PREPARED BY THE COURT

EL COMITE DE APOYO A LOS TRABAJADORES AGRICOLAS (THE FARMWORKER SUPPORT COMMITTEE), **Plaintiff,** **v.** **MATTHEW J. PLATKIN, in his official capacity as Attorney General of the state of New Jersey; ROBERT ASARO-ANGELO, in his official capacity as Commissioner of New Jersey Department of Labor and Workforce Development; EDWARD D. WENGRYN, in His official capacity as Secretary of the Department of Agriculture,** **Defendant.**	**SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION: GENERAL EQUITY PART MERCER COUNTY** **DOCKET: MER-C-77-24** **Civil Action** **ORDER GRANTING IN PART, DENYING IN PART, DEFENDANT'S MOTION TO DISMISS**

THIS MATTER, having been opened to the Court on the 14th day of March 2025, the Hon. Patrick J. Bartels, P.J.Ch., presiding; Noelle Smith, Esq. and Jenny-Brooke Condon, Esq., appearing for the plaintiff; Amanda Morejon, Esq., appearing for the Office of Attorney General; Lewis Goldshore, Esq. appearing for the New Jersey Farm Bureau; Lawrence Lustberg, Esq. appearing for the National Employment Law Project; the Court having considered the matter, for the reasons stated in the attached statement of reasons, and for good cause shown:

IT IS ON THIS the 23rd day of January 2026 **ORDERED** that:

1. The defendant's motion to dismiss regarding the right to safety claim is **GRANTED**;
2. The defendant's motion to dismiss the complaint based on the equal protection claims, the special legislation claim, and the New Jersey Civil Rights Act is **DENIED**; and it is

3. **FURTHER ORDERED** that this Order shall be served upon counsel for the parties via eCourts.

HON. PATRICK J. BARTELS, P.J. Ch.

STATEMENT OF REASONS:

Parties:

The Plaintiff is El Comite de Apoyo Trabajadores Agriculturas ("Plaintiff" or "CATA"), which is an association which represents agricultural workers in New Jersey.

The Defendants in this case are Matthew Platkin, the Attorney General of New Jersey; Robert Asaro-Angelo, the Commissioner of the New Jersey Department of Labor and Workforce Development; and Edward D. Wengryn, the New Jersey Secretary of Agriculture (collectively, "Defendants").

This Court admitted two parties as *amicus curiae*. First, Lewis Goldshore, Esq., who appears on behalf of the New Jersey Farm Bureau and supports Defendants' position. Second, Lawrence Lustberg, Esq., who appears on behalf of the National Employment Law Project and supports Plaintiff's position.

Facts

The case before the Court today is centered around New Jersey's Wage and Hour Law ("WHL" or "the Act") N.J.S.A. 34:11-56a to -56a41. The most recent version of the Act was enacted into law in January of 2019, although the original Act dates to 1966. It is worth noting that the original Act was modeled after the 1938 federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201-219.

New Jersey protects most of its workers by the Act which, when enacted on May 9, 1966, provided a minimum wage as well as overtime pay requirements for New Jersey employees. See

§ N.J.S.A. 34:11-56a4(b)(1) (overtime), N.J.S.A. § 34:11-56a4(d) (minimum wage); Journal of 1966 Senate at 487, 682-83. The 1966 Act proclaims it is

> the public policy of [New Jersey] to establish a minimum wage level for workers in order to safeguard their health, efficiency, and general well-being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to their health, efficiency and well-being.
>
> N.J.S.A. 34:11-56a.

When the Legislature amended the statute in 2019, its purpose remained the same as in 1966. See, e.g., Press Release, N.J. Senate Democrats, "Sweeney Statement On The Minimum Wage" (Nov. 26, 2018) (*quoting* Senate President Sweeney) (calling for $15 minimum wage because "[t]oo many of our fellow citizens . . . still do not make enough money to put food on the table, pay their utility bills, buy shoes and clothing for their children, and keep a roof over their family's heads.")

At issue in this current matter is the exception the Act carves out for farm workers in both the minimum wage and overtime provisions. The original New Jersey 1966 Act adopted some, but not all, of the provisions of the 1938 FLSA. Specifically, the 1966 Act did not include a different minimum wage for farm workers, although it did include the overtime exception for farm workers, whereas the 1938 FSLA included both a minimum wage and an overtime exception. The 2019 Amendments to the Act, like the FSLA, adopted a different minimum wage schedule for farm workers, as well as seasonal workers and workers employed by small businesses, than other workers. Under the 2019 Amendments, individuals engaged in seasonal employment and those employed by small employers will reach the $15 minimum wage by January 1, 2026, and farm workers will receive a $15 minimum wage by January 1, 2027. See

N.J.S.A. § 34:11- 56a4(c)-(d). Other New Jersey employees not subject to exemptions would receive a $15 minimum wage by January 1, 2024. New Jersey's minimum wage will be entirely uniform (including farmworkers) by January 1, 2030. The present New Jersey minimum wage, as of January 1, 2026, is $15.92. As of January 1, 2026, farm workers received a minimum wage of $14.20.

Under the Act, after working over forty hours a week, certain employees are also entitled to overtime compensation at a rate of no less than one-and-a-half times their normal hourly wage. See N.J.S.A. § 34:11-56a4(b)(1). Originally, this provision did not apply to those "engaged to labor on a farm," nor to "individual[s] employed in a bona fide executive, administrative, or professional capacity;" "employed in a hotel;" employed by "a common carrier of passengers by motor bus;" limousine drivers employed by "an employer engaged in the business of operating limousines;" or "employees engaged in labor relative to the raising or care of livestock." Id. The 2019 Amendments to the Act preserved these overtime exceptions. Id.

The 2019 Amendments also required the Commissioner of the New Jersey Department of Labor and Workforce Development and the Secretary of the New Jersey Department of Agriculture to "consider any information provided by the secretary regarding the impact on farm employers and the viability of the State's agricultural industry of the increases of the minimum wage . . . , and the potential impact of the increases . . . , including comparisons with the wage rates in the agricultural industries in other states." N.J.S.A. § 34:11-56a4(d)(3).

