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Attorneys for Defendant: HUDSON COUNTY DEPARTMENT OF CORRECTIONS
& REHABILITATION

JUAQUIN A. BENITEZ,

Plaintiff,

v.

HELEN FORD, HUDSON COUNTY
DEPARTMENT OF CORRECTIONS &
REHABILITATION, JOHN AND JANE
DOES 1-10 AND ABC CORPORATIONS
1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - HUDSON COUNTY
DOCKET NO.: HUD-L-3800-20

CIVIL ACTION

ANSWER TO COMPLAINT, SEPARATE
DEFENSES, CROSSCLAIMS, DEMAND
FOR STATEMENT OF DAMAGES, DEMAND
FOR DISCOVERY, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL, AND
CERTIFICATION

The Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS &
REHABILITATION, by way of Answer to the Plaintiff's Complaint,
says:

PARTIES

1. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS &
REHABILITATION, denies all allegations set forth in paragraph 1 of
the Plaintiff's Complaint.

2. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS &
REHABILITATION, admits the allegations set forth in paragraph 2 of
the Plaintiff's Complaint.

3. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 3 of the Plaintiff's Complaint.

4. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 4 of the Plaintiff's Complaint.

5. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 5 of the Plaintiff's Complaint.

VENUE

6. Defendant admits HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION is located in Hudson County, denies as to any incidents as set forth in paragraph 6 of the Plaintiff's Complaint.

FACTUAL ALLEGATIONS

7. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 7 of the Plaintiff's Complaint.

8. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 8 of the Plaintiff's Complaint.

9. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 9 of the Plaintiff's Complaint.

10. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 10 of the Plaintiff's Complaint.

11. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 11 of the Plaintiff's Complaint.

12. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 12 of the Plaintiff's Complaint.

13. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 13 of the Plaintiff's Complaint.

14. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 14 of the Plaintiff's Complaint.

15. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 15 of the Plaintiff's Complaint.

16. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 16 of the Plaintiff's Complaint.

17. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 17 of the Plaintiff's Complaint.

18. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 18 of the Plaintiff's Complaint.

19. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 19 of the Plaintiff's Complaint.

20. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 20 of the Plaintiff's Complaint.

21. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 21 of the Plaintiff's Complaint.

22. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 22 of the Plaintiff's Complaint.

23. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 23 of the Plaintiff's Complaint.

24. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 24 of the Plaintiff's Complaint.

25. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 25 of the Plaintiff's Complaint.

26. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 26 of the Plaintiff's Complaint.

27. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 27 of the Plaintiff's Complaint.

28. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 28 of the Plaintiff's Complaint.

29. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 29 of the Plaintiff's Complaint.

30. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 30 of the Plaintiff's Complaint.

31. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 31 of the Plaintiff's Complaint.

32. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 32 of the Plaintiff's Complaint.

33. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 33 of the Plaintiff's Complaint.

COUNT I
BREACH OF EXPRESS AND/OR IMPLIED CONTRACT

34. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and incorporates by reference Defendant's responses to the allegations contained in paragraphs 1 through 33 in Plaintiff's Complaint as if fully set forth verbatim and at length herein.

35. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 35 of the Plaintiff's Complaint.

36. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 36 of the Plaintiff's Complaint.

COUNT II
NEW JERSEY LAW AGAINST DISCRIMINATION

37. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and realleges each and every allegation set forth above as if fully set forth herein.

38. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 38 of the Plaintiff's Complaint.

39. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 39 of the Plaintiff's Complaint.

40. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 40 of the Plaintiff's Complaint.

41. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 41 of the Plaintiff's Complaint.

42. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 42 of the Plaintiff's Complaint.

43. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 43 of the Plaintiff's Complaint.

44. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 44 of the Plaintiff's Complaint.

45. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 45 of the Plaintiff's Complaint.

46. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 46 of the Plaintiff's Complaint.

47. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 47 of the Plaintiff's Complaint.

COUNT III
VIOLATION OF THE CONSCIENTIOUS EMPLOYEE
PROTECTION ACT ("CEPA"), N.J.S.A. 34:19-1 et seq.)

48. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and realleges each and every allegation set forth above as if fully set forth herein.

49. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 49 of the Plaintiff's Complaint.

50. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 50 of the Plaintiff's Complaint.

51. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 51 of the Plaintiff's Complaint.

52. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 52 of the Plaintiff's Complaint.

