



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

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COMPLAINT

REBECCA CHAMORRO ET AL VS. DIGNITY HEALTH ET AL

001C05212434

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**SUMMONS
(CITACION JUDICIAL)**

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**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Dignity Health; Dignity Health d/b/a Mercy Medical Center Redding

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Rebecca Chamorro and Physicians for Reproductive Health

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER:
(Número del caso) 000 15-549626

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Christine Saunders Haskett, One Front Street, San Francisco, CA 94111 (415) 591-6000

DATE: December 28, 2015
(Fecha)

CLERK OF THE COURT

Clerk, by
(Secretario)

GARY FELICIANO

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served


- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):



ORIGINAL

FAXED

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FILED
Superior Court of California
County of San Francisco
DEC 28 2015
CLERK OF THE COURT
BY:  Deputy Clerk

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

21 REBECCA CHAMORRO and
22 PHYSICIANS FOR REPRODUCTIVE
HEALTH
23
24 Plaintiffs,
25
26 v.
27 DIGNITY HEALTH; DIGNITY HEALTH
d/b/a MERCY MEDICAL CENTER
REDDING
28
Defendant.

Case No. **CGC 15-549626**
**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

FAXED

1 INTRODUCTION

2 1. Plaintiffs in this action—a pregnant woman and a nonprofit organization with member
3 physicians who practice around the State of California—challenge the policy and practice of Defendant
4 Dignity Health to apply Catholic religious directives to prevent physicians from performing immediate
5 postpartum tubal ligation on their patients in Dignity Health hospitals. Tubal ligation, known familiarly
6 as “getting one’s tubes tied,” is the contraceptive method of choice for more than 30 percent of U.S.
7 married women of reproductive age, and the most common form of permanent contraception. The
8 standard of care for the procedure is to perform it immediately after a woman gives birth (or
9 postpartum), and, as such, it is pregnancy-related care.

10 2. The individual plaintiff in this action, Rebecca Chamorro, lives in Redding, California,
11 and she is scheduled to deliver via Cesarean Section (“C-section”) at Dignity Health, doing business as
12 Mercy Medical Center Redding (“MMCR”), on January 28, 2016. Because she and her husband do not
13 want more children, Ms. Chamorro decided in consultation with her obstetrician that she wanted to
14 undergo tubal ligation immediately following her C-section. Her obstetrician sought authorization from
15 MMCR to perform the postpartum tubal ligation, which would take him only a few minutes and require
16 no additional resources from MMCR. MMCR, however, refused to authorize the postpartum tubal
17 ligation, citing its “sterilization policy and the Ethical and Religious Directives for Catholic Health
18 Services.”

19 3. Defendant Dignity Health, which claims to be the fifth largest healthcare provider in the
20 United States and the largest hospital provider in California, receives millions of dollars in funding each
21 year from the state. Yet Dignity Health requires that all its Catholic hospitals, including MMCR,
22 conform to the Ethical and Religious Directives for Catholic Health Services (the “ERDs”). Under the
23 ERDs, which are promulgated by the United States Conference of Catholic Bishops and which impose
24 nonmedical, religious directives on healthcare institutions that choose to identify as Catholic, “direct
25 sterilization” is prohibited. “Direct sterilization” is defined as sterilization for the purpose of
26 sterilization—or sterilization for the purpose of contraception. Indeed, the ERDs characterize “direct
27 sterilization,” along with other reproductive healthcare such as all forms of contraception and certain
28

1 fertility treatments, as “inherently evil.”

2 4. The application of the ERDs to Ms. Chamorro and to patients of Physicians for
3 Reproductive Health unlawfully disrupts the patient-doctor relationship and denies patients the standard
4 of care. Under California law, entities like Dignity Health that are open to the general public and that
5 receive state funds are prohibited from discriminating on the basis of sex, which includes discriminating
6 based on “pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.” Cal. Civ.
7 Code § 51(e)(5); Cal. Gov’t Code §§ 11135(a) & (e). Moreover, California law prohibits the corporate
8 practice of medicine, wherein corporate entities usurp the role of doctors by making medical decisions
9 based on nonmedical criteria. Cal. Bus. & Prof. Code §§ 2032, 2052, 2400. Dignity Health’s refusal to
10 authorize some postpartum tubal ligations based on the ERDs therefore violates California law.

