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FILED
Superior Court Of California,
Sacramento
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amacias
By _____, Deputy
Case Number:
34-2016-00200075

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10 JANE JD DOE, an individual,

11 Plaintiff,

12 v.

13 DOE 1, an individual; DOE 2, an Indiana
14 Business entity of form unknown; DOE 3, an
individual; DOE 4, an individual; DOE 5, an
15 individual; and DOES 6 through 500.

16 Defendants.

Case No.: _____

Judge: _____

Department: _____

COMPLAINT FOR DAMAGES FOR:

- 1) SEXUAL ASSAULT;
- 2) SEXUAL BATTERY (*CIVIL CODE* § 1708.5);
- 3) GENDER VIOLENCE (*CIVIL CODE* § 52.4);
- 4) SEXUAL HARASSMENT (*CIVIL CODE* § 51.9);
- 5) UNFAIR BUSINESS PRACTICES (*BUSINESS & PROFESSIONS CODE* § 17200);
- 6) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
- 7) CONSTRUCTIVE FRAUD (*CIVIL CODE* § 1573);
- 8) NEGLIGENCE;
- 9) NEGLIGENT SUPERVISION;
- 10) NEGLIGENT HIRING/RETENTION;
- 11) NEGLIGENT FAILURE TO WARN, TRAIN OR EDUCATE.

24 **DEMAND FOR JURY TRIAL.**

25 **COMES NOW**, Plaintiff JANE JD DOE, who complains and alleges as follows:

26 **GENERAL ALLEGATIONS AS TO THE PARTIES**

27 1. This action seeks to vindicate the rights of JANE JD DOE, a former world-class,
28 medal-winning Olympic gymnast, who was sexually abused, harassed, violated, and molested, as

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1 a minor, by the very individual who was hired, retained, and supervised by DOE 2 to provide
2 healing, therapy and treatment for JANE JD DOE: the perpetrator, DOE 1 (hereinafter referred to
3 as “DOE 1” or “the Perpetrator”, interchangeably). JANE JD DOE sacrificed her youth, a normal
4 childhood, and quite literally, her body, to obtain her world-class status as a gymnast and to
5 represent the United States of America with honor, courage, commitment and pride. The values
6 set forth by Defendant DOE 2, who had a legal, moral and ethical duty to protect JANE JD DOE,
7 were compromised and ignored, in allowing the Perpetrator (DOE 1) to access JANE JD DOE
8 (as well as other gymnasts) physically, sexually, and without abatement. Believing that her
9 experience with DOE 2 would allow for personal growth and lifelong memories, JANE JD DOE
10 placed her trust and confidence in both Defendants (used collectively to refer to the Perpetrator
11 (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 100 as “Defendants”), to
12 provide for her well-being and care. JANE JD DOE’s trust was breached, and her aspirations for
13 personal growth turned to fear, distress, and anxiety, for which she now seeks to recover in this
14 action, and protect future gymnasts from undergoing the pain and suffering she has endured at
15 the hands of the Perpetrator (DOE 1), through the programs offered by DOE 2 and the
16 Defendants.

17 **THE PLAINTIFF, JANE JD DOE**

18 2. Plaintiff JANE JD DOE (hereinafter “Plaintiff” used interchangeably with “JANE
19 JD DOE”) was born in the early 1980’s, and began gymnastics after watching Mary Lou Retton
20 win a gold medal in gymnastics in 1984. After discovering her exceptional talent and prodigy
21 early on in the sport, JANE JD DOE began competing and training at an elite level. This
22 sacrifice and dedication earned her participation and membership with Defendant DOE 2 from
23 1994 to 2000, where she would compete on the national level and the international level,
24 representing her country. Plaintiff JANE JD DOE was proudly selected as a member of the
25 United States Women’s Olympic Gymnastics team in 2000. She competed on behalf of the
26 United States at the 2000 Olympics in Sydney and was awarded a medal. JANE JD DOE went
27 on to become a NCAA Champion gymnast and was and is among the best America had to offer
28 in the sport. She was and is a remarkable young girl (and now woman) who was and is

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1 immensely proud to have represented her country. It is with her affiliation with DOE 2 where she
2 came into contact with the Perpetrator (DOE 1), a team physician for DOE 2 who worked with
3 DOE 2 gymnasts to, ostensibly, provide care, treatment, and athletic training. Under the auspices
4 as team physician, the Perpetrator (DOE 1) used his position of trust and authority to gain access
5 to minor, female gymnasts. The Perpetrator (DOE 1) systematically sexually groomed the minor
6 JANE JD DOE and proceeded to repeatedly sexually abuse, harass and molest JANE JD DOE
7 over a period of years. Plaintiff is informed and believes the childhood sexual abuse occurred in
8 multiple locations in California, including but not limited to: Sacramento, California. Further,
9 Plaintiff is informed and believes the childhood sexual abuse occurred in Tianjin, China, and
10 various other locations through the United States and internationally from 1994 to 2000. During
11 the entire time period of the sexual abuse alleged herein, Plaintiff was a resident of the State of
12 California. Plaintiff currently resides in the County of Sacramento. The name used by JANE JD
13 DOE is not the true and correct name of the Plaintiff, but is a fictitious name utilized to protect
14 the privacy of the Plaintiff, a victim of childhood sexual harassment, abuse, and molestation.
15 JANE JD DOE brings her claims pursuant to California *Code of Civil Procedure* § 340.1 and
16 statutes listed herein.

17 **DEFENDANT, DOE 1-THE PERPETRATOR**

18 3. Defendant DOE 1, the Perpetrator, at all times mentioned herein was and is an
19 adult male individual, who Plaintiff is informed and believes lived in the State of Michigan
20 during the period of time during which the sexual abuse, harassment, and molestation alleged
21 herein took place and is currently a citizen of the State of Michigan. Plaintiff is informed and
22 believes that the Perpetrator (DOE 1) was accepted onto the staff of DOE 2 as a trainer in 1986
23 and then as the National Medical Director and the National Team Physician for the women's
24 gymnastics team in 1996. The Perpetrator (DOE 1) was also responsible for coordinating the
25 care for DOE 2 and for participants and members at every national and international competition,
26 and has traveled with DOE 2 at the World Artistic Gymnastics Championships in 1991, 1995,
27 1999, 2003, and 2007. The Perpetrator (DOE 1) was also sent by DOE 2 to various international
28 competitions including but not limited to: the 1987 Pan American Games, the 1996 Olympic

1 Games, the 2000 Olympic Games, the 2007 Pan American Games, the 2008 Olympic Games,
2 and the 2012 Olympic games. The Perpetrator (DOE 1) continued to function in this capacity at
3 DOE 2 until in or around the middle of 2016. At all times herein alleged, the Perpetrator (DOE
4 1) was an employee, agent, and/or servant of Defendant DOE 2, and/or was under their complete
5 control and/or active supervision.

6 4. The Perpetrator (DOE 1) was retained by DOE 2 as an Osteopathic Physician and
7 certified athletic trainer to provide care, treatment, and athletic training to the DOE 2 and its
8 participants, many of which were minors while in his care. It was through this position of trust
9 and confidence, that the Perpetrator (DOE 1) exploited JANE JD DOE, in perpetrating his sexual
10 abuse, molestation and harassment upon JANE JD DOE. All of the sexually abusive and
11 harassing conduct alleged herein was done for the Perpetrator's (DOE 1) sexual gratification and
12 was based upon the gender of JANE JD DOE.

13 5. It is on information and reasonable belief that the Perpetrator (DOE 1), using his
14 apparent authority and position within DOE 2 over the minor participants in his charge, that the
15 Perpetrator (DOE 1) sexually abused, molested, and harassed multiple other members of the
16 United States Women's Olympic Gymnastics Team and National teams, over the nearly 30 years
17 in which the Perpetrator (DOE 1) has been affiliated with DOE 2.

18 6. In the event the Perpetrator (DOE 1) be prosecuted and convicted of a felony for
19 the conducted alleged herein, the Plaintiff requests leave to amend the instant Complaint, such
20 that a request for attorneys' fees can be made against the Perpetrator (DOE 1) pursuant to *Code*
21 *of Civil Procedure* § 1021.4.

22 **DEFENDANT, DOE 2**

23 7. Defendant DOE 2 (hereinafter "DOE 2") at all times mentioned herein was and is
24 a business entity of form unknown, having its principal place of business in the State of Indiana.
25 Plaintiff is informed and believes DOE 2 was incorporated in the state of Texas and/or Arizona.
26 DOE 2 is the national governing body for gymnastics in the United States, and selects and trains
27 the United States gymnastics teams for the Olympics and World Championships, promotes and
28 develops gymnastics locally and nationally, and serves as a resource center for members, clubs,

1 fans and gymnasts throughout the United States. Defendant DOE 2 has more than 174,000
2 athletes and professional members, more than 148,000 athletes registered in competitive
3 programs, as well as more than 25,000 professional, instructor and club members.
4 Approximately 4,000 competitions and events throughout the United States are sanctioned
5 annually by DOE 2. DOE 2 was the primary entity owning, operating and controlling the
6 activities and behavior of its employee agents, including, but not limited to the Perpetrator (DOE
7 1). DOE 2 is also the entity that selects gymnasts for the US National and Olympic Teams.

8 8. DOE 2 purposely conducts substantial educational business activities in the State
9 of California, with regional affiliates in Northern California, Central California, and Southern
10 California. DOE 2 currently sponsors and has scheduled over 75 competitions, meets, and/or
11 invitationals throughout the entire state of California. DOE 2 has numerous athletes and
12 professional members, professional, instructor and club members conducting substantial activity
13 and purposefully availing itself of the laws and protections of California. The sexual abuse,
14 harassment, and molestation alleged herein took place multiple times, in many locations,
15 including locations in California, where DOE 2 was the primary entity owning, operating and
16 controlling the activities and behavior of its employee agents, including, but not limited to the
17 Perpetrator (DOE 1).

