

1 Jennifer J. McGrath, Esq. (State Bar No. 211388)
jmcgrath@tocounsel.com
2 Katherine J. Flores, Esq. (State Bar No. 311224)
kflores@tocounsel.com
3 THEODORA ORINGHER PC
1840 Century Park East, Suite 500
4 Los Angeles, California 90067-2120
Telephone: (310) 557-2009
5 Facsimile: (310) 551-0283
6 Darren Kavinsky, Esq. (State Bar No. 170497)
darren.kavinsky@TheKLF.com
7 THE KAVINOKY LAW FIRM
16255 Ventura Blvd., Ste. 200
8 Encino, California, 91436
Telephone (818) 346-4646
9 Facsimile (818) 346-4660
10 Attorneys for Plaintiffs JANE DOE 30, JANE
DOE 31, JANE DOE 32, JANE DOE 33, and
11 JANE DOE 34

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
16

17 JANE DOE 30, an individual; JANE DOE
18 31, an individual; JANE DOE 32, an
individual; JANE DOE 33, an individual;
19 JANE DOE 34, an individual; and JANE
DOE 35, an individual

20 Plaintiffs,

21 vs.

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

24 Defendants.
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COMPLAINT FOR:

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

DEMAND FOR JURY TRIAL

Plaintiffs Jane Doe 30 (“Doe 30”), Jane Doe 31 (“Doe 31”), Jane Doe 32 (“Doe 32”), Jane Doe 33 (“Doe 33”) and Jane Doe 34 (“Doe 34”) (collectively “Plaintiffs”),¹ who are individuals, hereby complain against Defendants Regents of the University of California (“UC Regents”), a California government corporation; Dr. James Heaps (“Dr. Heaps”), an individual; and Roes 1 through 20, and allege as follows:

GENERAL ALLEGATIONS

1. This case involves an egregious breach of trust and medical ethics by Defendants. Plaintiffs were gynecological patients at UCLA Health (“UCLA Health” or “UCLA”) when they were sexually abused, molested, and harassed at the hands of serial sexual predator Defendant Dr. Heaps.

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

3. Using his position as an obstetrician-gynecologist (“OB-GYN”), Dr. Heaps engaged in horrific action — preying upon Plaintiffs, who sought routine gynecological and oncology care. Especially as Plaintiffs had, in some cases, suffered for many years with gynecological and breast cancers and other illnesses, they became extremely reliant on Dr. Heaps for their care and placed their complete trust and confidence in him and in his purported medical practices.

4. Shamefully, Plaintiffs are now informed and believe that the UC Regents and Dr. Heaps also profited financially from the sexual abuse, harassment, and mistreatment which Plaintiffs endured. On information and belief, Dr. Heaps had dual motives for this conduct —

¹ Plaintiffs, as victims of sexual abuse, are identified herein using pseudonyms in order to preserve their 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 financial gain from fraudulent overbilling and the opportunity to sexually abuse Plaintiffs. On
2 information and belief, as discussed throughout, it is clear that the UC Regents were willing
3 — and did — protect Dr. Heaps from being exposed as a sexual predator because the Regents
4 profited to the tune of millions of dollars from this gross misconduct.

5 5. On information and belief, Dr. Heaps had privileges at Ronald Reagan UCLA
6 Medical Center for thirty years, beginning in 1988, and provided services at UCLA Student
7 Health from 1983 to 2010. During his tenure as an employee of Defendant UC Regents,
8 Dr. Heaps was a very high earner for UCLA, ranking on the 2016 list of highest paid UC
9 employees, with an annual salary of \$1,182,265, as reported in an August 28, 2017 story in the
10 Sacramento Bee entitled, *All 35 of the University of California’s highest-paid employees in*
11 *2016 were men*. Dr. Heaps was also apparently considered an OB-GYN “to the stars,” who
12 was listed in the Hollywood Reporter’s annual Best Doctors in Los Angeles issue in 2015.

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

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

26 8. In addition, on information and belief, UCLA did not institute basic protections
27 in order to prevent sexual abuse of patients, including having independent, qualified, and
28 trained chaperones present during examinations and/or, if any such protocols were in place,

1 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
2 train or supervise its employees so as to make them aware of how to intervene should any
3 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As
4 stated above, even though the abuse inflicted upon Plaintiffs at times occurred in the presence
5 of a chaperone, the chaperones — who, on information and belief were supervised by Dr.
6 Heaps — did not act to stop the incident or report the incident to authorities.

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

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

24 11. Dr. Heaps’ actions and the inaction of the UC Regents and its employees (both
25 before and after Plaintiffs’ horrific encounters with Dr. Heaps as described herein), have
26 caused Plaintiffs tremendous and lasting harm, including feelings of fear and powerlessness,
27 symptoms of post-traumatic stress disorder, and other physical and emotional manifestations
28 of the severe emotional distress that they have suffered.

1 Dr. Heaps was a professor at the University of California Los Angeles David Geffen School of
2 Medicine from 1989 until 2018.

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

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

12 **UCLA Turns a Blind Eye to Sexual Abuse, Harassment, and Fraudulent Overbilling**
13 **of Patients by Dr. Heaps**

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

20 19. During Dr. Heaps’ tenure at UCLA, however, Plaintiffs are informed and
21 believe, and on this basis allege, that Dr. Heaps sexually abused and molested a number of his
22 female patients, including Plaintiffs, through the use of his position and authority as a full-
23 time gynecologist employed by the UC Regents.

24 20. It is unknown to Plaintiffs what background information the UC Regents sought
25 from Dr. Heaps in advance of his being hired at UCLA (and his practice acquired by the UC
26 Regents) in or about February 2014. It is unclear whether the UC Regents did any
27 independent investigation of Dr. Heaps or his background when they sought to employ him to
28 provide gynecological services to female patients at his UCLA Health office and at Ronald

1 Reagan UCLA Medical Center.

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

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

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

25 24. On information and belief, in or about January 2017, a UCLA Health employee
26 (who went to Dr. Heaps for her personal medical care), herself certified to chaperone intimate
27 examinations at UCLA Health, reported to her supervisor (a managerial employee of the
28 Regents) that Dr. Heaps had sexually abused and harassed her during a routine gynecological

1 procedure. On further information and belief, the Regents did nothing to investigate these
 2 allegations. Nor, on information and belief, did the Regents report the allegations to the
 3 California Medical Board or to law enforcement or take any actions to protect the employee or
 4 other patients of Dr. Heaps — including likely hundreds of women who were examined by Dr.
 5 Heaps until his forced “retirement” in or about June 2018 — from ongoing sexual abuse.

6 25. In addition, in or about early December 2017, a patient of Dr. Heaps complained
 7 to UCLA in detail about the verbal and physical sexual harassment and abuse that she had
 8 been forced to endure at the hands of Dr. Heaps. Nonetheless, UCLA chose to ratify Dr.
 9 Heaps’ conduct, allowing him to continue practicing and seeing patients uninterrupted for the
 10 better part of a year. Those patients — likely hundreds in number — were seeking routine
 11 care and were unwittingly exposed to a serious threat of lasting harm. Notwithstanding these
 12 complaints — and despite being on notice of Dr. Heaps’ malfeasance — the UC Regents
 13 continued to employ or otherwise affiliate with Dr. Heaps and ratify his conduct, allowing him
 14 to maintain his practice and see patients, which he did until mid-2018.

