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

13 JANE DOE 19,
14 Plaintiff,
15 vs.

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

COMPLAINT FOR:

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

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 19,¹ an individual (“Plaintiff Doe 19” or “Plaintiff” or “Doe 19”)
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 19 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 19, whom
15 he diagnosed with an ovarian “tumor” (which he later referred to as a “cyst”). With a family
16 history of cancer (her sister – likewise a patient of Dr. Heaps—had recently been diagnosed
17 with breast cancer), Plaintiff Doe 19 was fearful of developing ovarian cancer and became
18 extremely reliant on Dr. Heaps for her care and placed her complete trust and confidence in
19 him and in his purported medical practices. Dr. Heaps abused that trust, engaging in what
20 Plaintiff Doe 19 has come to understand was sexually abusive conduct, including conduct
21 designed to sexually stimulate Plaintiff Doe 19 and gratify himself during breast exams, pelvic
22 exams and transvaginal ultrasound procedures.

23 4. Shamefully, Plaintiff is now informed and believes that the UC Regents and Dr.
24 Heaps also profited financially from the sexual abuse, harassment and mistreatment which
25 Plaintiff Doe 19 endured. Plaintiff Doe 19 is now informed and believes that Dr. Heaps’
26

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

1 insistence that she needed to have transvaginal ultrasound procedures and breast examinations
2 every six months because of her purported ovarian “tumor,” was not medically sound and was
3 greatly excessive.

4 5. As such, Plaintiff Doe 19 must now live with the understanding that she was
5 subjected to painful and uncomfortable procedures and inconvenience, as well as the
6 concomitant worry and anxiety involved in cancer testing, for reasons that had nothing at all to
7 do with appropriate medical care. Rather, on information and belief, Dr. Heaps had dual
8 motives – financial gain from overbilling and the opportunity to sexually abuse Plaintiff Doe
9 19. On information and belief, as discussed throughout, it is clear that the UC Regents were
10 willing – and did—protect Dr. Heaps from being exposed as a sexual predator because the
11 Regents profited to the tune of millions of dollars from this gross misconduct.

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

20 7. Perhaps because of the millions of dollars in income that he generated for UCLA
21 and the fact that he had powerful patients and was celebrated in the community (as recent
22 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
23 failed to protect Plaintiff Doe 19 or other vulnerable women from Dr. Heaps.

24 8. In fact, UCLA allowed Dr. Heaps to continue to examine female gynecological
25 patients despite a history of similar complaints of misconduct and abuse, including (1) a
26 California Medical Board investigation in 2014 (at or near the time that UCLA apparently
27 acquired Dr. Heaps’ practice), which on information and belief involved allegations of sexual
28 misconduct during a patient examination; (2) at least one claim that he sexually harassed and

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

5 9. In addition, on information and belief, UCLA did not institute basic protections
6 in order to prevent sexual abuse of patients, including having independent, qualified, and
7 trained chaperones present during examinations and/or, if any such protocols were in place,
8 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
9 train or supervise its employees so as to make them aware of how to intervene should any
10 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct.
11 Even though the abuse inflicted upon Plaintiff Doe 19 at times occurred in the presence of a
12 chaperone, the chaperones—who, on information and belief were supervised by Dr. Heaps—did
13 not act to stop the incident or report the incident to authorities.

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

23 11. On information and belief, in or about late June 2018, Dr. Heaps was forced to
24 resign. UCLA, however, again chose to protect itself and Dr. Heaps and keep this incident
25 (and others known to it) under wraps. In or about mid-June 2018, UCLA sent a letter to
26 patients of Dr. Heaps, stating that “it is with mixed emotions” that UCLA announces
27 Dr. Heaps’ “retirement.” UCLA then continued to feature Dr. Heaps on the webpages of
28 UCLA Health and of the David Geffen School of Medicine for nearly a year following,

1 allowing Dr. Heaps and UCLA to save face in the community, a community unwittingly
2 exposed to a sexual predator by Defendants.

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

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

17 14. Only when Dr. Heaps' arrest became public, did Plaintiff Doe 19 come to
18 understand what had been done to her by Dr. Heaps' misconduct and UCLA's inaction. Only
19 in the last few months has Plaintiff Doe 19 come to realize that Dr. Heaps conducted
20 ultrasound procedures, pelvic exams and breast exams in an inappropriate and sexual manner
21 and that the conduct to which she was subjected was not medically necessary.

