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

13 JANE DOE 8,
 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: 19STCV29293

- (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) Violations of Title IX, 20 U.S.C. § 1681(A)
- (13) Sexual Harassment and Discrimination in the Educational Setting (Education Code § 200 et. seq.)
- (14) Violation of the California Equity in Higher Education Act (Education Code § 66250)
- (15) Constructive Fraud

DEMAND FOR JURY TRIAL

1 Plaintiff Jane Doe 8,¹ an individual (“Plaintiff Doe 8” or “Plaintiff” or “Doe 8”) 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 8 was a student at the University of California Los Angeles and
8 gynecological patient at UCLA Health (“UCLA Health” or “UCLA”) when she was sexually
9 abused, molested and verbally and physically harassed at the hands of serial sexual predator
10 Defendant Dr. Heaps. At the time of the instances of abuse, Plaintiff Doe 8 was recovering
11 from colon cancer and the damaging after-effects of pelvic radiation. Dr. Heaps cruelly took
12 advantage of her vulnerability and her desperate desire to return to a normal, healthy life after
13 her cancer treatment.

14 2. Doe 8 was in the process of obtaining her bachelor’s degree at UCLA when she
15 was first diagnosed with cancer. The radiation treatment she received caused various
16 complications for which she sought out treatment at the UCLA Arthur Ashe Student Health
17 Center (the “UCLA Student Health Center”). The UCLA Student Health Center specifically
18 referred her to Dr. Heaps and she received gynecological care from Dr. Heaps from in or
19 about summer 2016 through in or about late 2016 or early 2017.

20 3. On at least two separate occasions, Dr. Heaps engaged in what Plaintiff Doe 8
21 now understands was sexual abuse and harassment, including using medical devices in a
22 sexual manner, asking her to simulate sexual positions while he performed an “exam” and
23 asking invasive (not medically necessary) questions about her sex life.

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

3 5. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
4 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
5 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents, Dr.
6 Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
7 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the
8 Sacramento Bee entitled, *All 35 of the University of California’s highest-paid employees in*
9 *2016 were men*. Dr. Heaps was also apparently considered an OBGYN “to the stars,” who
10 was listed in the *Hollywood Reporter’s* annual *Best Doctors in Los Angeles* issue in 2015.

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

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

23 8. Those patients—likely hundreds in number—were seeking routine care and
24 were unwittingly exposed to a serious threat of lasting harm. Notwithstanding these
25 complaints—and despite being on notice of Dr. Heaps’ malfeasance—the UC Regents
26 continued to employ or otherwise affiliate with Dr. Heaps and ratify his conduct, allowing
27 him to maintain his practice and see patients, including UCLA students like Plaintiff, which he
28 did until mid-2018.

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

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

19 11. As described herein, on information and belief, one nurse/chaperone in
20 particular was charged with criminal conduct while employed by UCLA Health and
21 eventually left her job with Dr. Heaps after voluntarily surrendering her nursing licenses as a
22 result of drug (including prescription drug) and alcohol abuse and DUI’s. The fact that UCLA
23 would hire and retain such an individual purportedly to watch over and care for female
24 patients, is both highly troubling and actionable.

25 12. On information and belief, in or about late June 2018, Dr. Heaps was forced to
26 resign. UCLA, however, chose to protect itself and Dr. Heaps and keep incidents of sexual
27 misconduct relating to Dr. Heaps under wraps. In or about mid-June 2018, UCLA sent a letter
28 to patients of Dr. Heaps, stating that “it is with mixed emotions” that UCLA announces Dr.

1 Heaps’ “retirement.” UCLA then continued to feature Dr. Heaps on the webpages of UCLA
2 Health and of the David Geffen School of Medicine for nearly a year following, allowing Dr.
3 Heaps and UCLA to save face in the community, a community unwittingly exposed to a
4 sexual predator by Defendants.

5 13. Every woman should—of course—at all times be protected from sexual battery
6 and harassment; to be clear, however, Plaintiff Doe 8 is not one of Dr. Heaps’ powerful
7 Hollywood patients. She is a mother of four who was working towards an undergraduate
8 degree while simultaneously battling cancer, who is now haunted by memories and flashbacks
9 of an assault and harassment by Dr. Heaps.

10 14. Dr. Heaps’ actions and the inaction of the UC Regents and its employees (both
11 before and after Plaintiff’s horrific encounter with Dr. Heaps as described herein), have caused
12 Plaintiff Doe 8 tremendous and lasting harm, including feelings of fear and powerlessness,
13 symptoms of post-traumatic stress disorder, and other physical and emotional manifestations
14 of the severe emotional distress that she has suffered.

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

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1 **BACKGROUND FACTS**

2 **As a Student and Patient, Plaintiff Places Her Trust and Confidence in the UC**
3 **Regents and Dr. Heaps**

4 16. UCLA Health is comprised of, among other facilities, the Ronald Reagan
5 UCLA Medical Center and the David Geffen School of Medicine at UCLA. It also
6 includes the UCLA Medical Group, a far reaching system of more than 170 primary care
7 and specialty care clinics.

8 17. Students at UCLA are, and have been during all times relevant hereto, able
9 to visit the UCLA Student Health Center (formally named the Arthur Ashe Student Health
10 & Wellness Center) for medical care. The mission of the Student Health Center is to
11 “support UCLA students in the successful attainment of their educational goals through the
12 personalized delivery of accessible, high quality health and wellness services, rendered
13 with kindness and competence, by diligent, dedicated professionals.” The Student Health
14 Center provides, and has provided through the relevant period, women’s health services,
15 including gynecological services. On its website, it claims that the use of chaperones (a
16 trained health professional or staff member) has been a longstanding practice at the UCLA
17 Student Health Center, and chaperones are offered during any intimate examination as well
18 as upon request. Further, the UCLA Student Health Center touts its participation “in a
19 system-wide effort to develop policies on prevention, detection, and response to sexual
20 misconduct in clinical settings.”

