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

17
18 JANE DOE K.G., JANE DOE T.F.,
19 JANE DOE B.S., and JANE DOE
20 W.D., individually and on behalf of
21 all others similarly situated,

22 Plaintiffs,

23 v.

24 PASADENA HOSPITAL
25 ASSOCIATION, LTD., d/b/a
26 HUNTINGTON MEMORIAL
27 HOSPITAL, THE MEDICAL
28 STAFF OF HUNTINGTON
MEMORIAL HOSPITAL, and
PATRICK SUTTON, M.D.;

Defendants.

Case No. 2:18-cv-8710-ODW (AFMx)

**SECOND AMENDED CLASS
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

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TABLE OF CONTENTS

	Page
NATURE OF THE ACTION	1
JURISDICTION AND VENUE.....	3
PARTIES	3
FACTUAL ALLEGATIONS	5
A. The standard of care for the obstetrical treatment of pregnant women.....	5
B. Women entrusted their medical care to Huntington Hospital and the Medical Staff.....	7
C. The abuse of trust and violation of the standard of care by Sutton, Huntington Hospital, and the Medical Staff.....	7
D. Plaintiffs’ Experiences	9
E. The statute of limitations is tolled based on the continuing violations doctrine and fraudulent concealment.	14
CLASS ACTION ALLEGATIONS.....	18
<u>FIRST CLAIM FOR RELIEF GENDER VIOLENCE</u> , Cal. Civ. Code § 52.4 (Against Defendants Sutton, the Medical Staff, and Huntington Hospital)	21
<u>SECOND CLAIM FOR RELIEF SEXUAL HARASSMENT</u> , Cal. Civ. Code § 51.9 (Against Defendants Sutton, the Medical Staff, and Huntington)	22
<u>THIRD CLAIM FOR RELIEF SEXUAL ASSAULT</u> (Against Defendant Sutton)	24
<u>FOURTH CLAIM FOR RELIEF SEXUAL BATTERY</u> , Cal. Civ. Code § 1708.5 (Against Defendant Sutton).....	26
<u>FIFTH CLAIM FOR RELIEF NEGLIGENCE</u> (Against Defendants Huntington Hospital and the Medical Staff)	27
<u>SIXTH CLAIM FOR RELIEF GROSS NEGLIGENCE AND/OR WANTON AND RECKLESS MISCONDUCT</u> (Against Defendants Sutton, the Medical Staff, and Huntington Hospital)	30
<u>SEVENTH CLAIM FOR RELIEF NEGLIGENT SUPERVISION</u> (Against Defendants Huntington Hospital and the Medical Staff).....	31
<u>EIGHTH CLAIM FOR RELIEF NEGLIGENT HIRING/RETENTION</u> (Against Defendants Huntington Hospital and the Medical Staff)	34
<u>NINTH CLAIM FOR RELIEF NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE</u> (Against Defendants Huntington Hospital and the Medical Staff).....	37
PRAYER FOR RELIEF	38

1 Plaintiffs Jane Doe K.G., Jane Doe T.F., Jane Doe B.S., and Jane Doe W.D.
2 (“Plaintiffs”), on behalf of themselves and all others similarly situated, file this
3 class action against Huntington Memorial Hospital (“Huntington Hospital” or
4 “Huntington”), The Medical Staff of Huntington Memorial Hospital (“Medical
5 Staff”), and Patrick Sutton, M.D. (“Sutton”), and allege as follows:

6 **NATURE OF THE ACTION**

7 1. This is a class action on behalf of individuals who were sexually
8 abused, harassed, and molested by Defendant Dr. Patrick Sutton, while they were
9 patients in the care of Defendants Sutton, Huntington Hospital, and the Medical
10 Staff.

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

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

18 4. “Important as it is to measure trust in individual clinicians and the
19 actions and circumstances that affect it, it is equally important, in today’s health
20 system, to study (empirically and normatively) trust and trustworthiness in
21 organizations and institutions.”³

22 5. Patrick Sutton, M.D. violated this trust by taking advantage of female
23 patients who sought women’s-health-related medical care from a

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

25 ² *Id.*, citing Ruth Faden & Tom Beauchamp, A HISTORY AND THEORY OF INFORMED CONSENT 274–80 (Oxford Univ. Press 1986).

26 ³ *Id.*

1 gynecologist/obstetrician at Huntington Hospital. These women were highly
2 vulnerable: naked or partially unclothed in a closed examination room with the
3 expectation that physical contact would occur for medical treatment only in
4 accordance with the applicable standard of care.

5 6. Sutton used his position of trust and authority at Huntington Hospital
6 to sexually abuse Plaintiffs on multiple occasions, by engaging in acts that include
7 but are not limited to: inappropriate and not-medically-necessary sexualized
8 touching during gynecological examinations and treatment, and lewd and
9 threatening sexualized questions and comments to patients during examinations and
10 outside the medical setting, in public places.

11 7. As is typical with sexual predators, Sutton had a pattern of behavior
12 and a common course of conduct that he exhibited towards all his victims,
13 including Plaintiffs and Class members.

14 8. Over the years that Sutton has been at Huntington, numerous Class
15 members have made eerily similar complaints about his inappropriate, abusive, and
16 harassing behavior, including, but not limited to: Sutton making suggestive
17 comments about patients' bodies during gynecological examinations; touching
18 patients' bodies in a manner that had no medical purpose; improper touching; crude
19 sexual comments; and intrusive questions about their bodies and sexual habits.

20 9. Huntington Hospital and the Medical Staff had a duty to ensure that
21 Sutton used his trusted position consistent with the applicable standard of care and
22 to ensure that Sutton did not violate that trust by abusing and harassing patients.

23 10. As a medical doctor, and as an actual and/or apparent, duly authorized
24 agent, servant, and/or employee of Huntington Hospital and the Medical Staff,
25 Sutton owed Plaintiffs and Class members a duty of due care in carrying out
26 medical treatment.

27 11. Despite the fact that Huntington has publicly admitted that it received
28 numerous complaints of Sutton's sexually abusive behavior, dating back to at least

1 1998, Huntington and its Medical Staff actively and deliberately concealed Sutton’s
2 sexual abuse for years, continuing to grant Sutton unfettered access to the female
3 Huntington patients in his care, all to protect Huntington’s reputation and financial
4 coffers.

5 12. Plaintiffs seek appropriate relief on behalf of the other individuals who
6 experienced similar mistreatment by Sutton, Huntington, and the Medical Staff.

7 **JURISDICTION AND VENUE**

8 13. The Court has subject matter jurisdiction over this action under the
9 Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because: (a) Plaintiffs seek
10 to represent a nationwide class of the hundreds, or thousands, of individuals
11 sexually abused, harassed, and molested by Defendant Dr. Patrick Sutton, (b) the
12 amount in controversy exceeds \$5,000,000, excluding interest and costs, (c) the
13 proposed class consists of more than 100 individuals, and (d) none of the
14 exceptions under the subsection applies to this action.

15 14. This Court has personal jurisdiction over Defendants. They conduct
16 substantial business in this District and intentionally availed themselves of the laws
17 and markets of this District. A significant portion of the acts and omissions
18 complained of occurred in the District, and Plaintiffs and many class members
19 suffered harm in the District.

20 15. Venue is proper in this District under 28 U.S.C § 1391 because a
21 substantial part of the events or omissions giving rise to the claims occurred in this
22 District.

23 **PARTIES**

24 *Plaintiffs*

25 16. Given the sensitive nature of their claims, Plaintiffs are using
26 pseudonyms in this litigation to protect their privacy. If required by the Court,
27 Plaintiffs will seek permission to proceed under these pseudonyms.
28

1 17. Plaintiff Jane Doe K.G. is a resident of Flagstaff, Arizona, and a
2 citizen of the United States.

3 18. Plaintiff Jane Doe T.F. is a resident of Palmdale, California, and a
4 citizen of the United States.

5 19. Plaintiff Jane Doe B.S. is a resident of Claremont, California, and a
6 citizen of the United States.