22 BACKGROUND FACTS

23 Defendant Dr. Heaps Provides Gynecological Services to UCLA Patients

24 15. Dr. Heaps completed his internship and residency as an obstetrician-
25 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
26 1983–1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
27 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
28 further information and belief, in or about February 2014, Dr. Heaps' private practice was

1 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
2 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

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

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

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

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

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

27 20. During Dr. Heaps' tenure at UCLA, however, Plaintiff is informed and believes,
28 and on this basis alleges, that Dr. Heaps sexually abused and molested a number of his female

1 patients, including Plaintiff Doe, through the use of his position and authority as a full-time
2 gynecologist employed by the UC Regents.

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

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

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

26 24. Subsequent to the 2014 Medical Board Investigation, and despite the existence
27 of at least one accusation of sexual misconduct on a public website detailed above, Dr. Heaps
28 continued to practice as a UCLA gynecologist, both in his UCLA Health office and, on

1 information and belief, at Ronald Reagan UCLA Medical Center. As discussed above,
2 Dr. Heaps was paid one of the highest salaries of any UC system employee in 2016 and, on
3 information and belief, in other years during his UCLA tenure.

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

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

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

28 28. The UC Regents failed to take prompt action in response to complaints received

1 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
2 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
3 including young female students at UCLA and female patients at UCLA Health.

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

14 **Plaintiff Doe 19 Is Sexually Battered and Harassed by Dr. Heaps**
15 **During Routine Gynecological Examinations and Procedures**

16 30. Plaintiff Doe 19 was a patient of Dr. Heaps from in or about 2007 until in or
17 about July 2017. During that time, Dr. Heaps garnered Plaintiff Doe 19’s trust and
18 confidence, which he took advantage of in order to sexually abuse and molest her. Plaintiff
19 Doe 19 was particularly vulnerable to Dr. Heaps’ abuse because Dr. Heaps diagnosed her with
20 an ovarian “tumor” and told her that she needed transvaginal ultrasounds—a procedure that
21 involves the insertion into the vagina of an ultrasound wave-producing device, called a
22 transducer, to produce images of the organs in the pelvic region— every six months. Dr.
23 Heaps also insisted to Plaintiff Doe 19 that she have manual breast examinations performed by
24 him every six months.

25 31. Intensely fearful of developing cancer in light of her family history and her
26 sister’s recent breast cancer diagnosis, as well as her reasonable belief that Dr. Heaps’ advice
27 was medically correct, Plaintiff Doe 19 made appointments with Dr. Heaps’ office
28 approximately every six months from in or about the late 2000’s until 2017. Plaintiff Doe 19

1 has subsequently learned that, in addition to being sexually abusive, as described herein, these
2 frequent exams by Dr. Heaps were excessive in number and not medically necessary, thereby
3 subjecting Plaintiff Doe 19 to unnecessary discomfort, intense worry and physical pain.

4 32. Dr. Heaps engaged in conduct that – as described herein Plaintiff Doe 19 has
5 now to come to understand was abusive and harassing, including at appointments (during
6 which breast “exams” and transvaginal ultrasound procedures were performed by Dr. Heaps)
7 on at least the following dates: December 18, 2014, May 19, 2015, November 19, 2015, May
8 24, 2016, November 29, 2016, and July 19, 2017. Dr. Heaps performed a transvaginal
9 ultrasound at each of these appointments.

10 33. During breast examinations on at least the dates listed above, Dr. Heaps engaged
11 in conduct which Plaintiff Doe 19 has now learned was abusive and designed to sexually
12 gratify Dr. Heaps. Specifically, Dr. Heaps groped and massaged Plaintiff Doe 19’s breasts–
13 using both hands at once to push her breasts together and rub and massage her nipples, in
14 lengthy “examinations” that Plaintiff Doe 19 now understands were both grossly inappropriate
15 and medically unnecessary. Dr. Heaps always spoke to Plaintiff Doe 19 during these breast
16 “exams,” distracting Plaintiff Doe 19 and lulling her into a belief that nothing inappropriate or
17 sexual in nature was in fact occurring. During these examinations, there were sometimes
18 female chaperones present. However, the chaperones looked away or appeared uninterested.
19 The chaperones did nothing to intervene or stop the abuse and, on information and belief, did
20 not report the abuse. The conduct of the chaperones likewise lulled Plaintiff Doe 19 into a
21 belief that nothing inappropriate was occurring during these “exams.”

