

UCLA Heaps Settlement

Final Report of Panel

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I. Introduction

A class-action suit against the Regents of the University of California and James Mason Heaps, M.D., a former obstetrician/gynecologist who practiced at UCLA medical facilities, resulted in a settlement of \$73 million for women who were seen for treatment by Dr. Heaps between January 1, 1983 and June 28, 2018. The complaint alleged that Dr. Heaps assaulted, abused, and engaged in harassing and offensive behavior toward female patients while practicing at UCLA medical facilities, and that UCLA failed to respond appropriately. Dr. Heaps' misconduct included inappropriately touching women's bodies and making inappropriate remarks, subjecting them to potential physical, mental, and emotional distress.

In order to assess the severity of damages and allocate the Settlement fairly among Class Members, the Court appointed a Special Master as chair of a three-person Panel as well as JND Legal Administration ("JND") as Settlement/Claims Administrator. This Final Report from the Panel describes the background and context of the case, the make-up of the Panel and JND, the damages assessment process developed by the Panel, how that process was put into operation, and how allocations for Tier 2 and 3 Settlement Claimants were determined.

In this report, Claimants may be referred to as "women" and the pronouns "she" and "her" are used for simplicity, although the Panel recognizes that these gender identifiers may not be used by all Claimants.

II. Definitions

1. "Allocation Plan" means the allocation plan developed by the Special Master's Panel in consultation with Claims Administration to fairly allocate the settlement to eligible claimants.
2. "Boundary violations" means, but is not limited to, inappropriate physical or verbal conduct that falls outside of the physician-patient relationship or otherwise violates applicable professional standards of care or conduct.
3. "Claimant(s)" means a Settlement Class Member who was Pre-Identified; or who completed a qualifying Statement of Settlement Class Membership Form by June 7, 2021; or whose late claim was approved by the Special Master during the period where timely Tier 2 and 3 claims were being evaluated.
4. "Claim Form" means the Tier 2 and Tier 3 Claim Form.
5. "Class" means the Settlement Class certified by the Court, and comprises all female patients seen for treatment by Dr. Heaps at the UCLA Medical Center (currently known as the Ronald Reagan UCLA Medical Center) from January 1, 1986 through June 28, 2018; the UCLA Student Health Center (currently known as the Arthur Ashe Student

Health and Wellness Center) from January 1, 1983 through June 30, 2010; or Dr. Heaps' medical offices at 100 UCLA Medical Plaza from February 1, 2014 through June 28, 2018.

6. "Class Counsel" means the law firms of Girard Sharp LLP, Erickson Kramer Osborne LLP, and Gibbs Law Group LLP.

7. "Claims/Settlement Administrator" or "JND" means JND Legal Administration LLC, retained by the parties and approved by the Court.

8. "Legally Authorized Representative" means a personal representative, administrator of a deceased Class Member's estate, a guardian, conservator or next friend of an incapacitated Class Member, person with an executed durable or partial power of attorney, or any other legally appointed person responsible for handling the business affairs of a Class Member.

9. "Notice" means the court-approved Settlement Notice notifying Pre-Identified and Potential Class Members of actions and deadlines.

10. "Settlement Amount" means the sum of \$73,000,000.

11. "Settlement Class Member" means any Class Member who does not opt out of the Settlement, and "Settlement Class" means women who meet the Class definition certified by the Court.

12. "Special Master" means Hon. Irma Gonzalez, who was selected to administer and adjudicate the Tier 2 and 3 claims process.

13. "Panel" means the panel composed of the Special Master, a forensic psychiatrist (Annie Steinberg, M.D.), and an obstetrician-gynecologist (Susan Ernst, M.D.).

14. "Special Master's Team" means the Special Master's Panel and support staff.

III. Background

A. Case Against Dr. James M. Heaps

Dr. Heaps practiced medicine at UCLA medical facilities between 1983 and 2018 as an obstetrician-gynecologist (OB-GYN) specializing in oncology. During the time he was affiliated with UCLA, complaints were made about his behavior. In 2018, UCLA investigated Dr. Heaps for sexual misconduct and improper billing practices and found that Heaps had violated University policy on sexual violence. His behavior was reported to the Medical Board of California, the U.S. Department of Health & Human Services Office of the Inspector General

(“OIG”), and law enforcement. Dr. Heaps was informed that his faculty appointment was not being renewed, after which he announced he was retiring. Dr. Heaps was arrested in June 2019 and indicted on two counts of sexual battery and one count of sexual exploitation by a physician. His medical license was suspended by court order. In August 2020, he was charged with 17 additional felonies; and in 2021, Heaps was indicted on 21 counts of felony sexual assault that took place between 2009 and 2018, including multiple counts of sexual battery by fraud, sexual exploitation of a patient, and sexual penetration of an unconscious person by fraudulent representation. Heaps has pleaded not guilty to all charges and denied wrongdoing.

