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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SAN FRANCISCO**

9 EVAN MINTON,

10 Plaintiff,

11 v.

12 DIGNITY HEALTH, d/b/a MERCY SAN JUAN  
13 MEDICAL CENTER,

14 Defendant.

15 Civil Case No.: CGC-17-558259

16 [PROPOSED] STIPULATED ORDER  
17 ADOPTING PRO TEM JUDGE  
18 MCDONALD'S REPORT AND  
19 RECOMMENDATION AS THE ORDER  
20 OF THE COURT

21 [PROPOSED] STIPULATED ORDER ADOPTING PRO TEM JUDGE MCDONALD'S REPORT  
22 AND RECOMMENDATION AS THE ORDER OF THE COURT

23 **ELECTRONICALLY  
24 FILED**  
25 *Superior Court of California,  
26 County of San Francisco*

27 **05/18/2022**  
28 **Clerk of the Court**  
BY: SHIRLEY LE  
Deputy Clerk

1                   **WHEREAS**, on February 18, 2022, Plaintiff Evan Minton (“Plaintiff”) filed a Motion to Compel  
2 Discovery;

3                   **WHEREAS**, on March 28, 2022, Defendant Dignity Health, d/b/a Mercy San Juan Medical  
4 Center (“Defendant”) filed an Opposition to Motion to Compel;

5                   **WHEREAS**, on April 4, 2022, Plaintiff filed a Reply in Support of Motion to Compel  
6 Discovery;

7                   **WHEREAS**, on April 11, 2022, Pro Tem Judge David McDonald heard oral argument on  
8 Plaintiff’s Motion to Compel;

9                   **WHEREAS**, between April 18, 2022 and May 6, 2022, the parties continued to meet and confer  
10 and further narrowed the discovery dispute;

11                   **WHEREAS**, on May 6, 2022, the parties informed Judge McDonald of the results of the meet  
12 and confer process and requested guidance on the issues still outstanding;

13                   **WHEREAS**, on May 10, 2022, Judge McDonald issued his Report and Recommendation;

14                   **WHEREAS**, the parties have agreed and stipulated that Judge McDonald’s recommendation to  
15 grant the motion under the conditions specified in Section II of his Report and Recommendation,  
16 attached hereto as Exhibit A, shall be the Order of the Court on this motion;

17                   **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between  
18 Plaintiff and Defendant, through their undersigned counsel, that Judge McDonald’s Report and  
19 Recommendation shall be the Order of the Court on this motion.

20  
21                   DATED: May 17, 2022

COVINGTON & BURLING LLP

22                   By: /s/ Janelle Lamb

23                   Janelle Lamb

24                   Attorneys for Plaintiff Evan Minton

1 DATED: May 16, 2022

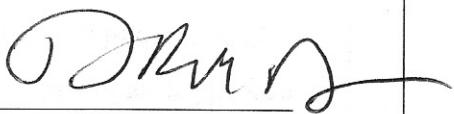
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MANATT, PHELPS & Phillips, LLP

By: /s/ Craig S. Rutenberg  
Craig S. Rutenberg

Attorneys for Defendant Dignity Health,  
d/b/a Mercy San Juan Medical Center

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

DATED: 5/16/22

  
\_\_\_\_\_  
Judge of the Superior Court  
PRO TEM  
DAVID R. McDONALD

~~[PROPOSED]~~ STIPULATED ORDER ADOPTING PRO TEM JUDGE MCDONALD'S REPORT  
AND RECOMMENDATION AS THE ORDER OF THE COURT

# Exhibit A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
REPORT AND RECOMMENDATION - DEPT. 302**

**To:** **Judge Richard Ulmer**

**From:** **Judge Pro Tem David McDonald**

**Re:** **Minton v San Juan Hospitals et.al. ; motion to compel RFPDs and Special Interrogatories**

**Hearing Date:** **May 16, 2022 --- 9:30 a.m. Dept 302**

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**I. Introduction**

Plaintiff is a transgender male who has alleged an Unruh act claim of discrimination against a group of hospitals that allegedly denied care to him as a result of his gender.

Plaintiff claims that his physician had made arrangements for a hysterectomy at Dignity Health's San Juan Hospital in Sacramento, a hospital run under the auspices of the Catholic Church. On the night before the surgery, after informing staff that he was transgender, San Juan cancelled the surgery because of a policy, based on religious beliefs, that surgeries of this nature were limited to the immediate medical need of the patient and that Plaintiff's elected procedure was to treat Plaintiff's gender dysphoria—"a condition that affects only transgender persons." Dignity did arrange for Plaintiff to have the procedure performed a few days later at another Dignity hospital who was not affiliated with the Catholic church.

Plaintiff filed suit in 2017. Judge Harold Kahn sustained Defendants' demurrer to Plaintiff's claims without leave to amend. Plaintiff appealed and the Court of Appeal reversed finding that Plaintiff had stated a proper claim for discrimination under the Unruh act. Minton v. Dignity Health 39 Cal. App. 5th 1155, 1163 (2019).

**II. Discussion**

Upon remand, Plaintiff propounded discovery to Defendants. While several of the requests were amicably resolved, a dispute remained on the requests listed on Exhibit A to this memo. The main point of disagreement centered around Plaintiff's requests for documents/information at eight other hospitals operated by Defendants. At the hearing before me, we discussed my proposal that Defendants respond to the requests for the hospital in question, San Juan, and Plaintiff defer any requests (without prejudice) as to the other

identified hospitals. While an agreement wasn't reached at the hearing, the parties continued to meet and confer.

