

**No. 220156, Original**

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IN THE  
**Supreme Court of the United States**

STATE OF NEW YORK,

*Plaintiff,*

v.

STATE OF NEW JERSEY,

*Defendant.*

**ANSWER OF THE STATE OF NEW JERSEY TO  
THE BILL OF COMPLAINT OF THE  
STATE OF NEW YORK**

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## **ANSWER**

The State of New Jersey answers the numbered allegations in the Bill of Complaint filed by the State of New York as follows:

### **NATURE OF THE ACTION**

1. New Jersey admits New York's allegation in Paragraph 1 that this action invokes the Court's original and exclusive jurisdiction under Article III, Section two, Clause two of the United States Constitution and 28 U.S.C. § 1251(a). Compl. App. 148a, 150a. New York's allegation in Paragraph 1 that New Jersey's withdrawal from the Waterfront Commission Compact would constitute a breach is a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allegation. New Jersey affirmatively states that the Compact allows New Jersey's withdrawal as a matter of law, and that New Jersey's actions in enacting Chapter 324 and withdrawing from the Compact are lawful and comply with the Compact and applicable law.

2. New Jersey admits the allegations in the first sentence of Paragraph 2. With respect to the second sentence of Paragraph 2, the Compact speaks for itself, and New Jersey denies any allegations in Paragraph 2 that do not accurately describe the Compact. Compl. App. 1a-35a. New Jersey admits that one purpose for which the States entered into the Compact was to combat contemporaneous problems of "crime, corruption, and racketeering" at the Port. *De Veau v. Braisted*, 363 U.S. 144, 150 (1960). With respect to the third sentence of Paragraph 2, New Jersey admits the New York Crime Commission, New Jersey Law Enforcement Council, and Investigating Subcommittee of the Senate Interstate and Foreign Commerce Committee

conducted inquiries into the conditions at the Waterfront. To the extent New York alleges that conditions on the Waterfront were first publicly exposed by those bodies, however, New Jersey denies that allegation. A series of articles entitled "Crime on the Waterfront," published in the *New York Sun* in 1949, described conditions on the Waterfront, and the New York Crime Commission undertook its investigation pursuant to a November 20, 1951 order issued by New York Governor Thomas E. Dewey.

3. In response to the first sentence of Paragraph 3, New Jersey admits that New York and New Jersey each enacted statutes in 1953 that established the Waterfront Compact. New Jersey denies that the statutes were identical in all respects, as the statutes each included provisions that were intended as alternatives if the Compact were not approved, and those provisions were not the same in the New York and New Jersey statutes. In response to the second sentence of Paragraph 3, New Jersey admits the terms and provisions of the Compact were approved by Congress. New York's allegation that congressional consent was required is a conclusion of law to which no response is required.

4. In response to the first sentence of Paragraph 4, New Jersey admits that part of the geographical boundary between New York and New Jersey runs through the waterways between the two States, including Upper New York Bay and the Kill Van Kull. New Jersey denies that the Port operates as a unified whole to the extent the allegation suggests commerce occurs uniformly in both States' territories. New Jersey affirmatively asserts that more than 80% of the goods that flow through the Port move through marine terminals and other port facilities located on New

Jersey's side of the Port. See Port Master Plan 2050 9-10, *available at* <https://www.panynj.gov/port/en/our-port/port-development/port-master-plan.html> (displaying the "container terminal capacity" by location). In response to the second sentence of Paragraph 4, New Jersey admits that organized crime groups historically sought to exercise influence on Port operations. New Jersey admits corrupt enterprises do not always remain within state lines.

5. In response to Paragraph 5, the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 5 to the extent they do not accurately describe the Commission's duties under the Compact. Compl. App. 1a-35a. To the extent the allegations in Paragraph 5 characterize the efforts of the Commission, the allegations are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer is required, New Jersey denies the allegations. New Jersey also denies the allegation in the second sentence of Paragraph 5 to the extent it suggests the Commission possesses authority the States have delegated to the Port Authority of New York and New Jersey, a different bistate agency established pursuant to a different interstate compact.

6. The allegations in the first sentence of Paragraph 6 are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer is required, New Jersey denies these allegations. New Jersey denies the allegations in the second and third sentences of Paragraph 6.

7. New Jersey denies New York's allegation in Paragraph 7 that the Commission's continued operation at the Port is necessary. New Jersey admits that

on December 27, 2021, Sheila Y. Oliver, then-Acting Governor of New Jersey, sent letters to Kathy Hochul, Governor of New York, and to Speaker of the U.S. House of Representatives Nancy Pelosi and Vice President Kamala Harris (in her capacity as President of the U.S. Senate) providing formal notice of New Jersey's intention to "withdraw from the interstate compact that established the Waterfront Commission of New York Harbor." Appendix to New York's Motion for Preliminary Relief ("PI App.") 32a-39a. New Jersey states that the letters speak for themselves, and New Jersey denies the allegations in Paragraph 7 to the extent they do not accurately describe the letters.

8. In response to the first sentence of Paragraph 8, New Jersey admits that then-Governor Chris Christie signed Chapter 324 into law in January 2018. Compl. App. 36a-109a. As to all remaining allegations in Paragraph 8, Chapter 324 speaks for itself, and New Jersey denies the allegations in Paragraph 8 to the extent they do not accurately describe the statute.

9. The first and second sentences of Paragraph 9 state legal conclusions to which no response is required. To the extent a response is required, New Jersey denies those allegations. In response to the third sentence of Paragraph 9, New Jersey admits that the Compact is a contract; that the Compact provides that it may only be amended by concurring legislation enacted by both States; and that P.L. 252, chapter 407 (Aug 12, 1953), the Act of Congress granting congressional consent to the Compact, can only be repealed by Congress. New Jersey denies that the Compact is "binding" to the extent New York alleges that the Compact prohibits New Jersey from withdrawing from the Compact. New Jersey further affirmatively states that neither the congressional repeal provision nor the

provision governing “amendments” cabin New Jersey’s authority to withdraw from the Compact.

10. Paragraph 10 states legal conclusions to which no response is required. To the extent a response is required, this Court’s decision in *Kansas v. Nebraska*, 574 U.S. 455 (2015), speaks for itself, and New Jersey denies those allegations to the extent they do not accurately describe that decision.

11. Paragraph 11 states legal conclusions to which no response is required. To the extent a response is required, New Jersey denies the allegations in Paragraph 11.

12. Paragraph 12 states legal conclusions to which no response is required. To the extent a response is required, New Jersey denies the allegations in Paragraph 12. New Jersey affirmatively states that Chapter 324 and New Jersey’s actions to implement Chapter 324 do not constitute breaches of the Compact, nor do they constitute a substantial impairment of the Compact. New Jersey further affirmatively states that Chapter 324 does not conflict directly with a federal statute and therefore is not preempted.

### **JURISDICTION**

13. New Jersey admits the allegations in Paragraph 13.

14. New Jersey admits New York’s allegation in Paragraph 14 that this Court is the appropriate forum to resolve this dispute. New Jersey states that this Court’s decisions in *Mississippi v. Louisiana*, 506 U.S. 73 (1992), and *Wyoming v. Oklahoma*, 502 U.S. 437 (1992), speak for themselves, and denies the allegations in Paragraph 14 to the extent they do not accurately describe those decisions.

