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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

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10 JACOB HARVEY, an individual; and NANCY
11 LOUKS, an individual, on behalf of themselves
and all other similarly situated,

12 Plaintiffs,

13 v.

14 COMMONSPIRIT HEALTH, a nonprofit
15 corporation; DIGNITY HEALTH, a California
16 nonprofit corporation; MORTUARY SUPPORT
17 SERVICES OF NORTHERN CALIFORNIA,
18 LLC, a limited liability company; MICHAEL
ROBERT LOFTON, an individual; and DOES 1
through 50, inclusive,

19 Defendants.

Case No.: **26CV000587**

CLASS ACTION COMPLAINT FOR:

- 1. Breach of Contract as to Third-Party Beneficiary**
- 2. Intentional Infliction of Emotional Distress**
- 3. Negligence**
- 4. Negligent Hiring and Supervision**

DEMAND FOR JURY TRIAL

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Individually, and on behalf of all others similarly situated, Plaintiffs Jacob Harvey (“Jacob”) and Nancy Louks (“Nancy”) (collectively the “Plaintiffs”), by and through undersigned counsel, hereby bring this action as a class action under the provisions of California Code of Civil Procedure § 382 against CommonSpirit Health (“CommonSpirit”), Dignity Health (together with CommonSpirit, “Dignity”), Mortuary Support Services Of Northern California, LLC (“MSSNC”), Michael Robert Lofton (“Lofton” and together with MSSNC, the “MSSNC Defendants”), and Does 1 through 50 (collectively, “Defendants”), as follows:

INTRODUCTION

1. Charles Wesley Harvey (“Mr. Harvey”), a decorated Navy veteran of the Vietnam War, was left to die without his family, and then transferred to decompose in a warehouse-like crematorium for three years, with the knowledge of and profit to Defendants. Sadly, Mr. Harvey is just one of several hundred deceased individuals whose death reporting requirements and physical remains have been mishandled and disrespected by Defendants.

2. Defendants CommonSpirit and Dignity are massive health care companies that earn billions of dollars in revenue each year by operating hospitals throughout the United States. Dignity's C-Suite and high-level executives earn millions of dollars each year, including the companies' CEOs, who are each reported to earn over Twenty-Seven Million Dollars per year.

3. Over the course of at least the past five years, and likely longer, Dignity has engaged in a pattern and practice of egregiously failing to perform myriad post-death responsibilities related to patients who died in the care and custody of its hospitals. For example, Dignity has repeatedly failed to notify family members of their loved one's deaths, failed to perform their requisite actions towards preparing and registering death certificates, and contracted for funeral service companies to hold the human remains of dead patients for extremely long periods of time. In fact, Dignity's handling of these matters has been so egregious that they have been the subject of governmental audits in 2022, 2023, and 2024, the former of which resulted in the issuance of two corrective action plans ("Corrective Action Plans") that Dignity failed to implement despite deceptively reporting to the government that it did. Indeed, in the 2024 audit, the California Department of Public Health stated that Dignity "failed to show documented evidence of data collected to track performance and to ensure improvements were sustained for two plans of correction for regulatory violations." Plaintiffs are

1 also informed and believe that the Sacramento District Attorney is conducting an investigation
2 regarding Dignity into these exact practices.

3 4. On June 2, 2022, Mr. Harvey, the respected father and brother of Plaintiffs, died while
4 in the custody and care of Mercy San Juan Medical Center (“Mercy San Juan”), a Sacramento-area
5 hospital owned and operated by Dignity. After Mr. Harvey died, Dignity did not take any action to
6 notify Mr. Harvey’s family of his death, nor did it issue a death certificate that would have triggered
7 official notices to the police and government authorities. Dignity instead contracted with a funeral
8 services company, Defendant MSSNC, owned by Defendant Lofton and operated through his
9 personal license, to “store” Mr. Harvey’s remains.

10 5. Together, Dignity, MSSNC, and Lofton all failed to take any of the legally required
11 actions to prepare and register Mr. Harvey’s death certificate. They also failed to obtain a legally
12 required permit for the movement and storage of his remains, another mechanism that would have
13 triggered a notice of his death to government authorities and may have resulted in Plaintiffs learning
14 of his passing sooner. As a result, like dozens of others before him and potentially hundreds after
15 him, Mr. Harvey’s body sat decomposing in improper storage for years.

16 6. Due to the improper methods by which MSSNC stores the remains it receives from
17 Dignity, Mr. Harvey’s body had become so decomposed at MSSNC that an open casket funeral was
18 not feasible, and his remains had to be cremated, robbing Plaintiffs and the rest of Mr. Harvey’s
19 family of their final opportunity to say goodbye to him. On information and belief, the same is true
20 of the remains of potentially hundreds of other individuals that MSSNC stores for Dignity.

21 7. As a result of Dignity’s actions and inactions, the family members of patients who die
22 in Dignity’s hospitals far-too-often receive no notice of the deaths and are left to worry before
23 ultimately learning of the grotesque mishandling of their deceased loved one by Dignity and MSSNC,
24 enduring the excruciating emotional distress related thereto.

25 8. Sadly, Plaintiffs and the litany of similarly situated Class Members, as defined in
26 Paragraph 84 below, have heartbreakng stories that could have been prevented if Dignity had simply
27 complied with the law or even its own Corrective Action Plans that were in place as a result of the
28 dozens of times it had already failed to follow the law.

9. Defendants' actions described herein were done intentionally or in reckless disregard to the probability of causing emotional distress to Plaintiffs and Class Members. Therefore, the Defendants are liable for intentional infliction of emotional distress, and the incredible damages Plaintiffs and Class Members have suffered and will continue to suffer related thereto. Additionally, Defendants' actions breached a host of duties that Defendants owed to the Plaintiffs and Class Members, leading to liability of the causes of action alleged herein.

PARTIES

10. Plaintiff Jacob Harvey (“Jacob”) is an individual who resides in Indiana. Jacob is Mr. Harvey’s adult biological son and is a member of the below-defined Class who was and is entrusted with the right and responsibility of handling Mr. Harvey’s remains, and who is entitled to the custody and possession of said remains, under the provisions of California Health and Safety Code § 7100, and who was and is a third party beneficiary of the Storage Agreement between Defendants (defined in Paragraph 44, below).

11. Plaintiff Nancy Louks (“Nancy”) is an individual who resides in Arizona. Nancy is Mr. Harvey’s adult sister and is a member of the below-defined Class who was and is a third-party beneficiary of the Storage Agreements between Defendants.

12. Defendant CommonSpirit Health is a non-profit corporation with its principal place of business in Chicago, Illinois. At all times relevant to this Complaint, CommonSpirit has conducted business in Sacramento County, California.

13. Defendant Dignity is a California non-profit corporation with its principal place of business in San Francisco, California. At all times relevant to this Complaint, Dignity has conducted business in Sacramento County, California.

14. Defendant Mortuary Support Services of Northern California, LLC (“MSSNC”) is a California limited liability company with its principal place in the Sacramento County, California.

15. Defendant Michael Robert Lofton (“Lofton”) is an individual, who Plaintiffs are informed and believe resides in Sacramento County, California. Lofton personally holds Cemetery and Funeral Bureau License No. FD-2208. Plaintiffs are informed and believe that MSSNC uses Lofton’s license to operate.

16. Plaintiffs are ignorant of the names and capacities of Does 1 through 50 (“Doe Defendants”) and sue them as Does 1 through 50 inclusive. Plaintiffs will amend this action to allege these Doe Defendant’s names and capacities when ascertained.

17. Each of the named and identified Defendants herein are responsible in some manner for the occurrences, injuries, and damages herein, and the damages were directly and proximately caused by these Defendants' acts and omissions. Plaintiffs are informed and believe and allege thereon, that at all times mentioned herein, that the Doe Defendants, each of them, were the agents and/or employees of each other, and in taking the actions herein alleged were acting in the course and scope of said agency and/or employment with advanced knowledge, consent, acquiescence, or subsequent ramification of Defendants. As a corollary, Defendants are liable for the acts and/or omissions of the other Defendants under the doctrine of respondent superior and the laws of vicarious liability.

18. Lofton is liable for his own direct and personal participation in the tortious conduct described herein and is also liable as a result of MSSNC's participation in such conduct. On information and belief, MSSNC is the alter ego for Lofton, as MSSNC is the agent of Lofton and/or MSSNC is so dominated and controlled by Lofton as to justifiably disregard the separate entity existence. Plaintiffs are informed and believe and, on that basis allege, that Lofton is the sole owner of MSSNC and Lofton is the majority owner of MSSNC or has exercised sole control of MSSNC even if he is not the majority owner, and that MSSNC is inadequately capitalized, or that Lofton caused MSSNC's funds or other assets to be commingled with his own personal assets. Plaintiffs are informed and believe that MSSNC and Lofton use the same offices and have disregarded the corporate formalities, and that Lofton operates MSSNC through Lofton's personal license with the California Cemetery and Funeral Bureau. There is such a unity of interest and ownership that the individuality, or separateness, of MSSNC and Lofton has ceased to exist, and adherence to the separate existence of MSSNC and Lofton would sanction a fraud or promote injustice.

JURISDICTION AND VENUE

19. This Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Courts “original jurisdiction in all other causes” except those given by statute to other courts.

20. Furthermore, the Court has personal jurisdiction over Defendants because a substantial portion of the acts or omissions alleged in this Complaint took place in California, and Plaintiffs are informed and believe that Defendants either reside in California or otherwise possess sufficient minimum contacts with California, including conducting their operations in the State of California, as to render the exercise of jurisdiction by California courts permissible under traditional notions of fair play and substantial justice.

21. Venue is proper in California Superior Court of the County of Sacramento pursuant to California Code of Civil Procedure § 395 because Sacramento County is where the subject incident and injuries occurred and where the obligation and liabilities arose for the Defendants. The Court has subject matter jurisdiction over this controversy as a court of general jurisdiction within Sacramento.

BACKGROUND ON APPLICABLE LAW

22. In 1939, the California legislature enacted the California Health and Safety Code (“Health & Safety Code”) to consolidate and revise the law relating to the preservation of the public health and safety, including not only the health and safety of persons, but also the custody and disposition of dead bodies (hereafter “human remains”).

California Death Certificate Laws

23. Division 102 of the Health & Safety Code establishes the laws regarding the preparation and issuance of vital records, including death certificates. Specifically, Chapter 6 of Division 102 of the Health & Safety Code establishes the law for the preparation and issuance of death certificates, which the law requires to be completed within eight calendar days of an individual's death. (Cal. Health & Safety Code § 102775.)

24. Chapter 6 establishes that a hospital is required to complete “the medical and health section data and the time of death,” which must also be “attested to by the physician and surgeon last in attendance.” (Health & Safety Code § 102795.) Notably, “the medical and health section data and

the physician's or coroner's certification shall be completed by the attending physician within 15 hours after the death." (Health & Safety Code § 102800.)

25. Additionally, those in custody and/or control of human remains are required to “prepare the certificate and register it with the local registrar.” (Cal. Health & Safety Code §§ 102800, 102780.) To facilitate this, those in custody and/or control of human remains are required to complete other affirmative steps in preparing the death certificate including “obtain[ing] the required information other than medical and health section data from the person or source best qualified to supply the information.” (Cal. Health & Safety Code § 102790.)

Law Requiring Notification to Families of Decedents

26. Division 7 of the Health & Safety Code, Sections 7000 – 8030, establishes the law regarding the notification requirements for those holding human remains prior to final disposition. As a threshold matter, the person or entity holding the remains is required to use reasonable diligence to notify the family of the decedent about the death. (Cal. Health & Safety Code § 7104.) This allows the family of the decedent to control the disposition of the remains, which they have a right to do. (Cal. Health & Safety Code § 7100.)

