

**KLINE & SPECTER,**  
*A Professional Corporation*  
Jonathan M. Cohen, Esquire  
James J. Waldenberger, Esquire  
1525 Locust Street  
Philadelphia, PA 19102  
215-772-1000

Attorneys for Plaintiff

**LEWIS WILLIFORD,**  
**an Incapacitated Person,**  
**by his Legal Guardian,**  
**WANDA BRIGMON**

**PLAINTIFF**

v.

**BAYSIDE STATE PRISON,**  
**SOUTH WOODS STATE PRISON,**  
**JOHN CLENDANIEL,**  
**GARY SHEPPARD,**  
**NEW JERSEY DEPARTMENT**  
**OF CORRECTIONS,**  
**CORRECTIONAL MEDICAL**  
**SERVICES, INC.**  
**VITALY G. STEINBERG, M.D.,**  
**CLAIRE CANTRELL, R.N.,**  
**BEVERLY TIMMONS, L.P.N.,**  
**MARCI L. MACKENZIE, PH.D.,**  
**KEVIN FRANK, R.N.,**  
**STEPHANIE KUDLA, R.N.,**  
**ELVIRA MALDONADO, L.P.N.,**  
**SHARON AKEY, R.N.,**  
**FRAN GREEN, N.P.C.,**  
**DIANE M. HOLLENBECK, R.N.,**  
**ABU AHSAN, M.D.,**  
**MICHELE MCADAMS, R.N.,**  
**NARRISSA PIERCE, R.N.,**  
**THOMAS SULLIVAN,**  
**Individually and as Administrator**  
**of Bayside State Prison,**  
**CHARLES LEONE,**  
**Individually and as Administrator**  
**of Bayside State Prison,**

**SUPERIOR COURT OF NEW JERSEY**

**CUMBERLAND COUNTY**

**LAW DIVISION**

**DOCKET NO. 1-509-07**

**SECOND AMENDED COMPLAINT**  
**AND DEMAND FOR JURY TRIAL**

**KAREN BALICKI,** :  
**Individually and as Administrator :**  
**of South Woods State Prison, :**  
**KATHY MCFARLAND,** :  
**Individually and as Administrator :**  
**of South Woods State Prison, :**  
**GEORGE W. HAYMAN,** :  
**Individually and as Commissioner :**  
**of the New Jersey Department :**  
**of Corrections, :**  
**DEVON BROWN,** :  
**Individually and as Commissioner :**  
**of the New Jersey Department :**  
**of Corrections, :**  
**C.O. CLYDE KOERNER,** :  
**C.O. MICHAEL BRYAN,** :  
**JOHN DOES NOS. 3-100 OF :**  
**BAYSIDE STATE PRISON, :**  
**JOHN DOES NOS. 1-100 OF :**  
**SOUTH WOODS :**  
**STATE PRISON, :**  
**DEFENDANTS :**

**PARTIES**

1. Plaintiff, Lewis Williford, an incapacitated person, by his legal guardian, Wanda Brigmon, who is an adult individual and resides at 1104 Lucas lane, Vorhees, New Jersey 08043, was rendered incapacitated following a hemorrhagic stroke which he suffered due to the deliberately indifferent, malicious, reckless, callous and negligent acts of Defendants, as set forth below. Currently, Mr. Williford resides at South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302. (See Short Certificate and Letters of Guardianship at Exhibit "A").

2. Defendant, Bayside State Prison, is a governmental entity with an address of 4293 Route 47, Leesburg, New Jersey 08327.

3. Defendant, South Woods State Prison, is a governmental entity with an address of 215 Burlington Road South, Bridgeton, New Jersey 08302.

4. Defendant, Correctional Officer (C.O.) John Clendaniel, is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

5. Defendant, Gary Sheppard, is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

6. Defendant, Correctional Medical Services, Inc., is a corporation with a business address of 12647 Olive Boulevard, St. Louis, Missouri 63141.

7. Defendant, New Jersey Department of Corrections is a governmental entity with an address of Whittlesey Road, Trenton, New Jersey 08625.

