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

12 **19STCV25739**

13 JANE DOE 4,

14 Plaintiff,

15 vs.

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

19 Defendants.

COMPLAINT FOR:

- (1) Violations of Unruh Act (Civil Code § 51)
- (2) Violations of Bane Act (Civil Code § 52.1)
- (3) Violations of Personal Rights (Civil Code § 51.9)
- (4) Battery
- (5) Sexual Battery
- (6) Intentional Infliction of Emotional Distress
- (7) Negligent Infliction of Emotional Distress
- (8) Negligent Supervision and Retention
- (9) Negligent Ratification
- (10) Negligent Failure to Warn, Train, or Educate
- (11) Negligence
- (12) Gender Violence (Civil Code § 52.4)
- (13) Unfair Business Practices (Business & Professions Code § 17200)
- (14) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 4,¹ an individual (“Plaintiff Doe 4” or “Plaintiff” or “Doe 4”) 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
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 4 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.

14 3. Dr. Heaps engaged in horrific action — preying upon Plaintiff Doe 4, who
15 sought care for a painful inflammatory auto-immune skin disorder. Dr. Heaps told Plaintiff
16 Doe 4 that he had a better understanding of the disorder than other gynecologists and that she
17 needed to seek treatment from him in order to control the disorder. He also falsely represented
18 to Plaintiff Doe 4 that her cancer risk from the disorder was high and that she would need to
19 see him multiple times per year. In fact, Dr. Heaps went so far as to state that Plaintiff needed
20 appointments with him every three months or that “she could get cancer and die.”

21 4. On those visits, over the course of several years, Dr. Heaps engaged in what
22 Plaintiff Doe 4 now understands was sexual molestation during pelvic exams and breast exams
23 and made what Plaintiff Doe 4 now understands to be inappropriate comments and statements
24 of a sexual nature. In some instances, a chaperone —a female nurse—was present while the
25 abuse and harassment was ongoing, but did nothing to stop it or report it after the incident.

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

9 6. Perhaps because of the millions of dollars in income that he generated for UCLA
10 and the fact that he had powerful patients and was celebrated in the community (as recent
11 times have made apparent that sexual predators so often are), Defendant UC Regents wholly
12 failed to protect Plaintiff Doe 4 or other vulnerable women from Dr. Heaps.

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

19 8. In addition, on information and belief, UCLA did not institute basic protections
20 in order to prevent sexual abuse of patients, including having independent, qualified, and
21 trained chaperones present during examinations and/or, if any such protocols were in place,
22 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
23 train or supervise its employees so as to make them aware of how to intervene should any
24 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As
25 stated above, even though the abuse inflicted upon Plaintiff Doe 4 at times occurred in the
26 presence of a chaperone, the chaperone –who, on information and belief was supervised by
27 Dr. Heaps–did not act to stop the incident or report the incident to authorities.

28 9. As described herein, on information and belief, one nurse/chaperone in

1 particular -who was present at examinations which Plaintiff Doe 4 has now come to
2 understand involved abusive and medical unnecessary conduct - had a history of criminality
3 (including a conviction for welfare fraud during the time, on information and belief, that she
4 was employed by UCLA). On information and belief, she eventually left her job with Dr.
5 Heaps after voluntarily surrendering her nursing licenses as a result of drug (including
6 prescription drug) and alcohol abuse and DUI's. The fact that UCLA would hire and retain
7 such an individual purportedly to watch over and care for female patients, is both highly
8 troubling and actionable.

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

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

26 12. Dr. Heaps has now been arrested and charged with multiple felony counts,
27 including in connection with alleged sexual battery of his patients. When Dr. Heaps was
28 arrested, and publicity with regard to his misconduct was all but inevitable, the UC Regents

1 changed course, then issuing a public statement contending that Dr. Heaps was “terminated”
2 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
4 Health Services. This is a far cry from the previous communication to patients announcing
5 Dr. Heaps’ “retirement,” a communication that failed to alert the community to his misconduct
6 or offer any assistance or support to Plaintiff Doe 4 or other victims.

7 13. Only when Dr. Heaps’ arrest became public, did Plaintiff Doe 4 come to
8 understand what had been done to her by Dr. Heaps’ misconduct and UCLA’s inaction. Only
9 in the last few weeks has Plaintiff Doe 4 come to realize that she was subjected to unnecessary
10 pelvic exams and that Dr. Heaps’ conduct in those exams (and in breast exams) was
11 inappropriate and of a sexual nature, including molesting her under the guise of evaluating the
12 progress of her auto-immune skin disorder. She has also come to realize that Dr. Heaps
13 claims that she could “get cancer and die” were grossly overblown, as a way to manipulate her
14 into allowing him purportedly to care for her condition and return to his office on a frequent
15 basis.

16 14. Perhaps equally troubling, when Plaintiff Doe 4 received the letter from UCLA
17 informing her that Dr. Heaps was “retiring” she was shocked, but she has now come to learn
18 that Dr. Heaps was under active investigation at the time that Plaintiff Doe 4 saw him for the
19 last time—at which appointment he groped and massaged her breasts in a sexual manner. In
20 fact, Dr. Heaps ceased practicing at UCLA just a few days after Plaintiff Doe 4’s last
21 appointment at his office.

