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

EVAN MINTON

Plaintiff,

v.

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

Defendant.

Case No. CGC 17-558259

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

ELECTRONICALLY
FILED

*Superior Court of California,
County of San Francisco*

09/19/2017

Clerk of the Court

BY: JUDITH NUNEZ

Deputy Clerk

INTRODUCTION

1
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 for a cisgender (non-transgender) patient immediately following Mr. Minton’s
11 scheduled procedure. In a conversation two days before the scheduled procedure, however, Mr. Minton
12 notified MSJMC personnel that he is transgender. The next day, Dr. Dawson was informed that she
13 would not be permitted to perform Mr. Minton’s hysterectomy at MSJMC—either the following day or
14 any day.

15 3. According to MSJMC personnel, Dr. Dawson was prevented from performing
16 Mr. Minton’s hysterectomy at MSJMC because he is a transgender man who sought the hysterectomy as
17 treatment for his diagnosed gender dysphoria. Gender dysphoria is a serious medical condition resulting
18 from the feeling of incongruence between one’s gender identity and one’s sex assigned at birth, as
19 experienced by transgender individuals.

20 4. Because Defendant routinely allows Dr. Dawson and other physicians to perform
21 hysterectomies for cisgender patients at MSJMC to treat medical indications other than gender
22 dysphoria, Defendant’s refusal to allow Dr. Dawson to perform Mr. Minton’s hysterectomy at MSJMC
23 constitutes discrimination against Mr. Minton because of his gender identity.

24 5. Defendant’s discrimination violates California’s Unruh Civil Rights Act, which broadly
25 prohibits business establishments from discriminating in the provision of goods and services to the
26 general public. The Unruh Act prohibits discrimination based on sex, which is explicitly defined to
27 include gender identity. Cal. Civ. Code § 51(b). Refusing Mr. Minton hysterectomy care because he is
28

1 a transgender man seeking the procedure as treatment for gender dysphoria therefore violates California
2 law.

3 6. Mr. Minton seeks a declaratory judgment that Defendant violates California law by
4 prohibiting doctors from performing hysterectomies for transgender patients with gender dysphoria
5 while permitting doctors to perform hysterectomies for cisgender patients without gender dysphoria. In
6 addition, Mr. Minton seeks an injunction requiring Defendant to allow doctors to perform the same
7 procedures on transgender patients with gender dysphoria that they are permitted to perform on
8 cisgender patients without gender dysphoria. Finally, Mr. Minton seeks statutory damages under the
9 Unruh Civil Rights Act, Cal. Civ. Code § 52(a).

10 **JURISDICTION AND VENUE**

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

13 8. Venue in this court is proper because this is an action against a nonprofit corporation,
14 Dignity Health, which has its principal place of business in the City and County of San Francisco, at 185
15 Berry Street, Suite 300, San Francisco, CA 94107.¹ Civ. Code § 395.5.

16 **THE PARTIES**

17 **Plaintiff Evan Minton**

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

21 **Defendant Dignity Health**

22 10. Dignity Health is registered as a 501(c)(3) tax-exempt nonprofit corporation. According
23 to its website, Dignity Health is the fifth-largest health system in the country, owning and operating a
24

25 ¹ Dignity Health describes itself as “a California nonprofit public benefit corporation headquartered in
26 San Francisco,” 2014 Form 990, Part III, Line 4a, and lists a San Francisco address for the company.
27 Dignity Health’s most recent Statement of Information, filed with the California Secretary of State on
28 October 7, 2016, lists the corporation’s “Principal Office Address” as 185 Berry Street, Suite 300, San
Francisco, CA 94017.

1 large network of hospitals.² Also according to its website, Dignity Health is the largest hospital provider
2 in California, with 31 hospitals in the state.³ In 2014, Dignity Health's federal tax form 990 listed
3 revenue of over \$10 billion and employment of 49,907 people. In Sacramento County, Dignity Health
4 does business as Mercy San Juan Medical Center. MSJMC is located in Carmichael.

5 **STATEMENT OF FACTS**

6 **Gender Dysphoria Diagnosis and Treatment**

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

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

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

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

24 ³ *Id.*

25 ⁴ *Gender Dysphoria*, American Psychiatric Association (2013),
26 <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf> ("For a person to be
27 diagnosed with gender dysphoria, there must be a marked difference between the individual's
28 expressed/experienced gender and the gender others would assign him or her . . . Gender dysphoria is
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 14. Under the WPATH standards, treatment for gender dysphoria may require medical steps
2 to affirm one’s gender identity and help an individual transition from living as one gender to another.
3 This treatment, often referred to as transition-related care, may include hormone therapy, surgery
4 (sometimes called “sex reassignment surgery” or “gender affirming surgery”), and other medical
5 services that align individuals’ bodies with their gender identities. The exact medical treatment varies
6 based on the individualized needs of the person.

