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JANE DOE 36
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
14

15 JANE DOE 35, an individual; and JANE
DOE 36, an individual,
16

17 Plaintiffs,
18

19 vs.
20

21 THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, a California
government corporation; JAMES HEAPS,
22 M.D., an individual; and ROES 1 through
20, inclusive,
21

22 Defendants.
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Superior Court of California
County of Los Angeles

DEC 11 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By: Isaac Lovo, Deputy

19STCV44420

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

1 Plaintiffs Jane Doe 35 (“Doe 35”), and Jane Doe 36 (“Doe 36”) (collectively
2 “Plaintiffs”),¹ who are individuals, hereby complain against Defendants Regents of the
3 University of California (“UC Regents”), a California government corporation; Dr. James
4 Heaps (“Dr. Heaps”), an individual; and Roes 1 through 20, and allege as follows:

5 **GENERAL ALLEGATIONS**

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

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

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

20 4. Shamefully, Plaintiffs are now informed and believe that the UC Regents and
21 Dr. Heaps also profited financially from the sexual abuse, harassment, and mistreatment which
22 Plaintiffs endured. On information and belief, Dr. Heaps had dual motives for this conduct —
23 financial gain from fraudulent overbilling and the opportunity to sexually abuse Plaintiffs. On
24 information and belief, as discussed throughout, it is clear that the UC Regents were willing
25 — and did — protect Dr. Heaps from being exposed as a sexual predator because the Regents
26

27 ¹ Plaintiffs, as victims of sexual abuse, are identified herein using pseudonyms in order
28 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 profited to the tune of millions of dollars from this gross misconduct.

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

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

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

23 8. In addition, on information and belief, UCLA did not institute basic protections
24 in order to prevent sexual abuse of patients, including having independent, qualified, and
25 trained chaperones present during examinations and/or, if any such protocols were in place,
26 UCLA’s employees did not follow such protocols. Nor, on information and belief, did UCLA
27 train or supervise its employees so as to make them aware of how to intervene should any
28 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As

1 stated above, even though the abuse inflicted upon Plaintiffs at times occurred in the presence
2 of a chaperone, the chaperones — who, on information and belief were supervised by Dr.
3 Heaps — did not act to stop the incident or report the incident to authorities.

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

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

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

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

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

7 13. Only when Dr. Heaps’ arrest became public, did Plaintiffs come to understand
8 what had been done to them by Dr. Heaps’ misconduct and UCLA’s inaction. Only in the last
9 few months have Plaintiffs come to realize that they were subjected to abuse during routine
10 examinations and that Dr. Heaps’ conduct in those exams was inappropriate and of a sexual
11 nature, including molesting them during routine examinations and procedures.

12 **BACKGROUND FACTS**

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

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

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

28 16. On information and belief, Dr. Heaps also at times provided gynecological

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

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

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

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

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

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

27 21. Plaintiffs are informed and believe, and on this basis allege, however, that the
28 California Medical Board investigated Dr. Heaps in or about 2014 — during, on information

1 and belief — a time in which Dr. Heaps’ practice was being acquired by UCLA and when he
2 was being hired as an employee of the UC Regents (the “2014 Medical Board Investigation”).
3 On information and belief, the 2014 Medical Board Investigation arose from an allegation that
4 Dr. Heaps acted in a medically inappropriate and sexual manner during a patient examination.
5 On information and belief, the UC Regents had knowledge that the 2014 Medical Board
6 Investigation was taking place at the time that it was ongoing. On information and belief, the
7 UC Regents failed to take corrective action.

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

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

22 24. On information and belief, in or about January 2017, a UCLA Health employee
23 (who went to Dr. Heaps for her personal medical care), herself certified to chaperone intimate
24 examinations at UCLA Health, reported to her supervisor (a managerial employee of the
25 Regents) that Dr. Heaps had sexually abused and harassed her during a routine gynecological
26 procedure. On further information and belief, the Regents did nothing to investigate these
27 allegations. Nor, on information and belief, did the Regents report the allegations to the
28 California Medical Board or to law enforcement or take any actions to protect the employee or

1 other patients of Dr. Heaps — including likely hundreds of women who were examined by Dr.
2 Heaps until his forced “retirement” in or about June 2018 — from ongoing sexual abuse.

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

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

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

20 28. Plaintiffs are further informed and believe that UCLA’s own internal
21 investigation of Dr. Heaps’ medical practices and billing found that he systemically overbilled
22 patients, their private insurance companies, and Medicare and other public agencies.
23 According to an internal report, on information and belief, at times, even when a nurse
24 practitioner or other staff member was scheduled to provide services to patients, upon their
25 arrival, those patients were seen by Dr. Heaps (if only very briefly) and were then charged for
26 his services, even though their care was actually handled by the nurse practitioner or other
27 staff member. The UCLA internal investigation concluded, on information and belief, that —
28 in certain instances — “Heaps’ clinical practice misrepresents the provider of services and the

1 billing provider.” In light of this fraudulent scheme perpetrated by Dr. Heaps, and by
2 extension, UCLA, the report further recommends that UCLA Health issue refunds to those
3 affected. On information and belief, Plaintiffs were fraudulently overcharged by UCLA and
4 Dr. Heaps for appointments during which they were subjected to sexual abuse and harassment.