15 26. Plaintiffs are further informed and believe that, in or before mid-2018, the UC
 16 Regents were informed of an employee complaint against Dr. Heaps involving sexual
 17 harassment and retaliation. Notwithstanding these allegations, the UC Regents failed to put
 18 appropriate safeguards in place to prevent foreseeable harm to female gynecological patients.

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

23 28. Plaintiffs are further informed and believe that UCLA’s own internal
 24 investigation of Dr. Heaps’ medical practices and billing found that he systemically overbilled
 25 patients, their private insurance companies, and Medicare and other public agencies.
 26 According to an internal report, on information and belief, at times, even when a nurse
 27 practitioner or other staff member was scheduled to provide services to patients, upon their
 28 arrival, those patients were seen by Dr. Heaps (if only very briefly) and were then charged for

1 his services, even though their care was actually handled by the nurse practitioner or other
2 staff member. The UCLA internal investigation concluded, on information and belief, that —
3 in certain instances — “Heaps’ clinical practice misrepresents the provider of services and the
4 billing provider.” In light of this fraudulent scheme perpetrated by Dr. Heaps, and by
5 extension, UCLA, the report further recommends that UCLA Health issue refunds to those
6 affected. On information and belief, Plaintiffs were fraudulently overcharged by UCLA and
7 Dr. Heaps for appointments during which they were subjected to sexual abuse and harassment.

8 **Plaintiffs Are Sexually Battered and Harassed by Dr. Heaps**

9 **During Routine Gynecological Examinations**

10 **Plaintiff Jane Doe 30’s Allegations**

11 29. Plaintiff Doe 30 is a physically-disabled cancer survivor and native Spanish
12 speaker. Plaintiff Doe 30 has difficulty responding in English and often relies on her two
13 daughters (who are bilingual) to accompany her to medical appointments and translate for her.

14 30. In or about late 2016, Plaintiff Doe 30 was diagnosed with uterine cancer. From
15 in or about January 2017 to on or about April 5, 2017, Plaintiff Doe 30 sought oncological
16 treatment from Dr. Heaps. Plaintiff Doe 30 trusted UCLA's Health's representations to her
17 and her family that Dr. Heaps was the preeminent oncological gynecology specialist and that
18 she could trust that the care he would provide would be the best available and would be
19 medically appropriate and necessary.

20 31. Plaintiff Doe 30's first appointment with Dr. Heaps occurred in or about January
21 2017 and was a consultation appointment. Neither of her daughters were in the exam room for
22 this appointment. During this appointment, in or about January 2017, Dr. Heaps performed a
23 "breast exam" on Plaintiff Doe 30 that Plaintiff Doe 30 now believes was simply a pretext to
24 fondle her breasts in a sexual – and non-medically necessary – manner. During this initial
25 appointment, Dr. Heaps also caressed Plaintiff Doe 30's neck, shoulders, and breasts at
26 different times during the appointment in what Plaintiff Doe 30 now understands was a sexual
27 manner. Dr. Heaps likewise made several inappropriate and sexually charged comments to
28 Plaintiff Doe 30, including remarking that she was "very attractive," looked "younger than her

1 age", and had "beautiful breasts."

2 32. This conduct - which Plaintiff Doe 30 now believes to have been sexual in
3 nature-as well as the comments which Plaintiff Doe 30 now understands to have been sexually
4 harassing, were witnessed by a female chaperone who was present in the exam room during
5 the course of the appointment. The chaperone performed English to Spanish translation for
6 Plaintiff Doe 30 during the appointment but did not translate Dr. Heaps' inappropriate
7 comments, which Plaintiff Doe 30 now believes is an indication that this chaperone knew that
8 the comments made by Dr. Heaps were sexually motivated and not medically appropriate.
9 Plaintiff Doe 30 was, however, proficient enough in English to understand these comments
10 without having them translated for her.

11 33. Plaintiff Doe 30 was understandably severely distressed by, and fearful about,
12 her cancer diagnosis and placed tremendous trust in Dr. Heaps that his examinations, physical
13 contact, and statements to her were medically necessary and appropriate. Plaintiff Doe 30 –
14 who was terrified of her illness and fearful that she could die from cancer – believed UCLA
15 Health's assurances that Dr. Heaps was the foremost specialist in oncological gynecology in
16 the region.

17 34. On or about February 27, 2017, Plaintiff Doe 30 was admitted to UCLA's
18 Ronald Reagan Medical Center to undergo a hysterectomy – performed by Dr. Heaps – to
19 treat her cancer and prevent it from spreading. Plaintiff Doe 30 awoke from the hysterectomy
20 surgery in extreme pain and with soreness both around the surgical site and in her genital and
21 anal area.

22 35. On or about April 5, 2017 Plaintiff Doe 30 visited Dr. Heaps at his office for a
23 post-operative appointment following her hysterectomy. Plaintiff Doe 30's daughter
24 accompanied her to this appointment, but again remained in the waiting room and was not
25 present in the exam room. Dr. Heaps' nurse showed Plaintiff Doe 30 to the exam room and
26 instructed her to disrobe from the waist down and position herself in the typical fashion for a
27 gynecological exam. Plaintiff Jane Doe 30 placed herself in this vulnerable position because
28 she trusted Dr. Heaps and believed his examination of her intimate anatomy was a medically

1 from Dr. Heaps and his Physician’s Assistant, Carla Saldibar . During that time, Plaintiff Doe
2 31 became dependent on Dr. Heaps for her care and placed trust and confidence in him.
3 Especially because of her employment relationship with UCLA, she believed that health care
4 providers at UCLA Health were trustworthy and skilled. In fact, multiple people within the
5 UCLA Health community recommended that Plaintiff Doe 31 see Dr. Heaps for her personal
6 health care.

7 40. As a result of the reasonable trust that she placed in him as a UCLA Health
8 physician who was providing her with legitimate medical treatment and care, Plaintiff Doe 31
9 proceeded to see Dr. Heaps on several occasions over the years between in or about 2013 until
10 in or about October 2016.

11 41. Plaintiff Doe 31 scheduled her first appointment with Dr. Heaps’ office with his
12 Physician’s Assistant, Carla Saldibar. Although she was scheduled to see Ms. Saldibar, Ms.
13 Saldibar informed Plaintiff Doe 31 that she was required to meet Dr. Heaps as it was Plaintiff
14 Doe 31’s first appointment with his office. At that appointment, on or about August 13, 2013,
15 Ms. Saldibar began performing a transvaginal ultrasound on Plaintiff Doe 31, which Dr.
16 Heaps then personally completed. Plaintiff Doe 31 is now informed and believes that Dr.
17 Heaps presence at this appointment was not necessary, but was instead designed to be able to
18 charge Plaintiff Doe 31 and her insurers at a higher rate (Dr. Heaps billed a higher rate for his
19 visits with patients) than if Ms. Saldibar alone had seen Plaintiff Doe 31.

20 42. At an appointment in or about 2013 or 2014, in the course of performing a
21 transvaginal ultrasound, Dr. Heaps referred to what Plaintiff Doe 31 would later understand
22 was an ovarian cyst—a common, benign growth on the ovary—as a “tumor.” Because Dr.
23 Heaps told her that she had a “tumor,” Plaintiff Doe 31 was understandably very concerned
24 that she had—or would develop—ovarian cancer. Plaintiff Doe 31 now believes that Dr.
25 Heaps referred to her benign ovarian cyst as a “tumor” in order to encourage her to schedule
26 frequent appointments, both to give Dr. Heaps the opportunity to sexually abuse and harass
27 her, as well as to financially benefit from billing Plaintiff Doe 31 and her insurer.

