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16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 JANE DOE J.L., JANE DOE L.K., JANE
19 DOE K.M., JANE DOE A.S., JANE DOE
20 A.D., JANE DOE S.A., JANE DOE L.R.,
21 JANE DOE R.K., BETSAYDA
22 ACEITUNO, JANE DOE K.P., JANE DOE
23 C.C.,

24 Plaintiffs,

25 v.

26 UNIVERSITY OF SOUTHERN
27 CALIFORNIA, BOARD OF
28 TRUSTEES OF THE UNIVERSITY OF
SOUTHERN CALIFORNIA, and
GEORGE TYNDALL, M.D.,

Defendants.

No. 2:18-cv-06115

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

TABLE OF CONTENTS

Page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION..... 1

II. JURISDICTION AND VENUE..... 2

III. THE PARTIES 2

 A. Plaintiffs 2

 B. Defendants..... 3

IV. FACTS..... 4

 A. Students (and their parents) entrusted their medical care to USC..... 4

 B. Tyndall’s and USC’s abuse of trust 6

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

 D. USC admits it was on notice of Tyndall’s violation of female students..... 11

 E. Plaintiffs were violated by Dr. Tyndall, with the knowledge of USC..... 14

 1. Jane Doe J.L. (1991-1993)..... 14

 2. Jane Doe L.K. (1996-1997) 15

 3. Jane Doe K.M. (2000-2001) 15

 4. Jane Doe A.S. (2000-2001) 17

 5. Jane Doe A.D. (2006) 18

 6. Jane Doe S.A. (2008)..... 19

 7. Jane Doe L.R. (2008)..... 20

 8. Jane Doe R.K. (2009) 22

 9. Betsayda Aceituno (2013-2015)..... 24

 10. Jane Doe K.P. (2013)..... 24

 11. Jane Doe C.C. (2014)..... 25

 F. The statute of limitations is tolled based on the continuing violations doctrine and fraudulent concealment. 26

1 V. CLASS ALLEGATIONS..... 29
2 VI. CAUSES OF ACTION 31
3 COUNT I VIOLATIONS OF TITLE IX, 20 U.S.C. § 1681(A), *ET SEQ.*
4 (AGAINST USC AND USC TRUSTEES)..... 31
5 COUNT II VIOLATION OF THE CALIFORNIA EQUITY IN
6 HIGHER EDUCATION ACT [CAL. EDUC. CODE § 66250]
7 (AGAINST USC, USC TRUSTEES, AND TYNDALL)..... 31
8 COUNT III GENDER VIOLENCE [CAL. CIV. CODE § 52.4]
9 (AGAINST TYNDALL AND USC) 32
10 COUNT IV GROSS NEGLIGENCE (AGAINST USC, USC
11 TRUSTEES, AND TYNDALL) 33
12 COUNT V NEGLIGENT SUPERVISION AND RETENTION
13 (AGAINST USC AND USC TRUSTEES)..... 34
14 COUNT VI CIVIL BATTERY (AGAINST TYNDALL AND USC) 35
15 COUNT VII INTENTIONAL INFLICTION OF EMOTIONAL
16 DISTRESS (AGAINST TYNDALL AND USC)..... 36
17 COUNT VIII NEGLIGENT INFLICTION OF EMOTIONAL
18 DISTRESS (AGAINST TYNDALL AND USC)..... 37
19 COUNT IX RATIFICATION (AGAINST USC AND USC TRUSTEES)..... 39
20 PRAYER FOR RELIEF 39
21
22
23
24
25
26
27
28

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

4 **I. INTRODUCTION**

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

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

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

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

24 5. Moreover, even as numerous supervisors and administrators became
25 aware of Tyndall’s harmful conduct, USC failed to act to protect its female students by

26 _____
27 ¹ Susan Dorr Goold, MD, MHSA, MA, *Trust, Distrust and Trustworthiness: Lessons from the Field*, 17 J. GEN. INTERNAL MED. 79, 79–81 (2002) (citations
28 omitted).

1 removing Tyndall from his position even though it was clear he was unfit to treat
2 patients.

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

6 II. JURISDICTION AND VENUE

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

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

20 III. THE PARTIES

21 A. Plaintiffs

22 9. Jane Doe J.L. is a resident of Bellevue, Washington, and a citizen of the
23 United States.

24 10. Jane Doe L.K. is a resident of San Francisco, California, and a citizen of
25 the United States.

26 11. Jane Doe K.M. is a resident of Rosemead, California, and a citizen of the
27 United States.

28

1 12. Jane Doe A.S. is a resident of Fountain Valley, California, and a citizen
2 of the United States.

3 13. Jane Doe A.D. is a resident of Los Angeles, California, and a citizen of
4 the United States.

5 14. Jane Doe S.A. is a resident of Chicago, Illinois, and a citizen of the
6 United States.

7 15. Jane Doe L.R. is a resident of San Marcos, California, and a citizen of the
8 United States.

9 16. Jane Doe R.K. is a resident of Costa Mesa, California, and a citizen of the
10 United States.

11 17. Betsayda Aceituno is a resident of Los Angeles, California, and a citizen
12 of the United States.

13 18. Jane Doe K.P. is a resident of Los Angeles County, California, and a
14 citizen of the United States.

15 19. Jane Doe C.C. is a resident of Dallas, Texas, and a citizen of the United
16 States.

17 **B. Defendants**

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

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

25 22. Defendant George Tyndall, M.D., is an adult male who is a resident of
26 Los Angeles County and citizen of the United States. Tyndall started working as a
27
28

1 gynecologist at USC’s student-health center in or about 1989, and reportedly
2 examined as many as 16 women per day at the clinic.