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

6 **During Routine Gynecological Examinations**

7 **Plaintiff Jane Doe 35’s Allegations**

8 29. Plaintiff Jane Doe 35 is a 52-year old woman who first became a patient of Dr.
9 Heaps in the 1990’s when she was in her early twenties. Dr. Heaps was Plaintiff Doe 35’s
10 first gynecologist and the only gynecologist that she saw for a period of more than twenty-five
11 years (he delivered her first child in or about August 1999). Plaintiff Doe 35 had regular
12 appointments with Dr. Heaps throughout the 1990’s, and 2000’s, with her most recent
13 appointments on June 16, 2016; December 15, 2016; June 16, 2017; December 12, 2017 and
14 February 16, 2018.

15 30. Plaintiff Doe 35’s mother had been diagnosed with breast cancer when Plaintiff
16 Doe 35 was still a teenager, eventually losing her fight with the disease when Plaintiff Doe 35
17 was in her early 30’s. Having witnessed her mother’s long and difficult struggle with cancer,
18 Plaintiff Doe 35 was understandably worried about her own risk of developing both breast and
19 ovarian cancer. Dr. Heaps (who was aware of Plaintiff Doe 35’s mother’s illness and passing)
20 insisted to Plaintiff Doe 35 that due to her family history of breast cancer, she should be
21 examined by him at least every six months, and sometimes as often as every two months. As
22 a well-respected gynecological oncologist, who was promoted by UCLA as its premier
23 provider of women’s cancer-related health care, Plaintiff Doe 35 trusted that Dr. Heaps would
24 give her advice that was medically correct and appropriate. Intensely fearful of developing
25 cancer and dying, Plaintiff Doe 35 followed – and did not question—Dr. Heaps’
26 recommendation that she see him very frequently for “cancer screening.”

27 31. During these appointments, Dr. Heaps frequently engaged in conduct that
28 Plaintiff Doe 35 now understands to have been sexually abusive and not medically necessary.

1 On multiple occasions, Dr. Heaps performed prolonged breast “exams” on Plaintiff Doe 35
2 that involved aggressively shoving her breasts together and groping her in a manner that
3 Plaintiff Doe 35 now understands was sexual in nature. During these breast “exams,” Dr.
4 Heaps often squeezed and massaged Plaintiff Doe 35’s nipples. During one appointment in
5 particular, after Doe 35 had had a benign cyst removed, Dr. Heaps asked Plaintiff Doe 35
6 repeatedly whether she had sensation in her nipple “during sexual stimulation with [her]
7 husband.” Dr. Heaps told Plaintiff Doe 35 that he was asking because the surgeon had cut
8 around the nipple to remove the cyst; Dr. Heaps further told Plaintiff Doe 35 that he was “just
9 curious to know.” Plaintiff Doe 35 now believes that these questions were not medically
10 necessary or appropriate but instead constituted sexual harassment of her, perpetrated for Dr.
11 Heaps’ gratification.

12 32. On multiple occasions over the course of many appointments, Dr. Heaps also
13 touched Plaintiff Doe 35 in a manner that she now understands was designed to sexually
14 stimulate her during pelvic exams. In addition, Dr. Heaps regularly used a very forceful
15 thrusting motion during these manual pelvic exams. Plaintiff Doe 35 is now informed and
16 believes that this conduct was not medically necessary or appropriate, but was also done in a
17 sexual manner for Dr. Heaps’ gratification. Dr. Heaps also made comments to Plaintiff Doe
18 35 on several occasions when he was performing internal exams that she now believes were
19 sexually harassing, including lewd suggestions (using highly inappropriate sexual slang) to
20 Plaintiff Doe 35 regarding what sexual positions she and her husband should use during sexual
21 intercourse.

22 33. On one occasion in or about late 2017 or early 2018, following a pelvic
23 examination, Dr. Heaps removed his gloves and proceeded to rub Plaintiff Doe 35’s external
24 genitalia in a manner which Plaintiff Doe 35 now believes was designed to sexually stimulate her
25 and gratify Dr. Heaps. During this “examination,” Dr. Heaps made comments to Plaintiff Doe 35
26 that “everything looks clear” and “you have no issues,” which comments she now understands
27 were made to lull her into the belief that Dr. Heaps’ conduct was medically appropriate. No nurse
28 or chaperone was present while Dr. Heaps performed this “examination” on Plaintiff Doe 35.

34. At another routine appointment, Plaintiff Doe 35 undressed for Dr. Heaps to examine her. Dr. Heaps instructed Plaintiff Doe 35 to stand up and turn around. Dr. Heaps then proceeded to run his ungloved hands over Plaintiff Doe 35's entire body, including her naked buttocks, purportedly to check her for moles. No chaperone or nurse was present during this abusive conduct.

35. At numerous of her appointments, Dr. Heaps likewise performed transvaginal ultrasounds in an overly-aggressive manner which Plaintiff Doe 35 now believes was designed to simulate sexual intercourse. In addition to this sexual abuse, Plaintiff Doe 35 has subsequently learned from another gynecologist that she did not need such frequent visits (she has been told that she only needs annual exams) and did not need as many transvaginal ultrasound procedures as Dr. Heaps insisted that he perform. Plaintiff Doe 35 now believes that Dr. Heaps exploited her family history of breast cancer and terrible fear of developing cancer to convince her that these frequent appointments examinations were necessary --so that he could maximize his opportunities both to sexually abuse and harass her and to benefit financially, by billing her and insurers for unnecessary medical services.