22 34. In addition, during the course of pelvic exams which Dr. Heaps performed on at
23 least certain of the visits listed above, Plaintiff has now come to understand that Dr. Heaps
24 also engaged in sexual touching which was not medically necessary and which was designed
25 to sexually stimulate Plaintiff Doe 19 and gratify Dr. Heaps. During such “exams,” there was
26 frequently a nurse present, but she would stand to the side or busy herself reading documents
27 and do nothing that indicated to Plaintiff Doe 19 that Dr. Heaps was engaging in misconduct.
28 Nor, on information and believe, did any nurse ever report that the conduct in which Dr.

1 Heaps was engaging was sexually abusive or take any other action to stop it or intervene.

2 35. Plaintiff Doe 19 has also come to understand that Dr. Heaps conducted frequent
3 transvaginal ultrasound examinations – on at least the appointment dates listed above—in a
4 sexually abusive manner. On one occasion, in or about 2016, right before inserting the
5 transducer and beginning the transvaginal ultrasound procedure, Dr. Heaps touched Plaintiff
6 Doe 19 in a manner which Plaintiff Doe 19 now understands was designed to stimulate
7 Plaintiff Doe 19 and gratify Dr. Heaps sexually. On another occasion, on or about July 19,
8 2017, again right before beginning the transvaginal ultrasound procedure, Dr. Heaps pushed
9 up the drape that was covering Plaintiff Doe 19’s lower body onto her stomach, completely
10 exposing her lower body. Dr. Heaps then touched Plaintiff Doe 19 in a way which she now
11 understands was designed to stimulate her sexually and gratify Dr. Heaps. Again, chaperones
12 were at times present during these examinations, but were often not paying attention to what
13 Dr. Heaps was doing and gave Plaintiff Doe 19 no indication that anything abusive, harassing
14 or not medically necessary was occurring.

15 36. On each occasion that Dr. Heaps performed a transvaginal ultrasound, he would
16 indicate to Plaintiff Doe 19 that her ovarian “tumor”, which he also later referred to as a
17 “cyst,” had not changed in appearance. Although this was always welcome news, Plaintiff
18 Doe 19 has come to understand that she did not need such frequent transvaginal ultrasound
19 imaging and believes that Dr. Heaps subjected her unnecessarily to tremendous and ongoing
20 fear that she had—or would develop—ovarian cancer with the aim of both sexually abusing
21 her and financially profiting from the procedures.

22 37. In the wake of Dr. Heaps’ “retirement,” Plaintiff Doe sought treatment from a
23 new gynecologist, who indicated that there was no medical need for transvaginal ultrasounds
24 twice per year. At the only transvaginal ultrasound procedure ordered by her new physician,
25 on or about October 2, 2018, the procedure was performed by a technician in a clinically
26 appropriate manner far different than what Plaintiff Doe 19 had experienced when the
27 procedure was performed by Dr. Heaps. The new physician was surprised to hear how
28 frequently Dr. Heaps had performed transvaginal ultrasounds on Plaintiff, and after

1 performing an ultrasound at Plaintiff’s request (because Plaintiff was concerned about her
2 “tumor” based on Dr. Heaps’ past representations), explained that Plaintiff had a cyst that
3 likely had not changed in many years.

4 38. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
5 providing services to patients through UCLA Health. Indeed, Plaintiff had an appointment
6 scheduled with Dr. Heaps around that time, which was cancelled due to his “retirement.” On
7 information and belief, on or about June 19, 2018, UCLA Health sent a letter, authored by Dr.
8 Deborah Krakow, MD, Professor and Chair of the Department of Obstetrics and Gynecology
9 and Professor of Human Genetics and Orthopedic Surgery, David Geffen School of Medicine
10 at UCLA, to patients of Dr. Heaps. In that letter, Dr. Krakow stated that “[i]t is with mixed
11 emotions that I announce the retirement of Dr. James Heaps.” At the time that UCLA Health
12 sent this notification letter to patients of Dr. Heaps, UCLA Health was aware of specific
13 allegations against Dr. Heaps and of the then-ongoing California Medical Board Investigation
14 of Dr. Heaps.

