

In the
Supreme Court of Louisiana

HOSPITAL SERVICE DISTRICT NO. 1 OF THE PARISH OF ST. JAMES,
Respondent/Plaintiff,

v.

HOSPITAL SERVICE DISTRICT NO. 3 OF THE PARISH OF LAFOURCHE AND THIBODAUX
REGIONAL HEALTH SYSTEM, INC.,
Relators/Defendants.

On Applications for Supervisory Writs From
Fifth Circuit Court of Appeal, No. 2025-CA-202
Honorable Chehardy, Johnson, and Windhorst, Circuit Judges
23rd Judicial District Court, No. 42,023
Honorable Jason Verdigets, presiding

HOSPITAL SERVICE DISTRICT NO. 1 OF THE PARISH OF TERREBONE,
Respondent/Plaintiff,

v.

HOSPITAL SERVICE DISTRICT NO. 3 OF THE PARISH OF LAFOURCHE AND THIBODAUX
REGIONAL HEALTH SYSTEM, INC.,
Relators/Defendants.

On Applications for Supervisory Writs From
First Circuit Court of Appeal, No. 2024-CA-999
Honorable McClendon, Lanier, and Balfour, Circuit Judges
32nd Judicial District Court, No. 195,104
Honorable Jason A. Dagate, presiding

**AMICUS BRIEF OF ATTORNEY GENERAL LIZ MURRILL IN SUPPORT
OF THIBODAUX REGIONAL HEALTH SYSTEM, INC. AND HOSPITAL
SERVICE DISTRICT NO. 3 OF THE PARISH OF LAFOURCHE**

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CONCISE STATEMENT OF THE CASE

Unelected local commissions are attempting to shut down private healthcare facilities from operating in their parishes. This time, it is hospital service districts in Terrebonne and St. James Parishes that have sought to shutter multiple clinics operated by one of the State's most successful private health systems, notwithstanding the Attorney General's express statutory approval of that system's nonprofit formation and operation. The lower courts enabled that effort by committing two fundamental legal errors: first, by recognizing an implied private right of action that allows hospital service districts to police healthcare within their geographic bounds through injunctive relief; and second, by collapsing a private nonprofit healthcare system into a governmental subdivision through a selective application of the now-defunct single-business-enterprise theory.

Neither move finds support in Louisiana law. The supposed private right traces to a divided First Circuit decision that departed from this Court's implied-right-of-action jurisprudence and judicially created an enforcement mechanism the Legislature never authorized. *See Hosp. Serv. Dist. No. 2 of Par. of Lafourche v. Hosp. Serv. Dist. No. 1 of Par. of Terrebonne*, 97-1792 (La. App. 1 Cir. 6/29/98), 716 So. 2d 168, 169. And the single-business-enterprise theory has never been adopted by this Court and has since been expressly repudiated by statute. *See* La. R.S. 12:1705(A); *contra Green v. Champion Ins. Co.*, 577 So. 2d 249 (La. App. 1st Cir. 1991). This Court should put an end to both, especially in this uniquely destabilizing context.

Absent this Court's intervention, unelected hospital-service-district commissioners wield unbounded veto power to shut down nonprofit healthcare clinics (over the Attorney General's statutory approval)—all perversely framed as expanding healthcare access for their parishes. Louisiana's patients deserve better than these meritless turf wars. The Court should grant the writ applications and docket these cases for full merits review.

BACKGROUND

I. HOSPITAL SERVICE DISTRICTS WERE CREATED TO BUILD AND OPERATE HOSPITALS, NOT TO POLICE PARISH HEALTHCARE MARKETS.

In the wake of Congress’s postwar hospital construction funding legislation, Louisiana voters amended the Constitution to “permit[] the legislature to authorize police juries to create hospital service districts” to benefit from that federal funding. *Bertrand v. Sandoz*, 260 La. 239, 243, 255 So. 2d 754, 755 (1971) (discussing La. Const. 1921 art. XIV, § 14); *see* Hospital Survey and Construction Act of 1946 (Hill–Burton Act), Pub. L. No. 79-725, 60 Stat. 1040 (1946). Since 1950, state law has permitted parish police juries “to form and create one or more hospital service districts” and to “alter the[ir] boundaries.” La. R.S. 46:1051(A)–(B).¹

Hospital service districts are “bod[ies] corporate,” La. R.S. 46:1060, and “political subdivisions of the state,” La. R.S. 46:1064(A), governed by multi-member commissions appointed by parish police juries, La. R.S. 46:1053. Their statutory “objects and purposes” are to “own and operate hospitals,” “render[] care to the sick and injured,” “conduct scientific research and training,” “promot[e] the general health of the community,” and “cooperate with other public and private institutions engaged in providing hospital and other health services to residents of the district.” La. R.S. 46:1052.

