No. _____

IN THE
Supreme Court of the United States

C.H. AND S.H., A MINOR,
Petitioners,

v.

CH.H.; JOSEPH J. REISENMAN, M.D.; AND
ALLISON STRASSER WINSTON, PH.D.,
Respondents.

On Petition for a Writ of Certiorari to the Superior Court of New Jersey, Appellate Division

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioners, a mother and her minor daughter, alleged that private actors—working in concert with New Jersey's child-protection agency—deliberately fabricated an accusation of Munchausen syndrome by proxy that launched nearly two years of state abuse-and-neglect proceedings against their family, which the State ultimately abandoned. They alleged that this conduct violated their rights under the Fourteenth Amendment. Before any discovery, the New Jersey courts dismissed every claim with prejudice—the trial court holding the reporting physician entitled to "absolute immunity" under a state statute "whether or not the reporter acted with malice," holding the agency's retained psychologist protected by the state litigation privilege and "judicial immunity," and holding petitioners' relative, as a private citizen, "incapable of taking 'state action.'" In doing so, the courts found that the record showed "good faith," "reasonable cause," and no "evidence" of malice.

The questions presented are:

1. Whether, consistent with the Supremacy Clause and this Court's decisions in *Martinez v. California*, 444 U.S. 277 (1980), *Howlett v. Rose*, 496 U.S. 356 (1990), and *Doe v. Dynamic Physical Therapy, LLC*, 607 U.S. 11 (2025) (per curiam), a state court may apply state-law immunities and privileges—and a categorical rule that private persons cannot act under color of law—to dismiss claims that defendants deliberately fabricated child-abuse accusations to procure state proceedings in violation of the Fourteenth Amendment.
2. Whether the Due Process Clause permits a state court to extinguish a plaintiff's pleaded causes of action on a motion to dismiss by finding, from materials outside the complaint and before any discovery, that the defendants acted in good faith and without malice.

PARTIES TO THE PROCEEDING

Petitioners are C.H. and her minor daughter, S.H., who were plaintiffs in the Superior Court of New Jersey, Law Division, plaintiffs-appellants in the Appellate Division, and plaintiffs-petitioners in the Supreme Court of New Jersey.

Respondents are Ch.H.; Joseph J. Reisenman, M.D.; and Allison Strasser Winston, Ph.D., who were defendants in the Law Division, defendants-respondents in the Appellate Division, and defendants-respondents in the Supreme Court of New Jersey.

The following parties were also defendants in the proceedings below: the New Jersey Department of Children and Families; the Division of Child Protection and Permanency; the Department of Children and Families, Morris West Local Office; the State of New Jersey; Cristina Perez; Rosalba Avila; Jennifer Boudreau; Felipe Sanchez; D.H.; Ca.H. (petitioner C.H.'s father, captioned below as "C.H."); and D.W. Petitioners do not seek review of the judgment as to those parties.

Because petitioners are individuals, no corporate disclosure statement is required. Sup. Ct. R. 29.6.

In accordance with Rule 34.6 and the impoundment of the record below, N.J. Ct. R. 1:38-3(d)(12), the minor petitioner and the non-governmental parties are identified by initials.

RELATED PROCEEDINGS

C.H. and S.H. v. Department of Children and Families, et al., No. MRS-L-1932-23, Superior Court of New Jersey, Law Division, Morris County. Order dismissing complaint entered August 12, 2024.

C.H. and S.H. v. Department of Children and Families, et al., No. A-0773-24, Superior Court of New Jersey, Appellate Division. Judgment entered March 19, 2026.

C.H. and S.H. v. Department of Children and Families, et al., No. 091953 (C-97 September Term 2026), Supreme Court of New Jersey. Order denying certification entered September 16, 2026.

The underlying child-protective proceedings were confidential Title 9 and Title 30 actions in the Superior Court of New Jersey, Chancery Division, Family Part, Morris County, which were dismissed on the Division's application.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED....i
PARTIES TO THE PROCEEDING....ii
RELATED PROCEEDINGS....ii
TABLE OF AUTHORITIES....vi
OPINIONS BELOW....1
JURISDICTION....1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED....1
STATEMENT OF THE CASE....2
A. Introduction....2
B. The Allegations of the Complaint....4
C. The Proceedings Below....6
D. How the Federal Questions Were Raised and Decided (Rule 14.1(g)(i))....9
REASONS FOR GRANTING THE PETITION....10
I. The Decision Below Conflicts With This Court's Holdings That State Law Cannot Immunize The Deprivation Of Federal Constitutional Rights....10
A. Petitioners pleaded the deprivation of a fundamental federal right....10
B. State courts may not apply state-law immunities to defeat federal claims....12
C. The conflict warrants this Court's intervention....16
II. The Decision Below Deprived Petitioners Of Their Causes Of Action Without Due Process By Adjudicating Disputed Facts Against Them On The Pleadings....17
III. This Case Is An Appropriate Vehicle....19
CONCLUSION....20

INDEX TO APPENDICES

Appendix A — Opinion of the Superior Court of New Jersey, Appellate Division (Mar. 19, 2026)....1a
Appendix B — Order and Statement of Reasons of the Superior Court of New Jersey, Law Division, Morris County (Aug. 12, 2024)....20a
Appendix C — Order of the Supreme Court of New Jersey Denying Certification (Sept. 16, 2026)....52a

Appendix D — Complaint and Jury Demand, Superior Court of New Jersey, Law Division (Oct. 31, 2023).....53a

Appendix E — Constitutional and Statutory Provisions Involved.....83a

TABLE OF AUTHORITIES

Page(s)