15 39. Plaintiff Doe 19 received this letter in or about June 2018. Upon receiving it,
16 Plaintiff Doe 19 was alarmed and had to act quickly to find another doctor because she
17 believed—based on Dr. Heaps’ representations to her – that her health was at risk if she did
18 not have both a breast examination and a transvaginal ultrasound to check her ovaries every
19 six months. As discussed throughout, Plaintiff Doe 19 has subsequently learned from another
20 physician, in or about October 2018, that these examinations need not happen so frequently.
21 As such, Plaintiff Doe 19 has realized (in addition to the devastating realization that she had
22 been sexually abused) that she was also subjected by Dr. Heaps to the discomfort, time,
23 expense and worry involved in overly frequent cancer screening examinations.

24 40. All of the actions of Dr. Heaps alleged in the following causes of action were
25 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
26 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
27 Plaintiff, yet failed to take corrective action to protect Plaintiff or other students or patients.
28 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a

1 position where he could molest, batter, and harass Plaintiff Doe 19, other patients, and
2 students.

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

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

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

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

28 45. On information and belief, one nurse/chaperone employed by UCLA Health

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

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

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

23 48. Dr. Heaps’ misconduct, the chaperones’ silence and inaction—and the UC
24 Regents’ cover up—has resulted in tremendous harm to Plaintiff Doe 19. The physical and
25 psychological aftermath of her appointment with Dr. Heaps has been severe for Plaintiff Doe
26 19. She has suffered from shock, humiliation, embarrassment and other forms of severe
27 emotional distress. This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and
28 other physical and psychological manifestations of the distress caused by Defendants’

1 egregious acts.

2 **THE PARTIES**

3 49. Plaintiff Jane Doe 19 currently resides in the County of Los Angeles, State of
4 California.

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

10 51. Plaintiff Doe 19 is informed and believes, and on that basis alleges, that UC
11 Regents owned, operated, and maintained UCLA Health, through which medical services
12 were provided to Plaintiff Doe, pursuant to licenses issued by the California State Department
13 of Health and provided health care as healthcare facilities.

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

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

26 54. Plaintiff Doe 19 is ignorant of the true names and capacities of defendants sued
27 as Roe Nos. 6 through 20, inclusive, and sues these Roe defendants by these fictitious names.
28 Plaintiff Doe 19 will amend this Complaint to allege their true names and capacities when they

1 have been ascertained or upon proof at trial. Plaintiff Doe 19 alleges that each of the
 2 fictitiously named Roe defendants is legally responsible in some manner for the occurrences
 3 and damages alleged herein and/or is jointly and severally liable for the obligations of the
 4 other defendants.

5 55. Plaintiff Doe 19 is informed and believes, and based thereon alleges, that at all
 6 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
 7 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
 8 and that in doing the things alleged, was acting within the course, scope and authority of such
 9 agency, employment, supervision, management, ownership and joint venture, and with the
 10 consent and permission of each of the other Defendants. Unless otherwise indicated, all
 11 Defendants, including the Roe Defendants, are collectively referred to herein as the
 12 “Defendants.”

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

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

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

28

1 **JURISDICTION AND VENUE**

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

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

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

8 **FIRST CAUSE OF ACTION**

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

10 62. Plaintiff Doe 19 incorporates Paragraphs 1 through 61 as though fully set forth
11 herein.

12 63. Plaintiff Doe 19's civil rights were violated by Defendants when they abused
13 and harassed Plaintiff Doe 19 and when they intentionally and fraudulently concealed
14 complaints of sexual exploitation, sexual abuse, sexual harassment and molestation by Dr.
15 Heaps from other patients. Plaintiff had a right to be free from gender discrimination, sexual
16 molestation, abuse and harassment under the Unruh Civil Rights Act.

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

19 65. The Defendants denied Plaintiff full and equal accommodations, advantages,
20 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
21 unfettered access to sexually abuse Plaintiff Doe 19, by and through his position of authority
22 as a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
23 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
24 UC Regents ratified.

25 66. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,
26 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed
27 female patients, including Plaintiff Doe 19, to Dr. Heaps' sexual abuse and harassment.
28 Defendants' retention of Dr. Heaps denied Plaintiff Doe, and all of their other female patients,

1 full and equal access to safe medical facilities, treatment and services, based upon their
2 gender.

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

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

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

18 **SECOND CAUSE OF ACTION**

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

20 70. Plaintiff Doe 19 incorporates Paragraphs 1 through 69 as though fully set forth
21 herein.

