisting to her that she had a high risk of ovarian cancer due to obesity, Dr.
24 Heaps told Plaintiff Doe 17 that she needed transvaginal ultrasounds to screen for ovarian
25 cancer three times per year in or about 2014 and 2015 and then twice a year beginning in or
26 about 2016 and thereafter. Transvaginal ultrasound is a routine procedure which involves the
27 insertion into the vagina of an ultrasound wave-producing device, called a transducer, to
28 produce images on a screen of the organs in the pelvic region. On certain occasions when he

1 performed a transvaginal ultrasound, however, Plaintiff Doe 17 now understands that Dr.
2 Heaps engaged in grossly inappropriate conduct that was sexual in nature, including an
3 overly-lengthy exam in which Dr. Heaps aggressively used the transducer so as to attempt to
4 sexually stimulate Plaintiff Doe 17.

5 39. At appointments on or about November 30, 2016 and February 1, 2018, Dr.
6 Heaps performed what Plaintiff Doe 17 now understands to have been an abusive breast
7 “exams” which were overly –lengthy and during which Dr. Heaps used both hands to push,
8 massage and grope Plaintiff Doe 17’s breasts. At those same appointments, Dr. Heaps also
9 performed overly-lengthy and aggressive pelvic exams in which he engaged in touching which
10 Plaintiff Doe 17 now believes was of a sexual nature and not medically necessary.

11 40. At these same appointments in 2016 and 2018, Dr. Heaps also performed
12 lengthy and aggressive transvaginal ultrasounds on Plaintiff Doe 17, during which he used the
13 transducer and his hand in a manner which Plaintiff Doe 17 now believes was designed to
14 sexually stimulate Plaintiff Doe 17 and gratify Dr. Heaps. At her appointment on or about
15 February 1, 2018 in particular, Dr. Heaps performed an intensely aggressive ultrasound which
16 Plaintiff Doe 17 now understands was intended to simulate sexual intercourse using the
17 transducer device and designed to sexually stimulate Plaintiff Doe 17 and gratify Dr. Heaps.
18 The aggressive nature of the exam caused Plaintiff Doe 17 physical pain, both during and after
19 the procedure. Nonetheless, believing in Dr. Heaps’ skills as a physician and trusting that the
20 institution which employed her for decades would not put her in harm’s way, Plaintiff Doe 17
21 continued to believe that the care she received was appropriate and medically necessary.

22 41. There were nurses present at certain times during these appointments in or about
23 2016 and 2017, but the nurses appeared not to be paying attention and gave Plaintiff Doe 10
24 no indication that Dr. Heaps’ conduct or statements were improper nor did anything to
25 intervene or stop the above described abuse. The nurses’ lack of reaction to Dr. Heaps’
26 conduct lulled Plaintiff Doe 17 into believing that Dr. Heaps was acting in a medically
27 appropriate manner.

28 42. On further information and belief, on or about June 14, 2018 (only a few months

1 after Plaintiff Doe 17’s last appointment with Dr. Heaps) , Dr. Heaps ceased providing
 2 services to patients through UCLA Health. On information and belief, on or about June 19,
 3 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor and Chair
 4 of the Department of Obstetrics and Gynecology and Professor of Human Genetics and
 5 Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps. In
 6 that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the retirement
 7 of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to patients of
 8 Dr. Heaps, UCLA Health was aware of specific allegations and of the then ongoing California
 9 Medical Board Investigation of Dr. Heaps. Plaintiff Doe 17 received this letter in or about
 10 June 2018

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

18 44. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
 19 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of
 20 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
 21 Doe 17 and other patients (including students) from further harm after reports—and formal
 22 California Medical Board investigations—of Dr. Heaps’ sexual assault of patients.

23 45. As discussed throughout, Defendant UC Regents also failed to put in place
 24 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
 25 imposition of a policy providing for the mandatory presence of an independent and
 26 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
 27 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
 28 at all) to train its employees and agents in how to recognize and report any sexual or medical

1 battery or harassment.

