

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

JOHN DOE

v.

DELAWARE COUNTY, ET AL.

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NO.: 22-1405

**JURY TRIAL
DEMANDED**

**DEFENDANTS, THE GEO GROUP, INC., KRISTEN GRADY, AND DEBRA
MCFADDEN’S ANSWER WITH AFFIRMATIVE DEFENSES TO PLAINTIFF’S
AMENDED COMPLAINT**

Defendants The GEO Group, Inc. (“GEO”), Kristen Grady (incorrectly identified as Kristin [LNU]), and Debra McFadden, by and through their counsel, hereby set forth this Answer with Affirmative Defenses to Plaintiff’s Amended Complaint and in support thereof aver as follows:

INTRODUCTION AND BACKGROUND STATEMENT

- 1. Denied.
- 2. Denied.
- 3. Denied

JURISDICTION AND VENUE

- 4. Denied.
- 5. Denied.
- 6. Denied.

PARTIES

- 7. Denied.
- 8. Denied.

9. Denied.

10. Denied. It is specifically denied that The GEO Group, Inc. operated the George W. Hill Correctional Facility at the time of this incident. It is further denied that Defendant receives any federal financial assistance for the operation of the George W. Hill Correctional Facility.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

STATEMENT OF FACTS

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Admitted.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

- 28. Denied.
- 29. Denied.
- 30. Denied.
- 31. Denied.
- 32. Denied.
- 33. Denied.
- 34. Denied.
- 35. Denied.
- 36. Denied.
- 37. Denied.
- 38. Denied.
- 39. Admitted.
- 40. Denied.
- 41. Denied.
- 42. Denied.
- 43. Denied.
- 44. Denied.
- 45. Denied.
- 46. Denied.
- 47. Denied.
- 48. Denied.
- 49. Denied.
- 50. Denied.

- 51. Denied.
- 52. Denied.
- 53. Denied.
- 54. Denied.
- 55. Denied.
- 56. Denied.
- 57. Denied.
- 58. Denied.
- 59. Denied.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Denied.
- 64. Denied.
- 65. Denied.
- 66. Denied.
- 67. Denied.
- 68. Denied.
- 69. Denied.
- 70. Denied.
- 71. Denied.
- 72. Denied.

COUNT I

**DISCRIMINATION ON THE BASIS OF DISABILITY
AMERICANS WITH DISABILITY ACT
(Against Defendants Delaware County and GEO Group)**

73. Denied. This paragraph is an incorporation paragraph to which no response is required. Defendants hereby incorporate all of the prior responses as if set forth at length herein.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

COUNT II

**DISCRIMINATION ON THE BASIS OF DISABILITY
AMERICANS WITH DISABILITY ACT
(Against GEO Group, Inc.)**

80. Denied. This paragraph is an incorporation paragraph to which no response is required. Defendants hereby incorporate all of the prior responses as if set forth at length herein.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

COUNT III
VIOLATION OF THE REHABILITATION ACT
(Against Defendants Delaware County and GEO Group)

86. Denied. This paragraph is an incorporation paragraph to which no response is required. Defendants hereby incorporate all of the prior responses as if set forth at length herein.

87. Denied.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied.

COUNT IV

PENNSYLVANIA CONFIDENTIALITY OF HIV-RELATED INFORMATION ACT
(Against All Defendants)

93. Denied. This paragraph is an incorporation paragraph to which no response is required. Defendants hereby incorporate all of the prior responses as if set forth at length herein.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

- 101. Denied.
- 102. Denied.
- 103. Denied.
- 104. Denied.
- 105. Denied.
- 106. Denied.
- 107. Denied.
- 108. Denied.
- 109. Denied.
- 110. Denied.
- 111. Denied.
- 112. Denied.
- 113. Denied.
- 114. Denied.
- 115. Denied.

PRAYER FOR RELIEF

- a. Denied.
- b. Denied.
- c. Denied.
- d. Denied.
- e. Denied.
- f. Denied.
- g. Denied.

- h. Denied.
- i. Denied.
- j. Denied.
- k. Denied.

WHEREFORE, Defendants demand judgment in their favor and against Plaintiff together with costs and any other relief the Court deems just and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

There is no *respondent superior* liability for a § 1983 cause of action. Therefore, liability can only be found against Answering Defendant The GEO Group, Inc. for its own actions or inactions, if proven, in this matter.

THIRD AFFIRMATIVE DEFENSE

Negligence, including medical negligence, is an insufficient basis upon which to find liability against any of the Answering Defendants.

FOURTH AFFIRMATIVE DEFENSE

Any alleged acts or omissions of the Answering Defendants, if proven, are not the proximate cause of the Plaintiff's alleged injuries.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's alleged injuries, if proven, were the result of unrelated and/or underlying conditions, and not the result of the medical care provided or other actions by Answering Defendants.

SIXTH AFFIRMATIVE DEFENSE

Answering Defendants assert all common law and statutory immunity and qualified immunity to which they may be entitled.

SEVENTH AFFIRMATIVE DEFENSE

Any and all claims of the Plaintiff may be barred by the doctrines of consent and/or privilege.

EIGHTH AFFIRMATIVE DEFENSE

If Plaintiff has suffered any compensable injury, then these injuries were caused by acts and/or omissions of other individuals over whom Answering Defendants neither had the duty nor the ability to control, and not by any acts and/or omissions of the Answering Defendants.

