

No.

In the
Supreme Court of the United States

— ◆ —
BETHESDA UNIVERSITY, ET AL.,

Petitioners,

v.

SEUNGJE CHO, ET AL.,

Respondents.

— ◆ —

ON PETITION FOR WRIT OF CERTIORARI TO
THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FOURTH APPELLATE DISTRICT, DIVISION THREE

— ◆ —

PETITION FOR A WRIT OF CERTIORARI

— ◆ —

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QUESTION PRESENTED

Bethesda University is a Pentecostal institution that requires its Board members to share its religious faith and to act consistently with its Pentecostal beliefs. Consistent with these requirements, Bethesda removed purported Board members who did not share its religious beliefs. Nonetheless, a California state court adjudicated an intra-faith dispute over the Board members' religious qualifications, allowing a non-Pentecostal religious faction to usurp control of the University.

The question presented is: Does the ecclesiastical abstention doctrine bar courts from adjudicating the religious qualifications of the leaders of a religious institution?

**PARTIES TO THE PROCEEDING AND
CORPORATE DISCLOSURE STATEMENT**

Petitioner Bethesda University was a plaintiff, cross-complainant, cross-defendant, and appellant below. Petitioner Pan-Ho Kim was a defendant, cross-complainant, and appellant below. Respondents Seungje [Seung Je] Cho, Soon Bum Huh, Ji [Chi] Tae Jung, Myung Ho Suh [Seo], Eric Choi, Kyung Hwan Ko, Kwon [Gwon] Tae Kim, Dong Hwan Choi, Bum Kyu Son, and Roes 1–100 were cross-defendants and respondents below.

RELATED PROCEEDINGS

There are no related proceedings.

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INTRODUCTION

Like countless schools, hospitals, and charities across the nation, Bethesda University (“Bethesda”) has religion embedded in its DNA. Founded by a Pentecostal megachurch in Seoul, South Korea, its Constitution and Bylaws commit Bethesda to the goal of understanding theology “through a Pentecostal Evangelical perspective.” App.16a; App.102a. The Bylaws require the Board of Directors (the “Board”) to espouse an “Evangelical and Charismatic understanding and style of life,” as “evidenced” through their agreement to a 12-point Statement of Faith. App.7a; App.45a; App.104a; App.141a. For decades, the Bethesda’s Board consisted of Pentecostal board members, led by a Pentecostal pastor as Chairman of the Board. That changed when an insurgent University President assembled a bare quorum of the Board to elect four new members who were Presbyterian, not Pentecostal, and who never signed the Statement of Faith.

After the rightful Board removed the President and ousted his improperly seated board members, the ousted members filed suit—ultimately leading the California courts to jump headlong into this religious dispute and declare that “nothing in the Constitution and Bylaws prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board.” App.14a; App.24a; App.48a. In other words, the civil courts concluded that any

Protestant—though perhaps not a Catholic, for example—would satisfy the religious criteria for board membership. The state courts reached this conclusion, not by avoiding matters of religious doctrine or practice, but by interpreting the religious-qualification language in Bethesda’s founding documents in a manner that deprived Bethesda of religious autonomy.

Since 1871, this Court has warned that it would “lead to the total subversion of . . . religious bodies[] if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed.” *Watson v. Jones*, 80 U.S. 679, 729 (1871). Just so here. When asked to settle a dispute between two religious factions, the California courts should have declined to exercise jurisdiction because the U.S. Constitution does not grant it.

Instead, the California courts’ conclusion that any Protestant may govern a specifically Pentecostal institution is not only theologically mistaken, but it offends the First Amendment. “[T]he First Amendment prohibits civil courts from resolving . . . disputes on the basis of religious doctrine and practice.” *Jones v. Wolf*, 443 U.S. 595, 602 (1979). Instead, courts “defer” to the resolution of such disputes by ecclesiastical leaders. *Id.* For the courts to usurp responsibility for deciding who holds an acceptable view on the ongoing work of the Holy Spirit, for example, “necessitates the interpretation of

ambiguous religious law and usage.” *Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708 (1976) (quoting *Md. & Va. Churches v. Sharpsburg Church*, 396 U.S. 367, 369 (1970) (Brennan, J., concurring)).