8. Defendant, Vitaly G. Steinberg, M.D., is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

9. Defendant, Claire Cantrell, R.N., is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

10. Defendant, Beverly Timmons, L.P.N., is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

11. Defendant, Marci L. MacKenzie, Ph.D., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

12. Defendant, Kevin Frank, R.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

13. Defendant, Stephanie Kudla, R.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

14. Defendant, Elvira Maldonado, L.P.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

15. Defendant, Sharon Akey, R.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

16. Defendant, Fran Green, N.P.C., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

17. Defendant, Diane M. Hollenbeck, R.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

18. Defendant, Abu Ahsan, M.D., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

19. Defendant, Michele McAdams, R.N., is an adult individual with a business address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

20. Defendant, Narrissa Pierce, R.N., is an adult individual with a business

address of South Woods State Prison, 215 Burlington Road South, Bridgeton, New Jersey 08302.

21. Defendant, Thomas Sullivan, individually and as Administrator of Bayside State Prison, is an adult individual with a business address of 4293 Route 47, Leesburg, New Jersey 08327.

22. Defendant, Charles Leone, individually and as Administrator of Bayside State Prison, is an adult individual with a business address of 4293 Route 47, Leesburg, New Jersey 08327.

23. Defendant, Karen Balicki, individually and as Administrator of South Woods State Prison, is an adult individual with a business address of 215 Burlington Road South, Bridgeton, New Jersey 08302.

24. Defendant, Kathy McFarland, individually and as Administrator of South Woods State Prison, is an adult individual with a business address of 215 Burlington Road South, Bridgeton, New Jersey 08302.

25. Defendant, George W. Hayman, Individually and as Commissioner of the New Jersey Department of Corrections is an adult individual with a business address of Whittlesey Road, Trenton, New Jersey 08625.

26. Defendant, Devon Brown, Individually and as Commissioner of the New Jersey Department of Corrections is an adult individual with a business address of Whittlesey Road, Trenton, New Jersey 08625.

27. Defendant, Correctional Officer (C.O.) Clyde Koerner, is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

28. Defendant, Correctional Officer (C.O.) Michael Bryan, is an adult individual with a business address of Bayside State Prison, 4293 Route 47, Leesburg, New Jersey 08327.

29. Defendants named in the above caption as John Does Nos. 3-100 of Bayside State Prison, were at all relevant times, employed by Bayside State Prison. The designation of these individuals in this matter is in their official and individual capacities. Plaintiff reserves the right to substitute the name(s) for the Bayside State Prison agents designated as John Doe when and if such information becomes available.

30. Defendants named in the above caption as John Does Nos. 1-100 of South Woods State Prison, were at all relevant times, employed by South Woods State Prison. The designation of these individuals in this matter is in their official and individual capacities. Plaintiff reserves the right to substitute the name(s) for the South Woods State Prison agents designated as John Doe when and if such information becomes available.

31. At all relevant times, Defendants Bayside State Prison, South Woods State Prison, C.O. John Clendaniel, Gary Sheppard, New Jersey Department of Corrections, Correctional Medical Services, Inc., Vitaly G. Steinberg, M.D., Claire Cantrell, R.N., Beverly Timmons, L.P.N., Marci L. Mackenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., Thomas Sullivan, Charles Leone, Karen Balicki, Kathy McFarland, George W. Hayman, Devon Brown, C.O. Clyde Koerner, C.O. Michael Bryan, John Does Nos. 3-100 of Bayside State Prison, and John Does Nos. 1-100 of South Woods State Prison, (collectively "Defendants"), were the agents, brokers, servants, alter egos and/or instrumentalities of one another and acted and/or failed to act through their agents,

brokers, servants, contractors, attorneys and employees, each and all of whom were acting within the scope of their authority.

32. At all times relevant hereto, the above Defendants were acting under the color of the law, to wit, under the color of statutes, regulations, policies, customs and usages of the state of New Jersey.

### STATEMENT OF FACTS

33. Plaintiff incorporates paragraphs 1 through 32 as though fully set forth herein at length.

34. Prior to May 2005, while an inmate at Bayside State Prison, Mr. Williford was harassed, mistreated, verbally abused and/or threatened by C.O. John Clendaniel, Gary Sheppard, and/or other agents, employees and/or representatives of Bayside State Prison and the New Jersey Department of Corrections.

