

1 CHRISTINE SAUNDERS HASKETT (SBN 188053)  
LINDSEY BARNHART (SBN 294995)  
2 THEODORE KARCH (SBN 312518)  
COVINGTON & BURLING LLP  
3 One Front Street  
San Francisco, CA 94111  
4 Telephone: (415) 591-6000  
Facsimile: (415) 591-6091  
5 Email: [chaskett@cov.com](mailto:chaskett@cov.com)

6 ELIZABETH O. GILL (SBN 218311)  
CHRISTINE P. SUN (SBN 218701)  
7 ACLU FOUNDATION OF NORTHERN CALIFORNIA, INC.  
39 Drumm Street  
8 San Francisco, CA 94111  
Telephone: (415) 621-2493  
9 Facsimile: (415) 255-8437  
Email: [egill@aclunc.org](mailto:egill@aclunc.org)

10 RUTH DAWSON (SBN 290628)  
11 MELISSA GOODMAN (SBN 289464)  
ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
12 1313 West Eighth Street  
Los Angeles, CA 90017  
13 Telephone: (213) 977-9500 x258  
Facsimile: (213) 977-5297  
14 Email: [rdawson@aclusocal.org](mailto:rdawson@aclusocal.org)

15 *Attorneys for Plaintiff*  
16 Additional Attorneys Listed on Signature Page

17  
18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF SAN FRANCISCO**

20  
21 EVAN MINTON,

Plaintiff,

v.

23 DIGNITY HEALTH; DIGNITY HEALTH  
24 d/b/a MERCY SAN JUAN MEDICAL  
CENTER,

25 Defendants.

Case No.

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF  
AND STATUTORY DAMAGES**

1 **INTRODUCTION**

2 1. Plaintiff Evan Minton (“Plaintiff” or “Mr. Minton”) sought and was denied access to  
3 medical services by Defendant Dignity Health, doing business as Mercy San Juan Medical Center  
4 (“Defendant” or “MSJMC”), because he is transgender. MSJMC’s denial to Mr. Minton of medical  
5 services that it regularly provides to non-transgender patients is sex discrimination and violates the  
6 Unruh Civil Rights Act, Cal. Civ. Code § 51.

7 2. As part of the medical treatment stemming from his diagnosis of gender dysphoria,  
8 Mr. Minton’s surgeon, Dr. Dawson, scheduled a hysterectomy for Mr. Minton at MSJMC on August 30,  
9 2016. Dr. Dawson regularly performs hysterectomies at MSJMC, and in fact she had another  
10 hysterectomy scheduled immediately following Mr. Minton’s scheduled procedure. In a conversation  
11 two days before the scheduled procedure, however, Mr. Minton notified MSJMC personnel that he is  
12 transgender. The next day, Dr. Dawson was informed that she would not be permitted to perform  
13 Mr. Minton’s hysterectomy at MSJMC—either the following day or any day.

14 3. According to MSJMC personnel, Dr. Dawson was prevented from performing  
15 Mr. Minton’s hysterectomy at MSJMC based on Mr. Minton’s diagnosis of gender dysphoria. Gender  
16 dysphoria is a serious medical condition resulting from the feeling of incongruence between one’s  
17 gender identity and one’s sex assigned at birth.

18 4. Because Defendant routinely allows Dr. Dawson and other physicians to perform  
19 hysterectomies for patients on the bases of diagnoses other than gender dysphoria, Defendant’s refusal  
20 to allow Dr. Dawson to perform Mr. Minton’s hysterectomy constitutes discrimination against  
21 Mr. Minton because of his gender identity.

22 5. Defendant’s discrimination violates California’s Unruh Civil Rights Act, which broadly  
23 prohibits business establishments from discriminating in the provision of goods and services to the  
24 general public. The Unruh Act prohibits discrimination based on sex, which is explicitly defined to  
25 include gender identity. Cal. Civ. Code § 51(b). Discriminating against Mr. Minton on the basis of his  
26 gender dysphoria diagnosis therefore violates California law.