3 **IV. FACTS**

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

5 23. Experts have asserted that health is an important factor for academic
6 achievement in higher education.² “Health complaints limit students’ capacity to
7 perform adequately at university.”³ Thus, a university’s promotion of health and well-
8 being of its students promotes effective learning.⁴

9 24. To that end, USC touts the services of its student-health center to its
10 students. It regularly runs workshops designed to invite the trust of students, such as a
11 series of “Feel Better Workshops” entitled “Relationships and Connection,”
12 “Addressing Academic Anxiety,” “Stress Management,” and “Calm Your Anxiety.”⁵

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

19 ² Walid El Ansari & Christiane Stock, *Is the Health and Wellbeing of University*
20 *Students Associated with their Academic Performance?*, 7 INT’L J. ENVTL. RES. PUB.
HEALTH 509, 509–527 (2010) (citations omitted).

21 ³ *Id.*

22 ⁴ *Id.*

23 ⁵ USC Student Health, *Upcoming Events*, <https://engemannshc.usc.edu/events/> (last
accessed May 19, 2018).

24 ⁶ 4CollegeWomen, *The First Gynecological Exam*,
25 <http://www.4collegewomen.org/fact-sheets/firstgyno.html> (last accessed May 21,
2018).

26 ⁷ Harriet Ryan et al., *A USC doctor was accused of bad behavior with young*
27 *women for years. The university let him continue treating students*, L.A. TIMES (May
16, 2018), [https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-](https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html)
28 [complaints-20180515-story.html](https://www.latimes.com/local/california/la-me-usc-doctor-misconduct-complaints-20180515-story.html).

1 26. The primary care team at USC’s student health center “is available for
2 contraception counseling, well-women visits, pap smears, STI testing, and other
3 concerns women may have.”⁸

4 27. USC’s invitation to its female students to discuss concerns about their
5 health presumes a relationship of trust.

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

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

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

17 31. Knowing and inviting female students to place trust in its physicians,
18 USC had a duty to ensure that Tyndall used his trusted position and the safe confines
19 of a doctor’s exam room at the USC student-health center consistent with the standard
20 of care and certainly not to abuse that trust through the molestation of students.
21

22 _____
23 ⁸ Eric Cohen Student Health Center of USC, *Women’s Health*,
<https://ecohenshc.usc.edu/medical/womens-health/> (last accessed July 13, 2018).

24 ⁹ Dorr Goold, *supra* note 1.

25 ¹⁰ *Id.*

26 ¹¹ *Id.*, citing Ruth Faden & Tom Beauchamp, A HISTORY AND THEORY OF
INFORMED CONSENT 274–80 (Oxford Univ. Press 1986).

27 ¹² *Id.*

28 ¹³ *Id.*

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

2 32. For nearly 30 years, the University of Southern California’s student-
3 health clinic’s only full-time gynecologist was Tyndall. USC hired Tyndall in 1989
4 after his residency.

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

9 34. In the years after Tyndall started, some chaperones reportedly became
10 alarmed about the frequency with which he used a camera during pelvic exams.¹⁵
11 Tyndall’s chaperones questioned his motivations, with one reporting he took multiple
12 pictures of hundreds of patients’ genitals, while another said she witnessed 50 to 100
13 patients photographed.¹⁶

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

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

23 _____
24 ¹⁴ Ryan et al., *supra* note 7.

25 ¹⁵ *Id.*

26 ¹⁶ *Id.*

27 ¹⁷ *Id.*

28 ¹⁸ *Id.*

¹⁹ *Id.*

1 37. After USC’s grand opening of its new Engemann Student Health Center
2 in or about 2013, chaperones became concerned regarding Tyndall’s treatment of
3 female patients.

4 38. Chaperones were concerned about “full body scans,” where “Tyndall
5 frequently had women lie naked on the exam table while he slowly inspected every
6 part of their body, down to the area between their buttocks.”²⁰ While a woman’s
7 annual gynecological visit might include a discussion of skin problems, such
8 “meticulous” inspections of a patient’s naked body “would be highly unusual if not
9 inappropriate.”²¹

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

13 40. In the spring of 2013, eight chaperones reported concerns about Tyndall
14 to their supervisor, veteran nurse Cindy Gilbert. Gilbert went to Neinstein, the clinic’s
15 executive director, and the then-head of clinic nursing and now the clinic’s executive
16 director, Tammie Akiyoshi. Gilbert said Neinstein told her that he had talked to
17 Tyndall about his behavior in the past.²³

18 41. Neinstein reportedly referred the complaints to the university’s Office of
19 Equity and Diversity, which investigates sexual misconduct and racial and gender
20 discrimination. USC has stated that an investigator interviewed seven employees and a
21 patient. However, Gilbert and multiple chaperones who complained said they were
22 never informed of the probe or questioned by the investigator.²⁴

24 ²⁰ *Id.*

25 ²¹ *Id.*

26 ²² *Id.*

27 ²³ *Id.*

28 ²⁴ *Id.*

1 42. The investigation apparently concluded there was no violation of school
2 policy. The only action that Neinstein took was to bar Tyndall from locking the door
3 of his office when patients were present.²⁵

4 43. Tyndall then increased his attempts to groom patients, particularly of
5 Chinese ethnicity.²⁶

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

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

14 46. However, as Tyndall's grooming efforts increased, so did the chaperones'
15 concerns.

16 47. Chaperones began discussing the way Tyndall used his fingers at the
17 outset of the pelvic exam for many young women. Before inserting a speculum, the
18 metal duck-billed device that spreads open the walls of the vagina and enables the
19 doctor to view the cervix, Tyndall would voice concern that the speculum might not
20 fit.²⁹

21 48. The Los Angeles Times reported:

22 “He would put one finger in and say, ‘Oh, I think it will fit.
23 Let’s put two fingers in,’” said a chaperone who worked
 with Tyndall for years. Four people familiar with Tyndall’s

24 ²⁵ *Id.*

25 ²⁶ *Id.*

26 ²⁷ *Id.*

27 ²⁸ *Id.*

28 ²⁹ *Id.*

1 exams said that while he spoke, he was moving his fingers in
2 and out of the patients.

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

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

10 “He never was,” she said.

