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EAST ORANGE EDUCATIONAL SUPPORT PROFESSIONALS' ASSOCIATION AND EAST ORANGE MAINTENANCE ASSOCIATION, Plaintiffs-Petitioners, , vs. EAST ORANGE BOARD OF EDUCATION, Defendant-Respondent.	SUPREME COURT OF NEW JERSEY CIVIL ACTION DOCKET NO.: 090489 On Petition for Certification of the Final Order of the Superior Court, Appellate Division Appellate Division Docket No. A-3657-21 Sat Below: Robert Gilson, J.P.A.D. Patrick Dealmeida, J.A.D.

PETITION FOR CERTIFICATION TO THE SUPREME COURT OF NEW JERSEY AND APPENDIX

Sanford R. Oxfeld, Esq.
Of Counsel and on the Brief

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CERTIFICATION PURSUANT TO R. 2:12-7

I hereby certify that this Petition presents a substantial question and is filed in good faith and not for purposes of delay.

s/ Sanford R. Oxfeld
Sanford R. Oxfeld, Esq.

Dated: April 4, 2025

PRELIMINARY STATEMENT

In this matter, the Appellate Division reversed the Chancery Division and thus vacated the arbitration award of Arbitrator Jack Tillem, solely on one ground which had already been argued before and specifically rejected by both the Chancery Division and the arbitrator. The issue presented was whether the Emergency Pay Provision, a provision of the Collective Bargaining Agreements between the East Orange Board of Education and the East Orange Educational Support Professionals Association, as well as the East Orange Maintenance Association, which provided an enhanced rate of pay for anyone forced to report to school to work during a declared state of emergency, was preempted by N.J.S.A. 18A:7F-9, a statute which was enacted to address those employee who were working remotely. The Appellate Division took this surprising step without even attempting to apply the bedrock rule applicable to a court's review of an arbitration award, the "reasonably debatable" standard, to the arbitrator's construction of this statute. The application of the reasonably debatable standard has frequently and uniformly been held by this Court to be the required analysis; most directly on point is Borough of East Rutherford v East Rutherford PBA Local 275, 213 NJ 190 (2014). The Appellate Division, to the contrary, paid absolutely no deference to the arbitrator's determination of this legal issue.

In addition, although the Appellate Division then held that said statute preempted the contractual provisions, it utterly failed to even mention much less apply the Supreme Court's preemption doctrine as first articulated in State v State Supervisory Emp Ass'n, 78 NJ 54, 79-80 (1978).

Moreover, and certainly of equal importance in view of the Appellate Court's remand directing the vacation of the instant arbitration award is that the Appellate Court also ignored this Court's instruction of how a statute of this nature should be construed as set forth in Young v Schering, 141 NJ 16 (1995).

Most significantly, the well-established and long-standing law in New Jersey is that, when reviewing an arbitration award, the "reasonably debatable" standard, first established in Kearny PBA Local 21 v Town of Kearny, 81 NJ 208, 223-224 (1979), and uniformly followed thereafter, is applicable even when public-policy questions, such as the statute involved herein, are being resolved by the arbitrator. Weiss v. Carpenter, Benett & Morrissey, 143 NJ 420, 443 (1969).

It is respectfully submitted that this Court's decision in Borough of East Rutherford v East Rutherford PBA Local 275, 213 NJ at 207, should have been controlling herein. In East Rutherford this Court applied the "reasonably debatable" standard to both the remedy ordered by the arbitrator as well as her interpretation of the statutory provision, and explained that the

> framework for reviewing a public-sector arbitration award accounts for the interplay between [a statutory scheme] and [a collective

> bargaining agreement] by requiring a reviewing court to determine whether the arbitration award actually causes direct contradiction with law or public policy.

Thus, if an arbitrator's interpretation of a statute is reasonably debatable, a court must, likewise, defer to the arbitrator's determination.

There is absolutely no discussion whatsoever undertaken by the Appellate Division of this precise and essential issue. While clearly the Appellate Court disagreed with the arbitrator's construction of the statute, it never discussed whether it was still reasonably debatable. This issue alone demands that Certification be granted, as the instant decision is at variance with East Rutherford. In East Rutherford, where the Appellate Court, as here, reversed the trial court's confirmation of an arbitration award, this Court, id at 207, held, directly on point, that while the public employer's argument was "plausible" (and adopted by the Appellate Division in reversing the trial court), it

> was not the only reasonable conclusion to be reached. The arbitrator's analysis of the SHPB [the statute involved in that matter] co-payment increase and the CBA's provisions led her to a different conclusion, and her interpretation [of the statute] satisfies the reasonably debatable standard.

