S274927

IN THE SUPREME COURT OF CALIFORNIA

COUNTY OF SANTA CLARA,
Petitioner,

v.

THE SUPERIOR COURT OF SANTA CLARA,
Respondent,

DOCTORS MEDICAL CENTER OF MODESTO et al.,
Real Parties in Interest.

AFTER A DECISION BY THE COURT OF APPEAL, SIXTH APPELLATE DISTRICT
CASE NO. H048486

OPENING BRIEF ON THE MERITS

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OPENING BRIEF ON THE MERITS

STATEMENT OF THE ISSUE

The Court's July 27, 2022, order granting review specified the issue to be briefed and argued: "Is Santa Clara County immune under the Government Claims Act (Gov. Code, § 810 et seq.) from an action seeking reimbursement for emergency medical care provided to persons covered by the county's health care service plan?"

INTRODUCTION

The answer to the Court's question is "no." The Government Claims Act (Gov. Code, § 810 et seq.) does not immunize Santa Clara County (the County) from this action by two hospitals, Doctors Medical Center of Modesto, Inc. and Doctors Hospital of Manteca, Inc. (the Hospitals), seeking reimbursement for emergency medical services the Hospitals rendered to enrollees in the County's health care service plan.

As required by federal and state law, the Hospitals provided emergency medical services to three patients enrolled in Valley Health Plan, a health care service plan operated by the County and governed by the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) (Health & Saf. Code, § 1340 et seq.). The Hospitals had no contract with the County governing the rates payable for emergency services rendered to Valley Health Plan enrollees.

The Hospitals submitted invoices to the County requesting reimbursement pursuant to the Knox-Keene Act, which requires

health care service plans to reimburse noncontracted providers for the reasonable and customary value of emergency services rendered to plan enrollees. The County paid the Hospitals about 20 percent of the amount billed.

The Hospitals then filed this action against the County for breach of implied-in-law contract, alleging the County breached its statutory duty to fully reimburse the Hospitals for the emergency services they had rendered to the Valley Health Plan enrollees.

The County filed a demurrer, contending Government Code section 815, a provision of the Government Claims Act, immunized it from liability for underpaying the Hospitals. Section 815 states in pertinent part: "Except as otherwise provided by statute: [¶] . . . A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person."

The trial court overruled the demurrer. The Court of Appeal, however, granted the County's petition for writ of mandate, upholding the County's claim of immunity and directing the trial court to sustain the demurrer without leave to amend.[1]

The Court of Appeal erred. This Court has held the immunity conferred by Government Code section 815 extends only to common law tort actions for damages. (*Quigley v. Garden*

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[1] The Court of Appeal's opinion is published. (See *County of Santa Clara v. Superior Court* (2022) 77 Cal.App.5th 1018 (*Santa Clara*).) When discussing the opinion in this brief, the Hospitals cite to that published version.

Valley Fire Protection Dist. (2019) 7 Cal.5th 798, 803 (*Quigley*); *City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 867 (*City of Dinuba*).) The Hospitals' action is not a common law tort action, nor do the Hospitals seek damages. They allege the County violated a statutory duty, unknown at common law, to pay the amount of reimbursement to which the Hospitals were entitled under the Knox-Keene Act. And a public entity's payment of monies due under a statute is not "damages."

Even if Government Code section 815 would otherwise apply, section 815.6 of the Government Claims Act, to which section 815 yields, authorizes the Hospitals' action. Section 815.6 states, in pertinent part, that when a statute imposes on a public entity "a mandatory duty . . . designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty . . . ." The County's refusal to fully reimburse the Hospitals as required by the Knox-Keene Act violated a mandatory duty, resulting in precisely the kind of injury the statutory scheme was designed to prevent: underpayment for emergency medical services the Hospitals were legally required to render.

This reading of the Government Claims Act is also consistent with the views of the Department of Managed Health Care (Department), the state agency charged with administering and enforcing the laws governing health care service plans. In other cases, the Department has argued that health care providers should have judicial recourse when disputes arise with

health care service plans over reimbursement for emergency medical services.

A decision upholding the County's claim of immunity would require this Court to depart from its precedents on the scope of the Government Claims Act and to reject the views of the Department. Additionally, in practical terms, such a decision would adversely affect California's emergency health care delivery system. This Court has recognized that " ' "[d]enying emergency providers judicial recourse to challenge the fairness of a health plan's reimbursement determination[ ] allows a health plan to systematically underpay California's safety-net providers." ' " (*Prospect Medical Group, Inc. v. Northridge Emergency Medical Group* (2009) 45 Cal.4th 497, 508 (*Prospect*), quoting *Bell v. Blue Cross of California* (2005) 131 Cal.App.4th 211, 218 (*Bell*).) If the Court upholds the claim of immunity, the County would be free to systematically underpay emergency health care providers, secure in the knowledge that the provider will have no judicial recourse.

The Court should reaffirm its prior rulings on the scope of the Government Claims Act, respect the Department's views, and protect the viability of California's emergency health care delivery system by holding that the Government Claims Act does not immunize the County from the Hospitals' reimbursement action.

STATEMENT OF THE CASE

A. Background.

To assist the Court in better understanding the facts of this case and resolving the issue presented, the Hospitals begin with this brief overview of health care service plans and emergency medical services providers.

A health care service plan, also known as a health maintenance organization, or HMO (*Hambrick v. Healthcare Partners Medical Group, Inc.* (2015) 238 Cal.App.4th 124, 132, fn. 2), is a contractual arrangement in which a private or public entity undertakes to arrange for the provision of medical services for the plan's enrollees, and to pay for those services, in exchange for the enrollee's prepayment or periodic payment of an agreed charge. (Health & Saf. Code, § 1345, subds. (f)(1), (j).) Health care service plans are governed by the Knox-Keene Act's comprehensive licensing and regulatory scheme. (*Prospect*, *supra*, 45 Cal.4th at p. 504.) The Department is charged with administering and enforcing the Act and related laws governing health care service plans. Toward that end, the Department also issues regulations. (See Health & Saf. Code, §§ 1341, 1344.)