COUNT IV
RETALIATION FOR COMPLAINTS OF HARASSMENT/VIOLATION OF THE NEW
JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1, et seq.)

53. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and realleges each and every allegation set forth above as if fully set forth herein.

54. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 54

of the Plaintiff's Complaint.

55. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 55 of the Plaintiff's Complaint.

56. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 56 of the Plaintiff's Complaint.

COUNT V
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

57. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and realleges each and every allegation set forth above as if fully set forth herein.

58. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 58 of the Plaintiff's Complaint.

59. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 59 of the Plaintiff's Complaint.

COUNT VI
NEGLIGENCE

60. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, repeats and realleges each and every allegation set forth above as if fully set forth herein.

61. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 61 of the Plaintiff's Complaint.

62. Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, denies the allegations set forth in paragraph 62 of the Plaintiff's Complaint.

WHEREFORE, Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, demands judgment dismissing Plaintiff's Complaint with prejudice, together with attorney's fees, costs of suit, and such further relief as the Court shall deem just and equitable.

S E P A R A T E D E F E N S E S

FIRST SEPARATE DEFENSE

The plaintiff is barred in whole or in part for failure to mitigate damages.

SECOND SEPARATE DEFENSE

The defendant violated no duty owed to the plaintiff or any other party to this litigation.

THIRD SEPARATE DEFENSE

The complaint fails to state a cause of action upon which relief can be granted.

FOURTH SEPARATE DEFENSE

Negligence or other wrongful conduct, if any, on the part of this defendant was not the proximate cause of any losses or damages which may have been sustained by the plaintiff and accordingly, no liability may be imposed upon the defendants.

FIFTH SEPARATE DEFENSE

Any amount plaintiff may recover shall be reduced in proportion to the amount of negligence attributable to plaintiff.

SIXTH SEPARATE DEFENSE

Plaintiff assumed the risk inherent in the activity engaged in by the plaintiff.

SEVENTH SEPARATE DEFENSE

The sole negligence or conduct of the plaintiff caused the happening of the said alleged incident.

EIGHTH SEPARATE DEFENSE

Defendant had the right and duty to act as it did under the circumstances alluded to in the Complaint filed in this cause.

NINTH SEPARATE DEFENSE

The conduct of defendant was reasonable, proper, without malice and with good faith.

TENTH SEPARATE DEFENSE

Defendant acted reasonably under the then existing circumstances.

ELEVENTH SEPARATE DEFENSE

Defendant acted with the acquiescence or consent of plaintiff.

TWELFTH SEPARATE DEFENSE

The Defendant had no and undertook no duty to plaintiff.

THIRTEENTH SEPARATE DEFENSE

The defendant is free of any and all negligence.

FOURTEENTH SEPARATE DEFENSE

There is a lack of *in personam* jurisdiction over this defendant because there is insufficiency of process and insufficiency of service of process. The exercise of such jurisdiction over this defendant are therefore in violation of this party's rights under the Constitutions of the State of New Jersey and the United States of America and this party reserves the right to move for dismissal of the pleading.

FIFTEENTH SEPARATE DEFENSE

Recovery is barred in this action by reason of negligence imputable to plaintiff and co-defendants due to a joint and common enterprise engaged in between plaintiff and co-defendants.

SIXTEENTH SEPARATE DEFENSE

The claims asserted against this defendant are a result of the actions and inactions of other parties over whom this defendant had no control.

SEVENTEENTH SEPARATE DEFENSE

The defendant was not a joint tortfeasor and is not liable for contribution or indemnification to any other party.

EIGHTEENTH SEPARATE DEFENSE

The defendant reserve the right, at or before trial, to move to dismiss the Complaint and/or for summary judgment, on the ground that the complaint fails to state a claim upon which relief can be granted and/or the defendant is entitled to judgment as a matter of law, based on any or all of the above defenses.

NINETEENTH SEPARATE DEFENSE

Where applicable, the defendant was a public official of the City of Hoboken and at all times was acting pursuant to the lawful authority vested in them by said municipality. All acts so performed were the rules of the appropriate exercise of the defendant's discretion.

TWENTIETH SEPARATE DEFENSE

The Complaint is barred by the provision of the New Jersey Tort Claims Act, *N.J.S.A.* 5:1-1, 59:2-2 and 59:3-1, et seq and Defendants are entitled to all of the immunities set forth under *N.J.S.A.* 59:9-1 et seq.