18 9. As stated on its website through its Code of Ethical Conduct, "...Members of
19 [DOE 2] are expected to promote a safe environment for participants, coaches, officials,
20 volunteers and staff in all gymnastics disciplines, which includes an environment free from
21 sexual misconduct. It is inconsistent with this obligation for any Member to: 1. Solicit or engage
22 in sexual relations with any minor. 2. Engage in any behavior that utilizes the influence of a
23 professional Member's position as coach, judge, official or administrator to encourage sexual
24 relations with an athlete or participant. 3. Engage in sexual harassment by making unwelcome
25 advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where
26 such conduct creates an intimidating, hostile or offensive environment." However, DOE 2's
27 policies and procedures then provide that, "Professional Members of [DOE 2] must protect the
28 integrity of the sport and the interests of the athletes they serve by avoiding sexual relationships

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1 with athletes **except where the capacity and quality of the athlete's consent to enter that**
2 **relationship is beyond question.**" [Emphasis Added]. In enforcing this Code of Ethical
3 Conduct, the published policies and procedures provide, "Compliance with this Code depends
4 primarily upon understanding and voluntary compliance, secondarily upon reinforcement by
5 peers, and, when necessary, upon enforcement through disciplinary action....Any Member
6 ('Complainant') who believes that another Member of [DOE 2] has failed to meet such
7 Member's obligations under this Code is, under all but the most egregious circumstances,
8 encouraged to first address that concern directly to that Member."

9 10. Under DOE 2's policies and procedures for reporting abuse, it provides that,
10 "[DOE 2] will follow applicable law in reporting abusive situations to the proper authorities. If,
11 in [DOE 2]'[s] reasonable and good faith judgment, reporting to the proper authorities is
12 necessary to protect a person from the possibility of further abuse, it may make such report even
13 if not compelled by law to do so." Further, the policies and procedures for "Reporting Suspected
14 Abuse" at DOE 2 provide that "[a]ny person who reasonably and in good faith believes a
15 member of [DOE 2] has abused another person, whether physical or sexual, such person may
16 notify the [DOE 2] National Office pursuant to Articles 9 and/or 10 of the [DOE 2] Bylaws."

17 11. Under California *Penal Code* § 11165.7, DOE 2 is an organization whose
18 employees, agents, and/or servants are legally "mandated reporters", considering that DOE 2 is a
19 youth recreational program and DOE 2's employees' duties require direct contact and
20 supervision of children.

21 12. DOE 2 receives millions of dollars in private donations and corporate financial
22 support, on a yearly basis, according to its publicly available Form-990's. It is on this basis,
23 under information and therefore belief, that DOE 2 ignored and/or actively concealed the abuse
24 that was being perpetrated by the Perpetrator (DOE 1), and other employees/agents of its
25 organization, such that DOE 2 would not be subjected to public scrutiny, administrative, civil
26 and/or criminal investigation and could maintain a false façade of high moral repute, and could
27 maintain and grow this financial support for its programs. This attempt to conceal and/or ignore

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1 the abuse being perpetrated under its control and supervision, was done at the expense of minor
2 athletes and participants, including the Plaintiff, JANE JD DOE.

3 **DEFENDANT, DOE 3**

4 13. Defendant DOE 3 (hereinafter "DOE 3") at all times mentioned herein was and is
5 an adult female individual, who Plaintiff is informed and believes lived in the State of
6 Washington during the period of time during which the sexual abuse, harassment, and
7 molestation alleged herein took place and is currently a citizen of the State of Washington.
8 Defendant DOE 3 was the President of DOE 2 charged with the overall management and
9 strategic planning for the organization. Plaintiff is informed and believes and on that basis
10 alleges that Defendant DOE 3 oversaw a wide-ranging, calculated concealment of numerous
11 instances, complaints, and allegations of sexual abuse and misconduct among the participants
12 and members of DOE 2. Through this conduct, Defendant DOE 3's actions and inactions enabled
13 and ratified the sexual abuse by the Perpetrator (DOE 1) against Plaintiff and other participants
14 and members of DOE 2 and fueled the ongoing concealment of abuse at DOE 2, making it more
15 unlikely for victims (such as the Plaintiff) to obtain much needed medical and/or psychological
16 treatment. Plaintiff is informed and believes that Defendant DOE 3 served as President of DOE 2
17 from 1994 to 1998. At all times herein alleged, Defendant DOE 3 was an employee, agent,
18 and/or servant of Defendant DOE 2, and/or was under their complete control and/or active
19 supervision.

20 **DEFENDANT, DOE 4**

21 14. Defendant DOE 4 (hereinafter "DOE 4") at all times mentioned herein was and is
22 an adult male individual, who Plaintiff is informed and believes lived in the State of California
23 during the period of time during which the sexual abuse, harassment, and molestation alleged
24 herein took place and is currently a citizen of the State of California. Defendant DOE 4 was the
25 President of DOE 2 charged with the overall management and strategic planning for the
26 organization. Plaintiff is informed and believes and on that basis alleges that Defendant DOE 4
27 oversaw a wide-ranging, calculated concealment of numerous instances, complaints, and
28 allegations of sexual abuse and misconduct among the participants and members of DOE 2.

1 Through this conduct, Defendant DOE 4's actions and inactions enabled and ratified the sexual
2 abuse by the Perpetrator (DOE 1) against Plaintiff and other participants and members of DOE 2
3 and fueled the ongoing concealment of abuse at DOE 2, making it more unlikely for victims
4 (such as the Plaintiff) to obtain much needed medical and/or psychological treatment. Plaintiff is
5 informed and believes that Defendant DOE 4 served as President of DOE 2 from 1998 to 2005.
6 At all times herein alleged, Defendant DOE 4 was an employee, agent, and/or servant of
7 Defendant DOE 2, and/or was under their complete control and/or active supervision.

8 **DEFENDANT, DOE 5**

9 15. Defendant DOE 5 (hereinafter "DOE 5") at all times mentioned herein was and is
10 an adult male individual, who Plaintiff is informed and believes lived in the State of Indiana
11 during the period of time during which the sexual abuse, harassment, and molestation alleged
12 herein took place and is currently a citizen of the State of Indiana. Defendant DOE 5 was the
13 President of DOE 2 charged with the overall management and strategic planning for the
14 organization. Plaintiff is informed and believes and on that basis alleges that Defendant DOE 5
15 oversaw a wide-ranging, calculated concealment of numerous instances, complaints, and
16 allegations of sexual abuse and misconduct among the participants and members of DOE 2.
17 Through this conduct, Defendant DOE 5's actions and inactions enabled and ratified the sexual
18 abuse by the Perpetrator (DOE 1) against Plaintiff and other participants and members of DOE 2
19 and fueled the ongoing concealment of abuse at DOE 2, making it more unlikely for victims
20 (such as the Plaintiff) to obtain much needed medical and/or psychological treatment. Plaintiff is
21 informed and believes that Defendant DOE 5 served as President of DOE 2 from 2005 to
22 present. At all times herein alleged, Defendant DOE 5 was an employee, agent, and/or servant of
23 Defendant DOE 2, and/or was under their complete control and/or active supervision.

24 **DOE DEFENDANTS 6 THROUGH 500**

25 16. Defendants DOES 6 through 500, inclusive, and each of them, are sued herein
26 under said fictitious names. Plaintiff is ignorant as to the true names and capacities of DOES 6
27 through 500, whether individual, corporate, associate, or otherwise, and therefore sue said
28 Defendants by such fictitious names. When their true names and capacities are ascertained,

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1 Plaintiff will request leave of Court to amend this Complaint to state their true names and
2 capacities herein.

3 17. The Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through
4 500, inclusive, are sometimes collectively referred to herein as "Defendants" and/or as "All
5 Defendants"; such collective reference refers to all specifically named Defendants as well as
6 those fictitiously named herein.

7 18. Plaintiff is informed and believes, and on that basis alleges that at all times
8 mentioned herein, each Defendant was responsible in some manner or capacity for the
9 occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were proximately
10 caused by all said Defendants.

11 19. At all times mentioned herein, each and every Defendant was an employee, agent,
12 and/or servant of the Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through
13 500, inclusive, and/or was under their complete control and/or active supervision. Defendants
14 and each of them are individuals, corporations, partnerships and/or other entities that engaged in,
15 joined in, and conspired with other Defendants and wrongdoers in carrying out the tortuous and
16 unlawful activities described in this Complaint.

17 20. Plaintiff is informed and believes, and on that basis alleges that at all times
18 mentioned herein, there existed a unity of interest and ownership among Defendants and each of
19 them such that any individuality and separateness between Defendants, and each of them, ceased
20 to exist. Defendants and each of them were the successors-in-interest and/or alter egos of the
21 other Defendants, and each of them, in that they purchased, controlled, dominated and operated
22 each other without any separate identity, observation of formalities, or other manner of division.
23 To continue maintaining the facade of a separate and individual existence between and among
24 Defendants, and each of them, would serve to perpetrate a fraud and injustice.

25 21. Plaintiff is informed and believes, and on that basis alleges that at all times
26 mentioned herein, The Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6
27 through 500 were the agents, representatives and/or employees of each and every other
28 Defendant. In doing the things hereinafter alleged, Defendants and each of them were acting

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1 within the course and scope of said alternative personality, capacity, identity, agency,
2 representation and/or employment and were within the scope of their authority, whether actual or
3 apparent.

4 22. Plaintiff is informed and believes, and on that basis alleges that at all times
5 mentioned herein, the Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6
6 through 500 were the trustees, partners, servants, joint venturers, shareholders, contractors,
7 and/or employees of each and every other Defendant, and the acts and omissions herein alleged
8 were done by them, acting individually, through such capacity and within the scope of their
9 authority, and with the permission and consent of each and every other Defendant and that said
10 conduct was thereafter ratified by each and every other Defendant, and that each of them is
11 jointly and severally liable to Plaintiff.

12 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS BY JANE JD DOE**

13 23. At all times material hereto, Plaintiff was a minor participant and member of DOE
14 2, and was under their complete control, dominion, and supervision. The Perpetrator (DOE 1)
15 worked for, was employed by, and an agent/servant of DOE 2 when the Perpetrator (DOE 1)
16 came into contact with the Plaintiff.

17 24. At all times material hereto, the Perpetrator (DOE 1) was under the direct
18 supervision, management, agency and control of Defendants DOE 2, DOE 3, DOE 4, and DOES
19 6 through 500, inclusive. The Perpetrator (DOE 1) was the team physician of Defendant DOE 2.
20 While a team physician at DOE 2, the Perpetrator's (DOE 1) employment duties included
21 coordinating the care for DOE 2 at every national and international competition, providing
22 individual care and providing for the physical needs and well-being of participants and members
23 of DOE 2, and care including but not limited to osteopathic adjustments and kinesiology
24 treatment to participants and members of DOE 2, which included Plaintiff. Plaintiff was a
25 participant and member of DOE 2 and it is under these circumstances that Plaintiff came to be
26 under the direction and control of the Perpetrator (DOE 1), who used his position of authority
27 and trust to molest and sexually abuse Plaintiff.