27 6. Mr. Minton seeks a declaratory judgment that Defendant violates California law by  
28

1 prohibiting doctors from performing hysterectomies for patients with gender dysphoria while permitting  
2 doctors to perform hysterectomies for patients without gender dysphoria. In addition, Mr. Minton seeks  
3 an injunction requiring Defendant to allow doctors to perform the same procedures on patients with  
4 gender dysphoria that they are permitted to perform on patients without gender dysphoria. Finally,  
5 Mr. Minton seeks statutory damages under the Unruh Civil Rights Act, Cal. Civ. Code § 52(a).

#### 6 **JURISDICTION AND VENUE**

7 7. This Court has jurisdiction under article VI, section 10, of the California Constitution and  
8 California Code of Civil Procedure §§ 410.10, 525-26, 1060, and 1085.

9 8. Venue in this court is proper because this is an action against a nonprofit corporation,  
10 Dignity Health, which has its the principal place of business in the City and County of San Francisco, at  
11 185 Berry Street, Suite 300, San Francisco, CA 94107.<sup>1</sup> Civ. Code § 395.5.

#### 12 **THE PARTIES**

##### 13 **Plaintiff Evan Minton**

14 9. Plaintiff Evan Minton resides in Orangevale, California, a suburb of Sacramento.  
15 Mr. Minton is a transgender man, which means that he was assigned the sex of female at birth, but his  
16 gender identity is male and he identifies as a man.

##### 17 **Defendant Dignity Health**

18 10. Dignity Health is registered as a 501(c)(3) tax-exempt nonprofit corporation. According  
19 to its website, Dignity Health is the fifth-largest health system in the country, owning and operating a  
20 large network of hospitals.<sup>2</sup> Also according to its website, Dignity Health is the largest hospital provider  
21 in California, with 31 hospitals in the state.<sup>3</sup> In 2012, Dignity Health's federal tax form 990 listed  
22 revenue of \$8.7 billion and employment of 51,991 people. In Sacramento County, Dignity Health does  
23

---

24 <sup>1</sup> Dignity Health describes itself as “a California nonprofit public benefit corporation headquartered in  
25 San Francisco,” 2012 Form 990, Part III, Line 4a, and lists a San Francisco address for the company.  
26 Dignity Health's most recent Statement of Information, filed with the California Secretary of State on  
27 October 7, 2016, lists the corporation's “Principal Office Address” as 185 Berry Street, Suite 300, San  
28 Francisco, CA 94017.

<sup>2</sup> <http://www.dignityhealth.org/cm/content/pages/about-us.asp>

<sup>3</sup> *Id.*

1 business as Mercy San Juan Medical Center.

2 **STATEMENT OF FACTS**

3 **Gender Dysphoria Diagnosis and Treatment**

4 11. “Gender identity” is a well-established medical concept, referring to one’s sense of  
5 belonging to a particular gender. Typically, people who are designated female at birth based on their  
6 external anatomy identify as girls or women, and people who are designated male at birth based on their  
7 external anatomy identify as boys or men. For a transgender individual, however, gender identity differs  
8 from the sex assigned to that person at birth. Transgender men typically are men who were assigned  
9 “female” at birth, but have a male gender identity.

10 12. The medical diagnosis for the feeling of incongruence between one’s gender identity and  
11 one’s sex assigned at birth, and the resulting distress caused by that incongruence, is “gender dysphoria”  
12 (previously known as “gender identity disorder”). Gender dysphoria is a serious medical condition  
13 codified in the Diagnostic and Statistical Manual of Mental Disorders (DSM-V) and International  
14 Classification of Diseases (ICD-10).<sup>4</sup> The criteria for diagnosing gender dysphoria are set forth in the  
15 DSM-V (302.85).