Cases

Adams v. Robertson, 520 U.S. 83 (1997).....19
Adickes v. S. H. Kress & Co., 398 U.S. 144 (1970).....15
Ake v. Oklahoma, 470 U.S. 68 (1985).....20
Antoine v. Byers & Anderson, Inc., 508 U.S. 429 (1993).....7, 14
Armstrong v. Manzo, 380 U.S. 545 (1965).....17
Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007).....18
Brinkerhoff-Faris Tr. & Sav. Co. v. Hill, 281 U.S. 673 (1930).....19
Briscoe v. LaHue, 460 U.S. 325 (1983).....15
Brown v. Newberger, 291 F.3d 89 (1st Cir. 2002).....13
Brown v. W. Ry. of Ala., 338 U.S. 294 (1949).....11, 19
Burns v. Reed, 500 U.S. 478 (1991).....14
Costanich v. Dep't of Soc. & Health Servs., 627 F.3d 1101 (9th Cir. 2010).....11
Croft v. Westmoreland Cnty. Children & Youth Servs., 103 F.3d 1123 (3d Cir. 1997).....11
Dennis v. Sparks, 449 U.S. 24 (1980).....4, 14, 15
Devereaux v. Abbey, 263 F.3d 1070 (9th Cir. 2001) (en banc).....11
Doe v. Dynamic Physical Therapy, LLC, 607 U.S. 11 (2025) (per curiam) 3, 12, 16, 20
E.W. v. W.M.-H., 476 N.J. Super. 433 (Ch. Div. 2023).....16
Erickson v. Pardus, 551 U.S. 89 (2007).....18
F.A. v. W.J.F., 248 N.J. Super. 484 (App. Div. 1991).....7
Felder v. Casey, 487 U.S. 131 (1988).....12, 16, 20
Filarsky v. Delia, 566 U.S. 377 (2012).....15
Forrester v. White, 484 U.S. 219 (1988).....7, 14
Hampton v. Chicago, 484 F.2d 602 (7th Cir. 1973).....12
Hardwick v. County of Orange, 844 F.3d 1112 (9th Cir. 2017).....11
Haywood v. Drown, 556 U.S. 729 (2009).....12, 13, 16
Howlett v. Rose, 496 U.S. 356 (1990).....12, 13, 16, 20
Johnson v. City of Shelby, 574 U.S. 10 (2014) (per curiam).....11
Kalina v. Fletcher, 522 U.S. 118 (1997).....14, 15

Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982).....4, 17, 18
Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982).....15
Malley v. Briggs, 475 U.S. 335 (1986).....15
Martinez v. California, 444 U.S. 277 (1980).....3, 12, 16
Michigan v. Long, 463 U.S. 1032 (1983).....20
Mireles v. Waco, 502 U.S. 9 (1991).....7
Neitzke v. Williams, 490 U.S. 319 (1989).....18
Orr v. Orr, 440 U.S. 268 (1979).....19
Paul v. Davis, 424 U.S. 693 (1976).....11
Rehberg v. Paulk, 566 U.S. 356 (2012).....15
Richardson v. McKnight, 521 U.S. 399 (1997).....14
Santosky v. Kramer, 455 U.S. 745 (1982).....10
Standard Oil Co. of Cal. v. Johnson, 316 U.S. 481 (1942).....20
Stanley v. Illinois, 405 U.S. 645 (1972).....10
State v. Snell, 314 N.J. Super. 331 (App. Div. 1998).....16
Street v. New York, 394 U.S. 576 (1969).....19
Stump v. Sparkman, 435 U.S. 349 (1978).....7
Tower v. Glover, 467 U.S. 914 (1984).....4, 14
Troxel v. Granville, 530 U.S. 57 (2000).....10
Valmonte v. Bane, 18 F.3d 992 (2d Cir. 1994).....11
West v. Atkins, 487 U.S. 42 (1988).....15
Williams v. Reed, 604 U.S. 168 (2025).....12, 13, 16
Wyatt v. Cole, 504 U.S. 158 (1992).....14
Yee v. City of Escondido, 503 U.S. 519 (1992).....19

Constitutional Provisions

U.S. Const. art. VI, cl. 2.....1, 16, 20
U.S. Const. amend. XIV, § 1.....1, 4, 11, 17

Statutes

28 U.S.C. § 1257(a).....1
34 U.S.C. § 20342.....14
42 U.S.C. § 1983.....passim

42 U.S.C. § 5106a(b)(2)(B)(vii).....2, 14
N.J.S.A. 10:6-2(c).....11
N.J.S.A. 30:4C-12.....5
N.J.S.A. 9:6-8.10.....2
N.J.S.A. 9:6-8.13.....2, 7, 8
N.J.S.A. 9:6-8.21 et seq.....5
23 Pa. Cons. Stat. § 6318.....16
Cal. Penal Code § 11172(a).....16
Fla. Stat. § 39.203.....16
Fla. Stat. § 39.205(9).....16
N.Y. Soc. Serv. Law § 419.....16
Tex. Fam. Code § 261.106.....16
Tex. Fam. Code § 261.107(a).....16

Rules

Sup. Ct. R. 10(c).....10
Sup. Ct. R. 13.1.....1
Sup. Ct. R. 14.1(g)(i).....9
N.J. Ct. R. 4:6-2(e).....4, 8

OPINIONS BELOW

The opinion of the Superior Court of New Jersey, Appellate Division (App. 1a–19a) is unpublished. The order and statement of reasons of the Superior Court of New Jersey, Law Division, Morris County, dismissing the complaint with prejudice (App. 20a–51a) is unpublished. The order of the Supreme Court of New Jersey denying certification (App. 52a) is unreported.

JURISDICTION

The Appellate Division entered its judgment on March 19, 2026. App. 1a. Petitioners timely petitioned the Supreme Court of New Jersey for certification, which that court denied by order dated September 16, 2026 (filed September 21, 2026). App. 52a. This petition is filed within 90 days of the order denying discretionary review. Sup. Ct. R. 13.1. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Supremacy Clause, U.S. Const. art. VI, cl. 2, provides in relevant part: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Section 1 of the Fourteenth Amendment provides in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . . ."