**PARTIES**

15. New Jersey admits the allegations in Paragraph 15.

16. New Jersey admits the allegations in Paragraph 16.

**GENERAL ALLEGATIONS**

17. New Jersey admits the allegations in Paragraph 17.

18. In response to the first sentence of Paragraph 18, the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 18 to the extent they do not accurately describe the Compact. New Jersey further affirmatively states that Article I of the Compact details the findings and declarations of the States as to the Compact, and New Jersey denies any allegations in the first sentence of Paragraph 18 that are explicitly or implicitly inconsistent with Article I. Compl. App. 1a-3a (art. I). In response to the second sentence of Paragraph 18, New Jersey admits that the States each passed statutes in 1953, and that those statutes were signed into law by the Governors of each State. New Jersey denies that the statutes were identical in all respects, as the statutes each included provisions that were intended as alternatives if the Compact were not approved, and those provisions were not the same in the New York and New Jersey statutes. In response to footnote 2 to Paragraph 18, this footnote states a legal conclusion to which no response is required. To the extent a response is required, Chapter 324 speaks for itself, and New Jersey denies any allegations that are inconsistent with the statute.



19. New Jersey admits the allegations in Paragraph 19.

20. In response to the first sentence of Paragraph 20, New Jersey admits that the Compact was submitted to Congress. The remainder of the sentence states a legal conclusion to which no response is required. In response to the second sentence of Paragraph 20, New Jersey admits that the quoted material is an excerpt from the U.S. Constitution. U.S. Const. art. 1, § 10, cl. 3.

21. In response to the first sentence of Paragraph 21, New Jersey denies the allegations and states that the Investigating Subcommittee of the Senate Interstate and Foreign Commerce Committee began an inquiry into the nation's waterfronts in February 1953, and therefore commenced its investigation prior to the States' submission of the Compact to Congress. In response to the second sentence of Paragraph 21, this Court's decision in *De Veau v. Braisted*, 363 U.S. 144 (1960), speaks for itself, and New Jersey denies the remainder of the allegations to the extent they do not accurately describe that opinion.

22. In response to Paragraph 22, New Jersey admits that the Compact was approved by an Act of Congress in 1953 and signed by then-President Dwight D. Eisenhower. The portion of Paragraph 22 alleging that the Compact was "signed into federal law" is a legal conclusion to which no response is required.

23. In response to Paragraph 23, New Jersey admits that one purpose for which the States entered into the Compact and created the Commission was to combat problems of "crime, corruption, and racketeering" at the port. *De Veau v. Braisted*, 363 U.S. 144, 150

(1960). New Jersey denies the remaining allegations in Paragraph 23 to the extent they are inconsistent with Article I of the Compact, which details the findings and declarations of the States in 1953. Compl. App. 1a-3a (art. I).

24. New Jersey admits that Paragraph 24 excerpts a portion of Article I, § 1 of the Compact. New Jersey respectfully refers the Court to the entirety of Article I, § 1 of the Compact, which details some of the findings and declarations of the States in 1953. Compl. App. 1a-2a (art. I.1). New Jersey also respectfully refers the Court to P.L. 252, chapter 407 (Aug. 12, 1953), which is the Act of Congress approving the Compact. That statute speaks for itself, and New Jersey denies any allegations that are inconsistent with the statute. New Jersey affirmatively states that in the nearly 70 years since the Compact was signed, the conditions on the Waterfront have changed, and many of these 1953 findings and declarations no longer hold true. For example, the purpose section of the Compact decried the “evils and abuses of the public loading system,” but with the advent of containerized shipping, the public loading system no longer exists. Compl. App. 2a (art. I.2).

25. New Jersey admits that Paragraph 25 excerpts a portion of Article I, § 3 of the Compact. New Jersey respectfully refers the Court to the entirety of Article I, § 3 of the Compact, which details some of the findings and declarations of the States in 1953. Compl. App. 3a (art. I.3). New Jersey affirmatively states that since the Compact was signed, the conditions on the Waterfront have changed, and many of these 1953 findings and declarations no longer hold true. New Jersey denies the allegation in Paragraph 25 that Congress “stated” what was in Article I, § 3 to the

extent that allegation is inconsistent with the Act of Congress at P.L. 252, chapter 407 (Aug. 12, 1953), a document that speaks for itself.

26. New Jersey admits that Paragraph 26 excerpts a portion of Article I, § 1 of the Compact. New Jersey respectfully refers the Court to the entirety of Article I, § 1 of the Compact, which details some of the findings and declarations of the States in 1953. Compl. App. 1a-2a (art. I.1). New Jersey affirmatively states that since the Compact was signed, the conditions on the Waterfront have changed, and many of these 1953 findings and declarations no longer hold true. New Jersey denies the allegation in Paragraph 26 that Congress “agreed” with what the States found in Article I, § 1 to the extent it is inconsistent with the Act of Congress at P.L. 252, chapter 407 (Aug. 12, 1953), a document that speaks for itself.

27. New Jersey admits that Paragraph 27 excerpts a portion of Article I, § 4 of the Compact. New Jersey respectfully refers the Court to the entirety of Article I, § 4 of the Compact, which details some of the findings and declarations of the States in 1953. Compl. App. 3a (art. I.4). New Jersey affirmatively states that since the Compact was signed, the conditions on the Waterfront have changed, and many of these 1953 findings and declarations no longer hold true. New Jersey denies the allegation in Paragraph 27 that Congress “approved” what was in Article I, § 4 to the extent it is inconsistent with P.L. 252, chapter 407 (Aug. 12, 1953), a document that speaks for itself.

28. In response to the first sentence of Paragraph 28, New Jersey admits that Article III of the Compact created the Commission. Compl. App. 6a (art. III). With respect to the remaining allegations in Paragraph 28, New Jersey respectfully refers the

Court to the Compact, which speaks for itself, and denies any allegations that are inconsistent with the Compact.

29. New Jersey admits the first sentence of Paragraph 29, and affirmatively states that its Legislature found in 2018 that over 82% of the cargo unloading and work hours took place on the New Jersey side of the Port. Compl. App. 36a-37a. New Jersey admits the allegations in the second sentence of Paragraph 29 and affirmatively states that in 1953, then-New Jersey Governor Alfred Driscoll testified before a Congressional subcommittee that roughly 70% of the longshoremen were employed along the New York side of the Port. *New Jersey-New York Waterfront Comm'n Compact: Hearing on H.R. 6286 H.R. 6321, H.R. 6343, and S. 2383 Before Subcomm. No. 3 of the H. Comm. on the Judiciary*, 83d Cong. 165, at 19 (1953).

30. In response to Paragraph 30, New Jersey states that the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 30 to the extent they do not accurately describe the Compact. New Jersey affirmatively states that the Commission's budget is based upon a two percent assessment upon the gross payroll payments made by employers of workers regulated under the Compact, which is directly related to the employment hours worked in each State. Compl. App. 31a-32a (art. XIII.3).

31. New Jersey admits the allegations in Paragraph 31 and affirmatively states that the gubernatorial appointments are made with the advice and consent of each State's Senate. Compl. App. 6a (art. III.2).

32. In response to Paragraph 32, New Jersey admits that, other than the first seated Commissioners whose

terms were to expire on June 30, 1956, each subsequent Commissioner's term was and is for three years. New York's claim that Commissioners are required to hold office until their successor is appointed is a legal conclusion to which no response is required, and New Jersey denies the allegation. See Compl. App. 6a (art. III.2-3).

33. In response to Paragraph 33, New Jersey states that the Compact speaks for itself, and New Jersey denies the allegations of Paragraph 33 to the extent they do not accurately describe the Compact. See Compl. App. 6a (art. III.3).

