

CASSANDRA GIGI SMITH,
Plaintiff-Petitioner,

vs.

NEWARK COMMUNITY
HEALTH CENTERS, INC.,
JOHN/JANE DOE #1 Owner
of Medical Practice,
JOHN/JANE DOE #2 Operator
of Medical Practice
JOHN/JANE DOE #3 Medical
Practice Maintenance
Organization, JOHN/JANE
DOE #4 Medical Practice
Maintenance Person and
JOHN/JANE DOE #5 person
who mopped the floor,

Defendants-Respondents.

SUPREME COURT OF NEW
JERSEY
DOCKET NO. 089809

CIVIL ACTION

ON PETITION FOR
CERTIFICATION FROM THE
JULY 30, 2024 JUDGMENT OF
THE SUPERIOR COURT OF NEW
JERSEY, APPELLATE DIVISION

DOCKET NOS. BELOW: A-2138-
22, ESX-L-0547-21

Sat Below: Hon. Lisa Rose, J.A.D.,
Hon. Morris Smith, J.A.D., Hon. Lisa
Perez-Friscia, J.A.D., and Hon.
Russell J. Passamano, J.S.C.

**PROPOSED *AMICUS CURIAE* NEW JERSEY ASSOCIATION FOR
JUSTICE'S PROPOSED MERITS BRIEF**

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PRELIMINARY STATEMENT

Proposed *amicus curiae*, the New Jersey Association for Justice (“NJAJ”), seeks leave to file this merits brief and to participate in oral argument on this matter. NJAJ is concerned about the implications of this case that impact the rights of those injured while receiving medical treatment throughout this State. This case raises an important question about the proper scope of immunity under N.J.S.A. 2A:53A-7 of the Charitable Immunity Act (“CIA”). Specifically, it presents an opportunity for this Court to clarify that Section 7 does not apply to healthcare organizations that are not organized exclusively for educational or charitable purposes and that function as healthcare providers.

While NJAJ supports reversal of the Appellate Division’s decision below, this brief is not submitted out of concern for the specific facts of this case or for this Plaintiff alone. Rather, its broader interest lies in ensuring that the CIA is interpreted in a manner consistent with its statutory language and historical purpose. Section 7 was never intended to insulate every nonprofit entity from tort liability, nor to grant sweeping immunity to entities that function as healthcare providers and not exclusively charitable nor educational institutions. The Appellate Division’s decision in this case stretches the statute beyond its text, its legislative history, and the statutory limits the Legislature intended through its use of the word “exclusively” in setting the scope of Section 7.

Although NJAJ agrees with Plaintiff that Section 7 of the Charitable Immunity Act should not apply to Defendant, it respectfully disagrees with Plaintiff's assertion that immunity is instead available under N.J.S.A. 2A:53A-8 ("Section 8"). Pertaining to that issue, NJAJ agrees with the Appellate Division's ruling that Newark Community Health Centers, Inc. ("NCHC") is not entitled to the protections of the \$250,000 damages cap set forth in Section 8 as it is neither owned nor operated by a nonprofit hospital. Because NCHC is not organized exclusively for hospital purposes – as it has admitted, it cannot be afforded immunity under Section 8.

If left undisturbed, the Appellate Division's ruling threatens to extend total immunity to a growing category of hybrid nonprofit providers whose principal function is to deliver reimbursed medical care, but who invoke incidental educational themes as a hook for immunity. This result is both legally unsupported and practically harmful, as it denies meaningful legal redress to patients harmed while receiving medical care from organizations operating in a manner indistinguishable from for-profit medical providers. For these reasons and as argued below, the judgment of the Appellate Division should be reversed.

STATEMENT OF FACTS

NJAJ accepts the recitation of facts set forth in the Appellate Division's decision in this matter. In summary, on February 14, 2019, Plaintiff was

seriously injured when she slipped and fell on a wet floor outside an examination room at Defendant's East Orange facility after receiving an injectable medication paid for by Medicare. Smith v. Newark Community Health Centers, Inc., No. A-2138-22T1 (App. Div.), certif. gr., 260 N.J. 564 (2025).