Public entities and private companies alike operate health care service plans in California, and they compete in the health care marketplace. The Knox-Keene Act applies equally to both publicly and privately operated health care service plans. (Health & Saf. Code, § 1399.5.) As of 2017, the Department regulated 74 full-service (nonspecialized) health care service plans (vol. 3, exh. 26, p. 677, fn. 1, 680), of which 16 were county-

based plans (see Wilson, *2019 Edition—California's County-Based Health Plans* (Aug. 12, 2019) California Health Care Foundation <https://www.chcf.org/publication/2019-edition-californias-county-based-health-plans/> [as of Sept. 15, 2022]). As of June 2018, county-based plans together covered about 7.4 million Californians. (*Ibid.*)

California and federal law require every licensed hospital with an emergency department and qualified personnel to provide emergency medical services to any person requesting and requiring the services, regardless whether the person is insured or capable of paying for the services. (Health & Saf. Code, § 1317, subds. (a), (b); 42 U.S.C. § 1395dd, subds. (a), (b); *Centinela Freeman Emergency Medical Associates v. Health Net of California, Inc.* (2016) 1 Cal.5th 994, 1018.)

The Legislature and the Department have devised a process for compensating these emergency medical service providers. When a hospital provides emergency services to a patient enrolled in a health care service plan, but the hospital and the plan have no contract governing the rates payable for emergency services rendered to the plan's enrollees, the plan must reimburse the hospital for the "reasonable and customary value" of the emergency services. (Cal. Code Regs., tit. 28, § 1300.71, subds. (a)(3)(B), (g); see Health & Saf. Code, § 1371.4, subd. (b).)

Disputes between providers and health care service plans over the proper amount of reimbursement are common. In its 2017 annual report, the Department reported more than one

million "Claims Payment Disputes" between providers and health care service plans (not including county-operated plans). (Vol. 3, exh. 26, p. 680.) These disputes "primarily involve claims of inadequate reimbursement." (*Ibid.*)

B. The Hospitals sue the County for reimbursement under the Knox-Keene Act. The County claims immunity, but the superior court rejects that claim.[2]

The Hospitals are licensed acute-care hospitals in the Central Valley. (Vol. 2, exh. 12, p. 286.)

The County is a public entity. It operates Valley Health Plan, a health care service plan licensed by the Department and governed by the Knox-Keene Act. (Vol. 2, exh. 12, pp. 286, 288.)

In 2016 and 2017, the Hospitals provided emergency medical services to three patients enrolled in Valley Health Plan. (Vol. 2, exh. 12, pp. 287:7–9, 290–293.) At the relevant times, the Hospitals had no contract with the County governing the rates

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[2] The Court of Appeal directed the trial court to sustain the Hospitals' demurrer without leave to amend. (*Santa Clara*, *supra*, 77 Cal.App.5th at pp. 1035–1036.) On review of an order sustaining a demurrer without leave to amend, this Court "accept[s] as true all properly pleaded facts." (*T.H. v. Novartis Pharmaceuticals Corp.* (2017) 4 Cal.5th 145, 156.) Also, where, as here, neither party petitioned the Court of Appeal for a rehearing, this Court may rely on facts recited in the Court of Appeal's opinion. (*Prospect*, *supra*, 45 Cal.4th at p. 502.) The facts recited in this section were properly pleaded in the Hospitals' operative third amended complaint or were recited in the Court of Appeal's opinion.

payable for emergency services rendered to Valley Health Plan enrollees. (Vol. 2, exh. 12, pp. 288:7, 289:8–9.)

The Hospitals submitted invoices to the County requesting reimbursement totaling approximately $144,000, the reasonable value of the emergency services, under the Knox-Keene Act. (Vol. 2, exh. 12, pp. 290–293.) The County paid the Hospitals about $28,500, roughly 20 percent of the billed total (*ibid.*), leaving a shortfall of more than $110,000 (vol. 2, exh. 12, p. 285:24).

The Hospitals contested the reimbursement shortfall by submitting written administrative appeals to the County for the unpaid sums. (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1025.) They contended the amounts the County paid did not represent the reasonable and customary value of the services rendered. (Vol. 2, exh. 12, p. 290.) The County denied the Hospitals' appeals. (*Ibid.*)

The Hospitals then filed this action against the County, seeking full reimbursement for the emergency services the Hospitals rendered to the three Valley Health Plan enrollees.

The Hospitals initially alleged tort and implied-in-fact contract causes of action. (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1025.) The trial court sustained the County's demurrer to the tort causes of action alleged in the Hospitals' second amended complaint without leave to amend on the ground Government Code section 815 immunized the County from liability for common law tort claims. (*Ibid.*; vol. 2, exh. 11, p. 283.)

In their third amended complaint, the Hospitals alleged they provided emergency medical services to patients enrolled in

Valley Health Plan; the County did not indicate it would not cover the patients' medical expenses; the County's conduct, the Knox-Keene Act and its implementing regulations, and ordinances approved by the County's board of supervisors gave rise to implied-in-fact and implied-in-law agreements between the Hospitals and the County obligating the County to pay the reasonable and customary rates for the care and treatment rendered by the Hospitals to the patients; the County acknowledged its implied contractual obligations by issuing partial reimbursement for the services rendered; and the County " 'failed to fully reimburse the [Hospitals] for the services rendered to the Patients at reasonable and customary rates as required by the Knox-Keene Act.' " (*Santa Clara*, *supra*, 77 Cal.App.5th at pp. 1025–1026; see vol. 2, exh. 12, pp. 293–294.)

The County demurred to the third amended complaint on the ground, among others, that the Government Claims Act immunized the County from liability for underpaying reimbursement owed under the Knox-Keene Act.[3] (Vol. 2, exh. 13; exh. 14, p. 304.)

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[3] The County also argued (1) the Knox-Keene Act entrusts the power to enforce the Act exclusively to the Department, and (2) claims for breach of implied contract and quantum meruit do not lie against a public entity. (Vol. 2, exh. 13, pp. 298–299; exh. 14, pp. 301–307.) Because this Court has limited the issue on review to whether the Government Claims Act immunizes the County from the Hospitals' reimbursement action, the Hospitals do not address the other grounds the County advanced to support its demurrer. The Hospitals do note, however, that a decision finding the County is not immune from a reimbursement action

The trial court overruled the County's demurrer. (Vol. 3, exh. 29, p. 737.) The court reasoned that "the public policy to promote the delivery and the quality of health and medical care to the people of the State of California," embodied in the Knox-Keene Act, "outweighs the policy to limit common law, or implied contract claims against public entities." (Vol. 3, exh. 29, p. 735.) When it chose to enter the highly regulated health care plan market, the County could not "expect to rely on a public policy regarding contracts as to public entities so that it can be exempted from those regulations." (Vol. 3, exh. 29, p. 736.)

