

1 Jennifer J. McGrath, Esq. (State Bar No. 211388)
 jmcgrath@tocounsel.com
 2 Katherine J. Flores, Esq. (State Bar No. 311224)
 kflores@tocounsel.com
 3 THEODORA ORINGHER PC
 1830 Century Park East, Suite 500
 3 Los Angeles, California 90067-2120
 Telephone: (310) 557-2009
 5 Facsimile: (310) 551-0283

6 Darren Kavinsky, Esq. (State Bar No. 170397)
 DarrenK@TheKLF.com
 7 THE KAVINOKY LAW FIRM
 16255 Ventura Blvd., Ste. 200
 8 Encino, California, 91336
 Telephone (818) 336-3636
 9 Facsimile (818) 336-3660

10 Attorneys for Plaintiff JANE DOE 3

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

13 **19STCV25729**

13 JANE DOE 3,

15 Plaintiff,

16 vs.

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

20 Defendants.

COMPLAINT FOR:

- (1) Violations of Unruh Act (Civil Code § 51)
- (2) Violations of Bane Act (Civil Code § 52.1)
- (3) Violations of Personal Rights (Civil Code § 51.9)
- (4) Battery
- (5) Sexual Battery
- (6) Intentional Infliction of Emotional Distress
- (7) Negligent Infliction of Emotional Distress
- (8) Negligent Supervision and Retention
- (9) Negligent Ratification
- (10) Negligent Failure to Warn, Train, or Educate
- (11) Negligence
- (12) Gender Violence (Civil Code § 52.3)
- (13) Unfair Business Practices (Business & Professions Code § 17200)
- (14) Constructive Fraud

DEMAND FOR JURY TRIAL

THEODORA TO ORINGHER
COUNSELORS AT LAW

1 Plaintiff Jane Doe 3,¹ an individual (“Plaintiff Doe 3” or “Plaintiff” or “Doe 3”) hereby
2 complains against Defendants Regents of the University of California (“UC Regents”), a
3 California government corporation, Dr. James Heaps (“Dr. Heaps”), an individual, and Roes
3 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 3 was a gynecological patient at UCLA Health (“UCLA Health” or
8 “UCLA”) when she was sexually abused, molested and harassed at the hands of serial sexual
9 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.

13 3. Dr. Heaps engaged in horrific action — preying upon Plaintiff Doe 3, who
15 sought care for severe uterine fibroids, which are painful and difficult to treat. Dr. Heaps told
16 Plaintiff Doe 3 that he had a better understanding of how to treat and control fibroids than
17 other gynecologists and that she needed to seek treatment from him in order to control the
18 disorder. He also represented to Plaintiff Doe 3 that, unlike other gynecologists, he could help
19 her to avoid having a hysterectomy and could preserve her uterus and fertility. Especially as
20 Plaintiff Doe 3 had suffered for many years with fibroids and been told by another physician
21 that she needed a hysterectomy, she became extremely reliant on Dr. Heaps for her care and
22 placed her complete trust and confidence in him and in his purported medical practices.

23 4. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
23 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
25 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
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. 3d 758 (2010).

1 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
2 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the
3 Sacramento Bee entitled, *All 35 of the University of California’s highest-paid employees in*
3 *2016 were men*. Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
5 was listed in the *Hollywood Reporter’s* annual *Best Doctors in Los Angeles* issue in 2015.

6 5. Perhaps because of the millions of dollars in income that he generated for UCLA
7 and the fact that he had powerful patients and was celebrated in the community (as recent
8 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
9 failed to protect Plaintiff Doe 3 or other vulnerable women from Dr. Heaps.

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

16 7. In addition, on information and belief, UCLA did not institute basic protections
17 in order to prevent sexual abuse of patients, including having independent, qualified, and
18 trained chaperones present during examinations and/or, if any such protocols were in place,
19 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
20 train or supervise its employees so as to make them aware of how to intervene should any
21 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As
22 stated above, even though the abuse inflicted upon Plaintiff Doe 3 at times occurred in the
23 presence of a chaperone, the chaperone –who, on information and belief was supervised by
23 Dr. Heaps–did not act to stop the incident or report the incident to authorities.

25 8. As described herein, on information ad belief, one nurse/chaperone in particular
26 – who was present at several examinations which Plaintiff Doe 3 has now come to understand
27 involved abusive and medically unnecessary conduct – was involved in criminal conduct
28 during the time she was employed by UCLA. On information and belief, she eventually left

1 her job with Dr. Heaps after voluntarily surrendering her nursing license as a result of drug
2 (including prescription drug) and alcohol abuse and DUI's. The fact that UCLA would hire
3 and retain such an individual purportedly to watch over and care for female patients is both
3 highly troubling and actionable.

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

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

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

27 12. Dr. Heaps has now been arrested and charged with multiple felony counts,
28 including in connection with alleged sexual battery of his patients. When Dr. Heaps was

1 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents
2 changed course, then issuing a public statement contending that Dr. Heaps was “terminated”
3 and that UCLA has purportedly taken corrective action. This communication was circulated
3 to the UCLA “Campus Community” by the UCLA Chancellor and Vice Chancellor, UCLA
5 Health Services. This is a far cry from the previous communication to patients announcing
6 Dr. Heaps’ “retirement,” a communication that failed to alert the community to his misconduct
7 or offer any assistance or support to Plaintiff Doe 3 or other victims.