27. Additionally, pursuant to the American Medical Association's Principles of Ethics, "informing a patient's family that the patient has died is a duty that is fundamental to the patient-physician relationship ... ordinarily, the treating physician should take responsibility for informing the family. However, it may be appropriate to delegate the task of informing the family to another physician if the other physician has a previous close relationship with the patient or family and the appropriate skill." (AMA Principles of Medical Ethics, Rule 2.3.3.) Moreover, the physician has the duty to "disclose the death in a timely manner." (*Id.*)

Law Related to the Storage Human Remains Prior to Final Disposition

28. In California, an entity holding the remains must obtain a permit for disposition from the local registrar in the district where the death occurred to hold any human remains for over eight days. (Cal. Health & Safety Code § 103070.)

29. California Health & Safety Code Division 8, Chapter 2, Article 5 governs the operation of funeral services companies in California, including the requirements for storing human remains.

1 For example, “within two hours after a crematory licensed by the State of California takes custody of
2 a body that has not been embalmed, it shall refrigerate the body at a temperature not greater than 50
3 degrees Fahrenheit unless the cremation process will begin within 24 hours of the time that crematory
4 took custody.” (Cal. Health & Safety Code § 8346.) Similarly, pursuant to the California Code of
5 Regulations, “every licensed funeral establishment and funeral director who holds unembalmed
6 remains for a period longer than twenty-four (24) hours shall cause the body to be refrigerated at an
7 approved facility with sufficient capacity.” (Cal. Code Regs. Tit. 16 § 1223.)

8 **ALLEGATIONS COMMON TO ALL CLAIMS**

9 ***Background on CommonSpirit and Dignity***

10 30. CommonSpirit is a national health care company that operates more than seven
11 hundred care sites and one hundred and forty-two hospitals across twenty-one states in the United
12 States. CommonSpirit operates hospitals in California through Dignity, a California based company
13 that operates forty hospitals across California, Arizona, and Nevada.

14 31. In September 2024, CommonSpirit publicized that it generated Thirty Seven Billion
15 Dollars (\$37,000,000,000) in revenues for the 2024 fiscal year, which ended on June 30, 2024.¹
16 ProPublica reports that Dignity generated over Nine Billion, Nine Hundred Million Dollars
17 (\$9,900,000,000) for the 2023 fiscal year.² The companies’ billions of dollars in revenues are then
18 used to, *inter alia*, pay their C-Suite executives and other high-ranking executives millions of dollars
19 in yearly compensation. For example, according the Paddock Post, CommonSpirit’s CEO earned
20 approximately Twenty Eight Million Dollars Per Year (\$28,000,000) during the 2023 fiscal year.³
21 Similarly, ProPublica reported that in 2023, Dignity’s CEO earned over Twenty-Seven Million
22 Dollars (\$27,000,000) in compensation, while Dignity’s Chief Operating Officer and Senior Chief
23 Strategy Officer earned just over Six Million Dollars (\$6,000,000) and Four Million Dollars
24 (\$4,000,000), respectively.

25
26 ¹ <https://www.commonspirit.org/news-articles/commonspirit-health-releases-fy2024-year-end-results#:~:text=CommonSpirit%20Health%20reported%20revenues%20of,8.2%25%20over%20the%20prior%20year>

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28 ² <https://projects.propublica.org/nonprofits/organizations/941196203>

³ <https://paddockpost.com/2025/01/01/executive-compensation-at-commonspirit-health-2023/>

1 32. Notwithstanding CommonSpirit and Dignity’s massive revenues, they have engaged
2 in a long-standing pattern and practice of cutting costs by, *inter alia*, failing to institute procedures
3 and take actions to timely notify families of patient deaths, failing to timely take requisite actions
4 towards preparing death certificates, and failing to properly process and store the remains of deceased
5 patients.

6 33. In 2022, the California Department of Public Health (“CDPH”) conducted an audit
7 into Dignity after receiving many complaints that their hospitals failed to notify families about those
8 deaths in a timely manner. During that audit, the Chief Medical Officer for Dignity admitted that it
9 was “the responsibility of the [Dignity] attending physician to notify family of a patients’ death.” In
10 the 2022 Audit report, CDPH also noted that based on reviewing Dignity’s policies and procedures:
11 “the Attending Physician or his or her representative is responsible for notifying the next of kin in all
12 cases of death.” As a result of the audit, CDPH determined that Dignity had failed to notify families,
13 as well as implement procedures and train staff to do so. Accordingly, the CDPH issued the two
14 Plans of Correction. The Plans of Correction required Dignity to provide education to their staff on
15 the location of contact information, the requirement to notify a patient’s family about a death, and the
16 requirement to document notifications to family. The Plan of Correction also required Dignity to
17 develop an auditing and reporting process and implement other measures to verify proper procedures
18 were followed. The Plan of Correction claimed these plans were completed and implemented by
19 April 11, 2022. In 2022 and 2023, Dignity reported to CDPH that it had completed the corrections
20 set forth in the Plans of Correction.

21 34. The Audit Report documents that top management of Dignity was aware of this
22 dereliction of duty, at the latest, from its receipt of the CDPH 2022 Audit Report.

23 35. Despite Dignity’s promise to correct its misconduct by April 12, 2022, an additional
24 audit in May 2023, found Dignity was still failing in its duty to notify families of patient deaths. The
25 2023 Audit found, “The Statute is not met as evidenced by: Based on interview and record review,
26 the facility failed to follow their morgue (place where the deceased are kept temporarily) policy when
27 Patient 1 expired and documentation of the location of the body was unknown. This failure resulted
28

1 in Patient 1’s son being unaware of his mother’s body whereabouts and caused family emotional
2 distress.”

3 36. Beginning in or around 2024, the United States Department of Health and Human
4 Services (“DHHS”) directed the CDPH to conduct another audit into Dignity after receiving many
5 complaints that their hospital(s) still failed to properly notify families about the deaths of many
6 patients who died in Dignity’s custody and care, as well as Dignity’s failure to complete their death
7 requirements towards preparing death certificates in a timely manner. CDPH’s audit of Mercy San
8 Juan Medical Center was scathing, concluding that: “[T]he hospital failed to ensure the services of
9 the Regional Morgue Office complied with regulations and facility policies and procedures related to
10 family notification of patient death, timely completion of death certificates, and processing of patient
11 remains … these failures contributed to ongoing delays in processing of death certificates, lack of
12 family notification of patient deaths, and prolonged storage of patient bodies in an off-site morgue,
13 which had then potential to result in family distress over the perception of patients missing for
14 prolonged periods of time when in fact they were deceased and in storage; on 10/14/24, the off-site
15 morgue had 61 patient remains from the hospital, 11 patient remains from deaths in 2022, 15 patient
16 remains from deaths in 2023, and 19 patient remains from deaths in the first half of 2024.”

17 37. Additionally, in the 2024 Audit, the CDHP found that Dignity “failed to show
18 documented evidence of data collected to track performance and to ensure improvements were
19 sustained for two plans of correction for regulatory violations.” Indeed, Dignity’s Quality Director
20 openly admitted that Dignity didn’t bother to implement any part of the 2022 promised Plan of
21 Correction.

22 38. On information and belief, Dignity recklessly or intentionally concealed information
23 regarding its regulatory failures related to timely processing of human remains from its oversight
24 board. The “Patient Safety Program Annual Summary and Evaluation for Fiscal Year 2023, which
25 details categories of adverse events reported during the year, any regulatory findings, and active and
26 completed plans of correction submitted September 2023 to the Community Board [...] did not
27 include documentation of the gaps in patient notification, death certificate processing according to
28 legal requirements, or delay in handling patient remains.” Additionally, the board meeting minutes

1 from January-August 2024 “did not reference any concerns regarding processing patient remains.
2 There was no information regarding untimely completion of death certificates or lack of notification
3 of next of kin of the death of a patient.” Indeed, the Community Board was not aware of prior hospital
4 regulatory violations for failure to process patient remains.

5 39. Dignity's callous disregard of its statutory and moral obligations with respect to Mr.
6 Harvey and the Decedent Group, as described below, was not an accident or an act of negligence, it
7 was a pattern and practice and was known at the highest levels of Dignity's leadership given its
8 repeated failure to change its behavior in light of the various audits it was under and intentional
9 concealment of its failure to change its behaviors. Dignity hid from the public the continuation of its
10 misconduct by promising to implement a "Plan of Correction" in 2022 and 2023 which, in truth, were
11 never implemented, as a matter of choice and financial saving by under staffing. The knowing,
12 intentional, and repeated misconduct by the Defendants shocks the conscious and is deserving of
13 substantial punitive damages.

14 40. Ironically, as advertised on its website, in 2012 Dignity changed its name to “*Dignity*
15 *Health to better describe what we stand for. Dignity is something everyone is born with. ‘Dignity’*
16 *means showing respect for all people.*” In this case, no “dignity” or respect was afforded to Mr.
17 Harvey or his family or the families of those in the Decedent Group.

18 41. Adding further insult to injury, in 2024, Michael Korpiel, CEO of Mercy San Juan
19 Medical Center, spoke to investigators from the California Department of Public Health, and noted
20 of the backlog of patient bodies in storage, ***"We assumed the remains being stored did not have***
21 ***families."***

22 42. But Mr. Harvey had a family, and his family deserved to learn of his death in a timely
23 manner. Had Dignity implemented corrective measures it promised in 2022, Mr. Harvey's family
24 could have been timely informed of his death and could have laid him to rest in a dignified manner
25 befitting of a decorated serviceman. Defendants robbed them of these rights. The same is true of
26 each Class Member.

Background Mortuary Support Services of Northern California and Lofton

43. Michael Robert Lofton holds California Cemetery and Funeral Bureau License No. FD-2208. Lofton is also the sole manager and/or member of MSSNC. MSSNC offers mortuary transport, storage, crematory and funeral home services.

44. MSSNC regularly enters into contracts with Dignity, to transport and store the bodies of individuals who die while in their care. The “Transportation and Storage Service Agreement” (“Storage Agreement”) entered between Dignity and the MSSNC Defendants on October 1, 2021, and operative at the time of Mr. Harvey’s death, is attached hereto as **Exhibit A**. On information and belief, Dignity and the MSSNC Defendants have continued to extend the Storage Agreement or operate under similar agreement terms through the present day.

45. Pursuant to the Storage Agreement, when Dignity has human remains that it desires the MSSNC Defendants to transport and store, the MSSNC Defendants pick up the remains and transport them back to MSSNC's facility located at 35 Quinta Ct., Suites C and/or D, Sacramento California. For these services, MSSNC is paid \$100-\$185 to transport a body and \$15/day for the first 60 days to store a body. There are no costs to Dignity to store bodies at MSSNC beyond 60 days.

46. The Storage Agreement also provides that MSSNC, identified as the “Contractor” under the Agreement, agreed to comply with “all applicable federal, state, and local laws and regulations,” (p. 2), and “shall transport human remains between the Affiliates and/or between an Affiliate and an autopsy services provider contracted with the Hospital, and/or provide or arrange for the storage of human remains at a storage facility that is properly licensed and operated under the laws of California.” (p. 6).

47. On information and belief, MSSNC sent monthly reports to Dignity listing the names of the people in storage and the date they were first placed in storage pursuant to the Storage Agreement. By way of example, page one of the July 14, 2023 Report from MSSNC to Dignity documents the continued storage of two patients from 2021, twenty-four patients from 2022—including Mr. Harvey, and twelve patients stored prior to April 9, 2023. The monthly report to Dignity Health for January 24, 2025, shows the continued storage of nine patients from 2022—including Mr. Harvey, nine patients from 2023, and forty patients from 2024.

Background on Charles Harvey

48. Mr. Harvey was born in 1955 in Santa Monica, California, and lived there until his family moved to Tacoma, Washington when he was twelve years old.

49. Mr. Harvey proudly joined the United States Navy when he was seventeen years old and served for over eight years. During his service, he was awarded the National Defense Service Medal. Mr. Harvey was also trained as an electrician during his service, and continued to work as an electrician after his honorable discharge.

50. While stationed in San Diego during his naval service, Mr. Harvey met his first wife. Mr. Harvey and his family eventually moved to Indiana, where they welcomed their son, Jacob, in 1979. Several years later, after Mr. Harvey and his wife amicably separated, he returned back to the Sacramento area. Even though Mr. Harvey lived in California, Jacob spent the summers with him every year throughout his childhood, and was even inspired to join the United States Marines because of his father's Navy service.

