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13
14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17
18 JANE DOE 1, individually and on
19 behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 GEORGE TYNDALL, M.D., an
23 individual; UNIVERSITY OF
24 SOUTHERN CALIFORNIA, a
25 California corporation; THE
26 BOARD OF TRUSTEES OF THE
27 UNIVERSITY OF SOUTHERN
28 CALIFORNIA; USC Engemann
Student Health Center; and DOES 1-
100,

Defendants.

Case No. 2:18-cv-05010

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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1 Plaintiff Jane Doe 1 (“Plaintiff”), on behalf of herself and all others similarly
2 situated, files this class action against George Tyndall, M.D. (hereinafter,
3 “Tyndall”), the University of Southern California (“USC”), the Board of Trustees
4 of the University of Southern California (the “Trustees”), the USC Engemann
5 Student Health Center (“Engemann Health Center”), and Does 1-100, and alleges as
6 follows:

7 **NATURE OF THE ACTION**

8 1. This is a class action on behalf of individuals who were sexually
9 abused, harassed, and molested by serial sexual predator, Defendant George
10 Tyndall while they were students at USC. These individuals received treatment
11 from Tyndall at USC’s medical facilities, including but not limited to the USC
12 Engemann Student Health Center and/or Eric Cohen Student Health Center of USC.

13 2. While attending USC as a student, Plaintiff was forced to repeatedly
14 seek medical treatment from Tyndall, due to the fact that he was the only full-time
15 gynecologist on staff at USC’s Student Health Clinic. Tyndall used this position of
16 trust and authority to sexually abuse Plaintiff on multiple occasions, by engaging in
17 acts that include but are not limited to: forcing Plaintiff to strip naked, groping
18 Plaintiff’s breasts, digitally penetrating Plaintiff’s vagina and engaging in verbal
19 discussions about irrelevant and inappropriate sexual topics, for no legitimate
20 medical purpose and for no other reason than to satisfy his own prurient sexual
21 desires.

22 3. As is typical with sexual predators, Tyndall had a pattern of behavior
23 and a common course of conduct that he exhibited towards all his victims,
24 including Plaintiff and Class members.

25 4. Over the years that Tyndall has been employed by USC, numerous
26 Class members have made eerily similar complaints about his inappropriate,
27 abusive, and harassing behavior, including, but not limited to: Tyndall taking
28 photographs of his female patients’ genitals without any medical purpose; making

1 suggestive comments about patients' bodies during gynecological examinations;
2 touching student-patients' bodies in a manner that had no medical purpose;
3 requiring student-patients to lie fully nude on the table during gynecological
4 examinations; and making improper and sexual comments about their bodies and
5 other comments of a sexual or suggestive nature.

6 5. USC had a duty to ensure that Tyndall, the only gynecologist
7 employed by USC and available to students for gynecological care, used his trusted
8 position consistent with the standard of care and ensure that Tyndall did not violate
9 that trust by abusing and harassing students.

10 6. As a medical doctor, and as an employee of USC, Tyndall owed
11 Plaintiff and Class members a duty of due care in carrying out medical treatment.

12 7. Despite the fact that USC has publicly admitted that it received
13 numerous complaints of Tyndall's sexually abusive behavior, dating back to at least
14 the year 2000, USC actively and deliberately concealed Tyndall's sexual abuse for
15 years, continuing to grant Tyndall unfettered sexual access to the female USC
16 students in his care, all to protect USC's reputation and financial coffers.

17 8. Plaintiff seeks appropriate relief on behalf of the other individuals who
18 experienced similar mistreatment by Tyndall and USC.

19 **JURISDICTION AND VENUE**

20 9. The Court has subject matter jurisdiction over this action under the
21 Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because (a) Plaintiff seeks
22 to represent a nationwide class of the hundreds, or thousands, of individuals
23 sexually abused, harassed, and molested by Defendant George Tyndall, (b) the
24 amount in controversy exceeds \$5,000,000, excluding interest and costs, (c) the
25 proposed class consists of more than 100 individuals, and (d) none of the
26 exceptions under the subsection applies to this action.

27 10. This Court has personal jurisdiction over Defendants. They conduct
28 substantial business in this District and intentionally availed themselves of the laws

1 and markets of this District. A significant portion of the acts and omissions
2 complained of occurred in the District, and Plaintiff and many class members
3 suffered harm in the District.

4 11. Venue is proper in this District under 28 U.S.C § 1391 because a
5 substantial part of the events or omissions giving rise to the claims occurred in this
6 District.

7 **PARTIES**

8 **Plaintiff**

9 12. Given the sensitive nature of her claims, Plaintiff is using a
10 pseudonym in this litigation to protect her privacy. If required by the Court,
11 Plaintiff will seek permission to proceed under this pseudonym.

12 13. At all relevant times, Plaintiff Jane Doe 1 (“Plaintiff”) is and was a
13 resident of Los Angeles County, California, and a citizen of California. Plaintiff
14 was a student at the University of Southern California (“USC”) where she sought
15 gynecological care through the USC student health clinic system and was examined
16 by defendant George Tyndall on approximately six occasions during approximately
17 2010 and from 2015-2016. Plaintiff, who had never seen a gynecologist prior to
18 enrolling at USC, was subjected to sexual harassment and inappropriate touching
19 during those examinations.

20 **Defendants**

21 14. At all times relevant hereto, defendant George R. Tyndall, M.D. was
22 an actual and/or apparent, duly-authorized agent, servant and/or employee of USC
23 and carried on a gynecological medical practice in Los Angeles, California.

24 15. At all times relevant hereto, Defendant Tyndall is and was a resident of
25 Los Angeles, California and performed medical services for USC student-patients
26 as part of his employment.

1 16. Upon information and belief, USC, Trustees, Engemann Health
2 Center, and Does 1 through 100 and at all relevant times herein mentioned were and
3 are:

- 4 a. A California corporation or other entity, form unknown;
5 b. A citizen of California;
6 c. Having their principal place of business in California; and
7 d. Doing business in Los Angeles County, California.

8 17. The true names and capacities, whether individual, corporate,
9 partnership, associate, or otherwise, of Defendants Does 1 through 100 are
10 unknown to Plaintiff and the Class members who therefore sue these Doe
11 Defendants by such fictitious names pursuant to CODE OF CIV. PROC. § 474.
12 Plaintiff and the Class members will seek leave to amend this Complaint to allege
13 their true names and capacities when they are ascertained.

14 18. The Board of Trustees of The University of Southern California is the
15 governing body of USC, a private corporation. The Board of Trustees has
16 approximately 55 voting members.

17 19. The Engemann Health Center is a health care facility owned and
18 operated by USC that is available to USC students to “help [them] maintain an
19 optimum level of physical and mental health and to guide them in maintaining a
20 healthy lifestyle.”¹

21 20. Upon information and belief, each of the Defendants named in this
22 Complaint, including each of the Doe Defendants, is responsible in some manner
23 for one or more of the events and happenings, and proximately caused the injuries
24 and damages, hereinafter alleged.

25 21. Upon information and belief, each of the Defendants named in this
26 Complaint, including each of the Doe Defendants, is, and at all relevant times

27 _____
28 ¹ See <https://engemannshc.usc.edu/about/> (last visited June 5, 2018).

1 herein mentioned was, the agent, servant, and/or employee of each of the other
2 Defendants, and each Defendant was acting within the course and scope of his, her,
3 or its authority as the agent, servant, and/or employee of each of the other
4 Defendants. Consequently, each Defendant is jointly and severally liable to Plaintiff
5 and the Class members for the damages sustained as a proximate result of their
6 conduct.

7 **FACTUAL ALLEGATIONS**

8 **A. Plaintiff and Class Members' Experiences**

9 22. Plaintiff Jane Doe 1 is and was a student enrolled at USC. Prior to her
10 enrollment at USC, Plaintiff had not had access to gynecological care. Therefore,
11 upon enrolling at USC, she scheduled an appointment at the USC health center.
12 Following an initial visit with a different physician, she was scheduled with
13 Defendant Tyndall.

14 23. Plaintiff Jane Doe 1 had approximately six appointments with
15 Defendant Tyndall at USC's facilities between 2010 and 2016. During each visit,
16 Plaintiff was subjected to sexual harassment and inappropriate touching during
17 examinations as well as inappropriate verbal comments on sexual issues.

18 24. During at least one appointment, Tyndall groped Plaintiff's breasts and
19 failed to cover her with a hospital gown while performing a digital vaginal
20 examination. During the exam, Tyndall indicated that he had difficulty "inserting
21 [his] fingers" into her vagina and that she "must be an athlete" because she was
22 especially "tight."

23 25. Tyndall also pressured Plaintiff into agreeing to have a Nexplanon
24 contraceptive device implanted in her arm, even though she insisted to him that she
25 was not sexually active and had no need for contraception.

26 26. Further, during several appointments with Plaintiff, Tyndall made
27 inappropriate comments that had no legitimate medical purpose, including
28 references to the sexual activities of his other patients.

1 27. During one appointment Tyndall mentioned that many of his patients
2 (all students) were sexually active and one student would “go crazy if she didn’t
3 have sex.”

4 28. During another appointment Tyndall insisted on performing a full
5 vaginal exam even though the stated purpose of the appointment was a pap smear.
6 Tyndall refused to take the pap smear because he told Plaintiff it was too soon and
7 that she would need to obtain her medical records before he would take the pap
8 smear. Tyndall insisted on performing a vaginal exam even though Plaintiff said
9 she did not need one and it was not the purpose of the visit; Tyndall responded that
10 “You should have the vaginal exam since you are here.” No nurse was present
11 because it was only scheduled as a pap smear.

12 29. During another appointment Tyndall mentioned the growing number
13 of school shootings and his concern that female students would be scantily clad
14 during summer and thus somehow provoke more shootings.

