Ballard Spahr LLP

210 Lake Drive East, Suite 200
Cherry Hill, NJ 08002-1163
TEL 856.761.3400
FAX 856.761.1020
www.ballardspahr.com

John B. Kearney
Tel: 856.761.3482
Fax: 856.761.1020
kearneyj@ballardspahr.com

January 21, 2014

By Hand Delivery

Clerk
Mercer County Superior Court
175 S. Broad Street
Trenton, NJ 08650-0068

Re: State of New Jersey ex rel. Leslie A. Hayling, Jr., v. Correctional Medical Services, Inc.
Docket No. MER-L-2114-08

Dear Sir/Madam:

Enclosed please find an original and two copies of Defendant Correctional Medical Services, Inc., Vickie Bybee, and David Meeker's Answer and Case Information Statement along with the Proof of Service with reference to the above-captioned matter.

Kindly file same and return a copy marked "filed" in the self-addressed, stamped envelope enclosed. Please use our Collateral Account Number 140081 for any filing fees.

A Certification of Good Cause for Change of Track Assignment Pursuant to Rule 4:5A-2(b) is being filed under separate cover letter.

Thank you for your cooperation and attention to these matters.

Very truly yours,

John B. Kearney

JBK/jam
Enclosure

cc: Karen Confoy (w/enclosure, via E-mail and U.S. Mail)
James O'Donohue (w/enclosure, via E-mail and U.S. Mail)
Kathleen Barnett Einhorn (w/enclosure, via E-mail and U.S. Mail)
Edward J. Mullins III (w/enclosure, via E-mail and U.S. Mail)

Janine N. Matton (w/enclosure, via E-mail and U.S. Mail)
Gregory Tomczak (w/enclosure, via E-mail and U.S. Mail)
Diana L. Spagnuolo (w/enclosure, via E-mail)

PROOF OF SERVICE

I certify that the original and two (2) copies of the within Answer and Case Information Statement were hand delivered to the Clerk of Mercer County for the Superior Court of New Jersey, 175 S. Broad Street, Trenton, NJ 08650-0068, and a copy of same has been served on the following counsel of record:

Kathleen Barnett Einhorn, Esq.
Genova Burns & Vernoia
494 Broad Street
Newark, NJ 07102

Karen Confoy, Esq.
Fox Rothschild LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311

James O'Donohue, Esq.
Hill Wallack, LLP
202 Carnegie Center
P.O. Box 5226
Princeton, NJ 08543

Gregory E. Tomczak, Esq.
Ambrosio & Tomczak
Hillside Square
8 Hillside Avenue, Suite 103
Montclair, NJ 07042

Janine N. Matton, Esq.
Edward J. Mullins III, Esq.
State of New Jersey
Government and Healthcare Fraud
Department of Law and Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101

DATED: January 21, 2014

JOHN B. KEARNEY

Appendix XII-B1

CIVIL CASE INFORMATION STATEMENT
(CIS)

Use for initial Law Division
Civil Part pleadings (not motions) under *Rule* 4:5-1
Pleading will be rejected for filing, under *Rule* 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed

FOR USE BY CLERK'S OFFICE ONLY
PAYMENT TYPE: ☐ CK ☐ CG ☐ CA
CHG/CK NO.
AMOUNT:
OVERPAYMENT:
BATCH NUMBER:

ATTORNEY / PRO SE NAME	TELEPHONE NUMBER	COUNTY OF VENUE
John B. Kearney	(856) 761-3400	Mercer

FIRM NAME (if applicable)	DOCKET NUMBER (when available)
Ballard Spahr LLP	L-2114-08

OFFICE ADDRESS	DOCUMENT TYPE
210 Lake Drive East Cherry Hill, NJ 08002	Answer
	JURY DEMAND ☒ YES ☐ NO

NAME OF PARTY (e.g., John Doe, Plaintiff)	CAPTION
Correctional Medical Services, Vickie Bybee & David Meeker, Defendants	State of New Jersey, through Leslie A. Hayling, Jr. DDS v. Correctional Medical Services, Inc., et als.

CASE TYPE NUMBER (See reverse side for listing)	HURRICANE SANDY RELATED?	IS THIS A PROFESSIONAL MALPRACTICE CASE?
620	☐ YES ☒ NO	☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE *N.J.S.A.* 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.