NINTH AFFIRMATIVE DEFENSE

Plaintiff was not discriminated against or deprived of any civil right and/or constitutional right as a result of any policy, practice, custom or usage of the Answering Defendants.

TENTH AFFIRMATIVE DEFENSE

Answering Defendants at all times relevant to the Plaintiff's cause of action, acted in good faith and with the reasonable belief, both objective and subjective, that their actions, or the actions of their agents, servants and/or employees, were lawful and not in violation of the rights of the Plaintiffs under the Constitution and laws of the United States or the Commonwealth of Pennsylvania.

ELEVENTH AFFIRMATIVE DEFENSE

Counselors, and/or case managers, are part of the continuity of care at George W. Hill Correctional Facility and are permitted to know relevant medical conditions of the inmates assigned to them.

TWELFTH AFFIRMATIVE DEFENSE

Answering Defendants did not act negligently, grossly negligently, recklessly, willfully or intentionally commit any wrongful acts causing injury or damage to the Plaintiff and, in the absence of such willful misconduct, there can be no liability on the part of the Answering Defendants to the Plaintiff in this case.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant, The GEO Group, Inc. does not and did not receive federal financial assistance for the operation of the George W. Hill Correctional Facility and thus cannot be liable under the Americans with Disability Act or Rehabilitation Act.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff received prompt and adequate medical care from the medical personnel who treated Plaintiff at the George W. Hill Correctional Facility.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's causes of action may be barred by the doctrines of waiver, estoppel or laches.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are limited and/or barred by the applicable Statute of Limitations and the failure to provide the required notice to the Answering Defendants.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff cannot demonstrate any discrimination because he was allowed to participate in the inmate worker program.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff was not medically cleared for certain inmate worker assignments, and thus there is a legitimate basis for any alleged refusal to provide Plaintiff the inmate worker assignment of his choice.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff's cause of action may be barred by Plaintiff's assumption of the risk, as may be applied to facts disclosed in discovery.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff's cause of action is or may be barred for failure to name a necessary and/or essential party.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Answering Defendants may be entitled to and hereby assert all the benefits and protections of the Pennsylvania Health Care Services Malpractice Act of 1975, 40 P.S. 1301, *et seq.*, and/or the Medical Care Availability and Reduction of Error Act of 2002 (MCARE), 40 P.S. 1303.101, as amended, March 20, 2002, the terms of which are hereby incorporated by reference as though fully set forth at length herein.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff's claim for damages, if proven, must be reduced pursuant to the mandates of the MCARE Act, 40 P.S. 1303.602.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred and/or limited by the Prison Litigation Reform Act, 42 U.S.C. §1997e. Plaintiff must meet all requirements, including exhaustion of administrative remedies, as a prerequisite to filing suit.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff may have entered into a release which limits and/or precludes Plaintiff's claims.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Insofar as Plaintiff has pled any claim or cause of action against Answering Defendants for failing to affect a cure or a particular result of treatment, this claim and/or cause of action is wholly barred by the absence of a special contract in writing, without which a health care provider is neither a warrantor nor a guarantor of a cure.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

All treatment rendered by Answering Defendant to Plaintiff was provided in accordance with the applicable standards of medical and nursing care at the time and place of treatment.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims may be limited or barred by Plaintiff's own contributory negligence and/or the provisions of the Pennsylvania Comparative Negligence Act, 42 Pa.C.S.A. §7102.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Answering Defendant assert qualified immunity and any and all immunities or privileges to which they may be entitled under the Pennsylvania Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §8541, *et seq.*

TWENTY-NINTH AFFIRMATIVE DEFENSE

The negligent acts or omissions of other individuals and/or entities may have constituted intervening and/or superseding causes of the damages or injuries alleged to have been sustained by Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff did not suffer any recoverable damages and, if any damages are proven, such damages were not caused by any acts or omissions of the Answering Defendants.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Defendant The GEO Group, Inc. has no role in the operation of the George W. Hill Correctional Facility and, at the time of this incident, did not employ the medical staff, including but not limited to, the individual Defendants named in the Amended Complaint.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Answering Defendants did not disclose any confidential medical information of the Plaintiff to inmates or other persons not authorized to know of such medical information.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff gave consent to this counselor to learn of the medical reasons why he was not cleared to work in the kitchen.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to emotional distress damages or other compensatory damages under spending clause legislation.

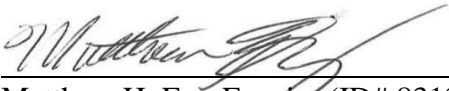
THIRTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to punitive damages under spending clause legislation.

WHEREFORE, Defendants demand judgment in their favor and against Plaintiff together with costs and any other relief the Court deems just and proper.

Respectfully submitted:

BURNS WHITE LLC

By: 
Matthew H. Fry, Esquire (ID# 83131)
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Attorney for Defendants,
The Geo Group, Inc., Kristen Grady, and Debra
McFadden

Date: August 17, 2022

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DEMANDED**

CERTIFICATE OF SERVICE

I, Matthew H. Fry, attorney for Defendants, hereby certify that on this 17th day of August 2022 a true and correct copy of the foregoing Answer with Affirmative Defenses to the Plaintiff's Amended Complaint was electronically filed via the Court's ECF system on the date below and is available for viewing and downloading by all counsel of record.

Respectfully submitted:

BURNS WHITE LLC

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