15 30. Tyndall’s inappropriate physical “treatment” and verbal statements to
16 Plaintiff made her uncomfortable to the point of feeling violated.

17 **B. Defendants’ Misconduct**

18 31. At all times relevant hereto, Defendant George R. Tyndall, M.D. was
19 an obstetrician-gynecologist who was licensed to practice medicine in the State of
20 California from 1986 to approximately 2017, and was hired by USC in 1989
21 following completion of residency in gynecology and obstetrics.

22 32. For over 30 years, Defendant Tyndall practiced obstetrics and
23 gynecology as an actual and/or apparent agent, servant and/or employee of USC
24 through its student health clinics and facilities.

25 33. At all times relevant hereto, agents, servants, medical staff members,
26 and/or employees of USC including Defendant Tyndall, were acting in the course
27 and scope of their authority, agency, service and/or employment for USC, the
28 Trustees, the Engemann Health enter and/or Does 1-100.

1 34. Upon information and belief, beginning in approximately the 1990's,
2 USC and the Engemann Health Center began receiving reports from USC students
3 and employees regarding concerns about Defendant Tyndall's conduct and
4 "treatment" of his patients; nonetheless, both USC and the Engemann Health
5 Center failed to take any action in response to such complaints. USC and the
6 Engemann Health Center received numerous complaints of serious misconduct,
7 including sexual misconduct by Tyndall made to Tyndall's supervisors and other
8 administrators employed by USC, including but not limited to, the executive
9 director of its health center and other university officials.

10 35. Rather than addressing and properly investigating the complaints,
11 including taking appropriate disciplinary action and/or terminating the employment
12 of Tyndall, Defendants USC, the Trustees, the Engemann Health Center and Does
13 1-100 kept the complaints secret to avoid negative publicity despite their actual
14 knowledge of such misconduct, so that for over 30 years, Defendant Tyndall had
15 unfettered access to female students – many of them as young as 17 or 18 years old
16 – through the student health clinics at USC.

17 36. USC, the Trustees, the Engemann Health Center, and Does 1-100 hid
18 the complaints despite the fact that many of the complaints came directly from their
19 own employees and staff, including nurses and medical assistants who were
20 physically present during the examinations as "chaperones," and witnessed the
21 sexual misconduct firsthand. Despite receiving years of serious complaints of
22 significant misconduct about Tyndall, including sexual misconduct, USC, the
23 Trustees, the Engemann Health Center and Does 1-100 failed to take any
24 meaningful action to address the complaints until they were finally forced to do so
25 in June 2016.

26 37. Upon information and belief, the complaints made to USC, the
27 Trustees, the Engemann Health Center and Does 1-100 included, but are not limited
28 to: Tyndall taking photographs of his female patients' genitals without any medical

1 purpose; making suggestive comments about patients' bodies during gynecological
2 examinations; touching student-patients' bodies in a manner that had no medical
3 purpose; requiring student-patients to lie fully nude on the table during
4 gynecological examinations; and making improper and sexual comments about
5 their bodies and other comments of a sexual or suggestive nature.

6 38. The Engemann Health Center's "Patient Rights and Responsibilities"
7 provides, *inter alia*, that patients have a right "[t]o be treated with consideration,
8 and respect for your dignity and individuality." It further provides: "Right: To
9 provide comments and/or concerns about your healthcare experience without
10 fearing retribution. Comments/concerns can be made through the website portal,
11 comment card found at all front desks or in person with the Quality & Safety
12 Director. Responsibility: To help Engemann Student Health Center improve its
13 service and environment by providing feedback about service needs, expectations
14 and perceptions of care."

15 39. At all times relevant hereto, Plaintiff and the Class members are or
16 were female students attending USC who sought gynecological care through the
17 USC student health system and were patients of defendant Tyndall during his
18 tenure at USC. Plaintiff and other members of the Class had no reason to suspect
19 Defendant Tyndall was anything other than a competent and ethical physician.

20 40. Knowing that Plaintiff and other members of the Class were trusting
21 and vulnerable – and in many cases still teenagers – Defendant Tyndall used his
22 position of authority to require Plaintiff and other members of the Class to fully
23 disrobe for no reasonable medical purpose, engage in touching, fondling and
24 groping of Plaintiff and Class members' breasts and other parts of their bodies
25 while making suggestive and improper comments, engage in nonconsensual vaginal
26 penetration, nonconsensual sexual touching and fondling of the vaginal and genital
27 region for the purpose of sexual arousal, sexual gratification, and/or sexual abuse.
28

1 Defendant Tyndall also made racially discriminatory and sexually harassing
2 comments.

3 41. Through his employment with USC, Defendant Tyndall used his
4 position of authority as a medical professional to take hundreds of nonconsensual
5 and medically unwarranted photographs of female genitalia under the guise of
6 medical “treatment.”

7 42. Defendant Tyndall particularly targeted young students, many of
8 whom were foreign students, and who were frequently unfamiliar with the nature of
9 gynecological examinations as a result of their youth, inexperience, and/or cultural
10 background. Many of these young women did not know that what Tyndall was
11 doing during the examinations was not proper protocol and did not realize he was
12 engaging in sexual misconduct, sexually violating them, and/or taking advantage of
13 them.

14 43. Defendant Tyndall carried out these acts without fully explaining the
15 “treatment” or obtaining informed consent of Plaintiff and other members of the
16 Class.

17 44. All of Defendant Tyndall’s acts were conducted under the guise of
18 providing medical care at the University of Southern California and its facilities,
19 including the Engemann Health Center.

20 45. The failure to give proper notice or to obtain consent for the purported
21 “treatment” from Class Plaintiffs negated their objection to reject the “treatment.”

22 46. Defendant Tyndall used his position of trust and confidence in an
23 abusive manner causing Class Plaintiffs to suffer a variety of injuries including but
24 not limited to shock, humiliation, emotional distress and related physical
25 manifestations thereof, embarrassment, loss of self-esteem, disgrace, loss of
26 enjoyment of life and negative impacts on their ultimate career and professional
27 prospects.

28

1 47. USC, the Trustees, the Engemann Health Center, and Does 1-100 gave
2 Tyndall access and opportunity to abuse Plaintiff and Class members; but for that
3 access and opportunity, Tyndall could not have abused Plaintiff and Class
4 members.

5 48. Upon information and belief, in the 1990's USC Defendants were also
6 put on notice of Defendant Tyndall's actions after receiving complaints from USC
7 employees, including nurses, medical staff, students and chaperones concerning
8 both the photographs of female genitalia and the disturbing sexual behavior toward
9 patients.

10 49. Upon information and belief, despite complaints to USC
11 representatives and the Engemann Health Center, the concerns and allegations went
12 unaddressed in violation of reporting policies and procedures and in a manner that
13 was reckless, deliberately indifferent, and grossly negligent. Specifically, the
14 medical director of the student clinic took the camera away from defendant Tyndall
15 but did nothing further to investigate or take corrective action regarding defendant
16 Tyndall's behavior.

17 50. Upon information and belief, because Defendants USC, the Trustees,
18 the Engemann Health Center and Does 1-100 all failed to take action to investigate
19 the complaints or to take corrective action regarding Tyndall's actions, Plaintiff and
20 other Class members were sexually assaulted, harassed, abused, and molested by
21 Defendant Tyndall by unnecessary vaginal digital penetration, by unnecessary and
22 non-medical touching and groping their breasts and other areas of their body, and
23 through sexually-suggestive and unnecessary comments and statements.

24 51. Upon information and belief, in or around June of 2016, complaints
25 about Tyndall were made to the executive director USC's rape crisis center, known
26 as Relationship and Sexual Violence Prevention and Services, and photographs of
27 female genitalia were found in Tyndall's office.
28

1 Nationwide Class: All women who were examined by George Tyndall,
2 M.D. at the University of Southern California (the “National Class”).

3 58. Excluded from the class are Defendants, their affiliates and
4 subsidiaries, and their officers, directors, partners, employees, and agents; class
5 counsel, their immediate family members, and employees of their firms; counsel for
6 Defendants, their immediate family members, and employees of their firms; and
7 judicial officers assigned to this case and their staffs and immediate family
8 members.

9 59. Plaintiff reserves the right to amend or modify the above class
10 definition with greater specificity or division into subclasses after having had an
11 opportunity to conduct discovery.

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

16 61. Numerosity. The members of the class are so numerous that their
17 individual joinder is impracticable. There are at least 400 class members, whose
18 names and addresses are readily available from Defendants’ records.

19 62. Commonality. There are questions of law and fact common to the
20 class, which predominate over any questions affecting individual members of the
21 class.

22 63. Typicality. Plaintiff’s claims are typical of the other Class members’
23 claims because Plaintiff and Class members were subjected to the same wrongful
24 conduct and damaged in the same manner.

25 64. Existence and Predominance of Common Questions of Fact and Law.
26 This action involves common questions of law and fact that predominate over any
27 questions affecting individual class members, including, without limitation:
28

1 a. Whether Defendants owed a duty to Plaintiff and Class members
2 to protect their health and safety and not to violate their trust;

3 b. Whether Defendants breached their duties to Plaintiff and Class
4 members;

5 c. Whether Defendants USC, the Trustees, the Engemann Health
6 Center and/or Does 1-100 knew of Tyndall's misconduct, but continued to protect
7 him and allow him access and opportunity to sexually abuse women;

8 d. Whether Defendants are liable for gender violence, in violation
9 of the California Civil Code, § 52.4;

10 e. Whether Defendants are liable for sexual abuse and harassment
11 in an educational setting, in violation of California Education Code, § 220;

12 f. Whether Defendants are liable for violations of Title IX of the
13 United States Code, 20 U.S.C. § 1681;

14 g. Whether Defendants are liable for invasion of privacy;

15 h. Whether Defendants are liable for sexual harassment, in
16 violation of California Civil Code, § 51.9;

17 i. Whether Defendants are liable for sexual assault;

18 j. Whether Defendants are liable for sexual battery, in violation of
19 California Civil Code, § 1708.5;

20 k. Whether Defendants are liable for negligence;

21 l. Whether Defendants are liable for gross negligence and/or
22 wanton and reckless misconduct;

23 m. Whether Defendants are liable for negligent supervision;

24 n. Whether Defendants are liable for negligence *per se*;

25 o. Whether Defendants are liable for negligent hiring/retention;

26 p. Whether Defendants are liable for negligent failure to warn,
27 train or educate; and
28

1 q. Whether Plaintiff and Class members suffered harm as a result
2 of Defendants' violations and, if so, the appropriate measure of damages,
3 restitution, or rescission.