28 43. At a later appointment, on or about August 18, 2015, Ms. Saldibar again began a

1 transvaginal ultrasound procedure on Plaintiff Doe 31. After beginning the procedure, Ms.
2 Saldibar indicated to Plaintiff Doe 31 that she (Ms. Saldibar) was concerned with what she
3 was seeing and wanted Dr. Heaps to look at the thickness of Plaintiff Doe 31’s uterine lining
4 on the ultrasound screen. Ms. Saldibar summoned Dr. Heaps to the examination room. Once
5 there, Dr. Heaps immediately began to engage in what Plaintiff Doe 31 now believes was
6 sexually abusive and harassing conducted that served no medical purpose.

7 44. After entering the ultrasound exam room, with Ms. Saldibar no longer present,
8 Dr. Heaps stared at Plaintiff Doe 31 and at her body for an extended period of time. Dr.
9 Heaps asked Plaintiff Doe 31 about her marriage and proceeded to make what Plaintiff Doe 31
10 now understands to be a graphic sexual comment about his own wife and her anatomy.
11 Following this, Dr. Heaps moved towards Plaintiff Doe 31, who was seated on the exam table,
12 wearing only a paper gown which opened to the front (but which was then closed). Plaintiff
13 Doe 31 was not laying back or prepared in any way to undergo a breast examination. Dr.
14 Heaps nonetheless proceeded – without warning – to grab both of Plaintiff Doe 31’s breasts at
15 the same time, squeezing Plaintiff Doe 31’s breasts (including her nipples) in a manner that
16 Plaintiff Doe 31 now understands was both grossly inappropriate and medically unnecessary.

17 45. Plaintiff Doe 31 now believes that Dr. Heaps tried to cover over his sexually
18 abusive conduct by claiming that he wanted to know if she was experiencing breast pain.
19 However, Plaintiff Doe 31 had not reported any breast tenderness or pain when Dr. Heaps
20 instead unexpectedly (and without warning) grabbed both of her breasts, asking her if it
21 “hurt” while he squeezed her breasts as described above. No chaperone was present during
22 this “exam” nor was Ms. Saldibar.

23 46. Nonetheless, believing in Dr. Heaps’ skills as a physician and trusting that the
24 institution which employed her for many years would not put her in harm’s way, Plaintiff Doe
25 31 continued to believe that the care she received at his office was appropriate and medically
26 necessary. She continued to see Ms. Saldibar for routine gynecological care until at least on
27 or about October 25, 2016.

28 47. Plaintiff Doe 31 has suffered tremendously as the result of the abuse and

1 harassment which she now understands that she endured at the hands of Dr. Heaps. Plaintiff
2 Doe 31 likewise suffers from anxiety and upset from her belief – since Dr. Heaps was arrested
3 in or about June 2019 – that her employer, UCLA Health, harbored a sexual predator and
4 failed to protect her and, on information and belief, other patients to whom she herself
5 provides medical care, from sexual battery and abuse.

6 **Plaintiff Jane Doe 32's Allegations**

7 48. Plaintiff Doe 32 is longtime patient of Dr. Heaps who, following the birth of her
8 second and youngest child, sought care from Dr. Heaps based on his excellent reputation in
9 the community. In addition, as Plaintiff Doe 32 had had abnormal pap tests in the past and
10 feared that she could develop cervical cancer, she likewise sought out care from Dr. Heaps
11 because he had a specialty in gynecological oncology.

12 49. As such, beginning in or about 2002 or 2003 until in or about March 2018,
13 Plaintiff Doe 32 began seeing Dr. Heaps twice a year for examinations and pap smears. In
14 recent years, Plaintiff Doe 32 saw Dr. Heaps at appointments, including on or about July 3,
15 2012; July 19, 2013; November 8, 2016; December 2, 2016 and March 23, 2018. Thus, over
16 the course of many years, Dr. Heaps lulled Plaintiff Doe 32 into the belief that he was
17 providing appropriate – and medically necessary – care.

18 50. However, at what was supposed to be a routine appointment on or about March
19 23, 2018, Dr. Heaps grossly abused the trust that he had built up with Plaintiff Doe 32 over
20 many years when he engaged in sexual assault, harassment and abuse of Plaintiff Doe 32.

21 51. Plaintiff Doe 32 had for some time – leading up to her appointment in or about
22 March 2018—sought advice and care with regard to a concern about her sexual function that
23 was occurring regularly and interfering with her sex life. During the March 2018
24 appointment, Plaintiff Doe 32 was laying on the examination table (unclothed and covered
25 only with a paper gown) when she again mentioned the issue to Dr. Heaps. Dr. Heaps
26 responded to her concern by asking her if she would be willing to allow him to sexually
27 stimulate her in order to “see” for himself her issue with her sexual function.

28 52. Dr. Heaps then proceeded – at this appointment in or about March 2018—to

1 touch Plaintiff Doe 32 internally and externally with the intent to sexually stimulate her and
 2 gratify himself. This conduct went on for several minutes in the presence of a nurse who did
 3 nothing to intervene or stop this abusive conduct.

4 53. Plaintiff Doe 32 suffered tremendous embarrassment, humiliation and trauma
 5 from this incident – both in the horrible moments in which it was occurring and in its
 6 aftermath. Plaintiff Doe 32 suffered terrible confusion and distress – not initially
 7 understanding whether such conduct, perpetuated by a trusted physician, could be considered
 8 proper treatment or a proper manner in which to diagnose and treat a sexual dysfunction issue.
 9 Only when she learned of the arrest of Dr. Heaps did Plaintiff Doe 32 come to understand
 10 fully the extent and gravity of the abuse that she suffered.

11 54. Plaintiff Doe 32 has experienced unrelenting shame following this incident,
 12 especially as she reflects on the presence of a silent witness, the nurse/chaperone in the room
 13 who was present but neither did nor said anything to protect Plaintiff Doe 32 nor apparently to
 14 report the incident to the UC Regents and/or to law enforcement authorities.

15 55. Plaintiff Doe 32 has been further traumatized (after news of Dr. Heaps arrest
 16 was made public) when she learned that Dr. Heaps was in fact already under investigation for
 17 sexual misconduct with a patient – an investigation that ultimately resulted in his termination
 18 from UCLA Health – at the time that Plaintiff Doe 32 suffered this horrific sexual abuse.

19 **Plaintiff Jane Doe 33’s Allegations**

20 56. Plaintiff Doe 33 was a patient of Dr. Heaps beginning in or about 1997 when she
 21 was diagnosed with stage three cervical dysplasia, a severe precancerous condition involving
 22 significant growth of abnormal cells on the cervix. Dr. Heaps told Plaintiff Doe 33 that he
 23 would be able to successfully to treat the condition with inpatient cauterization (a LEEP
 24 procedure) rather than surgery. Pleased that she could avoid surgery and convinced by Dr.
 25 Heaps that he was highly skilled, Plaintiff Doe 33 became extremely reliant on Dr. Heaps for
 26 her care and placed her complete confidence in him and in his purported medical practices.
 27 As such, Plaintiff Doe 33 saw Dr. Heaps twice per year from in or about 1997 until in or about
 28 2015, when she lost her health insurance coverage and was only able to see him once per year.