8 13. Only when Dr. Heaps’ arrest became public, did Plaintiff Doe 3 come to
9 understand what had been done to her by Dr. Heaps’ misconduct and UCLA’s inaction. Only
10 in the last few weeks has Plaintiff Doe 3 come to realize that Dr. Heaps’ conduct during pelvic
11 and breast exams was inappropriate and of a sexual nature.

12 14. Perhaps almost equally troubling, when Plaintiff Doe 3 received the letter from
13 UCLA informing her that Dr. Heaps was “retiring” she was shocked, but she has now come to
13 learn that Dr. Heaps was under active investigation at the time that Plaintiff Doe 3 saw him for
15 the last time—at which appointment he groped and massaged her breasts in a sexual manner.
16 In fact, Dr. Heaps ceased practicing at UCLA just a few months after Plaintiff Doe 3’s last
17 appointment at his office.

18 15. While at her last appointment with Dr. Heaps, on or about March 9, 2018,
19 Plaintiff Doe 3 had no way of knowing of the investigation that was at that time being
20 conducted. In fact, when she asked Dr. Heaps at that appointment whether he ever thought
21 about retiring, Dr. Heaps asked Plaintiff Doe 3 “why” he would ever retire when he “gets to be
22 around women all day long.”

23 16. Had Plaintiff Doe 3 had knowledge of the allegations that had been made against
23 Dr. Heaps and of the fact that UCLA was considering whether Dr. Heaps had acted in sexual
25 manner towards patients such that he constituted a threat to patient safety and merited
26 termination, quite obviously she would never have consented to further examination or
27 treatment by him. Plaintiff Doe 3 was not given such a choice by UCLA and suffered further
28 sexual abuse as a result, abuse which has resulted in serious harm now and continuing into the

1 future.

2 **BACKGROUND FACTS**

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

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

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

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

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

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

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

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

6 22. During Dr. Heaps’ tenure at UCLA, however, Plaintiff is informed and believes,
7 and on this basis alleges, that Dr. Heaps sexually abused and molested a number of his female
8 patients, including Plaintiff Doe 3, through the use of his position and authority as a full-time
9 gynecologist employed by the UC Regents.

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

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

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

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

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

11 27. In or about early December 2017, a patient of Dr. Heaps complained to UCLA
12 in detail about the verbal and physical sexual harassment and abuse that she had been forced
13 to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr. Heaps’ conduct,
13 allowing him to continue practicing and seeing patients (including Plaintiff Doe 3)
15 uninterrupted for the better part of a year. Those patients—likely hundreds in number—were
16 seeking routine care and were unwittingly exposed to a serious threat of lasting harm.
17 Notwithstanding these complaints—and despite being on notice of Dr. Heaps’ malfeasance—
18 the UC Regents continued to employ or otherwise affiliate with Dr. Heaps and ratify his
19 conduct, allowing him to maintain his practice and see patients, which he did until mid-2018,
20 just a few months after Plaintiff Doe 3’s last appointment with him.

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

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

1
2 **Plaintiff Doe 3 Is Sexually Battered and Harassed by Dr. Heaps**
3 **During Routine Gynecological Examinations**

3 30. In or about 2003 or 2004, Plaintiff Doe 3 sought care from Dr. Heaps after
5 another gynecologist had informed her that her uterine fibroid tumors were so severe that she
6 would need a total hysterectomy. Plaintiff Doe 3 had long suffered with fibroids and had
7 sought medical care from numerous doctors to treat the condition, with little success. When
8 she first consulted with him, Dr. Heaps assured Plaintiff Doe 3 that he had tremendous
9 expertise in treating fibroids and that he could save her uterus and prevent her from having to
10 undergo a hysterectomy. As a result of these assurances and Dr. Heaps' representations about
11 his own capabilities as a physician who could purportedly successfully treat severe fibroids,
12 Plaintiff Doe 3 became dependent on Dr. Heaps for her care and placed trust and confidence in
13 him.

13 31. As a result of these assurances by Dr. Heaps, and the reasonable trust that she
15 placed in him as a physician who was providing her with legitimate medical treatment and
16 care, Plaintiff Doe 3 proceeded to see Dr. Heaps on numerous occasions from in or about 2003
17 or 2004 to in or about March 2018. During the course of pelvic exams, to which Plaintiff Doe
18 3 was subjected at these visits, Plaintiff now understands that Dr. Heaps engaged in
19 inappropriate and medically unnecessary touching of a sexual nature, touching which was for
20 his own gratification. During these appointments, there were often female chaperones present
21 but the chaperones did nothing to intervene or stop the abuse and, on information and belief,
22 did not report the abuse.