The trial court observed that nothing in the Knox-Keene Act forecloses a private right of action in quantum meruit to enforce a provision of the Act (vol. 3, exh. 29, pp. 731–732), and that the Department itself had agreed that disputes over the value of reimbursement payable to noncontracted emergency providers should " 'be resolved by the courts' " (vol. 3, exh. 29, p. 733).

C. The Court of Appeal grants writ relief, upholding the County's claim of immunity.

The County filed a petition for writ of mandate, seeking to overturn the trial court's order. The Court of Appeal granted the

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would necessarily establish that the power to enforce the Knox-Keene Act's reimbursement requirement does not rest exclusively with the Department, a proposition the Department itself has endorsed. (See *Children's Hospital Central California v. Blue Cross of California* (2014) 226 Cal.App.4th 1260, 1273 (*Children's Hospital*), superseded by statute on another ground as stated in *Dignity Health v. Local Initiative Health Care Authority of Los Angeles County* (2020) 44 Cal.App.5th 144, 160–161.)

petition and directed the trial court to enter an order sustaining the County's demurrer without leave to amend "[b]ecause the county is immune from common law claims under the Government Claims Act, and the Hospitals do not state a claim for breach of an implied-in-fact contract." (*Santa Clara*, *supra*, 77 Cal.App.5th at pp. 1024–1025.)

The Court of Appeal acknowledged that, if the Hospitals had filed their complaint against a private health plan, the demurrer would have been overruled: "When all health care service plans involved in a dispute are *private* entities, a noncontracting provider can bring an action seeking reimbursement for the reasonable value of emergency services . . . on a quantum meruit theory." (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1028.)

The Court of Appeal held, however, that Government Code section 815 immunizes a public entity operating a health care service plan against such a quantum meruit action, and that no exception to the immunity applies. (*Santa Clara*, *supra*, 77 Cal.App.5th at pp. 1028–1030.)

The court acknowledged that, as a result of its holding, an emergency provider "has greater remedies against a private health care service plan than it does against a public entity health care service plan." (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1032.) In the court's view, that asymmetric result was driven by the Legislature's decision to broadly immunize public entities against common law claims. (*Ibid.*) As noted above, however, nothing in the Knox-Keene Act suggests that the Legislature

intended to differentiate between public and private health care service plans when it comes to the obligation to pay for emergency services.

LEGAL ARGUMENT

I. This Court and others have stressed the importance of allowing emergency medical service providers to maintain reimbursement actions against health care service plans.

Under state and federal law, emergency providers must render emergency medical services to patients in need. (See *ante*, p. 13.) In return, when the patient is enrolled in a health care service plan and the plan has no contract with the emergency provider, the Knox-Keene Act requires the plan to reimburse the provider for the reasonable and customary value of the emergency services. (*Ibid.*) Health and Safety Code section 1371.4, subdivision (b), the provision mandating reimbursement, was added to the Knox-Keene Act in 1994 "to ensure that California's citizens received proper care and to eliminate 'incentives for carriers to deny care and reduce payments to physicians.' " (*California Pacific Regional Medical Center v. Global Excel Management, Inc.* (N.D.Cal., June 4, 2013, No. 13–cv–00540 NC) 2013 WL 2436602, at p. *7 [nonpub. opn.]; see *Bell*, *supra*, 131 Cal.App.4th at p. 216.)

As this Court has recognized, under this regime of reciprocal legal duties, disputes will inevitably arise over the amount emergency providers may charge and the amount noncontracting health care service plans must pay for emergency medical services. (*Prospect*, *supra*, 45 Cal.4th at pp. 505, 507.)

When such a dispute arises between an emergency provider and a *private* health care service plan, the provider may pursue an action in court on a quantum meruit theory against the health plan to recover the reimbursement to which the provider is legally entitled:

> If a hospital . . . believes that the amount of reimbursement it has received from a health plan is below the "reasonable and customary value" of the emergency services it has provided, the hospital . . . may assert a quantum meruit claim against the plan to recover the shortfall.

(*Long Beach Memorial Medical Center v. Kaiser Foundation Health Plan, Inc.* (2021) 71 Cal.App.5th 323, 335; accord, *Prospect*, *supra*, 45 Cal.4th at p. 505; *San Jose Neurospine v. Aetna Health of California, Inc.* (2020) 45 Cal.App.5th 953, 958; *Children's Hospital*, *supra*, 226 Cal.App.4th at p. 1273; *Bell*, *supra*, 131 Cal.App.4th at pp. 213–214, 221.)

In *Bell*, for example, an emergency provider filed a class action against a private health care service plan, Blue Cross, seeking various remedies for the plan's failure to fully reimburse the provider for emergency services rendered to the plan's enrollees. (*Bell*, *supra*, 131 Cal.App.4th at p. 214.) The trial court sustained the plan's demurrer and dismissed the action. The court ruled the Knox-Keene Act did not permit a private enforcement action, the provider could not maintain an action on a quantum meruit theory, and the provider had no express or implied right to recover specific amounts for emergency services rendered to the plan's enrollees. (*Id.* at pp. 214–215.)

The Court of Appeal reversed. It held the Knox-Keene Act allows emergency providers to pursue an action against a health plan on an implied-in-law contract theory to recover the reasonable value of the emergency services rendered to the plan's enrollees. (*Bell*, *supra*, 131 Cal.App.4th at pp. 215, 221.)