The ecclesiastical abstention doctrine¹ exists to prohibit this type of entanglement in religious questions. *Id.*, at 708–10. In the 1960s and 1970s, this Court solidified the ecclesiastical abstention doctrine in a line of cases related to church property. It explained that “neutral principles” might allow the resolution of certain real property cases, but abstention remains the rule: “The First Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine. This principle applies with equal force to church disputes over church polity and church administration.” *Id.*, at 710 (quoting *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem’l Presbyterian Church*, 393 U.S. 440, 449 (1969)) (internal quotation marks and alteration omitted); see also *Presbyterian Church*, 393 U.S. at 449 (“First Amendment values are plainly jeopardized when church property litigation is made

¹ Some courts refer to this principle as the “ecclesiastical abstention doctrine,” see, e.g., *Paul v. Watchtower Bible & Tract Soc. of New York, Inc.*, 819 F.2d 875, 878 (9th Cir. 1987); others term it the “church autonomy doctrine,” see, e.g., *Belya v. Kapral*, 45 F.4th 621, 628, n. 4 (2d Cir. 2022). It is the same doctrine by either name.

to turn on the resolution by civil courts of controversies over religious doctrine and practice.”).

Since that time, however, some courts have stretched the “neutral principles” exception to decide an ever-expanding compass of cases. Others have resisted the invitation to flatten religious nuance with the mallet of “neutral principles.” As a result, lower courts have fractured along two lines: (1) whether to erode the distinction between real property disputes and those implicating matters of church membership, good standing, and eligibility to lead; and (2) whether ecclesiastical abstention is reserved for hierarchical churches and not for congregational sects or other religious institutions without an obvious religious judicatory. The erosion of ecclesiastical abstention along either of these axes is devastating for the Religion Clauses’ guarantee of free exercise and prohibition on state-established religion.

The decision in this case highlights the wrong side of both splits: the California courts invoked “neutral principles” in a non-property dispute, and they refused deference to a non-hierarchical religious institution. Ultimately, the California courts lacked any justification for arrogating to themselves the responsibility and jurisdiction to declare that any Protestant would qualify to serve on Bethesda’s Board (presumably as long as they are willing to follow Pentecostal ideals). The Court should grant the Petition to resolve the divisions in the lower courts

and confirm that the First Amendment guarantees religious institutions like Bethesda the autonomy to enforce faith-based criteria for selecting their leadership without civil courts reviewing and rejecting their religious judgments.

OPINIONS BELOW

The opinion of the California Court of Appeal, Fourth Appellate District Division Three, is reported at No. G062514, 2024 WL 1328330 (Cal. Ct. App. Mar. 28, 2024) and reproduced at App.2a. The April 18, 2024, one-sentence order denying the petition for rehearing is reproduced at App.50a. The bench trial judgement and opinion of the Superior Court of California, Orange County, in favor of Respondents are reported at No. 30-2022-01276823-CU-PP-NJC, electronic filing number 143 (Cal. Sup. Ct. Apr. 7, 2023) and reproduced at App.22a.

JURISDICTION

The Supreme Court of California denied the petition for review on July 10, 2024. *Bethesda Univ. v. Kim*, No. S284939 (Cal. July 10, 2024); App.1a. This Court has jurisdiction under 28 U.S.C. §1257(a).

PERTINENT CONSTITUTIONAL PROVISIONS AND STATUTES

The First Amendment to the United States Constitution provides: “Congress shall make no law

respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. Const. amend. I.

California Labor Code §9418 provides:

(a) Upon the filing of an action therefor by any director or member, or by any person who had the right to vote in the election at issue after such director, member, or person has exhausted any remedies provided in the articles or bylaws, the superior court of the proper county shall determine the validity of any election or appointment of any director of any corporation.

