

PHILIP D. MURPHY, in his official capacity as Governor of New Jersey, and the STATE OF NEW JERSEY, hereby state:

NATURE OF ACTION

1. This action brought by Plaintiffs seeks declaratory and injunctive relief against Defendants in the form of restraining Defendants from enacting, enforcing and/or otherwise acting upon P.L. 2021 Chapter 17 (the "Statute"), in violation of the United States and New Jersey Constitutions.

THE PARTIES

2. Plaintiff NEW JERSEY CITIZEN ACTION, INC. ("NJCA") is a New Jersey non-profit corporation, registered under Section 501(c)(4) of the Internal Revenue Code with business addresses in the City of Newark, Essex County; Highland Park, Middlesex County; and Cherry Hill, Camden County. NJCA has 15,000 individual members, as well as 100 affiliated partner groups with vast networks of members across New Jersey.

3. For nearly 40 years, NJCA and its members have engaged in issue advocacy, education and outreach, as well as electoral campaigns. In addition, we have provided assistance to tens of thousands of New Jersey residents through our empowerment programs that offer financial coaching, housing counseling and discrimination monitoring, health care enrollment, and free tax preparation through their 501(c)(3) sister organization NJCAEF. Collectively, the work of NJCA and NJCAEF serves to improve the lives of low-

and moderate- income individuals and taxpayers and advance social, racial and economic justice for all New Jerseyans.

4. NJCA has championed and advocated for earned sick days, paid family leave, raising the minimum wage, tax fairness (equity), housing protections, consumer financial protections and health care issues. Of particular relevance to this case, NJCA has had an active role in expanding access to quality, affordable health care and reining in health care costs by holding providers and other health care entities accountable.

5. NJCA's membership of 15,000 individuals, many of whom own property in counties in which nonprofit hospitals are located, would be harmed by the exemptions given to these institutions that are at issue in this complaint. By allowing for-profit hospitals to shelter for profit partners tax free on their campuses, property tax payers in the surrounding communities of NJ hospitals are disadvantaged. They are in effect subsidizing these for-profit health care entities through higher property taxes.

6. In addition, permitting property tax deduction on properties used by for-profit health providers renders the nonprofit hospital a mere forum for for-profit activities and violates the hospital's obligation to bring value to the community in exchange for tax-exemption. It constitutes an abuse of their nonprofit status and contract with the community to provide affordable care on a nonprofit basis and other community benefits.

7. Pursuant to this legislation, for-profit health care providers are given an unfair advantage, which only contributes to the increasing profitization of healthcare and provides an incentive for nonprofit hospitals to contract out entire departments to for-profit physicians and hire temporary nursing staff -- trends that NJCA has long opposed due to their negative impact on consumers in terms of access, affordability and quality of care. NJCA has generally and specifically opposed the conversion of health care from non-profit to for-profit entities through campaigns it has waged including opposing the takeover of NJ hospitals by Carepoint, Prime, and Meritt, and the restructuring of Horizon Blue Cross Blue Shield as a mutual holding company.

8. NJCA also took an active role in opposing earlier versions of this bill introduced and passed by the Legislature prior to the pandemic.

9. Plaintiff MAURA COLLINSGRU is a taxpayer and owner of property in Palmyra, Burlington County, the county in which Virtual Health System is located. She is also the Health Care Program Director of NJCA, with a business address at 75 Raritan Avenue, Suite 200, Highland Park, Middlesex County. She is the principal coordinator of the New Jersey for Health Care Coalition consisting of numerous consumer groups, civil rights and immigration advocates and social service providers. Its mission is to improve access, affordability

and quality of health services in NJ, which includes a focus on holding nonprofit hospitals accountable.

10. Plaintiff AMERICAN FEDERATION OF TEACHERS NEW JERSEY ("AFTNJ") is a New Jersey non-profit membership corporation, with its official business address at 720 King George Road, Suite 300, Fords, NJ 08863, in Middlesex County. It represents over 30,000 PreK through grade 12 and higher education workers who live and work throughout New Jersey.