34. In response to Paragraph 34, the Compact speaks for itself, and New Jersey denies the allegations to the extent they do not accurately describe the scope of the Commission's jurisdiction under the Compact. New Jersey also denies the allegations in the first sentence to the extent they suggest the Commission possesses authority the States have delegated to the Port Authority. See Compl. App. 1a-35a. In particular, New Jersey denies that the *waterfront* labor relevant to the Compact, which falls within the Commission's jurisdiction, occurs throughout the "1500 square miles" that constitutes the Port District of New York, as defined by the Port Authority Compact and incorporated by reference in the Compact at issue here. See Port Authority Compact, art. II, 42 Stat. 175; Compl. App. 3a (art. II) (incorporating definition of the Port district set forth in the Port Authority Compact).

35. In response to Paragraph 35, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 35 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

36. In response to Paragraph 36, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 36 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

37. In response to Paragraph 37, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 37 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

38. In response to Paragraph 38, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 38 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

39. In response to Paragraph 39, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 39 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

40. In response to Paragraph 40, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 40 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

41. In response to Paragraph 41, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 41 to the extent they do not accurately describe the Commission's

authority, duties, and responsibilities under the Compact. New Jersey, however, denies any allegation or implication that the historic problems posed by “public loaders” at the Port that existed at the time the Compact was established in 1953 still exist today. New Jersey further affirmatively states that the public loading system no longer exists, and that the introduction of containerized shipping has eliminated many of these historic problems. Compl. App. 2a (art. I.2); Compl. App. 36a.

42. In response to Paragraph 42 and footnote 3, New Jersey states that N.Y. Unconsol. Laws Ch. 307, §§ 1 to 5-u and former N.J. Stat. Ann. 32:23-1 to -121 speak for themselves, and New Jersey denies the allegations in Paragraph 42 to the extent they do not accurately describe these laws. New Jersey affirmatively states that Paragraph 42 and footnote 3 do not comprehensively list all amendments to the Compact, and that there have been numerous other amendments to the Compact that are not reflected in Paragraph 42 and footnote 3, including amendments in 1997, 1999, and 2006. 1997 N.Y. Laws Ch. 322; Ch. 433, 1997 N.J. Laws 2265; 1999 N.Y. Laws Ch. 431; Ch. 206, 1999 N.J. Laws 1286; 2006 N.Y. Laws Ch. 360; Ch. 313, 2005 N.J. Laws 2133. New Jersey also affirmatively states that it attempted to address the Commission’s modern shortcomings by enacting legislation amending the Compact. But New York did not pass parallel amending legislation, so these amendments did not enter into effect. See, *e.g.*, 2017 N.J. Laws Ch. 201 (proposing gubernatorial veto of Commission actions); 2007 N.J. Laws Ch. 167 (proposing changes to longshoremen’s register).

43. In response to Paragraph 43, New Jersey states that the Compact, as amended, speaks for itself and

denies the allegations in Paragraph 43 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

44. In response to Paragraph 44, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 44 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

45. New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 45 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact.

46. In response to Paragraph 46, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 46 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact. New Jersey admits that the ability to open and close the register allows the Commission to regulate the size of the work force, and that a surplus of available workers was historically among several factors contributing to the issues giving rise to the Commission's creation. However, New Jersey denies any allegation or implication that any "historical surplus of available workers" at the Port that may have existed at the time the Compact was established in 1953 still exists today or requires the Commission's continued existence.

47. In response to Paragraph 47, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 47 to the extent



they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact. New Jersey affirmatively states that there are numerous federal, State, and local taxpayer-funded agencies that are better able to ensure fair and non-discriminatory labor practices, including but not limited to the United States Equal Employment Opportunity Commission and the New Jersey Division on Civil Rights. Compl. App. 38a.

48. In response to Paragraph 48, New Jersey states that the Compact, as amended, speaks for itself and denies the allegations in Paragraph 48 to the extent they do not accurately describe the Commission's authorities, duties, and responsibilities under the Compact.

49. In response to the first sentence of Paragraph 49, the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 49 to the extent they do not accurately describe the Compact. New Jersey further affirmatively states that the States have on occasion directly provided funds to the Commission that were not based on employer assessments, such as the Commission's start-up funds, which the Commission eventually reimbursed to the States. In response to the second sentence of Paragraph 49, the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 49 to the extent they do not accurately describe the Compact. New Jersey further affirmatively states that the Commission's employer assessment is determined "[a]fter taking into account such funds as may be available to it from reserves, Federal grants, or otherwise." Compl. App. 31a (art. XIII.3).

50. In response to Paragraph 50, the Compact speaks for itself, and New Jersey denies the

allegations in Paragraph 50 to the extent they do not accurately describe the Compact.

51. In response to the first sentence of Paragraph 51, P.L. 252, chapter 407, § 2 (Aug 12, 1953) speaks for itself, and New Jersey denies the allegations in Paragraph 51 to the extent they do not accurately describe the legislation Congress enacted, which also permits Congress to “alter” or “amend” the Compact. Compl. App. 35a. The second sentence of Paragraph 51 is a legal conclusion to which no response is required. To the extent a response is required, *Petty v. Tennessee-Missouri Bridge Comm’n*, 359 U.S. 275 (1959), speaks for itself, and New Jersey denies the allegations in the second sentence to the extent they do not accurately describe the decision in that case.

52. In response to Paragraph 52, the Compact speaks for itself, and New Jersey denies the allegations in Paragraph 52 to the extent they do not accurately describe the Compact.

53. In response to Paragraph 53, New Jersey denies the allegations in the first sentence. New Jersey affirmatively states that since the Commission’s establishment in 1953, the magnitude and nature of commercial operations and the size and the nature of the labor force at the Port have changed dramatically. See, *e.g.*, Annual Report of the Waterfront Commission for 1961-1962, at 22, *available at* <https://dspace.njstatelib.org/xmlui/handle/10929/102849> (indicating that in 1955, the number of longshoremen and checkers totaled 38,693 workers); Annual Report of the Waterfront Commission for 2019-2020, at 12, *available at* <https://dspace.njstatelib.org/xmlui/handle/10929/103347> (reflecting that for 2019-2020, the total number of all registered and licensed dock workers totaled 5,801 workers). In other words,

roughly five of every six dockside jobs at the Port no longer exists today. In addition, since 1953, the shipping industry has undergone significant changes, including the introduction of containerized shipping, whereby cargo is moved via modular containers. Annual Report of the Waterfront Commission for 1967-1968, at 3-4, *available at* <https://dspace.njstatelib.org/xmlui/handle/10929/102859>. New Jersey further affirmatively states that these changes, among others, have substantially ameliorated many of the concerns that led to the formation of the Commission. Today, containerized shipping and its attendant advancements in technology (such as the use of unique barcodes for each container and shipper) has rendered many of the schemes used to steal cargo obsolete. New Jersey further affirmatively states that the New Jersey State Police is better equipped to respond to the current issues—including threats of terrorism and other national security issues—that affect the Port today. New Jersey further denies any allegation or implication that the Waterfront cannot be effectively policed and regulated without the Commission's continued existence. The second and third sentences of Paragraph 53 are characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer to these characterizations is required, New Jersey lacks the information necessary to form a belief about the truth of the allegations and therefore denies these allegations.

