No. 22-741

In the Supreme Court of the United States

FAITH BIBLE CHAPEL INTERNATIONAL, *Petitioner,*

v.

GREGORY TUCKER

On Petition for Writ of Certiorari to
the United States Court of Appeals
for the Tenth Circuit

BRIEF OF THE COUNCIL FOR CHRISTIAN COLLEGES & UNIVERSITIES, THE ASSOCIATION OF CATHOLIC COLLEGES AND UNIVERSITIES, THE UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA, AND THE INTERNATIONAL ALLIANCE FOR CHRISTIAN EDUCATION AS *AMICI CURIAE* SUPPORTING PETITIONER

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QUESTION PRESENTED

Although *Amici* agree with Petitioner that each question presented warrants this Court's review because of the circuit splits explained in the petition, this brief addresses only the following:

Whether the ministerial exception protects churches and other religious institutions against merits discovery and trial.

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INTRODUCTION AND INTERESTS OF *AMICI CURIAE*[1]

The petition raises an important, recurring question about the proper understanding of the ministerial exception, which this Court has correctly held is required by the First Amendment's Religion Clauses to protect religious organizations "from secular control or manipulation." *Hosanna-Tabor Evangelical Lutheran Church & Sch.* v. *EEOC*, 565 U.S. 171, 186 (2012). Guided by this understanding, this Court has recognized that religious organizations are not merely "social club[s]," but something different that are due "special solicitude." *Id.* at 189. The reason is simple: "[I]t is not within the judicial function and judicial competence to inquire" into religious questions. *Thomas* v. *Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 716 (1981). Courts are neither "arbiters of scriptural interpretation" nor trained to divine whether a religious organization "correctly perceived the commands of [its] * * * faith." *Ibid.* The ministerial exception this Court recognized in *Hosanna-Tabor* followed that long tradition of judicial non-interference in religion.

This case is important because more and more courts have rejected this long tradition by departing from their sister courts and holding that the exception can be invoked only as a defense to liability. They are wrong. Because pressuring religious organizations through the entangling process of litigation can itself

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[1] No counsel for any party authored this brief in whole or in part and no entity or person, aside from *amici*, their members and counsel, made a monetary contribution to the brief's preparation or submission. The parties were given the requisite 10-day notice.

be a constitutional violation, the exception applies from the start.

Because a contrary conclusion would have cataclysmic consequences for religious organizations, this case is deeply important to *Amici*, including the Council for Christian Colleges & Universities, the Association of Catholic Colleges & Universities, the Union of Orthodox Jewish Congregations of America, and the International Alliance for Christian Education. Collectively, *Amici* represent hundreds of religious colleges, universities, and schools across the United States. *Amici*'s member institutions provide faith-infused, high-quality education based on a religious belief that, through such efforts, their students will be better prepared to live their faith in all aspects of life. Their ability to achieve those missions free from government interference will be threatened if the government can force them to undergo ruinous merits discovery and—potentially—a trial before they can vindicate their rights under the Religion Clauses. By that point, the damage is done. For that reason, this Court has recognized that the "very process of inquiry" can "impinge on rights guaranteed by the Religion Clauses." *NLRB* v. *Cath. Bishop*, 440 U.S. 490, 502 (1979).

Amici thus agree with Petitioner that the ministerial exception should serve as an immunity from judicial interference, not merely as a defense to liability. They write to expand that point and to explain why the standard employed by the Second and Tenth Circuits and the Massachusetts Supreme Judicial Court—but not anywhere else—would seriously harm religious colleges and universities. To prevent that harm, this Court should grant the petition and reverse the decision below.

STATEMENT

Faith Bible Chapel is a Christian church in Colorado. App.141a, 200a-201a. It owns and operates a church school, Faith Christian Academy, that provides integrated religious education for students from kindergarten through twelfth grade. App.8a, 200a. In all respects, "the school and the church are one[.]" App.201a. As the petition emphasizes (at 5), everything that Faith Christian Academy does is designed to "glorify God" and encourage its students to "serve others through the power of the Holy Spirit." App.158a.

One of Faith Christian's employees was Gregory Tucker, who worked there for more than a decade. From 2010 on, Tucker mainly taught in the Bible department. App.218a, 231a-233a. But he also signed a contract to serve as Faith Christian's chaplain, held himself out as such, and ran the school's chapel services. App.152a-153a, 233a-234a.

