

**In the  
Supreme Court of the United States**

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CHURCH OF SCIENTOLOGY INTERNATIONAL,  
RELIGIOUS TECHNOLOGY CENTER &  
CHURCH OF SCIENTOLOGY CELEBRITY  
CENTRE INTERNATIONAL,

*Petitioners,*

v.

CHRISSIE CARNELL BIXLER,  
CEDRIC BIXLER-ZAVALA, JANE DOE #1 & JANE DOE #2,

*Respondents.*

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**On Petition for a Writ of Certiorari to the  
Court of Appeal of California,  
Second Appellate District, Division Five**

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**BRIEF OF *AMICUS CURIAE*  
CHURCH LAW INSTITUTE  
IN SUPPORT OF PETITIONERS**

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## **QUESTIONS PRESENTED**

Where a parishioner freely executes a religious arbitration agreement with her church, does the First Amendment prohibit enforcement of the agreement if the parishioner leaves the faith?

Does the First Amendment restrict the terms on which a Church may accept members into its faith?

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## IDENTITY AND INTEREST OF *AMICUS CURIAE*

Pursuant to Supreme Court Rule 37, the Church Law Institute respectfully submits this brief *amicus curiae* in support of Petitioners Church of Scientology International, Religious Technology Center & Church Of Scientology Celebrity Centre International.<sup>1</sup>

The Church Law Institute is non-profit public interest group that provides legal representation to churches in various denominations on a national level regarding issues dealing with religious liberty and ecclesiastical concerns. Its clients include both hierarchical and congregational churches, in disputes that span a broad spectrum of constitutional and church organizational issues. Its services include litigation of church conflicts in state and federal courts, and conducting legal seminars designed to deal proactively with legal conflicts facing churches today before they occur. In addition, Church Law Institute provides legal consultation to churches in the drafting

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<sup>1</sup> Pursuant to this Court's Rule 37.2, all parties with counsel listed on the docket have consented to the filing of this brief. Counsel of record for all listed parties received notice at least 10 days prior to the due date of the *Amicus Curiae's* intention to file this brief. Copies of email correspondence evidencing such consent have been filed with the Clerk of the Court.

Pursuant to Supreme Court Rule 37.6, *Amicus Curiae* affirms that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *Amicus Curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.

of organizational documents such as church bylaws and other documents dealing with internal church governance.



## SUMMARY OF ARGUMENT

The institutional autonomy and integrity of churches and places of worship generally depends entirely upon their ability to govern the intra-church relationship with their members. This core religious value necessarily involves the freedom to determine both the nature of this relationship, and the respective rights of the church and its members in resolving intra-church disputes in a manner that is consistent with its religious teachings.

The relationship between a place of worship and its members is uniquely an ecclesiastical concern that is protected by the First Amendment religious clauses. The holding of the California Court of Appeals infringes upon this time-honored religious freedom and amounts to a usurpation of the church's jurisdiction to govern itself in accordance with its religious practices, precepts and religious tenets.



## REASONS FOR GRANTING THE WRIT

- I. **THE CALIFORNIA COURT OF APPEALS' RULING HAS A PROFOUND CHILLING EFFECT UPON THE RELIGIOUS FREEDOM OF CHURCHES, SYNAGOGUES AND OTHER ECCLESIASTICAL BODIES TO RELY, AS AN ESSENTIAL COMPONENT OF THEIR RELATIONSHIP WITH THEIR MEMBERS, ON COVENANTAL SAFEGUARDS TO PROTECT THEIR ORGANIZATIONAL INTEGRITY AND THE OPERATION OF THEIR MINISTRIES.**

While there is no comprehensive directory of the precise number of churches nationally, it has been estimated that there are in excess of 350,000 congregations of Protestant, Catholic and Orthodox denominations in America.<sup>2</sup> All of these churches, whether hierarchical or congregational in their form of church polity and governance, rely like their secular counterparts, on well-established, neutral principles of law as the bedrock of their contractual dealings both internally with their staff and members, as well as externally within the business community.