PROCEDURAL HISTORY

The Complaint filed on January 21, 2021, involves a personal injury, premises liability claim that took place on February 14, 2019, at Defendant's medical clinic. (Ja32.¹) Defendant asserted an affirmative defense of charitable immunity. (Ja51.) Defendant filed a motion for summary judgment claiming entitlement to charitable immunity on June 24, 2022 (Ja64.) Plaintiff argued in opposition that immunity through the CIA, specifically N.J.S.A. 2A:53A-7 ("Section 7"), does not apply to her claim because Defendant was neither "organized exclusively for educational purposes" nor sufficiently demonstrated that it received sufficient funding to qualify for charitable immunity. (Ja314.)

On February 9, 2023, the trial court granted Defendant's motion for summary judgment. (Ja1, Ja2.) The Appellate Division affirmed the decision on July 30, 2024. This Court then granted certification on May 30, 2025. Proposed

¹ "Ja" refers to the Joint Appendix jointly filed in the Superior Court, Appellate Division; "Aa" refers to Plaintiff-Petitioner's Appendix filed in this Court; "Pb" refers to Plaintiff-Petitioner's brief filed in this Court.

amicus curiae, the New Jersey Association for Justice, now seeks leave to participate in the appeal and to participate in oral argument.

STANDARD OF REVIEW

Legal issues are reviewed de novo. Meehan v. Antonellis, 226 N.J. 216, 230 (2016) (quoting Mortgage Grader, Inc. v. Ward & Olivo, L.L.P., 225 N.J. 423, 435 (2016) (“An appellate court interprets both statutes and court rules de novo”). No deference need be given to the lower court’s interpretation of a statute. Allstate N.J. Ins. Co. v. Lajara, 222 N.J. 129, 139 (2015). “[A] trial court’s determination of the applicability of charitable immunity is reviewed de novo because an organization’s right to immunity raises questions of law.” Green v. Monmouth Univ., 237 N.J. 516, 529 (2019). This Court should construe the CIA in accordance with its plain language and established case law to find that Plaintiff was not a beneficiary of any charitable or educational purpose under N.J.S.A. 2A:53A-7 such that Defendant is not entitled to immunity.

LEGAL ARGUMENT **POINT ONE**

Hybrid Healthcare Providers like NCHC Cannot Satisfy Section 7’s Exclusivity Requirement. (Aa13-15.)

This Court should reverse because the Appellate Division failed to interpret the CIA’s plain language. Specifically, the Appellate Division did not give meaning to the Legislature’s use of the word “exclusively,” and then erred in ignoring Defendant’s own proofs showing that the entity was not exclusively

organized for educational nor charitable purposes. (Aa5-19.) As a result of this error, this Court should give meaning to all of the words of the CIA and reverse the Appellate Division's erroneous interpretation.

“It is a fundamental canon of statutory construction that the words of a statute are to be read sensibly and reasonably, so as to carry out the apparent intent of the Legislature.” Hill Intern., Inc. v. Atl. City Bd. of Educ., 438 N.J. Super. 562, 587-88 (App. Div. 2014) (citing Sussex Commons Assocs., L.L.C. v. Rutgers, 210 N.J. 531, 541 (2012)), app. dism., 224 N.J. 523 (2016). A court “must construe the statute sensibly and consistent with the objectives that the Legislature sought to achieve.” Nicholas v. Mynster, 213 N.J. 463, 480 (2013) (citing DiProspero v. Penn, 183 N.J. 477, 492 (2005)). When the plain language “reveals the Legislature's intent, [the court's] interpretative mission should come to an end.” Id. (citing DiProspero, 183 N.J. at 492).

Courts will look to “extrinsic evidence, such as legislative history, only ‘if there is ambiguity in the statutory language that leads to more than one plausible interpretation,’ or ‘if a plain reading of the statute leads to an absurd result or if the overall statutory scheme is at odds with the plain language.’” Nicholas, 213 N.J. at 480 (quoting DiProspero, 183 N.J. at 492–93). This Court has explained that “it is elementary that when the Legislature includes limiting language in one part of a statute, but leaves it out of another section in which

the limit could have been included, we infer that the omission was intentional.” Ryan v. Renny, 203 N.J. 37, 58 (2010)(citing In re Estate of Santolino, 384 N.J. Super. 567, 581 (Ch. Div. 2005) (applying canon of statutory construction *inclusio unius est exclusio alterius*); Fiore v. Consol. Freightways, 140 N.J. 452, 466 (1995) (holding court must read all parts of a statute together and not consider separate sections in a vacuum) (citing Norman T. Singer, Sutherland Statutory Construction § 46.05 (5th ed. 1992))).