(b) Upon the filing of the complaint, and before any further proceedings are had, the court shall enter an order fixing a date for the hearing, which shall be within five days unless for good cause shown a later date is fixed, and requiring notice of the date for the hearing and a copy of the complaint to be served upon the corporation and upon the person whose purported election or appointment is questioned and upon any person (other than the plaintiff) whom the plaintiff alleges to have been elected or appointed, in the manner in which a summons is required to be served, or, if the court so directs, by registered mail; and the court may make such further requirements as to notice as appear to be proper under the circumstances.

(c) The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to

be held or appointment to be made, may determine the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper

STATEMENT OF THE CASE

I. Factual Background

Bethesda is a private Pentecostal university located in Anaheim, California. The small university explicitly promotes Pentecostal theology and aims to inculcate the Pentecostal faith and ethical values in its students. Yoido Full Gospel Church, a Pentecostal megachurch in Seoul, South Korea, founded Bethesda in 1976. App.29a; App.54a. Bethesda is governed by a Board of Directors with a goal to “[u]nderstand theology and society through a Pentecostal Evangelical perspective.” App.16a; App.102a.

This matter concerns a dispute over legitimacy between the “Kim Board,” represented by Petitioners, and its rival, the “Cho Board,” represented by Respondents. All members of the Kim Board are Pentecostal, whereas the Cho Board includes four Presbyterians. Petitioner Pan-Ho Kim was a member of the Board of Directors of Bethesda and was a member of both the Kim Board and the Cho Board.

Until the California courts got involved, Bethesda’s Board of Directors was the Kim Board, led by chairman Kyung Moon Kim, senior pastor at one of the Full Gospel Churches in Korea (“Kim,” no relation

to Petitioner). That changed on April 7, 2023, when a California court appointed the Cho Board to govern Bethesda. App.23a–24a.

A. Bethesda’s Governing Documents

Bethesda’s governing documents are its Constitution, Bylaws, and Trustee Handbook. App.43a–44a; App.48a. These documents set forth Bethesda’s purpose and mission, the required qualifications for members of the Board of Directors, procedures for Board meetings and Board elections, and the Board members’ terms of office. App.44a–47a.

Relevant here, the Constitution and Bylaws of Bethesda University require that members of the “Board of Directors must possess . . . [a] high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life.” App.46a. Moreover, “[e]mphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological position of BU”—and “[t]his *will be evidenced by their agreement to sign the BU Statement of Faith.*” App.7a; App.45a (emphasis added). Further, “potential Board members *must* ‘demonstrate commitment to their own spiritual growth, [] the BU Statement of Faith, [and] local church ministry.’” App.45a (quoting the Bylaws) (emphasis in original).

The twice-referenced Bethesda University Statement of Faith is a 12-point credo highlighting

key components of the Pentecostal faith. See “Statement of Faith,” Bethesda Univ., *available at* www.buc.edu/about. Each of its points has specific meaning within the school’s “Pentecostal Evangelical perspective.” App.16a.

B. Dispute Regarding the Board of Directors

When the current controversy began, Bethesda’s Board included eleven members serving staggered three-year terms. App.4a. Seven of those members (a bare quorum) convened on June 14, 2021 and unanimously elected six new board members. The new members were Pan-Ho Kim, Chi Tae Chung, Kwon Tae Kim, Myung Ho Seo, Dong Hwan Choi, and Eric Choi (*i.e.*, the Cho Board). *Id.*; App.30a–31a. The last four individuals were Presbyterian, not Pentecostal. App.4a–5a. Cho accomplished this change in leadership by “misrepresent[ing] to the members present that Bethesda’s accrediting agency, the Transnational Association of Christian Colleges and Schools (TRACS), required a diversity of denominations in its leadership.” *Id.*; App.36a.

Ten months later on April 9, 2022, Rev. Kim, then-Chairman of the Board, convened a “special board meeting” during which the Board found that the six new board members were invalidly elected “due to several defects including . . . that they do not subscribe to the theology consistent with Bethesda University as is required of all board members pursuant to the

Bylaws.” App.37a The Board removed them from their posts. App.31a. A few weeks later, on April 30, 2022, Kim scheduled another “special board meeting” where six new board members were elected, comprising the Kim Board. *Id.* None of the four Presbyterians was reelected on April 30. *Id.*; App.5a–6a.