The Supreme Court continued that applying the reasonably debatable standard to the remedy ordered by the arbitrator was required because to do otherwise, "would contravene the highly deferential standard in place for review of arbitration

awards." Ibid. The Appellate Court, below, completely ignored this required, highly deferential standard.

These facts are not disputed. From the date the Governor ordered that schools be closed in March, 2020, the East Orange Board of Education ("Board") did comply with the Emergency Pay provisions of each CBA. The statute, N.J.S.A. 18A:7F-9, which the Appellate Court purported to rely upon as the sole reason it reversed the Chancery Division, was enacted on April 14, 2020. However, in mid-July, with no negotiations with either of the Associations and with no additional statutory enactments, the Board simply stopped making payments to all of its custodial and security employees who were directed by the Board to reported for work in-person on a daily basis, despite Covid and the declared State of Emergency, and unlike teaching staff and administrators who were paid by virtue of the same statute to work remotely.

The Appellate Court, ignoring the very rationale for the passage of the statute and not discussing the preemption doctrine, issued a decision which directly conflicts with Supreme Court's rulings on the appropriate standard of review of an arbitration award and on the application of the preemption doctrine. See State v State Supervisory Emp Ass'n, 78 NJ 54, 79-80 (1978) and Local 195 IFPTE v State, 88 NJ 393, 403 (1982).

For the reasons stated herein, this Court should grant Certification of the legal issues incorrectly decided by the Appellate Division and give these important issues the deliberation they deserve. Both the arbitrator and the Chancery Division correctly rejected the exact same argument made by the Board, which was accepted, without any discussion or support, by the Appellate Division.

STATEMENT OF THE MATTER INVOLVED

Once schools were closed for students, as per the Governor's Order of March 20, 2020, in which he declared a Public State of Emergency[1], and teachers and administrators were able to work remotely, the East Orange School District continued to require that its custodial and security employees report for work in the schools on a daily basis. The Board complied with the Emergency pay provisions of each CBA and paid Emergency Pay to the members of each unit at the negotiated rate of pay until July 13, 2020, when it ceased doing so.

Grievances were filed by both Associations, which were consolidated and tried before Arbitrator Jack Tillem, who issued his award on July 16, 2022 (25 a). The relevant provision of the custodians' CBA is Article XXIII, Subsection B, captioned "Emergency School Closings". It reads, in pertinent part:

> Custodians who do not work on any day when schools are closed for an emergency shall not be paid and shall be docked an amount equal to one (1) day of pay.

[1] The declared State of Emergency lasted until July 4, 2021.

> Custodians who do work on any day when schools are closed for an emergency shall be paid 1 ½ times salary in addition to their regular day of pay. (88 a)

The relevant language in the security employees CBA, is found at Article XIII, and reads:

> The Board agrees to compensate all security personnel for their regular day's pay whenever schools are closed for reasons of an emergency. A regular day is defined as the number of hours contained in a normal workday for the security staff members involved. All members of the Union required to work during a State of Emergency, as declared the Governor, shall be compensated time and one-half. (125 a)

One of the arguments made by the Board's to the arbitrator was that NJSA 18A:7F-9 preempted the Emergency Pay provisions of both CBAs. The arbitrator specifically addressed this issue and ruled:

> While the provision is not entirely clear to me, its purpose would appear to be to protect bargaining unit employees from *losses* – not additional pay – sustained due to closures longer than three days. Even less clear is the legislature's authority to invalidate my jurisdiction which springs from the parties' agreement to interpret and ender an award based solely on that agreement. (Emphasis as in original) (29 a)

As will be more fully discussed, *infra*, the Chancery Court, confirming Arbitrator Tillem's award, enthusiastically and correctly adopted his determination on this point. And the trial court's affirmation was mandated by East Rutherford.

QUESTIONS PRESENTED

1. Did the Appellate Division err in not applying the reasonably debatable standard to the arbitrator's construction of a statute?
2. Does the Appellate Division decision conflict with both East Rutherford and the unreported Appellate Division decision in City of Plainfield v FMBA Local 7, (Dkt. No. A-3557-22) (Decided July 11, 2024)[2]?
3. Did the Appellate Division err in its construction of N.J.S.A. 18A:7F-9, as preempting the Emergency Pay provisions of the instant Collective Bargaining Agreements?
4. Was the Chancery Division correct in confirming the award of Arbitrator Jack Tillem as the award was, at the very least, reasonably debatable?