B. The Class Action Lawsuit and Settlement

Plaintiffs filed their initial complaint in July 2019 in the United States District Court for the Central District of California, alleging that Dr. Heaps assaulted and abused, sexually harassed, or otherwise acted inappropriately towards female patients while he was practicing at UCLA medical facilities, and that UCLA failed to protect its patients from Dr. Heaps. In late May 2020, the parties engaged in mediation with Ken Feinberg and Camille Biros, who have helped resolve several high-profile sexual abuse cases. In the months that followed, the parties prepared settlement documents, obtained formal approval from the UC Board of Regents, and ultimately reached an agreement on terms and conditions of settlement, with a settlement amount of \$73,000,000.00 to compensate more than 5,500 patients who were treated by Dr. Heaps either at the UCLA Student Health Center from 1983 to 2010; the Ronald Reagan UCLA Medical Center from 1986 through 2018; or Heaps’ university medical office between 2014 and 2018. Attorneys’ fees and costs are paid separately by the Regents. Final approval of the class-action settlement was granted on July 12, 2021. All Settlement Class Members had the opportunity to opt out of the class action and retain the right to pursue their potential claims separately; 500 class members chose this option.

The Settlement Agreement laid out a three-tier claims process and appointed the Special Master, Panel, and JND. The tiers were defined as follows:

- Tier 1. Every Settlement Class Member who does not opt out of the Settlement is eligible for a Tier 1 award of \$2,500. Pre-Identified class members who choose to be included in Tier 1 were not required to submit a Claim Form. Class members who could not be identified through UCLA’s records were required to submit a Statement of Class Membership.
- Tier 2. Class Members who submit an online or written Claim Form describing their experiences, the impact to them, and/or the damages sustained. If determined to be eligible, Tier 2 Class Members will receive an additional payment of \$10,000, subject to Pro Rata adjustments.
- Tier 3. Class Members who submit a Claim Form and agree to provide further evidence of their experience with Dr. Heaps and impact on their lives by being interviewed by a member of the Special Master’s Team. According to the judgment of the Panel, Tier 3

Class Members will receive total payments of between \$12,500 and \$250,000, subject to Pro Rata adjustments. Supplemental payments, not to exceed a total of \$5,000,000, may also be awarded for extraordinary cases.

The Panel was appointed to adjudicate Tier 2 and 3 claims. Per the Settlement Agreement, the Panel was not responsible for adjudicating Tier 1 claims or determining Class Member status.

C. Goals of the Heaps Severity and Injury Allocation Process

1. To assess severity of injuries for each individual Claimant with a process that would ensure fairness and the equitable assessment for each and every individual Claimant.
2. To be as inclusive as reasonably possible for all Claimants.
3. To provide Claimants the opportunity to be heard, if they wished, privately, individually, and confidentially.
4. To fairly allocate the Settlement Fund to the Class Members who have submitted a valid Claim Form based on the level of injury as determined by data collected on the Claim Form and through the Tier 3 interview process.

In the absence of reasonable grounds to the contrary, the Panel assumed each Claimant to be acting and responding to all claim-related inquiries honestly and in good faith. As part of the Tier 1 claim evaluation, lien resolution, and Settlement payment process, JND verified information to confirm the accuracy of Claimant data and confirm Settlement eligibility. Where Claimant information provided by a Claimant could not be verified, or where eligibility could not be confirmed, JND sent a deficiency letter with a deadline to respond and Tier 1, 2, and 3 claims did not proceed for payment or further Panel review (for Tier 2 and 3 claims) until the deficiency was resolved.

D. The Claims Process and Injury Allocation Process

The Panel developed a process to assess severity of damage and allocate Tier 2 and 3 Settlement funds.