23 32. In addition, on at least two occasions, including on or about October 14, 2016
23 and on or about March 9, 2018, Dr. Heaps groped and massaged Plaintiff Doe 3's breasts—
25 using both hands at once to push her breasts together, in a lengthy "examination" that Plaintiff
26 now understands was both grossly inappropriate and medically unnecessary. During certain of
27 Plaintiff Doe 3's appointments, Dr. Heaps also made inappropriate sexual comments about
28 Plaintiff Doe 3's genitalia, which compared Plaintiff Doe 3's intimate body parts to those of

1 other patients. Plaintiff Doe 3 is now aware that was no medical justification for such
2 statements.

3 33. Plaintiff Doe 3 also came to understand, from another physician on or about July
3 23, 2018, that she had tested positive for HPV. However, neither Dr. Heaps nor anyone on his
5 staff had made her aware of this fact despite, on information and belief, having administered
6 an HPV test to Plaintiff Doe 3 at her March 2018 appointment.

7 34. While at her last appointment with Dr. Heaps, on or about March 9, 2018,
8 Plaintiff Doe 3 asked Dr. Heaps whether he ever considered retirement. Although Plaintiff
9 Doe 3 now knows that he was already under investigation with regard to sexual misconduct
10 allegations that would end his career at UCLA, Dr. Heaps responded by asking Plaintiff Doe 3
11 “why” he would ever retire when he “gets to be around women all day long.”

12 35. On further information and belief, on or about June 14, 2018, Dr. Heaps ceased
13 providing services to patients through UCLA Health. On information and belief, on or about
13 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
15 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
16 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
17 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
18 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
19 patients of Dr. Heaps, UCLA Health was aware of Plaintiff Doe 3’s specific allegations and of
20 the then ongoing California Medical Board Investigation of Dr. Heaps.

21 36. Plaintiff Doe 3 received this letter in or about June 2018; Plaintiff Doe 3 was
22 shocked to receive this letter from UCLA, as it announced Dr. Heaps’ retirement. Only
23 following Dr. Heaps’ arrest in June 2019, did Plaintiff Doe 3 come to understand that Dr.
23 Heaps had engaged in conduct that was unprofessional, medically unnecessary and which
25 constitutes the various civil wrongs alleged against him herein.

26 37. All of the actions of Dr. Heaps alleged in the following causes of action were
27 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
28 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of

1 Plaintiff, yet failed to take corrective action to protect Plaintiff or other students or patients.
2 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a
3 position where he could molest, batter, and harass Plaintiff Doe 3, other patients, and students.

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

9 39. As discussed throughout, Defendant UC Regents also failed to put in place
10 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
11 imposition of a policy providing for the mandatory presence of an independent and
12 appropriately trained chaperone, to prevent, deter and report any misconduct in the context of
13 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
15 battery or harassment.

16 40. The female chaperones who were in the room during Dr. Heaps' sexual battery
17 and harassment of Plaintiff Doe 3 acted recklessly and negligently, in that they failed to
18 reasonably perform their duties as a chaperone and failed to act with the ordinary care one
19 would expect. The chaperones—on information and belief, employee(s) of the UC Regents—
20 failed to raise any alarms during Dr. Heaps' misconduct (which they witnessed) or take any
21 other reasonably expected actions to prevent or stop the misconduct, despite being aware of
22 the lack of medical necessity of Dr. Heaps' touching and comments to Plaintiff Doe 3.
23 Further, on information and belief, the chaperones did not report Dr. Heaps' misconduct.

23 41. Plaintiff Doe 3 is now informed and believes, and based thereon alleges, that the
25 UC Regents further breached its duties owed to Plaintiff Doe 3 and other patients by, among
26 other things, failing to conduct reasonable investigation and/or due diligence prior to hiring
27 individuals assigned to assist Dr. Heaps during the relevant time period, including those
28 charged with the important task of chaperoning gynecological examinations.

1 42. On information and belief, a nurse/chaperone who was employed at UCLA
2 Health from in or about 2003 until in or about 2016 (and worked for some period of time in
3 Dr. Heaps’ office) was retained in that role 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
5 information and belief, during the time she was employed by the UC Regents, this
6 nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why such an
7 individual would be retained in a position of trust, with access to private patient medical and
8 personal information. Nor is it clear why such a person would be called upon to act as a
9 chaperone and purportedly safeguard women’s well-being and safety.

10 43. In addition, on information and belief, also during the time in which she was
11 employed by UCLA as a nurse/chaperone in the office of Dr. Heaps, this nurse/chaperone
12 was charged with driving under the influence of alcohol and was again (the next year) charged
13 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.

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

23 45. Dr. Heaps’ misconduct, the chaperones’ silence and inaction—and the UC
25 Regents’ cover up—has resulted in tremendous harm to Plaintiff Doe 3. The physical and
26 psychological aftermath of Dr. Heaps’ conduct have been severe for Plaintiff Doe 3. She has
27 suffered from shock, humiliation, embarrassment and other forms of severe emotional distress.
28 This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other physical and

1 psychological manifestations of the distress caused by Defendants’ egregious acts.

2 **THE PARTIES**

3 46. Plaintiff Doe 3 currently resides in the County of Los Angeles, State of
3 California.

5 47. 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 48. Plaintiff Doe 3 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 3, pursuant to licenses issued by the California State
13 Department of Health and provided health care as healthcare facilities.