4 65. Adequacy of Representation. Plaintiff is an adequate class
5 representative. Her interests do not conflict with the interests of the other Class
6 members she seeks to represent. She has retained counsel competent and
7 experienced in complex class action litigation, and she intends to prosecute this
8 action vigorously. Plaintiff and her counsel will fairly and adequately pursue and
9 protect the interests of the class.

10 66. Superiority. A class action is superior to all other available means for
11 the fair and efficient adjudication of this controversy. The highly sensitive and
12 private nature of the facts involved here, as well as the fear that bringing an
13 individual suit could affect future treatment by USC, the Trustees, the Engemann
14 Health Center and/or Does 1-100 counsels toward providing a class vehicle to
15 adjudicate these claims. The damages or other financial detriment suffered by
16 Plaintiff and the other class members are relatively small compared to the burden
17 and expense that would be required to individually litigate these claims. As a result,
18 it would be impracticable for class members to seek redress individually.
19 Individualized litigation would also create a potential for inconsistent or
20 contradictory judgments and increase the delay and expense to all parties and the
21 court system. By contrast, the class action device presents far fewer management
22 difficulties and provides the benefits of single adjudication, economy of scale, and
23 comprehensive supervision by a single court.

24 67. Particular Issues. The claims of class members involve common
25 issues that may be adjudicated on a classwide basis pursuant to Rule 23(c)(4).
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FIRST CLAIM FOR RELIEF
GENDER VIOLENCE, Cal. Civ. Code § 52.4
(Against Defendant Tyndall, USC, the Trustees, the Engemann Health Center,
and Does 1 through 100)

68. Plaintiff restates and incorporates herein by reference the preceding paragraphs as if fully set forth herein.

69. California Civil Code § 52.4 declares, in pertinent part, that any person subjected to gender violence may bring a civil action for damages against any responsible party, and may seek actual, compensatory, and punitive damages therefor, or any other appropriate relief.

70. For purposes of Civil Code § 52.4, gender violence is a form of sex discrimination and means any of the following:

a. An act that would constitute a criminal offense under state law that has as an element the use, attempted use or threatened use of physical force against the person of another, committed at least in part based on the gender of the victim, whether or not the act has resulted in a criminal complaint, charge, prosecution, or conviction.

b. A physical intrusion or physical invasion of a sexual nature under coercive conditions, whether or not the act has resulted in a criminal complaint, charge, prosecution, or conviction.

71. Upon information and belief, Tyndall intentionally and without consent of Plaintiff or Class members, made unpermitted, harmful, and offensive sexual and/or other physical intrusion, invasion or contact with the Plaintiff and Class members in violation of Civil Code § 52.4. At all relevant times, Defendant Tyndall acted as a duly authorized agent and/or employee of USC, the Trustees, the Engemann Health Center and Does 1-100.

72. Defendant Tyndall carried out such actions and conduct as an employee, agent and/or representative of USC, the Trustees, the Engemann Health Center and Does 1-100 and the actions and conduct were carried out under one of

1 USC's programs, which provides medical treatment to students, athletes, and the
2 public.

3 73. Defendants USC, the Trustees, the Engemann Health Center, and Does
4 1-100 are liable and vicariously liable for Defendant Tyndall's conduct.

5 74. As a result of the conduct of the Defendants, Plaintiff and the Class
6 members sustained severe emotional distress and physical pain, emotional anguish,
7 fear, anxiety, humiliation, embarrassment and other physical and emotional injuries,
8 damages (both economic and noneconomic) and permanent disability, in the past,
9 present and future, for which this claim is made. The injuries suffered by Plaintiff
10 and the Class members are substantial, continuing, and permanent.

11 75. Defendants' conduct as described herein was despicable and was
12 committed maliciously, fraudulently, and/or oppressively with the wrongful
13 intention of injuring Plaintiff and the Class members and with a willful and
14 conscious disregard of their rights, justifying an award of punitive damages.

15 76. As a proximate result of Tyndall's acts, Plaintiff and the Class
16 members are entitled to actual damages, compensatory damages, punitive damages,
17 injunctive relief, any combination of those, or any other appropriate relief. Plaintiff
18 and the Class members are also entitled to an award of attorney's fees and costs
19 pursuant to Civil Code § 52.4, against Tyndall.

20 **SECOND CLAIM FOR RELIEF**
21 **SEXUAL ABUSE AND HARASSMENT IN THE EDUCATIONAL**
22 **SETTING,**
23 **Cal. Ed. Code § 220**
24 **(Against Defendants Tyndall, USC, the Trustees, the Engemann Health**
25 **Center, and Does 1 through 100)**

26 77. Plaintiff restates and incorporates herein by reference the preceding
27 paragraphs as if fully set forth herein.
28

1 78. Plaintiff and the Class members were harmed by being subjected to
2 sexual abuse, harassment and molestation at USC because of Plaintiff and the Class
3 members' gender and Defendants are responsible for that harm.

4 79. Plaintiff and the Class members suffered harassment that was so
5 severe, pervasive, and offensive that it effectively deprived Plaintiff and the Class
6 members of the right of equal access to educational benefits and opportunities.

7 80. Defendants USC, the Trustees, the Engemann Health Center and Does
8 1-100 had actual knowledge that this sexual harassment, abuse, and molestation
9 was occurring. Specifically, Defendants USC, the Trustees, the Engemann Health
10 Center and Does 1-100, by and through their employees, witnessed Tyndall's abuse
11 firsthand, as it was witnessed by multiple chaperones employed by USC, the
12 Trustees, the Engemann Health Center and/or Does 1-100. Further, Defendants
13 USC, the Trustees, the Engemann Health Center and Does 1-100 received, and then
14 actively suppressed and ignored, numerous complaints of Tyndall's sexual abuse,
15 dating back to at least the year 2000.

16 81. In the face of this knowledge of sexual abuse, harassment, and
17 molestation that was being perpetrated by Defendant Tyndall upon Plaintiff and the
18 Class members, Defendants USC, the Trustees, the Engemann Health Center, and
19 Does 1-100 acted with deliberate indifference towards responding to these alarms
20 and preventing further abuse. Defendants USC, the Trustees, the Engemann Health
21 Center, and Does 1-100 allowed Tyndall to remain as a physician at USC to
22 sexually harass, abuse and molest patients. It was not until June of 2017 that
23 Defendants allowed or compelled Tyndall to resign, with a monetary settlement,
24 that Tyndall's sexual abuse of young female students of USC finally abated.

25 82. As a result of the above-described conduct, Plaintiff and the Class
26 members suffered and continue to suffer great pain of mind and body, shock,
27 emotional distress, physical manifestations of emotional distress, embarrassment,
28 loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; have

1 suffered and continues to suffer and were prevented and will continue to be
2 prevented from performing daily activities and obtaining the full enjoyment of life;
3 will sustain loss of earnings and earning capacity, and have incurred and will
4 continue to incur expenses for medical and psychological treatment, therapy, and
5 counseling.

6 83. In subjecting Plaintiff and the Class members to the wrongful
7 treatment herein described, Defendants Tyndall, USC, the Trustees, the Engemann
8 Health Center, and Does 1 through 100, acted willfully and maliciously with the
9 intent to harm Plaintiff and the Class members, and in conscious disregard of the
10 rights of Plaintiff and the Class members, so as to constitute malice and oppression
11 under California Civil Code section 3294. Plaintiff and the Class members are
12 therefore entitled to the recovery of punitive damages, in an amount to be
13 determined by the court, against Tyndall, USC, the Trustees, the Engemann Health
14 Center, and Does 1 through 100, in a sum to be shown according to proof.

15 **THIRD CLAIM FOR RELIEF**
16 **TITLE IX (20 U.S.C. § 1681)**

17 **(Against Defendants USC, the Trustees, the Engemann Health Center, and**
18 **Does 1 through 100)**

19 84. Plaintiff restates and incorporates herein by reference the preceding
20 paragraphs as if fully set forth herein.

21 85. Plaintiff and the Class members were subjected to sexual harassment,
22 abuse, and molestation by Tyndall, as students and medical patients at Defendants'
23 institution.

24 86. USC is and was a private institution that nevertheless receives and at
25 all times relevant hereto has received federal financial assistance for its various
26 programs.

27 87. USC, the Trustees, the Engemann Health Center, and Does 1-100, with
28 authority to institute corrective measures, had actual notice that Tyndall posed a
substantial risk of sexual abuse, harassment and molestation to the young female

1 student-patients who sought treatment through USC's Student Health Clinic.

2 Specifically, USC received numerous complaints of Defendant Tyndall's sexual
3 abuse, yet allowed such sexual abuse to continue unabated.