ERRORS COMPLAINED OF

A
UNDER THE EAST RUTHERFORD STANDARD,
AT A MINIMUM
THE ARBITRATION AWARD IS REASONABLY DEBATABLE

The argument made by the Board, which, again was easily disposed of by the arbitrator and was adopted forcefully by the Chancery Division, which is the subject of this Petition relates entirely to N.J.S.A. 18A:7F-9. This statute provides:

> Noting in subsection b., c., or d. of this section [which provided for remote teaching] shall be construed to limit, supersede or preempt the

[2] As this is an unreported decision, in accordance with the Court Rules, a copy of said decision is attached hereto and made part of the appendix at 133a.

> rights, privileges, compensation, remedies, and procedures afforded to public school employees or a collective bargaining unit under federal or State law or any provision of a collective bargaining agreement entered into by a school district. In the event of the closure of the schools of a district…for a period longer than three consecutive school days, public schools employees covered by a collective negotiations agreement shall be entitled to compensation, benefits, and emoluments as provided in the collective negotiations agreement as if the school facilities remained open for any purpose and for any time lost as a result of school closures or use of virtual or remote instruction, except that benefits may be negotiated for additional work performed.

As this is the precise issue upon which the Appellate Division later reversed the Chancery Division and vacated the arbitrator's award, this Court is asked to pay specific attention to the arbitrator's ruling which addressed this argument. His ruling is not merely a reasonably debatable interpretation of the CBA and the statute, it is entirely correct (and fully consistent with this Court's holding in Young v. Schering Corp. 141 NJ 16, 25-26 (1995)). The arbitrator ruled:

> While the provision is not entirely clear to me, its purpose would appear to be to protect bargaining unit employees from *losses* – not additional pay - sustained due to closures longer than three days. Even less clear is the legislature's authority to invalidate my jurisdiction which springs from the parties' agreement to interpret and render an award based solely on that agreement. (Emphasis as in original) (29 a)

The matter then came before the Chancery Division on cross-motions to vacate or confirm, and the Board again made the same statutory argument. Unlike the Appellate Division, the Chancery Court analyzed the entire award, paragraph by paragraph, and ruled:

> My decision is to uphold the award. I-I do find at a minimum this award to be reasonably debatable. But I really find it much more than reasonably debatable. This arbitrator went into great detail on each of the three units, the bargaining units. (T. 25-16 to 22). (44 a)[3]

The Chancery Division continued, directly on point, again evidencing the difference between her thorough analysis and the Appellate Division, which undertook none:

> For additional reasons the arbitrator goes into detail regarding his award, and I find it to be very well reasoned. As argued by the unions the scope of judicial review of an arbitrator's is limited to determining whether or not the interpretation of the contract language is reasonably debatable. *Mere disagreement does not mean it is not reasonably debatable.* (T. 28-18 to 25) (46 a) (Emphasis supplied)

The Chancery Division concluded, in language directly applicable herein and in full accordance with East Rutherford:

> Even if I were to disagree with his ultimate decision I can't replace his decision as long as it's reasonably debatable. I do find it to be that.
>
> Under these circumstances it would be inappropriate for me to overrule his award.
>
> ***
>
> Again, here the award is based on the contract language and is not contrary to any law, regulation or precedent. And I do not find that there are any public policy grounds, which have been articulated upon which it should be vacated.
>
> For these reasons I will confirm the award of Arbitrator Jack Tillem of January 16th, 2022. (T. 29-10 to 30-2) (46 a-47 a)

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[3] The Chancery Court's decision is found at pages (44 a-47 a) of the Transcript, dated June 16, 2022, and referenced as T.

This is precisely where the Appellate Division went astray and violated the standards created by this Court. The Appellate Division was free to disagree with the arbitrator's interpretation of the statute involved herein, but because it never supported its determination to reverse the Chancery Division and vacate the award of the arbitrator by applying the reasonably debatable standard, its decision must be reversed by the Supreme Court, as being violative of East Rutherford.

It cannot be disputed that the Appellate Division didn't even pay lip service to the East Rutherford decision and the standard for review of an arbitrator's interpretation of a statute set forth therein. It is incredible that at no time, in its analysis of why it reversed the Chancery Division and vacated the instant arbitration award does the Appellate Court even attempt to apply/review the reasonably debatable standard to the arbitrator's interpretation of the statute. Thus, the decision is entirely bereft of any analysis whatsoever, especially as to why the arbitrator's award was not even reasonably debatable. Significantly, when confirming the award, the Chancery Division, found the award not simply reasonably debatable; she found it "much more than that".[4] (T.25-18 to 19) (44 a).