2 46. The female chaperones who were in the room during Dr. Heaps’ sexual battery
3 and harassment of Plaintiff Doe 17 acted recklessly and negligently, in that they failed to
4 reasonably perform their duties as a chaperone and failed to act with the ordinary care one
5 would expect. The chaperones—on information and belief, employees of the UC Regents—
6 failed to raise any alarms during Dr. Heaps’ misconduct (which they at times witnessed) or
7 take any other reasonably expected actions to prevent or stop the misconduct, despite being
8 aware of the lack of medical necessity of Dr. Heaps’ conduct towards Plaintiff Doe 17.
9 Further, on information and belief, the chaperones did not report Dr. Heaps’ misconduct.

10 47. Plaintiff Doe 17 is now informed and believes, and based thereon alleges, that
11 the UC Regents further breached its duties owed to Plaintiff Doe 17 and other patients by,
12 among other things, failing to conduct reasonable investigation and/or due diligence prior to
13 hiring individuals assigned to assist Dr. Heaps during the relevant time period, including those
14 charged with the important task of chaperoning gynecological examinations.

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

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

28 50. As a result of these charges, on information and belief, the Board of Vocational

1 Nursing and Psychiatric Technicians, Department of Consumer Affairs, initiated proceedings
2 against this individual’s nursing license (the “Accusation”). The Accusation alleges that this
3 nurse/chaperone’s medical records indicated that she took a bottle of Xanax pills causing her
4 to “black out” while driving. The Accusation also alleges that an outpatient program
5 diagnosed her with “unspecified alcohol dependence, unspecified drinking behavior, and
6 sedative, hypnotic, or anxiolytic dependence.” Quite obviously, the UC Regents was on
7 notice that this nurse was unfit to perform the duties for which she was employed, including
8 chaperoning gynecological procedures and providing medical treatment to patients.

9 51. Dr. Heaps’ misconduct, the chaperones’ silence and inaction—and the UC
10 Regents’ cover up—has resulted in tremendous harm to Plaintiff Doe. The physical and
11 psychological aftermath of Dr. Heaps’ conduct has been severe for Plaintiff Doe. She has
12 suffered from shock, humiliation, embarrassment and other forms of severe emotional distress.
13 This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other physical and
14 psychological manifestations of the distress caused by Defendants’ egregious acts.

15 **THE PARTIES**

16 52. Plaintiff Jane Doe 17 currently resides in the County of Los Angeles, State of
17 California.

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

23 54. Plaintiff Doe 17 is informed and believes, and on that basis alleges, that UC
24 Regents owned, operated, and maintained UCLA Health, through which medical services
25 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
26 of Health and provided health care as healthcare facilities.

27 55. Plaintiff Doe 17 is informed and believes, and on that basis alleges, that
28 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State

1 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
2 of California to practice medicine, and was the employee and/or agent of the UC Regents.

3 56. Plaintiff Doe 17 is ignorant of the true names of the female nurses/chaperones
4 that were in the room during Dr. Heaps’ sexual battery and harassment of Plaintiff Doe 17,
5 and therefore sues these defendants as Roes 1-5. Upon information and belief, Plaintiff Doe
6 alleges that Roes 1-5 were nurses employed by the UC Regents. Plaintiff Doe 17 will amend
7 this Complaint to allege Defendants Roes 1-5’s true names and capacities when it has been
8 ascertained or upon proof at trial. Plaintiff Doe 17 alleges that Roes 1-5 are legally
9 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
10 and severally liable.

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

18 58. Plaintiff Doe 17 is informed and believes, and based thereon alleges, that at all
19 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
20 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
21 and that in doing the things alleged, was acting within the course, scope and authority of such
22 agency, employment, supervision, management, ownership and joint venture, and with the
23 consent and permission of each of the other Defendants. Unless otherwise indicated, all
24 Defendants, including the Roe Defendants, are collectively referred to herein as the
25 “Defendants.”