42 U.S.C. § 1983 provides in relevant part: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights,

privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . ."

The New Jersey child-abuse-reporting immunity, N.J.S.A. 9:6-8.13, the reporting mandate, N.J.S.A. 9:6-8.10, the New Jersey Civil Rights Act, N.J.S.A. 10:6-2(c), and the federal Child Abuse Prevention and Treatment Act's good-faith-immunity condition, 42 U.S.C. § 5106a(b)(2)(B)(vii), are reproduced at App. 83a–85a.

STATEMENT OF THE CASE

A. Introduction

This case asks whether a State may close its courthouse doors to a parent and child who allege that private actors, working with the State's child-protection agency, deliberately manufactured accusations of child abuse to set the coercive machinery of the State in motion against their family—and may do so on the pleadings, by invoking state-law immunities that federal law does not recognize and by finding facts that the complaint alleges to be otherwise.

Petitioner C.H. is a single mother and a licensed counselor who, for nearly sixteen years, counseled children and adults. Her young daughter, petitioner S.H., developed an unexplained, painful swelling of the knee. C.H. did what a loving parent does: she took her daughter to emergency rooms, to the child's pediatrician, and to the orthopedists and rheumatologists to whom the pediatrician himself referred her. Meanwhile, according to the complaint, C.H.'s estranged relatives—who had threatened to "have DYFS called on her" if she did not take the child to the doctors they preferred—fed the pediatrician a fabricated story that C.H. suffered from Munchausen syndrome by proxy. The pediatrician, who also treated those relatives, relayed the accusation to the New Jersey Division of Child Protection and Permanency. The Division filed abuse-and-neglect proceedings, obtained an order

placing the child under its care and supervision, and pressed the case for nearly two years, relying in part on an evaluation by a psychologist the Division retained, which the complaint alleges was "full of misinformation, lies," and "submitted with malice." The pediatrician recanted in writing, admitting he had acted on "bad information" supplied by others and that C.H. "has only ever had [S.H.'s] best interests at heart." The Division nonetheless pressed on until, on the eve of trial, it dismissed everything. By then C.H. had been listed on the State's child-abuse registry and barred from working with children—costing her the counseling practice she had built—and forced to spend more than $200,000 to keep her daughter. S.H.'s access to medical care had been delayed while the proceedings constrained the care her mother could pursue for her, and mother and child alike were left with lasting psychological harm.

Petitioners sued, alleging that defendants' conduct violated their rights under "both the Federal and New Jersey Constitutions," including their federal "substantive due process and/or equal protection rights." The New Jersey courts dismissed every claim with prejudice, before any discovery. They held that the pediatrician enjoyed a state statutory immunity that, in the trial court's words, is "absolute . . . whether or not the reporter acted with malice"; that the Division's retained psychologist enjoyed the state litigation privilege and "judicial immunity"; and that petitioners' relative—as a private citizen—was categorically "incapable of taking 'state action.'" Along the way, the courts found that the record showed "good faith," "reasonable cause," and no "evidence" of malice—facts the complaint expressly alleges to be untrue.

Those rulings conflict with this Court's precedents. A State may not "immunize[]" conduct "wrongful under 42 U.S.C. § 1983" through state law. *Martinez v. California*, 444 U.S. 277, 284 n.8 (1980). As this Court reiterated last Term in summarily reversing a state court that had applied a state immunity statute to federal claims, "a State has no power to confer immunity from federal causes of action." *Doe v. Dynamic Physical Therapy, LLC*, 607 U.S. 11, 12 (2025) (per curiam).

Private persons who act jointly with state officials act under color of law and enjoy none of the absolute immunities on which the courts below relied. *Dennis v. Sparks*, 449 U.S. 24, 27–32 (1980); *Tower v. Glover*, 467 U.S. 914, 920–23 (1984). And a State may not extinguish a pleaded cause of action—itself "a species of property protected by the Fourteenth Amendment's Due Process Clause"—by adjudicating the merits against the plaintiff without any opportunity to be heard on the facts. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428–34 (1982).

B. The Allegations of the Complaint

Because the complaint was dismissed under N.J. Ct. R. 4:6-2(e), its well-pleaded allegations must be taken as true. App. 7a. They are as follows.

In November 2021, S.H.'s left knee became swollen, warm, and painful. C.H. took her to the Morristown Medical Center emergency room, then to Holy Name Hospital, and then to her pediatrician, respondent Joseph J. Reisenman, M.D., who documented swelling, edema, tenderness, and loss of motion, worried about an autoimmune condition (C.H. herself has multiple sclerosis), kept S.H. out of school, and referred her to an orthopedist and a rheumatologist. App. 58a–59a (Compl. ¶¶ 23–33). The specialists could not identify the cause; S.H.'s symptoms worsened to include vomiting, hip pain, and confusion, prompting further emergency visits and a second opinion at Boston Children's Hospital. App. 59a–62a (¶¶ 34–62). Along the way, S.H. disclosed that an adult had kicked her in the knee; C.H. reported it to police and, at their direction, to the State's Institutional Abuse Investigation Unit. App. 59a–60a (¶¶ 37–44).

During this period, C.H.'s mother, D.H., repeatedly threatened to "have DYFS [the Division's predecessor] called on her" if C.H. did not let D.H. see the child or take the child to the doctors D.H. preferred. App. 62a (¶ 58). When C.H., on medical advice, decided to keep S.H. away from her relatives, D.H. again threatened to call the

Division. App. 62a (¶¶ 63–64). D.H. was also Dr. Reisenman's patient. App. 62a–63a (¶¶ 65–66). The complaint alleges that D.H. and the other "Haight Defendants"—including C.H.'s brother, respondent Ch.H.—"made material misrepresentations to, and acted in concert with," Dr. Reisenman "to institute and maintain the DCP&P prosecution," and specifically that they "made up" the Munchausen-by-proxy accusation and "fed misinformation to DR. RIESENMAN to support the diagnosis and to write to DCP&P." App. 57a–58a, 63a (¶¶ 21–22, 66–69). The complaint further identifies, among the fictitious defendants, an agent or employee of the Division "who, upon information and belief, was intimately involved with or otherwise affiliated with Defendant CHRISTOPHER HAIGHT [Ch.H.]." App. 56a–57a (¶ 18).