51. Mr. Harvey remarried around 2002, but sadly lost his wife to cancer in 2019. Jacob and his mom encouraged Mr. Harvey to move back to Indiana after his wife's death, but he was too rooted in California by that point to leave again.

52. Jacob welcomed his own son in 2017. Mr. Harvey was over the moon to have a grandson. Mr. Harvey learned how to use the computer so that he could FaceTime with Jacob and his grandson regularly, which helped to lift his spirits after his wife passed. Jacob brought his son to Sacramento to visit Mr. Harvey for the first time in 2020, where they stayed at Mr. Harvey's home located in Sacramento.

53. Mr. Harvey was an avid traveler around the United States. He would often pack up his truck and go on long road trips around the country for weeks or months at a time. Thus, when Jacob had not heard from his father after the spring of 2022, he had assumed that he was on a road trip.

Mr. Harvey is Admitted to and Dies at Mercy San Juan

54. On May 30, 2022, Mr. Harvey was admitted to Dignity's Mercy San Juan with what was described as "acute hypoxemic hypercapnic respiratory failure and acute on chronic exacerbation of COPD," as well as Influenza A and possible sepsis.

55. When Mr. Harvey arrived at Mercy San Juan, his intake paperwork did not provide any family contact information. Accordingly, the hospital referred the matter of identifying relatives to the Sacramento Sheriff's Department. The Sheriff identified Mr. Harvey's address 1440 Gladstone Drive, Sacramento, California, 95864, where he purportedly lived with roommate, Kristopher Bayne.⁴ Mr. Bayne had allegedly known and lived with Mr. Harvey for approximately two years, and described Mr. Harvey as a deeply private man of whom he knew very little. *Mr. Bayne was aware that Mr. Harvey had a son, and informed Mercy San Juan Staff of this information.*

56. Mr. Bayne was not related to Mr. Harvey, did not know any of Mr. Harvey's family members, and had never been given legal authority by Mr. Harvey or any of his relatives to make medical decisions on Mr. Harvey's behalf. Nor do the details provided by Mr. Bayne to Mercy San Juan regarding Mr. Harvey's residence or acquaintance match information known to Mr. Harvey's family.

57. Nonetheless, Mercy San Juan pressured Mr. Bayne to act as Mr. Harvey's medical proxy and agree to take Mr. Harvey off of life support. Mr. Bayne eventually agreed to removing life support measures that hastened Mr. Harvey's death. According to Hospital records, Mr. Harvey was pronounced dead on June 2, 2022, at 1:56 a.m. by attending physician Syed Haider ("Dr. Haider").

Dignity Fails to Issue Death Certificates or Inform Families of Deaths

58. Despite noting Mr. Harvey's death in Mercy San Juan's records, neither Dr. Haider nor anyone at Mercy San Juan performed or memorialized a physician's examination upon Mr. Harvey's death, as required by law. Dignity was also required to report Mr. Harvey's death in the Electronic Death Registration System ("EDRS"), but failed to do so. Accordingly, the Hospital never issued a death certificate within "15 hours," as required by law, such that there could be a record of Mr. Harvey's death in the Sacramento County database.

59. In hindsight, this result is not surprising given the findings of the California Department of Health's 2022 Audit of Dignity, noting that "the facility failed to ensure a physician

⁴⁴ Jacob is not familiar with this address. When Jacob visited Mr. Harvey in the summer of 2020, he stayed Mr. Harvey in Sacramento, and Mr. Harvey did not have any roommate. Despite regularly speaking to Mr. Harvey in 2021 and early 2022, Jacob is not aware that Mr. Harvey ever moved or lived with Mr. Bayne.

1 implemented a policy and procedure for notifying a next-of-kin of a patient's (Patient 1) death."
2 Curiously, and notwithstanding Dignity's failure to follow procedure, Dignity's Chief Medical
3 Officer acknowledges in the 2022 Audit that it is "the responsibility of the attending physician to
4 notify family of a patient's death." The 2022 Audit further confirmed this obligation, noting that the
5 2015 Medical Staff Rules and Responsibilities required that "[t]he Attending Physician or his or her
6 representative is responsible for notifying the next of kin in all cases of death."

7 60. The Plan of Correction from 2022 required that Dignity provide education to members
8 of the medical staff about (1) the location of family contact information, (2) the requirement to notify
9 family about a death, and (3) the requirement to document notifications to family. The Plan of
10 Correction claimed these steps were completed and implemented *by April 11, 2022*. But they clearly
11 were not, as Dignity's action and inaction related to Mr. Harvey's death in June of 2022, confirms.

12 61. Dignity's callous disregard for Mr. Harvey and his family was part of a pattern and
13 practice of disregard for certain patients after their deaths across Dignity hospitals. Dignity's
14 mishandling of deceased patients was not limited to Mercy San Juan Medical Center, it was
15 companywide under the supervision of the Greater Sacramento Division of Common Spirit and the
16 coordination of Laura Lukin, Dignity Health's Regional Laboratory Support Supervisor for Pathology
17 Services and the Supervisor of Decedent Affairs.

18 62. Plaintiffs are informed and believe and thereon allege that there is a group of
19 individuals as to whom Dignity made little to no effort to locate family or next of kin upon each such
20 individual's death at Dignity (the "Decedent Group"), and accordingly, no one was informed of these
21 deaths. Plaintiffs are further informed and believe and thereon allege that as to the entire Decedent
22 Group, no representative of Dignity performed or memorialized a physician's examination upon any
23 such Decedent at the time of their death, as required by law, nor did Dignity report the death of any
24 individual in the Decedent Group in the EDRS, as required by law. Accordingly, upon information
25 and belief, the Hospital never issued a death certificate within "15 hours," for any Decedent in the
26 Decedent Group as required by law, such that there could be a record of their deaths in the appropriate
27 databases.

28 63. By way of example, Plaintiffs are aware of the following:

1 a. On information and belief, Dignity patient Phillip Cross died at a
2 Dignity hospital on May 27, 2023. Dignity didn't issue a death
3 certificate until January 2, 2024. Mr. Cross was stored on a shelf at
4 MSSNC for "temporary envaultment" for over eight months.

5 b. On information and belief, Dignity patient Tonya Walker died at a
6 Dignity hospital on November 2, 2023. Dignity didn't issue a death
7 certificate until April 16, 2024. Ms. Walker was stored on a shelf at
8 MSSNC for "temporary envaultment" for over five months. (See: Civil
9 Complaint, *Walker v. CommonSpirit/Dignity Health*, Case No.
10 25CV009026.)

11 64. Because Dignity was so flagrant in failing to prepare death certificates, in 2024 it had
12 to obtain Court orders to establish the fact of death for numerous individuals in the Decedent Group,
13 including Mr. Harvey. For example, on January 9, 2025, Dignity filed a request for an Order
14 Establishing Fact of Death for Almeza Demby who had died at one of its hospitals on December 24,
15 2022. The Court's Order acknowledges that "said death has not been registered in conformity with
16 the provisions of law in effect at the time."

17 65. On information and belief, the same is true for Dignity patients listed below, all of
18 which a court ordered death certificate was necessary because Dignity "had not registered the death
19 in conformity with the provisions of law in effect at the time."

20 a. Mr. James T. died at Dignity Health on May 30, 2022. A court ordered
21 death certificate had to be issued on or about July 19, 2024, due to
22 Dignity Health's failure to timely issue a death certificate;

23 b. Mr. Michael I. died at Dignity Health on June 18, 2022. A court ordered
24 death certificate had to be issued on or about July 10, 2024, due to
25 Dignity Health's failure to timely issue a death certificate;

26 c. Mr. Herman G. died at Dignity Health on July 9, 2022. A court ordered
27 death certificate had to be issued on or about July 2, 2024, due to
28 Dignity Health's failure to timely issue a death certificate;

- d. Mr. Stephen O. died at Dignity Health on October 21, 2022. A court ordered death certificate had to be issued on or about July 13, 2024, due to Dignity Health's failure to timely issue a death certificate;
- e. Mr. William S. died at Dignity Health on December 28, 2022. A court ordered death certificate had to be issued on or about August 27, 2024, due to Dignity Health's failure to timely issue a death certificate;
- f. Ms. Dianna E. died at Dignity Health on March 4, 2023. A court ordered death certificate had to be issued on or about July 19, 2024, due to Dignity Health's failure to timely issue a death certificate;
- g. Mr. Anthony J. died at Dignity Health on March 14, 2023. A court ordered death certificate had to be issued on or about October 31, 2024, due to Dignity Health's failure to timely issue a death certificate;
- h. Michael W. died at Dignity Health on March 25, 2023. A court ordered death certificate had to be issued on or about October 23, 2024, due to Dignity Health's failure to timely issue a death certificate;
- i. Marc N. died at Dignity Health on March 26, 2023. A court ordered death certificate had to be issued on or about September 20, 2024, due to Dignity Health's failure to timely issue a death certificate;
- j. Brenda S. died at Dignity Health on March 28, 2023. A court ordered death certificate had to be issued on or about September 30, 2024, due to Dignity Health's failure to timely issue a death certificate; and,
- k. Eula R., died at Dignity Health on March 28, 2023. A court ordered death certificate had to be issued on or about October 7, 2024, due to Dignity Health's failure to timely issue a death certificate.

66. But for Dignity's admitted failure to implement any part of the 2022 Plan of Correction a timely death certificate would have been issued for patients: James T., Michael I., Herman G., Stephen O., William S.; Dianna E.; Anthony David J., Michael W., Marc N., Brenda S., Eula R., and others.

67. On information and belief, Dignity has also violated its statutory obligations with respect to the EDRS for the Decedent Group, as it did with Mr. Harvey. Dignity has repeatedly violated statutory reporting obligations that are separate and distinct from the rendering of medical diagnosis and treatment, *i.e.*, violation of California Health and Safety Code section 102775. Dignity failed to maintain an accurate Internet-based electronic death registration system for the creation, storage, and transfer of death registration information. The flagrant failure to maintain the hospital's EDRS system is evidenced by the facts set forth in this case as well as Dignity's failure to report deaths in a timely manner, including the following examples:

- a. Mr. Michael Gray died while in the care of Dignity on July 10, 2021, but the Death Certificate was not issued until August 13, 2021;
- b. Mr. Phillip Coss died while in the care of Dignity on May 27, 2023, but the Death Certificate was not issued until December 29, 2023;
- c. Ms. Tanya Walker died while in the care of Dignity on November 2, 2023, but the Death Certificate was not issued until April 15, 2024; and
- d. Research is ongoing with respect to the scope and time frame that this misconduct has occurred.

68. With respect to the death of Michael Gray, Dignity was named as a defendant in a lawsuit filed on March 23, 2022, in Sacramento County Superior Court, Case No. 34-2022-00315771, relating to the failure to report the death of Michael Gray or inform Mr. Gray's family. At the time of Mr. Harvey's death a few months later, Dignity was clearly on notice that it was failing to accurately and timely perform statutory obligations, failing to maintain an accurate EDRS, failing to timely inform next of kin of the death of their family member, and failing to supervise doctors in a manner that would accomplish the timely filing of a Death Certificate. Yet the pattern of gross negligence and repeated malfeasance continued, ultimately resulting in the failure to report the death of Mr. Harvey a few months later.

MSSNC Improperly Stores the Remains it Receives from Dignity

69. Dignity's records indicate that Dignity did not request an autopsy of Mr. Harvey's body. Accordingly, Dignity did not relinquish custody of Mr. Harvey's body to a coroner and the

1 circumstances of Mr. Harvey's death were never confirmed. Instead, Dignity contacted MSSNC
2 pursuant to the Storage Agreement with the MSSNC Defendants to transport Mr. Harvey's body from
3 Mercy San Juan to MSSNC for storage. To that end, Plaintiffs are informed and believe that on June
4 2, 2022 at 7:12 p.m., Dignity released Mr. Harvey's remains to MSSNC, who in turn transported Mr.
5 Harvey's body away from the hospital and to the MSSNC for "storage."