36. The realization that she was subjected to years of conduct that was not appropriate or medically necessary, but in fact sexually abusive has caused Plaintiff Doe 35 shock, humiliation, embarrassment, anxiety, sleeplessness, symptoms of Post-Traumatic Stress Disorder ("PTSD"), and other severe psychological distress.

Plaintiff Jane Doe 36's Allegations

37. Plaintiff Doe 36 is a 70-year-old who was a patient of Dr. Heaps at UCLA Health from in or about April 2014 until in or about April 2018. Plaintiff Doe 36 sought treatment from Dr. Heaps because she was diagnosed with HPV-16, which put her at high-risk of developing cervical and other gynecological cancers, and UCLA held out Dr. Heaps as a preeminent oncological gynecologist. Dr. Heaps told Plaintiff that her medical condition necessitated that she undergo pelvic examinations every six months. Plaintiff Doe 36, trusting Dr. Heaps' medical opinion and terrified of developing cancer, visited Dr. Heaps twice a year (every April and October) from 2014 until Dr. Heaps' "retirement" in 2018. At these

1 appointments, Dr. Heaps ensured that Plaintiff Doe 36 would subject herself to his sexual
2 predation by telling her to return for checkups every six months.

3 38. At each of these bi-annual appointments from in or about April 2014 until in or
4 about April 2018, Dr. Heaps performed breast examinations that Plaintiff Doe 36 now
5 understands were overly-lengthy, inappropriate, and for Dr. Heaps' own sexual gratification.
6 In addition, at each of these appointments, Dr. Heaps would engage in what Plaintiff Doe 36
7 now understands were overly-lengthy pelvic "examinations," designed to sexually stimulate
8 Plaintiff Doe 36 and gratify Dr. Heaps. These "exams" included sexual touching and
9 massaging, done both internally and externally, that Plaintiff Doe 36 now believes was not
10 appropriate or medically necessary and was done for Dr. Heaps' sexual gratification.

11 39. In or about early 2017, Plaintiff Doe 36's father passed away. A few weeks later
12 – at an appointment with Dr. Heaps in or about April 2017–Plaintiff Doe 36 broke down in
13 tears over the recent death of her father. Shortly thereafter, Dr. Heaps entered the exam room
14 and Plaintiff Doe 36 told him she was mourning her father's death. Dr. Heaps immediately
15 began his typical pelvic "examination" of Plaintiff Doe 36, which consisted of what Plaintiff
16 Doe 36 now understands was sexual touching and massaging, done both internally and
17 externally. Thus, despite the fact that Plaintiff Doe 36 shared that she was still trying to
18 process and deal with her father's recent passing, Plaintiff Doe 36 now understands that Dr.
19 Heaps nonetheless proceeded to sexually abuse and harass her.

20 40. In or about April 2018, Plaintiff Doe 36 again saw Dr. Heaps for routine care.
21 At this appointment, Dr. Heaps again "examined" Plaintiff Doe 36's breasts in what she now
22 understands to be an overly-lengthy and sexual manner, during which he remarked to her that
23 her breasts were "beautiful" and "soft" and that she should be regularly engaging in sexual
24 intercourse. Dr. Heaps' facial expression and tone when he made these statements to Plaintiff
25 Doe 36 suggested that he made the comments for his own sexual gratification. Dr. Heaps
26 made these inappropriate and sexually harassing comments to Plaintiff Doe 36 despite the fact
27 the he knew she was a divorcee and deeply religious. During this same appointment, Dr.
28 Heaps performed an inappropriate and overly-lengthy pelvic "examination" on Plaintiff Doe

1 36 during which he commented that she had “the smallest” intimate anatomy he had ever
2 observed. Plaintiff Doe 36 now understands that these comments were part of a pattern of
3 inappropriate, sexually exploitative conduct by Dr. Heaps. Plaintiff Doe 36 was alone in the
4 room with Dr. Heaps without any nurse or chaperone when this conduct occurred.

5 41. In or about June 2019, Plaintiff Doe 36 learned that Dr. Heaps was arrested and
6 criminally charged with sexual battery and sexual exploitation of two former patients. Since
7 the realization that she, too, was sexually abused by Dr. Heaps, Plaintiff Doe 36 has suffered
8 embarrassment, humiliation, anxiety, and fear. The realization that she suffered abuse and
9 harassment at the hands of a trusted UCLA Health physician has caused Plaintiff Doe 36
10 difficulty in obtaining subsequent medical care. Plaintiff Doe 36 has also learned from her
11 current gynecologist that she does not need to be seen bi-annually and that, on information and
12 belief, Dr. Heaps exaggerated her risk of developing cancer. Plaintiff Doe 36 now believes
13 that Dr. Heaps told her that her breast and cervical cancer risks were higher than they in fact
14 were so that he could convince her to come to more frequent appointments, thereby being
15 subjected both to sexual abuse and unnecessary billing of her and her insurers.