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

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

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

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

26 50. One nurse said that in 2013-2014, she spoke to at least five women who
27 refused to be scheduled with Tyndall despite having gynecological problems that
28 needed immediate attention. The patients reported feeling like “he was
inappropriately touching them, that it didn’t feel like a normal exam,” and “like they

26 ³⁰ *Id.*

27 ³¹ *Id.*

28 ³² *Id.*

1 were violated.” The nurse told her immediate supervisor and later Akiyoshi, the head
2 of nursing, who said they would look into it.³³

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

7 52. Having already felt uncomfortable on how Tyndall violated her with his
8 hand during a gynecological exam before the speculum was inserted, one student was
9 told on her second visit that Tyndall wanted her to remove all her clothes. After
10 waiting for Tyndall naked, she got dressed, after asking herself why she needed to take
11 off all her clothes. She told a female clinic employee she wanted to see another doctor.
12 That employee reportedly told the student “there were a lot of complaints” about
13 Tyndall.³⁵

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

19 54. Gilbert stated she repeatedly expressed concerns about Tyndall to
20 Akiyoshi, Neinstein, and other clinic administrators from 2014 to 2016, but they
21 seemed uninterested.³⁷

22
23
24 _____
25 ³³ *Id.*

26 ³⁴ *Id.*

27 ³⁵ *Id.*

28 ³⁶ *Id.*

³⁷ *Id.*

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

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

10 **D. USC admits it was on notice of Tyndall’s violation of female students.**

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

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

20 59. As a result, USC states that it conducted an investigation. USC reported
21 that medical assistants who assisted Dr. Tyndall during clinic visits reported concerns
22
23

24 ³⁸ *Id.*

25 ³⁹ *Id.*

26 ⁴⁰ Todd R. Dickey et al., USC, *Summary of Coordinated Investigation of Student*
27 *Health Physician* (May 15, 2018), https://pressroom.usc.edu/files/2018/05/Summary-fact-sheet_5.15.18.pdf.

28 ⁴¹ *See id.*

1 about the way he conducted pelvic examinations. Specifically, these medical assistants
2 questioned Tyndall's practice of a digital insertion prior to insertion of a speculum.⁴²

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

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

10 62. USC reported that it also reviewed the files of Dr. Larry Neinstein, the
11 former health center director from 1995-2014 (who is now deceased), which showed
12 earlier patient complaints about Tyndall, including complaints about his clinical
13 practice. The files contained eight complaints logged between 2000 and 2014 that
14 were concerning. These included racially insensitive and other inappropriate
15 comments, concerns that he was not adequately sensitive to patient privacy, a
16 complaint of feeling "uncomfortable," another that Tyndall "gave me the skeevies,"
17 and another that he was "unprofessional."⁴⁵

18 63. USC admitted that these complaints were sufficient to terminate Tyndall,
19 and should have been elevated for "proper investigation."

20 64. Dr. Neinstein's notes also purportedly indicated that he brought in outside
21 experts to review his clinical practices, although the Statement does not identify those
22 experts nor the results of those engagements.⁴⁶

24 ⁴² *See id.*

25 ⁴³ *See id.*

26 ⁴⁴ *See id.*

27 ⁴⁵ *See id.*

28 ⁴⁶ *See id.*

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

4 66. USC was silent on its failure to report Tyndall to criminal authorities, the
5 attorney general, or anyone outside the university for the purposes of conducting an
6 independent investigation.⁴⁸

7 67. USC concluded its 2016 investigation, finding that “Tyndall had violated
8 the university’s policy on harassment by making repeated racially discriminatory and
9 sexually inappropriate remarks during patient encounters.” The Statement was silent
10 as to any conclusions concerning sexual assault, violation, or molestation.⁴⁹

11 68. Ultimately, in 2017, the university began termination proceedings.
12 However, USC did not contact law enforcement, the attorney general, or the medical
13 licensing board.⁵⁰ Nor did USC inform Tyndall’s patients.⁵¹ Because Tyndall
14 threatened a lawsuit against USC, USC entered into a separation agreement with
15 Tyndall.⁵²

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

21
22
23 ⁴⁷ *See id.*

24 ⁴⁸ *See id.*

25 ⁴⁹ *See id.*

26 ⁵⁰ *See id.*

27 ⁵¹ Ryan et al., *supra* note 7.

28 ⁵² *See* Statement, *supra* note 40.

⁵³ *See id.*

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

2 **1. Jane Doe J.L. (1991-1993)**

3 70. Jane Doe J.L. attended USC from 1988-1993. She saw Dr. Tyndall for an
4 examination in or about 1992 or 1993 due to a concern of a possible vaginal yeast
5 infection.

6 71. Dr. Tyndall examined Jane Doe J.L. without a chaperone in the room.
7 Jane Doe J.L. was wearing a skirt/dress that day; Dr. Tyndall told her to remove her
8 underpants for the examination. Dr. Tyndall did not ask Jane Doe J.L. to undress for
9 the examination nor provide her with an examination gown.

10 72. Dr. Tyndall examined Jane Doe J.L. with his fingers. As he was touching
11 her, Dr. Tyndall asked if she had another female student perform oral sex on her. Jane
12 Doe J.L. immediately said “no” and asked “why?” In response, Dr. Tyndall told her if
13 a girl was licking her vagina, it may have caused her yeast infection. Jane Doe J.L.
14 explained to Dr. Tyndall that she was heterosexual. Dr. Tyndall described for Jane
15 Doe J.L. in detail how females perform oral sex on one another and asked if she was
16 sure she had never done anything like that before.

17 73. Jane Doe J.L. was very uncomfortable by the tone and subject matter of
18 the conversation. She sat up after he was done touching her and quickly left the
19 examination room.

20 74. After the appointment, Jane Doe J.L. told her cousin she had a bad
21 experience with Dr. Tyndall and that she was never going back to him again.

22 75. When Jane Doe J.L. heard about the accounts of other women in his care,
23 she realized she had not been a victim of an isolated occurrence, but rather the victim
24 of a series of abuses. The distress she felt at the time of her examination came flooding
25 back. She is upset and feels betrayed that USC allowed this to happen to her and so
26 many other women.