Dr. Reisenman reported to the Division that C.H. had "psychiatric conditions, such as Munchausen by Proxy." App. 63a (¶ 68). The Division instituted proceedings under N.J.S.A. 9:6-8.21 et seq. ("Title 9") and N.J.S.A. 30:4C-12 ("Title 30"), seeking care and supervision of S.H. App. 4a; App. 63a (¶ 70). Those proceedings were "instituted and/or maintained on the basis of" Dr. Reisenman's correspondence and an evaluation of C.H. by respondent Allison Strasser Winston, Ph.D., a psychologist the Division retained. App. 63a (¶ 71); App. 5a. The complaint groups Dr. Winston with the Division's "agents, investigators, and/or employees," and alleges that her evaluation "was full of misinformation, lies, was unsupported by the evidence and submitted with malice," and that she and Dr. Reisenman conferred about S.H. and C.H. App. 57a, 64a (¶¶ 19, 74–76).

In July 2022, Dr. Reisenman wrote to the Division "explicitly retracting any prior support for the allegations." App. 64a (¶ 77). He explained that he had made his report "on the basis of what I now recognize was a series of unfortunate and unintentional misinterpretations and mischaracterizations," that he "was given information from others that I took as being accurate, instead of researching it myself," that he "jumped to the conclusion that there was an abuse occurring," and

that C.H. "loved (and loves) [S.H.] unconditionally and has only ever had [S.H.'s] best interests at heart." App. 64a–65a (¶¶ 78–83). The complaint alleges that the "bad information" on which he acted consisted of "intentional misrepresentations" by the Haight Defendants. App. 64a (¶ 79).

The Division persisted regardless, repeatedly adjourning trial, then dismissing the Title 9 action on the eve of trial and, later, the Title 30 action. App. 65a–66a (¶¶ 84–92). The proceedings subjected the family to nearly two years of court appearances and regular Division visits to the home, App. 57a (¶ 20); restricted the medical care C.H. could pursue for S.H., delaying the child's access to treatment, App. 67a (¶ 99); App. 23a; caused C.H.—a licensed counselor who had counseled children and adults for nearly sixteen years, App. 24a—to be placed on the State's Child Abuse Record Information registry, which barred her from working with children and devastated her practice, App. 66a (¶ 93); App. 23a; and cost her more than $200,000 "just to defend the right to custody of her daughter." App. 66a–67a (¶ 95).

C. The Proceedings Below

1. Petitioners filed a nine-count complaint in the Superior Court of New Jersey, Law Division, Morris County. App. 53a–82a. The counts sounded in malicious prosecution, malicious abuse of process, defamation, intentional and negligent infliction of emotional distress, and related theories, and each principal count alleged that defendants' conduct "violated the clearly established common law, statutory, and Constitutional rights of PLAINTIFF pursuant to both the Federal and New Jersey Constitutions." App. 68a, 69a, 71a, 73a, 74a, 78a (¶¶ 108, 110, 122, 126, 135, 147). Count VII alleged that defendants subjected petitioners to "the deprivation of [their] substantive due process and/or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States," "including, without limitation, malicious prosecution [and] malicious abuse of process." App. 77a (¶ 141).

The complaint sought "the remedies provided for under the common law and/or any state and/or federal statutes pled herein or applicable to this case." App. 81a. Petitioners' opposition to the motions to dismiss argued that defendants' "intentional and malicious prosecution of [C.H.] deprived [C.H.] of due process and equal protection of the laws." App. 49a (quoting Pls.' Opp. Br. 21).

2. Without permitting discovery or leave to amend, the Law Division dismissed every count with prejudice as to every moving defendant. App. 20a–22a.

As to Dr. Reisenman, the court held that N.J.S.A. 9:6-8.13 conferred "absolute immunity from civil suit" on "ALL claims set forth in the Complaint," Counts I through IX. App. 34a. Citing *F.A. v. W.J.F.*, 248 N.J. Super. 484, 490 (App. Div. 1991) —an opinion that in fact rejected the contention that the statute confers absolute immunity—it held that "the immunity afforded by N.J.S.A. 9:6-8.13 provides an absolute privilege, whether or not the reporter acted with malice," so that "whether or not Dr. Riesenman harbored ill-intent when reporting his suspicions to DCP&P is wholly irrelevant." App. 33a–34a. The court also found that "the undisputed record before the Court reflects that Dr. Riesenman . . . personally examined S.H. and observed bruises on S.H. during the physical examination," and that he "certainly had reasonable cause" to suspect abuse. App. 34a. The complaint alleges no bruises.

As to Dr. Winston, the court held that she was immune from "ALL claims," Counts I through IX, under both the state litigation privilege and the doctrine of "judicial immunity," which it derived from this Court's decisions in *Mireles v. Waco*, 502 U.S. 9 (1991), *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429 (1993), *Forrester v. White*, 484 U.S. 219 (1988), and *Stump v. Sparkman*, 435 U.S. 349 (1978). App. 30a–32a. Notwithstanding the complaint's allegation that her evaluation was "full of . . . lies" and "submitted with malice," the court found that "nothing is gleaned from the factual record before the Court which suggests Dr. Winston purposefully—let alone maliciously—riddled her evaluation of Carrie with falsehoods." App. 31a. Relying on

documents outside the complaint—the Division's order to show cause and Dr. Winston's consent form, which recited that "DCP&P . . . is my client"—the court concluded that her evaluation was a "judicial act" because it was conducted "in connection with ongoing DCP&P proceedings." App. 31a–32a.

