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JANE DOE 1 and JANE DOE 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES (UNLIMITED JURISDICTION)

JANE DOE 1; and
JANE DOE 2,

Plaintiffs,

v.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, a California Corporation;
JAMES MASON HEAPS, M.D.;
JAMES HEAPS MEDICAL CORPORATION;
and DOES 1 Through 500, Inclusive,

Defendants.

) Case No. **21STCV08543**

) **COMPLAINT FOR DAMAGES FOR:**

-) 1. SEXUAL ASSAULT;
-) 2. SEXUAL BATTERY (Civ. Code § 1708.5);
-) 3. VIOLATION OF THE UNRUH ACT (Civ. Code § 51);
-) 4. VIOLATION OF THE BANE ACT (Civ. Code Section 52.1);
-) 5. GENDER VIOLENCE (Civ. Code § 52.4);
-) 6. SEXUAL HARASSMENT (Civ. Code §§ 51.9 & 52);
-) 7. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
-) 8. CONSTRUCTIVE FRAUD (Civ. Code § 1573);
-) 9. NEGLIGENCE;
-) 10. NEGLIGENT SUPERVISION;
-) 11. NEGLIGENT HIRING/RETENTION;
-) 12. NEGLIGENT FAILURE TO WARN, TRAIN OR EDUCATE;
-) 13. AIDING AND ABETTING;
-) 14. FRAUDULENT CONCEALMENT;

BY FAX

1) 15. BREACH OF MANDATORY DUTY (Gov't
2) Code § 815.6); and
3) 16. DANGEROUS CONDITION OF PUBLIC
4) PROPERTY
5)
6) **JURY TRIAL DEMANDED**

7 Plaintiffs JANE DOE 1 and JANE DOE 2 hereby submit their Complaint for Damages against
8 Defendants THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, JAMES MASON HEAPS,
9 M.D.; and DOES 1-500, inclusive, and each of them, and allege as follows.

10 **NATURE OF THIS ACTION**

11 1. This action pertains to Dr. James Heaps' ("HEAPS") repeated sexual abuse, assault,
12 battery and harassment of patients that occurred for over three decades while he was a part of University
13 of California, Los Angeles ("UCLA"). Heaps used his position of trust and authority as their
14 gynecologist to sexually violate countless women, including Plaintiffs. The fact he was engaging in
15 inappropriate conduct with patients was known to UCLA. UCLA had facts available that Heaps could
16 not be trusted to behave appropriately with patients. Not only did female doctors at UCLA tell others
17 never to see Heaps in the 1980s, the first California Medical Board investigation of Heaps for sexual
18 misconduct occurred in the 1990s. Yet, HEAPS was allowed unfettered access to patients until 2018,
19 when UCLA allowed him to quietly resign.

20 **PARTIES**

21 2. Defendant THE REGENTS OF THE UNIVERSITY OF CALIFORNIA ("THE
22 REGENTS") is, and at all relevant times was, a public entity (Cal. Gov't Code § 811.2) and a California
23 corporation organized under the laws of the State of California. THE REGENTS serves as the governing
24 board of the University of California and own, operate and control the University of California, including
25 UCLA. THE REGENTS owns, operates and/or controls medical clinics and hospitals that are part of the
26 UCLA Health System ("UCLA MEDICAL FACILITIES"), which include: Ronald Reagan UCLA
27 Medical Center; UCLA Medical Center, Santa Monica; UCLA Mattel Children's Hospital; the Stewart
28 and Lynda Resnick Neuropsychiatric Hospital at UCLA; UCLA Health Clinics; UCLA Faculty Group;
and the David Geffen School of Medicine at UCLA.

1 3. Defendant JAMES MASON HEAPS, M.D. (herein also “HEAPS”) is an individual who
2 was and is at all relevant times herein an obstetrician-gynecologist who saw patients at UCLA
3 MEDICAL FACILITIES between the years 1983 and 2018. HEAPS used his position of trust and
4 authority as a physician to sexually abuse, assault, batter and harass female patients, discriminate against
5 patients and subject patients to other misconduct and activities of a sexual nature, including Plaintiffs (all
6 of which are also collectively referred to as sexual misconduct herein). HEAPS was employed by
7 medical clinics owned and operated by THE REGENTS and UCLA and held privileges at hospitals
8 owned and operated by THE REGENTS and UCLA, at the time that the sexual misconduct occurred. At
9 times and in addition, HEAPS operated through Defendant JAMES HEAPS MEDICAL
10 CORPORATION, a California corporation that was registered with the California Secretary of State from
11 approximately 2000 to 2015.

12 4. Plaintiffs JANE DOE 1 and JANE DOE 2 are two individual women who visited HEAPS
13 for women’s health issues at UCLA MEDICAL FACILITIES. JANE DOE 1 and JANE DOE 2 were and
14 are at all relevant times residents of California.

15 5. While at the UCLA MEDICAL FACILITIES and while HEAPS held privileges at UCLA
16 MEDICAL FACILITIES, HEAPS sexually abused, assaulted, battered and harassed JANE DOE 1 and
17 JANE DOE 2. HEAPS was an employee, agent, representative, servant and/or contractor of THE
18 REGENTS when he sexually abused, assaulted, battered and harassed JANE DOE 1 and JANE DOE 2,
19 and was acting in the course and scope of his authority, agency, service and/or employment for THE
20 REGENTS and UCLA.

21 6. Plaintiffs are informed and believe, and based thereon allege that each Defendant acted
22 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should
23 have known about, and authorized, ratified, adopted, approved, controlled, and aided and abetted the
24 conduct of all other Defendants.

25 7. Defendants and/or DOES 1-500 owned, operated, performed work, controlled activities
26 and/or was otherwise responsible for the acts and omissions set forth herein. Plaintiffs are informed and
27 believe, and thereon allege that each Defendant had a duty to Plaintiffs and is legally responsible in some
28 manner for the events, happenings, omissions and/or occurrences causing damages referred to herein, and

1 legally and proximately caused damage to Plaintiffs. Plaintiffs further allege that each Defendant's
2 failure to act constituted a breach of fiduciary duties; and/or breach of those duties involved intentional
3 misconduct, fraud or a knowing violation of law.

4 8. The true names and capacities, whether individual, corporate, associate, partner or
5 otherwise, of other Defendants named as DOES 1-500 are unknown to Plaintiffs, who therefore sue said
6 Defendants by such fictitious names. Plaintiffs will move to amend this Complaint to substitute their true
7 names and capacities when the same have been ascertained.

8 9. Plaintiffs are unaware of additional bases of liability as to some or all of such fictitious
9 Defendants sued as DOES 1-500, but believes that their liability arises out of the same general facts as set
10 forth herein. Plaintiffs will move to amend this Complaint to assert the theories of liability of said
11 fictitiously named Defendants when they have been ascertained.

12 10. Plaintiffs are informed and believe, and based thereon allege that at all relevant times,
13 each Defendant was the employer, employee, principal, agent, ostensible agent, servant, alter ego,
14 partner, joint venturer, aider and abetter, officer, director, controlling shareholder, subsidiary, affiliate,
15 representative, contractor, parent corporation, successor in interest, and/or predecessor in interest of some
16 or all of all of the other Defendants, and at all relevant times acted within the course and scope of such
17 employment, agency or relationship, and in doing the things alleged herein, did so with the knowledge,
18 permission, consent, authority and/or approval of Co-Defendants, and/or bore such other relationships to
19 some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged
20 herein.

21 **ADDITIONAL AGENCY & ALTER EGO ALLEGATIONS**

22 11. Defendants profited financially from the sexual misconduct. Plaintiffs are informed and
23 believe, and thereon allege that HEAPS had dual motives for his conduct, financial gain from fraudulent
24 overbilling and the opportunity to sexually abuse, assault, batter and harass Plaintiffs and discriminate
25 against them. Defendants protected HEAPS from being exposed as a sexual predator because they
26 profited from his conduct.

27 12. In the alternative to HEAPS being an employee of Defendants at the time Plaintiffs were
28 sexually abused, assaulted, battered and harassed by HEAPS, HEAPS was acting as an apparent or

1 ostensible agent of THE REGENTS, UCLA and DOES 1-500. At all relevant times, HEAPS and THE
2 REGENTS held HEAPS out as a physician who was working for and/or affiliated with THE REGENTS,
3 UCLA and DOES 1-500 and Plaintiffs were led to believe that HEAPS was employed by THE
4 REGENTS, UCLA Health and DOES 1-500, by, among other things (some of which are alleged upon
5 information and belief): (a) UCLA provided HEAPS with an office, insurance, hardware, software,
6 furniture and staff at UCLA MEDICAL FACILITIES; (b) UCLA billed for services HEAPS provided at
7 UCLA MEDICAL FACILITIES; (c) HEAPS was on THE REGENTS/UCLA's payroll; (d) HEAPS used
8 the UCLA emblem and other indicia of his affiliation with UCLA as authorized by UCLA, including on
9 business cards and letterhead; (e) the UCLA Health System Physician Referral Service referred patients
10 to HEAPS for gynecological and oncology care; (f) UCLA physicians referred patients to HEAPS and
11 told patients that he was "part of UCLA" or "with UCLA"; (g) HEAPS was a UCLA consulting
12 physician; (h) HEAPS was a Professor at the David Geffen School of Medicine at UCLA from 1989 to
13 2018; (i) the care patients needed that HEAPS did not provide directly were provide by UCLA and at
14 UCLA MEDICAL FACILITIES, including labs and diagnostic tests; (j) at least as early as 2010, HEAPS
15 had a webpage devoted to him on the UCLA Health website (www.uclahealth.org/jamesheaps) and
16 HEAPS had a UCLA email address; and (k) at least as early as 2010, HEAPS was listed in the UCLA
17 Health System Physician Directory.

18 13. HEAPS was under the direct supervision, management, agency and control of Defendants
19 THE REGENTS and DOES 1-500. HEAPS was an OB/GYN and oncologist hired, employed,
20 supervised, controlled and/or retained by Defendant to practice medicine at UCLA MEDICAL
21 FACILITIES. HEAPS' duties included providing obstetric-gynecological and oncological medical care
22 to the female patients of UCLA Health. With knowledge that HEAPS was in contact with and providing
23 sensitive medical care to vulnerable and naked female patients, THE REGENTS and DOES 1-500 were
24 in a special, confidential, and fiduciary relationship with Plaintiffs, and thus owed Plaintiffs a duty of
25 care.

26 14. Plaintiffs are further informed and believe, and thereon allege that Defendants THE
27 REGENTS and DOES 1-500 are the alter egos of Defendant HEAPS and/or each other. There exists and
28 at all relevant times there existed a unity of interest, ownership, operation and/control between Defendant

1 THE REGENTS, HEAPS and/or DOES 1-500 such that any individuality and separateness between these
2 Defendants have ceased.

3 15. In addition to the direct liability of the Defendants as alleged herein, Defendants are liable
4 for the wrongdoings of and at UCLA MEDICAL FACILITIES because they are the alter egos and mere
5 instrumentalities, agents, conduits and/or adjuncts of each other/co-Defendants.

6 16. Prior to HEAPS being put on THE REGENTS/UCLA's official payroll on or about 2014,
7 Defendant HEAPS' practice was intended to be a mere shell, instrumentality and conduit designed to
8 shield the assets of THE REGENTS and DOES 1-500 from liabilities arising from owning, controlling
9 and/or operating UCLA MEDICAL FACILITIES in which HEAPS practiced. This abuse of the
10 corporate privilege has resulted in numerous poor outcomes to patients, including Plaintiffs.
11 Additionally, Defendants' use of HEAPS' office was nothing more than a veil or shell to further their
12 unjust practice of concealment and misrepresentation of the identity of the responsible ownership,
13 management and financial interest or concealment of personal business activities under *Associated*
14 *Vendors, Inc. v. Oakland Meat Co.* (1962) 210 Cal.App.2d 825, 840. Further, Defendant HEAPS has
15 been undercapitalized as a means of avoiding civil liability for wrongdoing. *See, e.g., Toho-Towa Co.,*
16 *Ltd. v. Morgan Creek Prods., Inc.* (2013) 217 Cal.App.4th 1096, 1110.

17 17. Defendants have acted act as a single entity. There was such a unity of ownership and
18 interest among Defendants that adherence to the fiction of separate existence would sanction a fraud
19 and/or promote injustice. Given the alter ego relationship between and among the Defendants and
20 HEAPS, as a matter of law, each of the acts and omissions attributable to HEAPS, is also legally
21 attributable to Defendants. An abuse of the corporate privilege and the promotion of an injustice will
22 result from recognizing the separate existence of Defendants as distinct persons or entities.