26 59. Plaintiff Doe 17 is informed and believes, and on that basis alleges, that, in
27 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
28 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other

1 employees, including but not limited to the female chaperones who were in the examination
2 room at the time of Dr. Heaps' examination of Plaintiff Doe 17—as more particularly
3 described above, pursuant to the doctrine of respondeat superior and Cal. Gov't Code § 815.2.
4 Dr. Heaps, the female chaperone, and others were acting in the course and scope of their
5 employment at the time of the allegations herein.

6 60. Once the 90 day wait period pursuant to CCP 364 expires without resolution,
7 Plaintiff Doe intends to amend her Complaint to add a claim of professional negligence
8 against Defendants.

9 61. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
10 herein, Plaintiff Doe 17 requests leave to amend this Complaint, such that a request for
11 attorneys' fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil
12 Procedure § 1021.4.

13 **JURISDICTION AND VENUE**

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

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

18 64. At least some of the wrongful acts alleged herein occurred in the County of Los
19 Angeles; thus venue is properly in the County of Los Angeles.

20 **FIRST CAUSE OF ACTION**

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

22 65. Plaintiff Doe 17 incorporates Paragraphs 1 through 64 as though fully set forth
23 herein.

24 66. Plaintiff Doe 17's civil rights were violated by Defendants when they abused
25 and harassed Plaintiff Doe 17 and when they intentionally and fraudulently concealed
26 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
27 Heaps from other patients. Plaintiff had a right to be free from gender discrimination, sexual
28 molestation, abuse and harassment under the Unruh Civil Rights Act.

1 67. The Defendants were acting under the color of their authority and in the scope of
2 their employment, during the instances when Plaintiff Doe 17 was a patient at UCLA Health.

3 68. The Defendants denied Plaintiff full and equal accommodations, advantages,
4 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
5 unfettered access to sexually abuse Plaintiff Doe 17, by and through his position of authority
6 as a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
7 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
8 UC Regents ratified.

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

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

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

24 72. As a further direct and proximate result of Defendants’ collective and concerted
25 wrongful actions, as herein alleged, Plaintiff Doe 17 has been hurt in her health, strength and
26 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
27 person, which has caused and continues to cause great mental and physical pain, suffering,
28 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event

1 less than the jurisdictional minimum requirements of this Court.

2 **SECOND CAUSE OF ACTION**

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

4 73. Plaintiff Doe 17 incorporates Paragraphs 1 through 72 as though fully set forth
5 herein.

6 74. Defendants' actions, as alleged herein, have had and will continue to interfere
7 with Plaintiff Doe 17's right to be free from gender discrimination in the form of sexual
8 harassment, codified under Cal. Civ. Code § 52.1.

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

15 76. Defendants' wrongful conduct was intended to, and did successfully interfere
16 with Plaintiff Doe 17's Constitutional Rights to be free from gender discrimination and
17 harassment, as well as interfered with her rights of Due Process under the United States'
18 Constitution, specifically the Fifth and Fourteenth Amendments.

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

25 78. Defendants' above-noted actions were the legal and proximate causes of
26 physical, psychological, and emotional damages to Plaintiff Doe 17, who has suffered and
27 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe 17
28 incurring, and will require her to incur into the future, expenses for medical and psychological

1 treatment, therapy, and counseling.

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

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

19 81. In subjecting Plaintiff Doe 17 to the wrongful treatment herein described,
20 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
21 disregard of Plaintiff Doe 17's Rights, so as to constitute malice and oppression under
22 California Civil Code section 3294. Plaintiff Doe 17 is therefore entitled to the recovery of
23 punitive damages against Dr. Heaps, in an amount to be determined according to proof.

24 **THIRD CAUSE OF ACTION**

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

26 **Civil Code § 51.9)**

27 82. Plaintiff Doe 17 incorporates Paragraphs 1 through 81 as though fully set forth
28 herein.

1 83. During Plaintiff Doe 17's time as a patient at UCLA Health, Defendants
2 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
3 harmful and offensive contact with intimate parts of Plaintiff Doe's person, including but not
4 limited to: sexual touching and molestation during multiple pelvic examinations and
5 ultrasound procedures and the groping and fondling of Plaintiff Doe 17's breasts, which
6 Plaintiff Doe 17 has now come to understand were without medical justification, all under the
7 supervision of Defendant the UC Regents. Chaperones who were at times present during this
8 abuse but sat silently as Plaintiff Doe was mistreated.