Tier 2 Assessment

For Tier 2 Claimants, the Special Masters Panel had only to determine eligibility. Following a content analysis of the Claim Forms by the Panel, an assessment tool was developed and incorporated into the Panel's Portal platform to assist in the collection and later review of information regarding each Claimant's history and experience with Dr. Heaps, as well as their allegations regarding the injuries they sustained.

A total of 490 Claimants filed eligible Tier 2 claims for Claim Award assessment. The Special Master allowed in her discretion for a small number Tier 2 Claimants to reclassify to Tier 3, due to the egregiousness of injuries reported on their Claim Forms. The Panel reasoned that

interviewing these Claimants to further assess their experiences could allow them to be compensated at a higher amount given their level of injury severity. Thus, of the 701 total Tier 2 and 3 Claimants, 462 were classified as Tier 2 and 240 were classified as Tier 3.

Tier 3 Assessment

Allocating Tier 3 Claim Awards required organizing Class Members according to their level of injury, an assessment affected not only by Dr. Heaps' actions but also other factors that impact the degree of harm, such as the Claimant's existing vulnerabilities; the duration and frequency of contact; and the victim's emotional health and stability at presentation. The women who comprised Dr. Heaps' patient population were demographically diverse, ranging in age from 29 to 91 (at the time of treatment, the youngest age was 14) and represented multiple ethnic and racial groups. Factors that the Panel judged to increase vulnerability to injury by Dr. Heaps included: 1) young age and naivete about the gynecological examination at the time of interactions; 2) low English literacy or low health literacy; 3) being a member of an ethnic or racial minority that may have been targeted by Heaps; 4) having a cancer diagnosis or referral to Dr. Heaps for confirmation of a cancer diagnosis, increasing the patient's reliance on Dr. Heaps' expertise; and 5) a history of childhood abuse, psychiatric history, and/or other types of previous adversity which could enhance the risk of developing post-traumatic symptoms. An additional relevant factor for determining severity of injury was the presence of peri-traumatic psychological processes due to the imbalance of power and betrayal trauma after the event as well as after learning of the violations.

An individual's subjective response to trauma was felt to be the most relevant and meaningful way to assess harm done in this matter; medical records were not uniformly available for all Class Members and relying on post-injury medical records as evidence of harm would also unfairly discriminate against those who did not have the resources to seek help or who experienced barriers to medical and psychological care in the aftermath of their injury.

The Claim Form was designed to capture information regarding each woman's experience and feelings about being a patient of Dr. Heaps. To obtain more detailed and nuanced information about the experiences of Claimants, the Panel developed a semi-structured interview, utilizing a template previously designed by Dr. Steinberg and Ms. Bain for the assessment of injury severity in similar cases. The interview provided each Tier 3 Claimant the opportunity to express in more detail their experiences and the impact of those experiences on their lives.

The Settlement stipulated that the decisions of the Panel are not subject to appeal.

IV. Special Master's Team

A. Panel

Hon. Irma E. Gonzalez, Special Master

Hon. Irma E. Gonzalez (Ret.) joined Judicial Arbitration and Mediation Services, Inc. (JAMS) following a judicial career spanning nearly 30 years. She was appointed to the United States District Court for the Southern District of California in 1992, serving as chief judge from 2005 to 2012. Prior to her appointment to the federal bench, Judge Gonzalez also worked as an Assistant United States Attorney in the District of Arizona and the Central District of California, as well as an attorney in private practice. She later served as a United States Magistrate Judge and a San Diego Superior Court Judge. Judge Gonzalez's fairness and deep knowledge of legal issues has enabled her to resolve even the most complex and contentious disputes; she serves as an arbitrator, mediator and special master for cases involving a wide range of issues, including business, class action, employment, intellectual property and securities matters, among others.

Susan Ernst, M.D., Obstetrician-Gynecologist

Dr. Ernst is an Associate Professor of Obstetrics and Gynecology at the University of Michigan. She serves as the Chief of Gynecology for the Student Health Services at the University of Michigan and the Director of the Gynecology Clinic for Adolescents and Women with Disabilities at Michigan Medicine. She has 20 years of clinical expertise in college health including sexual assault evaluation and treatment, and also oversees the campus Sexual Assault Response Team (SART) at the University of Michigan. In 2019, she led the task force and published the national guidelines for the American College Health Association on Best Practices for Sensitive Exams and led a task force creating implementation tools for policy, competencies, and educational resources for chaperone and sensitive exam policy development for the American College Health Association. Her previous research in college health includes factors affecting HPV vaccine uptake; knowledge, perceptions, and barriers to Long-Acting Reversible Contraception; and comparison of sexual assault services on campus versus in the emergency department. Dr. Ernst has been recently funded to evaluate healthcare resources for transgender students, examine the Implementation of Expedited Partner Therapy (EPT) for sexually transmitted infections, and create a pregnancy decision-making tool for women with disabilities. She is the Principal Investigator of a study of Inappropriate, Disrespectful and Coercive healthcare experiences in the student population at the University of Michigan.