Importantly, the *Bell* court had the benefit of an amicus curiae brief submitted by the Department. (See *Bell*, *supra*, 131 Cal.App.4th at pp. 212, 215.) Noting that "[t]he construction of a statute by the executive department charged with its administration is entitled to great weight and substantial deference" (*id.* at p. 217, fn. 8), the *Bell* court explained "(1) that the Department 'has consistently taken the position that a provider is free to seek redress in a court of law if he disputes a health plan's determination of the reasonable and customary value of covered services as required by [Health and Safety Code] section 1371.4,' " and "(2) that 'providers are free to pursue alternate theories of recovery to secure the reasonable value of their services based on common law theories of breach of contract and *quantum meruit*' " (*id.* at pp. 217–218).

The *Bell* court emphasized that, if the provider were denied the right to seek judicial redress, then the health care service plan would enjoy "unfettered discretion to determine unilaterally the amount it will reimburse a noncontracting provider, without any regard to the reasonableness of the fee." (*Bell*, *supra*, 131 Cal.App.4th at p. 220.) The court expressly rejected the health plan's contention that the emergency provider "has no implied-in-law right to recover for the reasonable value of his services." (*Id.*

at p. 221; see *Coast Plaza Doctors Hosp. v. Arkansas Blue Cross and Blue Shield* (C.D.Cal., Aug. 25, 2011, No. CV 10-06927 DDP (JEMx)) 2011 WL 3756052, at p. *4 [nonpub. opn.] ["medical providers have an 'implied-in-law right to recover for the reasonable value of their services' "].)

This Court has cited with approval *Bell*'s holding that the Knox-Keene Act permits emergency providers to sue health plans directly over billing disputes. (*Prospect*, *supra*, 45 Cal.4th at p. 506.) The Court has also endorsed *Bell*'s reasoning that a health plan "does not have 'unfettered discretion to determine unilaterally the amount it will reimburse a noncontracting provider.' " (*Id.* at p. 508.)

The Court of Appeal here did not disagree with *Bell*'s holding that the Knox-Keene Act permits an action against a *private* health care service plan seeking full reimbursement for emergency services. (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1028.) The Court of Appeal held, however, that *public* health plans should be treated differently because Government Code section 815 immunizes public entities from liability for failing to pay reasonable reimbursement. (*Id.* at pp. 1028–1029.)

As the Hospitals next explain, the Court of Appeal erred.

II. Government Code section 815 does not immunize the County from the Hospitals' action for reimbursement under the Knox-Keene Act.

A. The Hospitals are not pursuing a common law tort action, nor are they seeking damages.

The Government Claims Act "is a comprehensive statutory scheme governing the liabilities and immunities of public entities

and public employees for torts."[4] (*Quigley*, *supra*, 7 Cal.5th at p. 803.) The Act both grants immunities to public entities (see, e.g., Gov. Code, §§ 815, 818.2, 818.6) and subjects them to liabilities (see, e.g., *id.*, §§ 815.4, 815.6).

The County claimed, and the Court of Appeal found, immunity based on Government Code section 815, subdivision (a), which states in pertinent part: "Except as otherwise provided by statute: [¶] . . . A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person."

This Court has repeatedly held "the immunity provisions of the [Government Claims] Act are only concerned with shielding public entities from having to pay money damages for torts." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867; see *Quigley*, *supra*, 7 Cal.5th at p. 803 [Government Code section 815 "makes clear that under the [Government Claims Act], there is no such thing as *common law tort* liability for public entities" (emphasis added)]; see also *Schooler v. State of California* (2000) 85

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[4] Courts have sometimes referred to the Government Claims Act as the "Tort Claims Act." The word "tort" is appropriate when discussing the immunity provisions at issue here, Government Code section 810 et seq., which, as we explain, are limited to common law tort claims. But because the claims presentation requirements in Government Code section 900 et seq. are not limited to tort claims (see *Baines Pickwick Ltd. v. City of Los Angeles* (1999) 72 Cal.App.4th 298, 309–310), this Court prefers the shorthand reference "Government Claims Act." *City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 741–742.)

Cal.App.4th 1004, 1013 ["Government Code immunities extend only to tort actions that seek money damages"].)

Referring to the Legislative Committee Comment that accompanied the enactment of Government Code section 815, the Court has explained that the Government Claims Act concerns government liability for common law torts:

> The comment . . . states that "the practical effect of this section is to eliminate any common law governmental liability for damages arising out of torts." [Citation.] Moreover, the introductory comment to the Tort Claims Act as a whole states that "a statute should be enacted providing that public entities are not liable for torts unless they are declared to be liable by an enactment." [Citation.] Clearly, the emphasis of the Tort Claims Act is on *torts*.

(*Kizer v. County of San Mateo* (1991) 53 Cal.3d 139, 145, fn. 4 *(Kizer*).)

Removing any doubt, this Court has squarely *rejected* the proposition that the Legislature intended the Government Claims Act to immunize public entities from "a wider range of liabilities than torts." (*Kizer*, *supra*, 53 Cal.3d at p. 145, fn. 4; see *Los Angeles Unified School Dist. v. Superior Court* (2021) 64 Cal.App.5th 549, 566 [Government Claims Act does not apply to claims "not predicated on a tort injury"], review granted Sept. 1, 2021, S269608.)

The Hospitals' action here seeks redress for a public entity's violation of a statutory duty. The Hospitals do not allege

a common law tort to which the Government Claims Act applies.[5] The Hospitals' right to reimbursement did not exist at common law. It came into existence in 1994, when Health and Safety Code section 1371.4, subdivision (b), was added to the Knox-Keene Act. (See Stats. 1994, ch. 614, § 4; *Prospect*, *supra*, 45 Cal.4th at p. 506.) Accordingly, the Government Claims Act does not immunize the County from liability in the Hospitals' action.

The Court addressed a similar issue in *City of Dinuba*. A city and its redevelopment agency sued a county for failing to comply with a statutory duty to collect certain property tax revenues and disburse them to the plaintiffs. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 863.) The county demurred to the complaint on the ground the plaintiffs' action was barred by the Government Claims Act. (*Id*. at p. 867.) The trial court sustained the demurrer. (*Id*. at p. 864.) The Court of Appeal reversed. (*Id*. at p. 865.)

This Court granted review and held the Government Claims Act did not apply and thus the county was not immune from the plaintiffs' action. Among other reasons, the Court held an action seeking to hold a public entity accountable for not complying with a statutory duty to disburse funds is *not* a tort action for damages:

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[5] The Hospitals initially alleged tort causes of action, but as noted above, the trial court sustained the County's demurrer to those causes of action without leave to amend. (See *ante*, p. 15.) They are no longer at issue.