35. As a result of this mistreatment, Mr. Williford filed administrative complaints, in accordance with the prison handbook/guidelines, with the New Jersey Department of Corrections, Bayside State Prison, Thomas Sullivan, Charles Leone, George W. Hayman, and/or Devon Brown, in connection with the conduct of C.O. John Clendaniel, Gary Sheppard, and/or other agents, employees and/or representatives of Bayside State Prison and the New Jersey Department of Corrections. One particular complaint was lodged on or about March 31, 2005, in which he noted:

“To whom it may concern at IAD, I am asking that this form serves as documentation of constant harassment charges . . . . Today, 3-31-05, I was approx 4 min late and [C.O. John Clendaniel] told me he’s writing me a charge, then he said ‘you think your f\*\*\*in[g] psych or special needs will get you outta

*this!' I am in fear now because he's vindictive and I don't know what he's capable of doing. Help me! Please."*

(See Complaint at Exhibit "B")(emphasis added).

36. On May 2, 2005, agents, employees and/or representatives of Bayside State Prison and the New Jersey Department of Corrections, entered Mr. Williford's cell, slammed his head against the wall and beat him. This attack was performed, orchestrated, condoned, planned, and/or directed by C.O. John Clendaniel, Gary Sheppard, C.O. Clyde Koerner, C.O. Michael Bryan, and/or other agents, employees and/or representatives of Bayside State Prison and the New Jersey Department of Corrections, in retaliation for Mr. Williford's complaints of harassment.

37. Following this incident, Mr. Williford was rendered medical treatment by Vitaly G. Steinberg, M.D., Claire Cantrell, R.N., Beverly Timmons, L.P.N., and/or other medical/nursing staff employed by Bayside State Prison, the New Jersey Department of Corrections and/or Correctional Medical Services, Inc.

38. Despite Mr. Williford suffering from an assault and/or trauma to the head, Dr. Steinberg, Claire Cantrell, R.N., Beverly Timmons, L.P.N., Bayside State Prison, the New Jersey Department of Corrections and/or Correctional Medical Services failed to recognize his condition, failed to order a nd/or perform any diagnostic testing and/or other testing and/or examinations, and failed to render necessary and appropriate treatment.

39. On or about May 3, 2005, Mr. Williford was transferred to South Woods State Prison.

40. After transfer to South Woods State Prison, Mr. Williford was under the medical



observation of Marci L. MacKenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N. and/or other medical/nursing staff employed by South Woods State Prison, the New Jersey Department of Corrections and/or Correctional Medical Services, Inc.

41. While in the care of the nursing and/or medical staff of South Woods State Prison, the New Jersey Department of Corrections, Correctional Medical Services, Marci L. MacKenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., and/or other medical/nursing staff employed by South Woods State Prison,, said defendants failed to recognize his condition, failed to order and/or perform any diagnostic testing and/or other testing and/or examinations, and failed to render necessary and appropriate treatment.

42. On or about May 6, 2005, South Woods State Prison, the New Jersey Department of Corrections, Correctional Medical Services, Inc., Marci L. Mackenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., Karen Balicki, and/or Kathy McFarland, cleared Mr. Williford to be housed in the detention facilities of South Woods State Prison.

43. On May 20, 2005, Mr. Williford suffered a hemorrhagic stroke, which left him incapacitated. He is unable to ambulate by himself, feed himself, dress himself or take care of his bodily functions. He has a feeding tube to provide him with nourishment. Mr. Williford is

unable to talk. While it appears that Mr. Williford listens to anything spoken to him, it is not clear if he is able to comprehend anything beyond basic instructions.

44. At all relevant times, Mr. Williford was in the care, custody and/or control of all Defendants, all of whom had a duty to safeguard his well-being and to protect him.

45. At all times relevant hereto, all Defendants were acting under color of state law and with deliberate and/or reckless indifference to the reasonably foreseeable and/or known substantial risk of attack and/or serious injury to Mr. Williford.

46. The deliberately indifferent, conscience shocking, intentional, reckless, careless, negligent, willful, and outrageous conduct of all Defendants, acting under color of state law, included, inter alia, the following:

- a) harassing, threatening, physically abusing, beating and/or assaulting Mr. Williford;
- b) placing Mr. Williford in danger so as to permit his attack;
- c) failing to heed, investigate, and/or act upon Mr. Williford's complaints;
- d) performing an inadequate, incomplete and unreasonable investigation of Mr. Williford's complaints;
- e) using threats, intimidation, deception, violence and harassment to deter Mr. Williford from lodging complaints;
- f) failing to provide for Mr. Williford's basic needs including the safety of his person;
- g) failing to provide immediate, necessary and appropriate medical treatment;
- h) failing to order and/or perform tests and/or examinations which would have discovered Mr. Williford's condition;
- i) improper monitoring and supervision of Mr. Williford's care;