27
28

1 76. Jane Doe J.L. has thus been damaged by Dr. Tyndall’s and USC’s
2 actions.

3 **2. Jane Doe L.K. (1996-1997)**

4 77. Jane Doe L.K. studied communications at USC from 1996 to 2000.

5 78. In or about 1996 or 1997, Jane Doe L.K. was examined by Dr. Tyndall at
6 the USC student health center.

7 79. After the exam, and while Jane Doe L.K. was still partially unclothed, Dr.
8 Tyndall began asking her questions about her genital piercing. Dr. Tyndall told Jane
9 Doe L.K. that he was “conducting a study,” and for the study, he needed to know
10 whether it had been easier or more difficult for her to orgasm since she got the genital
11 piercing.

12 80. Jane Doe L.K. felt an immediate rush of panic—she did not think that
13 doctors were supposed to ask questions like that. She felt extremely ashamed and
14 violated. However, because she did not have much experience with gynecologists, she
15 did not know for certain that the question was inappropriate. After all, Dr. Tyndall was
16 an authority figure, so Jane Doe L.K. questioned whether she must be the one in the
17 wrong for feeling embarrassed.

18 81. Jane Doe L.K. is outraged that Dr. Tyndall was able to make her feel
19 embarrassed and ashamed through his own misconduct.

20 82. Jane Doe L.K. feels betrayed by USC and angry that it has subjected so
21 many young, vulnerable women to the type of abuse she experienced more than two
22 decades ago.

23 83. Jane Doe L.K. has thus been damaged by USC’s and Dr. Tyndall’s
24 actions.

25 **3. Jane Doe K.M. (2000-2001)**

26 84. Jane Doe K.M. attended USC from 1998 to 2000. She graduated with a
27 B.A. in communications.

28

1 85. In 2000 or 2001, Jane Doe K.M. scheduled an appointment with Dr.
2 Tyndall at the USC student health center because her period was more than one week
3 late. She took a pregnancy test and underwent pelvic and breast exams and a pap
4 smear. It was her first visit to the gynecologist.

5 86. Jane Doe K.M. had not previously undergone a pelvic exam.

6 87. There was a chaperone in the room during Jane Doe K.M.'s exam. The
7 chaperone stood with her back to Jane Doe K.M. and Dr. Tyndall throughout the exam
8 and did not speak.

9 88. Dr. Tyndall performed a breast exam on Jane Doe K.M. without
10 explaining the process. He opened the gown exposing both breasts without
11 notification. He did not tell Jane Doe K.M. that she could perform breast exams on
12 herself at home. It seemed to Jane Doe K.M. as though the breast exam lasted a very
13 long time, making her uncomfortable.

14 89. During the course of the pelvic exam, Dr. Tyndall made numerous jokes
15 about the instruments he was using on Jane Doe K.M. He did this while touching her.
16 At one point, while the speculum was inside of Jane Doe K.M.'s vagina, Dr. Tyndall
17 sarcastically asked if he could "please have his speculum back."

18 90. Jane Doe K.M. felt as though Dr. Tyndall's joking unnecessarily
19 prolonged the pelvic exam. Worse, she felt that his comments were highly
20 inappropriate and violating. She left the appointment feeling compromised, exposed,
21 and uncomfortable.

22 91. Jane Doe K.M. felt so uncomfortable after the appointment that she
23 confided in her friend and her boyfriend (now husband) about the experience

24 92. Ever since her experience with Dr. Tyndall, Jane Doe K.M. has never felt
25 safe being treated a male gynecologist. Many years later, Jane Doe K.M. was faced
26 with a difficult decision about delivering her baby. Her female gynecologist would not
27 be available to deliver her baby the week she was due, and as a result, she would have
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1 a male doctor instead. But Jane Doe K.M. was still not comfortable with male
2 gynecologists because of her experience with Dr. Tyndall. She elected to induce one
3 week early so that her regular doctor—a woman—could deliver the baby.

4 93. Jane Doe K.M. is angry that USC failed to protect her and so many
5 others. She wants USC to be held accountable for breaching the trust of their young
6 female students.

7 94. Jane Doe K.M. has thus been damaged by USC's and Dr. Tyndall's
8 actions.

9 **4. Jane Doe A.S. (2000-2001)**

10 95. Jane Doe A.S. saw Dr. Tyndall for a gynecological exam in or about 2000
11 or 2001. Prior to her appointment with Dr. Tyndall, she had never been examined by a
12 gynecologist before.

13 96. Jane Doe A.S. made an appointment for access to birth control and STD
14 testing.

15 97. Because it was her first experience with a gynecologist, Jane Doe A.S.
16 did not know what to expect. Dr. Tyndall examined her without a chaperone in the
17 room. Because of her age and relative inexperience, Jane Doe A.S. did not know to
18 ask for one.

19 98. Dr. Tyndall performed a pelvic exam and inserted his fingers into Jane
20 Doe A.S.'s vagina. While his finger was inside of her, Dr. Tyndall claimed Jane Doe
21 A.S. was "particularly tight." He also commented that she had a "beautiful vagina."
22 Jane Doe A.S. found Dr. Tyndall's comments to be inappropriate and disturbing. At
23 the time, Jane Doe A.S. felt uncomfortable, but because she had no prior experience
24 with gynecologists, she did not know that Dr. Tyndall's methods were abnormal and
25 inappropriate.

26 99. When Jane Doe A.S. returned for her follow-up appointment to receive
27 her STD test results from Dr. Tyndall, she instead was informed of her results by a
28

1 student/intern. She was told that she had genital herpes. Jane Doe A.S. lived with fear
2 and unease about what she had been told for ten years, but never had any symptoms.
3 She was later retested by another doctor and discovered she did not have genital
4 herpes.