The case at bar requires this Court to construe the plain language of the CIA. The Legislature specifically stated, “No nonprofit corporation, society or association organized exclusively for religious, charitable or educational purposes . . . be liable . . .” N.J.S.A. 2A:53A-7 (emphasis added). This Court explained for purposes of the CIA, “[t]he term ‘exclusively’ used in sections 7 and 8 of the CIA has been interpreted as meaning single or sole.” Kuchera v. Jersey Shore Fam. Health Ctr., 221 N.J. 239, 249 (2015) (quoting Kirby v. Columbian Inst., 101 N.J. Super. 205, 208 (Cty.Ct.1968)). For instance, this Court noted that “a fraternal organization, that was at least partially organized to promote the welfare of its members,” could not be cloaked with immunity because it did not meet the exclusivity prong. Id. at 249 (citing Kirby, 101 N.J. Super. at 209-10).

But here, Defendant admits that its organization is neither exclusively charitable nor educational as its articles of incorporation include another basis for existence that the CIA does not immunize. Defendant's own stated purpose is: "The corporation is formed for scientific, educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954." (Ja265.) By including scientific as one of its three purposes, NCHC can no longer meet the exclusivity test, because "scientific" is not the same as "educational" under the IRS's regulations.

The IRS provides that "[f]or research to be scientific, within the meaning of section 501(c)(3), it must be carried on in furtherance of a scientific purpose. The determination as to whether research is scientific does not depend on whether such research is classified as fundamental or basic as contrasted with applied or practical." 26 C.F.R. 1.501(c)(3)-1(d)(5). The IRS definition for educational "relates to (a) [t]he instruction or training of the individual for the purpose of improving or developing his capabilities; or (b) [t]he instruction of the public on subjects useful to the individual and beneficial to the community." 26 C.F.R. 1.501(c)(3)-1(d)(4). By including "scientific" as part of the reason for the organization's incorporation, the organization cannot legally be organized exclusively for educational or charitable purposes.

Further elaborating on the corporation's "scientific, educational and charitable purposes," NCHC's Certificate of Incorporation identifies various purposes showing its inclusion of "scientific" is different than the Legislature's limitation of immunity to those entities organized exclusively for educational, religious, or charitable purposes. For instance, NCHC includes as one of its many purposes, "to aid other health care providers by making available to such entities consulting, administrative, advisory managerial, long range planning and other services and advice." (Ja266 at ¶ F.) Consulting work, administration, and advisory tasks demonstrate NCHC's exclusive purpose is neither educational nor charitable.

NCHC further includes as its one of its many purposes, "To engage in or support scientific, clinical and health systems research and disseminate the results thereof," which purpose also is not educational nor charitable. (Ja266 at ¶ M.) Further NCHC includes as a purpose, "To bill for services rendered on a contractual, fee for services or insurance basis." (Ja266 at ¶ O.) Obviously, billing on a fee for services basis is not charitable. These purposes demonstrate that NCHC was not "organized exclusively for religious, charitable or educational purposes," as statutorily required before any immunity can be granted. N.J.S.A. 2A:53A-7 (emphasis added). In addition to NCHC's articles of incorporation, its own mission statement fails to provide any educational purpose; instead, NCHC states its mission

is to provide affordable, high quality, and accessible healthcare to the communities that we serve. As one of the

largest providers of comprehensive primary care services for uninsured and medically underserved populations in one of the country's most populated areas, our primary goal is to eliminate health disparities and help people live stronger, healthier, and happier lives.

(Ja270.) NCHC's mission admits its goal is healthcare – not education.

The CIA was designed to protect true charitable endeavors, not to insulate all nonprofit entities from liability simply by virtue of their corporate form as a nonprofit. In commenting on the analysis as to when Section 7 applies, our Supreme Court provides that “an entity qualifies for charitable immunity when it (1) was formed for nonprofit purposes; (2) is organized exclusively for religious, charitable or educational purposes; and (3) was promoting such objectives and purposes at the time of the injury to plaintiff who was then a beneficiary of the charitable works.” Green v. Monmouth Univ., 452 N.J. Super. 542, 549-50 (App. Div. 2018) (quoting Hardwicke v. Am. Boychoir Sch., 188 N.J. 69, 95 (2006)), aff'd, 237 N.J. 516 (2016)); see also N.J.S.A. 2A:53A-7(a).