The 2019 Amendments to the Act also allow the Commissioner of the New Jersey Department of Labor and Workforce Development and the Secretary of the New Jersey Department of Agriculture, and, if necessary, a tie-breaking public member, to decline to raise farmworker wages after considering "any information provided by the secretary regarding the

impact on farm employers and the viability of the State's agricultural industry of the increases of the minimum wage . . . , and the potential impact of the increases . . . , including comparisons with the wage rates in the agricultural industries in other states." N.J.S.A. § 34:11-56a4(d)(3). Essentially this means that even the gradual increases of farm workers' minimum wage set in the Act can be overridden by the Commissioner of the New Jersey Department of Labor and Workforce Development and the Secretary of the New Jersey Department of Agriculture.

Prior to the 2019 amendments to the Act, farm workers were not excluded from the New Jersey's minimum wage protections. However, the FSLA, which the Act is modeled after, did include such exclusions until an amendment in 1966 mandated a minimum wage for farm workers. The overtime exceptions in the New Jersey Act were essentially copied over from the 1938 Fair Labor Standards Act, and unlike the minimum wage exception in the FSLA have never been subject to amendment.

In the legislative history of the 1938 Act, the justifications stated on the record for the minimum wage and overtime exceptions were explicitly racially discriminatory in nature. See Rebecca Dixon, On Addressing the Racist Exclusions of Farmworkers, Domestic Workers and Tipped Workers from the Fair Labor Standards Act, **National Employment Law Project** (May 3, 2021) at 8-9, https://www.nelp.org/insights-research/testimony-from-excluded-to-essential-tracing-the-racist-exclusion-of-farmworkers-domestic-workers-and-tipped-workers-from-the-fair-labor-standards-act/. At the time, southern Democrats sought to prevent sharecroppers from receiving minimum wage and overtime protections under Jim Crow laws. Id. Plaintiff implies that, by continuing to include the overtime exception, New Jersey relies on Jim Crow-era laws.[1]

[1] Fiscal Policy Institute, Farm Workers' Overtime Pay Is Affordable and Long Overdue, (May 2019), https://fiscalpolicy.org/wp-content/uploads/2019/05/Support-the-Farm-Worker-Fair-Labor-Practices-Act.pdf (testing the impacts of banning the farmworker overtime exception in New York).

As those Jim Crow era laws have been repealed, Plaintiff maintains there is no rational basis to retain any overtime exceptions today.[2]

In regard to the legislative history of the 2019 Amendments to the Act, the New Jersey State Legislature conducted several hearings regarding the Act. Plaintiff appeared at these hearings and agreed with raising farm workers' minimum wage but requested that the Legislature amend the Act to permit farm workers to meet the general minimum wage by 2026 or 2027, rather than 2030. Additionally, Plaintiff predicted a lower minimum wage for farm workers would result in a mass exodus from the agricultural industry, as workers would instead seek jobs in meatpacking, warehouses, or other states. Plaintiff noted the State of Maryland mandated overtime pay for farm workers who exceeded sixty hours of work per week and encouraged New Jersey to adopt similar provisions.

New Jersey State Board of Agriculture president Shirley Kline testified New Jersey's agriculture industry was struggling, partly due to climate change, as evidenced by decreased produce prices between 2009 and 2018. Ultimately, the Legislature decided to slow the minimum wage increase to mitigate the impact on farm employers, preserve certain incentives and benefits, and "make sure the garden stays in the Garden State." Thus, the Act was signed into law including both the minimum wage and the overtime exemptions for farm workers.

Plaintiff then filed this action in August of 2024, alleging the Act's exclusion of farm workers from mandatory overtime pay as well as its farmworker-specific minimum wage constitutes unconstitutional discrimination. Plaintiff asserts that New Jersey farm workers are especially vulnerable as they are engaged in dangerous work, paid substandard wages, mostly

[2] See id.

monolingual Spanish speakers, generally lack access to adequate healthcare, and cannot meaningfully engage in the political process or advocate for their rights due to their immigration status. Count I of the complaint alleges equal protections violations, Count II alleges a violation of Article I, Paragraph 1 of the New Jersey Constitution's right to safety, Count III alleges a violation of Article IV, Section 7, paragraph 7 of the New Jersey Constitution's prohibition against special legislation, and Count IV alleges that each of the constitutional violations alleged in Counts I-III also violates the New Jersey Civil Rights Act., N.J.S.A. 10:6-1 to -2.

The matter before this Court today is Defendant's motion to dismiss Plaintiff's claims. Defendants seek to dismiss Counts I-IV of Plaintiff's Complaint for failure to state a claim upon which relief can be granted. Defendants argue the Act does not violate the state Equal Protection Clause. First, Defendants contend Plaintiff has not identified authority recognizing a right to be paid overtime or the minimum wage as an "important personal right," also called a fundamental right. Second, Defendants argue that the extent of the restrictions in the Act's farmworker exclusion is limited, because while the farmworkers will receive the benefits at a slower pace, they still receive them eventually. Furthermore, Defendants maintain the Act's farmworker exclusions pass rational basis review: Defendants say the Act is rationally related to the State's legitimate interest in protecting New Jersey's agricultural industry. Moreover, Defendants maintain the Legislature considered Plaintiff's concerns during the Act amendment process and at that point resolved any outstanding issues with the Act.

Defendants assert that Plaintiff fails to allege that the Act facially discriminates based on a suspect classification, nor had a discriminatory purpose. Defendants contends that even if Plaintiff made allegations beyond disparate impact, the Act and its farmworker exceptions nonetheless withstand constitutional scrutiny because they do not intrude on any fundamental

rights and are rationally related to the compelling State interest of balancing worker protection with ensuring the continued viability of the State's agricultural industry. Defendants also proclaim there is no freestanding "right to safety" under the New Jersey Constitution. Even if there is, Defendants argue that they do not take any affirmative action to endanger farmworker health or safety.