6 70. On information and belief, Dignity contacted MSSNC pursuant to the Storage
7 Agreement with the MSSNC Defendants to transport every deceased body in the Decedent Group
8 from the hospital to MSSNC for storage.

9 71. California Health & Safety Code section 102775 requires death certificates be
10 completed within eight (8) days of a person's death. Health & Safety Code sections 102780 and
11 102800 require the death certificate be provided to the local registrar. Similarly, Health & Safety
12 Code section 103070 establishes that a person's body cannot be held more than eight (8) calendar
13 days after death without a permit being issued by the local registrar. California Health & Safety Code
14 section 102790 requires MSSNC and its funeral director to complete other affirmative steps in
15 preparing the death certificate including "obtain[ing] the required information other than medical and
16 health section data from the person or source best qualified to supply the information." Health and
17 Safety Code section 103785 makes it a misdemeanor for failing to complete and register a death
18 certificate.

19 72. On information and belief, in violation of Health & Safety Code sections 102775,
20 102780, 102790, 102800, and 103070, Dignity and MSSNC failed to obtain Mr. Harvey's or any
21 individual in the Decent Group's death certificate or the appropriate storage permit. As a result, Mr.
22 Harvey's body as well as the body of every individual in the Decedent Group was lost in physical
23 purgatory—they were no longer a patient of Dignity, and without the registration of a death certificate,
24 they could not be found in any database of deceased at the county or state level.

25 73. Infuriatingly, this situation was preventable. Prior to Mr. Harvey's death and the
26 deaths of those in the Decedent Group, Dignity and the MSSNC Defendants all had repeated advanced
27 notice that there were serious issues with their handling of human remains for individuals who died
28 while in Dignity's care, and whose remains were subsequently stored by the MSSNC Defendants.

1 For example, between May 2, 2023 and September 12, 2023, the MSSNC Defendants communicated
2 to Dignity that the MSSNC Defendants were holding the bodies of at least thirty-five patients who
3 died while in the care of Dignity hospitals, and for whom death certificates had not yet been timely
4 prepared and families had not been properly notified to collect. As reported by MSSNC to Dignity
5 at that time, MSSNC had been holding some of these bodies for up to two years.

6 74. Notwithstanding these failures, MSSNC billed Dignity on a monthly basis for the
7 MSSNC Defendants' "storage" of Mr. Harvey's body and the bodies of all those in the Decedent
8 Group. Additionally, the management of Dignity, including Ms. Lukin, were well aware that Mr.
9 Harvey and the Decedent Group were being stored long-term at MSSNC, as they were receiving
10 monthly reports identifying the individuals by name (including Mr. Harvey's name) and the date that
11 the storage began.

12 75. Worse yet, Plaintiffs are informed and believe that the MSSNC Defendants failed to
13 properly store the remains of Mr. Harvey and the Decedent Group by failing to embalm their bodies
14 or refrigerate them at the appropriate temperature according to the appropriate standards set by law.
15 Legal requirements dictate that a body must be stored below 45 degrees Fahrenheit. However, records
16 indicate that MSSNC was storing the unembalmed bodies significantly over this temperature between
17 August through November 2025. On information and belief, MSSNC has stored the remains of the
18 Decedent Group at temperatures over 45 degrees Fahrenheit throughout the Class Period (as that term
19 is defined below in Paragraph 84).

20 76. Due to MSSNC's failure to properly store Mr. Harvey's body according to the law,
21 his remains are in an advanced state of decomposition and he is unrecognizable. On information and
22 belief, the same is true of the remains of every individual in the Decedent Group stored at MSSNC.

23 77. On information and belief, Defendants have repeatedly caused harm to families of
24 patients that die while under their care, denying these families the ability to obtain an autopsy,
25 preventing the families from adherence to their religious obligations in laying a family member to
26 rest, denying the families the option to see their family member to say goodbye or allow for an open-
27 casket funeral and exacerbating the families' pain and suffering, including the recurring pain of
28 thinking about their loved one being held in storage for months. Defendants' repeated violations of

1 their statutory, legal, and ethical obligations is so outrageous, egregious, repetitive, and malicious to
2 shock the conscious.

3 ***Years Later, Plaintiffs are Notified of Mr. Harvey's Death***

4 78. Mr. Harvey's family did not become aware of his death until November 28, 2025,
5 when Mr. Harvey's younger brother received a call from the coroner. Just days later, still reeling
6 from the news that her brother had died, on December 1, 2025, Mr. Harvey's sister, Plaintiff Nancy,
7 received a notice from the coroner informing her that she had two weeks to "make final disposition"
8 of Mr. Harvey's remains, or else the remains would "be considered abandoned and [Nancy] will be
9 financially responsible for the costs incurred by the Coroner's Office," and could be guilty of a
10 misdemeanor.

11 79. Nancy had the awful task of informing Jacob that his father had died. Jacob was
12 devastated by the loss and blamed himself for believing his father's sudden absence was due to his
13 free-spirited nature and tendency to travel rather than the possibility that something tragic could have
14 befallen him. Even though it was the obligation of the Defendants to find Plaintiffs and inform them
15 of Mr. Harvey's death, Plaintiffs nonetheless carry intense sadness that Mr. Harvey sat in storage in
16 deplorable conditions for three years.

17 80. Adding salt to their wounds is the fact that Mr. Harvey's remains have decomposed to
18 such a state that he is unrecognizable and his family is unable to view his body to say goodbye. Mr.
19 Harvey's remains have been cremated due to their condition. This is not the final disposition of Mr.
20 Harvey's body that the family would have otherwise chosen, and they are devastated by this outcome
21 after suddenly learning of his passing.

22 81. On information and belief, in the same way that Plaintiffs have only now, in the last
23 year learned of Mr. Harvey's death and the improper storage of his remains, the same is true of all
24 Class Members (as defined below), with regard to their respective family member in the Decedent
25 Group. It is only now, in light of the mounting pressure upon Defendants from lawsuits and
26 government investigations, that Defendants have been locating Class Members to inform them of the
27 passing and storage of their loved ones.

82. Dignity callously over a period of years denied Plaintiffs and the Class Members consolation, consideration, dignity and peace of mind they deserved. On information and belief, Dignity's misconduct, disregard for the care of its patients, disregard for the harm it was causing to patients' families, and false promises to the DHHS are worthy of substantial punitive damages.

83. On December 12, 2025, Plaintiffs notified Dignity of Plaintiffs' claims related to Mr. Harvey.

CLASS ALLEGATIONS

84. Plaintiffs bring this action individually and as a class action on behalf of a class of the surviving spouses, relatives, and/or designated representatives, of the hundreds of individuals in the Decedent Group who died at Dignity-run hospitals and whose remains were subsequently improperly and disrespectfully mishandled and stored by MSSNC, as set forth in greater detail in the “ALLEGATIONS COMMON TO ALL CLAIMS” section of this Complaint (individually referred to as “Class Members” and collectively as the “Class”) starting from approximately January 9, 2022 through the present (“Class Period”). The Class consists of at least two sub-classes, defined as follows:

- a. Individuals with the right to dispose of remains, pursuant to Section 7100 of Cal. Health & Safety Code (the “7100 Subclass”), and/or
- b. Individuals, who are close family members of the decedents, on whose behalf Dignity contracted mortuary services with MSSNC pursuant to the Storage Agreement (the “Third-party Beneficiary Subclass”).

85. This action is brought, and may properly be maintained, as a class action pursuant to California Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class is ascertainable. This action presents questions of common interest and satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of this provision.

Numerosity:

86. The size of the proposed Class makes individual joinder of all members impracticable. Plaintiff does not presently know the exact number of Class Members, as that information is in the

1 sole custody of one or more Defendants. However, Plaintiffs have identified numerous examples of
2 individuals in the Decedent Group whose families would be Class Members above in Paragraphs 63
3 - 68. Plaintiffs are informed and believe, and thereon allege, that hundreds of individuals who have
4 died at Dignity hospitals have been subject to the unlawful practices alleged herein during the Class
5 Period. Furthermore, each Decedent is likely to have more than one relative or designated
6 representative in the Class, multiplying the number of potential plaintiffs even further. It would not
7 be practical to join hundreds of similarly situated individuals as plaintiffs.

8 **Commonality:**

9 87. Common questions of law and fact exist as to all members of the Class and
10 predominate over any questions that affect only individual members of the Class. These common
11 questions of law and fact include, without limitation:

- 12 a. Whether Defendants owed any duties to the Class Members;
- 13 b. Whether Class Members were the beneficiaries of the Storage
14 Agreement between Dignity and the MSSNC Defendants;
- 15 c. Whether MSSNC was storing the remains of the Decedent Group at or
16 below legally required temperatures;
- 17 d. Whether Defendants handled the remains of the Decedent Group in
18 accordance with the appropriate standard of care;
- 19 e. Whether Dignity violated the Plan of Correction imposed on it by the
20 CDPH;
- 21 f. Whether Defendants had an obligation to inform Class Members of the
22 deaths of their respective relatives in the Decedent Group;
- 23 g. Whether Defendants had an obligation to prepare the death certificates
24 for the individuals in the Decedent Group;
- 25 h. Whether Defendants had an obligation to obtain licensing or permits to
26 transfer and store the individuals in the Decedent Group;

- i. Whether Defendants otherwise complied with applicable laws and regulations concerning notifications of death and storage of human remains; and
- j. Whether Defendants acted intentionally and/or maliciously with willful and conscious disregard to the rights of the Plaintiffs and Class Members.

88. There is also a community of interest among the members of the Class in obtaining adequate compensation for the damages, injuries, grief, and anguish which Defendants' actions have inflicted upon them.

Typicality:

89. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of law as alleged herein. Moreover, the injuries suffered by Plaintiffs are typical of the injuries suffered by Class Members in general.

Adequacy of Representation:

90. Plaintiffs are adequate representatives of the Class in that their claims are typical of those of the Class. Plaintiffs have the same interests in the litigation of this case as the Class Members; they are committed to vigorous prosecution of this case and have retained competent counsel experienced in a class action of this nature. Plaintiffs are not subject to any individual defenses unique from those conceivably applicable to the Class as a whole and anticipate no management difficulties in this litigation.

Predominance:

91. Defendants have engaged in a common course of intentional and negligent conduct toward Plaintiffs and Class Members, which has resulted in common injuries among the Class Members. The common issues arising from this conduct that affect Plaintiffs and Class Members, several examples of which are listed above, predominate over any individual issues because the common issues are more significant, impactful, and likely to be more heavily litigated than any conceivable individual issues, of which there are few or none. Adjudication of these common issues

1 in a single action has important and desirable advantages of judicial economy because the exact same
2 evidence relevant to Defendants' duties and liabilities will be shared across every Class Member.

3 **Superiority of Class Action:**

4 92. A class action is superior to other available methods for the fair and efficient
5 adjudication of this controversy because individual litigation of the claims of all Class Members is
6 impracticable. It would be unduly burdensome to the courts in which individual litigation of varying,
7 inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and
8 to the court system resulting from multiple trials of the same complex factual issues. Moreover,
9 individual actions by Class Members may establish inconsistent standards of conduct for Defendants.
10 By contrast, the conduct of this action as a class action, with respect to some or all of the issues
11 presented herein, presents fewer management difficulties, conserves the resources of the parties and
12 the court system, and protects the rights of each Class Member.

13 93. Defendants have acted or refused to act in respects generally applicable to the Class,
14 thereby making appropriate relief with regard to the members of the Class as a whole, as requested
15 herein.

16 **FIRST CAUSE OF ACTION**

17 **Breach of Contract as to Third Party Beneficiary**

18 ***(As to Defendants MSSNC, Lofton and DOES 1-50 on behalf of Plaintiffs and Class Members)***

19 94. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained
20 in paragraphs 1-93 on behalf of themselves and all Class Members.

21 95. On October 1, 2021, Dignity entered into an express contract with the MSSNC
22 Defendants for the transport and storage of the remains of deceased individuals, referred to as the
23 Storage Agreement herein, and attached hereto as **Exhibit A**.

24 96. The Storage Agreement provided that the MSSNC Defendants were obligated to
25 adhere to all federal, state, and local laws and regulations, including as they pertained to the
26 disposition of human remains.

