

1 Jennifer J. McGrath, Esq. (State Bar No. 211388)
 jmcgrath@tocounsel.com
 2 THEODORA ORINGHER PC
 1840 Century Park East, Suite 500
 3 Los Angeles, California 90067-2120
 Telephone: (310) 557-2009
 4 Facsimile: (310) 551-0283

5 Darren Kavinsky, Esq. (State Bar No. 170497)
 Darren.Kavinsky@TheKLF.com
 6 THE KAVINOKY LAW FIRM
 16255 Ventura Blvd., Ste. 200
 7 Encino, California, 91436
 Telephone (818) 346-4646
 8 Facsimile (818) 346-4660

9 Attorneys for Plaintiff JANE DOE 18

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

12 **19STCV32778**

13 JANE DOE 18,
 14 Plaintiff,
 15 vs.

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

COMPLAINT FOR:

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

DEMAND FOR JURY TRIAL

THEODORA TO ORINGHER
COUNSELORS AT LAW

1 Plaintiff Jane Doe 18,¹ an individual (“Plaintiff Doe 18” or “Plaintiff” or “Doe 18”)
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 18 was a gynecological patient at UCLA Health (“UCLA Health”
8 or “UCLA”) when she was sexually abused, molested and harassed at the hands of serial
9 sexual predator Defendant Dr. Heaps.

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

14 3. Dr. Heaps engaged in horrific action — preying upon Plaintiff Doe 18, whom
15 he diagnosed with HPV in or about 2015 after treating her as patient since in or about 2005.
16 As a result of this diagnosis, Dr. Heaps told Plaintiff Doe 18 that she was at high risk for
17 developing cervical cancer and insisted that she should have pap smears every four months.
18 Fearful of developing cancer (Plaintiff Doe 18 has a family history of various forms of
19 cancer), Plaintiff Doe 18 became extremely reliant on Dr. Heaps for her care and placed her
20 complete trust and confidence in him and in his purported medical practices. Dr. Heaps
21 abused that trust, engaging in what Plaintiff Doe 18 has come to understand was sexually
22 abusive conduct, including conduct designed to sexually stimulate Plaintiff Doe 18 and gratify
23 himself during breast exams and pelvic exams, as well as repeatedly stroking and massaging
24 various areas of her body, including her breasts, legs, stomach and down her sides, from
25 armpit to waist, during these “exams.”

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 4. Dr. Heaps also repeatedly made comments to Plaintiff Doe 18 which she now
2 understands were abusive and harassing, including complimenting her intimate body parts and
3 making other inappropriate comments, including talking to her about her sister (who was also
4 a patient of Dr. Heaps), then leering at Plaintiff Doe 18’s breasts and stating, “I can tell you
5 are sisters.” Nurses were at times present for this abusive conduct but paid no attention to it
6 and gave Plaintiff Doe 18 no indication that Dr. Heaps’ conduct was inappropriate or
7 unprofessional.

8 5. Shamefully, Plaintiff is now informed and believes that the UC Regents and Dr.
9 Heaps also profited financially from the sexual abuse, harassment and mistreatment which
10 Plaintiff Doe 18 endured. Dr. Heaps subjected Plaintiff Doe 18 to numerous pap smears,
11 pelvic exams (and breast exams—which he would also perform at each of her appointments)
12 as well as two uncomfortable colposcopy procedures, both of which were negative for any
13 cervical or other abnormalities. Dr. Heaps also told Plaintiff Doe 18 that she had skin lesions
14 on her labia that could become malignant. In fact, subsequent testing since Dr. Heaps’
15 “retirement” has shown that her tissues are normal and show no signs of cancer. Plaintiff Doe
16 18 is now informed and believes that Dr. Heaps’ insistence that she needed to have pelvic
17 exams, pap smears and breast exams every three months, as well as two colposcopy
18 procedures, was not medically sound and was excessive, designed only to add to the coffers of
19 UCLA Health and Dr. Heaps.

20 6. As such, Plaintiff Doe 18 must now live with the understanding that she was
21 subjected to painful and uncomfortable procedures and inconvenience, as well as the
22 concomitant worry and anxiety involved in cancer testing, for reasons that had nothing at all to
23 do with appropriate medical care. Rather, on information and belief, Dr. Heaps had dual
24 motives – financial gain from overbilling and the opportunity to sexually abuse Plaintiff Doe
25 18. On information and belief, as discussed throughout, it is clear that the UC Regents were
26 willing – and did—protect Dr. Heaps from being exposed as a sexual predator because the
27 Regents profited to the tune of millions of dollars from this gross misconduct.

28 7. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA

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

8 8. Perhaps because of the millions of dollars in income that he generated for UCLA
9 and the fact that he had powerful patients and was celebrated in the community (as recent
10 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
11 failed to protect Plaintiff Doe 18 or other vulnerable women from Dr. Heaps.

12 9. In fact, UCLA allowed Dr. Heaps to continue to examine female gynecological
13 patients despite a history of similar complaints of misconduct and abuse, including (1) a
14 California Medical Board investigation in 2014 (at or near the time that UCLA apparently
15 acquired Dr. Heaps’ practice), which on information and belief involved allegations of sexual
16 misconduct during a patient examination; (2) at least one claim that he sexually harassed and
17 molested a UCLA student that was posted online in a public forum in early 2015; (3) and a
18 highly credible report in January 2017 from a UCLA Health employee herself certified to
19 chaperone intimate examinations at UCLA (who went to Dr. Heaps as a patient) that Dr.
20 Heaps had sexually molested her.