In 2018, Tucker led a chapel service during which panelists accused Faith Christian students and their parents of racism because of their skin color. App.195a. Through the panel discussion, Tucker taught as religious doctrine his own views—views that Faith Christian concluded strayed from its understanding of the Bible. App.143a, 275a, 280a. Having lost confidence in Tucker's ability to properly transmit the faith to its students, Faith Christian stopped letting him run chapel services and, eventually, terminated his employment. App.143a-145a.

REASONS FOR GRANTING THE PETITION

I. Properly Understood, the Ministerial Exception is a Bar to Suit, Not Just a Defense to Liability.

The question presented is enormously important to religious organizations because the ministerial exception is critical to their autonomy: It gives religious institutions "the authority to select, supervise, and if necessary, remove a minister without interference by secular authorities." *Our Lady of Guadalupe Sch.* v. *Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020). For several reasons, the ministerial exception bars Tucker's claims from the start.

1. The clearest reason why the ministerial exception does not allow for cases brought by ministerial employees against their religious employers to continue to merits discovery or even trial is that, if it did, the exception would be unable to avert the very harms it is designed to prevent.

This Court has explained, for example, that the ministerial exception protects religious autonomy by ensuring that the government does not interfere with a religious organization's internal employment decisions. *Ibid*. And, for well over 100 years, this Court has explained that courts cannot decide a "matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them." *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 733 (1871). Similarly, the Religion Clauses forbid courts from "decid[ing] who ought to be members of the church, []or whether the excommunicated have been

regularly or irregularly cut off." *Bouldin* v. *Alexander*, 82 U.S. (15 Wall.) 131, 139-140 (1872).

Nowhere in this Court's cases is there any suggestion that the Religion Clauses kick in only at the case's end. To the contrary, this Court recognized that even looking into a religious organization's internal workings can be a First Amendment harm—the "very process of inquiry" can "impinge on rights guaranteed by the Religion Clauses." *Cath. Bishop*, 440 U.S. at 502. And this applies even before trial, as a court's—or by extension, an adverse party's—"detailed review of the evidence" of internal church procedures and decisions is itself "impermissible" under the First Amendment. See *Serbian E. Orthodox Diocese for U.S. & Can.* v. *Milivojevich*, 426 U.S. 696, 718 (1976). In short, "[i]t is well established, in numerous other contexts, that courts should refrain from trolling through a person's or institution's religious beliefs." *Mitchell* v. *Helms*, 530 U.S. 793, 828 (2000) (plurality op.); *accord Carson* v. *Makin,* 142 S. Ct. 1987, 2001 (2022) ("Any attempt to * * * scrutiniz[e] whether and how a religious school pursues its educational mission would also raise serious concerns about state entanglement with religion and denominational favoritism.").

2. Given this long and unbroken line of cases, it is by now clear that, although this Court has recognized that the ministerial exception is not jurisdictional, *Hosanna-Tabor*, 565 U.S. at 195 n.4, it nevertheless functions differently from most affirmative defenses. As the petition correctly explains (at 19), multiple circuits treat the "ministerial exception [a]s a structural limitation imposed on the government by the Religion Clauses, a limitation that can never be waived." *Conlon* v. *InterVarsity Christian Fellowship*, 777 F.3d 829,

836 (6th Cir. 2015); *accord Tomic* v. *Cath. Diocese of Peoria*, 442 F.3d 1036, 1042 (7th Cir. 2006) ("A federal court will not allow itself to get dragged into a religious controversy even if a religious organization wants it dragged in."); *Whole Woman's Health* v. *Smith*, 896 F.3d 362, 373-374 (5th Cir. 2018).