22 71. Defendants' actions, as alleged herein, have had and will continue to interfere
23 with Plaintiff Doe 19's right to be free from gender discrimination in the form of sexual
24 harassment, codified under Cal. Civ. Code § 52.1.

25 72. During Plaintiff Doe 19's time as a patient at UCLA Health, Defendants
26 engaged in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe, as well as
27 ignoring, concealing, and suppressing other patients' complaints of being sexually exploited
28 and abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive

1 behavior violated Plaintiff Doe’s right to be free from discrimination on the basis of her
2 gender, under Cal. Civ. Code § 52.1.

3 73. Defendants’ wrongful conduct was intended to, and did successfully interfere
4 with Plaintiff Doe 19’s Constitutional Rights to be free from gender discrimination and
5 harassment, as well as interfered with her rights of Due Process under the United States’
6 Constitution, specifically the Fifth and Fourteenth Amendments.

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

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

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

25 77. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
26 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
27 Plaintiff Doe 19’s rights, entitling Plaintiff Doe 19 to compensatory damages in a sum to be
28 shown according to proof, emotional distress damages in a sum to be shown according to

1 proof, punitive and/or exemplary damages (with regard to Dr. Heaps), attorney’s fees, other
2 damages pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a
3 preliminary or permanent injunction ordering Defendants to refrain from conduct or activities
4 as alleged herein, stating “VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE
5 UNDER SECTION 422.77 OF THE PENAL CODE,” and other such relief as the court deems
6 proper.

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

12 **THIRD CAUSE OF ACTION**

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

14 **Civil Code § 51.9)**

15 79. Plaintiff Doe 19 incorporates Paragraphs 1 through 78 as though fully set forth
16 herein.

17 80. During Plaintiff Doe 19’s time as a patient at UCLA Health, Defendants
18 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
19 harmful and offensive contact with intimate parts of Plaintiff Doe’s person, including but not
20 limited to: performing ultrasound procedures, pelvic exams and breast exams in a sexual
21 manner, which Plaintiff Doe 19 has now come to understand was without medical
22 justification, all under the supervision of Defendant the UC Regents. Female chaperones who
23 were at times in the room during Plaintiff Doe’s examinations by Dr. Heaps sat silently as
24 Plaintiff Doe was mistreated.”

25 81. During Plaintiff Doe 19’s time as a patient at UCLA Health, Defendants also
26 intentionally, recklessly and wantonly made, and enabled, what plaintiff Doe 19 has now
27 come to understand were sexual and exploitative statements of a prurient nature, based on
28 Plaintiff’s gender that were unwelcome, pervasive and severe, all under the supervision of

1 Defendant the UC Regents while performing a transvaginal ultrasound exam. Again, the
2 female chaperones who were in the room at the time of certain of Plaintiff Doe 19’s
3 examinations sat silently as Plaintiff Doe was subjected to these comments.

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

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

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

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

27 86. With regard specifically to the liability hereunder of Defendant UC Regents, a
28 corporation is a “person” within the meaning of Civil Code Section 51.9, which subjects

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

6 87. Defendants’ conduct (and the conduct of their agents, servants and/or
7 employees) was a breach of their duties to Plaintiff Doe 19.

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

15 **FOURTH CAUSE OF ACTION**

16 **(Battery against All Defendants)**

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

19 90. During the course of treatment of Plaintiff Doe 19, Dr. Heaps used his powers
20 and abilities as a physician, and his knowledge and background and access to Plaintiff Doe 19,
21 to sexually batter Plaintiff Doe 19, knowing that, especially as a patient with a family history
22 of cancer and concern about developing the disease, she would be vulnerable to this type of
23 sexual battery. Dr. Heaps performed ultrasound procedures, pelvic exams and breast exams in
24 a sexual manner. Plaintiff Doe 19 has now come to understand that this conduct, which was
25 under the supervision of the UC Regents, was without medical justification.

26 91. The female chaperones who were in the room during the visit enabled the sexual
27 battery and assault of Plaintiff Doe 19 by failing to reasonably perform their duties as
28 chaperones and failing to raise any alarms during Dr. Heaps’ misconduct or take any other

1 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 19.

2 92. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
3 19 and had she not been treated by Defendants, she would have never permitted such sexual
4 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
5 touching and battery upon her person.

6 93. Plaintiff Doe 19 did not consent to the sexualized touching and sexual contact.