16 13. The widely accepted standards of care for treating gender dysphoria are published by the  
17 World Professional Association for Transgender Health (“WPATH”). The WPATH Standards of Care  
18 have been recognized as the authoritative standards of care by leading medical organizations, the U.S.  
19 Department of Health and Human Services, and federal courts.

20 14. Under the WPATH standards, treatment for gender dysphoria may require medical steps  
21 to affirm one’s gender identity and help an individual transition from living as one gender to another.  
22 This treatment, often referred to as transition-related care, may include hormone therapy, surgery  
23 (sometimes called “sex reassignment surgery” or “gender affirming surgery”), and other medical

---

24 <sup>4</sup> *Gender Dysphoria*, American Psychiatric Association (2013),  
25 <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf> (“For a person to be  
26 diagnosed with gender dysphoria, there must be a marked difference between the individual’s  
27 expressed/experienced gender and the gender others would assign him or her . . . Gender dysphoria is  
28 manifested in a variety of ways, including strong desires to be treated as the other gender or to be rid of  
one’s sex characteristics, or a strong conviction that one has feelings and reactions typical of the other  
gender.”).

1 services that align individuals' bodies with their gender identities. The exact medical treatment varies  
2 based on the individualized needs of the person.

3 15. Hysterectomy is surgery to remove a patient's uterus and is performed to treat a number  
4 of health conditions, including uterine fibroids, endometriosis, pelvic support problems, abnormal  
5 uterine bleeding, chronic pelvic pain, and gynecological cancer.<sup>5</sup> A patient can no longer become  
6 pregnant after undergoing a hysterectomy.<sup>6</sup> Thus, hysterectomy is an inherently sterilizing procedure,  
7 regardless of the reason for which it is performed. According to the U.S. Department of Health and  
8 Human Services, hysterectomy is the second most common surgery, after a Cesarean section, among  
9 women in the United States.<sup>7</sup>

10 16. Transgender men often decide to undergo hysterectomy as a gender-affirming surgical  
11 treatment for gender dysphoria. The National Transgender Discrimination Survey in 2015, which  
12 surveyed almost 28,000 transgender people, found that 14% of transgender men surveyed had  
13 undergone a hysterectomy, and 57% wanted a hysterectomy someday.<sup>8</sup> According to every major  
14 medical organization and the overwhelming consensus among medical experts, treatments for gender  
15 dysphoria, including surgical procedures such as hysterectomy, are effective and safe.

### 16 **Mr. Minton's Gender Dysphoria and Treatment**

17 17. Mr. Minton first began to identify as male and take social steps such as trying out  
18 different male names and asking friends and family to call him by male pronouns in 2011. He was  
19 subsequently diagnosed with gender dysphoria. Pursuant to this diagnosis and on the recommendation  
20 of his treating physicians, Mr. Minton began to take additional steps to continue his transition shortly  
21 after receiving the diagnosis. He began hormone replacement therapy in April of 2012 and had a

---

22 <sup>5</sup> *Hysterectomy*, American College of Obstetricians and Gynecologists (March 2015),  
23 <http://www.acog.org/Patients/FAQs/Hysterectomy#what>.

24 <sup>6</sup> *Id.*

25 <sup>7</sup> *Hysterectomy*, Office on Women's Health, U.S. Dept. of Health & Human Services (2014),  
26 <https://www.womenshealth.gov/publications/our-publications/fact-sheet/hysterectomy.html#n>.

27 <sup>8</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Ana, M. (2016). *The Report of the*  
28 *2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.  
<http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>

1 bilateral mastectomy in July of 2014. Mr. Minton legally changed his name by way of court order in  
2 December 2014, and he legally changed the gender shown on his driver's license in 2015.

3 18. By August 2016, Mr. Minton and his treating physicians had a plan for a series of  
4 medical procedures that would result in a phalloplasty, or the surgical creation of a penis.<sup>9</sup> The first of  
5 these planned steps was a complete hysterectomy, or removal of his uterus, fallopian tubes, and ovaries.  
6 In Mr. Minton's case, hysterectomy was medically necessary care to treat his diagnosis of gender  
7 dysphoria. This was the professional opinion of Mr. Minton's hysterectomy surgeon and two mental  
8 health professionals who counseled Mr. Minton during his transition.