Because the ministerial exception acts as a structural limitation, several courts—including, at one point, the Tenth Circuit, *Skrzypczak* v. *Roman Cath. Diocese*, 611 F.3d 1238, 1242 (10th Cir. 2010)—have correctly likened it to qualified immunity. For example, in *Petruska* v. *Gannon University,* a pre-*Hosanna-Tabor* case, the Third Circuit found that the ministerial exception operated like qualified immunity and concluded that, though the "exception does not act as a jurisdictional bar," it could be raised—at the motion-to-dismiss stage—as a "challenge to the sufficiency of [a plaintiff's] claim[s]" against a religious organization. 462 F.3d 294, 302 (3d Cir. 2006); *accord McCarthy* v. *Fuller*, 714 F.3d 971, 975 (7th Cir. 2013); *Heard* v. *Johnson*, 810 A.2d 871, 877 (D.C. 2002) ("A claim of immunity from suit under the First Amendment is just such an issue of law, and *** a defendant church may appeal the denial of a motion to dismiss where the motion was based on First Amendment immunity from suit."); *Kirby* v. *Lexington Theological Seminary*, 426 S.W.3d 597, 608 (Ky. 2014) ("Viewing the ministerial exception this way, *** procedurally speaking, in Kentucky jurisprudence, a government official's defense of qualified immunity is analogous.").[2]

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[2] As the petition emphasizes (at 20), scholars also recognize the link between qualified immunity and the ministerial exception.

The comparison to qualified immunity is apt. Just as qualified immunity recognizes "the danger that fear of being sued will dampen the ardor of all but the most resolute, or the most irresponsible public officials, in the unflinching discharge of their duties," *Harlow* v. *Fitzgerald*, 457 U.S. 800, 814 (1982) (cleaned up), the ministerial exception recognizes the harm to religious institutions if they were subject to "judicial intervention into disputes between the school and the teacher" or other key employees in a way that "threatens the school's independence[.]" *Our Lady of Guadalupe Sch.*, 140 S. Ct. at 2069. As mentioned above, in cases brought against religious institutions, the First Amendment injury is often the litigation itself.

Thus, the ministerial exception is to religious organizations what qualified immunity is to government officials—both immunities allow those whom they protect to operate with less concern about unfair or malicious lawsuits.

But the justification for the ministerial exception immunity is even stronger than for qualified immunity—which applies only when the law is not clearly established. That is because the ministerial exception protects not only the religious organization's interest in free leadership selection, but also the *government*'s structural duty to avoid religious entanglement. And, because the ministerial exception's protection, no less

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See Peter J. Smith & Robert W. Tuttle, *Civil Procedure and the Ministerial Exception*, 86 Fordham L. Rev. 1847, 1881 (2018) (explaining that the ministerial exception "closely resembles qualified immunity for purposes of the collateral-order doctrine"); Mark E. Chopko & Marissa Parker, *Still a Threshold Question: Refining the Ministerial Exception Post-*Hosanna-Tabor, 10 First Amend. L. Rev. 233, 293-294 (2012).

than qualified immunity's protection, "is effectively lost if a case is erroneously permitted to go to trial," see *Mitchell* v. *Forsyth*, 472 U.S. 511, 526 (1985), both offer that protection before merits discovery and far before trial. See, *e.g.*, *Belya* v. *Kapral*, 59 F.4th 570, 578 (2d Cir. 2023) (Park, J., dissental) ("[A]fter final judgment, the harm from judicial interference in church governance will be complete.").

Accordingly, the Court should grant the petition to resolve the growing split over whether the structural limitations that the Religion Clauses place on the judicial power allow courts to compel discovery where the ministerial exemption has been invoked. See *id.* at 573 (Cabranes, J., dissental) (explaining in a case raising similar issues that this question "can and should be reviewed by the Supreme Court").

II. Religious Schools Will Suffer If Courts Fail to Treat the Ministerial Exception as a Bar to Suit.

The harms that would flow to religious organizations—and particularly to religious colleges and universities—if the decision below stands would be immediate and widespread.

A. In the United States, there are hundreds of religious schools, colleges, and universities with employees critical to their religious missions.

Religious schools and colleges are everywhere, and they always have been. Indeed, higher education in this country was built on a tradition of developing faith and intellect together.

1. The first U.S. colleges reflected this integrated approach. Harvard University's original mission statement, for example, declared that the "end of [a student's] life and studies" is "to know God and Jesus Christ, which is eternal life[.]"[3] Harvard was not alone—"[a]most all Ivy League institutions had similar beginnings" and "shared common commitments to the authority of the Word of God, the Gospel of Jesus Christ, and the need for a Christian influence in society."[4]

To be sure, some schools, including Harvard, have departed from their founding religious ties. But many have not. And many of those schools that have

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[3] Roger Schultz, *Christianity and the American University*, Liberty J. (Feb. 26, 2019), https://tinyurl.com/4dx42bws.