23 **FACTUAL ALLEGATIONS SPECIFIC TO PLAINTIFFS**

24 **A. THE SEXUAL ABUSE, ASSAULT, BATTERY, HARASSMENT OF AND INJURY**
25 **TO JANE DOE 1**

26 18. On or about March 28, 2013, JANE DOE 1 visited HEAPS at one of the UCLA
27 MEDICAL FACILITIES for a gynecology examination, including a pap smear. This was JANE DOE
28 1's first and only visit with HEAPS. HEAPS started the appointment in his office, which was separate

1 from the examination room. After reviewing her medical history and lulling her into a sense of safety,
2 she was led to the examination room.

3 19. A female nurse, medical assistant or chaperone (“the female chaperone”) was present in
4 the examination room and instructed JANE DOE 1 to disrobe completely and put on hospital coverings, a
5 vest that opened in front and a sheet for the waist down. JANE DOE 1 complied.

6 20. The female chaperone was present throughout the examination with HEAPS, but had her
7 back turned and was facing away from JANE DOE 1, and could not see the front of JANE DOE 1 or
8 JANE DOE 1’s pelvic area during the examination.

9 21. HEAPS first touched JANE DOE 1’s breasts during what he was purporting to be a breast
10 examination while JANE DOE 1 was sitting upright on the examination table. Instead of a breast
11 examination that was within the standard for physicians, HEAPS, without gloves, cupped, fondled and
12 groped her breasts. This inappropriate touching was not clinical, was confusing to JANE DOE 1 and
13 made her uncomfortable. He eventually stopped and did not palpate or examine her breasts as a usual
14 gynecologist would do, including performing an examination while she was supine.

15 22. Next, HEAPS performed a pap smear by using a speculum to access her cervix and
16 swabbed her cervix. After removing the speculum, without any warning or consent, HEAPS repeatedly
17 stroked her clitoris and vaginal lips. After stroking her genitals, HEAPS told her that she could get
18 dressed.

19 23. After her horrifying encounter with HEAPS, JANE DOE 1 told an acquaintance that she
20 felt that she had been violated. She was so disturbed that she never contacted HEAPS or UCLA for the
21 results of the lab work, and found another doctor.

22 24. The pap smear and other swabs taken by HEAPS during the examination were processed
23 at Ronald Reagan UCLA Medical Center (757 Westwood Plaza, Los Angeles, CA 90095-8358).

24 25. It was reasonably foreseeable that the tortious acts, omissions and wrongful conduct and
25 breach of their respective duties by Defendants, and each of them, would endanger the safety, health and
26 wellbeing of Plaintiff and cause significant personal injuries and emotional distress.

27 26. As a direct and proximate result of Defendants HEAPS, THE REGENTS and DOES 1-
28 500’s tortious acts, omissions and wrongful conduct and breach of their respective duties, JANE DOE 1

1 has suffered, and continues to suffer personal injuries from the physical and sexual battery, physical
2 injury, weight loss, great pain and suffering of mind and body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, shame, loss of self-esteem, disgrace, humiliation
4 and loss of enjoyment of life. Plaintiff has sustained and continues to incur economic damages, including
5 loss of earnings and loss of earning capacity and expenses for medical treatment and services,
6 medications and related matters, as well as noneconomic damages, the full nature and extent of which are
7 not yet known to Plaintiff, and leave is requested to amend this Complaint to conform to proof at trial.

8 27. As a further direct and proximate result of the personal injuries caused by Defendants, in
9 whole or part, Plaintiff has been generally damaged in a sum in excess of the jurisdictional limits of the
10 Superior Court, Limited Jurisdiction.

11 28. Plaintiff is entitled to prejudgment interest on said damages attributable to an ascertainable
12 economic value pursuant to Civ. Code Section 3288. Plaintiff has lost prejudgment interest pursuant to
13 Civ. Code Section 3291, the exact amount of which Plaintiff prays leave to insert herein when finally
14 ascertained and to confirm to proof at trial. In the event that HEAPS is prosecuted and convicted of a
15 felony for the conduct alleged herein, Plaintiff requests leave to amend the instant Complaint, such that a
16 request for attorneys' fees can be made against HEAPS pursuant C.C.P. Section 1021.4.

17 29. Plaintiff reserves the right to seek leave of court to add punitive damages claims against
18 HEAPS and/or DOES 1-500 for any "professional negligence" claims through duly noticed motion under
19 C.C.P. Section 425.13, to the extent Plaintiff asserts any such claims. Plaintiff also separately reserves
20 the right to seek leave of court through a duly noticed motion to add punitive damages under applicable
21 law and statutes providing for punitive damages for the various other causes of action alleged herein.

22 **B. THE SEXUAL ABUSE, ASSAULT, BATTERY, HARASSMENT OF AND INJURY**
23 **TO JANE DOE 2**

24 30. In or about 1992, JANE DOE 2, a UCLA blood bank employee at the time, visited
25 HEAPS at one of the UCLA MEDICAL FACILITIES for a gynecology examination. This was JANE
26 DOE 2's first and only visit with HEAPS. JANE DOE 2 had also been a student of UCLA extension
27 classes between approximately 1989-1992.

28 31. JANE DOE 2 was placed in an examination room and HEAPS had her disrobe

1 completely. While she was naked, HEAPS touched JANE DOE 2's breasts during what he was
2 purporting to be a breast examination while JANE DOE 2 was sitting upright on the examination table.
3 Without gloves and with both hands, HEAPS cupped, fondled and groped her breasts, telling her that
4 they were "really firm" and they would not be like that forever. This inappropriate touching was not
5 clinical, was confusing to JANE DOE 2 and made her uncomfortable. He eventually stopped and did not
6 palpate or examination her breasts as a usual gynecologist would do.

7 32. Next, HEAPS performed what he was purporting to be a vaginal examination. Without
8 warning and consent inserted his fingers into her vagina in a sexual manner, stroked her genitals and
9 flicked at her partially-intact hymen, while asking "how often are you having sex," and telling her "to get
10 a dildo to use three times a week." HEAPS finally stopped and told her she could get dressed.

11 33. After her horrifying encounter with HEAPS, JANE DOE 2 was so disturbed that she never
12 returned to HEAPS for treatment. She was often reminded of the sexual abuse, assault, battery and
13 harassment and discrimination, and would cringe when she saw HEAPS in the hallways of UCLA
14 MEDICAL FACILITIES while she continued working in the UCLA Blood Bank until she was able to
15 leave that job.

16 34. It was reasonably foreseeable that the tortious acts, omissions and wrongful conduct and
17 breach of their respective duties by Defendants, and each of them, would endanger the safety, health and
18 wellbeing of Plaintiff and cause significant personal injuries and emotional distress.

19 35. As a direct and proximate result of Defendants HEAPS, THE REGENTS and DOES 1-
20 500's tortious acts, omissions and wrongful conduct and breach of their respective duties, JANE DOE 2
21 has suffered, and continues to suffer personal injuries from the physical and sexual battery, physical
22 injury, weight loss, great pain and suffering of mind and body, shock, emotional distress, physical
23 manifestations of emotional distress, embarrassment, shame, loss of self-esteem, disgrace, humiliation
24 and loss of enjoyment of life. Plaintiff has sustained and continues to incur economic damages, including
25 loss of earnings and loss of earning capacity and expenses for medical treatment and services,
26 medications and related matters, as well as noneconomic damages, the full nature and extent of which are
27 not yet known to Plaintiff, and leave is requested to amend this Complaint to conform to proof at trial.

28 36. As a further direct and proximate result of the personal injuries caused by Defendants, in

1 whole or part, Plaintiff has been generally damaged in a sum in excess of the jurisdictional limits of the
2 Superior Court, Limited Jurisdiction.

3 37. Plaintiff is entitled to prejudgment interest on said damages attributable to an ascertainable
4 economic value pursuant to Civ. Code Section 3288. Plaintiff has lost prejudgment interest pursuant to
5 Civ. Code Section 3291, the exact amount of which Plaintiff prays leave to insert herein when finally
6 ascertained and to confirm to proof at trial. In the event that HEAPS is prosecuted and convicted of a
7 felony for the conduct alleged herein, Plaintiff requests leave to amend the instant Complaint, such that a
8 request for attorneys' fees can be made against HEAPS pursuant C.C.P. Section 1021.4.

9 38. Plaintiff reserves the right to seek leave of court to add punitive damages claims against
10 HEAPS and/or DOES 1-500 for any "professional negligence" claims through duly noticed motion under
11 C.C.P. Section 425.13, to the extent Plaintiff asserts any such claims. Plaintiff also separately reserves
12 the right to seek leave of court through a duly noticed motion to add punitive damages under applicable
13 law and statutes providing for punitive damages for the various other causes of action alleged herein.

14 **FACTS COMMON TO ALL CAUSES OF ACTION**

15 39. HEAPS' affiliations with UCLA began in 1983. HEAPS completed his internship and
16 residency in the field of obstetrics and gynecology, and his fellowship in gynecologic oncology, at UCLA
17 School of Medicine from 1983 to 1989. In 1989, HEAPS was appointed Assistant Professor in UCLA's
18 Department of Obstetrics and Gynecology.

19 40. HEAPS worked at UCLA MEDICAL FACILITIES in various capacities from 1983 to
20 June 30, 2010, including, but not limited to, being employed as a gynecologist at the UCLA Student
21 Health Center. HEAPS held medical privileges at UCLA MEDICAL FACILITIES, including Ronald
22 Reagan UCLA Medical Center, from 1986 to 2018. From approximately 1990 to 2014, HEAPS provided
23 OB/GYN treatment as a UCLA-affiliated physician at UCLA MEDICAL FACILITIES. His practice was
24 located at UCLA MEDICAL FACILITIES, including as of 2010, at 100 UCLA Medical Plaza. In
25 February 2014, UCLA fully acquired HEAPS' practice and HEAPS saw patients at UCLA MEDICAL
26 FACILITIES as direct employee of UCLA from on or about February 1, 2014, through June 28, 2018.

27 41. In February 2014, HEAPS was named to the position of Health Sciences Associate
28 Clinical Professor in the Department of Obstetrics and Gynecology at the David Geffen School of

1 Medicine at UCLA. By the late 1980s, HEAPS had already gained a reputation at UCLA for disturbing
2 behavior with patients, including failing to put on gloves before touching their genital areas. In the late
3 1980s, one of HEAPS' patients mentioned him to a female doctor and then-oncology fellow at UCLA,
4 who told the patient: "Never see him. Never."

5 42. Around the same time, a patient of HEAPS, who was a student at UCLA's School of
6 Medicine, mentioned to a friend of hers that she had just had an uncomfortable encounter with her
7 gynecologist in an elevator. Without knowing anything about the gynecologist, the friend, who worked
8 in a laboratory in the same building where HEAPS worked, replied, "Oh, was it Jamie Heaps?"

9 43. In the late 1990's, there was a California Medical Board ("CMB") investigation relating to
10 sexual misconduct with a patient during which the CMB, with the knowledge of at least one of HEAPS'
11 supervisors, visited HEAPS' office and took photographs.

12 44. Michael T. Johnson, M.D., a longtime administrator of the UCLA Health System and its
13 Vice Chair of Clinical Affairs for OBGYN, has known HEAPS since at least 1998. Dr. Johnson was
14 aware that HEAPS routinely acted inappropriately with his patients. He both received patient complaints
15 and witnessed HEAPS' abusive conduct firsthand. Dr. Johnson's supervisory role gave him the ability
16 and obligation to report credible complaints of physician misconduct to the university administration.
17 But as part of a policy of indifference at UCLA to complaints of sexual misconduct against doctors, Dr.
18 Johnson failed to act on complaints about HEAPS to protect patients at UCLA MEDICAL FACILITIES
19 from his misconduct.

20 45. In December 1999, Dr. Johnson received a detailed complaint from a patient reporting
21 HEAPS' actions and statements during a December 14, 1999 examination for pain in her levator muscles.
22 In her letter of complaint, she wrote that HEAPS' "examination of the vagina to be particularly rough,
23 unnecessarily painful and violating," and caused her "constant pain for two days after his examination."
24 Additionally, the patient complained that during his examination, HEAPS had made multiple
25 "inappropriate, disturbing and embarrassing" comments while she was "undressed from the waist down"
26 including unsolicited inquiries as to whether she had a boyfriend and why she did not have one. HEAPS
27 even suggested that the patient should treat her condition by visiting "the 'Pleasure Chest' on Santa
28 Monica Blvd and purchas[ing] a 'dildo.'" The patient wrote that HEAPS "then instructed me to insert

1 the ‘dildo’ into my vagina for thirty minutes each day. He told me not to turn on the vibrator part and to
2 make sure I did not squeeze the ‘dildo’ with my levator muscles. He also said, ‘don’t forget to lubricate
3 it.’” HEAPS then held up “various cylinder-shaped objects in the examination room to give me an idea
4 of the ideal size of ‘dildo’ to purchase.”

5 46. Despite the detailed allegations stated in this letter, Dr. Johnson never responded, and
6 HEAPS continued to treat women at UCLA MEDICAL FACILITIES.