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

14 16. Transgender men often pursue hysterectomy as a gender-affirming surgical treatment for
15 gender dysphoria. The United States Transgender Discrimination Survey in 2015, which surveyed
16 almost 28,000 transgender people, found that 14% of transgender men surveyed had undergone a
17 hysterectomy, and 57% wanted to undergo a hysterectomy.⁸ According to every major medical
18 organization and the overwhelming consensus among medical experts, treatments for gender dysphoria,
19 including surgical procedures such as hysterectomy, are effective and safe.

20 **Mr. Minton’s Gender Dysphoria and Treatment**

21 17. Mr. Minton first began to identify as male and take social steps such as trying out

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

24 ⁶ *Id.*

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

26 ⁸ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Ana, M. (2016). *The Report of the*
27 *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-](http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf)
28 [%20FINAL%201.6.17.pdf](http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf).

1 different male names and asking friends and family to call him by male pronouns in 2011. He was
2 subsequently diagnosed with gender dysphoria. Pursuant to this diagnosis and on the recommendation
3 of his treating physicians, Mr. Minton began to take additional steps to continue his transition shortly
4 after receiving the diagnosis. He began hormone replacement therapy in April of 2012 and had a
5 bilateral mastectomy in July of 2014. Mr. Minton legally changed his name by way of court order in
6 December 2014, and he legally changed the gender shown on his driver's license in 2015.

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

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

14 19. After consulting further with his primary care physician and obstetrician/ gynecologist,
15 Dr. Lindsey Dawson, Mr. Minton scheduled his hysterectomy with Dr. Dawson at MSJMC for August
16 30, 2016.

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

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

23 22. The next morning, a day before Mr. Minton's scheduled procedure, Dr. Dawson received
24 a call from MSJMC's surgery department notifying her that Mr. Minton's hysterectomy had been
25

26 ⁹ "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 cancelled.

2 23. Dr. Dawson promptly contacted MSJMC to inquire about and protest the cancellation of
3 Mr. Minton's surgery. She initiated a telephone call to MSJMC nurse manager Andrea Markham. Dr.
4 Dawson also spoke by phone that same day with MSJMC's president, Brian Ivie. Mr. Ivie informed Dr.
5 Dawson that she would never be allowed to perform a hysterectomy on Mr. Minton at MSJMC.

6 24. Mr. Ivie further informed Dr. Dawson that MSJMC would not allow the hysterectomy to
7 proceed because of the "indication" it was intended to address. Mr. Minton's medical file reflected an
8 "indication" of gender dysphoria, under that condition's former name of "gender identity disorder," and
9 Mr. Minton had further informed the MSJMC nurse the previous day that he was a transgender man
10 undergoing the procedure in conjunction with gender transition.

11 25. That same day, in the early afternoon of August 29, Dr. Dawson called Mr. Minton and
12 informed him that Dignity Health had cancelled his surgery. When Mr. Minton asked why, Dr. Dawson
13 explained her understanding that the hospital had canceled his hysterectomy because he was
14 transgender. Mr. Minton was so shocked, hurt, and distraught at hearing this news that he recalls
15 sinking to the ground and then collapsing entirely.

16 26. Dignity Health's refusal to allow Dr. Dawson to perform Mr. Minton's hysterectomy at
17 MSJMC on August 30, 2016 caused Mr. Minton great anxiety and grief. He was devastated at learning
18 that he was being denied medically necessary care at MSJMC because he was transgender and needed
19 the care for the purpose of gender transition.

20 27. In addition, Mr. Minton had no time to spare, as he needed to undergo his hysterectomy
21 three months before his phalloplasty, which was scheduled for November 23rd. Mr. Minton had already
22 experienced numerous delays in accessing medical care he needed for his gender transition, including
23 battles over insurance coverage and scheduling his phalloplasty. As a result, the timing of his
24 hysterectomy was particularly sensitive.

25 28. During the same telephone call on August 29, Dr. Dawson also informed Mr. Minton that
26 she had been and would continue advocating for him with Dignity Health to push back against the
27 discriminatory cancellation decision.