Next, Defendants maintain the Act is not unconstitutional special legislation because it does not pick favorites nor impede the Legislature's prerogative to establish rational and reasonable classifications. Defendants claim that exempting farmworkers from the overtime law and mandating minimum wage increases at a slower rate advances the Act's primary goals and accounts for the unique conditions of New Jersey's agricultural industry.

Defendants also claim Plaintiff's New Jersey Civil Rights Act ("NJCRA") claim fails as a matter of law. Defendants assert that an allegation of a deprivation of "substantive rights, privileges, or immunities" protected by the New Jersey Constitution cannot stand because Plaintiffs cannot sue state officials acting in their official capacity, and none of the named Defendants are "persons" under the NJCRA. Defendants allege the only reason Plaintiff sues under the NJCRA is to recover attorney's fees pursuant to N.J.S.A. 10:6-2(f) which states "[i]n addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs." Plaintiffs oppose Defendants' motion to dismiss in whole.

Legal Standards and Analysis

Motion to Dismiss:

The court should grant a motion to dismiss where "even a generous reading of the allegations does not reveal a legal basis for recovery." Kieffer v. High Point Ins. Co., 422 N.J. Super. 38, 43 (App. Div. 2011). On a motion to dismiss, "the complaint must be searched in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement." Printing Mart-Morristown v. Sharp Elec., 116 N.J. 739, 746 (1989). A motion to dismiss "may not be denied based on the possibility that discovery may establish the requisite claim; rather, the legal requisites for plaintiffs' claim must be apparent from the complaint itself." Edwards v. Prudential Prop. & Cas. Co., 357 N.J. Super. 196, 202 (App. Div. 2003). If the "complaint states no basis for relief and discovery would not provide one, dismissal is the appropriate remedy." Banco Popular N. Am. v. Gandi, 184 N.J. 161, 166 (2005). "If a complaint must be dismissed after it has been accorded the kind of meticulous and indulgent examination [...], the dismissal should be without prejudice to a plaintiff's filing of an amended complaint." Printing Mart, 116 N.J. at 772.

In evaluating motions to dismiss, courts consider the allegations in the complaint, attached exhibits, matters of public record, and documents that form the basis of the claim. See Banco Popular, 184 N.J. 161, 183 (2005). "A party's factual assertions in a trial brief, in an appellate brief, or at oral argument, and the factual contentions of an *amicus curiae*, however, are not assumed to be true for purposes the court's inquiry." Am. Civ. Liberties. Union. of N.J. v. Cnty. Pros. Ass'n of N.J., 257 N.J. 87, 106 n.3 (2024); See, e.g., Dimitrakopoulos v. Borrus, Goldin, Foley, Vignuolo, Hyman & Stahl, P.C., 237 N.J. 87, 100 (2019); Printing Mart, 16 N.J. at

746. Questions of law are particularly suited for resolution through motion by the Court. See Badiali v. N.J. Mfrs. Ins. Grp., 220 N.J. 544, 555 (2015).

Statutory Interpretation:

New Jersey courts generally presume statutes are valid. See Newark Sup. Officers Ass'n v. City of Newark, 98 N.J. 212, 222 (1985). "Where alternative interpretations of a statute are equally plausible, the view sustaining the statute's constitutionality is favored." Town of Secaucus v. Hudson Cnty. Bd. Of Tax., 133 N.J. 482, 492 (1993). The New Jersey "Legislature has wide discretion in determining the perimeters of a classification . . . and an adequate factual basis for the legislative judgment is presumed to exist." Paul Kimball Hosp., 86 N.J. at 446-447.

"Where a statute is clear and unambiguous on its face and admits of only one interpretation, a court must infer the Legislature's intent from the statute's plain meaning." O'Connell v. State, 171 N.J. 484, 488 (2002). Courts will "neither rewrite a plainly-written enactment of the Legislature nor presume that the Legislature intended something other than that expressed by way of the plain language." Id. Courts are generally reluctant "to declare a statute void, a power to be delicately exercised unless the statute is clearly repugnant to the Constitution." David v. Vesta Co., 45 N.J. 301, 370 (1965); Brunetti v. New Milford, 68 N.J. 576, 599 (1975); Harvey, 30 N.J. at 388; Paul Kimball Hosp., Inc. v. Brick Township Hosp., 86 N.J. 429, 446-47 (1981).

"[T]he Legislature has wide discretion in determining the perimeters of a classification." Barone, 107 N.J. at 369 (citing Harvey v. Essex Cnty. Bd. of Freeholders, 30 N.J. 381, 390 . Furthermore, "distinctions may be made with substantially less than mathematical exactitude." Id.; Lane Distributors, Inc. v. Tilton, 7 N.J. 349, 358-359 (1951). "[A]n adequate factual basis for

the legislative judgment is presumed to exist." Id.; Burton v. Sills, 53 N.J. 86, 95 (1968), app. dism. 394 U.S. 812 (1969).

The traditional judicial reluctance to declare a statute void is a power to be delicately exercised unless the statute is clearly repugnant to the Constitution. See Brunetti v. New Milford, 68 N.J. 576, 599 (1975).

Equal Protection:

Under Article I, Paragraph 1 of the New Jersey Constitution, "[a]ll persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness." While this provision does not explicitly mention equal protection, the New Jersey Supreme Court has construed its language to embrace the fundamental guarantee of equal protection under the law. Sojourner A. v. N.J. Dep't of Human Servs., 177 N.J. 318, 332 (2003) (quoting Planned Parenthood of Cent. N.J. v. Farmer, 165 N.J. 609, 629 (2000)).

"Conventional equal protection analysis employs 'two tiers' of judicial review." Right to Choose v. Byrne, 91 N.J. 287, 305 (1982). "Briefly stated, if a fundamental right or suspect class is involved, the legislative classification is subject to strict scrutiny; the state must establish that a compelling state interest supports the classification and that no less restrictive alternative is available." Id. "With other rights and classes, however, the legislative classification need be only rationally related to a legitimate state interest." Id.; see also U.S. Chamber of Commerce v. State, 89 N.J. 131, 157-58 (1982).