5 100. Although all doctors since then have treated her with respect and
6 professionalism, she continues to have unease and mistrust around male doctors and
7 has since refused to have a male doctor perform a pelvic exam.

8 101. When Jane Doe A.S. heard the reports about Dr. Tyndall in the media,
9 she recognized that Dr. Tyndall had acted inappropriately while examining her and
10 conveying her test results. She feels violated and is upset that USC failed to protect
11 her.

12 102. Jane Doe A.S. has thus been damaged by Dr. Tyndall's and USC's
13 actions.

14 **5. Jane Doe A.D. (2006)**

15 103. Jane Doe A.D. attended USC from 2005-2010. She saw Dr. Tyndall for
16 an examination in or about 2006, due to a concern regarding symptoms or a cold sore
17 on her lip, and sought medication.

18 104. Dr. Tyndall performed a pelvic exam (even though she was there because
19 she had a cold sore on her lip). During the exam, he made the comment that she was
20 "very tight." The comment made Jane Doe A.D. feel weird but, because of her age and
21 inexperience, she did not really know how inappropriate it was at the time. She later
22 told a friend about it, and the friend explained to her the sexual connotation associated
23 with the comment.

24 105. Jane Doe A.D. avoided going to the gynecologist after that. During the
25 time she was not going to see an gynecologist, she developed two vaginal infections.
26 She finally went to Planned Parenthood to get an exam and was prescribed
27
28

1 medications. However, Jane Doe A.D. has been extremely susceptible to vaginal
2 infections ever since.

3 106. When Jane Doe A.D. heard about the accounts of other women in his
4 care, she realized she had not been a victim of an isolated occurrence, but rather the
5 victim of a series of abuses. She is upset and feels betrayed that USC allowed this to
6 happen to her and so many other women.

7 107. Jane Doe A.D. recently requested the medical records from her visit with
8 Dr. Tyndall and was shocked to read in Dr. Tyndall's notes a comment that she "said
9 she can have orgasms with clitoral stimulation but not vaginal intercourse." Jane Doe
10 A.D. never discussed orgasms with Dr. Tyndall during the appointment. She is
11 extremely embarrassed that this information was included in her medical record
12 because other doctors would presumably review Dr. Tyndall's record as part of her
13 medical history.

14 108. Jane Doe A.D. has thus been damaged by Dr. Tyndall's and USC's
15 actions.

16 **6. Jane Doe S.A. (2008)**

17 109. Jane Doe S.A. made an appointment with Dr. Tyndall in or about spring
18 of 2008. The doctor she regularly saw for women's healthcare at the student health
19 center was out of town. Jane Doe S.A. made the appointment with Dr. Tyndall
20 because she was having vaginal discomfort and needed to see someone right away.

21 110. Dr. Tyndall performed a pelvic exam on Jane Doe S.A. There was a
22 chaperone in the room during the exam.

23 111. As Jane Doe S.A. was laying on the exam table, undressed from the waist
24 down with her legs spread, Dr. Tyndall tapped on her labia several times with four
25 fingers. "That's nice" he said, and then he asked Jane Doe S.A. if she had had laser
26 hair removal. Jane Doe S.A. panicked. She tried to make eye contact with the
27 chaperone, but the chaperone avoided her gaze. When she realized that the chaperone
28

1 was going to do nothing to help her, Jane Doe S.A. replied uncomfortably, “no, I just
2 had a wax.”

3 112. After her examination by Dr. Tyndall, Jane Doe S.A. felt physically ill
4 and violated. For months, she replayed the incident in her mind and felt humiliated for
5 being touched by Dr. Tyndall and ashamed for not confronting him. She resolved
6 never to see Dr. Tyndall again.

7 113. Jane Doe S.A. later reported the incident to her regular gynecologist at
8 the student health center, who did not seem surprised. The doctor strongly encouraged
9 Jane Doe S.A. to file a complaint with the health center.

10 114. Jane Doe S.A. wrote a letter of complaint to Dr. Lawrence Neinstein, the
11 executive director of the student health center at the time. She received an email back
12 from Dr. Neinstein, thanking her for bringing it to his attention and assuring her that
13 the health center would address her complaint.

14 115. When Jane Doe S.A. read news reports of Dr. Tyndall in May 2018, she
15 understood that USC had done nothing about her complaint.

16 116. Ten years after Dr. Tyndall’s violative examination, Jane Doe S.A. still
17 feels physically ill when recounting the details of the incident. She is fearful of male
18 gynecologists and has not seen one since that day. She has experienced emotional
19 distress both because of Dr. Tyndall’s inappropriate behavior toward her, and also
20 because of USC’s inaction. She is outraged that USC allowed Dr. Tyndall to abuse
21 women for nearly a decade after she submitted her complaint.

22 117. Jane Doe S.A. has thus been damaged by Dr. Tyndall and USC.

23 **7. Jane Doe L.R. (2008)**

24 118. In 2008, Jane Doe L.R. was studying for her masters in higher education
25 at USC. She was 25 years old.

26 119. In or about December of 2008, Jane Doe L.R. visited the student health
27 center for a routine pelvic exam with Dr. Tyndall.

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1 120. When Jane Doe L.R. entered the exam room, she immediately felt uneasy
2 and different than she had felt previously felt in gynecologist’s offices. She noticed
3 that there were no medical instruments on the table. The office did not feel
4 appropriately clinical.

5 121. Dr. Tyndall used his fingers to examine Jane Doe L.R. During the exam,
6 while his fingers were inside of Jane Doe L.R., Dr. Tyndall said, “oh you’re very
7 small,” in apparent reference to Jane Doe L.R.’s vagina.

8 122. During the examination, while Jane Doe L.R. was unclothed, Dr. Tyndall
9 began asking her questions about her sexual activity. His questions went beyond the
10 question of whether or not she was sexually active—he wanted her to describe her
11 activity. Jane Doe L.R. felt very uncomfortable, but she did not feel that she was at
12 liberty to refuse to answer the questions.