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1 25. As a member and participant of DOE 2 while the Perpetrator (DOE 1) was a team
2 physician, the minor Plaintiff was under the Perpetrator's (DOE 1) direct supervision, control
3 and care, which created a special, confidential, and fiduciary relationship between Plaintiff and
4 the Perpetrator (DOE 1). Because of such relationship, the Perpetrator (DOE 1) owed Plaintiff a
5 duty of care. Additionally, as the employers and supervisors of the Perpetrator (DOE 1), with
6 knowledge that he was in contact with and providing care to children, Defendants DOE 2 and
7 DOES 3 through 500 were also in a special, confidential, and fiduciary relationship with
8 Plaintiff, owing the Plaintiff JANE JD DOE a duty of care.

9 26. By assigning the Perpetrator (DOE 1) as team physician of DOE 2, DOE 2
10 represented to the community and participants and members of DOE 2 that the Perpetrator (DOE
11 1) was safe, trustworthy, and of high moral and ethical repute, such that parents of participants
12 and members need not worry about having the Perpetrator (DOE 1) interact with, and provide
13 care to their minor children. Defendants did so in order to preserve their own public image and
14 reputation, so they could retain past participants and members and recruit new participants and
15 members, thus allowing donations and other financial support to continue flowing into their
16 coffers for financial gain.

17 27. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
18 or had reason to know that the Perpetrator (DOE 1) had engaged in unlawful sexually-related
19 conduct in the past, and/or was continuing to engage in such conduct. Defendants had a duty to
20 disclose these facts to Plaintiff, her parents and others, but negligently and/or intentionally
21 suppressed, concealed or failed to disclose this information. The duty to disclose this information
22 arose by the special, trusting, confidential, fiduciary relationship between Defendants and
23 Plaintiff.

24 28. Plaintiff is informed and believes, and on that basis alleges, that while Plaintiff
25 was a participant and member of DOE 2, Defendants engaged in a pattern and practice of
26 employing other staff, coaches, and volunteers and retaining members known to be a danger to
27 participants and members in their care, including the Perpetrator (DOE 1). Defendants employed
28 multiple other professionals, staff, and agents who were known to be sexually abusive and/or

1 were continuing to be abusive. DOE 2's own website catalogues a list of over twenty (20)
2 individuals, nationwide, who are "Permanently Ineligible Members" at DOE 2 for violation of
3 Bylaw 9.2(a)(iii). That Bylaw section, promulgated by DOE 2, provides for "Special Categories
4 of Misconduct"; specifically, the category of misconduct under 9.2(a)(iii) states: "Has been
5 convicted of or has entered a plea of guilty or no contest to a criminal charge or indictment
6 issued by an applicable City, County, State or Federal jurisdiction, and such charge or indictment
7 directly or indirectly involved or related to sexual misconduct, child abuse or conduct that is a
8 violation of any law or regulation that is specifically designed to protect minors." It is upon
9 information, and therefore belief, that the prevalence of sexually abusive members of DOE 2
10 evidences the knowledge of DOE 2 of the risk that minor gymnastics participants were placed at,
11 while participating in DOE 2's programs. Furthermore, it is upon information, and therefore
12 belief, that this evidences a widespread and systemic problem at DOE 2, of allowing sexually
13 abusive members to participate in DOE 2's programs.

14 29. Plaintiff is informed and believes and on that basis alleges Defendants knew of, or
15 had reason to know of, the Perpetrator's (DOE 1) propensity and disposition to engage in sexual
16 misconduct with minors before he sexually abused and molested Plaintiff, and knew of the
17 probability that he would molest minors with whom he came into contact, such as Plaintiff.

18 30. Defendants failed to implement reasonable safeguards to avoid acts of unlawful
19 sexual conduct by the Perpetrator (DOE 1) in the future, including avoiding placement of the
20 Perpetrator (DOE 1) in a position where contact and interaction with children is an inherent
21 function. Defendants ignored and suppressed the past sexual misconduct the Perpetrator (DOE 1)
22 had engaged in.

23 31. Plaintiff is informed and believes and on that basis alleges, that Defendants were
24 apprised, knew or had reason to know and/or were put on notice of the Perpetrator's (DOE 1)
25 past sexual abuse of children, past claims and/or investigations, and his propensity and
26 disposition to engage in such unlawful activity and unlawful sexual activity with minor
27 participants and members such that Defendants knew or had reason to know that the Perpetrator
28 (DOE 1) would commit wrongful sexual acts with participants and members, including Plaintiff.

1 Plaintiff is informed and believes, and on that basis alleges that personnel and/or employment
2 records and other records of Defendants' reflect numerous incidents of inappropriate sexual
3 contact and conduct with minor participants and members by the Perpetrator (DOE 1) and other
4 professionals, employees, assistants, agents, supervisors and others, including incidents
5 occurring both on and off the physical premises of such Defendants and at national and
6 international meets. Based on these records, Defendants knew and/or had reason to know of the
7 Perpetrator's (DOE 1) history of sexual abuse, past claims and/or past investigations, and his
8 propensity and disposition to engage in unlawful activity and unlawful sexual activity with
9 participants and members such that Defendants knew or had reason to know that the Perpetrator
10 (DOE 1) would commit wrongful sexual acts with those minor participants and members,
11 including Plaintiff.

12 32. Because of the relationship between Plaintiff and Defendants, Defendants had an
13 obligation and duty under the law not to hide material facts and information about the
14 Perpetrator's (DOE 1) past, and his deviant sexual behavior and propensities. Additionally,
15 Defendants had an affirmative duty to inform, warn, and institute appropriate protective
16 measures to safeguard minors who were reasonably likely to come in contact with the Perpetrator
17 (DOE 1). Defendants willfully refused to notify, give adequate warning and implement
18 appropriate safeguards, thereby creating the peril that ultimately damaged Plaintiff.

19 33. Plaintiff is informed and believes and on that basis alleges that prior to Plaintiff's
20 sexual abuse by the Perpetrator (DOE 1), Defendants engaged in a pattern and practice of
21 employing sexual abusers at the Perpetrator (DOE 1). Defendants concealed these facts from
22 participants and members, their parents, the Sacramento County community, the gymnastics
23 community, the public at large, the United States government, various local governments, and
24 law enforcement agencies.

25 34. Furthermore, Defendant DOE 2 violated its own policies in allowing the
26 Perpetrator (DOE 1) to come into contact with the Plaintiff. DOE 2's policies, entitled
27 "Standards of Behavior" provide that, "Avoid Being Alone with a Minor. Gymnastics is a sport
28 that lends itself to one-on-one situations between a coach and a gymnast. Avoid being alone with

1 a child or any group of children in a private setting (e.g., locker room, bathroom, office, vehicle
2 or residence), and avoid being alone with a child or any group of children in any place that is
3 inappropriate to the coach-athlete relationship. When a one-on-one situation is necessary, such as
4 private coaching lessons or conversations, conduct the activity within the view of another adult.”
5 Some of the abuse perpetrated by the Perpetrator (DOE 1) against the Plaintiff, was perpetrated
6 in the living quarters of JANE JD DOE, outside of the view of any adults and in direct violation
7 of DOE 2’s policies implemented for the safety of participants.

8 35. Plaintiff is informed and believes and on that basis alleges that as part of
9 Defendants' conspiratorial and fraudulent attempt to hide the Perpetrator’s (DOE 1) propensity to
10 sexually abuse children, and prior sexual misconduct with children, from public scrutiny and
11 criminal investigation, Defendants implemented various measures designed to make the
12 Perpetrator’s (DOE 1) conduct harder to detect and ensure minors with whom he came into
13 contact, such as Plaintiff, would be sexually abused, including:

- 14 a. Permitting the Perpetrator (DOE 1) to remain in a position of authority and trust
15 after Defendants knew or had reason to know that he was a molester of children;
- 16 b. Placing the Perpetrator (DOE 1) in a separate and secluded environment, at DOE
17 2, including assigning him unfettered access and control over minor participants
18 and members that included individual and private examinations, private
19 osteopathic adjustments without a chaperone, and allowing the Perpetrator (DOE
20 1) to physically and sexually interact with the children, including Plaintiff;
- 21 c. Failing to disclose the Perpetrator’s (DOE 1) prior record of misconduct, sexual
22 abuse, harassment and molestation and his propensity to commit such acts
23 towards participants and members in DOE 2’s program, the public at large, and
24 law enforcement;
- 25 d. Allowing the Perpetrator (DOE 1) unsupervised and un-controlled access to
26 minors, including the Plaintiff JANE JD DOE;
- 27 e. Holding out the Perpetrator (DOE 1) to Plaintiff, her parents, other participants
28 and members of DOE 2, and the public at large as a trustworthy and honest person
of high ethical and moral repute who was capable and worthy of being granted
unsupervised access to the children of DOE 2;
- f. Failing to investigate or otherwise confirm or deny such facts about the
Perpetrator (DOE 1), including prior arrests, charges, claims and investigations
for sexual abuse;
- g. Failing to inform, or concealing from Plaintiff's parents and law enforcement
officials the fact that Plaintiff and others were or may have been sexually abused,
harassed and molested, after Defendants knew or had reason to know that the
Perpetrator (DOE 1) may have sexually abused Plaintiff or others, thereby
enabling Plaintiff to continue to be endangered and sexually abused, harassed,

1 molested, and/or creating the circumstance where Plaintiff and others were less
likely to receive proper medical treatment, thus exacerbating the harm to Plaintiff;

- 2 h. Holding out the Perpetrator (DOE 1) to Plaintiff, her parents, and to the
3 community as being in good standing and trustworthy;
- 4 i. Cloaking the Perpetrator's (DOE 1) prior sexual misconduct with children within
5 the facade of normalcy, thereby disguising the nature of his sexual abuse and
6 contact with minors;
- 7 j. Failing to take reasonable steps and to implement reasonable safeguards to avoid
8 acts of unlawful sexual conduct by the Perpetrator (DOE 1) such as avoiding
9 placement of the Perpetrator (DOE 1) in functions or environments in which his
solitary contact with children was inherent;
- 10 k. Failing to put in place a system or procedure to supervise or monitor physicians,
athletic trainers, and agents to insure they do not molest or abuse minors in
Defendants' care.

11 36. By his position within the Defendants' institutions, the Perpetrator (DOE 1)
12 attained a position of influence over Plaintiff, and others. Defendants' conduct created a situation
13 of peril that was not, and could not be appreciated by Plaintiff. By virtue of Defendants'
14 conspiratorial and fraudulent conduct, and in keeping with their intent to fail to disclose and hide
15 the Perpetrator's (DOE 1) past and present conduct from the community, the public at large and
16 law enforcement, Defendants allowed the Perpetrator (DOE 1) to remain in a position of
17 influence where his unsupervised or negligently supervised conduct with minor participants and
members made the molestation and abuse of minor participants and members possible.

