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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **IN AND FOR THE COUNTY OF LOS ANGELES**

9 TIFFANY THOMAS LOPEZ, an individual,
10 Plaintiff,

Case No.: **BC 6 44 417**
Judge: _____
Department: _____

11 v.

COMPLAINT FOR DAMAGES FOR:

12 DR. LARRY NASSAR, an individual;
13 MICHIGAN STATE UNIVERSITY, a
Michigan Entity of Form Unknown, and DOES
14 1 through 500.

15 Defendants.

- 1) DEPRIVATION OF CIVIL RIGHTS (42 U.S.C. §1983)
- 2) VIOLATION OF BANE ACT (*CIVIL CODE* §52.1)
- 3) SEXUAL ABUSE AND HARASSMENT IN THE EDUCATIONAL SETTING (*EDUCATION CODE* §220)
- 4) TITLE IX (20 U.S.C. §1681)
- 5) GENDER VIOLENCE (*CIVIL CODE* § 52.4);
- 6) SEXUAL HARASSMENT (*CIVIL CODE* § 51.9);
- 7) SEXUAL ASSAULT;
- 8) SEXUAL BATTERY (*CIVIL CODE* § 1708.5);
- 9) UNFAIR BUSINESS PRACTICES (*BUSINESS & PROFESSIONS CODE* § 17200);
- 10) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
- 11) CONSTRUCTIVE FRAUD (*CIVIL CODE* § 1573);
- 12) NEGLIGENCE;
- 13) NEGLIGENT SUPERVISION;
- 14) NEGLIGENT HIRING/RETENTION;
- 15) NEGLIGENT FAILURE TO WARN, TRAIN OR EDUCATE.

26 DEMAND FOR JURY TRIAL.

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1 COMES NOW, Plaintiff TIFFANY THOMAS LOPEZ (“TIFFANY THOMAS” or
2 “Plaintiff” hereinafter), who complains and alleges as follows:

3 **GENERAL ALLEGATIONS AS TO THE PARTIES**

4 1. This action seeks to vindicate the rights of a young woman who was sexually
5 abused, harassed and molested at the hands of Defendant DR. LARRY NASSAR (hereinafter
6 referred to as, “NASSAR” or “THE PERPETRATOR”), while she was a student and collegiate,
7 scholarship softball player at Defendant MICHIGAN STATE UNIVERSITY (hereinafter
8 referred to as “MSU”). The Plaintiff, TIFFANY THOMAS, is a native Californian who was
9 actively recruited and lured to East Lansing, Michigan by MSU recruiters to play softball on
10 scholarship, where she was sexually abused by THE PERPETRATOR on over 10 occasions,
11 under the guise of legitimate medical treatment. Upon reporting her sexual abuse by NASSAR to
12 the highest ranking employees within MSU’s Training Staff in or around 2000, the Plaintiff was
13 intimidated, coerced, and threatened by high-ranking MSU Training Staff and told that she was
14 not sexually abused by NASSAR and to not make such allegations. The Plaintiff was then
15 directed to return to NASSAR for purportedly legitimate medical adjustments, and NASSAR
16 continued to sexually abuse the Plaintiff. This action is based on the concerted effort of MSU
17 and its employees to conceal sexual abuse, intimidate the Plaintiff (a young woman barely over
18 18 years old), and continue to allow NASSAR to have unfettered sexual access to athletes, as
19 well as patients, student athletes, and/or minor children in his care; all done in order to protect
20 MSU’s reputation and protect its funding from donors and the government. As an organization,
21 MSU protected NASSAR, given the immense national and international acclaim that NASSAR
22 had in the gymnastics community. This acclaim fueled funding and respect for MSU’s athletics
23 programs, which generated substantial economic benefit for MSU.

24 **THE PLAINTIFF, TIFFANY THOMAS**

25 2. The Plaintiff is an African-American female who was born in October of 1980
26 and who was raised in the Southern California area. As a youngster, the Plaintiff was a standout
27 softball player and drew interest from various national, collegiate softball programs throughout
28 the United States. The Plaintiff was directly contacted, recruited, and lured to attend MSU on

1 scholarship for softball, who aggressively recruited the Plaintiff. At the time in 1997, MSU had
2 the 31st best record in NCAA Division 1 Women's Softball. Defendant MSU, through its
3 employees, agents, and/or servants, met with the Plaintiff's parents in California, spoke to the
4 Plaintiff's club coaches in California, and actively encouraged and recruited the Plaintiff to
5 attend Defendant MSU. After a storied high school softball career in Southern, California, the
6 Plaintiff accepted a full athletic scholarship for softball at MSU. Currently the Plaintiff resides in
7 Los Angeles County California.

8 3. In the fall of 1998, the Plaintiff, still a minor at the time, moved to MSU where
9 she began her studies at MSU and training for softball. In late 1998, the Plaintiff developed
10 chronic lower-back pain during her fall training for softball at MSU, and was referred to
11 NASSAR for purported treatment for this pain. It was at this point (as detailed further, *supra*)
12 that NASSAR gain access to the Plaintiff and sexually abused her.

13 4. After pressured and coerced into designating herself as medically inactive, due to
14 her chronic medical conditions, and after she had reported her abuse by NASSAR's to high-
15 ranking MSU Training Staff, the Plaintiff quit school in her senior year in 2001, and returned to
16 Los Angeles County, California. During the entire time that Plaintiff was at MSU (from
17 approximately fall of 1998 to 2001), the Plaintiff never relinquished her residence or domicile in
18 California.

19 **DEFENDANT, DR. LARRY NASSAR-THE PERPETRATOR**

20 5. Defendant NASSAR, at all times mentioned herein was and is an adult male
21 individual, who Plaintiff is informed and believes lived in the State of Michigan during the
22 period of time during which the sexual abuse, harassment, and molestation alleged herein took
23 place and is currently a citizen of the State of Michigan. Plaintiff is informed and believes, and
24 on that basis alleges that in 1985, NASSAR received a degree in athletic training from MSU, and
25 practiced as a trainer for many years. Plaintiff is informed and believes, and on that basis alleges
26 that in 1993, received his osteopathic medical degree from MSU and completed his family
27 practice residency at St. Lawrence Hospital in 1996, followed by a primary care sports medicine
28 fellowship at MSU in 1997. Plaintiff is informed and believes, and on that basis alleges that since

1 that time, NASSAR has been employed with MSU's training and/or Sports Medicine
2 department, and has served as the team physician for women's gymnastics and the women's
3 crew team. Plaintiff is informed and believes, and on that basis alleges that in NASSAR further
4 provided treatment to athletes from various MSU athletic programs, including but not limited to
5 softball, as well as treatment to non-collegiate gymnasts and athletes from the Michigan area,
6 and beyond. During this period, Plaintiff is informed and believes, and on that basis alleges that
7 NASSAR sexually abused and molested dozens of female athletes, including the Plaintiff,
8 through use of his position, authority and trust as an osteopathic medical doctor. It was not until
9 September of 2016 that NASSAR was fired from MSU, and his systematic sexual abuse of
10 female athletes at MSU was halted. At all times herein alleged, NASSAR was an employee,
11 agent, and/or servant of Defendant MSU and DOES 1 through 500, and/or was under their
12 complete control and/or active supervision.

13 6. Plaintiff is informed and believes that the NASSAR was accepted onto the staff of
14 USA Gymnastics as a trainer in 1986 and then as the National Medical Director and the National
15 Team Physician for the women's gymnastics team in 1996. NASSAR was also responsible for
16 coordinating the care for USA Gymnastics and for participants and members at every national
17 and international competition, and has traveled with USA Gymnastics at the World Artistic
18 Gymnastics Championships in 1991, 1995, 1999, 2003, and 2007. NASSAR was also sent by
19 USA Gymnastics to various international competitions including but not limited to: the 1987 Pan
20 American Games, the 1996 Olympic Games, the 2000 Olympic Games, the 2007 Pan American
21 Games, the 2008 Olympic Games, and the 2012 Olympic games. NASSAR continued to function
22 in this capacity at USA Gymnastics until in or around the middle of 2016.

23 7. NASSAR was retained by MSU as an Osteopathic Physician and certified athletic
24 trainer to provide care, treatment, and athletic training to the MSU athletes and as well as other
25 local athletes, most of which were minors or very young adults, while in his care. It was through
26 this position of trust and confidence, that NASSAR exploited the Plaintiff, in perpetrating his
27 sexual abuse, molestation and harassment upon Plaintiff. All of the sexually abusive and

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1 harassing conduct alleged herein was done for the NASSAR's sexual gratification and was based
2 upon the gender of TIFFANY THOMAS.

3 8. It is on information and reasonable belief that NASSAR was using his apparent
4 authority and position within MSU over the minor and young adult athletes, including the
5 Plaintiff, for NASSAR to sexually abused, molested, and harass multiple other athletes including
6 numerous gymnasts and athletes as an employee of Michigan State University.

7 9. In the event the NASSAR is prosecuted and convicted of a felony for the
8 conducted alleged herein, the Plaintiff requests leave to amend the instant Complaint, such that a
9 request for attorneys' fees can be made against NASSAR pursuant to *Code of Civil Procedure* §
10 1021.4.

11 DEFENDANT, MSU

12 10. Defendant MSU at all times mentioned herein was and is a business entity of form
13 unknown, having its principal place of business in the State of Michigan. Plaintiff is informed
14 and believes MSU is a public land grant university, established in 1855, in East Lansing,
15 Michigan. Defendant MSU is a research university that proclaims itself to: "...work every day to
16 advance the common good in uncommon ways. Together we tackle some of the world's toughest
17 problems to find solutions that make life better." In advertising, Defendant MSU claims "[o]ur
18 three core, interwoven values are quality, inclusiveness, and connectivity." Furthermore,
19 Defendant MSU proclaims itself to be one of the Top 100 universities in the world, and that it in
20 2014-2015, it received \$584 million in external funding for research and that it annually receives
21 \$50 million in international funding. In 2015-2016, MSU had a general fund budget of over \$1
22 billion.

23 11. Defendant MSU's further claims that it has amongst the best athletics programs in
24 the nation. As Defendant MSU's own website declares, its "dedication and excellence was
25 recognized by CBSSports.com in its annual Best in College Sports Award, which rated MSU's
26 athletics program No. 2 in the nation across the board, noting it 'has become a model of
27 consistency, and its teams have proven capable of winning big and graduating players.'"
28

1 12. Through his ubiquity and perceived admiration in the National and International
2 gymnastics community, NASSAR’s history and reputation for providing care to Olympians and
3 the USA National Gymnastics team derived continuous and substantial economic benefit to
4 MSU, its Sports Medicine Department and its athletics programs. NASSAR’s reputation as the
5 Olympic gymnastics doctor, created confidence, trust, and pedigree in the Defendant MSU
6 Sports Medicine program which furthered MSU’s financial and athletics interests. Plaintiff is
7 informed and believes and on that basis alleges that by having NASSAR, the Olympic doctor,
8 employed at the MSU facilities, MSU benefitted financially by attracting better athletic recruits,
9 and providing treatment to non-collegiate athletes seeking perceived elite medical care.