Annie Steinberg, M.D., Forensic Psychiatrist

Dr. Steinberg is a triple board-certified adult, forensic, and child and adolescent psychiatrist and pediatrician who is a Clinical Professor in the Department of Psychiatry at the Perelman School of Medicine at the University of Pennsylvania. Dr. Steinberg works in forensic adult and child psychiatry, with a special emphasis on post traumatic disorders; abuse, neglect, and sexually reactive youth; attachment disorders; and family, education, mental health, and disability law. Dr. Steinberg directs the Child Forensic Psychiatry track in the Forensic Psychiatry Fellowship at the University of Pennsylvania and supervises the fellows' work in juvenile assessments, family, civil and criminal matters; she has provided seminars for the Pennsylvania State judges'

conference and Philadelphia Family Court judges. Dr. Steinberg's civil work is balanced between plaintiff and defense cases; she has been retained and testified both for the defense and prosecution in criminal matters as well. For more than ten years, she has been involved in complex class action litigation both for the plaintiff and defense, and she has served as the court ordered claims adjudicator, designing and implementing cost effective approaches to the assessment of class plaintiffs utilizing both qualitative and quantitative methodologies.

Lisa Bain, Project Consultant

Ms. Bain is a science and medical writer who has worked with Dr. Steinberg on the assessment of injury severity and allocations of mass tort settlements. Previously, she worked with Dr. Steinberg as a Research Project Manager in the Department of Psychiatry at the Children's Hospital of Philadelphia, where she managed all aspects of research projects including project planning, grant writing, data collection, data analysis, and manuscript preparation.

B. Settlement/Claims Administration

JND Legal Administration

JND was retained and approved as the Settlement/Claims Administrator and has collaborated closely with the Panel by providing technical support and services through the use of JND's proprietary and secure platforms for data collection, review and analysis, as well as managing the payment of the Special Master's Team. The JND leadership team working with the Panel has included Jennifer Keough (Chief Executive Officer), Darryl Thompson (Chief Information Officer), and Gretchen Eoff (Senior Vice President). Other JND team members playing critical support roles have included Genevieve Pierce (Director) and Sophie Haeuber (Project Manager).

C. Special Master Team Interviewers and Coders

Critical to the success of the project was the hiring of individuals to evaluate Claim Forms and conduct interviews. Twelve interviewers who had previously worked with Judge Gonzalez and Drs. Steinberg and Ernst on a class action settlement involving sexual abuse were hired by the Special Master's Panel to work in a similar capacity on this case. All twelve had knowledge of health information protection and the right to privacy and confidentiality, and had demonstrated excellent communication skills and the ability to conduct interviews with empathy and integrity to the designated process.

V. Overview of the Process Undertaken to Assess the Severity of Injury

The project used a combination of qualitative and quantitative methods to assess the severity of injury. Information about each Claimant's case was gathered through two instruments: the Claim Form, which Tier 2 and 3 Claimants were required to complete, and a semi-structured interview for Tier 3 Claimants. Data from both instruments were captured in a portal as described in Section V. This approach enabled the collection of qualitative data that could be analyzed in a

semi-quantitative way (i.e., by “coding” responses so that they could be fairly assessed and analyzed). Such an approach was necessary for the collection of an enormous amount of subjective information from a large number of individuals.

A. The Claim Form

The Claim Form was developed in connection with the Settlement and approved by the Court. Further details about the Claim Form are discussed in section VIII.

B. The Interview

An interview protocol was developed after extensive discussion by the Panel and testing through the use of mock interviews. Using a template designed by Dr. Steinberg and Ms. Bain for the assessment of injury severity in class actions, the interview protocol included questions about experiences as a patient of Dr. Heaps, experiences during the gynecological examination and related care, past history of exposure to violence or abuse, and the sequela of his examination and the medical care Dr. Heaps provided. An interview protocol was finalized by the Special Master’s Team in October 2021. Over the course of the subsequent interviewing period, only minor changes were allowed to ensure that each Claimant was provided close to the same opportunity to share her experiences.