As to Ch.H., the court dismissed the federal-rights count on the ground that the Haight Defendants, as private citizens, "are incapable of taking 'state action' that could form a basis for" a claim for deprivation of "substantive due process or equal protection rights . . . secured by the Constitution or laws of the United States." App. 49a. It dismissed the remaining counts against him on state-law grounds. App. 29a, 41a, 44a–45a.

3. The Appellate Division affirmed, "substantially for the reasons set forth in [the Law Division's] written decision," holding that the trial court "properly applied the Rule 4:6-2(e) standard as to all counts of plaintiff's complaint." App. 8a. It added that the claims against Dr. Winston were barred by the litigation privilege because "the allegations in the complaint and motion record do not support that Dr. Winston purposefully or maliciously provided false statements" and "her conclusions were manifestly founded upon her good faith professional observations." App. 15a. It held Dr. Reisenman "immune from civil liability" under N.J.S.A. 9:6-8.13 because "[t]he record clearly indicates" that "an objective review of the evidence supported a reasonable belief that child abuse had occurred," "the record does not contain any evidence that Dr. Reisenman's report to the Division was made with the sole purpose of damaging plaintiff or that it was malicious," and "his recantation letter supports his overall objectivity, not bias or malice towards plaintiff." App. 16a. As to the Division and its employees, it held that "[n]o genuine issues of material fact in the record disputed that the Division and its employees acted in good faith." App. 12a–13a. It affirmed dismissal of the defamation claims against Ch.H. as untimely and insufficiently specific. App. 17a–19a.

4. Petitioners sought certification in the Supreme Court of New Jersey, arguing that the claims against Ch.H., Dr. Reisenman, and Dr. Winston were wrongly dismissed on their face; that the immunities could not be resolved against petitioners at the pleading stage; and that the immunities do not protect "intentional, false allegations intended to cause harm." The court denied certification. App. 52a.

D. How the Federal Questions Were Raised and Decided (Rule 14.1(g)(i))

The federal questions were presented and passed upon at each stage. In the Law Division, the complaint pleaded that defendants deprived petitioners of rights "secured by the Constitution or laws of the United States" and "the Federal . . . Constitution[]," App. 68a–78a (¶¶ 108, 110, 122, 126, 135, 141, 147), and petitioners' opposition brief argued that defendants' malicious prosecution deprived C.H. of due process and equal protection, App. 49a. The Law Division passed on those federal claims: it applied the state reporting immunity and litigation privilege to "ALL claims," including the federal-rights count, App. 32a, 34a; it rested Dr. Winston's "judicial immunity" on this Court's federal immunity decisions, App. 31a–32a; and it held that Ch.H., as a private person, was "incapable of taking 'state action'" for purposes of the federal-rights claim, App. 49a. On appeal, petitioners argued that the immunities could not shield willful, malicious, and fabricated accusations and could not be resolved against them by fact-finding on a motion to dismiss. The Appellate Division affirmed dismissal "as to all counts" for the trial court's reasons, App. 8a, and in doing so itself resolved contested facts against petitioners under a "genuine issues of material fact" and "record evidence" standard, App. 12a–16a. Petitioners renewed their immunity and pleading-stage arguments in their petition for certification as to each respondent, which was denied. App. 52a.

REASONS FOR GRANTING THE PETITION

The decision below allows state courts to accomplish what this Court has repeatedly forbidden: the extinction of claims for the deprivation of federal constitutional rights through state-law immunities. It does so in a setting of exceptional importance—the State's power to intervene in the parent-child relationship on the strength of private accusations—and by a method that itself offends due process: deciding, on the pleadings and against the express allegations of the complaint, that the defendants acted in good faith. Each ruling conflicts with decisions of this Court. Sup. Ct. R. 10(c).

I. The Decision Below Conflicts With This Court's Holdings That State Law Cannot Immunize The Deprivation Of Federal Constitutional Rights.

A. Petitioners pleaded the deprivation of a fundamental federal right.

The interest of parents "in the care, custody, and control of their children" is "perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion). That interest "does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State." *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); see *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). The child shares a reciprocal interest in the integrity of her family. See *Santosky*, 455 U.S. at 760–61.

The federal courts of appeals have uniformly recognized that this liberty interest is violated when the State's child-protective machinery is set in motion or maintained on the basis of deliberately fabricated evidence or without objectively reasonable grounds. The Third Circuit—whose territory includes New Jersey—has recognized that the State's intervention in the family must rest on objectively reasonable grounds, and that an unverified accusation "may justify investigation but will not provide reasonable grounds for removal of a family member absent

independent, articulable criteria of reliability." *Croft v. Westmoreland Cnty. Children & Youth Servs.*, 103 F.3d 1123, 1126–27 (3d Cir. 1997). The Ninth Circuit has held that the right to be free from deliberately false statements in dependency proceedings is clearly established and that the deliberate fabrication of evidence in civil child-abuse proceedings violates due process. *Hardwick v. County of Orange*, 844 F.3d 1112, 1118–21 (9th Cir. 2017); *Costanich v. Dep't of Soc. & Health Servs.*, 627 F.3d 1101, 1108 (9th Cir. 2010); see *Devereaux v. Abbey*, 263 F.3d 1070, 1074–75 (9th Cir. 2001) (en banc). And the listing of a parent on a state child-abuse registry with consequences for her employment implicates a protected liberty interest. *Valmonte v. Bane*, 18 F.3d 992, 999–1002 (2d Cir. 1994); see *Paul v. Davis*, 424 U.S. 693, 701–12 (1976).