13 49. Plaintiff Doe 3 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 50. Plaintiff Doe 3 is ignorant of the true name of the female nurses/chaperones that
19 were in the room during certain instances of Dr. Heaps’ sexual battery and harassment of
20 Plaintiff Doe 3, and therefore sues these defendants as Roes 1-5. Upon information and belief,
21 Plaintiff Doe 3 alleges that Roes 1-5 were nurses employed by the UC Regents. Plaintiff Doe
22 3 will amend this Complaint to allege Defendants Roes 1-5’s true names and capacities when
23 it has been ascertained or upon proof at trial. Plaintiff Doe 3 alleges that Roes 1-5 are legally
23 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
25 and severally liable.

26 51. Plaintiff Doe 3 is ignorant of the true names and capacities of defendants sued as
27 Roe Nos. 6 through 20, inclusive, and sues these Roe defendants by these fictitious names.
28 Plaintiff Doe 3 will amend this Complaint to allege their true names and capacities when they

1 have been ascertained or upon proof at trial. Plaintiff Doe 3 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
3 other defendants.

5 52. Plaintiff Doe 3 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 53. Plaintiff Doe 3 is informed and believes, and on that basis alleges, that, in
13 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 sometimes present in
17 the examination room at the time of Dr. Heaps’ examinations of Plaintiff Doe 3—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 54. Once the 90 day wait period pursuant to CCP 363 expires without resolution,
22 Plaintiff Doe 3 intends to amend her complaint to add a claim of professional negligence
23 against Defendants.

23 55. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
25 herein, Plaintiff Doe 3 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 § 1021.3.

28

JURISDICTION AND VENUE

1 their gender.

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

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

11 66. As a further direct and proximate result of Defendants' collective and concerted
12 wrongful actions, as herein alleged, Plaintiff Doe 3 has been hurt in her health, strength and
13 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
13 person, which has caused and continues to cause great physical and mental pain, suffering,
15 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event
16 less than the jurisdictional minimum requirements of this Court.

17 **SECOND CAUSE OF ACTION**

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

19 67. Plaintiff Doe 3 incorporates Paragraphs 1 through 66 as though fully set forth
20 herein.

21 68. Defendants' actions, as alleged herein, have had and will continue to interfere
22 with Plaintiff Doe 3's right to be free from gender discrimination in the form of sexual
23 harassment, codified under Cal. Civ. Code § 52.1.

23 69. During Plaintiff Doe 3's time as a patient at UCLA Health, Defendants engaged
25 in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe 3, as well as
26 ignoring, concealing, and suppressing patients' complaints of being sexually exploited and
27 abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive behavior
28 violated Plaintiff Doe 3's right to be free from discrimination on the basis of her gender, under

1 Cal. Civ. Code § 52.1.

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

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

12 72. Defendants' above-noted actions were the legal and proximate causes of
13 physical, psychological, and emotional damages to Plaintiff Doe 3. The actions of Defendants
13 have also resulted in Plaintiff Doe 3 incurring, and will require her to incur into the future,
15 expenses for medical and psychological treatment, therapy, and counseling.

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

23 74. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
23 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
25 Plaintiff Doe 3's rights, entitling Plaintiff Doe 3 to compensatory damages in a sum to be
26 shown according to proof, emotional distress damages in a sum to be shown according to
27 proof, punitive and/or exemplary damages (with regard to Dr. Heaps), attorney's fees, other
28 damages pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a

1 preliminary or permanent injunction ordering Defendants to refrain from conduct or activities
2 as alleged herein, stating “VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE
3 UNDER SECTION 322.77 OF THE PENAL CODE,” and other such relief as the court deems
3 proper.

5 75. In subjecting Plaintiff Doe 3 to the wrongful treatment herein described,
6 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
7 disregard of Plaintiff Doe 3’s Rights, so as to constitute malice and oppression under
8 California Civil Code section 3293. Plaintiff Doe 3 is therefore entitled to the recovery of
9 punitive damages against Dr. Heaps, in an amount to be determined according to proof.

10 **THIRD CAUSE OF ACTION**

11 **(Committing and Enabling Sexual Harassment against All Defendants:**
12 **Civil Code § 51.9)**

13 76. Plaintiff Doe 3 incorporates Paragraphs 1 through 75 as though fully set forth
13 herein.

15 77. During Plaintiff Doe 3’s time as a patient at UCLA Health, Defendants
16 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
17 harmful and offensive contact with intimate parts of Plaintiff Doe 3’s person, including but not
18 limited to: sexual touching and molestation during pelvic procedures and the groping and
19 fondling of Plaintiff Doe 3’s breasts, which Plaintiff Doe 3 has now come to understand were
20 without medical justification, all under the supervision of Defendant the UC Regents. At
21 times, a female chaperone was present in the room at the time of Plaintiff Doe 3’s
22 examinations by Dr. Heaps and sat silently as Plaintiff Doe 3 was mistreated.