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

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

27 96. In doing the acts alleged herein, Dr. Heaps used the power and authority
28 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff

1 Doe 19. It is predictable and foreseeable, given Defendants’ knowledge of Dr. Heaps’ prior
2 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
3 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.
4 Heaps’ position would abuse the power and authority the UC Regents conferred upon him by
5 engaging in assaultive conduct. As such, Dr. Heaps’ conduct is incident to his agency with the
6 UC Regents, so as to be fairly attributable to them.

7 97. As a proximate result of the above, Plaintiff Doe 19 suffered damages as
8 otherwise alleged in this Complaint.

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

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

24 100. In subjecting Plaintiff Doe 19 to the wrongful treatment herein described,
25 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
26 conscious disregard of Plaintiff Doe 19’s rights, so as to constitute malice and oppression
27 under California Civil Code section 3294. Plaintiff Doe 19 is therefore entitled to the
28 recovery of punitive damages against Defendant Heaps, in an amount to be determined

1 according to proof.

2 **FIFTH CAUSE OF ACTION**

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

4 101. Plaintiff Doe 19 incorporates Paragraphs 1 through 100 as though fully set forth
5 herein.

6 102. During Plaintiff Doe 19's time as a patient with Defendants, Dr. Heaps
7 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 19 now understands were
8 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
9 Doe's person, including but not limited to: Dr. Heaps performed ultrasound procedures, pelvic
10 exams and breast exams in a sexual manner. Plaintiff Doe 19 has now come to understand
11 that this conduct, which was under the supervision of the UC Regents, was without medical
12 justification.

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

18 104. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe
19 19 and had she not been treated by Defendants, she would have never permitted such sexual
20 contact by Dr. Heaps.

21 105. Plaintiff Doe 19 did not consent to this sexualized touching and sexual contact.

22 106. Dr. Heaps' conduct was within the course and scope of his employment with
23 Defendants, and each of them, and was ratified by Defendants and each of them who had
24 advance notice of this misconduct. All of the conduct occurred during the course and scope of
25 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
26 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
27 complaint.

28 107. At the time she was in the examination room and while they were witnessing

1 Dr. Heaps' battery of Plaintiff Doe 19, the female chaperones were acting in the course and
2 scope of their employment with UCLA.

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

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

23 110. As a proximate result of the above, Plaintiff Doe 19 suffered damages as
24 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
25 conduct, Plaintiff Doe 19 sustained serious and permanent injury to her person, all of his
26 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

27 111. Plaintiff Doe 19 is informed and believes and based thereon alleges that the
28 conduct of Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and

1 done in conscious disregard for the rights and safety of others, and was carried out with a
2 conscious disregard of Plaintiff Doe 19's right to be free from tortious behavior, such as to
3 constitute oppression, fraud, or malice pursuant to California Civil Code section 3294,
4 entitling Plaintiff Doe to punitive damages against Dr. Heaps in an amount appropriate to
5 punish and set an example of Dr. Heaps and send a cautionary message to others similarly
6 situated.

7 **SIXTH CAUSE OF ACTION**

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

9 112. Plaintiff Doe 19 incorporates Paragraphs 1 through 111 as though fully set forth
10 herein.

11 113. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 19,
12 as described herein, was outrageous and extreme.

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

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

23 116. A reasonable person would not expect or tolerate the Defendants, their agents,
24 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
25 from committing wrongful sexual acts with patients, including Plaintiff Doe 19, or to be
26 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
27 chaperone whose presence was supposed to ensure Plaintiff Doe 19's comfort and safety
28 during a gynecological exam would sit idly by and not say anything while Plaintiff Doe 19

1 was being sexually abused by a physician. A reasonable person would not expect that UCLA
2 would not vet its nurse/chaperones to determine whether they have criminal histories and
3 remove them from their positions when it is clear that they have alcohol and drug
4 dependencies. Indeed the presence of the silent chaperone has now further exacerbated
5 Plaintiff Doe 19's extreme embarrassment and harm as she was subjected to what she now
6 understands to be misconduct with a silent audience.

7 117. Defendants' conduct described herein was intentional and malicious and done
8 for the purpose of causing or with the substantial certainty that Plaintiff Doe 19 would suffer
9 humiliation, mental anguish, and emotional and physical distress.

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

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

22 **SEVENTH CAUSE OF ACTION**

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

24 120. Plaintiff Doe 19 incorporates Paragraphs 1 through 119 as though fully set forth
25 herein.