10 13. Defendant MSU purposely conducts substantial business activities in the State of
11 California. Defendant MSU actively seeks and recruits minor athletes from California,
12 specifically the Los Angeles and Southern California area, to attend schooling at MSU.
13 Specifically, as to the Plaintiff, MSU contacted the Plaintiff in California, visited the Plaintiff in
14 California, sought out the Plaintiff, and ultimately, gave the Plaintiff a full athletic scholarship to
15 leave California and attend Defendant MSU to play softball. The Defendant MSU further
16 conducts business in the State of California by sending representatives to college fairs and
17 recruitment events to lure potential students to attend Defendant MSU.

18 14. Under the applicable laws, Defendant MSU and its Sports Medicine Department
19 and athletics departments, are organizations whose employees, agents, and/or servants are legally
20 “mandated reporters”, considering that Defendant MSU operates a medical facility, and its
21 employees’ duties require providing direct medical care. Furthermore, Defendant MSU is
22 governed by Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 *et*
23 *seq.*, and is required to investigate allegations of sexual assault, sexual abuse and sexual
24 harassment. Defendant MSU systematically failed to uphold the duties and requirements under
25 Title IX through a pattern, history and culture of willful disregard for allegations of sexual abuse.

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1 **DOE DEFENDANTS 1 THROUGH 500**

2 15. Defendants DOES 1 through 500, inclusive, and each of them, are sued herein
3 under said fictitious names. Plaintiff is ignorant as to the true names and capacities of DOES 1
4 through 500, whether individual, corporate, associate, or otherwise, and therefore sue said
5 Defendants by such fictitious names. When their true names and capacities are ascertained,
6 Plaintiff will request leave of Court to amend this Complaint to state their true names and
7 capacities herein.

8 16. NASSAR, Defendant MSU and DOES 1 through 500, inclusive, are sometimes
9 collectively referred to herein as "Defendants" and/or as "All Defendants"; such collective
10 reference refers to all specifically named Defendants as well as those fictitiously named herein.

11 17. Plaintiff is informed and believes, and on that basis alleges that at all times
12 mentioned herein, each Defendant was responsible in some manner or capacity for the
13 occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were proximately
14 caused by all said Defendants.

15 18. At all times mentioned herein, each and every Defendant was an employee, agent,
16 and/or servant of Defendant MSU and DOES 1 through 500, inclusive, and/or was under their
17 complete control and/or active supervision. Defendants and each of them are individuals,
18 corporations, partnerships and/or other entities that engaged in, joined in, and conspired with
19 other Defendants and wrongdoers in carrying out the tortuous and unlawful activities described
20 in this Complaint.

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

1 20. Plaintiff is informed and believes, and on that basis alleges that at all times
2 mentioned herein, Defendant NASSAR, Defendant MSU and DOES 1 through 500 were the
3 agents, representatives and/or employees of each and every other Defendant. In doing the things
4 hereinafter alleged, Defendants and each of them were acting within the course and scope of said
5 alternative personality, capacity, identity, agency, representation and/or employment and were
6 within the scope of their authority, whether actual or apparent.

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

15 **FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS BY TIFFANY THOMAS**

16 22. At all times material hereto, Plaintiff was a scholarship athlete and was under
17 Defendant MSU, NASSAR, and DOES 1 through 500's complete control, dominion, and
18 supervision. NASSAR worked for, was employed by, and/or an agent/servant of the Defendants
19 MSU and/or DOES 1 through 500, when NASSAR came into contact with the Plaintiff.

20 23. At all times material hereto, NASSAR was under the direct supervision,
21 management, agency and control of Defendants MSU and DOES 1 through 500, inclusive.
22 NASSAR was an osteopathic sports medicine physician hired, employed, supervised, and
23 retained by Defendant MSU, and DOES 1 through 500. While an osteopathic sports medicine
24 physician at Defendants, NASSAR's employment duties included coordinating the care for
25 Defendant MSU's athletic programs, including gymnastics and crew, while also providing
26 purported medical care to athletes from various programs including track, softball and other
27 sports. In addition, NASSAR was permitted to see patients from outside of the MSU campus,
28 including local non-collegiate gymnasts and athletes. The purported care offered by NASSAR

1 included, but was not limited to, osteopathic adjustments and kinesiology treatment to
2 participants and athletes of Defendants MSU and DOES 1 through 500, which included Plaintiff.
3 Plaintiff was a student athlete of Defendant MSU and DOES 1 through 500 and it is under these
4 circumstances that Plaintiff came to be under the direction and control of NASSAR who used his
5 position of authority and trust to molest and sexually abuse Plaintiff.

6 24. As a member and participant of Defendants MSU and DOES 1 through 500 while
7 NASSAR was an osteopathic physician, the Plaintiff was under NASSAR's direct supervision,
8 control and care, which created a special, confidential, and fiduciary relationship between
9 Plaintiff and NASSAR. Because of such relationship, NASSAR owed Plaintiff a duty of care.
10 Additionally, as the employers and supervisors of NASSAR with knowledge that he was in
11 contact with and providing medical care to young adults and minors, Defendants MSU and
12 DOES 1 through 500 were also in a special, confidential, and fiduciary relationship with
13 Plaintiff, owing the Plaintiff TIFFANY THOMAS a duty of care.

14 25. By assigning and employing NASSAR as a team physician and athletic physician
15 at Defendant MSU and DOES 1 through 500, Defendants MSU and DOES 1 through 500
16 represented to its student, its athletes, and the community that NASSAR was safe, trustworthy,
17 and of high moral and ethical repute, such that athletes and patients need not worry about having
18 NASSAR interact with, and provide care. Defendants did so in order to preserve their own public
19 image and reputation, so they could retain past athletes and recruit new athletes, thus allowing
20 donations and other financial support to continue flowing into their coffers for financial gain.

21 26. Plaintiff is informed and believes, and on that basis alleges, that Defendants knew
22 or should have known that NASSAR had engaged in unlawful sexually-related conduct in the
23 past, and/or was continuing to engage in such conduct. Defendants had a duty to disclose these
24 facts to Plaintiff, her parents and others, but negligently and/or intentionally suppressed,
25 concealed or failed to disclose this information. The duty to disclose this information arose by
26 the special, trusting, confidential, fiduciary relationship between Defendants and Plaintiff.
27 Specifically, the Defendant MSU knew that NASSAR was performing intravaginal adjustments
28 with his bare, ungloved hand and in isolation with young females, based on the following:

- 1 a. The Plaintiff, approximately 18 years old at the time, had a visit with
2 NASSAR where he touched her vagina, in order to purportedly heal back
3 pain she was having, under the guise of legitimate medical treatment. The
4 Plaintiff complained to a trainer on her softball team who responded by
5 saying that NASSAR was a world renowned doctor, and that it was
6 legitimate medical treatment. The Plaintiff continued with the purported
7 treatment;
- 8 b. As the purported treatments continued, NASSAR became more bold,
9 having the Plaintiff remove her pants, and then inserting his bare,
10 ungloved and unlubricated hand into her vagina. The Plaintiff, again,
11 reported to Defendant MSU training staff, this time a higher ranking
12 trainer. This trainer told the Plaintiff that the treatment sounded unusual
13 and that the Plaintiff needed to speak to an even higher level trainer in the
14 Department, who ended up being one of three individuals who supervised
15 the entire department at Defendant MSU;
- 16 c. When the Plaintiff went to see this individual, the Plaintiff was told by that
17 individual that what happened to the Plaintiff was not sexual abuse, that
18 NASSAR was a world renowned doctor, and that the Plaintiff was not to
19 discuss what happened with NASSAR and was to continue seeing him for
20 purported treatment. The Plaintiff continued to see NASSAR for
21 treatment;
- 22 d. Finally, in or around 2001, the Plaintiff refused to continue to see
23 NASSAR for these abusive and invasive procedures. Defendant MSU then
24 pressured and coerced the Plaintiff to declare herself medically inactive.
25 The Plaintiff was shunned from the Defendant MSU sports program, and
26 left Defendant MSU to return home to California.

27. Plaintiff is informed and believes, and on that basis alleges, that while Plaintiff
28 was a scholarship athlete of Defendant MSU and DOES 1 through 500, Defendants engaged in a
29 pattern and practice of ignoring complaints, failing to investigate sexual harassment and abuse
30 complaints, concealed information from abuse victims, and contributed to a sexually hostile
31 environment on campus at Defendant MSU.

32 28. It is upon information, and therefore belief, that Defendants MSU and DOES 1
33 through 500 had history and systemic problem in properly handling sexual harassment and
34 sexual abuse allegations, contrary to their Federal mandates under Title IX. This pattern and
35 practice was evidenced by U.S. Department of Education investigations which revealed that
36 there were "significant concerns" with the manner in which Defendant MSU handled sexual
37 assault allegations. Specifically, the investigation found that Defendant MSU often failed to
38 maintain appropriate documentation of: investigations, failed to make investigative reports in
39 investigations, failed at prevention of further harassment and assault, and lacked in assistance to
40 victims of sexual harassment or assault. Furthermore, Plaintiff is informed and believes and on

1 that basis alleges that subsequent reports in 2014 to Defendant MSU regarding NASSAR's
2 abusive contact illustrate that Defendant MSU had a culture of ignoring, minimizing and
3 sanitizing complaints from sexual abuse victims. In a 2014 report of sexual abuse and
4 molestation by NASSAR to Defendant MSU, the victim reported that NASSAR was sexually
5 aroused when he molested her (by inserting his hand into her vagina), but no documentation of
6 that fact existed in Defendant MSU's records, upon examination, and NASSAR was permitted to
7 remain in his position at Defendant MSU.

8 29. Plaintiff is informed and believes and on that basis alleges Defendants knew of, or
9 should have known, NASSAR's propensity and disposition to engage in sexual misconduct with
10 minors, patients and/or athletes before he sexually abused and molested Plaintiff, and knew of
11 the probability that he would molest minors, patients, and/or athletes with whom he came into
12 contact, such as Plaintiff.