11 5. Despite applying the ERDs to many patients, Dignity Health does allow some women to
12 undergo postpartum tubal ligation in its hospitals. Dignity Health has provided only limited explanation
13 as to the criteria it uses in determining whether to authorize postpartum tubal ligation, but it appears to
14 authorize some tubal ligation based on the health risk to the patient of a future pregnancy. Because it is
15 allowing tubal ligation for contraceptive purposes (indeed, tubal ligation is only ever performed for
16 contraceptive purposes), Dignity Health is additionally violating California law when it authorizes some
17 tubal ligation but prohibits other tubal ligation based on the ERDs. California law requires that if a
18 hospital permits any sterilization operations for contraceptive purposes, then it may not require the
19 individual seeking the sterilization to meet nonmedical qualifications. Cal. Health & Safety Code
20 § 1258.

21 6. Plaintiffs seek a declaratory judgment that Dignity Health’s refusal to authorize
22 physicians to perform immediate postpartum tubal ligation based on the ERDs violates state law, as well
23 as an injunction prohibiting Dignity Health from refusing to authorize the tubal ligation sought by
24 Ms. Chamorro and patients of Physicians for Reproductive Health.

25 **JURISDICTION AND VENUE**

26 7. This Court has jurisdiction under article VI, section 10, of the California Constitution and
27 California Code of Civil Procedure section 410.10.

1 8. Venue in this Court is proper because this is an action against a nonprofit corporation,
2 Dignity Health, the principal place of business of which is in the City and County of San Francisco, at
3 185 Berry Street, Suite 300, San Francisco, CA 94107.¹ Civ. Code § 395.5.

4 **THE PARTIES**

5 **Plaintiff Rebecca Chamorro**

6 9. Plaintiff Rebecca Chamorro is a 33-year-old woman living in Redding, California. Ms.
7 Chamorro is about eight months pregnant at the time of this filing, and her expected due date is February
8 4, 2016. Ms. Chamorro is scheduled to deliver at MMCR on January 28, 2016. Because she has
9 previously delivered by C-section, MMCR will require her to deliver by C-section again.

10 10. Ms. Chamorro is married and has two children, one 7 years old and the other 3 years old.
11 Ms. Chamorro and her husband have decided that they do not want any more children after the birth of
12 their third child.

13 11. After consulting with her obstetrician, Dr. Samuel Van Kirk, Ms. Chamorro decided she
14 wanted to undergo tubal ligation immediately following her C-section. With Ms. Chamorro's informed
15 consent, Dr. Van Kirk sought authorization from MMCR to perform the postpartum tubal ligation on
16 September 15, 2015. On September 18, 2015, Dr. Van Kirk received a letter from MMCR denying the
17 request for authorization on the ground that it did "not meet the requirement of Mercy's sterilization
18 policy or the Ethical and Religious Directives for Catholic Health Services" (ERDs).

19 **Plaintiff Physicians for Reproductive Health**

20 12. Physicians for Reproductive Health is a national nonprofit 501(c)(3) membership
21 organization, comprised of physicians who seek to ensure meaningful access to comprehensive
22 reproductive health services as part of mainstream medical care. Founded in 1992 by a small group of
23 concerned physicians, Physicians for Reproductive Health has grown into a national organization that
24

25 ¹ Dignity Health describes itself as "a California nonprofit public benefit corporation headquartered in
26 San Francisco," 2012 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
28 October 9, 2014, lists the corporation's "Principle Office Address" as 185 Berry Street, Suite 300, San
Francisco, CA 94017.