11. AFTNJ workers knows firsthand the importance of large profitable institutions, including hospitals, paying their fair share in property taxes. As residents, taxpayers, homeowners and public servants, the union fully understands that the quality of education provided to students in New Jersey is directly tied to the ability of local Boards of Education to fund the programs our students and educators need. As many districts throughout the State struggle to cope with outdated facilities, staff shortages, and the inability to offer wrap-around student and family services, it is disheartening to see healthcare facilities skirt their social responsibilities by failing to pay property taxes despite the increasing level of for-profit activity occurring on their campuses. Working New Jerseyans should not be responsible for shouldering the burden of funding public education while large profitable institutions, such as hospitals, use their political power to secure legislation, which sanctions their failure to

contribute their fair share of local taxes. AFTNJ joins this lawsuit to right this wrong and to ensure that hospitals properly contribute to the communities in which they are located and from which they financially benefit.

12. Plaintiff DONNA CHIERA is a taxpayer and owner of property in Perth Amboy, Middlesex County, a municipality in which Hackensack-Meridian Raritan Bay Medical Center is located. She is also the President of AFTNJ, with a business address at 720 King George Road, Suite 300, Fords, NJ 08863, Middlesex County.

13. NJCA's and AFTNJ's individual members are harmed by the existence of tax exemptions, such as the one challenged herein, because they reduce public revenues and in so doing, deplete public funds that could otherwise be put to other public policy objectives, including education expenditures.

14. Plaintiffs MARK and KATHERINE SMITH are taxpayers and owners of real property on which they reside in South Brunswick Township in the County of Middlesex. As residents of a county in which are situated at least two hospitals-- Robert Wood Johnson University Hospital and Penn Medicine Princeton Health -- that are tax exempt, Mark and Katherine Smith's contribution to Middlesex County's tax collection increases in proportion to the exempt status of the hospitals that are freed by the Statute of the burden of contributing to the county tax base. Mark and Katherine Smith followed closely the tax-exempt litigation against Princeton

University (Docket Nos. Tax 7672-2016, among others), and attended multiple court sessions at the Tax Court in Morristown where the Princeton University matter was heard before the Hon. Vito Bianco and have a direct and personal commitment to the challenge of certain tax-exempt entities. They will lose the ability to bring such challenge as to the Middlesex County hospitals' exempt status by operation of the Statute insofar as Defendants intended to bar individual taxpayers, such as themselves, from making such challenges to an entity's tax-exempt status. In addition, the Smiths' property is adjacent to Princeton University's undeveloped site that bears the common name "Princeton Nurseries" and, upon information and belief, has a farmland assessment though farming activity is not observable on this site; Mr. and Mrs. Smith will lose the ability under the challenged law to bring an action challenging an improper farmland assessment on the Princeton University site.

15. Consequently, Plaintiffs NJCA, AFTNJ and their members as well as Mark and Katherine Smith have suffered and will continue to suffer an injury by the challenged statute's prohibition on third party assessment and exemption challenges by citizens seeking to set aside unlawful tax exemption schemes that burden the tax base in their community and prejudice their own share of such tax raising.

16. Defendant, Philip D. Murphy ("Defendant Murphy"), at all

relevant times, was and is the Governor of the State of New Jersey, and is named as a defendant in his official capacity as such.

As Governor of the State of New Jersey, Defendant Murphy is sworn to among other duties, diligently, faithfully and to the best of his ability, uphold the Constitution of the State of New Jersey, as well as maintain and enforce the laws of the State of New Jersey. Defendant's official office address is the State House, 225 W. State Street, City of Trenton, County of Mercer, State of New Jersey 08625.

17. Defendant State of New Jersey ("New Jersey"), at all relevant times, enacted the Statute in dispute in this litigation.

