

1 Steve W. Berman (*pro hac vice* pending)
2 HAGENS BERMAN SOBOL SHAPIRO LLP
3 1918 Eighth Avenue, Suite 3300
4 Seattle, WA 98101
5 Tel.: 206.623.7292
6 Fax: 206.623.0594
7 Email: steve@hbsslaw.com

8 Christopher R. Pitoun (SBN 290235)
9 301 N. Lake Ave., Suite 920
10 Pasadena, CA 91101
11 Tel.: 213-330-7150
12 Fax: 213-330-7512
13 Email: christopherp@hbsslaw.com

14 *Attorneys for Plaintiffs*
15 [Additional Counsel Listed on Signature Page]

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 JANE DOE A.T., JANE DOE D.D.,
19 MEGGIE KWAIT, JANE DOE M.M.,
20 JANE DOE H.R., JANE DOE 1, JANE
21 DOE J.L., JANE DOE F.M., JANE DOE
22 2, JANE DOE J.C., JANE DOE A.N.,
23 JANE DOE N.K., JANE DOE L.Y.,
24 JANE DOE T.Y., JANE DOE A.H.,
25 individually and on behalf of all others
26 similarly situated,

27 Plaintiffs,

28 v.

29 UNIVERSITY OF SOUTHERN
30 CALIFORNIA, BOARD OF
31 TRUSTEES OF THE UNIVERSITY OF
32 SOUTHERN CALIFORNIA, and
33 GEORGE TYNDALL, M.D.,
34 Defendants.

No. 2:18-cv-4940

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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1 Plaintiffs, individually and on behalf of all women who received a medical
2 examination from Dr. George Tyndall at the University of Southern California, alleges
3 as follows:

4 I. INTRODUCTION

5 1. Trust is an essential part of the relationship between physician and
6 patient. “Without trust, how could a physician expect patients to reveal the full extent
7 of their medically relevant history, expose themselves to the physical exam, or act on
8 recommendations for tests or treatments?”¹

9 2. George Tyndall, M.D. violated this trust by taking advantage of female
10 students who sought examination by a gynecologist at the University of Southern
11 California’s (“USC”) student-health center. Tyndall used his position of trust to place
12 women in a place of complete vulnerability: naked or partially unclothed in a closed
13 examination room with the expectation that physical contact would occur for medical
14 treatment in accordance with the standard of care.

15 3. Tyndall violated this trust by causing physical contact, including in the
16 form of sexual abuse, molestation, and unwanted touching, in violation of his female
17 patients that was not for the purpose of providing medical care, but for the purpose of
18 providing Tyndall with sexual gratification.

19 4. USC violated its female students’ trust by knowingly putting women in
20 the room for treatment by Tyndall, knowing that inappropriate physical contact and
21 violations would occur. In fact, USC nurses, chaperones, and other staff members
22 were regularly present in the examination rooms, observed the inappropriate sexual
23 molestation, and took no steps to stop it as it occurred.

26 ¹ Susan Dorr Goold, MD, MHSA, MA, “Trust, Distrust and Trustworthiness,
27 Lessons from the Field,” J Gen Intern Med. 2002 Jan; 17(1): 79–81, available at
28 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1495000/> (last accessed May 19,
2018) (citations omitted).

1 5. Moreover, even as numerous supervisors and administrators became
2 aware of Tyndall's harmful conduct, USC failed to act to protect its female students by
3 removing Tyndall from his position even though it was clear he was unfit to treat
4 patients.

5 6. Defendants' sexual abuse, molestation, unwanted sexual touching and
6 contact has caused widespread damage to Plaintiffs and the Class, for which
7 Defendants must be held responsible.

8 **II. JURISDICTION AND VENUE**

9 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331,
10 because this action arises under the laws of the United States. This Court also has
11 subject-matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28
12 U.S.C. § 1332(d)(2), because this is a class action, including claims asserted on behalf
13 of a nationwide class, filed under Rule 23 of the Federal Rules of Civil Procedure;
14 there are dozens, and likely hundreds, of proposed Class members; the aggregate
15 amount in controversy exceeds the jurisdictional amount or \$5,000,000.00; and
16 Defendants are citizens of a State different from that of Plaintiffs and members of the
17 Class.

18 8. Venue is proper in this District under 28 U.S.C. § 1391 (a)-(d) because,
19 *inter alia*, substantial parts of the events or omissions giving rise to the claim occurred
20 in the District and/or a substantial part of property that is the subject of the action is
21 situated in the District.

22 **III. THE PARTIES**

23 9. Jane Doe A.T. is a resident of New York City and Basel, Switzerland and
24 a citizen of the United States.

25 10. Jane Doe D.D. is a resident of Sherman Oaks, California and a citizen of
26 the United States.

1 11. Meggie Kwait is a resident of New York, New York and a citizen of the
2 United States.

3 12. Jane Doe M.M. is a resident of Nashville, Tennessee and a citizen of the
4 United States.

5 13. Jane Doe H.R. is a resident of Los Angeles, California and a citizen of the
6 United States.

7 14. Jane Doe 1 is a resident of Los Angeles, California and a citizen of the
8 United States.

9 15. Jane Doe J.L. is a resident of Sherman Oaks, California and a citizen of
10 the United States.

11 16. Jane Doe F.M. is a resident of Los Anegles, California and a citizen of
12 the United States.

13 17. Jane Doe 2 is a resident of Studio City, California and a citizen of the
14 United States.

15 18. Jane Doe J.C. is a resident of Chicago, Illinois and a citizen of the United
16 States.

17 19. Jane Doe A.N. is a resident of Los Angeles, California and a citizen of
18 the United States.

19 20. Jane Doe N.K. is a resident of Los Angeles, California and a citizen of
20 the United States.

21 21. Jane Doe L.Y. is a resident of St. Louis, Missouri and a citizen of the
22 United States.

23 22. Jane Doe T.Y. is a resident of Los Angeles, California and a citizen of the
24 United States.

25 23. Jane Doe A.H. is a resident of West Hollywood, California and a citizen
26 of the United States.

24. Defendant USC's principal place of business is in Los Angeles County, California.

25. As a private corporation, USC is governed by the Board of Trustees of The University of Southern California, which has approximately 55 voting members. The board is a self-perpetuating body, electing one-fifth of its members each year for a five-year term of office. Hereinafter, USC and the Board of Trustees will be referred to collectively as the USC Defendants.

26. Defendant George Tyndall, M.D. is an adult male who is a resident of Los Angeles County and citizen of the United States. Tyndall started working as a gynecologist at USC's student-health center in or about 1989, and reportedly examined as many as 16 women per day at the clinic.

IV. FACTS

A. Students (and their parents) entrusted their medical care to USC.

27. Experts have asserted that health is an important factor for academic achievement in higher education.² "Health complaints limit students' capacity to perform adequately at university."³ Thus, a university's promotion of health and well-being of its students promotes effective learning.⁴

28. To that end, USC touts the services of its student-health center to its students. It regularly runs workshops designed to invite the trust of students, such as a

² Ansari, "Is the Health and Wellbeing of University Students Associated with their Academic Performance?" Int J Environ Res Public Health. 2010 Feb; 7(2): 509–527, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2872284/#b3-ijerph-07-00509> (last accessed May 19, 2018) (citations omitted).

³ Ansari, "Is the Health and Wellbeing of University Students Associated with their Academic Performance?" Int J Environ Res Public Health. 2010 Feb; 7(2): 509–527, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2872284/#b3-ijerph-07-00509> (last accessed May 19, 2018) (citations omitted).

⁴ Ansari, "Is the Health and Wellbeing of University Students Associated with their Academic Performance?" Int J Environ Res Public Health. 2010 Feb; 7(2): 509–527, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2872284/#b3-ijerph-07-00509> (last accessed May 19, 2018) (citations omitted).

1 series of “Feel Better Workshops” entitled “Relationships and Connection,”
 2 “Addressing Academic Anxiety,” “Stress Management,” and “Calm Your Anxiety.”⁵

3 29. Women are encouraged to start seeing a gynecologist once a year when
 4 they turn 18 years old.⁶ Thus, many of the women who are examined at USC’s
 5 student-health center have never had a gynecological examination before.⁷

6 30. USC provides its female students “a full range of women’s health care
 7 services including well women annual visits, testing, contraceptives and pregnancy
 8 counseling.”⁸ USC explains: “These are yearly comprehensive, individual assessments
 9 of your health. These visits include a physical exam, a pelvic exam and screening for
 10 any other health problems. Use this visit as an opportunity to discuss any questions or
 11 concerns you have about your health with your doctor.”

12 31. USC’s invitation to its female students to discuss concerns about their
 13 health presumes a relationship of trust.

14 32. Trust is essential to both physician and patient.⁹ “Without trust, how
 15 could a physician expect patients to reveal the full extent of their medically relevant
 16 history, expose themselves to the physical exam, or act on recommendations for tests
 17 or treatments?”¹⁰

18
 19
 20 ⁵ <https://engemannshc.usc.edu/events/> (last accessed May 19, 2018).

21 ⁶ <http://www.4collegewomen.org/fact-sheets/firstgyno.html> (last accessed May 21,
 22 2018).

23 ⁷ [https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-](https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html)
 24 [complaints-20180515-story.html](https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html) (last accessed May 21, 2018).

25 ⁸ [http://sc.edu/about/offices_and_divisions/student_health_services/medical-](http://sc.edu/about/offices_and_divisions/student_health_services/medical-services/womens-health/index.php)
 26 [services/womens-health/index.php](http://sc.edu/about/offices_and_divisions/student_health_services/medical-services/womens-health/index.php) (last accessed May 19, 2018).

27 ⁹ Susan Dorr Goold, MD, MHSA, MA, “Trust, Distrust and Trustworthiness,
 28 Lessons from the Field,” J Gen Intern Med. 2002 Jan; 17(1): 79–81, available at
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1495000/> (last accessed May 19,
 2018).

¹⁰ *Id.*

1 33. “Presumed consent is a critical manifestation of trust that makes possible
2 much of routine doctor visits.”¹¹ Absent a presumption of trust, patients might avoid
3 essential medical care.¹²

4 34. “Important as it is to measure trust in individual clinicians and the actions
5 and circumstances that affect it, it is equally important, in today’s health system, to
6 study (empirically and normatively) trust and trustworthiness in organizations and
7 institutions.”¹³

8 35. Knowing and inviting female students to place trust in its physicians,
9 USC had a duty to ensure that Tyndall used his trusted position and the safe confines
10 of a doctor’s exam room at the USC student-health center consistent with the standard
11 of care and certainly not to abuse that trust through the molestation of students.

12 **B. Tyndall’s and USC’s abuse of trust.**

13 36. For nearly 30 years, the University of Southern California’s student-
14 health clinic’s only full-time gynecologist was Tyndall. USC hired Tyndall in 1989
15 after his residency.