To carry out those purposes, districts have a unique market advantage: They can “incur debt and issue bonds” and “levy limited taxes” with voter approval. *Bertrand*, 260 La. at 243–44. They may also enter a wide array of contractual arrangements. La. R.S. 46:1062; *e.g.*, La. R.S. 46:1069 (public-private group purchase agreements), 46:1067, 46:1077 (cooperative endeavor agreements). They can “acquire, construct, and maintain medical office buildings and facilities,” “lease” their property, and “sell and convey” their “immovable property” at “fair market value.” La. R.S. 46:1074(A)–(B); *e.g.*, La. R.S. 46:1064.1(A) (authorizing Terrebonne Parish’s

¹ With the adoption of the 1974 Constitution, the Legislature retained its power to authorize police juries to create hospital service districts, though relocated it to statute. *See* La. Const. art. XIV, § 16; *see also* 1975 La. Sess. Law Serv. Act 76 (H.B. 476).

Hospital service district No. 1 to sell or lease Terrebonne General Medical Center). And to compete in the “increasingly competitive” healthcare marketplace, La. R.S. 46:1071, districts may “develop” public-record-protected “marketing strategies,” La. R.S. 46:1073, invest capital consistent with state law, La. R.S. 46:1073.1, and “advertise” their facilities and services “in any medium.” La. R.S. 46:1075.

II. THE ATTORNEY GENERAL APPROVED THE CONVERSION OF THIBODAUX REGIONAL MEDICAL CENTER INTO A NONPROFIT OPERATOR.

One such hospital service district—Hospital Service District No. 3 of the Parish of Lafourche—applied to the Attorney General in 2018 to lease and convert one of its hospitals into a nonprofit operation. That was because Louisiana law requires the Attorney General to “review[] and approve[]” any acquisition of a “not-for profit hospital,” La. R.S. 40:2115.11 *et seq.*, subject to judicial review, La. R.S. 40:2115.16. In conducting that review, the Attorney General must determine whether the transaction is “in the public interest,” including whether “appropriate steps have been taken to safeguard the value of charitable assets,” La. R.S. 40:2115.17(A), and “whether the acquisition” preserves “accessible, affordable health care facilities that are responsive to the needs of the community,” La. R.S. 40:2115.18. Only with the Attorney General’s approval may the nonprofit hospital retain its operating license after the transaction. La. R.S. 40:2115.20.

Consistent with that statutory approval process, Lafourche’s Hospital Service District No. 3 sought approval to lease Thibodaux Regional Medical Center and transfer assets (subject to a promissory note) to Thibodaux Regional Medical System, Inc., a private nonprofit created in 2018, operating under a separate Medicare provider number, and in which the district holds no ownership interest. The nonprofit model, the district explained, would enable the system to provide far more patient care through outpatient clinics and centers that cost less and are closer to the patients. Even after two public notices, the application drew no public objection, and the Attorney General approved the transaction in April 2019 upon determining that

the acquisition protected charitable assets and expanded affordable healthcare for the greater Bayou Region. *See* La. R.S. 40:2115.17–18.

That public-interest determination has been borne out. Today, Thibodaux Regional operates the medical center under its nonprofit umbrella along with an 80,000-square-foot Cancer Institute, a nationally recognized 250,000-square-foot Wellness Center and Sports Complex, and clinics providing specialty service lines like heart and vascular care—growth that has led it to be recognized as the “number one hospital in Louisiana.” Larry Cooks, *Thibodaux Regional Health System to Appeal Terrebonne General Lawsuit Ruling*, Houma Times (Apr. 10, 2023), [t.ly/hNEhR](https://www.houmatimes.com/story/news/2023/04/10/thibodaux-regional-health-system-to-appeal-terrebonne-general-lawsuit-ruling/). From its roots in the 2018 transaction for the medical center, the Thibodaux Regional Medical System has expanded into a regional nonprofit provider operating clinics and specialty services that broadened patient access and health services to the citizens across the Houma–Thibodaux region.