26 121. A reasonable person would not expect or tolerate the sexual harassment,
27 exploitation, molestation, and abuse of Plaintiff Doe 19 by Dr. Heaps, nor tolerate or expect
28 the UC Regents' knowledge of and callous indifference to the abuse. Plaintiff Doe 19 had

1 great faith, trust, and confidence in Defendants, which, by virtue of their wrongful conduct,
2 turned to fear, shame, and humiliation.

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

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

20 124. Defendants had a special relationship with Plaintiff Doe 19 and/or had
21 undertaken an obligation to her that necessarily implicated Plaintiff Doe 19’s emotional well-
22 being. Specifically, Defendants had a duty to take reasonable measures to prevent harm to
23 Plaintiff Doe 19 and to protect her from Dr. Heaps.

24 125. There was an especially likely risk that Defendants’ negligent actions and
25 inactions would cause serious emotional distress to Plaintiff Doe 19. Defendants’ failure to
26 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
27 Plaintiff Doe 19 tremendous harm.

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

1 emotional distress.

2 **EIGHTH CAUSE OF ACTION**

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

4 127. Plaintiff Doe 19 incorporates Paragraphs 1 through 126 as though fully set forth
5 herein.

6 128. By virtue of Plaintiff Doe 19’s special relationship with the UC Regents as a
7 patient, and the UC Regents’ relation to Dr. Heaps, Defendants owed Plaintiff Doe a duty not
8 to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
9 knew or should have known about.

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

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

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

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

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

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

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

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

26 137. Because the UC Regents:

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

- 1 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
- 2 reporting him to the California State Medical Board as mandated by Federal
- 3 Laws;
- 4 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
- 5 exploit, abuse, and harass female patients by failing to take any of the above
- 6 action;
- 7 (d) Consciously and intentionally kept all of Dr. Heaps' exploitative, abusive,
- 8 and harassing behaviors secrets from patients and the public at large; and
- 9 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
- 10 intimate examinations and report misbehavior;

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

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

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

27 **NINTH CAUSE OF ACTION**
28 **(Negligent Ratification against the UC Regents)**

1 140. Plaintiff Doe 19 incorporates Paragraphs 1 through 139 as though fully set forth
2 herein.

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

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

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

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

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

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

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

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

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

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

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

5 **TENTH CAUSE OF ACTION**

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

7 150. Plaintiff Doe 19 incorporates Paragraphs 1 through 149 as though fully set forth
8 herein.

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

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

18 153. Defendant UC Regents breached its duty to take reasonable protective measures
19 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
20 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
21 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe
22 19.

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

1 female patients.

2 155. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
3 exposed Plaintiff Doe 19 and other patients to sexual battery and abuse.

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

11 **ELEVENTH CAUSE OF ACTION**

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

13 157. Plaintiff Doe 19 incorporates Paragraphs 1 through 156 as though fully set
14 forth herein.

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

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

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

20 161. For example, the chaperones who was/were in the room during certain instances
21 of Dr. Heaps' sexual assault and harassment of Plaintiff Doe 19 acted negligently, in that they
22 failed to reasonably perform their duties as a chaperone and failed to act as a reasonably
23 prudent person. The chaperones failed to raise any alarms during Dr. Heaps' misconduct or
24 take any other reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 19,
25 despite the fact that (a) the purpose of the chaperones was to protect Plaintiff Doe 19 and
26 ensure that she was comfortable and safe during the gynecological visit; and (b) the
27 chaperones were aware of the lack of medical necessity of Dr. Heaps' touching and
28 questioning of Plaintiff Doe 19. Further, the chaperones did not report Dr. Heaps'

1 misconduct. At the time they were in the examination room and while they were at times
2 silently witnessing Dr. Heaps' infliction of harm to Plaintiff Doe 19, the female chaperones
3 was/were acting in the course and scope of their employment with UCLA.

4 162. As a result of the above-described conduct, Plaintiff Doe 19 suffered and
5 continues to suffer great pain of mind and body, shock, emotional distress, physical
6 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
7 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
8 prevented and will continue to be prevented from performing daily activities and obtaining the
9 full enjoyment of life; and has incurred and will continue to incur expenses for medical and
10 psychological treatment, therapy, and counseling.

11 **TWELFTH CAUSE OF ACTION**

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

13 163. Plaintiff Doe 19 incorporates Paragraphs 1 through 162 as though fully set forth
14 herein.