9 84. During Plaintiff Doe 17's time as a patient at UCLA Health, Defendants also
10 intentionally, recklessly and wantonly made, and enabled, what Plaintiff Doe 17 has now
11 come to understand were sexual and exploitative statements of a prurient nature, based on
12 Plaintiff's gender that were unwelcome, pervasive and severe, all under the supervision of
13 Defendant the UC Regents. Again, the female chaperones who were in the room at the time of
14 Plaintiff Doe 17's examinations sat silently as Plaintiff Doe was subjected to these comments.

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

19 86. Because of Plaintiff Doe's relationships with Defendants Dr. Heaps and the UC
20 Regents, Dr. Heaps' status as a prominent and highly compensated gynecologist employed by
21 the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
22 physician, and Plaintiff Doe 17's vulnerability as a gynecological patient, Plaintiff Doe was
23 unable to easily terminate the relationship she had with the Defendants.

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

28 88. Even though Defendant UC Regents knew or should have known of these

1 herein.

2 93. During the course of treatment of Plaintiff Doe 17, Dr. Heaps used his powers
3 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 17,
4 to sexually batter Plaintiff Doe 17, knowing that she would be vulnerable to this type of sexual
5 battery. Dr. Heaps engaged in sexual touching and molestation during multiple pelvic
6 examinations and ultrasounds and the groping and fondling of Plaintiff Doe 17's breasts,
7 which Plaintiff Doe 17 now understands was without medical justification.

8 94. The female chaperones who were in the room during certain of these incidents
9 enabled the sexual battery and assault of Plaintiff Doe 17 by failing to reasonably perform
10 their duties as chaperones and failing to raise any alarms during Dr. Heaps' misconduct or
11 take any other reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 17.

12 95. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
13 17 and had she not been treated by Defendants, she would have never permitted such sexual
14 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
15 touching and battery upon her person.

16 96. Plaintiff Doe 17 did not consent to the sexualized touching and sexual contact.

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

25 98. Defendant UC Regents is vicariously liable for the conduct alleged herein
26 because, even though Defendant UC Regents knew of these pervasive, illegal and
27 inappropriate activities by Dr. Heaps, the UC Regents did nothing to investigate, supervise or
28 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC

1 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
2 gynecological patients, including imposition of a policy providing for the mandatory presence
3 of a properly trained independent chaperone, to prevent, deter and report any misconduct in
4 the context of gynecological examinations and procedures. Defendant UC Regents also failed
5 adequately (or at all) to train its employees and agents in how to recognize and report any
6 sexual or medical battery or harassment. Instead, Defendant UC Regents allowed Dr. Heaps
7 to continue to perform gynecological examinations of female patients despite knowledge that
8 he had committed battery and sexual battery and assault in the past.

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

17 100. As a proximate result of the above, Plaintiff Doe 17 suffered damages as
18 otherwise alleged in this Complaint.

19 101. Dr. Heaps’ conduct alleged herein was despicable, and was done willfully and/or
20 with a conscious disregard of Plaintiff’s rights, and/or intentionally, or maliciously, or in
21 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
22 each of them, were in a special relationship with Plaintiff Doe 17 by virtue of the fact that she
23 was a patient at UCLA Health and receiving their services.

24 102. Defendants, and each of them, further knew that Plaintiff Doe was especially
25 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
26 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
27 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
28 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over

1 Plaintiff Doe 17, and failing to take proper steps to protect Plaintiff Doe 17 and other patients.
2 It was reasonably foreseeable Plaintiff Doe 17 would receive physical injury and severe
3 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
4 this regard was done with the intent to cause injury to Plaintiff Doe 17 and/or done with a
5 conscious disregard of the rights and safety of Plaintiff.