18 37. By his position within the Defendants' institutions, Defendants and the Perpetrator
19 (DOE 1) demanded and required that Plaintiff respect the Perpetrator (DOE 1), in his position as
20 team physician for DOE 2.

21 38. The sexual harassment and abuse of Plaintiff by the Perpetrator (DOE 1), outlined
22 below, took place while Defendant the Perpetrator (DOE 1) was the team physician of Defendant
23 DOE 2 and Plaintiff was a participant and member of DOE 2, while the Perpetrator (DOE 1) was
24 serving as an agent and employee of Defendants in his capacity as team physician:

- 25 a. In his capacity as a team physician with DOE 2, the Perpetrator (DOE 1) was
26 given custody and supervision of minors, including Plaintiff. The Perpetrator
27 (DOE 1) used this position to coerce children to concede to his sexual
28 suggestions, using his authority and position of trust to exploit them physically,
sexually, and emotionally;
- b. Plaintiff became a member and participant of DOE 2 starting in 1994. Plaintiff
soon formed a relationship with the Perpetrator (DOE 1), DOE 2's team

1 physician. At this time, in or around late 1994, the Perpetrator (DOE 1)
2 commenced the process of "grooming" Plaintiff for later physical, sexual and
3 emotional abuse. Plaintiff is informed and believes the Perpetrator (DOE 1) would
4 use the guise of care, athletic training, osteopathy, and kinesiology to normalize
5 intimate, inappropriate, and sexually abusive contact with Plaintiff. Plaintiff is
6 informed and believes the Perpetrator (DOE 1) would fondle and grope Plaintiff's
7 feet, ankles, thighs, buttocks, hips, waist, breasts, arms, shoulders, and neck,
8 placing Plaintiff under the impression this inappropriate contact was part of
9 treatment. Plaintiff is informed and believes the Perpetrator's (DOE 1) grooming
10 process also included engaging in sexual talk and innuendo, and openly
11 discussing adult, inappropriate topics. The Perpetrator (DOE 1) would tell the
12 minor Plaintiff that other gymnasts would give "blowjobs" and described in detail
13 the process of oral sex and other bizarre, explicit sexual innuendo. During this
14 period, Plaintiff was a patient under the Perpetrator's (DOE 1) direct supervision
15 and control.

9 c. Plaintiff is informed and believes the Perpetrator's (DOE 1) physical sexual abuse
10 of Plaintiff commenced after the grooming of Plaintiff began, and occurred
11 multiple times while the team was traveling and before and after competitive
12 meets up until in and around August 2000. During this period, Plaintiff was a
13 participant, member, and patient under the Perpetrator's (DOE 1) and DOE 2's
14 direct supervision and control. Using his position as team physician, the
15 Perpetrator (DOE 1) would interact with Plaintiff under the guise of providing her
16 care and treatments necessary for her to compete as a world-class, Olympic
17 medal-winning gymnast. Under these circumstances, the Perpetrator (DOE 1)
18 introduced his bare hand to Plaintiff's vagina and anus, on multiple locations, in
19 Plaintiff's assigned sleeping quarters, as she lay on the edge of her bed, alone and
20 without any supervision or a chaperone. Plaintiff is informed and believes that the
21 Perpetrator's (DOE 1) sexual abuse, molestation, and harassment of Plaintiff
22 occurred on the premises of DOE 2, in sleeping quarters, in training facilities, in
23 gyms, et cetera.

17 d. During these occurrences, the Perpetrator (DOE 1) told Plaintiff about the need
18 for osteopathic adjustments to correct issues Plaintiff was having with her hips
19 from training and performing for DOE 2. The Perpetrator (DOE 1) told Plaintiff
20 about the need to do an "intravaginal adjustment," a fictitious guise where the
21 Perpetrator (DOE 1) would digitally penetrate Plaintiff's vagina in order to adjust
22 the bones in her hips. The Perpetrator (DOE 1) told Plaintiff she should feel a
23 "pop" after inserting his fingers into her vagina and forcibly gyrating his hand.
24 This "intravaginal adjustment" was done without gloves, lubricant, and/or a
25 chaperone, and was done for the Perpetrator's (DOE 1) own sexual gratification.
26 In addition, the Plaintiff is informed and believes that the Perpetrator (DOE 1)
27 would do anal and vaginal examinations of Plaintiff and other gymnasts in the
28 care of DOE 2, without gloves, a chaperone, and/or any form of lubricant. These
anal and vaginal examinations were well outside any recognized and/or accepted
technique and were done for the Perpetrator's (DOE 1) own sexual gratification.

24 e. The Perpetrator's (DOE 1) sexual abuse and harassment of Plaintiff was done for
25 the Perpetrator's (DOE 1) personal sexual gratification, and it annoyed, disturbed,
26 irritated, and offended Plaintiff as it would have a reasonable person. Plaintiff did
27 not consent to the sexual abuse and harassment by the Perpetrator (DOE 1) and
28 further, was incapable of consenting to such because she was a minor at the time
of the sexual abuse.

f. Subsequent to her sexual abuse and harassment at the hands of the Perpetrator
(DOE 1), on or around July of 2016, the Plaintiff, for the first time, began making

1 a mental connection between her present physical, mental and emotional
2 problems and the sexual abuse she experienced as a minor and participant at DOE
3 2. It was only upon discovery of this that the Plaintiff reasonably determined and
4 discovered that the psychological injury, illness, and suffering that she has
5 endured following the abuse by the Perpetrator (DOE 1) were actually caused by
6 the childhood sexual harassment, molestation and abuse she suffered at the hands
7 of Defendants, and each of them. It was at this point in or around July of 2016
8 when the Plaintiff first spoke to another individual at DOE 2.

9
10 39. As set forth more fully herein above, the Perpetrator (DOE 1) did sexually abuse,
11 harass and molest Plaintiff, who was a minor child at the time of the acts at-issue. Plaintiff is
12 informed and believes, and on that basis alleges, that such conduct by the Perpetrator (DOE 1)
13 was based upon Plaintiff's gender, and was done for his sexual gratification. These actions upon
14 Plaintiff were performed by the Perpetrator (DOE 1) without the free consent of Plaintiff, who
15 was a young child, and could therefore not give valid legal consent.

16 40. During the period Plaintiff was being sexually abused and harassed by the
17 Perpetrator (DOE 1), Defendants had the authority and ability to prevent such abuse by removing
18 the Perpetrator (DOE 1) from his position as team physician at DOE 2. They failed to do so,
19 allowing the abuse to occur and to continue unabated. Plaintiff is informed and believes and on
20 that basis alleges that this failure was a part of Defendants' conspiratorial plan and arrangement
21 to conceal the Perpetrator's (DOE 1) wrongful acts, to avoid and inhibit detection, to block
22 public disclosure, to avoid scandal, to avoid the disclosure of their tolerance of child sexual
23 molestation and abuse, to preserve a false appearance of propriety, and to avoid investigation and
24 action by public authority including law enforcement. Such actions were motivated by a desire to
25 protect the reputation of Defendants and protect the monetary support of Defendants, while
26 fostering an environment where such abuse could continue to occur.

27 41. As a direct result of the sexual harassment and abuse of Plaintiff by the
28 Perpetrator (DOE 1), Plaintiff has had difficulty in meaningfully interacting with others,
including those in positions of authority over Plaintiff including physicians, athletic supervisors,
and agents. Plaintiff has been limited in her ability to meaningfully interact with others due to the
trauma of childhood sexual abuse. This inability to interact creates conflict with Plaintiff's values
of trust and confidence in others, and has caused Plaintiff substantial emotional distress, anxiety,

1 nervousness and fear. As a direct result of the sexual abuse and molestation by the Perpetrator
2 (DOE 1), Plaintiff suffered immensely, including, but not limited to, encountering issues with a
3 lack of trust, various negative psychological and emotional sequelae, depressive symptoms,
4 anxiety, nervousness, and self-medicating behavior.

5 42. As a direct and proximate result of Defendants' tortuous acts, omissions, wrongful
6 conduct and breaches of their duties, Plaintiff's employment and professional development has
7 been adversely affected. Plaintiff has lost wages and will continue to lose wages in an amount to
8 be determined at trial. Plaintiff has suffered substantial economic injury, all to Plaintiff's general,
9 special and consequential damage in an amount to be proven at trial, but in no event less than the
10 minimum jurisdictional amount of this Court.

11 43. As a further direct and proximate result of Defendants' wrongful actions, as herein
12 alleged, Plaintiff has been hurt in her health, strength and activity. Plaintiff has sustained
13 permanent and continuing injury to her nervous system and person, which has caused and
14 continues to cause great mental, physical and nervous pain, suffering, fright, upset, grief, worry
15 and shock in an amount according to proof at trial but in no event less than the jurisdictional
16 minimum requirements of this Court.

17 44. As is set forth herein, Defendants and each of them have failed to uphold
18 numerous mandatory duties required of them by state and federal law, as well as their own
19 internal written policies and procedures, including:

- 20 • Duty to use reasonable care to protect participants and members from known or
21 foreseeable dangers
- 22 • Duty to enact policies and procedures that are not in contravention of the Federal
23 Civil Rights Act, section 1983 and the 14th amendment of the United States
24 Constitution;
- 25 • Duty to protect participants and members and staff, and provide adequate supervision;
- 26 • Duty to ensure that any direction given to participants and members is lawful, and
27 that adults act fairly, responsible and respectfully towards participants and members;
- 28 • Duty to properly train staff so that they are aware of their individual responsibility for
creating and maintaining a safe environment;
- Duty to review the criminal history of applicants and current employees;
- Duty to provide diligent supervision over minors;

- Duty to act promptly and diligently and not ignore or minimize problems.
- Duty to report suspected incidents of child abuse and more specifically childhood sexual abuse (*Penal Code* sections 11166, 11167).

45. Defendants and each of them had and have a duty to protect participants and members, including Plaintiff. Defendants were required to, and failed, to provide adequate supervision, and failed to be properly vigilant in seeing that supervision was sufficient at DOE 2 to ensure the safety of Plaintiff and others.

46. Despite having a duty to do so, Defendants failed to adequately train and supervise all staff to create a positive and safe environment, specifically including training to perceive, report and stop inappropriate sexual conduct by other members of the staff, specifically including the Perpetrator (DOE 1), with children.

47. Defendants failed to enforce their own rules and regulations designed to protect the health and safety of the participants and members. Further, they failed to adopt and implement safety measures, policies and procedures designed to protect minor children such as Plaintiff from the sexually exploitive and abusive acts of their agents and employees such as the Perpetrator (DOE 1).