JURISDICTION AND VENUE

18. Venue is appropriate in the Superior Court of Mercer County pursuant to N.J. Court Rule 4:3-2(2), as Defendants' official address is in Mercer County, and Defendant Murphy is an elected New Jersey public official whose actions affect real property in the county.

FACTUAL ALLEGATIONS RELEVANT TO ALL COUNTS

19. All facts alleged herein are matters of public record and/or subject to judicial notice pursuant to N.J.R.E. 201.

20. On December 17, 2020, the New Jersey General Assembly passed Assembly Bill 1135.

21. On December 17, 2020, the New Jersey State Senate passed its

version of Assembly Bill 1135, designated S357/624 (collectively with Assembly Bill 1135, the "Bill").

22. Once passed both chambers of the New Jersey Legislature, Defendant Murphy signed the Bill into law on February 22, 2021, as Public Law 2021 Chapter 17 (the "Statute").

23. The Statute exempts allegedly non-profit hospitals from property taxation even if those hospitals and third-party medical providers operate for-profit business entities/subsidiaries and conduct for-profit business on hospital property.

24. The Statute imposes on these types of hospitals a community service contribution under the guise of a payment in lieu of property taxes.

25. The Statute is in response to the decision in AHS Hosp. Corp. v. Town of Morristown, 28 N.J. Tax 456 (2015), which held that certain portions of a "non-profit" hospital's property was subject to property tax because of significant for-profit activities being conducted thereon. The Tax Court found that the hospital exemption provided by N.J.S.A. 54:4-3.6 (prior to amendment by the Bill) did not apply to the hospital's entire property due to the for-profit nature of the business being conducted on the property and other factors.

26. (New) Section 3b of the Bill states, in relevant part:

If any portion of a hospital or a satellite emergency care facility is leased to or otherwise used by a profit-making medical provider for medical purposes related to

the delivery of health care services directly to the hospital, that portion shall be exempt from taxation, provided that the portion of the hospital or satellite emergency care facility is used exclusively for hospital purposes.

27. Article VIII, Section I, paragraph 1 of the Constitution of the State of New Jersey, the "Uniformity Clause" provides that:

Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.

28. The Uniformity Clause provides that all real property must be assessed according to the same standard of value and must be treated in a manner comparable to other similarly-situated taxpayers.

29. The Statute violates the Uniformity Clause by specifically selecting hospital properties upon which significant for-profit activities are being conducted for favorable tax treatment in the form of exemption while at the same time requiring every other industry and taxpayer, including other charitable nonprofit organizations, engaged in for-profit activity upon their property to pay the full and fair share of property taxes.

30. Article VIII, Section I, paragraph 2 of the Constitution of the State of New Jersey, the "Exemption Clause" provides that

Exemption from taxation may be granted only by general laws. Until otherwise provided by law all exemptions from taxation validly granted and now in existence shall be continued. Exemptions from taxation may be altered or repealed, except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit.

31. The Exemption Clause provides that all exemptions from taxation must be assessed according to the same standards and must be treated in a manner comparable to other similarly situated taxpayers seeking exemptions from taxation.

32. The Statute violates the Exemption Clause by specifically selecting hospital properties for favorable tax treatment in the form of exemption while at the same time requiring that every other industry and taxpayer, including other nonprofit entities, seeking an exemption meet different and more stringent standards and qualifications to qualify for the charitable exemption from property taxes.

33. The Statute further violates the Exemption Clause by granting hospitals engaged in and/or allowing for-profit activities at their properties an exemption from property taxes. This "privilege" is expressly prohibited by the Exemption Clause, which permits an exemption only if the entity is "not operating for profit."

34. "Special legislation" is expressly forbidden by several

provisions of the New Jersey Constitution. Article IV, Section VII, paragraph 9 on the New Jersey Constitution provides in part that "[t]he Legislature shall not pass any private, special, or local laws . . . [r]elating to taxation or exemption therefrom." Article VIII, Section I, paragraph 2 of the New Jersey Constitution provides that exemption from taxation may be granted only by general laws. Article IV, Section VII, paragraph 7 of the New Jersey Constitution provides that no general law shall embrace any provision of a private, special, or local character.