54. In response to Paragraph 54, New Jersey states that the allegations are generalized characterizations over a lengthy period, and they omit discrete and specific factual details that can be admitted or denied. To the extent an answer to these characterizations is required, New Jersey lacks the information necessary to form a belief about the truth of the allegations and

therefore denies these allegations. New Jersey further affirmatively states that its Legislature has concluded that there are numerous federal, State, and local taxpayer funded agencies that are better able to conduct criminal investigations, perform background checks, and obtain convictions related to conduct at the Port, including, but not limited to: the United States Department of Homeland Security; United States Customs and Border Protection; the United States Coast Guard; the Transportation Security Administration; the Federal Bureau of Investigation; the Federal Maritime Commission; the Port Authority of New York and New Jersey Police Department; and, depending on the particular location of the facility in New Jersey, the New Jersey State Police, City of Newark Police Department, City of Elizabeth Police Department, City of Bayonne Police Department, and City of Jersey City Police Department. Compl. App. 37a-38a.

55. New Jersey states that the allegations in Paragraph 55 are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer to these characterizations is required, New Jersey lacks the information necessary to form a belief about the truth of these allegations and therefore denies these allegations. New Jersey also lacks the information necessary to form a belief about the truth of the allegations characterizing testimony in the unspecified racketeering cases referenced in the second sentence of Paragraph 55.

56. New Jersey states that to the extent the allegations in Paragraph 56 characterize the employment outcomes of the residents in areas surrounding the Waterfront, they are subjective characterizations over

an undefined period, not discrete factual allegations that can be admitted or denied. New Jersey affirmatively states that the Commission has become an impediment to job growth and prosperity at the Waterfront. Compl. App. 37a. New Jersey further affirmatively states that because of substantial reduction in the size of the labor force on the Port, the Commission has resorted to over-regulation in service of its own institutional interests and has exercised its authority to the detriment of labor and industry. Compl. App. 37a.

57. In response to Paragraph 57, with respect to the allegations in Paragraph 57 that characterize the effectiveness of various methods of combatting corruption, they are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. New Jersey also denies any assertion or implication that the Waterfront cannot be effectively policed and regulated without the Commission's continued existence.

58. In response to Paragraph 58, New Jersey states that the allegations in the first sentence are vague characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer is required, New Jersey denies those allegations. New Jersey further denies the allegation in the second sentence of Paragraph 58 that the Commission is the "central repository of intelligence pertaining to criminality and organized crime" at the Waterfront. New Jersey also denies the allegation in the third sentence of Paragraph 58 that the Commission utilizes "sophisticated techniques" to detect prior criminality. To the contrary, New Jersey affirmatively states that the Commission does not take a robust approach to law

enforcement intelligence and does not implement some of the most basic crime detection and intelligence gathering techniques. For example, the Commission does not maintain an overnight security presence on the Port. The Commission does not utilize Automated License Plate Reader technology that would permit it to identify suspected bad actors who leave or enter the Port. Moreover, the Commission has rebuffed State efforts to engage in coordinated information sharing, which deprives it of access to any intelligence gathered by New Jersey law enforcement agencies. New Jersey further affirmatively states that there are numerous federal, State, and local taxpayer funded agencies that have tools the Commission lacks to combat criminality at the Waterfront, including, but not limited to the: United States Department of Homeland Security; United States Customs and Border Protection; United States Coast Guard; Transportation Security Administration; Federal Bureau of Investigation; Federal Maritime Commission; Port Authority of New York and New Jersey Police Department; and, depending on the particular location of the facility in New Jersey, the New Jersey State Police, City of Newark Police Department, City of Elizabeth Police Department, City of Bayonne Police Department, and City of Jersey City Police Department. Compl. App. 37a-38a. New Jersey lacks the information necessary to form a belief about the truth of the allegations related to the results of specific background checks in the fourth sentence of Paragraph 58 and therefore denies these allegations. To the extent that the allegations in Paragraph 58 collectively characterize the efforts of the Commission, they are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer to these characterizations is required, New Jersey lacks

the information necessary to form a belief about the truth of these allegations and therefore denies these allegations.

59. New Jersey denies the allegations in Paragraph 59. New Jersey affirmatively states that the Commission is no longer operating as an effective law-enforcement agency, and that the Commission does not implement certain basic crime detection and intelligence-gathering techniques, as documented in Paragraph 58 of this Answer. New Jersey further affirmatively states that in 2009, the New York Inspector General issued a scathing 63-page report outlining the Commission's misconduct. See N.Y. Office of the Inspector Gen., Investigation of the Waterfront Comm'n of N.Y. Harbor (Aug. 2009), <https://tinyurl.com/ydxvbk3m> ("OIG Report"). The report identified a "climate of abuse" at the Commission, focusing on the "lack of accountability fueled by perceived immunity from oversight by outside entities"; the "abrogation of legal responsibilities undermining the very purposes of the Commission"; and other misconduct from "improper hiring and licensing to . . . misuse of Homeland Security grants." OIG Report at 1. New Jersey further affirmatively states that the New Jersey State Police is better equipped to detect and discourage criminal activity on the Port due to its superior law enforcement techniques, resources, intelligence, and technology. From day one, the New Jersey State Police will have roughly 40 percent more officers assigned to New Jersey's Port than the Commission has assigned to New York and New Jersey combined. New Jersey affirmatively states that the vast majority of commercial activity at the Waterfront occurs in New Jersey. Compl. App. 36a-37a.

60. New Jersey denies the allegations in Paragraph 60. New Jersey affirmatively states that the New

Jersey State Police is better equipped to detect and prevent criminal activity on the Port for the reasons outlined in detail in Paragraph 59 above. New Jersey further affirmatively states that there are numerous federal, State, and local taxpayer funded agencies that have tools that the Commission lacks to combat criminality at the Waterfront, including, but not limited to, those identified in Paragraph 58 of this Answer.

61. To the extent that the allegations in the first sentence of Paragraph 61 characterize the efforts of the Commission, they are subjective characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer to these characterizations is required, New Jersey lacks the information necessary to form a belief about the truth of these allegations and therefore denies these allegations. In response to the second sentence of Paragraph 61, New Jersey states that the Compact, as amended, and the Commission's Amended Rule 4.4 (Sept. 9, 2013) speak for themselves, and New Jersey denies the allegations in Paragraph 61 to the extent they do not accurately describe either the Compact or the Amended Rule. New Jersey further affirmatively states that there are numerous federal, State, and local taxpayer funded agencies that have jurisdiction in matters of fair hiring and employment discrimination that the Commission lacks, including but not limited to the United States Equal Employment Opportunity Commission and the New Jersey Division on Civil Rights. Compl. App. 38a.

62. In response to Paragraph 62, New Jersey states that the Compact, as amended; the Commission's Determination 35 (dated Dec. 3, 2013); and the Third Circuit's decision in *N.Y. Shipping Ass'n, Inc. v.*



*Waterfront Comm'n of N.Y. Harbor*, 835 F.3d 344 (CA3 2016), speak for themselves, and New Jersey denies the allegations in Paragraph 62 to the extent they do not accurately describe the Compact and these decisions. Compl. App. 1a-35a; 139a-145a.

63. Paragraph 63 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that its actions were “illegal[]” or that the Governor “recognized the legal infirmity” of New Jersey’s actions. New Jersey admits that the New Jersey Legislature passed Senate Bill 2277 in 2015 to withdraw New Jersey from the Compact, and further admits that then-New Jersey Governor Christie conditionally vetoed the bill. Regarding the Governor’s reasons for conditionally vetoing the bill, the Governor’s veto message speaks for itself, and New Jersey denies the allegations in Paragraph 63 to the extent they do not accurately describe the veto message. PI App. 84a-90a.

64. In response to the first sentence of Paragraph 64, New Jersey admits that the New Jersey Senate passed S. 2277 in 2015, and that the Assembly passed A. 3506 in 2015, and that both bills provided for New Jersey’s withdrawal from the Compact and dissolution of the Commission. In response to the second sentence of Paragraph 64, New Jersey admits that Governor Christie conditionally vetoed S. 2277. Regarding the Governor’s veto message, however, New Jersey states that the veto message speaks for itself, and New Jersey denies the allegations in Paragraph 64 to the extent they do not accurately describe the veto message. PI App. 84a-90a.

