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19 RAUL NOVOA, individually and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 THE GEO GROUP, INC.,

24 Defendant.

Case No. 5:17-cv-02514-JGB-SHKx

**DEFENDANT THE GEO GROUP,
INC.'S ANSWER TO
PLAINTIFF'S REPLY
COUNTERCLAIM FOR
RETALIATION**

Amended Complaint Filed: 7/6/18
Reply Counterclaim Filed: 7/24/18

1 THE GEO GROUP, INC.,
 2 Counter-Claimant,
 3 v.
 4
 5 RAUL NOVOA, individually and on
 6 behalf of all others similarly situated,
 7 Counter-Defendant.

8 Defendant The GEO Group, Inc. (“GEO”) answers the Reply Counterclaim
 9 for retaliation (“Reply Counterclaim”; Dkt. #50) of Plaintiff Raul Novoa,
 10 individually and on behalf of all others similarly situated (“Plaintiff”), and states its
 11 affirmative defenses, as follows:

12
 13 **JURISDICTION**

14 1. GEO denies that the Court has subject matter jurisdiction over this
 15 suit.

16 2. Plaintiff alleges that the Court has jurisdiction over this case based on
 17 his allegations and GEO’s citizenship. GEO has no basis to affirm or deny the
 18 factual averments regarding jurisdiction under the Class Action Fairness Act, 28
 19 U.S.C. § 1332(d), and therefore denies them. GEO further denies that the Court has
 20 subject matter jurisdiction over this suit.

21 3. GEO admits that to the extent the Court has jurisdiction, venue is
 22 proper in this District. GEO denies the remaining allegations set forth in Paragraph
 23 3 of the Reply Counterclaim.

24 4. GEO admits that it conducts business in Adelanto, San Bernardino
 25 County, California. GEO denies the remaining allegations set forth in Paragraph 4
 26 of the Reply Counterclaim.

27 5. Paragraph 5 of the Reply Counterclaim refers to Plaintiff’s request for
 28 the Court to exercise supplemental jurisdiction over his state law claims. GEO is

1 without knowledge or information sufficient to form a belief as to Plaintiff's
2 requests. GEO denies that the Court has supplemental jurisdiction over this suit.

3 **PARTIES**

4 6. GEO admits that ICE detained Plaintiff at the Adelanto Facility for a
5 period of time and that he received \$1 per day as an allowance for participating in
6 the Voluntary Work Program. GEO is without knowledge or information sufficient
7 to form a belief as to the truth of the remaining allegations set forth as Paragraph 6
8 of the Reply Counterclaim and accordingly denies the truth of the allegations.

9 7. GEO admits it is a for-profit Florida corporation providing
10 correctional, detention, and community reentry services. GEO's principal office is
11 located at 621 NW 53rd Street, Suite 700, Boca Raton, Florida, 33487.

12 **COUNT VI**

13 **Retaliation**

14 8. GEO denies the allegations set forth in Paragraph 8 of the Reply
15 Counterclaim. Plaintiff has failed to state a claim for retaliation because Plaintiff
16 was never an employee of GEO and GEO was never his employer.

17 9. GEO admits that ICE detained Plaintiff at the Adelanto Facility for a
18 period of time. GEO is without knowledge or information sufficient to form a
19 belief as to the truth of the remaining allegations set forth as Paragraph 9 of the
20 Reply Counterclaim and accordingly denies the truth of the allegations.

21 10. Paragraph 10 of the Reply Counterclaim states Plaintiff's
22 understanding of the nature of the action rather than alleging any facts for GEO to
23 admit or deny. To the extent any facts are alleged, GEO denies the allegations in
24 Paragraph 10 of the Reply Counterclaim.

25 11. GEO admits the allegations set forth in Paragraph 11 of the Reply
26 Counterclaim.

27 12. GEO denies the allegations set forth in Paragraph 12 of the Reply
28 Counterclaim.

1 13. GEO denies the allegations set forth in Paragraph 13 of the Reply
2 Counterclaim. Plaintiff has failed to state a claim for retaliation because Plaintiff
3 was never an employee of GEO and GEO was never his employer.

4 14. GEO admits that its counterclaims are brought against the entire
5 putative class or classes certified by the Court. GEO denies the truth of the
6 remaining allegations set forth in Paragraph 14 of the Reply Counterclaim.

