

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

THE NATIONAL FEDERATION OF THE BLIND)
OF VIRGINIA, Nacarlo Antonio Courtney, William)
Landrum Hajacos, Michael McCann, Wilbert Green Rogers,)
Kevin Muhammad Shabazz, Patrick Shaw, and)
William Stravitz,)

Plaintiffs,)

v.)

Case No. 3:23cv127

VIRGINIA DEPARTMENT OF CORRECTIONS, *et al.*,)

Defendants.)

**DEFENDANTS ARMOR CORRECTIONAL HEALTH SERVICES, INC.,
VINCENT GORE, MD, AND ALVIN HARRIS, MD’S ANSWER TO COMPLAINT**

Defendants Armor Correctional Health Services, Inc., Vincent Gore, MD, and Alvin Harris, MD (collectively “the Armor Defendants”), by counsel, for their Answer to the Complaint state as follows:

1. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.
2. Denied.
3. Denied.
4. Denied.
5. Denied.
6. Admitted that the Court has subject matter jurisdiction but denied that this matter arises from the ADA. The Plaintiffs’ claim, if any, is for medical negligence.

7. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

13. Denied. Mr. Courtney has keratoconus.

14. Denied. Mr. Courtney has keratoconus.

15. Denied. Mr. Courtney is not blind. The Armor Defendants do not have sufficient knowledge to admit the balance of the allegations made in this paragraph and therefore they are denied.

16. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

17. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

18. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

19. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

20. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

21. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

22. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

23. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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42. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

43. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

44. Admitted.

45. Admitted.

46. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

47. Denied. Mr. Stravitz has cataracts which were first diagnosed two years ago.

48. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

49. The Armor Defendants do not have sufficient knowledge to admit the allegations made in this paragraph and therefore they are denied.

50. The Armor Defendants do not have sufficient knowledge to admit the balance of the allegations made in this paragraph and therefore they are denied.

51. The Armor Defendants do not have sufficient knowledge to admit the balance of the allegations made in this paragraph and therefore they are denied.

52. The Armor Defendants do not have sufficient knowledge to admit the balance of the allegations made in this paragraph and therefore they are denied.

53. Denied.

54. The Armor Defendants do not have sufficient knowledge to admit the balance of the allegations made in this paragraph and therefore they are denied.

55. Admitted but the propriety of the action is denied.

56. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

57. Denied.

58. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

59. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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68. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

69. Admitted in part. Denied that Armor has operations in Virginia.

70. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

71. Admitted that Dr. Gore was an employee of Armor. Denied as to the remaining allegations.

72. Admitted that Dr. Harris was an employee of Armor. Denied as to the remaining allegations.

73. Admitted.

74. Admitted.

75. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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157. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

158. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

159. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

160. Armor has no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and it does not have sufficient knowledge to admit this allegation and therefore it is denied.

161. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

162. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

163. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

164. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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166. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

167. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

168. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

169. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

170. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

171. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

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181. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

182. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

183. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

184. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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201. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

202. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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210. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

211. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

212. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

213. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

214. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

215. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

216. Denied.

217. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

218. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

219. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

220. Denied.

221. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

222. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

223. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

224. Admitted.

225. The Armor Defendants do not have sufficient knowledge to admit this allegation and therefore it is denied.

226. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

227. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

228. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

229. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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233. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

234. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

235. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

236. Denied.

237. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

238. Denied.

239. Denied that Mr. Stravitz is blind. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

240. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

241. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

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243. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

244. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

245. Denied.

246. Denied.

247. The Armor Defendants have no knowledge of any condition at any Virginia jail after December 2021 when its contracts with the VDOC terminated and thus the Armor Defendants do not have sufficient knowledge to admit this allegation and deny same.

248. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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258. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

259. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

260. Armor incorporates its responses to all repeated allegations.

261. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

262. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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270. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

271. The Armor Defendants incorporate their responses to all repeated allegations.

272. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

273. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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275. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

276. The Armor Defendants incorporate their responses to all repeated allegations.

277. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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279. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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287. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

288. The Armor Defendants incorporate their responses to all repeated allegations.

289. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

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323. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

324. The Armor Defendants incorporate their responses to all repeated allegations.

325. Denied.

326. Denied.

327. Denied.

328. Denied.

329. Denied.

330. Denied.

331. Denied.

332. Denied.

333. The Armor Defendants incorporate their responses to all repeated allegations.

334. Denied.

335. Denied.

336. Denied.

337. Denied.

338. Denied.

339. Denied.

340. Denied.

341. Denied.

342. Denied.

343. Denied.

344. The Armor Defendants incorporate their responses to all repeated allegations.

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360. The Armor Defendants do not have sufficient knowledge to admit this allegation which alleges conduct by other defendants and therefore it is denied.

361. Armor incorporates its responses to any repeated allegations.

362. Denied.

363. Admitted.

364. Denied.

365. Denied.

366. Denied.

367. Denied.

368. The Armor Defendants incorporate their responses to all repeated allegations.

369. Denied.

370. The Armor Defendants admit the allegations as to Dr. Harris but deny same as to Nurse Lester and Dr. Gupta, as they were not Armor employees.