[4] *Ibid.*

maintained their religious affiliations do what they have always done: strengthen their students' intellectual capacity while also instructing them in their various faith traditions. As this Court has recognized, the "*raison d'être*" of such religious schools is the "propagation of a religious faith." *Cath. Bishop*, 440 U.S. at 503 (citation omitted); accord *Our Lady*, 140 S. Ct. at 2055 ("The religious education and formation of students is the very reason for the existence of most private religious schools, and therefore the selection and supervision of the teachers upon whom the schools rely to do this work lie at the core of their mission.").

These schools' religious missions are often integrated with other aspects of learning, such as intellectual and professional preparation. For example, Abilene Christian University's mission is to "educate students for Christian service and leadership throughout the world."[5] Similarly, Baylor University seeks to prepare its students "for worldwide leadership and service by integrating academic excellence and Christian commitment within a caring community."[6] Zaytuna College likewise strives to create "leaders who are grounded in the Islamic scholarly tradition" by "educat[ing] and prepar[ing] morally committed professional, intellectual, and spiritual leaders."[7] And Yeshiva University's educational endeavors are "[r]ooted in Jewish thought and tradition" and are "dedicated to advancing the

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[5] Abilene Christian Univ., *Our Mission*, https://acu.edu/about/our-mission/.

[6] Baylor Univ., *About Baylor*, https://www.baylor.edu/about/.

[7] Zaytuna Coll., *Our Mission*, https://zaytuna.edu/#mission.

moral and material betterment of the Jewish community and broader society, in the service of God."[8] Put simply, religious schools, with religious missions, are everywhere.

2. Often, the inherently religious goals of these schools can be achieved only if they can rely on their employees to further the schools' faith-based missions. "As the saying goes," explained Judge Ho in a recent church-autonomy case, for religious institutions, "personnel *is* policy." *McRaney* v. *N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 980 F.3d 1066, 1067 (5th Cir. 2020) (Ho, J., dissental).

Thus, at religious schools, employees such as chaplains, religious teachers, and senior leaders—and Tucker was all three, App. App.152a-153a, 233a-234a—help express and teach the faith by mentoring students, guided by spiritual principles. Wheaton College, for example, claims "a legacy of faculty, coaches, residence life leaders, chaplains, and staff who exemplify spiritual journeys grounded in the truth and grace of the gospel."[9]

At religious colleges, then, faculty members of all stripes play a special role of expressing and teaching what it means to be both a scholar and a member of that school's faith. As one professor explained, "even

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[8] Yeshiva Univ., A*bout Yeshiva College*, https://www.yu.edu/yeshiva-college/about.

[9] Wheaton Coll., *Spiritual Life*, https://www.wheaton.edu/life-at-wheaton/spiritual-life/.

when students come in for help with an assignment, they are being mentored as Christian thinkers."[10]

Faculty members are also generally expected to help students apply religious principles to their academic and other life decisions. At Baylor University, for example, "[f]aculty and staff meet with students * * * to explore" deeply religious questions, such as "life callings and existential challenges, matters of life and death, [and] religion and morality."[11]

Given the direct and critical role that faculty members and other staff at religious colleges play in the furthering of their religious missions, religious colleges and universities must be able to depend on them to achieve those missions. Indeed, this Court has already recognized this interest, emphasizing that religious organizations need "autonomy with respect to internal management decisions that are essential to the institution's central mission." *Our Lady*, 140 S. Ct. at 2060.

B. Those religious schools are often the targets of litigation brought by their ministerial employees.

Just as religious schools are everywhere, so too are baseless claims barred by the ministerial exception brought by employees of those schools.

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[10] Alan Noble, *A Professor's Perspective: Why Christian Colleges Emphasize Mentorship*, Creative Studio: Christianity Today (Jan. 25, 2018), https://tinyurl.com/yyrjyper.

[11] Baylor Univ., *A&Spire to Illuminate Pillar 1*, https://tinyurl.com/48z9xdur.