21 10. In addition, on information and belief, UCLA did not institute basic protections
22 in order to prevent sexual abuse of patients, including having independent, qualified, and
23 trained chaperones present during examinations and/or, if any such protocols were in place,
24 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
25 train or supervise its employees so as to make them aware of how to intervene should any
26 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct.
27 Even though the abuse inflicted upon Plaintiff Doe 18 at times occurred in the presence of a
28 chaperone, the chaperones—who, on information and belief were supervised by Dr. Heaps—did

1 not act to stop the incident or report the incident to authorities.

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

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

19 13. Dr. Heaps' actions and the inaction of the UC Regents and its employees (both
20 before and after Plaintiff's horrific encounters with Dr. Heaps as described herein), have
21 caused Plaintiff Doe 18 tremendous and lasting harm, including feelings of fear and
22 powerlessness, symptoms of post-traumatic stress disorder, and other physical and emotional
23 manifestations of the severe emotional distress that she has suffered.

24 14. Dr. Heaps has now been arrested and charged with multiple felony counts,
25 including in connection with alleged sexual battery of his patients. When Dr. Heaps was
26 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents
27 changed course, then issuing a public statement contending that Dr. Heaps was "terminated"
28 and that UCLA has purportedly taken corrective action. This communication was circulated

1 to the UCLA “Campus Community” by the UCLA Chancellor and Vice Chancellor, UCLA
2 Health Services. This is a far cry from the previous communication to patients announcing
3 Dr. Heaps’ “retirement,” a communication that failed to alert the community to his misconduct
4 or offer any assistance or support to Plaintiff Doe 18 or other victims.

5 15. Only when Dr. Heaps’ arrest became public, did Plaintiff Doe 18 come to
6 understand what had been done to her by Dr. Heaps’ misconduct and UCLA’s inaction. Only
7 in the last few months has Plaintiff Doe 18 come to realize that Dr. Heaps conducted pelvic
8 exams and breast exams in an inappropriate and sexual manner and that the conduct to which
9 she was subjected was not medically necessary.

10 16. Perhaps almost equally troubling, Plaintiff Doe 18 has now come to learn that,
11 as described herein, the Regents had learned from a UCLA Health employee (who had seen
12 Dr. Heaps as a patient) that Dr. Heaps had engaged in sexual misconduct in or about January
13 2017. On information and belief, this employee complaint was ignored and the employee
14 suffered retaliation. In addition, as a result of another patient complaint in or about December
15 2017, Dr. Heaps was under active investigation at the time that Plaintiff Doe 18 saw him for
16 her last two visits in or about March and April 2018—at which appointments he again
17 engaged in conduct of a sexual nature, including groping Plaintiff Doe 18’s breasts and
18 rubbing her body. In fact, Dr. Heaps ceased practicing at UCLA just about two months after
19 Plaintiff Doe 18’s last appointment at his office.

20 17. While at her last appointments with Dr. Heaps, Plaintiff Doe 18 had no way of
21 knowing of the investigation that was at that time being conducted. Had Plaintiff Doe 18 had
22 knowledge of the allegations that had been made against Dr. Heaps and of the fact that UCLA
23 was considering whether Dr. Heaps had acted in sexual manner towards patients such that he
24 constituted a threat to patient safety and merited termination, quite obviously she would never
25 have consented to further examination or treatment by him. Plaintiff Doe 18 was not given
26 such a choice by UCLA and suffered further sexual abuse, abuse which has resulted in serious
27 harm now and continuing into the future.

28

1 **BACKGROUND FACTS**

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

3 18. Dr. Heaps completed his internship and residency as an obstetrician-
4 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
5 1983–1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
6 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
7 further information and belief, in or about February 2014, Dr. Heaps’ private practice was
8 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
9 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

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

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

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

26 **UCLA Turns a Blind Eye to Sexual Abuse, Harassment and Overbilling of Patients**
27 **by Dr. Heaps**

28 22. UCLA holds itself out as a provider of high quality medical care for women,

1 stating on the UCLA Health website that it is one of the “premier providers of modern
2 medicine to the Los Angeles area and the nation” and that its Obstetrics and Gynecology
3 department is “dedicated to providing comprehensive and personal care for women.” UCLA
4 also publicly touts its purported “serious commitment to addressing and preventing sexual
5 violence and sexual harassment.”

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

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

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

25 26. In or about January 2015, during Dr. Heaps’ tenure at UCLA Health, a report of
26 sexually inappropriate conduct by Dr. Heaps was posted on Yelp, a public review website.
27 The young woman who posted on Yelp stated that the misconduct she alleged, which included
28 Dr. Heaps groping her breast and making inappropriate comments during a post-operative

1 appointment with her, had occurred several years prior to her Yelp post and while she was a
2 UCLA student. The woman who posted on Yelp detailed her experience with this harassment
3 and molestation by Dr. Heaps and its aftermath, stating that, “7 years later, I still feel
4 violated.”

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

11 28. On information and belief, in or about January 2017, a UCLA Health employee
12 (who went to Dr. Heaps for her personal medical care), herself certified to chaperone intimate
13 examinations at UCLA Health, reported to her supervisor (a managerial employee of the
14 Regents) that Dr. Heaps had sexually abused and harassed her during a routine gynecological
15 procedure. On further information and belief, the Regents did nothing to investigate these
16 allegations. Nor, on information and belief, did the Regents report the allegations to the
17 California Medical Board or to law enforcement or take any actions to protect the employee or
18 other patients of Dr. Heaps—including Plaintiff Doe 18 and likely hundreds of women who
19 were examined by Dr. Heaps until his forced “retirement” in or about June 2018— from
20 ongoing sexual abuse.