The complaint alleges exactly such a deprivation: that defendants fabricated a Munchausen-by-proxy accusation, transmitted and embellished it in concert with the Division, and thereby procured nearly two years of abuse-and-neglect proceedings, a care-and-supervision order, home visits, registry listing, and interference with the child's medical care. App. 56a–67a. It expressly invoked the Fourteenth Amendment rights at stake. App. 68a–78a. That the complaint pleaded those rights through counts styled under state law and the New Jersey Civil Rights Act—which itself provides a remedy for deprivations of rights "secured by the Constitution or laws of the United States," N.J.S.A. 10:6-2(c)—cannot strip them of their federal character. A complaint need not recite "§ 1983" to state a claim for the deprivation of federal rights; courts do not "countenance dismissal of a complaint for imperfect statement of the legal theory supporting the claim asserted." *Johnson v. City of Shelby*, 574 U.S. 10, 11 (2014) (per curiam). And whether a state court may defeat a federally protected right through its own pleading conventions is itself a federal question: "Strict local rules of pleading cannot be used to impose unnecessary burdens upon rights of recovery authorized by federal laws." *Brown v. W. Ry. of Ala.*, 338 U.S. 294, 298 (1949).

B. State courts may not apply state-law immunities to defeat federal claims.

This Court has long held that state law cannot shield the deprivation of federal rights. "Conduct by persons acting under color of state law which is wrongful under 42 U.S.C. § 1983 or § 1985(3) cannot be immunized by state law." *Martinez*, 444 U.S. at 284 n.8 (quoting *Hampton v. Chicago*, 484 F.2d 602, 607 (7th Cir. 1973)). "A construction of the federal statute which permitted a state immunity defense to have controlling effect would transmute a basic guarantee into an illusory promise; and the supremacy clause of the Constitution insures that the proper construction may be enforced." *Ibid.* In *Howlett v. Rose*, 496 U.S. 356 (1990), the Court unanimously held that a state court could not apply a state-law sovereign-immunity defense to a § 1983 claim, because the elements of and defenses to a federal cause of action are defined by federal law. *Id.* at 375–76, 383. In *Felder v. Casey*, 487 U.S. 131 (1988), the Court held that a State's notice-of-claim statute could not be applied in state court to federal civil-rights claims, because it would burden and frustrate the federal right. *Id.* at 138–53. In *Haywood v. Drown*, 556 U.S. 729 (2009), the Court held that a State may not strip its courts of jurisdiction over a disfavored category of federal civil-rights damages claims. *Id.* at 739–42. More recently, in *Williams v. Reed*, 604 U.S. 168 (2025), the Court held that where a state court's application of a state procedural requirement "in effect immunizes state officials from § 1983 claims," the state rule must yield. *Id.* at 174. As the Court there reiterated, "a state law that immunizes government conduct otherwise subject to suit under § 1983 is preempted, even where the federal civil rights litigation takes place in state court." *Ibid.* (quoting *Felder*, 487 U.S. at 139).

And just last Term, this Court summarily reversed a Louisiana appellate court that had held a state statute immunizing healthcare providers to bar the plaintiff's federal claims. *Doe v. Dynamic Physical Therapy, LLC*, 607 U.S. 11 (2025) (per

curiam). The Court's reasoning was two sentences long: "Defining the scope of liability under state law is the State's prerogative. But a State has no power to confer immunity from federal causes of action." *Id.* at 12 (citing *Howlett*, 496 U.S. at 383; *Haywood*, 556 U.S. at 740; and *Williams*, 604 U.S. at 174). The decision below is the same error in a different statute. Like Louisiana, New Jersey immunized a healthcare provider—here, by a reporting statute—and applied that immunity to every claim in the complaint, federal and state alike.

The New Jersey courts disregarded that settled rule. They applied N.J.S.A. 9:6-8.13 and the state litigation privilege to "ALL claims"—including the counts expressly predicated on the federal Constitution—without asking whether federal law would afford any such immunity. App. 32a, 34a; App. 8a, 15a–17a. It would not.

1. Dr. Reisenman. The Law Division held the reporting immunity to be "an absolute privilege, whether or not the reporter acted with malice," so that whether Dr. Reisenman "harbored ill-intent . . . is wholly irrelevant." App. 33a–34a. The Appellate Division sustained the immunity on the ground that "the record" showed objectively reasonable cause and no "evidence" of malice. App. 16a. Under either formulation, the state immunity was applied to defeat claims that the report was the knowing instrument of a fabricated accusation. To be sure, a private person does not become a state actor merely by filing a report of suspected abuse. See *Brown v. Newberger*, 291 F.3d 89, 93–94 (1st Cir. 2002). But petitioners alleged more than a report: they alleged that the relatives who fabricated the accusation "acted in concert with" Dr. Reisenman "to institute and maintain the DCP&P prosecution," and that he conferred with the Division's retained evaluator. App. 57a–58a, 64a (¶¶ 22, 76). Federal law recognizes no absolute immunity for a private person who is alleged to have acted jointly with state officials to deprive another of constitutional rights. Private parties who conspire with state officials are "acting 'under color' of law" and enjoy no derivative absolute immunity, even where the official with whom they

conspired would be immune. *Dennis*, 449 U.S. at 27–32. Public defenders who conspire with state officials likewise have no immunity from § 1983 liability for their intentional misconduct. *Tower*, 467 U.S. at 920–23. Private defendants are not even entitled to qualified immunity when they invoke state processes. *Wyatt v. Cole*, 504 U.S. 158, 168–69 (1992); see *Richardson v. McKnight*, 521 U.S. 399, 412–13 (1997). And the federal policy choice in this very field is explicit. Congress conditions federal child-abuse-prevention funds on state immunity for individuals "making good faith reports," 42 U.S.C. § 5106a(b)(2)(B)(vii), and in 2019 it extended immunity under federal law only to individuals making a "good faith report," subject to a rebuttable presumption of good faith, 34 U.S.C. § 20342. Nothing in federal law immunizes knowing or malicious falsehoods—and a complaint alleging knowing fabrication pleads around any presumption of good faith.