16 37. According to the first report to expose Tyndall and USC, Tyndall used his
17 position of trust to forego the standard of care. For example, in the exam room,
18 Tyndall was typically accompanied by a female nurse or medical assistant known as a
19 chaperone—a practice embraced by many male gynecologists.¹⁴

20 38. In the years after Tyndall started, some chaperones reportedly became
21 alarmed about the frequency with which he used a camera during pelvic exams.¹⁵

23 ¹¹ *Id.*, citing Faden R, Beauchamp T. A History and Theory of Informed Consent.
24 New York: Oxford University Press; 1986. pp. 274–80.

25 ¹² *Id.*

26 ¹³ *Id.*

27 ¹⁴ <https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html> (last accessed May 21, 2018).

28 ¹⁵ *Id.*

1 Tyndall's chaperones questioned his motivations, with one reporting he took multiple
 2 pictures of hundreds of patients' genitals, while another said she witnessed 50 to 100
 3 patients photographed.¹⁶

4 39. According to the Los Angeles Times, Bernadette Kosterlitzky, a clinic
 5 nurse from 1992 to 2013, said that after a chaperone alerted administrators to the
 6 camera, then-Executive Director Dr. Lawrence Neinstein ordered it removed.¹⁷

7 40. In fact, a member of the USC student-health center's oversight committee
 8 purportedly admitted that: (i) in the early 2000s, several students submitted letters
 9 concerning inappropriate touching and remarks by Tyndall; and (ii) those complaint
 10 letters were read aloud during monthly committee meetings.¹⁸ One member of the
 11 committee confronted Tyndall, and that confrontation is allegedly contained in
 12 university records that corroborate his accounts.¹⁹

13 41. After USC's grand opening of its new Engemann Student Health Center
 14 in or about 2013, chaperones became concerned regarding Tyndall's treatment of
 15 female patients.

16 42. Chaperones were concerned about "full body scans," where "Tyndall
 17 frequently had women lie naked on the exam table while he slowly inspected every
 18 part of their body, down to the area between their buttocks."²⁰ While a woman's
 19 annual gynecological visit might include a discussion of skin problems, such
 20 "meticulous" inspections of a patient's naked body "would be highly unusual if not
 21 inappropriate."²¹

23 ¹⁶ *Id.*

24 ¹⁷ *Id.*

25 ¹⁸ *Id.*

26 ¹⁹ *Id.*

27 ²⁰ *Id.*

28 ²¹ *Id.*

1 43. While Tyndall conducted examinations, he made comments that the
2 nursing staff found “unseemly,” describing patients’ skin as “flawless,” “creamy” or
3 “beautiful.” He told students they had “perky breasts.”²²

4 44. In the spring of 2013, eight chaperones reported concerns about Tyndall
5 to their supervisor, veteran nurse Cindy Gilbert. Gilbert went to Neinstein, the clinic’s
6 executive director, and the then-head of clinic nursing and now the clinic’s executive
7 director, Tammie Akiyoshi. Gilbert said Neinstein told her that he had talked to
8 Tyndall about his behavior in the past.²³

9 45. Neinstein reportedly referred the complaints to the university’s Office of
10 Equity and Diversity, which investigates sexual misconduct and racial and gender
11 discrimination. USC has stated that an investigator interviewed seven employees and a
12 patient, according to USC. However, Gilbert and multiple chaperones who complained
13 said they were never informed of the probe or questioned by the investigator.²⁴

14 46. The investigation apparently concluded there was no violation of school
15 policy. The only action that Neinstein took was to bar Tyndall from locking the door
16 of his office when patients were present.²⁵

17 47. Tyndall then increased his attempts to groom patients, particularly of
18 Chinese ethnicity.²⁶

19 48. In his office, Tyndall had a map of China and encouraged women to point
20 out their home province. He kept a bamboo plant, the traditional Chinese symbol of
21 longevity and vitality, on a shelf above his desk. He sometimes showed off a photo of
22 his Filipina wife and shared details of their relationship.²⁷

23 ²² *Id.*

24 ²³ *Id.*

25 ²⁴ *Id.*

26 ²⁵ *Id.*

27 ²⁶ *Id.*

28 ²⁷ *Id.*

1 49. In addition to grooming, Tyndall took steps to require patients to return
2 for appointments more often. For example, while most physicians will prescribe one
3 year's worth of birth control pill refills, Tyndall would only prescribe two months. He
4 would not extend the prescription until the patients returned for another examination.²⁸

5 50. However, as Tyndall's grooming efforts increased, so did the chaperones'
6 concerns.

7 51. Chaperones began discussing the way Tyndall used his fingers at the
8 outset of the pelvic exam for many young women. Before inserting a speculum, the
9 metal duck-billed device that spreads open the walls of the vagina and enables the
10 doctor to view the cervix, Tyndall would voice concern that the speculum might not
11 fit.²⁹

12 52. The Los Angeles Times reported:

13 “He would put one finger in and say, ‘Oh, I think it will fit.
14 Let’s put two fingers in,’” said a chaperone who worked
15 with Tyndall for years. Four people familiar with Tyndall’s
exams said that while he spoke, he was moving his fingers in
and out of the patients.

16 They said he made nearly identical statements to hundreds of
17 women as he probed them: My, what a tight muscle you
have. You must be a runner.

18 The chaperone who worked with Tyndall for years said she
19 witnessed at least 70 such exams and remembered thinking
20 the physician would eventually become embarrassed about
repeating the same words to student after student.

21 “He never was,” she said.

22 During some exams, Tyndall made explicit reference to
23 sexual intercourse while his fingers were inside patients,
according to five people who heard the remarks or were told
about them.

27 ²⁸ *Id.*

28 ²⁹ *Id.*

1 “He would tell young ladies their hymens are intact. ‘Don’t
2 worry about it, your boyfriend’s gonna love it,’” a chaperone
recalled.^[30]

3 53. The chief of Female Pelvic Medicine and Reconstructive Surgery at
4 University Hospitals Cleveland Medical Center, Dr. Sangeeta Mahajan, has stated that
5 she has never heard of a gynecologist moving his fingers in and out of a vagina to
6 determine whether a speculum fit, calling it “very odd” and “creepy.”³¹ An assistant
7 professor of gynecology at Harvard Medical School, Dr. Louise King, said the practice
8 was not standard.³²

9 **C. Patients complained about Tyndall’s behavior to USC and refused to be**
10 **scheduled with him again.**

11 54. One nurse said that in 2013-14, she spoke to at least five women who
12 refused to be scheduled with Tyndall despite having gynecological problems that
13 needed immediate attention. The patients reported feeling like “he was
14 inappropriately touching them, that it didn’t feel like a normal exam,” and “like they
15 were violated.” The nurse told her immediate supervisor and later Akiyoshi, the head
16 of nursing, who said they would look into it.³³

17 55. During the 2013-2016 period, one clinician received unsolicited
18 complaints from at least three students who said they would never see Tyndall again.
19 The clinician gave the students the email addresses for administrators and encouraged
20 them to put their complaints in writing.³⁴

21 56. Having already felt uncomfortable on how Tyndall violated her with his
22 hand during a gynecological exam before the speculum was inserted, one student was
23 told on her second visit that Tyndall wanted her to remove all her clothes. After

24 ³⁰ *Id.*

25 ³¹ *Id.*

26 ³² *Id.*

27 ³³ *Id.*

28 ³⁴ *Id.*

1 waiting for Tyndall naked, she got dressed, after asking herself why she needed to take
2 off all her clothes. She told a female clinic employee she wanted to see another doctor.
3 That employee reportedly told the student “there were a lot of complaints” about
4 Tyndall.³⁵

5 57. Chaperones reported the names of women “who seemed particularly
6 shaken” by Tyndall’s exams to their supervisor, nurse Gilbert. Gilbert allegedly
7 contacted patients and explained how to make a written complaint against the doctor.
8 Some did, but others responded they just wanted to find another gynecologist and
9 forget about the experience.³⁶

10 58. Gilbert stated she repeatedly expressed concerns about Tyndall to
11 Akiyoshi, Neinstein, and other clinic administrators from 2014 to 2016, but they
12 seemed uninterested.³⁷

13 59. Chaperones forwarded some complaints about Tyndall to Sandra
14 Villafan, who became the clinic’s head of quality and safety in 2013. Villafan has
15 stated she relayed any concerns to clinic administrators and university leadership, but
16 was not privy to the outcomes of any investigations.³⁸

17 60. Finally, in 2016, Gilbert went to USC’s rape crisis center, known as
18 Relationship and Sexual Violence Prevention and Services, and spoke to Executive
19 Director Ekta Kumar. That complaint (and the discovery of a box of film of women’s
20 genitalia in Tyndall’s office) finally prompted the investigation that led to Tyndall’s
21 removal.³⁹

24 ³⁵ *Id.*

25 ³⁶ *Id.*

26 ³⁷ *Id.*

27 ³⁸ *Id.*

28 ³⁹ *Id.*

D. USC admits it was on notice of Tyndall's violation of female students.

61. On May 15, 2018, USC issued a release titled "Summary of Coordinated Investigation of Student Health Physician" ("Statement") from Todd R. Dickey, Senior Vice President for Administration, Gretchen Dahlinger Means, Title IX Coordinator and Executive Director of the Office of Equity and Diversity, and Laura LaCorte, Associate Senior Vice President for Compliance.⁴⁰

62. The Statement admitted that, in June 2016, USC's Office of Equity and Diversity ("OED") received a complaint from a staff member at the student-health center regarding sexually inappropriate comments made to patients in front of medical assistants by Tyndall.⁴¹

63. As a result, USC states that it conducted an investigation. USC reported that medical assistants who assisted Dr. Tyndall during clinic visits reported concerns about the way he conducted pelvic examinations. Specifically, these medical assistants questioned Tyndall's practice of a digital insertion prior to insertion of a speculum.⁴²

64. USC purportedly consulted with a gynecology expert who stated that this could be considered an acceptable practice, but then contracted with an outside medical review firm, MD Review, to review Dr. Tyndall's clinical practice. MD Review concluded that this examination practice was not the standard of care.⁴³

65. USC stated that, during its investigation, a box of clinical photos of cervixes and surrounding internal tissue allegedly from 1990-1991 was found during a search of Tyndall's office.⁴⁴

⁴⁰ See <http://pressroom.usc.edu/statement-of-facts-may-15-2018/> (last accessed May 19, 2018).

⁴¹ See *id.*

⁴² See *id.*

⁴³ See *id.*

⁴⁴ See *id.*

1 66. USC reported that it also reviewed the files of Dr. Larry Neinstein, the
 2 former health center director from 1995-2014 (who is now deceased), which showed
 3 earlier patient complaints about Tyndall, including complaints about his clinical
 4 practice. The files contained eight complaints logged between 2000 and 2014 that
 5 were concerning. These included racially insensitive and other inappropriate
 6 comments, concerns that he was not adequately sensitive to patient privacy, a
 7 complaint of feeling “uncomfortable,” another that Tyndall “gave me the skeevies,”
 8 and another that he was “unprofessional.”⁴⁵

9 67. USC admitted that these complaints were sufficient to terminate Tyndall,
 10 and should have been elevated for “proper investigation.”