In response, seven members of the Cho Board, led by then-President Seungje Cho, convened and declared that the April 30, 2022, special board meeting was invalid for lack of quorum and elected their own Chairman of the Board, purportedly replacing Rev. Kim. App.31a.

The Kim Board then convened, terminated Seungje Cho as President, and elected Pan-Ho Kim as President. App.32a. On June 3, 2022, Kim sent a letter to Cho notifying Cho to vacate the President’s house, a private residence provided by the University. *Id.*

II. Procedural History

A. California Superior Court Proceedings

On August 19, 2022, the Cho Board (holding itself out as Bethesda University) filed a complaint, and the Kim Board filed a cross complaint against the Cho Board under California Corporations Code §9418 to determine which Board should control Bethesda. App.22a–23a; App.30a. That law does not include any exception for deciding disputes that involve

ministerial positions or positions that include a faith-based qualification. App.42a–43a.

Both Boards claimed legitimacy. The Kim Board contended that the Cho Board’s election was invalid because four of the six newly elected members were Presbyterian, not Pentecostal, and each Presbyterian member had not signed the Statement of Faith. App.32a–33a. The Cho Board argued that it was rightly installed by a quorum and that the Kim Board was not. App.31a–32a.

The trial court found that religious qualifications for Board members to be “aspirational” but “unworkable” given the conflict between the competing factions. App.47a; App.49a; App.24a–25a. It concluded that the Cho Board “is the legitimate and governing Board of Directors of Bethesda University,” installed the Cho Board, and invalidated the Kim Board’s actions. App.23a–24a. The court also held that “[n]othing in the Constitution and By-Laws prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board”; and “[t]here is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board.” App.24a. The Superior Court also held that “[b]ecause a determination as to which Board is the correct board does not involve questions of theology, the matter is properly before this court” App.29a. It did not explain how its determination that any Protestant

minister could satisfy the expressly religious criteria for Board membership was not a “question[] of theology.” See *id.*

B. California Court of Appeal Proceedings

The California Court of Appeal affirmed the trial court’s ruling and rejected Petitioners’ argument that the trial court’s order violated the First Amendment and the ecclesiastical abstention doctrine. App.12a–14a.

It rejected Petitioners’ argument that “the superior court did not have subject matter jurisdiction to decide Bethesda’s religious leadership,” App.55a, because it “was only required to interpret the governing documents.” App.4a. The Court of Appeal reasoned that California courts could adjudicate a church dispute under the “neutral principles of law approach” as long as “it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.” App.13a. Thus, “the court has jurisdiction to, among other things, interpret governing documents,” and “may look not only to California corporations law, but also to the religious corporation’s bylaws and articles of incorporation, as well as the national church’s constitutions, canons, and the like.” *Id.* (quoting *Concord Christian Center v. Open Bible Standard Churches*, 132 Cal. App. 4th 1396, 1410–11 (2005) and *New v. Kroeger*, 167 Cal. App. 4th 800, 820 (2008)).

The appellate court affirmed the trial court's interpretation of Bethesda's Constitution and Bylaws, agreeing that "nothing in the Constitution and Bylaws prevents a 'Protestant' minister, or someone not of the Pentecostal faith, from serving on the Board," and concluding that "the same documents did not require a board member to 'sign a Statement of Faith to become, or remain, a member of the Board.'" App.14a (quoting trial court order); App.16a. It reasoned Bethesda's documents "are no different than other board member requirements commonly found in corporate documents. Either the documents require certain qualifications, or they do not. It does not intrude upon religious or doctrinal matters to read the documents involved and determine what the plain language of the document states." App.14a.