22 15. Quite clearly, at the time of Plaintiff Doe 4’s final appointment with Dr. Heaps,
23 the decision had been made at UCLA that Dr. Heaps inappropriate sexual conduct merited his
24 termination, yet UCLA allowed Dr. Heaps unfettered access to Plaintiff and other vulnerable
25 patients. Had Plaintiff Doe 4 had knowledge of this investigation, of the allegations that had
26 been made against Dr. Heaps and of the fact that UCLA had already concluded that Dr. Heaps
27 constituted a threat to patient safety so as to merit his termination, quite obviously she would
28 never have consented to further examination or treatment by him. Plaintiff Doe 4 was not

1 given such a choice by UCLA and suffered further sexual abuse as a result, abuse which has
2 resulted in serious harm now and continuing into the future.

3 16. Dr. Heaps' actions and the inaction of the UC Regents and its employees (both
4 before and after Plaintiff's horrific encounter with Dr. Heaps as described herein), have
5 caused Plaintiff Doe 4 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 **BACKGROUND FACTS**

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

10 17. Dr. Heaps completed his internship and residency as an obstetrician-
11 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
12 1983-1989. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
13 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
14 further information and belief, in or about February 2014, Dr. Heaps' private practice was
15 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
16 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

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

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

1 20. At all times herein alleged, Dr. Heaps was an agent, servant, and/or employee of
2 Defendant UC Regents and its medical clinics, facilities, and locations, and/or was under its
3 complete control and/or direct supervision. It was through this position of access, trust, and
4 authority that Dr. Heaps sexually exploited and abused Plaintiff Doe 4.

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

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

12 22. During Dr. Heaps’ tenure at UCLA, however, Plaintiff is informed and believes,
13 and on this basis alleges, that Dr. Heaps sexually abused and molested a number of his female
14 patients, including Plaintiff Doe 4, through the use of his position and authority as a full-time
15 gynecologist employed by the UC Regents.

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

22 24. Plaintiff is informed and believes, and on this basis alleges, however, that the
23 California Medical Board investigated Dr. Heaps in or about 2014—during, on information
24 and belief—a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
25 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).
26 On information and belief, the 2014 Medical Board investigation arose from an allegation that
27 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
28 On information and belief, the UC Regents had knowledge that the 2014 Medical Board

1 Investigation was taking place at the time that it was ongoing. On information and belief, the
2 UC Regents failed to take corrective action.

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

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

17 27. In or about early December 2017, a patient of Dr. Heaps complained to UCLA
18 in detail about the verbal and physical sexual harassment and abuse that she had been forced
19 to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr. Heaps’ conduct,
20 allowing him to continue practicing and seeing patients (including Plaintiff Doe 4)
21 uninterrupted for the better part of a year. Those patients – likely hundreds in number—were
22 seeking routine care and were unwittingly exposed to a serious threat of lasting harm.
23 Notwithstanding these complaints – and despite being on notice of Dr. Heaps’ malfeasance –
24 the UC Regents continued to employ or otherwise affiliate with Dr. Heaps and ratify his
25 conduct, allowing him to maintain his practice and see patients, which he did until mid-2018,
26 just days after Plaintiff Doe 4’s last appointment with him (an appointment at which he groped
27 and molested her).

28 28. Plaintiff is further informed and believes that, in or before mid-2018, the UC

1 Regents were informed of an employee complaint against Dr. Heaps involving sexual
2 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
3 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

4 29. The UC Regents failed to take prompt action in response to complaints received
5 about Dr. Heaps, including the aforementioned complaints. Instead, to avoid negative
6 publicity, the UC Regents continued to provide Dr. Heaps unfettered access to patients,
7 including young female students at UCLA and female patients at UCLA Health, including
8 Plaintiff Doe 4.

9 **Plaintiff Doe 4 Is Sexually Battered and Harassed by Dr. Heaps**

10 **During Routine Gynecological Procedures**

11 30. In or about late 2010, Plaintiff Doe 4 sought care from Dr. Heaps for a painful
12 auto-immune skin disorder that affects the external genitalia. Plaintiff Doe 4 had had the
13 condition unsuccessfully treated by another gynecologist and sought out Dr. Heaps because of
14 his reputation in the community. When first consulted by Plaintiff Doe 4, in or about late
15 2010, Dr. Heaps informed Plaintiff Doe 4 that most doctors purportedly did not know how to
16 treat her condition and that he could do so, but that it would require frequent visits to his office
17 for exams. Dr. Heaps further stated to Plaintiff Doe 4 that, should she not see him for frequent
18 appointments, her condition would cause irreparable harm to her skin and that she could also
19 “get cancer and die.”

20 31. Lulled into a belief that only Dr. Heaps had the knowledge (and oncological
21 expertise) to treat her condition and prevent her from developing deadly cancer, Plaintiff
22 proceeded to see Dr. Heaps and/or his physician’s assistant on numerous occasions from in or
23 about late 2010 to in or about June 2018. During these visits, Dr. Heaps frequently performed
24 pelvic exams which Plaintiff Doe 4 is now informed and believes were unnecessary,
25 especially as her auto-immune disorder only affects the skin of the external genitalia. During
26 the course of these pelvic exams, Dr. Heaps engaged in what Plaintiff Doe 4 now understands
27 was inappropriate and medically unnecessary touching of a sexual nature. During Plaintiff
28 Doe 4’s annual exams, Dr. Heaps groped and massaged her breasts, including using the palms

1 of his hands, in a lengthy “examination” that Plaintiff Doe 4 now understands was both
 2 grossly inappropriate and medically unnecessary. During numerous of these visits, Dr. Heaps
 3 also made inappropriate sexual comments about Plaintiff Doe 4’s genitalia and breasts, some
 4 of which comments were couched as compliments and some of which compared Plaintiff Doe
 5 4’s intimate body parts to those of other patients. Plaintiff Doe 4 now understands that there
 6 was no medical justification for such statements.