21 18. At all relevant times hereto, Plaintiff was a female UCLA student who
22 sought medical care through UCLA Health, the UC Student Health Center, or other
23 facilities supervised and controlled by the UC Regents and was a patient of Dr. Heaps
24 during his affiliation with UCLA. Plaintiff had no reason to suspect that Dr. Heaps was
25 anything other than a competent and ethical physician who would treat her according to the
26 standard of care.

27 19. At all relevant times hereto, Plaintiff—as a patient and as a UCLA student —
28 placed her trust and confidence in the UC Regents to ensure that employees, agents,

1 affiliates, and recommended physicians of UCLA Health and the UCLA Student Center
 2 were adequately vetted, trained and supervised, and would provide the highest quality of
 3 care. Indeed, knowing that patients, including UCLA students, would place the upmost
 4 trust in its physicians, the UC Regents had a duty to ensure that physicians affiliated with
 5 the University used their positions, accessibility to patients, and the safe confines of a
 6 medical examination room consistent with the standard of care, and not to molest patients.
 7 Similarly, the UC Regents had a duty to their patients, including UCLA students, to ensure
 8 that its other medical professionals (including nurses and chaperones) were properly
 9 trained and supervised in order to identify misconduct and alert appropriate personnel
 10 when misconduct occurred. UC Regents also owed patients, including UCLA students, a
 11 duty to promptly and adequately investigate claims of misconduct against Dr. Heaps.

12 **Defendant Dr. Heaps Provides Gynecological Services to UCLA Patients, Including**
 13 **UCLA Students**

14 20. Dr. Heaps completed his internship and residency as an obstetrician-
 15 gynecologist and a fellowship in gynecologic oncology at the UCLA School of Medicine from
 16 1983-1989. During his internship, residency, and fellowship, and extending until June 2010
 17 (*i.e. from 1983-2010*), Dr. Heaps was a consulting physician for UCLA Student Health and
 18 provided gynecological services to students there. On information and belief, routinely after
 19 2010, UCLA Student Health physicians, nurses, and other employees referred UCLA students
 20 to Dr. Heaps for follow up gynecological care.

21 21. Upon information and belief, beginning in the early 1990s, Dr. Heaps was in
 22 private practice as an OBGYN at an office located at 100 Medical Plaza in Westwood. On
 23 further information and belief, in or about February 2014, Dr. Heaps' private practice was
 24 acquired by the UC Regents and Dr. Heaps was hired by the UC Regents as a full-time
 25 gynecologist at UCLA Health, with a purported specialty in gynecologic oncology.

26 22. In that role, on information and belief, Dr. Heaps continued to provide
 27 gynecological services to women, including Plaintiff Doe 8 and other UCLA students, at his
 28 office located at 100 Medical Plaza in Westwood. On further information and belief, Dr.

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

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

10 24. At all times herein alleged, Dr. Heaps was an agent, servant, and/or employee of
11 Defendant UC Regents and its medical clinics, facilities, and locations, and/or was under its
12 complete control and/or direct supervision. It was through this position of access, trust, and
13 authority that Dr. Heaps sexually exploited and abused Plaintiff Doe 8.

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

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

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

25 27. It is unknown to Plaintiff Doe 8 what background information the UC Regents
26 sought from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by
27 the UC Regents) in or about February 2014. It is unclear whether the UC Regents did any
28 independent investigation of Dr. Heaps or his background when they sought to employ him to

1 provide gynecological services to female patients at his UCLA Health office and at Ronald
2 Reagan UCLA Medical Center.

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

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

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

27 31. Plaintiff is further informed and believes that, in or before mid-2018, the UC
28 Regents were informed of an employee complaint against Dr. Heaps involving sexual

1 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
2 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

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

7 **Plaintiff Doe 8 Is Sexually Battered and Harassed by Dr. Heaps**
8 **During Gynecological Procedures**

9 33. While in the process of obtaining her bachelor’s degree, Plaintiff Doe 8 was
10 diagnosed with colon cancer and underwent a rigorous course of treatment that included
11 radiation targeted at her pelvic area and cancer surgery (which Plaintiff Doe 8 underwent in or
12 about April 2016). This radiation (and surgery) caused certain complications, and in or about
13 summer 2016—several years after the incidents involving Dr. Heaps reported above—the
14 UCLA Student Health Center referred Plaintiff Doe 8 to Dr. Heaps for further care.

15 34. Staff at the UCLA Student Health Center assured Plaintiff Doe 8 that Dr. Heaps
16 was a top doctor in his field of gynecological oncology and could help her with the
17 gynecological issues that she was experiencing in the wake of her cancer treatment. Staff at
18 the UCLA Student Health Center further informed Plaintiff Doe 8 that it was so difficult to
19 obtain an appointment with Dr. Heaps (because of his skill and popularity) that they would
20 call and get her such an appointment, which they did.