> [T]he immunity provisions of the [Government Claims] Act are only concerned with shielding public entities from having to pay money damages for torts. [Citation.] [Government Code s]ection 814 explicitly provides that liability based on contract or the right to obtain relief other than money damages is unaffected by the Act. Plaintiffs do not seek damages; they seek only to compel defendants to perform their express statutory duty. While compliance with the duty may result in the payment of money, that is distinct from seeking damages.

(*City of Dinuba*, *supra*, 41 Cal.4th at p. 867; 5 Witkin, Summary of Cal. Law (11th ed. 2017) Torts, § 346 [summarizing *City of Dinuba*].)

Like the plaintiffs in *City of Dinuba*, the Hospitals do not seek recovery based on a common law tort theory but "based on an alleged breach of statutory duty" (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1033 & fn. 1), namely, the County's statutory duty to reimburse the Hospitals for the reasonable and customary value of emergency services rendered to Valley Health Plan enrollees (vol. 2, exh. 12, pp. 287–289). Because the Hospitals do not allege a common law tort, the Government Claims Act affords the County no immunity.

Further, the Government Claims Act does not apply to "liability based on . . . the [plaintiff's] right to obtain relief other than money damages." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867; see Gov. Code, § 814 ["Nothing in this part affects liability

based on contract or the right to obtain relief other than money or damages against a public entity or public employee"].)[6]

The Hospitals' implied-in-law contract claim seeks statutory reimbursement, not damages. (Vol. 2, exh. 12, p. 294.) The Legislature chose the word "reimbursement," not "compensation" or "damages," to describe the Hospitals' entitlement under Health and Safety Code section 1371.4. The Hospitals' complaint's "routine reference to 'damages' . . . does not control whether the action seeks money damages or simply the [reimbursement] as required by statute." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 868, fn. 8.)

Like the plaintiffs in *City of Dinuba*, who sought disbursement of funds to which they were entitled by statute, Hospitals seek the reimbursement to which they are entitled by statute. While the County's compliance with its duty "may result in the payment of money, that is distinct from seeking damages." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867.)

Even if the reimbursement the Hospitals seek could be characterized as "damages," the Government Claims Act would not apply because the Hospitals allege a statutory violation, not a common law tort.

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[6] The language of Government Code section 814 appears to differentiate between two forms of relief, "money" and "damages," but this Court has construed the statute to refer to a single form of relief, "money damages." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867.) That formulation has endured without question or legislative response for 15 years.

For example, in *Lonberg v. City of Riverside* (C.D.Cal. 2004) 300 F.Supp.2d 942, 944 (*Lonberg*), the plaintiff sued a city for failing to provide wheelchair-accessible curb ramps on city-owned property in violation of Civil Code section 54.3. That statute authorized the plaintiff to recover "damages" for the violation. (*Id.* at pp. 945, fn. 3, 948; see *id.* at p. 950.) The city sought judgment on the pleadings, arguing Government Code section 815 immunized it from liability for damages. (See *id.* at p. 946.)

The court denied the city's motion, explaining that Government Code section 815 did not apply because the plaintiff alleged a statutory violation, not a common law tort:

> The passage of [Government Code] [s]ection 815 was designed to eliminate public entity liability based upon common law tort claims. [Citations.] Accordingly, [s]ection 815[, subdivision] (a) provides that: "[e]xcept as otherwise provided by statute: [a] public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." *But Plaintiff does not allege a common law tort claim, he alleges the violation of a statute*—[Civil Code s]ection 54.3.

(*Lonberg*, *supra*, 300 F.Supp.2d at p. 946, emphasis added.) The court concluded Government Code section 815 "clearly . . . does not" immunize the city from liability under Civil Code section 54.3. (*Ibid.*)

In sum, Government Code section 815 immunizes public entities only from liability for common law tort claims seeking damages. The Hospitals do not allege a common law tort, nor do

they seek damages. Accordingly, section 815 does not immunize the County from liability in the Hospitals' action.

B. The Hospitals could amend their pleading to include a petition for writ of mandate, to which the County would not be immune.

A party may seek a writ of mandate from the superior court "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust or station . . . ." (Code Civ. Proc., § 1085, subd. (a).) "The availability of writ relief to compel a public agency to perform an act prescribed by law has long been recognized." (*Santa Clara County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 539 (*Woodside*), superseded by statute on another ground as stated in *Coachella Valley Mosquito & Vector Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1077); see *City of Dinuba*, *supra*, 41 Cal.4th at pp. 863 ["We . . . conclude that because [the plaintiff] is seeking to enforce a mandatory duty imposed by statute, the remedy of mandamus is available"], 868; *Los Angeles County v. Riley* (1942) 20 Cal.2d 652, 662 [mandate was an appropriate remedy to compel state official to perform duty to properly calculate credits owed to county under statutory scheme governing aid to needy children].)

To obtain writ relief, the petitioner must establish " '(1) A clear, present and usually ministerial duty on the part of the respondent . . . ; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty.' " (*Woodside*, *supra*, 7 Cal.4th at pp. 539–540.)

Because a petition for writ of mandate seeks relief other than money damages, the Government Claims Act does not immunize a public entity from liability under such a petition. (Gov. Code, § 814; see *Canova v. Trustees of Imperial Irrigation Dist. Employee Pension Plan* (2007) 150 Cal.App.4th 1487, 1493 ["The Claims Act does not apply . . . to nonpecuniary actions, 'such as those seeking injunctive, specific or declaratory relief' "].)

Again, *City of Dinuba* is instructive. There, the plaintiffs' operative complaint alleged a common law claim for money had and received and sought imposition of a constructive trust against a county that had not complied with its statutory duty to collect and distribute property tax revenues. (*City of Dinuba*, *supra*, 41 Cal.4th at pp. 863–864.) This Court explained it did not need to decide whether the plaintiffs could maintain their claims against the county as pleaded because, although not formally pleaded, the complaint stated facts sufficient to support a claim for a writ of mandate to which the county would *not* be immune: "[W]e conclude mandamus may issue to compel a county to comply with its duty to calculate and distribute tax revenue. In light of our holding, we need not resolve whether plaintiffs could have maintained claims for quasi-contract or constructive trust had mandamus not been available." (*Id*. at p. 870.)