6 103. In subjecting Plaintiff Doe 17 to the wrongful treatment herein described,
7 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
8 conscious disregard of Plaintiff Doe 17's rights, so as to constitute malice and oppression
9 under California Civil Code section 3294. Plaintiff Doe 17 is therefore entitled to the
10 recovery of punitive damages against Defendant Heaps, in an amount to be determined
11 according to proof.

12 **FIFTH CAUSE OF ACTION**

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

14 104. Plaintiff Doe 17 incorporates Paragraphs 1 through 103 as though fully set forth
15 herein.

16 105. During Plaintiff Doe 17's time as a patient with Defendants, Dr. Heaps
17 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 17 now understands were
18 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
19 Doe's person, including but not limited to: sexual touching and molestation during multiple
20 pelvic examinations and ultrasounds and the groping and fondling of Plaintiff Doe 17's
21 breasts, which she now understands was without medical justification, all under the
22 supervision of Defendant the UC Regents. The female chaperones who were in the room
23 during the visits enabled the sexual battery and assault of Plaintiff Doe by failing to
24 reasonably perform their duties as a chaperone and failing to raise any alarms during Dr.
25 Heaps' misconduct or take any other reasonably expected actions to prevent the harm inflicted
26 upon Plaintiff Doe 17.

27 106. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
28 offensive contact with an intimate part of Plaintiff Doe 17's person that would offend a

1 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
2 contact with an intimate part of Plaintiff Doe 17's person that would offend a reasonable sense
3 of personal dignity.

4 107. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
5 17 and had she not been treated by Defendants, she would have never permitted such sexual
6 contact by Dr. Heaps.

7 108. Plaintiff Doe 17 did not consent to this sexualized touching and sexual contact.

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

14 110. At the time they were in the examination room and while they were witnessing
15 Dr. Heaps' battery of Plaintiff Doe 17, the female chaperones were acting in the course and
16 scope of their employment with UCLA.

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

1 112. In doing the acts alleged herein, Dr. Heaps used the power and authority
2 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
3 Doe 17. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
4 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
5 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
6 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
7 engaging in assaultive conduct. As Such, Dr. Heaps conduct is incident to his agency with the
8 UC Regents, so as to be fairly attributable to them.

9 113. As a proximate result of the above, Plaintiff Doe 17 suffered damages as
10 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
11 conduct, Plaintiff Doe 17 sustained serious and permanent injury to her person, all of his
12 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

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

21 **SIXTH CAUSE OF ACTION**

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

23 115. Plaintiff Doe 17 incorporates Paragraphs 1 through 114 as though fully set forth
24 herein.

25 116. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 17,
26 as described herein, was outrageous and extreme.

27 117. A reasonable person would not expect or tolerate the sexual harassment,
28 exploitation, molestation, and abuse of Plaintiff Doe 17 by Dr. Heaps, nor tolerate or expect

1 the UC Regents’ knowledge of, and callous indifference to, the abuse. Plaintiff Doe 17 had
2 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
3 has now turned to fear, shame, and humiliation.

4 118. A reasonable person would not expect or tolerate the UC Regents placing
5 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
6 patients—in a position of care of Plaintiff Doe 17, which enabled Dr. Heaps to have access to
7 Plaintiff Doe 17 so that he could commit wrongful sexual acts, including the conduct described
8 herein.

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

21 120. Defendants’ conduct described herein was intentional and malicious and done
22 for the purpose of causing or with the substantial certainty that Plaintiff Doe 17 would suffer
23 humiliation, mental anguish, and emotional and physical distress.

24 121. As a result of the above-described conduct, Plaintiff Doe 17 has suffered and
25 continues to suffer great pain of mind and body, shock, emotional distress, physical
26 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
27 shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
28 prevented and will continue to be prevented from performing daily activities and obtaining the

1 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
2 psychological treatment, therapy, and counseling.

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

8 **SEVENTH CAUSE OF ACTION**

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

10 123. Plaintiff Doe 17 incorporates Paragraphs 1 through 122 as though fully set forth
11 herein.