4 88. USC, the Trustees, the Engemann Health Center, and Does 1 through
5 100 were deliberately indifferent to the substantial risk of sexual abuse, harassment,
6 and molestation posed to student-patients who came into contact with Tyndall at
7 Defendants USC, the Engemann Health Center, and/or with Does 1 through 100.
8 After receiving actual notice of Plaintiff and the Class members' complaints of
9 being sexually abused by Tyndall, USC, the Trustees, the Engemann Health Center,
10 and Does 1 through 100, through their employees, agents, and servants, ignored the
11 sexual abuse that Tyndall inflicted on Plaintiff and the Class members and allowed
12 him to continue treating female students – many of whom were still teenagers. It
13 was this conduct that constitutes willful indifference towards Plaintiff and the Class
14 members who would be subjected to Tyndall's unfettered sexual misconduct.

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

24 90. In subjecting Plaintiff and the Class members to the wrongful
25 treatment herein described, Tyndall, USC, the Trustees, the Engemann Health
26 Center, and Does 1 through 100, acted willfully and maliciously with the intent to
27 harm Plaintiff and the Class members, and in conscious disregard of Plaintiff and
28 the Class members' rights, so as to constitute malice and oppression under

1 California Civil Code section 3294. Plaintiff and the Class members are therefore
2 entitled to the recovery of punitive damages, in an amount to be determined by the
3 court, against Tyndall, USC, the Trustees, the Engemann Health Center, and Does 1
4 through 100, in a sum to be shown according to proof. Furthermore, Plaintiff
5 requests the award of attorneys' fees pursuant to 42 U.S.C. § 1988.

6 **FOURTH CLAIM FOR RELIEF**
7 **INVASION OF PRIVACY**

8 **(Against Defendants Tyndall, USC, the Trustees, the Engemann Health**
9 **Center, and Does 1 through 100)**

9 91. Plaintiff restates and incorporates herein by reference the preceding
10 paragraphs as if fully set forth herein, and, to the extent necessary, pleads this cause
11 of action in the alternative.

12 92. Plaintiff and the Class members allege that Defendant Tyndall intruded
13 upon Plaintiff and the Class members' solitude, seclusion or private affairs and
14 concerns by photographing their gynecological and/or other examinations,
15 treatment and/or care without authorization or consent. This intrusion is highly
16 offensive to reasonable individuals, such as Plaintiff and the Class members, and
17 was totally unwarranted and unjustified, constituting invasion of privacy, and a
18 violation of the Health Insurance Portability and Accountability Act (HIPAA).

19 93. Defendant Tyndall carried out such actions and conduct as an
20 employee, agent and/or representative of USC, the Trustees, the Engemann Health
21 Center and/or Does 1-100, and such actions and conduct were carried out under one
22 of USC's programs, which provides medical treatment to students, athletes, and the
23 public.

24 94. USC, the Trustees, the Engemann Health Center, and Does 1-100 are
25 liable and vicariously liable for Defendant Tyndall's conduct.

26 95. As a direct and proximate result of the conduct of Defendants, Plaintiff
27 and the Class members sustained severe emotional distress and physical pain,
28 emotional anguish, fear, anxiety, humiliation, embarrassment and other physical

1 and emotional injuries, damages (both economic and noneconomic) and permanent
2 disability, in the past, present and future, for which this claim is made. The injuries
3 suffered by the Plaintiff are substantial, continuing, and permanent.

4 96. Defendants' conduct as described herein was despicable and was
5 committed maliciously, fraudulently, and/or oppressively with the wrongful
6 intention of injuring Plaintiff and the Class members and with a willful and
7 conscious disregard her rights, justifying an award of punitive damages.

8 **FIFTH CLAIM FOR RELIEF**
9 **SEXUAL HARASSMENT, Cal. Civ. Code § 51.9)**
10 **(Against Defendants Tyndall, USC, the Trustees, the Engemann Health**
11 **Center, and Does 1 through 100)**

12 97. Plaintiff restates and incorporates herein by reference the preceding
13 paragraphs as if fully set forth herein.

14 98. During Plaintiff and the Class members' time as students at USC,
15 Tyndall intentionally, recklessly and wantonly made sexual advances, solicitations,
16 requests, demands for sexual compliance of a hostile nature based on Plaintiff and
17 the Class members' gender that were unwelcome, pervasive and severe, including
18 but not limited to Tyndall groping and fondling Plaintiff and the Class members'
19 breasts and vaginas, all under the supervision of Defendants USC, the Trustees, the
20 Engemann Health Center, and Does 1-100, who were acting in the course and scope
21 of their agency with Defendant Tyndall and each of them.

22 99. The incidents of abuse outlined herein above took place while Plaintiff
23 and the Class members were under the control of Tyndall, USC, the Trustees, the
24 Engemann Health Center, and Does 1 through 100, in their capacity and position as
25 supervisors of physicians, medical professionals, and staff at USC, the Trustees, the
26 Engemann Health Center, and Does 1 through 100, and while acting specifically on
27 behalf of Defendants.

28 100. During Plaintiff and the Class members' time as students at USC,
Tyndall intentionally, recklessly, and wantonly did acts which resulted in harmful

1 and offensive contact with intimate parts of their persons, including but not limited
2 to, using his position of authority and age to force Plaintiff and the Class members
3 to give into Tyndall's sexual suggestions.

4 101. Because of Plaintiff and the Class members' relationship with Tyndall,
5 USC, the Trustees, the Engemann Health Center, and Does 1 through 100,
6 Tyndall's status as the only full-time gynecologist employed by Defendant USC,
7 the Trustees, the Engemann Health Center and Does 1-100, and Plaintiff and the
8 Class members' generally young age as students at USC, Plaintiff and the Class
9 members were unable to easily terminate the relationship they had with Defendant
10 Tyndall.

11 102. Because of Tyndall's age and position of authority, physical seclusion
12 of Plaintiff and the Class members, Plaintiff and the Class members' mental and
13 emotional state, and Plaintiff and the Class members general young age, Plaintiff
14 and the Class members were unable to, and did not and could not, give consent to
15 such acts.

16 103. Even though Defendants USC, the Trustees, the Engemann Health
17 Center, and Does 1-100 knew or should have known of these activities by Tyndall,
18 Defendants USC, the Trustees, the Engemann Health Center and Does 1-100 did
19 nothing to investigate, supervise or monitor Tyndall to ensure the safety of the
20 student-patients in their charge.

21 104. Because of Plaintiff and the Class members' relationship with
22 Defendants, as student-patients of Defendants, and Plaintiff and the Class members'
23 often young age, Plaintiff and the Class members were unable to easily terminate
24 the doctor-patient relationship they had with Defendants.

25 105. A corporation is a "person" within meaning of California Civil Code
26 section 51.9, which subjects persons to liability for sexual harassment within a
27 business, service, or professional relationship, and such an entity defendant may be
28 held liable under this statute for the acts of its employees. Further, principles of

1 ratification apply when the principal ratifies the agent's originally unauthorized
2 harassment, as is alleged to have occurred herein.

3 106. Defendants' conduct (and the conduct of their agents) was a breach of
4 their duties to Plaintiff and the Class members.

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

14 **SIXTH CLAIM FOR RELIEF**
15 **SEXUAL ASSAULT**
16 **(Against Defendant Tyndall)**

17 108. Plaintiff restates and incorporates herein by reference the preceding
18 paragraphs as if fully set forth herein.

19 109. Tyndall, in doing the things herein alleged, including intending to
20 subject Plaintiff and the Class members to numerous instances of sexual abuse and
21 molestation during their time at USC, beginning in or around 1989, and lasting for
22 the duration of Plaintiff and the Class members' tenure with Defendants USC, the
23 Trustees, the Engemann Health Center, and Does 1-100, through or around 2017,
24 including but not limited to instances of Tyndall groping and fondling the Plaintiff
25 and the Class members' vaginas, all while Tyndall acted in the course and scope of
26 his agency/employment with Defendants USC, the Trustees, the Engemann Health
27 Center and Does 1-100, and each of them and were intended to cause harmful or
28

1 offensive contact with Plaintiff and the Class members' persons, or intended to put
2 Plaintiff and the Class members in imminent apprehension of such contact.

3 110. In doing the things herein alleged, Plaintiff and the Class members
4 were put in imminent apprehension of a harmful or offensive contact by Tyndall
5 and actually believed Tyndall had the ability to make harmful or offensive contact
6 with Plaintiff and the Class members' persons.

7 111. Plaintiff and the Class members did not consent to Tyndall intended
8 harmful or offensive contact with Plaintiff and the Class members' persons, or
9 intent to put Plaintiff and the Class members in imminent apprehension of such
10 contact.

11 112. In doing the things herein alleged, Tyndall violated Plaintiff and the
12 Class members' rights, pursuant to California Civil Code section 43, of protection
13 from bodily restraint or harm, and from personal insult. In doing the things herein
14 alleged, Tyndall violated his duty, pursuant to Civil Code section 1708, to abstain
15 from injuring the person of Plaintiff and the Class members or infringing upon their
16 rights.

17 113. As a result of the above-described conduct, Plaintiff and the Class
18 members have suffered and continue to suffer great pain of mind and body, shock,
19 emotional distress, physical manifestations of emotional distress including
20 embarrassment, loss of self-esteem, disgrace, humiliations, and loss of enjoyment
21 of life; have suffered and continue to suffer and was prevented and will continue to
22 be prevented from performing daily activities and obtaining the full enjoyment of
23 life; will sustain loss of earnings and earning capacity, and/or have incurred and
24 will continue to incur expenses for medical and psychological treatment, therapy,
25 and counseling.

26 114. Plaintiff and the Class members are informed and based thereon allege
27 that the conduct of Defendants was oppressive, malicious and despicable in that it
28 was intentional and done in conscious disregard for the rights and safety of others,

1 and were carried out with a conscious disregard of their right to be free from such
2 tortious behavior, such as to constitute oppression, fraud or malice pursuant to
3 California Civil Code section 3294, entitling Plaintiff and the Class members to
4 punitive damages against Defendants in an amount appropriate to punish and set an
5 example of Defendants.

