

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

THE NATIONAL FEDERATION OF
THE BLIND OF VIRGINIA, et al.

Plaintiffs,

V.

Case No.: 3:23-cv-127

VIRGINIA DEPARTMENT OF
CORRECTIONS, et al.

Defendants.

**DEFENDANTS VITALCORE AND VINCENT GORE, M.D.'S ANSWER TO
PLAINTIFFS' AMENDED COMPLAINT**

Defendants VitalCore Health Strategies (“VitalCore”) and Vincent Gore, M.D. (“Dr. Gore”) (also referred to as collectively, “Defendants”), by counsel, hereby submit this Answer and affirmative defenses to Plaintiffs’ Amended Complaint and state as follows:

INTRODUCTION

1. VitalCore and Dr. Gore are without information or belief as to the Plaintiffs' alleged vision impairment. Therefore, Defendants deny the allegations in Paragraph 1.
2. VitalCore and Dr. Gore deny the allegations in Paragraph 2.
3. VitalCore and Dr. Gore deny the allegations in Paragraph 3.
4. VitalCore and Dr. Gore deny the allegations in Paragraph 4.
5. VitalCore and Dr. Gore deny the allegations in Paragraph 5.

JURISDICTION AND VENUE

6. VitalCore and Dr. Gore admit the allegations in Paragraph 6.
7. VitalCore and Dr. Gore admit the allegations in Paragraph 7.

8. VitalCore and Dr. Gore admit the allegations in Paragraph 8.

PARTIES

9. VitalCore and Dr. Gore are without knowledge as to the allegations in Paragraph 9, and, therefore, deny the same.

10. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 10, and, therefore, deny the same.

11. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 11, and, therefore, deny the same.

12. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 12, and, therefore, deny the same.

13. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 13, and, therefore, deny the same.

14. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 14, and, therefore, deny the same.

15. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 15, and, therefore, deny the same.

16. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 16, and, therefore, deny the same.

17. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 17, and, therefore, deny the same.

18. The allegations in Paragraph 18 do not concern Defendants; therefore, no response is required. In the event a response is required, denied.

19. The allegations in Paragraph 19 do not concern Defendants; therefore, no response

is required. In the event a response is required, denied.

20. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 20, and, therefore, deny the same.

21. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 21, and, therefore, deny the same.

22. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 22, and, therefore, deny the same.

23. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 23, and, therefore, deny the same.

24. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 24, and, therefore, deny the same.

25. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 25, and, therefore, deny the same.

26. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 26, and, therefore, deny the same.

27. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 27, and, therefore, deny the same.

28. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 28, and, therefore, deny the same.

29. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 29, and, therefore, deny the same.

30. VitalCore and Dr. Gore are without sufficient knowledge as to the allegations in Paragraph 30, and, therefore, deny the same.

31. Regarding Paragraph 31, VitalCore and Dr. Gore deny that VitalCore continues to hold a contract with VDOC to provide on-site medical services. VitalCore's contract with VDOC, beginning in December 2021 ended at 12:00 A.M. on October 24, 2023. All remaining allegations are admitted.

32. VitalCore and Dr. Gore deny the allegation in Paragraph 32 that suggests Dr. Gore alone is responsible for authorizing referrals to specialists. VitalCore and Dr. Gore further deny the allegation that suggests Dr. Gore alone is responsible for approving prisoners' requests for accommodations. Under certain circumstances, the ADA coordinator for Greenville will forward prisoners' accommodation requests to Dr. Gore for approval, when the request is such that approval requires a medical assessment of a prisoner's needs. All remaining allegations are admitted.

33. VitalCore and Dr. Gore deny the allegation in Paragraph 33 that suggests Dr. Harris alone is responsible for authorizing referrals to specialists. VitalCore and Dr. Gore further deny the allegation that suggests Dr. Harris alone is responsible for approving prisoners' requests for accommodations. All remaining allegations are admitted.

34. VitalCore and Dr. Gore admit the allegations in Paragraph 34.

35. VitalCore and Dr. Gore are without sufficient information to admit or deny the allegations in Paragraph 35, and, therefore, deny the same.

FACTS

36. VitalCore and Dr. Gore deny the allegations in Paragraph 36.

37. VitalCore and Dr. Gore deny the allegations in Paragraph 37.

38. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 38, and, therefore, deny the same.

39. VitalCore and Dr. Gore deny the allegations in Paragraph 39.

40. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 40, and, therefore, deny the same.

41. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 41, and, therefore, deny the same.

42. VitalCore and Dr. Gore deny the allegations in Paragraph 42.

43. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 43, and, therefore, deny the same.

44. VitalCore and Dr. Gore are without sufficient knowledge or information as to VDOC's policy on prisoner requests for medical appointments. Therefore, Defendants deny the allegations in Paragraph 44.

45. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 45, and, therefore, deny the same.

46. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 46, and, therefore, deny the same.

47. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 47, and, therefore, deny the same.

48. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 48, and, therefore, deny the same.

49. VitalCore and Dr. Gore deny the allegations in Paragraph 49.

50. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 50, and, therefore, deny the same.

51. VitalCore and Dr. Gore are without sufficient knowledge or information to admit

or deny the allegations in Paragraph 51, and, therefore, deny the same.

52. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 52, and, therefore, deny the same.

53. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 53, and, therefore, deny the same.

54. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 54, and therefore, deny the same.

55. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 55, and therefore, deny the same.

56. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 56, and therefore, deny the same.

57. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 57, and therefore, deny the same.

58. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 58, and therefore, deny the same.

59. VitalCore and Dr. Gore admit the allegations in Paragraph 59.

60. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 60, and therefore, deny the same.

61. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 61, and therefore, deny the same.

62. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 62, and therefore, deny the same.

63. VitalCore and Dr. Gore are without sufficient knowledge or information to admit

or deny the allegations set forth in Paragraph 63, and therefore, deny the same.

64. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 64, and therefore, deny the same.

65. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 65, and therefore, deny the same.

66. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 66, and therefore, deny the same.

67. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 67, and therefore, deny the same.

68. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 68, and therefore, deny the same.

69. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 69, and therefore, deny the same.

70. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 70, and therefore, deny the same.

71. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 71, and therefore, deny the same.

72. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 72, and therefore, deny the same.

73. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 73, and therefore, deny the same.

74. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 74, and therefore, deny the same.

75. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 75, and therefore, deny the same.

76. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 76, and therefore, deny the same.

77. The allegation in Paragraph 77 constitute legal conclusions to which no response is required. To the extent a response is required, denied.

78. The allegation in Paragraph 78 constitute legal conclusions to which no response is required. To the extent a response is required, denied.

79. The allegations in Paragraph 79 do not concern these Defendants; therefore, no response is required. To the extent a response is required, denied.

80. The allegations in Paragraph 80 constitute legal conclusions to which no response is required. To the extent a response is required, denied.

81. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 81, and therefore, deny the same.

82. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 82, and therefore, deny the same.

83. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 83, and therefore, deny the same.

84. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 84, and therefore, deny the same.

85. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 85, and therefore, deny the same.

86. VitalCore and Dr. Gore are without sufficient knowledge or information to admit

or deny the allegations set forth in Paragraph 86, and therefore, deny the same.

87. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 87, and therefore, deny the same.

88. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 88, and therefore, deny the same.

89. VitalCore and Dr. Gore deny the allegations in Paragraph 89.

90. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 90, and therefore, deny the same.

91. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 91, and therefore, deny the same.

92. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 92, and therefore, deny the same.

93. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 93, and therefore, deny the same.

94. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 94, and therefore, deny the same.

95. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 95, and therefore, deny the same.

96. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 96, and therefore, deny the same.

97. VitalCore and Dr. Gore deny the allegations in Paragraph 97.

98. VitalCore and Dr. Gore deny the allegations in Paragraph 98.

99. VitalCore and Dr. Gore are without sufficient knowledge or information to admit

or deny the allegations set forth in Paragraph 99, and therefore, deny the same.

100. VitalCore and Dr. Gore deny the allegation in Paragraph 100 that Mr. Courtney “received no care.” VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the remaining allegations.

101. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 101, and therefore, deny the same.

102. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 102, and therefore, deny the same.

103. VitalCore and Dr. Gore deny the allegations in Paragraph 103.

104. VitalCore and Dr. Gore admit the allegation in Paragraph 104 that Mr. Courtney saw William Benson, M.D. on July 12, 2022, who scheduled him for a right contact lens fitting. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the remaining allegations.

105. VitalCore and Dr. Gore admit the allegation in Paragraph 105 that Dr. Lenna Walker fitted Mr. Courtney for contact lenses on July 20, 2022. VitalCore and Dr. Gore deny the remaining allegations.

106. VitalCore and Dr. Gore deny the allegations in Paragraph 106.

107. VitalCore and Dr. Gore deny the allegations in Paragraph 107.

108. The allegations in Paragraphs 108-158 are not directed at VitalCore or Dr. Gore. Therefore, no response is required. To the extent a response is required, these Defendants deny all such allegations.

109. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 159, and, therefore, deny the same.

110. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 160, and, therefore, deny the same.

111. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 161, and, therefore, deny the same.

112. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 162, and, therefore, deny the same.

113. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 163, and, therefore, deny the same.

114. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 164, and, therefore, deny the same.

115. Regarding Paragraph 165, the medical records at issue speak for themselves. These Defendants deny all allegations inconsistent with the same.

116. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations in Paragraph 166, and, therefore, deny the same.

117. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 167.