11 68. Dr. Neinstein’s notes also purportedly indicated that he brought in outside
 12 experts to review his clinical practices, although the Statement does not identify those
 13 experts nor the results of those engagements.⁴⁶

14 69. USC stated that OED had previously conducted a review in 2013 of
 15 complaints of inappropriate comments made by Tyndall raised by staff members, but
 16 that there was insufficient evidence to find a violation of university policy.⁴⁷

17 70. USC was silent on its failure to report Tyndall to criminal authorities, the
 18 attorney general or anyone outside the university for the purposes of conducting an
 19 independent investigation.⁴⁸

20 71. USC concluded its 2016 investigation, finding that “Tyndall had violated
 21 the university’s policy on harassment by making repeated racially discriminatory and
 22
 23
 24

25 ⁴⁵ *See id.*

26 ⁴⁶ *See id.*

27 ⁴⁷ *See id.*

28 ⁴⁸ *See id.*

1 sexually inappropriate remarks during patient encounters.” The Statement was silent
2 as to any conclusions concerning sexual assault, violation or molestation.⁴⁹

3 72. Ultimately, in 2017, the university began termination proceedings.
4 However, USC did not contact law enforcement, the attorney general or the medical
5 licensing board.⁵⁰ Nor did USC inform Tyndall’s patients.⁵¹ Because Tyndall
6 threatened a lawsuit against USC, USC entered into a separation agreement with
7 Tyndall.⁵²

8 73. USC states that, once Tyndall sent a letter to USC asking to return to his
9 position at the student-health center in 2018, USC finally made a report to the
10 California Medical Board on March 9, 2018. According to USC, this was the first
11 report to authorities it had made despite being on notice of Tyndall’s behavior for
12 decades.⁵³

13 **E. Plaintiffs were violated by Dr. Tyndall, with the knowledge of USC.**

14 **1. Jane Doe A.T. (1991-1992)**

15 74. Jane Doe A.T. was an undergraduate accounting student at USC from
16 1991-1995. She saw Dr. Tyndall for a pap smear and pelvic exam in or about 1991 or
17 1992.

18 75. Dr. Tyndall examined Jane Doe A.T. without a chaperone in the room.
19 Because of her age and relative inexperience, Jane Doe A.T. did not know to ask for
20 one. As they began the appointment, Jane Doe A.T. felt very alone – it did not seem
21 like there were many people around or within earshot.

23 ⁴⁹ *See id.*

24 ⁵⁰ *See id.*

25 ⁵¹ <https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html>.

26 ⁵² *See* <http://pressroom.usc.edu/statement-of-facts-may-15-2018/> (last accessed
27 May 19, 2018).

28 ⁵³ *See id.*

1 76. Dr. Tyndall told Jane Doe A.T. to get undressed and put on an
2 examination gown. He did not leave the room while she undressed.

3 77. As Jane Doe A.T. lay on the examination table, naked but for the gown,
4 with her legs spread, Dr. Tyndall commented that she was very beautiful and her
5 vagina was attractive.

6 78. Dr. Tyndall examined Jane Doe A.T. with his fingers. As he was touching
7 her, he asked her if she would like him to show her her g-spot. She immediately said
8 “no.” She felt frightened, trapped, and violated. There was no one else in the
9 examination room with Dr. Tyndall, and she felt as though Dr. Tyndall was trying to
10 communicate that he had power over her body; that he was in control and he knew
11 something she did not. Jane Doe A.T. desperately wanted to leave.

12 79. Jane Doe A.T. is Vietnamese and Chinese-American. She was raised to
13 never question her elders or authority figures, especially physicians. She also feels that
14 her culture associates great shame with sexual abuse and molestation such that
15 speaking up as a victim could bring shame on ones family.

16 80. Jane Doe A.T. feels that her cultural background made her an easy target
17 for Dr. Tyndall, and she is outraged and distressed that he abused many Asian women
18 in the decades following her appointment.

19 81. The experience with Dr. Tyndall had lasting effects on Jane Doe A.T.
20 Although all doctors since then have treated her with respect and professionalism, she
21 continues to have an aversion to seeing the gynecologist. In addition, Dr. Tyndall
22 made Jane Doe A.T. feel belittled and sexualized. As a result, she had a negative
23 relationship with her own body and sexuality for many years.

24 **2. Jane Doe D.D. (2005-2006)**

25 82. Jane Doe D.D. was a student at USC from 2004 to 2009.

1 83. In or about 2005, Jane Doe D.D. made an appointment for a pap smear
2 and pelvic exam at the USC student health center. It was Jane Doe D.D.'s first ever
3 visit to the OBGYN.

4 84. First, Dr. Tyndall performed an external exam on Jane Doe D.D. while
5 there was no chaperone in the room.

6 85. While Dr. Tyndall was examining Jane Doe D.D.'s breasts, Jane Doe
7 D.D. noticed that he was not doing it in a way that seemed clinical, as opposed to what
8 other doctors had done in the years after this first gynecological visit. Specifically, he
9 did not examine her breasts quickly in a padding motion with his closed fingertips.
10 Instead, Jane Doe D.D. felt as as though Dr. Tyndall was feeling her breasts for a long
11 period.

12 86. After Dr. Tyndall had his hands on Jane Doe D.D.'s naked breasts, he
13 commented "mmm, very perky." Jane Doe D.D. became very nervous, but she tried to
14 remain calm and brush off the comment.

15 87. Then, Dr. Tyndall checked Jane Doe D.D.'s skin, which required her to
16 lay down in front of him with her shirt off. He looked her up and down and
17 commented that she was in great shape.

18 88. While he was examining her, Dr. Tyndall mentioned his wife and pointed
19 to his desk, mentioning that he had a photo of her there. At that moment, Jane Doe
20 D.D. felt relieved because up until that point it had seemed to her as though Dr.
21 Tyndall was sexualizing her.

22 89. Before Dr. Tyndall performed the pap smear and pelvic exam, a
23 chaperone came into the room.

24 90. Dr. Tyndall put gloves on and informed Jane Doe D.D. that he was going
25 to insert two fingers into her vagina to help the speculum fit in. He then inserted two
26 fingers into Jane Doe D.D.'s vagina and said that he was going to check the strength
27 of Jane Doe D.D.'s pelvic floor.
28

1 91. Dr. Tyndall then moved his fingers back and forth three times fast while
2 they were inside of Jane Doe D.D. He said to Jane Doe D.D., “you have a very strong
3 muscle there. You must be a runner.” Jane Doe D.D. laughed nervously, “no I’m a
4 swimmer.” Jane Doe D.D. again felt nervous, but she tried to reassure herself that
5 maybe Dr. Tyndall was simply stating a fact. She told herself that his actions were
6 normal, even though it did not feel normal.

7 92. Toward the end of the exam, Dr. Tyndall asked Jane Doe D.D. if she
8 would mind if he used a camera. He held up the small camera to show her, and he said
9 that using it would help them to see any sexually transmitted diseases or any irregular
10 tissue. Dr. Tyndall presented the camera in a way that made it seem as though it was
11 not required. Instead, he encouraged Jane Doe D.D. to allow him to use the camera in
12 a friendly, nonchalant tone. At the time, Jane Doe D.D. was sexually active and had a
13 legitimate fear of contracting sexually transmitted diseases. She agreed because she
14 wanted to do anything she could to increase her chances of detection.

15 93. Dr. Tyndall never showed Jane Doe D.D. the camera footage.

16 94. As Jane Doe D.D. lay on the examination table with her legs spread, she
17 realized that Dr. Tyndall was looking at her vagina for a very long time. While staring
18 at her vagina, the doctor said, “It’s clean, very clean, you’re very clean.” Jane Doe
19 D.D. felt very embarrassed and uncomfortable.

20 95. Jane Doe D.D. thought that Dr. Tyndall’s procedures and comments were
21 inappropriate and intrusive. However, because there was a chaperone in the room, and
22 Jane Doe D.D. had not been examined by a gynecologist before, she reassured herself
23 that everything must be normal.

24 96. Jane Doe D.D. left the appointment feeling very uneasy. Several days
25 later, Dr. Tyndall left her a voicemail with the results of her examination, which she
26 did not return.

27 97. Jane Doe D.D. felt violated by Dr. Tyndall’s comments and procedures.
28

1 98. Jane Doe D.D. later saw a female physician for a pelvic exam and pap
2 smear at the student health center. The doctor acted professionally, and Jane Doe D.D.
3 felt comfortable.

4 99. Jane Doe D.D. has suffered emotional distress as a result of Dr. Tyndall's
5 treatment, and is upset that neither USC nor the chaperones stopped him.

6 **3. Meggie Kwait (2008)**

7 100. In 2008, Meggie Kwait was an undergraduate student at USC. She made
8 an appointment at the student health center with Dr. Tyndall because she was
9 concerned about some unusual bleeding.

10 101. During the physical examination, Dr. Tyndall proceeded to examine her
11 vagina. Throughout the examination, he kept talking about very personal things. Dr.
12 Tyndall seemed fixated on Ms. Kwait's weight and the fact that she had engaged in
13 sexual encounters with both men and women.

14 102. Dr. Tyndall insisted on calling her "a virgin" because "let's be honest: no
15 penis, no sex." At one point, without consulting Ms. Kwait, he made a telephone call,
16 presumably to a colleague, to express his amazement that an insurance company "had
17 made a virgin have a pelvic exam."

18 103. While penetrating Ms. Kwait with his fingers, Dr. Tyndall said, "I bet
19 you're pretty used to this."

20 104. Dr. Tyndall urged Ms. Kwait to lose weight and told her if she became
21 skinnier, she could probably "get a guy instead of a girlfriend."

22 105. During a breast exam, he called her breasts "lovely" and "very
23 symmetrical for their size" and handled them roughly. Throughout the appointment,
24 Dr. Tyndall did not communicate what he was doing or why. At the conclusion of the
25 appointment, he ridiculed Ms. Kwait for her concern over the bleeding and said that
26 she had wasted his time.

1 106. Dr. Tyndall's comments made Ms. Kwait extremely upset and
2 uncomfortable. She left the appointment with Dr. Tyndall in tears and did not return to
3 the Health Center for gynecological issues.

4 107. Ms. Kwait filled out a Health Center comment card as she left the
5 appointment. Ms. Kwait described Dr. Tyndall's comments and demeanor but never
6 received any response from USC.

7 108. When Ms. Kwait read the news about Dr. Tyndall, she felt horrible that
8 she had not escalated her complaint. Dr. Tyndall's conduct made her feel humiliated,
9 demeaned, and violated, and USC's failure to protect her and other students has
10 caused her additional distress.

11 **4. Jane Doe M.M. (2008)**

12 109. In or about 2008, Jane Doe M.M. was studying cinema as an
13 undergraduate at USC. She made an appointment at the student health center with Dr.
14 Tyndall because she suspected that she had a urinary tract infection.