TWENTY-FIRST SEPARATE DEFENSE

Recovery is barred by the provisions of the New Jersey Tort Claims Act, *N.J.S.A.* 59:1-1 et seq. including, but not limited to, the following: *N.J.S.A.* 59:2-3, 59:3-2, 59:2-4, 59:3-3, 59:3-5, 59:2-5, 59:3-6, 59:2-1, 59:3-4, 59:3-1 and 59:5-4, 59:4-2, 4-10, 59:5-2, and all other defenses and immunities set forth in *N.J.S.A.* 59:1-1 et seq.

TWENTY-SECOND SEPARATE DEFENSE

Any liability which might otherwise be imposed upon the defendant must be reduced by the application of the standard comparative fault/negligence provided for in *N.J.S.A.* 59:9-3-4, *N.J.S.A.* 2A:15-51 et seq. and *N.J.S.A.* 55:10-23.11f.

TWENTY-THIRD SEPARATE DEFENSE

The defendant is immune from any liability pursuant to the immunities provided for in *N.J.S.A.* 59:2-1 et seq.

TWENTY-FOURTH SEPARATE DEFENSE

Any action or failure to act on the part of the defendant was in the nature of discretionary activities which the meaning in *N.J.S.A.* 59:2-3 and 59:3-2, therefore, no liability may be imposed.

TWENTY-FIFTH SEPARATE DEFENSE

Pursuant to *N.J.S.A.* 59:9-2, the defendant is immune from this suit on the theory of strict liability and cannot be liable for punitive damages.

TWENTY-SIXTH SEPARATE DEFENSE

The Plaintiff's Complaint is barred pursuant to operation of *N.J.S.A.* 2A:53A-7, et seq.

TWENTY-SEVENTH SEPARATE DEFENSE

Recovery is barred by the failure of the plaintiff to give timely notice of claim or to present a claim in accordance with *N.J.S.A.* 59:8-1 et seq.

TWENTY-EIGHTH SEPARATE DEFENSE

Any liability which might otherwise be imposed upon the defendant is subject to reduction by the application of comparative negligence set forth in *N.J.S.A.* 59:9-4.

TWENTY-NINTH SEPARATE DEFENSE

The claims asserted against the defendant are barred by applicable Statute of Limitations.

THIRTIETH SEPARATE DEFENSE

The claims asserted against the defendant are barred in whole or in part by application of the Doctrine of Laches.

THIRTY-FIRST SEPARATE DEFENSE

The claims asserted against the defendant are barred by reason of the course of conduct of the plaintiff and application of the

doctrines of estoppel and waiver.

THIRTY-SECOND SEPARATE DEFENSE

The defendant hereby adopt by reference all separate defenses heretofore or hereafter pleaded by any other defendant, except to the extent that such separate defense of other may make allegations against these defendants. The defendant reserves the right to amend this Answer to assert additional defenses and make further admissions upon completion of further investigation and discovery.

THIRTY-THIRD SEPARATE DEFENSE

The Defendant is a public entity and therefore as a public entity shall not be assessed with pre-judgment interest.

THIRTY-FOURTH SEPARATE DEFENSE

Plaintiff has failed to exhaust his administrative remedies pursuant to PSOA Collective Bargaining Agreement, including an appeal of his Disciplinary conviction to the Office of Administrative Law.

THIRTY-FIFTH SEPARATE DEFENSE

This Defendant did not engage in improper retaliatory conduct against Plaintiff pursuant to the New Jersey CEPA statute.

THIRTY-SIXTH SEPARATE DEFENSE

Some of Plaintiff's "Whistleblower" claims may be barred by the one-year CEPA Statute of Limitations.

THIRTY-SEVENTH SEPARATE DEFENSE

This Defendant did not unlawfully retaliate against or harass

Plaintiff.

THIRTY-EIGHTH SEPARATE DEFENSE

This Defendant did not violate Plaintiff's civil rights pursuant to CEPA as a matter of law.

THIRTY-NINTH SEPARATE DEFENSE

Plaintiff's "Whistleblower" claims are subject to dismissal because any adverse employment actions taken against Plaintiff were based upon independent legitimate and good faith reasons and were not made in retaliation for Plaintiff making disclosures to either Internal Affairs or the County.