13 30. Defendants failed to implement reasonable safeguards to avoid acts of unlawful
14 sexual conduct by NASSAR in the future, including avoiding placement of NASSAR in a
15 position where contact and interaction with vulnerable patients and athletes is an inherent
16 function. Defendants ignored and suppressed the past sexual misconduct NASSAR had engaged
17 in.

18 31. Plaintiff is informed and believes and on that basis alleges, that Defendants were
19 apprised, knew or should have known and/or were put on notice of NASSAR's past sexual abuse
20 of children, patients, and/or athletes, past claims and/or investigations, and his propensity and
21 disposition to engage in such unlawful activity and unlawful sexual activity with athletes and
22 patients, such that Defendants knew or should have known that NASSAR would commit
23 wrongful sexual acts with athletes and patients, including Plaintiff. Plaintiff is informed and
24 believes, and on that basis alleges that personnel and/or employment records and other records of
25 Defendants' reflect numerous incidents of inappropriate sexual contact and conduct with athletes
26 and patients by NASSAR and other professionals, employees, assistants, agents, supervisors and
27 others, including incidents occurring both on and off the physical premises of such Defendants.
28 Based on these records, Defendants knew and/or should have known of NASSAR's history of

1 sexual abuse, past claims and/or past investigations, and his propensity and disposition to engage
2 in unlawful activity and unlawful sexual activity with athletes and patients, such that Defendants
3 knew or should have known that NASSAR would commit wrongful sexual acts with those
4 athletes and patients, including Plaintiff.

5 32. Because of the relationship between Plaintiff and Defendants, Defendants had an
6 obligation and duty under the law not to hide material facts and information about NASSAR's
7 past, and his deviant sexual behavior and propensities. Additionally, Defendants had an
8 affirmative duty to inform, warn, and institute appropriate protective measures to safeguard
9 athletes and patients who were reasonably likely to come in contact with NASSAR. Defendants
10 willfully refused to notify, give adequate warning and implement appropriate safeguards, thereby
11 creating the peril that ultimately damaged Plaintiff.

12 33. Plaintiff is informed and believes and on that basis alleges that prior to Plaintiff's
13 sexual abuse by NASSAR, Defendants engaged in a pattern and practice of employing sexual
14 abusers at Defendant MSU. Defendants concealed these facts from athletes and patients, their
15 parents, the Los Angeles community, the Michigan community, the public at large, the United
16 States government, various local governments, and law enforcement agencies.

17 34. Defendant MSU's internal policies provide that "[a]ll University employees... are
18 expected to promptly report sexual misconduct or relationship violence that they observe or learn
19 about and that involves a member of the University community (faculty, staff or student) or
20 occurred at a University event or on University property." They go further to state that: "[t]he
21 employee must report all relevant details about the alleged relationship violence or sexual
22 misconduct that occurred on campus or at a campus-sponsored event..." These policies were
23 violated when the Plaintiff reported her abuse by NASSAR, and no further action was taken.

24 35. Plaintiff is informed and believes and on that basis alleges that as part of
25 Defendants' conspiratorial and fraudulent attempt to hide NASSAR's propensity to sexually
26 abuse and molest patients and athletes, and prior sexual misconduct with children, from public
27 scrutiny and criminal investigation, Defendants implemented various measures designed to make

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1 NASSAR's conduct harder to detect and ensure minors, athletes and/or patients with whom he
2 came into contact, such as Plaintiff, would be sexually abused, including:

- 3 a. Permitting NASSAR to remain in a position of authority and trust after
4 Defendants knew or should have known that he molested athletes and patients;
- 5 b. Placing NASSAR in a separate and secluded environment, at Defendant MSU and
6 DOES 1 through 500, including assigning him unfettered access and control over
7 athletes and patients that included individual and private examinations, private
8 osteopathic adjustments often without a chaperone, and allowing NASSAR to
9 physically and sexually interact with the children, athletes and/or patients,
10 including Plaintiff;
- 11 c. Failing to disclose NASSAR's prior record of misconduct, sexual abuse,
12 harassment and molestation and his propensity to commit such acts towards
13 children, athletes and patients in Defendants MSU and DOES 1 through 500's
14 program, the public at large, and law enforcement;
- 15 d. Allowing NASSAR to have unsupervised and un-controlled access to minors,
16 athletes and patients, including the Plaintiff TIFFANY THOMAS;
- 17 e. Holding out NASSAR to Plaintiff, her parents, other patients and athletes at
18 Defendants MSU and DOES 1 through 500, and the public at large as a
19 trustworthy and honest person of high ethical and moral repute who was capable
20 and worthy of being granted unsupervised access to the children, athletes and
21 patients of Defendants MSU and DOES 1 through 500;
- 22 f. Failing to investigate or otherwise confirm or deny such facts about NASSAR,
23 including prior arrests, charges, claims and investigations for sexual abuse;
- 24 g. Failing to inform, or concealing from Plaintiff's parents and law enforcement
25 officials the fact that Plaintiff and others were or may have been sexually abused,
26 harassed and molested, after Defendants knew or should have known NASSAR
27 may have sexually abused Plaintiff or others, thereby enabling Plaintiff to
28 continue to be endangered and sexually abused, harassed, molested, and/or
creating the circumstance where Plaintiff and others were less likely to receive
proper medical treatment, thus exacerbating the harm to Plaintiff;
- h. Holding out NASSAR to Plaintiff, her parents, and to the community as being in
good standing and trustworthy;
- i. Cloaking NASSAR's prior sexual misconduct with children, athletes and patients
within the facade of normalcy, thereby disguising the nature of his sexual abuse
and contact with minors;
- j. Failing to take reasonable steps and to implement reasonable safeguards to avoid
acts of unlawful sexual conduct by NASSAR such as avoiding placement of
NASSAR in functions or environments in which his solitary contact with
children, athletes and patients was inherent;
- 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, athletes
and patients in Defendants' care.

1 36. By his position within the Defendants' institutions, NASSAR attained a position
2 of influence over Plaintiff, and others. Defendants' conduct created a situation of peril that was
3 not, and could not be appreciated by Plaintiff. By virtue of Defendants' conspiratorial and
4 fraudulent conduct, and in keeping with their intent to fail to disclose and hide NASSAR's past
5 and present conduct from the community, the public at large and law enforcement, Defendants
6 allowed NASSAR to remain in a position of influence where his unsupervised or negligently
7 supervised conduct with minor, athletes and/or patients made the molestation and abuse of those
8 individuals, including the Plaintiff, possible.

9 37. By his position within the Defendants' institutions, Defendants and NASSAR
10 demanded and required that Plaintiff respect NASSAR in his position as team physician for
11 Defendant MSU, and DOES 1 through 500. In fact, Plaintiff was specifically told to continue
12 seeing NASSAR after she reported her sexual abuse to Defendant MSU employees, on the basis
13 that NASSAR was a world-renowned doctor.

14 38. The sexual harassment and abuse of Plaintiff by NASSAR, outlined below, took
15 place while NASSAR was an osteopathic physician employed, retained, and supervised by
16 Defendants MSU, DOES 1 through 500, and Plaintiff was a participant, athlete and student of
17 Defendants MSU, DOES 1 through 500, while NASSAR was serving as an agent and employee
18 of Defendants in his capacity as a physician and faculty member:

- 19 a. In his capacity as a team physician, a physician and faculty member with
20 Defendants MSU and DOES 1 through 500, NASSAR was given custody and
21 supervision of athletes and patients, including Plaintiff. NASSAR used this
22 position to coerce athletes and patients to concede to his sexual suggestions, using
23 his authority and position of trust to exploit them physically, sexually, and
24 emotionally;
- 25 b. Plaintiff became an athlete and student for Defendants MSU and DOES 1 through
26 500 in or around the fall of 1998. Plaintiff soon formed a relationship with the
27 NASSAR, Defendants' MSU and DOES 1 through 500's physician and faculty
28 member. Plaintiff is informed and believes NASSAR would use the guise of care,
athletic training, osteopathy, and kinesiology to normalize intimate, inappropriate,
and sexually abusive contact with Plaintiff. During this period, Plaintiff was a
patient under NASSAR's direct supervision and control.
- c. Plaintiff is informed and believes NASSAR's physical and sexual abuse of
Plaintiff commenced in or around the end of 1998. During this period, Plaintiff
was a student, athlete, and patient under NASSAR's, Defendants MSU, and
DOES 1 through 500's direct supervision and control. Using his position as a

1 physician, NASSAR would interact with Plaintiff under the guise of providing her
2 care and treatments necessary for her to compete as a collegiate athlete. Under
3 these circumstances, NASSAR introduced his bare hand to Plaintiff's vagina, on
4 multiple locations, sometimes in the presence of other medical professional staff.
5 Plaintiff is informed and believes that NASSAR's sexual abuse, molestation, and
6 harassment of Plaintiff occurred on the premises of Defendants MSU and DOES 1
7 through 500.

8 d. During these occurrences, NASSAR told Plaintiff about the need for osteopathic
9 adjustments to correct issues Plaintiff was having with her back from training for
10 softball for Defendants MSU and DOES 1 through 500. NASSAR told Plaintiff
11 about the need to do an "intravaginal adjustment," a fictitious guise where the
12 NASSAR would digitally penetrate Plaintiff's vagina in order to adjust her bones.
13 This "intravaginal adjustment" was done often without gloves, lubricant, and/or
14 without a chaperone, and was done for NASSAR's own sexual gratification.
15 NASSAR would have the Plaintiff remove her pants and underwear entirely, and
16 he would then perform the purported procedure; a procedure done, on at least one
17 occasion, in front of another trainer at Defendant MSU. In addition, the Plaintiff is
18 informed and believes that NASSAR would do vaginal examinations of Plaintiff
19 and other athletes in the care of Defendants MSU and DOES 1 through 500, often
20 without gloves, a chaperone, and/or any form of lubricant. These vaginal
21 examinations were well outside any recognized and/or accepted technique and
22 were done for NASSAR's own sexual gratification.

23 e. NASSAR's sexual abuse and harassment of Plaintiff was done for NASSAR's
24 personal sexual gratification, and it annoyed, disturbed, irritated, and offended
25 Plaintiff as it would have a reasonable person. Plaintiff did not consent to the
26 sexual abuse and harassment by NASSAR.

27 39. As set forth more fully herein above, NASSAR did sexually abuse, harass and
28 molest Plaintiff, who was a student-athlete at the time of the acts at-issue. Plaintiff is informed
and believes, and on that basis alleges, that such conduct by NASSAR was based upon Plaintiff's
gender, and was done for NASSAR's sexual gratification. These actions upon Plaintiff were
performed by NASSAR without the free consent of Plaintiff.