97. In return for the transport and storage of these remains, the MSSNC Defendants would receive compensation. Pursuant to the Storage Agreement, Dignity paid MSSNC \$100-\$185 to transport a body and \$15/day for the first 60 days to store a body.

98. Plaintiffs allege that Plaintiffs and the Class Members were amongst the class of intended third party beneficiaries of the Storage Agreement because they are among the intended and foreseeable beneficiaries of the custodial services that the MSSNC Defendants provide to Dignity with regard to the Decedent Group. More specifically, the Storage Agreement was in place to properly store the remains of the Decedent Group until such time that the correct individual or entity pursuant to law (*i.e.*, Class Members) could be identified to take custody of the remains.

99. On information and belief, Defendants were aware or should have been aware that Plaintiffs and the Class Members were among the class of intended third party beneficiaries of the services provided to Dignity for Decedent Group pursuant to the Storage Agreement, and thus would be injured by any breach of the obligations or duties of the Storage Agreement.

100. Plaintiffs further allege that the MSSNC Defendants repeatedly breached the Storage Agreement throughout the Class Period by failing to properly store the remains of the Decedent Group at or below legally required temperatures, by failing to obtain required licensing and permits to transfer and store the remains of the Decedent Group, and by failing to obtain death certificates for the Decedent Group.

101. Plaintiffs and Class Members are entitled to damages as third-party beneficiaries because they were harmed as a result of the MSSNC Defendants' breaches of the Storage Agreement.

102. As a direct and proximate result of the MSSNC Defendants' breaches, Plaintiffs and Class Members have suffered damages in an amount to be determined at trial plus interest as permitted by law.

SECOND CAUSE OF ACTION

Intentional Infliction of Emotional Distress

(As to Defendants CommonSpirit, Dignity, MSSNC, Lofton and DOES 1-50 on behalf of Plaintiffs and Class Members)

1 103. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained
2 in paragraphs 1-102 on behalf of themselves and all Class Members.

3 104. Defendants, who jointly maintained custody and/or control of Mr. Harvey's remains
4 for years after his death, engaged in conduct that caused Plaintiffs to suffer severe emotional distress.
5 Likewise, Defendants, who jointly maintained custody and/or control of the remains of the Decedent
6 Group for months or years after each of their deaths, engaged in conduct that caused the Class
7 Members to suffer severe emotional distress.

8 105. Defendants' conduct included:

- 9 a. Defendants failed to notify Plaintiffs that Mr. Harvey had died,
10 Defendants failed to timely prepare and deliver required documents
11 related to Mr. Harvey's death including but not limited to his death
12 certificate.
- 13 b. On information and belief, Defendants failed to notify Class Members
14 that their respective family member among the Decedent Group had
15 died, Defendants failed to timely prepare and deliver required
16 documents related to the deaths of those in the Decedent Group,
17 including but not limited to their death certificates.
- 18 c. On information and belief, Defendants also failed to timely obtain an
19 Application and Permit for Disposition of Human Remains despite
20 holding Mr. Harvey's body and the bodies of those in the Decedent
21 Group for months or years.
- 22 d. On information and belief, Defendants failed to properly store Mr.
23 Harvey's remains and the remains of those in the Decedent Group at
24 proper temperatures according to law, causing the severe deterioration
25 and decomposition of the remains.

26 106. Defendants were intentionally concealing their behavior for years while publicly
27 providing false indications that they had complied with the 2022 Plan of Correction to remedy the
28 above categories of derelictions. In the 2024 Audit of Dignity, the CDHP found that Dignity "failed

1 to show documented evidence of data collected to track performance and to ensure improvements
2 were sustained for two plans of correction for regulatory violations.” Indeed, Dignity’s Quality
3 Director openly admitted that Dignity didn’t bother to implement any part of the 2022 promised Plan
4 of Correction, as it had otherwise stated it had done.

5 107. Defendants were aware or should have been aware that they were acting as custodians
6 with a duty of care as to the remains of Mr. Harvey and the individuals in the Decedent Group until
7 such time as the family or legal representatives of such individuals could be found.

8 108. Defendants’ conduct was outrageous and exceeded the bounds of decency in a
9 civilized community.

10 109. Defendants either intended to cause Plaintiffs and Class Members emotional distress,
11 or acted with reckless disregard of the probability that Plaintiffs and Class Members would suffer
12 emotional distress upon learning of Defendants’ actions with regard to Mr. Harvey and the Decedent
13 Group.

14 110. Plaintiffs and Class Members have suffered severe and permanent emotional distress,
15 as described herein. Plaintiffs’ and Class Members’ emotional distress came in many forms. For
16 example, Plaintiffs and Class Members suffered serious emotional distress during the period that their
17 loved ones were missing prior to learning of their death. As another example, Plaintiffs and Class
18 Members suffered severe emotional distress from the knowledge about manner in which the
19 Defendants handled Mr. Harvey’s remains and the remains of those in the Decedent Group. In
20 particular, Defendants caused the remains of Mr. Harvey and the individuals in the Decedent to
21 become so decomposed that the remains can no longer be identified, and the mere viewing of such
22 remains is incredibly traumatic.

23 111. Defendants’ conduct as described herein was a substantial factor in causing Plaintiffs’
24 and Class Members’ emotional distress.

25 112. Defendants’ conduct as described herein was oppressive and/or malicious, in that it
26 was despicable conduct that subjected the family to cruel and unjust hardship in conscious disregard
27 for the Plaintiffs’ and Class Members’ rights and/or was carried out with a willful and conscious

1 disregard to the rights of the Plaintiffs and Class Members. As a corollary, Plaintiffs and Class
2 Members seek an award of punitive damages as against Defendants by way of this complaint.

3 **THIRD CAUSE OF ACTION**

4 **Negligence**

5 ***(As to Defendants CommonSpirit, Dignity, MSSNC, Lofton, and DOES 1-50 on behalf of Plaintiffs
6 and Class Members)***

7 113. Plaintiffs re-allege and incorporate by reference herein all of the allegations contained
8 in paragraphs 1-112 on behalf of themselves and all Class Members.

9 114. Defendants owed a duty to Plaintiffs and Class Members to exercise reasonable and
10 ordinary care when handling Mr. Harvey's remains and the remains of the Decedent Group. That duty
11 arose from, among other things, federal, state, and local laws that require Defendants to properly and
12 adequately handle an individual's remains as to preserve their dignity and honor the right of Plaintiffs
13 and Class Members to control the disposition of the remains of their loved ones.

14 115. Defendants also owed duties of care to the Plaintiffs and Class Members that included:

15 a. Defendants' duty to use reasonable efforts to notify the Plaintiffs about
16 Mr. Harvey's death, in addition to Defendants' duty to prepare and/or
17 deliver requisite documents related to Mr. Harvey's death including his
18 death certificate and an Application and Permit for Deposition of
19 Human Remains.

20 b. Defendants' duty to use reasonable efforts to notify Class Members that
21 their respective family member among the Decedent Group had died,
22 in addition to Defendants' duty to prepare and/or deliver requisite
23 documents related to the deaths of those in the Decedent Group,
24 including their death certificates and Applications and Permits for
25 Deposition of Human Remains.

26 c. Defendants' duty to use ordinary care related to the storage of Mr.
27 Harvey's remains and the remains of those in the Decedent Group.

28 116. On information and belief, Defendants breached their respective duties by:

- 1 a. Failing to handle Mr. Harvey's remains with ordinary care;
- 2 b. Failing to handle the remains of the Decedent Group with ordinary
- 3 care;
- 4 c. Failing to take reasonable efforts to notify the Plaintiffs about Mr.
- 5 Harvey's death. This included failing to take steps including, but not
- 6 limited to, timely preparing and delivering Mr. Harvey's death
- 7 certificate and timely obtaining an Application and Permit for
- 8 Disposition of Human Remains;
- 9 d. Failing to take reasonable efforts to notify Class Members about the
- 10 deaths of the Decedent Group. This included failing to take steps
- 11 including, but not limited to, timely preparing and delivering the death
- 12 certificates and timely obtaining Applications and Permits for
- 13 Disposition of Human Remains for the Decedent Group; and
- 14 e. Defendants failed to properly store Mr. Harvey's remains and the
- 15 remains of the Decedent Group.

16 117. Defendants were intentionally concealing their behavior for years while publicly
17 providing false indications that they had complied with the 2022 Plan of Correction to remedy the
18 above categories of derelictions. In the 2024 Audit of Dignity, the CDHP found that Dignity “failed
19 to show documented evidence of data collected to track performance and to ensure improvements
20 were sustained for two plans of correction for regulatory violations.” Indeed, Dignity’s Quality
21 Director openly admitted that Dignity didn’t bother to implement any part of the 2022 promised Plan
22 of Correction, as it had otherwise stated it had done.

23 118. As a result of Defendants’ aforementioned conduct, Plaintiffs and Class Members
24 suffered damages, including but not limited to severe emotional distress.

25 119. Defendants’ actions as described herein were the proximate cause of Plaintiffs’ and
26 Class Members’ damages.

27 120. Defendants’ conduct as described herein was oppressive and/or malicious, in that it
28 was despicable conduct that subjected the family to cruel and unjust hardship in conscious disregard

1 for the Plaintiff's and Class Members' rights and/or was carried out with a willful and conscious
2 disregard to the rights of the Plaintiffs and Class Members. As a corollary, Plaintiffs and Class
3 Members seek an award of punitive damages as against Defendants by way of this complaint.

4 **FOURTH CAUSE OF ACTION**

5 **Negligent Hiring, Training, and Supervision**

6 *(As Against Defendants CommonSpirit, Dignity, and DOES 1-50 on behalf of Plaintiffs and
7 Class Members)*

8 121. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
9 paragraph 1 – 120 on behalf of themselves and all Class Members.

10 122. Dignity had a duty to use reasonable care in hiring, training, and supervising the staff
11 of its hospitals. Moreover, Dignity publicly confirmed and allowed the DHHS and CDPH believed
12 that it was performing these tasks as of April 12, 2022 per its implementation of 2022 Plan of
13 Correction.

14 123. On information and belief, Dignity failed to use reasonable care in hiring, training, and
15 supervising the staff of its hospitals to assure that:

- 16 a. Mercy San Juan's staff were trained in their obligations required in
17 preparing Mr. Harvey's death certificate.
- 18 b. Dignity staff were trained in their obligations required in preparing the
19 death certificates of those in the Decedent Group.
- 20 c. Mercy San Juan's staff made reasonable attempts to give Mr. Harvey's
21 family notice of Mr. Harvey's death.
- 22 d. Dignity's staff made reasonable attempts to give Class Members notice
23 of the deaths of those in the Decedent Group.
- 24 e. Mercy San Juan's staff performed their requisite responsibilities
25 towards preparing Mr. Harvey's death certificate and delivering it to
26 the funeral provider.

1 f. Dignity's staff performed their requisite responsibilities towards
2 preparing the death certificates of those in the Decedent Group and
3 delivering them to the funeral provider.

4 124. Defendants were intentionally concealing their behavior for years while publicly
5 providing false indications that they had complied with the 2022 Plan of Correction to remedy the
6 above categories of derelictions. In the 2024 Audit of Dignity, the CDHP found that Dignity "failed
7 to show documented evidence of data collected to track performance and to ensure improvements
8 were sustained for two plans of correction for regulatory violations." Indeed, Dignity's Quality
9 Director openly admitted that Dignity didn't bother to implement any part of the 2022 promised Plan
10 of Correction, as it had otherwise stated it had done.

11 125. As a direct result of Dignity's negligent hiring, training, and supervision of its staff,
12 Plaintiffs and Class Members suffered damages, including emotional distress damages, in excess of
13 the jurisdictional minimum of this Court.

14 126. Dignity's conduct as described herein was oppressive and/or malicious, in that it was
15 despicable conduct that subjected the family to cruel and unjust hardship in conscious disregard for
16 Plaintiffs' and Class Members' rights and/or was carried out with a willful and conscious disregard
17 to the rights of the Plaintiffs and Class Members. As a corollary, Plaintiffs and Class Members seek
18 an award of punitive damages as against Defendants by way of this complaint.