The defendant bears the responsibility to prove all of the elements of the charitable immunity defense. Abdallah v. Occupational Center of Hudson County, Inc., 351 N.J. Super. 280, 288 (App. Div. 2002). Therefore, a corporation seeking protection as a “nonprofit” must do more than simply allege it is entitled to this status. “Whether a nonprofit entity, whose certificate of incorporation and by-laws provide that it is organized exclusively for charitable,

religious, educational, or hospital purposes, actually conducts its affairs consistent with its stated purpose of ten requires a fact-sensitive inquiry”. F.K. v. Integrity House, Inc., 460 N.J. Super. 105 at 116 (App. Div. 2019) (quoting Kuchera, 221 N.J. at 252). “What is required is an examination of the entity seeking to clothe itself in the veil of charitable immunity to discover its aims, its origins, and its method of operation in order to determine whether its dominant motive is charity or some other form of enterprise.” Id. (quoting Parker v. St. Stephen’s Urban Dev. Corp., Inc., 243 N.J. Super. 317, 325 (App. Div. 1990)).

Here, the Appellate Division’s finding that NCHC satisfied the second prong of the charitable immunity test because it was organized exclusively for educational purposes is belied by the proofs. (See Ja265-67.) The Appellate Division’s conclusion dangerously expands the scope of charitable immunity. Instead of analyzing what NCHC actually does, it appears the Court relied on the mere inclusion of the word “educational” in the entity’s incorporation documents. That approach disregards the statute’s use of the word “exclusively,” as well as the NCHC’s clear core purpose – to provide healthcare. (Ja270.) The result of extending immunity to such a healthcare entity invites other healthcare providers to shield themselves from liability by adopting superficial or boilerplate language in their organizational documents.

The appellate court’s reliance on NCHC’s mission statement further underscores the flaw in its approach. (Aa14.) “The mission of Newark Community Health Centers is to provide affordable, high quality, and accessible healthcare to the communities that we serve.” (Ja270.). Unsurprisingly, the health center’s mission is to deliver healthcare, not education. This sharply contrasts with the entities involved in the authority that the Appellate Division relied on in the underlying decision. (Aa9-14.) In Rupp By and Through Rupp v. Brookdale Baptist Church, 242 N.J. Super. 457 (App. Div. 1990), the defendant was a Baptist church – an organization plainly religious in nature. In Bloom v. Seton Hall University, 307 N.J. Super. 487 (App. Div. 1998), certif. den., 153 N.J. 405 (1998), the defendant was a university – clearly educational. The alignment between organizational purpose and statutory category in those cases was straightforward and consistent with legislative intent.

As this Court explained in Ryan v. Holy Trinity Evangelical Lutheran Church, 175 N.J. 333, 343 (2003), the terms “educational” and “religious” carry plain meanings. A university falls squarely within “education.” A church falls squarely within “religion.” A Federally Qualified Health Center administering injections to patients does not fall within either definition.

The Court’s prior guidance in O’Connell v. State, 171 N.J. 484 (2002), reinforces this distinction. There, the Court affirmed immunity where the entity

was organized exclusively for education and the injured party was a student – clearly a beneficiary. In Ryan, the Court reaffirmed this principle, stating: “because Montclair was a nonprofit entity, organized exclusively for educational purposes, and because O’Connell, as a student, was plainly a beneficiary of its works, our ultimate conclusion was that nothing more had to be proved to justify the application of charitable immunity.” Ryan, 175 N.J. at 343-44 (citing O’Connell, 171 N.J. at 491).

That rationale cannot be applied to this case. Smith was not a student, nor a participant in any educational endeavor; she was a patient receiving a Medicare-covered injection at a licensed healthcare facility. Still, the Appellate Division found NCHC eligible for immunity under the “educational purposes” prong. If this reasoning is upheld, any healthcare provider could adopt similar language in its mission or bylaws and claim immunity regardless of how it actually operates. An entity could hand out brochures to claim to be an educational institution even though its primary mission is to provide healthcare. A simple invocation of “education” would suffice to shield even fully reimbursed entities from tort liability. That result is incompatible with the statute’s text, undermines this Court’s precedent, and threatens the rights of injured individuals statewide. NJAJ urges this Court to reverse the Appellate

Division's decision because a healthcare facility whose mission is to provide healthcare is not an exclusively educational nonprofit.