65. In response to the allegations in Paragraph 65, New Jersey states that the October 23, 2014 memo quoted in Paragraph 65 speaks for itself, and New

Jersey denies the allegations in Paragraph 65 to the extent they do not accurately describe the memo. PI App. 92a-94a.

66. In response to the first sentence of Paragraph 66, New Jersey admits that in 2017 the New Jersey Legislature passed Chapter 324, but denies that Chapter 324 and Senate Bill 2277 are identical. New Jersey admits the allegations in the second sentence of Paragraph 66. New Jersey denies the allegation in the third sentence of Paragraph 66 that New Jersey was prevented from enforcing Chapter 324 for “three years.” New Jersey affirmatively states that New Jersey was prevented from enforcing Chapter 324 between January 22, 2018 and December 3, 2021—a period of nearly four years. In response to the fourth sentence of Paragraph 66, New Jersey admits that a federal district court injunction barred enforcement of Chapter 324. New Jersey denies New York’s characterization of the effect of this injunction as “allowing the Commission to continue its work.” New Jersey further affirmatively asserts that the Commission has been operating without an approved budget since as early as the fall of 2021. New Jersey admits the allegations set forth in the fifth sentence of Paragraph 66.

67. In response to Paragraph 67, New Jersey states that Chapter 324 speaks for itself, and New Jersey denies the allegations in Paragraph 67 to the extent they do not accurately describe Chapter 324.

68. In response to Paragraph 68, New Jersey states that Chapter 324 speaks for itself, and New Jersey denies the allegations in Paragraph 68 to the extent they do not accurately describe Chapter 324.

69. In response to Paragraph 69, New Jersey states that Chapter 324 speaks for itself, and New Jersey

denies the allegations in Paragraph 69 to the extent they do not accurately describe Chapter 324.

70. In response to Paragraph 70, New Jersey states that Chapter 324 speaks for itself, and denies the allegations in Paragraph 70 to the extent they do not accurately describe Chapter 324.

71. In response to Paragraph 71, New Jersey states that Chapter 324 speaks for itself, and denies the allegations in Paragraph 71 to the extent they do not accurately describe Chapter 324.

72. In response to Paragraph 72, New Jersey states that Chapter 324 speaks for itself, and New Jersey denies the allegations in Paragraph 72 to the extent they do not accurately describe Chapter 324.

73. New Jersey admits the allegations in Paragraph 73.

74. New Jersey admits the allegations in Paragraph 74.

75. In response to Paragraph 75, New Jersey states that the District Court's decision speaks for itself, and New Jersey denies the allegations in Paragraph 75 to the extent they are inconsistent with that decision.

76. In response to Paragraph 76, New Jersey states that the District Court's decision speaks for itself, and New Jersey denies the allegations in Paragraph 76 to the extent they are inconsistent with that decision.

77. In response to Paragraph 77, New Jersey states that the District Court's decision speaks for itself, and New Jersey denies the allegations in Paragraph 77 to the extent they are inconsistent with that decision. New Jersey further states that the Third Circuit vacated the District Court's decision, and that this Court subsequently denied the Commission's petition

for certiorari. *Waterfront Comm'n of N.Y. Harbor v. Governor of N.J.*, 961 F.3d 234, 242 (CA3 2020), *cert. denied*, *Waterfront Comm'n of N.Y. Harbor v. Murphy*, 142 S. Ct. 561 (2021).

78. New Jersey admits that Governor Philip D. Murphy appealed the District Court's decision. New Jersey affirmatively states that the New Jersey Legislature also appealed the same decision. New Jersey states that the Third Circuit's decision speaks for itself, and New Jersey denies the allegations in Paragraph 78 to the extent they are inconsistent with that decision.

79. New Jersey admits the allegations in Paragraph 79. New Jersey affirmatively states that it was not clear the Commission had proper authority to file that petition, because the Commission had not received affirmative votes of both Commissioners to seek certiorari from this Court.

80. New Jersey admits the allegations in Paragraph 80.

81. In response to Paragraph 81, New Jersey admits that the Third Circuit stayed its judgment reversing the injunction granted by the District Court on January 22, 2018, and that the District Court's injunction remained in place while the Commission's petition for certiorari remained pending. New Jersey denies any implication, however, that the injunction prohibited it from making any other plans or preparations in anticipation of withdrawal. New Jersey affirmatively states that the New Jersey State Police assigned multiple enlisted members and staff to prepare full-time for the transfer, developed and organized a Port Security Section, began formalizing Port-specific training courses, and engaged in months of

cooperative planning with its federal, State, and local law enforcement partners, all in preparation for its assumption of responsibility and authority over the Port. New Jersey asserts that its State Police have made extensive efforts to assess the security issues at the Port, and developed plans to modernize security and law enforcement technologies and infrastructure to better address issues at the Port. Further, New Jersey asserts that its State Police also began implementing plans to modernize the Commission's antiquated regulatory processes. In preparation for the transfer, the State Police engaged software and technology vendors to develop software specifically designed for use at the Port. For the reasons noted in Paragraph 66 of this Answer, including the Commission's operation without an approved budget, New Jersey denies that the Commission was "operating as usual" during this period.

82. New Jersey admits the allegations in Paragraph 82.

83. New Jersey admits the allegations in Paragraph 83.

84. In response to the allegations in Paragraph 84, New Jersey admits that then-Acting Governor of New Jersey Sheila Y. Oliver sent letters on December 27, 2021 to Kathy Hochul, Governor of New York, the Commission, the New Jersey Legislature, and Speaker of the House Nancy Pelosi and the Honorable Kamala Harris (in her capacity as President of the Senate) providing notice of New Jersey's intent to withdraw from the Compact. PI App. 32a-39a. New Jersey does not have sufficient knowledge or information to form a belief as to the remaining allegations in Paragraph 84.

85. In response to the allegations in Paragraph 85, New Jersey states that the February 9, 2022 letter from Governor Murphy to the Commission's Executive Director speaks for itself, and New Jersey denies the allegations in Paragraph 85 to the extent they do not accurately describe the letter. PI App. 43a-55a. New Jersey affirmatively states the February 9, 2022 letter sought numerous categories of information necessary for its State Police to undertake a smooth transition upon New Jersey's withdrawal from the Compact, including but not limited to information pertaining to the Commission's assets and liabilities in New Jersey and to any data the Commission collected regarding the employees it licensed or registered pursuant to the Compact. PI App. 50a-55a.

86. In response to the allegations in Paragraph 86, New Jersey states that the February 9, 2022 letter from Governor Murphy to the Commission's Executive Director speaks for itself, and New Jersey denies the allegations in Paragraph 86 to the extent they do not accurately describe the letter. PI App. 43a-55a.

87. In response to the allegations in Paragraph 87, the February 9, 2022 letter from Elizabeth Fine, Counsel to the New York Governor, to Parimal Garg, Chief Counsel, Office of Governor Murphy, speaks for itself, and New Jersey denies the allegations in Paragraph 87 to the extent they do not accurately describe the letter. PI App. 40a-42a. New Jersey affirmatively states that the February 9, 2022 letter from Counsel Fine was denoted as a response to Acting Governor Oliver's December 27, 2021 letter. PI App. 40a. New Jersey further denies that the February 9, 2022 letter from Counsel Fine stated that "the two States should continue their cooperative approach through the Commission." PI App. 42a.