The interview was designed as a script and written in plain language to ensure clarity and understanding among Claimants of differing English language fluency and educational background. Interviewers were permitted to modify questions only to sound more natural and to retain a fluid conversational quality. Further details about the interview are discussed in Section VIII.

VI. The Special Master’s Team Portal

A secure portal/platform was developed for data entry, storage, retrieval, and analysis. It provided interviewers with the ability to contact Claimants over the telephone in a safe, secure, and confidential environment and to record the interviews if consent to record was given. Data housed in the portal for use by the Special Master’s Team included Claim Forms, recordings of interviews, interview response data entered by the interviewers, statements submitted by Claimants, comments from the coders and interviewers, and any supporting documents submitted by Claimants. The portal also provided access to a Claim Form assessment tool, which enabled Claim Form data to be captured quantitatively, more efficiently, and to systematically assess Claimant eligibility for a Tier 2 Claim Award.

The portal enabled the Special Master’s team to expeditiously review individual interviews, notes taken by the interviewers, medical records and other documents submitted by the Claimants. A particularly elegant aspect of this platform was the seamless integration of the interview audio file with the written response record so that the interview could be heard concurrently with a review of interview coding and severity assessment.

Information shared by Claimants was reviewed multiple times by Panel members for the purpose not only of developing the methodology to assess and categorize in the fairest way possible the level of injury each individual Claimant suffered, but also of re-examining the history provided by individual Claimants.

VII. Special Master Team Interviewer Recruitment, Selection, Training, and Monitoring

A. Recruitment of Interviewers

To recruit appropriate and capable interviewers, the Panel reached out to a group of women experienced in interviewing Claimants in a previous class action settlement case involving sexual abuse by a physician. Twelve extraordinary interviewers were hired as independent consultants. All are college graduates with considerable interview experience. Nine were in training or had completed training towards a PsyD degree at the Institute for Graduate Clinical Psychology at Widener University and two were also working towards Master of Social Work degrees at the University of Pennsylvania School of Social Policy & Practice. The requirements for interviewers included: excellent communication skills, experience working with vulnerable populations, comfort in discussing personal details with women about gynecologic exams, good computer skills and some training in counseling, psychology or social work.

B. Interviewer Training

1. Training Webinar

Since the interviewers came to this project with considerable experience conducting semi-structured interviews and working within a portal designed exclusively for collecting data through such interviews, training was limited to a webinar that introduced the interviewers to the case and to all relevant members of JND and the Special Masters Panel; review of procedures for assessing claim forms; review of the draft interview protocol; and review of procedures for accessing the portal, scheduling and conducting interviews, and submitting hours for payment. All interviewers had previously completed HIPAA compliance training and signed confidentiality affidavits ordered by the Court.

2. Homework

Special Master Panel coder/interviewers were assigned 10 Claim Forms to assess using the checklist provided in the portal. The Panel reviewed their assessments to identify areas of confusion or coding inconsistencies, and minor changes were made to the assessment checklist.

Given that the interviewers had extensive experience in conducting interviews with vulnerable individuals, the Panel asked them to provide feedback on the draft interview protocol to ensure

that it was both sensitive and effective. Many of their very helpful comments were incorporated into the interview.

Through the course of the project, questions regarding Claim Form assessment and the interview continued to be addressed in supervisory calls and Panel meetings (see Interviewer Supervision section below).

C. Ongoing Quality Assurance

1. Panel Review of Claim Form Assessment

The Panel randomly selected Claim Forms for review by Judge Gonzalez, Dr. Ernst, Dr. Steinberg, and/or Ms. Bain. These reviews consisted of comparing the Panel members' assessment decisions with those of the coder/reviewers. Issues that were identified during this review were discussed in the interviewer supervision calls and Panel meetings (see below). These reviews led to minor changes in the assessment tool (described below in Section VIII.A.)

2. Review of Random Interviews by Panel Members

Initially, the Panel randomly selected interviews for review by Judge Gonzalez, Dr. Ernst, Dr. Steinberg, and/or Ms. Bain. Subsequently, interviews flagged by the interviewers were reviewed by the Panel. These reviews consisted of listening to the audio recordings and checking the Claimants' responses against the interviewer's coding and comments. Issues identified during this review were discussed in the interviewer supervision calls and during Panel meetings (see below).