19 * * *

20 **PRAYER FOR RELIEF**

21 **WHEREFORE, PLAINTIFFS PRAY FOR RELIEF AS FOLLOWS:**

22 1. A judgment in favor of Plaintiffs and Class Members and against Defendants;

23 2. That the Court determine that this action may be maintained as a class action under
24 California Code of Civil Procedure § 382;

25 3. Appointment of Plaintiffs as Class representatives;

26 4. Appointment of Plaintiffs' counsel as Class counsel;

27 5. Provision of Notice to all Class Members;

28 6. General damages against Defendants according to proof;

7. Special damages against Defendants according to proof;
8. Punitive damages as against Defendants;
9. Legal interest, including pre-judgment and post-judgment interest, on judgment from the filing of the original complaint to the date of judgment;
10. Any other and further relief as this Court deems just and proper.

* * *

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all the triable issues within this Complaint.

10 | DATED: January 9, 2025

ZWEIBACK FISSET & ZALDUENDO LLP

Rachel L. Fiset

Rachel Fiset

EXHIBIT A

INDEPENDENT CONTRACTOR AGREEMENT (NON-CLINICAL, BA)

TRANSPORTATION AND STORAGE SERVICES AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is made and entered into by and between the Dignity Health and/or Dignity Community Care affiliated entity(ies) identified in the Key Informational Terms below (each, an "Affiliate"), and the independent contractor identified in the Key Informational Terms below ("Contractor"). Contractor and Affiliate (each a "Party" and collectively the "Parties") agree as follows:

KEY INFORMATIONAL TERMS

A. Dignity Health/Dignity Community Care Affiliate(s).

Dignity Health, a California nonprofit public benefit corporation, doing business as Mercy San Juan Medical Center, Mercy General Hospital, and Mercy Hospital of Folsom.

Dignity Community Care, a Colorado nonprofit corporation, doing business as Methodist Hospital of Sacramento and Woodland Memorial Hospital.

State in which Affiliates are located: California ("State")

C. Contractor's Name and Description.

Mortuary Support Services of Northern California, a California corporation, d/b/a Sacramento Mortuary Transport

E. Term. This Agreement commences on October 1, 2021 (the "Effective Date") and expires on September 30, 2023 (the "Expiration Date").

G. Parts. This Agreement is comprised of the following parts:

- (i) Part I Dignity Health/Dignity Community Care Terms and Conditions
- (ii) Part II Services and Fees
- (iii) Part III Business Associate Exhibit
- (iv) Part IV Insurance Requirements

B. Affiliate's Notice Address.

Senior Director of Laboratories
Dignity Health Greater Sacramento Area
4400 Duckhorn Drive, Suite 200
Sacramento, CA 95834

Copy to: CommonSpirit Health Legal Team
3400 Data Drive
Rancho Cordova, CA 95670

D. Contractor's Notice Address.

35 Quinta Court, Suite C
Sacramento, CA 95823

F. Without Cause Termination. Number of days' notice required for without cause termination: 30

IN WITNESS WHEREOF, Affiliate and Contractor execute this Agreement as of the dates below.

AFFILIATE

Dignity Health, a California nonprofit public benefit corporation, on behalf of Mercy San Juan Medical Center, Mercy General Hospital, Mercy Hospital of Folsom; and

Dignity Community Care, a Colorado nonprofit corporation, on behalf of Methodist Hospital of Sacramento and Woodland Memorial Hospital

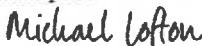


Printed Name: Todd Strumwasser, MD
Title: SVP, Northern California Division
Date: Sep 11, 2021

EEA8DD3EA48F4AD...

CONTRACTOR

Mortuary Support Services of Northern California, a California corporation, d/b/a Sacramento Mortuary Transport



3708F96E942B9456...

Printed Name: Robert Michael Lofton
Title: President/CEO
Date: Sep 9, 2021

Part I

INDEPENDENT CONTRACTOR AGREEMENT (NON-CLINICAL, BA) DIGNITY HEALTH/DIGNITY COMMUNITY CARE TERMS AND CONDITIONS

1. CONTRACTOR'S OBLIGATIONS

1.1 Services. Contractor and/or employees or agents of Contractor that provide Services as defined below under this Agreement or otherwise have access to Dignity Health or Dignity Community Care confidential information ("Personnel") shall perform the services set forth in Part II (the "Services") in accordance with the terms of this Agreement.

1.2 Time and Manner of Performance. Contractor shall ensure that only fully qualified Personnel perform Services under this Agreement, and such Personnel shall perform Services diligently and in a timely manner, according to the highest applicable standards. Affiliate reserves the right to refuse to use any Personnel assigned to provide Services under this Agreement and to have removed from its premises any Personnel.

1.3 Warranties. Contractor represents and warrants that:

a. Contractor and Personnel, if applicable, have and shall maintain all licenses and/or certifications necessary to do business and perform the Services in the State. Contractor shall provide Affiliate with a copy of such license(s) upon request and shall promptly notify Affiliate in the event of any limitation or loss or termination of such license(s) and certification(s).

b. Contractor and Personnel are not and at no time have been excluded from participating in Medicare, Medicaid, or any other Federal healthcare program, as defined at 42 U.S.C. Section 1320a-7b(f) (each, a "Federal Healthcare Program"). Contractor shall no less than monthly check the OIG List of Excluded Contractors and the General Services Administration list of parties excluded from participation in Federal Healthcare Programs to ensure that neither Contractor nor any Personnel appear on said lists. Contractor shall immediately notify Affiliate of any threatened or actual exclusion from any Federal Healthcare Program. In the event that any Contractor or Personnel is excluded from participating in any Federal Healthcare Program, this Agreement shall automatically terminate as of the date of such exclusion (unless such Personnel is immediately removed from performing Services under this Agreement). Contractor shall indemnify and hold harmless Affiliate for, from, and against any and all claims, liabilities, losses, damages, penalties, and costs, including reasonable attorneys' fees and costs, incurred by Affiliate arising directly or indirectly, out of any violation of this Section by Contractor, or due to the exclusion of any Contractor or Personnel from any Federal Healthcare Program.

c. Within 180 days prior to the Effective Date, Contractor engaged an independent entity to conduct background screenings and Contractor and Personnel successfully passed in accordance with the standards set forth in Appendix B of Dignity Health Policy 120.1.019, a copy of which is available from Affiliate. Contractor and Personnel shall successfully complete such background screenings on an annual basis during the term hereof. Contractor shall provide proof of compliance with this Section prior to commencing Services and no less than annually thereafter.

d. No doctor of medicine, osteopathy, podiatry, optometry, dentistry, or chiropractic (or any family member thereof) possesses any form of ownership or investment interest in Contractor. Contractor has no compensation arrangement with any of the aforementioned medical professionals that in any way varies based upon the value or volume of referrals or other business generated by such medical professional (or any family member) to Affiliate.

1.4 Laws and Standards. Contractor shall comply with the following, as amended from time to time, to the extent applicable to the provision of Services under this Agreement: (a) Affiliate's corporate integrity program and any Dignity Health and/or Dignity Community Care Corporate Integrity Agreement(s), as applicable; (b) Dignity Health and/or Dignity Community Care Standards of Conduct, as applicable; (c) all applicable federal, state, and local laws and regulations (collectively, "Laws"); and (d) the policies, procedures, and rules of Affiliate (the "Affiliate Rules").

1.5 Medicare Records. To the extent required by Laws, Contractor shall make available, upon written request from Affiliate, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other authorized agency, this Agreement and Contractor's books, documents, and records ("Contractor's Records"). Contractor shall preserve and make available Contractor's Records for a period of four years after the end of the term of this Agreement. If Contractor is requested to disclose Contractor's Records pursuant to this Section, Contractor shall notify Affiliate of the nature and scope of such request, and Contractor shall make available to Affiliate all such Contractor's Records.

1.6 Use of Affiliate Premises. Contractor shall not use any part of the Affiliate premises as an office for private business. Contractor and Personnel shall only enter those areas of Affiliate's facility that are necessary for the performance of Contractor's Services.

1.7 Health Screening and Immunization. If the provision of Services requires Contractor and/or Personnel to be present in a clinical procedural area or to have direct contact with patients, Contractor, at Contractor's expense, shall assure that Contractor and all Personnel meet all health screening and immunization requirements in accordance with Affiliate's policies prior to providing Services. Contractor shall provide written documentation of compliance with this Section prior to commencing Services and at least annually thereafter.

2. COMPENSATION

2.1 Reports. Contractor shall submit to Affiliate, on a periodic basis as agreed by the Parties, a report in a form reasonably acceptable to Affiliate that accurately documents Services provided by Contractor (the "*Report*").

2.2 Payment. Affiliate shall, within 30 days after receiving an undisputed Report, pay to Contractor the fees set forth in Part II for Services performed by Contractor.

2.3 Sole Compensation. Contractor agrees that the compensation, as specified above, is the sole and exclusive compensation for Services provided pursuant to this Agreement.

3. TERMINATION

3.1 Termination Without Cause. Each Party may terminate this Agreement without cause, expense, or penalty effective upon expiration of the number of days' prior written notice set forth in Section F of the Key Informational Terms above.

3.2 Termination Upon Breach. Each Party may terminate this Agreement upon any breach by the other Party if such breach is not cured to the satisfaction of the non-breaching Party within 10 days after written notice of such breach is given by the non-breaching Party.

3.3 Effect of Termination or Expiration. Upon termination or expiration of this Agreement, all rights and obligations of the Parties shall cease except those rights and obligations that have accrued and remain unsatisfied prior to the date of termination or expiration, and those rights and obligations that expressly survive termination or expiration of this Agreement. The following Sections of this Part I shall survive expiration or termination of the Agreement: 1.5 (Medicare Records), 4 (Protected Information), 5 (Insurance and Indemnification), 6.3 (Dispute Resolution), and 6.8 (Notices).

4. PROTECTED INFORMATION

4.1 HIPAA. Contractor shall be a business associate of Affiliate and comply with the HIPAA provision set forth in Part III.

4.2 Confidential Information. Contractor shall not use or disclose any Confidential Information (as defined below) for any purpose not expressly permitted by this Agreement without the prior written consent of Affiliate. Contractor shall protect Confidential Information from unauthorized use, access, or disclosure with no less than reasonable care. "*Confidential Information*" means any proprietary or confidential information of Affiliate or any other Dignity Health and/or Dignity Community Care affiliate, any Affiliate patient's protected health information, as defined by HIPAA, and any information, records, and proceedings of Affiliate and/or Medical Staff committees and peer review bodies. Confidential Information also includes proprietary or confidential information of any third party that may be in Affiliate's possession.

4.3 Work Product. Contractor acknowledges and agrees Affiliate shall have sole title to and exclusive ownership of all reports, deliverables, and other work product (collectively the "*Work Product*"). The Work Product shall be deemed a "work made for hire" as that term is defined under Section 101 of the U.S. Copyright Act and Affiliate shall be considered the person for whom the work was prepared for the purpose of determining authorship of any copyright in the Work Product. To the extent a Work Product is not a *work made for hire* under U.S law or any other jurisdiction, Contractor hereby assigns all right, title, and interest in the Work Product to Affiliate and retains no interest therein. Contractor agrees to execute any instruments requested by Affiliate during or after completion of the Services to (i) transfer to Affiliate any rights Contractor may retain in the Work Product, and (ii) enable Affiliate perfect its rights, title, and interest in the Work Product.

5. INSURANCE AND INDEMNIFICATION

5.1 **Insurance Requirements.** Contractor shall comply with the insurance requirements set forth in Part IV of this Agreement.

5.2 **Mutual Indemnification.** Each Party shall defend, indemnify, and hold the other Party harmless for, from, and against any and all claims, liabilities, losses, damages, penalties, and costs, including reasonable attorneys' fees and costs, incurred by the indemnified Party and arising out of or resulting from any actual or alleged (a) negligent or willful acts or omissions, (b) breach of this Agreement, or (c) violation of Laws, by the indemnifying Party or the indemnifying Party's employees or agents. This Section 5.2 shall not apply to any action brought by one Party against the other Party.