III. NEIGHBORING HOSPITAL SERVICE DISTRICTS RESPONDED TO THE NONPROFIT SYSTEM’S EXPANSION WITH LITIGATION.

Instead of “cooperat[ing] with” Thibodaux Regional’s provision of “health services to residents of the district,” La. R.S. 46:1052, neighboring hospital service districts chose to challenge the nonprofit’s expansion in court.

The first conflict arose when Thibodaux Regional acquired and began operating an urgent care and multispecialty clinic in Terrebonne Parish. In 2022, Hospital Service District No. 1 of Terrebonne Parish sued Thibodaux Regional and Lafourche’s Hospital Service District No. 3, alleging that Thibodaux Regional was a “creature” of the district and therefore barred from operating within Terrebonne Parish. After a bench trial, the district court accepted that theory and permanently enjoined both entities from operating in Terrebonne Parish. The First Circuit affirmed. *Hosp. Serv. Dist. No. 1 of Par. of Terrebonne, State v. Hosp. Serv. Dist. No. 3 of Par. of Lafourche, State*, 2024-0999 (La. App. 1 Cir. 8/4/25), 421 So. 3d 977, 980.

A parallel dispute sprung up in late 2022. Thibodaux Regional opened a cardiology clinic in Vacherie to provide previously unavailable cardiology services to

residents of St. James Parish. The Hospital Service District No. 1 of St. James Parish likewise sued Thibodaux Regional and Lafourche’s Hospital Service District No. 3. The district court sustained exceptions, correctly recognizing that Thibodaux Regional, as an independent nonprofit entity, is not subject to the statutory limits on hospital service districts. But the Fifth Circuit reversed and allowed the claims to proceed anyway. *Hosp. Serv. Dist. No. 1 of Par. of St. James v. Hosp. Serv. Dist. No. 3 of Par. of Lafourche*, 25-202 (La. App. 5 Cir. 11/26/25), 2025 WL 3292206.

Writ applications arising from both matters reached this Court on December 19 and December 23, 2025. The same issues are now percolating in the Third Circuit as well. See *Calcasieu Cameron Hosp. Serv. Dist. v. Sw. La. Hosp. Ass’n*, No. 2025-4836 (14th JDC). This Court should exercise its supervisory jurisdiction to resolve these recurring questions before they further metastasize in Louisiana law.

ARGUMENT

I. THESE CASES SCREAM FOR THIS COURT’S SUPERVISORY INTERVENTION.

These writ applications easily satisfy the Court’s writ-grant considerations. The two courts of appeal below now stand as outliers on two fundamental questions of Louisiana law: (1) whether the statutes enabling hospital service districts silently created a private right of action authorizing them to enjoin the provision of healthcare services within their geographic boundaries, *infra* Part I.A, and (2) whether a private business—with no ownership relationship to a governmental entity—may nevertheless be a political subdivision when enforcing that supposed private right, *infra* Part I.B. On both questions, the First and Fifth Circuits say yes. But neither this Court nor any other circuit has taken those extreme leaps. La. S. Ct. R. X, § 1(A)(1).

That divergence is untenable. The decisions below are out of step with this Court’s implied-private-right-of-action jurisprudence and flatly inconsistent with the Legislature’s express rejection of the single-business-enterprise theory. La. S. Ct. R. X, § 1(A)(4). They rest instead on two quarter-century-old judicial inventions—neither before sanctioned by this Court and one now expressly abrogated by statute.

La. S. Ct. R. X, § 1(A)(2); *see Hosp. Serv. Dist. No. 2 of Par. of Lafourche*, 716 So. 2d at 169 (creating the implied private right); *Green*, 577 So. 2d at 250 (creating the 18-factor single business theory). And to the extent the First and Fifth Circuits felt bound by those outdated precedents, that only underscores that this Court needs to intervene now to overrule them before they spread further. *See* La. S. Ct. R. X, § 1(A)(3); *e.g.*, *Calcasieu Cameron Hosp. Serv. Dist. v. Sw. La. Hosp. Ass'n*, No. 2025-4836 (14th JDC).