88. In response to the allegations in Paragraph 88, New Jersey states that the February 11, 2022 letter from Chief Counsel Parimal Garg to Elizabeth Fine, Counsel to the New York Governor, speaks for itself, and New Jersey denies any allegations in Paragraph 88 that do not accurately describe the letter. PI App. 56a-58a. New Jersey affirmatively states the February 11, 2022 letter from Chief Counsel Garg confirmed New Jersey's openness to working with New York on issues related to the Port, and noted New Jersey's agreement that the Port must be safe, secure, and staffed and operated fairly. PI App. 56a. The letter explained that the Commission had outlived its purpose and noted "the needs of the Port that existed in 1953, when the Compact created the Commission, are not the same needs that exist today." PI App. 56a-57a. The letter reiterated that Chapter 324 was valid, intact, and in full effect, and that New Jersey would withdraw from the Compact on March 28, 2022 per Chapter 324's requirements. PI App. 57a-58a.

89. In response to the allegations in Paragraph 89, New Jersey states that the March 1, 2022 letter from Chief Counsel Parimal Garg to Walter Arsenault speaks for itself, and New Jersey denies any allegations in Paragraph 89 that do not accurately describe the letter. PI App. 61a-64a. New York's assertion that New Jersey's document requests were unlawful is a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that its document requests were unlawful.

90. In response to the allegations in Paragraph 90, New Jersey states that the term "disruption" is a vague and conclusory allegation, and that New Jersey is without knowledge or information sufficient to form a belief as to its truth and therefore denies this

allegation. New Jersey further denies that its intended withdrawal “caused” any disruption.

91. In response to the allegations in Paragraph 91, New Jersey states that the March 4, 2022 letter from Col. Patrick J. Callahan to Commission employees speaks for itself, and New Jersey denies any allegations in Paragraph 91 that do not accurately describe the letter. PI App. 67a-68a.

92. In response to the allegations in Paragraph 92, New Jersey states that the March 4, 2022 letter from John J. Nardi to Walter Arsenault speaks for itself, and New Jersey denies any allegations in Paragraph 92 that do not accurately describe the letter. PI App. 65a-66a.

93. In response to the allegations in Paragraph 93, New Jersey states that the March 9, 2022 letter from New Jersey Senate President Nicholas P. Scutari and other leaders of the New Jersey Legislature to Walter Arsenault speaks for itself, and New Jersey denies any allegations in Paragraph 93 that do not accurately describe the letter. PI App. 75a-77a.

94. New Jersey denies the allegations in the first sentence of Paragraph 94. With respect to the allegations in the second sentence of Paragraph 94, New Jersey states that Chapter 324 and the Compact, as amended, speak for themselves, and New Jersey denies the allegations in Paragraph 94 to the extent they do not accurately describe Chapter 324 and the Compact. Compl. App. 1a-35a; 36a-109a. The allegation in the third sentence of Paragraph 94—that the referenced powers are “lawfully subject to the joint control of New York and New Jersey”—is a legal conclusion to which no response is required. To the



extent a response is required, New Jersey denies the allegation.

95. In response to the allegations in Paragraph 95, New Jersey denies that it is “seizing” the “Commission’s law enforcement and regulatory functions.” New Jersey affirmatively asserts that New Jersey had in the past delegated these governmental powers to the Commission, and that New Jersey is now reclaiming these police and regulatory powers. New Jersey further states that New York’s allegation that New Jersey’s actions are “unlawful” is a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that allegation. New Jersey further denies that implementation of Chapter 324 will cause New York irreparable harm. New Jersey admits that Chapter 324 dissolves the Commission. New Jersey further affirmatively states that Chapter 324 provides for the restoration of New Jersey’s authorities, responsibilities, and powers over the Port within its jurisdiction and leaves untouched New York’s authorities, responsibilities, and powers over the Port within New York’s jurisdiction. Compl. App. 36a-109a. New Jersey states that the remaining allegations in Paragraph 95 are vague and speculative, and New Jersey lacks knowledge or information sufficient to form a belief about their truth and therefore denies them.

96. In response to the first sentence of Paragraph 96, New Jersey states that New York’s characterization of the Commission’s authority is vague, conclusory, and a generalized subjective characterization, not a discrete factual allegation that can be admitted or denied. To the extent an answer is required, New Jersey lacks knowledge or information sufficient to form a belief about the truth of this allegation and

therefore denies it. With respect to the second and third sentences of Paragraph 96, New Jersey admits that the Port “crosses two States” and that “workers, companies, and freight” operate in both States, but denies that the Port is a “single entity” or a “unified whole.” New Jersey affirmatively states that the Port is comprised of multiple, distinct ports that lie fully within the jurisdiction of either State. New Jersey states that the fourth sentence of Paragraph 96 is a generalized characterization, not a discrete factual allegation that can be admitted or denied. To the extent that a response is required, New Jersey lacks knowledge or information sufficient to form a belief about the truth of the allegation and therefore denies it. New Jersey admits that the Commission has historically had jurisdiction over the entire Port but, as noted in Paragraph 58 of this Answer, multiple other federal, State, and local agencies have concurrent jurisdiction. New Jersey denies the allegation that the Commission is “qualified” to combat criminal activity at the Port. New Jersey affirmatively asserts that the nature of the crime at the Port has changed as the decades have passed, and that the Commission does not have the expertise, equipment, or ability to combat current threats to public safety at the Port. New Jersey also denies the allegation in the fifth sentence of Paragraph 96 that the Commission is qualified to oversee activity at the Port by virtue of having existed for several decades. New Jersey denies the remainder of Paragraph 96.

97. New Jersey denies the allegations in Paragraph 97. New Jersey states that the allegations in the first sentence of Paragraph 97 are vague and speculative, and that New Jersey lacks knowledge or information sufficient to form a belief about their truth and therefore denies them. New Jersey states that the allegations

in the second and third sentences of Paragraph 97 are vague characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent an answer is required, New Jersey denies those allegations. New Jersey further denies any assertion or implication that there can be no orderly transition of ongoing criminal investigations or that law enforcement agencies from various jurisdictions cannot cooperate to investigate crimes at the Port. New Jersey further affirmatively states that the New Jersey State Police is better equipped to coordinate with its various federal, State, and local law enforcement partners to conduct cross-jurisdictional investigations due to superior intelligence, superior technology, and based on its role coordinating these types of inter-agency operations across the State.

98. New Jersey denies the allegations in Paragraph 98. New Jersey further denies any allegation or implication that the Commission is the most qualified entity to police the Port, and affirmatively states that the Commission lacks certain basic law enforcement technologies and procedures necessary to effectively combat criminality at the Port and even lacks any overnight security presence at the Port, as explained in Paragraph 58 of this Answer. New Jersey further denies any assertion or implication that there can be no orderly transition of ongoing criminal investigations or that law enforcement agencies from various jurisdictions cannot cooperate to investigate crimes at the Port after the Commission is dissolved. New Jersey further affirmatively states that the New Jersey State Police has a transition plan in place that would allow it to leverage its superior knowledge, techniques, intelligence, and technology to more effectively police the Port. New Jersey further affirmatively states that, as described in Paragraph 59 of this

Answer, there are numerous federal, State, and local taxpayer funded agencies that possess more expertise and are better able to conduct criminal investigations, perform background checks, and obtain convictions. New York's allegations that the Commission's operations have "led to successful prosecutions of numerous crimes" are vague characterizations over an undefined period, not discrete factual allegations that can be admitted or denied. To the extent that allegation requires a response, New Jersey lacks knowledge or information sufficient to form a belief about its truth and therefore denies that allegation.