7 32. During an appointment on or about January 3, 2017, Dr. Heaps molested
 8 Plaintiff Doe 4, touching her genitalia in a sexual manner under the guise of evaluating the
 9 condition of her skin and the progression of her auto immune disease, all the while stating to
 10 her that her genitalia was “beautiful.” A female chaperone was present in the room, but had
 11 her back to Plaintiff Doe 4 and never made eye contact with Plaintiff Doe 4 or took any action
 12 to stop this behavior, causing Plaintiff to believe Dr. Heaps’ conduct was medically necessary.
 13 The conduct continued after the chaperone left the examination room.

14 33. During other times that Plaintiff Doe 4 was examined by Dr. Heaps, there were
 15 also sometimes chaperones present. On information and belief, the chaperones were
 16 employees and/or agent of Defendant UC Regents, were directly supervised by Dr. Heaps and
 17 was dependent for her livelihood on Defendants. On information and belief, no chaperone
 18 ever made any complaints nor took any action to protect Plaintiff Doe 4 from harm and abuse.

19 34. Plaintiff Doe 4 had two subsequent appointments in 2017, one with Dr. Heaps
 20 and one with his physician’s assistant.

21 35. In or about December 2017, another female patient made a report to UCLA of
 22 inappropriate sexual conduct by Dr. Heaps. On information and belief, sometime in early
 23 2018, UCLA launched an internal investigation, but did not restrict Dr. Heaps from direct
 24 contact with female patients. On information and belief, UCLA ultimately concluded, in or
 25 about April 2018, that it would not renew Dr. Heaps’ employment agreement. Again, UCLA
 26 did not restrict or stop Dr. Heaps from performing examinations on vulnerable female patients,
 27 even after, on information and belief, determining that the complaining patient’s allegations of
 28 inappropriate and non-medically necessary sexual touching warranted non-renewal of Dr.

1 Heaps’ employment agreement.

2 36. On or about June 12, 2018, Plaintiff Doe 4 had her final appointment with Dr.
3 Heaps, at which time his sexual misconduct and harassment continued. At that appointment,
4 Dr. Heaps groped and massaged her breasts, using the palms of his hands, during a lengthy
5 breast “examination.” Plaintiff Doe 4 has now come to understand that these actions were
6 inappropriate and medically unnecessary and constituted assault, battery and other civil
7 wrongs described herein.

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

17 38. All of the actions of Dr. Heaps alleged in the following causes of action were
18 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
19 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
20 Plaintiff Doe 4, yet failed to take corrective action to protect Plaintiff or other students or
21 patients. Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left
22 him in a position where he could molest, batter, and harass Plaintiff Doe 4, other patients, and
23 students.

24 39. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
25 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of
26 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiff
27 Doe 4 and other patients (including students) from further harm after reports—and formal
28 California Medical Board investigations—of Dr. Heaps’ sexual assault of patients.

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

8 41. The female chaperone(s) who were in the room during certain instances of Dr.
9 Heaps’ sexual battery and harassment of Plaintiff Doe 4 acted recklessly and negligently, in
10 that they failed to reasonably perform their duties as a chaperone and failed to act with the
11 ordinary care one would expect. The chaperone(s)—on information and belief, employees of
12 the UC Regents—failed to raise any alarms during Dr. Heaps’ misconduct (which they
13 witnessed) or take any other reasonably expected actions to prevent or stop the misconduct,
14 despite being aware of the lack of medical necessity of Dr. Heaps’ touching and comments to
15 Plaintiff Doe 4. Further, on information and belief, the chaperones did not report Dr. Heaps’
16 misconduct.

17 42. Plaintiff Doe 4 is now informed and believes, and based thereon alleges, that the
18 UC Regents further breached its duties owed to Plaintiff Doe 4 and other patients by, among
19 other things, failing to conduct reasonable investigation and/or due diligence prior to hiring
20 individuals assigned to assist Dr. Heaps during the relevant time period, including those
21 charged with the important task of chaperoning gynecological examinations.

22 43. On information and belief, a nurse/chaperone who was employed by UCLA
23 Health from in or about 2003 until in or about 2016 (and worked for some period of time in
24 Dr. Heaps’ office) was retained despite the fact that she was criminally charged with welfare
25 fraud and perjury and pleaded guilty to welfare fraud while employed by the UC Regents. On
26 information and belief, during the time she was employed by the UC Regents, this
27 nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why such an
28 individual would be retained a position of trust, with access to private patient medical and

1 personal information. Nor is it clear why such a person would be called upon to act as a
2 chaperone and purportedly safeguard women’s well-being and safety.

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

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

17 46. Dr. Heaps’ misconduct, the chaperones’ silence and inaction—and the UC
18 Regents’ cover up—has resulted in tremendous harm to Plaintiff Doe 4. The physical and
19 psychological aftermath of Dr. Heaps’ conduct has been severe for Plaintiff Doe 4. She has
20 suffered from shock, humiliation, embarrassment and other forms of severe emotional distress.
21 This has resulted in sleeplessness, lack of focus, anxiety, flashbacks, and other physical and
22 psychological manifestations of the distress caused by Defendants’ egregious acts.

23 **THE PARTIES**

24 47. Plaintiff Jane Doe 4 is the married mother of a young child and currently resides
25 in the County of Los Angeles, State of California.

26 48. Defendant UC Regents is, and at all times relevant hereto was, a California
27 Corporation having its principal place of business in the State of California. Upon information
28 and belief, the UC Regents is the governing body of the University of California and exercises

1 the ultimate dominion and control of the same. UCLA is an educational institution of higher
2 learning.