For example, a private Catholic school in Indianapolis recently declined to renew the contract of a supervisory guidance counselor. *Starkey* v. *Roman Cath. Archdiocese of Indianapolis, Inc.*, 41 F.4th 931 (7th Cir. 2022). The counselor was responsible, among other things, for conveying the Catholic faith to students by leading prayers, teaching "Catholic traditions," "participat[ing] in religious instruction and Catholic formation, including Christian services," and "modeling a Christ-centered life." *Id.* at 937-938. The Seventh Circuit properly affirmed that the claims were barred by the ministerial exception. But it did so only after a magistrate judge denied a motion to bifurcate discovery on the ministerial-exception question and ordered the Archdiocese to undergo merits discovery. *Starkey* v. *Roman Cath. Archdiocese of Indianapolis, Inc.*, No. 1:19-CV-03153-RLY-TAB, 2019 WL 7019362 (S.D. Ind. Dec. 20, 2019).[12]

Although discovery bifurcation is nearly always granted when requested, but see *Belya* v. *Kapral*, 45 F.4th 621, 630-631 (2d Cir. 2022), cases brought by

[12] Although summary judgment was ultimately entered for the Archdiocese while the Archdiocese's appeal of the denial of the motion to bifurcate was pending, see *Starkey* v. *Roman Cath. Archdiocese of Indianapolis, Inc.*, 553 F. Supp. 3d 616, 627-628 (S.D. Ind. 2021), *aff'd*, 41 F.4th 931 (7th Cir. 2022), the district court overruled the denial of bifurcation in parallel proceedings after the plaintiff "failed to cite a single ministerial exception case in which a court denied bifurcation when it was requested." *Fitzgerald* v. *Roncalli High Sch., Inc.*, No. 1:19-CV-04291-RLY-TAB, 2021 WL 4539199, at *1 (S.D. Ind. Sept. 30, 2021). The court there correctly concluded that "[t]he ministerial exception exists to avoid judicial entanglement in the internal organization of religious institutions, and bifurcating discovery serves that end." *Ibid.*

ministerial employees are commonplace. For example, in *Butler* v. *Saint Stanislaus Kostka Catholic Academy*, three years after an ex-employee sued her former employer, a Catholic school, the court granted summary judgment to the school. No. 19-CV-3574-EK-ST, 2022 WL 2305567 (E.D.N.Y. June 27, 2022). In another case, a court found that the ministerial exception applied to claims brought by a former employee of Brigham Young University's Missionary Training Center who sued BYU after it terminated her position as a missionary trainer for violating the Missionary Dress and Grooming Standards. *Markowski* v. *Brigham Young Univ.*, 575 F. Supp. 3d 1377, 1380-1383 (D. Utah 2022). And in *Kirby* v. *Lexington Theological Seminary*, the Kentucky Supreme Court had no problem recognizing that the ministerial exception precluded certain claims brought by a tenured seminary professor who—among other things—"participated in chapel services, convocations, faculty retreats, and other religious events," "preached on numerous occasions," and "read scripture and served at the communion table." 426 S.W.3d 597, 612 (Ky. 2014).

Amici could have summarized any number of such cases brought against religious schools where the school eventually prevailed because of the structural protections of the ministerial exception.[13] But this small subset suffices to show that there is no lack of

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[13] See, *e.g.*, *Grussgott* v. *Milwaukee Jewish Day Sch., Inc.*, 882 F.3d 655 (7th Cir. 2018) (per curiam); *EEOC* v. *Cath. Univ. of Am.*, 83 F.3d 455 (D.C. Cir. 1996); *Petruska* v. *Gannon Univ.*, 462 F.3d 294 (3d Cir. 2006); *Clapper* v. *Chesapeake Conf. of Seventh-Day Adventists*, 166 F.3d 1208 (4th Cir. 1998) (per curiam); *Temple Emanuel of Newton* v. *Massachusetts Comm'n Against Discrimination*, 975 N.E.2d 433 (Mass. 2012).

litigants willing to bring meritless claims against their religious-school employers.

C. The resulting litigation costs would not only threaten these schools' financial viability, but it would also chill the exercise of their First Amendment-protected right to religious autonomy.

Naturally, for some religious schools, the costs of defending against even meritless claims could be too expensive to bear—particularly if they are forced to proceed all the way through discovery to trial.