This Court further held the plaintiffs in *City of Dinuba* should be permitted to amend their pleading to specifically include a petition for a writ of mandate because the alleged facts supported recovery on that theory. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 870; see *Aubry v. Tri-City Hospital Dist.* (1992) 2

Cal.4th 962, 967 (*Aubry*) ["it is error for a trial court to sustain a demurrer when the plaintiff has stated a cause of action under any possible legal theory"].)[7]

The same is true here. The Hospitals' complaint states facts sufficient to support a writ of mandate directing the County to comply with its statutory reimbursement obligation. The complaint alleges facts showing that the County has a clear and present statutory duty and that the Hospitals have a clear, present, and beneficial right to the County's performance of that duty. (See *Woodside*, *supra*, 7 Cal.4th at pp. 539–540.)

Had the Hospitals framed their pleading as a petition for writ of mandate to compel the County to perform its statutory duty, the Government Claims Act would have afforded the County no basis to claim immunity from suit. (*City of Dinuba*, *supra*, 41 Cal.4th at pp. 863, 867–868.) The Hospitals essentially sought similar relief, albeit in the form of a complaint for breach of implied-in-law contract rather than a petition for writ of mandate. To hold the County immune from suit because the Hospitals sought statutory reimbursement by means of a complaint rather than a petition would elevate form over

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[7] The plaintiffs in *City of Dinuba* originally alleged a claim for a writ of mandate but omitted it from their amended complaint after the trial court sustained the defendants' demurrer. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 870.) Here, the Hospitals did not allege a claim for a writ of mandate. However, when testing the sufficiency of a pleading against a demurrer, the court is "not limited to plaintiffs' theory of recovery or 'form of action' pled." (*Ibid.*) Rather, the question is whether the alleged facts support recovery under *any* theory.

substance. Like the plaintiffs in *City of Dinuba*, the Hospitals could amend their pleading to include a petition for writ of mandate, to which the County would have no immunity defense.

The Court of Appeal's order directing the trial court to sustain the County's demurrer *without leave to amend* effectively expands the immunity afforded by Government Code section 815 to liabilities from which the Legislature did not intend to shield public entities. (See Gov. Code, § 814.) Application of the immunity provisions of the Government Claims Act should not turn on the form of action the plaintiff happens to choose but rather on the nature of the conduct the plaintiff/petitioner challenges and the harm for which the plaintiff/petitioner seeks redress. (See *Rubin v. Green* (1993) 4 Cal.4th 1187, 1203 [whether statutory litigation privilege shielded defendant from tort liability depended on nature of defendant's conduct, not on the legal label plaintiff employed in the complaint].)

In sum, the Court of Appeal erred by holding Government Code section 815 barred the Hospitals' action against the County for reimbursement the County had a duty to pay under the Knox-Keene Act. Whether viewed as an action for breach of implied-in-law contract (the claim pleaded) or as a petition for writ of mandate (the claim that could be pleaded based on the alleged facts), the Hospitals' action is not a common law tort action for damages subject to section 815.

For the benefit of future litigants and to forestall uncertainty concerning the proper form of pleading in cases like this, the Court should take the opportunity to confirm that an

emergency health care provider seeking reimbursement from a publicly operated health care service plan under the Knox-Keene Act may proceed by way of a petition for writ of mandate, to which the Government Claims Act does not apply.

III. Government Code section 815.6 authorizes an action against the County for statutory reimbursement.

If the Court rejects the arguments above, the Court should nonetheless hold Government Code section 815.6 provides an exception to (or prevails over) section 815 immunity and authorizes the Hospitals' action.

Government Code section 815, by its terms, yields to other provisions in the Government Claims Act that authorize actions against public entities. Section 815 opens with the words "Except as otherwise provided by statute." Government Code section 815.6 is a statute that "otherwise provide[s]."

Government Code section 815.6 states: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

As a preliminary matter, the harm for which the Hospitals seek redress qualifies as an "injury" within the meaning of Government Code section 815.6. The Government Claims Act defines "[i]njury" to mean "death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to

his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person." (Gov. Code, § 810.8; see *N.V. Heathorn, Inc. v. County of San Mateo* (2005) 126 Cal.App.4th 1526, 1534 ["the basic rule of public entity liability is that public entities will be held liable for '*injuries to the kind of interests* that have been protected by the courts in actions between private persons' "].)

The harm for which the Hospitals seek redress from the County "would be actionable if inflicted by a private person." (Gov. Code, § 810.8.) As the Court of Appeal recognized and as the Hospitals explained above, courts permit hospitals to maintain actions against *private* health care service plans to enforce the Knox-Keene Act's reimbursement requirement. (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1028; see *ante*, Part I.) The harm, therefore, qualifies as an injury for purposes of Government Code section 815.6.[8]

"Government Code section 815.6 contains a three-pronged test for determining whether liability may be imposed on a public entity: (1) an enactment must impose a mandatory, not discretionary, duty [citation]; (2) the enactment must intend to

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[8] If the harm alleged by the Hospitals does *not* qualify as an injury under the Government Claims Act, then Government Code section 815, which immunizes public entities against liability for "an injury," does not apply to this case for that reason. The County would have no basis for claiming immunity in the first place. (See *Aubry*, *supra*, 2 Cal.4th at pp. 968–969 [Government Claims Act does not apply to actions seeking redress for harm that is not an "injury" as defined in Government Code section 810.8].)

protect against the kind of risk of injury suffered by the party asserting section 815.6 as a basis for liability [citations]; and (3) breach of the mandatory duty must be a proximate cause of the injury suffered." (*State of California v. Superior Court* (1984) 150 Cal.App.3d 848, 854; see *Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498–499.) When these requirements are met, section 815.6 "creates the private right of action" against the public entity. (*Mueller v. County of Los Angeles* (2009) 176 Cal.App.4th 809, 821, emphasis omitted.)