- j) failing to prevent the attacks and injuries to Mr. Williford when Defendants knew or should have known that Mr. Williford was in danger and at risk for abuse and harm;
- k) improperly investigating the backgrounds of C.O. John Clendaniel, Gary Sheppard, C.O. Clyde Koerner, C.O. Michael Bryan, and other agents, employees and/or officers of Bayside State Prison and South Woods State Prison;
- l) failing to develop policies regarding the investigation of inmate complaints;
- m) failing to implement policies regarding the investigation of inmate complaints;
- n) failing to enforce policies regarding the investigation of inmate complaints;
- o) failing to develop policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- p) failing to implement policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- q) failing to enforce policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- r) failing to develop policies regarding rendering proper medical care and/or treatment to inmates;
- s) failing to implement policies regarding rendering proper medical care and/or treatment to inmates;
- t) failing to enforce policies regarding rendering proper medical care and/or treatment to inmates;
- u) failing to develop policies regarding prevention of retaliation upon inmates who lodge complaints;
- v) failing to implement policies regarding prevention of retaliation upon inmates who lodge complaints;

- w) failing to enforce policies regarding prevention of retaliation upon inmates who lodge complaints;
- x) developing unreasonable and inadequate policies regarding the investigation of inmate complaints;
- y) implementing unreasonable and inadequate policies regarding the investigation of inmate complaints;
- z) enforcing unreasonable and inadequate policies regarding the investigation of inmate complaints;
- aa) developing unreasonable and inadequate policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- bb) implementing unreasonable and inadequate policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- cc) enforcing unreasonable and inadequate policies regarding preventing verbal abuse, physical abuse and/or harassment of inmates by agents, employees, and/or officers of the prison;
- dd) developing unreasonable and inadequate policies regarding rendering proper medical care and/or treatment to inmates;
- ee) implementing unreasonable and inadequate policies regarding rendering proper medical care and/or treatment to inmates;
- ff) enforcing unreasonable and inadequate policies regarding rendering proper medical care and/or treatment to inmates;
- gg) developing unreasonable and inadequate policies regarding prevention of retaliation upon inmates who lodge complaints;
- hh) implementing unreasonable and inadequate policies regarding prevention of retaliation upon inmates who lodge complaints;
- ii) enforcing unreasonable and inadequate policies regarding prevention of retaliation upon inmates who lodge complaints;
- jj) conducting unreasonable and inadequate investigations of Mr. Williford's complaints;

- kk) improperly training officers, agents, representatives and/or employees regarding proper treatment and/or handling of inmates;
- ll) improperly training officers, agents, representatives and/or employees regarding providing medical treatment to inmates;
- mm) failing to train officers, agents, representatives and/or employees regarding proper treatment and/or handling of inmates;
- nn) failing to train officers, agents, representatives and/or employees regarding providing medical treatment to inmates;
- oo) condoning, permitting, encouraging and/or failing to prevent verbally abusive, threatening, harassing, retaliatory, vindictive, violent and/or vengeful conduct;
- pp) having, developing, and/or implementing a policy which condones, permits, encourages and/or fails to prevent verbally abusive, threatening, harassing, retaliatory, vindictive, violent and/or vengeful conduct;
- qq) maintaining a custom, policy and/or practice of failing to discipline and/or encouraging verbally abusive, threatening, harassing, retaliatory, vindictive, violent and/or vengeful conduct;
- rr) maintaining a custom, policy and/or practice of failing to discipline and/or encouraging rendering substandard medical care;
- ss) permitting the conditions to exist in premises under his/her/its possession, care, custody and/or control which created a dangerous environment;
- tt) depriving Mr. Williford of necessary and adequate medical treatment;
- uu) engaging in conduct creating liability under N.J.S.A. 59:2-2;
- vv) failing to remedy the complaints of Mr. Williford;
- ww) using excessive and unnecessary force;
- xx) deliberately, intentionally and callously depriving and disregarding Mr. Williford's serious medical needs;
- yy) failing to supervise their employees, agents and/or representatives, including medical staff, correctional officers and/or all other staff encountering and/or involved with Mr. Williford;

- zz) committing medical malpractice;
- aaa) increasing Mr. Williford's risk of harm by failing to render prompt, appropriate and necessary medical treatment;
- bbb) failing to properly treat Mr. Williford's medical condition;
- ccc) failing to use and consult competent and experienced physicians and medical staff;
- ddd) violating the laws, statutes and ordinances of the State of New Jersey.
- eee) engaging in deliberately indifferent and conscience shocking conduct, including, but not limited to, the conduct set forth in subparagraphs (a) through (ddd) above, and in particular, permitting, planning and/or condoning the attacks of Mr. Williford in retaliation of his lodging complaints.