1 29. After he heard from Dr. Dawson that his procedure had been cancelled, Mr. Minton
2 invested considerable effort in putting pressure on Dignity Health to let him complete his surgery as
3 soon as possible.

4 30. In the afternoon of August 29, Mr. Minton participated in a recorded interview with local
5 television station KCRA about the cancellation of his surgery. On information and belief, KCRA aired a
6 story about Mr. Minton's experience of discrimination on its August 29 late evening newscast. Mr.
7 Minton subsequently spoke with several other media outlets, including the *Sacramento Bee* and local
8 television stations Fox 40 and ABC 10, each of which ran a story about Mr. Minton's experience of
9 discrimination.

10 31. In response to media inquiries, Dignity Health issued a public statement regarding Mr.
11 Minton's situation. As published on the KCRA website on Tuesday, August 30, the statement read:

12 *At Dignity Health Mercy San Juan Medical Center, the services we provide are available to all*
13 *members of the communities we serve without discrimination. Because of privacy laws, we are*
14 *not able to discuss specifics of patients' care. In general, it is our practice not to provide*
15 *sterilization services at Dignity Health's Catholic facilities in accordance with the Ethical and*
16 *Religious Directives for Catholic Health Care Services (ERDs) and the medical staff bylaws.*
17 *Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of*
18 *a present and serious pathology and a simpler treatment is not available. When a service is not*
19 *offered the patient's physician makes arrangements for the care of his/her patient at a facility*
20 *that does provide the needed service.*¹⁰

21 32. Also on the afternoon of August 29, Mr. Minton contacted Jenni Gomez, an attorney with
22 Legal Services of Northern California who had been assisting him with other health care-related legal
23 issues. On information and belief, Ms. Gomez called MSJMC on the afternoon of August 29 to
24 challenge the hospital's discriminatory cancellation of Mr. Minton's surgery, and had multiple
25 conversations with hospital officials about this issue in the course of the week.

26
27 ¹⁰ *Carmichael faith-based hospital denies transgender man hysterectomy*, KCRA3 (Aug. 30, 2016,
28 8:50am), <http://www.kcra.com/article/carmichael-faith-based-hospital-denies-transgender-man-hysterectomy/6430342> (last visited Sept. 14, 2017).

1 33. Also in the afternoon and evening of August 29, Mr. Minton reached out to politically-
2 connected people he knew from his previous work as an aide to California legislators to ask for their
3 assistance in pressuring Dignity Health to reverse the cancellation of his surgery. For example, Mr.
4 Minton connected with staff members of California Insurance Commissioner Dave Jones. On
5 information and belief, Mr. Jones spoke by telephone with Wade Rose, Vice President of External &
6 Government Relations for Dignity Health, to ask that Mr. Minton be permitted to access the care he
7 needed. Also on information and belief, over the ensuing hours and days, several state legislators,
8 legislative staff members, and Sacramento-area lobbyists contacted Dignity Health to advocate for Mr.
9 Minton and/or made public statements of support for him and his need for surgery.

10 34. On Tuesday, August 30, Dr. Dawson met with Mr. Ivie in person at MSJMC. She also
11 participated in interviews with multiple media outlets about Mr. Minton's situation.

12 35. During this flurry of advocacy on Mr. Minton's behalf, Dr. Dawson and others discussed
13 with Mr. Ivie and other Dignity Health officials the possibility that Dr. Dawson could perform Mr.
14 Minton's surgery at Methodist Hospital, a non-Catholic Dignity Health hospital also located in the
15 Sacramento metropolitan area. However, it was not immediately clear that this was a viable option. Dr.
16 Dawson did not have surgical privileges at Methodist Hospital. Even if she could get emergency
17 privileges at Methodist Hospital, Dr. Dawson would have to work in an unfamiliar operating room there
18 and with an unfamiliar team of nurses, surgical technicians, and other support staff. Methodist Hospital
19 is located about 30 minutes' drive away from MSJMC, such that Dr. Dawson and the other physician
20 who would be assisting her during Mr. Minton's procedure could not easily fit a surgery at Methodist
21 Hospital into a workday filled with other commitments at MSJMC and their nearby office. Finally, Mr.
22 Minton had health insurance coverage through Blue Shield of California, and it was unclear whether
23 Methodist Hospital was within his plan's coverage network.

24 36. Dr. Dawson and Mr. Minton communicated on Tuesday, August 30 and concluded that
25 attempting to make the surgery happen at Methodist Hospital was the best remaining option for Mr.
26 Minton because it provided the best chance for him to complete his hysterectomy promptly.