21 29. In addition, in or about early December 2017, a patient of Dr. Heaps complained
22 to UCLA in detail about the verbal and physical sexual harassment and abuse that she had
23 been forced to endure at the hands of Dr. Heaps. Nonetheless, UCLA again chose to ratify Dr.
24 Heaps’ conduct, allowing him to continue practicing and seeing patients (including Plaintiff
25 Doe 18) uninterrupted for the better part of a year. Those patients were seeking routine care
26 and were unwittingly exposed to a serious threat of lasting harm. Notwithstanding these
27 complaints—and despite being on notice of Dr. Heaps’ malfeasance—the UC Regents
28 continued to employ or otherwise affiliate with Dr. Heaps and ratify his conduct, allowing him

1 to maintain his practice and see patients (including Doe 18), which he did until mid-2018.

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

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

10 32. Plaintiff Doe 18 is further informed and believes that UCLA's own internal
11 investigation of Dr. Heaps' practices and billing found that he systemically overbilled
12 patients, their private insurance companies and Medicare and other public agencies, including
13 by representing that he personally provided patient procedures or services that he did not and
14 by assigning improper "billing codes" by which patients were overbilled for services. The
15 report further recommends that UCLA Health issue refunds to those affected. The internal
16 UCLA Health System Office of Compliance Services also stated in a confidential
17 memorandum that Dr. Heaps had "an unusually high utilization rate" for transvaginal
18 ultrasounds and colposcopies, which are both procedures which are expensive, uncomfortable
19 and which cause significant anxiety and worry for patients (including Plaintiff Doe 18) about
20 results.

21 **Plaintiff Doe 18 Is Sexually Battered and Harassed by Dr. Heaps**
22 **During Routine Gynecological Examinations**

23 33. Plaintiff Doe 18 was a patient of Dr. Heaps from in or about 2005 until on or
24 about April 11, 2018. During appointments over that time, Dr. Heaps frequently rubbed and
25 massaged various parts of Plaintiff Doe 18's body, including her breasts, stomach, legs and
26 also her sides --from her armpits to her waist. Plaintiff Doe 18 now understands that this
27 touching was not medically necessary or appropriate. Plaintiff Doe 18 was particularly
28 vulnerable to Dr. Heaps' abuse because, in or about 2015, Dr. Heaps diagnosed her with HPV,

1 as well as vulvar skin lesions, and told her that she needed follow-up testing — every four
2 months—to be assured that she would not develop cervical or other forms of cancer. Dr.
3 Heaps was insistent that she was at high risk for cancer and that he had significant concerns
4 that she would develop cancer because of her HPV test results and skin lesions that he told
5 Plaintiff Doe 18 that he saw on her external genitalia.

6 34. Intensely fearful of developing cancer and at Dr. Heaps insistence, Plaintiff Doe
7 18 made a series of appointments with Dr. Heaps for frequent pap smears (at which
8 appointments Dr. Heaps also performed breast examinations) and for two colposcopies.
9 Plaintiff Doe 18 has subsequently learned that, in addition to being sexually abusive, as
10 described herein, these frequent exams by Dr. Heaps were excessive in number and not
11 medically necessary, thereby subjecting Plaintiff Doe 18 to unnecessary discomfort, intense
12 worry and physical pain.

13 35. Dr. Heaps engaged in conduct that – as described herein Plaintiff Doe 18 has
14 now to come to understand was abusive and harassing, including, but not limited to, at
15 appointments on or about the following dates: January 6, 2015, July 7, 2015, March 31, 2016,
16 May 12, 2016 , September 14, 2016, March 21, 2018, April 11, 2018.

17 36. During breast examinations on at least the dates listed above, Dr. Heaps engaged
18 in conduct which Plaintiff Doe 18 has now learned was abusive and designed to sexually
19 gratify Dr. Heaps. Specifically, Dr. Heaps groped and massaged Plaintiff Doe 18’s breasts–
20 using both hands at once to push her breasts together and rub and massage her nipples, in
21 lengthy “examinations” that Plaintiff Doe 18 now understands were both grossly inappropriate
22 and medically unnecessary. During these examinations, there were sometimes female
23 chaperones present. However, the chaperones leaned against the examination room wall and
24 appeared uninterested in the examinations. The chaperones did nothing to intervene or stop
25 the abuse and, on information and belief, did not report the abuse. The conduct of the
26 chaperones lulled Plaintiff Doe 18 into a belief that nothing inappropriate was occurring
27 during these “exams.”

28 37. In addition, during the course of pelvic exams which Dr. Heaps performed on at

1 least certain of the visits listed above, Plaintiff has now come to understand that Dr. Heaps
2 also engaged in sexual touching which was not medically necessary and which was designed
3 to sexually stimulate Plaintiff Doe 18 and gratify Dr. Heaps. During these exams, Dr. Heaps
4 also frequently rubbed and massaged various parts of Plaintiff Doe 18's body, including her
5 breasts, stomach, legs and also her sides --from her armpits to her waist. Plaintiff Doe 18 now
6 understands that this touching was not medically necessary or appropriate. During such
7 "exams," there was frequently a nurse present, but she would stand to the side and do nothing
8 that indicated to Plaintiff Doe 18 that Dr. Heaps was engaging in misconduct. Nor, on
9 information and believe, did any nurse ever report that the conduct in which Dr. Heaps was
10 engaging was sexually abusive or take any other action to stop it or intervene.