15 110. Before meeting with Dr. Tyndall, Jane Doe M.M. gave a urine sample to
16 a nurse.

17 111. When she arrived at her appointment, Jane Doe M.M. met with Dr.
18 Tyndall at his desk, which was separated from the examination area by a curtain. As
19 they talked, Dr. Tyndall showed Jane Doe M.M. a photo of his wife. Jane Doe M.M.
20 had not asked him about his wife or asked to see a photo. When she viewed the photo,
21 it occurred to Jane Doe M.M. that the wife looked quite a bit younger. Then Dr.
22 Tyndall also brought up Lady Gaga, which made Jane Doe M.M. feel awkward. She
23 suspected that Dr. Tyndall was trying to relate to her. Jane Doe M.M. felt put off that
24 Dr. Tyndall had shared unnecessary information about his personal life.

25 112. Dr. Tyndall then did an external exam with Jane Doe M.M. partially
26 undressed. As Dr. Tyndall pressed on Jane Doe M.M.'s bare abdomen to feel for any
27 pain, he declared that her "abs" felt very strong and asked if she was a runner.
28

1 113. Jane Doe M.M. recalled other doctors asking if she was a runner, but they
2 had always asked while checking her blood pressure or other vitals, and she had
3 always been fully clothed. This time, the question felt different, and inappropriate.

4 114. Jane Doe M.M. began to feel extremely tense and nervous. She was
5 already very uncomfortable because Dr. Tyndall had tried to engage her in a personal
6 conversation about his wife and Lady Gaga. Dr. Tyndall's comments about her body
7 compounded Jane Doe M.M.'s uneasy feeling.

8 115. Jane Doe M.M. left the appointment feeling distraught and
9 uncomfortable. She made a note never to see Dr. Tyndall again.

10 116. After reading the reporting about Dr. Tyndall in the Los Angeles Times,
11 Jane Doe M.M. realized that her distress during her visit to the student health center
12 was valid. She is upset that USC failed to provide her and other female students with
13 safe, appropriate, and professional healthcare.

14 **5. Jane Doe H.R. (2010)**

15 117. Jane Doe. H.R. attended USC from 2010-2012. She was examined by Dr.
16 Tyndall on at least one occasion in 2010.

17 118. During the appointment, Jane Doe H.R. told Dr. Tyndall that she was
18 worried because she had been experiencing heavy periods and passing large blood
19 clots. In response, Dr. Tyndall asked Jane Doe H.R. to "bring in her blood clots" after
20 her next cycle.

21 119. When Jane Doe H.R. asked how she would do that, he told her to put
22 them in a Ziploc bag and bring it to him during her next appointment. Instead of
23 offering medical advice or a diagnosis, or referring her to a specialist, Dr. Tyndall
24 made a highly inappropriate request. At the time, Jane Doe H.R. felt very confused but
25 believed it to be a legitimate request because it was coming from a USC-employed
26 doctor.

1 120. Dr. Tyndall made other comments Jane Doe H.R. found inappropriate
2 and unprofessional. He told her that he decided to be an OBGYN because he realized
3 it was easier and paid more than his previous career.

4 121. Jane Doe H.R. does not recall a chaperone being present for her pelvic
5 exam.

6 122. After the appointment, Jane Doe H.R. decided not to follow through with
7 the request because she could not understand how to accomplish it and felt
8 embarrassed by the idea of bringing her menstrual blood to campus in a Ziploc bag.

9 123. Since her visit to Dr. Tyndall, Jane Doe H.R. has seen other OBGYNs
10 who have offered sympathetic care for Jane Doe H.R.'s heavy and painful periods. On
11 one occasion, Jane Doe H.R. relayed the encounter and Dr. Tyndall's request to
12 another medical professional, who found it highly unusual.

13 124. Since her visit to Dr. Tyndall, Jane Doe H.R. has struggled with her
14 experiences as a patient of Dr. Tyndall, but believes that his conduct was inappropriate
15 and humiliating. She believes Dr. Tyndall abused his power as a medical professional
16 by making a completely inappropriate request seem legitimate.

17 125. When Jane Doe H.R. heard about the accounts of other women in his
18 care, she realized her experience was not an isolated incident but part of a pattern of
19 inappropriate behavior with patients.

20 126. Jane Doe H.R. has experienced feelings of humiliation and confusion
21 around her appointment with Dr. Tyndall. Jane Doe H.R. believes her ability to trust
22 doctors has been severely impacted, and that the quality of care provided to her may
23 suffer as a result. Jane Doe H.R. characterizes herself as an exceedingly trusting
24 person, and is crushed that her trust of people in general, and medical professionals in
25 particular, has been compromised by the actions of Dr. Tyndall and USC.
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27
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1 **6. Jane Doe 1 (2010-2011)**

2 127. In or about 2010-2011, as an undergraduate studying theater at USC, Jane
3 Doe 1 made an appointment for a pelvic exam at the student health center because she
4 was experiencing pain in her pelvic area.

5 128. Jane Doe 1 knew that Dr. Tyndall was the only gynecologist on staff at
6 the student health center. Although she would have preferred to see a woman doctor,
7 she trusted USC to provide her with safe, professional care. Furthermore, Jane Doe 1
8 had received a pelvic exam from a male gynecologist prior to her visit with Dr.
9 Tyndall, and her experience had been comfortable and professional. She expected to
10 have the same experience with Dr. Tyndall.

11 129. Jane Doe 1 entered Dr. Tyndall's examination room, where his desk area
12 was separated by a curtain. Dr. Tyndall asked Jane Doe 1 why she was there, and she
13 responded that she was having pelvic pain. He asked her to go behind the curtain and
14 get undressed.

15 130. Jane Doe 1 suddenly realized that there was no female chaperone in the
16 exam room, and she became tense. She asked for a woman to be present during her
17 exam. Dr. Tyndall obliged and brought in a female chaperone.

18 131. To begin the examination, while wearing her gown, Jane Doe 1 laid down
19 on the table and spread her legs. Dr. Tyndall inserted his fingers into Jane Doe 1's
20 vagina. While Dr. Tyndall's fingers were inside of her, he asked Jane Doe 1 if she
21 knew how to orgasm.

22 132. Jane Doe 1 became very uncomfortable as she wondered how the
23 question could possibly be relevant to her pelvic exam. She continued staring at the
24 ceiling and responded "yes."

25 133. With his fingers still inside of her, Dr. Tyndall responded that he was
26 glad Jane Doe 1 knew how to orgasm, because most women did not. He stated that
27 most women have to be taught.
28

1 134. As the examination continued, Dr. Tyndall looked into Jane Doe 1's
2 vagina. He commented that her cervix looked bruised. Jane Doe 1 became very self-
3 conscious because the doctor was looking into her most private areas and commenting
4 on its appearance.

5 135. After the examination was over, the female chaperone left the room. Dr.
6 Tyndall remained. Before Jane Doe 1 had a chance to get dressed, Dr. Tyndall asked if
7 she was having a lot of "rough sex." Jane Doe 1 was horrified. She said no. Dr.
8 Tyndall continued. He advised her to "stop having rough sex" on account of her
9 allegedly-bruised cervix.

10 136. Jane Doe 1 left the appointment feeling distressed and violated. She
11 blamed herself into being "tricked" into seeing a male OBGYN, and she vowed never
12 to return to Dr. Tyndall again.

13 137. Jane Doe 1 experienced extreme emotional distress after the incident with
14 Dr. Tyndall. She felt a loss of agency around men. At times, Jane Doe 1 has felt
15 nervous, awkward, and afraid to talk to men.

16 138. On multiple occasions after the incident with Dr. Tyndall, Jane Doe 1 has
17 felt uncomfortable being sexually active, and has lacked the desire to have sex with
18 her male partners. Rather than having sex out of her own desire, as she did before, she
19 has often felt coerced into having sex with men. Jane Does 1's experience with Dr.
20 Tyndall has severely impacted or destroyed the sexuality she previously felt.

21 139. Jane Doe 1 went back to the OBGYN in 2013, and the experience was
22 very different. The doctor did not ask her any unnecessarily-personal questions.

23 140. Recent media reports about Dr. Tyndall have brought back the guilt,
24 shame, and anger that Jane Doe 1 experienced at the time. She feels very embarrassed
25 and distressed that she saw the doctor, and she blames herself for expecting that USC
26 would protect her. People around Jane Doe 1 have made jokes about Dr. Tyndall since
27 the media reports surfaced, making her feel like a terrible punchline that must remain
28

1 hidden. Jane Doe 1 has thus been severely damaged by Dr. Tyndall's and USC's
2 actions.

3 **7. Jane Doe J.L. (2011-2013)**

4 141. From 2011 to 2013, Jane Doe J.L. was completing a Masters in social
5 work at USC. She saw Dr. Tyndall for a pap smear and pelvic exam on August 25,
6 2011 and for a birth control consultation on December 7, 2012.

7 142. During the appointment, Dr. Tyndall asked Jane Doe J.L., a Korean-
8 American, to meet with him in his office, which at that time was a separate room from
9 the examination room.

10 143. Dr. Tyndall discussed birth control with Jane Doe J.L. Jane Doe J.L.
11 mentioned that she liked the birth control she was on when she was living in Korea.

12 144. Dr. Tyndall immediately told Jane Doe J.L. about his Filipino wife. He
13 said that they had a traditional Filipino wedding, and that he has great appreciation for
14 Asian culture. Dr. Tyndall pointed out that he was wearing a traditional Filipino shirt
15 that day.

16 145. Jane Doe J.L. began to feel very uncomfortable by the tone and the
17 subject matter of the conversation. Dr. Tyndall was sharing overly personal
18 information, and she became very nervous. She had a sinking feeling that Dr. Tyndall
19 was trying to communicate to her that he was attracted to Asian women. All of a
20 sudden, she felt it was very inappropriate to be alone with the doctor. Jane Doe J.L.
21 felt distressed by the incident and did not return to see Dr. Tyndall.

22 146. Jane Doe J.L. is now an in-patient social worker in a hospital, where she
23 works with patients and teams of doctors every day. Given her training, Jane Doe J.L.
24 now fully realizes the extent to which Dr. Tyndall's conversation with her was
25 inappropriate. Since her appointment with Dr. Tyndall, Jane Doe J.L. has never
26 witnessed a doctor speaking to a patient that way.

1 147. Jane Doe J.L. has also been a patient to many other doctors since, and she
2 has never experienced the level of discomfort she did with Dr. Tyndall.

3 148. In her capacity as a social worker, if Jane Doe J.L. encountered a
4 physician sharing highly personal information with a patient in the same tone as Dr.
5 Tyndall, and with an emphasis on the patient's ethnicity, she would report the
6 incident.