FORTIETH SEPARATE DEFENSE

Plaintiff's purely private dispute concerning his own employment with this Defendant does not implicate any violation of a clear mandate of public policy as contemplated by CEPA, Maw v. Advanced Clinical Comms., Inc. 179 N.J. 439 (2004), nor does Plaintiff's lawsuit concern the public health, safety or welfare or protection of the environment so as to implicate CEPA's statutory protection.

FORTY-FIRST SEPARATE DEFENSE

Plaintiff's CEPA claims are subject to dismissal since the claimed offensive activity does not pose a threat of public harm but, rather, at most constitutes a private harm of a de minimis nature personal only to Plaintiff.

FORTY-SECOND SEPARATE DEFENSE

Plaintiff's CEPA claims are subject to dismissal since the claimed offensive activity must have public ramifications, and since the dispute between this Defendant and Plaintiff must be more than a private disagreement, and since the offensive activities alleged by Plaintiff are merely private disagreements between an employee and his employer.

FORTY-THIRD SEPARATE DEFENSE

The retaliation claims made in the Complaint against Defendants are also barred by CEPA's "waiver provision" as a matter of law.

FORTY-FOURTH SEPARATE DEFENSE

There was a good faith basis for all employment actions taken against Plaintiff, and in connection with all employment decisions made by this Defendant with respect to Plaintiff.

FORTY-FIFTH SEPARATE DEFENSE

Plaintiff's complaints against this Defendant which allegedly triggered retaliation were not reasonable, were lacking in substance, were primarily unfounded, and were not made in good faith.

FORTY-SIXTH SEPARATE DEFENSE

It is asserted that there are legitimate, non-retaliatory and non-discriminatory bases for each and every of this Defendant's employment decision regarding Plaintiff are at issue in this

action.

FORTY-SEVENTH SEPARATE DEFENSE

This Defendant requested the imposition of discipline against Plaintiff consistent with the facts then known to this Defendant and his employees, and only after Plaintiff had been provided full Due Process.

FORTY-EIGHTH SEPARATE DEFENSE

This Defendant did not violate Plaintiff's civil rights as protected by the New Jersey Constitution or by the New Jersey Civil Rights Act.

FORTY-NINTH SEPARATE DEFENSE

Plaintiff will not able to prove that he did engage in protected "free speech" or in any protected acts. Plaintiff cannot prove casually-related retaliation by this Defendant as a result thereof.

FIFTIETH SEPARATE DEFENSE

The actions of this individual Defendant, if any, were objectively reasonable under the New Jersey Constitution and its free speech provision.

FIFTY-FIRST SEPARATE DEFENSE

This Defendant is immune from liability since it acted in good faith in the execution or enforcement of state law, pursuant to qualified or good faith immunity as provided for by Harlow v. Fitzgerald, 457 U.S. 800,818 (1982).

FIFTY-SECOND SEPARATE DEFENSE

Plaintiff cannot prove a violation by this Defendant of a clearly-established constitutional or statutory right.

FIFTY-THIRD SEPARATE DEFENSE

Even if Plaintiff can prove a violation by this Defendant of a clearly-established constitutional or statutory right, this individual Defendant is still entitled to qualified good faith immunity because it reasonably believed it's conduct to be lawful.

FIFTY-FOURTH SEPARATE DEFENSE

Plaintiff cannot prove that this Defendant had engaged in any conspiracy to violate Plaintiff's civil rights.

FIFTY-FIFTH SEPARATE DEFENSE

This individual Defendant did not improperly interfere with Plaintiff's employment while Plaintiff was or continues to be employed by Hudson County Department of Corrections & Rehabilitation.

FIFTY-SIXTH SEPARATE DEFENSE

This Defendant did not violate the New Jersey Attorney General's Guidelines on Internal Affairs Policy and Procedures.

FIFTY-SEVENTH SEPARATE DEFENSE

Plaintiff is not entitled to an award of attorney's fees as to any of the civil rights or constitutional claims as contained in the Complaint.

FIFTY-EIGHTH SEPARATE DEFENSE

Plaintiff is not entitled to compensatory damages for pain and suffering, humiliation, emotional distress, back pay or retroactive pay.

FIFTY-NINTH SEPARATE DEFENSE

Plaintiff's claims as pleaded in the Complaint against Defendant are frivolous and without any reasonable basis in law or facts; cannot be supported by a good faith argument for extension, modification, or reversal of existing law; are lacking in evidentiary support; and are in violation of both Court Rule 1:4-8(a) and N.J.S.A. 2A:15-59.1.