3 49. Plaintiff Doe 4 is informed and believes, and on that basis alleges, that UC
4 Regents owned, operated, and maintained UCLA Health, through which medical services
5 were provided to Plaintiff Doe 4, pursuant to licenses issued by the California State
6 Department of Health and provided health care as healthcare facilities.

7 50. Plaintiff Doe 4 is informed and believes, and on that basis alleges, that
8 Defendant Dr. Heaps is, and at all times relevant hereto was, an individual residing in the State
9 of California. At all times mentioned herein, Dr. Heaps was a physician licensed by the State
10 of California to practice medicine, and was the employee and/or agent of the UC Regents.

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

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

25 53. Plaintiff Doe 4 is informed and believes, and based thereon alleges, that at all
26 times relevant each of the defendants, including the Roe Defendants, was the agent, employee,
27 manager, supervisor, owner, servant and joint venturer of each of the remaining Defendants
28 and that in doing the things alleged, was acting within the course, scope and authority of such

1 agency, employment, supervision, management, ownership and joint venture, and with the
2 consent and permission of each of the other Defendants. Unless otherwise indicated, all
3 Defendants, including the Roe Defendants, are collectively referred to herein as the
4 “Defendants.”

5 54. Plaintiff Doe 4 is informed and believes, and on that basis alleges, that, in
6 addition to its own independent conduct, UC Regents is vicariously liable for the acts,
7 misconduct, and omissions—both negligent and intentional—of Dr. Heaps and its other
8 employees, including but not limited to the female chaperones who were in the examination
9 room at the time of Dr. Heaps’ examination of Plaintiff Doe 4—as more particularly described
10 above, pursuant to the doctrine of *respondeat superior* and Cal. Gov’t Code § 815.2. Dr.
11 Heaps, the female chaperones, and others were acting in the course and scope of their
12 employment at the time of the allegations herein.

13 55. Once the 90 day wait period pursuant to CCP 364 expires without resolution,
14 Plaintiff Doe 4 intends to amend her complaint to add a claim of professional negligence
15 against Defendants.

16 56. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
17 herein, Plaintiff Doe 4 requests leave to amend this Complaint, such that a request for
18 attorneys’ fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil
19 Procedure § 1021.4.

20 **JURISDICTION AND VENUE**

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

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

25 59. At least some of the wrongful acts alleged herein occurred in the County of Los
26 Angeles; thus venue is properly in the County of Los Angeles.

27 **FIRST CAUSE OF ACTION**

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

1 60. Plaintiff Doe 4 incorporates Paragraphs 1 through 59 as though fully set forth
2 herein.

3 61. Plaintiff Doe 4's civil rights were violated by Defendants when they abused and
4 harassed Plaintiff Doe 4 and when they intentionally and fraudulently concealed complaints of
5 sexual exploitation, sexual abuse, sexual harassment and molestation by Dr. Heaps from
6 Plaintiff Doe 4, as well as other patients. Plaintiff had a right to be free from gender
7 discrimination, sexual molestation, abuse and harassment under the Unruh Civil Rights Act.

8 62. The Defendants were acting under the color of their authority and in the scope of
9 their employment, during the instances when Plaintiff Doe 4 was a patient at UCLA Health.

10 63. The Defendants denied Plaintiff full and equal accommodations, advantages,
11 facilities, privileges and healthcare services because of her gender, by allowing Dr. Heaps
12 unfettered access to sexually abuse Plaintiff Doe 4, by and through his position of authority as
13 a UCLA Health gynecologist, by actively concealing from Plaintiff the knowledge that
14 Dr. Heaps was a serial sexual predator, which the UC Regents enabled and which conduct the
15 UC Regents ratified.

16 64. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,
17 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed
18 female patients, including Plaintiff Doe 4, to Dr. Heaps' sexual abuse and harassment.
19 Defendants' retention of Dr. Heaps denied Plaintiff Doe 4, and all of their other female
20 patients, full and equal access to safe medical facilities, treatment and services, based upon
21 their gender.

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

27 66. As a direct and proximate result of Defendants' tortious acts, omissions,
28 wrongful conduct and breaches of their duties, Plaintiff has suffered substantial general,

1 special, and consequential damage in an amount to be proven at trial, but in no event less than
2 the minimum jurisdictional amount of this Court.

3 67. As a further direct and proximate result of Defendants' collective and concerted
4 wrongful actions, as herein alleged, Plaintiff Doe 4 has been hurt in her health, strength and
5 activity. Plaintiff has sustained permanent and continuing injury to her nervous systems and
6 person, which has caused and continues to cause great physical and mental pain, suffering,
7 fright, upset, grief, worry and shock in an amount according to proof at trial but in no event
8 less than the jurisdictional minimum requirements of this Court.

9 **SECOND CAUSE OF ACTION**

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

11 68. Plaintiff Doe 4 incorporates Paragraphs 1 through 67 as though fully set forth
12 herein.

13 69. Defendants' actions, as alleged herein, have had and will continue to interfere
14 with Plaintiff Doe 4's right to be free from gender discrimination in the form of sexual
15 harassment, codified under Cal. Civ. Code § 52.1.

16 70. During Plaintiff Doe 4's time as a patient at UCLA Health, Defendants engaged
17 in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe 4, as well as
18 ignoring, concealing, and suppressing patient's complaints of being sexually exploited and
19 abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive behavior
20 violated Plaintiff Doe 4's right to be free from discrimination on the basis of her gender, under
21 Cal. Civ. Code § 52.1.

22 71. Defendants' wrongful conduct was intended to, and did successfully interfere
23 with Plaintiff Doe 4's Constitutional Rights to be free from gender discrimination and
24 harassment, as well as interfered with her rights of Due Process under the United States'
25 Constitution, specifically the Fifth and Fourteenth Amendments.