7 149. The experience with Dr. Tyndall haunts Jane Doe J.L. to this day. When
8 she recently learned that she would have to undergo fertility treatments, she was
9 referred to a male fertility doctor and male surgeon. She wanted to see the best
10 doctors, but her past experiences made her feel very uncomfortable. Jane Doe J.L. has
11 required her husband to be present during visits to make her feel safe. The trauma of
12 seeing Dr. Tyndall as a young woman has compounded stress and emotion of
13 undergoing fertility treatments.

14 150. When the media reported on Dr. Tyndall's inappropriate behavior, Jane
15 Doe J.L. was distressed to learn that USC had known of and allowed him to continue
16 to treat vulnerable, young female patients.

17 **8. Jane Doe F.M. (2012-2013)**

18 151. Jane Doe F.M. attended USC from 2009-2013. During her junior or senior
19 year, Jane Doe F.M. saw Dr. Tyndall for an appointment at the student-health center to
20 get her birth control prescription refilled. At the time, Jane Doe F.M. had only had full
21 gynecological exams performed a few times.

22 152. When Jane Doe F.M. arrived for her appointment, Dr. Tyndall asked her
23 why she was there. She told him she needed to get her birth control prescription
24 refilled. Dr. Tyndall then suggested, in a strangely talkative way, that he better do a
25 full check-up while Jane Doe F.M. was there. Dr. Tyndall quickly left the room, told
26 Jane Doe F.M. to take off all of her clothes, and had his nurse grab her a robe.

1 153. Jane Doe F.M. had not intended to get an examination done, especially
2 because she was uncomfortable with the notion of a male OBGYN examining her, but
3 Dr. Tyndall just pushed ahead with the process. She figured Dr. Tyndall must have her
4 best interests at heart as a doctor.

5 154. Once Jane Doe F.M. was undressed and laying on the examination table,
6 Dr. Tyndall touched her bare breasts with his hands and digitally penetrated her, all
7 the while chatting away with a familiarity that she found odd and uncomfortable. The
8 female nurse was in the examination room at the time, which made Jane Doe F.M. feel
9 like everything Dr. Tyndall was doing must be appropriate and routine.

10 155. While his fingers were inside of her, Dr. Tyndall made a joke about his
11 wife being an Asian mail order bride that contained sexual overtones. Dr. Tyndall
12 made a comment about how he “was used to feeling small breasts” like Jane Doe
13 F.M.’s breasts because his wife was an Asian mail order bride. Jane Doe F.M. was
14 very uncomfortable by the tone and the subject matter of the conversation.

15 156. Jane Doe F.M. left the examination feeling extremely uncomfortable and
16 violated. She has never visited a male OBGYN again, and eventually got an IUD in
17 order to avoid going to the OBGYN altogether.

18 157. When Jane Doe F.M. first heard reports that Dr. Tyndall had abused
19 many women, she immediately replayed her experience with him. She was incredibly
20 upset when she heard that USC knew about Dr. Tyndall's inappropriate behavior and
21 did nothing to stop him from preying on young women in a very vulnerable time of
22 their lives. Jane Doe F.M. is outraged that USC failed to protect young women who,
23 like herself, had no context for what a gynecological exam should be like and were too
24 embarrassed to speak up.

1 **9. Jane Doe 2 (2013-2014)**

2 158. Jane Doe 2 saw Dr. Tyndall for a gynecological exam in or about 2013 or
3 2014. Prior to her appointment with Dr. Tyndall, she had never been examined by an
4 OBGYN before.

5 159. Jane Doe 2 made the appointment because she had engaged in sexual
6 intercourse for the first time and had not used protection. She felt an urgency to see a
7 doctor, and she went into the appointment feeling very nervous and vulnerable.

8 160. Jane Doe 2 first met with a nurse. She informed the nurse that she had
9 engaged in unprotected sex and wanted to be tested for STDs.

10 161. The nurse directed Jane Doe 2 to get undressed and put on a gown. After
11 Jane Doe 2 was wearing the gown, Dr. Tyndall and a chaperone entered the
12 examination room.

13 162. As Jane Doe 2 lay on the examination table, wearing a gown and with her
14 legs spread, she felt Dr. Tyndall insert his fingers into her vagina. He did not tell Jane
15 Doe 2 that he was going to insert his fingers, nor did he tell her why.

16 163. With his fingers inside of Jane Doe 2, Dr. Tyndall said, “ok it is tight and
17 inflamed,” in reference to Jane Doe 2’s vagina. He did not tell her what to expect from
18 a pelvic exam and pap smear, why he was inserting his fingers, or what the
19 inflammation might mean.

20 164. The comment and procedure made Jane Doe 2 feel very uncomfortable
21 and ashamed. However, she was reassured by the presence of the female chaperone,
22 who she assumed would have her best interest in mind.

23 165. After the examination was over, Dr. Tyndall told Jane Doe 2 to get
24 dressed and meet with him in his office, which was a separate room from the
25 examination room. Jane Doe 2 became alarmed that the doctor wanted to meet with
26 her one-on-one, and there was no longer a female chaperone present. She thought he
27 might want to discuss a medical problem.
28

1 166. But in his office, Dr. Tyndall asked Jane Doe 2 to tell him about herself:
2 what she was studying, her race and ethnicity. Jane Doe 2 told Dr. Tyndall that she
3 was graduating. Dr. Tyndall told Jane Doe 2 about his Filipino wife.

4 167. Dr. Tyndall then turned to Jane Doe 2's recent sexual encounter. He
5 asked Jane Doe 2 if her first time having sexual intercourse had been painful, and
6 whether it had been with a random person or with a partner.

7 168. Jane Doe 2 answered the doctor's questions because she felt that she had
8 no choice. He was an authority figure. She told him that she took the morning after pill
9 within the recommended time and had all her HPV vaccines, hoping the information
10 about her precautions would put a stop to the personal questions. But it did not. Rather
11 than give medical information about the morning-after pill, Dr. Tyndall simply
12 remarked continuously about the high price of the pill.

13 169. Dr. Tyndall then told Jane Doe 2 that he had one patient who lost her
14 virginity and contracted genital warts as a result, her partner had not exhibited
15 symptoms at the time, and she would have to live with genital warts for the rest of her
16 life. He added that this patient was in a "committed relationship" and the encounter
17 had not been "a one-night stand" like Jane Doe 2's.

18 170. Jane Doe 2 became very uncomfortable, in part because she felt judged,
19 as if Dr. Tyndall was putting words in her mouth and unnecessarily characterizing her
20 sexual encounter. She also had not received the results of her pap smear yet, and she
21 felt that the doctor was attempting to intimidate her.

22 171. Dr. Tyndall told Jane Doe 2 that he wanted her to get an IUD, and that he
23 would put in an order right away so that she could obtain it before her student health
24 insurance ran out (she was graduating).

25 172. Jane Doe 2 felt extremely uncomfortable with the conversation, but
26 because she had never been to the gynecologist before, she did not know the degree to
27 which it was abnormal and inappropriate.
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1 173. Jane Doe 2 left the appointment feeling distressed. She decided that she
2 would never return to Dr. Tyndall.

3 174. From there, Jane Doe 2 scheduled a subsequent appointment with a
4 different OBGYN to receive birth control. Her appointment with the other OBGYN
5 felt normal and comfortable.

6 175. In hindsight, Jane Doe 2 realizes that Dr. Tyndall's behavior toward her
7 was violative and highly inappropriate. She has suffered emotional distress since the
8 appointment, and her distress has become heightened since learning that USC allowed
9 Dr. Tyndall to abuse many women like herself.

10 **10. Jane Doe J.C. (2011 – 2015)**

11 176. Jane Doe J.C. attended USC from 2011-2015, during which she was a
12 patient of Dr. Tyndall's for the first two years.

13 177. Dr. Tyndall was the first OBGYN Jane Doe J.C. ever saw. During the
14 pelvic exam, Dr. Tyndall used his fingers in a pumping motion in order to "palpate"
15 Jane Doe J.C.'s uterus and ovaries. She did not know the normal procedures for a
16 pelvic exam, and had no way of knowing whether Dr. Tyndall's methods were
17 improper.

18 178. Jane Doe J.C. is half Filipino. During a couple of the appointments with
19 Dr. Tyndall, he commented that Jane Doe J.C. was pretty. Dr. Tyndall mentioned that
20 he completed his medical training in the Philippines, he had a Filipina wife, and all
21 Filipina women are beautiful. Jane Doe J.C. felt uncomfortable and felt Dr. Tyndall
22 was trying to get personal with her in an inappropriate way.

23 179. Jane Doe J.C. saw Dr. Tyndall for approximately four visits before
24 switching her care to Planned Parenthood. She made the switch because she felt
25 extremely uncomfortable with Dr. Tyndall. As a people pleaser, Jane Doe J.C.
26 originally felt like she was being difficult for not liking Dr. Tyndall. She told her
27 friends how creepy Dr. Tyndall was and to avoid seeing him if they could, but did not
28

1 realize the extent of his behavior until learning how to perform pelvic exams herself a
2 couple of years later. When Jane Doe J.C. first heard reports that Dr. Tyndall had
3 abused many women, she felt validated in her experiences.

4 180. As a current medical student who has learned how to perform a proper
5 pelvic exam (as well as visits to other, more professional OBGYN doctors), Jane Doe
6 J.C. now knows just how inappropriate Dr. Tyndall's behavior was.

7 181. In her three years of medical school, she has had the privilege of
8 witnessing doctor-patient relationships from the other side. The trust placed in the
9 hands of a physician, especially an OBGYN, is immense. In addition to feeling
10 physically violated, she still currently feels emotionally violated due to that breach of
11 trust. Looking back, she is outraged and disgusted that Dr. Tyndall was in a position of
12 power to be able to abuse so many young and vulnerable women for so long. Since her
13 experience with Dr. Tyndall, she has only felt comfortable seeing female OBGYN's.

14 **11. Jane Doe A.N. (2015)**

15 182. Jane Doe A.N. was examined by Dr. Tyndall in 2015, during her senior
16 year at USC. She had been having heavy periods and severe cramping that interfered
17 with her daily activities, so she scheduled an appointment for an evaluation with Dr.
18 Tyndall.

19 183. At the time, Jane Doe A.N. was 21-years old, and this was her first
20 experience with going to the OBGYN. She did not know the normal procedures for a
21 pelvic exam, so she had no way of knowing whether Dr. Tyndall's methods were
22 improper.

23 184. When Jane Doe A.N. arrived for her appointment, she was immediately
24 put off by Dr. Tyndall's attempt to greet her in Vietnamese and his comments about
25 Asian women's beauty. During the appointment, Dr. Tyndall told Jane Doe A.N. that
26 her "skin was very beautiful," and that she "could be a model." Jane Doe A.N. found
27 these comments to be very out-of-line at the time.
28

1 185. Once Jane Doe A.N. was undressed and laying with her legs spread open
2 on the examination table, Dr. Tyndall digitally penetrated her. He commented on Jane
3 Doe A.N.'s "wetness" and asked if she had a higher level of secretion compared with
4 her friends. Dr. Tyndall was not wearing any gloves at the time. Jane Doe A.N. felt
5 extremely uncomfortable, but because of her lack of experience, she did not know that
6 it was abnormal for OBGYNs to do this type of examination without gloves.