6 **SEVENTH CLAIM FOR RELIEF**
7 **SEXUAL BATTERY, Cal. Civ. Code § 1708.5**
8 **(Against Defendant Tyndall)**

9 115. Plaintiff restates and incorporates herein by reference the preceding
10 paragraphs as if fully set forth herein.

11 116. During Plaintiff and the Class members' time as students at USC,
12 Tyndall intentionally, recklessly and wantonly did acts which were intended to, and
13 did result in harmful and offensive contact with intimate parts of Plaintiff and the
14 Class members' persons, including but not limited to being subjected to numerous
15 instances of sexual harassment and abuse by Tyndall, beginning in or around 1989,
16 and lasting for the duration of Plaintiff and the Class members' tenure at USC,
17 including but not limited to instances of Tyndall groping and fondling the
18 Plaintiff's vagina, all while Tyndall acted in the course and scope of his agency and
19 employment with Defendants USC, the Trustees, the Engemann Health Center, and
20 Does 1-100.

21 117. Tyndall did the aforementioned acts with the intent to cause a harmful
22 or offensive contact with an intimate part of Plaintiff and the Class members'
23 bodies, and would offend a reasonable sense of personal dignity. Further, said acts
24 did cause a harmful or offensive contact with an intimate part of Plaintiff and the
25 Class members' persons that would offend a reasonable sense of personal dignity.

26 118. Defendant Tyndall carried out such actions and conduct as an
27 employee, agent and/or representative of USC and were carried out under one of
28

1 Defendant USC programs, which provides medical treatment to students, athletes,
2 and the public.

3 119. Because of Tyndall position of authority over Plaintiff and the Class
4 members, and their mental and emotional state coupled with their often-young age,
5 Plaintiff and the Class members did not give meaningful consent to such acts.

6 120. As a direct, legal, and proximate result of the acts of Tyndall, Plaintiff
7 and the Class members sustained serious and permanent injuries to their persons, all
8 of his damage in an amount to be shown according to proof and within the
9 jurisdiction of the Court.

10 121. As a direct result of the sexual abuse by Tyndall, Plaintiff and the
11 Class members have difficulty in reasonably or meaningfully interacting with
12 others, including those in positions of authority over her such as professors, and
13 supervisors, and in intimate, confidential and familial relationships, due to the
14 trauma of the sexual abuse inflicted upon them by Defendants Tyndall, USC, the
15 Trustees, the Engemann Health Center, and Does 1-100. This inability to interact
16 creates conflict with Plaintiff and the Class members' values of trust and
17 confidence in others, and has caused Plaintiff and the Class members substantial
18 emotional distress, anxiety, nervousness, and fear. As a direct result of the sexual
19 abuse and molestation by Tyndall, Plaintiff and the Class members suffered
20 immensely, including, but not limited to, encountering issues with a lack of trust,
21 various psychological sequelae, depressive symptoms, anxiety, nervousness, and
22 self-medicating behavior

23 122. Upon information and belief, the conduct of Tyndall was oppressive,
24 malicious and despicable in that it was intentional and done in conscious disregard
25 for the rights and safety of others, and were carried out with a conscious disregard
26 of her right to be free from such tortious behavior, such as to constitute oppression,
27 fraud or malice pursuant to California Civil Code section 3294, entitling Plaintiff
28

1 and the Class members to punitive damages against Tyndall in an amount
2 appropriate to punish and set an example of Tyndall.

3 **EIGHTH CLAIM FOR RELIEF**
4 **NEGLIGENCE**

5 **(Against Defendants USC, the Trustees, the Engemann Health Center, and**
6 **DOES 1 through 100)**

7 123. Plaintiff restates and incorporates herein by reference the preceding
8 paragraphs as if fully set forth herein.

9 124. From approximately 1989 through 2017, Tyndall was an actual and/or
10 apparent, duly-authorized agent, servant and/or employee of USC, the Trustees, the
11 Engemann Health Center, and Does 1-100, providing services through the USC
12 student health center system. Defendants USC, the Trustees, the Engemann Health
13 Center, and Does 1-100 knew and/or should have known that Tyndall had and was
14 capable of sexually, physically, and mentally abusing and harassing Plaintiff or
15 other victims.

16 125. Defendants USC, the Trustees, the Engemann Health Center, and Does
17 1-100 had special duties to protect the Plaintiff and the Class members, when such
18 individuals were entrusted to Defendants' care. Plaintiff and the Class members'
19 care and health were entrusted to Defendants. Defendants USC, the Trustees, the
20 Engemann Health Center, and Does 1-100 voluntarily accepted the entrusted care
21 of Plaintiff and the Class members. As such, Defendants USC, the Trustees, the
22 Engemann Health Center, and Does 1-100 owed Plaintiff and the Class members as
23 student-patients, a special duty of care that adults and medical professionals dealing
24 with vulnerable medical patients and young students, owe to protect them from
25 harm. The duty to protect and warn arose from the special, trusting, confidential,
26 and fiduciary relationship between Defendants USC, the Trustees, the Engemann
27 Health Center, and Does 1-100, and Plaintiff and the Class members.

28 126. Defendants USC, the Trustees, the Engemann Health Center, and Does
1 through 100 breached their duties of care to the Plaintiff and the Class members

1 by allowing Tyndall to come into contact with the Plaintiff and the Class members
2 without effective supervision; by failing to adequately hire, supervise and retain
3 Tyndall whom they permitted and enabled to have access to Plaintiff and the Class
4 members; by concealing from Plaintiff and the Class members, the public and law
5 enforcement that Tyndall was sexually harassing, molesting and abusing patients;
6 by holding Tyndall out to Plaintiff and the Class members as being of high moral
7 and ethical repute, in good standing and trustworthy; and by failing to report
8 Tyndall's misconduct to the California Medical Board.

9 127. Defendants USC, the Trustees, the Engemann Health Center, and Does
10 1-100, further breached their duties to Plaintiff and the Class members by failing to
11 investigate or otherwise confirm or deny such facts of sexual abuse by Tyndall,
12 failing to reveal such facts to Plaintiff and the Class members, the USC community
13 and law enforcement agencies, and by placing Tyndall into a position of trust and
14 authority, holding him out to Plaintiff and the Class members and the public as
15 being in good standing and trustworthy.

16 128. Defendants USC, the Trustees, the Engemann Health Center, and Does
17 1-100 breached their duty to Plaintiff and the Class members by failing to
18 adequately monitor and supervise Defendant Tyndall and failing to prevent
19 Defendant from committing wrongful sexual acts with medical patients, including
20 Plaintiff and the Class members. Defendant USC, the Trustees, the Engemann
21 Health Center, and Does 1-100s' voluminous past records of sexual misconduct by
22 Tyndall caused Defendants USC, the Trustees, the Engemann Health Center, and
23 Does 1-100 to know, or gave them information where they should have known, of
24 Tyndall incapacity to serve as a university physician – especially a gynecologist --
25 providing for the physical care of young female student-patients.

26 129. As a direct, proximate and foreseeable result of the above-described
27 conduct, Plaintiff and the Class members have suffered and continues to suffer
28 great pain of mind and body, shock, emotional distress, physical manifestations of

1 emotional distress including embarrassment, loss of self-esteem, disgrace,
2 humiliations, and loss of enjoyment of life; has suffered and continues to suffer and
3 was prevented and will continue to be prevented from performing daily activities
4 and obtaining the full enjoyment of life; may sustain loss of earnings and earning
5 capacity; and may incur expenses for medical and psychological treatment, therapy,
6 and counseling.

7
8 **NINTH CLAIM FOR RELIEF**
9 **GROSS NEGLIGENCE AND/OR WANTON AND RECKLESS**
10 **MISCONDUCT**
11 **(Against Defendants Tyndall, USC, the Trustees, the Engemann Health**
12 **Center, and Does 1 through 100)**

13 130. Plaintiff restates and incorporates herein by reference the preceding
14 paragraphs as if fully set forth herein, and to the extent necessary, plead this claim
15 for relief in the alternative.

16 131. USC, the Trustees, the Engemann Health Center, and Does 1-100
17 owed Plaintiff and the Class members a duty to use due care to ensure their safety
18 and freedom from sexual assault, harassment, abuse, and molestation while
19 interacting with their employees, representatives, and/or agents, including
20 Defendant Tyndall.

21 132. Defendant Tyndall owed Class Plaintiff and the Class members a duty
22 of due care in carrying out his duties in a reasonable safe manner as an employee,
23 agent, and/or representative of USC, the Trustees, the Engemann Health Center,
24 and Does 1-100.

25 133. By seeking medical treatment from Defendant Tyndall in the course of
26 his employment, agency, and/or representation of USC, the Trustees, the Engemann
27 Health Center, and Does 1-100, a special, confidential, and fiduciary relationship
28 between Plaintiff and the Class members and Defendant Tyndall was created,
resulting in Defendant Tyndall owing Plaintiff and the Class members a duty to use
due care.

1 134. USC, the Trustees, the Engemann Health Center, and Does 1-100s’
2 failure to adequately supervise Defendant Tyndall --especially once they knew or
3 should have known of complaints regarding his nonconsensual sexual touching,
4 harassment, boundary violations and assaults during examinations -- was so
5 reckless as to demonstrate a substantial lack of concern for whether an injury would
6 result to Plaintiff and the Class members.

7 135. Defendant Tyndall’s conduct in sexually assaulting, harassing,
8 abusing, and violating Plaintiff and the Class members in the course of his
9 employment, agency, and/or representation of USC and under the guise of
10 rendering medical care was so reckless as to demonstrate a substantial lack of
11 concern for whether an injury would result to Plaintiff and the Class members.