6. MISCELLANEOUS PROVISIONS

6.1 **Assignment.** Except for the foregoing, Contractor may not assign or transfer its rights and duties under this Agreement without first obtaining the written consent of Affiliate. This Agreement shall be binding upon the parties hereto and upon their successors, and, subject to the terms and conditions hereof, their assigns.

6.2 **Counterparts, Signatures.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. When signed in pen ink, this Agreement may be delivered by facsimile or by scanned email attachment, and said copies shall be treated as original. Amendments to this Agreement shall be similarly executed by the Parties.

6.3 **Dispute Resolution.** In the event of any dispute or claim arising out of or related to this Agreement (each, a "**Dispute**") the Parties shall, as soon as reasonably practicable after one Party gives written notice of a Dispute to the other Party (the "**Dispute Notice**"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the Parties. If any Dispute is not resolved to the mutual satisfaction of the Parties within 10 business days after delivery of the Dispute Notice (or such other period as may be agreed upon by the Parties in writing), the Parties shall submit such Dispute to arbitration conducted in the County in which Affiliate is located by JAMS, Inc. in accordance with its commercial arbitration rules. The Parties waive the right to seek specific performance or any other form of injunctive or other equitable relief or remedy arising out of this Agreement, except that such remedies may be utilized for purposes of enforcing this Section 6.3 and Sections 1.5 (Medicare Records) and 4 (Protected Information) of this Part I. The prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements, in addition to any other relief to which that Party may be entitled. All disputes shall be governed by the laws of the State.

6.4 **Entire Agreement, Amendment.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, or discussions between the Parties with respect to such subject matter. This Agreement may be amended only by mutual agreement set forth in writing, signed and dated by the Parties.

6.5 **Independent Contractor.** The Parties shall at all times be independent contractors in performing under this Agreement.

6.6 **No Conflicting Obligations.** Contractor represents and warrants that it is not a party to any arrangement that may materially interfere with Contractor's obligations under this Agreement, and Contractor shall immediately notify Affiliate if Contractor becomes involved in any such arrangement.

6.7 **Non-Discrimination.** Contractor and Affiliate shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and regulations issued pursuant thereto. Neither Contractor nor Affiliate shall differentiate or discriminate in the provision of services on any basis prohibited by Laws or Affiliate Rules.

6.8 **Notices.** Notices under this Agreement shall be given in writing and delivered by either: (a) personal delivery, in which case such notice shall be deemed given on the date of delivery; (b) next business day courier service (e.g., FedEx, UPS, or similar service), in which case such notice shall be deemed given on the business day following the date of deposit with the courier service; or (c) U.S. mail, first class, postage prepaid, registered or certified, return receipt requested, in which case such notice shall be deemed given on the third business day following the date of deposit with the United States Postal Service. Notices shall be delivered to the notice addresses set forth in the Key Informational Terms above.

6.9 Referrals. Nothing in this Agreement or in any other written or oral agreement between Affiliate and Contractor contemplates or requires the admission or referral of any patients or business to Affiliate or any affiliate of Affiliate.

6.10 Waiver. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of such provision or any other provision. Any waiver granted by a Party must be in writing and shall apply solely to the specific instance expressly stated.

6.11 California Title 22 Compliance. If Affiliate is an acute care hospital located in California only: Without limiting the obligations of Contractor, Affiliate shall retain administrative responsibility for its operation, as required by Title 22, California Code of Regulations, Section 70713.

Part II

INDEPENDENT CONTRACTOR AGREEMENT (NON-CLINICAL BA) SERVICES AND FEES

a. Description of Services.

Upon Affiliate's request, Contractor shall transport human remains between the Affiliates and/or between an Affiliate and an autopsy services provider contracted with the Hospital, and/or provide or arrange for the storage of human remains at a storage facility that is properly licensed and operated under the laws of California (the "*Services*"). Affiliate may request the Services by telephone call to Contractor. Contractor shall make best efforts to arrive at Affiliate to pick up the human remains within twenty-four (24) hours of receiving Affiliate's request, and shall transport and deliver the human remains to the drop-off location designated by Affiliate, and/or provide or arrange for the storage of the human remains.

b. Fees.

Affiliates shall pay Contractor for the Services in accordance with the fee schedule below. No guarantee is made by Affiliates as to the quantity of Services to be performed under this Agreement. In addition, each Affiliate in its sole discretion reserves the right to retain other individuals or companies to provide similar services.

Fee to transport deceased between Affiliate, between an Affiliate and an autopsy services provider contracted with Affiliate, or between an Affiliate/contracted autopsy services provider and Contractor's contracted licensed storage facility (based on body weight)	
Removal Fees, per decedent, based on deceased's weight:	
Less than 300 lbs (includes transportation to refrigeration facility)	
300 lbs and over (includes transportation to refrigeration facility)	
Daily Storage fee to store deceased at Contractor's contracted licensed storage facility:	
Per decedent, per day, up to 60 days (begins on day of removal)	
Per decedent, per day, greater than 60 days (begins on day 61 of storage)	
Inter-Facility Transfer (between Affiliates), per decedent	

Part III

INDEPENDENT CONTRACTOR AGREEMENT (NON-CLINICAL BA) BUSINESS ASSOCIATE EXHIBIT

The parties agree that, under this HIPAA Business Associate Exhibit, Mortuary Support Services of Northern California (“Business Associate”) shall have all the rights and obligations of a “Business Associate” as defined in HIPAA (defined below), and Mercy General Hospital, Mercy San Juan Medical Center, Mercy Hospital of Folsom, Methodist Hospital of Sacramento, and Woodland Memorial Hospital, each a member of the CommonSpirit Health Organized Health Care Arrangement (OHCA) (“Covered Entity”) shall have all the rights and obligations of a “Covered Entity,” as defined in HIPAA. This Exhibit will apply to all services Business Associate provides now or in the future to Covered Entity and to CommonSpirit Health OHCA members. The OHCA members are listed at <https://www.catholicehealthinitiatives.org/content/dam/chi-national/website/corp-resp/11.16.20%20CommonSpirit%20Health%20OHCA%20November%202016%202020.pdf>

1. General Provisions, Including Definitions. This Exhibit is intended to apply to all services provided to Covered Entity by Business Associate under the Agreement (defined below), whether or not such engagement has been formally reduced to writing, and this Exhibit supersedes any form of business associate agreement or provision that the parties may have heretofore entered into with respect to the subject matter herein. The provisions of this Exhibit shall remain effective as long as Business Associate creates, receives, maintains or transmits PHI on behalf of Covered Entity, no matter whether the Agreement (as defined below) remains effective or not. All capitalized terms not defined in this Exhibit shall have the meaning ascribed to them by HIPAA, including Business Associate, Covered Entity, Data Aggregation, and Designated Record Set.

(a) “**Agreement**” shall mean the agreement to which this Exhibit is attached or incorporated within by reference.

(b) “**Breach**” shall mean the acquisition, access, Use, or Disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

(c) “**California Breach**” shall mean, with respect solely to information created, received, maintained, or transmitted by Business Associate from or on behalf of any California facilities, the unlawful or unauthorized access to, and use or disclosure of, Individuals’ medical information, as the term “medical information” is defined at California Civil Code Section 56.05.

(d) “**HIPAA**” shall mean the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-005), and the rules, guidance and regulations promulgated thereunder, as amended from time to time, including 45 Code of Federal Regulations, Parts 160 and 164.

(e) “**Individual**” shall have the meaning given to such term under HIPAA and shall include a person who qualifies as a personal representative.

(f) “**Protected Health Information**” (“**PHI**”) shall have the meaning given to such term under HIPAA, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity. PHI includes, without limitation, electronic PHI (“**ePHI**”).

(g) “**Secretary**” shall mean the Secretary of the U.S. Department of Health and Human Services or her/his designee.

(h) “**Unsuccessful Security Incident**” shall mean any attempted but unsuccessful access of system operations in an information system by a Pinger Internet Groper (PING) program or other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, acquisition, Use, or Disclosure of PHI.

(i) “**State**” shall mean the state in which Covered Entity is located. If this Exhibit applies to more than one Covered Entity, as indicated in the opening paragraph, in more than one state, “State” shall mean the state in which each Covered Entity is located, respectively.

(j) "Subpart E" shall mean 45 Code of Federal Regulations, Part 164, Subpart E, which consists of Sections 164.500 et seq., as amended from time to time.

2. Permitted Uses and Disclosures by Business Associate

(a) **For Covered Entities.** Except as otherwise limited in the Agreement and this Exhibit, Business Associate (i) shall create, receive, maintain, transmit, access, Use or Disclose PHI for the benefit of Covered Entity and to perform functions, activities, or services as specified herein and any other agreements between the parties involving PHI, and (ii) shall not Use or Disclose PHI in a manner that would violate HIPAA if done by Covered Entity. To the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

(b) **Minimum Necessary.** Business Associate shall request, Use, or Disclose only the minimum amount of PHI necessary to perform the specified functions, activities or services, in accordance with HIPAA's minimum necessary requirements. In the event of inadvertent access by Business Associate to more than the minimum necessary amount of Covered Entity's PHI, Business Associate will: (i) treat all such PHI in accordance with the Agreement and this Exhibit; (ii) promptly notify Covered Entity, in accordance with Section 3(d) below, of such access; (iii) erase, delete, or return such PHI as quickly as possible; and (iv) take all necessary actions to prevent further unauthorized access to PHI beyond the minimum necessary amount.

(c) **Management of Business Associate.** Except as otherwise limited in the Agreement and this Exhibit, Business Associate may Use or Disclose PHI for its proper management and administration or to carry out its legal responsibilities, provided that (i) the Disclosure is required by law, or (ii) Business Associate obtains reasonable assurances from the person to whom the PHI is Disclosed that such information shall remain confidential and be Used or further Disclosed solely as required by law or for the purpose of assisting Business Associate to meet Business Associate's obligations under the Agreement. Business Associate shall require any person to whom PHI is Disclosed under this Subsection to notify Business Associate of any instance of which it is aware in which the confidentiality or security of the PHI has been breached or its integrity compromised.

(d) **Data Aggregation.** Business Associate may Use PHI to provide Data Aggregation services solely for Covered Entity, consistent with HIPAA.

(e) **Compliance with State Laws.** Business Associate may Use, Disclose and access PHI only as permitted by State law, unless such State law is contrary to HIPAA and is preempted by HIPAA in accordance with 45 Code of Federal Regulations Sections 160.201 et seq.

3. Obligations of Business Associate

(a) **Use and Disclosure.** Business Associate shall not Use or Disclose PHI other than as permitted or required by the Agreement, this Exhibit, or as required by law.

(b) **Safeguards.** Business Associate shall use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this Exhibit. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. If Business Associate conducts credit card transactions (i) such safeguards shall consist of or include the recommendations of the Payment Card Industry Data Security Standards, found at <https://www.pcisecuritystandards.org> and (ii) Business Associate shall not store security code (i.e., CVC) information or credit card information in any form. Also, if Business Associate regularly extends, renews, or continues credit to individuals, or regularly allows individuals to defer payment for services, including setting up payment plans in connection with one or more covered accounts, as the term is defined by the Federal Trade Commission's Red Flag Rules, Business Associate warrants that it shall comply with the Red Flag Rules and, specifically, have in place and implement a written identity theft prevention program designed to identify, detect, mitigate, and respond to suspicious activities that could indicate that identity theft has occurred in Business Associate's business practice.

(c) **Mitigation.** Business Associate shall promptly mitigate, at Business Associate's expense and to the extent practicable, any harmful effect of a Use or Disclosure of PHI by Business Associate in violation of this Exhibit. Such mitigation shall be done with the advice and close cooperation of Covered Entity.