Regardless of their denominational affiliation or form of ecclesiastical governance, many churches incorporate into their foundational documents alternate dispute resolution mechanisms in order to avoid litigation of internal disputes with their members. In particular, those churches that adhere to biblical

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<sup>2</sup> Hartford Institute for Religious Research, *Fast Facts About American Religion*, [http://hrr.hartsem.edu/research/fastfacts/fast\\_facts.html#sizecong](http://hrr.hartsem.edu/research/fastfacts/fast_facts.html#sizecong) (last searched August 22, 2022)

teachings as the foundational core of their religious tenets and doctrinal beliefs many times incorporate into their church polity the scriptural admonition against litigation in the civil arena of internal church-member conflicts.<sup>3</sup> This biblical precept is echoed in modern day constitutional jurisprudence by what is commonly referred to as the ecclesiastical abstention doctrine which serves as a jurisdictional bar to the litigation in civil courts of doctrinal and church governance disputes.<sup>4</sup>

The decision below portends a profound chilling effect upon the freedom of churches, synagogues and other ecclesiastical bodies to rely, as an essential component of their relationship with their members, on covenantal safeguards to protect their organizational integrity and the operation of their ministries. Questions of church membership and discipline of church members lie at the center of a church's organi-

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<sup>3</sup> CORINTHIANS 6:1-8: Dare any of you, having a matter against another, go to law before the unrighteous, and not before the saints? Do you not know that the saints will judge the world? And if the world will be judged by you, are you unworthy to judge the smallest matters? . . . Now therefore, it is already an utter failure for you that you go to law against one another.

<sup>4</sup> “The First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes.” Presbyterian Church in *U.S. v. Mary Elizabeth Blue Hull Mem’l Presbyterian Church*, 393 U.S. 440, 449 (1969). They must be decided “without resolving underlying controversies over religious doctrine.” *Id.* Under the ecclesiastical abstention doctrine, civil courts “abstain from adjudicating issues involving theological or spiritual judgment or the internal governance of religious bodies,” leaving those issues instead “to appropriate religious tribunals.” 1 Rodney A. Smolla, *RIGHTS & LIABILITIES IN MEDIA CONTENT: INTERNET, BROADCAST, & PRINT* § 6:25 (2d ed. 2011)



zational autonomy and uniformly invoke the ecclesiastical abstention doctrine. If former church members are permitted to ignore contractual limitations on civil litigation merely by withdrawing from the church, then the practical effect of this ruling is to render such covenantal agreements meaningless. Because of the central importance of these considerations to the effective operation of churches and religious bodies, courts have routinely applied the ecclesiastical abstention doctrine in cases concerning church membership, employment policies, clergy discipline, member discipline, church leadership elections, church property disputes, and defamation suits based on pastoral statements. *Doe v. Apostolic Assembly of Faith in Christ Jesus*, 452 F.Supp.3d 503, 533 (W.D. Tex. 2020).

The lower court's ruling that waiver of civil trial and the requirement of religious arbitration are too high a "price" to pay for joining a faith represents an unprecedented form of governmental hostility to religion. If not reviewed by this Court, this ruling may soon be cited by disgruntled members from virtually any denomination to compel churches, synagogues and other religious bodies to participate in protracted civil litigation effectively nullifying otherwise binding arbitration agreements and other forms of alternative religious dispute resolution provisions. Moreover, the Court's finding that members who enter into these covenantal agreements are only bound so long as they are "believers" or adherents to the church's doctrinal teachings is antithetical to longstanding legal and constitutional traditions protecting church autonomy, and would inevitably make civil courts arbiters of religious doctrine.



## CONCLUSION

By granting review, this Court can preserve the religious liberty right of churches, synagogues, mosques and other religious institutions to exercise self-governance in a manner that is consistent with their faith and doctrine. There are few areas more central to the exercise of ecclesiastical polity than the relationship between a church and its members.

Respectfully submitted,

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