11 38. In the wake of Dr. Heaps' "retirement," Plaintiff Doe sought treatment from a
12 new physician, who indicated that Plaintiff Doe 18 had tested negative for HPV and that the
13 skin and tissues of her external genitalia are normal. This physician indicated that there was
14 no need for Plaintiff Doe 18 to have frequent pap smears or other cancer testing. As such,
15 Plaintiff Doe 18 has realized (in addition to the devastating realization that she had been
16 sexually abused) that she was also subjected by Dr. Heaps to the discomfort, time, expense
17 and worry involved in overly frequent cancer screening examinations.

18 39. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
19 providing services to patients through UCLA Health. On information and belief, on or about
20 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
21 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
22 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
23 In that letter, Dr. Krakow stated that "[i]t is with mixed emotions that I announce the
24 retirement of Dr. James Heaps." At the time that UCLA Health sent this notification letter to
25 patients of Dr. Heaps, UCLA Health was aware of specific allegations against Dr. Heaps and
26 of the then-ongoing California Medical Board Investigation of Dr. Heaps.

27 40. All of the actions of Dr. Heaps alleged in the following causes of action were
28 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC

1 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
 2 Plaintiff, yet failed to take corrective action to protect Plaintiff or other students or patients.
 3 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a
 4 position where he could molest, batter, and harass Plaintiff Doe 18, other patients, and
 5 students.

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

11 42. As discussed throughout, Defendant UC Regents also failed to put in place
 12 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
 13 imposition of a policy providing for the mandatory presence of an independent and
 14 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
 15 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
 16 at all) to train its employees and agents in how to recognize and report any sexual or medical
 17 battery or harassment.

18 43. The female chaperones who were at times in the room during Dr. Heaps’ sexual
 19 battery and harassment of Plaintiff Doe 18 acted recklessly and negligently, in that they failed
 20 to reasonably perform their duties as a chaperone and failed to act with the ordinary care one
 21 would expect. The chaperones—on information and belief, employees of the UC Regents—
 22 failed to raise any alarms during Dr. Heaps’ misconduct (which they at times witnessed) or
 23 take any other reasonably expected actions to prevent or stop the misconduct, despite being
 24 aware of the lack of medical necessity of Dr. Heaps’ touching and comments to Plaintiff Doe
 25 18. Further, on information and belief, the chaperones did not report Dr. Heaps’ misconduct.

26 44. Plaintiff Doe 18 is now informed and believes, and based thereon alleges, that
 27 the UC Regents further breached its duties owed to Plaintiff Doe 18 and other patients by,
 28 among other things, failing to conduct reasonable investigation and/or due diligence prior to

1 hiring individuals assigned to assist Dr. Heaps during the relevant time period, including those
2 charged with the important task of chaperoning gynecological examinations.

3 45. On information and belief, one nurse/chaperone employed by UCLA Health
4 from in or about 2013 until in or about 2016 (and who provided services for some period of
5 time in Dr. Heaps' office) was retained despite the fact that she was – in or about 2008–
6 criminally charged with welfare fraud and perjury and pleaded guilty to welfare fraud. On
7 information and belief, during the time she was employed by the UC Regents, this
8 nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why such an
9 individual would be hired into a position of trust, with access to private patient medical and
10 personal information. Nor is it clear why such a person would be called upon to act as a
11 chaperone and purportedly safeguard women's well-being and safety.

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

17 47. As a result of these charges, on information and belief, the Board of Vocational
18 Nursing and Psychiatric Technicians, Department of Consumer Affairs, initiated proceedings
19 against this individual's nursing license (the "Accusation"). The Accusation alleges that this
20 nurse/chaperone's medical records indicated that she took a bottle of Xanax pills causing her
21 to "black out" while driving. The Accusation also alleges that an outpatient program
22 diagnosed her with "unspecified alcohol dependence, unspecified drinking behavior, and
23 sedative, hypnotic, or anxiolytic dependence." Quite obviously, the UC Regents was on
24 notice that this nurse was unfit to perform the duties for which she was employed, including
25 chaperoning gynecological procedures and providing medical treatment to patients.

26 48. Dr. Heaps' misconduct, the chaperones' silence and inaction—and the UC
27 Regents' cover up—has resulted in tremendous harm to Plaintiff Doe. The physical and
28 psychological aftermath of her appointment with Dr. Heaps has been severe for Plaintiff Doe.

1 She has suffered from shock, humiliation, embarrassment and other forms of severe emotional
2 distress. This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other
3 physical and psychological manifestations of the distress caused by Defendants' egregious
4 acts.

5 **THE PARTIES**

6 49. Plaintiff Jane Doe 18 currently resides in the County of Los Angeles, State of
7 California.

8 50. Defendant UC Regents is, and at all times relevant hereto was, a California
9 Corporation having its principal place of business in the State of California. Upon information
10 and belief, the UC Regents is the governing body of the University of California and exercises
11 the ultimate dominion and control of the same. UCLA is an educational institution of higher
12 learning.

13 51. Plaintiff Doe 18 is informed and believes, and on that basis alleges, that UC
14 Regents owned, operated, and maintained UCLA Health, through which medical services
15 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
16 of Health and provided health care as healthcare facilities.