16 **Dr. Heaps’ “Retirement” from UCLA Health**

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

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

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

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

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

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

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

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

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

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

23 51. Dr. Heaps' misconduct, the chaperones' silence and inaction — and the UC
24 Regents' cover up — has resulted in tremendous harm to Plaintiffs. The physical and
25 psychological aftermath of Dr. Heaps' conduct has been severe for Plaintiffs. Since coming
26 to understand what was done to them, they have suffered from shock, humiliation,
27 embarrassment, and other forms of severe emotional distress. This has resulted in
28 sleeplessness, lack of focus, anxiety, flashbacks, and other physical and psychological

manifestations of the distress caused by Defendants' egregious acts.

THE PARTIES

52. Plaintiff Jane Doe 35 currently resides in the County of Los Angeles, State of California.

53. Plaintiff Jane Doe 36 currently resides in the County of Los Angeles, State of California.

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

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

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

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

58. Plaintiffs are ignorant of the true names and capacities of defendants sued as

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

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

14 60. Plaintiffs are informed and believe, and on that basis allege, that, in addition to
15 its own independent conduct, UC Regents is vicariously liable for the acts, misconduct, and
16 omissions — both negligent and intentional — of Dr. Heaps and its other employees,
17 including but not limited to the female chaperones who were in the examination room at the
18 time of Dr. Heaps’ examination of Plaintiffs — as more particularly described above, pursuant
19 to the doctrine of *respondeat superior* and California Government Code § 815.2. Dr. Heaps,
20 the female chaperones, and others were acting in the course and scope of their employment at
21 the time of the allegations herein.

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

25 62. In the event that Dr. Heaps is convicted of felonies for the conduct alleged
26 herein, Plaintiffs request leave to amend this Complaint, such that a request for attorneys’ fees
27 can be made against Dr. Heaps and Defendants pursuant to Code of Civil Procedure § 1021.4.
28

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

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

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

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

66. Plaintiffs incorporate Paragraphs 1 through 65 as though fully set forth herein.

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

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

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

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

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

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

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

18 74. Plaintiffs incorporate Paragraphs 1 through 73 as though fully set forth herein.

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

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

28 77. Defendants' wrongful conduct was intended to, and did successfully interfere

1 with Plaintiffs' Constitutional rights to be free from gender discrimination and harassment, as
2 well as interfered with their rights of Due Process under the United States' Constitution,
3 specifically the Fifth and Fourteenth Amendments.

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

10 79. Defendants' above-noted actions were the legal and proximate causes of
11 physical, psychological, and emotional damages to Plaintiffs, who have suffered and continue
12 to suffer to this day. The actions of Defendants have also resulted in Plaintiffs incurring, and
13 will require them to incur into the future, expenses for medical and psychological treatment,
14 therapy, and counseling.

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

22 81. In subjecting Plaintiffs to the wrongful treatment described herein, Defendants
23 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of
24 Plaintiffs' rights, entitling Plaintiffs to compensatory damages in a sum to be shown according
25 to proof, emotional distress damages in a sum to be shown according to proof, punitive and/or
26 exemplary damages (with regard to Dr. Heaps), attorney's fees, other damages pursuant to
27 Civil Code § 52(b)(1), and a temporary restraining order or a preliminary or permanent
28 injunction ordering Defendants to refrain from conduct or activities as alleged herein, stating

1 “VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77
2 OF THE PENAL CODE,” and other such relief as the court deems proper.

3 82. In subjecting Plaintiffs to the wrongful treatment herein described, Dr. Heaps
4 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of
5 Plaintiffs’ rights, so as to constitute malice and oppression under California Civil Code §
6 3294. Plaintiffs are therefore entitled to the recovery of punitive damages against Dr. Heaps,
7 in an amount to be determined according to proof.

8 **THIRD CAUSE OF ACTION**

9 **(Committing and Enabling Sexual Harassment by all Plaintiffs against all**

10 **Defendants: Civil Code § 51.9)**

11 83. Plaintiffs incorporate Paragraphs 1 through 82 as though fully set forth herein.

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

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

27 86. The incidents of abuse outlined herein took place while Plaintiffs were under the
28 control of Dr. Heaps and Defendant UC Regents in their capacities and positions as a

1 physician and as a supervisor of physicians, medical professionals, and other staff at
2 Defendants' premises, and while acting specifically on behalf of Defendants' herein.

3 87. Because of Plaintiffs' relationships with Defendants Dr. Heaps and the UC
4 Regents; Dr. Heaps' status as a prominent, highly compensated gynecologist employed by
5 Defendant UC Regents and promoted on the UCLA Health website as a highly skilled
6 physician; and Plaintiffs' vulnerability as gynecological patients, Plaintiffs were unable to
7 easily terminate the relationship they had with the Defendants.

8 88. Because of Dr. Heaps' status, position of authority, physical seclusion of
9 Plaintiffs, Plaintiffs' mental and emotional state, Plaintiffs' vulnerable position, and the fact
10 that Plaintiffs did not understand that Dr. Heaps' conduct was not medically necessary,
11 Plaintiffs were unable to, did not, and could not give consent to such acts.

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

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

91. Defendants' conduct (and the conduct of their agents, servants, and/or employees) was a breach of their duties to Plaintiffs.