1 represents medical professionals who practice in a range of fields: obstetrics and gynecology, pediatrics,
2 fertility, family medicine, cardiology, neurology, radiology, and more. Physicians for Reproductive
3 Health has approximately 1,200 physician members who practice in the state of California, some of
4 whom practice medicine at Dignity Health hospitals.

5 13. Physicians for Reproductive Health members who have admitting privileges at Dignity
6 Health hospitals in California have been denied authorization to perform postpartum tubal ligation based
7 on the Ethical and Religious Directives. Because Physicians for Reproductive Health members
8 regularly discuss postpartum tubal ligation with their patients, Physicians for Reproductive Health
9 members will have patients in the future who wish to undergo postpartum tubal ligation at Dignity
10 Health hospitals in California.

11 **Defendant Dignity Health**

12 14. Dignity Health is registered as a 510(c)(3) tax-exempt nonprofit corporation. According
13 to its website, Dignity Health is the fifth largest health system in the country, owning and operating a
14 large network of hospitals.² Also according to its website, Dignity Health is the largest hospital
15 provider in California, with 29 hospitals in the state.³ In 2012, Dignity Health's federal tax form 990
16 listed revenue of \$8.7 billion and employment of 51,991 people. In Shasta County, Dignity Health does
17 business as Mercy Medical Center Redding.

18 15. Dignity Health receives significant funding from the State of California. In 2012,
19 Dignity Health's 2012 federal tax form 990 listed over \$23 million in "government grants," over \$3.3
20 billion in Medicare and Medicaid payments, and over \$47.7 million in meaningful use incentives. That
21 same form also describes the following revenue from "government programs": \$575.3 million in
22 revenue and \$233.7 million in net income in 2012; \$684.5 million in revenue and \$230.2 million in net
23 income in 2013. In particular, MMCR received \$51,615 from the Office of Statewide Health Planning
24

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

27 ³ <http://www.dignityhealth.org/cm/content/pages/about-us.asp>

1 and Development (OSHPD) in 2006 and again in 2012 for its family practice residency training
2 program, which provides funds for training in MMCR's labor and delivery wards.

3 **STATEMENT OF FACTS**

4 **Immediate Postpartum Tubal Ligation is the Standard of Care**

5 16. If a pregnant woman decides to have a tubal ligation, it is the standard of care to provide
6 that tubal ligation soon after the woman delivers the baby (in other words, postpartum).

7 17. Tubal ligation, also known as tubal sterilization or female sterilization, is extremely safe,
8 very effective, and one of the most common methods of birth control. Tubal ligation is the family
9 planning method of choice for 30.2% of U.S. married women of reproductive age.⁴ Obstetricians
10 routinely discuss postpartum tubal ligation with their patients as part of the overall perinatal care plan,
11 and postpartum tubal ligation is considered pregnancy-related care.

12 18. Tubal ligation is a permanent form of birth control, in which the fallopian tubes are cut
13 and tied. By closing off the fallopian tubes, tubal ligation works to prevent pregnancy by preventing
14 eggs from moving from the ovaries down the fallopian tube into the uterus. When eggs cannot move
15 down the fallopian tubes into the uterus, sperm will not be able to reach the eggs.

16 19. All tubal ligation is done for contraceptive purposes. Even if a woman chooses to have a
17 tubal ligation because another pregnancy would risk her health, the performance of the tubal ligation is
18 still contraceptive in that it operates solely to prevent future pregnancy. Tubal ligation is never
19 performed to treat underlying health conditions.

20 20. A tubal ligation immediately after delivery has many advantages for patients, as well as
21 being easier and more convenient for doctors. According to the leading professional society of
22 obstetricians and gynecologists, the American Congress of Obstetricians and Gynecologists (ACOG),
23 "[t]he immediate postpartum period following vaginal delivery or at the time of Cesarean delivery is the
24 ideal time to perform sterilization [or tubal ligation] because of technical ease and convenience for the
25

26 ⁴ Am. Cong. of Obstetricians and Gynecologists. *Practice Bulletin No. 133: Benefits and Risks Am.*
27 *Cong. of Obstetricians and Gynecologists. Comm. Op. No. 530: Access to postpartum sterilization.* 120
28 *OBSTET. GYNECOL.* 212, 212 (2012) at 392