7 47. In 2004, a breast cancer patient who saw HEAPS for a checkup complained to her regular
8 doctor that he had rubbed her clitoris, smelled her vagina, and told her that she smelled nice. The doctor
9 responded that the patient wasn’t the only who had concerns about HEAPS.

10 48. In 2006, another patient filed a complaint against HEAPS with UCLA, but never heard
11 back.

12 49. In 2013, after being referred to HEAPS by Stephen Ross, M.D., a doctor at UCLA
13 MEDICAL FACILITIES, a patient complained to Dr. Ross that HEAPS had fondled her breasts and
14 acted in other inappropriate ways during her examination. Dr. Ross told her that another patient of his
15 had also complained about HEAPS acting in an offensive manner.

16 50. In early 2014, a breast cancer patient informed UCLA Health System that she was
17 “completely shocked and embarrassed” by HEAPS’ inappropriate sexual contact and comments during a
18 medical appointment, and that she had filed a complaint with the CMB. UCLA later informed this
19 woman that it had “thoroughly reviewed and investigated” her allegations. To the contrary, UCLA never
20 interviewed the patient in connection with her complaint. UCLA also refused to provide further
21 information, did not take responsibility for what had occurred, and failed to explain what, if anything, the
22 university had done in response to her complaint.

23 51. UCLA’s refusal to inform this patient of the results of the investigation, if any, that it
24 conducted into her 2014 complaint, violated its sexual misconduct policy. That policy mandated that
25 “the complainant shall be informed if there were findings made that the Policy was or was not violated
26 and of actions taken to resolve the complaint, if any.” In addition, THE REGENTS’ own Code of
27 Conduct mandates that “the University of California will respond promptly and effectively to reports of
28 sexual violence, sexual harassment, retaliation and other prohibited behavior.” In direct contravention of

1 their own Codes, THE REGENTS failed to investigate, address and correct a sexually abusive
2 environment with HEAPS and at UCLA MEDICAL FACILITIES, and actively concealed HEAPS'
3 sexually abusive behavior for decades, thereby exposing Plaintiffs to HEAPS' sexual misconduct.

4 52. During an investigation into a 2017 complaint against HEAPS for inappropriate conduct
5 during a gynecology exam, Dr. Johnson said that "nobody would be surprised by allegations" against
6 HEAPS because it was well known that "Heaps goes right up against the line/boundary of
7 appropriateness." D. Johnson further admitted that "what [Heaps] does would make him uncomfortable
8 as a patient." In the early 2000s, Dr. Johnson became so "uncomfortable with how [Heaps] was
9 conducting" a patient's examination that "he stopped referring his patients" to HEAPS.

10 53. Dr. Johnson recalled that sometime between 1997 and 2000, investigators from the CMB
11 investigated HEAPS "for being inappropriate with a patient." Dr. Johnson had also heard from multiple
12 patients "who have shared feedback that [Heaps] is creepy. . . ." A UCLA MEDICAL FACILITIES'
13 staff member in the Labor and Delivery department told Dr. Johnson that while she was a patient of
14 HEAPS, he stroked her thigh during examinations.

15 54. Other members of the UCLA Health System knew of HEAPS' misconduct. One
16 acknowledged in 2018 that HEAPS "lacks boundaries" and, when asked if she had ever witnessed or
17 heard of any inappropriate behavior by HEAPS, said that his "eyes tend to, 'linger too long or drop to the
18 chest area.'" In 2016, one reported to Dr Johnson and the interim Chair of the OB/GYN department,
19 Andrea Rapkin, M.D., that HEAPS had violated department policy when he examined a pregnant clinic
20 employee. Another experienced HEAPS' behavior firsthand in August or September 2014, when
21 HEAPS made a comment towards her "that made her feel uncomfortable;" he remarked that her "body
22 looks great" while he "gestur[ed] with his arms and hands like he was framing her body with his hands"
23 and "made her feel like he was undressing her." She reported the incident to Bonnie Jacobson, the
24 UCLA Health System's Chief Administrative Officer at the time and Jacobsen met with Dr. Johnson, but
25 Dr. Johnson "did not do anything about what was shared," "did not report it to the Title IX Officer" or
26 the department chair, and did not "address it in anyway [sic] with Dr. Heaps."

27 55. In August 2014, Dr. Johnson completed a UC Sexual Violence and Sexual Harassment
28 Prevention Training for Supervisors and Faculty, which included material on responding to sexual

1 harassment claims and the supervisor’s obligation to report such claims “to the appropriate office
2 immediately.” Nevertheless, in January 2018, when asked why he did not take any action after the
3 complaint against HEAPS, Johnson was of “the opinion that he was not responsible for taking any steps
4 whatsoever to respond to or report” a “clear allegation of sexual harassment.” The Title IX report
5 thereafter found that Dr. Johnson had violated university policy on reporting incidents of sexual
6 harassment.

7 56. Despite knowing about HEAPS’ sexual misconduct, in 2014, Dr. Johnson recommended
8 HEAPS for a UCLA professorship when HEAPS was under consideration for appointment as a Health
9 Services Associate Clinical Professor. In 2016, Dr. Johnson wrote a letter “strongly support[ing]”
10 HEAPS’ appointment to a professorship, describing him as someone who “understands the importance of
11 excellent communication and empathy with his patients.”

12 57. That year, 2016, HEAPS was paid one of the highest salaries of any UC system employee
13 and, on information and belief, in other years during his UCLA tenure such as 2015 and 2017. THE
14 REGENTS received a direct and substantial financial benefit from retaining HEAPS and by offering his
15 services to UCLA Health’s female patients, at the expense of those women. THE REGENTS also
16 benefitted financially from concealing the complaints of sexual misconduct against HEAPS because
17 concealing them protected UCLA Health 's reputation and financial affairs.

18 58. In addition, Plaintiffs are informed and believe, and on thereon allege that HEAPS openly
19 sexually harassed and assaulted several female nurses and medical assistants who worked at UCLA
20 MEDICAL FACILITIES, and that UCLA Health had received complaints from such female staff
21 regarding the sexual harassment and assault. Defendants THE REGENTS and DOES 1-500 knew or
22 should have known of this sexually abusive environment for staff and patients, including Plaintiffs.
23 Defendants knew or should have known that the sexually abusive environment rendered any "safeguards"
24 involving nurses/medical assistants/chaperones ineffective and meaningless. Defendants knew or should
25 have known that nurses/medical assistants/chaperones could not and did not protect patients (including
26 JANE DOE 1) from HEAPS in the sexually-abusive environment. Despite all this knowledge,
27 Defendants did not put in place any additional safeguards to prevent foreseeable harm to female
28 gynecological patients, including imposition of a policy providing for the mandatory presence of an

1 independent and appropriately trained chaperone, to prevent, deter, and report any misconduct in the
2 context of gynecological examinations and procedures. Defendants also did not adequately to train their
3 employees, agents, representatives, servants and/or contractors in how to recognize and report any
4 misconduct.

5 59. No one at UCLA Health informed the UCLA's Title IX office of the 2014 Complaint
6 against HEAPS or any of the other complaints prior to 2017. The Title IX office only learned of the 2014
7 complaint, and of another complaint from 2015 against HEAPS, in the course of a 2017 investigation into
8 similar allegations of misconduct. The Title IX office found that HEAPS had sexually assaulted and
9 harassed a gynecological patient in 2019, nearly two years after the investigation began. THE
10 REGENTS waited nearly two years to let the victim and the public know that they agreed HEAPS had
11 sexually assaulted and harassed her. In delaying the release of their findings, THE REGENTS and
12 UCLA's continued their long-standing cover-up of HEAPS' egregious sexual misconduct – and THE
13 REGENTS' own malfeasance.

14 60. Hundreds of women have now come forward to report inappropriate sexual misconduct by
15 HEAPS and THE REGENTS/UCLA have paid over \$3 million in individual settlements relating to
16 HEAPS' conduct. In June 2018, without disclosing the results of its investigation that found HEAPS
17 violated university policy on sexual violence, UCLA allowed HEAPS to quietly resign. This was done in
18 a deliberate attempt to conceal from Plaintiffs and the public that HEAPS was a sexual predator in an
19 effort to avoid criminal consequences, civil liability and irreparable harm to UCLA's reputation. THE
20 REGENTS and UCLA Health's deliberate and fraudulent concealment includes allowing HEAPS to
21 quietly resign in June 2018, after its own internal investigation found that HEAPS had committed sexual
22 assault and harassment against female patients.

23 61. In June 2018, UCLA finally notified law enforcement of HEAPS' misconduct. Before
24 then, despite notice spanning decades, THE REGENTS never once reported HEAPS' sexual misconduct
25 to law enforcement or the CMB.

26 62. HEAPS was arrested on June 10, 2019 and charged with multiple counts of sexual battery
27 and one count of sexual exploitation of a patient. Only after HEAPS' arrest did UCLA issue a statement:
28 "We are deeply sorry that a former member of our staff violated our policies and standards, our trust, and

1 the trust of his patients. . . . [W]e know we can and must do better”¹ In that statement, UCLA
2 publicly acknowledged that it had investigated HEAPS in 2018 “for sexual misconduct and improper
3 billing practices.” Those improper billing practices included overbilling patients and their insurers, both
4 private and public.

5 63. At all times that HEAPS was an employee, agent, representative, servant and/or contractor
6 of THE REGENTS and UCLA, Defendants held HEAPS out to be a trustworthy, safe and legitimate
7 OB/GYN and oncologist. In making this false representation, THE REGENTS and UCLA concealed the
8 numerous complaints by female patients. Throughout HEAPS’ decades of sexual misconduct of female
9 patients, Defendants represented and promoted the UCLA MEDICAL FACILITIES as a trustworthy and
10 safe place for patients, like Plaintiffs.

11 64. UCLA Health’s website claims: “For more than 60 years, UCLA Health has provided the
12 best in health care and the latest in medical technology to the people of Los Angeles and throughout the
13 world;” and UCLA Health’s reported mission is “to deliver leading-edge patient care, research and
14 education,” and vision is “to heal humankind, one patient at a time, by improving health, alleviating
15 suffering and delivering acts of kindness.”²

16 65. By employing, referring, enabling and allowing HEAPS to treat female patients at UCLA
17 MEDICAL FACILITIES, THE REGENTS and DOES 1-500 represented to UCLA Health patients,
18 including Plaintiffs, and the public, that HEAPS was safe and trustworthy, even during intimate
19 examinations. Defendants did so in order to preserve UCLA’s public image and reputation, so they could
20 retain patients and recruit new patients, thus allowing payments, donations and other financial support for
21 their financial gain – even while HEAPS was under investigation towards the end of his tenure with
22 UCLA.

23 66. Instead of removing HEAPS while he was under investigation, which was allowed under
24 UC policy, THE REGENTS and DOES 1-500 allowed and encouraged him continue to treat female
25 patients that were unaware HEAPS was a sexual predator. Defendants abrogated patient safety and
26 exposed patients to sexual misconduct. In 2018, UCLA received another complaint from a patient that

27 ¹See <https://www.uclahealth.org/statement-regarding-the-charges-against-dr-james-heaps> (last visited
28 January 2, 2021).

²See www.uclahealth.org/about-us (last visited January 2, 2021).

1 HEAPS sexually assaulted her during a gynecological examination on February 28, 2018.

2 67. A public records request in July 2019 revealed that UCLA had agreed to a confidential
3 \$2.25 million settlement with a former HEAPS' patient alleging sexual misconduct. The Daily Bruin
4 reported that UCLA wanted to "keep things confidential" to avoid a "blow up like what happened to
5 USC" with the Tyndall controversy.

6 68. At all relevant times, a special relationship existed between Defendants, on the one hand,
7 and Plaintiffs, on the other hand, and Defendants stood in the position of a fiduciary toward Plaintiffs by
8 virtue of the relationship that arose, the superior knowledge that the Defendants possessed with respect to
9 standards of care and with respect to allegations against HEAPS, and Plaintiffs' dependence upon the
10 Defendants for information regarding services.

11 69. Plaintiffs are further informed and believe, and thereon allege that because of the
12 relationship between Plaintiffs and Defendants, Defendants had an obligation and duty under the law not
13 to hide material facts and information about HEAPS' sexual misconduct and/or unfitness to provide
14 gynecological and obstetrics care. Defendants failed to fulfill their fiduciary duty to disclose HEAPS'
15 wrongful actions. Additionally, Defendants had an affirmative duty to warn, inform, and institute
16 appropriate protective measures to safeguard patients who were reasonably likely to come in contact with
17 HEAPS. Defendants willfully refused to notify, give adequate warning, or implement appropriate
18 safeguards, and that failure was willful, intentional, and in reckless disregard for Plaintiffs' rights and
19 safety. That failure was the product of Defendants' selfish desire to promote or preserve their own
20 reputations and revenues generated without regard for Plaintiffs' rights, choices and safety.