My understanding is that the parties reached a tentative agreement along the lines of the proposal that I made, but resolution broke down and the following issues remain in dispute.

First, as to further discovery for the other hospitals, Defendants agree that Plaintiff has not waived his rights to this discovery but wants Plaintiff to serve new requests. Plaintiff wants the ability to renew the current motion after a meet and confer.

I agree with Plaintiff that a new round of requests aren't necessary. That will just cut down more trees. I recommend that if Plaintiff wants discovery as to the other hospitals, and an amicable resolution cannot be reached, that the parties contact me and I'll hold a hearing with a subsequent recommendation/hearing before you.

Second, the parties dispute how Defendants will respond to the interrogatories. Plaintiff insists that they be construed broadly, i.e. provide full detail as they define it. Defendants say that they will respond as the interrogatories are drafted.

This is premature. Defendants need to respond and comply with their obligations under the discovery code. If they fail to do so, a meet and confer should happen and if not resolved, Plaintiff can file a follow up motion.

Third, Plaintiff wants Defendants to produce all agreed documents and serve supplemental discovery responses by May 25th. Defendants contend that it will take two months to compile the information but will commit to a rolling production as soon as possible. I suggest ordering Defendants to respond on a rolling basis, but no later than June 30, 2022 for full compliance.

In sum, grant all requests as to San Juan Hospital. Discovery as to the other hospitals is deferred.

### **III. Recommendation**

Grant motion under the conditions discussed above.

**EXHIBIT A**

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 5**

DOCUMENTS sufficient to IDENTIFY all DIGNITY HEALTH employees, agents, representatives, attorneys, or other persons or entities acting, or purporting to act, on DIGNITYHEALTH's behalf who have been involved in any decision to allow or cancel a HYSTERECTOMY or any other STERILIZATION at any DIGNITY HEALTH hospital in California.

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 6**

DOCUMENTS sufficient to identify each cancellation of a HYSTERECTOMY at any DIGNITY HEALTH facility in California since January 1, 2015.

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 7**

DOCUMENTS sufficient to identify the reason or reasons for each cancellation of a HYSTERECTOMY at any DIGNITY HEALTH facility in California since January 1, 2015.

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 8**

All DOCUMENTS RELATED TO any policy concerning the approval or denial of HYSTERECTOMIES in effect at any DIGNITY HEALTH facility in California since January 1, 2015.

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 9**

All DOCUMENTS and COMMUNICATIONS RELATED TO any and all requirements that the ETHICAL AND RELIGIOUS DIRECTIVES and/or DIGNITY HEALTH's Reproductive Sterilization Policy impose on any DIGNITY HEALTH employee, agent, representative, attorney, or any other persons or entities acting on DIGNITY HEALTH's behalf.

**PLAINTIFF'S REQUEST FOR PRODUCTION NO. 13**

All DOCUMENTS or COMMUNICATIONS RELATED TO any policy, practice or procedure concerning transgender patients in effect at any DIGNITY HEALTH facility in California since January 1, 2015.

PLAINTIFF'S REQUEST FOR PRODUCTION NO. 14

All DOCUMENTS or COMMUNICATIONS RELATED TO any policy, practice or procedure concerning the treatment of gender dysphoria (or gender identity disorder or transsexualism) in effect at any DIGNITY HEALTH facility in California since January 1, 2015.

PLAINTIFF'S REQUEST FOR PRODUCTION NO. 15

All DOCUMENTS and COMMUNICATIONS RELATED TO policies, practices, procedures, rules, or guidelines for scheduling surgeries at any DIGNITY HEALTH facility in California since January 1, 2015.

PLAINTIFF'S REQUEST FOR PRODUCTION NO. 16

All DOCUMENTS and COMMUNICATIONS RELATED TO policies, practices, procedures, rules, or guidelines for cancelling surgeries at any DIGNITY HEALTH facility in California since January 1, 2015.

PLAINTIFF'S REQUEST FOR PRODUCTION NO. 17

All DOCUMENTS and COMMUNICATIONS RELATED TO policies, practices, procedures, rules, or guidelines requiring employees at DIGNITY HEALTH to identify the purpose of a surgery before it may be performed at DIGNITY HEALTH.

PLAINTIFF'S SPECIAL INTERROGATORY NO. 1

State, for each DIGNITY HEALTH hospital in California, the number of HYSTERECTOMIES performed between January 1, 2015 and December 31, 2018.

PLAINTIFF'S SPECIAL INTERROGATORY NO. 2

DESCRIBE IN FULL DETAIL the medical reason for every HYSTERECTOMY identified in Special Interrogatory No. 1.

**SPECIAL INTERROGATORY NO. 4**

DESCRIBE IN FULL DETAIL all training YOU provide to doctors regarding the application of the ETHICAL AND RELIGIOUS DIRECTIVES to HYSTERECTOMIES at each DIGNITY HEALTH facility in California

**PLAINTIFF'S SPECIAL INTERROGATORY NO. 5**

DESCRIBE IN FULL DETAIL all training YOU provide to employees of DIGNITY HEALTH RELATING TO the application of the ETHICAL AND RELIGIOUS DIRECTIVES to HYSTERECTOMIES at each DIGNITY HEALTH facility in California.