9 **Defendant's Discrimination Against Mr. Minton on the Basis of his Gender Identity**

10 19. After consulting further with his primary care physician and obstetrician/ gynecologist,  
11 Dr. Lindsey Dawson, Mr. Minton scheduled his hysterectomy with Dr. Dawson at MSJMC for August  
12 30, 2016.

13 20. Dr. Dawson has been practicing as a board-certified obstetrician/gynecologist for 11  
14 years and has had admitting privileges at MSJMC since 2010. Dr. Dawson regularly performs about 1-2  
15 hysterectomies per month at MSJMC.

16 21. Two days prior to Mr. Minton's scheduled surgery, on August 28, 2016, a pre-operation  
17 nurse called Mr. Minton to prepare him for the surgery. During that conversation, Mr. Minton  
18 mentioned that he is transgender.

19 22. On August 29, a day before his scheduled procedure, Dr. Dawson received a call from  
20 MSJMC's surgery department notifying her that Mr. Minton's hysterectomy had been cancelled.  
21 Dr. Dawson received further confirmation of the cancellation during a telephone call to MSJMC nurse  
22 manager Andrea Markham, and a telephone call and meeting with MSJMC's president, Brian Ivie. Mr.  
23 Ivie also stated that Dr. Dawson would never be allowed to perform a hysterectomy on Mr. Minton at  
24 MSJMC. According to Mr. Ivie, MSJMC would not allow the hysterectomy to proceed because it was  
25

26 <sup>9</sup> "Phalloplasty in transgender men involves the creation of a penis using any one of a number of  
27 procedures." *Phalloplasty and metaoidioplasty - overview and postoperative considerations*,  
28 Center of Excellence in Transgender Health, <http://www.transhealth.ucsf.edu/tcoe?page=guidelines-phalloplasty>.

1 scheduled as part of a course of treatment for gender dysphoria, as opposed to any other medical  
2 diagnosis.

3 23. MSJMC's refusal to allow Dr. Dawson to perform Mr. Minton's hysterectomy on August  
4 30, 2016 caused Mr. Minton great anxiety and grief. Mr. Minton had no time to spare, as he needed to  
5 undergo his hysterectomy three months before his phalloplasty, which was scheduled for November  
6 23rd. Mr. Minton had already experienced numerous delays throughout his medical transition, including  
7 battles over insurance coverage and scheduling his phalloplasty. As a result, the timing of his  
8 hysterectomy was particularly sensitive.

9 24. As an alternative, Mr. Ivie suggested that Dr. Dawson could get emergency admitting  
10 privileges at Methodist Hospital, a non-Catholic Dignity Health hospital about 30 minutes away from  
11 MSJMC. Dr. Dawson's schedule could not accommodate that alternative immediately.

12 25. Ultimately, Dr. Dawson was able to secure emergency surgical privileges for later in the  
13 week, and she performed Mr. Minton's hysterectomy at Methodist Hospital on Friday, September 2.

14 26. Dr. Dawson routinely performs hysterectomies for her patients, and in fact performed  
15 another hysterectomy at MSJMC the same day that Mr. Minton's surgery had been scheduled. Other  
16 physicians who practice at MSJMC also regularly perform hysterectomies at the hospital for patients  
17 who have not been diagnosed with gender dysphoria, for indications such as chronic pelvic pain and  
18 uterine fibroids.

19 27. If Defendant is not enjoined from preventing doctors from performing hysterectomy  
20 procedures for patients with gender dysphoria in its hospitals, Mr. Minton and others similarly  
21 situated—*i.e.*, transgender individuals who suffer from gender dysphoria—will be unlawfully denied  
22 access to medical treatment at hospitals run by the largest hospital provider in California.