21 70. Plaintiffs are informed and believe, and thereon allege that Defendants failed to
22 adequately train and supervise all staff to create a positive and safe environment, specifically including
23 training to perceive, report, and stop inappropriate sexual misconduct, including sexual abuse, assault,
24 battery, harassment and discrimination. Plaintiffs are informed and believe, and thereon allege that
25 Defendants failed to adopt and implement safety measures, policies, and procedures designed to protect
26 patients such as Plaintiffs.

27 71. Among others as set forth herein, Defendants had a duty to ensure that physicians
28 employed by or affiliated with UCLA, such as HEAPS, used their positions in a manner consistent with

1 the standard of care, and did not abuse and harass patients. Defendants abrogated this duty; and
2 Defendants had a duty to prevent and correct a sexually harassing and abusive environment. THE
3 REGENTS violated its students, patients and other employees' trust by knowingly exposing them to
4 HEAPS during medical treatments, knowing that inappropriate physical contact and other harassment
5 would likely occur. Defendants actively and deliberately concealed HEAPS' sexual misconduct for
6 years, continuing to grant HEAPS unfettered access to female patients in order to protect UCLA's
7 reputation and finances.

8 72. Defendants are liable for the harm to Plaintiffs resulting from the conduct of HEAPS
9 because Defendants knew and should have known of HEAPS' unfitness and sexual propensities prior to
10 the abuse, assaults, batteries and harassment on Plaintiffs and at the time of his placement at UCLA
11 MEDICAL FACILITIES and his hiring, repeated promotions and retentions. Defendants failed to
12 conduct any adequate background and/or reference checks in making the determinations to place, hire,
13 promote and retain HEAPS. Defendants are liable for the acts and omissions of co-Defendants under the
14 theories of respondeat superior, vicarious liability, master-servant, agency, right of control and/or
15 ratification.

16 73. Defendants owed a duty to female patients, including Plaintiffs, to provide a reasonably
17 safe environment for them and to provide reasonably necessary supervision and oversight for their safety
18 and welfare while at UCLA MEDICAL FACILITIES. Defendants failed to fulfill this legal duty.

19 74. Defendants did not institute basic protections in order to prevent sexual misconduct to
20 patients, including having independent, qualified, and trained chaperones present during examinations
21 and/or, if any such protocols were in place, their employees, agents, representatives, servants and/or
22 contractors did not follow such protocols. Nor, did they train or supervise their employees, agents,
23 representatives, servants and/or contractors so as to make them aware of how to intervene should any
24 medically unnecessary or inappropriate conduct occur, nor how to report such misconduct. As stated
25 above, even though the abuse inflicted upon JANE DOE 1 was in the presence of a female chaperone, the
26 chaperone did not act to stop the incidents or report the incidents to authorities.

27 75. Defendants breached their duties to Plaintiffs and other women by keeping HEAPS as
28 employee, agent, representative, servant and/or contractor and/or allowing him access to women at

1 UCLA MEDICAL FACILITIES. Defendants allowed HEAPS to continue to examine naked and
2 vulnerable female patients despite a history of knowledge of complaints of misconduct set forth herein.
3 All of this was despite receiving and suppressing numerous complaints about his inappropriate behavior
4 and that he could not be trusted to behave appropriately with patients going back decades. As part of a
5 policy of indifference to sexual misconduct complaints against physicians in the UCLA Health System
6 and at UCLA MEDICAL FACILITIES, Defendants failed to investigate or adequately investigate
7 complaints about HEAPS' conduct, and failed to terminate or suspend him during or after those
8 investigations and complaints. Defendants knew of the probability that he would harm female patients
9 with whom he came into contact, including Plaintiffs. Through Defendants' failure to timely reprimand
10 and in sanctioning the acts referenced herein, and for all of the other reasons set forth in this Complaint
11 including, without limitation, their failure to take the steps necessary to prevent the occurrence of such
12 reprehensible acts, both internally and by failing to report to law enforcement and the CMB, Defendants
13 ratified said actions and, accordingly, are liable for the actions of HEAPS. All of their conduct shows
14 that Defendants ratified HEAPS conduct over and over again.

15 76. Upon learning of each complaint of sexual misconduct, Defendants THE REGENTS and
16 DOES 1-500 had a mandatory duty to immediately report the misconduct involving assaults and batteries
17 to a local law enforcement agency, including, but not limited to, under Cal. Pen. Code Section 11160.

18 77. Plaintiffs are informed and believe, and on that basis allege that as part of Defendants'
19 conspiratorial and fraudulent attempt to hide HEAPS' propensity for sexual misconduct and his prior
20 sexual misconduct with patients from public scrutiny and criminal investigation, Defendants
21 implemented various measures designed to make HEAPS' conduct harder to detect and ensure that other
22 patients with whom he came into contact, including Plaintiffs, would be harmed, including:

- 23 a. Permitting HEAPS to remain in a position of authority and trust after Defendants knew or
24 should have known of his sexual misconduct on female patients;
- 25 b. Placing HEAPS in a separate and secluded environment at UCLA MEDICAL FACILITIES,
26 which granted him unfettered access and control over patients even when he was purporting to
27 conduct extremely sensitive gynecological and/or oncological treatment, thereby allowing
28 HEAPS to physically interact with, and gain sexual access to, female patients at UCLA

1 MEDICAL FACILITIES, including Plaintiffs;

2 c. Failing to disclose and actively concealing HEAPS' prior record of sexual misconduct and his
3 propensity to commit such acts towards patients from their patients, the public and law
4 enforcement, thereby enabling Plaintiffs to be endangered and harmed and/or creating the
5 circumstance where Plaintiffs and others were less likely to receive proper medical treatment, thus
6 exacerbating the harm to Plaintiffs;

7 d. Allowing HEAPS to have unfettered and uncontrolled access to female patients, including
8 PLAINTIFF;

9 e. Holding out HEAPS to Plaintiffs and patients at UCLA MEDICAL FACILITIES, the students
10 and alumni of the UCLA community and the public as a trustworthy and honest person of high
11 ethical and moral repute who was capable and worthy of being granted unsupervised access to
12 patients;

13 f. Failing to investigate or otherwise confirm or deny such facts about HEAPS, including prior
14 complaints, claims and investigations for sexual misconduct;

15 g. Failing to promptly disclose to UCLA students, the public and Plaintiffs the true reasons for
16 HEAPS' "retirement" in June 2018, including continuing to promote HEAPS as a faculty member
17 and trusted physician on the UCLA Health website and UCLA School of Medicine website even
18 after he had forcibly "retired"; and holding out that he was in good standing and trustworthy;

19 h. Cloaking HEAPS' prior sexual misconduct with patients within the facade of normalcy,
20 thereby disguising the nature of his sexual misconduct with female patients;

21 i. Failing to take reasonable steps to prevent and correct a sexually abusive environment and to
22 implement reasonable safeguards to avoid acts of unlawful sexual conduct by HEAPS, such as
23 avoiding placement of HEAPS in functions or environments in which his intimate contact with
24 female patients was inherent; and

25 j. Failing to put in place a system or procedure to supervise or monitor physicians, chaperones,
26 and agents to ensure they do not molest or abuse patients in Defendants' care or at UCLA
27 MEDICAL FACILITIES, and that they further report all reasonable suspicions of sexual assault
28 and battery to law enforcement pursuant to Cal. Pen. Code Section 11160.

1 78. By and through HEAPS' positions and affiliation with Defendants, Defendants and
2 HEAPS demanded and required that Plaintiffs respect HEAPS as a gynecological physician for
3 Defendants and at UCLA MEDICAL FACILITIES.

4 79. By and through HEAPS' positions and affiliations with the Defendants, HEAPS attained
5 position of influence and authority over Plaintiffs and other vulnerable female patients. Defendants'
6 conduct created a situation of peril that was not, and could not, be appreciated by Plaintiffs. By virtue of
7 Defendants' conspiratorial and fraudulent conduct, and in keeping with their intent to fail to disclose and
8 hide HEAPS' past and ongoing conduct from patients, the UCLA community, the public and law
9 enforcement, Defendants allowed HEAPS to remain in a position of influence where his unsupervised or
10 negligently supervised conduct with patients made injury of those individuals, including Plaintiffs,
11 possible.

12 80. The sexual harassment and abuse of Plaintiffs by HEAPS, as described above, took place
13 while HEAPS was a gynecological physician employed, retained and/or supervised at UCLA MEDICAL
14 FACILITIES, while he was serving as an actual and/or apparent employee, agent, representative, servant
15 and/or contractor of Defendants in his capacity as a physician, faculty member and staff, and while he
16 had privileges at UCLA MEDICAL FACILITIES. HEAPS used the guise of gynecological care and
17 treatment to normalize intimate, inappropriate, and sexually abusive contact with Plaintiffs. Plaintiffs are
18 informed and believe, and on that basis allege that such conduct by HEAPS was based upon their gender
19 and was done for his sexual gratification.

20 81. As a result of Defendants' acts and omissions, Plaintiffs were sexually abused, assaulted,
21 battered and harassed by HEAPS, who exploited his position, to violate innocent and unsuspecting
22 women such as Plaintiffs.

STATUTE OF LIMITATIONS

24 82. Plaintiffs' complaint is timely under C.C.P. § 340.16. Section 340.16, effective January 1,
25 2021, provides a one-year window to bring claims arising from the wrongful conduct alleged herein.
26 Section 340.16(d)(1) provides:

27 Notwithstanding any other law, any claim seeking to recover damages arising out of a sexual
28 assault or other inappropriate contact, communication, or activity of a sexual nature by a
physician while employed by a medical clinic owned and operated by the University of

1 California, Los Angeles, or a physician who held active privileges at a hospital owned and
2 operated by the University of California, Los Angeles, at the time that the sexual assault or other
3 inappropriate contact, communication, or activity of a sexual nature occurred, between January 1,
4 1983, and January 1, 2019, that would otherwise be barred before January 1, 2021, solely because
5 the applicable statute of limitations has or had expired, is hereby revived, and a cause of action
6 may proceed if already pending in court on January 1, 2021, or, if not filed by that date, may be
7 commenced between January 1, 2021, and December 31, 2021.

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13 **JURISDICTION AND VENUE**

14 83. This Court has jurisdiction over this action pursuant to C.C.P. § 410.10. Plaintiffs seek
15 damages under the statutory and common law of the State of California.

16 84. Venue is proper in this Court pursuant to California Code of Civil Procedure § 395
17 because (a) some of the acts and transactions described herein occurred within this county; and (b) some
18 Defendants are or were registered to do business in the State of California and/or are or were doing
19 business within this county.

20
21
22 **FIRST CAUSE OF ACTION FOR SEXUAL ASSAULT**

23 **Against All Defendants**

24 85. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
25 paragraphs as though fully set forth herein.

26 86. HEAPS, in doing the things herein alleged, including intending to subject Plaintiffs to
27 sexual abuse, assault, battery and harassment during Plaintiffs' time as a patient of HEAPS and UCLA
28 MEDICAL FACILITIES, THE REGENTS and DOES 1-500, all while HEAPS was acting in the course
and scope of his employment, agency and relationship with Defendants, and each of them and were
intended to cause harmful or offensive contact with Plaintiffs' person, or intended to put Plaintiffs in
imminent apprehension of such contact.

87. In doing the things herein alleged, Plaintiffs were put in imminent apprehension of
harmful or offensive contact by HEAPS and actually believed HEAPS had the ability to make harmful or
offensive contact with Plaintiffs' person.

88. Plaintiffs did not consent to HEAPS' intended harmful or offensive contact with
Plaintiffs' person, or intent to put Plaintiffs in imminent apprehension of such contact.

89. Defendants are vicariously liable for the conduct alleged herein because, even though they

1 knew of these pervasive, illegal, and inappropriate activities by HEAPS, Defendants did nothing to
2 adequately investigate, supervise, or monitor HEAPS to ensure the safety of the patients in his charge and
3 at UCLA MEDICAL FACILITIES. Nor did Defendants have and enforce adequate safeguards to
4 prevent foreseeable harm to female gynecological patients, including imposition of a policy providing for
5 the mandatory presence of a properly-trained independent chaperone, to prevent, deter and report any
6 misconduct in the context of gynecological examinations and procedures. Defendants failed to
7 adequately train their employees, agents, representatives, servants and/or contractors in how to recognize
8 and report any sexual abuse, assault, battery or harassment. Instead, Defendants allowed HEAPS to
9 continue to perform gynecological examinations of female patients despite knowledge that he had
10 committed battery and sexual abuse, assault, battery and harassment in the past.

11 90. In doing the acts alleged herein, HEAPS used the power and authority conferred upon him
12 by Defendants to get access to patients such as Plaintiffs. It is predictable and foreseeable, given
13 Defendants' knowledge of HEAPS' prior misconduct and their negligent supervision of HEAPS, and
14 failure to have and enforce adequate safeguards to prevent foreseeable harm to female gynecological
15 patients, that someone in HEAPS' position would abuse the power and authority Defendants conferred
16 upon him by engaging in assaultive conduct. As such, HEAPS' conduct is incident to his employment
17 agency and relationship with Defendants so as to be fairly attributable to them.