35. The test for determining whether a statute constitutes special legislation is "whether the classification is reasonable, not arbitrary, and can be said to rest upon some rational basis justifying the distinction," and excludes those it should include. Vreeland v. Byrne, 72 N.J. 292, 299 (1977).

36. The Statute also violates the New Jersey Constitution on the additional ground that the singling out of nonprofit hospitals conducting and/or providing for-profit activities on their property for exemption and favorable tax treatment to the exclusion of other taxpayers, including nonprofit charitable organizations, is unreasonable, arbitrary and capricious, and lacks any rational basis.

37. The Bill amended provisions related to appeals by taxpayers and tax districts as follows:

54:3-21. a. (1) Except as provided in subsection b. of this 21 section a taxpayer feeling aggrieved by the assessed valuation or exempt status of the taxpayer's property [, or feeling discriminated against by the assessed valuation of other property in the county,] or a taxing district which may feel discriminated against by the assessed valuation or exempt status of property in the taxing district, or by the assessed valuation or exempt status of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; . . .

38. As indicated by the Senate Budget and Appropriations Committee Statement to A.1135, with Committee amendments, December 15, 2020, the Legislature intended to remove a taxpayer's right of review or remedy with respect to the assessed valuation or exempt status of the property of other taxpayers, including that of nonprofit charitable organizations such as colleges, educational facilities or hospitals. The Statement reads in part:

The bill also prohibits property taxpayers from filing property tax appeals with respect to the property of others. Under current law, property taxpayers may challenge the assessment or exempt status of their own property as well as that of any other property in their county. The bill would eliminate this option, but not disturb the ability of local governments to appeal the assessment or exempt status of any property in the applicable county.

39. Article I, ¶18 of the New Jersey Constitution sets forth a taxpayer's right to petition government for redress or remedy of

wrongs, which is also embodied in the First Amendment of the U.S. Constitution, enforced against the states through the XIV Amendment. This paragraph provides:

The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

40. Article VI, Sec. 5, ¶4 states:

Prerogative writs are superseded and, in lieu thereof, review, hearing and relief shall be afforded in the Superior Court, on terms and in the manner provided by rules of the Supreme Court, as of right, except in criminal causes where such review shall be discretionary.

41. The Statute violates the New Jersey Constitution if it is interpreted to eliminate a taxpayer's constitutional right to seek review of the tax assessment and exemption status of another property owner in the Superior Court via a complaint in lieu of prerogative writ, as the Legislature apparently intended to do.

42. For all the above reason, Defendants must be enjoined from enacting, enforcing, or otherwise acting upon the Bill, now enacted in Statute, as doing so would be a violation of the New Jersey Constitution and U.S. Constitution as well as result in a gross distortion of the charitable property tax exemption to the serious detriment of the public.

COUNT ONE
(DECLARATORY AND INJUNCTIVE RELIEF
UNIFORMITY CLAUSE)

43. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if set forth herein.

44. Defendants' enactment of P.L. 2021 Chapter 17 is in direct violation of the Uniformity Clause of the Constitution of the State of New Jersey and the Supreme Court's holding in New Jersey State League of Municipalities v. Kimmelman, 105 N.J. 422 (1987).

45. The provisions of the Statute are and will continue to be in direct violation of the Uniformity Clause of the Constitution of the State of New Jersey.

WHEREFORE, Plaintiffs seek a Declaratory Judgment that P.L. 2021 Chapter 17, violates the Constitution of the State of New Jersey, is invalid, void and of no force and effect, as well as a permanent Injunction against further infringement of Plaintiffs' rights under this clause, as well as any additional relief this Court deems equitable and just.