1 woman and physician.”⁵ In the United States, tubal ligation is performed in the immediate postpartum
2 period for 8-9% of all hospital deliveries.⁶

3 21. The primary technical advantage of immediate postpartum tubal ligation is that it affords
4 the surgeon easier access to the fallopian tubes, due to the enlarged state and position of the uterus
5 directly after birth. Given the ease of access to the fallopian tubes postpartum, doctors can complete
6 postpartum tubal ligation in just a few minutes.

7 22. Another advantage of immediate postpartum tubal ligation is that the woman often
8 already has anesthesia. During a C-section the patient is already receiving anesthesia, and the same
9 abdominal incision that was created to deliver the baby can be used to access the fallopian tubes.
10 During a vaginal delivery, an epidural catheter placed during labor can often be left in for the anesthesia
11 for the tubal ligation, and only one small incision in the abdomen (usually the navel) is needed to access
12 the fallopian tubes.

13 23. Because doctors have better access to the fallopian tubes immediately following a C-
14 section or vaginal delivery, the method of closing the fallopian tubes at that time results in the most
15 effective form of female sterilization.

16 24. Immediate postpartum tubal ligation is an instantly effective form of contraception. It
17 also does not add time in the hospital or recovery time for the patient.

18 25. According to ACOG: “Given the consequences of a missed procedure and the limited
19 time frame in which it may be performed, postpartum sterilization should be considered an urgent
20 surgical procedure.”⁷

21 26. If Dr. Van Kirk were authorized to perform an immediate postpartum tubal ligation on
22 Ms. Chamorro, the procedure would be simple and impose no burden on MMCR. Because Ms.

23 _____
24 ⁵ Am. Cong. of Obstetricians and Gynecologists. *Comm. Op. No. 530: Access to postpartum
sterilization*; 120 *OBSTET. GYNECOL.* 212, 212 (2012)..

25 ⁶ Am. Cong. of Obstetricians and Gynecologists. *Comm. Op. No. 530: Access to postpartum
sterilization*; 120 *OBSTET. GYNECOL.* 212, 212 (2012) at 392.

26 ⁷ Am. Cong. of Obstetricians and Gynecologists. *Comm. Op. No. 530: Access to postpartum
sterilization*; 120 *OBSTET. GYNECOL.* 212, 213 (2012).
27

1 Chamorro will have spinal anesthesia in place for her C-section, Dr. Van Kirk would not need to
2 administer any additional anesthesia to perform a postpartum tubal ligation. Dr. Van Kirk would not
3 require, and MMCR would not have to furnish, any additional support staff in the delivery room to
4 perform the tubal ligation. Other than two pieces of suture per procedure, Dr. Van Kirk would not need
5 any additional materials or equipment in the delivery room to perform the tubal ligation, and based on
6 his past experience, performing the tubal ligation at the time of delivery would take approximately one
7 to two minutes.

8 **Patients Are Harmed When They Are Denied Postpartum Tubal Ligation**

9 27. Hospital policies that prohibit immediate postpartum tubal ligation prevent physicians
10 from providing their patients with the standard of care.

11 28. If a patient is unable to obtain a tubal ligation postpartum, she will likely have to undergo
12 an otherwise unnecessary surgery to obtain one, which involves general anesthesia and multiple
13 incisions. The general anesthesia alone adds some level of risk to the woman compared to an immediate
14 postpartum tubal sterilization.

15 29. When women request and are denied postpartum tubal ligation, they are at a greater risk
16 of unintended pregnancy. According to ACOG, "Failure to provide the desired sterilization creates a
17 significant increase in cost for the woman and the health care system," citing a study where "nearly one
18 half of women with unfulfilled postpartum sterilization requests became pregnant within one year, twice
19 the rate of women [in the study] who did not request sterilization."⁸ Unintended pregnancy is associated
20 with poorer maternal/fetal outcomes than planned pregnancies, including low birth weight, infant
21 mortality, and maternal mortality. Approximately half of all unintended pregnancies end in abortion.