18 91. In doing the things herein alleged, HEAPS violated Plaintiffs' rights of protection from
19 bodily restraint or harm, and from personal insult pursuant to Civ. Code Section 43. In doing the things
20 alleged herein, HEAPS violated his duty, pursuant to Civ. Code Section 1708, to abstain from injuring
21 the person of Plaintiffs or infringing upon their rights.

22 92. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
23 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
24 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
25 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
26 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
27 injuries and damages as set forth herein.

28 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

1 had committed sexual abuse, assault, battery and harassment in the past.

2 97. In doing the acts alleged herein, HEAPS used the power and authority conferred upon him
3 by Defendants to get access to patients such as Plaintiffs. It is predictable and foreseeable, given
4 Defendants' knowledge of HEAPS' prior misconduct and their negligent supervision of HEAPS, and
5 failure to have and enforce adequate safeguards to prevent foreseeable harm to female gynecological
6 patients, that someone in HEAPS' position would abuse the power and authority Defendants conferred
7 upon him by engaging in assaultive conduct. As such, HEAPS' conduct is incident to his employment
8 agency and relationship with Defendants so as to be fairly attributable to them.

9 98. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
10 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
11 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
12 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
13 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
14 injuries and damages as set forth herein.

15 99. Plaintiffs have been required to expend attorney fees to pursue their rights under Civ.
16 Code Section 1708.5, and request that they be awarded all attorney fees and costs reasonably required to
17 pursue their claims pursuant to Section 1708.5.

18 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

19 **THIRD CAUSE OF ACTION FOR VIOLATION OF THE UNRUH ACT**

20 **(CIV. CODE § 51, ET SEQ.)**

21 **Against All Defendants**

22 100. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
23 paragraphs as though fully set forth herein.

24 101. Plaintiffs had a right to be free from sexual orientation and gender discrimination, sexual
25 abuse, assault, battery and harassment under the Unruh Civil Rights Act. Plaintiffs' civil rights were
26 violated when Defendants, through their employees, agents, representatives, servants and/or contractors,
27 intentionally concealed complaints of sexual misconduct by HEAPS from Plaintiffs.

28 102. Defendants were acting under the color of their authority and in the scope of their

1 employment, agency (whether actual or apparent/ostensive) or relationship during the instances when
2 Plaintiffs were patients of HEAPS and at UCLA MEDICAL FACILITIES.

3 103. Defendants denied Plaintiffs full and equal advantages, facilities, privileges, and health
4 care services because of their sexual orientation and/or gender by allowing HEAPS unfettered access to
5 sexually abuse, harass, and discriminate against Plaintiffs by and through his position of authority at as
6 physician employed at UCLA MEDICAL FACILITIES and by actively ignoring and concealing from
7 Plaintiffs their knowledge that HEAPS was discriminatory and a sexual predator.

8 104. By employing and retaining HEAPS at UCLA MEDICAL FACILITIES, despite their
9 knowledge of HEAPS' abusive and discriminatory behavior, Defendants granted HEAPS unfettered
10 access to their female patients, thereby exposing Plaintiffs to HEAPS' sexual abuse and discrimination.
11 Thus, Defendants' retention of HEAPS denied Plaintiffs, and all of HEAPS' female patients, of full and
12 equal access to safe medical facilities, treatment, and services based upon their gender.

13 105. The substantial motivating reason for Defendants' conduct, including of actively ignoring
14 and actively concealing reports and complaints of HEAPS' misconduct, was Plaintiffs' gender, as
15 Defendants knew that patients would seek sexual health treatment from HEAPS and would be
16 unwittingly subjected to his sexual misconduct.

17 106. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
18 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
19 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
20 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
21 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
22 injuries and damages as set forth herein.

23 107. As a further direct and proximate result of Defendants' wrongful actions as alleged herein,
24 Plaintiffs are entitled to damages as set forth in Civ. Code § 52(a), including statutory, special and
25 general damages to be determined by a jury, treble damages, and attorneys' fees as may be determined by
26 the Court.

27 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

28 ///

1 **FOURTH CAUSE OF ACTION FOR VIOLATION OF THE BANE ACT (CIV. CODE § 52.1)**

2 **Against All Defendants**

3 108. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
4 paragraphs as though fully set forth herein.

5 109. Defendants' actions as alleged herein have and will continue to interfere with Plaintiffs'
6 right to be free from gender discrimination in the form of sexual harassment under an educational
7 program or activity receiving federal assistance, codified under 20 U.S.C., § 1681. Plaintiffs further had
8 a right to have THE REGENTS respond immediately and investigate their sexual abuse, assault, battery
9 and harassment, and discrimination by HEAPS.

10 110. During Plaintiffs' time as a patient at UCLA MEDICAL FACILITIES, Defendants
11 engaged in oppressive and unlawful tactics in ignoring, concealing, and ultimately suppressing Plaintiffs'
12 complaints of being sexually abused, harassed and discriminated against by HEAPS. Plaintiffs were
13 threatened, intimidated and coerced from reporting HEAPS' abusive conduct by HEAPS' own
14 intimidating and humiliating conduct as well as the conspiratorial silence and inaction of THE
15 REGENTS, including UCLA nurses, medical assistants and chaperones. These intentional acts of
16 concealment of HEAPS' abusive behavior violated the Plaintiffs' right to be free from discrimination on
17 the basis of gender.

18 111. Plaintiffs were deprived of due process of the law when various complaints to UCLA and
19 Defendants' employees, agents, representatives, servants and/or contractors failed to trigger any report,
20 investigation, or other action by Defendants, who was required to do so under their own policies and
21 procedures, as well as under Federal mandate, Title IX and the Fourteenth Amendment. These actions
22 were also contrary to Plaintiffs' civil rights guaranteed under the Constitution of the State of California.

23 112. Defendants' wrongful conduct was intended to, and did successfully interfere with,
24 Plaintiffs' Constitutional rights to be free from gender discrimination and harassment as well as
25 interfered with their due process rights under the United States Constitution, specifically the Fifth and
26 Fourteenth Amendments.

27 113. Defendants unlawfully and wrongfully used or employed others to wrongfully use threats,
28 intimidation, harassment, violence and coercion over Plaintiffs' persons, to which Plaintiffs had no relief

1 except to submit to Defendants' wrongful threats, intimidations, harassment, violence and coercion,
2 which rendered Plaintiffs' submission involuntary.

3 114. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
4 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
5 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
6 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
7 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
8 injuries and damages as set forth herein.

9 115. Plaintiffs are further entitled to attorney's fees and other relief pursuant to Civ. Code
10 Sections 52 and 52.1. In subjecting Plaintiffs to the wrongful treatment described herein, Defendants
11 acted willfully and maliciously with the intent to harm Plaintiffs, and in conscious disregard of Plaintiffs'
12 rights, entitling Plaintiffs to compensatory damages in a sum to be shown according to proof, emotional
13 distress damages in a sum to be shown according to proof, attorney's fees, other damages pursuant to
14 Civ. Code Section 52(b)(1), and a temporary restraining order or a preliminary or permanent injunction
15 ordering Defendants to refrain from conduct or activities alleged herein, and such other relief as the court
16 deems proper.

17 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

18 **FIFTH CAUSE OF ACTION FOR GENDER VIOLENCE (CIV. CODE § 52.4)**

19 **Against All Defendants**

20 116. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
21 paragraphs as though fully set forth herein.

22 117. HEAPS committed violent acts against Plaintiffs, and/or intentionally threatened violence
23 against Plaintiff as described above, whether or not Defendants actually intended to carry out the threat.
24 HEAPS' acts committed against Plaintiffs, including the sexual abuse, assault, battery and harassment,
25 constitute gender violence and a form of sex discrimination in that HEAPS' conduct caused a physical
26 intrusion or physical invasion of a sexual nature upon Plaintiffs under coercive conditions, whether or not
27 those acts have resulted in criminal complaints, charges, prosecution, or conviction.

28 118. The substantial motivating reason for said conduct was Plaintiffs' gender. A reasonable

1 person in Plaintiffs' position would have believed that the threat would be carried out.

2 119. HEAPS' actions were approved and/or ratified by Defendants, and were approved and/or
3 ratified by managing agents of Defendants and/or HEAPS was negligently hired, supervised, retained
4 and/or employed despite knowledge of his lack of fitness for the business. Defendants are, therefore,
5 liable for these actions of HEAPS.

6 120. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
7 severally, Plaintiffs were harmed and have sustained severe emotional distress and physical pain,
8 emotional anguish, fear, anxiety, humiliation, embarrassment, and other physical and emotional injuries,
9 damages (both economic and noneconomic as discussed herein), and permanent disability, in the past,
10 present, and future, for which this claim is made. Defendants' conduct was a substantial factor in causing
11 Plaintiffs' personal injuries and damages as set forth herein.

12 121. Defendants, and each of them committed the acts herein alleged maliciously, fraudulently
13 and oppressively with the wrongful intention of injuring Plaintiffs. The aforementioned acts of
14 Defendants and each of them, were willful, wanton, malicious, intentional, oppressive, and despicable
15 and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiffs, and were
16 done by owners, officers, directors and/or managerial agents of Defendants. Such conduct was also
17 authorized and/or ratified by owners, officers, directors and/or managing agents of Defendants. In light
18 of Defendants, and each of their willful, knowing and intentional conduct against Plaintiffs, they seek an
19 award of punitive and exemplary damages in an amount according to proof.

20 122. As a direct and proximate result of Defendants' acts, Plaintiffs are entitled to actual
21 damages, compensatory damages, injunctive relief, any combination of those, including those damages
22 (both economic and noneconomic as discussed herein), or any other appropriate relief. Plaintiffs are
23 further entitled to attorney's fees and costs pursuant to Civ. Code Section 52.4(a).

24 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

25 **SIXTH CAUSE OF ACTION FOR SEXUAL HARASSMENT (CIV. CODE §§ 51.9 & 52)**

26 **Against All Defendants**

27 123. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
28 paragraphs as though fully set forth herein.

1 124. During Plaintiffs' time as patient of HEAPS and at UCLA MEDICAL FACILITIES,
2 HEAPS intentionally, recklessly, and wantonly made sexual advances, solicitations, requests and/or
3 demands for sexual compliance of a hostile nature based in part on Plaintiffs' gender that were
4 unwelcome, pervasive and severe, including but not limited to, HEAPS inappropriately probing,
5 touching, fondling and/or penetrating Plaintiffs' bodies, breasts and genitalia, all under the supervision of
6 Defendants, who were acting in the course and scope of their agency with Defendants and each of them.

7 125. A business and/or professional relationship existed between Defendants and Plaintiffs. It
8 was only through the business and/or professional relationship between Plaintiff and Defendants that the
9 incident was possible. As such, Plaintiffs were individuals protected under Civ. Code Sections 51.9 and
10 52.

11 126. The incidents of abuse outlined herein took place while Plaintiffs were under the control
12 of HEAPS and Defendants, in their capacity and position as supervisors of physicians, medical
13 professionals and staff at UCLA Health, THE REGENTS and DOES 1-500, and while acting specifically
14 on behalf of Defendants.

15 127. During Plaintiffs' time as patient of HEAPS and at UCLA MEDICAL FACILITIES,
16 HEAPS intentionally, recklessly, and wantonly did acts which resulted in harmful and offensive contact
17 with intimate parts of Plaintiffs' persons, including but not limited to, using his position of authority and
18 age to force Plaintiffs to give into HEAPS' sexual suggestions and conduct.

19 128. Because of Plaintiffs' relationships with HEAPS and Defendants, HEAPS' status as a
20 physician at UCLA MEDICAL FACILITIES and Plaintiffs' young age and/or need for medical
21 treatment, Plaintiffs were unable to easily terminate the relationship they had with the Defendants.

22 129. Because HEAPS' position of authority as Plaintiffs' physician, his physical seclusion of
23 Plaintiffs, Plaintiffs' mental and emotional states, Plaintiffs' young age and/or need for medical treatment
24 and Plaintiffs' reasonable reliance upon Defendants' representations that HEAPS was providing
25 legitimate medical treatment, among other factors, Plaintiffs were unable to, did not and could not
26 consent to such acts.

27 130. The acts and omissions of Defendants and their employees, agents, representatives,
28 servants and/or contractors were performed in furtherance of the practices and policies of Defendants and

1 were known or should have been known to each of them, and were performed within the course and
2 scope of Defendants' authority. It is further that the acts and omissions of Defendants and their
3 employees, agents, representatives, servants and/or contractors were performed with the knowledge,
4 permission, consent, authorization, and ratification of Defendants, acting by and through their managing
5 agents, officers, employees, representatives, servants and/or contractors.

6 131. Even though Defendants knew or should have known of these activities by HEAPS,
7 Defendants did nothing to adequately investigate, supervise or monitor HEAPS' to ensure the safety of
8 the patients in their charge, including Plaintiffs.