13 123. Jane Doe L.R. told Dr. Tyndall that she was sexually active with her
14 boyfriend, to which Dr. Tyndall replied something to the effect of “what a lucky guy.”
15 During the course of their conversation, Dr. Tyndall made jokes about Jane Doe L.R.’s
16 sexual activity.

17 124. While she was unclothed, laying on the examination table, enduring Dr.
18 Tyndall’s grossly inappropriate questions and comments, Jane Doe L.R. felt like she
19 went into shock. In order to get through the examination, she stared at a fly that was
20 buzzing around the room. She concentrated on the fly in an effort to block out the
21 shame, humiliation, and panic that she was feeling.

22 125. After the appointment, Jane Doe L.R. walked back to her dorm room. At
23 the time, it was winter recess, and the whole campus was empty. She remembers
24 feeling very depressed, alone, and regretful, as if she was doing a “walk of shame.”

25 126. Jane Doe L.R. did not see a gynecologist for the remainder of her time at
26 USC. She has made a point to see only female gynecologists ever since her
27 appointment with Dr. Tyndall.
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1 127. In the months following appointment with Dr. Tyndall, Jane Doe L.R.
2 experienced depression and anxiety for the first time and for which she sought
3 treatment.

4 128. After the incident, and during her time at USC, Jane Doe L.R. held a
5 graduate assistant position at a women's center, where she worked as an advocate for
6 victims of sexual abuse. She now holds an administrative position at a college in
7 which she deals specifically with campus sexual assault. Looking back, Jane Doe L.R.
8 believes that her professional choices were guided in part by her traumatic experience
9 with Dr. Tyndall.

10 129. Ever since Jane Doe L.R. saw Dr. Tyndall's face in media reports,
11 memories of her examination have come flooding back. She is re-living the trauma of
12 her examination with Dr. Tyndall and experiencing anger and emotional distress about
13 USC's failure to protect its female students over multiple decades.

14 130. Jane Doe L.R. has thus been damaged by USC's and Dr. Tyndall's
15 actions.

16 **8. Jane Doe R.K. (2009)**

17 131. Jane Doe R.K. studied at USC from 2009 to 2012.

18 132. In 2009, Jane Doe R.K. scheduled an appointment with Dr. Tyndall. She
19 was 18 years old. She was considering becoming sexually active and wanted to
20 explore options for birth control. At the time, Jane Doe R.K. had never been to a
21 gynecologist.

22 133. When Jane Doe R.K. told Dr. Tyndall that she had never had sexual
23 intercourse before, he laughed and acted as though he did not believe her. She watched
24 him type into his notes something to the effect of "virgin supposedly suspecting initial
25 penetration." The phrasing made her feel belittled and embarrassed.

26 134. After a short conversation, Dr. Tyndall prescribed Jane Doe R.K. his
27 "favorite pill," which he claimed "all his girls loved." He did not explain the numerous
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1 options for birth control or their potential side effects. Jane Doe R.K. felt confused,
2 but she filled the prescription because she needed contraceptives.

3 135. Jane Doe R.K. returned to Dr. Tyndall several months later because her
4 period became irregular, and she suspected that it was because of the birth control. At
5 the second appointment, Dr. Tyndall recommended that Jane Doe R.K. have a pelvic
6 exam and STD testing. Jane Doe R.K. responded that she thought STD testing would
7 be unnecessary because she and her partner had never had sex with anyone aside from
8 each other. Dr. Tyndall replied sarcastically, saying something to the effect of “you
9 two are in college, sure you are only having sex with each other.”

10 136. Dr. Tyndall did not address Jane Doe R.K.’s concerns about her irregular
11 period or the side effects of the birth control he had prescribed. Instead, he simply
12 prescribed a new pill.

13 137. After that appointment, Jane Doe R.K. decided never to see Dr. Tyndall
14 again. She felt disrespected, judged, and emotionally distressed.

15 138. Instead of receiving healthcare from Dr. Tyndall, Jane Doe R.K. would
16 drive an hour to see a gynecologist in her home town. Other doctors took her concerns
17 seriously and did not make jokes about her sex life. Unlike Dr. Tyndall, they explained
18 every exam and treatment and helped her find the contraceptive method that worked
19 best for her.

20 139. Jane Doe R.K. is outraged that USC allowed Dr. Tyndall to harass young
21 women like herself for decades. She feels that Dr. Tyndall took advantage of her age
22 and inexperience, and that he belittled her for his own amusement and sexual
23 gratification.

24 140. Jane Doe R.K. has thus been damaged by USC’s and Dr. Tyndall’s
25 actions.

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1 **9. Betsayda Aceituno (2013-2015)**

2 141. Betsayda Aceituno was an undergraduate student at USC from August
3 2013 through May 2015. During that time, she had approximately three appointments
4 with Dr. Tyndall in the student health center.

5 142. Dr. Tyndall asked Ms. Aceituno where she was from because he said she
6 had Asian features (mostly her eyes). Ms. Aceituno responded she was not Asian, that
7 she was Latina. Dr. Tyndall's comments about Ms. Aceituno's eyes and ethnicity
8 made her uncomfortable and uneasy.

9 143. There was a chaperone in the room for some, but not all, of Ms.
10 Aceituno's examinations.

11 144. On one occasion, Dr. Tyndall inserted his fingers into Ms. Aceituno's
12 vagina and commented that it was "very tight" and that she "would make whoever she
13 married very happy." There was no chaperone present during this appointment.

14 145. Dr. Tyndall's comments made Ms. Aceituno very uncomfortable and
15 nervous. Distressed by what had occurred, Ms. Aceituno told her brother what
16 happened. He was also disturbed by Dr. Tyndall's comments and behavior.

17 146. When Ms. Aceituno first heard reports that Dr. Tyndall had abused many
18 women, she was horrified and immediately replayed her experiences with him.

19 147. Ms. Aceituno feels extremely violated and distressed, especially
20 considering the number of visits she had with Dr. Tyndall. She feels traumatized and
21 angry that USC failed to provide her and other female students with safe, appropriate,
22 and professional healthcare.