2. Dr. Winston. The Law Division expressly rested Dr. Winston's "judicial immunity" on this Court's federal immunity precedents, App. 31a–32a, and in doing so misapplied them. This Court's approach to absolute immunity is "functional": it looks to "the nature of the function performed, not the identity of the actor who performed it." *Forrester*, 484 U.S. at 229; see *Kalina v. Fletcher*, 522 U.S. 118, 127 (1997). The "touchstone" of quasi-judicial immunity is "performance of the function of resolving disputes between parties, or of authoritatively adjudicating private rights." *Antoine*, 508 U.S. at 435–36 (quoting *Burns v. Reed*, 500 U.S. 478, 500 (1991) (Scalia, J., concurring in judgment in part and dissenting in part)). When immunity is extended to persons other than judges, "it is because their judgments are 'functionally comparable' to those of judges." *Id.* at 436 (citation omitted). *Antoine* itself refused absolute immunity to a court reporter—an officer of the court whose work is indispensable to the judicial process—because her function was not adjudicative. *Id.* at 435–37. Dr. Winston adjudicated nothing. By the very consent form on which the Law Division relied, she was the Division's retained expert: "DCP&P . . . is my client

and has complete authority over the results." App. 31a. A litigant's retained expert performs an adversarial function, not a judicial one. And while a witness is immune from liability for her testimony, *Briscoe v. LaHue*, 460 U.S. 325, 335–46 (1983); *Rehberg v. Paulk*, 566 U.S. 356, 369 (2012), this Court has refused absolute immunity to those who, like a complaining witness, set a proceeding in motion by vouching for facts, *Kalina*, 522 U.S. at 129–31; *Malley v. Briggs*, 475 U.S. 335, 340–41 (1986), and has cautioned that witness immunity does not extend "to all activity that a witness conducts outside of the grand jury room," such as the fabrication of evidence, *Rehberg*, 566 U.S. at 370 n.1. The complaint alleges precisely that the Division "instituted and/or maintained" its proceedings "on the basis of" Dr. Winston's fabricated evaluation. App. 63a (¶ 71). Moreover, as a person retained by the State to perform a governmental function, Dr. Winston acted under color of law, *West v. Atkins*, 487 U.S. 42, 54–57 (1988), and could claim at most qualified immunity, *Filarsky v. Delia*, 566 U.S. 377, 393–94 (2012)—which never protects the knowing fabrication of evidence.

3. Ch.H. The Law Division held that petitioners' relatives, as private citizens, were "incapable of taking 'state action.'" App. 49a. That categorical rule cannot be reconciled with this Court's cases. "[T]o act 'under color of' state law for § 1983 purposes does not require that the defendant be an officer of the State. It is enough that he is a willful participant in joint action with the State or its agents." *Dennis*, 449 U.S. at 27; accord *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 152 (1970); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 941 (1982). The complaint alleges that the Haight Defendants "acted in concert to bring about" the Division's proceedings, "acted in concert with" the reporting physician "to institute and maintain the DCP&P prosecution," and were connected to a Division agent "intimately involved with or otherwise affiliated with" Ch.H. App. 56a–58a (¶¶ 18, 21–22). Whether those allegations are ultimately proven is a matter for discovery and trial; but a rule that

private persons are legally "incapable" of joint action with the State is wrong as a matter of federal law.

C. The conflict warrants this Court's intervention.

The issue is important and recurring. Every State mandates or encourages the reporting of suspected child abuse, and every State confers some immunity on reporters. But the States diverge sharply on whether that immunity extends to knowingly false or malicious reports. Most condition immunity on good faith, consistent with the federal funding condition. See, e.g., N.Y. Soc. Serv. Law § 419; 23 Pa. Cons. Stat. § 6318; Tex. Fam. Code § 261.106; Fla. Stat. § 39.203. Several make knowingly false reports a crime. See, e.g., Fla. Stat. § 39.205(9); Tex. Fam. Code § 261.107(a). Others confer absolute immunity on at least some reporters, see Cal. Penal Code § 11172(a) (mandated reporters), and the trial court here read New Jersey's statute the same way. Whatever latitude the States have to define immunities for state-law torts, see *Martinez*, 444 U.S. at 281–83, the Supremacy Clause does not permit those choices to determine the availability of a remedy for the deprivation of federal rights. Yet under the decision below, a parent whose family is subjected to state proceedings on the strength of a deliberately fabricated accusation has a federal remedy if she files in federal court and none if she files in the courts of New Jersey. That is the very forum-dependent erosion of federal rights that *Felder*, *Howlett*, *Haywood*, *Williams*, and *Doe* condemn. See *Felder*, 487 U.S. at 138, 151–53.

The problem is not academic. Courts—including New Jersey's own—have recognized that child-protective referrals can be "weaponiz[ed]" in family conflicts as "a mechanism of harassment." *E.W. v. W.M.-H.*, 476 N.J. Super. 433, 444–45 (Ch. Div. 2023); see *State v. Snell*, 314 N.J. Super. 331, 335–38 (App. Div. 1998). Fabricated Munchausen-by-proxy accusations are a particularly potent weapon, because they convert a parent's diligent pursuit of medical care for a sick child into evidence of

abuse. When such an accusation launches state proceedings, the State itself becomes the instrument of the private actor's design. A rule that state courts may dismiss the resulting federal claims through absolute state-law immunities—before discovery, and over allegations of knowing falsehood—leaves families with no remedy precisely where the Fourteenth Amendment's protection matters most.

II. The Decision Below Deprived Petitioners Of Their Causes Of Action Without Due Process By Adjudicating Disputed Facts Against Them On The Pleadings.

Independently, the manner in which the New Jersey courts extinguished petitioners' claims violated the Due Process Clause.