118. VitalCore and Dr. Gore are without sufficient knowledge or information to admit or deny the allegations set forth in Paragraph 168, and, therefore, deny the same.

119. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 169.

120. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 170.

121. Regarding the allegations set forth in Paragraph 171, medical records of non-party inmates speak for themselves. These Defendants deny all allegations to the extent such allegations are inconsistent with same.

122. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 172.

123. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 173.

**FIRST CLAIM FOR RELIEF:
VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT
42 U.S.C. § 12131 *et seq.***

(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers against Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

124. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-173 as if fully set forth herein.

125. The allegations set forth in Paragraphs 175-183 do not concern VitalCore or Dr. Gore; therefore, no response is required. To the extent a response is required, these Defendants deny all allegations.

**SECOND CLAIM FOR RELIEF:
VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT
42 U.S.C. § 12131 *et seq.***
(Nacarlo Courtney against Defendants Clarke, Marano, Talbott, and Smith, in their official capacities)

126. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-183 as if fully set forth herein.

127. The allegations set forth in Paragraphs 185-188 do not concern VitalCore or Dr. Gore; therefore, no response is required. To the extent a response is required, these Defendants deny all allegations.

**THIRD CLAIM FOR RELIEF:
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT
29 U.S.C. § 794**
(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers against Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

128. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-188 as if fully

set forth herein.

129. The allegations set forth in Paragraphs 190-199 do not concern VitalCore or Dr. Gore; therefore, no response is required. To the extent a response is required, these Defendants deny all allegations.

**FOURTH CLAIM FOR RELIEF:
VIOLATION OF THE VIRGINIANS WITH DISABILITIES ACT
Va. Code Ann. § 51.5-40**

(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers against Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

130. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-199 as if fully set forth herein.

131. The allegations set forth in Paragraphs 201-209 do not concern VitalCore or Dr. Gore; therefore, no response is required. To the extent a response is required, these Defendants deny all allegations.

**FIFTH CLAIM FOR RELIEF:
VIOLATION OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION
AND 42 U.S.C. § 1983
(Nacarlo Courtney against Defendant Dr. Gore)**

132. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-209 as if fully set forth herein.

133. VitalCore and Dr. Gore admit the allegation in Paragraph 211 that Dr. Gore had knowledge of Mr. Courtney's keratoconus. All remaining allegations are denied.

134. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 212.

135. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 213.

136. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 214.

137. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 215.

138. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 216.

139. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 217.

**SIXTH CLAIM FOR RELIEF:
VIOLATION OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION
AND 42 U.S.C. § 1983
(William Stravitz against Defendants Dr. Harris and Dr. Gupta)**

140. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-217 as if fully set forth herein.

141. The allegations set forth in Paragraphs 219-226 do not concern VitalCore or Dr. Gore; therefore, no response is required. To the extent a response is required, these Defendants deny all allegations.

**SEVENTH CLAIM FOR RELIEF:
MEDICAL MALPRACTICE
(Nacarlo Courtney against Defendant Dr. Gore and *respondeat superior*
liability against Defendants Armor and VitalCore)**

142. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-226 as if fully set forth herein.

143. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 228.

144. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 229.

145. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 230.

146. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 231.

**EIGHTH CLAIM FOR RELIEF:
MEDICAL MALPRACTICE
(William Stravitz against Defendant Dr. Harris, and Dr. Gupta and *respondent superior*
liability against Defendants Armor and VitalCore)**

147. VitalCore and Dr. Gore incorporate the responses to Paragraphs 1-231 as if fully set forth herein.

148. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 233.

149. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 234.

150. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 235.

151. VitalCore and Dr. Gore deny the allegations set forth in Paragraph 236.

CLAIM FOR RELIEF

152. VitalCore and Dr. Gore deny each and every claim for relief as set forth in Paragraphs 237-245.

AFFIRMATIVE DEFENSES

1 Plaintiffs' damages against Defendants, 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.

2 Plaintiffs failed to exhaust administrative remedies before filing this suit.

3 Mr. Courtney's alleged injuries and/or damages are the result of superseding and/or intervening factors.

4 Mr. Stravitz's alleged injuries and/or damages are the result of superseding and/or intervening factors.

WHEREFORE, Defendant VitalCore Health Strategies demands that judgment be entered in its favor and against Plaintiffs on the merits, with prejudice, together with all fees, costs, and disbursements incurred in the defense of this action and any other relief that this Court deems fair and equitable.

Dated: November 16, 2023

Respectfully submitted,

/s/ Patrick K. Burns

Patrick K. Burns, Esq. (Bar No. 80188)

Gloria R. Cannon, Esq. (Bar No. 98572)

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CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2023, I electronically filed the foregoing Answer to Plaintiffs' Amended Complaint with the Clerk of Court using the CM/ECF system which will send email notification of such filing to the attorneys of records.

/s/ Patrick K. Burns
Patrick K. Burns