In the Court of Appeal, the County challenged only the first of the three prongs, contending that its duty to determine the reasonable and customary value of the Hospitals' emergency services was discretionary, not mandatory. (Petitioner's Reply in Further Support of Petition for Writ of Mandate 11–15.) Because the second and third prongs are not disputed, we limit our discussion to the first prong.

The Court of Appeal agreed with the County. In the court's view, while the County's overall duty to *reimburse* Hospitals was "mandatory under Health & Safety Code section 1371.4," the County's duty to determine the *amount* of that reimbursement was discretionary "since [the County] is vested with the discretion to determine the reasonable and customary value of the services" under California Code of Regulations, title 28, section 1300.71, subdivision (a)(3)(B). (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1030.) The court cited no authority apart from the regulation itself. (See *ibid.*)

In effect, the Court of Appeal bifurcated a unitary duty to reimburse into two separate duties: a duty to reimburse and a duty to determine the amount to reimburse. But there is only one statutory obligation here—to reimburse the emergency provider for the reasonable and customary value of its services. "The language of [Health and Safety Code section 1371.4] is mandatory and insurers that elect not to comply may not engage in the business of insurance within California." (*Coast Plaza Doctors Hospital v. Blue Cross of California* (2009) 173 Cal.App.4th 1179, 1187.)

But even if the duty can be bifurcated, the second duty is also mandatory. The Court of Appeal's decision to the contrary is at odds with both *Bell* and *Prospect*.

In *Bell*, although the court was not construing Government Code section 815.6, it had occasion to examine the nature of a health care service plan's legal duty to reimburse emergency providers for emergency services rendered to the plan's enrollees. (See *Bell*, *supra*, 131 Cal.App.4th at pp. 215–220.) Like the County here, the plan in *Bell* argued the emergency provider could not maintain an action for reimbursement because the provider had no legal right to any particular amount of reimbursement. (*Id*. at p. 214.) The plan contended that the Legislature used the term " ' "reimbursement" ' " in its " 'generic sense,' " simply to mean payment—not to require that the payment be reasonable or tied to any specific amount. (*Id*. at p. 220.) In other words, the plan argued, the amount of reimbursement rested in the plan's discretion. (*Ibid*.)

The court rejected that argument, explaining that the health care service plan does *not* have "unfettered discretion" to determine the amount payable. (*Bell*, *supra*, 131 Cal.App.4th at p. 220.) Rather, the plan has a *mandatory* duty to pay an amount equal to the reasonable and customary value of the services:

> [T]he health care plans' duty to reimburse arises out of the providers' duty to render services without regard to a patient's insurance status or ability to pay. Because Blue Cross's interpretation of "reimburse" would render illusory the protection the Legislature granted to the providers, the duty to reimburse must be read as *a duty to pay a reasonable and customary amount for the services rendered*.

(*Ibid.*, emphasis added.)

In *Prospect*, this Court endorsed *Bell*'s conclusion that health care service plans have a mandatory duty to pay an amount equal to the reasonable and customary value of the services rendered. After quoting California Code of Regulations, title 28, section 1300.71, subdivision (a)(3)(B), the Court stated: "Thus, the HMO has a 'duty to pay a reasonable and customary amount for the services rendered.' " (*Prospect*, *supra*, 45 Cal.4th at p. 505, quoting *Bell*, *supra*, 131 Cal.App.4th at p. 220.) The Court implicitly rejected the proposition that the health care service plan enjoys complete discretion to determine the amount payable, explaining: "[H]ow this amount is determined can create obvious difficulties. In a given case, a reasonable amount might be the bill the doctor submits, or the amount the HMO chooses to pay, or some amount in between." (*Prospect*, at p. 505.) In other words, "the amount the HMO chooses to pay" will not necessarily

be the amount the health plan must pay to satisfy its statutory duty.

The Court of Appeal here mistakenly believed that because "reasonable and customary value" cannot be determined by reference to a schedule or a formula but only by considering the factors enumerated in the regulation, the determination necessarily lies solely within the County's discretion. (*Santa Clara*, *supra*, 77 Cal.App.5th at p. 1030.) *Bell* and *Prospect*, however, establish that the health plan's duty to pay the reasonable and customary value, as determined by a court in the event of a dispute, is mandatory, not discretionary.

Thus, if this Court finds it necessary to consider the application of Government Code section 815.6, the Court should reject the view of the Court of Appeal here and confirm the conclusions reached in *Bell* and *Prospect*—the County's duty to reimburse the Hospitals in an amount equal to the reasonable and customary value of the emergency services is a mandatory duty that satisfies the first prong of the test for determining whether liability may be imposed on a public entity under section 815.6.

IV. A decision upholding the County's claim of immunity would adversely affect California's emergency medical services delivery system.

Disputes between health care service plans and noncontracted emergency care providers are common; the potential for such disputes is "inherent[ ]" in the relationship between the plans and the providers. (*Prospect*, *supra*, 45 Cal.4th

at p. 501; see *ante*, pp. 13–14.) This case will not be the last of its kind, and this Court's decision will likely have a sweeping impact on the financial relationships between emergency service providers and health care service plans.

This Court has echoed the *Bell* court's observation that the financial viability of California's emergency health care delivery system depends on ensuring that providers receive the reimbursement to which they are legally entitled:

> " 'The prompt and appropriate reimbursement of emergency providers ensures the continued financial viability of California's health care delivery system . . . . [D]enying emergency providers judicial recourse to challenge the fairness of a health plan's reimbursement determination[ ] allows a health plan to systematically underpay California's safety-net providers.' "

(*Prospect*, *supra*, 45 Cal.4th at p. 508, quoting *Bell*, *supra*, 131 Cal.App.4th at p. 218.)

If permitted to stand, the Court of Appeal's decision to shield the County from the Hospitals' reimbursement action will reintroduce the " 'fundamental flaw' " in the emergency medical services delivery system the court identified and avoided in *Bell*. (*Bell*, *supra*, 131 Cal.App.4th at p. 218.) By allowing the County " 'to unilaterally determine the level of reimbursement for non-contracted emergency providers' " and denying the providers judicial recourse, the Court of Appeal's decision grants the County (and the 15 other county-based plans in California) carte blanche to " 'systemically underpay California's safety-net providers.' " (*Ibid.*)

The *Bell* court recognized that if providers cannot bring court actions to challenge health care service plans' reimbursement determinations, then "health plans may receive an unjust windfall." (*Bell*, *supra*, 131 Cal.App.4th at p. 218.) *Bell* refused to grant that unjust windfall to a *private* health plan. The Court of Appeal's decision here, however, effectively grants the windfall to *public* health plans—by immunizing their unilateral reimbursement determinations from judicial review—despite the Legislature's stated intent that the Knox-Keene Act apply equally to private and public plans. (See Health & Saf. Code, § 1399.5.)