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

17 125. A reasonable person would not expect or tolerate the UC Regents placing
18 Dr. Heaps—who was known to the UC Regents to have physically and sexually abused other
19 patients—in a position of care of Plaintiff Doe 17, which enabled Dr. Heaps to have access to
20 Plaintiff Doe 17 so that he could commit wrongful sexual acts, including the conduct described
21 herein.

22 126. A reasonable person would not expect or tolerate the Defendants, their agents,
23 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
24 from committing wrongful sexual acts with patients, including Plaintiff Doe 17, or to be
25 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
26 chaperone whose presence was supposed to ensure Plaintiff Doe's comfort and safety during a
27 gynecological exam would sit idly by and not say anything while Plaintiff Doe 17 was being
28 sexually abused by a physician. A reasonable person would not expect that UCLA would not

1 vet its nurse/chaperones to determine whether they have criminal histories and remove them
2 from their positions when it is clear that they have alcohol and drug dependencies. Indeed
3 looking back now on what she understands to be sexual abuse, the presence of the silent
4 chaperone has further exacerbated Plaintiff Doe 17's extreme embarrassment and harm as she
5 was subjected to the misconduct with a silent audience.

6 127. Defendants had a special relationship with Plaintiff Doe 17 and/or had
7 undertaken an obligation to her that necessarily implicated Plaintiff Doe 17's emotional well-
8 being. Specifically, Defendants had a duty to take reasonable measures to prevent harm to
9 Plaintiff Doe 17.

10 128. There was an especially likely risk that Defendants' negligent actions and
11 inactions would cause serious emotional distress to Plaintiff Doe 17. Defendants' failure to
12 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
13 Plaintiff Doe 17 tremendous harm.

14 129. Defendants' negligence was a substantial factor in causing Plaintiff Doe serious
15 emotional distress.

16 **EIGHTH CAUSE OF ACTION**

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

18 130. Plaintiff Doe 17 incorporates Paragraphs 1 through 129 as though fully set forth
19 herein.

20 131. By virtue of Plaintiff Doe 17's special relationship with the UC Regents as a
21 patient, and the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
22 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
23 knew or should have known about.

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

28 133. At no time during the periods of time alleged herein did the UC Regents have in

1 place a reasonable system or procedure to investigate, supervise, and monitor its UCLA
2 physicians and healthcare personnel, including Dr. Heaps, to prevent sexual harassment,
3 sexual exploitation, molestation, and abuse of patients, nor did they implement a system or
4 procedure to oversee or monitor conduct toward patients and others in their care.

5 134. The UC Regents were aware, or should have been aware, and understood how
6 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
7 and abuse by physicians and other persons of authority within the control of the UC Regents
8 prior to Plaintiff Doe 17's sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
9 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
10 female gynecological patients, including imposition of a policy providing for the mandatory
11 presence of an independent, properly trained chaperone, to prevent, deter and report any
12 misconduct in the context of gynecological examinations and procedures. Defendant UC
13 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
14 and report any sexual or medical battery or harassment.

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

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

28 137. The UC Regents were placed on actual or constructive notice that Dr. Heaps had

1 molested or was molesting female patients during his employment. Defendants had
2 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
3 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
4 Plaintiff Doe.

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

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

12 140. Because the UC Regents:

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

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

26 141. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
27 sexually exploiting, abusing, and harassing female patients and refused to take any action to
28 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this

1 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
2 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
3 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 17.
4 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'
5 acts of sexual exploitation, sexual assault, battery, and harassment.

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

13 **NINTH CAUSE OF ACTION**

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

15 143. Plaintiff Doe 17 incorporates Paragraphs 1 through 142 as though fully set forth
16 herein.

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

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

28 146. The UC Regents learned Dr. Heaps had molested or was molesting female

1 patients during his employment. Defendants had knowledge of inappropriate conduct, and
2 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
3 continue interacting with patients, including Plaintiff Doe.

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

8 148. In fact, on information and belief, Defendant UC Regents knowingly retained 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.

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

18 150. Because the UC Regents:

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

1 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
2 intimate examinations and report misbehavior.