21 35. In or around mid-2016, Dr. Heaps performed a procedure on Plaintiff Doe 8 to
22 manually re-position her uterus (a procedure necessitated by her radiation treatments and the
23 physical aftermath thereof). Though extremely painful for Plaintiff Doe 8, the procedure was
24 a success and Dr. Heaps garnered her trust in his purported competence and skill. After the
25 procedure, Dr. Heaps requested that Plaintiff Doe 8 return for follow-up appointments every
26 two months, which Plaintiff Doe 8 later learned was not medically necessary. At certain of
27 these follow-up appointments, Plaintiff Doe 8 now understands that Dr. Heaps sexually
28 harassed and battered her. On information and belief, Dr. Heaps requested that she return

1 every two months in order to have frequent and unfettered access to Plaintiff Doe 8 in order to
2 sexually abuse and harass her.

3 36. As described throughout, Plaintiff Doe 8 was particularly vulnerable to Dr.
4 Heaps as she was experiencing tremendous anxiety, fear and pain in the aftermath of her
5 cancer diagnosis, her aggressive cancer treatment and the physical changes resulting from the
6 disease and treatment. Because Plaintiff Doe 8 was suffering the painful after-effects of her
7 cancer treatment and was desperate to return to a normal life and functioning, she was
8 particularly susceptible to Dr. Heaps' misconduct and abuse.

9 37. In or around late 2016, knowing that Plaintiff had been prescribed the use of
10 vaginal dilators as a component of her cancer recovery,² Dr. Heaps requested that she bring
11 the dilators with her to her next appointment. At that appointment, Dr. Heaps inserted the
12 various dilators under the guise of determining which of the devices would be best for Plaintiff
13 Doe 8 to use. During this "examination" Dr. Heaps placed the devices inside Plaintiff Doe 8
14 for a lengthy period of time in a sexual manner, which Plaintiff Doe 8 now understands was
15 not medically necessary or appropriate, and asked her inappropriate and invasive questions
16 relating to her use of the dilators. Shockingly, a nurse was present when this occurred, but did
17 nothing to intervene on Doe 8's behalf.

18 38. Because of the unusual nature of her treatment for the after-effects of her cancer
19 and radiation, Plaintiff Doe 8 was not at all familiar with the use of dilators and did not know
20 or understand at that time that what Dr. Heaps was doing to her was medically unnecessary
21 and sexually abusive. Only since Dr. Heaps' arrest has become known publically has Plaintiff
22 Doe 8 come to understand that she was battered and harassed as described herein.

23 39. In or around late 2016 or early 2017, Plaintiff had another appointment with Dr.
24 Heaps. At the beginning of the appointment, a nurse was present, but Dr. Heaps dismissed the
25 nurse for what Plaintiff Doe 8 now believes was a pre-textual reason. When Plaintiff Doe 8
26

27 ² A vaginal dilator is a medical device inserted into the vagina and used by radiation
28 patients to address certain painful side effects of radiation to the pelvic area, which results in
loss of sexual function.

1 informed Dr. Heaps that she was continuing to have pain with sex (as a result of the ongoing
2 after-effects of her cancer treatment and surgery), Dr. Heaps asked her about the sexual
3 positions that she and her husband used. More specifically, Dr. Heaps asked her to simulate
4 for him how she was positioning herself during sex and touched her in a sexually
5 inappropriate manner, using his hand to simulate a sex act with her for an extended period of
6 time. Plaintiff Doe 8 now understands that this “examination” was medically unnecessary and
7 sexually abusive.

8 40. On information and belief, UCLA did not have in place a policy that mandated
9 the presence of an independent and trained chaperone during intimate gynecological
10 examinations. If such a policy was in place at the time of Dr. Heaps’ sexual misconduct
11 towards Plaintiff Doe 8, it was not followed by UCLA nor its employees, including Dr. Heaps.

12 41. On further information and belief, in or about early December 2017, another
13 female patient of Dr. Heaps alleged sexual misconduct of a similar nature against Dr. Heaps
14 and made a report to UCLA. Plaintiff Doe 8 is likewise informed and believes that at some
15 point in early or mid-2018, the California Medical Board initiated an investigation of similar
16 claims of misconduct against Dr. Heaps.

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

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

1 UC Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and
 2 harassment of Plaintiff Doe 8, yet failed to take corrective action to protect Plaintiff or other
 3 students or patients. Despite this notice, the UC Regents allowed Dr. Heaps to remain
 4 employed and left him in a position where he could molest, batter, and harass Plaintiff Doe 8
 5 and other students or patients.

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

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

18 46. The female chaperones who were in the room during certain instances of Dr.
 19 Heaps’ sexual battery and harassment of Plaintiff Doe 8 acted recklessly and negligently, in
 20 that they failed to reasonably perform their duties as a chaperone and failed to act with the
 21 ordinary care one would expect. The chaperones—on information and belief, employees of
 22 the UC Regents—failed to raise any alarms during Dr. Heaps’ misconduct (which they each
 23 witnessed) or take any other reasonably expected actions to prevent or stop the misconduct,
 24 despite being aware of the lack of medical necessity of Dr. Heaps’ touching and comments to
 25 Plaintiff Doe 8. Further, on information and belief, the chaperones did not report Dr. Heaps’
 26 misconduct.

27 47. Plaintiff Doe 8 is now informed and believes, and based thereon alleges, that the
 28 UC Regents further breached its duties owed to Plaintiff Doe 8 and other patients by, among

1 other things, failing to conduct reasonable investigation and/or due diligence prior to hiring
2 individuals assigned to assist Dr. Heaps during the relevant time period, including those
3 charged with the important task of chaperoning gynecological examinations.