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

FOURTH CAUSE OF ACTION

(Battery by all Plaintiffs against all Defendants)

93. Plaintiffs incorporate Paragraphs 1 through 92 as though fully set forth herein.

94. During the course of treatment of Plaintiffs, Dr. Heaps used his powers and abilities as a physician, and his knowledge and background and access to Plaintiffs, to sexually batter Plaintiffs, knowing that they would be vulnerable to this type of sexual battery. As described herein with regard to certain or all Plaintiffs, Dr. Heaps performed overly-lengthy pelvic exams for his own gratification and performed ultrasound procedures and breast exams in a sexual manner which Plaintiffs now understand were designed to sexually stimulate Plaintiffs and gratify himself, without medical justification, all under the supervision of the UC Regents.

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

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

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

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

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

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

UC Regents, so as to be fairly attributable to them.

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

102. Dr. Heaps' conduct alleged herein was despicable, and was done willfully and/or with a conscious disregard of Plaintiffs' rights, and/or intentionally, maliciously, or in reckless disregard of the high probability of injury to Plaintiffs and others. Defendants, and each of them, were in a special relationship with Plaintiffs by virtue of the fact that they were patients at UCLA Health and receiving their services.

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

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

FIFTH CAUSE OF ACTION

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

105. Plaintiffs incorporate Paragraphs 1 through 104 as though fully set forth herein.

106. During Plaintiffs' time as patients with Defendants, Dr. Heaps intentionally, recklessly, and wantonly did acts certain acts as alleged herein with regard to certain Plaintiffs

1 which Plaintiffs now understand were intended to, and did, result in harmful and offensive
2 contact with intimate parts of Plaintiffs' persons, including but not limited to: performing
3 overly-lengthy pelvic exams designed to gratify himself and performing ultrasound procedures
4 and breast exams in a sexual manner which Plaintiffs now understand were designed to
5 sexually stimulate Plaintiffs and gratify himself, without medical justification, all under the
6 supervision of the UC Regents.

7 107. Dr. Heaps did the aforementioned acts with the intent to cause a harmful or
8 offensive contact with an intimate part of Plaintiffs' persons that would offend a reasonable
9 sense of personal dignity. Further, said acts did cause a harmful or offensive contact with an
10 intimate part of Plaintiffs' person that would offend a reasonable sense of personal dignity.

11 108. Had Dr. Heaps not been in a position of power and authority over Plaintiffs and
12 had they not been treated by Defendants, they would have never permitted such sexual contact
13 by Dr. Heaps.

14 109. Plaintiffs did not consent to this sexualized touching and sexual contact.

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

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

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

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

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

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

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

26 **SIXTH CAUSE OF ACTION**

27 **(Intentional Infliction of Emotional Distress by all Plaintiffs against all Defendants)**

28 116. Plaintiffs incorporate Paragraphs 1 through 115 as though fully set forth herein.

1 117. The conduct of defendants UC Regents and Dr. Heaps toward Plaintiffs, as
2 described herein, was outrageous and extreme.

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

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

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

24 121. Defendants' conduct described herein was intentional and malicious and done
25 for the purpose of causing or with the substantial certainty that Plaintiffs would suffer
26 humiliation, mental anguish, and emotional and physical distress.

27 122. As a result of the above-described conduct, Plaintiffs have suffered and continue
28 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of

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

6 123. In subjecting Plaintiffs to the wrongful treatment described herein, Dr. Heaps
7 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of
8 their rights, so as to constitute malice and oppression under California Civil Code § 3294.
9 Plaintiffs are therefore entitled to recover punitive damages against Defendant Heaps, in an
10 amount to be determined by the court.

11 **SEVENTH CAUSE OF ACTION**

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

13 124. Plaintiffs incorporate Paragraphs 1 through 123 as though fully set forth herein.

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

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

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

1 physician. A reasonable person would not expect that UCLA would not vet its
2 nurse/chaperones to determine whether they have criminal histories and remove them from
3 their positions when it is clear that they have alcohol and drug dependencies. Indeed looking
4 back now on what they understand to be sexual abuse, the presence — at times — of silent
5 chaperones has further exacerbated Plaintiffs' extreme embarrassment and harm as they were
6 subjected to the misconduct with a silent audience.

7 128. Defendants had a special relationship with Plaintiffs and/or had undertaken an
8 obligation to them that necessarily implicated Plaintiffs' emotional well-being. Specifically,
9 Defendants had a duty to take reasonable measures to prevent harm to Plaintiffs and to protect
10 them from Dr. Heaps.

11 129. There was an especially likely risk that Defendants' negligent actions and
12 inactions would cause serious emotional distress to Plaintiffs. Defendants' failure to take
13 reasonable steps to institute safeguards to prevent sexual abuse and harassment caused
14 Plaintiffs tremendous harm.

15 130. Defendants' negligence was a substantial factor in causing Plaintiffs serious
16 emotional distress.

17 **EIGHTH CAUSE OF ACTION**

18 **(Negligent Supervision and Retention by all Plaintiffs against UC Regents)**

19 131. Plaintiffs incorporate Paragraphs 1 through 130 as though fully set forth herein.

20 132. By virtue of Plaintiffs' special relationship with the UC Regents as patients, and
21 the UC Regents' relation to Dr. Heaps, Defendants owed Plaintiffs a duty not to retain Dr.
22 Heaps, given his dangerous and exploitative propensities, which Defendants knew or should
23 have known about.