22 30. Patients often have limited choices in terms of where they are able to deliver their
23 children, and therefore where they are able to undergo postpartum tubal ligation. For example, MMCR
24 is the only hospital within a 70-mile radius that has a labor and delivery ward.

25 _____
26 ⁸ Am. Cong. of Obstetricians and Gynecologists. *Comm. Op. No. 530: Access to postpartum*
27 *sterilization*; 120 *OBSTET. GYNECOL.* 212, 212 (2012), referencing Thurman AR, Janecek T. One-year
28 follow-up of women with unfulfilled postpartum sterilization requests. *Obstet Gyne-col* 2010;116:1071-
7.

1 31. In the case of Ms. Chamorro, delivering at MMCR is her only real option. The closest
2 hospitals covered by Ms. Chamorro's insurance that would authorize her doctor's request for an
3 immediate postpartum tubal ligation are in the Sacramento area, approximately 160 miles from Redding,
4 or in the Chico area, over 70 miles from Redding. Given the distance, the alternatives to MMCR offered
5 by Ms. Chamorro's insurance would impose unacceptable burdens: among other things, Ms. Chamorro
6 would have to find a new obstetrician and establish care as that physician's obstetrical patient in the
7 Sacramento or Chico area; in order to ensure access to the appropriate hospital for her delivery, she
8 would practically have to live in the area during the last month of her pregnancy; and because her
9 insurance would cover only her hospital stay, she would potentially have to be separated from her
10 husband and children—or pay for them to join her near Sacramento or Chico.

11 32. If MMCR does not ultimately agree to let Dr. Van Kirk perform a postpartum
12 sterilization at the time of her C-section, Ms. Chamorro will undergo a C-section without a postpartum
13 tubal ligation.

14 **MMCR Refuses To Authorize Some Tubal Ligation Based on Religious Directives**

15 33. Based on the ERDs, MMCR refuses to authorize Ms. Chamorro's obstetrician to perform
16 an immediate postpartum tubal ligation after her C-section.

17 34. Dr. Van Kirk submitted a "sterilization request for Rebecca Chamorro" on September 15,
18 2015. In the letter that Dr. Van Kirk submitted, he noted under "medical indications" that the "patient
19 desires to have a tubal ligation performed" and "the obstetrician requests permission to perform a tubal
20 ligation if the uterine scar is found to pathologically thin at the time of repeat Cesarean section, thus
21 placing the patient at risk of a future pregnancy." He also noted that there would be risks to
22 Ms. Chamorro of "second anesthesia in another surgery," that she was limited to MMCR, and that he
23 had previously been granted authorization to perform tubal ligation for several patients at MMCR. At
24 the end of the letter, Dr. Van Kirk requested that "if you will not grant permission for my patient to have
25 the indicated procedure that she desires, and has given her informed consent, I would request an
26 explanation as to why. If you deem that the current medical necessity has not been met to warrant
27
28

1 sterilization, please provide me and my patient with sufficient specific information as to how we can
2 meet your definition of medical necessity.”

3 35. On September 18, 2015, MMCR denied Dr. Van Kirk’s request to provide Ms Chamorro
4 with an immediate postpartum tubal ligation. The denial letter states: “The Mercy Medical Center
5 Redding facility review committee has evaluated your request for sterilization for Rebecca Chamorro.
6 We are unable to admit your request to perform a tubal ligation at the time of Ms. Chamorro’s
7 Ceasarean Section. In reviewing your request and based on the current information submitted, it noted
8 that it does not meet the requirement of Mercy’s current sterilization policy or the Ethical and Religious
9 Directives for Catholic Health Services. Therefore, we cannot admit material cooperation to perform a
10 tubal ligation at Mercy Medical Center Redding.”