23 78. During Plaintiff Doe 3’s time as a patient at UCLA Health, Defendants also
23 intentionally, recklessly and wantonly made, and enabled, what Plaintiff Doe 3 has now come
25 to understand were sexual and exploitative statements of a prurient nature, based on Plaintiff’s
26 gender that were unwelcome, pervasive and severe, all under the supervision of Defendant the
27 UC Regents. Again, the female chaperones who were in the room at the time of certain of
28 Plaintiff Doe 3’s examinations sat silently as Plaintiff Doe 3 was subjected to these comments.

1 79. The incidents of abuse outlined herein took place while Plaintiff Doe 3 was
2 under the control of Dr. Heaps and Defendant UC Regents in their capacities and positions as
3 a physician and as supervisors of physicians, medical professionals, and other staff at
3 Defendants’ premises, and while acting specifically on behalf of Defendants’ herein.

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

10 81. Because of Dr. Heaps’ status, position of authority, physical seclusion of
11 Plaintiff Doe 3, her mental and emotional state, vulnerable position and the fact that she did
12 not understand that Dr. Heaps’ conduct was not medically necessary, she was unable to, did
13 not, and could not, give consent to such acts.

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

23 83. With regard specifically to the liability hereunder of Defendant UC Regents, a
25 corporation is a “person” within the meaning of Civil Code Section 51.9, which subjects
26 persons to liability for sexual harassment within a business, service or professional
27 relationship, and such an entity defendant may be held liable under this Statute for the acts of
28 its employees. *C.R. v. Tenet Healthcare Corp.*, 169 Cal.App.3d 1093 (2009). Further,

1 principles of ratification apply when the principal ratifies the agent’s originally unauthorized
2 harassment, as is alleged to have occurred herein.

3 84. Defendants’ conduct (and the conduct of their agents, servants and/or
3 employees) was a breach of their duties to Plaintiff Doe 3.

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

12 **FOURTH CAUSE OF ACTION**

13 **(Battery against All Defendants)**

13 86. Plaintiff Doe 3 incorporates Paragraphs 1 through 85 as though fully set forth
15 herein.

16 87. During the course of treatment of Plaintiff Doe 3, Dr. Heaps used his powers and
17 abilities as a physician, and his knowledge and background and access to Plaintiff Doe 3, to
18 sexually batter Plaintiff Doe 3, knowing that she would be vulnerable to this type of sexual
19 battery. Dr. Heaps engaged in sexual touching of her genitals during routine procedures and
20 grabbing and fondling Plaintiff Doe 3’s breasts, which Plaintiff Doe 3 now understands was
21 without medical justification.

22 88. The female chaperones who were in the room during certain of these episodes of
23 abuse enabled the sexual battery and assault of Plaintiff Doe 3 by failing to reasonably
23 perform their duties as chaperones and failing to raise any alarms during Dr. Heaps’
25 misconduct or take any other reasonably expected actions to prevent the harm inflicted upon
26 Plaintiff Doe 3.

27 89. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe 3
28 and had she not been treated by Defendants, she would have never permitted such sexual

1 contact by Dr. Heaps, which acts (she now understands) constituted a harmful or offensive
2 touching and battery upon her person.

3 90. Plaintiff Doe 3 did not consent to the sexualized touching and sexual contact.

3 91. Dr. Heaps' conduct was within the course and scope of his employment with
5 Defendants, and each of them, and was ratified by Defendants and each of them who had
6 advance notice of this misconduct. All of the conduct occurred during the course and scope of
7 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
8 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
9 complaint. In addition, at the time they were in the examination room and while they were
10 witnessing Dr. Heaps' battery of Plaintiff Doe 3, the female chaperones were acting in the
11 course and scope of their employment with UCLA.

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

23 93. In doing the acts alleged herein, Dr. Heaps used the power and authority
25 conferred upon him by Defendants the UC Regents to get access to patients such as Plaintiff
26 Doe 3. It is predictable and foreseeable, given Defendants' knowledge of Dr. Heaps' prior
27 misconduct and its negligent supervision of Dr. Heaps, and failure put in place—or enforce—
28 safeguards to prevent foreseeable harm to female gynecological patients, that someone in Dr.

1 Heaps' position would abuse the power and authority the UC Regents conferred upon him by
2 engaging in assaultive conduct. As such, Dr. Heaps' conduct is incident to his agency with the
3 UC Regents, so as to be fairly attributable to them.

3 94. As a proximate result of the above, Plaintiff Doe 3 suffered damages as
5 otherwise alleged in this Complaint.

6 95. Dr. Heaps' conduct alleged herein was despicable, and was done willfully and/or
7 with a conscious disregard of Plaintiff's rights, and/or intentionally, or maliciously, or in
8 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
9 each of them, were in a special relationship with Plaintiff Doe 3 by virtue of the fact that she
10 was a patient at UCLA Health and receiving their services.

11 96. Defendants, and each of them, further knew that Plaintiff Doe 3 was especially
12 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
13 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
13 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
15 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
16 Plaintiff Doe 3, and failing to take proper steps to protect Plaintiff Doe 3 and other patients. It
17 was reasonably foreseeable Plaintiff Doe 3 would receive physical injury and severe
18 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
19 this regard was done with the intent to cause injury to Plaintiff Doe 3 and/or done with a
20 conscious disregard of the rights and safety of Plaintiff.