RELATED CASES PENDING?	IF YES, LIST DOCKET NUMBERS
☐ YES ☒ NO	N/A

DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)?	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known)
☐ YES ☒ NO	N/A ☐ NONE ☐ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP?	IF YES, IS THAT RELATIONSHIP:
☒ YES ☐ NO	☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☒ BUSINESS

DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☒ YES ☐ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION

See attached Rule 4:5A-2(b) Certification. Defendants seek change to Track IV in this False Claim Act case due to multiple parties, novel legal issues, anticipated extensive discovery. False Claim Act cases are considered Track IV cases. See side 2 of this form.

DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS?	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION
☐ YES ☒ NO	
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO	IF YES, FOR WHAT LANGUAGE?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

ATTORNEY SIGNATURE: John B. Kearney

Side 2

CIVIL CASE INFORMATION STATEMENT
(CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

151 NAME CHANGE
175 FORFEITURE
302 TENANCY
399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
502 BOOK ACCOUNT (debt collection matters only)
505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
506 PIP COVERAGE
510 UM or UIM CLAIM (coverage issues only)
511 ACTION ON NEGOTIABLE INSTRUMENT
512 LEMON LAW
801 SUMMARY ACTION
802 OPEN PUBLIC RECORDS ACT (summary action)
999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

305 CONSTRUCTION
509 EMPLOYMENT (other than CEPA or LAD)
599 CONTRACT/COMMERCIAL TRANSACTION
603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
605 PERSONAL INJURY
610 AUTO NEGLIGENCE – PROPERTY DAMAGE
621 UM or UIM CLAIM (includes bodily injury)
699 TORT – OTHER

Track III - 450 days' discovery

005 CIVIL RIGHTS
301 CONDEMNATION
602 ASSAULT AND BATTERY
604 MEDICAL MALPRACTICE
606 PRODUCT LIABILITY
607 PROFESSIONAL MALPRACTICE
608 TOXIC TORT
609 DEFAMATION
616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
617 INVERSE CONDEMNATION
618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
303 MT. LAUREL
508 COMPLEX COMMERCIAL
513 COMPLEX CONSTRUCTION
514 INSURANCE FRAUD
620 FALSE CLAIMS ACT
701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

266 HORMONE REPLACEMENT THERAPY (HRT)
271 ACCUTANE/ISOTRETINOIN
274 RISPERDAL/SEROQUEL/ZYPREXA
278 ZOMETA/AREDIA
279 GADOLINIUM
281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL
282 FOSAMAX
284 NUVARING
285 STRYKER TRIDENT HIP IMPLANTS
286 LEVAQUIN
287 YAZ/YASMIN/OCELLA
288 PRUDENTIAL TORT LITIGATION
289 REGLAN
290 POMPTON LAKES ENVIRONMENTAL LITIGATION
291 PELVIC MESH/GYNECARE
292 PELVIC MESH/BARD
293 DEPUY ASR HIP IMPLANT LITIGATION
295 ALLODERM REGENERATIVE TISSUE MATRIX
296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS
297 MIRENA CONTRACEPTIVE DEVICE
601 ASBESTOS
623 PROPECIA

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics.

Please check off each applicable category ☐ **Putative Class Action** ☐ **Title 59**

BALLARD SPAHR LLP
John B. Kearney (I.D. # 005441977)
Diana L. Spagnuolo (admitted *pro hac vice*)
210 Lake Drive East, Suite 200
Cherry Hill, NJ 08002-1163
Phone: (856) 761-3400
Fax: (856) 761-1020

Attorneys for Defendants
Correctional Medical Services, Inc.,
Vickie Bybee, and David Meeker

STATE OF NEW JERSEY, through LESLIE A. HAYLING, JR., DDS, Plaintiff, v. CORRECTIONAL MEDICAL SERVICES, INC., ALLCARE DENTAL GROUP, LLC., VICKI BYBEE, DAVID MEEKER, JANICE BELL, DMD, and LIONEL ANICETTE, M.D., Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION – MERCER COUNTY DOCKET NO. L-2114-08 ANSWER AND DEMAND FOR TRIAL BY JURY

Defendants, Correctional Medical Services, Inc. ("CMS"), Vickie Bybee ("Bybee"), and David Meeker ("Meeker") (collectively "CMS Defendants"), by their undersigned counsel, hereby answer the Amended Complaint of Plaintiff State of New Jersey, through Leslie A. Hayling, Jr. ("Relator") as follows:

1. The allegations in paragraph 1 purport to characterize the Amended Complaint and, as such, no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations contained in paragraph 1.