The court then analyzed the Bylaws and held: (1) Bethesda's "goal" to "[u]nderstand theology and society through a Pentecostal Evangelical perspective" was not a Board member qualification, App.16a; and (2) the language calling for Board members to "have been involved in Christian ministry exhibiting *a theology consistent with the theological position of [Bethesda]*" and "their agreement to *sign the [Bethesda] Statement of Faith*" merely constituted an *emphasis*, which "is not the same as a requirement." *Id.* (quoting the Bylaws). While declining to opine further on the Statement of Faith, App.17a, n. 4, the appellate court nevertheless quoted

Seungje Cho’s testimony—stating “Presbyterian or Pentecostal[,] as long as they are willing to follow Pentecostal ideals, it doesn’t matter”—to conclude “his understanding is supported by the plain language of the Bylaws.” App.17a. The Court of Appeal therefore fully affirmed the trial court’s order. App.20a.

C. California Supreme Court Proceedings

Petitioners timely filed a petition for review to the Supreme Court of California. The court denied that petition on July 10, 2024 in a one-sentence order. App.1a.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Conflicts with this Court’s Precedent and Widens a Split Regarding Whether the Neutral Principles of Law Exception Should Apply Outside of Church Property Disputes.

The ecclesiastical abstention doctrine precludes courts from interfering with religious leadership disputes. This doctrine should have immediately ended this case. But the California courts charted a different course by deciding this case based on the so-called “neutral principles of law approach” to religious disputes. App.13a–14a. Even though courts have historically confined the “neutral principles” exception to “settling church property disputes,” *Jones*, 443 U.S. at 602, App.13a, the decision below

extends that approach to those involving faith-based qualifications for membership or leadership in a religious organization, thereby widening a split among courts on the bounds of the neutral principals exception. But religious qualifications are a different breed of cases that do not implicate the State's interest in settled property rights. This Court should therefore grant review to clarify that ecclesiastical abstention bars adjudication of religious leadership disputes and that the "neutral principles" approach is a rare exception that does not apply to such disputes.

A. The Ecclesiastical Abstention Doctrine Bars Jurisdiction Over the Governance of Religious Institutions.

The ecclesiastical abstention doctrine protects religious institutions' fundamental right "to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). This Court has long recognized that it "would lead to the total subversion of . . . religious bodies[] if any one aggrieved by one of their decisions could appeal to the secular courts" to undermine those decisions. *Watson*, 80 U.S.at 729. Accordingly, this Court's precedent bars civil courts from exercising jurisdiction in matters which "concern[] theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the

church to the standard of morals required of them.”
Id., at 733.

But that is exactly what has happened here. Bethesda determined that the purported non-Pentecostal Board members were ineligible to serve and therefore removed them. By undoing Bethesda’s decision and reinstating the Cho Board, the California courts allowed a “total subversion” of Bethesda’s religious determination and placed a civil court in the middle of a matter of ecclesiastical governance of a religious university. See *id.* Such an egregious violation of longstanding precedent undermines the most basic protections of the First Amendment and strikes at the heart of the concerns that led to the inclusion of the First Amendment in the Bill of Rights. J. MADISON, Memorial and Remonstrance Against Religious Assessments, in 2 THE WRITINGS OF JAMES MADISON 183, 187 (G. Hunt ed. 1901) (“[T]hat the Civil Magistrate is a competent Judge of Religious truth . . . is an arrogant pretension.”); see also Michael W. McConnell, The Origins and Historical Understanding of Free Exercise of Religion, 103 Harv. L. Rev. 1409 (1990) (describing the historical underpinnings of the Free Exercise Clause).

B. This Court Recognized a Narrow “Neutral Principles” Exception to Ecclesiastical Abstention in Church Property Cases.

Instead of following this Court’s longstanding precedent and holding it had no jurisdiction, the California Court of Appeal blessed the lower court’s purported application of a narrow exception to ecclesiastical abstention known as the “neutral principles” approach. This exception dates back to this Court’s foundational cases developing these doctrines that involved property disputes. See, *e.g.*, *Watson*, 80 U.S. at 725; *Presbyterian Church*, 393 U.S. at 449; *Milivojevich*, 426 U.S. at 721; *Jones*, 443 U.S. at 602–03. In these cases, the Court established a narrow exception to adjudicate religious property disputes. See *Presbyterian Church*, 393 U.S. at 449 (“[T]here are neutral principles of law, developed for use in all property disputes, which can be applied without ‘establishing’ churches to which property is awarded.”); see also *Jones*, 443 U.S. at 602 (explaining “a State may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith”) (emphasis omitted) (quoting *Md. & Va.*, 396 U.S. at 368 (Brennan, J., concurring)).