23 148. Ms. Aceituno has thus been damaged by Dr. Tyndall's and USC's
24 actions.

25 **10. Jane Doe K.P. (2013)**

26 149. In 2013 Jane Doe K.P. was a student at USC. She was 21 years old at the
27 time. She scheduled an appointment with Dr. Tyndall because it had been a few years
28

1 since she had a women's healthcare appointment. When she called the USC student
2 health center, she was assigned to Dr. Tyndall.

3 150. Dr. Tyndall performed a pelvic exam on Jane Doe K.P. When he inserted
4 the speculum into her vagina, he commented that she was very tight, and that the boys
5 must love her. The comment made Jane Doe K.P. feel frightened and uncomfortable.

6 151. Ever since the media has reported on Dr. Tyndall's widespread pattern of
7 abuse, Jane Doe K.P. has felt emotionally distressed due to the memory of her
8 examination. She is especially distressed that USC allowed Dr. Tyndall to abuse so
9 many women throughout his years at USC.

10 152. Jane Doe K.P. has thus been damaged by Dr. Tyndall's and USC's
11 actions.

12 **11. Jane Doe C.C. (2014)**

13 153. Jane Doe C.C. saw Dr. Tyndall for a pelvic exam and pap smear on
14 August 28, 2014, because she had been sexually assaulted, and she was afraid that her
15 assailant had given her an STD.

16 154. At the time, she had only previously seen a gynecologist in the OBGYN
17 practice used by her mother.

18 155. During the examination, Dr. Tyndall digitally penetrated Jane Doe C.C.
19 This made her feel uncomfortable, but she assumed it was normal because she had
20 very little experience with gynecologists.

21 156. When Jane Doe C.C. told Dr. Tyndall the reason for her visit, he gave her
22 one pill for chlamydia, for which she had tested positive, as well as a pill for her
23 current partner to take.

24 157. When other women in Jane Doe C.C.'s sorority experienced sexual
25 assault, she recommended that they see Dr. Tyndall given that he had treated her STD.

26 158. Ever since the news reported on Dr. Tyndall's abuse of women at USC,
27 Jane Doe C.C. has felt enormous guilt for sending other women to him.
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1 159. Jane Doe C.C. is experiencing emotional distress because she was abused
2 by the doctor and did not even know it due to her inexperience. She feels that USC
3 failed her, and that the university is at fault for allowing the abuse to continue
4 unabated for many years.

5 160. Jane Doe C.C. has thus been damaged by Dr. Tyndall's and USC's
6 actions.

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

9 161. Tyndall concealed the existence of Plaintiffs' claims and the fact that
10 Plaintiffs had a cause of action against Tyndall and/or USC at the time his sexual
11 assaults occurred by making a material representation(s) to Plaintiffs involving a past
12 or existing fact by:

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

26 162. The material representation(s) to Plaintiffs and the Class were false in
27 that Tyndall was actually performing these examinations for his own sexual
28 gratification and pleasure.

 163. When Tyndall made the material representation(s), he knew that they
were false in that he knew that the examinations were not proper, appropriate,

1 legitimate, and/or considered within standard of care by any physician of any specialty
2 and/or gynecology.

3 164. Tyndall made the material representation(s) with the intent that the
4 material representation(s) should be acted upon by Plaintiffs and the Class in that
5 Plaintiffs and the Class members should believe that the examinations were proper,
6 appropriate, and legitimate; should not believe that they had been sexually assaulted;
7 should not believe that they had been sexually assaulted so that he could prevent
8 discovery of his sexual assaults; should continue to be seen by him so that he could
9 continue to sexually assault them; should not question and/or report the conduct to
10 appropriate authorities; and should not reasonably believe and not be aware of a
11 possible cause of action that they have against Tyndall and/or USC.

12 165. Plaintiffs and Class members acted in reliance upon the material
13 representation(s) in that they:

- 14 a. reasonably believed that the examinations were proper,
15 appropriate, and legitimate;
- 16 b. reasonably did not believe that they had been sexually assaulted;
- 17 c. did not believe that they should question and/or report the conduct
18 to appropriate authorities; and,
- 19 d. did not reasonably believe that they had and were not aware of a
20 possible cause of action that they had against Tyndall and/or USC.

21 166. Plaintiffs and Class members suffered injury in that they could not stop
22 the sexual assault and suffered discomfort, severe emotional distress, shock,
23 humiliation, fright, grief, embarrassment, and disgrace.

24 167. Tyndall further concealed the fraud by an affirmative act(s) that was/were
25 designed and/or planned to prevent inquiry and escape investigation and prevent
26 subsequent discovery of his fraud in that he:

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

12 168. Directors, managers, supervisors, physicians, nurses, and chaperones in
13 USC's student-health center took affirmative steps to fraudulently conceal Tyndall's
14 misconduct, including, but not limited to, by depressing complaints made by patients
15 through the imposition of onerous reporting requirements on them.

16 169. Directors, managers, supervisors, physicians, nurses, chaperones in
17 USC's student-health center also misrepresented that Tyndall's conduct during
18 examinations was proper, including, without limitation, by (i) watching Tyndall's
19 conduct as a purported chaperone without stopping the improper conduct; (ii)
20 permitting Tyndall to conduct examinations without a chaperone present; and (iii)
21 scheduling female patients for appointments with Tyndall despite having full
22 knowledge of his improper conduct.

23 170. The actions and inactions of Tyndall and USC constituted fraudulent
24 concealment.

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

28 172. Plaintiffs and Class members did not know, could not have reasonably
known, and were reasonably unaware of a possible cause of action that they had

1 against Tyndall and/or USC until the May 15, 2018 publication of a story by the Los
2 Angeles Times.