17 52. Plaintiff Doe 18 is informed and believes, and on that basis alleges, that
18 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State
19 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
20 of California to practice medicine, and was the employee and/or agent of the UC Regents.

21 53. Plaintiff Doe 18 is ignorant of the true name of the female nurses/chaperones
22 that were in the room during Dr. Heaps' sexual battery and harassment of Plaintiff Doe 18,
23 and therefore sues these defendants as Roes 1-5. Upon information and belief, Plaintiff Doe
24 alleges that Roes 1-5 were nurses employed by the UC Regents. Plaintiff Doe 18 will amend
25 this Complaint to allege Defendants Roes 1-5's true names and capacities when it has been
26 ascertained or upon proof at trial. Plaintiff Doe 18 alleges that Roes 1-5 are legally
27 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
28 and severally liable.

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

8 55. Plaintiff Doe 18 is informed and believes, and based thereon alleges, that at all
9 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
10 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
11 and that in doing the things alleged, was acting within the course, scope and authority of such
12 agency, employment, supervision, management, ownership and joint venture, and with the
13 consent and permission of each of the other Defendants. Unless otherwise indicated, all
14 Defendants, including the Roe Defendants, are collectively referred to herein as the
15 “Defendants.”

16 56. Plaintiff Doe 18 is informed and believes, and on that basis alleges, that, in
17 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
18 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other
19 employees, including but not limited to the female chaperones who were in the examination
20 room at the time of certain of Dr. Heaps’ examinations of Plaintiff Doe 18—as more
21 particularly described above, pursuant to the doctrine of *respondeat superior* and Cal. Gov’t
22 Code § 815.2. Dr. Heaps, the female chaperone, and others were acting in the course and
23 scope of their employment at the time of the allegations herein.

24 57. Once the 90 day wait period pursuant to CCP 364 expires without resolution,
25 Plaintiff Doe intends to amend her complaint to add a claim of professional negligence against
26 Defendants.

27 58. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
28 herein, Plaintiff Doe 18 requests leave to amend this Complaint, such that a request for

1 attorneys' fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil
2 Procedure § 1021.4.

3 **JURISDICTION AND VENUE**

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

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

8 61. At least some of the wrongful acts alleged herein occurred in the County of Los
9 Angeles; thus venue is properly in the County of Los Angeles.

10 **FIRST CAUSE OF ACTION**

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

12 62. Plaintiff Doe 18 incorporates Paragraphs 1 through 61 as though fully set forth
13 herein.

14 63. Plaintiff Doe 18's civil rights were violated by Defendants when they abused
15 and harassed Plaintiff Doe 18 and when they intentionally and fraudulently concealed
16 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
17 Heaps from other patients. Plaintiff had a right to be free from gender discrimination, sexual
18 molestation, abuse and harassment under the Unruh Civil Rights Act.

19 64. The Defendants were acting under the color of their authority and in the scope of
20 their employment, during the instances when Plaintiff Doe 18 was a patient at UCLA Health.

21 65. The Defendants denied Plaintiff full and equal accommodations, advantages,
22 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
23 unfettered access to sexually abuse Plaintiff Doe 18, by and through his position of authority
24 as a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
25 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
26 UC Regents ratified.

27 66. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,
28 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed

1 female patients, including Plaintiff Doe 18, to Dr. Heaps' sexual abuse and harassment.
2 Defendants' retention of Dr. Heaps denied Plaintiff Doe, and all of their other female patients,
3 full and equal access to safe medical facilities, treatment and services, based upon their
4 gender.

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

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

14 69. As a further direct and proximate result of Defendants' collective and concerted
15 wrongful actions, as herein alleged, Plaintiff Doe 18 has been hurt in her health, strength and
16 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
17 person, which has caused and continues to cause great mental and physical pain, suffering,
18 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event
19 less than the jurisdictional minimum requirements of this Court.

20 **SECOND CAUSE OF ACTION**

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

22 70. Plaintiff Doe 18 incorporates Paragraphs 1 through 69 as though fully set forth
23 herein.

24 71. Defendants' actions, as alleged herein, have had and will continue to interfere
25 with Plaintiff Doe 18's right to be free from gender discrimination in the form of sexual
26 harassment, codified under Cal. Civ. Code § 52.1.

27 72. During Plaintiff Doe 18's time as a patient at UCLA Health, Defendants
28 engaged in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe, as well as

1 ignoring, concealing, and suppressing other patients' complaints of being sexually exploited
2 and abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive
3 behavior violated Plaintiff Doe's right to be free from discrimination on the basis of her
4 gender, under Cal. Civ. Code § 52.1.

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

9 74. Defendants unlawfully and wrongfully used, or employed others to wrongfully
10 use, threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
11 Plaintiff, who did not have knowledge that the conduct in which Defendants were engaging
12 was not medically necessary, had no relief except to submit to the Defendants' wrongful
13 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiff's
14 submission involuntary.

15 75. Defendants' above-noted actions were the legal and proximate causes of
16 physical, psychological, and emotional damages to Plaintiff Doe 18, who has suffered and
17 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe 18
18 incurring, and will require her to incur into the future, expenses for medical and psychological
19 treatment, therapy, and counseling.

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

27 77. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
28 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of

1 Plaintiff's gender that were unwelcome, pervasive and severe, all under the supervision of
2 Defendant the UC Regents. Again, the female chaperones who were in the room at the time of
3 certain of Plaintiff Doe 18's examinations sat silently as Plaintiff Doe was subjected to these
4 comments.