Analyzing an equal protection case under the New Jersey Constitution slightly differs from analysis of those fundamental rights under the United States Constitution, as the New Jersey Constitution affords greater protection for individual rights than its federal counterpart. See State v. Gilmore, 103 N.J. 508, 522-24 (1986); Greenberg v. Kimmelman, 99 N.J. 552, 567 (1985). Starting with the New Jersey Supreme Court's decision in Robinson v. Cahill, the Court began to develop an independent analysis of state constitutional rights under Article I, Paragraph 1, that "rejected two-tiered equal protection analysis . . . and employed a balancing test in analyzing claims under the state constitution." 62 N.J. 473, 491-92, 303 A.2d 273 (1973); Greenberg, 99 N.J. at 567, 494 A.2d 294 (quoting Taxpayers Ass'n of Weymouth Twp. v. Weymouth Twp., 80 N.J. 6 (1976)).

However, in subsequent cases, the New Jersey Supreme Court "applied traditional federal tiers of scrutiny to an equal protection analysis, instead of a balancing test." State v. Pimentel, 461 N.J. Super. 468, 491 (App. Div. 2019). "Where a statute does not treat a 'suspect' or 'semi-suspect' class disparately, nor affect a fundamental right [including a liberty interest], the provision is subject to a 'rational basis'" review. State v. Lagares, 127 N.J. 20, 34 (citing Dandridge v. Williams, 397 U.S. 471 (1970)). Hence, the government action must be "rationally related to the achievement of a legitimate state interest." Id. (citing Byrne, 91 N.J. at 305); see also Lewis v. Harris, 188 N.J. at 443."[W]here an important personal right is affected by governmental action, the Court often requires the public authority to demonstrate a greater 'public need' than is traditionally required in construing the federal constitution." Taxpayers Ass'n of Weymouth Tp. v. Weymouth Twp., 80 N.J. at 43.

Under the New Jersey Constitution, the State violates equal protection when it lacks sufficient public need for treating a group differently than others similarly situated, regardless of

whether the right at issue is fundamental. Additionally, unlike the federal standard, New Jersey's approach requires meaningful review of a discriminatory law's justifications regardless of whether there is a fundamental right or suspect class at issue. See Robert F. Williams & Ronald K. Chen, New Jersey State Constitution 58 (3d ed. 2022); Lewis, 188 N.J. at 441-42.

Plaintiffs cite to two cases involving alleged equal protection violations concerning agricultural workers. Although these cases are not dispositive, the New Mexico Supreme Court and Washington Supreme Court analyses are highly relevant to the issues before this Court.

New Mexico Supreme Court:

In Rodriguez v. Brand W. Dairy, the New Mexico Supreme Court struck down the workers compensation exception for farm and ranch laborers by holding that it violated equal protection under the New Mexico Constitution even under rational basis review. 378 P.3d 13, 17 (N.M. 2016). The case concerned the New Mexico Workers' Compensation Act (Act), NMSA 1978, §§ 52-1-1 to -70 (1917, as amended through 2015), which did not require employers to provide workers compensation coverage to farm and ranch laborers, although it did require coverage for other agricultural workers. The Court held that "there is nothing to distinguish farm and ranch laborers from other agricultural employees and that purported government interests such as cost savings, administrative convenience, and other justifications related to unique features of agribusiness bear no rational relationship to the Act's distinction between these groups. This is nothing more than arbitrary discrimination and, as such, it is forbidden by our Constitution." Id. at 2. Like New Jersey, New Mexico's equal protection analysis requires courts to decide whether the legislation at issue results in a group beings treated differently than other similarly situated individuals.

The Court applied rational basis review, albeit a "modern articulation" of the rational basis test for the claims under the New Mexico Constitution, although it also applied the federal rational basis test to the federal claims. For the state claims however, the Court rejected the federal version of the rational basis test as "toothless" and a "virtual rubber stamp." Id at 27. Instead, while the Court remained "highly deferential to the Legislature by presuming the constitutionality of social and economic legislation, our approach is also cognizant of our constitutional duty to protect discrete groups of New Mexicans from arbitrary discrimination by political majorities and powerful special interests." Id. To establish the lack of a rational basis, the plaintiffs have to demonstrate "that the classification created by the legislation is not supported by a firm legal rationale or evidence in the record." Id. at 28. (internal citation omitted). Essentially, the rational basis standard "requires the challenger to bring forward record evidence, legislative facts, judicially noticeable materials, case law, or legal argument to prove that the differential treatment of similarly situated classes is arbitrary, and thus not rationally related to the articulated legitimate government purposes." Id.

The Court found that reducing costs for employers while arbitrarily discriminating against a specific group does not pass rational basis review. Id. at 33. Among other reasons, the Court additionally found that there was "firm legal rationale nor evidence in the record to support a rational relationship between the differential classification of farm and ranch laborers under the Act and the government purpose of helping New Mexico's small, rural farms and protecting their traditions." Id. at 43. This was especially true because the act only applied to private employers of three or more employees, meaning it only applied to 1,864 of the 24,721 farms in New Mexico.

Washington Supreme Court:

In Martinez-Cuevas v. DeRuyter Dairy Bros., the Washington Supreme Court struck down the overtime exception to Washington State's minimum wage law by holding it violated the state privilege or immunity clause and was a special law. See 196 Wn.2d 506, 514 (Wa. 2020). The Court applied a two-step analysis: Whether a challenged law created a "privilege" or "immunity," and whether there was a "reasonable ground" for granting the privilege or immunity. See id. at 519. However the Washington Supreme Court noted the minimum wage law provided dairy workers an equal minimum wage "eventually," and thus was not a violation. Martinez-Cuevas, 196 Wn.2d at 521.