3 **V. CLASS ALLEGATIONS**

4 173. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure
5 23(b)(3) and 23(c)(4) on behalf of themselves and the following Class:

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

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

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

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

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

- 21 a. Whether Tyndall engaged in sexual harassment,
22 assault, and battery;
- 23 b. Whether Tyndall's sexual harassment, assault, and
24 battery was committed within the scope of his
employment at USC;
- 25 c. Whether the USC Defendants had knowledge of
26 Tyndall's sexual harassment, assault, and battery;
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- 1 d. Whether the USC Defendants facilitated Tyndall's
- 2 pattern and practice of sexual harassment, assault, and
- 3 battery;
- 4 e. Whether the USC Defendants or Tyndall engaged in
- 5 conduct designed to suppress complaints or reports
- 6 regarding Tyndall's conduct;
- 7 f. Whether the USC Defendants negligently retained or
- 8 supervised Tyndall;
- 9 g. Whether the USC Defendants ratified Tyndall's
- 10 conduct; and
- 11 h. Whether the USC Defendants are responsible for
- 12 Tyndall's conduct under the doctrine of respondeat
- 13 superior.

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

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

1 **VI. CAUSES OF ACTION**

2 **COUNT I**

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

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

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

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

12 183. USC receives federal financial assistance for its education program and is
13 therefore subject to the provisions of Title IX.

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

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

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

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

23 **COUNT II**

24 **VIOLATION OF THE CALIFORNIA EQUITY IN HIGHER EDUCATION**
25 **ACT [CAL. EDUC. CODE § 66250] (AGAINST USC, USC TRUSTEES, AND**
26 **TYNDALL)**

27 188. Plaintiffs reallege and incorporate by reference the allegations contained
28 in the previous paragraphs.

1 189. Section 66281.5 of the California Equity in Higher Education Act
2 provides in pertinent part: “(a) It is the policy of the State of California, pursuant to
3 Section 66251, that all persons, regardless of their sex, should enjoy freedom from
4 discrimination of any kind in the postsecondary educational institution of the state.
5 The purpose of this section is to provide notification of the prohibition against sexual
6 harassment as a form of sexual discrimination and to provide notification of available
7 remedies.”

8 190. The USC Defendants’ conduct as alleged herein constitutes sexual
9 harassment as a form of sexual discrimination against Plaintiffs and the members of
10 the Class, and violated the Equity in Higher Education Act. Plaintiffs are entitled to
11 enforce the Act through a civil action pursuant to Education Code Section 66292.4.

12 191. As a result of Defendants’ conduct, Plaintiffs and the members of the
13 Class have been damaged in an amount to be proven at trial.

14 **COUNT III**

15 **GENDER VIOLENCE [CAL. CIV. CODE § 52.4]** 16 **(AGAINST TYNDALL AND USC)**

17 192. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth
18 herein.

19 193. California Civil Code § 52.4 provides that gender violence is a form of
20 sex discrimination and includes “[a] physical intrusion or physical invasion of a sexual
21 nature under coercive conditions” *Id.* at §52.4(c)(2).

22 194. California Civil Code § 52.4 incorporates the definition of “gender” from
23 California Civil Code § 51, which provides: “‘Gender’ means sex, and includes a
24 person’s gender identity and gender expression.”

25 195. Here, Plaintiffs and the Class members are female.

26 196. Tyndall physically intruded and/or invaded the bodies of Plaintiffs and
27 Class members during medical examinations in a sexual manner. The conditions were
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1 coercive in that Plaintiffs and Class members were required to place their trust in their
2 physician because he was held out to be an expert in gynecology by USC.

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

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

12 **COUNT IV**

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

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

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

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

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

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

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

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

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

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

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

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

20 **COUNT V**

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

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

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

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

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

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

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

9 **COUNT VI**

10 **CIVIL BATTERY**
11 **(AGAINST TYNDALL AND USC)**

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

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

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

19 217. Tyndall did commit an unwanted contact with Plaintiffs and each Class
20 member’s person or property in a harmful or offensive manner, including, but not
21 limited to, by causing molestation or sexual contact between Tyndall and each woman.
22

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

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

1 given, *inter alia*, USC's knowledge that Tyndall failed to follow protocols concerning
2 the use of chaperones and taking of photographs. USC knew due to complaints from
3 patients and staff members, and the commission of the acts at USC's student-health
4 center.

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

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

16 **COUNT VII**

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

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

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

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

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

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

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

5 227. Tyndall's conduct was committed within the scope of his employment at
6 USC. A causal nexus existed between Tyndall's medical examinations, USC's pattern
7 of allowing Tyndall to examine female patients without a chaperone, and the use of his
8 role to batter the women. Each act of battery of a Class Member was foreseeable
9 given, *inter alia*, USC's knowledge that Tyndall failed to follow protocols concerning
10 the use of chaperones and taking of photographs. USC knew due to complaints from
11 patients and staff members, and the commission of the acts at USC's student-health
12 center.

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

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

24 **COUNT VIII**

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

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

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

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

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

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

10 235. Tyndall's conduct was committed within the scope of his employment at
11 USC. A causal nexus existed between Tyndall's medical examinations, USC's pattern
12 of allowing Tyndall to examine female patients without a chaperone, and the use of his
13 role to batter the women. Each act of battery of a Class Member was foreseeable
14 given, *inter alia*, USC's knowledge that Tyndall failed to follow protocols concerning
15 the use of chaperones and taking of photographs. USC knew due to complaints from
16 patients and staff members, and the commission of the acts at USC's student-health
17 center.

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

25 237. Holding USC liable forwards the underlying policy goals of respondent
26 superior, including the prevention of future injuries and assurance of compensation to
27
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1 victims, given that Plaintiffs and the Class members do not have separate remedies
2 under Title VII because they were not employees of USC.

3 **COUNT IX**

4 **RATIFICATION**
5 **(AGAINST USC AND USC TRUSTEES)**

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

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

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

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

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

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

21 **PRAYER FOR RELIEF**

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

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

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

28

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

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

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

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

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10 Dated: June 13, 2018

Respectfully submitted,

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HAGENS BERMAN SOBOL SHAPIRO LLP

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