47. At all times relevant hereto, Defendants were aware of and recklessly and deliberately indifferent to the need for additional and/or different training, testing, rules, regulations, policies, procedures, guidelines, directives, investigation and/or discipline relating to: investigating complaints of inmate abuse; proper treatment and/or handling of inmates; preventing verbally abusive, threatening, harassing, retaliatory, vindictive and/or violent behavior against inmates; and providing proper medical care to inmates, and maintained a custom, policy and/or practice of failing to discipline and/or encouraging the aforesaid unnecessary, negligent, irresponsible, vindictive and violent behavior.

48. At all relevant times, Defendants, in particular, Bayside State Prison, South Woods State Prison, New Jersey Department of Corrections, Correctional Medical Services, Inc., Thomas Sullivan, Charles Leone, Karen Balicki, Kathy McFarland, George W. Hayman and/or Devon Brown acted and/or failed to act through their employees, agents, representatives, and/or brokers, including but not limited to C.O. John Clendaniel, Gary Sheppard, C.O. Clyde Koerner,

C.O. Michael Bryan, New Jersey Department of Corrections, Correctional Medical Services, Inc., Vitaly G. Steinberg, M.D., Claire Cantrell, R.N., Beverly Timmons, L.P.N., Marci L. Mackenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., Thomas Sullivan, Charles Leone, Karen Balicki, Kathy McFarland, George W. Hayman, Devon Brown, John Does Nos. 3-100 of Bayside State Prison, and John Does Nos. 1-100 of South Woods State Prison.

49. As a result of the negligent, reckless, intentional, outrageous, and wrongful conduct of the Defendants as set forth above and herein, Mr. Williford suffered severe injuries and damages set forth above, including, but not limited to the following:

- a) contusions;
- b) lacerations;
- c) injuries to organs and tissue;
- d) hemorrhagic stroke, which left him incapacitated;
- e) brain damage;
- f) loss of life's pleasures;
- g) psychological injuries and conditions;
- h) psychiatric injuries and conditions;
- i) severe and permanent injuries as described in the medical records of Mr. Williford;
- j) past pain and suffering;
- k) future pain and suffering;
- l) past medical expenses;
- m) future mental anguish;
- n) future medical expenses;
- o) past mental anguish;
- p) embarrassment;
- q) disfigurement;
- r) humiliation;
- s) lost wages;
- t) loss of earnings capacity.

**COUNT I**

**NEGLIGENT, RECKLESS, INTENTIONAL AND OUTRAGEOUS CONDUCT**

**Plaintiff v. All Defendants**

50. Paragraphs 1 through 49 are hereby incorporated by reference as if fully set forth herein.

51. The aforementioned conduct of defendants, both vicariously and in their own right, constitutes negligent, reckless, intentional and outrageous conduct.

52. As a direct and proximate result of Defendants' conduct, Mr. Williford was caused to suffer grievous physical and emotional injuries and losses as set forth above and herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly, and severally, for punitive damages, compensatory damages, attorneys' fees, costs of suit, and such other relief as the Court may deem just and proper.

**COUNT II**

**CIVIL RIGHTS**

**Plaintiff v. All Defendants**

53. Paragraphs 1 through 52 are hereby incorporated by reference as if fully set forth herein.

54. At all relevant times, Defendants had a duty to take reasonable measures to guarantee Mr. Williford's safety.

55. At all relevant times, Defendants were aware, or should have been aware, that a substantial risk of serious harm to Mr. Williford existed.



56. The aforementioned conduct of defendants, acting under color of state law, was reckless and deliberately indifferent to the safety, bodily integrity, well-being, privacy and liberty of Mr. Williford, and was committed in conscious and willful disregard of the substantial and/or unjustifiable risk of causing harm to members of the public and to Mr. Williford, and was so egregious as to shock the conscience.

57. The aforementioned conduct of defendants, acting under color of state law, created a danger which resulted in the aforementioned severe physical and emotional harm.