The court held the law granted agricultural employers a privilege or immunity from providing overtime protections to dairy workers, contradicting the Washington Constitution, which protected persons working in "especially dangerous industries." Martinez-Cuevas, 196 Wn.2d at 519. The Washington Constitution required "the legislature to pass appropriate laws for the protection of workers." Id. at 520. After opining on the dangers of dairy work, the court invoked the privileges and immunities clause to require overtime protections. See id. at 520-21; see also Macias v. Dep't of Labor & Indus., 100 Wn.2d 263, 274 (1983).

The Washington Supreme Court also held "[t]he legislature lacked reasonable grounds for granting the overtime exception to agricultural employers." Martinez-Cuevas, 196 Wn. 2d at 523. The court "scrutinize[d] the legislative distinction to determine whether it in fact serve[d] the legislature's stated goal." Id. The court held "constant, factory-like work" differed from seasonal work, and other industries did not exempt employees from overtime protections. Id. Furthermore, the legislative history did not mention the "seasonality or the variations of agricultural work, and instead noted unemployment insurance for agricultural workers, the

consequences of increased operating costs, and legislative changes." Id. at 524. While the law allegedly sought to protect the health and safety of Washington's workers, the court held the legislature impermissibly granted the agricultural industry a privilege or immunity. See id. at 525.

Although the Washington Supreme Court did not decide the case on equal protection grounds, the concurrence did invoke the state's equal protection clause. "The statutory exclusion of farmworkers from overtime pay deserves at least intermediate scrutiny." Martinez-Cuevas, 196 Wn.2d at 528 (Gonzalez, J., concurring). Under intermediate scrutiny, courts will uphold "the classification only if it furthers an important governmental objective." Id. "Farmworkers labor in arduous and dangerous conditions," and "are exposed to pesticides, use hazardous machinery, and work long hours in extreme heat and cold." Id.; Eric Hansen & Martin Donohoe, Health Issues of Migrant and Seasonal Farmworkers, 14 J. HEALTH CARE FOR POOR & UNDERSERVED 153, 155-57 (2003). "The exemption denies an important right to a vulnerable class, and defendants have not demonstrated it serves important governmental objectives." Martinez-Cuevas, 196 Wn.2d at 527 (Gonzalez, J., concurring).

Additionally, the Washington Constitution required "all persons similarly situated will be treated alike absent a sufficient reason to justify disparate treatment." Id. Washington still applied heightened scrutiny to laws "that single out politically powerless and marginalized groups for differential treatment with respect to important rights." Id. The concurrence cited the history of the farmworker exception, stating the "New Deal agenda made compromises to preserve a quasi-captive, nonwhite labor force and perpetuate the racial hierarchy in the South by excluding agricultural workers'" and that "since the 1930s, lawmakers have systematically excluded them

from health and safety protections, including overtime pay, afforded to workers in other dangerous industries." Martinez-Cuevas, 196 Wn.2d at 528.

Overtime Exception Literature:

Plaintiff appealed to the lack of a "rational basis" to enforce the overtime exception based on the Washington Supreme Court's opinion in Martinez-Cuevas and numerous law review articles. Such articles emphasized how the farmworker overtime exception, noted in the federal Fair Labor Standards Act, was rooted in a compromise between President Franklin Delano Roosevelt and southern Congressional Democrats. See Rebecca Dixon, On Addressing the Racist Exclusions of Farmworkers, Domestic Workers and Tipped Workers from the Fair Labor Standards Act, **National Employment Law Project** (May 3, 2021) at 8-9, https://www.nelp.org/insights-research/testimony-from-excluded-to-essential-tracing-the-racist-exclusion-of-farmworkers-domestic-workers-and-tipped-workers-from-the-fair-labor-standards-act/. Plaintiff implies that, by following the overtime exception, New Jersey relied on Jim Crow-era laws.[3] Upon repeal of Jim Crow laws, Plaintiff maintained there was no rational basis to retain any overtime exceptions.[4]

Equal Protection Analysis

In this case, there are two separate questions. First, whether the overtime exemption violates the equal protection of the laws. Second, whether the gradual minimum wage increase for farm workers violates equal protection. New Jersey has its own equal protection analysis beyond applying either strict scrutiny or rational basis review, as in the federal courts. This Court

[3] Fiscal Policy Institute, Farm Workers' Overtime Pay Is Affordable and Long Overdue, (May 2019), https://fiscalpolicy.org/wp-content/uploads/2019/05/Support-the-Farm-Worker-Fair-Labor-Practices-Act.pdf (testing the impacts of banning the farmworker overtime exception in New York).
[4] See id.

applies New Jersey's equal protection analysis. This Court performs its independent analysis based on the Greenberg factors.

Overtime Exception:

Although this Court will likely find the New Jersey Legislature did not act directly out of racism or bigotry, the legislative record is murky at best regarding the overtime exception. Even Defendants' own brief only cited to the general Act, citing the equitable nature of the law. Defendants point to no legislative history, nor other controlling or persuasive authority that explicated why the Legislature included the overtime exception, besides guidance from the Fair Labor Standards Act. Because other jurisdictions have struck down similar exceptions, both judicially and legislatively, and because Defendants fail to offer any explanation for the overtime exception, there is likely a rational basis for striking down the Act. There are also no daily or weekly hourly limits for adult farm workers in New Jersey. This means that farmers can require employees to work for over forty, sixty, or even one hundred hours a week at their regular rate.

Furthermore, the nature of the affected right demonstrates a right to fair wages. Both parties acknowledged the Wage and Hour Law intended to provide a comprehensive minimum wage and fair wages, with the fewest exceptions possible. Thus, all parties acknowledge the Wage and Hour Law sought to recognize the inherent dignity of work. Second, this Court examines extent to which the governmental restriction intrudes upon the right to make a wage. Here, there is a clear intrusion: That farm workers in New Jersey cannot receive overtime for their work. Since other employees in other sectors (outside of the service economy) can receive overtime for their work, this law intrudes on the farm workers' ability to recover a profit. Third, this Court examines the public need for the restriction. This factor will be dispositive of whether this Act may stand. Both parties present persuasive arguments, although the State only addressed

the law providing as few exceptions as possible. The lack of concrete historical evidence necessitates denying the motion to dismiss.