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

28 134. At no time during the periods of time alleged herein did the UC Regents have in

1 place a reasonable system or procedure to investigate, supervise, and monitor its UCLA
2 physicians and healthcare personnel, including Dr. Heaps, to prevent sexual harassment,
3 sexual exploitation, molestation, and abuse of patients, nor did they implement a system or
4 procedure to oversee or monitor conduct toward patients and others in their care.

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

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

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

28 138. The UC Regents were placed on actual or constructive notice that Dr. Heaps had

1 molested or was molesting female patients during his employment. Defendants had
2 knowledge of inappropriate conduct, exploitation, and serial molestations committed by
3 Dr. Heaps during his employment, yet chose to allow him to interact with patients, including
4 Plaintiffs.

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

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

12 141. Because the UC Regents:

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

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

26 142. The UC Regents, their agents, servants, and/or employees knew Dr. Heaps was
27 sexually exploiting, abusing, and harassing female patients and refused to take any action to
28 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this

1 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
2 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
3 Regents and he was allowed to continue to interact with patients, including Plaintiffs. The UC
4 Regents, their agents, servants, and/or employees are thus responsible for Dr. Heaps' acts of
5 sexual exploitation, sexual assault, battery, and harassment.

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

13 **NINTH CAUSE OF ACTION**

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

15 144. Plaintiffs incorporate Paragraphs 1 through 143 as though fully set forth herein.

16 145. At all times relevant herein, each Defendant was the agent, partner, joint
17 venturer, representative, servant, employee and/or co-conspirator of each of the other
18 Defendants, and was at all times mentioned herein acting within the course and scope of said
19 agency and employment, and that all acts or omissions alleged herein were duly committed
20 with the ratification, knowledge, permission, encouragement, authorization, and consent of
21 each Defendant designated herein.

22 146. Defendants and each of them were agents, principals, joint venturers, partners,
23 representatives, servants, employees, and/or co-conspirators of each of the other Defendants.
24 Each Defendant condoned and ratified the conduct of all other defendants, and was at all times
25 mentioned herein acting within the course and scope of said agency and employment,
26 authority, and ratification.

27 147. The UC Regents learned Dr. Heaps had molested or was molesting female
28 patients during his employment. Defendants had knowledge of inappropriate conduct and

1 exploitation committed by Dr. Heaps during his employment, yet chose to allow him to
2 continue interacting with patients, including Plaintiffs.

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

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

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

17 151. Because the UC Regents:

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

1 intimate examinations and report misbehavior.
2 the UC Regents have ratified the conduct of Dr. Heaps as set forth herein.

3 152. The UC Regents, their agents, servants, and/or employees learned Dr. Heaps
4 was sexually exploiting, abusing, and harassing female patients and refused take any action to
5 stop him. Moreover, the UC Regents, their agents, servants, and/or employees hid this
6 information so Dr. Heaps could continue to work for UCLA, its clinics and facilities. With
7 knowledge of Dr. Heaps' sexual misconduct, no disciplinary action was taken by the UC
8 Regents, and Dr. Heaps was allowed to be alone with gynecological patients. The UC
9 Regents, their agents, servants, and/or employees thus approved, ratified, and are responsible
10 for Dr. Heaps' acts of sexual exploitation, sexual assault, battery, and sexual harassment.

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

18 **TENTH CAUSE OF ACTION**

19 **(Negligent Failure to Warn, Train, or Educate by all Plaintiffs**

20 **Against the UC Regents)**

21 154. Plaintiffs incorporate Paragraphs 1 through 153 as though fully set forth herein.

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

28 156. Defendant UC Regents breached its duty to take reasonable measures to protect

1 Plaintiffs and other female patients from the risk of sexual harassment and abuse by
2 Dr. Heaps, such as the failure to properly warn Plaintiffs and other patients about Dr. Heaps.

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

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

14 159. By breaching its duty, Defendant UC Regents unreasonably and wrongfully
15 exposed Plaintiffs and other patients to sexual battery and abuse.

16 160. As a proximate result of the above-referenced conduct, Plaintiffs have suffered
17 and continue to suffer great pain of mind and body, shock, emotional distress, shame, physical
18 manifestations of emotional distress including embarrassment, loss of self-esteem, disgrace,
19 humiliation, and loss of enjoyment of life; have suffered and continue to suffer and were
20 prevented and will continue to be prevented from performing daily activities and obtaining the
21 full enjoyment of life; and/or have incurred and will continue to incur expenses for medical
22 and psychological treatment, therapy, and counseling.

23 **ELEVENTH CAUSE OF ACTION**

24 **(Ordinary Negligence against by all Plaintiffs against Defendants UC Regents** 25 **and Roes)**

26 161. Plaintiffs incorporates Paragraphs 1 through 160 as though fully set forth
27 herein.

28 162. Defendants committed the negligent acts and/or negligent failures to act, as set

1 forth above, and those acts caused the emotional and physical harm endured by Plaintiffs.

2 163. Defendants owed Plaintiffs a duty of care to act.

3 164. Defendants breached that duty of care by way of their conduct and failed to
4 exercise reasonable care, as detailed and alleged above.

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

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

23 **TWELFTH CAUSE OF ACTION**

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

25 167. Plaintiffs incorporate Paragraphs 1 through 166 as though fully set forth herein.