58. At all relevant times, defendants had a policy or practice which created an unreasonable risk of harm and/or injury, and were aware that said unreasonable risk was created.

59. The severe physical and emotional harm caused to Mr. Williford was foreseeable and fairly direct to defendants, as well as the result of defendants' aforesaid policy or practice.

60. The aforementioned conduct of defendants, acting under color of state law, created an opportunity for danger which otherwise would not have existed.

61. The aforementioned conduct of defendants, acting under color of state law, constituted an affirmative act to restrain Mr. Williford's freedom, and thus triggered a special relationship with Mr. Williford under which defendants assumed a duty to ensure his safety and well-being.

62. The aforementioned conduct of defendants, acting under color of state law, constitutes a breach of defendants' duty and was in deliberate indifference to the danger and/or substantial risk of harm facing Mr. Williford so as to shock the conscience.

63. At all times relevant hereto, Defendants were aware of and recklessly and

deliberately indifferent to the need for additional and/or different training, testing, rules, regulations, policies, procedures, guidelines, directives, investigation and/or discipline relating to: investigating complaints of inmate abuse; proper treatment and/or handling of inmates; preventing verbally abusive, threatening, harassing, retaliatory, vindictive and/or violent behavior against inmates; and providing proper medical care to inmates, and maintained a custom, policy and/or practice of failing to discipline and/or encouraging the aforesaid unnecessary, negligent, irresponsible, vindictive and violent behavior.

64. Defendants failure to properly train their employees, agents, representatives, and/or brokers, including but not limited to C.O. John Clendaniel, Gary Sheppard, C.O. Clyde Koerner, C.O. Michael Bryan, Vitaly G. Steinberg, M.D., Claire Cantrell, R.N., Beverly Timmons, L.P.N., Marci L. Mackenzie, Ph.D., Kevin Frank, R.N., Stephanie Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M. Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., Thomas Sullivan, Charles Leone, Karen Balicki, Kathy McFarland, George W. Hayman, Devon Brown, John Does Nos. 3-100 of Bayside State Prison, and John Does Nos. 1-100 of South Woods State Prison, amounted to a deliberate indifference to the rights of Mr. Williford.

65. The aforementioned conduct of all defendants, acting under color of state law, violated Mr. Williford's constitutional rights to be free from unreasonable searches and seizures, rights to medical care in custody, rights to be free from cruel and unusual punishment, rights to privacy, right to bodily integrity, right to safety, and to substantive and procedural due process, as guaranteed by the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, and as remediable pursuant to 42 U.S.C. §1983.

66. The conduct of all defendants as set forth above was the moving force behind the violation of and/or caused the violation of Mr. Williford's civil rights as set forth above.

67. As a direct and proximate result of the violations of Mr. Williford's civil rights, he was caused to suffer grievous physical and emotional injuries and losses as set forth above and herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly, and severally, for punitive damages, compensatory damages, attorneys' fees, costs of suit, and such other relief as the Court may deem just and proper.

### **COUNT III**

#### **ASSAULT**

##### **Plaintiff v. All Defendants**

68. Paragraphs 1 through 67 are hereby incorporated by reference as if fully set forth herein.

69. The aforementioned conduct of defendants, both vicariously and in their own right, constitutes assault.

70. As a direct and proximate result of Defendants' conduct, Mr. Williford was caused to suffer grievous physical and emotional injuries and losses as set forth above and herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly, and severally, for punitive damages, compensatory damages, attorneys' fees, costs of suit, and such other relief as the Court may deem just and proper.

**COUNT IV**

**BATTERY**

**Plaintiff v. All Defendants**

71. Paragraphs 1 through 70 are hereby incorporated by reference as if fully set forth herein.

72. The aforementioned conduct of defendants, both vicariously and in their own right, constitutes battery.

73. As a direct and proximate result of Defendants' conduct, Mr. Williford was caused to suffer grievous physical and emotional injuries and losses as set forth above and herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly, and severally, for punitive damages, compensatory damages, attorneys' fees, costs of suit, and such other relief as the Court may deem just and proper.

COUNT V

**NEGLIGENT, RECKLESS, INTENTIONAL AND OUTRAGEOUS CONDUCT**  
**MEDICAL MALPRACTICE**

**Plaintiff**

v.