4 48. On information and belief, a nurse/chaperone employed by UCLA Health from
5 in or about 2003 until in or about 2016 was retained despite – in or about 2008– being
6 criminally charged with welfare fraud and perjury and pleading guilty to welfare fraud. On
7 information and belief, during the time she was employed by the UC Regents, this
8 nurse/chaperone was also a defendant in a civil harassment suit. It is unclear why such an
9 individual would be hired into a position of trust, with access to private patient medical and
10 personal information. Nor is it clear why such a person would be called upon to act as a
11 chaperone and purportedly safeguard women’s well-being and safety.

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

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

26 51. Dr. Heaps’ misconduct and the UC Regents’ cover up has resulted in
27 tremendous harm to Plaintiff Doe 8. The physical and psychological aftermath of Dr. Heaps’
28 conduct have been severe for Plaintiff Doe 8. She has suffered from shock, humiliation,

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

4 **THE PARTIES**

5 52. At all relevant times, Plaintiff Jane Doe 8 resided in the County of Los Angeles,
6 State of California. She was a student at UCLA, studying musicology and vocal performance,
7 and about to apply for a masters' program. As detailed herein, Plaintiff Doe 8 was referred to
8 Dr. Heaps by the UCLA Student Health Center. She was a patient of Dr. Heaps while he was
9 employed by the UC Regents, and while she was a student at UCLA.

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

15 54. Plaintiff Doe 8 is informed and believes, and on that basis alleges, that UC
16 Regents owned, operated, and maintained UCLA Health, through which medical services
17 were provided to Plaintiff Doe 8, pursuant to licenses issued by the California State
18 Department of Health and provided health care as healthcare facilities.

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

23 56. Plaintiff Doe is ignorant of the true name of the female nurses/chaperones that
24 were in the room during Dr. Heaps' sexual battery and harassment of Plaintiff Doe 8, and
25 therefore sues these defendants as Roe 1 and 2. Upon information and belief, Plaintiff Doe
26 alleges that Roe 1 and 2 were both nurses employed by the UC Regents. Plaintiff Doe 8 will
27 amend this Complaint to allege Defendant Roe 1 and 2's true names and capacities when they
28 have been ascertained or upon proof at trial. Plaintiff Doe alleges that Roe 1 and 2 are legally

1 responsible in some manner for the occurrences and damages alleged herein and/or are jointly
2 and severally liable.

3 57. Plaintiff Doe 8 is ignorant of the true names and capacities of defendants sued as
4 Roe Nos. 3 through 20, inclusive, and sues these Roe defendants by these fictitious names.
5 Plaintiff Doe 8 will amend this Complaint to allege their true names and capacities when they
6 have been ascertained or upon proof at trial. Plaintiff Doe 8 alleges that each of the fictitiously
7 named Roe defendants is legally responsible in some manner for the occurrences and damages
8 alleged herein and/or is jointly and severally liable for the obligations of the other defendants.

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

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

25 60. Once the 90 day wait period pursuant to CCP § 364 expires without resolution,
26 Plaintiff Doe 8 intends to amend her complaint to add a claim of professional negligence
27 against Defendants.

28 61. In the event that Dr. Heaps is convicted of felonies for the conduct alleged

1 herein, Plaintiff Doe 8 requests leave to amend this Complaint, such that a request for
2 attorneys' fees can be made against Dr. Heaps and Defendants pursuant to Code of Civil
3 Procedure § 1021.4.

4 **JURISDICTION AND VENUE**

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

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

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

11 **FIRST CAUSE OF ACTION**

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

13 65. Plaintiff Doe 8 incorporates Paragraphs 1 through 64 as though fully set forth
14 herein.

15 66. Plaintiff Doe 8's civil rights were violated by Defendants when they abused and
16 harassed Plaintiff Doe 8 and when they intentionally and fraudulently concealed complaints of
17 sexual exploitation, sexual abuse, sexual harassment and molestation by Dr. Heaps from
18 Plaintiff Doe 8, as well as other patients. Plaintiff had a right to be free from gender
19 discrimination, sexual molestation, abuse and harassment under the Unruh Civil Rights Act.

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

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

28 69. By employing and retaining Dr. Heaps as a gynecologist at UCLA Health,

1 despite their knowledge of reports of Dr. Heaps' sexually abusive nature, Defendants exposed
2 female patients, including Plaintiff Doe 8, to Dr. Heaps' sexual abuse and harassment.
3 Defendants' retention of Dr. Heaps denied Plaintiff Doe 8, and all of their other female
4 patients, full and equal access to safe medical facilities, treatment and services, based upon
5 their gender.

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

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

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

21 **SECOND CAUSE OF ACTION**

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

23 73. Plaintiff Doe 8 incorporates Paragraphs 1 through 72 as though fully set forth
24 herein.

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

28 75. During Plaintiff Doe 8's time as a patient at UCLA Health, Defendants engaged

1 in oppressive and unlawful tactics in abusing and harassing Plaintiff Doe 8, as well as
2 ignoring, concealing, and suppressing other patient's complaints of being sexually exploited
3 and abused by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive
4 behavior violated Plaintiff Doe 8's right to be free from discrimination on the basis of her
5 gender, under Cal. Civ. Code § 52.1.

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

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

16 78. Defendants' above-noted actions were the legal and proximate causes of
17 physical, psychological, and emotional damage to Plaintiff Doe 8, who has suffered and
18 continue to suffer to this day. The actions of Defendants have also resulted in Plaintiff Doe 8
19 incurring, and will require her to incur into the future, expenses for medical and psychological
20 treatment, therapy, and counseling.