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

9 83. Because of Plaintiff Doe's relationships with Defendants Dr. Heaps and the UC
10 Regents, Dr. Heaps' status as a prominent and highly compensated gynecologist employed by
11 the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
12 physician, and Plaintiff Doe 18's vulnerability as a gynecological patient, Plaintiff Doe was
13 unable to easily terminate the relationship she had with the Defendants.

14 84. Because of Dr. Heaps' status, position of authority, physical seclusion of
15 Plaintiff Doe, her mental and emotional state, vulnerable position and the fact that she did not
16 understand that Dr. Heaps' conduct was not medically necessary she was unable to, did not,
17 and could not, give consent to such acts.

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

28 86. With regard specifically to the liability hereunder of Defendant UC Regents, a

1 corporation is a “person” within the meaning of Civil Code Section 51.9, which subjects
2 persons to liability for sexual harassment within a business, service or professional
3 relationship, and such an entity defendant may be held liable under this Statute for the acts of
4 its employees. *C.R. v. Tenet Healthcare Corp.*, 169 Cal.App.4th 1094 (2009). Further,
5 principles of ratification apply when the principal ratifies the agent’s originally unauthorized
6 harassment, as is alleged to have occurred herein.

7 87. Defendants’ conduct (and the conduct of their agents, servants and/or
8 employees) was a breach of their duties to Plaintiff Doe 18.

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

16 **FOURTH CAUSE OF ACTION**

17 **(Battery against All Defendants)**

18 89. Plaintiff Doe incorporates Paragraphs 1 through 88 as though fully set forth
19 herein.

20 90. During the course of treatment of Plaintiff Doe 18, Dr. Heaps used his powers
21 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 18,
22 to sexually batter Plaintiff Doe 18, knowing that, especially as a patient with a family history
23 of cancer and concern about developing the disease, she would be vulnerable to this type of
24 sexual battery. Dr. Heaps performed pelvic exams and breast exams in a sexual manner. Dr.
25 Heaps also rubbed and massaged various parts of Plaintiff Doe 18’s body, including her
26 breasts, stomach, legs and also her sides --from her armpits to her waist. Plaintiff Doe 18 has
27 now come to understand that this conduct, which was under the supervision of the UC
28 Regents, was without medical justification.

1 91. The female chaperones who were in the room during the visit enabled the sexual
2 battery and assault of Plaintiff Doe 18 by failing to reasonably perform their duties as
3 chaperones and failing to raise any alarms during Dr. Heaps’ misconduct or take any other
4 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 18.

5 92. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
6 18 and had she not been treated by Defendants, she would have never permitted such sexual
7 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
8 touching and battery upon her person.

9 93. Plaintiff Doe 18 did not consent to the sexualized touching and sexual contact.

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

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

1 he had committed battery and sexual battery and assault in the past.

2 96. In doing the acts alleged herein, Dr. Heaps used the power and authority
3 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
4 Doe 18. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
5 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
6 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
7 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
8 engaging in assaultive conduct. As such, Dr. Heaps' conduct is incident to his agency with the
9 UC Regents, so as to be fairly attributable to them.

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

12 98. Dr. Heaps' conduct alleged herein was despicable, and was done willfully and/or
13 with a conscious disregard of Plaintiff's rights, and/or intentionally, or maliciously, or in
14 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
15 each of them, were in a special relationship with Plaintiff Doe 18 by virtue of the fact that she
16 was a patient at UCLA Health and receiving their services.

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

27 100. In subjecting Plaintiff Doe 18 to the wrongful treatment herein described,
28 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in

1 conscious disregard of Plaintiff Doe 18's rights, so as to constitute malice and oppression
2 under California Civil Code section 3294. Plaintiff Doe 18 is therefore entitled to the
3 recovery of punitive damages against Defendant Heaps, in an amount to be determined
4 according to proof.

5 **FIFTH CAUSE OF ACTION**

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

7 101. Plaintiff Doe 18 incorporates Paragraphs 1 through 100 as though fully set forth
8 herein.

9 102. During Plaintiff Doe 18's time as a patient with Defendants, Dr. Heaps
10 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 18 now understands were
11 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
12 Doe's person, including but not limited to: Dr. Heaps performed pelvic exams and breast
13 exams in a sexual manner. Dr. Heaps also rubbed and massaged various parts of Plaintiff Doe
14 18's body, including her breasts, stomach, legs and also her sides --from her armpits to her
15 waist. Plaintiff Doe 18 has now come to understand that this conduct, which was under the
16 supervision of the UC Regents, was without medical justification.

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

22 104. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
23 18 and had she not been treated by Defendants, she would have never permitted such sexual
24 contact by Dr. Heaps.

25 105. Plaintiff Doe 18 did not consent to this sexualized touching and sexual contact.

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

1 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
2 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
3 complaint.

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

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

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

27 110. As a proximate result of the above, Plaintiff Doe 18 suffered damages as
28 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'

1 conduct, Plaintiff Doe 18 sustained serious and permanent injury to her person, all of his
2 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

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

11 **SIXTH CAUSE OF ACTION**

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

13 112. Plaintiff Doe 18 incorporates Paragraphs 1 through 111 as though fully set forth
14 herein.

15 113. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 18,
16 as described herein, was outrageous and extreme.