3. Interviewer Supervision (conference calls)

The Panel conducted weekly conference calls with interviewers to provide feedback and give them an opportunity to discuss questions and concerns that arose while assessing Claim Forms and/or during the interviews. Ms. Bain and Ms. Haeuber moderated these calls and either Judge Gonzalez, Dr. Ernst, and Dr. Steinberg joined each call to provide the interviewers with an opportunity to better understand what behaviors on the part of Dr. Heaps fell outside of the normal standard of care relevant to the assessment process and the legal issues being adjudicated through the Settlement. The interviewers provided tremendous insight into the experiences of the Claimants which led to refinement of the questions or the assessment of injury severity.

D. Special Master Team Communication

Members of the Special Master's Team and JND met virtually through Zoom on approximately a weekly basis to review progress updates, discuss issues and concerns related to confirmation of class membership, scheduling, training, interviewers, the Panel portal, and any Claimant issues raised or identified.

Approximately every six weeks, Dr. Steinberg updated the parties regarding the progress of the Panel's work.

E. Scheduling of Interviews for Tier 3 Claimants

In November 2021, JND began contacting Claimants and scheduling interviews. The interviewers conducted interviews following the interview protocol created by the Special Master's Team to assess injuries.

VIII. Special Claimant Circumstances.

During the course of this project, JND or the Panel identified certain subsets of special circumstances. These subsets include the following:

- Claimants with communication issues. Communication issues made the standard interview inappropriate for some Claimants, including those whose primary language was not English. Interpreters were engaged by JND as needed to facilitate these interviews.
- Support personnel. A number of Claimants requested that their attorneys or support person be present for the interview. All of these requests were granted; these supporters were advised that they should not interrupt the interview and all complied.
- Deceased Tier 3 Claimants. Two Tier 3 claims were filed by representatives of a deceased Class Member. The families of these Class Members alleged qualifying injuries. Medical and psychiatric records were requested and the family members were contacted for additional information. The Panel allowed settlement awards on behalf of both deceased claimants.
- Late Claims. JND received 62 Tier 1, 2, and 3 claims after the Court-ordered claim deadline. Per Section 6.5 of the Settlement Agreement, the Special Master considered these late-claim requests for good cause, in consultation with JND and the Special Master Team where appropriate, and the majority were accepted.

IX. Severity Assessment

The class action alleged that Claimants were injured by Dr. Heaps as a result of sexual assault, abuse, harassment, and other offensive behaviors; and that UCLA failed to take appropriate measure to protect patients. The Claim Form and interview were designed to gather information about these actions, the boundary violations that occurred as perceived by the Claimant, and the injuries (emotional distress, betrayal of trust, and functional changes) that resulted from those violations, such as avoidance of medical care and the impact of Dr. Heaps' actions on the Claimant's personal life. The interview inquired about aggravating factors, including underlying

vulnerabilities (such as prior history of abuse, the age of the Claimant, presence of cancer diagnosis, and number of visits with and length of treatment by Dr. Heaps).

A. Claim Form Assessment

The court-approved Claim Form collected basic information relevant to the case, including dates treated at UCLA facilities, whether represented by an attorney, and the choice of Tier 2 or Tier 3. It posed open-ended questions about treatment the Claimant received from Dr. Heaps at UCLA and the Claimant's reactions to and feelings about her interactions with Dr. Heaps at the time of the encounter and at present.

The Claim Form allowed Claimants to write as little or as much as they wanted; thus, there was wide variance in the data obtained. Claimants were eligible for a Tier 2 award if the Panel determined that the Claim was credible and that the conduct by Dr. Heaps fell outside the scope of accepted medical standards of care applicable during the relevant time or is otherwise actionable. In other words, the only Tier 2 Claimants determined not eligible for an award were those determined not credible, fraudulent, or those who reported no injury as a result of the experience with Dr. Heaps.

Although the case revolved around the impact experienced by Claimants as a result of their treatment by Dr. Heaps, there was variation in how individuals reported this impact. The Panel thus asked reviewers – all of whom had experience working with victims of sexual abuse – to read through the entire Claim Form and note whether Claimants had particular vulnerabilities; reported inappropriate behaviors on the part of Dr. Heaps; reported emotional distress, a betrayal of trust in UCLA, physicians in general, male physicians, or men in general; and/or reported avoidance of medical care. Finally, reviewers were asked to flag Claim Forms in which Claimants had suffered egregiously at the hands of Dr. Heaps and to flag claims that provided insufficient information for evaluation. Claimants were contacted and offered the opportunity to provide missing information on the Claim Form or with other documents of relevance.