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

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

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

19 **TENTH CAUSE OF ACTION**

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

21 153. Plaintiff Doe 17 incorporates Paragraphs 1 through 152 as though fully set forth
22 herein.

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

1 155. Defendant UC Regents breached its duty to take reasonable measures to protect
2 Plaintiff Doe 17 and other female patients from the risk of sexual harassment and abuse by
3 Dr. Heaps, such as the failure to properly warn, Plaintiff and other patients about Dr. Heaps.

4 156. Defendant UC Regents breached its duty to take reasonable protective measures
5 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
6 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
7 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe
8 17.

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

16 158. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
17 exposed Plaintiff Doe 17 and other patients to sexual battery and abuse.

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

25 **ELEVENTH CAUSE OF ACTION**

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

27 160. Plaintiff Doe 17 incorporates Paragraphs 1 through 159 as though fully set
28 forth herein.

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

3 162. Defendants owed Plaintiff a duty of care to act.

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

6 164. For example, the chaperones who were in the room during Dr. Heaps' sexual
7 assault and harassment of Plaintiff Doe 17 acted negligently, in that they failed to reasonably
8 perform their duties as a chaperone and failed to act as a reasonably prudent person. The
9 chaperones failed to raise any alarms during Dr. Heaps' misconduct or take any other
10 reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 17, despite the fact
11 that (a) the purpose of the chaperones was to protect Plaintiff Doe 17 and ensure that she was
12 comfortable and safe during the gynecological visit; and (b) the chaperones were aware of the
13 lack of medical necessity of Dr. Heaps' touching and questioning of Plaintiff Doe 17. Further,
14 the chaperones did not report Dr. Heaps' misconduct. At the time they were in the
15 examination room and while she was silently witnessing Dr. Heaps' infliction of harm to
16 Plaintiff Doe 17, the female chaperones were acting in the course and scope of their
17 employment with UCLA.

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

25 **TWELFTH CAUSE OF ACTION**

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

27 166. Plaintiff Doe 17 incorporates Paragraphs 1 through 165 as though fully set forth
28 herein.

1 167. California Civil Code § 52.4 provides that gender violence is a form of sexual
2 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
3 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”
4 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
5 § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
6 gender violence may bring a civil action for damages against any responsible party, and may
7 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

8 168. Plaintiff Doe 17 is female.

9 169. Dr. Heaps intentionally and without consent physically intruded and/or invaded
10 Plaintiff’s body during medical examinations in a sexual manner in violation of Cal. Civ.
11 Code § 52.4. The conditions were coercive in that Plaintiff placed her trust and confidence in
12 Dr. Heaps as a physician and in the UC Regents as a premier provider of patient care (via
13 UCLA Health).

14 170. The UC Regents participated in the physical intrusion and/or invasion of
15 Plaintiff’s body during a medical examination by either (a) the presence of chaperones or
16 other staff members during the medical examinations; and/or (b) UCLA staff members or
17 other personnel bringing Plaintiff into the examination room and directing her to remove her
18 clothing, knowing that Dr. Heaps would assault her in a sexual manner; and/or (c) providing
19 Dr. Heaps the facilities and location to assault Plaintiff in a sexual manner and touting him as
20 an expert in gynecological care.

21 171. As more fully set forth above, Plaintiff was injured as a result of the gender
22 violence, and seeks all remedies provided for in California Civil Code § 52.4, including but
23 not limited to, actual damages, compensatory damages, punitive damages, costs, and
24 attorney’s fees.

25 **THIRTEENTH CAUSE OF ACTION**

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

27 172. Plaintiff Doe 17 incorporates Paragraphs 1 through 171 as though fully set forth
28 herein.

1 173. During Plaintiff’s time as a patient with Defendants, Dr. Heaps at times intended
2 to cause harmful or offensive contact with Plaintiff, or intended to put Plaintiff in imminent
3 apprehension of such conduct.

4 174. In doing the certain of the things herein alleged, Plaintiff was in imminent
5 apprehension of a harmful or offensive contact by Dr. Heaps and actually believed Dr. Heaps
6 had the ability to make harmful or offensive contact with Plaintiff.