11 36. Dr. Van Kirk estimates that he has had at least 50 patients in the last eight years for
12 whom he has sought but been denied authorization to perform immediate postpartum tubal ligation
13 based on “Mercy’s current sterilization policy or the Ethical and Religious Directives for Catholic
14 Health Services.”

15 37. Dignity Health identifies some of its hospitals as affiliated with the Catholic Church. For
16 the hospitals that it identifies as Catholic, Dignity Health’s website states that these hospitals must
17 conform to “the Ethical and Religious Directives for Catholic Health Care Services.”⁹

18 38. The ERDs are promulgated by the United States Conference of Catholic Bishops.¹⁰ The
19 ERDs explicitly apply to sterilization: “Direct sterilization of either men or women, whether permanent
20 or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are
21 permitted when their direct effect is the cure or alleviation of a present and serious pathology and a
22 simpler treatment is not available.”¹¹ The ERDs further state that “[w]hile there are many acts of

23 ⁹ <http://www.dignityhealth.org/cm/content/pages/ethics.asp>

24 ¹⁰ U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Healthcare*
25 *Services*, fifth ed., No. 53 (Nov. 17, 2009); <http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>

26 ¹¹ *Id.*

1 varying moral gravity that can be identified as intrinsically evil, in the context of contemporary health
2 care the most pressing concerns are currently abortion, euthanasia, assisted suicide, and direct
3 sterilization.”¹²

4 39. Dignity Health identifies MMCR as a Catholic hospital, and has stated in correspondence
5 that MMCR must follow the ERDs.

6 40. Despite denying Dr. Van Kirk’s request for authorization to perform an immediate
7 postpartum tubal ligation for Ms. Chamorro, MMCR does authorize doctors, including Dr. Van Kirk, to
8 perform some immediate postpartum tubal ligation.

9 41. Although MMCR does not provide a comprehensive list of the clinical criteria it takes
10 into account in authorizing some immediate postpartum tubal ligation, Dr. James De Soto of MMCR
11 listed to Dr. Van Kirk in an email on October 6, 2015 some of the factors that he said MMCR takes into
12 account in assessing the “risk to the mother in future pregnancies.” These factors include risk factors for
13 uterine rupture, as well as: uterine over-distention, advanced maternal age, grand multiparity (having
14 five or more previous childbirths), some abnormal placentation, medication controlled diabetes mellitus,
15 previous hx of uterine infection, and unknown scar type. The email further states that it is “the totality
16 of risk factors, including any findings at the time of surgery, that is important.”

17 42. All pregnancies, however, present some risk to the woman.

18 **FIRST CAUSE OF ACTION**

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

20 1. Plaintiffs incorporate by reference the allegations of the above paragraphs as though fully
21 set forth herein.

22 2. The Unruh Act prohibits discrimination on the basis of sex in all business establishments.
23 Cal. Civ. Code § 51(b).

24 3. The Unruh Act defines “sex” to include pregnancy, childbirth, or medical conditions
25 related to pregnancy or childbirth. Cal. Civ. Code § 51(g).

26
27 ¹² Id. at 42, note 44.

1 **THIRD CAUSE OF ACTION**

2 **(Violation of Business & Professions Code §§ 2032, 2052, and 2400)**

3 14. Plaintiffs incorporate by reference the allegations of the above paragraphs as though fully
4 set forth herein.

5 15. California Business & Professions Code section 2032 provides that “only natural persons
6 shall be licensed [to practice medicine] under this chapter.”

7 16. California Business & Professions Code section 2052 prohibits the unlicensed practice of
8 medicine and the resulting punishments.

9 17. California Business & Professions Code section 2400 provides that “corporations and
10 other artificial legal entities shall have no professional rights, privileges, or powers.”

11 18. Taken together, these code sections form a bar on the corporate practice of medicine.

12 19. Dignity Health refuses to allow doctors to perform some immediate postpartum tubal
13 ligation based on solely on the Ethical and Religious Directives for Catholic Health Services.