40. During the period Plaintiff was being sexually abused and harassed by NASSAR,
Defendants had the authority and ability to prevent such abuse by removing NASSAR his
position as team physician at Defendants MSU and DOES 1 through 500. They failed to do so,
allowing the abuse to occur and to continue unabated. Plaintiff is informed and believes and on
that basis alleges that this failure was a part of Defendants' conspiratorial plan and arrangement
to conceal NASSAR's wrongful acts, to avoid and inhibit detection, to block public disclosure,
to avoid scandal, to avoid the disclosure of their tolerance of child and student-athlete sexual
molestation and abuse, to preserve a false appearance of propriety, and to avoid investigation and
action by public authority including law enforcement. Such actions were motivated by a desire to

1 protect the reputation of Defendants and protect the monetary support of Defendants, while
2 fostering an environment where such abuse could continue to occur.

3 41. As a direct result of the sexual harassment and abuse of Plaintiff by NASSAR,
4 Plaintiff has had difficulty in meaningfully interacting with others, including those in positions of
5 authority over Plaintiff including physicians, athletic supervisors, and superiors at work. Plaintiff
6 has been limited in her ability to meaningfully interact with others due to the trauma of this
7 molestation and abuse. This inability to interact creates conflict with Plaintiff's values of trust
8 and confidence in others, and has caused Plaintiff substantial emotional distress, anxiety,
9 nervousness and fear. As a direct result of the sexual abuse and molestation NASSAR, Plaintiff
10 suffered immensely, including, but not limited to, encountering issues with a lack of trust,
11 various negative psychological and emotional sequelae, depressive symptoms, eating disorders,
12 anxiety, and nervousness.

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

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

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

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- 1 • Duty to use reasonable care to protect participants and members from known or foreseeable dangers
- 2 • Duty to enact policies and procedures that are not in contravention of the Federal Civil Rights Act, section 1983, Title IX, and the 14th amendment of the United States Constitution;
- 3
- 4 • Duty to protect participants and members and staff, and provide adequate supervision;
- 5 • Duty to ensure that any direction given to participants and members is lawful, and that adults act fairly, responsible and respectfully towards participants and members;
- 6
- 7 • Duty to properly train staff so that they are aware of their individual responsibility for creating and maintaining a safe environment;
- 8 • Duty to review the criminal history of applicants and current employees;
- 9 • Duty to provide diligent supervision over patients and athletes;
- 10 • Duty to act promptly and diligently and not ignore or minimize problems.
- 11 • Duty to report suspected incidents of sexual abuse;

12 45. Defendants and each of them had and have a duty to protect participants and
13 members, including Plaintiff. Defendants were required to, and failed, to provide adequate
14 supervision, and failed to be properly vigilant in seeing that supervision was sufficient at
15 Defendants MSU and DOES 1 through 500 to ensure the safety of Plaintiff and others.

16 46. Despite having a duty to do so, Defendants failed to adequately train and
17 supervise all staff to create a positive and safe environment, specifically including training to
18 perceive, report and stop inappropriate sexual conduct by other members of the staff, specifically
19 including NASSAR with children.

20 47. Defendants failed to enforce their own rules and regulations designed to protect
21 the health and safety of the participants and members. Further, they failed to adopt and
22 implement safety measures, policies and procedures designed to protect patients and athletes,
23 such as Plaintiff from the sexually exploitive and abusive acts of their agents and employees
24 such as NASSAR.

25 48. In subjecting Plaintiff to the wrongful treatment herein described, Defendants
26 NASSAR, MSU and DOES 1 through 500 acted willfully and maliciously with the intent to
27 harm Plaintiff, and in conscious disregard of Plaintiff's rights, so as to constitute malice and/or
28 oppression under California *Civil Code* section 3294. Plaintiff is informed, and on that basis

1 alleges, that specifically, the Defendants acted in concert, and under their authority as child care
2 and medical providers, with reckless disregard for the concern of the minors, patients and/or
3 student athletes in its charge, in order to further financially benefit its business's growth. The
4 Defendants acted intentionally in creating an environment that harbored molesters, put the
5 vulnerable minors, patients, and student athletes at-risk of harm, ignored clear warning signs and
6 their duties to report sexual abusers and molesters in their ranks, to maintain a façade of
7 normalcy, in order to maintain its funding and provide further financial growth of Defendants
8 MSU and DOES 1 through 500, on the international level. The safety of the minors, student
9 athletes, and patients that were entrusted to Defendants MSU and DOES 1 through 500 and was
10 compromised due to Defendants desire to maintain the status quo of the Defendants MSU and
11 DOES 1 through 500 organizations, and avoid any public scrutiny for their misconduct. Plaintiff
12 is 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 Defendants NASSAR, MSU and DOES 1 through 500.

16 STATUTE OF LIMITATIONS

17 49. The Plaintiff was sexually abused on approximately more than ten (10) occasions
18 by NASSAR from in or around 1998 through in or around 2000, while the Plaintiff was a
19 student-athlete at Defendant MSU. During the time that Plaintiff had reported her sexual abuse to
20 Defendant MSU employees and was told by Defendant MSU employees that she was not abused.
21 The Plaintiff's statute of limitations was equitably tolled and Defendants MSU and Does 1
22 through 500 are equitably estopped from asserting the statute of limitations as a defense.
23 Defendant MSU's employees and DOES 1 through 500 acted wrongfully in dissuading,
24 coercing, and intimidating the Plaintiff into remaining silent about her abuse at the hands of
25 NASSAR, a professed world-renowned doctor, and in ignoring her complaints of sexual
26 misconduct by NASSAR. Furthermore, Plaintiff's scholarship for schooling was based on her
27 participation in softball. The Plaintiff was unable to play softball because of medical reasons, and
28 no longer could stand the violative nature of these purportedly legitimate treatments by

1 NASSAR, thus, had to forego her full-scholarship, and ultimately returned home to California,
2 prior to graduating.

3 50. Furthermore, the Plaintiff was explicitly told by high-ranking medical
4 professional employees of Defendant MSU that her sexual abuse was not, in fact, sexual abuse
5 and that it was legitimate medical treatment for Plaintiff's back pain. The Plaintiff, a non-
6 medical professional and young adult, under the age of 21 years old, reasonably relied upon
7 these representations, which was one of the reasons that the Plaintiff continued to receive these
8 purported treatments after her reports to Defendant MSU administration. It was not until shortly
9 before Thanksgiving of 2016, that the Plaintiff knew or had reason to know that her claims
10 against Defendants MSU, NASSAR and DOES 1 through 500 had accrued. Thus, the Plaintiff's
11 claims accrued in or around shortly before Thanksgiving of 2016.

12 **FIRST CAUSE OF ACTION**
13 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. §1983)**
14 **(Against Defendants, NASSAR, MSU and DOES 1 through 500)**

15 51. 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 52. The Plaintiff's civil rights were violated by Defendant MSU, when Defendant
18 MSU, through its agents, actors and employees, intentionally concealed the Plaintiff's
19 complaints of sexual abuse, molestation and harassment by NASSAR. Plaintiff had a right to be
20 free from gender discrimination, sexual molestation, abuse and harassment under Title IX. The
21 Plaintiff's right against discrimination based on gender, under the U.S. Constitution and
22 Fourteenth Amendment.

23 53. The Defendant MSU, NASSAR, and DOES 1 through 500 were acting under the
24 color of their authority and in the scope of their employment, during the instances when the
25 Plaintiff was a student-athlete at Defendant MSU and DOES 1 through 500.

26 54. The Defendant MSU employees who received the Plaintiff's complaints of sexual
27 abuse, molestation and harassment by NASSAR were acting in the performance of their official
28 duties as public employees. These Defendant MSU employees had duties, under Defendant

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1 MSU's policies, procedures, and Federal mandates under Title IX, to document, investigate,
2 record, and process allegations of sexual abuse, molestation, violence, and harassment.

3 55. Defendants MSU and DOES 1 through 500 violated the Plaintiff's right to be free
4 from gender discrimination, abuse, and harassment under the United States Constitution,
5 Fourteenth Amendment, and Title IX. Furthermore, the Plaintiff was deprived of Due Process of
6 law, when her various complaints to Defendant MSU employees failed to trigger any report,
7 investigation, or other action by Defendant MSU, who was required to do so, both under its own
8 policies and procedures, as well as under Federal mandate by Title IX, and the Fourteenth
9 Amendment. In addition, these actions were contrary to Plaintiffs' civil rights guaranteed under
10 the Constitution of the State of California.

11 56. Defendant MSU's toleration of the custom not to investigate, report and/or
12 adequately handle allegations of sexual abuse, harassment and molestation, deprived the Plaintiff
13 of her right to be free from gender discrimination and harassment.

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

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

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SECOND CAUSE OF ACTION
BANE ACT (*CIVIL CODE* §52.1)
(Against Defendants NASSAR, MSU and DOES 1 through 500)

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3 59. 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 60. Defendants' actions, as alleged herein, have had and will continue to interfere
6 with Plaintiff's right to be free from gender discrimination in the form of sexual harassment in
7 the educational and collegiate athletic setting, codified under 20 U.S.C. §1681. Furthermore, the
8 Plaintiff had a right to have Defendant MSU respond immediately and investigate her sexual
9 assault, molestation and harassment by NASSAR.

10 61. During Plaintiff's time as a student at Defendant MSU, Defendants engaged in
11 oppressive and unlawful tactics in ignoring, concealing, and ultimately suppressing the
12 Plaintiff's complaints of being sexually abused by NASSAR. Plaintiff was threatened,
13 intimidated and coerced for reporting NASSAR's sexually abusive conduct, by high-ranking
14 MSU employees. These intentional acts of concealment of NASSAR's abusive behavior violated
15 the Plaintiff's right to be free from discrimination on the basis of her gender, under Title IX.

16 62. Furthermore, the Plaintiff was deprived of Due Process of law, when her various
17 complaints to Defendant MSU employees failed to trigger any report, investigation, or other
18 action by Defendant MSU, who was required to do so, both under its own policies and
19 procedures, as well as under Federal mandate by Title IX, and the Fourteenth Amendment. In
20 addition, these actions were contrary to Plaintiffs' civil rights guaranteed under the Constitution
21 of the State of California.

22 63. Defendants' wrongful conduct was intended to, and did successfully interfere
23 with Plaintiff's Constitutional Rights to be free from gender discrimination and harassment, as
24 well as interfered with her rights of Due Process under the United States' Constitution,
25 specifically the Fifth and Fourteenth Amendments.