Since this Court must look to any legally cognizable claim to prevent dismissing the case, this Court recognizes FLSA's history and the subsequent laws which succeeded it. This Court could rule for Defendants that the Act rationally related to a legitimate interest (tracking the federal standard). Or this Court could find comporting with FLSA, given its compromise, is not a legitimate interest. However, at this stage Defendants' have produced no rational basis in the legislative record for the overtime exception. In fact, Defendants have produced no explanation at all for the overtime basis. This Court cannot grant a motion to dismiss where Defendants have offered no evidence to support their assertion that the overtime exception has a rational basis. This Court certainly cannot grant a motion to dismiss where Defendants offer no rational basis at all for such an exception, which is the case here.

Defendant's motion to dismiss the equal protection claim as it relates to the overtime exception is **DENIED.**

Minimum Wage:

Unlike the overtime exception, which bars any overtime, the minimum wage exception had three primary justifications. First, this Court would examine minimum wage increases against the impact to the industry as a whole, like whether workers could flee to neighboring states, and the Commissioner and Secretary would assess such an impact and make recommendations. Additionally, the January 28, 2019 testimony before the Budget and Appropriations Committee by multiple stakeholders, including Plaintiff, and the Board of

Agriculture's 2018 statement, confirmed the relationship between farmworker exemptions and industry health.

Following the Greenberg factors, the nature of the right is the same: Providing workers a minimum wage. The governmental restriction is the timeline. Farmworkers and other service industry workers are entitled to the higher minimum wage by 2030, just a few years after all other New Jersey minimum wage workers. The public need for the restriction is less clear.

"When litigants allege that the government has unconstitutionally discriminated against them, courts must decide the merits of the allegation because if proven, courts must resist shrinking from their responsibilities as an independent branch of government, and refuse to perpetuate the discrimination—regardless of how long it has persisted—by safeguarding constitutional rights." Rodriguez v. Brand W. Dairy, 378 P.3d 13, 17 (N.M. 2016). Here, it is possible that there is a rational basis for the slower minimum wage increase, but it is also possible that there is not.

New Jersey's equal protection analysis requires Courts to conduct a "meaningful review" of a discriminatory law's justifications regardless of whether there is a fundamental right or suspect class at issue. See Robert F. Williams & Ronald K. Chen, New Jersey State Constitution 58 (3d ed. 2022); Lewis, 188 N.J. at 441-42. At this stage in the litigation, this Court declines to dismiss the minimum wage equal protection case as it does not fail as a matter of law but rather is a fact-based determination that requires more discovery. Further information is needed in order for this Court to perform a meaningful review of a discriminatory law's justifications.

In sum, this Court **DENIES** Defendants' motion to dismiss Plaintiff's equal protection claims.

Right to Safety:

Courts have regarded Article 1, Paragraph 1 of the New Jersey Constitution to grant fundamental rights akin to the federal Equal Protection Clause. Greenberg v. Kimmelman, 99 N.J. 552, 568 (1985). Several rights have been implied from the language in Article 1, however, case law has not derived a right to safety from the text of Article 1, Paragraph 1, nor is there a stand-alone right to safety. New Jersey courts have never found that the State must not take any affirmative legislative or executive actions which endanger the health or safety of its residents. See UAW, Region 9, et al. v. New Jersey, C-26-24, at *10-12 (Ch. Div. Aug. 30, 2024). The only legal theory that does require the state to take affirmative action to protect the safety of individuals is the "state-created danger" doctrine, which does not apply to the instant matter. See Kneipp by Cusack v. Tedder, 96 F.3d 1199, 1208 (3d Cir. 1996); Gonzales v. City of Camden, 357 N.J. Super. 339, 347 (App. Div. 2003). Furthermore, if a right to safety did exist under the New Jersey Constitution, the text of Article 1 is more accurately interpreted as providing a right to *pursue* safety. This language implies the New Jersey Constitution guarantees individuals the right to make decisions regarding their own safety or alternatively, the ability to take certain risks regarding their safety, such as the ability of individuals to choose to work in dangerous jobs despite the known safety risks in that line of work.

Plaintiffs allude to a "sliding scale" test established by Lewis v. Harris. 188 N.J. 415 (2006). There, the New Jersey Supreme Court held refusing to issue marriage licenses to same-sex couples violated the equal protection guarantees of the New Jersey Constitution. "Quite simply, that first paragraph to the New Jersey Constitution protects against injustice and against the unequal treatment of those who should be treated alike."

Plaintiff relies on Right to Choose to establish a right to safety. There, the New Jersey Supreme Court held "[a]mong the most important of personal rights, without which man could not live in a state of society, is the right of personal security, including the preservation of a man's health from such practices as may prejudice or annoy it, a right recognized, needless to say, in almost the first words of the New Jersey [C]onstitution." 91 N.J. at 304; Tomlinson v. Armour & Co., 75 N.J.L. 748, 757 (E. & A. 1908). Yet, the case did not find a general right to safety, only emphasizing personal security. See id. at 304-05.

Plaintiff points to no authority that establishes a right to safety under the New Jersey Constitution. Even at the motion to dismiss stage, where the Court searches the complaint "in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement.," the Court cannot allow a claim to stand where no legal authority supports such claim. Printing Mart-Morristown v. Sharp Elec., 116 N.J. 739, 746 (1989). This Court reiterates its finding in prior cases, that there is no right to safety under the New Jersey Constitution. Plaintiff even acknowledges that there is no authority that explicitly supports a freestanding right to safety in the New Jersey Constitution. This Court finds that New Jersey did not take affirmative action to endanger the health and safety of farm workers and instead has only acted to regulate the amount of wages owed to such workers.

At oral argument, Plaintiff noted its right to safety claim could be separated from its equal protection claim. Because Plaintiff stipulated at oral argument that its case was disjunctive, and because as a matter of law there is no a right to safety in the New Jersey Constitution, this Court **DISMISSES** the right to safety claim.