26 72. Defendants unlawfully and wrongfully used, or employed others to wrongfully
27 use, threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
28 Plaintiff, who did not have knowledge that the conduct in which Defendants were engaging

1 was not medically necessary, had no relief except to submit to the Defendants’ wrongful
2 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiff’s
3 submission involuntary.

4 73. Defendants’ above-noted actions were the legal and proximate causes of
5 physical, psychological, and emotional damages, to Plaintiff Doe 4. The actions of
6 Defendants have also resulted in Plaintiff Doe 4 incurring, and will require her to incur into
7 the future, expenses for medical and psychological treatment, therapy, and counseling.

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

15 75. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
16 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
17 Plaintiff Doe 4’s rights, entitling Plaintiff Doe 4 to compensatory damages in a sum to be
18 shown according to proof, emotional distress damages in a sum to be shown according to
19 proof, punitive and/or exemplary damages (with regard to Dr. Heaps), attorney’s fees, other
20 damages pursuant to Civil Code section 52(b)(1), and a temporary restraining order or a
21 preliminary or permanent injunction ordering Defendants to refrain from conduct or activities
22 as alleged herein, stating “VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE
23 UNDER SECTION 422.77 OF THE PENAL CODE,” and other such relief as the court deems
24 proper.

25 76. In subjecting Plaintiff Doe 4 to the wrongful treatment herein described,
26 Dr. Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in conscious
27 disregard of Plaintiff Doe 4’s Rights, so as to constitute malice and oppression under
28 California Civil Code section 3294. Plaintiff Doe 4 is therefore entitled to the recovery of

1 punitive damages against Dr. Heaps, in an amount to be determined according to proof.

2 **THIRD CAUSE OF ACTION**

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

4 **Civil Code § 51.9)**

5 77. Plaintiff Doe 4 incorporates Paragraphs 1 through 76 as though fully set forth
6 herein.

7 78. During Plaintiff Doe 4's time as a patient at UCLA Health, Defendants
8 intentionally, recklessly and wantonly committed, enabled, and omitted, acts which resulted in
9 harmful and offensive contact with intimate parts of Plaintiff Doe 4's person, including but not
10 limited to sexual touching and molestation during unnecessary pelvic exams and the groping
11 and fondling of Plaintiff Doe's breasts, which Plaintiff Doe 4 has now come to understand
12 were, without medical justification, all under the supervision of Defendant the UC Regents.
13 Female chaperones who were at times in the room during Plaintiff Doe's examinations by Dr.
14 Heaps sat silently as Plaintiff Doe was mistreated.

15 79. During Plaintiff Doe 4's time as a patient at UCLA Health, Defendants also
16 intentionally, recklessly and wantonly made, and enabled, what plaintiff Doe 4 has now come
17 to understand were sexual and exploitative statements of a prurient nature, based on Plaintiff's
18 gender that were unwelcome, pervasive and severe, all under the supervision of Defendant the
19 UC Regents. Again, the female chaperones who were at times in the room during Plaintiff
20 Doe 4's examinations sat silently as Plaintiff was subjected to these comments.

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

25 81. Because of Plaintiff Doe 4's relationships with Defendants Dr. Heaps and the
26 UC Regents, Dr. Heaps' status as a prominent and highly compensated gynecologist employed
27 by the Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
28 physician, and Plaintiff Doe 4's vulnerability as a gynecological patient (who was told by Dr.

1 Heaps that he alone could treat her auto-immune disorder and that the disorder could be
2 deadly), Plaintiff Doe 4 was unable to easily terminate the relationship she had with the
3 Defendants.

4 82. Because of Dr. Heaps’ status, position of authority, physical seclusion of
5 Plaintiff Doe 4, her mental and emotional state, vulnerable position and the fact that she did
6 not understand that Dr. Heaps’ conduct was not medically necessary she was unable to, did
7 not, and could not, give consent to such acts.

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

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

25 85. Defendants’ conduct (and the conduct of their agents, servants and/or
26 employees) was a breach of their duties to Plaintiff Doe 4.

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

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

6 **FOURTH CAUSE OF ACTION**

7 **(Battery against All Defendants)**

8 87. Plaintiff Doe 4 incorporates Paragraphs 1 through 86 as though fully set forth
9 herein.

10 88. During the course of treatment of Plaintiff Doe 4, Dr. Heaps used his powers and
11 abilities as a physician, and his knowledge and background and access to Plaintiff Doe 4, to
12 sexually batter Plaintiff Doe 4, knowing that she would be vulnerable to this type of sexual
13 battery. Dr. Heaps engaged in sexual touching of her genitals during unnecessary pelvic
14 examinations and groped and fondled Plaintiff Doe 4's breasts, which Plaintiff Doe 4 now
15 understands was without medical justification.

16 89. The female chaperones who were in the room during certain of these visits
17 enabled the sexual battery and assault of Plaintiff Doe 4 by failing to reasonably perform their
18 duties as a chaperone and failing to raise any alarms during Dr. Heaps' misconduct or take any
19 other reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 4.

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

24 91. Plaintiff Doe 4 did not consent to the sexualized touching and sexual contact.

25 92. Dr. Heaps' conduct was within the course and scope of his employment with
26 Defendants, and each of them, and was ratified by Defendants and each of them who had
27 advance notice of this misconduct. All of the conduct occurred during the course and scope of
28 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical

1 injury as a result of Dr. Heaps’ misconduct and damages as otherwise alleged in this
2 complaint. In addition, at the time they were in the examination room and while she was
3 witnessing Dr. Heaps’ battery of Plaintiff Doe 4, the female chaperones were acting in the
4 course and scope of their employment with UCLA.