99. New Jersey denies the allegations in Paragraph 99. The Compact speaks for itself, and New Jersey denies the allegations in Paragraph 99 to the extent they do not accurately describe the Commission's authority, duties, and responsibilities under the Compact. New Jersey further affirmatively states that Chapter 324 provides for the complete dissolution of the Commission and a distribution of assets, responsibilities, and powers between New York and New Jersey. New Jersey denies the implication that Chapter 324 would result in New Jersey and the Commission exercising concurrent authority over the Port, and denies any allegation or implication that there can be no orderly transition of ongoing criminal investigations at the Waterfront. New Jersey also denies that there will be any "clashes" or "volatil[ity]" at the Port.

100. In response to the allegations in Paragraph 100, New Jersey denies any assertion or implication that there can be no orderly transition of operations at the Waterfront. New Jersey affirmatively states that Chapter 324 provides for the complete dissolution of the Commission and a distribution of assets, respon-

sibilities, and powers between New York and New Jersey. New Jersey therefore denies that there will be “substantial uncertainty” concerning which entity has authority at the Port. Compl. App. 36a-109a. Meanwhile, the second sentence of Paragraph 100 fails to identify the letter it references, so New Jersey lacks knowledge or information sufficient to form a belief about the truth of the allegations in that sentence and therefore denies those allegations. To the extent the second sentence of Paragraph 100 is referencing the March 4, 2022 letter referenced in Paragraph 92, that letter speaks for itself. New Jersey also lacks knowledge or information sufficient to form a belief about the truth of New York’s allegations regarding the entities NYSA represents and therefore denies those allegations. New Jersey denies the remaining allegations in Paragraph 100.

101. New Jersey denies the allegations in Paragraph 101. New Jersey denies any assertion or implication that there will not be an orderly and safe transition of ongoing criminal investigations at the Waterfront. New Jersey also lacks knowledge or information sufficient to form a belief about the truth of New York’s allegations in the third and fourth sentences of Paragraph 101 and therefore denies those allegations. New Jersey affirmatively states that the New Jersey State Police has expertise in conducting undercover operations, and has more robust intelligence sharing and deconfliction procedures than those used by the Commission. New Jersey further affirmatively states that the New Jersey State Police has already begun coordinating with federal, State, and local partners to ensure that any transition would be conducted in a safe and orderly manner. New Jersey further denies any assertion or implication that it would compromise the identities of current Waterfront

detectives conducting covert operations at the Port. New Jersey affirmatively states that the formalized deconfliction protocols that the New Jersey State Police will implement will minimize the risk of duplication of efforts and of State Police operations compromising existing covert operations at the Port.

102. New Jersey denies the allegations in Paragraph 102. New Jersey states that New York's characterization of the Commission's operations is vague, conclusory, and a generalized subjective characterization, not a discrete factual allegation that can be admitted or denied. To the extent an answer is required, New Jersey lacks knowledge or information sufficient to form a belief about the truth of this allegation and therefore denies it. New Jersey affirmatively states that the Commission's current screening practices have resulted in over-regulation of the Port, hiring delays, and labor shortages. New Jersey denies that New Jersey's assumption of regulatory duties at the Port will result in the increase of employment of individuals with criminal ties at the Port. New Jersey further affirmatively states that the Commission does not utilize some of even the most basic crime detection and intelligence-gathering techniques, as discussed in Paragraph 58 of this Answer. Relatedly, the Commission has rebuffed past State efforts to engage in coordinated information sharing, declining to contribute to or otherwise use intelligence gathered by New Jersey law enforcement agencies. New Jersey further affirmatively states that, as described in Paragraph 58 of this Answer, there are numerous federal, State, and local taxpayer-funded agencies that are better able to conduct criminal background investigations than the Commission.

103. New Jersey denies the allegations in Paragraph 103. New Jersey affirmatively states that there are numerous federal, State, and local taxpayer-funded agencies, as described in Paragraph 58, that are better able than the Commission to conduct criminal background investigations and thwart organized crime and other criminal activity. New Jersey affirmatively states that the Commission has over-regulated commercial activity at the Port in service of its own interests and exercised its authority to the detriment of labor and industry, and that the Commission's over-regulation impedes hiring and disincentivizes the use of the Port. New Jersey further affirmatively states that the Commission's procedures can act as a bottleneck that delays hiring and hampers flexibility—all to the detriment of economic vitality and job growth. New Jersey also affirmatively states that the Commission's inefficient procedures have led to shortages of workers, damaged commerce, and contributed to unsafe conditions on the Port.

104. In response to the allegations in the first three sentences of Paragraph 104, New Jersey states that it lacks knowledge or information sufficient to form a belief about the truth of the allegations and therefore denies the allegations. New Jersey denies all remaining allegations in Paragraph 104. New Jersey denies any assertion or implication that “substantial chaos and confusion” will result without a centralized hiring system that covers both the New York and New Jersey sides of the Waterfront.

105. New Jersey denies the allegations in Paragraph 105. Chapter 324 speaks for itself, and New Jersey denies any allegations in Paragraph 105 that do not accurately describe Chapter 324. In response to the allegations in the third sentence of Paragraph 105,

New Jersey states that it lacks knowledge or information sufficient to form a belief about the truth of the allegations and therefore denies the allegations.

106. New Jersey denies the allegations in Paragraph 106. New Jersey affirmatively states the transition from the Commission to the New Jersey State Police is likely to improve the economic conditions at the Port and reduce criminal activity due to the New Jersey State Police's superior knowledge of law enforcement techniques, resources, intelligence, and technology. New Jersey also denies the allegation that the transfer of authority over its Port back to New Jersey will result in continued or increased racial or gender inequities at its Port.

#### **FIRST CAUSE OF ACTION**

107. New Jersey repeats and incorporates the admissions, denials, and affirmative statements of Paragraphs 1 through 106 above as if fully set forth here.

108. Paragraph 108 states legal conclusions to which no response is required. To the extent that a response is required, New Jersey denies that the Compact is "binding" on New Jersey to the extent New York uses the word "binding" to mean that the Compact prohibits New Jersey from withdrawing from the Compact. New Jersey further states that this Court's decision in *Kansas v. Nebraska*, 574 U.S. 455 (2015), speaks for itself, and New Jersey denies the remainder of the allegations in Paragraph 108 to the extent they do not accurately describe that opinion. New Jersey affirmatively states that its withdrawal from the Compact does not constitute a breach of the Compact's terms because the Compact is silent as to withdrawal.



109. Paragraph 109 states a legal conclusion to which no response is required. New Jersey further states that this Court's decision in *Franchise Tax Bd. v. Hyatt*, 139 S. Ct. 1485 (2019), speaks for itself, and New Jersey denies the allegations in Paragraph 109 to the extent they do not accurately describe the Court's opinion.

110. The first sentence of Paragraph 110 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allegations set forth in the first sentence of Paragraph 110. In response to the second sentence of Paragraph 110, New Jersey admits that the Compact requires concurrent legislation for amendments and that P.L. 252, chapter 407 (Aug 12, 1953), the Act of Congress granting congressional consent to the Compact, can be repealed only by Congress. New Jersey affirmatively states that the concurrency provisions in Article IV, § 14 and Article XVI, § 1 of the Compact are inapplicable to state withdrawal and that the Compact is silent regarding withdrawal.

111. Paragraph 111 states a legal conclusion to which no response is required. New Jersey states that the Third Circuit's decision in *Wayne Land & Mineral Grp. LLC v. Del. River Basin Comm'n*, 894 F.3d 509 (CA3 2018), speaks for itself, and New Jersey denies the allegations in Paragraph 111 to the extent they do not accurately describe the court's opinion.