Special Law:

The New Jersey Constitution, Article IV, Section VII, Paragraph 7 states: "No general law shall embrace any provision of a private, special or local character." N.J. Const., Art. IV, Sec. VII, Para. 7. Article IV, Section VII, Paragraph 9(8) of the Constitution states: "The legislature shall not pass any private, special or local laws … (8) granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever." N.J. Const., Art. IV, Sec. VII, Para. 9(8). upon what an enactment excludes and the appropriateness of that exclusion, when considered in the context of the statute's legislative purpose. N.J. State Bar Ass'n v. State, 387 N.J. Super. 24, 51 (App. Div.), cert. denied, 188 N.J. 491 (2006). The party challenging the legislation bears the burden of establishing the statute is unconstitutional special legislation. See id. at 52. In 1878, the court in State ex rel Van Riper v. Parsons, 40 N.J.L. 1, 9 (N.J. 1878), provided the purpose for prohibiting special laws and defined them as follows:

> [S]pecial laws are all those that rest on a false or deficient classification; their vice is that they do not embrace all the class to which they are naturally related; they create preference and establish inequalities; they apply to persons, things, or places possessed of certain qualities or situations, and exclude them from their effect other persons, things, or places which are not dissimilar in these respects.

A law is special, by force of an inherent limitation, if it arbitrarily separates some persons, places or things from others upon which, but for such limitation, it would operate. See Paul Kimball Hosp. Inc., v. Brick Twp. Hosp. Inc., 86 N.J. 429, 445 (1981) (citing Budd v. Hancock, 66 N.J.L. 133 (Sup. Ct. 1901)): "A law is 'general' (1) if the class of subjects established, recognized or regulated is distinguished by characteristics sufficiently marked and important to make it a class by itself, and (2) if it encompasses all of the subjects which

reasonably belong within the classification, and does not exclude any which naturally belong therein." Id. (citing Roe v. Kervick, 42 N.J. 191, 233 (1964)).

In Vreeland v. Byrne, the New Jersey Supreme Court laid out a three-factor test to determine whether a special law is unconstitutional. See 72 N.J. 292 (1977). First, a court must "determine the purpose of the enactment and the subject matter with which it is concerned." Id. at 298 (citing Alfred Vail Mutual Ass'n. v. Borough of New Shrewsbury, 58 N.J. 40, 48-49 (1971); Kervick, 42 N.J. at 233). There, the Supreme Court held if legislation has multiple purposes, a court must consider each purpose as it pertains to the special legislation being challenged. See id. at 299. Second, a court must consider "whether there are persons similarly situated to those embraced within the act, who, by the terms of the act, are excluded from its operation." Id. Third and finally, the court must decide "whether the classification is reasonable, not arbitrary, and can be said to rest upon some rational basis justifying the distinction," as applied to the facts. Id. at 299, 301 (citing Budd v. Hancock, 66 N.J.L. 133, 135 (Sup. Ct. 1901); see also Woodruff v. Freeholders of Passaic, 42 N.J.L. 533, 535 (Sup. Ct. 1880)).

While the special laws analysis has been compared to the federal equal protection rational basis test, the first factor of the analysis requires a court to consider the purpose of the legislation. Id. at 298; see also Robson v. Rodriquez, 26 N.J. 517, 526 (1958) ("The test of whether a law constitutes special legislation is essentially the same as that which determines whether it affords equal protection of the laws."); see also Paul Kimball Hosp., Inc., 86 N.J. 429, 446.A special law analysis addresses whether there is any rational basis for the legislative classification, the impact of which, whether positive or negative, falls on a single person or entity. See McKenney v. Byrne, 82 N.J. 304, 317 (1980).

Conversely, the Court in Town of Secaucus v. Hudson Cnty. Bd. of Tax'n, 133 N.J. 482, 495 (1993) stated, "in seeking a rational purpose for a statute under a constitutional challenge, 'the court is not limited to the stated purpose of the legislation but should seek *any* conceivable rational basis.'" (quoting Twp. of Mahwah v. Bergen Cnty. Bd. of Tax'n, 98 N.J. 268, 486 (1985)). While the Court in Secaucus referred to the need to discern the purpose of the statute and apply it to the facts, the court used a rational basis standard. See 133 N.J. at 494.

A similar case was Raybestos-Manhattan, Inc. v. Glaser. 144 N.J. Super. 152 (Ch. Div. 1976), aff'd o.b., 156 N.J. Super. 513 (App. Div. 1978). In Glaser, after a plaintiff closed its New Jersey manufacturing facility, the New Jersey State Assembly passed a bill calling for a tax on every employer of fifty or more employees based in New Jersey who ceased to operate an office in New Jersey. See id. at 162-63. Reciprocally, a Senate bill imposed a tax on employers of 500 or more persons within New Jersey should the employer close a New Jersey office. See id. at 163-64. The trial court found there was no rational basis to justify protecting pension benefits of employees of a firm employing 500 or more persons while excluding employees of companies employing less than that number. See id. at 179. The courts held classification was unconstitutional special legislation, disguised in general terms, particularly given the act expired in a year. See id at 180. "[W]here the question of reasonableness is fairly debatable, courts will uphold the classification." Newark Sup. Officers Assoc. v. Newark, 98 N.J. 212, 227 (1985). If courts "can conceive of any reason to justify the classification, the statute will be upheld." Id.