B. The Interview

A semi-structured interview was provided as a script in the Panel portal, which allowed interviewers to capture information in a consistent and systematic manner. Topics addressed by the interview questions reflect information gleaned from the Claim Forms, which suggested multiple patterns of inappropriate behaviors on the part of Dr. Heaps. The script was written in plain language and was meant to be read in its entirety, although interviewers were allowed to make minor modifications in order to sound more natural. Interviewers were instructed to avoid adding any supportive questions or facilitative comments that could be experienced as leading.

The questions were designed to be open-ended. Interviewers were offered both check boxes for predicted responses and space to type in verbatim responses when the check boxes were not applicable or insufficient to capture a Claimant's full response. The check boxes were intended to make it easier for the interviewer to record responses and to enable quantitative analysis, while

the text boxes allowed for the capture of more detailed and nuanced responses. In most cases, the interviewer had the option of checking “did not answer” or “don’t know or remember.” Space was also provided for the interviewer to document particularly revealing Claimant responses that may not have been adequately captured by the check boxes. Interviewers were also asked to note the Claimant’s affect (e.g., tearful, angry, upset, etc.).

At the completion of the interview, interviewers were asked to make an overall assessment of severity of damage: none, mild, moderate, or severe. This assessment allowed the judgment of the interviewers to be compared to be the more quantitative measure of overall severity of damages. Any major discrepancies could then be evaluated in more detail by the Panel as a quality check on the interviewers and ensure that Claimants were being appropriately assigned to severity categories.

The sensitive and personal nature of the interview and the distressing experiences of many women (both under Dr. Heaps’ care and during the claims process) resulted in a number of difficult interviews. The interviewer training sessions were designed, in part, to prepare the interviewers to deal with anticipated problems, as discussed below. Interviewers were further instructed to contact the relevant member of the Panel if any issues arose during the interview for which they were unsure how to respond.

Some Claimants became extremely distraught during the interview. For most of these cases, the interviewers were able to manage this distress with empathy and concern. In a few cases, the interview was gently terminated. Interviewers also offered the resources of RAINN, a national hotline offering 24-hour support and resources for women who have experienced sexual violence. When interviewers were concerned about the safety of Claimants, the cases were also referred to Dr. Steinberg who reviewed the data recorded in the Panel portal, listened to a portion of or the entire recording of the interview, and discussed the case with the interviewer. In several instances, Dr. Steinberg contacted the Claimant directly soon after the interview to evaluate whether she was a danger to herself or others and offered suggestions for accessing local mental health resources.

A total of 239 interviews were conducted by twelve interviewers. These interviews ranged from about 18 minutes to more than three hours in duration.

The interview was divided into ten sections as described below:

1. **Introduction.** This section introduced the interviewer to the Claimant, asks for consent to record the Interview, and explains the purpose and expected length of the interview. Claimants were advised that they can refuse to be interviewed or have the interview recorded, but that doing so would limit the Panel’s ability to determine the level of injury and appropriate allocation.
2. **Section 1 – Introduction to Dr. Heaps and experiences as his patient.** This section aimed to capture the extent of contact the Claimant had with Dr. Heaps, her age at the time, whether she was a non-native English speaker, her reason for seeing Dr. Heaps,

whether he addressed her concerns, and her overall level of satisfaction with his treatment.