**Defendants, Bayside State Prison, South Woods State Prison,  
Correctional Medical Services, Inc., Vitaly G. Steinberg, M.D., Claire Cantrell, R.N.,  
Beverly Timmons, L.P.N., Marci L. Mackenzie, Ph.D., Kevin Frank, R.N., Stephanie  
Kudla, R.N., Elvira Maldonado, L.P.N., Sharon Akey, R.N., Fran Green, N.P.C., Diane M.  
Hollenbeck, R.N., Abu Ahsan, M.D., Michele McAdams, R.N., Narrissa Pierce, R.N., , New  
Jersey Department of Corrections, John Does Nos. 3-100 of Bayside State Prison,  
John Does Nos. 1-100 of South Woods State Prison**

74. Paragraphs 1 through 73 are hereby incorporated by reference as if fully set forth herein.

75. The aforementioned conduct of defendants, both vicariously and in their own right, constitutes negligent, reckless, intentional and outrageous conduct.

76. In addition to the conduct set forth above, the negligence, recklessness and carelessness of Defendants, also consisted, inter alia, of the following:

- a) failing to recognize the rights, safety and health of Mr. Williford;
- b) failing to exercise the standard of skill and care commonly exercised by health care providers in like cases;
- c) failing to properly identify and/or treat Mr. Williford's condition;
- d) failing to appropriate screen, test and/or examine Mr. Williford;
- e) failing to use and consult competent and experienced physicians and other health care providers in examining, treating and providing medical care to Mr. Williford;

f) being otherwise negligent and careless and having committed malpractice upon Mr. Williford;

g) violating the laws, statutes and ordinances of the State of New Jersey.

77. Defendants acts and/or omissions increased the risk of harm, injuries and losses suffered by Mr. Williford.

78. As a direct and proximate result of Defendants' conduct, Mr. Williford was caused to suffer grievous physical and emotional injuries and losses as set forth above and herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly, and severally, for punitive damages, compensatory damages, attorneys' fees, costs of suit, and such other relief as the Court may deem just and proper.

Respectfully submitted,

**KLINE & SPECTER, P.C.**

Dated: 10/13/08

BY: 

Jonathan R. Cohen, Esquire  
James J. Waldenberger, Esquire  
Attorneys for Plaintiff

**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand a trial by jury on all issues in the above-entitled causes of action.

KLINE & SPECTER, P.C.

BY: 

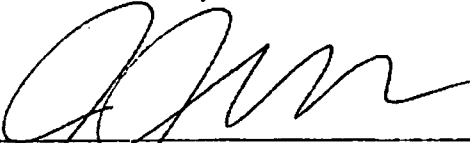
Jonathan R. Cohen, Esquire  
James J. Waldenberger, Esquire  
Attorneys for Plaintiff

Dated: 10/13/08

**CERTIFICATION PURSUANT TO RULE 4:5-2(b)(2)**

1. The matter is not the subject of any other cause or controversy now pending in any court or of any pending arbitration proceeding.
2. No other litigation or arbitration proceeding is contemplated herein.
3. All parties presently known by Plaintiff, who should be joined herein, are named and identified in the action filed herein.

KLINE & SPECTER, P.C.

BY:   
\_\_\_\_\_  
Jonathan R. Cohen, Esquire  
James J. Waldenberger, Esquire  
Attorneys for Plaintiff

Dated: 10/13/08




**DESIGNATION OF TRIAL ATTORNEYS**

**PLEASE TAKE NOTICE** that pursuant to the provisions of the Rules governing the Courts of the State of New Jersey, Jonathan M. Cohen, Esquire and James J. Waldenberger, Esquire, are hereby designated as the attorneys who will try this case.

KLINE & SPECTER, P.C.

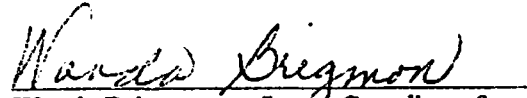
BY:

  
\_\_\_\_\_  
Jonathan R. Cohen, Esquire  
James J. Waldenberger, Esquire  
Attorneys for Plaintiff

Dated: 10/13/08

**VERIFICATION**

Wanda Brigmon, as Legal Guardian of Lewis Williford, an Incapacitated Person, hereby verifies that the facts set forth in the foregoing Second Amended Complaint are true and correct to the best of her knowledge, information and belief.

  
Wanda Brigmon, as Legal Guardian of  
Lewis Williford, an Incapacitated Person

Date:



