

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-17-558259

Filing Date: Nov-17-2017 11:05

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ORDER

EVAN MINTON VS. DIGNITY HEALTH ET AL

001C06110583

Instructions:

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12 MEDICAL CENTER

FILED
San Francisco County Superior Court

NOV 17 2017

CLERK OF THE COURT
BY: *Gene Gonzales* Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SAN FRANCISCO

15 EVAN MINTON,

16 Plaintiff,

17 vs.

18 DIGNITY HEALTH; DIGNITY HEALTH
19 d/b/a MERCY SAN JUAN MEDICAL
20 CENTER,

21 Defendants.

Case No. CGC 17-558259

MR
~~[PROPOSED]~~ ORDER

Date: November 17, 2017

Time: 9:30 a.m.

Dept.: 302

1 On November 17, 2017, in Department 302 of the above-entitled Court, the Court heard
2 Defendant Dignity Health's demurrer to Plaintiff Evan Minton's Verified First Amended
3 Complaint.

4 Having considered the moving papers, opposition, reply brief, and oral argument of
5 counsel, the Court sustains the demurrer without leave to amend.

6 Judge Kahn discloses that one of the attorneys for Mr. Minton is the sister of a person
7 whom Judge Kahn considers to be part of his extended family, but Judge Kahn believes that that
8 fact does not cause him to be other than fair or impartial in this case or otherwise require his
9 recusal. The precise relationship is that Elizabeth Gill is the sister of the brother-in-law of Judge
10 Kahn's nephew.

11 Defendant Dignity Health's demurrer to plaintiff Evan Minton's first amended verified
12 complaint is sustained without leave to amend. As was true with Mr. Minton's complaint, the
13 first amended complaint fails to allege sufficient facts to show that Dignity Health's conduct in
14 permitting Mr. Minton to receive a hysterectomy at one of its hospitals other than the hospital
15 where Mr. Minton desired to receive that procedure violated Dignity Health's obligation per Civil
16 Code § 51(b) to provide full and equal access to medical procedures without regard to gender.
17 (*North Coast Women's Care Medical Group, Inc. v. San Diego County Superior Court* (2008) 44
18 Cal. 4th 1145, 1159). Because it appears to be considered of import by the Supreme Court and
19 part of the teachings of that case, there is no basis for this court to ignore the dicta in *North Coast*.
20 As applied to Mr. Minton's sole claim for violation of the Unruh Act, the *North Coast* dicta shows
21 that the claim is not viable. Mr. Minton has not alleged, nor does it appear that it is reasonably
22 possible for him to allege, that his receiving the procedure he desired from the physician he
23 selected to perform that procedure three days later than he had planned and at a different hospital
24 than he desired deprived him of full and equal access to the procedure, even assuming, as the
25 court does, that Dignity Health's refusal to have the procedure performed at MSJMC was
26 substantially motivated by Mr. Minton's gender identity.

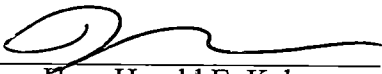
27 *is required to do on demurrer,*

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Both parties' requests for judicial notice are granted.

IT IS SO ORDERED:

Date: November 17, 2017


Hon. Harold E. Kahn
Judge of the Superior Court