POINT TWO

A Deeper Inquiry Into the "Charitable" Nature of A Healthcare Entity is Required to Determine Whether Charitable Immunity Applies. (Aa15.)

The Appellate Division's conclusion focused only on NCHC being an "educational" nonprofit, but as explained above, NCHC's own documents show it is not organized exclusively for educational purposes. While the incorporation documents for this particular case resolves the issue that there can be no immunity because NCHC stated it is also organized for scientific purposes, this Court should remind lower courts that before immunity can be granted to a healthcare facility under Section 7, the reviewing court must engage in a fact sensitive analysis. See Kuchera, 221 N.J. at 252 (noting charitable immunity analysis "often requires fact-sensitive inquiry")(citing Bieker v. Cmty. House of Moorestown, 169 N.J. 167 (2001)).

The statutory immunity under Section 7 was the Legislature's response to this Court's holding in a series of three cases finding that a charity like a hospital was no longer immunized from liability. Kuchera, 221 N.J. at 247 (citing Benton v. Young Men's Christian Ass'n of Westfield, 27 N.J. 67 (1958); Collopy v. Newark Eye & Ear Infirmary, 27 N.J. 29 (1958); and Dalton v. St. Luke's Catholic Church, 27 N.J. 22 (1958)). This Court explained that when the

Legislature permitted charitable immunity, the grant required organizations to meet an exclusivity requirement. Id. at 247. The Court noted “the CIA addressed nonprofits organized exclusively for charitable, religious, or educational purposes, and those organized for hospital purposes in separate sections” with the former being immune and the latter subject to a damages cap. Id.

In broadly addressing immunities under the CIA, this Court has explained, “[w]hether a nonprofit organization is entitled to charitable immunity or subject to the limitation on damages afforded to those institutions organized exclusively for hospital purposes turns on the purpose of the institution, not the use to which the facility is put on any given day.” Kuchera, 221 N.J. at 242. “[N]either non-profit status nor the performance of socially useful services, either independently or together, are dispositive of charitable status.” Abdallah, 351 N.J. Super. at 283-84. “[W]here a non-profit, non-religious, non-educational organization relies on [charitable] immunity based on its asserted charitable status, a traditional analysis as exemplified by Parker, which looks beyond the organization’s non-profit structure and social service activities, continues to be mandated.” Id. at 284. In Parker, 243 N.J. Super. at 325, the court required “an examination of the entity seeking to clothe itself in the veil of charitable immunity to discover its aims, its origins, and its method of operation in order

to determine whether its dominant motive is charity or some other form of enterprise.”

This Court has explained the need for a source of funds analysis, because “an organization claiming immunity under the Act must demonstrate some level of support from charitable donations and/or trust funds as it is those sources of income the Act seeks to protect.” Bieker, 169 N.J. at 178 (emphasis added); see also Morales v. New Jersey Acad. of Aquatic Scis., 302 N.J. Super. 50, 56 (App. Div. 1997) (noting that the defendant “receive[d] a substantial amount of charitable contributions, which is one of the essential characteristics of a non-profit corporation entitled to charitable immunity”). “Equally important is the absence from Defendant’s operation of fund-raising activities and charitable contributions.” Id. at 118 (quoting Parker 243 N.J. Super. at 326).

In F.K., 460 N.J. Super. at 120, the Appellate Division reversed a trial court’s grant of immunity to an in-patient drug rehabilitation facility because the entity was unable to demonstrate it was funded as a charitable institution. The Appellate Division noted the nonprofit’s failure to submit evidence regarding the source and use of its funding meant it was not entitled to immunity as a matter of law and remanded the matter. Id. at 121.

Likewise, in Parker, 243 N.J. Super. at 326, then-appellate judge, Justice Long, explained the nonprofit seeking immunity must show its acts relieve the

government from “a burden it would otherwise have to perform.” Justice Long found the entity was not entitled to immunity because the entity relied upon federal funds to perform its service that otherwise would be performed by the federal government. Id. at 325. Justice Long explained, the entity “was not created to lessen the burden on government but to obtain as much funding from the government as possible and to operate the project exclusively with that funding. As such, it is no more entitled to charitable immunity than the government itself.” Id. at 326. The Appellate Division also explained that the entity was not entitled to immunity due to the absence of charitable contributions and fundraising. Id. at 326.