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

28 80. In subjecting Plaintiff to the wrongful treatment described herein, Defendants

1 supervision of Defendant the UC Regents.

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

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

11 87. Because of Dr. Heaps’ status, position of authority, physical seclusion of
12 Plaintiff Doe 8, her mental and emotional state, vulnerable position and the fact that she did
13 not understand that Dr. Heaps’ conduct was not medically necessary, she was unable to, did
14 not, and could not, give consent to such acts.

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

25 89. With regard specifically to the liability hereunder of Defendant UC Regents, a
26 corporation is a “person” within the meaning of Civil Code § 51.9, which subjects persons to
27 liability for sexual harassment within a business, service or professional relationship, and such
28 an entity defendant may be held liable under this Statute for the acts of its employees. *C.R. v.*

1 *Tenet Healthcare Corp.*, 169 Cal.App.4th 1094 (2009). Further, principles of ratification apply
2 when the principal ratifies the agent’s originally unauthorized harassment, as is alleged to
3 have occurred herein.

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

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

13 **FOURTH CAUSE OF ACTION**

14 **(Battery against All Defendants)**

15 92. Plaintiff Doe 8 incorporates Paragraphs 1 through 91 as though fully set forth
16 herein.

17 93. During the course of treatment of Plaintiff Doe 8, Dr. Heaps used his powers and
18 abilities as a physician, and his knowledge and background and access to Plaintiff Doe 8, to
19 sexually assault Plaintiff Doe 8, knowing that she would be vulnerable to this type of sexual
20 battery. Dr. Heaps used medical devices (associated with cancer after-care) on Plaintiff Doe 8
21 in a sexual manner which she now understands was not medically necessary and was for his
22 own gratification. Dr. Heaps also touched Plaintiff Doe 8 during a pelvic “examination” in
23 what she now understands to be an inappropriate manner, using his hand to simulate a sex act
24 with her.

25 94. The female chaperones who were in the room during certain of the visits enabled
26 the sexual battery and assault of Plaintiff Doe 8 by failing to reasonably perform their duties
27 as chaperones and failing to raise any alarms during Dr. Heaps’ misconduct or take any other
28 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 8.

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

5 96. Plaintiff Doe 8 did not consent to the sexualized touching and sexual contact.

6 97. Dr. Heaps' conduct was within the course and scope of his employment with
7 Defendants, and each of them, and was ratified by Defendants and each of them who had
8 advance notice of this misconduct. All of the conduct occurred during the course and scope of
9 Dr. Heaps' employment at UCLA. Plaintiff suffered severe emotional distress and physical
10 injury as a result of Dr. Heaps' conduct, which she now understands was not medically
11 necessary and was designed instead for his sexual gratification. In addition, at the time they
12 were in the examination room and while they were witnessing Dr. Heaps' battery of Plaintiff
13 Doe 8, the female chaperones were acting in the course and scope of their employment with
14 UCLA.

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

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

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

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

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

14 102. Defendants, and each of them, further knew that Plaintiff Doe 8 was especially
15 vulnerable and susceptible to injury by persons such as Dr. Heaps in the absence of adequate
16 supervision, and by reason of the authority the UC Regents vested in Dr. Heaps. The UC
17 Regents acted in conscious disregard of the rights and safety of Plaintiff by ignoring the
18 danger posed by Dr. Heaps, and by putting him in a position of trust and authority over
19 Plaintiff Doe 8, and failing to take proper steps to protect Plaintiff Doe 8 and other patients. It
20 was reasonably foreseeable Plaintiff Doe 8 would receive physical injury and severe
21 emotional distress as a result of Dr. Heaps’ malfeasance. Defendant UC Regents’ conduct in
22 this regard was done with the intent to cause injury to Plaintiff Doe 8 and/or done with a
23 conscious disregard of the rights and safety of Plaintiff.

24 103. In subjecting Plaintiff Doe 8 to the wrongful treatment herein described,
25 Defendant Heaps acted willfully and maliciously with the intent to harm Plaintiff, and in
26 conscious disregard of Plaintiff Doe 8’s rights, so as to constitute malice and oppression under
27 California Civil Code § 3294. Plaintiff Doe 8 is therefore entitled to the recovery of punitive
28 damages against Defendant Heaps, in an amount to be determined according to proof.

1 **FIFTH CAUSE OF ACTION**

2 **(Sexual Battery against All Defendants: Civil Code § 1708.5)**

3 104. Plaintiff Doe 8 incorporates Paragraphs 1 through 103 as though fully set forth
4 herein.

5 105. During Plaintiff Doe 8’s time as a patient with Defendants, Dr. Heaps
6 intentionally, recklessly, and wantonly did acts which Plaintiff Doe 8 now understands were
7 intended to, and did, result in harmful and offensive contact with intimate parts of Plaintiff
8 Doe 8’s person, including but not limited to the following: Dr. Heaps used medical devices
9 (associated with cancer after-care) on Plaintiff Doe 8 in a sexual manner which she now
10 understands was not medically necessary and was for his own gratification. Dr. Heaps also
11 asked touched Plaintiff Doe 8 during a pelvic “examination” in what she now understands to
12 be an inappropriate manner, using his hand to simulate a sex act with her. The female
13 chaperones who were in the room during certain of these acts enabled the sexual battery of
14 Plaintiff Doe 8 by failing to reasonably perform their duties as a chaperone and failing to raise
15 any alarms during Dr. Heaps’ misconduct or take any other reasonably expected actions to
16 prevent the harm inflicted by Plaintiff Doe 8.