48. In subjecting Plaintiff to the wrongful treatment herein described, Defendants the Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5 and DOES 6 through 500 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of Plaintiff's rights, so as to constitute malice and/or oppression under *California Civil Code* section 3294. Plaintiff is informed, and on that basis alleges, that specifically, the Defendants acted in concert, and under their authority as child care providers, with reckless disregard for the concern of the minor participants in its charge, in order to further financially benefit its business's growth. The Defendants acted intentionally in creating an environment that harbored molesters, put the vulnerable minor participants at-risk of harm, ignored clear warning signs and their duties to report sexual abusers and molesters in their ranks, to maintain a façade of normalcy, in order to maintain its funding and provide further financial growth of DOE 2, on the international level. The safety of the minor participants that were entrusted to DOE 2 was compromised due to Defendants desire to maintain the status quo of the DOE 2 organization, and avoid any public

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1 scrutiny for its misconduct. Plaintiff is informed, and on that basis alleges, that these willful,
2 malicious, and/or oppressive acts, as alleged herein above, were ratified by the officers, directors,
3 and/or managing agents of the Defendants. Plaintiff is therefore entitled to recover punitive
4 damages, in an amount to be determined by the court, against Defendants the Perpetrator (DOE
5 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500.

6 **FIRST CAUSE OF ACTION**
7 **SEXUAL ASSAULT**
8 **(Against Defendant the Perpetrator (DOE 1))**

9 49. Plaintiff re-alleges and incorporates by reference herein each and every allegation
10 contained herein above as though fully set forth and brought in this cause of action.

11 50. The Perpetrator (DOE 1), in doing the things herein alleged, including intending
12 to subject Plaintiff to numerous instances of sexual abuse and molestation by the Perpetrator
13 (DOE 1), during Plaintiff's time with DOE 2, beginning on or around 1994, and lasting for the
14 duration of Plaintiff's tenure with DOE 2, in or around August of 2000, including but not limited
15 to instances of the Perpetrator (DOE 1) groping and fondling the Plaintiff's vagina and anus all
16 while the Perpetrator (DOE 1) acted in the course and scope of his agency/employment with
17 Defendants, and each of them and were intended to cause harmful or offensive contact with
18 Plaintiff's person, or intended to put Plaintiff in imminent apprehension of such contact.

19 51. In doing the things herein alleged, Plaintiff was put in imminent apprehension of a
20 harmful or offensive contact by the Perpetrator (DOE 1), and actually believed the Perpetrator
21 (DOE 1) had the ability to make harmful or offensive contact with Plaintiff's person.

22 52. Plaintiff did not consent to the Perpetrator's (DOE 1) intended harmful or
23 offensive contact with Plaintiff's person, or intent to put Plaintiff in imminent apprehension of
24 such contact. Additionally, because Plaintiff was a minor during the time herein alleged, she
25 lacked the ability to consent to sexual contact with any person, especially with a team physician
26 at DOE 2.

27 53. In doing the things herein alleged, the Perpetrator (DOE 1) violated Plaintiff's
28 right, pursuant to *Civil Code* section 43, of protection from bodily restraint or harm, and from
personal insult. In doing the things herein alleged, the Perpetrator (DOE 1) violated his duty,

1 pursuant to *Civil Code* section 1708, to abstain from injuring the person of Plaintiff or infringing
2 upon his rights.

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

10 55. Plaintiff is informed and based thereon alleges that the conduct of Defendants was
11 oppressive, malicious and despicable in that it was intentional and done in conscious disregard
12 for the rights and safety of others, and were carried out with a conscious disregard of her right to
13 be free from such tortious behavior, such as to constitute oppression, fraud or malice pursuant to
14 California *Civil Code* section 3294, entitling Plaintiff to punitive damages against Defendants in
15 an amount appropriate to punish and set an example of Defendants.

16 **SECOND CAUSE OF ACTION**
17 **SEXUAL BATTERY: *Civil Code* § 1708.5**
18 **(Against the Perpetrator (DOE 1))**

19 56. Plaintiff re-alleges and incorporates by reference herein each and every allegation
20 contained herein above as though fully set forth and brought in this cause of action.

21 57. During Plaintiff's time as team member and participant with DOE 2, the
22 Perpetrator (DOE 1) intentionally, recklessly and wantonly did acts which were intended to, and
23 did result in harmful and offensive contact with intimate parts of Plaintiff's person, including but
24 not limited to being subjected to numerous instances of sexual abuse by the Perpetrator (DOE 1),
25 during Plaintiff's time with DOE 2, beginning on or around 1994, and lasting for the duration of
26 Plaintiff's tenure with DOE 2, in or around August of 2000, including but not limited to
27 instances of the Perpetrator (DOE 1) groping and fondling the Plaintiff's vagina and anus all
28 while the Perpetrator (DOE 1) acted in the course and scope of his agency/employment with
Defendants, and each of them.

1 58. The Perpetrator (DOE 1) did the aforementioned acts with the intent to cause a
2 harmful or offensive contact with an intimate part of Plaintiff's person, and would offend a
3 reasonable sense of personal dignity. Further, said acts did cause a harmful or offensive contact
4 with an intimate part of Plaintiff's person that would offend a reasonable sense of personal
5 dignity.

6 59. Because of the Perpetrator (DOE 1)'s position of authority over Plaintiff, and
7 Plaintiff's mental and emotional state, and Plaintiff's young age under the age of consent,
8 Plaintiff was unable to, and did not, give meaningful consent to such acts.

9 60. As a direct, legal and proximate result of the acts of the Perpetrator (DOE 1),
10 Plaintiff sustained serious and permanent injuries to her person, all of his damage in an amount
11 to be shown according to proof and within the jurisdiction of the Court.

12 61. As a direct result of the sexual abuse by the Perpetrator (DOE 1), Plaintiff has
13 difficulty in reasonably or meaningfully interacting with others, including those in positions of
14 authority over Plaintiff including teachers, and supervisors, and in intimate, confidential and
15 familial relationships, due to the trauma of childhood sexual abuse inflicted upon her by
16 Defendants. This inability to interact creates conflict with Plaintiff's values of trust and
17 confidence in others, and has caused Plaintiff substantial emotional distress, anxiety, nervousness
18 and fear. As a direct result of the sexual abuse and molestation by the Perpetrator (DOE 1),
19 Plaintiff suffered immensely, including, but not limited to, encountering issues with a lack of
20 trust, various psychological sequelae, depressive symptoms, anxiety, nervousness, and self-
21 medicating behavior.

22 62. Plaintiff is informed and based thereon alleges that the conduct of the Perpetrator
23 (DOE 1) was oppressive, malicious and despicable in that it was intentional and done in
24 conscious disregard for the rights and safety of others, and were carried out with a conscious
25 disregard of her right to be free from such tortious behavior, such as to constitute oppression,
26 fraud or malice pursuant to California *Civil Code* section 3294, entitling Plaintiff to punitive
27 damages against the Perpetrator (DOE 1) in an amount appropriate to punish and set an example
28 of the Perpetrator (DOE 1).

THIRD CAUSE OF ACTION
GENDER VIOLENCE
(Against the Perpetrator (DOE 1))

1
2
3 63. Plaintiff re-alleges and incorporates by reference herein each and every allegation
4 contained herein above as though fully set forth and brought in this cause of action.

5 64. The Perpetrator's (DOE 1) acts committed against Plaintiff, as alleged herein,
6 including the sexual harassment, molestation and abuse of the Plaintiff constitutes gender
7 violence and a form of sex discrimination in that one or more of the Perpetrator's (DOE 1) acts
8 would constitute a criminal offense under state law that has as an element the use, attempted use,
9 or threatened use of physical force against the person of another, committed at least in part based
10 on the gender of the victim, whether or not those acts have resulted in criminal complaints,
11 charges, prosecution, or conviction.

12 65. The Perpetrator's (DOE 1) acts committed against Plaintiff, as alleged herein,
13 including the sexual harassment, molestation and abuse of the Plaintiff constitutes gender
14 violence and a form of sex discrimination in that the Perpetrator's (DOE 1) conduct caused a
15 physical intrusion or physical invasion of a sexual nature upon Plaintiff under coercive
16 conditions, whether or not those acts have resulted in criminal complaints, charges, prosecution,
17 or conviction.

18 66. As a proximate result of the Perpetrator's (DOE 1) acts, Plaintiff is entitled to
19 actual damages, compensatory damages, punitive damages, injunctive relief, any combination of
20 those, or any other appropriate relief. Plaintiff is also entitled to an award of attorney's fees and
21 costs pursuant to *Civil Code* § 52.4, against the Perpetrator (DOE 1).

FOURTH CAUSE OF ACTION
SEXUAL HARASSMENT (CIVIL CODE §51.9)
(Against All Defendants)

22
23 67. Plaintiff re-alleges and incorporates by reference herein each and every allegation
24 contained herein above as though fully set forth and brought in this cause of action.

25 68. During Plaintiff's time as a team member and participant at DOE 2, the
26 Perpetrator (DOE 1) intentionally, recklessly and wantonly made sexual advances, solicitations,
27 requests, demands for sexual compliance of a hostile nature based on Plaintiff's gender that were
28 unwelcome, pervasive and severe, including but not limited to the Perpetrator (DOE 1) groping

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1 and fondling the Plaintiff's vagina and anus, all under the supervision of Defendants, who were
2 acting in the course and scope of their agency with Defendants and each of them.

3 69. The incidents of abuse outlined herein above took place while Plaintiff was under
4 the control of Perpetrator (DOE 1) and DOE 2, as well as the staff of DOE 2, in their capacity
5 and position as team physicians, athletic trainers, and staff at DOE 2 and while acting
6 specifically on behalf of Defendants.

7 70. During Plaintiff's time as a team member and participant at DOE 2, the
8 Perpetrator (DOE 1) intentionally, recklessly and wantonly did acts which resulted in harmful
9 and offensive contact with intimate parts of Plaintiff's person, including but not limited to, using
10 his position of authority and age to force Plaintiff to give into the Perpetrator's (DOE 1) sexual
11 suggestions.

12 71. Because of Plaintiff's relationship with the Perpetrator (DOE 1) and DOE 2, and
13 Plaintiff's young age as a minor team member and participant, Plaintiff was unable to easily
14 terminate the relationship she had with the Defendants.

15 72. Because of the Perpetrator's (DOE 1) age and position of authority, physical
16 seclusion of the Plaintiff, Plaintiff's mental and emotional state, and Plaintiff's young age under
17 the age of consent, Plaintiff was unable to, and did not and could not, give consent to such acts.