21 97. In subjecting Plaintiff Doe 3 to the wrongful treatment herein described,
22 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
23 conscious disregard of Plaintiff Doe 3's rights, so as to constitute malice and oppression under
23 California Civil Code section 3293. Plaintiff Doe 3 is therefore entitled to the recovery of
25 punitive damages against Defendant Heaps, in an amount to be determined according to proof.

26 **FIFTH CAUSE OF ACTION**

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

28 98. Plaintiff Doe 3 incorporates Paragraphs 1 through 97 as though fully set forth

1 herein.

2 99. During Plaintiff Doe 3's time as a patient with Defendants, Dr. Heaps
3 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 3 now understands were
3 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
5 Doe 3's person, including but not limited to: sexual touching of her genitals during routine
6 pelvic examinations and procedures and grabbing and fondling Plaintiff Doe 3's breasts,
7 without medical justification, all while Dr. Heaps acted in the course and scope of his
8 employment with the UC Regents. The female chaperones who were in the room during
9 certain of these episodes of abuse enabled the sexual battery and assault of Plaintiff Doe 3 by
10 failing to reasonably perform their duties as chaperones and failing to raise any alarms during
11 Dr. Heaps' misconduct or take any other reasonably expected actions to prevent the harm
12 inflicted upon Plaintiff Doe 3.

13 100. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
13 offensive contact with an intimate part of Plaintiff Doe 3'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 3's person that would offend a reasonable sense
17 of personal dignity.

18 101. 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
20 contact by Dr. Heaps.

21 102. Plaintiff Doe 3 did not consent to this sexualized touching and sexual contact.

22 103. 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
23 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.

28 104. At the time they were in the examination room and while they were witnessing

1 Dr. Heaps' battery of Plaintiff Doe 3, the female chaperones were acting in the course and
2 scope of their employment with UCLA.

3 105. Defendant UC Regents is vicariously liable for the conduct alleged herein
3 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
13 he had committed battery and sexual battery and assault in the past.

15 106. 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 3. 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.

23 107. As a proximate result of the above, Plaintiff Doe 3 suffered damages as
23 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
25 conduct, Plaintiff Doe 3 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.

27 108. Plaintiff Doe 3 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 3’s right to be free from tortious behavior, such as to
3 constitute oppression, fraud, or malice pursuant to California Civil Code section 3293,
3 entitling Plaintiff Doe 3 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)**

9 109. Plaintiff Doe 3 incorporates Paragraphs 1 through 108 as though fully set forth
10 herein.

11 110. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 3, as
12 described herein, was outrageous and extreme.

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

18 112. 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 3, which enabled Dr. Heaps to have access to
21 Plaintiff Doe 3 so that he could commit wrongful sexual acts, including the conduct described
22 herein.

23 113. A reasonable person would not expect or tolerate the Defendants, their agents,
23 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
25 from committing wrongful sexual acts with patients, including Plaintiff Doe 3, 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 3’s comfort and safety during
28 a gynecological exam would sit idly by and not say anything while Plaintiff Doe 3 was being

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

7 114. Defendants' conduct described herein was intentional and malicious and done
8 for the purpose of causing or with the substantial certainty that Plaintiff Doe 3 would suffer
9 humiliation, mental anguish, and emotional and physical distress.

10 115. As a result of the above-described conduct, Plaintiff Doe 3 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
13 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.

17 116. In subjecting Plaintiff Doe 3 to the wrongful treatment described herein,
18 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe 3, and in
19 conscious disregard of her rights, so as to constitute malice and oppression under California
20 Civil Code section 3293. Plaintiff Doe 3 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)**

23 117. Plaintiff Doe 3 incorporates Paragraphs 1 through 116 as though fully set forth
25 herein.

26 118. A reasonable person would not expect or tolerate the sexual harassment,
27 exploitation, molestation, and abuse of Plaintiff Doe 3 by Dr. Heaps, nor tolerate or expect the
28 UC Regents' knowledge of and callous indifference to the abuse. Plaintiff Doe 3 had great

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

3 119. A reasonable person would not expect or tolerate the UC Regents placing
3 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 3, which enabled Dr. Heaps to have access to
6 Plaintiff Doe 3 so that he could commit wrongful sexual acts, including the conduct described
7 herein.

8 120. 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 3, 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 3’s comfort and safety during
13 a gynecological exam would sit idly by and not say anything while Plaintiff Doe 3 was being
13 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 3’s extreme embarrassment and harm as she
19 was subjected to the misconduct with a silent audience.

20 121. Defendants had a special relationship with Plaintiff Doe 3 and/or had undertaken
21 an obligation to her that necessarily implicated Plaintiff Doe 3’s emotional well-being.
22 Specifically, Defendants had a duty to (1) take reasonable measures to prevent harm to
23 Plaintiff Doe 3 and (2) to promptly, adequately, reliably, fairly, and impartially investigate and
23 resolve complaints against Dr. Heaps, and to protect Plaintiff Doe 3 and other patients from
25 Dr. Heaps.