7 186. Without performing any medical tests, Dr. Tyndall told Jane Doe A.N.
8 that she needed to go on birth control to treat her heavy periods and severe cramping
9 without providing a reason why this would help Jane Doe A.N. with her
10 symptoms. Dr. Tyndall similarly did not provide any explanation as to the cause of
11 these symptoms. Jane Doe A.N. did not follow Dr. Tyndall's advice because she did
12 not trust the conclusion of his exam or the limited treatment options he offered her.

13 187. After the appointment, Jane Doe A.N. told a couple of her close friends
14 that Dr. Tyndall was "creepy" and she was not going back to see him again even
15 though it meant she would have to suffer through the heavy periods and severe
16 cramping she was experiencing without further treatment.

17 188. When Jane Doe A.N. was finally able to see another OBGYN
18 approximately one year later, the OBGYN performed an ultrasound exam in her office
19 and a pap smear. The ultrasound revealed endometrial hyperplasia, polyps, and
20 pathologic menstrual bleeding patterns. A blood panel, hormone panel, and
21 endometrial biopsy were performed. Panel results were within normal limits and
22 endometrial biopsy revealed presence of adenomas and ruled out neoplasms.

23 189. When Jane Doe A.N. first heard reports that Dr. Tyndall had abused
24 many women, she realized she had not been the victim of an isolated occurrence, but
25 rather a victim of a series of abuses. The distress she felt at the time of her
26 examination came flooding back. She is upset and feels betrayed that USC allowed
27 this to happen to her and so many other women.
28

12. Jane Doe N.K. (2013-2017)

190. Jane Doe N.K. was an undergraduate student at USC from 2013-2017. During that time, she was a regular patient of Dr. Tyndall.

191. Jane Doe N.K. saw Dr. Tyndall approximately ten times during her tenure at USC. She regularly went to Dr. Tyndall for pap smears to check for sexually transmitted diseases.

192. Each time Jane Doe N.K. was examined by Dr. Tyndall, he inserted his fingers into her vagina before using the speculum. On at least one occasion, he explained that he was inserting his fingers first to minimize pain and discomfort that could be caused by the speculum.

193. On at least one occasion, Dr. Tyndall commented that Jane Doe N.K.'s vagina looked "very good" and "nice."

194. Jane Doe N.K. always felt uncomfortable on her visits with Dr. Tyndall, but she thought that it was normal to feel uncomfortable during gynecological exams.

195. There was a chaperone in the room for some, but not all, of Jane Doe N.K.'s examinations.

196. Jane Doe N.K. thought that Dr. Tyndall's practices and procedures were normal until she read Los Angeles Times reports that told her otherwise. She feels extremely violated and distressed, especially considering the number of visits she had with Dr. Tyndall. She feels traumatized and angry that USC failed to protect her.

13. Jane Doe L.Y. (2016)

197. In 2016, Jane Doe L.Y. was an undergraduate student at USC studying psychology. She scheduled an appointment at the student health center with Dr. Tyndall because she thought she should have a pelvic exam prior to graduation. It was her first ever appointment with an OBGYN.

1 198. Jane Doe L.Y. had made an appointment with Dr. Tyndall in August of
2 2015, but she cancelled it because she was uncomfortable about seeing a male
3 OBGYN.

4 199. When the 2016 appointment with Dr. Tyndall began, Jane Doe L.Y. was
5 relieved because there was a female chaperone in the room.

6 200. Because it was her first appointment with an OBGYN, Jane Doe L.Y. did
7 not know what to expect. Dr. Tyndall told her that the exam was supposed to feel
8 physically uncomfortable.

9 201. During the exam, Dr. Tyndall used lubricant and inserted his fingers into
10 Jane Doe L.Y.'s vagina. She did not know at the time that this was not standard
11 practice.

12 202. While his finger was inside of her, Dr. Tyndall asked Jane Doe L.Y. if
13 she was a runner because of her "tight muscles." Although the comment made her feel
14 nervous and violated, she had been running on the treadmill about five days a week for
15 a month. She told herself that maybe Dr. Tyndall was just reconigizing a fact about her
16 body.

17 203. Even though she was nervous and uncomfortable, the presence of a
18 female chaperone in the room communicated to her that everything was proper. Still,
19 during and after the examination, Jane Doe L.Y. felt in her gut that something was
20 wrong.

21 204. After the appointment, Dr. Tyndall talked to Jane Doe L.Y. alone in his
22 office.

23 205. Jane Doe L.Y. left the appointment with Dr. Tyndall feeling very
24 uncomfortable, and vowing never to repeat the experience. She has not received
25 gynecology services since the incident with Dr. Tyndall, even when she felt like she
26 should.

1 206. When Jane Doe L.Y. read about Dr. Tyndall in the media, it validated her
2 suspicion that Dr. Tyndall had acted inappropriately while examining her. Now, Jane
3 Doe L.Y. will never see a male gynecologist again, and she has lost trust in all male
4 physicians.

5 207. Jane Doe L.Y. feels violated, and she is experiencing extreme
6 emotionally distressed. She has scheduled counseling services to help her cope
7 emotionally.

8 **14. Jane Doe T.Y. (2016)**

9 208. In 2016, Jane Doe T.Y. was a graduate student at USC. She made an
10 appointment at the student health center with the only available physician, Dr.
11 Tyndall, because she was having cramps related to a medical condition. To the best of
12 Jane Doe T.Y.'s recollection, Dr. Tyndall proceeded to have her come back for
13 approximately five appointments over a two-month period.

14 209. During the initial physical examination and with a nurse present, Dr.
15 Tyndall told Jane Doe T.Y. he needed to check to see if the speculum would fit. He
16 initially inserted one finger into her vagina and then inserted a second finger. Jane Doe
17 T.Y. felt uncomfortable with the procedure, but did not know if this was normal.

18 210. While he was digitally penetrating her, Dr. Tyndall commented on how
19 her pelvic muscles were so strong and she must be runner. Dr. Tyndall's personal
20 comments about her body while penetrating her with his fingers made her
21 uncomfortable and distressed.

22 211. Dr. Tyndall had Jane Doe T.Y. make return appointments several times
23 over two months. Her friends asked why she had to go back to the doctor so often, and
24 while Jane Doe T.Y. found Dr. Tyndall creepy, she was worried about her health and
25 understood that he was the only doctor available to her.

26 212. During at least one of the appointments, she met with Dr. Tyndall in his
27 office to discuss birth control at his urging. She was not interested in birth control, but
28

1 Dr. Tyndall insisted that she should not ruin her body by getting pregnant because
2 “babies are disgusting.” She inquired why he was an OBGYN if he felt that way, and
3 he said he would prefer to work with students.

4 213. During the appointments, Dr. Tyndall would ask invasive questions about
5 Jane Doe T.Y.’s sexual experiences and, one time, commented that she “must love
6 living on the edge.”

7 214. During several appointments, Dr. Tyndall went on several rants regarding
8 how he felt that the United States needed stronger immigration policies to get rid of
9 the Latino immigrants. Dr. Tyndall’s rants led Jane Doe T.Y. to tell a friend that she
10 thought Dr. Tyndall was a racist.

11 215. On one occasion, Dr. Tyndall conducted a full body mole scan, claiming
12 to be looking for moles, and told her she had “flawless skin like all Asians.” Jane Doe
13 T.Y. found Dr. Tyndall’s comments creepy.

14 216. During this same appointment, Dr. Tyndall also conducted a breast
15 examination, while making inappropriate comments, such as how perfect her body
16 was, that made her extremely uncomfortable.

17 217. Each appointment over the course of that two months took approximately
18 30-40 minutes, which seemed increasingly unnecessary and unrelated to the purpose
19 of her original visit. However, she was too naïve to believe that the doctor would not
20 be asking her to return if she did not need medical care.

21 218. When Jane Doe T.Y. saw the articles about Dr. Tyndall and learned that
22 his inappropriate conduct had been going on for 30 years, she felt traumatized and
23 upset that USC had failed to protect her.

24 **15. Jane Doe A.H. (2016)**

25 219. Jane Doe. A.H. is a graduate student at USC. She was examined by Dr.
26 Tyndall on March 3, 2016. In order for her Aetna Student Health insurance to cover
27 the appointment, Jane Doe A.H. was required to go to USC’s student health center.
28

1 The other OBGYNs were booked for months, so the only way Jane Doe A.H. could
2 get an appointment quickly was to see Dr. Tyndall.

3 220. At her appointment with Dr. Tyndall, a nurse or chaperone was present in
4 the room for her examination.

5 221. During the pelvic exam, Dr. Tyndall used his fingers to penetrate Jane
6 Doe A.H. He also commented that she had “strong pelvic muscles” and asked if Jane
7 Doe A.H. was a runner. Jane Doe A.H. found Dr. Tyndall’s comment to be extremely
8 inappropriate and disturbing but questioned her discomfort given that a nurse was
9 present.

10 222. Dr. Tyndall also examined Jane Doe A.H.’s back and asked about her
11 nationality. When Jane Doe A.H. responded that she was American, Dr. Tyndall
12 asked where her parents were from. Jane Doe A.H. explained that her parents were
13 Israeli, and Dr. Tyndall commented, “Oh that explains the (back) hair. Middle Eastern
14 women have more (back) hair.” Jane Doe A.H. found these comments to be extremely
15 disturbing.

16 223. Distressed by what had occurred, Jane Doe A.H. texted some of her
17 friends and told them what happened. They were also disturbed by Dr. Tyndall’s
18 comments and behavior.

19 224. Since that time and as a result of the distress, Jane Doe A.H. has only
20 agreed to see the female gynecologists at USC to avoid another uncomfortable,
21 distressing encounter. She also became very self-conscious about her back hair.

22 225. Jane Doe A.H. was very upset when she heard that complaints had been
23 lodged against Dr. Tyndall for years and he was still allowed to practice at the USC
24 health center. She is extremely upset that USC put her in a position where her only
25 option for timely gynecological treatment was to see a perpetrator who should have
26 been dismissed decades ago. Jane Doe A.H. was also upset that she had not lodged a
27 complaint earlier. Before the news broke, Jane Doe A.H. felt that Dr. Tyndall’s
28

1 comments were inappropriate but did not realize that the pelvic exam and body scan
 2 he conducted were unnecessary. At the time, Jane Doe A.H. trusted Dr. Tyndall, the
 3 chaperone, and the USC health center to only perform necessary and appropriate
 4 examinations.

5 226. Jane Doe A.H. feels even more violated now knowing that Dr. Tyndall
 6 touched and examined her body in inappropriate ways that did not serve any medical
 7 purpose. Jane Doe A.H. is a graduate student who studies gender and a large part of
 8 her identity is feeling that she is informed, independent, and in control of her body.
 9 She is distressed that USC contributed to the cycle of training women to accept
 10 abusive behavior, especially from men in positions of power and trust. This has
 11 rattled Jane Doe A.H.'s identity and affected her sense of control over her life and her
 12 body.