The Appellate Division reversed the grant of charitable immunity as a matter of law where an occupational center that provided job training to disabled individuals relied upon government grants and funding from the employers with whom the individuals were placed. Abdallah, 351 N.J. Super. at 287-88. Requiring defendant to prove entitlement to its affirmative defense at trial, the Appellate Division noted that the 10% of the nonprofit’s revenues that came from donations “is too insignificant to have any effect on the charitable-status determination.” Id. at 288.

This Court should adopt the reasoning in Parker and Abdallah and likewise conclude that 0.15% - significantly less than 1% of the NCHC’s

revenues are generated from private, charitable donations and fundraising. (Ja71 at ¶ 23.) In other words, out of NCHC's \$33,819,482 of revenue in 2019, only \$51,460 came from charitable donations, and another \$51,528 came from amorphaously labeled "other contributions, gifts, and grants." (Id.) Even combining the two categories only accounts for 0.3% of NCHC's revenues.

Moreover, this Court should analyze what is missing from paragraph 23 of the Statement of Undisputed Material Facts. (Ja71.) Although NCHC provided information as to the government funding of \$9 million, this means the remaining 78% of NCHC's revenues, or \$26 million of \$33 million, comes from insurance proceeds, patient copays, or some other non-charitable source. (Ja71 at ¶ 23.) The Legislature did not intend to immunize such an entity from all liability. Because the lower courts failed to utilize the funds analysis to support whether the nonprofit met its burden to prove charitable immunity as a matter of law, this Court should reverse for such an analysis and explain the need for this analysis so that the purpose for immunity – protecting a charity's donated revenues from being used to pay tort damages – is not wrongfully applied to an entity that is not deriving its revenues from charitable donations. See Bieker, 169 N.J. at 178.

NJAJ is deeply concerned about the broader implications of allowing healthcare organizations to assert charitable immunity solely based on their

nonprofit tax status. While the CIA serves a legitimate purpose in protecting entities genuinely devoted to charitable work, its misuse by large healthcare providers seeking to shield themselves from liability would severely undermine the rights of injured individuals. The statute was never intended to insulate well-funded medical institutions from accountability merely because they operate under a nonprofit designation.

POINT THREE

Charitable Immunity Should Extend Only to True Beneficiaries. (Aa15-17.)

NJAJ urges this Court to recognize that before immunity can be granted under Section 7, the trial court must find that the injured party is a beneficiary of the nonprofit's charitable works. The Appellate Division's decision mistakenly deemed Smith as a "beneficiary" of NCHC. Extending that designation to a person receiving reimbursed medical care, paid for by her insurance – for which the individual pays premiums, stretches the statutory meaning of "beneficiary" to absurd levels. See Nicholas, 213 N.J. at 480 (2013)(noting statute should be interpreted to avoid absurd result) (quoting DiProspero, 183 N.J. at 492-93).

Under the statute, charitable immunity "shall not extend to any person who shall suffer damage from the negligence of such corporation, society, or association or of its agents or servants where such person is one unconcerned in and unrelated to and outside of the benefactions of such corporation, society, or

association.” N.J.S.A. 2A:53A-7(a). This language imposes a clear boundary: the injured party must fall within the actual charitable mission of the organization to be considered a “beneficiary.”

Courts have emphasized that “[t]he test to whether an injured plaintiff is a beneficiary of the ‘works’ of a nonprofit religious or charitable organization for immunity purposes is whether the organization pleading the immunity was engaged in the performance of the charitable objectives it was organized to advance.” Book v. Aguth Achim Anchai of Freehold, 101 N.J. Super. 559, 563 (App. Div. 1968) (citing Anasiewicz v. Sacred Heart Church, 74 N.J. Super. 532, 536 (App. Div. 1962)).