17 106. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
18 offensive contact with an intimate part of Plaintiff Doe 8’s person that would offend a
19 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive
20 contact with an intimate part of Plaintiff Doe 8’s person that would offend a reasonable sense
21 of personal dignity.

22 107. Had Dr. Heaps not been in a position of power and authority over Plaintiff Doe 8
23 and had she not been treated by Defendants, she would have never permitted such sexual
24 contact by Dr. Heaps.

25 108. Plaintiff Doe 8 did not consent to this sexualized touching and sexual contact.

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

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

4 110. At the time they were in the examination and while they were witnessing Dr.
5 Heaps' battery of Plaintiff Doe 8, the female chaperones were acting in the course and scope
6 of their employment with UCLA.

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

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

27 113. As a proximate result of the above, Plaintiff Doe 8 suffered damages as
28 otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps'

1 conduct, Plaintiff Doe 8 sustained serious and permanent injury to her person, all of his
2 damage in an amount to be shown according to proof and within the jurisdiction of the Court.

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

10 **SIXTH CAUSE OF ACTION**

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

12 115. Plaintiff Doe 8 incorporates Paragraphs 1 through 114 as though fully set forth
13 herein.

14 116. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiff Doe 8, as
15 described herein, was outrageous and extreme.

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

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

26 119. A reasonable person would not expect or tolerate the Defendants, their agents,
27 servants, and/or employees to be incapable of supervising, preventing, and stopping Dr. Heaps
28 from committing wrongful sexual acts with, and harassing, patients, including Plaintiff Doe 8,

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

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

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

20 122. In subjecting Plaintiff Doe 8 to the wrongful treatment described herein, Dr.
21 Heaps acted willfully and maliciously with the intent to harm Plaintiff Doe 8, and in conscious
22 disregard of her rights, so as to constitute malice and oppression under California Civil Code §
23 3294. Plaintiff Doe 8 is therefore entitled to recover punitive damages against Defendant
24 Heaps, in an amount to be determined by the court.

25 **SEVENTH CAUSE OF ACTION**

26 **(Negligent Infliction of Emotional Distress against All Defendants)**

27 123. Plaintiff Doe 8 incorporates Paragraphs 1 through 122 as though fully set forth
28 herein.

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

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

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

23 127. Defendants had a special relationship with Plaintiff Doe 8 and/or had undertaken
24 an obligation to her that necessarily implicated Plaintiff Doe 8’s emotional well-being.
25 Specifically, Defendants had a duty to take reasonable measures to prevent harm to Plaintiff
26 Doe 8.

27 128. There was an especially likely risk that Defendants’ negligent actions and
28 inactions would cause serious emotional distress to Plaintiff Doe 8. Defendants’ failure to

1 take reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
2 Plaintiff Doe 8 tremendous harm.

3 129. Defendants' negligence was a substantial factor in causing Plaintiff Doe 8
4 serious emotional distress.

5 **EIGHTH CAUSE OF ACTION**

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

7 130. Plaintiff Doe 8 incorporates Paragraphs 1 through 129 as though fully set forth
8 herein.

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

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

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

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

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

11 136. 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,
14 or would engage in, misconduct directed towards Plaintiff Doe 8 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.

17 137. 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 Dr.
20 Heaps during his employment, yet chose to allow him to interact with patients, including
21 Plaintiff Doe 8.

22 138. 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
24 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.

26 139. 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 8.

1 140. Because the UC Regents:

- 2 (a) Had actual knowledge of the sexual exploitation, abuse, and harassment
3 being committed by Dr. Heaps;
- 4 (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 secrets from patients and the public at large; and
- 12 (e) Failed to employ or train appropriate nurse/chaperones who could oversee
13 intimate examinations and report misbehavior.

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

15 141. 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 8.
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.

23 142. As a result of the above-described conduct, Plaintiff Doe 8 has suffered and
24 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 UC Regents)**

4 143. Plaintiff Doe 8 incorporates Paragraphs 1 through 142 as though fully set forth
5 herein.

6 144. 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.

12 145. 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,
14 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.

17 146. The UC Regents learned Dr. Heaps had molested or was molesting and
18 harassing female patients during his employment. Defendants had knowledge of inappropriate
19 conduct, and exploitation committed by Dr. Heaps during his employment, yet chose to allow
20 him to continue interacting with patients, including Plaintiff Doe 8.

21 147. 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
24 terminate Dr. Heaps to ensure the safety of their patients.

25 148. In fact, on information and belief, Defendant UC Regents knowingly hired 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.

4 149. 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 8.

7 150. 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
14 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 secrets 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.

21 151. 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
24 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 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
2 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
3 prevented and will continue to be prevented from performing daily activities and obtaining the
4 full enjoyment of life; and/or has incurred and will continue to incur expenses for medical and
5 psychological treatment, therapy, and counseling.

6 **ELEVENTH CAUSE OF ACTION**

7 **(Negligence against Defendants UC Regents and Roes)**

8 159. Plaintiff Doe 8 incorporates Paragraphs 1 through 158 as though fully set
9 forth herein.

10 160. Defendants committed the negligent acts and/or negligent failures to act, as set
11 forth above, and those acts caused the emotional and physical harm endured by Plaintiff Doe
12 8.

13 161. Defendants owed Plaintiff a duty of care to act.

14 162. Defendants breached that duty of care by way of their conduct and failed to
15 exercise reasonable care, as detailed and alleged above.