2. The allegations in paragraph 2 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations in paragraph 2.

3. Admitted.

4. The CMS Defendants deny the allegations contained in paragraph 4 as stated. The CMS Defendants admit only that CMS entered into a contract with the State of New Jersey with effective dates from April 1, 2005 through March 31, 2007. This contract was extended for a period of one year from April 1, 2008 through March 31, 2008, and continued for a six-month transition period lasting from April 1, 2008 through September 30, 2008. To the extent that paragraph 4 of the Amended Complaint purports to characterize a document, the CMS Defendants deny the allegations remaining contained in paragraph 4 because the document is a writing that speaks for itself. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 4, and deny them on that basis.

5. The allegations in paragraph 5 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations in paragraph 5.

6. The allegations in paragraph 6 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations in paragraph 6.

7. The allegations in paragraph 7 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations in paragraph 7.

8. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 8, and deny them on that basis.

9. The allegations in paragraph 9 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained in paragraph 9, and deny them on that basis.

10. The CMS Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained in paragraph 10, and deny them on that basis.

11. The CMS Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained in paragraph 11, and deny them on that basis.

12. The CMS Defendants deny the allegations contained in paragraph 12 as stated. The CMS Defendants admit only that the State of New Jersey Office of the Inspector General released a report entitled "Department of Corrections Inmate Dental Services Report" on October 15, 2007. To the extent the remaining allegations contained in paragraph 12 purport to characterize a document, the CMS Defendants deny the remaining allegations contained in paragraph 12 because the document is a writing that speaks for itself.

13. The CMS Defendants deny the allegations contained in paragraph 13 as stated. The CMS Defendants admit only that the State of New Jersey Office of the Inspector General

released a report entitled "Supplemental Report: Department of Corrections Inmate Health Services" on December 9, 2008. To the extent the remaining allegations contained in paragraph 13 purport to characterize a document, the CMS Defendants deny the remaining allegations contained in paragraph 13 because the document is a writing that speaks for itself.

14. The CMS Defendants admit that the State of New Jersey is a sovereign state. The remaining allegations contained in paragraph 14 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the remaining allegations contained in paragraph 14.

15. To the extent that the allegations contained in paragraph 15 purport to characterize a document, the CMS Defendants deny the allegations in paragraph 15 because the document is a writing that speaks for itself.

16. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 16, and deny them on that basis.

17. Admitted in part and denied in part. The CMS Defendants admit that CMS was a Missouri corporation that maintained a principal place of business at 12647 Olive Boulevard, St. Louis, Missouri 63141-6345. The CMS Defendants also admit that Corizon maintains its corporate headquarters in Brentwood, Tennessee and its operational headquarters in St. Louis, Missouri. The CMS Defendants deny the remaining allegations contained in paragraph 17.

18. The CMS Defendants admit only that Bybee was a resident of the State of Missouri at all times relevant to the facts set forth in the Amended Complaint. To the extent that paragraph 18 of the Amended Complaint purports to characterize a document, the CMS

Defendants deny those allegations because the document is a writing that speaks for itself. The CMS Defendants deny the remaining allegations contained in paragraph 18.

19. The CMS Defendants deny the allegations contained in paragraph 19 as stated. To the extent that paragraph 19 of the Amended Complaint purports to characterize a document, the CMS Defendants deny those allegations because the document is a writing that speaks for itself. The CMS Defendants deny the remaining allegations contained in paragraph 19.

20. Denied.

21. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 21, and deny them on that basis.

22. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 22, and deny them on that basis.

23. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 23, and deny them on that basis.

24. Admitted in part and denied in part. The CMS Defendants admit that a Request for Proposal ("RFP") for inmate health services was advertised on July 16, 2004. The CMS Defendants further admit that CMS was awarded a contract with the State of New Jersey on March 22, 2005. The CMS Defendants deny the remaining allegations contained in paragraph 24.

25. The allegations in paragraph 25 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations contained in paragraph 25.

26. To the extent that the allegations in paragraph 26 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 26 because the document is a writing that speaks for itself.

27. The allegations contained in paragraph 27 are legal conclusions to which no answer is required. To the extent an answer is required, the CMS Defendants deny the allegations contained in paragraph 27.

28. The allegations contained in paragraph 28 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 28.

29. The allegations contained in paragraph 29 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 29.

30. To the extent that the allegations contained in paragraph 30 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 30 because the document is a writing that speaks for itself.

31. The allegations contained in paragraph 31 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 31.

32. To the extent that the allegations in paragraph 32 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 32 because the document is a writing that speaks for itself.

33. The allegations contained in paragraph 33 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 33.

34. Denied.

35. Denied.

36. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 36, and deny them on that basis.

37. To the extent that the allegations contained in paragraph 37 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 37 because the document is a writing that speaks for itself.