It is also difficult to overstate the statewide healthcare and economic ramifications of allowing these decisions to stand. La. S. Ct. R. X, § 1(A)(4). Over the past decade, Louisiana has seen district-owned hospitals transition into nonprofit regional systems (think Ochsner, FMOL, LCMC, and others) with demonstrable benefits to the communities they serve, like state-of-the-art facilities and expanded outpatient and specialty care. The rulings below place that model in jeopardy with the highest of stakes—a judicially imposed forced closure. Nothing in Louisiana law compels that obtuse result, nor do Louisiana patients deserve it. Because these cases satisfy Rule X and present recurring, high-stakes legal errors, the Court should grant and docket to correct two fundamental mistakes of Louisiana law.

II. THE COURT SHOULD GRANT AND DOCKET THESE CASES TO CORRECT TWO FUNDAMENTAL ERRORS OF LOUISIANA LAW.

These cases warrant docketing because the courts of appeal committed two clear errors of Louisiana law: inventing a private right of action for hospital service districts that the Legislature never created and reviving a single-business-enterprise doctrine the Legislature has since repudiated.

A. The Hospital Service District Statutes Do Not Create Private Right of Action to Forbid Healthcare Services.

Louisiana law does not recognize an implied private right of action allowing hospital service districts to sue competitors out of existence. Implied rights of action are strongly disfavored. *Monier v. St. Charles Par. Sch. Bd.*, 10-526 (La. App. 5 Cir. 5/10/11), 65 So. 3d 731, 735 (“The Louisiana legislature did not provide for a remedy to any violation of the rights afforded in the Teacher Bill of Rights. If the legislature

intended for there to be a remedy, it certainly could have provided one.”); *accord Voltolina v. St. Tammany Fire Dist. 12*, 2006-1498 (La. App. 1 Cir. 9/19/07), 970 So. 2d 1015, 1018. Consistent with our civil-law tradition’s commitment to textual statutory interpretation, this Court has recognized an implied private right of action only in the rarest circumstances. *See Anderson v. Ochsner Health Sys.*, 2013-2970 (La. 7/1/14), 172 So. 3d 579, 580; *see also Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 368 (2025) (“this Court has emphasized ... statutes create individual rights only in ‘atypical case[s]’”).

And even in that rare case, this Court clarified that implied rights of action exist to protect *individuals* as beneficiaries of statutory schemes, not governmental entities seeking to expand their power. In *Anderson*, for example, the statute banned “illegal billing” of patients by hospitals. 172 So. 3d at 584. The Court emphasized that the “statutory scheme” was motivated by “protection of the consumer.” *Id.* It therefore would have been “incongruent,” the Court explained, to interpret the statute not to “protect consumers” and “an *individual’s* access to the courts to redress the very violation that is proscribed.” *Id.* (emphasis added) (citing La. Const. art. I, § 22); *accord Medina*, 606 U.S. at 368 (“the statute must display ‘an unmistakable focus’ on individuals”). As a result, the implied remedy was correspondingly individualized: “individual restitution.” *Anderson*, 172 So. 3d at 584–85 (“[e]very act whatever of man that causes damage to another obliges him by whose fault it happened to repair it.” (quoting La. Civ. Code art. 2315(A))).

The decisions below betray these fundamental implied private-rights principles: They both extend a purported individual private right to a *governmental entity* and also authorize it to wield that right against a private nonprofit through sweeping *injunctive relief*. Those errors alone warrant reversal and vacatur.

The First and Fifth Circuits reached the opposite result, however, by relying on the divided First Circuit decision in *Hospital Service District No. 2 of Parish of Lafourche v. Hospital Service District No. 1 of Parish of Terrebonne*, 97-1792 (La. App. 1 Cir. 6/29/98), 716 So. 2d 168, 169. The decisions below mark the first extension of

that holding in two decades. That is little surprise, for *Hospital Service District No. 2* was wrong from the jump for departing from this Court’s implied private-right-of-action principles and for at least two other independent reasons.

First, the First Circuit’s decision rests on judicial policymaking untethered from statutory text. As Judge Carter correctly explained in dissent, the majority “read[] into the act provisions that are simply not there.” *Hosp. Serv. Dist. No. 2 of Par. of Lafourche*, 716 So. 2d at 170–71 (Carter, J., dissenting). Just thumb through the hospital-service-district statutes. Nothing there expressly confines districts to operating exclusively within their geographic boundaries, much less authorizes enforcement of such a limitation by lawsuit. See *Jefferson Par. Hosp. Serv. Dist. No. 2 v. Hosp. Serv. Dist. No. 1 of Par. of St. Charles*, 16-702 (La. App. 5 Cir. 4/12/17), 218 So. 3d 696, 706 (“La. R.S. 46:1051 does not mandate that St. Charles Parish require EJGH to obtain its permission ... to expand further into St. Charles Parish”), *writ denied*, 2017-0960 (La. 10/9/17), 227 So. 3d 832. Even the First Circuit below acknowledged that awkward reality: “it is true that La. R.S. 46:1051, *et seq.* do not explicitly prohibit a hospital service district from encroaching onto another hospital service district’s territory without proper consent to do so.” *Hosp. Serv. Dist. No. 1 of Par. of Terrebonne*, 421 So. 3d at 992.