7 20. Plaintiff Jane Doe W.D. is a resident of Pasadena, California, and a
8 citizen of the United States.

9 Defendants

10 21. Defendant Patrick Sutton, M.D. was and is a resident of Altadena,
11 California, and a citizen of the United States.

12 22. In or about 1989, Sutton started working at Huntington Hospital as an
13 obstetrician/gynecologist. At all relevant times, Sutton was an actual and/or
14 apparent, duly authorized agent, servant, and/or employee of Defendants
15 Huntington Hospital and the Medical Staff and carried on an
16 obstetrics/gynecological medical practice in Pasadena, California, as part of his
17 actual and/or apparent agency, service, and/or employment.

18 23. Defendant Pasadena Hospital Association, Ltd. d/b/a Huntington
19 Memorial Hospital is a California nonprofit corporation having its principal place
20 of business in California; and doing business in Los Angeles County, California.

21 24. Defendant The Medical Staff of Huntington Memorial Hospital is a
22 California organization having its principal place of business in California; and
23 doing business in Los Angeles County, California. The Medical Staff is the formal
24 organization of all licensed Physicians, dentists, and podiatrists who are privileged
25 to attend patients in Huntington Hospital. It is responsible for the quality of medical
26 care at Huntington and “participates in the development of Hospital policies.”⁴ In

27 ⁴ Huntington Hospital Medical Staff Bylaws (Eff. September 25, 2014), Preamble,
28 <https://www.huntingtonhospital.org/documents/Medical-Staff-Privilege->

Footnote continued on next page

1 collaboration with Defendant Huntington, the Medical Staff sets and conducts
2 procedures for physicians' appointment and privileges, the ongoing review and
3 evaluation of practitioners' performance, and investigations and disciplinary
4 actions.

5 25. Upon information and belief, each of the Defendants named in this
6 Complaint is responsible in some manner for one or more of the events and
7 happenings, and proximately caused the injuries and damages, hereinafter alleged.
8 Consequently, each Defendant is jointly and severally liable to Plaintiffs and the
9 Class members for the damages sustained as a proximate result of their conduct.

10 **FACTUAL ALLEGATIONS**

11 **A. The standard of care for the obstetrical treatment of pregnant**
12 **women.**

13 26. The standard of care is the level at which the average, prudent provider
14 in obstetrics and gynecology would practice. It is how similarly qualified
15 practitioners would have managed the patient's care under the same or similar
16 circumstances.

17 27. Gathering health information in a clinical and unobtrusive manner is
18 essential for building patient trust, creating an accurate history, and identifying
19 potential health concerns. The standard of care in gynecology is to afford the
20 patient as much modesty as possible. Doctors should begin by taking a patient's
21 health history in a private setting while the patient is fully clothed and prior to any
22 physical examination.⁵

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24 _____
25 *Footnote continued from previous page*
26 [Forms/Bylaws-Rules-Regulations-/Bylaws.pdf](#) (last accessed Jan. 4, 2019).

27 ⁵ Daniela A. Carusi, MD, MSc, *The Gynecologic History and Pelvic Examination*,
28 UpToDate, Last Updated Oct. 15, 2018 (last accessed Jan. 4, 2019)(available at
<https://www.uptodate.com/contents/the-gynecologic-history-and-pelvic-examination>).

1 28. Taking a patient’s medical history does not include invasive questions
2 concerning sexual “likes” and “dislikes.” At the outset of a gynecology patient visit,
3 the physician should take a gynecologic medical history, including sexual history,
4 before the patient disrobes. A brief set of screening questions relating to sexual
5 history is adequate to determine whether a problem exists that requires further
6 inquiry, namely whether the patient has sexual concerns, is having sexual relations,
7 has a new partner or sexual contacts, uses protection from pregnancy and sexually
8 transmitted infections, would like to be screened for sexually transmitted infections,
9 needs contraception or preconceptional counseling, or is currently experiencing or
10 has experienced previous sexual abuse. Doctors are expected to afford patients
11 equal treatment and objective, non-judgmental counseling regardless of their sexual
12 orientation or history.⁶

13 29. Informed consent is required. The decision to perform an internal
14 pelvic examination, breast examination, or both should be made by the physician
15 and the patient after shared communication and decision-making.

16 30. Presence of chaperones. In addition, chaperones are often present as a
17 precautionary measure for pelvic examinations.

18 31. Hygiene is important. Doctors should wash their hands before
19 touching patients and they should wear gloves during pelvic and breast exams.

20 32. Diagnoses and records. All diagnoses should follow proper testing, and
21 recommended treatments and medications should be in accordance with standard,
22 up-to-date methods and research. All information from a patient’s history and exam
23 should be accurately recorded.

24
25 _____
26 ⁶ Committee Opinion, Heath Care for Lesbians and Bisexual Women, No. 525
27 (May 2012), <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Health-Care-for-Lesbians-and-Bisexual-Women>.
28

1 **B. Women entrusted their medical care to Huntington Hospital and**
2 **the Medical Staff.**

3 33. Dr. Sutton has enjoyed a long career at Huntington Hospital, working
4 there as a gynecologist obstetrician for more than three decades. Many of his
5 patients were attracted by the prestige and infrastructure of the Hospital, and hoped
6 to deliver their babies at Huntington. During his tenure at Huntington Hospital,
7 however, Sutton has systematically violated the trust of vulnerable pregnant women
8 who sought his care.

9 34. Even after Sutton was the subject of four sexual misconduct
10 complaints before the Medical Board of California (“Medical Board”), and several
11 disciplinary measures were taken against him, Huntington Hospital and the Medical
12 Staff failed to take the appropriate steps to protect Plaintiffs⁷. Sutton was allowed to
13 continue practicing medicine at Huntington, and was included in a list of doctors on
14 call to deliver babies at the hospital. He was publicly listed in the Hospital’s
15 Physician Directory, with contact information about his primary office. He was
16 even elected as the chair of Huntington Hospital’s Obstetrics and Gynecology
17 Department and was due to assume control of the department in January 2019. Only
18 after the recent public attention brought by a fifth sexual misconduct complaint
19 before the Medical Board did Huntington and the Medical Staff remove him from
20 the list of on call doctors and remove his leadership role.

21 **C. The abuse of trust and violation of the standard of care by Sutton,**
22 **Huntington Hospital, and the Medical Staff.**

23 35. Allegations of sexual misconduct against Sutton go back decades. Top
24 Huntington Hospital and Medical Staff administrators received repeated warnings
25 about Sutton’s misconduct throughout that period.⁸

26 ⁷ See general history and Medical Board Decisions at Medical Board of California,
27 *Licensing Details for Sutton, Patrick Mark*,
28 <https://search.dca.ca.gov/details/8002/G/53929/3ec7f306f1f30a6f2134d37cd88af3c2>
(last accessed on Jan. 4, 2019).

⁸ Harriet Ryan and Matt Hamilton, *More than 20 women accused a prominent*
Footnote continued on next page

1 36. Five of the sexual misconduct allegations against Sutton have resulted
2 in lawsuits or complaints being brought before the Medical Board of California,
3 about which Huntington Hospital and the Medical Staff should have been aware.

4 37. In 1998, a female patient complained to the Medical Board that Sutton
5 had made inappropriate sexual comments, slipped his hand under her pants, and
6 slipped two fingers into her vagina.⁹ He was not wearing gloves, nor was there a
7 nurse present. After an investigation, the Board accused Sutton of gross negligence
8 and sexual misconduct for “needlessly and inappropriately sexualizing her physical
9 examination.” In 2005, while still on probation from the 1998 incident, Sutton was
10 accused by two female patients of sexual battery and sexual harassment in a Los
11 Angeles County Superior Court lawsuit. The women alleged improper touching,
12 crude sexual comments and intrusive questions about their bodies and sexual habits.
13 That accusation resulted in a confidential settlement.