Though the facts in Book involved a different setting, the analysis of beneficiary status remains highly instructive. In that case, the plaintiff was a non-member of a synagogue and attended the synagogue’s bingo games solely for entertainment, paying admission and participating like a patron. Id. at 561. When she was injured after a table collapsed, the appellate court concluded that she was not a beneficiary because she was not engaged in or receiving the charitable works of the synagogue. Id. at 564. The Appellate Division wrote:

In the instant case it is obvious that the operation of bingo games for profit was not one of the purposes for which the defendant synagogue was organized. . . . It is also clear that Mrs. Book was not a beneficiary, in any degree, of the works of the defendant organization within contemplation of the immunity statute. She was

not a member of defendant's congregation. She liked to play bingo and drove many miles from her home to attend defendant's games because it was the closest place to her home where bingo was available. Her attendance was for pleasure and she was not there as a recipient of defendant's beneficence or philanthropy-she had no concern with or relation to defendant's benefactions. Her status at most was that of a patron of the games who paid an admission charge for the privilege of playing bingo.

Id. at 563-64 (citations omitted).

Here, Medicare paid for Smith's injection received from NCHC. Medicare is an insurance program where certain individuals pay premiums for this insurance.² 42 C.F.R. 408.6. She was not seeking any charitable assistance, nor was she participating in an educational or philanthropic program. Like the plaintiff in Book, she was not connected in any meaningful way to the organization's charitable objectives. She was a patient receiving a reimbursed healthcare service through her insurance plan.

If this Court accepts the Appellate Division's expansive interpretation, virtually anyone receiving services at nonprofit healthcare facilities could be labeled a "beneficiary," regardless of whether the services were paid in full or

² Smith stated she paid for her Medicare benefits. (Ja317 at ¶ 9.) Smith was disabled but working at the time of the injury. (Ja118 at 42:7-22.) Disabled individuals who are working may pay a premium for Part A Medicare; disabled individuals pay a premium for Part B Medicare benefits. See Website, <https://www.ssa.gov/disabilityresearch/wi/medicare.htm> (last accessed August 18, 2025).

covered by insurance. A patient could walk into a clinic expecting standard medical care, pay market rates, have no awareness that the facility claims to be a nonprofit, and still would be precluded from recovery due to “charitable” immunity. The Legislature did not envision to immunize healthcare facilities completely, because if it did, it would have rephrased the statute to include nonprofit healthcare facilities as another category in addition to education, religious, and charitable organizations. In fact, because Section 8 creates a cap for entities “organized exclusively for hospital purposes,” it suggests a healthcare facility cannot be immunized under Section 7. Allowing charitable immunity to apply in such circumstances would undermine the carefully limited statutory scope of the immunity, and consequentially jeopardize the rights of injured parties.

POINT FOUR

Section 8 Act Does Not Apply to NCHC. (Aa17-19.)

NJAJ is further concerned about Plaintiff’s erroneous position that NCHC is subject to the damages cap contained in N.J.S.A. 2A:53A-8. Section 8 applies only to nonprofit organizations “organized exclusively for hospital purposes,” but NCHC is not such an entity.

N.J.S.A. 2A:53A-8 provides in relevant part:

[A]ny nonprofit corporation, society or association organized exclusively for hospital purposes shall be liable to respond in damages to such beneficiary who shall suffer damage from the negligence of such

corporation, society or association or of its agents or servants to an amount not exceeding \$250,000...

Plaintiff relies heavily on Kuchera, arguing that NCHC is analogous to the “modern hospital” described in that decision. (Pb6.) But Kuchera, 221 N.J. at 243, involved a facility within a system whose certificate of incorporation explicitly stated that it was organized “to establish, maintain and operate one or more hospitals and other healthcare facilities...” The Court explained this foundational language showed the entity was organized exclusively for hospital purposes. Id. at 254.

NCHC’s organizational structure stands in sharp contrast to the hospital campus in Kuchera. As acknowledged by Defendant themselves, NCHC is not owned or operated by a hospital, nor is it incorporated for the sole purpose of maintaining hospital services. (Ja274 at ¶ 20a.) It is registered as an ambulatory care facility, which under N.J.A.C. 8:43A-1.3 is defined as “a health care facility or a distinct part of a health care facility in which preventive, diagnostic, and treatment services are provided to persons who come to the facility to receive services and depart from the facility on the same day.”