1. The cost of defending an employment suit imposes significant burdens on schools. Even a meritless lawsuit can cost $100,000 or more in attorneys' fees, and a case that makes it to trial can cost hundreds of thousands or even millions.[14] If the case is appealed, costs will naturally be even higher.

Faced with the likelihood that they will likely never recover costs incurred defending against even meritless lawsuits, many religious schools may be coerced to settle. After all, many small religious schools are struggling to keep their doors open as it is.[15] Few have a sizable endowment—if they have one at all.[16]

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[14] Michael Orey, *Fear of Firing: How the Threat of Litigation is Making Companies Skittish About Axing Problem Workers*, Bus. Wk. 52, 54 (Apr. 23, 2007).

[15] See Bobby Ross, Jr., *Closing Doors: Small Religious Colleges Struggle for Survival*, Religion N. Serv. (Nov. 20, 2017), https://tinyurl.com/4xb29mat.

[16] *Ibid.*

For those schools, the intangible harms flowing from having to divert resources from the religious obligations they owe their students and religious communities to the litigation will be devastating. If the ministerial exception truly does not apply until the end of a case, such schools will have to face the expensive process of gathering documents, producing affidavits, attending depositions, testifying in court, and the like.[17] Given those pecuniary costs—and the First Amendment harms stemming from the fact that discovery and depositions in these cases "bring[] the entire ministerial relationship under invasive examination," *Demkovich* v. *St. Andrew the Apostle Par., Calumet City*, 3 F.4th 968, 983 (7th Cir. 2021) (en banc)—settlement may even be the only rational decision under the circumstances.

2. Still other schools will have their religious rights directly chilled by the decision below. In the qualified-immunity context, this Court has explained that one reason that doctrine offers immunity to government officials is to prevent the "fear of personal monetary liability and harassing litigation" from "unduly inhibit[ing] officials in the discharge of their duties." *Anderson* v. *Creighton*, 483 U.S. 635, 638 (1987).

The ministerial exception serves similar goals. It allows religious organizations to operate without fear of judicial or other government interference. In the process, the ministerial exception prevents the excessive entanglement by government into issues of religion that discovery and trial entail "[b]y [their]

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[17] Philip J. Moss, *The Cost of Employment Discrimination Claims*, 28 Me. Bar J. 24, 25 (2013).

very nature," thereby preventing courts from plunging "into a maelstrom of Church policy, administration, and governance." *Natal* v. *Christian Missionary All.*, 878 F.2d 1575, 1578 (1st Cir. 1989).

But if the decision below were to stand, religious schools in the Tenth Circuit that would otherwise not voluntarily produce information about their internal religious deliberations about an employee may think twice about having those deliberations at all. Such a decision could even result in a religious school's allowing an insubordinate teacher to continue flouting the school's religious standards simply to avoid litigation. See *Rayburn* v. *Gen. Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1171 (4th Cir. 1985) ("There is the danger that churches, wary of EEOC or judicial review of their decisions, might make them with an eye to avoiding litigation or bureaucratic entanglement rather than upon the basis of their own personal and doctrinal assessments of who would best serve the pastoral needs of their members."); accord *Cath. Univ. of Am.*, 83 F.3d at 467 (acknowledging that the "prospect of future investigations and litigation would inevitably affect to some degree the criteria by which future vacancies in the ecclesiastical faculties would be filled").

For this reason, as Justice Brennan once recognized, the very "prospect of government intrusion raises concern that a religious organization may be chilled in its free exercise activity." *Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints* v. *Amos*, 483 U.S. 327, 343 (1987) (Brennan, J., concurring in judgment). Indeed, the earliest courts to address the ministerial exception recognized that one of

its main justifications was to prevent the "coercive effect" of litigation from producing "the very opposite of that separation of church and State contemplated by the First Amendment." *McClure* v. *Salvation Army*, 460 F.2d 553, 560 (5th Cir. 1972). The ministerial exception should thus be understood to prevent any government action with respect to ministerial employees that would chill Free Exercise activity or coerce religious organizations to act contrary to their deeply held beliefs.

CONCLUSION

To ensure that the ministerial exception continues to prevent the impermissibly chilling and entangling effects of litigation on the religious decisions made by religious schools, this Court should grant the petition and clarify that the ministerial exception applies from a case's start.

Respectfully submitted,

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