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

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

25 95. As a proximate result of the above, Plaintiff Doe 4 suffered damages as
26 otherwise alleged in this Complaint.

27 96. Dr. Heaps’ conduct alleged herein was despicable, and was done willfully and/or
28 with a conscious disregard of Plaintiff’s rights, and/or intentionally, or maliciously, or in

1 reckless disregard of the high probability of injury to Plaintiff and others. Defendants, and
 2 each of them, were in a special relationship with Plaintiff Doe 4 by virtue of the fact that she
 3 was a patient at UCLA Health and receiving their services.

4 97. Defendants, and each of them, further knew that Plaintiff Doe 4 was especially
 5 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
 6 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
 7 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
 8 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
 9 Plaintiff Doe 4, and failing to take proper steps to protect Plaintiff Doe 4 and other patients. It
 10 was reasonably foreseeable Plaintiff Doe 4 would receive physical injury and severe
 11 emotional distress as a result of Dr. Heaps' malfeasance. Defendant UC Regents' conduct in
 12 this regard was done with the intent to cause injury to Plaintiff Doe 4 and/or done with a
 13 conscious disregard of the rights and safety of Plaintiff.

14 98. In subjecting Plaintiff Doe 4 to the wrongful treatment herein described,
 15 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
 16 conscious disregard of Plaintiff Doe 4's rights, so as to constitute malice and oppression under
 17 California Civil Code section 3294. Plaintiff Doe 4 is therefore entitled to the recovery of
 18 punitive damages against Defendant Heaps, in an amount to be determined according to proof.

19 **FIFTH CAUSE OF ACTION**

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

21 99. Plaintiff Doe 4 incorporates Paragraphs 1 through 98 as though fully set forth
 22 herein.

23 100. During Plaintiff Doe 4's time as a patient with Defendants, Dr. Heaps
 24 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 4 now understands were
 25 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
 26 Doe 4's person, including but not limited to, sexual touching of her genitals during
 27 unnecessary pelvic exams and groping and fondling of Plaintiff Doe 4's breasts, without
 28 medical justification, all while Dr. Heaps acted in the course and scope of his employment

1 with the UC Regents. Female chaperones who were at times in the room during these visits
2 enabled the sexual battery and assault of Plaintiff Doe by failing to reasonably perform their
3 duties as a chaperone and failing to raise any alarms during Dr. Heaps' misconduct or take any
4 other reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 4.

5 101. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
6 offensive contact with an intimate part of Plaintiff Doe 4's person that would offend a
7 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
8 contact with an intimate part of Plaintiff Doe 4's person that would offend a reasonable sense
9 of personal dignity.

10 102. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe 4
11 and had she not been treated by Defendants, she would have never permitted such sexual
12 contact by Dr. Heaps.

13 103. Plaintiff Doe 4 did not consent to this sexualized touching and sexual contact.

14 104. Dr. Heaps' conduct was within the course and scope of his employment with
15 Defendants, and each of them, and was ratified by Defendants and each of them who had
16 advance notice of this misconduct. All of the conduct occurred during the course and scope of
17 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
18 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
19 complaint.

20 105. At the time they were in the examination room and while they were witnessing
21 Dr. Heaps' battery of Plaintiff Doe 4, the female chaperones were acting in the course and
22 scope of their employment with UCLA.

23 106. Defendant UC Regents is vicariously liable for the conduct alleged herein
24 because, even though Defendant UC Regents knew of these pervasive, illegal and
25 inappropriate activities by Dr. Heaps, the UC regents did nothing to investigate, supervise or
26 monitor Dr. Heaps to ensure the safety of the patients in his charge. Nor did Defendant UC
27 Regents put in place—or enforce—safeguards to prevent foreseeable harm to female
28 gynecological patients, including imposition of a policy providing for the mandatory presence

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

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

15 108. As a proximate result of the above, Plaintiff Doe 4 suffered damages as
16 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'
17 conduct, Plaintiff Doe 4 sustained serious and permanent injury to her person, all of his
18 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

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

27 **SIXTH CAUSE OF ACTION**

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

1 110. Plaintiff Doe 4 incorporates Paragraphs 1 through 109 as though fully set forth
2 herein.

3 111. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 4, as
4 described herein, was outrageous and extreme.

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

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

15 114. A reasonable person would not expect or tolerate the Defendants, their agents,
16 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
17 from committing wrongful sexual acts with patients, including Plaintiff Doe 4, or to be
18 incapable or unwilling to supervise Dr. Heaps. A reasonable person would not expect a
19 chaperone whose presence was supposed to ensure Plaintiff Doe 4's comfort and safety during
20 a gynecological exam would sit idly by and not say anything while Plaintiff Doe 4 was being
21 sexually abused by a physician. A reasonable person would not expect that UCLA would not
22 vet its nurse/chaperones to determine whether they have criminal histories and remove them
23 from their positions when it is clear that they have alcohol and drug dependencies. Indeed the
24 presence of the silent chaperones has now further exacerbated Plaintiff Doe 4's extreme
25 embarrassment and harm as she was subjected what she now understands to be misconduct
26 with a silent audience.

27 115. Defendants' conduct described herein was intentional and malicious and done
28 for the purpose of causing or with the substantial certainty that Plaintiff Doe 4 would suffer

1 humiliation, mental anguish, and emotional and physical distress.

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

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

14 **SEVENTH CAUSE OF ACTION**

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

16 118. Plaintiff Doe 4 incorporates Paragraphs 1 through 117 as though fully set forth
17 herein.