9 132. A corporation is a "person" within the meaning of Civ. Code Section 51.9, which subjects
10 persons to liability for sexual harassment within the business, service or professional relationship, and
11 such an entity defendant may be held liable under this statute for the acts of its employee, agent,
12 representative, servant and/or contractor. *See C.R. v. Tenet Healthcare Corp.* (2009) 169 Cal.App.4th
13 1094. Further, principles of ratification apply when the principal ratifies the agent's originally
14 unauthorized harassment, which has repeatedly occurred herein.

15 133. Defendants' conduct and the conduct of their agents was a breach of their duties to
16 Plaintiffs.

17 134. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
18 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
19 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
20 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
21 which this claim is made. Plaintiffs are further entitled to attorney's fees and costs pursuant to Civ. Code
22 Section 52(b)(3). Defendants' conduct was a substantial factor in causing Plaintiffs' personal injuries
23 and damages as set forth herein.

24 WHEREFORE, Plaintiffs pray for judgment against Defendants as hereinafter set forth.

25 **SEVENTH CAUSE OF ACTION FOR INTENTIONAL**
26 **INFLICTION OF EMOTIONAL DISTRESS**

27 **Against All Defendants**

28 135. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding

1 paragraphs as though fully set forth herein.

2 136. As described above, without Plaintiffs' consent, Defendants' employee, agent,
3 representative, servant and/or contractor HEAPS engaged in unlawful, sexual abuse, assault, battery and
4 harassment against Plaintiffs.

5 137. Defendants allowed, adopted, approved, aided, abetted and/or ratified HEAPS' behavior
6 by allowing him to continue to work for them with unfettered, physical access to female patients like
7 Plaintiffs knowing or having reason to know that he had a history of sexual misconduct, including
8 improperly touching and harassing female patients.

9 138. Defendants' conduct was outrageous. Defendants intended to cause Plaintiffs emotional
10 distress and/or acted with reckless disregard of the probability that Plaintiffs would suffer emotional
11 distress during the massage when the conduct occurred.

12 139. A reasonable person would not expect or tolerate the sexual abuse, assault, battery and
13 harassment of Plaintiffs by HEAPS, or Defendants' knowledge and callous indifference thereof.
14 Plaintiffs had great trust, faith and confidence in in Defendants, which by virtue of HEAPS and
15 Defendants' wrongful conduct turned to fear.

16 140. A reasonable person would not expect or tolerate Defendants putting HEAPS, who was
17 known to Defendants to have physically and sexually abused other patients, in a position of care over
18 female patients, including Plaintiffs, which enabled HEAPS to have access to other patients so that he
19 could commit wrongful sexual acts, including the conduct described herein, with his female patients,
20 including Plaintiffs. A reasonable person could not expect or tolerate the Defendants and their agents to
21 be incapable of supervising and/or stopping participants and members of Defendants, including HEAPS,
22 from committing wrongful sexual acts with patients, including Plaintiffs, or to be incapable of
23 supervising HEAPS.

24 141. Further, a reasonable person would not expect a chaperone whose presence was supposed
25 to ensure patient's comfort and safety during a gynecological exam would sit idly by and not say
26 anything while Plaintiff JANE DOE 1 was being sexually abused by a physician. Indeed the presence of
27 a silent chaperone has now further exacerbated Plaintiff's extreme embarrassment and harm as she was
28 subjected to what she now understands to be misconduct with a silent audience.

1 142. Defendants' conduct described herein was intentional and malicious and done for the
2 purpose of causing or with the substantial certainty that PLAINTIFF would suffer humiliation, mental
3 anguish, and emotional and physical distress.

4 143. As a direct and proximate result of the conduct of Defendants, individually, jointly and/or
5 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
6 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
7 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
8 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
9 injuries and damages as set forth herein.

10 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

11 **EIGHTH CAUSE OF ACTION FOR CONSTRUCTIVE FRAUD**

12 **Against All Defendants**

13 144. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
14 paragraphs as though fully set forth herein.

15 145. By holding HEAPS out as an agent of Defendants, and by allowing him to undertake the
16 sensitive medical care of female patients such as Plaintiffs, and by holding themselves out as a
17 preeminent healthcare facility and enticing and encouraging students, staff and the public to seek medical
18 care at UCLA MEDICAL FACILITIES, including with HEAPS, Defendants entered into a confidential,
19 fiduciary and special relationship with Plaintiffs.

20 146. Defendants breached their confidential, fiduciary and special duties to Plaintiffs by the
21 wrongful conduct described herein, and in so doing gained an advantage over Plaintiffs in matters
22 relating to Plaintiffs' safety, security and health. In particular, in breaching such duties alleged herein,
23 Defendants were able to sustain UCLA's status as an institution of high moral repute and preserve their
24 reputation, all at the expense of Plaintiffs' further injuries and in violation of Defendants' mandatory
25 duties.

26 147. By virtue of their confidential, fiduciary and special relationship with Plaintiffs,
27 Defendants owed Plaintiffs a duty, among other things, to:

- 28 a. Investigate, follow-up, or otherwise confirm or deny claims of sexual and inappropriate

1 conduct made against HEAPS;

2 b. Reveal such facts to Plaintiffs, the UCLA community, the public, the medical community and
3 law enforcement;

4 c. Refuse to place HEAPS and other molesters in positions of trust and authority within
5 Defendants' institutions;

6 d. Refuse to hold out HEAPS and other abusers to Plaintiffs, the public, the UCLA community,
7 the medical community and law enforcement as being in good standing and trustworthy in
8 keeping with him and his position as a physician, faculty members and authority figure;

9 e. Refuse to assign HEAPS and other abusers to positions of power within UCLA and
10 Defendants, and over female patients; and

11 f. Disclose to Plaintiffs, the public, the UCLA community and law enforcement all of the
12 wrongful, tortious and sexually exploitive acts that HEAPS had engaged in with his patients and
13 at UCLA MEDICAL FACILITIES.

14 148. Defendants' breach of their respective duties include, but are not limited to:

15 a. Not making reasonable or prompt investigations of HEAPS and/or his conduct in response to
16 complaints;

17 b. Issuing no warnings about HEAPS to patients;

18 c. Permitting HEAPS to consistently not being adequately supervised during his visits with
19 patients;

20 d. Not adopting a policy to prevent HEAPS from routinely having patients in his unsupervised
21 control;

22 e. Making no reports of any allegations of HEAPS' abuse of patients prior to or during his
23 employment, agency and/or relationship with Defendants to the CMB and/or law enforcement;

24 f. Assigning/scheduling and continuing to assign/schedule and promote HEAPS to duties and
25 patients which placed him in positions of authority and trust over other patients at UCLA
26 MEDICAL FACILITIES, in which HEAPS could easily sexually abuse, assault, batter and harass
27 and/or discriminate against patients; and

28 g. Continuing to perpetrate the fraud that HEAPS did not sexually abuse, assault, batter and

1 harass and/or discriminate against patients when Defendants allowed HEAPS to resign quietly
2 rather than reporting his conduct to law enforcement, the CMB and/or their patients, including
3 Plaintiffs.

4 149. At the time that Defendants engaged in such suppression and concealment of acts, such
5 acts were done for the purpose of causing Plaintiffs to forbear on their rights.

6 150. The misrepresentations, suppressions and concealment of facts by Defendants were
7 intended to and were likely to mislead Plaintiffs and others to believe that Defendants had no knowledge
8 of any complaints or charges against HEAPS, or that there were no other complaints of misconduct
9 against HEAPS or others, and that there was no need for them to take further action or precaution.

10 151. The misrepresentations, suppressions and concealment of facts by Defendants were likely
11 to mislead Plaintiffs and others to believe that Defendants had no knowledge of the fact that HEAPS was
12 a sexual predator and was known to engage in misconduct with patients.

13 152. Defendants knew or should have known at the time they suppressed and concealed the
14 true facts regarding others victims of HEAPS' sexual other inappropriate misconduct that the resulting
15 impressions were misleading.

16 153. Defendants suppressed and concealed the true facts regarding HEAPS with the purpose of
17 the following: preventing Plaintiffs and others from learning that HEAPS and others had been and were
18 continuing to sexually abuse, assault, battery and harass patients and discriminate against patients under
19 Defendants' control, direction and guidance with impunity; inducing people, including Plaintiffs and
20 other benefactors and donors to participate and financially support Defendants' programs and other
21 enterprises of Defendants; preventing further reports and outside investigations into HEAPS and
22 Defendants' conduct; preventing discovery of Defendants' own conduct; avoiding damage to the
23 reputations of Defendants; protective Defendants' power and status in the community; avoiding damage
24 to the reputation of Defendants or Defendants' institutions; and avoiding the civil and criminal liability of
25 Defendants, HEAPS and others.

26 154. Defendants with knowledge of the tortious nature of their own and HEAPS' conduct,
27 knowingly conspired and gave each other substantial assistance to perpetrate the misrepresentations,
28 fraud and deceit alleged herein by repeatedly covering up allegations of sexual and other misconduct

1 made against HEAPS and allowing HEAPS to remain at UCLA MEDICAL FACILITIES and in his
2 position as a physician, faculty member and staff so they could maintain their reputations and positions
3 within their organizations and communities.

4 155. Plaintiffs and others were misled by Defendants' suppressions and concealment of such
5 facts, and in reliance thereon, were induced to seek medical care by HEAPS and at UCLA MEDICAL
6 FACILITIES and induced not to act, exactly as intended by Defendants. Specifically, Plaintiffs were
7 induced to believe that there were no allegations of misconduct against HEAPS and that he was safe to be
8 around patients. Had Plaintiffs and others known the true facts about HEAPS, they would not have
9 participated further in activities of Defendants, or continued to financially support Defendants' activities.
10 They would have reported the matters to the proper authorities so as to prevent future recurrences and
11 would not have allowed others or themselves to be alone with or have any relationship with HEAPS or
12 under the control of Defendants. They would have undertaken their own investigations which would
13 have led to discovery of the true facts and would have sought help for Plaintiffs and for other patients,
14 who had been sexually abused, assaulted, battered and harassment, discriminated against or subjected to
15 other misconduct by HEAPS.

16 156. By holding HEAPS out as an agent of Defendants, and by allowing him to undertake the
17 sensitive medical care of female patients such as Plaintiffs, and by holding themselves out as a
18 preeminent healthcare facility and enticing and encouraging students, staff and the public to seek medical
19 care at UCLA MEDICAL FACILITIES, Defendants impliedly represented that HEAPS was safe and
20 morally fit to give medical care and provide sensitive women's health treatment.

21 157. When Defendants made these affirmative or implied representations and nondisclosures of
22 material facts, Defendants knew or should have known that the facts were otherwise. Defendants
23 knowingly and intentionally suppressed the material facts that HEAPS had, on numerous prior occasions,
24 sexually abused, assaulted, battered and harassment, discriminated against or subjected patients to other
25 misconduct, and knew of or learned of conduct, or should have known of conduct by HEAPS which
26 placed Defendants on notice that HEAPS had previously been suspected of misconduct, including
27 felonies, and was likely sexually abusing, assaulting, battering and harassing, discriminating against or
28 subjecting to other misconduct the patients in his care and at UCLA MEDICAL FACILITIES.

1 158. Because HEAPS' position of authority as Plaintiffs' physician, his physical seclusion of
2 Plaintiffs, Plaintiffs' mental and emotional states, Plaintiffs' young age and/or need for medical
3 treatment, Plaintiffs were vulnerable to HEAPS. HEAPS sought Plaintiffs out and was empowered by
4 and accepted their vulnerability. Plaintiffs' vulnerability also prevented Plaintiffs from effectively
5 protecting themselves from the sexual advances and misconduct of HEAPS.

6 159. Defendants had the duty to obtain and disclose information relating to the sexual
7 misconduct and discrimination by HEAPS.

8 160. Defendants misrepresented, concealed or failed to disclose information relating to sexual
9 misconduct and discrimination by HEAPS. Defendants knew that they had misrepresented, concealed or
10 failed to disclose information related to sexual misconduct and discrimination by HEAPS.

11 161. Plaintiffs justifiably relied upon Defendants for information relating to the sexual
12 misconduct and discrimination by HEAPS.

13 162. Defendants in concert with each other and with the intent to conceal and defraud,
14 conspired and came to a meeting of the minds whereby they would misrepresent, conceal or fail to
15 disclose information relating to the sexual misconduct and discrimination by HEAPS, the inability or
16 unwillingness of Defendants to supervise or stop HEAPS from harming patients and their own failure to
17 properly investigate, supervise and monitor his misconduct with patients.

18 163. By so concealing, Defendants committed at least one act in furtherance of the conspiracy.

19 164. As a direct and proximate result of the conduct of Defendants, individually, jointly, and/or
20 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
21 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
22 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
23 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
24 injuries and damages as set forth herein.

