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PAUL KAMIENSKI,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION:
Plaintiff-Claimant,	:	MERCER COUNTY
v.	:	DOCKET NO. L-2106-10
	:	
STATE OF NEW JERSEY,	:	Civil Action
DEPARTMENT OF THE TREASURY,	:	
	:	ANSWER TO VERIFIED COMPLAINT,
Defendant.	:	SEPARATE DEFENSES, JURY
	:	DEMAND AND DESIGNATION OF
	:	TRIAL COUNSEL
	:	
	:	
	:	
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Defendant, State of New Jersey, Department of the Treasury (the "State"), by way of Answer to the Verified Complaint hereby states as follows:

1. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

2. The State is currently without sufficient information with which to form a belief as to the truth of

the allegations contained in this paragraph and thus denies the same.

3. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

4a-g. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

5a-b. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

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34. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

35. The State denies the allegations contained in this paragraph.

36. The State is currently without sufficient information with which to form a belief as to the truth of the allegations contained in this paragraph and thus denies the same.

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WHEREFORE, the State demands judgment dismissing the Complaint against it with prejudice, and awarding fees, costs and such other relief as this Court deems just.



**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The service of the Summons and Complaint on the State was insufficient by reason of manner of service of process and insufficiency of service of process.

**SECOND AFFIRMATIVE DEFENSE**

Recovery is barred in this action by the failure of the Complaint to state a claim upon which relief can be granted.

**THIRD AFFIRMATIVE DEFENSE**

Recovery is barred in this action by reason of the applicable statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's damages are barred or limited by failure to mitigate damages.

**FIFTH AFFIRMATIVE DEFENSE**

The State is immune from suit.

**SIXTH AFFIRMATIVE DEFENSE**

The Complaint and the proceedings resulting therefrom and any recovery resulting therefrom is barred, limited and/or controlled by all provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 through 59:12-3 inclusive, as if each section, provision, defense, and immunity were listed herein separately, particularly, and at length.

**SEVENTH AFFIRMATIVE DEFENSE**

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

**EIGHTH AFFIRMATIVE DEFENSE**

Any recovery to which Plaintiff may be entitled against the State is subject to the limitations and reductions on damages set forth in N.J.S.A. 59:9-2.

**NINTH AFFIRMATIVE DEFENSE**

Any actions taken by the State were in the nature of discretionary activity within the meaning of N.J.S.A. 59:3-2, and accordingly, no liability may be imposed on the State.

**TENTH AFFIRMATIVE DEFENSE**

The State reserves the right to amend this Answer to include any and all other defenses, legal or factual, which may be made known or be justified by information obtained through the discovery process.

NOTICE PURSUANT TO RULES 1:5-1(a) AND 4:17-4

PLEASE TAKE NOTICE that the undersigned attorneys do hereby demand, pursuant to the above-cited Rules of Court, that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories, and all documents, papers and other material referred to therein, received from any party, upon the undersigned attorneys, and TAKE NOTICE that this is a CONTINUING demand.

DEMAND FOR A STATEMENT OF DAMAGES

Take notice that in accordance with R. 4:5-2, the State requests, within five days of service herein upon you, that the Plaintiff furnish a written statement of the amount of damages as claimed against each defendant in each count.

RESERVATION OF RIGHTS

The State reserves 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 State is entitled to judgment as a matter of law, based on any or all of the above defenses.

JURY DEMAND

The State demands a trial by jury on all issues in this case.

DESIGNATION OF TRIAL COUNSEL

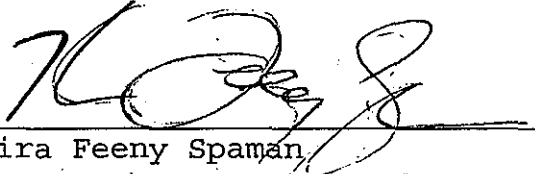
Pursuant to the provisions of R. 4:25-4, the Court is advised that KIRA FEENY SPAMAN, Deputy Attorney General, is hereby designated as trial counsel.

CERTIFICATION REGARDING OTHER  
PROCEEDINGS AND PARTIES

I certify in accordance with R. 4:5-1 that the matter in controversy is not the subject of any other action. I further certify that to the best of my knowledge, there are no other parties who should be joined in the action.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY

By: \_\_\_\_\_

  
Kira Feeny Spaman  
Deputy Attorney General

DATED: September 30, 2010