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

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

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

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

12 122. Defendants had a special relationship with Plaintiff Doe 4 and/or had undertaken
13 an obligation to her that necessarily implicated Plaintiff Doe 4's emotional well-being.
14 Specifically, Defendants had a duty to (1) take reasonable measures to prevent harm to
15 Plaintiff Doe 4 and (2) to promptly, adequately, reliably, fairly, and impartially investigate and
16 resolve patient complaints against Dr. Heaps, and to protect her from Dr. Heaps.

17 123. There was an especially likely risk that Defendants' negligent actions and
18 inactions would cause serious emotional distress to Plaintiff Doe 4. Defendants' failure to
19 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
20 Plaintiff Doe 4 tremendous harm. In addition, Defendants' failure to promptly, adequately,
21 reliably, fairly, and impartially investigate and resolve patient complaints caused harm to
22 Plaintiff Doe 4 by leaving her totally vulnerable to Dr. Heaps' sexual abuse..

23 124. Defendants' negligence was a substantial factor in causing Plaintiff Doe 4
24 serious emotional distress.

EIGHTH CAUSE OF ACTION

(Negligent Supervision and Retention against UC Regents)

25
26
27 125. Plaintiff Doe 4 incorporates Paragraphs 1 through 124 as though fully set forth
28 herein.

1 126. By virtue of Plaintiff Doe 4’s special relationship with the UC Regents as a
2 patient, and the UC Regents’ relation to Dr. Heaps, Defendants owed Plaintiff Doe 4 a duty
3 not to retain Dr. Heaps, given his dangerous and exploitative propensities, which Defendants
4 knew or should have known about.

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

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

14 129. The UC Regents were aware, or should have been aware, and understood how
15 vulnerable gynecological patients were to sexual harassment, sexual exploitation, molestation,
16 and abuse by physicians and other persons of authority within the control of the UC Regents
17 prior to Plaintiff Doe 4’s sexual abuse and exploitation by Dr. Heaps. As a result, Defendant
18 UC Regents should have put in place appropriate safeguards to prevent foreseeable harm to
19 female gynecological patients, including imposition of a policy providing for the mandatory
20 presence of an independent, properly trained chaperone, to prevent, deter and report any
21 misconduct in the context of gynecological examinations and procedures. Defendant UC
22 Regents also failed adequately (or at all) to train its employees and agents in how to recognize
23 and report any sexual or medical battery or harassment.

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

1 appropriate and skilled staff who could properly oversee intimate examinations and protect
2 female patients.

3 131. The UC Regents were put on notice, and should have known, that Dr. Heaps had
4 previously engaged, and continued to engage, in unlawful sexual conduct with female patients,
5 and that it was foreseeable, or should have been foreseeable, that Dr. Heaps was engaging in,
6 or would engage in, misconduct directed towards Plaintiff Doe 4 and others, under the
7 protection of the authority, confidence, and trust bestowed upon him through the UC Regents,
8 their agents, servants, and employees.

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

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

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

21 135. Because the UC Regents:

- 22 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
23 being committed by Dr. Heaps;
- 24 (b) Failed to take action such as firing Dr. Heaps, reporting him to the police, or
25 reporting him to the California State Medical Board as mandated by Federal
26 Laws;
- 27 (c) Consciously and intentionally enabled Dr. Heaps to continue to sexually
28 exploit, abuse, and harass female patients by failing to take any of the above

- 1 action;
- 2 (d) Consciously and intentionally kept all of Dr. Heaps' exploitative, abusive,
- 3 and harassing behaviors secret from patients and the public at large; and
- 4 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
- 5 intimate examinations and report misbehavior;

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

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

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

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

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

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

12 Regents and he was allowed to continue to interact with patients, including Plaintiff Doe 4.

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

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

15 137. As a result of the above-described conduct, Plaintiff Doe 4 has suffered and

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

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

18 shame, humiliation, and loss of enjoyment of life; has suffered and continue to suffer and was

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

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

21 psychological treatment, therapy, and counseling.

22 **NINTH CAUSE OF ACTION**

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

24 138. Plaintiff Doe 4 incorporates Paragraphs 1 through 137 as though fully set forth

25 herein.

26 139. At all times relevant herein, each Defendant was the agent, partner, joint

27 venturer, representative, servant, employee and/or co-conspirator of each of the other

28 Defendants, and was at all times mentioned herein acting within the course and scope of said

1 agency and employment, and that all acts or omissions alleged herein were duly committed
2 with the ratification, knowledge, permission, encouragement authorization and consent of
3 each Defendant designated herein.

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

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

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

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

24 144. The UC Regents’ conduct in enabling Dr. Heaps to serially sexually assault his
25 female patients was a long-standing, gross, and inexcusable violation of the duty of care owed
26 to Plaintiff Doe 4.

27 145. Because the UC Regents:

28 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment

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

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

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

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

28

1 **TENTH CAUSE OF ACTION**

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

3 148. Plaintiff Doe 4 incorporates Paragraphs 1 through 147 as though fully set forth
4 herein.

5 149. Defendant UC Regents owed Plaintiff Doe 4 a duty to take reasonable protective
6 measures to safeguard Plaintiff and other female patients from the risk of sexual battery by
7 Dr. Heaps by properly warning, training or educating others, including their own medical
8 personnel, medical staff, administrators, and other agents, servants, and/or employees
9 (including chaperones) about how to avoid such a risk and what to do when such inappropriate
10 conduct is witnessed, reported, and/or discovered.

11 150. Defendant UC Regents breached its duty to take reasonable measures to protect
12 Plaintiff Doe 4 and other female patients from the risk of sexual harassment and abuse by
13 Dr. Heaps, such as the failure to properly warn Plaintiff and other patients about Dr. Heaps.