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

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

27 116. A reasonable person would not expect or tolerate the Defendants, their agents,
28 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps

1 from committing wrongful sexual acts with patients, including Plaintiff Doe 18, or to be
2 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
3 chaperone whose presence was supposed to ensure Plaintiff Doe 18's comfort and safety
4 during a gynecological exam would sit idly by and not say anything while Plaintiff Doe 18
5 was being sexually abused by a physician. A reasonable person would not expect that UCLA
6 would not vet its nurse/chaperones to determine whether they have criminal histories and
7 remove them from their positions when it is clear that they have alcohol and drug
8 dependencies. Indeed the presence of the silent chaperone has now further exacerbated
9 Plaintiff Doe 18's extreme embarrassment and harm as she was subjected to what she now
10 understands to be misconduct with a silent audience.

11 117. Defendants' conduct described herein was intentional and malicious and done
12 for the purpose of causing or with the substantial certainty that Plaintiff Doe 18 would suffer
13 humiliation, mental anguish, and emotional and physical distress.

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

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

26 **SEVENTH CAUSE OF ACTION**

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

28 120. Plaintiff Doe 18 incorporates Paragraphs 1 through 119 as though fully set forth

1 herein.

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

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

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

24 124. Defendants had a special relationship with Plaintiff Doe 18 and/or had
25 undertaken an obligation to her that necessarily implicated Plaintiff Doe 18's emotional well-
26 being. Specifically, Defendants had a duty to take reasonable measures to prevent harm to
27 Plaintiff Doe 18 and to protect her from Dr. Heaps.

28 125. There was an especially likely risk that Defendants' negligent actions and

1 inactions would cause serious emotional distress to Plaintiff Doe 18. Defendants’ failure to
2 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
3 Plaintiff Doe 18 tremendous harm.

4 126. Defendants’ negligence was a substantial factor in causing Plaintiff Doe serious
5 emotional distress.

6 **EIGHTH CAUSE OF ACTION**

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

8 127. Plaintiff Doe 18 incorporates Paragraphs 1 through 126 as though fully set forth
9 herein.

10 128. By virtue of Plaintiff Doe 18’s special relationship with the UC Regents as a
11 patient, and the UC Regents’ relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
12 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
13 knew or should have known about.

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

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

23 131. The UC Regents were aware, or should have been aware, and understood how
24 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
25 and abuse by physicians and other persons of authority within the control of the UC Regents
26 prior to Plaintiff Doe 18’s sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
27 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
28 female gynecological patients, including imposition of a policy providing for the mandatory

1 presence of an independent, properly trained chaperone, to prevent, deter and report any
2 misconduct in the context of gynecological examinations and procedures. Defendant UC
3 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
4 and report any sexual or medical battery or harassment.

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

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

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

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

27 136. The UC Regents’ conduct in enabling Dr. Heaps to serially sexually assault his
28 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed

1 to Plaintiff Doe 18.

2 137. Because the UC Regents:

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

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

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

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

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

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

16 138. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
17 sexually exploiting, abusing, and harassing female patients and refused to take any action to
18 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
19 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
20 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
21 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 18.
22 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'
23 acts of sexual exploitation, sexual assault, battery, and harassment.

24 139. As a result of the above-described conduct, Plaintiff Doe 18 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 **NINTH CAUSE OF ACTION**

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

5 140. Plaintiff Doe 18 incorporates Paragraphs 1 through 139 as though fully set forth
6 herein.

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

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

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

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

26 145. In fact, on information and belief, Defendant UC Regents knowingly hired at
27 least one individual which the UC Regents knew or should have known had a history of
28 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in

1 Dr. Heaps' office—was arrested multiple times for DUI's stemming from alcohol and
2 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
3 appropriate and skilled staff who could properly oversee intimate examinations and protect
4 female patients.

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

8 147. Because the UC Regents:

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

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

22 148. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps
23 was sexually exploiting, abusing, and harassing female patients and refused take any action to
24 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
25 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
26 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
27 Regents and he was allowed to be alone with gynecological patients. The UC Regents, their
28 agents, servants, and/or employees thus approved, ratified, and are responsible for Dr. Heaps'

1 acts of sexual exploitation, sexual assault, battery, and sexual harassment.

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

9 **TENTH CAUSE OF ACTION**

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

11 150. Plaintiff Doe 18 incorporates Paragraphs 1 through 149 as though fully set forth
12 herein.

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

19 152. Defendant UC Regents breached its duty to take reasonable measures to protect
20 Plaintiff Doe 18 and other female patients from the risk of sexual harassment and abuse by
21 Dr. Heaps, such as the failure to properly warn, Plaintiff and other patients about Dr. Heaps.

22 153. Defendant UC Regents breached its duty to take reasonable protective measures
23 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
24 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
25 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe
26 18.

27 154. In fact, on information and belief, Defendant UC Regents knowingly hired at
28 least one individual which the UC Regents knew or should have known had a history of

1 criminality and fraud, and who—during the course of her employment as a nurse/chaperone in
2 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and
3 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
4 appropriate and skilled staff who could properly oversee intimate examinations and protect
5 female patients.

6 155. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
7 exposed Plaintiff Doe 18 and other patients to sexual battery and abuse.

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

15 **ELEVENTH CAUSE OF ACTION**

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

17 157. Plaintiff Doe 18 incorporates Paragraphs 1 through 156 as though fully set
18 forth herein.

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

21 159. Defendants owed Plaintiff a duty of care to act.