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

22 165. Plaintiff Doe 19 is female.

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

28 167. The UC Regents participated in the physical intrusion and/or invasion of

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

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

11 **THIRTEENTH CAUSE OF ACTION**

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

14 169. Plaintiff Doe 19 incorporates Paragraphs 1 through 168 as though fully set forth
15 herein.

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

28 171. Plaintiff is informed and believes, and on that basis alleges, that Defendants

1 engaged in a common scheme, arrangement or plan to actively conceal allegations against
2 sexual abusers like Dr. Heaps who were employees, agents, members, and/or otherwise
3 affiliated with UCLA Health or the UC Regents so that Defendants could maintain their public
4 image, be insulated from public scrutiny and embarrassment, and otherwise avoid the
5 detection of such abuse and abusers, all in an effort to project a false sense of safety and
6 security for patients and students and benefit financially.

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

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

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

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

22 **FOURTEENTH CAUSE OF ACTION**

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

24 176. Plaintiff Doe 19 incorporates Paragraphs 1 through 175 as though fully set forth
25 herein.

26 177. By (a) holding Dr. Heaps out as an agent and trusted employee of UCLA Health,
27 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
28 such as Plaintiff; and (c) holding themselves out as a preeminent healthcare facility and

1 provider, Defendants entered into a confidential, fiduciary and special relationship with
2 Plaintiff.

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

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

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

- 19 180. On information and belief, Defendants breached their respective duties by:
- 20 (a) failing to promptly and thoroughly investigate claims of sexual abuse or
21 harassment against Dr. Heaps;
- 22 (b) failing to disclose to Plaintiff, UCLA students, and the community at
23 large the reasons for Dr. Heaps' retirement in June 2018;
- 24 (c) issuing no warnings about Dr. Heaps;
- 25 (d) permitting Dr. Heaps to routinely examine gynecological patients either
26 entirely unsupervised or supervised by untrained chaperones who were
27 derelict in their duty to report Dr. Heaps;
- 28 (e) failing to adopt policies that mandated the use of chaperones at all

- 1 gynecological visits or properly training their chaperones;
- 2 (f) hiring at least one nurse/chaperone with a history of criminality and who,
- 3 on information and belief, had alcohol and prescription drug addictions
- 4 during the time in which she was rendering nurse and chaperone services
- 5 to patients, including Plaintiff Doe 19;
- 6 (g) continuing to assign Dr. Heaps to duties which placed him in positions
- 7 of trust and authority over other patients;
- 8 (h) continuing to impliedly represent that Dr. Heaps was safe and morally fit
- 9 to give medical care and provide gynecological treatment; and
- 10 (i) continuing to promote Dr. Heaps as a faculty member and trusted
- 11 physician on the UCLA School of Medicine website even after he had
- 12 forcibly “retired.”

13 181. Defendant made affirmative or implied representations and nondisclosures of

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

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

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

17 182. Given her need for medical treatment, and her trust and care in Defendants,

18 Plaintiff was vulnerable to Defendants.

19 183. At the time Defendants engaged in such suppression and acts of concealment,

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

21 184. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and

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

23 185. The misrepresentations, suppressions, and concealment of facts by Defendants

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

25 no knowledge of any misconduct by Dr. Heaps.

26 186. Defendants knew or should have known at the time they suppressed and/or

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

28 187. On information and belief, Defendants suppressed and concealed the true facts

1 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and
2 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and
3 abuse patients, (b) inducing Plaintiff and other people to participate and financially support
4 Defendants' programs and enterprises; (c) preventing further reports and investigations of
5 Defendants' misconduct; (d) avoiding damage to Defendants' reputations; and (e) protecting
6 Defendants' power, status, and reputation in the community.

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

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

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

19

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

22

FOR ALL CAUSES OF ACTION

23

1. For compensatory damages, in an amount to be determined at trial;

24

2. For costs of suit;

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3. For interest based on damages, as well as pre-judgment and post-judgment

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interest as allowed by law;

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4. For declaratory and injunctive relief, including but not limited to court

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supervision of the UC Regents;

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- 5. For attorneys' fees as provided by statute;
- 6. For punitive damages as to Dr. Heaps;
- 7. For restitution and disgorgement; and
- 8. For such other and further relief as the Court may deem proper.

DATED: September 13, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 19

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 19 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 19