18 73. Even though the Defendants knew or had reason to know of these activities by the
19 Perpetrator (DOE 1), Defendants did nothing to investigate, supervise or monitor the Perpetrator
20 (DOE 1) to ensure the safety of the minor participants and members.

21 74. Because of Plaintiff's relationship with Defendants, as a team member and
22 participant of Defendants, and Plaintiff's young age as a minor team member and participant,
23 Plaintiff was unable to easily terminate the doctor-patient relationship she had with Defendants.

24 75. A corporation is a "person" within meaning of *Civil Code* section 51.9, which
25 subjects persons to liability for sexual harassment within a business, service or professional
26 relationship, and such an entity defendant may be held liable under this statute for the acts of its
27 employees. *C.R. v. Tenet Healthcare Corp.*, (2009) 169 Cal.App.4th 1094. Further, principles of

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

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

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

12 **FIFTH CAUSE OF ACTION**
13 **UNFAIR BUSINESS PRACTICES (*BUSINESS & PROFESSIONS CODE §17200*)**
14 **(Against All Defendants)**

15 78. Plaintiff re-alleges and incorporates by reference herein each and every allegation
16 contained herein above as though fully set forth and brought in this cause of action.

17 79. Plaintiff is informed and believes and on that basis alleges that the Perpetrator
18 (DOE 1) and DOE 2 have engaged in unlawful, unfair and deceptive business practices including
19 allowing DOE 1 to engage in repeated harassment of participants and members, including
20 Plaintiff, and failing to take all reasonable steps to prevent harassment and abuse from occurring.
21 The unlawful, unfair and deceptive business practices also included failing to adequately
22 investigate, vet, and evaluate individuals for employment with DOE 2, refusing to design,
23 implement, and oversee policies regarding sexual harassment and abuse of children in a
24 reasonable manner that is customary in similar educational environments. Plaintiff is informed
25 and believes and on that basis alleges that the Perpetrator (DOE 1) and DOE 2 have engaged in
26 unlawful, unfair and deceptive business practices including concealing sexual harassment, abuse
27 and/or molestation claims by participants and members, such as Plaintiff, so as to retain other
28 participants and members within DOE 2 who were not apprised of such illicit sexual misconduct
by the Perpetrator (DOE 1).

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1 80. Plaintiff is informed and believes that Defendants engaged in a common scheme,
2 arrangement or plan to actively conceal allegations against sexual abusers who were employees,
3 agents, members, and/or participants at DOE 2, including DOE 1, such that DOE 2 could
4 maintain its public image, and avoid detection of such abuse and abusers. Plaintiff is informed
5 and believes and thereon alleges that Defendants actively concealed these allegations, such that
6 Defendants would be insulated from public scrutiny, governmental oversight, and/or
7 investigation from various law enforcement agencies, all done in order to maintain the false
8 sense of safety for participants and their families and to perpetuate the program financially.

9 81. By engaging in unlawful, unfair and deceptive business practices, the Perpetrator
10 (DOE 1) and DOE 2 benefitted financially to the detriment of its competitors, who had to
11 comply with the law.

12 82. Unless restrained, DOE 2 will continue to engage in the unfair acts and business
13 practices described above, resulting in great and irreparable harm to Plaintiff and/or other
14 similarly situated participants and members.

15 83. Plaintiff seeks restitution for all amounts improperly obtained by the Perpetrator
16 (DOE 1) and DOE 2 through the use of the above-mentioned unlawful business practices, as well
17 as the disgorgement of all ill-gotten gains and restitution on behalf of Plaintiff and all other
18 similarly situated participants and members who were also subjected to the Perpetrator (DOE 1)
19 and DOE 2's illegal and unfair business practices.

20 84. Pursuant to section 17203 of the California *Business and Professions Code* and
21 available equitable powers, Plaintiff is entitled to a preliminary and permanent injunction,
22 enjoining the Perpetrator (DOE 1) and DOE 2 from continuing the unlawful and unfair business
23 practices described above. Further, Plaintiff seeks the appointment of a court monitor to enforce
24 its orders regarding client safety. In addition, Plaintiff is entitled to recover reasonable attorneys'
25 fees pursuant to the California *Business and Professions Code* and section 1021.5 of the
26 *California Code of Civil Procedure*.

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1 **SIXTH CAUSE OF ACTION**
2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
3 **(Against All Defendants)**

4 85. Plaintiff re-alleges and incorporates by reference herein each and every allegation
5 contained herein above as though fully set forth and brought in this cause of action.

6 86. The Perpetrator (DOE 1), DOE 2, and DOES 3 through 500's conduct toward
7 Plaintiff, as described herein, was outrageous and extreme.

8 87. A reasonable person would not expect or tolerate the sexual harassment,
9 molestation and abuse of Plaintiff by the Perpetrator (DOE 1), and Defendants' knowledge and
10 callous indifference thereof. Plaintiff had great trust, faith and confidence in in Defendants,
11 which, by virtue of the Perpetrator's (DOE 1) and Defendants' wrongful conduct, turned to fear.

12 88. Defendants' conduct toward Plaintiff, as described herein, was outrageous and
13 extreme.

14 89. A reasonable person would not expect or tolerate Defendants putting the
15 Perpetrator (DOE 1), who was known to Defendants to have physically and sexually abused
16 other participants and members, in a position of care of Plaintiff and other minor participants and
17 members, which enabled the Perpetrator (DOE 1) to have access to minor participants and
18 members so that he could commit wrongful sexual acts, including the conduct described herein,
19 with minors, including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants,
20 which, by virtue of Defendants' wrongful conduct, turned to fear.

21 90. A reasonable person would not expect or tolerate the Defendants and their agents
22 to be incapable of supervising and/or stopping participants and members of Defendants,
23 including the Perpetrator (DOE 1), from committing wrongful sexual acts with minors, including
24 Plaintiff, or to supervise the Perpetrator (DOE 1). Plaintiff had great trust, faith and confidence in
25 Defendants, which, by virtue of Defendants' wrongful conduct, turned to fear.

26 91. Defendants' conduct described herein was intentional and malicious and done for
27 the purpose of causing or with the substantial certainty that Plaintiff would suffer humiliation,
28 mental anguish, and emotional and physical distress.

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1 92. As a result of the above-described conduct, Plaintiff has suffered and continues to
2 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
3 emotional distress including embarrassment, loss of self-esteem, disgrace, humiliation, and loss
4 of enjoyment of life; has suffered and continues to suffer and was prevented and will continue to
5 be prevented from performing daily activities and obtaining the full enjoyment of life; will
6 sustain loss of earnings and earning capacity, and/or has incurred and will continue to incur
7 expenses for medical and psychological treatment, therapy, and counseling.

8 93. In subjecting Plaintiff to the wrongful treatment herein described, the Perpetrator
9 (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500 acted willfully and
10 maliciously with the intent to harm Plaintiff, and in conscious disregard of Plaintiff's rights, so as
11 to constitute malice and/or oppression under California *Civil Code* section 3294. Plaintiff is
12 informed, and on that basis alleges, that these willful, malicious, and/or oppressive acts, as
13 alleged herein above, were ratified by the officers, directors, and/or managing agents of the
14 Defendants. Plaintiff is therefore entitled to recover punitive damages, in an amount to be
15 determined by the court, against the Perpetrator (DOE 1), DOE 2, DOE 3, DOE 4, DOE 5, and
16 DOES 6 through 500.

17 **SEVENTH CAUSE OF ACTION**
18 **CONSTRUCTIVE FRAUD**
19 **(Against All Defendants)**

20 94. Plaintiff re-alleges and incorporates by reference herein each and every allegation
21 contained herein above as though fully set forth and brought in this cause of action.

22 95. By holding the Perpetrator (DOE 1) out as an agent of Defendants, and by
23 allowing him to undertake the physical care and athletic training of minor children such as
24 Plaintiff, Defendants entered into a confidential, fiduciary, and special relationship with Plaintiff.

25 96. By holding themselves out as the national program for woman's gymnastics,
26 undertaking to select and train national gymnastics teams, and facilitating competition both
27 nationally and internationally of Plaintiff and other minor team participants and members,
28 Defendants entered into a confidential, fiduciary and special relationship with Plaintiff.

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1 97. Defendants breached their confidential, fiduciary duty and special duties to
2 Plaintiff by the wrongful and negligent conduct described above and incorporated into this cause
3 of action, and in so doing, gained an advantage over Plaintiff in matters relating to Plaintiff's
4 safety, security and health. In particular, in breaching such duties as alleged, Defendants were
5 able to sustain their status as an institution of high moral repute, and preserve their reputation, all
6 at the expense of Plaintiff's further injury and in violation of Defendants' mandatory duties.

7 98. By virtue of their confidential, fiduciary and special relationship with Plaintiff,
8 Defendants owed Plaintiff a duty to:

- 9 a. Investigate or otherwise confirm or deny such claims of sexual abuse;
- 10 b. Reveal such facts to Plaintiff, Plaintiff's family and caretakers, the gymnastics
11 community, the community at large, the US Olympic Committee, and law
12 enforcement agencies;
- 13 c. Refuse to place the Perpetrator (DOE 1) and other molesters in positions of trust
14 and authority within Defendants' institutions;
- 15 d. Refuse to hold out the Perpetrator (DOE 1) and other molesters to the public, the
16 community, minors, parents and law enforcement agencies as being in good
17 standing and, trustworthy in keeping with him and his position as a team
18 physician and authority figure;
- 19 e. Refuse to assign the Perpetrator (DOE 1) and other molesters to positions of
20 power within DOE 2 and over minors; and
- 21 f. Disclose to Plaintiff, her family, the public, the school community, minors, and
22 law enforcement agencies the wrongful, tortious, and sexually exploitive acts that
23 the Perpetrator (DOE 1) had engaged in with children.

24 99. Defendants' breach of their respective duties included:

- 25 a. Not making reasonable investigations of the Perpetrator (DOE 1);
- 26 b. Issuing no warnings about the Perpetrator (DOE 1);
- 27 c. Permitting the Perpetrator (DOE 1) to routinely be alone with and in control of
28 minors, unsupervised;
- d. Not adopting a policy to prevent the Perpetrator (DOE 1) from routinely having
minors and participants and members in his unsupervised control;
- e. Making no reports of any allegations of the Perpetrator's (DOE 1) abuse of
participants and members, or of minors prior to or during his employment at DOE
2; and
- f. Assigning and continuing to assign the Perpetrator (DOE 1) to duties which
placed him in positions of authority and trust over minors, positions in which the
Perpetrator (DOE 1) could easily isolate and sexually abuse minors.