14 38. Following a 2008 appointment with Sutton, another patient filed a
15 complaint against him before the Medical Board. The woman said that Sutton asked
16 her a series of explicit and inappropriate questions about her sexual practices and
17 instructed her to call him to share “a fantasy or ‘any new sexual adventure.’” In a
18 settlement with the Medical Board, Sutton was placed on probation for three years
19 and ordered to enroll in psychotherapy as well as a class on maintaining
20 professional boundaries.

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22
23 *Footnote continued from previous page*
24 *Pasadena obstetrician of mistreating them. He denied all claims and was able to*
25 *continue practicing, L.A. Times (Dec. 9, 2018), .*
[https://www.latimes.com/local/lanow/la-me-huntington-doctor-misconduct-](https://www.latimes.com/local/lanow/la-me-huntington-doctor-misconduct-allegations-20181209-story.html)
[allegations-20181209-story.html](https://www.latimes.com/local/lanow/la-me-huntington-doctor-misconduct-allegations-20181209-story.html) (last accessed Jan. 4, 2019).

26 ⁹ Matt Hamilton and Harriet Ryan, *Prominent obstetrician accused of sexual*
27 *misconduct removed from leadership at Huntington Hospital and must have*
28 *chaperone, L.A. Times (Oct. 5, 2018), [https://www.latimes.com/local/lanow/la-me-](https://www.latimes.com/local/lanow/la-me-ln-huntington-hospital-doctor-investigation-20181005-story.html)*
[ln-huntington-hospital-doctor-investigation-20181005-story.html](https://www.latimes.com/local/lanow/la-me-ln-huntington-hospital-doctor-investigation-20181005-story.html) (last accessed Jan.
4, 2019).

1 39. In the most recent accusation, in 2016, Sutton told a patient seeking
2 treatment for a cyst “that he really could not see ‘down there’ because she was
3 really hairy,” according to the Board filing. After Sutton’s female office assistant
4 left the room to answer a phone call, Sutton asked the woman, “Do you have sex?”
5 She replied, “No,” adding that she had an abusive relationship and now dedicated
6 her life to her kids. Sutton continued pressing her, according to the court papers,
7 asking, “Do you enjoy orgasms, you are a very beautiful woman?” The patient, who
8 was wearing a paper gown, “was intimidated and did not know how to get out of
9 the situation.”

10 40. This behavior violates the applicable standard of care, and comports
11 with Plaintiffs’ descriptions of their interactions with Sutton. Sutton’s sexual
12 misconduct while at Huntington Hospital has therefore been well documented and
13 known to Huntington and the Medical Staff for decades.

14 **D. Plaintiffs’ Experiences**

15 Jane Doe K.G.

16 41. In 1998, Jane Doe K.G. learned that she was pregnant. She sought an
17 Ob-Gyn, and she was delighted to find Sutton, a doctor who was on her insurance
18 and who was associated with Huntington Memorial Hospital. Jane Doe K.G. found
19 the facilities beautiful and wanted to deliver her baby there.

20 42. Jane Doe K.G. went to her first pregnancy appointment with her
21 husband. Dr. Sutton reviewed the sonogram with them and confirmed the
22 pregnancy.

23 43. During her subsequent visits, however, Sutton’s behavior became
24 inappropriate. He frequently made “arousal-type” sounds while examining her, and
25 told her that she was a beautiful woman and that her husband must love her
26 “boobs.” At almost every visit, Sutton asked about her sex life with her husband,
27 saying that sex was good for her and the baby, and that she should not ignore her
28 husband’s desires.

1 44. During Jane Doe K.G.’s visits, Sutton stroked her legs in a sexual
2 manner.

3 45. Although Jane Doe K.G. was extremely uncomfortable with Sutton’s
4 treatment of her, she was intimidated by his position of apparent authority as a
5 physician. However, Jane Doe K.G. did tell her husband after the visits that Sutton
6 made her uncomfortable and that she wished he would stop his mistreatment of her.

7 46. On December 27, 1998, Sutton induced Jane Doe K.G.’s labor two
8 weeks early because he was going on vacation. Jane Doe K.G. delivered her baby at
9 Huntington Hospital.

10 47. Following Jane Doe K.G.’s delivery at Huntington, she next saw
11 Sutton at her post-partum visit some weeks later. She brought her infant to the
12 appointment, but not her husband.

13 48. During that visit, Dr. Sutton performed a vaginal exam on Jane Doe
14 K.G., which she was not expecting at the time. There was no nurse in the room.
15 During the exam, he commented that she was “tight” and that her husband must
16 love it. He also made strange “arousal-type” sounds. He then barraged her with
17 questions about how frequently she and her husband had sex and about the
18 difference between how it felt pre- and post-partum.

19 49. Sutton next groped Jane Doe K.G.’s breasts and told her that he
20 wanted to “play with them.” He added, “your husband must love to rub his penis
21 there,” “they are beautiful,” and that he wished he “had a pair.”

22 50. The manner and amount of time that Sutton spent examining Jane Doe
23 K.G.’s breasts was beyond what was required for medical purposes and purely to
24 satisfy his own prurient interests.

25 51. Jane Doe K.G. has thus been damaged by Sutton, the Medical Staff,
26 and Huntington Hospital’s actions.

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28

1 Jane Doe T.F.

2 52. In May 1990, Jane Doe T.F. learned that she was pregnant with her
3 first child. She called her insurance company and asked for a nearby Ob-Gyn, and
4 she was referred to Dr. Sutton.

5 53. At each visit, a nurse would bring Jane Doe T.F. to the exam room and
6 ask initial questions. The nurse would then leave, and Sutton would conduct the
7 examination alone, with no one else in the room. Given that this was her first
8 pregnancy, she did not know that this was not normal.

9 54. Over the course of Jane Doe T.F.'s visits, Sutton began to make a
10 series of inappropriate comments which became more sexually suggestive over
11 time. Sutton was also "touch-feely" during the exams. He asked her about her
12 relationship with her husband, and details related to sex and orgasms. When she
13 asked him whether sex was safe to have during pregnancy, he responded, "the more
14 sex, the better." Sutton had a constant preoccupation with sex. He also told her that
15 she was "quite tight down there," and referred to her breasts as "perky little things."

16 55. On one occasion, Jane Doe T.F. called Sutton's office to ask if she was
17 allowed to take medicine for her migraine headaches while pregnant. Sutton
18 returned the call and told her that instead of taking medication for her migraine, she
19 should masturbate in order to make the blood rush to her head, which according to
20 him would stop the migraine. He told her to call him and let him know if she was
21 able to achieve orgasm through masturbation. Jane Doe T.F. did not follow his
22 suggestion, nor did she contact him again about the topic.

23 56. During Jane Doe T.F.'s visits, Sutton regularly stroked her thighs in a
24 sexual manner.

25 57. On February 3, 1991, Jane Doe T.F. delivered her child at Huntington
26 Memorial Hospital.

27 58. Throughout her labor and delivery at Huntington, T.F. was treated
28 inappropriately by Sutton and the medical staff, including a failed epidural by a

1 Hospital anesthesiologist, drastic leg contortions imposed upon her by a Hospital
2 nurse, and overall failure by the medical staff to address inappropriate treatment by
3 Sutton.

4 59. During Jane Doe T.F.'s post-natal visit with Sutton, he examined her
5 episiotomy results and remarked that her "husband is going to love this."

6 60. Jane Doe T.F. has thus been damaged by Sutton, the Medical Staff,
7 and Huntington Hospital's actions.

8 Jane Doe B.S.

9 61. In 1991, Jane Doe B.S. learned that she was pregnant with her second
10 child.

11 62. Because she was not receiving regular gynecological care at the time,
12 Jane Doe B.S. found Dr. Sutton on a list of obstetricians provided to her by her
13 health insurance.

14 63. During each office visit with Sutton, a female nurse would accompany
15 Jane Doe B.S. into the room, but she would immediately leave before Sutton
16 entered. Sutton always examined Jane Doe B.S. alone, with no one else in the
17 room.

18 64. Dr. Sutton did not wear gloves while examining Jane Doe B.S.

19 65. Over the course of her visits, Sutton made constant inappropriate
20 comments. He told her that she had a "young, tight uterus," and that her "boyfriend
21 must love that." He continually referred to Jane Doe B.S.'s husband as her
22 boyfriend, even though she reminded him each time that he was her husband.
23 Sutton also told her that she was likely to have a C-section, which would be a
24 shame because it would scar her "beautiful body."

25 66. On one occasion, Sutton told Jane Doe B.S. that he was going to listen
26 to her heartbeat, but proceeded to place his stethoscope on her nipple.

27 67. Jane Doe B.S. delivered her child at Huntington Hospital.
28

1 68. Jane Doe B.S. has thus been damaged by Sutton, the Medical Staff,
2 and Huntington Hospital's actions.

3 Jane Doe W.D.

4 69. In or around January of 2016, Jane Doe W.D. was eight months
5 pregnant with her first child and desperate to find an obstetrician. Her insurance
6 plan had changed that month, and the obstetrician she had been seeing did not
7 accept her new plan, forcing her to change doctors very late into her pregnancy.
8 Jane Doe W.D. found Dr. Sutton, who accepted her insurance.

9 70. On Jane Doe W.D.'s first appointment with Dr. Sutton, he performed a
10 vaginal exam on her that left her feeling violated. Dr. Sutton stuck his fingers in and
11 out of Jane Doe W.D.'s vagina many times – she felt that it was excessive, and it
12 was very unlike her previous doctor's practice. Because this was her first
13 pregnancy, however, she did not know for sure.

14 71. Jane Doe W.D. walked out of that first appointment feeling very
15 uncomfortable. She immediately called her boyfriend and asked him to come to her
16 future appointments with her. Jane Doe W.D. told her boyfriend that she felt
17 violated.

18 72. Dr. Sutton continued to touch Jane Doe W.D. inappropriately and
19 excessively during her subsequent vaginal exams. Although Plaintiff Jane Doe
20 W.D. was seeing Sutton specifically due to her pregnancy at this time, he insisted
21 on performing breast exams at each appointment, which were unnecessary to
22 treating her pregnancy and which she did not request. When he performed these
23 breast exams, Jane Doe W.D. also felt that Dr. Sutton's approach was not normal.
24 Dr. Sutton grabbed her breasts with more of a "groping and sensual grab," unlike
25 the way her previous doctors had examined her during routine breast exams. This
26 made her feel very uncomfortable and violated.

27 73. On February 9, 2016, Jane Doe W.D. delivered her baby at
28 Huntington Hospital.

1 74. Dr. Sutton made Jane Doe W.D. feel so uncomfortable that after
2 having her child, she tried to avoid going to follow-up appointments with him. She
3 went to a post-natal checkup in or around March 2016, where he again repeated the
4 inappropriate and excessive vaginal penetration.

5 75. Jane Doe W.D.'s final visit with Dr. Sutton was in or around June
6 2018. Again at that appointment Dr. Sutton performed a vaginal examination of
7 Jane Doe W.D., during which he excessively vaginally penetrated her with his
8 fingers, "sensually" groped her breasts, and made comments about her physical
9 appearance.

10 76. Although Jane Doe W.D. has a painful gynecological condition,
11 endometriosis, which requires regular gynecological care, she has tried to avoid
12 seeing Dr. Sutton because of his inappropriate and violative behavior towards her.
13 Moreover, although Jane Doe W.D. was on birth control, and would prefer to be on
14 oral contraceptives as a convenient method to prevent unwanted pregnancies, she
15 has discontinued taking the medication because she does not want to have to visit
16 Dr. Sutton for another vaginal exam in order to renew her prescription. Jane Doe
17 W.D. has also avoided going to any gynecologists as a result of these traumatic
18 experiences.

19 77. Jane Doe W.D. has thus been damaged by Sutton, the Medical Staff,
20 and Huntington Hospital's actions.

21 **E. The statute of limitations is tolled based on the continuing**
22 **violations doctrine and fraudulent concealment.**

23 78. Sutton concealed the existence of Plaintiffs' claims and the fact that
24 Plaintiffs had a cause of action against Sutton, the Medical Staff, and/or Huntington
25 Hospital at the time his sexual assaults occurred by making material
26 representation(s) to Plaintiffs involving a past or existing fact, including by
27 misrepresenting that his acts and/or conduct were for a legitimate medical purpose
28 and/or conformed to accepted medical practice.

1 79. When Sutton made the material representation(s), he knew that they
2 were false in that he knew that the examinations were not proper, appropriate,
3 legitimate, and/or considered within standard of care by any physician of any
4 specialty and/or gynecology or obstetrics.

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

14 81. Plaintiffs and Class members acted in reliance upon the material
15 representation(s) in that they:

16 a. Reasonably believed that the examinations were proper,
17 appropriate, and legitimate;

18 b. Reasonably did not believe that they had been sexually
19 assaulted;

20 c. Did not believe that they should question and/or report the
21 conduct to appropriate authorities; and,

22 d. Did not reasonably believe that they had and were not aware of
23 a possible cause of action that they had against Sutton, the Medical Staff, and/or
24 Huntington Hospital.

25 82. Directors, managers, supervisors, physicians, nurses, and chaperones
26 at Huntington Hospital and the Medical Staff, took affirmative steps to fraudulently
27 conceal Sutton's misconduct, including, but not limited to, depressing complaints
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1 made by patients, and continuing to allow Sutton to treat female patients despite
2 knowledge of his misconduct.

3 83. The actions and inactions of Sutton, the Medical Staff, and Huntington
4 Hospital constituted fraudulent concealment.

5 84. The statute of limitations for each of Plaintiffs' causes of actions was
6 equitably tolled, and Defendants are equitably estopped from asserting the statute of
7 limitations as a defense, by reason of their wrongful conduct.

8 85. As part of Defendants' wrongful attempt to conceal Sutton's
9 propensity to sexually abuse female patients, and his past sexual abuse, from public
10 scrutiny and criminal investigation, Defendants implemented various measures with
11 the intent and effect of making Sutton's conduct harder to detect and ensuring that
12 other patients with whom he came into contact, including Plaintiffs, would be
13 sexually abused and assaulted, including:

14 a. Permitting Sutton to remain in a position of authority and trust
15 after Huntington Hospital and the Medical Staff knew or should have known that he
16 molested and harassed his female patients;

17 b. Scheduling female patients for appointments with Sutton,
18 including appointments without a nurse or chaperone present, despite being aware
19 of his improper conduct;

20 c. Granting Sutton unfettered access to and control over patients
21 even when he was purporting to provide extremely sensitive gynecological
22 treatment, thereby allowing Sutton to physically and sexually interact with female
23 patients, including Plaintiffs;

24 d. Holding out Sutton to Plaintiffs, other Huntington patients, and
25 the public at large as a trustworthy person of good moral character who was capable
26 and worthy of being granted unsupervised access to the patients of Huntington
27 Hospital and the Medical Staff;

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1 e. Failing to disclose and actively concealing Sutton's prior record
2 of misconduct, sexual abuse, harassment, and molestation, and his propensity to
3 commit such acts towards patients, from its patients, the public at large, and law
4 enforcement;

5 f. Failing to investigate or otherwise confirm or deny such facts
6 about Sutton, including prior complaints, claims, and investigations relating to
7 sexual abuse suffered at his hands;

8 g. Failing to implement reasonable safeguards to avoid acts of
9 unlawful sexual conduct by Sutton, such as by avoiding placement of Sutton in
10 functions or environments in which he would necessarily have intimate contact with
11 female patients; and

12 h. Failing to implement systems or procedures to supervise or
13 monitor doctors to ensure that they did not molest or abuse patients in Defendants'
14 care and, further, that they report all reasonable suspicions of sexual assault or
15 battery to law enforcement as mandated by Section 11160 of the California Penal
16 Code.

17 86. At all times pertinent to this action, Sutton was an agent, apparent
18 agent, servant, and/or employee of Huntington Hospital and the Medical Staff and
19 operated within the scope of his actual and/or apparent agency, service, and/or
20 employment, and his negligence is imputed to Huntington and the Medical Staff.

21 87. Defendants engaged in, joined in, and conspired with each other in
22 carrying out the tortuous and unlawful activities herein described. Each Defendant
23 is legally responsible for the occurrences herein alleged, and Plaintiffs' damages, as
24 herein alleged, were proximately caused by all Defendants.

25 88. Plaintiffs and Class members did not know, could not have reasonably
26 known, and were not reasonably aware of a possible cause of action that they had
27 against Sutton, the Medical Staff, and/or Huntington until the October 2018
28 publication of a story about Sutton's misconduct in the Los Angeles Times.

CLASS ACTION ALLEGATIONS

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2 89. Pursuant to Federal Rule of Civil Procedure 23(b)(3) and 23(c)(4),
3 Plaintiffs bring this action on behalf of themselves and the following class of others
4 who are similarly situated:

5 Nationwide Class: All women who were treated by Dr. Patrick Sutton
6 during his actual and/or apparent agency, service, and/or employment
7 by Huntington Hospital and the Medical Staff (the “National Class”).

8 90. Excluded from the class are Defendants, their affiliates and
9 subsidiaries, and their officers, directors, partners, employees, and agents; class
10 counsel, their immediate family members, and employees of their firms; counsel for
11 Defendants, their immediate family members, and employees of their firms; and
12 judicial officers assigned to this case and their staffs and immediate family
13 members.

14 91. Plaintiffs reserve the right to amend or modify the above class
15 definition with greater specificity or division into subclasses after having had an
16 opportunity to conduct discovery.

17 92. The Class consists of hundreds, if not thousands, of women, making
18 joinder impracticable, in satisfaction of Fed. R. Civ. P. 23(a)(1). The exact size of
19 the Class and the identities of the individual members are ascertainable through
20 records maintained by Sutton, Huntington, and the Medical Staff.

21 93. Numerosity. The members of the class are so numerous that their
22 individual joinder is impracticable. Upon information and belief, there are
23 thousands of class members, whose names and addresses are readily available from
24 Defendants’ records.

25 94. Commonality. There are questions of law and fact common to the
26 class, which predominate over any questions affecting individual members of the
27 class.

1 95. Typicality. Plaintiffs' claims are typical of the other Class members'
2 claims because Plaintiffs and Class members were subjected to the same wrongful
3 conduct and damaged in the same manner.

4 96. Existence and Predominance of Common Questions of Fact and Law.
5 This action involves common questions of law and fact that predominate over any
6 questions affecting individual class members, including, without limitation:

7 a. Whether Defendants owed a duty to Plaintiffs and Class
8 members to protect their health and safety and not to violate their trust;

9 b. Whether Defendants breached their duties to Plaintiffs and Class
10 members;

11 c. Whether Huntington Hospital and the Medical Staff knew of
12 Sutton's misconduct, but continued to protect him and allow him access and
13 opportunity to sexually abuse women;

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

16 e. Whether Defendants are liable for invasion of privacy;

17 f. Whether Defendants are liable for sexual harassment, in
18 violation of California Civil Code, § 51.9;

19 g. Whether Defendants are liable for sexual assault;

20 h. Whether Defendants are liable for sexual battery, in violation of
21 California Civil Code, § 1708.5;

22 i. Whether Defendants are liable for negligence;

23 j. Whether Defendants are liable for gross negligence and/or
24 wanton and reckless misconduct;

25 k. Whether Defendants are liable for negligent supervision;

26 l. Whether Defendants are liable for negligence *per se*;

27 m. Whether Defendants are liable for negligent hiring/retention;

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1 n. Whether Defendants are liable for negligent failure to warn,
2 train or educate; and

3 o. Whether Plaintiffs and Class members suffered harm as a result
4 of Defendants' violations and, if so, the appropriate measure of damages,
5 restitution, or rescission.

6 97. Adequacy of Representation. Plaintiffs are adequate class
7 representatives. Their interests do not conflict with the interests of the other Class
8 members they seek to represent. Plaintiffs have retained counsel competent and
9 experienced in complex class action litigation, and they intend to prosecute this
10 action vigorously. Plaintiffs and their counsel will fairly and adequately pursue and
11 protect the interests of the class.

12 98. Superiority. A class action is superior to all other available means for
13 the fair and efficient adjudication of this controversy. The highly sensitive and
14 private nature of the facts involved here counsels toward providing a class vehicle
15 to adjudicate these claims. The damages or other financial detriment suffered by
16 Plaintiffs and the other class members are relatively small compared to the burden
17 and expense that would be required to individually litigate these claims. As a result,
18 it would be impracticable for class members to seek redress individually.
19 Individualized litigation would also create a potential for inconsistent or
20 contradictory judgments and increase the delay and expense to all parties and the
21 court system. By contrast, the class action device presents far fewer management
22 difficulties and provides the benefits of single adjudication, economy of scale, and
23 comprehensive supervision by a single court.

24 99. Particular Issues. The claims of Plaintiffs and Class members involve
25 common issues that may be adjudicated on a classwide basis pursuant to Rule
26 23(c)(4).

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FIRST CLAIM FOR RELIEF
GENDER VIOLENCE, Cal. Civ. Code § 52.4
(Against Defendants Sutton, the Medical Staff, and Huntington Hospital)

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

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

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

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

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

103. Upon information and belief, Sutton intentionally and without consent of Plaintiffs or Class members, made unpermitted, harmful, and offensive sexual and/or other physical intrusion, invasion, or contact with Plaintiffs and Class members in violation of Cal. Civ. Code § 52.4. At all relevant times, Defendant Sutton acted as a duly authorized agent, servant, and/or employee of Huntington Hospital and the Medical Staff.

104. Defendant Sutton carried out such actions and conduct as an employee, agent, and/or representative of Huntington and the Medical Staff, which provide medical treatment to the public.

1 105. Defendants Huntington Hospital and the Medical Staff are liable and
2 vicariously liable for Defendant Sutton's conduct.

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

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

13 108. As a proximate result of Sutton's acts, Plaintiffs and the Class
14 members are entitled to actual damages, compensatory damages, punitive damages,
15 injunctive relief, any combination of those, or any other appropriate relief. Plaintiffs
16 and the Class members are also entitled to an award of attorney's fees and costs
17 pursuant to Cal. Civ. Code § 52.4.

18 **SECOND CLAIM FOR RELIEF**
19 **SEXUAL HARASSMENT, Cal. Civ. Code § 51.9**
20 **(Against Defendants Sutton, the Medical Staff, and Huntington)**

21 109. Plaintiffs restate and incorporate herein by reference the preceding
22 paragraphs as if fully set forth herein.

23 110. During Plaintiffs and the Class members' time as patients in the care
24 of Defendants Sutton, Huntington, and the Medical Staff, Sutton intentionally,
25 recklessly, and wantonly made sexual advances, solicitations, requests, demands for
26 sexual compliance of a hostile nature based on Plaintiffs and the Class members'
27 gender that were unwelcome, pervasive, and severe, including but not limited to
28 Sutton groping and fondling Plaintiffs' and the Class members' breasts and vaginas,

1 and making lewd and inappropriate comments and propositions of a sexual nature,
2 all under the supervision of Defendants Huntington Hospital and the Medical Staff,
3 and acting in the course and scope of his agency, representation, and/or
4 employment with Defendants Huntington Hospital and the Medical Staff.

5 111. The incidents of abuse and harassment outlined herein above took
6 place while Plaintiffs and Class members were under the control of Sutton, the
7 Medical Staff, and Huntington, in their capacity and position as supervisors of their
8 own physicians, medical professionals, and staff.

9 112. During Plaintiffs' and the Class members' time as patients in the care
10 of Defendants Sutton, Huntington, and the Medical Staff, Sutton intentionally,
11 recklessly, and wantonly did acts which resulted in harmful and offensive contact
12 with intimate parts of their persons, including but not limited to, using his position
13 of authority and trust to force Plaintiffs and Class members to endure Sutton's
14 inappropriate sexual touching and comments.

15 113. Because of Plaintiffs' and the Class members' patient relationships
16 with Sutton, the Medical Staff, and Huntington, Plaintiffs and the Class members
17 were unable to easily terminate the relationship they had with Defendant Sutton.

18 114. Because of Sutton's position of authority and trust, physical seclusion
19 of Plaintiffs and the Class members, and Plaintiffs' and Class members' mental and
20 emotional states, Plaintiffs and Class members were unable to, and did not and
21 could not, give consent to such acts.

22 115. Even though Defendants Huntington Hospital and the Medical Staff
23 knew or should have known of these activities by Sutton, they did nothing to
24 investigate, supervise, or monitor Sutton to ensure the safety of the patients in their
25 care.

26 116. Because of Plaintiffs' and Class members' patient relationships with
27 Defendants, Plaintiffs and Class members were unable to easily terminate the
28 doctor-patient relationships they had with Defendants.

1 117. A corporation is a “person” within meaning of Cal. Civ. Code § 51.9,
2 which subjects persons to liability for sexual harassment within a business, service,
3 or professional relationship, and such an entity defendant may be held liable under
4 this statute for the acts of its employees. Further, principles of ratification apply
5 when the principal ratifies the agent’s originally unauthorized harassment, as is
6 alleged to have occurred herein.

7 118. Defendants’ conduct (and the conduct of their agents) was a breach of
8 their duties to Plaintiffs and Class members.

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

17 **THIRD CLAIM FOR RELIEF**
18 **SEXUAL ASSAULT**
19 **(Against Defendant Sutton)**

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

22 121. Defendant Sutton, in doing the things herein alleged, including
23 intending to subject Plaintiffs and Class members to numerous instances of sexual
24 abuse and molestation during their time in the care of Defendants Sutton, the
25 Medical Staff, and Huntington, beginning in or around 1989, and lasting for the
26 duration of Plaintiffs’ and Class members’ time as patients in Defendants’ care,
27 through or around October 2018, were intended to cause harmful or offensive
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1 contact with Plaintiffs and Class members' persons, or intended to put Plaintiffs
2 and Class members in imminent apprehension of such contact.

3 122. In doing the things herein alleged, Defendants put Plaintiffs and Class
4 members in imminent apprehension of a harmful or offensive contact by Sutton and
5 actually believed that Sutton had the ability to make harmful or offensive contact
6 with Plaintiffs' and Class members' persons.

7 123. Plaintiffs and the Class members did not consent to Sutton's intended
8 harmful or offensive contact with Plaintiffs and Class members' persons, or intent
9 to put Plaintiffs and Class members in imminent apprehension of such contact.

10 124. In doing the things herein alleged, Sutton violated Plaintiffs' and Class
11 members' rights, pursuant to Cal. Civ. Code § 43, of protection from bodily
12 restraint or harm, and from personal insult.

13 125. In doing the things herein alleged, Sutton violated his duty, pursuant to
14 Cal. Civ. Code § 1708, to abstain from injuring the person of Plaintiffs and Class
15 members or infringing upon their rights.

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

24 127. Plaintiffs and Class members are informed and based thereon allege
25 that the conduct of Defendants was oppressive, malicious, and despicable in that it
26 was intentional and done in conscious disregard for the rights and safety of others,
27 and were carried out with a conscious disregard of their right to be free from such
28 tortious behavior, such as to constitute oppression, fraud, or malice pursuant to Cal.

1 Civ. Code § 3294, entitling Plaintiffs and Class members to punitive damages
2 against Defendants in an amount appropriate to punish and set an example of
3 Defendants.

4 **FOURTH CLAIM FOR RELIEF**
5 **SEXUAL BATTERY, Cal. Civ. Code § 1708.5**
6 **(Against Defendant Sutton)**

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

9 129. During Plaintiffs' and Class members' time as patients in the care of
10 Defendants Sutton, the Medical Staff, and Huntington, Sutton intentionally,
11 recklessly, and wantonly did acts which were intended to, and did result in harmful
12 and offensive contact with intimate parts of Plaintiffs and Class members' persons,
13 including but not limited to being subjected to numerous instances of sexual
14 harassment and abuse by Sutton, beginning in or around 1989, and lasting for the
15 duration of Plaintiffs and Class members' time as patients in Defendants' care, all
16 while Sutton acted in the course and scope of his actual and/or apparent agency
17 and/or employment with Huntington Hospital and the Medical Staff.

18 130. Sutton performed the aforementioned acts with the intent to cause a
19 harmful or offensive contact with intimate parts of Plaintiffs and Class members'
20 bodies, which would offend a reasonable sense of personal dignity. Further, said
21 acts did cause a harmful or offensive contact with intimate parts of Plaintiffs' and
22 Class members' persons that would offend a reasonable sense of personal dignity.

23 131. Defendant Sutton carried out such actions and conduct as an employee,
24 agent, and/or representative of Huntington and the Medical Staff, which provide
25 medical treatment to the public.

26 132. Because of Sutton's position of authority and trust as a physician, and
27 their mental and emotional state as his patients, Plaintiffs and Class members did
28 not give meaningful consent to such acts.

1 133. As a direct, legal, and proximate result of the acts of Sutton, the
2 Medical Staff, and Huntington, Plaintiffs and Class members sustained serious and
3 permanent injuries to their persons, all of this damage in an amount to be shown
4 according to proof and within the jurisdiction of the Court.

5 134. As a direct result of the sexual abuse by Sutton, Plaintiffs and Class
6 members have difficulty in reasonably or meaningfully interacting with others,
7 including those in positions of authority over them such as doctors, and in intimate,
8 confidential, and familial relationships, due to the trauma of the sexual abuse
9 inflicted upon them by Defendants Sutton, the Medical Staff, and Huntington. This
10 inability to interact creates conflict with Plaintiffs and Class members' values of
11 trust and confidence in others, and has caused Plaintiffs and Class members
12 substantial emotional distress, anxiety, nervousness, and fear. As a direct result of
13 the sexual abuse and molestation by Sutton, Plaintiffs and Class members suffered
14 immensely, including, but not limited to, encountering issues with a lack of trust,
15 various psychological sequelae, depressive symptoms, anxiety, nervousness, and
16 self-medicating behavior.

17 135. Upon information and belief, the conduct of Sutton was oppressive,
18 malicious, and despicable in that it was intentional and done in conscious disregard
19 for the rights and safety of others, and was carried out with a conscious disregard of
20 Plaintiffs' and Class members' right to be free from such tortious behavior, such as
21 to constitute oppression, fraud, or malice pursuant to Cal. Civ. Code § 3294,
22 entitling Plaintiffs and Class members to punitive damages against Sutton in an
23 amount appropriate to punish and set an example of Sutton.

24 **FIFTH CLAIM FOR RELIEF**
25 **NEGLIGENCE**

26 **(Against Defendants Huntington Hospital and the Medical Staff)**

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

1 137. From approximately 1989 through 2018, Sutton was an actual and/or
2 apparent, duly authorized agent, servant, and/or employee of Huntington Hospital
3 and the Medical Staff, providing medical treatment and services through the
4 Huntington system. Defendants Huntington Hospital and the Medical Staff knew
5 and/or should have known that Sutton had and was capable of sexually, physically,
6 and mentally abusing and harassing Plaintiffs or other victims.

7 138. Defendants Huntington Hospital and the Medical Staff had special
8 duties to protect the Plaintiffs and Class members, when such individuals were
9 patients entrusted to Defendants' care. Plaintiffs and Class members' care and
10 health were entrusted to Defendants. Defendants Huntington Hospital and the
11 Medical Staff voluntarily accepted the entrusted care of Plaintiffs and Class
12 members. As such, Defendants Huntington Hospital and the Medical Staff owed
13 Plaintiffs and Class members a special duty of care that medical professionals
14 dealing with vulnerable medical patients owe to protect them from harm. The duty
15 to protect and warn arose from the special, trusting, confidential, and fiduciary
16 relationship between Defendants Huntington Hospital and the Medical Staff on the
17 one hand and Plaintiffs and Class members on the other hand.

18 139. Defendants Huntington and the Medical Staff breached their duty of
19 care to Plaintiffs and Class members by allowing Sutton to come into contact with
20 Plaintiffs and Class members without effective supervision; by failing to adequately
21 hire, supervise, and retain Sutton, whom they permitted and enabled to have access
22 to Plaintiffs and Class members; by concealing from Plaintiffs and Class members,
23 the public, and law enforcement that Sutton was sexually harassing, molesting, and
24 abusing patients; by holding Sutton out to Plaintiffs and Class members as being of
25 high moral and ethical repute, in good standing and trustworthy; and by failing to
26 report Sutton's misconduct to the California Medical Board.

27 140. Defendants Huntington Hospital and the Medical Staff further
28 breached their duties to Plaintiffs and Class members by failing to investigate or

1 otherwise confirm or deny such facts of sexual abuse by Sutton, failing to reveal
2 such facts to Plaintiffs and Class members, the community and law enforcement
3 agencies, and by placing Sutton into a position of trust and authority, holding him
4 out to Plaintiffs, Class members, and the public as being in good standing and
5 trustworthy.

6 141. Defendants Huntington Hospital and the Medical Staff breached their
7 duties to Plaintiffs and Class members by failing to adequately monitor and
8 supervise Defendant Sutton and failing to prevent Defendant Sutton from
9 committing wrongful sexual acts with medical patients, including Plaintiffs and
10 Class members. Defendants Huntington and Medical Staff's past records of sexual
11 misconduct by Sutton caused Defendants Huntington Hospital and its Medical Staff
12 to know, or gave them information where they should have known, of Sutton's
13 incapacity to serve as a physician – especially an obstetrician/gynecologist –
14 providing for the safe care of female patients.

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

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SIXTH CLAIM FOR RELIEF
GROSS NEGLIGENCE AND/OR WANTON AND RECKLESS MISCONDUCT
(Against Defendants Sutton, the Medical Staff, and Huntington Hospital)

143. Plaintiffs restate and incorporate herein by reference the preceding paragraphs as if fully set forth herein, and to the extent necessary, plead this claim for relief in the alternative.

144. Huntington Hospital and the Medical Staff owed Plaintiffs and Class members a duty to use due care to ensure their safety and freedom from sexual assault, harassment, abuse, and molestation while interacting with their employees, representatives, and/or agents, including Defendant Sutton.

145. Defendant Sutton owed Plaintiffs and Class members a duty of due care in carrying out his duties in a reasonable safe manner as an employee, agent, and/or representative of Huntington Hospital and the Medical Staff.

146. By seeking medical treatment from Defendant Sutton in the course of his employment, agency, and/or representation of Huntington Hospital and the Medical Staff, a special, confidential, and fiduciary relationship between Plaintiffs and Class members and Defendant Sutton was created, resulting in Defendant Sutton owing Plaintiffs and Class members a duty to use due care.

147. Huntington Hospital and the Medical Staff's failure to adequately supervise Defendant Sutton – especially once they knew or should have known of complaints regarding his nonconsensual sexual touching, harassment, boundary violations, and assaults during his treatment of patients – was so reckless as to demonstrate a substantial lack of concern for whether an injury would result to Plaintiffs and Class members.

148. Defendant Sutton's conduct in sexually assaulting, harassing, abusing, and violating Plaintiffs and Class members in the course of his employment, agency, and/or representation of Huntington and the Medical Staff and under the

1 guise of rendering medical care was so reckless as to demonstrate a substantial lack
2 of concern for whether an injury would result to Plaintiffs and Class members.

3 149. Huntington Hospital and the Medical Staff's conduct demonstrated a
4 willful disregard for precautions to ensure Plaintiffs and Class members' safety.

5 150. Huntington Hospital and the Medical Staff's conduct demonstrated a
6 willful disregard for Plaintiffs and Class members' rights.

7 151. Huntington Hospital and the Medical Staff breached duties owed to
8 Plaintiffs and Class members and were grossly negligent when they conducted
9 themselves by the actions described above, said acts having been committed with
10 reckless disregard for Plaintiffs and Class members' health, safety, Constitutional,
11 and/or statutory rights, and with a substantial lack of concern as to whether an
12 injury would result.

13 152. As a result of Defendants' conduct, Plaintiffs and Class members
14 sustained severe emotional distress and physical pain, emotional anguish, fear,
15 anxiety, humiliation, embarrassment, and other physical and emotional injuries, and
16 damages (both economic and noneconomic), in the past, present and future, for
17 which this claim is made. The injuries suffered by Plaintiffs and Class members are
18 substantial, continuing, and permanent.

19 153. Defendants' conduct as described herein was grossly negligent and/or
20 wanton and reckless because it was despicable and was committed maliciously,
21 fraudulently, and/or oppressively with the wrongful intention of injuring Plaintiffs
22 and Class members and with a willful and conscious disregard of Plaintiffs and
23 Class members' rights, justifying an award of punitive damages.

24 **SEVENTH CLAIM FOR RELIEF**
25 **NEGLIGENT SUPERVISION**

26 **(Against Defendants Huntington Hospital and the Medical Staff)**

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

1 155. By virtue of Plaintiffs and Class members' special relationship with
2 Defendants Huntington and the Medical Staff, and Huntington and the Medical
3 Staff's relationship with Defendant Sutton, Defendants Huntington Hospital and the
4 Medical Staff owed Plaintiffs and Class members a duty to provide reasonable
5 supervision of Sutton, to use reasonable care in investigating Sutton's background,
6 and to provide adequate warning to Plaintiffs and Class members of Sutton's
7 dangerous propensities and unfitness. As organizations responsible for, and
8 entrusted with, the welfare of patients, Huntington and the Medical Staff had a duty
9 to both protect the Plaintiffs and Class members from being preyed upon by sexual
10 predators, and to supervise and monitor Sutton such that he would not be placed in
11 seclusion with vulnerable medical patients, including the Plaintiffs and Class
12 members.

13 156. Huntington and the Medical Staff expressly and implicitly represented
14 that their physicians, faculty, and staff, including Sutton, were not a sexual threat to
15 those individuals and others who would fall under Sutton's influence, control,
16 direction, and care.

17 157. Defendants Huntington Hospital and the Medical Staff, by and through
18 their respective agents, servants, and employees, knew or should have known of
19 Sutton's dangerous and exploitive propensities and that Sutton was an unfit agent
20 and physician. Despite such knowledge, Defendants Huntington Hospital and the
21 Medical Staff negligently failed to supervise Sutton in his position of trust and
22 authority as a physician and authority figure over patients, such that he was able to
23 commit wrongful acts of sexual misconduct against Plaintiffs and Class members.
24 Defendants Huntington Hospital and the Medical Staff failed to provide reasonable
25 supervision of Sutton, failed to use reasonable care in investigating Sutton, and
26 failed to provide adequate warning to Plaintiffs of Sutton's dangerous propensities
27 and unfitness. Defendants Huntington Hospital and the Medical Staff further failed
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1 to take reasonable steps to ensure the safety of patients, including Plaintiffs and
2 Class members, from sexual harassment, molestation, and abuse.

3 158. At no time during the periods of time alleged herein did Defendants
4 Huntington Hospital and the Medical Staff have in place a reasonable system or
5 procedure to investigate, supervise physicians or staff, including Sutton, to prevent
6 sexual harassment, molestation, and abuse of those individuals, nor did they
7 implement an effective system or procedure to oversee or monitor conduct toward
8 patients and others in Defendants Huntington Hospital and the Medical Staff's care.

9 159. Defendants Huntington Hospital and the Medical Staff were aware or
10 should have been aware of how vulnerable medical patients – especially ob/gyn
11 patients – were to sexual harassment, molestation, and abuse by physicians and
12 other persons of authority within Huntington Hospital.

13 160. Defendants Huntington Hospital and the Medical Staff were put on
14 notice, knew, and/or should have known that Sutton had previously engaged and
15 was continuing to engage in unlawful sexual conduct with patients and had
16 committed other felonies, for his own personal sexual gratification, and that it was
17 foreseeable that he was engaging, or would engage in illicit sexual activities with or
18 make entirely inappropriate sexual statements to Plaintiffs and Class members, and
19 others, under the cloak of the authority, confidence, and trust, bestowed upon him
20 by Defendants Huntington Hospital and the Medical Staff.

21 161. Defendants Huntington Hospital and the Medical Staff were placed on
22 actual or constructive notice that Sutton had molested and made entirely
23 inappropriate sexual statements to other patients during his actual and/or apparent
24 agency, service, and/or employment with Defendants Huntington Hospital and the
25 Medical Staff. However, Defendants Huntington Hospital and the Medical Staff did
26 not reasonably investigate, supervise, or monitor Sutton to ensure the safety of
27 patients.

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1 162. Defendants Huntington Hospital and the Medical Staff's conduct was a
2 breach of their duties to Plaintiffs and Class members.

3 163. Defendants Huntington Hospital and the Medical Staff breached their
4 duty to Plaintiffs by, *inter alia*, failing to adequately monitor and supervise Sutton
5 and prevent and stop Sutton from committing wrongful sexual acts with or making
6 entirely inappropriate sexual statements to patients, including Plaintiffs and Class
7 members.

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

16 **EIGHTH CLAIM FOR RELIEF**
17 **NEGLIGENT HIRING/RETENTION**
18 **(Against Defendants Huntington Hospital and the Medical Staff)**

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

21 166. By virtue of Plaintiffs' and Class members' special relationship with
22 Defendants, and Huntington and the Medical Staff's relation to Sutton, Defendants
23 Huntington Hospital and the Medical Staff owed Plaintiffs and Class members a
24 duty to not hire or retain Sutton, given his dangerous and exploitive propensities,
25 which Defendants Huntington Hospital and the Medical Staff knew or should have
26 known about had they engaged in a reasonable, meaningful, and adequate
27 investigation of his background prior to hiring or retaining him in subsequent
28 positions of agency, representation, and/or employment.

1 167. Defendants Huntington Hospital and the Medical Staff expressly and
2 implicitly represented that the physicians, including Defendant Sutton, were not a
3 sexual threat to patients and others who would fall under Defendant Sutton's
4 influence, control, direction, and guidance.

5 168. At no time during the periods of time alleged did Defendants
6 Huntington Hospital and/or the Medical Staff have in place a reasonable system or
7 procedure to investigate, supervise, and monitor its physicians and healthcare
8 professionals, including Sutton, to prevent pre-sexual grooming or sexual
9 harassment, molestation, and abuse of patients nor did they implement an effective
10 system or procedure to oversee or monitor conduct toward patients and/or others in
11 Defendants Huntington Hospital and the Medical Staff's care.

12 169. Defendants Huntington Hospital and the Medical Staff were aware or
13 should have been aware and understand how vulnerable female patients were to
14 sexual harassment, molestation, and abuse by physicians and other persons of
15 authority within the control of Defendants Huntington Hospital and the Medical
16 Staff prior to Plaintiffs' and Class members' sexual abuse by Sutton.

17 170. Defendants Huntington Hospital and the Medical Staff were put on
18 notice, and should have known, that Sutton had previously engaged and continued
19 to engage in unlawful sexual conduct with patients, and was committing other
20 felonies, for his own sexual gratification, and that it was, or should have known it
21 would have been, foreseeable that he was engaging, or would engage in illicit
22 sexual activities with or making entirely inappropriate sexual statements to
23 Plaintiffs and Class members, under the cloak of his authority, confidence, and
24 trust, bestowed upon him through Defendants Huntington Hospital and the Medical
25 Staff.

26 171. Even though Defendants Huntington Hospital and the Medical Staff
27 knew or should have known of these sexually illicit activities and statements by
28 Sutton, Defendants Huntington Hospital and the Medical Staff failed to use

1 reasonable care in investigating Defendant Sutton and did nothing to reasonably
2 investigate, supervise, or monitor Sutton to ensure the safety of their patients.

3 172. Defendants Huntington Hospital and the Medical Staff's conduct was a
4 breach of their duties to Plaintiffs and Class members.

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

14 174. Defendants Huntington Hospital and the Medical Staff owed Plaintiffs
15 and Class members a duty to take reasonable protective measures to protect
16 Plaintiffs and Class members and other patients from the risk of sexual harassment,
17 molestation, and abuse by Defendant Sutton by properly warning, training, or
18 educating Plaintiffs and Class members and others about how to avoid such a risk.

19 175. Defendants Huntington Hospital and the Medical Staff breached their
20 duty to take reasonable protective measures to protect Plaintiffs and other patients
21 from the risk of sexual harassment, molestation, and abuse by Defendant Sutton,
22 such as the failure to properly warn, train or educate Plaintiffs and Class members
23 about how to avoid such a particular risk that Sutton posed—of sexual misconduct.

24 176. Defendants Huntington Hospital and the Medical Staff breached their
25 duty to take reasonable protective measures to protect Plaintiffs and Class members
26 from the risk of sexual harassment, molestation, and abuse by Defendant Sutton, by
27 failing to supervise and stop their actual and/or apparent agents, representatives,
28

1 and/or employees, including Sutton, from committing wrongful sexual acts with
2 patients, including Plaintiffs and Class members.

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

12 **NINTH CLAIM FOR RELIEF**
13 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**
14 **(Against Defendants Huntington Hospital and the Medical Staff)**

15 178. Plaintiffs restate and incorporate herein by reference the preceding
16 paragraphs as if fully set forth herein.

17 179. Defendants Huntington Hospital and the Medical Staff owed Plaintiffs
18 and Class members a duty to take reasonable protective measures to protect them
19 and other patients from the risk of sexual harassment, molestation, and abuse by
20 Defendant Sutton by properly warning, training, or educating Plaintiffs and Class
21 members and others about how to avoid such a risk.

22 180. Defendants Huntington Hospital and the Medical Staff breached their
23 duty to take reasonable protective measures to protect Plaintiffs, Class members
24 and other patients from the risk of sexual harassment, molestation, and abuse by
25 Defendant Sutton, such as the failure to properly warn, train, or educate Plaintiffs
26 and Class members and other patients about how to avoid such a particular risk that
27 Sutton posed—of sexual misconduct.
28

1 181. Defendants Huntington Hospital and the Medical Staff breached their
2 duty to take reasonable protective measures to protect Plaintiffs, Class members,
3 and other patients from the risk of sexual harassment, molestation, and abuse by
4 Defendant Sutton, by failing to supervise and stop their agents, representatives,
5 and/or employees, including Sutton, from committing wrongful sexual acts with
6 patients, including Plaintiffs and Class members.

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

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs, individually and on behalf of the Class defined
18 above, respectfully requests that the Court:

19 A. Certify this action as a class action under Rule 23 of the Federal Rules
20 of Civil Procedure, appoint Plaintiffs as class representatives, and appoint the
21 undersigned counsel as class counsel;

22 B. Award Plaintiffs and Class members compensatory, restitutionary,
23 rescissory, general, consequential, punitive, and/or exemplary damages in an
24 amount to be determined at trial;

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

26 D. Enter appropriate equitable relief;

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

28 and

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

2 **DEMAND FOR JURY TRIAL**

3 Plaintiffs demand a trial by jury on all issues so triable.

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Dated: January 7, 2019


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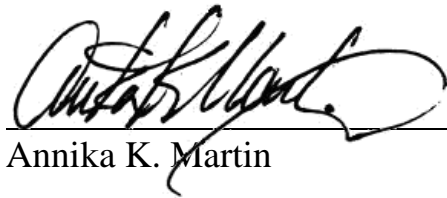
Counsel for Plaintiffs and the Putative Class

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CERTIFICATE OF SERVICE

I, Annika K. Martin, hereby certify that on this 7th day of January, 2019, I electronically filed SECOND AMENDED CLASS ACTION COMPLAINT with the Clerk of the United States District Court for the Central District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

I declare under penalty of perjury that the foregoing is true and correct.
Executed in New York, New York on January 7, 2019.



Annika K. Martin