12 136. USC, the Trustees, the Engemann Health Center, and Does 1-100s’
13 conduct demonstrated a willful disregard for precautions to ensure Plaintiff and the
14 Class members’ safety.

15 137. USC, the Trustees, the Engemann Health Center, and Does 1-100s’
16 conduct as described above, demonstrated a willful disregard for Plaintiff and the
17 Class members’ rights.

18 138. USC, the Trustees, the Engemann Health Center, and Does 1-100
19 breached duties owed to Plaintiff and the Class members and were grossly
20 negligent when it conducted itself by the actions described above, said acts having
21 been committed with reckless disregard for Plaintiff and the Class members’ health,
22 safety, Constitutional and/or statutory rights, and with a substantial lack of concern
23 as to whether an injury would result.

24 139. As a result of the conduct of the Defendants, Plaintiff and the Class
25 members sustained severe emotional distress and physical pain, emotional anguish,
26 fear, anxiety, humiliation, embarrassment and other physical and emotional injuries,
27 damages (both economic and noneconomic) and permanent disability, in the past,
28

1 present and future, for which this claim is made. The injuries suffered by Plaintiff
2 and the Class members are substantial, continuing and permanent.

3 140. Defendants' conduct as described herein was grossly negligent and/or
4 wanton and reckless because it was despicable and was committed maliciously,
5 fraudulently, and/or oppressively with the wrongful intention of injuring Plaintiff
6 and the Class members and with a willful and conscious disregard of Plaintiff and
7 the Class members' rights, justifying an award of punitive damages.

8 **TENTH CLAIM FOR RELIEF**
9 **NEGLIGENT SUPERVISION**

10 **(Against Defendants USC, the Trustees, the Engemann Health Center, and**
11 **Does 1 through 100)**

12 141. Plaintiff restates and incorporates herein by reference the preceding
13 paragraphs as if fully set forth herein.

14 142. By virtue of Plaintiff and the Class members' special relationship with
15 Defendants USC, the Trustees, the Engemann Health Center, and Does 1 through
16 100, and the relationship between Defendants USC, the Trustees, the Engemann
17 Health Center, and Does 1 through 100 with Defendant Tyndall, Defendants USC,
18 the Trustees, the Engemann Health Center, and Does 1-100 owed Plaintiff and the
19 Class members a duty to provide reasonable supervision of Tyndall, to use
20 reasonable care in investigating Tyndall background, and to provide adequate
21 warning to Plaintiff and the Class members of Tyndall's dangerous propensities and
22 unfitness. As organizations and individuals responsible for, and entrusted with, the
23 welfare of patients, USC, the Trustees, the Engemann Health Center, and Does 1
24 through 100 had a duty to protect, supervise, and monitor both the Plaintiff and the
25 Class members from being preyed upon by sexual predators, and to supervise and
26 monitor Tyndall such that he would not be placed in seclusion with vulnerable
27 medical patients, including the Plaintiff and the Class members.

28 143. USC, the Trustees, the Engemann Health Center, and Does 1 through
100 expressly and implicitly represented that their physicians, faculty, and staff,

1 including Tyndall, were not a sexual threat to those individuals and others who
2 would fall under Tyndall's influence, control, direction, and care.

3 144. Defendants USC, the Trustees, the Engemann Health Center, and Does
4 1-100, by and through their respective agents, servants, and employees, knew or
5 should have known of Tyndall's dangerous and exploitive propensities and that
6 Tyndall was an unfit agent. Despite such knowledge, Defendants USC, the
7 Trustees, the Engemann Health Center, and Does 1-100 negligently failed to
8 supervise Tyndall in his position of trust and authority as a team physician,
9 physician, faculty member and authority figure over patients and young women,
10 where he was able to commit wrongful acts of sexual misconduct against Plaintiffs.
11 Defendants USC, the Trustees, the Engemann Health Center, and Does 1-100 failed
12 to provide reasonable supervision of Tyndall, failed to use reasonable care in
13 investigating Tyndall, and failed to provide adequate warning to Plaintiff of
14 Tyndall's dangerous propensities and unfitness. Defendants USC, the Trustees, the
15 Engemann Health Center, and Does 1-100 further failed to take reasonable steps to
16 ensure the safety of patients, including Plaintiff and the Class members, from
17 sexual harassment, molestation, and abuse.

18 145. At no time during the periods of time alleged herein did Defendants
19 USC, the Trustees, the Engemann Health Center, and Does 1-100 have in place a
20 reasonable system or procedure to investigate, supervise physicians, faculty
21 members or staff, including Tyndall, to prevent sexual harassment, molestation and
22 abuse of those individuals, nor did they implement a system or procedure to oversee
23 or monitor conduct toward patients and others in Defendant USC, the Trustees, the
24 Engemann Health Center, and Does 1-100s' care.

25 146. Defendants USC, the Trustees, the Engemann Health Center, and Does
26 1-100 were aware or should have been aware of how vulnerable medical patients
27 were to sexual harassment, molestation and abuse by physicians, faculty members
28

1 and other persons of authority within Defendant USC, the Trustees, the Engemann
2 Health Center, and Does 1-100s' entities.

3 147. Defendants USC, the Trustees, the Engemann Health Center, and Does
4 1-100 were put on notice, knew and/or should have known that Tyndall had
5 previously engaged and was continuing to engage in unlawful sexual conduct with
6 student patients and had committed other felonies, for his own personal sexual
7 gratification, and that it was foreseeable that he was engaging, or would engage in
8 illicit sexual activities with Plaintiff and the Class members, and others, under the
9 cloak of the authority, confidence, and trust, bestowed upon him through
10 Defendants USC, the Trustees, the Engemann Health Center, and Does 1-100.

11 148. Defendants USC, the Trustees, the Engemann Health Center, and Does
12 1-100 were placed on actual or constructive notice that Tyndall had molested other
13 student-patients during his employment with Defendants USC, the Trustees, the
14 Engemann Health Center, and Does 1-100. However, Defendants USC, the
15 Trustees, the Engemann Health Center, and Does 1-100 did not reasonably
16 investigate, supervise, or monitor Tyndall to ensure the safety of the patients.

17 149. Defendant USC, the Trustees, the Engemann Health Center, and Does
18 1-100s' conduct was a breach of their duties to Plaintiff and the Class members.

19 150. Defendants USC, the Trustees, the Engemann Health Center, and Does
20 1-100 breached their duty to Plaintiffs by, *inter alia*, failing to adequately monitor
21 and supervise Tyndall and stop Tyndall from committing wrongful sexual acts with
22 student-patients, including Plaintiff and the Class members.

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

1 life; may sustain loss of earnings and earning capacity, and/or may incur expenses
2 for medical and psychological treatment, therapy, and counseling.

3 **ELEVENTH CLAIM FOR RELIEF**
4 **NEGLIGENCE PER SE**

5 **California Equity in Higher Education Act, Cal. Ed. Code §§ 66270 *et. seq.***
6 **(Against Defendants Tyndall, USC, the Trustees, the Engemann Health**
7 **Center, and Does 1 through 100)**

8 152. Plaintiff restates and incorporates herein by reference the preceding
9 paragraphs as if fully set forth herein.

10 153. California Education Code § 231.5 states, *inter alia*, that “all persons,
11 regardless of their sex, should enjoy freedom from discrimination of any kind in the
12 educational institutions of the state. The purpose of this section is to provide
13 notification of the prohibition against sexual harassment as a form of sexual
14 discrimination.”

15 154. Plaintiff and the Class members are “persons” under the statutory
16 language of California Education Code § 231.5 as stated herein above and for
17 whose protection the statute, ordinance or regulation was adopted.

18 155. Defendant USC is an educational institution within the state of
19 California and within the state of California and at all times relevant hereto is and
20 was subject to the California Equity in Higher Education Act.

21 156. Defendant Tyndall’s actions were carried out under a USC program,
22 which provides services to students, athletes, and the public.

23 157. Defendant Tyndall’s conduct and actions toward Class Plaintiffs, that
24 being nonconsensual digital vaginal penetration, touching of Plaintiff and the Class
25 members’ vaginal areas, and touching and fondling of Plaintiff and the Class
26 members’ breasts and other areas of the body constitutes sex discrimination and
27 harassment under California Education Code § 231.5.

28 158. Upon information and belief, as early as the 1990s, an “appropriate
person” at USC had actual knowledge of sexual assault, harassment, abuse, and

1 molestation committed by Defendant Tyndall. Specifically, USC, the Trustees, the
2 Engemann Health Center, and/or Does 1 through 100 were notified about
3 Defendant Tyndall's behavior by students and/or clinic staff beginning in the 1990s
4 on more than one occasion, including specific notifications of unwarranted
5 photographs taken of female patient genitalia and unwarranted fondling and sexual
6 comments during medical examinations.

7 159. Under applicable law, Defendants, by and through their employees and
8 agents, were medical care providers and were under a statutory duty to report
9 known or suspected incidents of sexual molestation or abuse of student-patients or
10 any individuals in their care to the appropriate authorities, and not to impede the
11 filing of any such report.

12 160. Defendants knew or should have known that their gynecological
13 physician, Tyndall, and other staff of Defendants, had sexually molested, abused or
14 caused touching, battery, harm, and/or other injuries to young female students
15 including Plaintiff and the Class members, giving rise to a duty to report such
16 conduct.

17 161. Defendants knew, or should have known, in the exercise of reasonable
18 diligence, that an undue risk to patients, including Plaintiff and the Class members,
19 existed because Defendants did not comply with mandatory reporting requirements.