26 64. Defendants unlawfully and wrongfully used, or employed others to wrongfully
27 use threats, intimidation, harassment, violence, and coercion over Plaintiff's person, to which
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1 Plaintiffs had no relief except to submit to the Defendants' wrongful threats, intimidation,
2 harassment, violence, and coercion, which rendered Plaintiff's submission involuntary.

3 65. Defendants' above-noted actions were the legal and proximate causes of physical,
4 psychological, emotional, and economic damages, and damage to the Plaintiff, who has suffered
5 and continues to suffer to this day. The actions of Defendants have also resulted in Plaintiff
6 incurring, and will require her to incur into the future, expenses for medical and psychological
7 treatment, therapy, and counseling.

8 66. As a result of the above-described conduct, Plaintiff suffered and continues to
9 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
10 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
11 enjoyment of life; has suffered and continues to suffer and was prevented and will continue to be
12 prevented from performing daily activities and obtaining the full enjoyment of life; has and will
13 continue to sustain loss of earning capacity; and has incurred and will continue to incur expenses
14 for medical and psychological treatment, therapy, and counseling. She has also suffered
15 economic, vocational and employment losses, as well.

16 67. In subjecting Plaintiff to the wrongful treatment described herein, Defendants
17 acted willfully and maliciously with the intent to harm Plaintiff, and in conscious disregard of
18 Plaintiff's rights, entitling Plaintiff to compensatory damages in a sum to be shown according to
19 proof, emotional distress damages in a sum to be shown according to proof, punitive and/or
20 exemplary damages, attorney's fees, other damages pursuant to *Civil Code* section 52(b)(1), and
21 a temporary restraining order or a preliminary or permanent injunction ordering Defendants to
22 refrain from conduct or activities as alleged herein, stating "VIOLATION OF THIS ORDER IS
23 A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE," and other such
24 relief as the court deems proper.

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THIRD CAUSE OF ACTION
SEXUAL ABUSE AND HARASSMENT IN THE EDUCATIONAL SETTING
(EDUCATION CODE §220)
(Against Defendants NASSAR, MSU and DOES 1 through 500)

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3 68. 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 69. Plaintiff was harmed by being subjected to sexual abuse, harassment and
6 molestation at Defendants MSU and DOES 1 through 500 because of the Plaintiff's gender and
7 Defendants are responsible for that harm.

8 70. The Plaintiff suffered harassment that was so severe, pervasive, and offensive that
9 it effectively deprived Plaintiff of the right of equal access to educational benefits and
10 opportunities.

11 71. Defendants had actual knowledge that this sexual harassment, abuse, and
12 molestation was occurring. Specifically, Defendants MSU had knowledge of the following facts:

- 13 a. The Plaintiff made three (3) reports to Defendant MSU employee trainers,
14 some of whom were high-ranking trainers in the Sports Medicine
15 Department;
- 16 b. None of the reports made by the Plaintiff initiated an investigation, a
17 report, or any other action by the Defendant MSU. In fact, the Plaintiff
18 was coerced, dissuaded, and intimidated into keeping what happened with
19 NASSAR secret and to not report to other officials.

20 72. In the face of this knowledge of sexual abuse, harassment, and molestation that
21 was being perpetrated upon the Plaintiff, by NASSAR, Defendants acted with deliberate
22 indifference towards responding to these alarms and preventing further abuse. Defendants
23 allowed NASSAR to remain as a physician at Defendants MSU and DOES 1 through 500, to
24 sexually harass, abuse and molest other athletes and patients. It was not until Defendants were
25 publicly exposed in September of 2016 that NASSAR's unabated sexual harassment, molestation
26 and abuse the Plaintiff and many other women, forced Defendants MSU and DOES 1 through
27 500 to remove NASSAR as a physician and employee.

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

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1 enjoyment of life; has suffered and continues to suffer and were 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 has incurred and will continue to incur
4 expenses for medical and psychological treatment, therapy, and counseling.

5 74. In subjecting the Plaintiff to the wrongful treatment herein described, Defendants
6 MSU, NASSAR, and DOES 1 through 500, acted willfully and maliciously with the intent to
7 harm Plaintiff, and in conscious disregard of Plaintiffs' rights, so as to constitute malice and
8 oppression under California Civil Code section 3294. Plaintiffs are therefore entitled to the
9 recovery of punitive damages, in an amount to be determined by the court, against NASSAR,
10 MSU and DOES 1 through 500, in a sum to be shown according to proof.

11 **FOURTH CAUSE OF ACTION**
12 **TITLE IX (20 U.S.C. §1681)**
13 **(Against Defendants MSU and DOES 1 through 500)**

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

16 76. The Plaintiff was subjected to sexual harassment, abuse and molestation by
17 NASSAR, as a young student-athlete and medical patient at Defendants' institution.

18 77. Defendant MSU was a public institution that received federal financial assistance
19 for its various programs, including the programs which Plaintiff participated in and which
20 supported NASSAR in his role as an employee, team doctor, physician, and faculty member at
21 Defendant MSU.

22 78. Defendant MSU, with authority to institute corrective measures, had actual notice
23 that NASSAR posed a substantial risk of sexual abuse, harassment and molestation to minors,
24 student-athletes, patients, and other individuals who sought treatment through Defendant MSU's
25 Sports Medicine clinic. Specifically, Defendant MSU was told by the Plaintiff, on multiple
26 occasions that she was being molested by NASSAR, while her sexual abuse, harassment and
27 molestation continued.

28 79. Defendant MSU and DOES 1 through 500 were deliberately indifferent to the
substantial risk of sexual abuse, harassment, and molestation posed to minors, patients, student-

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1 athletes and other individuals who came into contact with NASSAR at Defendants MSU and
2 DOES 1 through 500. After receiving actual notice of the Plaintiff's complaints of being sexually
3 abused by NASSAR, Defendants MSU and DOES 1 through 500, through their employees,
4 agents, and servants, ignored the Plaintiff's complaints and then intimidated, coerced, harassed,
5 and dissuaded the Plaintiff from further pursuing and reporting her sexual molestation by
6 NASSAR. Defendants MSU and DOES 1 through 500 pressured and coerced the Plaintiff to
7 declare herself medically inactive and told the Plaintiff that she was, in fact, not sexually abused
8 by NASSAR, a purportedly world-renowned doctor. It was this conduct that constitutes willful
9 indifference towards the Plaintiff and other similarly situated student-athletes, minors, and/or
10 patients who would be subject to NASSAR's unfettered sexual misconduct.

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

18 81. In subjecting the Plaintiff to the wrongful treatment herein described, Defendants
19 MSU, NASSAR, and DOES 1 through 500, acted willfully and maliciously with the intent to
20 harm Plaintiff, and in conscious disregard of Plaintiffs' rights, so as to constitute malice and
21 oppression under California *Civil Code* section 3294. Plaintiffs are therefore entitled to the
22 recovery of punitive damages, in an amount to be determined by the court, against NASSAR,
23 MSU and DOES 1 through 500, in a sum to be shown according to proof. Furthermore, the
24 Plaintiff requests the award of attorneys' fees pursuant to 42 U.S.C. § 1988.

25 **FIFTH CAUSE OF ACTION**
26 **GENDER VIOLENCE**
(Against Defendant NASSAR)

27 82. 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 83. NASSAR's acts committed against Plaintiff, as alleged herein, including the
2 sexual harassment, molestation and abuse of the Plaintiff constitutes gender violence and a form
3 of sex discrimination in that one or more of NASSAR's acts would constitute a criminal offense
4 under state law that has as an element the use, attempted use, or threatened use of physical force
5 against the person of another, committed at least in part based on the gender of the victim,
6 whether or not those acts have resulted in criminal complaints, charges, prosecution, or
7 conviction.

8 84. NASSAR's acts committed against Plaintiff, as alleged herein, including the
9 sexual harassment, molestation and abuse of the Plaintiff constitutes gender violence and a form
10 of sex discrimination in that NASSAR's conduct caused a physical intrusion or physical invasion
11 of a sexual nature upon Plaintiff under coercive conditions, whether or not those acts have
12 resulted in criminal complaints, charges, prosecution, or conviction.

13 85. As a proximate result of NASSAR's acts, Plaintiff is entitled to actual damages,
14 compensatory damages, punitive damages, injunctive relief, any combination of those, or any
15 other appropriate relief. Plaintiff is also entitled to an award of attorney's fees and costs pursuant
16 to *Civil Code* § 52.4, against NASSAR.

17 **SIXTH CAUSE OF ACTION**
18 **SEXUAL HARASSMENT (*CIVIL CODE* §51.9)**
19 **(Against Defendants MSU and DOES 1 through 500)**

20 86. 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 87. During Plaintiff's time as student athlete at Defendants MSU and DOES 1
23 through 500, NASSAR intentionally, recklessly and wantonly made sexual advances,
24 solicitations, requests, demands for sexual compliance of a hostile nature based on Plaintiff's
25 gender that were unwelcome, pervasive and severe, including but not limited to NASSAR
26 groping and fondling the Plaintiff's vagina, all under the supervision of Defendants, who were
27 acting in the course and scope of their agency with Defendants and each of them.

28 88. The incidents of abuse outlined herein above took place while Plaintiff was under
the control of NASSAR and Defendants MSU and DOES 1 through 500, in their capacity and

1 position as supervisors of team physicians, athletic trainers, and staff at Defendants MSU and
2 DOES 1 through 500, and while acting specifically on behalf of Defendants.

3 89. During Plaintiff's time as a student-athlete at Defendants MSU and DOES 1
4 through 500, NASSAR intentionally, recklessly and wantonly did acts which resulted in harmful
5 and offensive contact with intimate parts of Plaintiff's person, including but not limited to, using
6 his position of authority and age to force Plaintiff to give into NASSAR's sexual suggestions.

7 90. Because of Plaintiff's relationship with NASSAR and Defendants MSU and
8 DOES 1 through 500, and Plaintiff's young age as a full-ride scholarship collegiate student
9 athlete, Plaintiff was unable to easily terminate the relationship she had with the Defendants.

10 91. Because of NASSAR's age and position of authority, physical seclusion of the
11 Plaintiff, Plaintiff's mental and emotional state, and Plaintiff's young age, Plaintiff was unable to,
12 and did not and could not, give consent to such acts.

13 92. Even though the Defendants knew or should have known of these activities by
14 NASSAR, Defendants did nothing to investigate, supervise or monitor NASSAR to ensure the
15 safety of the patients, student-athletes, and/or minors in their charge.