7 15. Paragraph 15 of the Reply Counterclaim states Plaintiff's
8 characterization of the nature of the action rather than alleging any facts for GEO
9 admit or deny. To the extent any facts are alleged, GEO denies the allegations in
10 Paragraph 15 of the Reply Counterclaim.

11 16. GEO admits that it asserted in its Petition for Permission to Appeal
12 Class Certification in *Menocal et al. v. The GEO Group, Inc.*, No. 14-02887 (10th
13 Cir. Mar. 13, 2017) that the district court's certification of a class comprising all
14 people detained at the Facility over the past ten years poses a potentially
15 catastrophic risk to GEO's ability to honor its contracts with the federal
16 government, particularly given its role as a federal contractor. GEO denies the truth
17 of the remaining allegations set forth in Paragraph 16 of the Reply Counterclaim.

18 17. GEO denies the allegations set forth in Paragraph 17 of the Reply
19 Counterclaim. Plaintiff has failed to state a claim for retaliation because Plaintiff
20 was never an employee of GEO and GEO was never his employer.

21 18. GEO denies the allegations set forth in Paragraph 18 of the Reply
22 Counterclaim.

23 19. GEO denies the allegations set forth in Paragraph 19 of the Reply
24 Counterclaim.

25 20. GEO denies the allegations set forth in Paragraph 20 of the Reply
26 Counterclaim.

27 21. GEO denies the allegations set forth in Paragraph 21 of the Reply
28 Counterclaim.

1 representative.

2 **AFFIRMATIVE DEFENSES**

3 **FIRST AFFIRMATIVE DEFENSE**

4 Plaintiff's Reply Counterclaim fails to allege facts sufficient to constitute a
5 cause of action against GEO.

6 **SECOND AFFIRMATIVE DEFENSE**

7 GEO has immunity from this lawsuit.

8 **THIRD AFFIRMATIVE DEFENSE**

9 Plaintiff seeks relief barred by the statute of limitations.

10 **FOURTH AFFIRMATIVE DEFENSE**

11 Plaintiff's claim is pre-empted by federal law.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 Plaintiff has failed to join parties that should be joined under Federal Rule of
14 Civil Procedure 19.

15 **SIXTH AFFIRMATIVE DEFENSE**

16 Plaintiff's alleged injuries and damages, if any, were caused by the acts of a
17 third party who has not been named a party to this action and over whom GEO had
18 no control.

19 **SEVENTH AFFIRMATIVE DEFENSE**

20 Plaintiff's requested relief violates the law, and is otherwise impossible to
21 attain in conformance with the law.

22 **EIGHTH AFFIRMATIVE DEFENSE**

23 Plaintiff lacks standing to brings the claims asserted in the Reply
24 Counterclaim.

25 **NINTH AFFIRMATIVE DEFENSE**

26 Plaintiff's claim is not ripe.

27 **TENTH AFFIRMATIVE DEFENSE**

28 Plaintiff's claim is not justiciable.

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ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff has unclean hands.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff has unreasonably delayed his request for relief, to GEO’s prejudice, such that his claims are barred by the defense of laches.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from seeking equitable relief to the extent an adequate remedy exists at law.

FOURTEENTH AFFIRMATIVE DEFENSE

GEO is entitled to an offset from any award to Plaintiff and/or putative class members of payment for unpaid minimum wages, for payment for work not performed in an reasonable manner and/or work performed outside of GEO’s control and/or direction, and for costs incurred in caring for the Plaintiff and other detainees who participated in the Voluntary Work Program and for the costs of operating the Voluntary Work Program.

FIFTEENTH AFFIRMATIVE DEFENSE

GEO reserves the right to amend its Answer to Plaintiff’s Reply Counterclaim to assert additional defenses, withdraw defenses, and/or add counterclaims as may become necessary after reasonable opportunity, or discovery has occurred, up through and including trial in this matter.

Dated: August 14, 2018

LESLEY HOLMES
MARK EMERY
CHARLES A. DEACON
NORTON ROSE FULBRIGHT US LLP

By /s/ Lesley Holmes
LESLEY HOLMES
Attorneys for The GEO Group, Inc.