Plaintiff's special law claim survives at this motion to dismiss stage. The Act's purpose is to protect New Jersey workers' health and well-being and to ensure livable wages. Farm workers have the same need for a livable wage and overtime protections as other workers who are fully protected under the Act. It is also probable that any burden placed on agricultural employers to

comply with the statewide minimum wage and overtime pay is consistent with that placed on other employers. Defendants contend that farm workers are not similarly situated to other workers fully protected by the act. Plaintiff argues that complying with basic fair labor protections does not uniquely burden agricultural employers. It is possible that farm workers are similarly situated to other workers who are protected by the Act. Finally, it is possible that there is no "rational or reasonable basis relevant to the purpose" of the Act that justifies the exclusion of farmworkers. See N.J. Law Enf't Supervisors Ass'n v. N.J. Law Enf't Commanding Officers, 414 N.J. Super. 111, 123 (App. Div. 2010). While some courts have held that any rational basis will upload legislation, others have found that there must be a nexus to the statutes purpose. See Town of Secaucus v. Hudson Cnty. Bd. of Tax'n, 133 N.J. 482, 494–98 (1993). Since the purpose of the Act is to provide for workers' well-being, it is possible that there is a discrepancy between the farmworker exclusions and the State's statutory purpose. This is especially true as Defendants provide no rational basis for the overtime exception to the Act. At the motion to dismiss stage, the Court must search a complaint "in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement." Printing Mart-Morristown v. Sharp Elec., 116 N.J. 739, 746 (1989). On the limited facts before the Court at this stage and taking into account the standard of review on a motion to dismiss, under Vreeland, Plaintiff states a claim. Therefore, the Court **DENIES** Defendant's motion to dismiss Plaintiff's special law claim.

New Jersey Civil Rights Act Claim:

The New Jersey Civil Rights Act ("NJCRA") which is modeled after Section 1983, affords parties asserting a deprivation of a constitutionally protected right the opportunity to

bring a civil action for damages and injunctive or other relief.[5] However, such a private action must be brought against "a person acting under color of law." N.J.S.A. § 10:6-2. Only "when used to designate the owner of property which may be the subject of an offense," can "person" be used to describe the State. N.J.S.A. § 1:1-2.

It is an established principle of jurisprudence that the sovereign cannot be sued in its own courts without its consent. See Railroad Co. v. Tennessee, 101 U.S. 337, 339 (1880); Beers v. Arkansas, 20 How. 527, 529 (1858). Ex Parte Young held that the Eleventh Amendment does not bar a party from suing for prospective injunctive relief under federal law. Balsam v. Sec'y of New Jersey, 607 F. App'x 177, 183 (3d Cir. 2015). Nevertheless, Young does not apply to suits against state officials based on state law. See Pennhurst State School & Hosp. v. Halderman, 465 U.S. 89, 106 (1984).

New Jersey does not waive sovereign immunity, and the New Jersey Supreme Court held the State is immune for a suit for **damages** under the NJCRA. See Brown v. State, 442 N.J. Super. 406, 426 (App. Div. 2014). New Jersey courts "have long recognized that an essential and fundamental aspect of sovereignty is freedom from suit by private citizens for money judgments absent the State's consent." Allen v. Fauver, 167 N.J. 69, 73–74 (2001). The New Jersey Supreme Court held "[c]onsent has required clear and unambiguous legislative expression." Id. at 74. Unlike certain other remedial statutes such as the New Jersey Law Against Discrimination, or the

---

[5] The NJCRA provides that:

[a]ny person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive [***17] rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief.

[N.J.S.A. 10:6-2(c).

New Jersey Conscientious Employee Protection Act, both of which include the State in their definitions of "employer," the Civil Rights Act does not directly apply to the State. See Brown, 442 N.J. Super. at 425.

Under the Eleventh Amendment, state officials acting in their official capacity cannot be sued unless Congress specifically abrogates the state's immunity, or the state waives its own immunity. Will v. Mich. Dep't of State Police, 491 U.S. 58, 66, 70-71 (1989). "Of course a state official in his or her official capacity, when sued for injunctive relief, would be a person under § 1983 because 'official-capacity actions for prospective relief are not treated as actions against the State." Id. at 71 n.10. "[A] suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's office." Id.; see also Brandon v. Holt, 469 U.S. 464, 471 (1985). "As such, it is no different from a suit against the State itself." Id. see e.g., Kentucky v. Graham, 473 U.S. 159, 165-166 (1985). Yet, "implementation of state policy or custom may be reached in federal court only because official-capacity actions for prospective relief are not treated as actions against the State." Graham, 473 U.S. at 167 n.14.

The NJCRA does not waive sovereign immunity, and state defendants are immune from suit under the NJCRA. See Didiano v. Balicki, 488 F. App'x 634, 638 (3d Cir. 2012). The NJCRA did not create a cause of action against the State of New Jersey for damages because New Jersey is not a person. See Brown, 442 N.J. Super. at 426.

Moreover, the NJCRA has been interpreted broadly due to its "broad remedial purpose." Felicioni v. Admin. Off. of the Cts., 404 N.J. Super. 382, 400–01 (App. Div. 2008). The NJCRA provides "a remedy for the violation of substantive rights found in [New Jersey's] State Constitution and laws." Tumpson v. Farina, 218 N.J. 450, 474 (2014).

"In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs." N.J.S.A. 10:6-2(f).

Here, the relief in this case is solely prospective injunctive relief against state officers in their official capacity. Plaintiff seeks a declaratory judgment stating the Act's exclusion of farmworkers violates the New Jersey Constitution, and an injunction permanently enjoining Defendants from enforcing N.J.S.A. 34:11-56a4(b)(1) and N.J.S.A. 34:11-56a4(d). Although Plaintiff sought attorneys' fees and costs pursuant to the New Jersey Civil Rights Act (NJCRA) (N.J.S.A. 10:6-2(f)),

Plaintiff sues based on equal protection of the laws, which is covered by NJCRA, for a declaratory judgment. Plaintiffs do not seek money damages except attorneys' fees as permitted by NJCRA. Brown held that state officials were immune from suits for money damages but exempted official-capacity actions for prospective injunctive relief. This is a case solely against the Attorney General, the Commissioner of Labor and Workforce Development, and the Secretary of Agriculture, in their official capacities. In short, this is not a suit against the State of New Jersey, but a suit against the officers for prospective injunctive relief, which is explicitly permitted by Ex Parte Young and Brown, even when the state has not abrogated sovereign immunity. Thus, Plaintiff may sue Defendants in their official capacity for prospective injunctive relief. Whatever the eventual outcome, which turns on whether this Court finds equal protection violations, Plaintiff states a claim for prospective injunctive relief under the NJCRA. Defendants' motion to dismiss as to the NJCRA claim is **DENIED**.