14 20. In preventing physicians from performing immediate postpartum tubal ligation, thus
15 requiring physicians to provide substandard care, and in making determinations as to which patients will
16 be permitted to undergo a postpartum tubal ligation Dignity Health violates the statutory bar on the
17 corporate practice of medicine.

18 **FOURTH CAUSE OF ACTION**

19 **(Violation of Health & Safety Code § 1258)**

20 21. Plaintiffs incorporate by reference the allegations of the above paragraphs as though fully
21 set forth herein.

22 22. California Health and Safety Code section 1258 provides that: “No health facility which
23 permits sterilization operations for contraceptive purposes to be performed therein, nor the medical staff
24 of such health facility, shall require the individual upon whom such a sterilization operation is to be
25 performed to meet any special nonmedical qualifications, which are not imposed on individuals seeking
26 other types of operations in the health facility. Such prohibited nonmedical qualifications shall include,
27 but not be limited to, age, marital status, and number of natural children.”

1 23. Dignity Health authorizes some sterilization operations—tubal ligation—that are
2 performed for contraceptive purposes.

3 24. Dignity Health refuses to authorize other sterilization operations—tubal ligation—based
4 on nonmedical qualifications in violation of California Health & Safety Code section 1258.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs respectfully request that the Court:

- 7 A. Enter a declaratory judgment stating that Dignity Health’s refusal to authorize doctors to
8 perform immediate postpartum tubal ligation in its hospitals based on the Ethical and
9 Religious Directives for Catholic Health Services violates (1) the Unruh Act, California
10 Civil Code section 51(b); (2) California Government Code section 11135; (3) California
11 Business and Professions Code sections 2032, 2052, and 2400; and (4) California Health
12 and Safety Code section 1258.
- 13 B. Enter a preliminary and permanent order enjoining Dignity Health from refusing to allow
14 doctors to perform immediate postpartum tubal ligation in its hospitals based on
15 nonmedical considerations.
- 16 C. Enter a preliminary and permanent order enjoining Dignity Health from refusing to allow
17 Plaintiff Chamarro’s doctor to perform an immediate postpartum tubal ligation at MMCR
18 based on nonmedical considerations.
- 19 D. Enter an order requiring Dignity Health to pay Plaintiffs’ attorneys’ fees and costs under
20 California Civil Code section 51.2(h), California Code of Civil Procedure section 1021.5
21 and any other applicable statutes.
- 22 E. Grant Plaintiffs any further relief the Court deems just and proper.

23 Dated: December 23, 2015

24 Respectfully Submitted,

25 COVINGTON & BURLING LLP

26 By: *Christine Saunders Haskett* for CSA

27 Christine Saunders Haskett
28 Attorneys for Plaintiff

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ACLU FOUNDATION OF NORTHERN CALIFORNIA, INC.

By: Patricia Lopez for EG
Elizabeth Gill
Attorneys for Plaintiff

ACLU FOUNDATION OF SOUTHERN CALIFORNIA

BRIAN HAUSS (SBN 284759)
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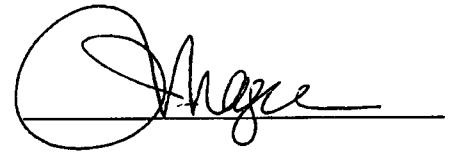
DAVID LOY (SBN 229235)
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San Diego, CA 92138-7131
Telephone: (619) 232-2121
Facsimile: (619) 232-0036
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VERIFICATION

1
2 I, Jodi Magee, am the President/CEO of Physicians for Reproductive Health. I have read this
3 Verified Complaint for Declaratory and Injunctive Relief in the matter of *Chamorro et al. v. Dignity*
4 *Health*. I am informed, and do believe, that the matters herein are true. On that ground I allege that the
5 matters stated herein are true. In addition, the facts within paragraphs 12 and 13 are within my own
6 personal knowledge and I know them to be true.

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

9
10 DATED: Dec 23, 2015


A handwritten signature in cursive script, appearing to read 'J. Magee', is written over a horizontal line.