[4] This may appear to be a facile an argument, but doesn't the mere fact that the arbitrator and the lower court both analyzed the statute, and both found for the Associations, *per se,* indicate at a minimum that the award was reasonably debatable?

There is no need to reiterate the litany of decisions of this Court uniformly adopting and applying the reasonably debatable standard in cases presenting the same issues as are presented herein.[5] However, two cases must be emphasized. The first is Borough of Carteret v FMBA Local 67, 247 NJ 202, 211 (2021). In that matter, after citing East Rutherford and the numerous other decisions of this Court emphasizing the "considerable deference" to be given an arbitration award, this Court said the following:

> The interpretation of a labor agreement "is a question for the arbitrator. It is the arbitrator's construction which was bargained for; and so far as the arbitrator's decision concerns construction of the contract, the courts have no business overruling him [or her] based solely on differences of interpretation". E. Rutherford PBA, 213 NJ at 202 (quoting Weiss v Carpenter, Bennett & Morrissey, 143 NJ 420, 433 (1966)). Accordingly, an arbitrator's award resolving a public sector dispute will be accepted so long as the award is "reasonable debatable." Id at 201-02.
>
> Under the reasonably debatable standard, a court "may not substitute its own judgment for that of the arbitrator, regardless of the court's view of the correctness of the arbitrator's position." Ibid. (quoting Middletown Twp. PBA, 193 NJ at 11). Put differently, if two or more interpretations of a labor agreement could be plausibly argued, the outcome is at least reasonably debatable.[6] See id at 206; PBA Local 11 v City of Trenton, 205 NJ 422 (2011). "Thus, even if the remedy

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[5] It is appropriate to note the numerous and frankly alarming number of times the Appellate Division has vacated an arbitration award where (as here), it did not apply the appropriate standard. In all of these matters the Supreme Court was forced to reverse: Kearny PBA, 81 NJ 208 (1979); Scoth Plains-Fanwood, 139 NJ 141 (1995); Linden Board of Education, 268 NJ 268 (2010); and, most recently, Carteret, 247 NJ 202 (2021).

[6] The Appellate Court is thus saying that both the arbitrator's award and the trial court's decision are not even plausible.

> the Arbitrator fashioned was not the preferred or correct outcome, a reversal would be contrary to the deferential standard for reviewing arbitrable decisions." E. Rutherford PBA, 213 NJ at 206.

Another case which is directly on point and which directly contradicts the decision *sub judice* is the Appellate Division's unreported decision in City of Plainfield, *supra.* In that matter, at pages 8 and 9 of the slip opinion (140a-141a), the court was faced with the identical issue as is presented in this matter, what degree of deference must a court pay to legal issues decided by an arbitrator, including the arbitrator's construction of a statute. In Plainfield, the Court ruled, directly on point:

> In the public sector, "an arbitrator's award will be confirmed "so long as the award is reasonably debatable."" Police's Benevolent Ass'n v City of Trenton, 205 NJ 422, 429 (2011) (quoting Linden Bd of Educ. v Linden Educ. Ass'n., 202 NJ 268, 276 (2010))…" If the correctness of the award, including its resolution of the public-policy question, is reasonably debatable, judicial intervention is unwarranted." Weiss v Carpenter, Bennett & Morrissey, 143 NJ 420, 443 (1996).
>
> *The same deferential standard of review applies to an arbitrator's interpretation of a statute.* See E. Rutherford PBA, 213 NJ at 207 (applying the "reasonably debatable" standard to an arbitrator's analysis of a statutory provision and explaining that the "framework for a reviewing a public-sector award accounts for the interplay between [a statutory scheme) and [a contract] by requiring a reviewing court to determine whether the arbitration award actually causes direct contradiction with law or public policy. Accordingly, *if an arbitrator's interpretation of a statute is reasonably debatable, a court must defer to the arbitrator's determination.* See ibid. (Emphasis supplied)

This is precisely what the Appellate Court did not do. In fact, it never even undertook such an evaluation.