20 162. By failing to report the continuing molestations and abuse by Tyndall,
21 which Defendants USC, the Trustees, the Engemann Health Center, and Does 1-
22 100 knew or should have known about, and by ignoring the fulfillment of the
23 mandated compliance with the reporting requirements, Defendants USC, the
24 Trustees, the Engemann Health Center, and Does 1-100 created the risk and danger
25 contemplated by the applicable mandated reporting laws, and as a result,
26 unreasonably and wrongfully exposed Plaintiff and the Class members and other
27 patients to sexual molestation and abuse.

28

1 163. Plaintiff and the Class members were members of the class of persons
2 for whose protection applicable mandated reporting laws were specifically adopted
3 to protect.

4 164. Had Defendants USC, the Trustees, the Engemann Health Center, and
5 Does 1-100 adequately reported the molestation of Plaintiff and the Class members
6 and other patients, as required by applicable mandated reporting laws, further harm
7 to Plaintiff and the Class members and other individuals would have been avoided.

8 165. As a proximate result of Defendant USC, the Trustees, the Engemann
9 Health Center, and Does 1-100s' failure to follow the mandatory reporting
10 requirements, Defendants USC, the Trustees, the Engemann Health Center, and
11 Does 1-100 wrongfully denied Plaintiff and the Class members the intervention of
12 law enforcement by the appropriate authorities. Such public agencies would have
13 changed the then-existing arrangements and conditions that provided the access and
14 opportunities for the molestation of Plaintiff and the Class members by Defendant
15 Tyndall.

16 166. The physical, mental, and emotional damages and injuries resulting
17 from the sexual molestation of Plaintiff and the Class members by Defendant
18 Tyndall, were the type of occurrence and injuries that the applicable mandated
19 reporting laws were designed to prevent.

20 167. As a result, Defendant USC, the Trustees, the Engemann Health
21 Center, and Does 1-100s' failure to comply with the mandatory reporting
22 requirements constituted a *per se* breach of Defendant USC, the Trustees, the
23 Engemann Health Center, and Does 1-100s' duties to Plaintiff and the Class
24 members.

25 168. Defendants USC, the Trustees, the Engemann Health Center, and Does
26 1-100 breached their duty to Plaintiff and the Class members by, *inter alia*, failing
27 to adequately monitor and supervise Tyndall and stop Tyndall from committing
28 wrongful sexual acts with patients, including Plaintiff and the Class members.

1 system or procedure to investigate, supervise and monitor its Student Health Center
2 physicians and healthcare professionals, including Tyndall, to prevent pre-sexual
3 grooming or sexual harassment, molestation and abuse of student-patients nor did
4 they implement a system or procedure to oversee or monitor conduct toward
5 student-patients and/or others in Defendant USC, the Trustees, the Engemann
6 Health Center, and Does 1-100s' care.

7 174. Defendants USC, the Trustees, the Engemann Health Center, and Does
8 1-100 were aware or should have been aware and understand how vulnerable young
9 female students were to sexual harassment, molestation and abuse by faculty
10 members, physicians, and other persons of authority within the control of
11 Defendants USC, the Trustees, the Engemann Health Center, and Does 1-100 prior
12 to Plaintiff and the Class members' sexual abuse by Tyndall.

13 175. Defendants USC, the Trustees, the Engemann Health Center, and Does
14 1-100 were put on notice, and should have known that Tyndall had previously
15 engaged and continued to engage in unlawful sexual conduct with student-patients,
16 and was committing other felonies, for his own personal gratification, and that it
17 was, or should have known it would have been foreseeable that he was engaging, or
18 would engage in illicit sexual activities with Plaintiff and the Class members, under
19 the cloak of his authority, confidence, and trust, bestowed upon her through
20 Defendants USC, the Trustees, the Engemann Health Center, and Does 1-100.

21 176. Defendants USC, the Trustees, the Engemann Health Center, and Does
22 1-100 were placed on actual or constructive notice that Defendant Tyndall had
23 molested or was molesting patients, both before his employment within Defendants
24 USC, the Trustees, the Engemann Health Center, and Does 1-100, and during that
25 employment. Defendants USC, the Trustees, the Engemann Health Center, and
26 Does 1-100 had knowledge of inappropriate conduct and molestations committed
27 by Defendant Tyndall before and during his employment, yet chose to allow him to
28 remain unsupervised where he sexually abused Plaintiff and Class members.

1 177. Even though Defendants knew or should have known of these sexually
2 illicit activities by Tyndall, Defendants USC, the Trustees, the Engemann Health
3 Center, and Does 1-100 failed to use reasonable care in investigating Defendant
4 Tyndall and did nothing to reasonably investigate, supervise or monitor Tyndall to
5 ensure the safety of the patients.

6 178. Defendant USC, the Trustees, the Engemann Health Center, and Does
7 1-100s' conduct was a breach of their duties to Plaintiff and the Class members.

8 179. As a result of the above-described conduct, Plaintiff and the Class
9 members suffered and continue to suffer great pain of mind and body, shock,
10 emotional distress, physical manifestations of emotional distress including
11 embarrassment, loss of self-esteem, disgrace, humiliations, and loss of enjoyment
12 of life; have suffered and continues to suffer and were prevented and will continue
13 to be prevented from performing daily activities and obtaining the full enjoyment of
14 life; will sustain loss of earnings and earning capacity, and/or have incurred and
15 will continue to incur expenses for medical and psychological treatment, therapy,
16 and counseling.

17 180. Defendants USC, the Trustees, the Engemann Health Center, and Does
18 1-100 owed Plaintiff and the Class members a duty to take reasonable protective
19 measures to protect Plaintiff and the Class members and other student-patients from
20 the risk of sexual harassment, molestation, and abuse by Defendant Tyndall by
21 properly warning, training, or educating Plaintiff and the Class members and other
22 about how to avoid such a risk.

23 181. Defendants USC, the Trustees, the Engemann Health Center, and Does
24 1-100 breached their duty to take reasonable protective measures to protect Plaintiff
25 and other patients from the risk of sexual harassment, molestation, and abuse by
26 Defendant Tyndall, such as the failure to properly warn, train or educate Plaintiff
27 and the Class members about how to avoid such a particular risk that Tyndall
28 posed—of sexual misconduct.

1 182. Defendants USC, the Trustees, the Engemann Health Center, and Does
2 1-100 breached their duty to take reasonable protective measures to protect Plaintiff
3 and the Class members from the risk of sexual harassment, molestation, and abuse
4 by Defendant Tyndall, by failing to supervise and stop employees of Defendants,
5 including Tyndall, from committing wrongful sexual acts with student-patients,
6 including Plaintiff and the Class members.

7 183. As a result of the above-described conduct, Plaintiff and the Class
8 members suffered and continue to suffer great pain of mind and body, shock,
9 emotional distress, physical manifestations of emotional distress including
10 embarrassment, loss of self-esteem, disgrace, humiliations, and loss of enjoyment
11 of life; has suffered and continues to suffer and were prevented and will continue to
12 be prevented from performing daily activities and obtaining the full enjoyment of
13 life; will sustain loss of earnings and earning capacity, and/or have incurred and
14 will continue to incur expenses for medical and psychological treatment, therapy,
15 and counseling.

16 **THIRTEENTH CLAIM FOR RELIEF**
17 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**
18 **(Against Defendants USC, the Trustees, the Engemann Health Center, and**
19 **Does 1 through 100)**

20 184. Plaintiff restates and incorporates herein by reference the preceding
21 paragraphs as if fully set forth herein.

22 185. Defendants USC, the Trustees, the Engemann Health Center, and Does
23 1-100 owed Plaintiff and the Class members a duty to take reasonable protective
24 measures to protect her and other student-patients from the risk of sexual
25 harassment, molestation, and abuse by Defendant Tyndall by properly warning,
26 training, or educating Plaintiff and the Class members and other about how to avoid
27 such a risk.

28 186. Defendants USC, the Trustees, the Engemann Health Center, and Does
1-100 breached their duty to take reasonable protective measures to protect Plaintiff

1 and other patients from the risk of sexual harassment, molestation, and abuse by
2 Defendant Tyndall, such as the failure to properly warn, train or educate Plaintiff
3 and the Class members and other patients about how to avoid such a particular risk
4 that Tyndall posed—of sexual misconduct.

5 187. Defendants USC, the Trustees, the Engemann Health Center, and Does
6 1-100 breached their duty to take reasonable protective measures to protect
7 Plaintiff, Class members, and other patients from the risk of sexual harassment,
8 molestation and abuse by Defendant Tyndall, by failing to supervise and stop
9 employees of Defendants USC, the Trustees, the Engemann Health Center, and
10 Does 1-100, including Tyndall, from committing wrongful sexual acts with student-
11 patients, including Plaintiff and the Class members.

12 188. As a result of the above-described conduct, Plaintiff and the Class
13 members have suffered and continue to suffer great pain of mind and body, shock,
14 emotional distress, physical manifestations of emotional distress including
15 embarrassment, loss of self-esteem, disgrace, humiliations, and loss of enjoyment
16 of life; have suffered and continue to suffer and were prevented and will continue to
17 be prevented from performing daily activities and obtaining the full enjoyment of
18 life; will sustain loss of earnings and earning capacity, and/or have incurred and
19 will continue to incur expenses for medical and psychological treatment, therapy,
20 and counseling.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, individually and on behalf of the class defined
23 above, respectfully requests that the Court:

24 A. Certify this action as a class action under Rule 23 of the Federal Rules
25 of Civil Procedure, appoint Plaintiff as class representative, and appoint the
26 undersigned counsel as class counsel;

27 B. Award Plaintiff and class members compensatory, restitutionary,
28 rescissory, general, consequential, punitive, and/or exemplary damages in an

1 amount to be determined at trial;

2 C. Award pre-judgment interest as permitted by law;

3 D. Enter appropriate equitable relief;

4 E. Award reasonable attorneys' fees and costs, as provided for by law;

5 and

6 F. Grant such other and further relief as the Court deems just and proper.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff demands a trial by jury on all issues so triable.