1 57. Over the years in which Plaintiff Doe 33 saw Dr. Heaps, Dr. Heaps further lulled
2 her into a belief that he was a medical professional whom she could trust to act in an
3 appropriate manner, even during intimate examinations. Dr. Heaps eventually greatly abused
4 that trust, which had been built over many years.

5 58. At an annual appointment on or about December 16, 2014, Plaintiff Doe 33
6 mentioned that she was having abdominal pain on her right side. Dr. Heaps then suggested
7 that he perform a transvaginal ultrasound, a procedure which involves the insertion into the
8 vagina of an ultrasound wave-producing device, called a transducer, to produce images on a
9 screen of the organs in the pelvic region.

10 59. During the course of the transvaginal ultrasound, however, Dr. Heaps engaged in
11 what Plaintiff Doe 33 now understands was grossly inappropriate conduct that was sexual in
12 nature, including an overly-lengthy exam in which Dr. Heaps aggressively used the transducer
13 so as to attempt to sexually stimulate Plaintiff Doe 33 and gratify Dr. Heaps. Despite the fact
14 that Dr. Heaps almost immediately told Plaintiff Doe 33 that “he could not see anything,” *i.e.*,
15 that he was not seeing any mass or other cause for concern, Dr. Heaps continuing performing
16 the examination in a sexually stimulating manner for an extended period of time. No nurse or
17 chaperone was present at any time during this abusive procedure.

18 60. Following this incident, Plaintiff Doe 33 saw Dr. Heaps’ physician’s assistant,
19 Carla Saldibar in or about 2016 for her annual appointment. In 2017, however, Plaintiff Doe
20 33 was again seen by Dr. Heaps for routine gynecological care.

21 61. At that appointment, in or about 2017, Dr. Heaps again engaged in what Plaintiff
22 Doe 33 has come to understand was abusive and harassing conduct during the course of what
23 should have been a routine breast and pelvic examination. During the course of the overly-
24 lengthy breast “exam” which Dr. Heaps performed on her, Dr. Heaps groped and massaged
25 Plaintiff Doe 33’s breasts, including squeezing her nipples, in a lengthy “examination” that
26 Plaintiff Doe 33 now understands was both grossly inappropriate and medically unnecessary.

27 62. At that same annual appointment, in or about 2017, Dr. Heaps performed a pap
28 test and pelvic examination of Plaintiff Doe 33. Upon completing the examination, Dr. Heaps

1 again placed his fingers inside of Plaintiff Doe 33, moving them in a way that Plaintiff Doe 33
2 now understands to be sexual in nature and not medically necessary, designed to stimulate her
3 and gratify Dr. Heaps. At the same time, Dr. Heaps made what Plaintiff Doe 33 now
4 understands to be inappropriate and harassing comments to Plaintiff Doe 33, including
5 commenting on the size of her anatomy, asking about the frequency in which she engages in
6 sexual intercourse and asking “why” Plaintiff Doe 33 doesn’t “have more sex?”

7 63. Plaintiff Doe 33 has suffered ongoing trauma upon the realization that she was
8 sexually abused and harassed by Dr. Heaps. Since that realization, she has suffered from
9 overwhelming feelings of embarrassment, shame, anger, and loss of self-esteem. Subsequent
10 to this realization, Plaintiff Doe 33 has also suffered significant harm to her intimate
11 relationships and her overall relationship with her husband has been greatly impacted.

12 **Plaintiff Jane Doe 34’s Allegations**

13 64. In or about late 2017, Plaintiff Doe 34 had diagnostic imaging because she was
14 experiencing hip pain. Unexpectedly, the scan showed a suspicious pelvic mass on or by her
15 ovary, which was of immediate concern and needed further testing and evaluation by a
16 gynecologist.

17 65. Understandably concerned that she may have cancer, Plaintiff Doe 34 was
18 advised to have additional diagnostic tests. These recommended tests included a transvaginal
19 ultrasound at UCLA Santa Monica which was done, on or about November 15, 2017, in what
20 Plaintiff Doe 34 is informed and believes was an incompetent manner, resulting in low quality
21 images. The imaging nonetheless detected masses and Plaintiff Doe 34 was advised to seek a
22 follow-up appointment with a gynecologist.

23 66. Increasingly frightened and concerned,. Doe 34 called UCLA to receive a
24 referral to another UCLA Health gynecologist, Dr. Christopher Tarnay, whom Plaintiff Doe
25 34 consulted on or about November 22, 2017. At her appointment with Dr Tarnay, Dr. Tarnay
26 informed her that she needed to see an oncologist and recommended Dr. Heaps. Dr. Tarnay
27 went on to tell Plaintiff Doe 34 that Dr. Heaps would probably need to “cut everything out.”
28 Frightened and anxious as a result of this appointment and fearful that she was suffering from

1 cancer, Plaintiff Doe 34 made an immediate appointment with Dr. Heaps, placing trust in his
2 skills and reputation as a gynecological oncologist at UCLA Health.

3 67. At an initial appointment with Dr. Heaps, on or about December 4, 2017, when
4 Plaintiff Doe 34 was in a state of extreme fear that she was suffering from some type of
5 gynecological cancer, Dr. Heaps immediately engaged in what Plaintiff Doe 34 now
6 understands to have been inappropriate and sexually assaultive conduct. During the pelvic
7 exam which Dr. Heaps performed on that day, Dr. Heaps informed Plaintiff Doe 34 that she
8 had an issue with her internal anatomy which could cause pain or dysfunction during sexual
9 intercourse. Instead of merely discussing this issue with Plaintiff Doe 34 (Plaintiff Doe 34
10 had never experienced any such issue), Dr. Heaps proceeded to insert his fingers internally,
11 purportedly to “show” Plaintiff Doe 34 what he was referring to. Plaintiff Doe 34 now
12 believes that this “demonstration” was done for Dr. Heaps own sexual gratification and was
13 not medically necessary or appropriate. Dr. Heaps engaged in what Plaintiff Doe 34 now
14 understands to be sexual abuse despite also performing a very painful endometrial biopsy on
15 Plaintiff at this same appointment.

16 68. Following this abusive appointment with Dr. Heaps, on or about December 8,
17 2017, Plaintiff Doe 34 had a diagnostic abdominal and transvaginal ultrasound, both
18 performed at UCLA’s Westwood campus. Plaintiff Doe 34 is informed and believes that this
19 second transvaginal ultrasound would not have been necessary had the first such ultrasound
20 procedure – performed on or about November 15, 2017 – been performed in a competent
21 manner.

22 69. On or about December 14, 2017, Plaintiff Doe 34 returned to Dr. Heaps’ office
23 for him to review these diagnostic test results and determine next steps with regard to what
24 Plaintiff Doe 34 was extremely fearful was a cancerous growth in her uterus and/or on her
25 ovary.

26 70. At that December 14, 2017 appointment, Dr. Heaps again engaged in egregious
27 sexual misconduct that caused lasting harm to Plaintiff Doe 34. At that appointment, after
28 having reviewed the diagnostic test results, Dr. Heaps told Plaintiff Doe 34 that he “saw

1 something” on the ultrasound result and recommended that to Plaintiff Doe 34 he perform a
2 procedure known as hysterosonography. On information and belief, hysterosonography
3 involves having saline injected into the patient’s uterus through a small tube threaded through
4 the cervix during an ultrasound procedure. On further information and belief, the saline
5 expands the patient’s uterine cavity, providing a clearer view of the inside of the uterus.