COUNT TWO
(DECLARATORY AND INJUNCTIVE RELIEF
EXEMPTIONS CLAUSE)

46. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if set forth herein.

47. Defendants' enactment of P.L. 2021 Chapter 17 is in direct violation of the Exemption Clause of the Constitution of the State of New Jersey and the Supreme Court's holding in New

Jersey State League of Municipalities v. Kimmelman, 105 N.J.
422 (1987).

48. The provisions of the Statute are and will continue to be in direct violation of the Exemption Clause of the Constitution of the State of New Jersey.

WHEREFORE, Plaintiffs seek a Declaratory Judgment that P.L.2021 Chapter 17, violates the Constitution of the State of New Jersey, is invalid, void and of no force and effect, as well as a permanent Injunction against further infringement of Plaintiffs' rights under this clause, as well as any additional relief this Court deems equitable and just.

COUNT THREE
(DECLARATORY AND INJUNCTIVE RELIEF
SPECIAL LEGISLATION CLAUSES)

49. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if set forth at herein.

50. Defendants' enactment of P.L. 2021 Ch. 17 constitutes "special legislation" in violation of various provisions of the New Jersey Constitution: Article IV, Section VII, paragraph 9; Article VIII, Section II, paragraph 2; and Article IV, Section VII, paragraph 7.

WHEREFORE, Plaintiffs seek a Declaratory Judgment that P.L.2021 Chapter 17, violates the Constitution of the State of New Jersey, is invalid, void and of no force and effect, as well as a permanent Injunction against further infringement of Plaintiffs'

rights under this clause, as well as any additional relief this Court deems equitable and just.

COUNT FOUR
(DECLARATORY AND INJUNCTIVE RELIEF
RIGHT OF REDRESS CLAUSES AND VIOLATION OF THE PRESERVATION OF
THE ACTION IN LIEU OF PREROGATIVE WRIT AS PRESERVED IN THE NEW
JERSEY CONSTITUTION)

51. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if set forth herein.

52. Defendants' enactment of P.L. 2021 Ch. 17 seeks to eliminate a taxpayer's right to challenge the tax assessment or exemption status of another property owner in violation of the New Jersey Constitution, Article 1, ¶18 and Article 6, Sec. 5, ¶4 and the First Amendment of the U.S. Constitution, as enforced against the State through the Fourteenth Amendment.

WHEREFORE, Plaintiffs seek a Declaratory Judgment that P.L. 2021 Chapter 17, violates the Constitution of the State of New Jersey and the U.S. Constitution, is invalid, void and of no force and effect, as well as a permanent Injunction against further infringement of Plaintiffs' rights of redress and review of government action in the Superior Court, as well as any additional relief this Court deems equitable and just.

Respectfully submitted,
NEW JERSEY APPLESEED PILC

By: /s/ Renée Steinhagen
Renée Steinhagen

Dated: September 28, 2021

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of Rule 4:25-4, the Court is hereby advised that RENEÉ STEINHAGEN, ESQ., and BRUCE AFRAN, ESQ. on behalf of all Plaintiffs have been designated Trial Counsel in the matter.

RULE 1:38-7(b) CERTIFICATION

I certify that Confidential Personal Identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

/s/Renée Steinhagen
Renée Steinhagen

RULE 4:5-1 CERTIFICATION

I certify, in accordance with R. 4:5-1, that three counts of this Complaint are included within the Complaint filed by several municipalities in Docket No. MER-L-000738-21, currently pending before Judge Mala Sundar. This Complaint is not the subject matter

of a pending arbitration proceeding or arbitration proceeding that is contemplated, and there are no other parties who should be joined in this action. On August 9, 2021, Plaintiffs made a motion to intervene in the above action; however, on September 24, 2021, Judge Sundar denied that motion. A copy of her Order is attached hereto.

/s/Renée Steinhagen
Renée Steinhagen

Dated: September 28, 2021