In his influential concurrence in *Maryland & Virginia*, JUSTICE BRENNAN explained the neutral principles exception for church property cases:

“[N]eutral principles of law, developed for use in all property disputes” . . . provide another means for resolving litigation over religious property. Under the ‘formal title’ doctrine, civil courts can determine ownership by studying deeds, reverter clauses, and general state corporation laws. Again, however, general principles of property law may not be relied upon if their application requires civil courts to resolve doctrinal issues. For example, provisions in deeds or in a denomination’s constitution for the reversion of local church property to the general church, if conditioned upon a finding of departure from doctrine, could not be civilly enforced.

396 U.S. at 370 (quoting *Presbyterian Church*, 393 U.S. at 449).

Importantly, the Court has cabined the “neutral principles” approach to property disputes. Nowhere is that more apparent than in the cases where a property dispute approaches the boundaries of a religious inquiry. In *Milivojevich*, for example, the Court reversed a decision by the Illinois Supreme Court that settled a property dispute in part by deciding that the mother church had arbitrarily divided a diocese in order to replace a sitting bishop. 426 U.S. at 707–08. The Court reversed because “analyz[ing] whether the ecclesiastical actions of a church judicatory are . . . ‘arbitrary’ must inherently entail inquiry into . . . canon or ecclesiastical law.” *Id.*, at 713. The Court further cautioned that the First Amendment “commands civil courts to decide *church*

property disputes without resolving underlying controversies over religious doctrine.” *Id.*, at 710 (emphasis added); see also *Jones*, 443 U.S. 608–09; *Kedroff*, 344 U.S. at 116.

The rule to emerge from this decades-old line of cases is simple: courts can rely on neutral principles to resolve a property dispute that “involves no consideration of doctrinal matters.” *Md. & Va.*, 396 U.S. at 368 (Brennan, J. concurring). Consistent with the First Amendment, however, whether concerning a property dispute or no, civil courts must abstain from “the resolution of issues of religious doctrine or polity.” *Jones*, 443 U.S. at 602 (citing *Milivojevich*, 426 U.S. at 724–25). The courts below erred in extending “neutral principles” from property disputes to a dispute demanding the consideration of doctrinal matters, made evident by the lower court’s agreement that, so long as the Cho Board was “willing to follow Pentecostal ideals, it doesn’t matter.” App.17a; App.36a.

C. In the Decades Since *Jones*, a Split Has Arisen Among the Circuits and State Supreme Courts over Whether the Neutral Principles Exception Applies Outside of Property Disputes.

The Court’s flurry of cases approving a “neutral principles” exception for property cases ended in the late 1970s. It has not revisited the issue in the ensuing

half century. Unfortunately, many state courts and the circuit courts have since involved themselves in an ever-growing share of ecclesiastic disputes around religious membership and qualifications. Although the Court has reinvigorated ecclesiastical abstention regarding the ministerial exception, see *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 747–48 (2020) and *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 185–86 (2012), clarity is needed outside of that limited context. The Court should grant certiorari to clarify that ecclesiastical abstention remains the rule outside the narrow exception for property disputes that do not entail any doctrinal controversy.

1. A Dozen Circuits and State Supreme Courts Have Correctly Limited the Neutral Principles Exception to Church Property Cases.

At least five circuits and seven state high courts have declined to extend the neutral principles exception to non-property church disputes.