16 93. Because of Plaintiff's relationship with Defendants, as a student-athlete of
17 Defendants, and Plaintiff's young age, Plaintiff was unable to easily terminate the doctor-patient
18 relationship she had with Defendants.

19 94. A corporation is a "person" within meaning of *Civil Code* section 51.9, which
20 subjects persons to liability for sexual harassment within a business, service or professional
21 relationship, and such an entity defendant may be held liable under this statute for the acts of its
22 employees. *C.R. v. Tenet Healthcare Corp.*, (2009) 169 Cal.App.4th 1094. Further, principles of
23 ratification apply when the principal ratifies the agent's originally unauthorized harassment, as is
24 alleged to have occurred herein.

25 95. Defendants' conduct (and the conduct of their agents) was a breach of their duties
26 to Plaintiff.

27 96. 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

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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 **SEVENTH CAUSE OF ACTION**
7 **SEXUAL ASSAULT**
8 **(Against Defendant NASSAR)**

9 97. 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 98. NASSAR, in doing the things herein alleged, including intending to subject
12 Plaintiff to numerous instances of sexual abuse and molestation during Plaintiff's time with
13 Defendants MSU and DOES 1 through 500, beginning on or around 1998, and lasting for the
14 duration of Plaintiff's tenure with these Defendants, in or around 2000, including but not limited
15 to instances of NASSAR groping and fondling the Plaintiff's vagina, all while NASSAR acted in
16 the course and scope of his agency/employment with Defendants, and each of them and were
17 intended to cause harmful or offensive contact with Plaintiff's person, or intended to put Plaintiff
18 in imminent apprehension of such contact.

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

22 100. Plaintiff did not consent to NASSAR intended harmful or offensive contact with
23 Plaintiff's person, or intent to put Plaintiff in imminent apprehension of such contact.

24 101. In doing the things herein alleged, NASSAR violated Plaintiff's right, pursuant to
25 *Civil Code* section 43, of protection from bodily restraint or harm, and from personal insult. In
26 doing the things herein alleged, NASSAR violated his duty, pursuant to *Civil Code* section 1708,
27 to abstain from injuring the person of Plaintiff or infringing upon his rights.

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

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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.

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

12 **EIGHTH CAUSE OF ACTION**
13 **SEXUAL BATTERY: *Civil Code* § 1708.5**
14 **(Against Defendant NASSAR)**

15 104. 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.

17 105. During Plaintiff's time as a student athlete with Defendants MSU and DOES 1
18 through 500, NASSAR intentionally, recklessly and wantonly did acts which were intended to,
19 and did result in harmful and offensive contact with intimate parts of Plaintiff's person, including
20 but not limited to being subjected to numerous instances of sexual abuse by NASSAR, during
21 Plaintiff's time with Defendants MSU and DOES 1 through 500, beginning on or around 1998,
22 and lasting for the duration of Plaintiff's tenure with Defendants MSU and DOES 1 through 500,
23 in or around 2000, including but not limited to instances of NASSAR groping and fondling the
24 Plaintiff's vagina, all while NASSAR acted in the course and scope of his agency/employment
25 with Defendants, and each of them.

26 106. NASSAR did the aforementioned acts with the intent to cause a harmful or
27 offensive contact with an intimate part of Plaintiff's person, and would offend a reasonable sense
28 of personal dignity. Further, said acts did cause a harmful or offensive contact with an intimate
part of Plaintiff's person that would offend a reasonable sense of personal dignity.

1 and members, including Plaintiff, and failing to take all reasonable steps to prevent harassment
2 and abuse from occurring. The unlawful, unfair and deceptive business practices also included
3 failing to adequately investigate, vet, and evaluate individuals for employment with Defendants
4 MSU and DOES 1 through 500, refusing to design, implement, and oversee policies regarding
5 sexual harassment and abuse of children, students, athletes, and patients in a reasonable manner
6 that is customary in similar educational environments. Plaintiff is informed and believes and on
7 that basis alleges that NASSAR and Defendants MSU and DOES 1 through 500, have engaged
8 in unlawful, unfair and deceptive business practices including concealing sexual harassment,
9 abuse and/or molestation claims by students, minors, and athletes, such as Plaintiff, so as to
10 retain other similarly situated individuals within Defendants MSU and DOES 1 through 500 who
11 were not apprised of such illicit sexual misconduct by NASSAR.

12 113. Plaintiff is informed and believes that Defendants engaged in a common scheme,
13 arrangement or plan to actively conceal allegations against sexual abusers who were employees,
14 agents, members, and/or participants at Defendants MSU and DOES 1 through 500, including
15 NASSAR, such that Defendants MSU and DOES 1 through 500 could maintain their public
16 image, and avoid detection of such abuse and abusers. Plaintiff is informed and believes and
17 thereon alleges that Defendants actively concealed these allegations, such that Defendants would
18 be insulated from public scrutiny, governmental oversight, and/or investigation from various law
19 enforcement agencies, all done in order to maintain the false sense of safety for participants and
20 their families and to perpetuate the program financially.

21 114. By engaging in unlawful, unfair and deceptive business practices, NASSAR and
22 Defendants MSU and DOES 1 through 500 benefitted financially to the detriment of its
23 competitors, who had to comply with the law.

24 115. Unless restrained, Defendants MSU and DOES 1 through 500 will continue to
25 engage in the unfair acts and business practices described above, resulting in great and
26 irreparable harm to Plaintiff and/or other similarly situated participants and members.

27 116. Plaintiff seeks restitution for all amounts improperly obtained by NASSAR and
28 Defendants MSU and DOES 1 through 500 through the use of the above-mentioned unlawful

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1 business practices, as well as the disgorgement of all ill-gotten gains and restitution on behalf of
2 Plaintiff and all other similarly situated students, patients and athletes who were also subjected to
3 the NASSAR and Defendants MSU and DOES 1 through 500 illegal and unfair business
4 practices.

5 117. Pursuant to section 17203 of the California *Business and Professions Code* and
6 available equitable powers, Plaintiff is entitled to a preliminary and permanent injunction,
7 enjoining NASSAR, Defendants MSU and DOES 1 through 500 from continuing the unlawful
8 and unfair business practices described above. Further, Plaintiff seeks the appointment of a court
9 monitor to enforce its orders regarding client safety. In addition, Plaintiff is entitled to recover
10 reasonable attorneys' fees pursuant to the California *Business and Professions Code* and section
11 1021.5 of the *California Code of Civil Procedure*.

12 **TENTH CAUSE OF ACTION**
13 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
14 **(Against Defendants MSU, NASSAR and DOES 1 through 500)**

15 118. 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.

17 119. Defendants NASSAR, MSU and DOES 1 through 500's conduct toward Plaintiff,
18 as described herein, was outrageous and extreme.

19 120. A reasonable person would not expect or tolerate the sexual harassment,
20 molestation and abuse of Plaintiff by NASSAR, and Defendants' knowledge and callous
21 indifference thereof. Plaintiff had great trust, faith and confidence in in Defendants, which, by
22 virtue of NASSAR and Defendants' wrongful conduct, turned to fear.

23 121. A reasonable person would not expect or tolerate Defendants putting NASSAR
24 who was known to Defendants to have physically and sexually abused other patients, students,
25 and athletes, in a position of care of Plaintiff and other patients, student-athletes, and/or minors,
26 which enabled NASSAR to have access to other patients, student-athletes, and/or minors so that
27 he could commit wrongful sexual acts, including the conduct described herein, with minors,
28 including Plaintiff. Plaintiff had great trust, faith and confidence in Defendants, which, by virtue
of Defendants' wrongful conduct, turned to fear.

1 122. A reasonable person would not expect or tolerate the Defendants and their agents
2 to be incapable of supervising and/or stopping participants and members of Defendants,
3 including NASSAR, from committing wrongful sexual acts with other patients, student-athletes,
4 and/or minors, including Plaintiff, or to supervise NASSAR. Plaintiff had great trust, faith and
5 confidence in Defendants, which, by virtue of Defendants' wrongful conduct, turned to fear.

6 123. Defendants' conduct described herein was intentional and malicious and done for
7 the purpose of causing or with the substantial certainty that Plaintiff would suffer humiliation,
8 mental anguish, and emotional and physical distress.

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

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

24 **ELEVENTH CAUSE OF ACTION**
25 **CONSTRUCTIVE FRAUD**

26 **(Against Defendants MSU, NASSAR and DOES 1 through 500)**

27 126. 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.

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127. By holding NASSAR out as an agent of Defendants, and by allowing him to undertake the physical care and athletic training of young athletes and patients such as Plaintiff, Defendants entered into a confidential, fiduciary, and special relationship with Plaintiff.

128. By holding themselves out as a preeminent collegiate facility, athletic program, and educational institution, and facilitating competition both nationally and internationally of Plaintiff and other athletes, Defendants entered into a confidential, fiduciary and special relationship with Plaintiff.

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

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

- a. Investigate or otherwise confirm or deny such claims of sexual abuse;
- b. Reveal such facts to Plaintiff, Plaintiff's family and caretakers, the sports medicine community, the community at large, the NCAA, and law enforcement agencies;
- c. Refuse to place NASSAR and other molesters in positions of trust and authority within Defendants' institutions;
- d. Refuse to hold out NASSAR and other molesters to the public, the community, parents and law enforcement agencies as being in good standing and, trustworthy in keeping with him and his position as a physician, faculty member and authority figure;
- e. Refuse to assign NASSAR and other molesters to positions of power within Defendants MSU and DOES 1 through 500, and over young student athletes; and
- f. Disclose to Plaintiff, her family, the public, the school community, and law enforcement agencies the wrongful, tortious, and sexually exploitive acts that NASSAR had engaged in with patients, students, and athletes.

131. Defendants' breach of their respective duties included:

- a. Not making reasonable investigations of NASSAR;

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- b. Issuing no warnings about NASSAR;
- c. Permitting NASSAR to routinely be alone with and in control of patients, students, and athletes, unsupervised;
- d. Not adopting a policy to prevent NASSAR from routinely having patients, athletes, and students in his unsupervised control;
- e. Making no reports of any allegations of NASSAR's abuse of students or athletes, or of minors prior to or during his employment and/or agency at Defendants MSU and DOES 1 through 500; and
- f. Assigning and continuing to assign NASSAR to duties which placed him in positions of authority and trust over other patients, student-athletes, and/or minors, positions in which NASSAR could easily isolate and sexually abuse other patients, student-athletes, and/or minors.

132. At the time that Defendants engaged in such suppression and concealment of acts, such acts were done for the purpose of causing Plaintiff to forbear on her rights.