6 71. The hysterosonography procedure was painful and uncomfortable for Plaintiff
7 Doe 34. When the procedure had concluded, however, and the scope was removed, the nurse
8 (who was at times present during the appointment and the hysterosonography procedure)
9 exited the room. It was at that time, with the room still darkened (as is typical during
10 ultrasounds), that Dr. Heaps reached over and touched Plaintiff Doe 34 in a sexually
11 stimulating manner, designed to stimulate her and gratify Dr. Heaps. Dr. Heaps closely
12 watched Plaintiff Doe 34, looking straight into her eyes for her reaction to this touching.
13 Although she said nothing, Plaintiff Doe 34 believes that she looked shocked when this
14 touching occurred. In response to her changed facial expression, Dr. Heaps told Plaintiff Doe
15 34 that he “had to get the gel off his gloves.” In other words, Dr. Heaps tried to explain his
16 sexually abusive actions by stating that he need to rub the gel off his surgical gloves by
17 making contact with Plaintiff Doe 34’s intimate body parts.

18 72. This conduct by Dr. Heaps resulted in tremendous shame and distress to Plaintiff
19 Doe 34, both in the terrible moments when she felt trapped – alone in a darkened examination
20 room with Dr. Heaps as he touched her sexually—and in the months and years since.

21 73. When it was determined that Plaintiff Doe 34 in fact needed surgery for a benign
22 uterine polyp, she sought care from a gynecological surgeon at Cedars Sinai Medical Center,
23 who successfully treated her condition. Only when news of Dr. Heaps’ arrest broke in spring
24 2019, did Plaintiff Doe 34 learn that Dr. Heaps had been under active investigation for
25 sexually molesting a patient during an examination when she was herself assaulted and
26 harassed by Dr. Heaps in December 2017. This knowledge has only increased Plaintiff Doe
27 34’s feelings of distress and anger about the sexual abuse and trauma she suffered at the hands
28 of Defendants.

Dr. Heaps’ “Retirement” from UCLA Health

1
2 74. On further information and belief, on or about June 30, 2018, Dr. Heaps ceased
3 providing services to patients through UCLA Health. On information and belief, on or about
4 June 19, 2018, UCLA Health sent a letter, authored by Dr. Deborah Krakow, MD, Professor
5 and Chair of the Department of Obstetrics and Gynecology and Professor of Human Genetics
6 and Orthopedic Surgery, David Geffen School of Medicine at UCLA, to patients of Dr. Heaps.
7 In that letter, Dr. Krakow stated that “[i]t is with mixed emotions that I announce the
8 retirement of Dr. James Heaps.” At the time that UCLA Health sent this notification letter to
9 patients of Dr. Heaps, UCLA Health was aware of specific allegations against Dr. Heaps and
10 of the then-ongoing California Medical Board Investigation of Dr. Heaps.

11 75. All of the actions of Dr. Heaps alleged in the following causes of action were
12 ratified and approved by the officers or managing agents of the UC Regents. Further, the UC
13 Regents had notice of Dr. Heaps’ unfitness in advance of his sexual battery and harassment of
14 Plaintiffs, yet failed to take corrective action to protect Plaintiffs or other students or patients.
15 Despite this notice, the UC Regents allowed Dr. Heaps to remain employed and left him in a
16 position where he could molest, batter, and harass Plaintiffs, other patients, and students.

17 76. The UC Regents condoned and ratified the conduct of Dr. Heaps by their
18 advance notice of Dr. Heaps’ unfitness at work, by their failure to make required reports of
19 suspected abuse, and by their failure to take immediate corrective action to protect Plaintiffs
20 and other patients (including students) from further harm after reports — and formal
21 California Medical Board investigations — of Dr. Heaps’ sexual assault of patients.

22 77. As discussed throughout, Defendant UC Regents also failed to put in place
23 appropriate safeguards to prevent foreseeable harm to female gynecological patients, including
24 imposition of a policy providing for the mandatory presence of an independent and
25 appropriately trained chaperone, to prevent, deter, and report any misconduct in the context of
26 gynecological examinations and procedures. Defendant UC Regents also failed adequately (or
27 at all) to train its employees and agents in how to recognize and report any sexual or medical
28 battery or harassment.

1 78. The female chaperones who were at times in the room during Dr. Heaps’ sexual
2 battery and harassment of Plaintiffs acted recklessly and negligently, in that they failed to
3 reasonably perform their duties as a chaperone and failed to act with the ordinary care one
4 would expect. The chaperones — on information and belief, employees of the UC Regents —
5 failed to raise any alarms during Dr. Heaps’ misconduct (which they witnessed) or take any
6 other reasonably expected actions to prevent or stop the misconduct, despite being aware of
7 the lack of medical necessity of Dr. Heaps’ touching and comments to Plaintiffs. Further, on
8 information and belief, the chaperones did not report Dr. Heaps’ misconduct.

9 79. Plaintiffs are now informed and believe, and based thereon allege, that the UC
10 Regents further breached its duties owed to Plaintiffs and other patients by, among other
11 things, failing to conduct reasonable investigation and/or due diligence prior to hiring
12 individuals assigned to assist Dr. Heaps during the relevant time period, including those
13 charged with the important task of chaperoning gynecological examinations.

14 80. On information and belief, one nurse/chaperone employed by UCLA Health
15 from in or about 2003 until in or about 2016 was retained despite the fact that she was — in or
16 about 2008 — criminally charged with welfare fraud and perjury, and pleaded guilty to
17 welfare fraud. On information and belief, during the time she was employed by the UC
18 Regents, this nurse/chaperone was also a defendant in a civil harassment suit. It is unclear
19 why such an individual would be hired into a position of trust, with access to private patient
20 medical and personal information. Nor is it clear why such a person would be called upon to
21 act as a chaperone and purportedly safeguard women’s well-being and safety.

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

27 82. As a result of these charges, on information and belief, the Board of Vocational
28 Nursing and Psychiatric Technicians, Department of Consumer Affairs, initiated proceedings

1 against this individual’s nursing license (the “Accusation”). The Accusation alleges that this
2 nurse/chaperone’s medical records indicated that she took a bottle of Xanax pills causing her
3 to “black out” while driving. The Accusation also alleges that an outpatient program
4 diagnosed her with “unspecified alcohol dependence, unspecified drinking behavior, and
5 sedative, hypnotic, or anxiolytic dependence.” Quite obviously, the UC Regents was on
6 notice that this nurse was unfit to perform the duties for which she was employed, including
7 chaperoning gynecological procedures and providing medical treatment to patients.

8 83. Dr. Heaps’ misconduct, the chaperones’ silence and inaction — and the UC
9 Regents’ cover up — has resulted in tremendous harm to Plaintiffs. The physical and
10 psychological aftermath of Dr. Heaps’ conduct has been severe for Plaintiffs. Since coming
11 to understand what was done to them, they have suffered from shock, humiliation,
12 embarrassment, and other forms of severe emotional distress. This has resulted in
13 sleeplessness, lack of focus, anxiety, flashbacks, and other physical and psychological
14 manifestations of the distress caused by Defendants’ egregious acts.

15 **THE PARTIES**

16 84. Plaintiff Jane Doe 30 currently resides in the County of Los Angeles, State of
17 California.