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

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

24 153. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
25 exposed Plaintiff Doe 4 and other patients to sexual battery and abuse.

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

1 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/or has incurred and will continue to incur expenses for medical and
4 psychological treatment, therapy, and counseling.

5 **ELEVENTH CAUSE OF ACTION**

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

7 155. Plaintiff Doe 4 incorporates Paragraphs 1 through 154 as though fully set
8 forth herein.

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

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

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

14 159. For example, the chaperones who were in the room during Dr. Heaps' sexual
15 assault and harassment of Plaintiff Doe 4 acted negligently, in that they failed to reasonably
16 perform their duties as a chaperone and failed to act as a reasonably prudent person. The
17 chaperones failed to raise any alarms during Dr. Heaps' misconduct or take any other
18 reasonably expected actions to prevent the harm inflicted on Plaintiff Doe 4, despite the fact
19 that (a) the purpose of the chaperones was to protect Plaintiff Doe 4 and ensure that she was
20 comfortable and safe during the gynecological visit; and (b) the chaperone were aware of the
21 lack of medical necessity of Dr. Heaps' touching and questioning of Plaintiff Doe 4. Further,
22 the chaperones did not report Dr. Heaps' misconduct. At the time they were in the
23 examination room and while she was silently witnessing Dr. Heaps' infliction of harm to
24 Plaintiff Doe 4, the female chaperones were acting in the course and scope of their
25 employment with UCLA.

26 160. As a result of the above-described conduct, Plaintiff Doe 4 suffered and
27 continues to suffer great pain of mind and body, shock, emotional distress, physical
28 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,

1 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 has incurred and will continue to incur expenses for medical and
4 psychological treatment, therapy, and counseling.

5 **TWELFTH CAUSE OF ACTION**

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

7 161. Plaintiff Doe 4 incorporates Paragraphs 1 through 160 as though fully set forth
8 herein.

9 162. California Civil Code § 52.4 provides that gender violence is a form of sexual
10 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
11 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”
12 means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code
13 § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to
14 gender violence may bring a civil action for damages against any responsible party, and may
15 seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

16 163. Plaintiff Doe 4 is female.

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

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

1 security for patients and students and benefit financially.

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

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

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

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

17 **FOURTEENTH CAUSE OF ACTION**

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

19 174. Plaintiff Doe 4 incorporates Paragraphs 1 through 173 as though fully set forth
20 herein.

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

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

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

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

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

- 15 (a) failing to promptly and thoroughly investigate claims of sexual abuse or
16 harassment against Dr. Heaps;
17 (b) failing to disclose to Plaintiff, UCLA students, and the community at
18 large the reasons for Dr. Heaps' retirement in June 2018;
19 (c) issuing no warnings about Dr. Heaps;
20 (d) permitting Dr. Heaps to routinely examine gynecological patients either
21 entirely unsupervised or supervised by untrained chaperones who were
22 derelict in their duty to report Dr. Heaps;
23 (e) failing to adopt policies that mandated the use of chaperones at all
24 gynecological visits or properly training their chaperones;
25 (f) hiring at least one nurse/chaperone with a history of criminality and who,
26 on information and belief, had alcohol and prescription drug addictions
27 during the time in which she was rendering nurse and chaperone services
28 to patients, including Plaintiff Doe 4;

- 1 (g) continuing to assign Dr. Heaps to duties which placed him in positions
2 of trust and authority over other patients;
- 3 (h) continuing to impliedly represent that Dr. Heaps was safe and morally fit
4 to give medical care and provide gynecological treatment; and
- 5 (i) continuing to promote Dr. Heaps as a faculty member and trusted
6 physician on the UCLA School of Medicine website even after he had
7 forcibly “retired.”

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

12 180. Given her need for medical treatment, and her trust and care in Defendants,
13 Plaintiff was vulnerable to Defendants.

14 181. At the time Defendants engaged in such suppression and acts of concealment,
15 such acts were done for the purpose of causing Plaintiff to forebear on her rights;

16 182. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and
17 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

18 183. The misrepresentations, suppressions, and concealment of facts by Defendants
19 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
20 no knowledge of any misconduct by Dr. Heaps.

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

23 185. On information and belief, Defendants suppressed and concealed the true facts
24 regarding Dr. Heaps with the purpose of, among other things: (a) preventing Plaintiff and
25 others from learning that Dr. Heaps had and was continuing to sexually harass, molest, and
26 abuse patients, (b) inducing Plaintiff and other people to participate and financially support
27 Defendants’ programs and enterprises; (c) preventing further reports and investigations of
28 Defendants’ misconduct; (d) avoiding damage to Defendants’ reputations; and (e) protecting

1 Defendants' power, status, and reputation in the community.

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

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

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

14
15 **WHEREFORE**, Plaintiff Doe 4 prays for a jury trial and for judgment against
16 Defendants as follows:

17 **FOR ALL CAUSES OF ACTION**

- 18 1. For compensatory damages, in an amount to be determined at trial;
19 2. For costs of suit;
20 3. For interest based on damages, as well as pre-judgment and post-judgment
21 interest as allowed by law;
22 4. For declaratory and injunctive relief, including but not limited to court
23 supervision of the UC Regents;
24 5. For attorneys' fees as provided by statute;
25 6. For punitive damages as to Dr. Heaps;
26 7. For restitution and disgorgement; and
27 8. For such other and further relief as the Court may deem proper.
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DATED: July 19, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 4

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DEMAND FOR TRIAL BY JURY

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

DATED: July 19, 2019

THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 4