1 100. At the time that Defendants engaged in such suppression and concealment of acts,
2 such acts were done for the purpose of causing Plaintiff to forbear on Plaintiff's rights.

3 101. Defendants' misconduct did reasonably cause Plaintiff to forbear on Plaintiff's
4 rights.

5 102. The misrepresentations, suppressions and concealment of facts by Defendants
6 were intended to and were likely to mislead Plaintiff and others to believe that Defendants had
7 no knowledge of any charges against the Perpetrator (DOE 1), or that there were no other
8 charges of unlawful or sexual misconduct against the Perpetrator (DOE 1) or others and that
9 there was no need for them to take further action or precaution.

10 103. The misrepresentations, suppressions and concealment of facts by Defendants was
11 likely to mislead Plaintiff and others to believe that Defendants had no knowledge of the fact that
12 the Perpetrator (DOE 1) was a molester, and was known to commit wrongful sexual acts with
13 minors, including Plaintiff.

14 104. Defendants knew or had reason to know at the time they suppressed and
15 concealed the true facts regarding others' sexual molestations, that the resulting impressions were
16 misleading.

17 105. Defendants suppressed and concealed the true facts regarding the Perpetrator
18 (DOE 1) with the purpose of: preventing Plaintiff, Plaintiff's parents & family, and others, from
19 learning that the Perpetrator (DOE 1) and others had been and were continuing to sexually
20 harass, molest and abuse minors and others under the Perpetrator's (DOE 1) and Defendants'
21 control, direction, and guidance, with complete impunity; inducing people, including Plaintiff
22 and other benefactors and donors to participate and financially support Defendants' program and
23 other enterprises of Defendants; preventing further reports and outside investigations into the
24 Perpetrator's (DOE 1) and Defendants' conduct; preventing discovery of Defendants' own
25 conduct; avoiding damage to the reputations of Defendants; protecting Defendants' power and
26 status in the community and the gymnastics community; avoiding damage to the reputation of
27 Defendants, or Defendants' institutions; and avoiding the civil and criminal liability of
28 Defendants, of the Perpetrator (DOE 1), and of others.

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1 106. At all times mentioned herein, Defendants, and in particular the Perpetrator (DOE
2 1) and DOE 2, with knowledge of the tortious nature of their own and the Perpetrator's (DOE 1)
3 conduct, knowingly conspired and gave each other substantial assistance to perpetrate the
4 misrepresentations, fraud and deceit alleged herein—covering up the past allegations of sexual
5 misconduct lodged against DOE 1, and allowing DOE 1 to remain in his position as a team
6 physician so they could maintain their reputations and continue with their positions within the
7 organization.

8 107. Plaintiff and others were misled by Defendants' suppressions and concealment of
9 facts, and in reliance thereon, were induced to act or induced not to act, exactly as intended by
10 Defendants. Specifically, Plaintiff and Plaintiff's family were induced to believe that there were
11 no allegations of criminal or sexual abuse against the Perpetrator (DOE 1) and that he was safe to
12 be around children. Had Plaintiff and her family, and others, known the true facts about the
13 Perpetrator (DOE 1), they would have not participated further in activities of the Perpetrator
14 (DOE 1), or continued to financially support Defendants' activities. They would have reported
15 the matters to the proper authorities, to other minor participants and members and their parents
16 so as to prevent future recurrences; they would not have allowed children, including Plaintiff, to
17 be alone with, or have any relationship with the Perpetrator (DOE 1); they would not have
18 allowed children, including Plaintiff, to attend or be under the control of Defendants; they would
19 have undertaken their own investigations which would have led to discovery of the true facts;
20 and they would have sought psychological counseling for Plaintiff, and for other children
21 molested and abused by the Perpetrator (DOE 1).

22 108. By giving the Perpetrator (DOE 1) the position of team physician, Defendants
23 impliedly represented that the Perpetrator (DOE 1) was safe and morally fit to give children care
24 and provide osteopathic adjustments.

25 109. When Defendants made these affirmative or implied representations and non-
26 disclosures of material facts, Defendants knew or had reason to know that the facts were
27 otherwise. Defendants knowingly and intentionally suppressed the material facts that the
28 Perpetrator (DOE 1) had on numerous, prior occasions sexually, physically, and mentally abused

1 minors and participants and members of Defendants, including Plaintiff, and knew of or learned
2 of conduct, or had reason to know of conduct by the Perpetrator (DOE 1) which placed
3 Defendants on notice that the Perpetrator (DOE 1) had previously been suspected of felonies,
4 including unlawful sexual conduct with minors, and was likely abusing children.

5 110. Because of Plaintiff's young age, and because of the status of the Perpetrator
6 (DOE 1) as a trusted, authority figure to Plaintiff, Plaintiff was vulnerable to the Perpetrator
7 (DOE 1). The Perpetrator (DOE 1) sought Plaintiff out, and was empowered by and accepted
8 Plaintiff's vulnerability. Plaintiff's vulnerability also prevented Plaintiff from effectively
9 protecting herself from the sexual advances of the Perpetrator (DOE 1).

10 111. Defendants had the duty to obtain and disclose information relating to sexual
11 misconduct of the Perpetrator (DOE 1).

12 112. Defendants misrepresented, concealed or failed to disclose information relating to
13 sexual misconduct of the Perpetrator (DOE 1).

14 113. Defendants knew that they had misrepresented, concealed or failed to disclose
15 information related to sexual misconduct of the Perpetrator (DOE 1).

16 114. Plaintiff justifiably relied upon Defendants for information relating to sexual
17 misconduct of the Perpetrator (DOE 1).

18 115. The Perpetrator (DOE 1) and DOE 2, DOE 3, DOE 4, DOE 5, and DOES 1
19 through 500, in concert with each other and with the intent to conceal and defraud, conspired and
20 came to a meeting of the minds whereby they would misrepresent, conceal or fail to disclose
21 information relating to the sexual misconduct of the Perpetrator (DOE 1), the inability of
22 Defendants to supervise or stop the Perpetrator (DOE 1) from sexually harassing, molesting and
23 abusing Plaintiff, and their own failure to properly investigate, supervise and monitor his conduct
24 with minor participants and members.

25 116. By so concealing, Defendants committed at least one act in furtherance of the
26 conspiracy.

27 117. As a result of the above-described conduct, Plaintiff has suffered and continues to
28 suffer great pain of mind and body, shock, emotional distress, physical manifestations of

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

6 118. In addition, when Plaintiff finally discovered the fraud of Defendants, and
7 continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. Plaintiff
8 experienced extreme and severe mental anguish and emotional distress that Plaintiff had been the
9 victim of Defendants' fraud; that Plaintiff had not been able to help other minors being molested
10 because of the fraud, and that Plaintiff had not been able because of the fraud to receive timely
11 medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer
12 as a result of the sexual harassment, molestation and abuse.

13 119. In subjecting Plaintiff to the wrongful treatment herein described, Defendants the
14 Perpetrator (DOE 1) and DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500 acted
15 willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
16 Plaintiff's rights, so as to constitute malice and/or oppression under *California Civil Code* section
17 3294. Plaintiff is informed, and on that basis alleges, that these willful, malicious, and/or
18 oppressive acts, as alleged herein above, were ratified by the officers, directors, and/or managing
19 agents of the Defendants. Plaintiff is therefore entitled to recover punitive damages, in an amount
20 to be determined by the court, against Defendants the Perpetrator (DOE 1) and DOE 2, DOE 3,
21 DOE 4, DOE 5, and DOES 6 through 500.

22 **EIGHTH CAUSE OF ACTION**
23 **NEGLIGENCE**

24 **(Against Defendants DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500)**

25 120. Plaintiff re-alleges and incorporates by reference herein each and every allegation
26 contained herein above as though fully set forth and brought in this cause of action.

27 121. Prior to and after the first incident of the Perpetrator's (DOE 1) sexual
28 harassment, molestation and abuse of Plaintiff, through the present, Defendants, knew and/or had

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1 reason to know that the Perpetrator (DOE 1) had and was capable of sexually, physically, and
2 mentally abusing and harassing Plaintiff or other victims.

3 122. Defendants and each of them had special duties to protect the minor Plaintiff and
4 the other participants and members, when such minors were entrusted to Defendants' care by
5 their parents. Plaintiff's care, welfare and physical custody was entrusted to Defendants.
6 Defendants voluntarily accepted the entrusted care of Plaintiff. As such, Defendants owed
7 Plaintiff, a minor child, a special duty of care that adults dealing with children owe to protect
8 them from harm. The duty to protect and warn arose from the special, trusting, confidential, and
9 fiduciary relationship between Defendants and Plaintiff.

10 123. Defendants breached their duties of care to the minor Plaintiff by allowing the
11 Perpetrator (DOE 1) to come into contact with the minor Plaintiff and other participants and
12 members, without supervision; by failing to adequately hire, supervise and retain the Perpetrator
13 (DOE 1) whom they permitted and enabled to have access to Plaintiff; by concealing from
14 Plaintiff, her family, and law enforcement that the Perpetrator (DOE 1) was sexually harassing,
15 molesting and abusing minors; and by holding the Perpetrator (DOE 1) out to Plaintiff and her
16 family as being of high moral and ethical repute, in good standing and trustworthy.

17 124. Defendants breached their duties to Plaintiff by failing to investigate or otherwise
18 confirm or deny such facts of sexual abuse by the Perpetrator (DOE 1), failing to reveal such
19 facts to Plaintiff, her parents, the community and law enforcement agencies, and by placing the
20 Perpetrator (DOE 1) into a position of trust and authority, holding him out to Plaintiff, her
21 parents, and the public as being in good standing and trustworthy.

22 125. Defendants breached their duty to Plaintiff by failing to adequately monitor and
23 supervise the Perpetrator (DOE 1) and failing to prevent the Perpetrator (DOE 1) from
24 committing wrongful sexual acts with minors including Plaintiff. Defendants' voluminous past
25 records of sexual misconduct by the Perpetrator (DOE 1) caused Defendants to know, or gave
26 them reason to know, of the Perpetrator's (DOE 1) incapacity to serve as a team physician,
27 providing for the physical care of minor females.

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1 failed to supervise the Perpetrator (DOE 1) in his position of trust and authority as a team
2 physician and authority figure over children, where he was able to commit wrongful acts of
3 sexual misconduct against Plaintiff. Defendants failed to provide reasonable supervision of the
4 Perpetrator (DOE 1), failed to use reasonable care in investigating the Perpetrator (DOE 1), and
5 failed to provide adequate warning to Plaintiff and Plaintiff's family of the Perpetrator's (DOE 1)
6 dangerous propensities and unfitness. Defendants further failed to take reasonable steps to ensure
7 the safety of minors, including Plaintiff, from sexual harassment, molestation, and abuse.