133. Defendants' misconduct did reasonably cause Plaintiff to forbear on Plaintiff's rights.

134. The misrepresentations, suppressions and concealment of facts by Defendants were intended to and were likely to mislead Plaintiff and others to believe that Defendants had no knowledge of any charges against NASSAR, or that there were no other charges of unlawful or sexual misconduct against NASSAR or others and that there was no need for them to take further action or precaution.

135. The misrepresentations, suppressions and concealment of facts by Defendants was likely to mislead Plaintiff and others to believe that Defendants had no knowledge of the fact that NASSAR was a molester, and was known to commit wrongful sexual acts with student-athletes and patients, including Plaintiff.

136. Defendants knew or should have known at the time they suppressed and concealed the true facts regarding others' sexual molestations, that the resulting impressions were misleading.

137. Defendants suppressed and concealed the true facts regarding NASSAR with the purpose of: preventing Plaintiff, Plaintiff's parents & family, and others, from learning that NASSAR and others had been and were continuing to sexually harass, molest and abuse patients, student-athletes, and/or minors under NASSAR and Defendants' control, direction, and guidance,

1 with complete impunity; inducing people, including Plaintiff and other benefactors and donors to
2 participate and financially support Defendants' program and other enterprises of Defendants;
3 preventing further reports and outside investigations into NASSAR and Defendants' conduct;
4 preventing discovery of Defendants' own conduct; avoiding damage to the reputations of
5 Defendants; protecting Defendants' power and status in the community and the gymnastics
6 community; avoiding damage to the reputation of Defendants, or Defendants' institutions; and
7 avoiding the civil and criminal liability of Defendants, of NASSAR, and of others.

8 138. At all times mentioned herein, Defendants, and in particular Defendants
9 NASSAR, MSU and DOES 1 and DOES 1 through 500, with knowledge of the tortious nature
10 of their own and NASSAR conduct, knowingly conspired and gave each other substantial
11 assistance to perpetrate the misrepresentations, fraud and deceit alleged herein—covering up the
12 past allegations of sexual misconduct lodged against NASSAR, and allowing NASSAR to
13 remain in his position as a physician, faculty member and team doctor, so they could maintain
14 their reputations and continue with their positions within the organization.

15 139. Plaintiff and others were misled by Defendants' suppressions and concealment of
16 facts, and in reliance thereon, were induced to act or induced not to act, exactly as intended by
17 Defendants. Specifically, Plaintiff and Plaintiff's family were induced to believe that there were
18 no allegations of criminal or sexual abuse against NASSAR and that he was safe to be around
19 student-athletes, and patients. Had Plaintiff and her family, and others, known the true facts
20 about NASSAR, they would have not participated further in activities of Defendants, or
21 continued to financially support Defendants' activities. They would have reported the matters to
22 the proper authorities, to other student-athletes, patients and their parents so as to prevent future
23 recurrences; they would not have allowed their children, including Plaintiff, to be alone with, or
24 have any relationship with NASSAR; they would not have allowed children, including Plaintiff,
25 to attend or be under the control of Defendants; they would have undertaken their own
26 investigations which would have led to discovery of the true facts; and they would have sought
27 psychological counseling for Plaintiff, and for other student-athletes and patients, who had been
28 abused by NASSAR.

1 140. By giving NASSAR the position of physician, team doctor, and faculty member,
2 Defendants impliedly represented that NASSAR was safe and morally fit to give medical care
3 and provide osteopathic adjustments.

4 141. When Defendants made these affirmative or implied representations and non-
5 disclosures of material facts, Defendants knew or should have known that the facts were
6 otherwise. Defendants knowingly and intentionally suppressed the material facts that NASSAR,
7 had on numerous, prior occasions sexually, physically, and mentally abused minors, student-
8 athletes, and patients of Defendants, including Plaintiff, and knew of or learned of conduct, or
9 should have known of conduct by NASSAR which placed Defendants on notice that NASSAR
10 had previously been suspected of felonies, including unlawful sexual conduct with patients,
11 student-athletes, and/or minors, and was likely sexually abusing student-athletes, patients, and
12 minors in his care.

13 142. Because of Plaintiff's young age, and because of the status of NASSAR as a
14 trusted, authority figure to Plaintiff, Plaintiff was vulnerable to NASSAR. NASSAR sought
15 Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability. Plaintiff's
16 vulnerability also prevented Plaintiff from effectively protecting herself from the sexual
17 advances of NASSAR.

18 143. Defendants had the duty to obtain and disclose information relating to sexual
19 misconduct of NASSAR.

20 144. Defendants misrepresented, concealed or failed to disclose information relating to
21 sexual misconduct of NASSAR.

22 145. Defendants knew that they had misrepresented, concealed or failed to disclose
23 information related to sexual misconduct of NASSAR.

24 146. Plaintiff justifiably relied upon Defendants for information relating to sexual
25 misconduct of NASSAR.

26 147. Defendants NASSAR, MSU and DOES 1, and DOES 1 through 500, in concert
27 with each other and with the intent to conceal and defraud, conspired and came to a meeting of
28 the minds whereby they would misrepresent, conceal or fail to disclose information relating to

1 the sexual misconduct of NASSAR, the inability of Defendants to supervise or stop NASSAR
2 from sexually harassing, molesting and abusing Plaintiff, and their own failure to properly
3 investigate, supervise and monitor his conduct with minors, student-athletes, and patients.

4 148. By so concealing, Defendants committed at least one act in furtherance of the
5 conspiracy.

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

13 150. In addition, when Plaintiff finally discovered the fraud of Defendants, and
14 continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. Plaintiff
15 experienced extreme and severe mental anguish and emotional distress that Plaintiff had been the
16 victim of Defendants' fraud; that Plaintiff had not been able to help other patients, student-
17 athletes, and/or minors from being molested because of the fraud, and that Plaintiff had not been
18 able because of the fraud to receive timely medical treatment needed to deal with the problems
19 Plaintiff had suffered and continues to suffer as a result of the sexual harassment, molestation
20 and abuse.

21 151. In subjecting Plaintiff to the wrongful treatment herein described, Defendants
22 NASSAR, MSU and DOES 1, and DOES 1 through 500 acted willfully and maliciously with the
23 intent to harm Plaintiff, and in conscious disregard of Plaintiff's rights, so as to constitute malice
24 and/or oppression under California *Civil Code* section 3294. Plaintiff is informed, and on that
25 basis alleges, that these willful, malicious, and/or oppressive acts, as alleged herein above, were
26 ratified by the officers, directors, and/or managing agents of the Defendants. Plaintiff is therefore
27 entitled to recover punitive damages, in an amount to be determined by the court, against
28 Defendants NASSAR, MSU and DOES 1, and DOES 1 through 500.

TWELFTH CAUSE OF ACTION
NEGLIGENCE

(Against Defendants MSU and DOES 1 through 500)

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3 152. 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.

5 153. Prior to and after the first incident of NASSAR sexual harassment, molestation
6 and abuse of Plaintiff, through the present, Defendants, knew and/or should have known that
7 NASSAR had and was capable of sexually, physically, and mentally abusing and harassing
8 Plaintiff or other victims.

9 154. Defendants and each of them had special duties to protect the Plaintiff and the
10 young student-athletes and patients, when such individuals were entrusted to Defendants' care.
11 Plaintiff's care, welfare and physical custody was entrusted to Defendants. Defendants
12 voluntarily accepted the entrusted care of Plaintiff. As such, Defendants owed Plaintiff, a young
13 student-athlete and medical patient, a special duty of care that adults and medical professionals
14 dealing with children, vulnerable medical patients and young student-athletes, owe to protect
15 them from harm. The duty to protect and warn arose from the special, trusting, confidential, and
16 fiduciary relationship between Defendants and Plaintiff.

17 155. Defendants breached their duties of care to the Plaintiff by allowing NASSAR to
18 come into contact with the Plaintiff and other student-athletes and patients, as well as minors,
19 without supervision; by failing to adequately hire, supervise and retain NASSAR whom they
20 permitted and enabled to have access to Plaintiff; by concealing from Plaintiff, her family, and
21 law enforcement that NASSAR was sexually harassing, molesting and abusing patients, student-
22 athletes, and/or minors; and by holding NASSAR out to Plaintiff and her family as being of high
23 moral and ethical repute, in good standing and trustworthy.

24 156. Defendants breached their duties to Plaintiff by failing to investigate or otherwise
25 confirm or deny such facts of sexual abuse by NASSAR, failing to reveal such facts to Plaintiff,
26 her parents, the community and law enforcement agencies, and by placing NASSAR into a
27 position of trust and authority, holding him out to Plaintiff, her parents, and the public as being in
28 good standing and trustworthy.

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1 157. Defendants breached their duty to Plaintiff by failing to adequately monitor and
2 supervise NASSAR and failing to prevent NASSAR from committing wrongful sexual acts with
3 student-athletes and medical patients, including Plaintiff. Defendants' voluminous past records
4 of sexual misconduct by NASSAR caused Defendants to know, or gave them information where
5 they should have known, of NASSAR's incapacity to serve as a team physician, physician, and
6 faculty member at Defendants' institutions, providing for the physical care of young females.

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

14 **THIRTEENTH CAUSE OF ACTION**
15 **NEGLIGENT SUPERVISION**
16 **(Against Defendants MSU and DOES 1 through 500)**

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

19 160. By virtue of Plaintiff's special relationship with Defendants, and Defendants'
20 relation to NASSAR, Defendants owed Plaintiff a duty to provide reasonable supervision of
21 NASSAR, to use reasonable care in investigating NASSAR background, and to provide adequate
22 warning to Plaintiff, Plaintiff's family, and other patients, student-athletes, and/or minors of
23 NASSAR dangerous propensities and unfitness. As organizations and individuals responsible
24 for, and entrusted with, the welfare of patients, student-athletes, and/or minors, Defendants MSU
25 and DOES 1 through 500 had a duty to protect, supervise, and monitor both the Plaintiff from
26 being preyed upon by sexual predators, and to supervise and monitor NASSAR such that he
27 would not be placed in seclusion with vulnerable medical patients and student-athletes, including
28 the Plaintiff.

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1 161. As representatives of Defendants MSU and DOES 1 through 500, where many of
2 the student-athletes and patients thereof are vulnerable young women entrusted to these
3 Defendants, these Defendants' agents expressly and implicitly represented that team physicians,
4 faculty and staff, including NASSAR, were not a sexual threat to those individuals and others
5 who would fall under NASSAR influence, control, direction, and care.