9 Dated: June 5, 2018

10 Respectfully submitted,

11
12 By: /s/ Jonathan D. Selbin
Jonathan D. Selbin (Bar No. 170222)

13
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27 *Counsel for Plaintiff and the Putative Class*
28

EXHIBIT A



USC University of
Southern California

C. L. MAX NIKIAS
President

Robert C. Packard President's Chair

*Malcolm R. Currie Chair in Technology
and the Humanities*

May 15, 2018

Dear USC community,

Nothing is more important to me, or to our community, than the health and safety of our students. As the parent of two daughters who were undergraduates and graduate students at USC, I understand how vital it is for the university to do everything it can to care for the students who put their trust in us. And, as president, I am wholly committed to providing a safe and respectful environment for everyone on our campuses.

That is why I am writing to you today. I want you to hear from me directly on a topic that is deeply troubling, and which concerns a former physician at our student health center. I want to share what we know, and inform you of the steps we took to address the matter.

In June 2016, the Office of Equity and Diversity (OED) received a complaint from a staff member about Dr. George Tyndall, a gynecologist at the health center. The university immediately launched an investigation and placed him on administrative leave. He was not allowed to return to service and had no further contact with students. At the conclusion of the investigation, which included the OED, Office of Compliance, Risk Management, and external experts, USC ended his employment in June 2017.

During the investigation, outside medical reviewers concluded that the manner in which Dr. Tyndall performed physical exams did not meet current practice standards and that he made inappropriate remarks to patients, in some cases during the examination process. Some of these comments were racially discriminatory and sexually inappropriate in nature. These comments and his behavior were completely unacceptable and a violation of our values.

Unfortunately, a thorough review of files during the 2016 investigation revealed that there had been complaints about Dr. Tyndall in prior years, and that the former health center director chose to manage those complaints independently. In 2013, the former health center director did make a report to OED prompted by alleged racist comments made by Dr. Tyndall. OED investigated, and at that point in time, did not find conclusive evidence of a policy violation.

When his employment ended in June 2017, Dr. Tyndall stated to the university he was retiring from practicing medicine. Earlier this year, he sent a letter to USC seeking his reinstatement, which prompted the university to file a complaint to the California Medical Board. In hindsight, we should have made this report eight months earlier when he separated from the university.

Further, during the 2016 investigation, two separate independent criminal law experts were engaged to evaluate whether there was any criminal conduct to report to law enforcement; they advised that this was not a criminal matter. Last week we received correspondence from the *Los Angeles Times* that raised the possibility that additional information may exist regarding Dr. Tyndall. Therefore, in an abundance of caution, we contacted the Los Angeles County District Attorney's office to relay this possibility. The DA's office directed us to the Los Angeles Police Department, which we also contacted.

Here is a [link to a more complete summary](#) of the findings and actions taken that was prepared by the USC investigative team.

We expect much of people entrusted with the wellbeing of our students. While we have no evidence of criminal conduct, we have no doubt that Dr. Tyndall's behavior was completely unacceptable. It was a clear violation of our Principles of Community, and a shameful betrayal of our values.

During the 2016 investigation, our teams interviewed many individuals, including students, and attempted to identify any other students who may have had concerns. This process included reviewing the responses of a survey sent to 2,500 student patients, to learn if there were any other issues or complaints identified. Those efforts, which included additional follow-up calls to survey respondents, did not identify any related complaints about Dr. Tyndall's practice.

We urge anyone with additional information or concerns regarding Dr. Tyndall's behavior to report it at this dedicated number: **(833) 889-8833** or the following website: usc.mycompliance.com. We understand how difficult this may be, and we pledge to handle your outreach with compassion and sensitivity. We stand resolute in bringing all facts—however difficult—to light. We also encourage any students who wish to receive support to contact our student counseling services at (213) 740-7711 at our University Park Campus, or (323) 442-5631 at our Health Sciences Campus.

Unrelated to the Tyndall investigation, in early 2016, USC appointed a task force of faculty and staff to review student health with the goal of strengthening oversight and enhancing professionalism and practice standards of student health care, which at the time was under the division of student affairs. As a result of that review, Dr. Sarah Van Orman, a nationally respected leader in student health, was recruited as the center's new chief medical director. The center's leadership, staffing, oversight, and peer review have been strengthened and integrated with our academic medical center, with additional oversight from our CEO of USC Health, Tom Jackiewicz, as well as our vice president for student affairs, Ainsley Carry.

We want to reassure you that our student health centers, under the leadership of Dr. Van Orman and the entire health system team, are committed to providing every student with the most respectful experience and highest quality care possible. We will provide her with the full resources necessary to support her efforts. In addition, as part of the integration with the academic medical center, over the past year the health center staff has received extensive training on reporting. This training will

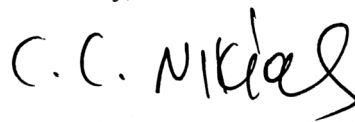
be ongoing with intensive sessions scheduled this summer and fall to ensure that when concerning behavior and actions are noticed, they are quickly reported and addressed. She also will strengthen communications to students about their patient rights and responsibilities.

This issue, and other issues we have confronted recently at the university, teach us that I, my senior leadership team, and the entire USC community must work diligently and continuously to instill a culture that fully lives up to our values. To that end, we are finalizing a comprehensive action plan in which the entire university community will work together to build a foundation based on respect, care, and ethical behavior. In addition, it calls for a major restructuring of USC's operations, that, among other things, focuses on how we handle such complaints and coordinate investigations on both of the university's campuses. This action plan also includes a number of new university-wide policies and revisions to existing policies that will improve our campus culture. I recently met with the executive boards of the Academic Senate and the Staff Assembly, as well as the Task Force on Workplace Standards and Employee Wellness; with each of these groups, I shared the basic elements of this action plan, which the university will roll out in the near future. These groups provided extremely valuable feedback, and I shared with them how their input will be directly integrated into the final version of the action plan. This action plan builds significantly on numerous other steps that the university is taking to improve our culture, and our commitment to our students, our patients, and to each other.

We understand that any unacceptable behavior by a health professional is a profound breach of trust. On behalf of the university, I sincerely apologize to any student who may have visited the student health center and did not receive the respectful care each individual deserves.

In closing, I also want to express my sincere appreciation to all the staff members, faculty, and students who bring forward issues and concerns, and who cooperate in investigations, so we can address them. Your voices enable us to take decisive action to protect our community, and your courage and strength empower all of us to live up to the most cherished ideals and values of our Trojan Family.

Sincerely,

A handwritten signature in black ink that reads "C. L. Nikias". The signature is written in a cursive style with a large, sweeping flourish at the end.

C. L. Max Nikias
President

EXHIBIT B



USC University of Southern California

USC STUDENT HEALTH

Sarah Van Orman, M.D., MMM, FACHA
Chief Health Officer

Associate Vice Provost for Student Health

Clinical Professor of Family Medicine

May 15, 2018

Dear USC Students,

I came to USC in August 2017 with one goal in mind: To provide the highest quality health care to all of our students and to improve health and well-being among our community. When I arrived, I found that same commitment to outstanding care was shared by our university leaders, as well as by our dedicated teams at both the Engemann and Eric Cohen student health centers.

As someone who has devoted my career to care for students, I am deeply troubled by the situation involving a former student health physician that President Nikias discussed in a [letter to the community](#). Our commitment to you – our students – is outstanding, professional health care, and I will not tolerate anything less in our university student health centers.

The university has made, and continues to make, significant changes to our student health centers. In August 2017, USC integrated student health systems into our academic medical center, Keck Medicine of USC. That further professionalized our care and brought the resources of our academic medical center to provide the best services to our students.

Our student health care providers now are faculty within the departments of Family Medicine and Psychiatry at Keck and undergo a demanding credentialing and peer-review process. We hired a new executive director of student mental health, we're adding 10 additional mental health counselors next year, and we have joined a nationwide program that guides campuses to develop customized mental health, substance abuse, and suicide prevention efforts.

Governance and oversight of these practitioners and all care delivered at the student health centers is at my direction and I am accountable to the CEO of the academic medical center as well as the Vice President for Student Affairs. This structure ensures responsible and transparent health care services.

Our medical staff and faculty are accomplished individuals who have dedicated their careers to working with young adults. In fact, USC student health services staff includes many USC alumni and Trojan parents who have chosen to support the university by caring for its students.

Our student health centers are certified by the Accreditation Association for Ambulatory Health Care, which conducts an external review every three years. We have patient satisfaction surveys and a structured process for handling complaints and reviews.

Over the next year, we will begin a strategic planning process for student health across our two campuses. To that end, the university is continuing its significant investment in student health care and has offered me all the resources I might need so that USC can be a national model.

As part of our transition to Keck Medicine, our staff has received extensive training on staffing and complaint reporting. This training will be ongoing with additional sessions scheduled this summer and fall to ensure that when concerning behavior and actions are noticed, they are quickly reported and addressed. We plan to strengthen our communication to students about their rights and responsibilities as well as mechanisms for reporting concerns.

May 15, 2018

Page 2

As I work to further strengthen student health at USC, I look forward to seeking your input and engagement, getting to know more of you, and hearing your feedback. If you have additional information or concerns regarding Dr. Tyndall's behavior, you can call this dedicated number: (833) 889-8833 or use this website: usc.mycompliancereport.com.

Sincerely,



Sarah Van Orman, M.D., MMM, FACHA
Chief Health Officer, USC Student Health
Associate Vice Provost for Student Health
Clinical Professor of Family Medicine

Cc: C. L. Max Nikias
Academic Senate
Academic Deans
President's Cabinet
Provost's Cabinet