7 175. Plaintiff did not consent to Dr. Heaps’ intended harmful or offensive contact, or
8 intent to put Plaintiff in imminent apprehension of such contact.

9 176. Dr. Heaps’ conduct was within the course and scope of his employment with
10 Defendants, and each of them, and was ratified by Defendants and each of them who had
11 advance notice of this misconduct.

12 177. Plaintiff suffered severe emotional distress and physical injury as a result of
13 Dr. Heaps’ misconduct and damages as otherwise alleged in this Complaint.

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

23 179. In doing so the acts alleged herein, Dr. Heaps used the power and authority
24 conferred upon him by Defendant UC Regents to get access to patients such as Plaintiff Doe
25 17. It is predictable and foreseeable, given Defendants’ negligent supervision of Dr. Heaps,
26 and failure to put in place—or enforce—safeguards to prevent foreseeable harm to female
27 gynecological patients, that someone in Dr. Heaps’ position would abuse the power and
28 authority the UC Regents conferred upon him by engaging in assaultive conduct. As such,

1 Dr. Heaps' conduct is incident to his agency with the UC Regents, so as to be fairly
2 attributable to them.

3 180. In doing the things herein alleged, Defendants violated Plaintiff's rights,
4 pursuant to California Civil Code § 43, of protection from bodily restrain or harm, and from
5 personal insult. In doing the things herein alleged, Defendants violated the duty, pursuant to
6 California Civil Code § 1708, to abstain from injuring the person of Plaintiff or infringing
7 upon her rights.

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

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

19 **FOURTEENTH CAUSE OF ACTION**

20 **(Unfair Business Practices (Business & Professions Code § 17200) against Heaps and**
21 **Roes)**

22 183. Plaintiff Doe 17 incorporates Paragraphs 1 through 182 as though fully set forth
23 herein.

24 184. Plaintiff is informed and believes, and on that basis alleges, that Defendants
25 have engaged in unlawful, unfair and/or deceptive business practices, including by allowing
26 Dr. Heaps to engage in repeated sexual abuse and harassment of patients, including Plaintiff,
27 and by failing to take all reasonable steps to prevent such sexual abuse and harassment from
28 occurring. The unlawful, unfair and/or deceptive business practices also included failing to

1 adequately and promptly investigate, vet, and evaluate individuals for employment with
2 UCLA Health and the UC Regents, as well as refusing to design, implement, and oversee
3 appropriate policies regarding sexual harassment and abuse of patients in a reasonable manner,
4 as is customary in similar healthcare and student-active environments. Further, Plaintiff is
5 informed and believes, and on that basis alleges, that Defendants engaged in unlawful, unfair,
6 and/or deceptive business practices by concealing the aforementioned sexual harassment,
7 abuse, and/or molestation in order to retain other patients who were not apprised of such
8 misconduct.

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

16 186. By engaging in the unlawful, unfair, and/or deceptive business practices
17 described above, Defendants benefitted financially to the detriment of competitors and the
18 public.

19 187. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
20 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiff
21 and the public.

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

26 189. Pursuant to Section 17203 of the California Business & Professions Code and
27 available equitable powers of the Court, Plaintiff is entitled to and seeks an injunction
28 enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business

1 practices. Further, Plaintiff is entitled to recover reasonable attorneys’ fees pursuant to the
2 California Business & Professions Code and California Code of Civil Procedure § 1021.5.

3 **FIFTEENTH CAUSE OF ACTION**

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

5 190. Plaintiff Doe 17 incorporates Paragraphs 1 through 189 as though fully set forth
6 herein.

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

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

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

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

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

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

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

26 196. Given her need for medical treatment, and her trust and care in Defendants,
27 Plaintiff was vulnerable to Defendants.

28 197. At the time Defendants engaged in such suppression and acts of concealment,

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

2 198. Defendants' conduct did reasonably cause Plaintiff to forebear on her rights, and
3 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

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

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

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

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

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

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

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 17 hereby demands a trial by jury in this action.

DATED: September 13, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 17