27 37. On information and belief, Dr. Dawson then invested a significant amount of time in
28

1 securing emergency surgical privileges at Methodist Hospital, while Ms. Gomez also invested a
2 significant amount of time in helping Mr. Minton access the surgery he needed and resolve remaining
3 issues.

4 38. On Thursday, September 1, paperwork regarding emergency surgical privileges for Dr.
5 Dawson at Methodist Hospital was fully executed.

6 39. Dr. Dawson performed Mr. Minton's hysterectomy at Methodist Hospital on Friday,
7 September 2.

8 40. Dr. Dawson routinely performs hysterectomies for her patients, and in fact performed
9 another hysterectomy at MSJMC for a cisgender patient on August 30, 2016, the same day that Mr.
10 Minton's surgery had originally been scheduled. Other physicians who practice at MSJMC also
11 regularly perform hysterectomies at the hospital for cisgender patients who have not been diagnosed
12 with gender dysphoria, for indications such as chronic pelvic pain and uterine fibroids.

13 41. During the period of uncertainty when he was not sure if he would be able to undergo his
14 hysterectomy at all, as well as when he was not sure if he would be able to undergo his hysterectomy at
15 Methodist Hospital, Mr. Minton was painfully aware that he had been denied full and equal access to the
16 operating room and related facilities of MSJMC as a direct result of his disclosure to MSJMC staff on
17 August 28 that he is a transgender man. Mr. Minton suffered—and continued to suffer, even after his
18 surgery was rescheduled at Methodist Hospital—the dignitary harm of having been denied full and equal
19 access to medical treatment by MSJMC. Mr. Minton told friends that he felt “downtrodden” and deeply
20 hurt by this discriminatory treatment.

21 42. In addition, Methodist Hospital is located much farther away than MSJMC from the
22 family home in Orangevale where Mr. Minton was planning to recuperate after his hysterectomy. Thus,
23 moving the procedure increased the time and travel burden on Mr. Minton and his mother who drove
24 him home after surgery.

25 43. If Defendant is not enjoined from preventing doctors from performing hysterectomy
26 procedures for transgender patients with gender dysphoria in its hospitals, Mr. Minton and others
27 similarly situated—*i.e.*, transgender individuals who suffer from gender dysphoria—will be unlawfully
28

denied access to medical treatment at hospitals run by the largest hospital provider in California.

FIRST CAUSE OF ACTION

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

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

45. The Unruh Act prohibits discrimination on the basis of sex in all business establishments. Specifically, it guarantees that Californians are entitled to the “full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever” regardless of their sex. Civ. Code § 51(b).

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

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

48. Defendant prevented Dr. Dawson from performing Mr. Minton’s hysterectomy at MSJMC to treat his diagnosis of gender dysphoria, a medical condition unique to individuals whose gender identity does not conform to the sex they were assigned at birth and thus usually experienced by transgender people.

49. Defendant does not prohibit physicians at its hospitals from treating cisgender people with other diagnoses with hysterectomy.

50. By preventing Dr. Dawson from performing Mr. Minton’s hysterectomy, Defendant discriminated against Mr. Minton on the basis of his gender identity as a transgender man.

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

52. Mr. Minton was denied full and equal access to Defendant’s facilities and services in violation of California Civil Code § 51(b) because he was barred from undergoing a medically necessary hysterectomy at MSJMC.

53. Defendant’s discriminatory practices caused Plaintiff considerable harm. Therefore, Mr.

1 Minton seeks injunctive relief and statutory damages under the Unruh Act.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff respectfully requests that the Court:

4 A. Enter a declaratory judgment stating that Defendant's preventing Mr. Minton's physician
5 from performing his hysterectomy at MSJMC violated the Unruh Act, Civil Code § 51(b).

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

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

12 D. Enter an order requiring Defendant to pay Plaintiff's attorneys' fees and costs under Civil
13 Code § 52.1(h), Civil Code § 52(a), Code of Civil Procedure § 1021.5, and any other applicable statutes.

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

15
16 Dated: September 19, 2017

Respectfully Submitted,

17 By: /s/ Christine Saunders Haskett

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Attorneys for Plaintiff Evan Minton

VERIFICATION

I, Evan Minton, have read paragraphs 9, 17-19, 21, 24-29, 30-33, 36, 39, and 41-42 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: 9/19/17

Evan Minton

Evan Minton