23 **FIRST CAUSE OF ACTION**

24 **(Violation of The Unruh Act, Civ. Code § 51(b))**

25 28. Plaintiff incorporates by reference the allegations of the above paragraphs as though fully  
26 set forth herein.

27 29. The Unruh Act prohibits discrimination on the basis of sex in all business establishments.  
28

1 Civ. Code § 51(b).

2 30. The Unruh Act defines “sex” to include a person’s gender. “Gender” means sex, and  
3 includes a person’s gender identity and gender expression. Civ. Code § 51(e)(5).

4 31. Discrimination against an individual on the basis of his or her gender identity is  
5 discrimination on the basis of “sex” under the Unruh Act.

6 32. Defendant prevented Dr. Dawson from performing Mr. Minton’s hysterectomy to treat  
7 his diagnosis of gender dysphoria, a medical condition unique to individuals whose gender identity does  
8 not conform to the sex they were assigned at birth.

9 33. Defendant does not prohibit physicians at its hospitals from treating other diagnoses with  
10 hysterectomy.

11 34. By preventing Dr. Dawson from performing Mr. Minton’s hysterectomy to treat gender  
12 dysphoria, Defendant discriminated against Mr. Minton on the basis of his gender identity.

13 35. Defendant’s preventing Dr. Dawson from performing Mr. Minton’s hysterectomy at  
14 MSJMC is sex discrimination in violation of California Civil Code § 51(b).

15 36. Defendant’s discriminatory practices caused Plaintiff considerable harm. Therefore, Mr.  
16 Minton seeks injunctive relief and statutory damages under the Unruh Act.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully requests that the Court:

19 A. Enter a declaratory judgment stating that Defendant’s preventing Mr. Minton’s physician  
20 from performing his hysterectomy at Mercy violated the Unruh Act, Civil Code § 51(b).

21 B. Enter an order for statutory damages of \$4,000 under the Unruh Act, Civil Code § 52(a).

22 C. Enter an order enjoining Defendant, its agents, employees, successors, and all others  
23 acting in concert with them, from (1) discriminating on the basis of gender identity or expression,  
24 transgender status, and/or diagnosis of gender dysphoria in the provision of health care services,  
25 treatment, and facilities; and (2) preventing doctors from performing hysterectomy procedures in its  
26 hospitals on the basis of a diagnosis of gender dysphoria.

27 D. Enter an order requiring Defendant to pay Plaintiff’s attorneys’ fees and costs under Civil  
28




1 Code § 52.1(h), Civil Code § 52(a), Code of Civil Procedure § 1021.5, and any other applicable statutes.

2 E. Grant Plaintiff any further relief the Court deems just and proper.


3  
4 Dated: April 19, 2017

Respectfully Submitted,

5 COVINGTON & BURLING LLP

6 By:   
7 Christine Saunders Haskett  
8 Attorneys for Plaintiff

9 ACLU FOUNDATION OF NORTHERN  
10 CALIFORNIA, INC.

11 By:   
12 Elizabeth Gill  
13 Attorneys for Plaintiff

14 ACLU FOUNDATION OF SOUTHERN  
15 CALIFORNIA

16 DAVID LOY (SBN 229235)  
17 ACLU FOUNDATION OF SAN DIEGO &  
18 IMPERIAL COUNTIES  
19 P.O. Box 87131  
20 San Diego, CA 92138-7131  
21 Telephone: (619) 232-2121  
22 Facsimile: (619) 232-0036  
23 Email: [davidloy@aclusandiego.org](mailto:davidloy@aclusandiego.org)

**VERIFICATION**

I, Evan Minton, have read paragraphs 9, 17-19, 21, and 23 of this Verified Complaint for Declaratory and Injunctive Relief and Statutory Damages in the matter of *Minton v. Dignity Health*. The facts within these paragraphs are within my own personal knowledge and I know them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 4/19/17

Evan Michael Minton

Evan Minton

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