6 162. Defendants, by and through their respective agents, servants and employees, knew
7 or should have known of NASSAR dangerous and exploitive propensities and that NASSAR was
8 an unfit agent. Despite such knowledge, Defendants negligently failed to supervise NASSAR in
9 his position of trust and authority as a team physician, physician, faculty member and authority
10 figure over student-athletes, patients and young women, where he was able to commit wrongful
11 acts of sexual misconduct against Plaintiff. Defendants failed to provide reasonable supervision
12 of NASSAR, failed to use reasonable care in investigating NASSAR, and failed to provide
13 adequate warning to Plaintiff and Plaintiff's family of NASSAR dangerous propensities and
14 unfitness. Defendants further failed to take reasonable steps to ensure the safety of patients and
15 student-athletes, including Plaintiff, from sexual harassment, molestation, and abuse.

16 163. At no time during the periods of time alleged did Defendants have in place a
17 reasonable system or procedure to investigate, supervise and monitor the team physician,
18 physician, faculty member or staff, including NASSAR, to prevent pre-sexual grooming and
19 sexual harassment, molestation and abuse of those individuals, nor did they implement a system
20 or procedure to oversee or monitor conduct toward patients and others in Defendants' care.

21 164. Defendants were aware or should have been aware of how vulnerable medical
22 patients, and young student-athletes were to sexual harassment, molestation and abuse by
23 physicians, team doctors, faculty members and other persons of authority within Defendants'
24 entities.

25 165. Defendants were put on notice, knew and/or should have known that NASSAR
26 had previously engaged and was continuing to engage in unlawful sexual conduct with minors,
27 patients, and/or student-athletes, and had committed other felonies, for his own personal sexual
28 gratification, and that it was foreseeable that he was engaging, or would engage in illicit sexual

1 activities with Plaintiff, and others, under the cloak of the authority, confidence, and trust,
2 bestowed upon him through Defendants.

3 166. Defendants were placed on actual or constructive notice that NASSAR had
4 molested other minors, patients, and student-athletes during his employment with Defendants.
5 Defendants were informed of molestations of minors, student-athletes and/or patients committed
6 by NASSAR prior to Plaintiff's sexual abuse, and of conduct by NASSAR that would put a
7 reasonable person on notice of such propensity to molest and abuse children.

8 167. Even though Defendants knew or should have known of these illicit sexual
9 activities by NASSAR, Defendants did not reasonably investigate, supervise or monitor
10 NASSAR to ensure the safety of the minors, patients, and/or student-athletes

11 168. Defendants' conduct was a breach of their duties to Plaintiff.

12 169. Defendants, and each of them, breached their duty to Plaintiff by, *inter alia*, by
13 failing to adequately monitor and supervise NASSAR and stop NASSAR from committing
14 wrongful sexual acts with minors, patients, and/or student-athletes, including Plaintiff.

15 170. 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.

22 **NEGLIGENCE PER SE-CONDUCT IN VIOLATION OF MANDATED REPORTING**
23 **LAWS**

24 171. Under applicable law, Defendants, by and through their employees and agents,
25 were medical care providers and were under a statutory duty to report known or suspected
26 incidents of sexual molestation or abuse of minors, patients, student-athletes or any individuals
27 in their care to the appropriate authorities, and not to impede the filing of any such report.

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1 172. Defendants knew or should have known that their team doctor, physician and
2 faculty member, NASSAR, and other staff of Defendants, had sexually molested, abused or
3 caused touching, battery, harm, and/or other injuries to minors, patients and/or student-athletes
4 including Plaintiff, giving rise to a duty to report such conduct.

5 173. Defendants knew, or should have known, in the exercise of reasonable diligence,
6 that an undue risk to minors, patients, and/or student-athletes, including Plaintiff, existed because
7 Defendants did not comply with mandatory reporting requirements.

8 174. By failing to report the continuing molestations and abuse by NASSAR, which
9 Defendants knew or should have known about, and by ignoring the fulfillment of the mandated
10 compliance with the reporting requirements, Defendants created the risk and danger
11 contemplated by the applicable mandated reporting laws, and as a result, unreasonably and
12 wrongfully exposed Plaintiff and other patients, student-athletes, and/or minors to sexual
13 molestation and abuse.

14 175. Plaintiff was a member of the class of persons for whose protection applicable
15 mandated reporting laws were specifically adopted to protect.

16 176. Had Defendants adequately reported the molestation of Plaintiff and other
17 patients, and/or student-athletes as required by applicable mandated reporting laws, further harm
18 to Plaintiff and other individuals would have been avoided.

19 177. As a proximate result of Defendants' failure to follow the mandatory reporting
20 requirements, Defendants wrongfully denied Plaintiff and other minors the intervention of law
21 enforcement and the appropriate authorities. Such public agencies would have changed the then-
22 existing arrangements and conditions that provided the access and opportunities for the
23 molestation of Plaintiff by NASSAR.

24 178. The physical, mental, and emotional damages and injuries resulting from the
25 sexual molestation of Plaintiff by NASSAR, were the type of occurrence and injuries that the
26 applicable mandated reporting laws were designed to prevent.

27 179. As a result, Defendants' failure to comply with the mandatory reporting
28 requirements constituted a per se breach of Defendants' duties to Plaintiff.

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1 180. Defendants, and each of them, breached their duty to Plaintiff by, inter alia, by
2 failing to adequately monitor and supervise NASSAR and stop NASSAR from committing
3 wrongful sexual acts with minors, patients, and/or student-athletes, including Plaintiff.

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

11 **FOURTEENTH CAUSE OF ACTION**
12 **NEGLIGENT HIRING/RETENTION**
13 **(Against Defendants MSU and DOES 1 through 500)**

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

16 183. By virtue of Plaintiff's special relationship with Defendants, and Defendants'
17 relation to NASSAR, Defendants owed Plaintiff a duty to not hire or retain, given his dangerous
18 and exploitive propensities, which Defendants knew or should have known about had they
19 engaged in a reasonable, meaningful and adequate investigation of her background prior to his
20 hiring or retaining her in subsequent positions of employment.

21 184. Defendants expressly and implicitly represented that the team staff, physicians,
22 trainers, faculty members, and team physicians, including NASSAR, were not a sexual threat to
23 minors, patients, and/or student-athletes and others who would fall under NASSAR influence,
24 control, direction, and guidance.

25 185. At no time during the periods of time alleged did Defendants have in place a
26 reasonable system or procedure to investigate, supervise and monitor team staff, physicians,
27 faculty members, trainers, and team doctors, including NASSAR, to prevent pre-sexual
28 grooming or sexual harassment, molestation and abuse of minors, patients, and/or student-

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1 athletes, nor did they implement a system or procedure to oversee or monitor conduct toward
2 minors, patients, student-athletes, and/or others in Defendants' care.

3 186. Defendants were aware or should have been aware and understand how
4 vulnerable minors, young patients, and/or student-athletes were to sexual harassment,
5 molestation and abuse by faculty members, physicians, team doctors, and other persons of
6 authority within the control of Defendants prior to Plaintiff's sexual abuse by NASSAR.

7 187. Defendants were put on notice, and should have known that NASSAR had
8 previously engaged and continued to engage in unlawful sexual conduct with minors, patients,
9 and/or student-athletes, and was committing other felonies, for his own personal gratification,
10 and that it was, or should have known it would have been foreseeable that he was engaging, or
11 would engage in illicit sexual activities with Plaintiff, and others, under the cloak of his
12 authority, confidence, and trust, bestowed upon her through Defendants.

13 188. Defendants were placed on actual or constructive notice that NASSAR had
14 molested or was molesting minors, patients, and/or student-athletes, both before his employment
15 within Defendants, and during that employment. Defendants had knowledge of inappropriate
16 conduct and molestations committed by NASSAR before and during his employment, yet chose
17 to allow him to remain unsupervised where he sexually abused Plaintiff.

18 189. Even though Defendants knew or should have known of these sexually illicit
19 activities by NASSAR, Defendants failed to use reasonable care in investigating NASSAR and
20 did nothing to reasonably investigate, supervise or monitor NASSAR to ensure the safety of the
21 minors, patients, and/or student-athletes.

22 190. Defendants' conduct was a breach of their duties to Plaintiff.

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

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1 sustain loss of earnings and earning capacity, and/or has incurred and will continue to incur
2 expenses for medical and psychological treatment, therapy, and counseling.

3 **FIFTEENTH CAUSE OF ACTION**
4 **NEGLIGENT FAILURE TO WARN, TRAIN, or EDUCATE**
5 **(Against Defendants MSU and DOES 1 through 500)**

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

8 193. Defendants owed Plaintiff a duty to take reasonable protective measures to protect
9 Plaintiff and other minors, patients, and/or student-athletes from the risk of sexual harassment,
10 molestation and abuse by NASSAR by properly warning, training or educating Plaintiff and
11 other about how to avoid such a risk.

12 194. Defendants breached their duty to take reasonable protective measures to protect
13 Plaintiff and other patients and student-athletes from the risk of sexual harassment, molestation
14 and abuse by NASSAR, such as the failure to properly warn, train or educate Plaintiff and other
15 minors, patients, and/or student-athletes about how to avoid such a particular risk that NASSAR
16 posed—of sexual misconduct.

17 195. Defendants breached their duty to take reasonable protective measures to protect
18 Plaintiff and other patients and student-athletes from the risk of sexual harassment, molestation
19 and abuse by NASSAR, by failing to supervise and stop employees of Defendants, including
20 NASSAR, from committing wrongful sexual acts with minors, patients, and/or student-athletes,
21 including Plaintiff.

22 196. As a result of the above-described conduct, Plaintiff has suffered and continues to
23 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
24 emotional distress including embarrassment, loss of self-esteem, disgrace, humiliations, and loss
25 of enjoyment of life; has suffered and continues to suffer and was prevented and will continue to
26 be prevented from performing daily activities and obtaining the full enjoyment of life; will
27 sustain loss of earnings and earning capacity, and/or has incurred and will continue to incur
28 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 12 through 16);
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.*, 42 U.S.C. § 1988 or as otherwise allowable by law;
9. For declaratory and injunctive relief, including but not limited to court supervision of Defendant MSU; and
10. For such other and further relief as the Court may deem proper.

Dated: December 20, 2016

MANLY, STEWART & FINALDI

By: 
JOHN C. MANLY, Esq.
Attorneys for Plaintiff, TIFFANY THOMAS

DEMAND FOR JURY TRIAL

Plaintiff TIFFANY THOMAS hereby demands a trial by jury.

Dated: December 20, 2016

MANLY, STEWART & FINALDI

By: 

JOHN C. MANLY, Esq.
Attorneys for Plaintiff, TIFFANY
THOMAS

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