26 168. California Civil Code § 52.4 provides that gender violence is a form of sexual
27 discrimination and includes a “physical intrusion or physical invasion of a sexual nature under
28 coercive conditions. . .” Cal. Civ. Code § 52.4(c)(2). For purposes of this section, “gender”

means “sex, and includes a person’s gender identity and gender expression.” Cal. Civ. Code § 52.4(d); Cal. Civ. Code § 51. The provision further provides that any person subjected to gender violence may bring a civil action for damages against any responsible party, and may seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

169. Plaintiffs are female.

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

171. The UC Regents participated in the physical intrusion and/or invasion of Plaintiffs’ bodies during medical examinations by either (a) the presence of chaperones or other staff members during the medical examinations; and/or (b) UCLA staff members or other personnel bringing Plaintiffs into the examination room and directing them to remove their clothing, knowing that Dr. Heaps would assault them in a sexual manner; and/or (c) providing Dr. Heaps the facilities and location to assault Plaintiffs in a sexual manner and touting him as an expert in gynecological care.

172. As more fully set forth above, Plaintiffs were injured as a result of the gender violence, and seek all remedies provided for in California Civil Code § 52.4, including but not limited to, actual damages, compensatory damages, punitive damages, costs, and attorney’s fees.

THIRTEENTH CAUSE OF ACTION

(Sexual Assault by all Plaintiffs against all Defendants)

173. Plaintiff Doe 35 and Plaintiff Doe 36 incorporate Paragraphs 1 through 172 as though fully set forth herein.

174. During Plaintiff Doe 35 and Plaintiff Doe 36’s respective times as patients with Defendants, Dr. Heaps intended to cause harmful or offensive contact with Doe 35 and Doe 36, or intended to put them in imminent apprehension of such conduct.

1 175. In doing certain of the things herein alleged, Plaintiff Doe 35 and Plaintiff Doe
2 36 were in imminent apprehension of a harmful or offensive contact by Dr. Heaps and actually
3 believed Dr. Heaps had the ability to make harmful or offensive contact with Plaintiff Doe 35
4 and Plaintiff Doe 36.

5 176. Plaintiff Doe 35 and Plaintiff Doe 36 did not consent to Dr. Heaps' intended
6 harmful or offensive contact, or his intent to put them in imminent apprehension of such
7 contact.

8 177. 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.

11 178. Plaintiff Doe 35 and Plaintiff Doe 36 suffered severe emotional distress and
12 physical injury as a result of Dr. Heaps' misconduct and damages, as otherwise alleged in this
13 complaint.

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

23 180. In doing so the acts alleged herein, Dr. Heaps used the power and authority
24 conferred upon him by Defendant UC Regents to get access to patients such as Plaintiffs. It is
25 predictable and foreseeable, given Defendants' negligent supervision of Dr. Heaps, and failure
26 to put in place — or enforce — safeguards to prevent foreseeable harm to female
27 gynecological patients, that someone in Dr. Heaps' position would abuse the power and
28 authority the UC Regents conferred upon him by engaging in assaultive conduct. As such,

Dr. Heaps' conduct is incident to his agency with the UC Regents, so as to be fairly attributable to them.

181. In doing the things herein alleged, Defendants violated Plaintiff Doe 35 and Plaintiff Doe 36's rights, pursuant to California Civil Code § 43, of protection from bodily restrain or harm, and from personal insult. In doing the things herein alleged, Defendants violated the duty, pursuant to California Civil Code § 1708, to abstain from injuring the persons of Plaintiff Doe 35 and Plaintiff Doe 36 or infringing upon their rights.

182. As a proximate result of the above, Plaintiff Doe 35 and Plaintiff Doe 36 suffered damages as otherwise alleged in this Complaint. As a direct, legal, and proximate result of Dr. Heaps' conduct, Plaintiff Doe 35 and Plaintiff Doe 36 sustained serious and permanent injury to their persons, all of this damage in an amount to be shown according to proof and within the jurisdiction of this Court.

183. Plaintiff Doe 35 and Plaintiff Doe 36 are informed and believe and based thereon allege that the conduct of Dr. Heaps was oppressive, malicious, and despicable in that it was intentional and done in conscious disregard for the rights and safety of others, and was carried out with a conscious disregard for Plaintiffs' right to be free from tortious behavior, such as to constitute oppression, fraud, or malice pursuant to California Civil Code § 3294, entitling Plaintiff Doe 35 and Plaintiff Doe 36 to punitive damages against Dr. Heaps in an amount appropriate to punish and set an example of Dr. Heaps and send a cautionary message to others similarly situated.

FOURTEENTH CAUSE OF ACTION

**(Unfair Business Practices (Business & Professions Code § 17200) by all Plaintiffs
against Defendant Heaps and Roes)**

184. Plaintiffs incorporate Paragraphs 1 through 183 as though fully set forth herein.

185. Plaintiffs are informed and believe, and on that basis allege, that Defendant Heaps has engaged in unlawful, unfair, and/or deceptive business practices, including by engaging in repeated sexual abuse and harassment of patients, including Plaintiffs, and by failing to take all reasonable steps to prevent such sexual abuse and harassment from

1 occurring. The unlawful, unfair, and/or deceptive business practices also included failing to
2 adequately and promptly investigate, vet, and evaluate individuals for employment with
3 UCLA Health and the UC Regents, as well as refusing to design, implement, and oversee
4 appropriate policies regarding sexual harassment and abuse of patients in a reasonable manner,
5 as is customary in similar healthcare and student-active environments. Further, Plaintiffs are
6 informed and believe, and on that basis allege, that Defendants engaged in unlawful, unfair,
7 and/or deceptive business practices by concealing the aforementioned sexual harassment,
8 abuse, and/or molestation in order to retain other patients who were not apprised of such
9 misconduct.