A cause of action is "a species of property protected by the Fourteenth Amendment's Due Process Clause." *Logan*, 455 U.S. at 428. The State may not "finally destroy a property interest without first giving the putative owner an opportunity to present his claim of entitlement." *Id.* at 434. Due process requires the opportunity to be heard "at a meaningful time and in a meaningful manner." *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). A State need not adopt any particular pleading regime. But having chosen to dispose of a case on the legal sufficiency of the complaint—where New Jersey law, like federal law, requires the court to accept the allegations as true, App. 7a—a court may not instead decide the facts against the plaintiff on a record she had no opportunity to develop. That is not adjudication of the sufficiency of a pleading; it is a judgment on the merits without a hearing.

That is what happened here. The complaint alleges that the accusations against C.H. were fabricated, that Dr. Reisenman acted in concert with those who fabricated them, and that Dr. Winston's evaluation was "full of misinformation, lies" and "submitted with malice." App. 57a–58a, 63a–64a. The courts below nonetheless found:

- that "[t]he record clearly indicates" that "an objective review of the evidence supported a reasonable belief that child abuse had occurred," App. 16a;

- that "the record does not contain any evidence that Dr. Reisenman's report . . . was malicious," *id.*;
- that Dr. Reisenman's recantation—which the complaint pleads as an admission that he acted on others' fabrications—"supports his overall objectivity, not bias or malice towards plaintiff," *id.*;
- that Dr. Winston's "conclusions were manifestly founded upon her good faith professional observations," App. 15a;
- that "[n]o genuine issues of material fact in the record disputed that the Division and its employees acted in good faith," App. 12a–13a; and
- that "the undisputed record" showed Dr. Reisenman "observed bruises on S.H."—a fact that appears nowhere in the complaint, App. 34a.

Each of these is a finding of fact, drawn from untested materials outside the complaint or from inferences against the pleader, and several are expressed in the vocabulary of summary judgment ("genuine issues of material fact," "the record does not contain any evidence"). Yet no discovery was ever permitted, and petitioners' request for leave to amend was rejected as futile. App. 39a–40a. Petitioners thus lost their claims because the courts disbelieved their allegations, not because the allegations failed to state a claim. This Court has made clear, in construing the federal rules, that dismissal on the pleadings does not permit "dismissals based on a judge's disbelief of a complaint's factual allegations." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989); see *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007) (a well-pleaded complaint "may proceed even if it strikes a savvy judge that actual proof of the facts alleged is improbable"); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Those principles are not merely federal procedural preferences; they reflect the minimum content of a hearing. A State that finally adjudicates a plaintiff's property in her cause of action by finding facts against her, without allowing her to develop or present evidence, deprives her of that property without due process. See *Logan*, 455 U.S. at 428–34.

The deprivation is especially grave because it was imposed on the merits of the very federal claims discussed above, and because the state courts' fact-finding was the

vehicle by which the state immunities were applied. Indeed, the Appellate Division's articulation of a summary-judgment standard on a motion to dismiss first appeared in its own decision, which petitioners had no prior opportunity to contest. See *Brinkerhoff-Faris Tr. & Sav. Co. v. Hill*, 281 U.S. 673, 678–82 (1930) (federal due process claim arising from state court's own decision was "timely, since it was raised at the first opportunity").

III. This Case Is An Appropriate Vehicle.

The federal questions are squarely presented. The complaint pleaded the deprivation of federal constitutional rights; the Law Division expressly passed upon the federal-rights count, applying state immunities to "ALL claims," resting Dr. Winston's immunity on this Court's federal precedents, and holding private persons "incapable of taking 'state action'"; and the Appellate Division affirmed "as to all counts" for those reasons. App. 8a, 31a–34a, 49a. This Court reviews federal claims that were "either addressed by or properly presented to the state court." *Adams v. Robertson*, 520 U.S. 83, 86 (1997) (per curiam). And "it is irrelevant to inquire . . . when a Federal question was raised in a court below when it appears that such question was actually considered and decided." *Orr v. Orr*, 440 U.S. 268, 274–75 (1979) (citation omitted). Moreover, where a state court rests on its own reading of a complaint asserting a federal right, this Court "cannot accept as final a state court's interpretation of allegations in a complaint asserting it." *Brown*, 338 U.S. at 296. No particular form of words is required to present a federal claim, only that it be brought to the state court's attention "with fair precision and in due time," *Street v. New York*, 394 U.S. 576, 584 (1969) (citation omitted), and "[o]nce a federal claim is properly presented, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below." *Yee v. City of Escondido*, 503 U.S. 519, 534 (1992).

Nor does the judgment rest on an adequate and independent state ground. The state-law immunities are the very rules whose application to federal claims the Supremacy Clause forbids; a state rule cannot be an "adequate" ground for defeating a federal claim when federal law displaces it. See *Howlett*, 496 U.S. at 375–83; *Felder*, 487 U.S. at 138. And the decision below rests, at least in part, on federal law—the Law Division's judicial-immunity and state-action holdings—and is "interwoven with" it. *Michigan v. Long*, 463 U.S. 1032, 1040–41 (1983). Where a state court's disposition turns on its resolution of a federal question, even in applying a state-law rule, the ruling is not independent of federal law. *Ake v. Oklahoma*, 470 U.S. 68, 75 (1985); *Standard Oil Co. of Cal. v. Johnson*, 316 U.S. 481, 483 (1942).

Finally, the case arises on the pleadings, with no disputed record to complicate review; the questions are purely legal; and their resolution in petitioners' favor would require reinstatement of the claims against respondents. Petitioners, a single mother and her young daughter who were subjected to two years of state proceedings that the State itself abandoned, otherwise have no forum in which to vindicate the federal rights the complaint invoked.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, as in *Doe v. Dynamic Physical Therapy*, the Court should summarily reverse the judgment of the Appellate Division insofar as it applied state-law immunities and privileges to petitioners' federal claims, and remand for further proceedings.

Respectfully submitted,

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November 17, 2026