Further, a decision to uphold public entity immunity here would destabilize California's emergency medical services delivery system by incentivizing publicly operated health care service plans to *avoid* contracts with providers fixing the rates of reimbursement for emergency services.

Contracts, of course, require bilateral negotiation and mutual agreement. Why would a health care service plan negotiate the rates for emergency services *in advance* if it could unilaterally set the rates *later*, in response to an emergency care provider's reimbursement request, secure in the knowledge that the provider is powerless to challenge the plan's determination in court? A plan's unilaterally determined rates would likely be lower than any negotiated rates. The result will be unlawfully inadequate reimbursement payments to emergency providers.

Nor can the emergency providers look to the patients themselves to cover the financial shortfall. This Court has held

the Knox-Keene Act prohibits "balance billing," the practice of directly billing a health care service plan member for amounts the plan declined to pay for emergency services rendered to the member. (*Prospect*, *supra*, 45 Cal.4th at pp. 502, 507–508.) Ironically, one of the reasons this Court cited to justify the ban on balance billing was that the "the Knox-Keene Act permits emergency room doctors to sue HMO's directly over billing disputes." (*Id.* at p. 506, citing *Bell*, *supra*, 131 Cal.App.4th at p. 211; see *Prospect*, at p. 507 [the statutory scheme "permits emergency room doctors to sue HMO's directly to resolve billing disputes"].) To immunize public entities from actions seeking to resolve similar disputes would eliminate a key justification for the ban on balance billing.

Unable to recoup the reasonable value of their emergency services from either the health care service plans or their enrollees, hospitals may, to the extent possible, increase their charges for *nonemergency* services to make up for the shortfall. Nonemergency patients and their health care service plans or insurers will end up subsidizing emergency patients enrolled in a public health care service plan who require services at a hospital that has no contract with the plan. Nothing in the Knox-Keene Act or its regulations suggests the Legislature or the Department expected or intended that sort of subsidy.

It is also significant that publicly operated health care service plans compete with privately operated plans in the market for health care. To enshrine in law a system that effectively allows only publicly operated plans to unilaterally, and

without judicial oversight, determine the amount they will reimburse emergency providers for emergency care rendered to their enrollees would give those plans an obvious and unfair competitive advantage. As publicly operated plans exploit that advantage, their presence in the marketplace may well grow, along with the attendant problem of underpayment and its adverse impact on the financial viability of emergency service providers. In other words, permitting judicial review of the reimbursement decisions of only some identically situated plans may have grave and chaotic effects on health care.

A decision to uphold the County's claim of immunity would adversely affect individual providers as well. Patients requiring emergency medical services typically proceed to the nearest emergency room, regardless whether that facility has a contract with the patient's health care service plan. The attending emergency room doctors depend for their livelihoods on collecting the reasonable and customary value of the emergency services they render from the health plan to which the patient belongs. These doctors are at a disadvantage in terms of reallocating any shortfalls. With no judicial recourse available to collect amounts due from the plan, the doctors may be driven from the practice or may be incentivized to relocate to other states. The result could be a shortage of critically important emergency services.

In similar contexts, the Department itself has recognized that health care providers "may seek redress in the courts" to the extent they are dissatisfied with a health care service plan's reimbursement payment. (*Children's Hospital*, *supra*, 226

Cal.App.4th at p. 1273; see *Bell*, *supra*, 131 Cal.App.4th at pp. 217–218 ["the Department 'has consistently taken the position that a provider is free to seek redress in a court of law if he disputes a health plan's determination of the reasonable and customary value of covered services as required by [Health and Safety Code] section 1371.4' "].)

In sum, a decision to recognize the right of emergency medical service providers to seek judicial relief against *all* health care service plans—public and private alike—would not only respect the Court's precedents on the scope of the Government Claims Act and honor the intent of the Legislature and the Department, it would promote sound public policy as well.

CONCLUSION

In *Prospect*, this Court observed that resolving disputes between emergency providers and health care service plans over the amount the plan owes the provider "can create difficult problems," but the issue was not then before the Court. (*Prospect*, *supra*, 45 Cal.4th at p. 502.) Now it is. This case presents the opportunity to settle this important issue of law.

This Court should answer the issue presented in the negative: the County is not immune under the Government Claims Act from an action seeking reimbursement for emergency medical care provided to enrollees in the County's health care service plan. The Court of Appeal's contrary decision should be reversed.

September 26, 2022

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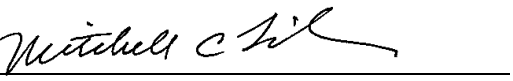
By: 
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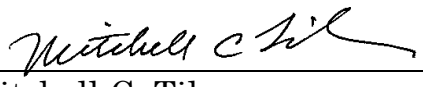

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PROOF OF SERVICE

County of Santa Clara v. The Superior Court of Santa Clara (Doctors Medical Center of Modesto et al.)
Case No. S274927

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

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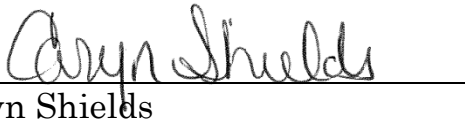

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SERVICE LIST
County of Santa Clara v. The Superior Court of Santa Clara
(Doctors Medical Center of Modesto et al.)
Case No. S274927

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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **SANTA CLARA, COUNTY OF v. S.C. (DOCTORS MEDICAL CENTER OF MODESTO)**
Case Number: **S274927**
Lower Court Case Number: **H048486**

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

9/26/2022

Date

/s/Caryn Shields

Signature

Tilner, Mitchell (93023)

Last Name, First Name (PNum)

Horvitz & Levy LLP

Law Firm