Judge Carter also correctly warned that this approach would actually dampen healthcare access for patients—precisely the result now unfolding in these cases. If district authority were confined to parish borders, “any contract or joint venture entered into by a hospital service district with a private health care provider would be restricted” to those same artificial boundaries. *Hosp. Serv. Dist. No. 2 of Par. of Lafourche*, 716 So. 2d at 172 (Carter, J., dissenting). And that outcome is antithetical to one of the hospital service district’s statutory objectives: “[t]o cooperate with other public and private institutions and agencies engaged in providing hospital and other health services to residents of the district.” La. R.S. 46:1052.

Second, the supposed private right and remedy run roughshod into sovereign immunity. After all, hospital service districts are “political subdivisions of the state.”

La. R.S. 46:1064(A). As such, they are shielded from suit absent a clear constitutional or statutory waiver. La. Const. art. XII, § 10; *see Chamberlain v. State ex rel. Dep't of Transp. & Dev.*, 624 So. 2d 874, 881 (La. 1993). But the hospital-service-district statutes provide no such waiver. Nor does this type of claim arise in one of the narrow constitutionally permissible categories—“in contract” and for “injury to person or property.” La. Const. art. XII, § 10(A); *see Chamberlain*, 624 So. 2d at 883 (“exclusive remedy for ‘injury to person or property’ is damages”). Recognizing this supposed private right would thus disregard the constitutional limits sovereign immunity imposes on suits against political subdivisions.²

In short, the decisions below invent a private enforcement regime untethered from the statutory text, incompatible with this Court’s implied-right-of-action jurisprudence, and irreconcilable with constitutional limits on suits against political subdivisions. Accordingly, this Court should grant the writ applications and docket these cases for full merits review.

B. The Legislature Has Repudiated the Single-Business-Enterprise Theory and *Green v. Champion*.

The courts of appeal compounded their implied-right-of-action error by invoking the single-business-enterprise theory to collapse Thibodaux Regional Medical System into Lafourche’s Hospital Service District No. 3. The single-business-enterprise theory originated in *Green v. Champion Insurance Company*, which announced a non-exclusive list of eighteen factors to justify disregarding corporate separateness. 577 So. 2d at 257–58. While “[t]his Court has never ruled on the viability of this theory,” *Munson v. Heniff Transportation Sys., LLC*, 2025-00857 (La. 12/23/25), 2025 WL 3718552, the Legislature has foreclosed its application: “The separate juridical personality of a business organization shall not be disregarded as between one business organization and another.” La. R.S. 12:1705(A). And the need

² This does not suggest that hospital service districts are categorically immune from judicial process. Commissioners, like any other public officials, can be subjected to mandamus actions. *See* La. C.C.P. art. 3861 *et seq.* Private nonprofits can likely be the object of a LUTPA suit for damages (as plaintiffs seek in the alternative below). And all nonprofit hospital transactions are thoroughly reviewed by the Attorney General, which can be subject to judicial review. La. R.S. 40:2115.16.

for ordinary veil-piercing principles are, if anything, amplified in the hospital service district context for at least two reasons. For one, the districts are constitutionally prohibited from owning private business corporations, La. Const. art. VII, § 14, and the Attorney General already provides statutory oversight of nonprofit hospital transactions, *see* La. R.S. 40:2115.11 *et seq.* For another, the private entity faces the prospect of being deemed a “political subdivision[] of the state,” La. R.S. 46:1064(A)—which brings along not only a host of new statutory responsibilities, but also the unique responsibilities (and liabilities) of being a state actor.

CONCLUSION

The Court should grant and docket these cases.

Dated: January 20, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing has this date been served upon all parties to this proceeding by email or by mailing same to each by First Class United States mail, properly addressed and postage paid, on this 20th day of January, 2026.

/s/ Zachary Faircloth
Zachary Faircloth (LSBA #39875)