B

THE APPELLATE DIVISION'S DECISION DOES NOT ADDRESS THE PREEMPTION DOCTRINE

The entirety of the Appellate Division's decision is premised on the assumption, with no citation whatsoever, that the statute in question preempted the specific terms of the CBAs relied upon by the Associations. In Local 195, IFPTE v State, 88 NJ 393,403 (1982), this Court in noted that "the prime examples of subjects that fall with this category [of negotiable subjects] are *rates of pay and working hours*." The contract provisions here, deal exclusively with rates of pay and working hours. The parties negotiated what the rate of pay would be for a member who had to work hours during a state of emergency.

This Court then continued and defined when a topic was not negotiable as being preempted by statute. That only occurs,

> If the Legislature establishes a specific term or condition of employment that leaves no room for discretionary action, then negotiations on that term is fully preempted. If the statute sets a minimum or maximum, then negotiations may be confined with the parameters established by these limits. Ibid.

There is nothing in N.J.S.A. 18A:7F-9e which expressly sets a term and condition of employment. State Supervisory Employees Ass'n, 78 NJ 54, 80

(1978). Nor does this statute, when it comes to terms and conditions of employment "speak in the imperative and leave nothing to the discretion of the public employer." Local 195 v State at 403-404. See also Bethlehem Tp Bd of Educ v Bethlehem Tp Educ Ass'n., 91 NJ 38, 44-46 (1982) as to partial preemptive effect.

As there was no preemption evidenced by this statute, the terms of the negotiated agreement were entirely consistent with Local 195 and therefore both valid and enforceable in arbitration.

C

THE ARBITRATOR'S INTERPRETATION OF THE STATUTE IS CORRECT AND ENTIRELY CONSISTENT WITH YOUNG V SHERING

As noted, *supra* at Point A, when confronted with the identical argument made by the Board to the Appellate Division, concerning the application of the N.J.S.A. 18A:7F-9(e) in this matter, the arbitrator ruled:

> While the provision is not entirely clear to me, its purpose would appear to be to protect bargaining unit employees from *losses* – not additional pay – sustained due to closures longer than three days. (Emphasis as in original) (29 a).

It is submitted that in this one sentence ruling the arbitrator coalesced the essence of this Court's Young determination. In Young, the Court was faced with a section of the CEPA statute, relied upon by management, which in a literal reading seemed at odds with the reason the CEPA statute was enacted. Also, like

here, there is a dearth of legislative history (certainly the Appellate Division here cited none). 141 NJ at 24. In language almost eerily prescient to the instant matter, this Court ruled:

> The Court has emphasized repeatedly that "in the interpretation of a statute our overriding goal has consistently been to determine the Legislature's intent.
>
> Several other canons of statutory construction also inform our decision. Where the Legislature's intent is remedial, a court should construe a statute liberally…Exceptions to a statutory scheme should be construed narrowly. *Furthermore, a court should avoid a literal interpretation of individual statutory terms or provisions that would be inconsistent with the overall purpose of the statute. We find the doctrine of probable legislative intent a more reliable guide than the overly literal reading of the waiver provision urged by the defendants*...(Emphasis supplied)
>
> One purpose of CEPA is to make it easier, not harder, for a former employee to prevail on a retaliatory discharge claim…(Internal citations omitted)

While it is clear that the arbitrator undertook no scholarly analysis of Young and its application to the instant matter, it is submitted that ultimately his conclusion on this point, cited in full above in response to the Board's same argument, is precisely what is mandated by Young.

In this regard the arbitrator was clearly reading the intent of the statute correctly. It was enacted to protect a certain category of school employees from economic loss when schools are closed for more than three days. It must be borne in mind that there were days when schools were closed and remote instruction was

not yet established, and without the benefit of the statute, professional teaching staff might not have been paid for those days. As the statute was enacted to protect the salaries of professional staff, such as teachers, it is inconceivable that the very same statute could be construed in such a way as to take money away from non-certificated support staff.[7]

Most importantly, however, is not whether the Appellate Court agreed with the aforesaid interpretation of said statute which appears to be mandated by Young. Regardless of what the Appellate Court's construction meant, the only significant question is *not* whether the arbitrator and the Chancery Court's construction was correct vis-à-vis the Appellate Court's construction. What is both important and mandated by East Rutherford is that, at the minimum, the construction set forth above is reasonably debatable. And this issue was never addressed by the Appellate Division.

The entire analysis of the statute by the Appellate Court, again making no mention of Young, is that it was,

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[7] Another significant provision of the CBA which the Appellate Division also ignored is Paragraph 1 of the Emergency School Closing provision (Article XXIII) (88 a) which by agreement of the parties authorizes the Board to dock an employee who does not report for work during an emergency "an amount equal to one (1) day of pay." This is a penalty in addition to not getting paid for the day. The Appellate Court's analysis leads the absurd result that the Board lacks such authority, despite the clear contract language, as the school [was] not closed for an emergency.