18 85. Plaintiff Jane Doe 31 currently resides in the County of Los Angeles, State of
19 California.

20 86. Plaintiff Jane Doe 32 currently resides in the County of Los Angeles, State of
21 California.

22 87. Plaintiff Jane Doe 33 currently resides in the San Bernardino County, State of
23 California.

24 88. Plaintiff Jane Doe 34 currently resides in the County of Los Angeles, State of
25 California.

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

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

3 90. Plaintiffs are informed and believe, and on that basis allege, that UC Regents
4 owned, operated, and maintained UCLA Health, through which medical services were
5 provided to Plaintiffs, pursuant to licenses issued by the California State Department of
6 Health, and provided health care as healthcare facilities.

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

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

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

25 94. Plaintiffs are informed and believe, and based thereon allege, that at all times
26 relevant each of the defendants, including the Roe Defendants, was the agent, employee,
27 manager, supervisor, owner, servant, and joint venturer of each of the remaining Defendants
28 and that in doing the things alleged, was acting within the course, scope, and authority of such

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

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

13 96. Once the 90-day wait period pursuant to Code of Civil Procedure § 364 expires
14 without resolution, Plaintiffs intend to amend their complaint to add a claim of professional
15 negligence against Defendants.

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

19 **JURISDICTION AND VENUE**

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

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

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

26 **FIRST CAUSE OF ACTION**

27 **(Violations of Unruh Act by all Plaintiffs against all Defendants: Civil Code § 51)**

28 101. Plaintiffs incorporate Paragraphs 1 through 100 as though fully set forth herein.

1 102. Plaintiffs' civil rights were violated by Defendants when they abused and
2 harassed Plaintiffs and when they intentionally and fraudulently concealed complaints of
3 sexual exploitation, sexual abuse, sexual harassment, and molestation by Dr. Heaps from other
4 patients. Plaintiffs had a right to be free from gender discrimination, sexual molestation,
5 abuse, and harassment under the Unruh Civil Rights Act.

6 103. The Defendants were acting under the color of their authority and in the scope of
7 their employment during the instances when Plaintiffs were patients at UCLA Health.

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

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

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

24 107. As a direct and proximate result of Defendants' tortious acts, omissions,
25 wrongful conduct, and breaches of their duties, Plaintiffs have suffered substantial general,
26 special, and consequential damage in an amount to be proven at trial, but in no event less than
27 the minimum jurisdictional amount of this Court.

28 108. As a further direct and proximate result of Defendants' collective and concerted

1 wrongful actions, as herein alleged, Plaintiffs have been hurt in their health, strength, and
2 activity. Plaintiffs have sustained permanent and continuing injury to their nervous systems
3 and person, which has caused and continues to cause great mental and physical pain, suffering,
4 fright, upset, grief, worry, and shock in an amount according to proof at trial but in no event
5 less than the jurisdictional minimum requirements of this Court.

6 **SECOND CAUSE OF ACTION**

7 **(Violations of Bane Act by all Plaintiffs against all Defendants: Civil Code § 52.1)**

8 109. Plaintiffs incorporate Paragraphs 1 through 108 as though fully set forth herein.

9 110. Defendants' actions, as alleged herein, have and will continue to interfere with
10 Plaintiffs' right to be free from gender discrimination in the form of sexual harassment,
11 codified under Cal. Civ. Code § 52.1.

12 111. During Plaintiffs' time as patients at UCLA Health, Defendants engaged in
13 oppressive and unlawful tactics in abusing and harassing Plaintiffs, as well as ignoring,
14 concealing, and suppressing other patients' complaints of being sexually exploited and abused
15 by Dr. Heaps. These intentional acts of concealment of Dr. Heaps' abusive behavior violated
16 Plaintiffs' right to be free from discrimination on the basis of their gender, under Cal. Civ.
17 Code § 52.1.

18 112. Defendants' wrongful conduct was intended to, and did successfully interfere
19 with Plaintiffs' Constitutional rights to be free from gender discrimination and harassment, as
20 well as interfered with their rights of Due Process under the United States' Constitution,
21 specifically the Fifth and Fourteenth Amendments.

22 113. Defendants unlawfully and wrongfully used, or employed others to wrongfully
23 use, threats, intimidation, harassment, violence, and coercion over Plaintiffs' persons, to which
24 Plaintiffs, who did not have knowledge that the conduct in which Defendants were engaging
25 was not medically necessary, had no relief except to submit to the Defendants' wrongful
26 threats, intimidation, harassment, violence, and coercion, which rendered Plaintiffs'
27 submission involuntary.

28 114. Defendants' above-noted actions were the legal and proximate causes of

1 physical, psychological, and emotional damages to Plaintiffs, who have suffered and continue
2 to suffer to this day. The actions of Defendants have also resulted in Plaintiffs incurring, and
3 will require them to incur into the future, expenses for medical and psychological treatment,
4 therapy, and counseling.

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

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

21 117. In subjecting Plaintiffs to the wrongful treatment herein described, Dr. Heaps
22 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of
23 Plaintiffs' rights, so as to constitute malice and oppression under California Civil Code §
24 3294. Plaintiffs are therefore entitled to the recovery of punitive damages against Dr. Heaps,
25 in an amount to be determined according to proof.

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **(Committing and Enabling Sexual Harassment by all Plaintiffs against all**
3 **Defendants: Civil Code § 51.9)**

4 118. Plaintiffs incorporate Paragraphs 1 through 117 as though fully set forth herein.

5 119. During Plaintiffs’ time as patients at UCLA Health, Defendants intentionally,
6 recklessly, and wantonly committed, enabled, and omitted, acts which resulted in harmful and
7 offensive contact with intimate parts of Plaintiffs’ persons, including but not limited to:
8 performing overly-lengthy pelvic examinations for his own sexual gratification, performing
9 ultrasound procedures and breast exams in a sexual manner, and making sexually
10 inappropriate comments to Plaintiffs, which Plaintiffs have now come to understand were
11 without medical justification, all under the supervision of Defendant the UC Regents. Female
12 chaperones who were at times in the room during Plaintiffs’ examinations by Dr. Heaps sat
13 silently as Plaintiffs were mistreated.

14 120. During Plaintiffs’ time as patients at UCLA Health, Defendants also
15 intentionally, recklessly, and wantonly made, and enabled, what Plaintiffs have now come to
16 understand were sexual and exploitative statements of a prurient nature, based on Plaintiffs’
17 gender that were unwelcome, pervasive, and severe, all under the supervision of Defendant
18 UC Regents. Again, the female chaperones who were at times in the room during Plaintiffs’
19 examinations sat silently as Plaintiffs were subjected to these comments.

20 121. The incidents of abuse outlined herein took place while Plaintiffs were under the
21 control of Dr. Heaps and Defendant UC Regents in their capacities and positions as a
22 physician and as a supervisor of physicians, medical professionals, and other staff at
23 Defendants’ premises, and while acting specifically on behalf of Defendants’ herein.

24 122. Because of Plaintiffs’ relationships with Defendants Dr. Heaps and the UC
25 Regents; Dr. Heaps’ status as a prominent, highly compensated gynecologist employed by
26 Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
27 physician; and Plaintiffs’ vulnerability as gynecological patients, Plaintiffs were unable to
28 easily terminate the relationship they had with the Defendants.