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VERIFICATION

I, Rebecca Chamorro, have read paragraphs 9, 10, 11, 31, and 32 of this Verified Complaint for Declaratory and Injunctive Relief in the matter of *Chamorro et al. 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: 12/26/15



Rebecca Chamorro

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Christine Saunders Haskett (SBN 188053)
Covington & Burling LLP
One Front Street
San Francisco, CA 94111
TELEPHONE NO.: (415) 591-6000 FAX NO.: (415) 591-6091
ATTORNEY FOR (Name): Rebecca Chamorro & Physicians for Reproductive Health

FOR COURT USE ONLY

FILED

Superior Court of California
County of San Francisco

DEC 28 2015

CLERK OF THE COURT

BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME:
CASE NAME:

CASE NUMBER: **CGC 15-549626**

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|---|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input checked="" type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Four
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 28, 2015
Christine Saunders Haskett

[Signature] for CSH
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

(TYPE OR PRINT NAME)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

FAXED

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort</p> <ul style="list-style-type: none"> Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) (<i>if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i>) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <ul style="list-style-type: none"> Asbestos (04) <ul style="list-style-type: none"> Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability (<i>not asbestos or toxic/environmental</i>) (24) Medical Malpractice (45) <ul style="list-style-type: none"> Physicians & Surgeons Other Professional Health Care Malpractice Other PI/PD/WD (23) <ul style="list-style-type: none"> Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PI/PD/WD <p>Non-PI/PD/WD (Other) Tort</p> <ul style="list-style-type: none"> Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) (<i>not civil harassment</i>) (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) <ul style="list-style-type: none"> Legal Malpractice Other Professional Malpractice (<i>not medical or legal</i>) Other Non-PI/PD/WD Tort (35) <p>Employment</p> <ul style="list-style-type: none"> Wrongful Termination (36) Other Employment (15) 	<p>Contract</p> <ul style="list-style-type: none"> Breach of Contract/Warranty (06) <ul style="list-style-type: none"> Breach of Rental/Lease Contract (<i>not unlawful detainer or wrongful eviction</i>) Contract/Warranty Breach—Seller Plaintiff (<i>not fraud or negligence</i>) Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage (<i>not provisionally complex</i>) (18) <ul style="list-style-type: none"> Auto Subrogation Other Coverage Other Contract (37) <ul style="list-style-type: none"> Contractual Fraud Other Contract Dispute <p>Real Property</p> <ul style="list-style-type: none"> Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) <ul style="list-style-type: none"> Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property (<i>not eminent domain, landlord/tenant, or foreclosure</i>) <p>Unlawful Detainer</p> <ul style="list-style-type: none"> Commercial (31) Residential (32) Drugs (38) (<i>if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i>) <p>Judicial Review</p> <ul style="list-style-type: none"> Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) <ul style="list-style-type: none"> Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Case Matter <ul style="list-style-type: none"> Writ—Other Limited Court Case Review Other Judicial Review (39) <ul style="list-style-type: none"> Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals 	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</p> <ul style="list-style-type: none"> Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims (<i>arising from provisionally complex case type listed above</i>) (41) <p>Enforcement of Judgment</p> <ul style="list-style-type: none"> Enforcement of Judgment (20) <ul style="list-style-type: none"> Abstract of Judgment (Out of County) Confession of Judgment (<i>non-domestic relations</i>) Sister State Judgment Administrative Agency Award (<i>not unpaid taxes</i>) Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case <p>Miscellaneous Civil Complaint</p> <ul style="list-style-type: none"> RICO (27) Other Complaint (<i>not specified above</i>) (42) <ul style="list-style-type: none"> Declaratory Relief Only Injunctive Relief Only (<i>non-harassment</i>) Mechanics Lien Other Commercial Complaint Case (<i>non-tort/non-complex</i>) Other Civil Complaint (<i>non-tort/non-complex</i>) <p>Miscellaneous Civil Petition</p> <ul style="list-style-type: none"> Partnership and Corporate Governance (21) Other Petition (<i>not specified above</i>) (43) <ul style="list-style-type: none"> Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief From Late Claim Other Civil Petition
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