26 122. There was an especially likely risk that Defendants’ negligent actions and
27 inactions would cause serious emotional distress to Plaintiff Doe 3. Defendants’ failure to
28 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused

1 Plaintiff Doe 3 tremendous harm.

2 123. Defendants' negligence was a substantial factor in causing Plaintiff Doe 3
3 serious emotional distress.

3 **EIGHTH CAUSE OF ACTION**

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

6 124. Plaintiff Doe 3 incorporates Paragraphs 1 through 123 as though fully set forth
7 herein.

8 125. By virtue of Plaintiff Doe 3's special relationship with the UC Regents as a
9 patient, and the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiff Doe 3 a duty
10 not to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
11 knew or should have known about.

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

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

21 128. The UC Regents were aware, or should have been aware, and understood how
22 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
23 and abuse by physicians and other persons of authority within the control of the UC Regents
23 prior to Plaintiff Doe 3's sexual abuse and exploitation by Dr. Heaps.

25 129. As a result, Defendant UC Regents should have put in place appropriate
26 safeguards to prevent foreseeable harm to female gynecological patients, including imposition
27 of a policy providing for the mandatory presence of an independent, properly trained
28 chaperone, to prevent, deter and report any misconduct in the context of gynecological

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

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

11 131. The UC Regents were put on notice, and should have known, that Dr. Heaps had
12 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
13 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
13 or would engage in, misconduct directed towards Plaintiff Doe 3 and others, under the
15 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,
16 their agents, servants, and employees.

17 132. The UC Regents were placed on actual or constructive notice that Dr. Heaps had
18 molested or was molesting female patients during his employment. Defendants had
19 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
20 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
21 Plaintiff Doe 3.

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

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

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

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

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

16 sexually exploiting, abusing, and harassing female patients and refused to take any action to

17 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this

18 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With

19 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC

20 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 3.

21 The UC Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps'

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

23 137. As a result of the above-described conduct, Plaintiff Doe 3 has suffered and

23 continues to suffer great pain of mind and body, shock, emotional distress, physical

25 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,

26 shame, humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was

27 prevented and will continue to be prevented from performing daily activities and obtaining the

28 full enjoyment of life; and has incurred and will continue to incur expenses for medical and

1 psychological treatment, therapy, and counseling.

2 **NINTH CAUSE OF ACTION**

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

3 138. Plaintiff Doe 3 incorporates Paragraphs 1 through 137 as though fully set forth
5 herein.

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

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

17 141. The UC Regents learned Dr. Heaps had molested or was molesting female
18 patients during his employment. Defendants had knowledge of inappropriate conduct, and
19 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
20 continue interacting with patients, including Plaintiff Doe 3.

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

25 143. In fact, on information and belief, Defendant UC Regents knowingly retained at
26 least one individual which the UC Regents knew or should have known had a history of
27 criminality and fraud, and who – during the course of her employment as a nurse/chaperone in
28 Dr. Heaps’ office—was arrested multiple times for DUI’s stemming from alcohol and

1 prescription drug abuse. Defendant UC Regents thus further failed in their duty to provide
2 appropriate and skilled staff who could properly oversee intimate examinations and protect
3 female patients.

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

7 145. Because the UC Regents:

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

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

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

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

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

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

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

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

8 **TENTH CAUSE OF ACTION**

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

10 148. Plaintiff Doe 3 incorporates Paragraphs 1 through 147 as though fully set forth
11 herein.

12 149. Defendant UC Regents owed Plaintiff Doe 3 a duty to take reasonable protective
13 measures to safeguard Plaintiff and other female patients from the risk of sexual battery by
13 Dr. Heaps by properly warning, training or educating others, including their own medical
15 personnel, medical staff, administrators, and other agents, servants, and/or employees
16 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
17 conduct is witnessed, reported, and/or discovered.

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

21 151. Defendant UC Regents breached its duty to take reasonable protective measures
22 to safeguard Plaintiff and other patients from the risk of sexual harassment and abuse by
23 Dr. Heaps, by failing to supervise and stop employees, such as Dr. Heaps, and prevent them
23 from committing sexually abusive and exploitive acts upon patients, including Plaintiff Doe 3.

25 152. On information and belief, Defendant UC Regents knowingly retained at least
26 one individual which the UC Regents knew or should have known had a history of criminality
27 and fraud, and who – during the course of her employment as a nurse/chaperone in Dr. Heaps’
28 office—was arrested multiple times for DUI’s stemming from alcohol and prescription drug

1 abuse. Defendant UC Regents thus further failed in their duty to provide appropriate and
2 skilled staff who could properly oversee intimate examinations and protect female patients.

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

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

12 **ELEVENTH CAUSE OF ACTION**

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

13 155. Plaintiff Doe 3 incorporates Paragraphs 1 through 154 as though fully set
15 forth herein.

16 156. Defendants committed the negligent acts and/or negligent failures to act, as set
17 forth above, and those acts caused the emotional and physical harm endured by Plaintiff Doe
18 3.

19 157. Defendants owed Plaintiff a duty of care to act.