13 **F. The statute of limitations is tolled based on the continuing violations**
 14 **doctrine and fraudulent concealment.**

15 227. Tyndall concealed the existence of Plaintiffs' claims and that Plaintiffs
 16 had a cause of action against Tyndall and/or USC at the time his sexual assaults
 17 occurred making a material representation(s) to Plaintiffs involving a past or existing
 18 fact by:

- 19 a. Misrepresenting that his acts and/or conduct were for the purpose
 20 of conducting a vaginal examination;
- 21 b. Misrepresenting that digital penetration of a woman's vagina at the
 22 outset of a gynecological examination was medically appropriate,
 23 contemporaneously and/or shortly before the abrupt, sudden, quick
 24 and unexpected sexual assaults by Tyndall;
- 25 c. Misrepresenting that his acts and/or conduct were for the purpose
 26 of conducting a breast examination;
- 27 d. Misrepresenting that it was necessary for a female patient to be
 28 fully naked for a gynecologist to conduct a full body scan for skin
 irregularities;

- 1 e. Misrepresenting that his acts and/or conduct was “treatment”
2 and/or conformed to accepted medical practice.

3 228. The material representation(s) to Plaintiffs and the Class were false, in
4 that Tyndall was actually performing these examinations for his own sexual
5 gratification and pleasure.

6 229. When Tyndall made the material representation(s), he knew that they
7 were false, in that he knew that the examinations were not proper, appropriate,
8 legitimate, and/or considered within standard of care by any physician of any specialty
9 and/or gynecology.

10 230. Tyndall made the material representation(s) with the intent that the
11 material representation(s) should be acted upon by Plaintiffs and the Class, in that
12 Plaintiffs and the Class Members should believe that the examinations were proper,
13 appropriate, and legitimate; should not believe that they had been sexually assaulted;
14 should not believe that they had been sexually assaulted so that he could prevent
15 discovery of his sexual assaults; should continue to be seen by him so that he could
16 continue to sexually assault them; should not question and/or report the conduct to
17 appropriate authorities; and should not reasonably believe and not be aware of a
18 possible cause of action that they have against Tyndall and/or USC.

19 231. Plaintiffs and Class Members acted in reliance upon the material
20 representation(s), in that they:

- 21 a. reasonably believed that the examinations were proper,
22 appropriate, and legitimate;
23 b. reasonably did not believe that they had been sexually assaulted;
24 c. did not believe that they should question and/or report the conduct
25 to appropriate authorities; and,
26 d. did not reasonably believe that they had and were not aware of a
27 possible cause of action that they had against Tyndall and/or USC.
28

1 232. Plaintiffs and Class Members suffered injury, in that they could not stop
2 the sexual assault and suffered discomfort, severe emotional distress, shock,
3 humiliation, fright, grief, embarrassment, and disgrace.

4 233. Tyndall further concealed the fraud by an affirmative act(s) that was/were
5 designed and/or planned to prevent inquiry and escape investigation and prevent
6 subsequent discovery of his fraud, in that he:

- 7 a. Misrepresented to other medical professionals in the examination
8 room that digitally penetrating female patients was medically
9 necessary and appropriate;
- 10 b. Prevented other medical professionals, chaperones, and/or
11 caregivers from being in the room during examinations and
12 treatments of Plaintiffs and Class Members so that he could
sexually assault them; and
- 13 c. Did not abide by or follow the standard and care which requires
14 another medical professional, chaperone, parent, guardian, and/or
15 caregiver be in the room during the examination and treatment of
minors and female patients.

16 234. Directors, managers, supervisors, physicians, nurses, chaperones in
17 USC's student-health center took affirmative steps to fraudulently conceal Tyndall's
18 misconduct, including, but limited to, by depressing complaints made by patients by
19 imposing onerous reporting requirements on them.

20 235. Directors, managers, supervisors, physicians, nurses, chaperones in
21 USC's student-health center also misrepresented that Tyndall's conduct during
22 examinations was proper, including, but not limited by (i) watching Tyndall's conduct
23 as a purported chaperone without stopping the improper conduct; (ii) permitting
24 Tyndall to conduct examinations without a chaperone present; and (iii) scheduling
25 female patients for appointments with Tyndall despite having full knowledge of his
26 improper conduct.

27 236. The actions and inactions of Tyndall and USC constituted fraudulent
28 concealment.

237. At all times pertinent to this action, Tyndall was an agent, apparent agent, servant, and employee of USC and operated within the scope of his employment and his negligence is imputed to USC.

238. Plaintiffs and Class Members did not know, could not have reasonably known, and were reasonably unaware of a possible cause of action that they had against Tyndall and/or USC until the May 15, 2018 publication of a story by the Los Angeles Times.

V. CLASS ALLEGATIONS

239. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23(b)(3) and 23(c)(4) on behalf of themselves and the following Class:

All women who were examined by George Tyndall, M.D. at the University of Southern California.

240. The Class consists of hundreds, if not thousands, of women, making joinder impracticable, in satisfaction of Fed. R. Civ. P. 23(a)(1). The exact size of the Class and the identities of the individual members are ascertainable through records maintained by USC.

241. The claims of Plaintiffs are typical of the Class. The claims of the Plaintiffs and the Class are based on the same legal theories and arise from the same unlawful pattern and practice of sexual harassment and assault.

242. There are many questions of law and fact common to the claims of Plaintiffs and the Class, and those questions predominate over any questions that may affect only individual Class Members within the meaning of Fed. R. Civ. P. 23(a)(2) and (c)(4).

243. Common questions of fact and law affecting members of the Class include, but are not limited to, the following:

a. Whether Tyndall engaged in a sexual harassment, assault, and battery;

- b. Whether Tyndall's sexual harassment, assault, and battery was committed within the scope of his employment at USC;
- c. Whether the USC Defendants had knowledge of Tyndall's sexual harassment, assault, and battery;
- d. Whether the USC Defendants facilitated Tyndall's pattern and practice of sexual harassment, assault, and battery;
- e. Whether the USC Defendants or Tyndall engaged in conduct designed to suppress complaints or reports regarding Tyndall's conduct;
- f. Whether the USC Defendants negligently retained or supervised Tyndall;
- g. Whether the USC Defendants ratified Tyndall's conduct; and
- h. Whether the USC Defendants are responsible for Tyndall's conduct under the doctrine of respondeat superior.

244. Absent a class action, most of the members of the Class would find the cost of litigating their claims to be prohibitive and will have no effective remedy. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation, particularly as to USC's legal responsibility for Tyndall's actions, in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

245. Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs have retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the other respective Class Members, and have the financial resources to do so. Neither Plaintiffs nor their counsel have any interests adverse to those of the other members of the Class.

1 **VI. CAUSES OF ACTION**

2 **COUNT I**

3 **VIOLATIONS OF TITLE IX, 20 U.S.C. § 1681(a), *et seq.***
4 **(AGAINST USC AND USC TRUSTEES)**

5 246. Plaintiffs restate and incorporate herein by reference the preceding
6 paragraphs as if fully set forth herein.

7 247. Title IX of the Education Amendments Act of 1972 states, “No person in
8 the United States shall on the basis of sex, be ... subject to discrimination under any
9 education program or activity receiving Federal financial assistance ...” 20 U.S.C. §
10 1681, *et seq.*

11 248. Plaintiffs and members of the Class are “persons” under Title IX.

12 249. USC receives federal financial assistance for its education program and is
13 therefore subject to the provisions of Title IX of the Education Act of 1972, 20 U.S.C.
14 §1681(a), *et seq.*

15 250. USC is required under Title IX to investigate allegations of sexual
16 assault, sexual abuse, and sexual harassment.

17 251. Tyndall’s conduct described above constitutes sexual harassment, abuse,
18 and assault, and constitutes sex discrimination under Title IX.

19 252. The USC Defendants were on notice of Tyndall’s conduct as described
20 above. The USC Defendants nonetheless failed to carry out their duties to investigate
21 and take corrective action under Title IX.

22 253. As a direct and proximate result of the USC Defendants’ actions and/or
23 inactions, Plaintiffs and members of the Class were damaged.

24 **COUNT II**

25 **VIOLATION OF THE CALIFORNIA EQUITY IN HIGHER EDUCATION**
26 **ACT [CAL. ED. CODE § 66270] (AGAINST THE USC, USC TRUSTEES, AND**
27 **TYNDALL)**

28 254. Plaintiffs realleges and incorporates by reference the allegations
contained in the previous paragraphs.

1 coercive in that Plaintiffs and Class Members were required to place their trust in their
2 physician because he was held out to be an expert in gynecology by USC.

3 263. USC participated in the physical intrusion and/or invasion of the bodies
4 of Plaintiffs and Class Members during medical examinations by either being
5 physically present in the room through agent chaperones or other clinic staff members
6 and/or bringing Plaintiffs and the Class Members into the examination rooms and
7 providing instructions to remove their clothing knowing that Tyndall would assault
8 them in a sexual manner.

9 264. Plaintiffs were injured as a result of the gender violence, and seek all
10 remedies provided for in Civil Code Section 52.4(a), including, but not limited to,
11 actual damages, compensatory, damages, punitive damages, costs, and attorneys' fees.

12 **COUNT IV**

13 **GROSS NEGLIGENCE** 14 **(AGAINST THE USC, USC TRUSTEES, AND TYNDALL)**

15 265. Plaintiffs reallege and incorporate by reference the allegations contained
16 in the previous paragraphs.

17 266. The USC Defendants owed Plaintiffs and Class Members a duty to use
18 due care to ensure their safety and freedom from sexual assault, abuse, and
19 molestation while interacting with their employees, representatives, and/or agents,
20 including Tyndall.

21 267. Tyndall owed Plaintiffs a duty of due care in carrying out medical
22 treatment as an employee, agent, and/or representative of the USC Defendants.

23 268. By seeking medical treatment from Tyndall in the course of his
24 employment, agency, and/or representation of the USC Defendants, a special,
25 confidential, and fiduciary relationship between Plaintiffs and Tyndall was created,
26 resulting in Tyndall owing Plaintiffs a duty to use due care.

27 269. The USC Defendants' failure to adequately supervise Tyndall, especially
28 after USC knew or should have known of complaints regarding his nonconsensual

1 sexual touching and assaults during medical examinations was so reckless as to
2 demonstrate a substantial lack of concern for whether an injury would result to
3 Plaintiffs.

4 270. Tyndall's conduct in sexually assaulting, abusing, and molesting
5 Plaintiffs in the course of his employment, agency, and/or representation of the USC
6 Defendants and under the guise of rendering "medical treatment" was so reckless as to
7 demonstrate a substantial lack of concern for whether an injury would result to
8 Plaintiff.