38. To the extent that the allegations contained in paragraph 38 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 38 because the document is a writing that speaks for itself.

39. The allegations contained in paragraph 39 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 39.

40. The allegations contained in paragraph 40 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 40.

41. The allegations contained in paragraph 41 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 41.

42. The allegations contained in paragraph 42 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 42.

43. The allegations contained in paragraph 43 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 43.

44. The allegations contained in paragraph 44 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 44.

45. The allegations contained in paragraph 45 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 45.

46. The allegations contained in paragraph 46 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 46.

47. The allegations contained in paragraph 47 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 47.

48. The allegations contained in paragraph 48 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 48.

49. The allegations contained in paragraph 49 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 49.

50. The allegations contained in paragraph 50 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 50.

51. The allegations contained in paragraph 51 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 51.

52. The allegations contained in paragraph 52 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 52.

53. The allegations contained in paragraph 53 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 53.

54. The allegations contained in paragraph 54 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 54.

COUNT ONE

VIOLATION OF THE NJFCA – ILLEGAL PROVISION OF MEDICAL SERVICES

55. The CMS Defendants incorporate by reference the answers to the foregoing paragraphs as though fully set forth herein.

56. The allegations contained in paragraph 56 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 56.

57. The allegations contained in paragraph 57 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 57.

58. The allegations contained in paragraph 58 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 58.

59. The allegations contained in paragraph 59 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 59.

60. The allegations contained in paragraph 60 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 60.

61. To the extent the allegations in paragraph 61 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 61 because the document is a writing that speaks for itself.

62. The allegations contained in paragraph 62 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 62.

63. The allegations contained in paragraph 63 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 63.

64. The allegations contained in paragraph 64 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 64.

COUNT TWO

VIOLATIONS OF NJFCA – ILLEGAL PROVISION OF DENTAL SERVICES

65. The CMS Defendants incorporate by reference the answers to the foregoing paragraphs as though fully set forth herein.

66. The allegations contained in paragraph 66 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 66.

67. The allegations contained in paragraph 67 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 67.

68. The allegations contained in paragraph 68 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 68.

69. The allegations contained in paragraph 69 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 69.

70. The allegations contained in paragraph 70 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 70.

71. To the extent the allegations in paragraph 71 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 71 because the document is a writing that speaks for itself.

72. The allegations contained in paragraph 72 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 72.

73. The allegations contained in paragraph 73 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 73.

74. The allegations contained in paragraph 74 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 74.

75. The allegations contained in paragraph 75 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 75.

COUNT THREE

VIOLATION OF NJFCA – MISREPRESENTATIONS ABOUT ALLCARE

76. The CMS Defendants incorporate by reference the answers to the foregoing paragraphs as though fully set forth herein.

77. The allegations contained in paragraph 77 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 77.

78. The allegations contained in paragraph 78 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 78.

79. The allegations contained in paragraph 79 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 79.

80. The allegations contained in paragraph 80 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 80.

81. The allegations contained in paragraph 81 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 81.

82. The allegations contained in paragraph 82 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 82.

83. The allegations contained in paragraph 83 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 83.

84. The CMS Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 84, and deny them on that basis.

85. The allegations contained in paragraph 85 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 85.

86. The allegations contained in paragraph 86 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 86.

87. The allegations contained in paragraph 87 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 87.

88. The allegations contained in paragraph 88 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 88.

89. To the extent the allegations in paragraph 89 purport to characterize a document, the CMS Defendants deny the allegations contained in paragraph 89 because the document is a writing that speaks for itself.

90. The allegations contained in paragraph 90 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 90.

91. The allegations contained in paragraph 91 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 91.

92. The allegations contained in paragraph 92 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 92.

93. The allegations contained in paragraph 93 are legal conclusions to which no answer is required. To the extent that an answer is required, the CMS Defendants deny the allegations contained in paragraph 93.

WHEREFORE, the CMS Defendants demand that the Court dismiss, with prejudice, the Amended Complaint in its entirety, and the Court further award the CMS Defendants their costs and attorneys' fees incurred in connection with this matter, as well as such other relief as the Court deems appropriate.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted against the CMS Defendants.

SECOND AFFIRMATIVE DEFENSES

Some or all of the damages requested by Relator are not recoverable as a matter of law.

THIRD AFFIRMATIVE DEFENSE

The Amended Complaint is barred by the doctrines of laches, waiver, estoppel, and unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Relator's claims are barred in whole or in part by all applicable statutes of limitations.

FIFTH AFFIRMATIVE DEFENSE

The CMS Defendants did not act knowingly within the meaning of the New Jersey False Claims Act.