112. Paragraph 112 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allegations in Paragraph 112 and further affirmatively states that this Court has repeatedly refused to construe silence in an interstate compact as stripping the States of their sovereign powers. See *Tarrant Reg'l Water Dist.*

*v. Herrmann*, 569 U.S. 614, 631 (2013) (Court would “expect a clear indication,” and “not inscrutable silence,” before finding that States gave up their sovereign authority); *Virginia v. Maryland*, 540 U.S. 56, 67 (2003) (“If any inference at all is to be drawn from [the compact’s] silence . . . we think it is that each State was left to regulate the activities of her own citizens.”).

113. Paragraph 113 states a legal conclusion to which no response is required. New Jersey further states that this Court’s decision in *Northeast Bancorp, Inc. v. Bd. of Governors of the Fed. Reserve Sys.*, 472 U.S. 159 (1985), speaks for itself, and New Jersey denies the allegations in Paragraph 113 to the extent they do not accurately describe the Court’s opinion.

114. Paragraph 114 states a legal conclusion to which no response is required. New Jersey further states that this Court’s decision in *Alabama v. North Carolina*, 560 U.S. 330 (2010), speaks for itself, and New Jersey denies the allegations in Paragraph 114 to the extent they do not accurately describe the Court’s opinion.

115. Paragraph 115 states a legal conclusion to which no response is required. The Compact speaks for itself, and New Jersey denies the allegations in Paragraph 115 to the extent they do not accurately describe the Compact.

116. Paragraph 116 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

117. Paragraph 117 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

118. Paragraph 118 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

119. Paragraph 119 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

### **SECOND CAUSE OF ACTION**

120. New Jersey repeats and incorporates the admissions, denials, and affirmative statements of Paragraphs 1 through 119 above as if fully set forth here.

121. New Jersey states that the United States Constitution speaks for itself, and New Jersey denies the allegations in Paragraph 121 to the extent they do not accurately describe Article VI, clause 2 of the United States Constitution.

122. Paragraph 122 states a legal conclusion to which no response is required. New Jersey states that this Court's decisions in *Texas v. New Mexico*, 462 U.S. 554 (1983), and *Alabama v. North Carolina*, 560 U.S. 330 (2010), speak for themselves, and New Jersey denies the allegations in Paragraph 122 to the extent they do not accurately describe the Court's opinions.

123. Paragraph 123 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allegations in Paragraph 123. New Jersey further affirmatively states that its withdrawal from the Compact does not violate the terms of the Compact.

124. New Jersey admits that the Compact may be amended only by concurring legislation enacted by

both States and that P.L. 252, chapter 407 (Aug 12, 1953), the Act of Congress granting congressional consent to the Compact can only be repealed by Congress. New Jersey affirmatively states that the concurrency provisions in Article IV, § 14 and Article XVI, § 1 of the Compact are inapplicable to state withdrawal and that the Compact and Act are silent regarding whether the States may withdraw.

125. Paragraph 125 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allegations in Paragraph 125.

126. Paragraph 126 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that Chapter 324 conflicts directly or indirectly with federal law or that it is preempted. New Jersey further states that the Third Circuit's decision in *Bell v. Cheswick Generating Station*, 734 F.3d 188 (CA3 2013), speaks for itself, and New Jersey denies the allegations in Paragraph 126 to the extent they do not accurately describe the court's opinion.

127. Paragraph 127 states legal conclusions to which no response is required. To the extent a response is required, New Jersey denies that Chapter 324 and New Jersey's withdrawal from the Compact are preempted.

128. Paragraph 128 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

129. Paragraph 129 states a legal conclusion to which no response is required. To the extent a

response is required, New Jersey denies that New York is entitled to any of the listed relief.

### **THIRD CAUSE OF ACTION**

130. New Jersey repeats and incorporates the admissions, denials, and affirmative statements of Paragraphs 1 through 129 above as if fully set forth here.

131. Paragraph 131 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey admits the Compact is a contract. New Jersey denies that the Compact is “binding” to the extent New York uses the word “binding” to mean that the Compact prohibits New Jersey from withdrawing from the Compact. New Jersey further states that this Court’s decision in *Alabama v. North Carolina*, 560 U.S. 330 (2010), speaks for itself, and New Jersey denies the allegations in Paragraph 131 to the extent they do not accurately describe the Court’s opinion.

132. In response to Paragraph 132, New Jersey states that the Contract Clause of the United States Constitution speaks for itself, and New Jersey denies the allegations in Paragraph 132 to the extent they do not accurately describe the Contract Clause.

133. Paragraph 133 states legal conclusion to which no response is required. New Jersey states that this Court’s decision in *Sveen v. Melin*, 138 S. Ct. 1815 (2018), speaks for itself, and New Jersey denies the allegations in Paragraph 133 to the extent they do not accurately describe the Court’s opinion.

134. Paragraph 134 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies the allega-

tions in Paragraph 134. New Jersey further affirmatively states that nothing in the Compact prohibits New Jersey from withdrawing from the Compact and that the New Jersey Legislature enacted Chapter 324 for the legitimate public purposes of, among other things, reducing overregulation at the Port, bolstering economic development for the entire region, and enhancing public safety on the Waterfront.

135. Paragraph 135 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

136. Paragraph 136 states a legal conclusion to which no response is required. To the extent a response is required, New Jersey denies that New York is entitled to any of the listed relief.

#### **PRAYER FOR RELIEF**

New Jersey denies that New York is entitled to relief and prays that judgment be entered:

A. Dismissing New York's Bill of Complaint with prejudice;

B. Granting judgment on the pleadings to New Jersey;

C. Rejecting all of New York's requests for relief;

D. Affirming that Chapter 324 is valid and that New Jersey may withdraw from the Compact; and

D. Granting such further relief to New Jersey as this Court may deem just and proper.

**AFFIRMATIVE DEFENSES****First Affirmative Defense**

(Failure to State a Claim)

New Jersey is entitled to judgment pursuant to Fed. R. Civ. P. 12(c) because New York has failed to state a claim upon which relief can be granted.

**Second Affirmative Defense**

(Actions Authorized by Law)

The Compact allows New Jersey's withdrawal. New Jersey's actions in enacting Chapter 324 and withdrawing from the Compact comply with the Compact and applicable law. They are valid as a matter of law.

**Third Affirmative Defense**

(State Sovereignty)

Allowing the Commission to exercise the police powers it has been delegated within New Jersey's borders in perpetuity would violate fundamental principles of state sovereignty absent an express statement to that effect in the Compact.

**Fourth Affirmative Defense**

(Laches, Estoppel, Waiver, Acquiescence)

Given New York's failure to challenge New Jersey's enactment of Chapter 324 for four years, its claims are barred by the doctrines of laches, estoppel, waiver, and acquiescence.

**Fifth Affirmative Defense**

(No Damage)

Without admitting any claims, there has been no damage to New York in any amount or manner by reason of any act New Jersey is alleged to have

committed, and in any event, New York failed to mitigate damages.

Sixth Affirmative Defense

(No Bases for Injunctive Relief)

New York's claims for permanent injunctive relief are barred because New York cannot show that (i) it will suffer any irreparable harm from New Jersey's actions; (ii) remedies available at law, such as monetary damages, are inadequate to compensate for any alleged injury; (iii) the balance of hardships between New York and New Jersey weighs in its favor; and (iv) the permanent injunction sought would not be injurious to the public interest.

Respectfully submitted,

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