371. Denied.

372. Denied.

373. Denied.

374. Denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief may be granted. The Complaint suffers from "shotgun" pleading against multiple defendants without particularizing what these Defendants did that was wrongful and actionable, or when these Defendants acted wrongfully. This is particularly inappropriate here since the alleged wrongful acts are continuing and these Defendants stopped providing medical services in the Commonwealth of Virginia in December 2021.
2. Armor is a private corporation and is not liable under § 1983 unless an official policy or custom of the corporation caused the alleged deprivation of rights. No such official policy or custom is alleged; nor can any such official policy or custom be alleged.
3. The Armor Defendants were not deliberately indifferent to a serious medical need. Neither Mr. Courtney nor Mr. Stravitz is blind and neither has alleged that he had a serious medical need such that the harm inflicted or the deprivation suffered was sufficiently serious. A medical need serious enough to give rise to a constitutional claim involves a condition that places the inmate at a substantial risk of serious harm usually loss of life or permanent disability, or a condition for which lack of treatment perpetuates severe pain. Plaintiffs must allege facts to support "a serious or significant physical or emotional injury resulting from the challenged conditions." Neither cataracts nor keratoconus constitute a serious medical need. In particular, Mr. Stravitz's cataracts were diagnosed when Armor's contract with VDOC to provide medical care terminated, and the

deliberate indifference alleged occurred after Armor's contract with VDOC to provide medical care was terminated.

4. Plaintiffs' claims for "negligence" arise out of the care and treatment rendered to a patient. Plaintiffs fail to assert a cause of action for medical malpractice pursuant to the Virginia Medical Malpractice Act ("VMMA"). The Armor Defendants' sole and only role at the jail was to provide medical care under a contract with VDOC. Any negligent denial of medical care constitutes medical malpractice, and the only proper cause of action is for medical malpractice pursuant to the VMMA. Claims within the scope of medical malpractice may only be brought pursuant to the requirements of the VMMA and not brought as general negligence claims.
5. The Armor Defendants' sole and only role at the jail was to provide medical care under a contract with VDOC, and this action arises out of the care and treatment rendered to a patient. Any negligent denial of medical care constitutes medical malpractice, and the only proper cause of action is for medical malpractice. Plaintiffs failed to comply with a condition precedent required by § 8.01-20.1 of the Code of Virginia. The Plaintiffs did not obtain a necessary certifying expert opinion at the time Plaintiffs requested service of process upon the Armor Defendants.
6. Plaintiffs' damages for the Armor Defendants' liability, if any, are limited to the VMMA cap set forth in § 8.01-581.15 of the Code of Virginia, or otherwise under Virginia law. Claims within the scope of medical malpractice may only be brought pursuant to the requirements of the VMMA and not brought as general negligence claims.
7. The Armor Defendants acted in good faith at all times and are entitled to immunity.
8. Plaintiffs failed to exhaust administrative remedies before filing this suit.
9. Plaintiffs themselves may have been negligent with respect to their own wellbeing.

10. Mr. Courtney's condition is the result of preexisting injury or natural disease progression beyond the control of, and unrelated to, the acts, omissions, or conduct of these Defendants.
11. Mr. Stravitz's condition is the result of preexisting injury or natural disease progression beyond the control of, and unrelated to, the acts, omissions, or conduct of these Defendants.
12. Mr. Courtney's alleged injuries and/or damages are the result of superseding and/or intervening factors.
13. Mr. Stravitz's alleged injuries and/or damages are the result of superseding and/or intervening factors.
14. Mr. Courtney's alleged injuries and/or damages are a result of the negligence of third parties for whom the Armor Defendants have no right or obligation to control and on whose behalf they are not obligated to pay damages.
15. Mr. Stravitz's alleged injuries and/or damages are a result of the negligence of third parties for whom the Armor Defendants have no right or obligation to control and on whose behalf they are not obligated to pay damages.
16. Plaintiff National Federation of the Blind of Virginia lacks standing to assert some or all of the claims asserted.
17. Plaintiff National Federation of the Blind of Virginia Plaintiff is not the real party in interest with some or all of the claims asserted.

WHEREFORE, Defendants Armor Correctional Health Services, Inc., Vincent Gore, MD, and Alvin Harris, MD, demand that judgment be entered in their favor and against the Plaintiff on the merits, with prejudice, and with all fees, costs, and disbursements and any other relief that this Court deems fair and equitable.

JURY TRIAL DEMANDED.

Date: May 10, 2023

Respectfully submitted,

**ARMOR CORRECTIONAL HEALTH SERVICES, INC.,
VINCENT GORE, MD, and
ALVIN HARRIS, MD**

/s/ Taylor D. Brewer
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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2023, I electronically filed the foregoing pleading using the CM/ECF System, which will send notifications of the filing to all counsel of record.

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