SIXTH AFFIRMATIVE DEFENSE

The CMS Defendants did not have actual knowledge of any alleged falsity; act in deliberate ignorance of the truth or falsity of relevant information; or recklessly disregard the truth or falsity of relevant information.

SEVENTH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, because the CMS Defendants' conduct was in compliance with, or authorized by, laws and regulations administered by any regulatory body or officer acting under state or federal statutory authority.

EIGHTH AFFIRMATIVE DEFENSE

Relator is barred from the relief sought in the Amended Complaint because any harm suffered resulted from its own actions and/or inactions and/or those of the State of New Jersey.

NINTH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, to the extent that they rely on a retroactive application of the New Jersey False Claims Act.

TENTH AFFIRMATIVE DEFENSE

The Amended Complaint is barred by the jurisdictional bar set forth in N.J.S.A. 2A:32C-9(b).

ELEVENTH AFFIRMATIVE DEFENSE

The Amended Complaint is barred because Relator is not an "original source" of the allegations set forth in the Amended Complaint as defined by N.J.S.A. 2A:32C-9(c).

TWELFTH AFFIRMATIVE DEFENSE

Relator lacks standing to assert claims under the New Jersey False Claims Act on behalf of the State of New Jersey.

THIRTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint is barred because Relator cannot prove that Defendant submitted any false claims for payment to the State of New Jersey subject to the New Jersey False Claims Act.

FOURTEENTH AFFIRMATIVE DEFENSE

Relator would be unjustly enriched if permitted to recover all or any of the damages alleged in the Amended Complaint.

FIFTEENTH AFFIRMATIVE DEFENSE

All of the CMS Defendants' actions in this matter were justified, made in good faith and for proper business reasons, and are in accordance with the law.

SIXTEENTH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, because the government had actual or constructive knowledge of the relevant facts and, therefore, Relator's claims are not false or knowingly false, and, alternatively, the government was not defrauded.

SEVENTEENTH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, because they are vexatious, frivolous, and intended only to annoy, embarrass and harass the CMS Defendants.

EIGHTEENTH AFFIRMATIVE DEFENSE

Relator's claims are barred as inconsistent with the decision of the Superior Court of New Jersey Appellate Division in State of New Jersey, through Leslie A. Hayling, Jr. D.D.S.

v. Correctional Medical Services, Inc., et al., No. A-5575-09T2 (N.J. Super. Ct. App. Div. Oct. 11, 2011).

NINETEENTH AFFIRMATIVE DEFENSE

Relator's claims for damages are limited to damages sustained after the effective date of the New Jersey False Claims Act by the decision of the Superior Court of New Jersey Appellate Division in State of New Jersey, through Leslie A. Hayling, Jr. D.D.S. v. Correctional Medical Services, Inc., et al., No. A-5575-09T2 (N.J. Super. Ct. App. Div. Oct. 11, 2011).

TWENTIETH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, because they cannot establish the requisite causation under the False Claims Act.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part, because they cannot establish the requisite materiality under the False Claims Act.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The CMS Defendants give notice that they intend to rely upon any other additional defense that is now or may become available or revealed during, or as a result of further investigation or discovery in this action. The CMS Defendants hereby reserve their rights to amend their answer to assert such defenses.

JURY TRIAL DEMAND

The CMS Defendants hereby demand trial by jury as to all issues raised in this action.

DESIGNATION OF TRIAL COUNSEL

John B. Kearney and Diana L. Spagnuolo are hereby designated as trial counsel for the CMS Defendants.

CERTIFICATION

I hereby certify that there are no other actions or arbitrations pending or contemplated involving the subject matter or controversy and that there are no additional known parties who should be joined in the present action at this time. I certify that the foregoing statements are true and correct. I am aware that if any of the above statements are willfully false, I am subject to punishment.

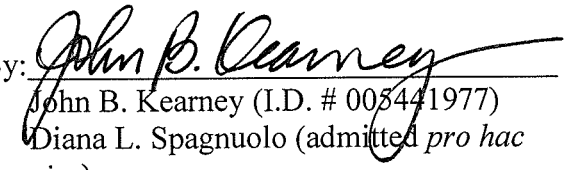
CERTIFICATION OF NO PERSONAL IDENTIFIERS

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Respectfully submitted,

BALLARD SPAHR LLP

Dated: January 21, 2014

By: 
John B. Kearney (I.D. # 005441977)
Diana L. Spagnuolo (admitted *pro hac vice*)

Attorneys for Defendants
Correctional Medical Services, Inc., Vickie Bybee, and David Meeker