1 123. Because of Dr. Heaps’ status, position of authority, physical seclusion of
2 Plaintiffs, Plaintiffs’ mental and emotional state, Plaintiffs’ vulnerable position, and the fact
3 that Plaintiffs did not understand that Dr. Heaps’ conduct was not medically necessary,
4 Plaintiffs were unable to, did not, and could not give consent to such acts.

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

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

22 126. Defendants’ conduct (and the conduct of their agents, servants, and/or
23 employees) was a breach of their duties to Plaintiffs.

24 127. As a result of the above-described conduct, Plaintiffs have suffered and continue
25 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
26 emotional distress including embarrassment, loss of self-esteem, disgrace, humiliation, and
27 loss of enjoyment of life; have suffered and continue to suffer and were prevented and will
28 continue to be prevented from performing daily activities and obtaining the full enjoyment of

1 life; and/or have incurred and will continue to incur expenses for medical and psychological
2 treatment, therapy, and counseling.

3 **FOURTH CAUSE OF ACTION**

4 **(Battery by all Plaintiffs against all Defendants)**

5 128. Plaintiffs incorporate Paragraphs 1 through 127 as though fully set forth herein.

6 129. During the course of treatment of Plaintiffs, Dr. Heaps used his powers and
7 abilities as a physician, and his knowledge and background and access to Plaintiffs, to
8 sexually batter Plaintiffs, knowing that they would be vulnerable to this type of sexual battery.

9 As described herein with regard to certain or all Plaintiffs, Dr. Heaps performed overly-
10 lengthy pelvic exams for his own gratification and performed ultrasound procedures and
11 breast exams in a sexual manner which Plaintiffs now understand were designed to sexually
12 stimulate Plaintiffs and gratify himself, without medical justification, all under the supervision
13 of the UC Regents.

14 130. The female chaperones who were at times in the room during the visits enabled
15 the sexual battery and assault of Plaintiffs by failing to reasonably perform their duties as
16 chaperones and failing to raise any alarms during Dr. Heaps' misconduct or take any other
17 reasonably expected actions to prevent the harm inflicted upon Plaintiffs.

18 131. Had Dr. Heaps not been in a position of power and authority over Plaintiffs and
19 had Plaintiffs not been treated by Defendants, Plaintiffs would have never permitted such
20 sexual contact by Dr. Heaps, which acts (they now understand) constituted a harmful or
21 offensive touching and battery upon their persons.

22 132. Plaintiffs did not consent to the sexualized touching and sexual contact.

23 133. Dr. Heaps' conduct was within the course and scope of his employment with
24 Defendants, and each of them, and was ratified by Defendants and each of them who had
25 advance notice of this misconduct. All of the conduct occurred during the course and scope of
26 Dr. Heaps' employment at UCLA. Plaintiffs suffered severe emotional distress and physical
27 injury as a result of Dr. Heaps' misconduct and damages as otherwise alleged in this
28 complaint. In addition, at the time they were in the examination room and while they were

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

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

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

23 136. As a proximate result of the above, Plaintiffs suffered damages as otherwise
24 alleged in this Complaint.

25 137. Dr. Heaps' conduct alleged herein was despicable, and was done willfully and/or
26 with a conscious disregard of Plaintiffs' rights, and/or intentionally, maliciously, or in reckless
27 disregard of the high probability of injury to Plaintiffs and others. Defendants, and each of
28 them, were in a special relationship with Plaintiffs by virtue of the fact that they were patients

1 at UCLA Health and receiving their services.

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

12 139. In subjecting Plaintiffs to the wrongful treatment herein described, Defendant
 13 Heaps acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious
 14 disregard of Plaintiffs' rights, so as to constitute malice and oppression under California Civil
 15 Code § 3294. Plaintiffs are therefore entitled to the recovery of punitive damages against
 16 Defendant Heaps, in an amount to be determined according to proof.

17 **FIFTH CAUSE OF ACTION**

18 **(Sexual Battery by all Plaintiffs against all Defendants: Civil Code Section 1708.5)**

19 140. Plaintiffs incorporate Paragraphs 1 through 139 as though fully set forth herein.

20 141. During Plaintiffs' time as patients with Defendants, Dr. Heaps intentionally,
 21 recklessly, and wantonly did acts certain acts as alleged herein with regard to certain Plaintiffs
 22 which Plaintiffs now understand were intended to, and did, result in harmful and offensive
 23 contact with intimate parts of Plaintiffs' persons, including but not limited to: performing
 24 overly-lengthy pelvic exams designed to gratify himself and performing ultrasound procedures
 25 and breast exams in a sexual manner which Plaintiffs now understand were designed to
 26 sexually stimulate Plaintiffs and gratify himself, without medical justification, all under the
 27 supervision of the UC Regents.

28 142. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or

1 offensive contact with an intimate part of Plaintiffs’ persons that would offend a reasonable
2 sense of personal dignity. Further, said acts did cause a harmful or offensive contact with an
3 intimate part of Plaintiffs’ person that would offend a reasonable sense of personal dignity.

4 143. Had Dr. Heaps not been in a position of power and authority over Plaintiffs and
5 had they not been treated by Defendants, they would have never permitted such sexual contact
6 by Dr. Heaps.

7 144. Plaintiffs did not consent to this sexualized touching and sexual contact.

8 145. Dr. Heaps’ conduct was within the course and scope of his employment with
9 Defendants, and each of them, and was ratified by Defendants and each of them who had
10 advance notice of this misconduct. All of the conduct occurred during the course and scope of
11 Dr. Heaps’ employment at UCLA. Plaintiffs suffered severe emotional distress and physical
12 injury as a result of Dr. Heaps’ misconduct and damages as otherwise alleged in this
13 complaint.

14 146. At the time they were in the examination room and while they were witnessing
15 Dr. Heaps’ battery of Plaintiffs, the female chaperones were acting in the course and scope of
16 their employment with UCLA.

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

1 turned to fear, shame, and humiliation.

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

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

18 156. Defendants’ conduct described herein was intentional and malicious and done
19 for the purpose of causing or with the substantial certainty that Plaintiffs would suffer
20 humiliation, mental anguish, and emotional and physical distress.

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

28 158. In subjecting Plaintiffs to the wrongful treatment described herein, Dr. Heaps

1 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of
2 their rights, so as to constitute malice and oppression under California Civil Code § 3294.
3 Plaintiffs are therefore entitled to recover punitive damages against Defendant Heaps, in an
4 amount to be determined by the court.

5 **SEVENTH CAUSE OF ACTION**

6 **(Negligent Infliction of Emotional Distress by all Plaintiffs against all Defendants)**

7 159. Plaintiffs incorporate Paragraphs 1 through 158 as though fully set forth herein.

8 160. A reasonable person would not expect or tolerate the sexual harassment,
9 exploitation, molestation, and abuse of Plaintiffs by Dr. Heaps, nor tolerate or expect the UC
10 Regents' knowledge of and callous indifference to the abuse. Plaintiffs had great faith, trust,
11 and confidence in Defendants, which, by virtue of Defendants' wrongful conduct, turned to
12 fear, shame, and humiliation.

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

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

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

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

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

22 173. The UC Regents were placed on actual or constructive notice that Dr. Heaps had
23 molested or was molesting female patients during his employment. Defendants had
24 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
25 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
26 Plaintiffs.