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

24 161. For example, the chaperones who was/were in the room during certain instances
25 of Dr. Heaps’ sexual assault and harassment of Plaintiff Doe 18 acted negligently, in that they
26 failed to reasonably perform their duties as a chaperone and failed to act as a reasonably
27 prudent person. The chaperones failed to raise any alarms during Dr. Heaps’ misconduct or
28 take any other reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 18,

1 despite the fact that (a) the purpose of the chaperones was to protect Plaintiff Doe 18 and
 2 ensure that she was comfortable and safe during the gynecological visit; and (b) the
 3 chaperones were aware of the lack of medical necessity of Dr. Heaps’ touching and
 4 questioning of Plaintiff Doe 18. Further, the chaperones did not report Dr. Heaps’
 5 misconduct. At the time they were in the examination room and while they were at times
 6 silently witnessing Dr. Heaps’ infliction of harm to Plaintiff Doe 18, the female chaperones
 7 was/were acting in the course and scope of their employment with UCLA.

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

15 **TWELFTH CAUSE OF ACTION**

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

17 163. Plaintiff Doe 18 incorporates Paragraphs 1 through 162 as though fully set forth
 18 herein.

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

26 165. Plaintiff Doe 18 is female.

27 166. Dr. Heaps intentionally and without consent physically intruded and/or invaded
 28 Plaintiff’s body during medical examinations in a sexual manner in violation of Cal. Civ.

1 Code § 52.4. The conditions were coercive in that Plaintiff placed her trust and confidence in
2 Dr. Heaps as a physician and in the UC Regents as a premier provider of patient care (via
3 UCLA Health).

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

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

15 **THIRTEENTH CAUSE OF ACTION**

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

17 169. Plaintiff Doe 18 incorporates Paragraphs 1 through 168 as though fully set forth
18 herein.

19 170. During Plaintiff's time as a patient with Defendants, Dr. Heaps at times intended
20 to cause harmful or offensive contact with Plaintiff, or intended to put Plaintiff in imminent
21 apprehension of such conduct.

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

25 172. Plaintiff did not consent to Dr. Heaps' intended harmful or offensive contact, or
26 intent to put Plaintiff in imminent apprehension of such contact.

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

1 advance notice of this misconduct.

2 174. Plaintiff suffered severe emotional distress and physical injury as a result of
3 Dr. Heaps' misconduct and damages as otherwise alleged in this Complaint.

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

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

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

26 178. As a proximate result of the above, Plaintiff suffered damages as otherwise
27 alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps' conduct,
28 Plaintiff sustained serious and permanent injury to her person, all of this damage in an amount

1 to be shown according to proof and within the jurisdiction of this Court.

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

9 **FOURTEENTH CAUSE OF ACTION**

10 **(Unfair Business Practices (Business & Professions Code § 17200) against Defendants**
11 **Heaps and Roes)**

12 180. Plaintiff Doe 18 incorporates Paragraphs 1 through 179 as though fully set forth
13 herein.

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

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

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

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

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

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

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

20 **FIFTEENTH CAUSE OF ACTION**

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

22 187. Plaintiff Doe 18 incorporates Paragraphs 1 through 186 as though fully set forth
23 herein.

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

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

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

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

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

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

1 on information and belief, had alcohol and prescription drug addictions
2 during the time in which she was rendering nurse and chaperone services
3 to patients, including Plaintiff Doe 18;

4 (g) continuing to assign Dr. Heaps to duties which placed him in positions
5 of trust and authority over other patients;

6 (h) continuing to impliedly represent that Dr. Heaps was safe and morally fit
7 to give medical care and provide gynecological treatment; and

8 (i) continuing to promote Dr. Heaps as a faculty member and trusted
9 physician on the UCLA School of Medicine website even after he had
10 forcibly “retired.”

11 192. Defendant made affirmative or implied representations and nondisclosures of
12 material facts about Dr. Heaps and his suitability to provide gynecological care to patients,
13 and knowingly and intentionally suppressed material facts about past allegations of
14 misconduct against Dr. Heaps that the UC Regents knew or should have known about.

15 193. Given her need for medical treatment, and her trust and care in Defendants,
16 Plaintiff was vulnerable to Defendants.

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

19 195. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and
20 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

21 196. The misrepresentations, suppressions, and concealment of facts by Defendants
22 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
23 no knowledge of any misconduct by Dr. Heaps.

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

26 198. On information and belief, Defendants suppressed and concealed the true facts
27 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and
28 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and

1 abuse patients, (b) inducing Plaintiff and other people to participate and financially support
2 Defendants' programs and enterprises; (c) preventing further reports and investigations of
3 Defendants' misconduct; (d) avoiding damage to Defendants' reputations; and (e) protecting
4 Defendants' power, status, and reputation in the community.

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

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

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

17

18 **WHEREFORE**, Plaintiff Doe 18 prays for a jury trial and for judgment against
19 Defendants as follows:

20

FOR ALL CAUSES OF ACTION

- 21 1. For compensatory damages, in an amount to be determined at trial;
- 22 2. For costs of suit;
- 23 3. For interest based on damages, as well as pre-judgment and post-judgment
24 interest as allowed by law;
- 25 4. For declaratory and injunctive relief, including but not limited to court
26 supervision of the UC Regents;
- 27 5. For attorneys' fees as provided by statute;
- 28 6. For punitive damages as to Dr. Heaps;

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- 7. For restitution and disgorgement; and
- 8. For such other and further relief as the Court may deem proper.

DATED: September 13, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 18

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 18 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 18