SIXTIETH SEPARATE DEFENSE

Plaintiff's demand for punitive damages against this Defendant is barred, as this Defendant's conduct was never motivated by an evil intent or by a callous or reckless indifference to protected rights.

SIXTY-FIRST SEPARATE DEFENSE

Plaintiff's emotional distress claims or any other personal injury damages claimed may also be barred by the Workers Compensation Act "exclusive remedy" provision at N.J.S.A. 34:15-1 et seq.

RESERVATION OF DEFENSES

Defendant reserves the right to interpose such other separate defenses as continuing investigation and discovery may indicate.

CROSSCLAIM FOR CONTRIBUTION AND INDEMNIFICATION

Without admitting any liability whatsoever, Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, hereby demands from any/all other co-Defendants currently named or to be named to this action both contribution and indemnification pursuant to any/all applicable provisions of common law and/or contract with Defendant, HUDSON COUNTY DEPARTMENT OF CORRECTIONS & REHABILITATION, including but not limited to the New Jersey Joint Tortfeasors Contribution Act, N.J.S.A. 2:53A-1 et seq; the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et seq. and/or by way of demand for complete indemnification against all other co-Defendants currently named or to be named, assert that any negligence or breach of contract or agreement on the part of the answering Defendant is secondary, vicarious and imputed to that of any/all such other Co-Defendants, thereby requiring a common-law duty of said Co-Defendants to indemnify and hold harmless this Defendant from any loss herein.

REQUEST FOR ALLOCATION PURSUANT TO RULE 4:7-5(c)

If any co-defendant(s) settles prior to trial, this defendant will seek an allocation of the percentage of negligence by the fact finder against the settling defendant(s). Defendant will seek this allocation, whether or not it has formally filed a cross-claim against the settling defendant(s). Defendant will rely upon the examination and cross-examination of plaintiff's expert

witnesses and any and all other witnesses at the time of trial, in support of this allocation. You are being apprised of this pursuant to R. 4:7-5(c) and Young v. Latta, 123 N.J. 584 (1991).

DEMAND FOR DAMAGES

Attorney for the plaintiff is hereby required to furnish the undersigned within five (5) days with a written statement of the amount of damages claimed in this action.

DEMAND FOR PRODUCTION OF STATEMENTS

Demand is hereby made that you provide the attorney filing this pleading with true and complete copies of any statements made by the client of this attorney, pursuant to R.4:10-2(c). This demand is deemed to be continuing.

DEMAND FOR ANSWERS TO INTERROGATORIES

It is hereby demanded pursuant to R. 4:17-1(b)(ii) that Plaintiff and Defendants under oath and within the time prescribed by the Rules of Court, the interrogatories set forth in the applicable Form A, C and C(1) of the New Jersey Court Rules and the Supplemental Tort Claims Interrogatories to be served by counsel for Defendant.

DEMAND FOR INTERROGATORIES

In accordance with R. 4:17(c), demand is hereby made that you serve upon the undersigned, copies of all interrogatories propounded by you to any party and answered by them. This demand is deemed to be continuing.

JURY DEMAND

Defendant demands a trial by jury consisting of six (6) members as to all issues.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is advised that Edward J. Florio, Esq., counsel for the Hudson County Department of Corrections & Rehabilitation is hereby designated as trial counsel.

CERTIFICATION

The undersigned attorney hereby certifies that the within Answer was filed and served pursuant to R. 4-6, as extended.

FLORIO KENNY, RAVAL, L.L.P.
ATTORNEYS FOR DEFENDANT,
**HUDSON COUNTY DEPARTMENT OF
CORRECTIONS & REHABILITATION**

/s/ Edward J. Florio
EDWARD J. FLORIO, ESQ.

Dated: November 11, 2020

CERTIFICATION PURSUANT TO RULE 4:5-1

The undersigned attorney hereby certifies that the matter in controversy is not the subject of any other action pending in any other Court or Arbitration proceeding and no such action or proceeding is contemplated. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willingly false, I am subject to punishment.

FLORIO KENNY, RAVAL, L.L.P.
ATTORNEYS FOR DEFENDANT,
**HUDSON COUNTY DEPARTMENT OF
CORRECTIONS & REHABILITATION**

/s/ Edward J. Florio
EDWARD J. FLORIO, ESQ.

Dated: November 11, 2020