27 174. Despite the fact that the UC Regents knew, or should have known, of these
28 sexually exploitive activities being perpetrated by Dr. Heaps, the UC Regents failed to use

1 reasonable care in investigating Dr. Heaps and did nothing to reasonably investigate,
2 supervise, monitor, or terminate Dr. Heaps to ensure the safety of their patients.

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

6 176. Because the UC Regents:

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

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

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

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

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

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

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

28 178. As a result of the above-described conduct, Plaintiffs have suffered and continue

1 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
2 emotional distress including embarrassment, loss of self-esteem, disgrace, shame, humiliation,
3 and loss of enjoyment of life; have suffered and continue to suffer and were prevented and
4 will continue to be prevented from performing daily activities and obtaining the full
5 enjoyment of life; and have incurred and will continue to incur expenses for medical and
6 psychological treatment, therapy, and counseling.

7 **NINTH CAUSE OF ACTION**

8 **(Negligent Ratification by all Plaintiffs against the UC Regents)**

9 179. Plaintiffs incorporate Paragraphs 1 through 178 as though fully set forth herein.

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

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

21 182. The UC Regents learned Dr. Heaps had molested or was molesting female
22 patients during his employment. Defendants had knowledge of inappropriate conduct and
23 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
24 continue interacting with patients, including Plaintiffs.

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

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

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

11 186. Because the UC Regents:

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

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

25 187. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps
26 was sexually exploiting, abusing, and harassing female patients and refused take any action to
27 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
28 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With

1 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
2 Regents, and Dr. Heaps was allowed to be alone with gynecological patients. The UC
3 Regents, their agents, servants, and/or employees thus approved, ratified, and are responsible
4 for Dr. Heaps' acts of sexual exploitation, sexual assault, battery, and sexual harassment.

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

12 **TENTH CAUSE OF ACTION**

13 **(Negligent Failure to Warn, Train, or Educate by all Plaintiffs against the UC**
14 **Regents)**

15 189. Plaintiffs incorporate Paragraphs 1 through 188 as though fully set forth herein.

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

22 191. Defendant UC Regents breached its duty to take reasonable measures to protect
23 Plaintiffs and other female patients from the risk of sexual harassment and abuse by
24 Dr. Heaps, such as the failure to properly warn Plaintiffs and other patients about Dr. Heaps.

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

1 perform their duties as a chaperone and failed to act as a reasonably prudent person. The
2 chaperones failed to raise any alarms during Dr. Heaps’ misconduct or take any other
3 reasonably expected actions to prevent the harm inflicted on Plaintiffs, despite the fact that (a)
4 the purpose of the chaperones was to protect Plaintiffs and ensure that they were comfortable
5 and safe during the gynecological visit; and (b) the chaperones were aware of the lack of
6 medical necessity of Dr. Heaps’ touching and questioning of Plaintiffs. Further, the
7 chaperones did not report Dr. Heaps’ misconduct. At the time they were in the examination
8 room and while they were silently witnessing Dr. Heaps’ infliction of harm to Plaintiffs, the
9 female chaperones were acting in the course and scope of their employment with UCLA.

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

17 **TWELFTH CAUSE OF ACTION**

18 **(Gender Violence (Civil Code § 52.4) by all Plaintiffs against all Defendants)**

19 202. Plaintiffs incorporate Paragraphs 1 through 201 as though fully set forth herein.

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

27 204. Plaintiffs are female.

28 205. Dr. Heaps intentionally and without consent physically intruded and/or invaded

1 contact.

2 212. Dr. Heaps’ conduct was within the course and scope of his employment with
3 Defendants, and each of them, and was ratified by Defendants and each of them who had
4 advance notice of this misconduct.

5 213. Plaintiff Doe 32 and Plaintiff Doe 34 suffered severe emotional distress and
6 physical injury as a result of Dr. Heaps’ misconduct and damages, as otherwise alleged in this
7 complaint.

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

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

25 216. In doing the things herein alleged, Defendants violated Plaintiff Doe 32 and
26 Plaintiff Doe 34’s rights, pursuant to California Civil Code § 43, of protection from bodily
27 restrain or harm, and from personal insult. In doing the things herein alleged, Defendants
28 violated the duty, pursuant to California Civil Code § 1708, to abstain from injuring the

1 and/or deceptive business practices by concealing the aforementioned sexual harassment,
2 abuse, and/or molestation in order to retain other patients who were not apprised of such
3 misconduct.

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

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

14 223. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
15 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiffs
16 and the public.

17 224. Plaintiffs seek restitution of all amounts improperly obtained by Defendants
18 through the use of the above-described unlawful, unfair, and/or deceptive business practices,
19 as well as disgorgement of any ill-gotten gains on behalf of Plaintiffs and all others similarly
20 situated.

21 225. Pursuant to Section 17203 of the California Business & Professions Code and
22 available equitable powers of the Court, Plaintiffs are entitled to and seek an injunction
23 enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business
24 practices. Further, Plaintiffs are entitled to recover reasonable attorneys' fees pursuant to the
25 California Business & Professions Code and California Code of Civil Procedure § 1021.5.

26 **FIFTEENTH CAUSE OF ACTION**

27 **(Constructive Fraud by all Plaintiffs against all Defendants)**

28 226. Plaintiffs incorporate Paragraphs 1 through 225 as though fully set forth herein.

1 227. By (a) holding Dr. Heaps out as an agent and trusted employee of UCLA Health,
2 (b) allowing and encouraging Dr. Heaps to undertake the medical care of vulnerable patients
3 such as Plaintiffs, and (c) holding themselves out as a preeminent healthcare facility and
4 provider, Defendants entered into a confidential, fiduciary, and special relationship with
5 Plaintiffs.

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

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

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

22 230. 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 Plaintiffs, UCLA students, and the community at
26 large 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,
6 on information and belief, had alcohol and prescription drug addictions
7 during the time in which she was rendering nurse and chaperone services
8 to patients, including Plaintiffs;

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

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

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

16 231. 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.

20 232. Given their need for medical treatment, and their trust and care in Defendants,
21 Plaintiffs were vulnerable to Defendants.

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

24 234. Defendants’ conduct did reasonably cause Plaintiffs to forebear on their rights,
25 and Plaintiffs justifiably relied upon Defendants for information about Dr. Heaps.

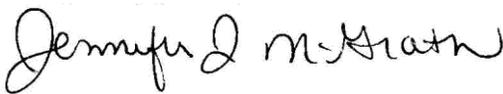
26 235. The misrepresentations, suppressions, and concealment of facts by Defendants
27 were intended to, and were likely to, mislead Plaintiffs and others to believe that Defendants
28 had no knowledge of any misconduct by Dr. Heaps.

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

DATED: November 27, 2019

THEODORA ORINGHER PC

By: 

Jennifer J. McGrath
Katherine J. Flores
Attorneys for Plaintiffs JANE DOE 30, JANE
DOE 31, JANE DOE 32, JANE DOE 33 and
JANE DOE 34

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs Jane Doe 30, Jane Doe 31, Jane Doe 32, Jane Doe 33 and Jane Doe 34 hereby
3 demand a trial by jury in this action.

4
5 DATED: November 27, 2019

THEODORA ORINGHER PC

6 By: Jennifer J. McGrath

7 Jennifer J. McGrath

8 Katherine J. Flores

9 Attorneys for Plaintiffs JANE DOE 30, JANE
10 DOE 31, JANE DOE 32, JANE DOE 33 and
11 JANE DOE 34