25 165. Plaintiffs also experienced the above-described injuries when discovering the fraud of
26 Defendants. Plaintiffs experienced extreme and severe mental anguish and emotional distress that
27 Plaintiffs had been the victim of Defendants' fraud; that Plaintiffs had not been able to help other female
28 patients to avoid being harmed because of the fraud; and that Plaintiffs had not been able because of the

1 fraud to receive timely medical treatment needed to deal with the problems they have suffered and
2 continue to suffer as a result of the sexual abuse, assault, battery and harassment and discrimination.

3 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

4 **NINTH CAUSE OF ACTION FOR NEGLIGENCE**

5 **Against All Defendants**

6 166. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
7 paragraphs as though fully set forth herein.

8 167. Prior to and after the first incident of HEAPS' sexual misconduct through the present,
9 Defendants knew and/or should have known that HEAPS had and was capable of sexually, physically,
10 and mentally abusing and harassing Plaintiffs and other victims.

11 168. Defendants, and each of them, had a duty, among other things, to properly manage and
12 oversee HEAPS and UCLA MEDICAL FACILITIES; to secure patient safety and to keep the premises
13 safe for patients; to provide adequate and competent security; to utilize appropriate rules, regulations,
14 policies and/or procedures for the investigation and prevention of sexual misconduct on their premises;
15 and to provide or equip the premises with adequate security measures that would have prevented the
16 incidents. Defendants further breached their duty of care to Plaintiffs by failing to protect the Plaintiffs
17 from foreseeable harm from the sexual misconduct of HEAPS.

18 169. As set forth above, Defendants and each of them also had special duties to protect
19 Plaintiffs and other female patients. As such, Defendants owed Plaintiffs a special duty of care that
20 medical professionals dealing with vulnerable medical patients owe to protect them from harm. The duty
21 to protect and warn arose from the special, trusting, confidential and fiduciary relationship between
22 Defendants and Plaintiffs.

23 170. Defendants breached their duties of care to the Plaintiffs by allowing HEAPS to come into
24 contact with Plaintiffs without effective supervision; by failing to adequately hire, supervise and retain
25 HEAPS whom they permitted and enabled to have access to Plaintiffs; by concealing from Plaintiffs, the
26 public and law enforcement that HEAPS was sexually abusing, assaulting, battering and harassing and
27 decimating against patients, by holding HEAPS out to Plaintiffs as being of high moral and ethical
28 reputation, in good standing and trustworthy.

1 171. Defendants breached their duties to Plaintiffs by failing to investigate or otherwise
2 confirm or deny such facts of sexual misconduct by HEAPS, failing to reveal such facts to Plaintiffs, the
3 UCLA community, the public and law enforcement agencies, and by placing HEAPS into a position of
4 trust and authority, holding him out as being in of high moral and ethical repute, in good standing and
5 trustworthy.

6 172. Defendants breached their duties to Plaintiffs by failing to prevent HEAPS from
7 committing wrongful sexual acts with patients, including Plaintiffs. Defendants' voluminous past records
8 of sexual misconduct by HEAPS caused Defendants to know, or gave them information where they
9 should have known, of HEAPS' incapacity to serve as a physician, faculty member and staff at UCLA
10 MEDICAL FACILITIES providing for the physical care of female patients.

11 173. Under applicable law, Defendants, by and through their employees, agents,
12 representatives, servants and/or contractors, were medical care providers and were under a statutory duty
13 to report known or suspected incidents of sexual abuse, assault, battery and harassment of patients or any
14 individuals in their care to the appropriate authorities, and not to impede the filing of any such report.

15 174. Defendants knew or should have known that HEAPS and other faculty, staff, employees,
16 agents, representatives, servants and/or contractors of Defendants, had sexually abused, assaulted,
17 battered, harassed, harmed and/or caused other injuries to female patients, giving rise to a duty to report
18 such conduct. Defendants knew, or should have known, in the exercise of reasonable diligence, that an
19 undue risk to patients, including Plaintiffs, existed because Defendants did not comply with mandatory
20 reporting requirements.

21 175. By failing to report the continuing sexual misconduct by HEAPS, which Defendants knew
22 or should have known about, and by ignoring the fulfillment of the mandated compliance with the
23 reporting requirements, Defendants created the risk and danger contemplated by the applicable mandated
24 reporting laws, and as a result, unreasonably and wrongfully exposed Plaintiffs to harm.

25 176. Plaintiffs are members of the class of persons for whose protection applicable mandated
26 reporting laws were specifically adopted to protect. Had Defendants adequately reported the sexual
27 misconduct of other patients before Plaintiffs as required by applicable mandated reporting laws, harm to
28 Plaintiffs and other individuals would have been avoided.

1 177. As a proximate result of Defendants' failure to follow the mandatory reporting
2 requirements, Defendants wrongfully denied Plaintiffs and other patients the intervention of law
3 enforcement and the appropriate authorities. Such public agencies would have changed the then-existing
4 arrangements and conditions that provided the access and opportunities for HEAPS to harm Plaintiffs.

5 178. The physical, mental, and emotional damages and injuries resulting from the sexual abuse,
6 assault, battery and harassment and discrimination of Plaintiffs by HEAPS were the type of occurrences
7 and injuries that the applicable mandated reporting laws were designed to prevent.

8 179. As a direct and proximate result, Defendants' failure to comply with the mandatory
9 reporting requirements constituted a *per se* breach of Defendants' duties to Plaintiffs.

10 180. Defendants, and each of them, breached their duties to PLAINTIFF by, among other
11 things, failing to adequately monitor and supervise HEAPS and stop HEAPS from committing wrongful
12 acts with patients, including Plaintiffs.

13 181. It was foreseeable that as a result of Defendants' acts, omission and breaches of duties,
14 that Plaintiffs would be harmed.

15 182. THE REGENTS is liable for the acts and omissions of employees, agents, servants,
16 representatives or contractors acting within the course and scope of employment, agency, service,
17 representation or contract pursuant to Gov't Code Sections 815.2, 815.4 and 820.

18 183. Defendants ratified the acts and conduct committed by HEAPS by continuing to employ
19 him and allowing him repeated access to female patients, including Plaintiffs, after they knew or should
20 have known that he had committed acts of sexual misconduct against other patients.

21 184. As a direct and proximate result of the conduct of Defendants, individually, jointly, and/or
22 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
23 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
24 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
25 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
26 injuries and damages as set forth herein.

27 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

28 ///

1 FACILITIES, nor did they implement a system or procedure to oversee or monitor conduct towards
2 patients and others in Defendants' care.

3 190. Defendants were aware or should have been aware of how vulnerable medical patients
4 were to sexual abuse, assault, battery and harassment and discrimination by physicians, doctors, faculty
5 members, and other persons of authority within Defendants' entities.

6 191. Defendants were put on notice, knew, and/or should have known that HEAPS had
7 previously engaged and was continuing to engage in unlawful conduct with students and patients and had
8 committed other acts for his own personal sexual gratification, and it was foreseeable that he was
9 engaging or would engage in illicit sexual activities with the Plaintiffs, and others, under the cloak of
10 authority, confidence and trust bestowed upon him through Defendants.

11 192. Defendants were placed on actual or constructive notice that HEAPS had sexually abused,
12 assaulted, battered and harassed other patients and had discriminated against other patients while he was
13 an actual and/or apparent employee, agent, representative, servant and/or contractor of Defendants.
14 Defendants were informed of such misconduct by HEAPS and of conduct by HEAPS that would put a
15 reasonable person on notice of his propensity to do so, prior to the Plaintiffs' sexual abuse, assault,
16 battery and harassment and discrimination by HEAPS.

17 193. Even though Defendants knew or should have known of these illicit sexual activities by
18 HEAPS, Defendants did not reasonably investigate, supervise or monitor HEAPS to ensure the health
19 and safety of the patients.

20 194. Defendants' conduct was a breach of their duties to Plaintiffs.

21 195. Defendants breached their duties to Plaintiffs by, among other things, failing to adequately
22 monitor and supervise HEAPS and stop HEAPS from committing wrongful sexual acts with patients,
23 including Plaintiffs.

24 196. Under applicable law, Defendants, by and through their employees, agents,
25 representatives, servants and/or contractors, were medical care providers and were under a statutory duty
26 to report known or suspected incidents of sexual abuse, assault, battery and harassment of patients or any
27 individuals in their care to the appropriate authorities, and not to impede the filing of any such report.

28 197. Defendants knew or should have known that HEAPS and other faculty, staff, employees,

1 agents, representatives, servants and/or contractors of Defendants, had sexually abused, assaulted,
2 battered, harassed, harmed and/or caused other injuries to female patients, giving rise to a duty to report
3 such conduct. Defendants knew, or should have known, in the exercise of reasonable diligence, that an
4 undue risk to patients, including Plaintiffs, existed because Defendants did not comply with mandatory
5 reporting requirements.

6 198. By failing to report the continuing sexual misconduct by HEAPS, which Defendants knew
7 or should have known about, and by ignoring the fulfillment of the mandated compliance with the
8 reporting requirements, Defendants created the risk and danger contemplated by the applicable mandated
9 reporting laws, and as a result, unreasonably and wrongfully exposed Plaintiffs to harm.

10 199. Plaintiffs are members of the class of persons for whose protection applicable mandated
11 reporting laws were specifically adopted to protect. Had Defendants adequately reported the sexual
12 misconduct of other patients before Plaintiffs as required by applicable mandated reporting laws, harm to
13 Plaintiffs and other individuals would have been avoided.

14 200. As a proximate result of Defendants' failure to follow the mandatory reporting
15 requirements, Defendants wrongfully denied Plaintiffs and other patients the intervention of law
16 enforcement and the appropriate authorities. Such public agencies would have changed the then-existing
17 arrangements and conditions that provided the access and opportunities for HEAPS to harm Plaintiffs.

18 201. The physical, mental, and emotional damages and injuries resulting from the sexual abuse,
19 assault, battery and harassment and discrimination of Plaintiffs by HEAPS were the type of occurrences
20 and injuries that the applicable mandated reporting laws were designed to prevent.

21 202. As a direct and proximate result, Defendants' failure to comply with the mandatory
22 reporting requirements constituted a *per se* breach of Defendants' duties to Plaintiffs.

23 203. Defendants breached their duties to Plaintiffs by, among other things, failing to adequately
24 monitor and supervise HEAPS and stop HEAPS from committing wrongful sexual acts with patients,
25 including Plaintiffs.

26 204. As a direct and proximate result of the conduct of Defendants, individually, jointly, and/or
27 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
28 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic

1 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
2 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
3 injuries and damages as set forth herein.

4 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

5 **ELEVENTH CAUSE OF ACTION FOR NEGLIGENT HIRING AND RETENTION**

6 **Against THE REGENTS, JAMES HEAPS MEDICAL CORPORATION and DOES 1-500**

7 205. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
8 paragraphs as though fully set forth herein.

9 206. Defendants owed Plaintiffs a duty to not hire or retain HEAPS or allow him to practice at
10 UCLA MEDICAL FACILITIES given his dangerous and exploitive propensities, which Defendants
11 knew or should have known about had they engaged in a reasonable and adequate investigation of his
12 background prior to and during his hiring or retention in subsequent positions of employment, agency,
13 servitude or relationship.

14 207. Defendants expressly and implicitly represented that physicians, faculty members and
15 staff at UCLA MEDICAL FACILITIES, including HEAPS, were not a sexual threat to patients and
16 others who would fall under HEAPS' influence, control, direction and/or guidance.

17 208. At no time did Defendants have in place a reasonable system or procedure to investigate,
18 supervise and monitor physicians, faculty members or staff, including HEAPS that could prevent sexual
19 abuse, assault, battery and harassment and discrimination of patients of HEAPS and at UCLA MEDICAL
20 FACILITIES, nor did they implement a system or procedure to oversee or monitor conduct towards
21 patients and others in Defendants' care.

22 209. Defendants were aware or should have been aware of how vulnerable medical patients
23 were to sexual abuse, assault, battery and harassment and discrimination by physicians, doctors, faculty
24 members, and other persons of authority within Defendants' entities.

25 210. Defendants were put on notice, knew, and/or should have known that HEAPS had
26 previously engaged and was continuing to engage in unlawful conduct with students and patients and had
27 committed other acts for his own personal sexual gratification, and it was foreseeable that he was
28 engaging or would engage in illicit sexual activities with the Plaintiffs, and others, under the cloak of

1 authority, confidence and trust bestowed upon him through Defendants.

2 211. Defendants were placed on actual or constructive notice that HEAPS had sexually abused,
3 assaulted, battered and harassed other patients and had discriminated against other patients while he was
4 an actual and/or apparent employee, agent, representative, servant and/or contractor of Defendants.
5 Defendants were informed of such misconduct by HEAPS and of conduct by HEAPS that would put a
6 reasonable person on notice of his propensity to do so, prior to the Plaintiffs' sexual abuse, assault,
7 battery and harassment and discrimination by HEAPS. Even though Defendants knew or should have
8 known of these sexually illicit activities and misconduct by HEAPS, Defendants failed to use reasonable
9 care in investigating HEAPS and did nothing to reasonably investigate, supervise, or monitor HEAPS to
10 ensure the safety of the patients.