(d) Notify Covered Entity. Business Associate shall promptly notify Covered Entity by telephone and by email of any Security Incident, Breach, or California Breach in writing in the most expedient time possible, and not to exceed five (5) calendar days in the event of a Security Incident, Breach or California Breach, following Business Associate's initial awareness of such Security Incident, Breach, or California Breach. Notwithstanding any notice provisions in the Agreement, such notice shall be made to CommonSpirit Health's Chief Privacy Officer, at both the phone number and email below. Without limitation, Security Incidents shall include ransomware attacks and Business Associate's knowledge of other types of infectious malware on Business Associate's computer systems. However, this Section constitutes advance and ongoing notice of Unsuccessful Security Incidents, for which no further notice is necessary. Business Associate shall cooperate in good faith with Covered Entity in the investigation of any Breach, California Breach, or Security Incident.

Any notice required under this BAA to be given to a party shall be made to:

If to Covered Entity:

Dignity Health
Attn: Privacy Officer
Telephone No.: 760-608-3504
Email: PrivacyOffice@commonspirit.org

If to Business Associate:

Mortuary Support Services of Northern California
Attn: President/CEO
Telephone No.: 925-354-3011
Email: Michael@mssnocal.com

(e) Risk Assessment and Breach Notification. Following receipt of notification from Business Associate of a Breach or California Breach, Covered Entity shall ensure a Breach risk assessment is conducted to determine whether PHI has been compromised and notification to affected Individuals is required. Business Associate shall cooperate with Covered Entity in the investigation of the event, the conduct of a Breach risk assessment, and notification of Individuals as required by HIPAA. Covered Entity may delegate any or all aspects of the investigation, Breach risk assessment, and notification of Individuals to Business Associate. If Business Associate will provide any required notification(s), Business Associate shall provide such notification timely and provide Covered Entity with documentation of Business Associate's actions, including documentation of the names and addresses of those to whom the notifications were provided.

(f) Cloud Services. Business Associate may use a subcontractor for data hosting, where such subcontractor receives, has access to, creates, maintains, or transmits PHI (a "Cloud Service Provider"), only on the following conditions: (i) Use of the Cloud Service Provider is subject to prior approval by Covered Entity, which approval will require a cybersecurity risk assessment, in which Business Associate will co-operate in gathering information and documentation, and (ii) Use of a Cloud Service Provider is contingent on Business Associate committing contractually to be responsible for its own adherence to certain minimum security standards of Covered Entity and Business Associate's truthful representation that it has contractually obligated its Cloud Service Provider to adhere to the minimum security standards of Covered Entity.

(g) Access. If Business Associate holds PHI in Designated Record Sets as determined by Business Associate or Covered Entity, Business Associate shall provide prompt access to the PHI to Covered Entity whenever so requested by Covered Entity, or, if directed by Covered Entity, to an Individual in order to meet the requirements of HIPAA and State Law, as applicable. If requested, such access shall be in electronic format. If an Individual requests directly from Business Associate: (i) to inspect or copy his/her PHI, or (ii) Disclosure of PHI to a third party, Business Associate shall promptly notify Covered Entity's Chief Privacy Officer of such request in accordance with Section 3(d) above and await such officer's denial or approval of the request.

(h) Amendments. Business Associate shall promptly make amendment(s) to PHI requested by Covered Entity and shall do so in the time and manner requested by Covered Entity to enable it/them to comply with HIPAA and State Law, as applicable. If an Individual requests an amendment to his/her PHI directly by Business Associate, Business Associate shall promptly notify Covered Entity's Chief Privacy Officer of such request in accordance with Section 3(d) above and await such officer's denial or approval of the request.

(i) Internal Records. Business Associate shall promptly make its internal practices, books, and records relating to the Use, Disclosure, or security of PHI that Business Associate received from, maintained or created for or on behalf of Covered Entity, available to the Secretary, in a time and manner designated by the Secretary, to enable the Secretary to determine compliance with HIPAA.

(j) Accountings. Business Associate shall document all Disclosures of PHI and information related to such Disclosures as required under HIPAA in order that it may provide an accounting of such Disclosures as

Covered Entity directs. Business Associate shall: (i) Provide an accounting as required under HIPAA to those Individuals who direct their requests to Business Associate; or (ii) Provide the accounting information required under HIPAA to Covered Entity, if so requested, in the time and manner specified by Covered Entity.

(k) Destruction. If, during the term of the Agreement, Business Associate wishes to destroy the PHI, it shall notify Covered Entity in writing about its intent to destroy data at least ten (10) business days before such date of destruction and shall comply with the requirements for destruction of PHI found in Section 5(a) of this Exhibit. If Covered Entity requests the return of any PHI, Business Associate shall comply as requested.

(l) HIPAA Compliance. Business Associate shall comply with 45 Code of Federal Regulations Part 164, Subpart C with respect to ePHI. Business Associate shall maintain policies and procedures, conduct ongoing risk assessment and risk management of its security program, identify a security official, and train and discipline its work force in compliance with the relevant portions of the Privacy and Security Regulations. Covered Entity shall have the right to request written copies of Business Associate's policies, procedures, programs, and training materials no more often than once per calendar year and Business Associate shall provide all such requested information within fifteen (15) business days of any request by Covered Entity. Business Associate shall maintain all documentation required under HIPAA for a period of six (6) years.

(m) Business Associates. Business Associate shall ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of Business Associate, agrees in a written contract with Business Associate to the same restrictions and conditions that apply to Business Associate with respect to such information. In performing services under this Exhibit, Business Associate shall use agents, employees or subcontractors that are domiciled only within the United States of America and its territories. Notwithstanding anything to the contrary in the Agreement or this Exhibit, Business Associate shall not use any agent or subcontractor to perform any service requiring access to PHI under this Exhibit without the express written consent of an authorized representative of Covered Entity.

(n) Sale of PHI. Except as otherwise permitted by HIPAA, Business Associate shall not directly or indirectly sell or receive remuneration in exchange for any of Covered Entity's PHI unless Covered Entity or Business Associate, with Covered Entity's express written consent, obtains a valid, signed authorization from the Individual whose PHI is at issue that specifically allows that Individual's PHI to be further exchanged for remuneration by the entity receiving the PHI.

4. Effect of Breach of Obligations. If Business Associate breaches any of its obligations, Covered Entity shall have the option to do the following:

(a) Cure. Provide Business Associate an opportunity to cure the breach, to the extent curable, and end the violation within a reasonable time specified by Covered Entity. If Business Associate does not cure the breach or end the violation as and within the time specified by Covered Entity, or if the breach is not curable, Covered Entity may terminate its obligations to Business Associate, including, but not limited to, its future payment obligations, if any, and obligations to provide information, materials, equipment or resources to Business Associate; or

(b) Termination. Immediately terminate the Agreement and any other agreements between Business Associate and Covered Entity involving PHI, if Covered Entity reasonably determines that Business Associate: (i) has acted with gross negligence in performing its obligations; (ii) is itself or causes Covered Entity to be in violation of the law; (iii) willfully has violated or is violating the privacy and security provisions of this Exhibit or HIPAA; or (iv) is unable to provide, if requested, written assurances to Covered Entity of its ability to protect the confidentiality and security of the PHI.

5. Effect of Termination

(a) Disposition of PHI. Upon termination of this Exhibit and subject to Section 5(b) below, Business Associate shall promptly return to Covered Entity a copy of all PHI, including derivatives thereof, and shall take all reasonable steps to promptly destroy all other PHI held by Business Associate by: (i) shredding; (ii) securely erasing, or (iii) otherwise modifying the information in those records to make it unreadable or undecipherable through any means. This provision shall apply to all PHI in the possession of Business Associate and agents of Business Associate. At Covered Entity's request, Business Associate shall certify in writing that it has complied with the requirements of this Section.

(b) Infeasible; Survival. If Business Associate believes the return or destruction of PHI is infeasible, Business Associate shall promptly notify Covered Entity of the conditions that make such return or destruction

infeasible. Upon mutual determination by the parties that return or destruction of PHI is infeasible, the obligations of Business Associate under this Exhibit shall survive the termination of this Exhibit. Business Associate shall limit the further Use or Disclosure of all PHI to the purposes that make its return or destruction infeasible. If Business Associate subsequently wishes to destroy PHI, Business Associate shall notify Covered Entity in writing about its intent to destroy data at least ten (10) business days before such date of destruction and shall comply with Section 5(a) above. If Covered Entity requests the return of any PHI, Business Associate shall comply as requested.

6. Credit Monitoring. In the event that either Covered Entity or Business Associate is required by law to notify Individuals whose PHI was inappropriately accessed, Used, or Disclosed by Business Associate, its employees, subcontractors, or its agents, and the PHI contains: (i) the Individual's first initial or first name, last name, and social security number; (ii) the Individual's first initial or first name, last name, and driver's license or state identification card; (iii) the Individual's first initial or first name, last name, account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an Individual's financial account; or (iv) the Individual's first initial or first name, last name, and PHI, then Business Associate and Covered Entity shall work together to structure a credit monitoring offering commensurate to the risk posed by the Breach and Business Associate shall pay the costs of credit monitoring for one year or a longer time period if required by law for such individuals and the costs and fees related to timely notification in accordance with law.

7. Amendment. The parties agree to promptly modify or amend this Exhibit to permit the parties to comply with any new laws, rules or regulations that may subsequently be enacted or issued.

8. General. The Agreement (and attachments thereto) and this Exhibit are intended to be construed in harmony with each other, but in the event that any provision in this Exhibit conflicts with the provisions of the Agreement, or its other attachments, the provisions in this Exhibit shall be deemed to control and such conflicting provision or part thereof shall be deemed removed and replaced with the governing provision herein to the extent necessary to reconcile the conflict. This Exhibit supersedes and replaces all previous oral or written business associate agreements or exhibits between Business Associate and Covered Entity pertaining to protection of PHI.

9. No Third-Party Beneficiaries. There are no third-party beneficiaries of this Exhibit.

10. Independent Contractor. Business Associate and Covered Entity expressly acknowledge and agree that Business Associate is an independent contractor and shall not for any purpose be deemed to be an agent, employee, servant, partner, or joint venturer of Covered Entity.

11. Indemnity. Business Associate shall promptly and fully defend, indemnify and hold harmless Covered Entity, its subsidiaries, affiliates and respective officers, directors, agents and employees ("Indemnified Parties") against any claim, demand, liability, loss, fine, penalty, assessment, cost, judgment, award or attorney's fees (including the reasonable costs of Covered Entity's in-house counsel), related to (i) the breach of this Exhibit by Business Associate, (ii) the negligent acts or omissions of Business Associate or any employee, subcontractor, or agent of Business Associate, (iii) any related Breach, California Breach, Security Incident or any cost of notification or remediation relating to notifications required by law, and (iii) any action to enforce this Section (collectively, "Claims"). The Claims covered by this Section shall include Claims made or recovered against the Indemnified Parties and Claims issued in favor of a third party. This Section shall survive the expiration or termination of this Exhibit.

Part IV

INDEPENDENT CONTRACTOR AGREEMENT (NON-CLINICAL, BA)
INSURANCE REQUIREMENTS

Contractor shall obtain and continuously maintain during the term hereof and for not less than three years following the Expiration Date or earlier termination of this Agreement the following insurance coverages naming Contractor and Personnel as named insureds:

- 1) Commercial and general liability insurance with an annual limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Affiliate shall be named as an additional insured.
- 2) Workers' compensation insurance, as required by Laws.
- 3) If workers' compensation insurance is required by Laws, then Contractor shall also obtain and maintain employer's liability insurance with an annual limit of not less than \$1,000,000 per occurrence.
- 4) Business automobile liability insurance covering hired, owned, and non-owned vehicles used to provide Services under the Agreement, if applicable, with a limit of not less than \$1,000,000 combined single limit per accident. Affiliate shall be named as an additional insured.
- 5) Errors and omissions insurance with an annual limit of not less than \$1,000,000 per claim and \$2,000,000 aggregate.

No required policy shall contain a deductible or retention in excess of \$10,000.

For each required policy, Contractor shall provide Affiliate with (1) certificates of insurance prior to the Effective Date and as of each annual renewal during the term of this Agreement, and (2) endorsements evidencing Affiliate's status as an additional insured, as required above. In the event of any modification, termination, expiration, non-renewal or cancellation of any of such insurance policy, Contractor shall give written notice thereof to Affiliate not more than ten (10) days following Contractor's receipt of such notification.