> not persuaded by the Unions' argument the statute is intended only to prevent employee losses associated with a state of emergency, and not to prevent employees from receiving extra compensation during a state of emergency as provided in a CBA. Nothing in the plain language of the statute supports this interpretation of the law.

There is no explanation of *why* the Court was not persuaded. Yet, this is the precise interpretation adopted by the arbitrator and enthusiastically adopted by the Chancery Division. More devastating to the Appellate Court's determination is that it never went the required next step and evaluated why the "Union's argument", which it found "not persuasive", (20 a), as adopted by Arbitrator Tillem and the Chancery Division, was not reasonably debatable; and that analysis is required by East Rutherford.

D

THE APPELLATE DIVISION'S DECISION IS DEVOID OF CONCERNS WITH REALITY

Finally, and it is admitted this argument was not raised below, as no one foresaw this unsupportable Appellate outcome thirteen months after the matter was argued,[8] the Appellate Division made no enquiry whatsoever as the ability of the affected custodians and security personnel to repay the damages they have already received due to the Chancery Division's confirmation of the award. It is estimated that approximately half of the $3.5 to $4 million in cumulative damages has

[8] Despite the dictates of Judicial Conduct Rule 3.9, this matter was argued on January 16, 2024, but not decided until February 25, 2025.

already been paid by the Board. How blue-collar employees making under $50,000 a year in gross salary will ever be able to repay this amount was not of interest to the Appellate Division. Yet, ability to pay is a required enquiry pursuant to South Plainfield Bd of Educ v South Plainfield Educ Ass'n., 320 NJ Super 281 (1998), Cert Den, 161 NJ 332 (1999).

In his treatise on the Common Law, Oliver Wendell Holmes stated:

> The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories…

This matter encompasses all of the above, the experience of those who were required to report for work in-person during Covid, their necessities to survive financially, the immorality of not even considering their ability to repay the sums involved herein. None of these items were considered by the Appellate Court whatsoever. Moreover, whether in the future it is measles or the Bird Flu, epidemics are not merely a thing of the past. How they impact the lowest wage earners who must work in-person during an epidemic requires the guidance of this Court.

SPECIAL REASONS WHY CERTIFICATION SHOULD BE GRANTED

R. 2:12-4 sets forth the grounds for Certification. Three grounds are of significance in the present matter. First, the decision below conflicts with this Court's prior rulings; specifically, those in East Rutherford and Young, discussed *supra*. It is also in direct conflict with the Appellate Division decision in Plainfield.

In East Rutherford this Court clearly stated that an arbitrator's construction of a statute is entitled to the same deference as his interpretation of the terms of a CBA. In both instances the "reasonably debatable" standard applies. The Appellate Division didn't even pay lip service to this standard and undertook no such inquiry. Nor did the Appellate Division even consider that the arbitrator's *de facto* application of the doctrine of probable intent in construing the statute led to his correct decision. Young was not discussed or even mentioned by the Appellate Court.

Second, Certification may be granted "if the interest of justice so requires". It is submitted that the interest of justice requires that the decision of the Appellate Division be reversed based on that Court's erroneous decision in not applying the proper standard of review by a Court of an arbitrator's award involving construction of a statute. The Court's failed to consider the Young doctrine of interpreting a remedial statute broadly to help, not economically hurt, its intended beneficiaries.

Third, review of the decision below is warranted because it presents a question of general public importance: Under what circumstances can public school, non-professional employees, such as those involved herein, reap the benefits their unions negotiated for them of receiving an enhanced rate of pay, here Emergency Pay, when they are forced to actually report for work, in-person, during

a declared State of Emergency, when no other category of employee is also being so required? The Board should be posing a similar question: To what extent can it impose the penalties it negotiated to insure support employees report for work during a declared State of Emergency under the Appellate Division's application of this statute? Here, the Blue Collar workers in East Orange, who already barely earn a living wage and were required by the Board to report for work, when virtually no one else (including the judiciary) was so required, should be entitled to the benefit of receiving Emergency Pay set forth in their CBA.

CONCLUSION

Based on the foregoing this Court should grant Certification to review the errors below. The decision of the Chancery Division should be reinstated.

Respectfully submitted,
OXFELD COHEN, P.C.

Sanford R Oxfeld

Dated: April 4, 2025