11 212. Even though Defendants knew or should have known of these illicit sexual activities by
12 HEAPS, Defendants did not use reasonable care to investigate, supervise, or monitor HEAPS to ensure
13 the health and safety of the patients.

14 213. Defendants' conduct was a breach of their duties to Plaintiffs.

15 214. Defendants breached their duties to Plaintiffs by, among other things, failing to adequately
16 monitor and supervise HEAPS and stop HEAPS from committing wrongful acts on and against patients,
17 including Plaintiffs.

18 215. Under applicable law, Defendants, by and through their employees, agents,
19 representatives, servants and/or contractors, were medical care providers and were under a statutory duty
20 to report known or suspected incidents of sexual abuse, assault, battery and harassment of patients or any
21 individuals in their care to the appropriate authorities, and not to impede the filing of any such report.

22 216. Defendants knew or should have known that HEAPS and other faculty, staff, employees,
23 agents, representatives, servants and/or contractors of Defendants, had sexually abused, assaulted,
24 battered, harassed, harmed and/or caused other injuries to female patients, giving rise to a duty to report
25 such conduct. Defendants knew, or should have known, in the exercise of reasonable diligence, that an
26 undue risk to patients, including Plaintiffs, existed because Defendants did not comply with mandatory
27 reporting requirements.

28 217. By failing to report the continuing sexual misconduct by HEAPS, which Defendants knew

1 or should have known about, and by ignoring the fulfillment of the mandated compliance with the
2 reporting requirements, Defendants created the risk and danger contemplated by the applicable mandated
3 reporting laws, and as a result, unreasonably and wrongfully exposed Plaintiffs to harm.

4 218. Plaintiffs are members of the class of persons for whose protection applicable mandated
5 reporting laws were specifically adopted to protect. Had Defendants adequately reported the sexual
6 misconduct of other patients before Plaintiffs as required by applicable mandated reporting laws, harm to
7 Plaintiffs and other individuals would have been avoided.

8 219. As a proximate result of Defendants' failure to follow the mandatory reporting
9 requirements, Defendants wrongfully denied Plaintiffs and other patients the intervention of law
10 enforcement and the appropriate authorities. Such public agencies would have changed the then-existing
11 arrangements and conditions that provided the access and opportunities for HEAPS to harm Plaintiffs.

12 220. The physical, mental, and emotional damages and injuries resulting from the sexual abuse,
13 assault, battery and harassment and discrimination of Plaintiffs by HEAPS were the type of occurrences
14 and injuries that the applicable mandated reporting laws were designed to prevent.

15 221. As a direct and proximate result, Defendants' failure to comply with the mandatory
16 reporting requirements constituted a *per se* breach of Defendants' duties to Plaintiffs

17 222. Defendants breached their duties to Plaintiffs by, among other things, failing to adequately
18 monitor and supervise HEAPS and stop HEAPS from committing wrongful sexual acts with patients,
19 including Plaintiffs.

20 223. As a direct and proximate result of the conduct of Defendants, individually, jointly, and/or
21 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
22 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
23 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
24 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
25 injuries and damages as set forth herein.

26 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

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TWELFTH CAUSE OF ACTION FOR
NEGLIGENT FAILURE TO WARN, TRAIN OR EDUCATE

Against THE REGENTS, JAMES HEAPS MEDICAL CORPORATION and DOES 1-500

224. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs as though fully set forth herein.

225. Defendants owed Plaintiffs a duty to take reasonable protective measures to protect Plaintiffs and other patients from the risk of sexual abuse, assault, battery and harassment and discrimination and harm by HEAPS by properly warning, training or educating Plaintiffs and others about how to avoid such a risk.

226. Defendants breached their duty to take reasonable protective measures to protect Plaintiffs and other patients from the risk of from the risk of sexual abuse, assault, battery and harassment and discrimination and harm by HEAPS, such as the failure to properly warn, train or educate Plaintiffs and other patients about how to avoid the particular risk of sexual misconduct that HEAPS posed.

227. Defendants breached their duty to take reasonable protective measures to protect the Plaintiffs and other patients from the risk of from the risk of sexual abuse, assault, battery and harassment and discrimination and harm by HEAPS, by failing to supervise and stop employee, agent, representative, servant and/or contractor of Defendants, including HEAPS, from committing wrongful sexual acts with patients, including Plaintiffs.

228. Under applicable law, Defendants, by and through their employees, agents, representatives, servants and/or contractors, were medical care providers and were under a statutory duty to report known or suspected incidents of sexual abuse, assault, battery and harassment of patients or any individuals in their care to the appropriate authorities, and not to impede the filing of any such report.

229. Defendants knew or should have known that HEAPS and other faculty, staff, employees, agents, representatives, servants and/or contractors of Defendants, had sexually abused, assaulted, battered, harassed, harmed and/or caused other injuries to female patients, giving rise to a duty to report such conduct. Defendants knew, or should have known, in the exercise of reasonable diligence, that an undue risk to patients, including Plaintiffs, existed because Defendants did not comply with mandatory reporting requirements.

1 230. By failing to report the continuing sexual misconduct by HEAPS, which Defendants knew
2 or should have known about, and by ignoring the fulfillment of the mandated compliance with the
3 reporting requirements, Defendants created the risk and danger contemplated by the applicable mandated
4 reporting laws, and as a result, unreasonably and wrongfully exposed Plaintiffs to harm.

5 231. Plaintiffs are members of the class of persons for whose protection applicable mandated
6 reporting laws were specifically adopted to protect. Had Defendants adequately reported the sexual
7 misconduct of other patients before Plaintiffs as required by applicable mandated reporting laws, harm to
8 Plaintiffs and other individuals would have been avoided.

9 232. As a proximate result of Defendants' failure to follow the mandatory reporting
10 requirements, Defendants wrongfully denied Plaintiffs and other patients the intervention of law
11 enforcement and the appropriate authorities. Such public agencies would have changed the then-existing
12 arrangements and conditions that provided the access and opportunities for HEAPS to harm Plaintiffs.

13 233. The physical, mental, and emotional damages and injuries resulting from the sexual abuse,
14 assault, battery and harassment and discrimination of Plaintiffs by HEAPS were the type of occurrences
15 and injuries that the applicable mandated reporting laws were designed to prevent.

16 234. As a direct and proximate result, Defendants' failure to comply with the mandatory
17 reporting requirements constituted a *per se* breach of Defendants' duties to Plaintiffs.

18 235. Defendants, and each of them, breached their duty to Plaintiffs by, among other things,
19 failing to adequately monitor and supervise HEAPS and stop HEAPS from committing wrongful sexual
20 acts with patients, including Plaintiffs.

21 236. As a direct and proximate result of the conduct of Defendants, individually, jointly, and/or
22 severally, Plaintiffs sustained severe emotional distress and physical pain, emotional anguish, fear,
23 anxiety, humiliation, embarrassment, and other physical and emotional injuries, damages (both economic
24 and noneconomic as discussed herein), and permanent disability, in the past, present, and future, for
25 which this claim is made. Defendants' conduct was a substantial factor in causing Plaintiffs' personal
26 injuries and damages as set forth herein.

27 WHEREFORE, Plaintiffs pray for relief against Defendants as hereinafter set forth.

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1 **FIFTEENTH CAUSE OF ACTION FOR BREACH OF MANDATORY DUTY**

2 **(GOV'T CODE § 815.6)**

3 **Against THE REGENTS**

4 249. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
5 paragraphs as though fully set forth herein.

6 250. Pursuant to Gov't Code Section 815.6, Defendant THE REGENTS is liable for Plaintiffs'
7 injuries proximately caused by its failure to discharge mandatory duties as alleged herein. Defendant was a
8 public entity under mandatory duties imposed by enactments that were designed to protect against the risk of
9 the particular kind of injuries suffered by Plaintiffs as a result of the incidents, but not limited to, THE
10 REGENTS' Bylaws 21.2, 21.3 & 21.4, Policies 4402 and Code of Conduct; Cal. Pen. Code Section
11 11160; Cal. Ed. Code Sections 200 & 234.1; and Cal. Const. Article 1 Sections 26, 28 & 31.

12 251. Defendant did not make reasonable efforts or exercise reasonable diligence to perform its
13 mandatory duties imposed under enactments and failed to perform the mandatory duties imposed by said
14 enactments.

15 252. As a direct and proximate result of Defendant's failure to perform its mandatory duties,
16 Plaintiffs were caused to suffer the injuries and damages alleged herein. Defendant's failure to perform
17 its mandatory duties was a substantial factor in causing Plaintiffs' injuries and damages alleged herein.

18 WHEREFORE, Plaintiffs pray for judgment against Defendant as hereinafter set forth.

19 **SIXTEENTH CAUSE OF ACTION FOR DANGEROUS CONDITION OF PUBLIC PROPERTY**

20 **Against THE REGENTS and DOES 1-500**

21 253. Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding
22 paragraphs as though fully set forth herein.

23 254. At all times relevant herein, the Defendants owned, operated and/or controlled the UCLA
24 MEDICAL FACILITIES and allowed to exist, a dangerous condition of public property that existed on
25 their premises, including placing HEAPS in a separate and/or secluded environment that granted him
26 unfettered access and control over patients, allowing a known sexual predator on their premises, failing
27 to adequately maintain, inspect, secure, supervise and manage their premises, and maintaining a
28 dangerous condition in the offices/facilities where HEAPS saw patients and used their equipment and

1 furniture to repeatedly violate patients. These conditions were known, or should have been known, to
2 Defendants for a sufficient time for them to discover and remedy prior to each of the Plaintiffs being
3 harmed.

4 255. Defendants had a duty to protect the public against harms caused by the negligent
5 ownership, control, operation, building, construction, development, maintenance, management,
6 modification, inspection and/or repair of UCLA MEDICAL FACILITIES. Due to the Defendants’
7 negligent ownership, control, operation, building, construction, development, maintenance, management,
8 modification, inspection and/or repair of UCLA MEDICAL FACILITIES, they were in a dangerous and
9 defective condition.

10 256. The Defendants are liable for the Plaintiffs’ injuries and damages pursuant to, but not
11 limited to, the following statutes: Gov’t Code Sections 818.6, 830 and 835 *et seqs.*, including, without
12 limitation, Section 835.2. The Defendants are liable for breaches of its duties as set forth herein. As set
13 forth in Section 830(a), “‘Dangerous condition’ means a condition of property that creates a substantial
14 (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent
15 property is used with due care in a manner in which it is reasonably foreseeable that it will be used.”
16 “‘Protect against’ includes repairing, remedying or correcting a dangerous condition, providing
17 safeguards against a dangerous condition, or warning of a dangerous condition.” (Section 830(b).)

18 257. The dangerous condition of public property created a substantial risk of injury to members
19 of the public, including the Plaintiffs, when they used UCLA MEDICAL FACILITIES with reasonable
20 care and in a reasonably foreseeable manner at the time of the incidents. Plaintiffs are within the general
21 class of persons that one reasonably would anticipate might be threatened by Defendants’ conduct; and
22 the harm suffered by Plaintiffs is within the general class of harms that one reasonably would anticipate
23 might result from Defendants’ conduct.

24 258. As a direct and proximate result of the dangerous condition of public property and the
25 acts, omissions, negligence and breach of duties of the Defendants related thereto, Plaintiffs have
26 incurred the injuries and damages as set forth herein. The dangerous condition of public property was a
27 substantial factor in causing the injuries and harm to the Plaintiffs.

28 WHEREFORE, Plaintiff prays for judgment against Defendants as hereinafter set forth.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- 3 1. For past and future special damages, including, but not limited to, medical and incidental
- 4 expenses, and earnings loss and diminution in earning capacity;
- 5 2. For past and future general damages;
- 6 3. For attorneys' pursuant to Civ. Code Sections 51, *et seq.* and 52, *et seq.*, and C.C.P.
- 7 Section 1021.5, *et seq.* and Section 1708.5, and all applicable laws;
- 8 4. For any and all appropriate statutory damages;
- 9 5. For declaratory and injunctive relief, including, but not limited to, court supervision of

10 THE REGENTS;

- 11 6. For interest based on damages as well as pre-judgment and post-judgment interest as
- 12 allowed by law;
- 13 7. For costs of suit herein; and
- 14 8. For such other and further relief as the Court deems proper.

15 **JURY DEMAND**

16 Plaintiffs hereby demand a trial by jury.

17 DATED: March 1, 2021

18 FIORE ACHERMANN, A Law Corp., RIBERA LAW
19 FIRM, ALC & THOMPSON LAW OFFICES, P.C.

20 By: Jennifer Fiore
21 JENNIFER FIORE, ESQ.
22 *Attorneys for Plaintiffs*