9 271. The USC Defendants' conduct demonstrated a willful disregard for
10 precautions to ensure Plaintiffs' safety.

11 272. The USC Defendants' conduct as described above, demonstrated a willful
12 disregard for substantial risks to Plaintiffs and Class Members.

13 273. The USC Defendants breached duties owed to Plaintiffs and Class
14 Members and were grossly negligent when they conducted themselves by the actions
15 described above, said acts having been committed with reckless disregard for
16 Plaintiffs and Class Members' health, safety, constitutional and/or statutory rights, and
17 with a substantial lack of concern as to whether an injury would result.

18 274. As a direct and/or proximate result of Defendants' actions and/or
19 inactions, Plaintiffs and Class Members were damaged.

20 **COUNT V**

21 **NEGLIGENT SUPERVISION AND RETENTION** 22 **(AGAINST USC AND USC TRUSTEES)**

23 275. Plaintiffs restate and incorporate herein by reference the preceding
24 paragraphs as if fully set forth herein.

25 276. At all times material since 1989 and until Tyndall was removed in 2016,
26 the USC Defendants employed Tyndall.

27 277. Tyndall was unfit or incompetent to work directly with female patients
28 and posed a particular risk of sexually harassing, violating, and assaulting them.

1 278. The USC Defendants knew or should have known that Tyndall was unfit
2 or incompetent to work directly with female patients and posed a particular risk of
3 sexually harassing, violating, and assaulting them, and that this unfitness created a
4 particular risk to Plaintiffs and the Class.

5 279. Tyndall's unfitness and particular risk to female patients harmed
6 Plaintiffs and the Class.

7 280. The USC Defendants negligence in supervising and or retaining Tyndall
8 was a substantial factor in causing harm to Plaintiffs and the Class.

9 **COUNT VI**
10 **CIVIL BATTERY**
11 **(AGAINST TYNDALL AND USC)**

12 281. Plaintiffs restate and incorporate herein by reference the preceding
13 paragraphs as if fully set forth herein.

14 282. Tyndall intended to commit an act of unwanted contact and/or caused
15 imminent apprehension of such an act against Plaintiffs and Class Members. He did so
16 by, *inter alia*:

- 17 a. Isolating Plaintiffs and Class Members in closed
18 quarters and dismissing any bystanders; and
19 b. Causing sexual contact.

20 283. Tyndall did commit an unwanted contact with Plaintiffs and the Class
21 Members' person or property in a harmful or offensive manner, including, but not
22 limited to, by causing molestation or sexual contact between Tyndall and each woman.

23 284. Tyndall's battery of Plaintiffs and the Class caused harm, including
24 physical, mental, and/or emotional harm of each Class Member.

25 285. Tyndall's conduct was committed within the scope of his employment at
26 USC. A causal nexus existed between Tyndall's medical examinations, USC's pattern
27 of allowing Tyndall to examine female patients without a chaperone, and the use of his
28 role to batter the women. Each act of battery of a Class Member was foreseeable

1 given, *inter alia*, USC's knowledge that Tyndall failed to follow protocol, including
2 but not limited with respect to the use of chaperones and taking of photographs of
3 genitalia, complaints from patients and staff members, and the commission of the acts
4 at USC's student-health center.

5 286. Tyndall's conduct is not so unusual or startling that it would seem unfair
6 to include the loss resulting from it among other costs of USC's business. Assaults in
7 the context of a medical examination, when women are the most vulnerable but who
8 put themselves in that situation in order to get the medical care they need, are exactly
9 why female patients would expect physician offices and student-health centers to take
10 extra precautions to ensure that they are protected from the dominance of a physician
11 in the doctor-patient relationship.

12 287. Holding USC liable forwards the underlying policy goals of respondent
13 superior, including the prevention of future injuries and assurance of compensation to
14 victims, given that Plaintiffs and the Class Members do not have separate remedies
15 under Title VII because they were not employees of USC.

16 **COUNT VII**

17 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS** 18 **(AGAINST TYNDALL AND USC)**

19 288. Plaintiffs restate and incorporate herein by reference the preceding
20 paragraphs as if fully set forth herein.

21 289. Tyndall's extreme and outrageous conduct intentionally or recklessly
22 caused severe emotional distress to Plaintiffs and the Class Members.

23 290. Tyndall's outrageous conduct was not the type of ordinary physician
24 examination or even rude or obnoxious behavior that women should be expected to
25 tolerate. Rather, Tyndall's conduct exceeded all possible bounds of decency.

26 291. Tyndall acted with intent or recklessness, knowing that his female victims
27 were likely to endure emotional distress given the relationship and trust placed in
28 physicians by patients. In fact, he used this trust to subdue the women and prevent

1 them from complaining or suing based on his actions. He did so with deliberate
2 disregard as to the high possibility that severe emotional distress would occur.

3 292. Tyndall's conduct caused suffering for Plaintiffs and the Class Members
4 at levels that no reasonable person should have to endure.

5 293. Tyndall's conduct was committed within the scope of his employment at
6 USC. A causal nexus existed between Tyndall's medical examinations, USC's pattern
7 of allowing Tyndall to examine female patients without a chaperone, and the use of his
8 role to intentionally inflict emotional distress on the women. Each act of battery or
9 assault of a Class Member was foreseeable given, *inter alia*, USC's knowledge that
10 Tyndall failed to follow protocol, including, but not limited with respect to the use of
11 chaperones and taking of photographs of genitalia, complaints from patients and staff
12 members, and the commission of the acts at USC's student-health center.

13 294. Tyndall's conduct is not so unusual or startling that it would seem unfair
14 to include the loss resulting from it among other costs of USC's business. Assaults in
15 the context of a medical examination, when women are the most vulnerable but who
16 put themselves in that situation in order to get the medical care they need, are exactly
17 why female patients would expect physician offices and student-health centers to take
18 extra precautions to ensure that they are protected from the dominance of a physician
19 in the doctor-patient relationship.

20 295. Holding USC liable forwards the underlying policy goals of respondent
21 superior, including the prevention of future injuries and assurance of compensation to
22 victims, given that Plaintiffs and the Class Members do not have separate remedies
23 under Title VII because they were not employees of USC.

24 **COUNT VIII**

25 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS** 26 **(AGAINST TYNDALL AND USC)**

27 296. Plaintiffs restate and incorporate herein by reference the preceding
28 paragraphs as if fully set forth herein.

1 297. Tyndall's conduct negligently caused emotional distress to Plaintiffs and
2 the Class Members.

3 298. Tyndall could reasonably foresee that his action would have caused
4 emotional distress to Plaintiffs and the Class Members.

5 299. Plaintiffs and the Class Members were in a specific zone of danger
6 meeting with Tyndall in the examination room and at risk of physical harm, causing
7 their fear when the examination became sexual in nature.

8 300. Plaintiffs and the Class Members, during their medical examination,
9 suffered distress and emotional harm.

10 301. Tyndall's conduct was committed within the scope of his employment at
11 USC. A causal nexus existed between Tyndall's medical examinations, USC's pattern
12 of allowing Tyndall to examine female patients without a chaperone, and the use of his
13 role to negligently inflict emotional distress on the women. Each act of battery or
14 assault of a Class Member was foreseeable given, *inter alia*, USC's knowledge that
15 Tyndall failed to follow protocol, including but not limited with respect to the use of
16 chaperones and taking of photographs of genitalia, complaints from patients and staff
17 members, and the commission of the acts at USC's student-health center.

18 302. Tyndall's conduct is not so unusual or startling that it would seem unfair
19 to include the loss resulting from it among other costs of USC's business. Assaults in
20 the context of a medical examination, when women are the most vulnerable but who
21 put themselves in that situation in order to get the medical care they need, are exactly
22 why female patients would expect physician offices and student-health centers to take
23 extra precautions to ensure that they are protected from the dominance of a physician
24 in the doctor-patient relationship.

25 303. Holding USC liable forwards the underlying policy goals of respondent
26 superior, including the prevention of future injuries and assurance of compensation to
27
28

1 victims, given that Plaintiffs and the Class Members do not have separate remedies
2 under Title VII because they were not employees of USC.

3 **COUNT IX**
4 **RATIFICATION**
5 **(AGAINST USC AND USC TRUSTEES)**

6 304. Plaintiffs restate and incorporate herein by reference the preceding
7 paragraphs as if fully set forth herein.

8 305. Tyndall was an agent and employee of USC between 1989 and 2016.

9 306. Tyndall was acting at all times in his position as an agent of and on behalf
10 of USC.

11 307. All acts or omissions alleged were ratified by USC and USC Trustees. As
12 alleged *supra*, many of USC's employees, managers, and supervisors, including other
13 medical personnel in the student-health center, knew Tyndall was sexually abusing
14 female students and refused to take any action to stop him. Moreover, USC's
15 managers, supervisors, executives, and directors hid this information so Tyndall could
16 continue to work for USC.

17 308. With knowledge of Tyndall's sexual misconduct, no disciplinary action
18 was taken and he was allowed to be alone with female students who attended USC.

19 309. USC is thus responsible for Tyndall's acts of assault, battery, and
20 intentional or negligent infliction of emotional distress.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs, individually and on behalf of all Class Members pray
23 that this Court:

24 A. Certify the Class, name Plaintiffs as representatives of the Class, and
25 appoint their lawyers as Class Counsel;

26 B. Enter judgment against George Tyndall in favor of Plaintiffs and the
27 Class;
28

1 C. Enter judgment against University of Southern California in favor of
2 Plaintiffs and the Class;

3 D. Enter judgment against the Board of Trustees of the University of
4 Southern California in favor of Plaintiffs and the Class,

5 E. Award Plaintiffs and the Class Members damages for pain and suffering,
6 and compensatory and punitive damages,

7 F. Award Plaintiffs their attorneys' fees and costs.
8

9
10 Dated: June 4, 2018

Respectfully submitted,

11 HAGENS BERMAN SOBOL SHAPIRO LLP

12 By: /s/ Christopher R. Pitoun

13 Christopher R. Pitoun

14 301 N. Lake Ave., Suite 920

15 Pasadena, CA 91101

16 Tel.: 213-330-7150

17 Fax: 213-330-7152

18 Email: christopherp@hbsslaw.com

19 Steve W. Berman (*pro hac vice* pending)

20 HAGENS BERMAN SOBOL

21 SHAPIRO LLP

22 1918 Eighth Avenue, Suite 3300

23 Seattle, WA 98101

24 Tel.: 206.623.7292

25 Fax: 206.623.0594

26 Email: steve@hbsslaw.com

27 Elizabeth A. Fegan (*pro hac vice* pending)

28 Emily Brown (*pro hac vice* pending)

HAGENS BERMAN SOBOL

SHAPIRO LLP

455 N. Cityfront Plaza Dr., Suite 2410

Chicago, IL 60611

Telephone: (708) 628-4949

Facsimile: (708) 628-4950
Email: beth@hbsslaw.com
emilyb@hbsslaw.com

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