16 163. For example, the chaperones who were in the room during Dr. Heaps' sexual
17 assault and harassment of Plaintiff Doe 8 acted negligently, in that they failed to reasonably
18 perform their duties as a chaperone and failed to act as a reasonably prudent person. The
19 chaperones failed to raise any alarms during Dr. Heaps' misconduct or take any other
20 reasonably expected actions to prevent the harm inflicted upon Plaintiff Doe 8, despite the fact
21 that: (a) the purpose of the chaperones was to protect Plaintiff Doe 8 and ensure she was
22 comfortable and safe during the gynecological visit; and/or (b) the chaperones were aware of
23 the lack of medical necessity of Dr. Heaps' misconduct.

24 164. As a result of the above-described conduct, Plaintiff Doe 8 suffered and
25 continues to suffer great pain of mind and body, shock, emotional distress, physical
26 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
27 humiliation, and loss of enjoyment of life; has suffered and continues to suffer and was
28 prevented and will continue to be prevented from performing daily activities and obtaining the

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

3 **TWELFTH CAUSE OF ACTION**

4 **(Violations of Title IX, 20 U.S.C. § 1681(A), *et. seq* against the UC Regents)**

5 165. Plaintiff Doe 8 incorporates Paragraphs 1 through 164 as though fully set forth
6 herein.

7 166. Title IX of the Education Amendments Act of 1972 states: “No person in the
8 United States shall on the basis of sex, be ... subject to discrimination under any education
9 program or activity receiving Federal financial assistance ...” 20 U.S.C. § 1681, *et. seq.*

10 167. Plaintiff Doe 8 is a “person” under Title IX. Plaintiff was subjected to sexual
11 harassment, abuse, and molestation by Defendants, as a student and medical patient at an
12 institution under the control of the UC Regents.

13 168. On information and belief, the UC Regents receive federal financial assistance
14 for its education programs and is therefore subject to the provisions of Title IX of the
15 Education Act of 1972, 20 U.S.C. § 1681(a), *et. seq.*

16 169. The UC Regents are required under Title IX to investigate allegations of sexual
17 assault, sexual abuse, and sexual harassment. The UC Regents failed to promptly and
18 adequately investigate allegations of misconduct by Dr. Heaps.

19 170. Defendants’ conduct as described above constitutes and constituted sexual
20 harassment, abuse, and assault, and constitutes sex discrimination under Title IX.

21 171. The UC Regents had the authority to institute corrective measures and, on
22 information and belief, were on notice of Dr. Heaps’ conduct, as described above, and were on
23 notice that Dr. Heaps posed a substantial risk to female student-patients who sought or were
24 referred to treatment from Dr. Heaps. The UC Regents nonetheless failed to carry out their
25 duties to investigate and take corrective action under Title IX.

26 172. The UC Regents were deliberately indifferent to the substantial risk to female
27 patients/students that Dr. Heaps presented, and ignored the abuse that Dr. Heaps inflicted on
28 Plaintiff Doe 8 and others, allowed him to continue treating female students at UCLA Health,

1 and continuing to refer students that were seen at the UCLA Student Center to Dr. Heaps.

2 173. As a direct and proximate result of the UC Regents’ actions and/or inactions,
3 Plaintiff has been damaged as more fully set forth above.

4 **THIRTEENTH CAUSE OF ACTION**

5 **(Sexual Harassment and Discrimination in the Educational Setting, Cal. Educ. Code**
6 **§ 200 *et. seq.* against All Defendants)**

7 174. Plaintiff Doe 8 incorporates Paragraphs 1 through 173 as though fully set forth
8 herein.

9 175. California Education Code § 201 states that “[a]ll pupils have the right to
10 participate fully in the educational process, free from discrimination and harassment” and that
11 “California’s public schools have an affirmative obligation to combat ... sexism ... and a
12 responsibility to provide equal educational opportunity.” California Education Code § 220
13 states, in pertinent part, that “[n]o person shall be subjected to discrimination on the basis of
14 ... gender in any program or activity conducted by an educational institute that receives, or
15 benefits from, state financial assistance, or enrolls pupils who receive state student financial
16 aid.” Further, California Education Code § 231.5 states “all persons, regardless of their sex,
17 should enjoy freedom from discrimination of any kind in the educational institutions of this
18 statement. The purpose of this section is to provide notification of the prohibition against
19 sexual harassment as a form of sexual discrimination.” Chapter 2 of the California Education
20 Code may be enforced through a civil action. Cal. Educ. Code § 262.4.

21 176. Plaintiff Doe 8 is a “person” pursuant to the California Education Code and for
22 whose protection the statute was adopted.

23 177. On information and belief, UCLA, controlled and under the authority of the UC
24 Regents, is a public educational institution within the state of California.

25 178. Plaintiff Doe 8 was subjected to discrimination on the basis of her gender by
26 virtue of the sexual abuse, harassment, and molestation described more fully above, and
27 Defendants are responsible for that discrimination and harassment.

28 179. On information and belief, the UC Regents had actual knowledge or should have

1 had knowledge that this sexual harassment, abuse, and molestation was occurring, including
2 by virtue of: (a) chaperones employed by the UC Regents witnessing Dr. Heaps’ misconduct;
3 and/or (b) other complaints of Dr. Heaps’ misconduct. In the face of the aforementioned
4 knowledge, the UC Regents acted with deliberate indifference by failing to respond
5 appropriately to allegations of misconduct by Dr. Heaps and allowing him to remain as a
6 physician at UCLA Health and referring UCLA students to him. The UC Regents failed to
7 act notwithstanding a duty to report known or suspected incidents of physician misconduct
8 towards patients and students. It was not until June 2018 that Defendants allowed Dr. Heaps
9 to “resign” and that Dr. Heaps’ misconduct towards female patients, including UCLA
10 students, finally abated.