8 131. At no time during the periods of time alleged did Defendants have in place a
9 reasonable system or procedure to investigate, supervise and monitor the team physician or staff,
10 including the Perpetrator (DOE 1), to prevent pre-sexual grooming and sexual harassment,
11 molestation and abuse of children, nor did they implement a system or procedure to oversee or
12 monitor conduct toward minors and others in Defendants' care.

13 132. Defendants were aware or had reason to be aware of how vulnerable children
14 were to sexual harassment, molestation and abuse by teachers and other persons of authority
15 within Defendants' entities.

16 133. Defendants were put on notice, knew and had reason to know that the Perpetrator
17 (DOE 1) had previously engaged and was continuing to engage in unlawful sexual conduct with
18 minors, and had committed other felonies, for his own personal sexual gratification, and that it
19 was foreseeable that he was engaging, or would engage in illicit sexual activities with Plaintiff,
20 and others, under the cloak of the authority, confidence, and trust, bestowed upon him through
21 Defendants.

22 134. Defendants were placed on actual or constructive notice that the Perpetrator (DOE
23 1) had molested other minors and participants and members during his employment with
24 Defendants. Defendants were informed of molestations of minors committed by the Perpetrator
25 (DOE 1) prior to Plaintiff's sexual abuse, and of conduct by the Perpetrator (DOE 1) that would
26 put a reasonable person on notice of such propensity to molest and abuse children.

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1 135. Even though Defendants knew or had reason to know of these illicit sexual
2 activities by the Perpetrator (DOE 1), Defendants did not reasonably investigate, supervise or
3 monitor the Perpetrator (DOE 1) to ensure the safety of the minor participants and members.

4 136. Defendants' conduct was a breach of their duties to Plaintiff.

5 137. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by
6 failing to adequately monitor and supervise the Perpetrator (DOE 1) and stop the Perpetrator
7 (DOE 1) from committing wrongful sexual acts with minors including Plaintiff.

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

15 **NEGLIGENCE PER SE-CONDUCT IN VIOLATION OF PENAL CODE §11166, ET. SEO**

16 139. Under the Child Abuse and Neglect Reporting Act, Defendants, by and through
17 their employees and agents, were child care custodians and were under a statutory duty to report
18 known or suspected incidents of sexual molestation or abuse of minors to a child protective
19 agency, pursuant to California *Penal Code* section 11166, and not to impede the filing of any
20 such report.

21 140. Defendants knew or had reason to know that their team physician, the Perpetrator
22 (DOE 1), and other staff of Defendants, had sexually molested, abused or caused touching,
23 battery, harm, and/or other injuries to minors, including Plaintiff, giving rise to a duty to report
24 such conduct under California *Penal Code* section 11166.

25 141. Defendants knew, or had reason to know, in the exercise of reasonable diligence,
26 that an undue risk to minors, including Plaintiff, existed because Defendants did not comply with
27 California's mandatory reporting requirements.

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1 142. By failing to report the continuing molestations and abuse by the Perpetrator
2 (DOE 1), which Defendants knew or had reason to know about, and by ignoring the fulfillment
3 of the mandated compliance with the reporting requirements provided under California *Penal*
4 *Code* section 11166, Defendants created the risk and danger contemplated by the Child Abuse
5 and Neglect Reporting Act, and as a result, unreasonably and wrongfully exposed Plaintiff and
6 other minors to sexual molestation and abuse.

7 143. Plaintiff was a member of the class of persons for whose protection California
8 *Penal Code* section 11166 was specifically adopted to protect.

9 144. Had Defendants adequately reported the molestation of Plaintiff and other minors
10 as required by California *Penal Code* section 11166, further harm to Plaintiff and other minors
11 would have been avoided.

12 145. As a proximate result of Defendants' failure to follow the mandatory reporting
13 requirements of California *Penal Code* section 11166, Defendants wrongfully denied Plaintiff
14 and other minors the intervention of child protection services. Such public agencies would have
15 changed the then-existing arrangements and conditions that provided the access and
16 opportunities for the molestation of Plaintiff by the Perpetrator (DOE 1).

17 146. The physical, mental, and emotional damages and injuries resulting from the
18 sexual molestation of Plaintiff by the Perpetrator (DOE 1), were the type of occurrence and
19 injuries that the Child Abuse and Neglect Reporting Act was designed to prevent.

20 147. As a result, Defendants' failure to comply with the mandatory reporting
21 requirements of California *Penal Code* section 11166 also constituted a per se breach of
22 Defendants' duties to Plaintiff.

23 148. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by
24 failing to adequately monitor and supervise the Perpetrator (DOE 1) and stop the Perpetrator
25 (DOE 1) from committing wrongful sexual acts with minors including Plaintiff.

26 149. As a result of the above-described conduct, Plaintiff has suffered and continues to
27 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
28 emotional distress including embarrassment, loss of self-esteem, disgrace, humiliations, and loss

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

5 **TENTH CAUSE OF ACTION**
6 **NEGLIGENT HIRING/RETENTION**
7 **(Against Defendants DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500)**

8 150. Plaintiff re-alleges and incorporates by reference herein each and every allegation
9 contained herein above as though fully set forth and brought in this cause of action.

10 151. By virtue of Plaintiff's special relationship with Defendants, and Defendants'
11 relation to the Perpetrator (DOE 1), Defendants owed Plaintiff a duty to not hire or retain the
12 Perpetrator (DOE 1), given his dangerous and exploitive propensities, which Defendants knew or
13 had reason to know about had they engaged in a reasonable, meaningful and adequate
14 investigation of her background prior to her hiring or retaining her in subsequent positions of
15 employment.

16 152. DOE 2 and Defendants, expressly and implicitly represented that the team staff,
17 trainers, and team physicians, including the Perpetrator (DOE 1), were not a sexual threat to
18 children and others who would fall under the Perpetrator's (DOE 1) influence, control, direction,
19 and guidance.

20 153. At no time during the periods of time alleged did Defendants have in place a
21 reasonable system or procedure to investigate, supervise and monitor team staff, trainers, and
22 team physicians, including the Perpetrator (DOE 1), to prevent pre-sexual grooming or sexual
23 harassment, molestation and abuse of children, nor did they implement a system or procedure to
24 oversee or monitor conduct toward minors, participants and members and others in Defendants'
25 care.

26 154. Defendants were aware or had reason to be aware and understand how vulnerable
27 children were to sexual harassment, molestation and abuse by teachers and other persons of
28 authority within the control of Defendants prior to Plaintiff's sexual abuse by the Perpetrator
(DOE 1).

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1 155. Defendants were put on notice, and had reason to know that the Perpetrator (DOE
2 1) had previously engaged and continued to engage in unlawful sexual conduct with minors and
3 was committing other felonies, for his own personal gratification, and that it was, or had reason
4 to know it would have been foreseeable that he was engaging, or would engage in illicit sexual
5 activities with Plaintiff, and others, under the cloak of his authority, confidence, and trust,
6 bestowed upon her through Defendants.

7 156. Defendants were placed on actual or constructive notice that the Perpetrator (DOE
8 1) had molested or was molesting minors and participants and members, both before his
9 employment within Defendants, and during that employment. Defendants had knowledge of
10 inappropriate conduct and molestations committed by the Perpetrator (DOE 1) before and during
11 his employment, yet chose to allow him to remain unsupervised where she sexually abused
12 Plaintiff.

13 157. Even though Defendants knew or had reason to know of these sexually illicit
14 activities by the Perpetrator (DOE 1), Defendants failed to use reasonable care in investigating
15 the Perpetrator (DOE 1) and did nothing to reasonably investigate, supervise or monitor the
16 Perpetrator (DOE 1) to ensure the safety of the minor participants and members.

17 158. Defendants' conduct was a breach of their duties to Plaintiff.

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

25 **ELEVENTH CAUSE OF ACTION**
26 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**
(Against Defendants DOE 2, DOE 3, DOE 4, DOE 5, and DOES 6 through 500)

27 160. Plaintiff re-alleges and incorporates by reference herein each and every allegation
28 contained herein above as though fully set forth and brought in this cause of action.

1 161. Defendants owed Plaintiff a duty to take reasonable protective measures to protect
2 Plaintiff and other minor participants and members from the risk of childhood sexual harassment,
3 molestation and abuse by the Perpetrator (DOE 1) by properly warning, training or educating
4 Plaintiff and other about how to avoid such a risk.

5 162. Defendants breached their duty to take reasonable protective measures to protect
6 Plaintiff and other minor participants and members from the risk of childhood sexual harassment,
7 molestation and abuse by the Perpetrator (DOE 1), such as the failure to properly warn, train or
8 educate Plaintiff and other minor participants and members about how to avoid such a particular
9 risk that the Perpetrator (DOE 1) posed—of sexual misconduct.

10 163. Defendants breached their duty to take reasonable protective measures to protect
11 Plaintiff and other minor participants and members from the risk of childhood sexual harassment,
12 molestation and abuse by the Perpetrator (DOE 1), by failing to supervise and stop employees of
13 Defendants, including the Perpetrator (DOE 1), from committing wrongful sexual acts with
14 minors, including Plaintiff.

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

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WHEREFORE, Plaintiff prays for a jury trial and for judgment against Defendants as follows:

FOR ALL CAUSES OF ACTION

1. For past, present and future non-economic damages in an amount to be determined at trial;
2. For past, present and future special damages, including but not limited to past, present and future lost earnings, economic damages and others, in an amount to be determined at trial;
3. Any appropriate statutory damages;
4. For costs of suit;
6. Punitive damages, according to proof, though not as to the Negligence Causes of Action (Causes of Action 8 through 11);
7. For interest based on damages, as well as pre-judgment and post-judgment interest as allowed by law;
8. For attorney’s fees pursuant to California *Code of Civil Procedure* sections 1021.5, *et seq.*, 52, *et seq.*, 51, *et seq.*, or as otherwise allowable by law;
9. For declaratory and injunctive relief, including but not limited to court supervision of DOE 2; and
10. For such other and further relief as the Court may deem proper.

Dated: September 8, 2016

MANLY, STEWART & FINALDI

By: John C. Manly
JOHN C. MANLY, Esq.
Attorneys for Plaintiff, JANE JD DOE

DEMAND FOR JURY TRIAL

Plaintiff JANE JD DOE hereby demands a trial by jury.

Dated: September 8, 2016

MANLY, STEWART & FINALDI

By: *John C. Manly*
JOHN C. MANLY, Esq.
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