3. **Section 2 – Dr. Heaps’ gynecologic exam.** This section asked specific questions about pelvic, rectal, breast, and transvaginal ultrasound exams by Dr. Heaps. The goal of this section was to learn about potential boundary violations, such as failing to give patients privacy when they undressed, failure to have a chaperone present, failure to wear gloves during a pelvic and/or rectal exam, etc. We also wanted to know the Claimant’s thoughts about the exams – were they longer or more painful than expected and were there other aspects of the exams that seemed inappropriate.
4. **Section 3 – Inappropriate actions or comments.** This section probed further into Dr. Heaps’ comments and behaviors that the Claimant perceived to be inappropriate, recognizing that behaviors perceived to be inappropriate may, in fact, have been part of a standard exam.
5. **Section 4 – Diagnosis and treatments received.** This section asked about diagnoses and treatments that were suggested or provided by Dr. Heaps, whether the Claimant felt these diagnoses were correct, and whether she felt that the treatments were appropriate or inappropriate to address her concerns. Included in this section were questions about procedures he may have performed in his office or in the operating room.
6. **Section 5 – Emotional impact.** This section asked a series of questions about emotional and physical distress experienced at the time or shortly after the Claimant’s appointment with Dr. Heaps or later on. We probed to find out how this distress may have affected Claimants’ day-to-day lives, how long the distress continued, if it was triggered by certain situations, and if the Claimant had received counseling or treatment for this distress.
7. **Section 6 – Functional impact.** This section asked about how the experience with Dr. Heaps has affected other aspects of the Claimant’s life, such as decisions about health care, relationships, and school and work life. We also asked whether the Claimant felt that they experienced major disruptions to the course or quality of their lives as a result of their experience with Dr. Heaps.
8. **Section 7 – Vulnerabilities and other factors that may influence the severity of damage.** This section asked about other factors that may increase a Claimant’s vulnerability to injury from Dr. Heaps, including having experienced previous abuse or previous struggles with mental health issues.
9. **Conclusion.** This section gave Claimants the opportunity to provide additional comments or make a concluding statement about their experience. It also explained that the Special Master’s Panel will use the information from the interview to decide how to fairly allocate the Settlement.

10. ***Interviewer Assessment of Claimant Credibility.*** In this final portion, we asked the interviewers to provide and explain an overall assessment of how severely the Claimant was injured by her experience(s) with Dr. Heaps, whether her narrative made sense, and whether she appeared credible.

In addition, interviewers were asked to flag interviews, and notify Ms. Bain and Ms. Haeuber, with any of the following characteristics:

- Young age at time of encounter (<18);
- Egregious behavior by Dr. Heaps;
- Extremely severe impact on Claimants' life;
- Arousal of Claimant and/or Heaps;
- Criticism of Claimant's body;
- Genital stimulation;
- Rape dismissal;
- Suicide attempt;
- Sadism.

C. Analyzing the Interview

The Panel used a mixed-method approach to analyze the qualitative information captured in the interview. This methodology had been used successfully by Dr. Steinberg and Ms. Bain to assess injury severity in other cases. For the interview, it involved assigning point values to each factor explored in the interview resulting in an interview score. To ensure the reliability of this approach, Panel members reviewed many interviews and the associated coding. Based on these reviews, the Panel established 7 categories of severity according to the points received:

- No injury;
- Mild injury;
- Mild-moderate injury;
- Moderate injury;
- Moderate-severe injury;
- Severe injury;
- Extremely severe injury.

To ensure the appropriateness of the injury severity level for each Claimant, the Panel reviewed interviews for Claimants in which: 1) the interviewer's summary assessment of the Claimant's injury exceeded that of the severity index derived from the interview; 2) the injury severity level was close to the next higher severity level; or 3) the interview was flagged by the interviewer for any of the reasons noted in section VIII.C. above. In certain cases, these Panel reviews resulted in a Claimant being moved to a higher severity level than the interview alone would have indicated.

X. Determining Allocations for Claimants

A. Allocations for Tier 2 Claimants

All eligible and credible Tier 2 Claimants were allocated a total of \$12,500 plus the Pro Rata Adjustment.

B. Allocations for Tier 3 Claimants

After the extensive review of many interviews of Claimants who reported severe and extreme injuries, the Panel concluded that the fairest way to distribute the Settlement would require giving Claimants who experienced the most egregious injuries the largest awards possible (within the explicit parameters of the Settlement). Approximately 15 percent of Tier 3 Claimants were judged to have experienced extremely severe injury and approximately 20 percent were found to have experienced severe injury. Claimants who experienced severe or extreme injury were allocated the maximum of \$247,500 and additionally the \$5 million for Supplemental Awards was allocated evenly among those in the extreme category. Except for a few Claimants who were awarded a lower Claim Award for specific circumstances, the remaining Claimants were allocated between \$47,500 for those in the mild category to \$197,500 in the moderate-severe category. After distribution of the remaining based on the Pro Rata Adjustment per the terms of the Settlement, total Claim Awards are estimated to range between approximately \$51,000 for mildly injured Claimants and approximately \$376,000 for extremely injured Claimants.