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

17 187. By engaging in the unlawful, unfair, and/or deceptive business practices
18 described above, Defendants benefitted financially to the detriment of competitors and the
19 public.

20 188. Unless restrained, Defendants will continue to engage in the unlawful, unfair,
21 and/or deceptive business practices described above, resulting in irreparable harm to Plaintiffs
22 and the public.

23 189. Plaintiffs seek restitution of all amounts improperly obtained by Defendants
24 through the use of the above-described unlawful, unfair, and/or deceptive business practices,
25 as well as disgorgement of any ill-gotten gains on behalf of Plaintiffs and all others similarly
26 situated.

27 190. Pursuant to Section 17203 of the California Business & Professions Code and
28 available equitable powers of the Court, Plaintiffs are entitled to and seek an injunction

enjoining Defendants from continuing their unlawful, unfair, and/or deceptive business practices. Further, Plaintiffs are entitled to recover reasonable attorneys' fees pursuant to the California Business & Professions Code and California Code of Civil Procedure § 1021.5.

FIFTEENTH CAUSE OF ACTION

(Constructive Fraud by all Plaintiffs against all Defendants)

191. Plaintiffs incorporate Paragraphs 1 through 190 as though fully set forth herein.

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

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

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

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

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

- (a) failing to promptly and thoroughly investigate claims of sexual abuse or harassment against Dr. Heaps;
- (b) failing to disclose to Plaintiffs, UCLA students, and the community at large the reasons for Dr. Heaps' retirement in June 2018;
- (c) issuing no warnings about Dr. Heaps;
- (d) permitting Dr. Heaps to routinely examine gynecological patients either entirely unsupervised or supervised by untrained chaperones who were derelict in their duty to report Dr. Heaps;
- (e) failing to adopt policies that mandated the use of chaperones at all gynecological visits or properly training their chaperones;
- (f) hiring at least one nurse/chaperone with a history of criminality and who, on information and belief, had alcohol and prescription drug addictions during the time in which she was rendering nurse and chaperone services to patients, including Plaintiffs;
- (g) continuing to assign Dr. Heaps to duties which placed him in positions of trust and authority over other patients;
- (h) continuing to impliedly represent that Dr. Heaps was safe and morally fit to give medical care and provide gynecological treatment; and
- (i) continuing to promote Dr. Heaps as a faculty member and trusted physician on the UCLA School of Medicine website even after he had forcibly "retired."

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

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

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

1 such acts were done for the purpose of causing Plaintiffs to forebear on their rights.

2 199. Defendants' conduct did reasonably cause Plaintiffs to forebear on their rights,
3 and Plaintiffs justifiably relied upon Defendants for information about Dr. Heaps.

4 200. The misrepresentations, suppressions, and concealment of facts by Defendants
5 were intended to, and were likely to, mislead Plaintiffs and others to believe that Defendants
6 had no knowledge of any misconduct by Dr. Heaps.

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

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

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

20 204. Plaintiffs were misled by Defendants' suppression and acts of concealment, and,
21 in reliance thereon, were induced to act or not act as intended by Defendants. Specifically,
22 Plaintiffs were induced to believe there were no allegations of prior misconduct against
23 Dr. Heaps and that he was safe to be around patients and students. Had Plaintiffs known the
24 true facts about Dr. Heaps, they would not have seen him for gynecological or other medical
25 care, and they would have acted sooner in reporting him or pursuing their claims.

26 205. As a direct and proximate result of the UC Regents' actions and/or inactions,
27 Plaintiffs have been damaged as more fully set forth above.
28

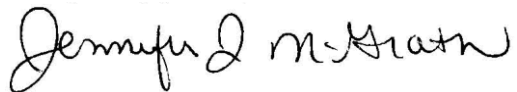
1 **WHEREFORE**, Plaintiffs pray for a jury trial and for judgment against Defendants as
2 follows:

3 **FOR ALL CAUSES OF ACTION**

- 4 1. For compensatory damages, in an amount to be determined at trial;
5 2. For costs of suit;
6 3. For interest based on damages, as well as pre-judgment and post-judgment
7 interest as allowed by law;
8 4. For declaratory and injunctive relief, including but not limited to court
9 supervision of the UC Regents;
10 5. For attorneys' fees as provided by statute;
11 6. For punitive damages as to Dr. Heaps;
12 7. For restitution and disgorgement; and
13 For such other and further relief as the Court may deem proper.

14
15 DATED: December 11, 2019

THEODORA ORINGHER PC

16
17 By: 

Jennifer J. McGrath

Katherine J. Flores

Attorneys for Plaintiffs JANE DOE 35 and
JANE DOE 36

Plaintiffs Jane Doe 35 and Jane Doe 36 hereby demand a trial by jury in this action.

THEODORA ORINGER PC

By: Jennifer L McGrath

Attorneys for Plaintiffs JANE DOE 35 and
JANE DOE 36