11 180. By failing to promptly report Dr. Heaps’ misconduct, Defendants knew or
12 should have known that they created a danger and risk to Plaintiff, students, and patients, and
13 unreasonably and wrongfully exposed Plaintiff to harm.

14 181. The harm, harassment, and discrimination Plaintiff Doe 8 suffered was so severe
15 and offensive that it effectively deprived Plaintiff of the right of equal access to educational
16 benefits and opportunities.

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

19 **FOURTEENTH CAUSE OF ACTION**
20 **(Violation of the California Equity in Higher Education Act, Cal. Educ. Code § 66250**
21 **against the UC Regents)**

22 183. Plaintiff Doe 8 incorporates Paragraphs 1 through 182 as though fully set forth
23 herein.

24 184. Section 66281.5 of the California Education Code (part of the Equity in Higher
25 Education Act) provides in pertinent part: “It is the policy of the State of California, pursuant
26 to Section 66251, that all persons, regardless of their sex, should enjoy freedom from
27 discrimination of any kind in the postsecondary educational institution[s] of the state. The
28 purpose of this section is to provide notification of the prohibition against sexual harassment

1 as a form of sexual discrimination and to provide notification of available remedies.”

2 185. On information and belief, UCLA, controlled and under the authority of the UC
3 Regents, is a postsecondary educational institution within the state of California.

4 186. Plaintiff Doe 8 was subjected to discrimination on the basis of her gender by
5 virtue of the sexual abuse, harassment, and molestation described more fully above, and
6 Defendants are responsible for that discrimination and harassment.

7 187. On information and belief, the UC Regents had actual knowledge or should have
8 had knowledge that this sexual harassment, abuse, and molestation was occurring, including
9 by virtue of: (a) chaperones employed by the UC Regents witnessing Dr. Heaps’ misconduct;
10 and/or (b) other complaints of Dr. Heaps’ misconduct. In the face of the aforementioned
11 knowledge, the UC Regents acted with deliberate indifference towards responding to
12 allegations of misconduct by Dr. Heaps and allowed him to remain as a physician at UCLA
13 Health and referring UCLA students to him. The UC Regents failed to act notwithstanding a
14 duty to report known or suspected incidents of physician misconduct towards patients and
15 students. It was not until June 2018 that Defendants allowed Dr. Heaps to resign and that Dr.
16 Heaps’ misconduct towards female patients, including UCLA students, finally abated.

17 188. The UC Regents’ conduct as alleged above constitutes sexual harassment as a
18 form of sexual discrimination against Plaintiff, and violated the Equity in Higher Education
19 Act.

20 189. Plaintiff Doe 8 is entitled to enforce the Act through a civil action pursuant to
21 California Education Code § 66292.4.

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

24 **FIFTEENTH CAUSE OF ACTION**

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

26 191. Plaintiff Doe 8 incorporates Paragraphs 1 through 190 as though fully set forth
27 herein.

28 192. By (a) holding Dr. Heaps out as an agent and trusted affiliate 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
4 Plaintiff. This relationship was further cemented by the duties and obligations undertaken by
5 the UC Regents with respect to its students, such as Plaintiff.

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

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

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

22 195. On information and belief, Defendants' breached their respective duties by:

- 23 (a) failing to promptly and thoroughly investigate claims of sexual abuse or
24 harassment against Dr. Heaps;
- 25 (b) failing to disclose to Plaintiff, UCLA students, and the community at large
26 the reasons for Dr. Heaps' retirement in June 2018;
- 27 (c) issuing no warnings about Dr. Heaps;
- 28 (d) permitting Dr. Heaps to routinely examine gynecological patients either

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

16 196. Defendant made affirmative or implied representations and nondisclosures of
17 material facts about Dr. Heaps and his suitability to provide gynecological care to patients,
18 and knowingly and intentionally suppressed material facts about past allegations of
19 misconduct against Dr. Heaps that the UC Regents knew or should have known about.

20 197. Given her need for medical treatment, and her trust and care in Defendants,
21 Plaintiff was vulnerable to Defendants.

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

24 199. Defendants’ conduct did reasonably cause Plaintiff to forebear on her rights, and
25 Plaintiff justifiably relied upon Defendants for information about Dr. Heaps.

26 200. The misrepresentations, suppressions, and concealment of facts by Defendants
27 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
28 no knowledge of any misconduct by Dr. Heaps.

1 201. Defendants knew or should have known at the time they suppressed and or
2 concealed the true facts about Dr. Heaps that the resulting impressions were misleading.

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

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

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

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

22

23 **WHEREFORE**, Plaintiff Doe 8 prays for a jury trial and for judgment against
24 Defendants as follows:

25

FOR ALL CAUSES OF ACTION

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

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

9 DATED: August 16, 2019

THEODORA ORINGER PC

11 By: /s/ Jennifer J. McGrath
12 Jennifer J. McGrath
13 Attorney for Plaintiff JANE DOE 8

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DEMAND FOR TRIAL BY JURY

Plaintiff Jane Doe 8 hereby demands a trial by jury in this action.

DATED: August 16, 2019 THEODORA ORINGHER PC

By: /s/ Jennifer J. McGrath
Jennifer J. McGrath
Attorney for Plaintiff JANE DOE 8