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

22 159. For example, the chaperones who were in the room during certain episodes of
23 Dr. Heaps' sexual assault and harassment of Plaintiff Doe 3 acted negligently, in that they
23 failed to reasonably perform their duties as a chaperone and failed to act as a reasonably
25 prudent person. The chaperones failed to raise any alarms during Dr. Heaps' misconduct or
26 take any other reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 3,
27 despite the fact that (a) the purpose of the chaperones was to protect Plaintiff Doe 3 and ensure
28 that she was comfortable and safe during the gynecological visit; and (b) the chaperones were

1 aware of the lack of medical necessity of Dr. Heaps’ touching and questioning of Plaintiff Doe
2 3. Further, the chaperones did not report Dr. Heaps’ misconduct. At the time they were in the
3 examination room and silently witnessing Dr. Heaps’ infliction of harm on Plaintiff Doe 3, the
3 female chaperones were acting in the course and scope of their employment with UCLA.

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

12 **TWELFTH CAUSE OF ACTION**

13 **(Gender Violence (Civil Code § 52.3) against all Defendants)**

13 161. Plaintiff Doe 3 incorporates Paragraphs 1 through 160 as though fully set forth
15 herein.

16 162. California Civil Code § 52.3 provides that gender violence is a form of sexual
17 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
18 coercive conditions. . .” Cal. Civ. Code § 52.3(c)(2). For purposes of this section, “gender”
19 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
20 § 52.3(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
21 gender violence may bring a civil action for damages against any responsible party, and may
22 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

23 163. Plaintiff Doe 3 is female.

23 164. Dr. Heaps intentionally and without consent physically intruded and/or invaded
25 Plaintiff’s body during medical examinations in a sexual manner in violation of Cal. Civ.
26 Code § 52.3. The conditions were coercive in that Plaintiff placed her trust and confidence in
27 Dr. Heaps as a physician and in the UC Regents as a premier provider of patient care (via
28 UCLA Health).

1 165. The UC Regents participated in the physical intrusion and/or invasion of
 2 Plaintiff’s body during a medical examination by either (a) the presence of chaperones or
 3 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
 5 clothing, knowing that Dr. Heaps would assault her in a sexual manner; and/or (c) providing
 6 Dr. Heaps the facilities and location to assault Plaintiff in a sexual manner and touting him as
 7 an expert in gynecological care.

8 166. As more fully set forth above, Plaintiff was injured as a result of the gender
 9 violence, and seeks all remedies provided for in California Civil Code § 52.3, including but
 10 not limited to, actual damages, compensatory damages, punitive damages, costs, and
 11 attorney’s fees.

THIRTEENTH CAUSE OF ACTION

**(Unfair Business Practices (Business & Professions Code § 17200) against All
 Defendants)**

15 167. Plaintiff Doe 3 incorporates Paragraphs 1 through 166 as though fully set forth
 16 herein.

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

1 misconduct.

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

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

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

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

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

23 **FOURTEENTH CAUSE OF ACTION**

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

26 174. Plaintiff Doe 3 incorporates Paragraphs 1 through 173 as though fully set forth
27 herein.

28 175. By (a) holding Dr. Heaps out as an agent and trusted employee of UCLA Health,

1 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
2 such as Plaintiff; and (c) holding themselves out as a preeminent healthcare facility and
3 provider, Defendants entered into a confidential, fiduciary and special relationship with
3 Plaintiff.

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

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

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

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

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

15 179. Defendant made affirmative or implied representations and nondisclosures of

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

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

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

19 180. Given her need for medical treatment, and her trust and care in Defendants,

20 Plaintiff was vulnerable to Defendants.

21 181. At the time Defendants engaged in such suppression and acts of concealment,

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

23 182. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and

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

25 183. The misrepresentations, suppressions, and concealment of facts by Defendants

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

27 no knowledge of any misconduct by Dr. Heaps.

28 184. Defendants knew or should have known at the time they suppressed and/or

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

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

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

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

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

21

22 **WHEREFORE**, Plaintiff Doe 3 prays for a jury trial and for judgment against
23 Defendants as follows:

23

FOR ALL CAUSES OF ACTION

- 24 1. For compensatory damages, in an amount to be determined at trial;
25 2. For costs of suit;
26 3. For interest based on damages, as well as pre-judgment and post-judgment
27 interest as allowed by law;
28

1
2
3
3
5
6
7
8
9
10
11
12
13
13
15
16
17
18
19
20
21
22
23
23
25
26
27
28

- 4. For declaratory and injunctive relief, including but not limited to court supervision of the UC Regents;
- 5. For attorneys’ fees as provided by statute;
- 6. For punitive damages as to Dr. Heaps;
- 7. For restitution and disgorgement; and
- 8. For such other and further relief as the Court may deem proper.

DATED: July 19, 2019 THEODORA ORINGER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Katherine J. Flores
Attorney for Plaintiff JANE DOE 3

1
2
3
3
5
6
7
8
9
10
11
12
13
13
15
16
17
18
19
20
21
22
23
23
25
26
27
28

DEMAND FOR TRIAL BY JURY

Plaintiff Doe 3 hereby demands a trial by jury in this action.

DATED: July 19, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Katherine J. Flores
Attorney for Plaintiff JANE DOE 3