This is a far cry from a hospital, as defined by N.J.A.C. 8:43G-1.2 as “an institution, whether operated for profit or not, whether maintained, supervised or controlled by an agency of the government of the State or any county or municipality or not, which maintains and operates facilities for the diagnosis,

treatment or care of two or more non-related individuals suffering from illness, injury or deformity and where emergency, out-patient, surgical, obstetrical, convalescent or other medical and nursing care is rendered for periods exceeding 24 hours.” Thus, under New Jersey’s Administrative Code, to be formed “exclusively for hospital purposes,” an entity must have an emergency department, perform surgeries, and provide in-patient care. NCHC cannot meet that burden as its website makes clear it has no emergency department,³ does not perform any surgery, and does not provide any in-patient care (or care exceeding twenty-four hours). In fact, NCHC admitted to the IRS it does not operate any hospital facility. (Ja274 at ¶ 20a.)

There is no statutory or regulatory basis to conclude that NCHC, a community-based outpatient clinic, qualifies as a nonprofit “organized exclusively for hospital purposes.” The Legislature specifically carved out Section 8 to apply narrowly to hospitals, not to all nonprofit healthcare providers. Adopting Plaintiff’s reading would collapse the boundary between ambulatory care facilities and hospitals, effectively give all nonprofit healthcare providers a damages cap that was never intended to apply to them.

³ Smith was transferred by ambulance to a hospital emergency department to treat the injuries she sustained at NCHC. (Ja86-87 at 10:22-11:1; see also Harvey Cert. Ex. B, showing NCHC does not have an emergency department or overnight care.

This Court noted the damages cap in Section 8 is limited. For instance, a nursing home was not entitled to the cap even though it provided long-term health care to its residents. Kuchera, 221 N.J. at 249-50 (citing Gould v. Theresa Grotta Center, 83 N.J. Super. 169, 174–75 (Law Div.1964), aff'd, 89 N.J. Super. 253 (App. Div. 1965)). To find that the cap applies, this Court held the entity’s purpose must be reviewed. Id. at 251. The Court explained “[t]he modern hospital is now a place where members of the community not only seek emergency services but also preventative services, therapy, educational programs, and counseling.” Id.

While the entity where a free eye exam was offered was entitled to the cap in Kuchera, it is because it was an affiliate on the same medical campus of a non-profit hospital fulfilling the multi-faceted, full-service nature of a hospital. Here, NCHC is licensed as an ambulatory care facility unaffiliated with any hospital. (Harvey Cert. Ex. A; Ja274 at ¶ 20a.) Unlike the entity in Kuchera, NCHC provides limited medical services – it does not offer emergency services, in-patient services, or surgical services, which are all essential hospital purposes. Nor is it affiliated with any hospital like the entity in Kuchera. (Ja274 at ¶ 20a.) If the nature of Section 8 liability were simply providing healthcare services, the Legislature would have used different words. See O’Connell, 171 N.J. at 488 (explaining court may not “presume that the Legislature intended

something other than that expressed by way of the plain language”). Importantly, NCHC states in its articles of incorporation that it engages in scientific research, which means even if it is organized for hospital purposes, it is not exclusively for hospital purposes. (Ja265.)

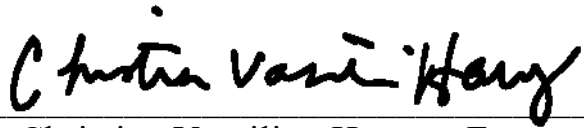
NJAJ urges the Court to reject the overextension of Section 8 articulated by Plaintiff. Section 8, like Section 7, must be interpreted according to its text. NCHC does not meet the definition of a hospital, and thus Section 8 is inapplicable as a matter of law.

CONCLUSION

NJAJ urges this Court to reverse the judgment of the Appellate Division because NCHC is not organized exclusively for educational or charitable purposes, and because Plaintiff was not a beneficiary of any such purpose. NJAJ also asks this Court to preclude immunity when a healthcare facility receives at most 0.3% of its revenues from charitable sources. NJAJ further urges the Court to reject the application of N.J.S.A. 2A:53A-8, as NCHC is not organized exclusively for hospital purposes. A contrary ruling would erode the carefully drawn limits of the Charitable Immunity Act, risk immunizing large-scale healthcare operations from accountability, and deprive injured individuals of meaningful legal recourse. The Court should reaffirm that a nonprofit’s substance and not its corporate form determines whether immunity applies.

Respectfully submitted,

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