In the Sixth Circuit, “[t]he ‘neutral principles’ exception to the usual rule . . . applies *only* to cases involving disputes over church property.” *Hutchison v. Thomas*, 789 F.2d 392, 396 (6th Cir. 1986) (emphasis added). According to the Sixth Circuit, “[t]he ‘neutral principles’ doctrine has never been extended to religious controversies in the areas of

church government, order and discipline, nor should it be.” *Id.*, at 396. Three other circuits likewise recognize their duty to abstain from disputes involving governance issues that turn on membership in a religious group. The D.C. Circuit confined “neutral principles” to “trust and property law,” and categorically rejected the argument that church governance issues involving a minister “can be resolved without entangling the Government in questions of religious doctrine, polity, and practice.” *EEOC v. Catholic Univ. of Am.*, 83 F.3d 455, 465–66 (D.C. Cir. 1996) (citation and internal quotation marks omitted); see also *Minker v. Balt. Ann. Conf. of United Methodist Church*, 894 F.2d 1354, 1358–59 (D.C. Cir. 1990) (abstaining from interpreting the appointment and antidiscrimination provisions of internal church rules). The Eighth Circuit similarly declined to adjudicate a dispute challenging the election of officers and directors of a religious corporation, reasoning that “the governance issue is deeply intertwined with the religious dispute of who is properly a member of the true church and therefore also a member of the colony and a voting member.” *Hutterville Hutterian Brethren, Inc. v. Sveen*, 776 F.3d 547, 556 (8th Cir. 2015) (citation and internal quotation marks omitted). These rulings are irreconcilable with the California rule adopted below.

Other circuits reached similar results in non-property cases that, although not directly challenging

organizational governance, nevertheless depend on issues of membership and good standing. See, e.g., *Dowd v. Soc’y of St. Columbans*, 861 F.2d 761, 764 (1st Cir. 1988) (finding that a priest’s claims of negligence based on the religious society’s alleged failure to support him financially and medically “involve[d] rules, policies and decisions which should be left to the exclusive religious jurisdiction of the church and the Society”); *Natal v. Christian & Missionary All.*, 878 F.2d 1575, 1578 (1st Cir. 1989) (refusing to adjudicate the discharge of a religious employee); *Myhre v. Seventh-Day Adventist Church Reform Movement Am. Union Int’l Missionary Soc’y*, 719 F. App’x 926, 927–28 (11th Cir. 2018) (the claim regarding plaintiff’s retirement benefits “turned on an interpretation of [what constitutes] a ‘member in good standing’ under denominational rules of governance, custom and faith”) (internal quotation marks omitted); *Crowder v. S. Baptist Convention*, 828 F.2d 718, 726 (11th Cir. 1987) (regardless of the content of the church bylaws, “the first amendment bars civil court resolution of this controversy concerning a matter of ecclesiastical government”).

Many state courts have likewise faithfully applied this doctrine. The South Dakota Supreme Court correctly abstained from an earlier iteration of the *Hutterville* case discussed above. *Wipf v. Hutterville Hutterian Brethren, Inc.*, 2012 S.D. 4, ¶24. Multiple state high courts have also abstained from defamation

cases in which the defendant allegedly published false statements regarding the plaintiff's standing as a member of the religious community. See *C.L. Westbrook, Jr. v. Penley*, 231 S.W.3d 389, 399 (Tex. 2007) (refusing to extend neutral principles to defamation); *El-Farra v. Sayyed*, 226 S.W.3d 792, 795–96 (Ark. 2006) (same); *Hiles v. Episcopal Diocese of Mass.*, 773 N.E.2d 929, 935–37 (Mass. 2002) (same); *Heard v. Johnson*, 810 A.2d 871, 880–82 (D.C. 2002) (same); *Cha v. Korean Presbyterian Church of Wash.*, 262 Va. 604, 615 (2001) (same); *Marshall v. Munro*, 845 P.2d 424, 428 (Alaska 1993) (same).

A common thread among these decisions is that the judiciary has declined to involve itself in adjudicating who is a “true” adherent to a particular religion. Where a question of that sort is implicated, even if the case formally arises in a secular-sounding context like corporate governance or defamation, the First Amendment forecloses judicial involvement. The courts on this side of the split have faithfully applied that restriction. Others, including the courts below, have not.

2. Several Circuits and State Supreme Courts Have Stretched the Neutral Principles Exception Beyond Church Property Cases.

Conversely, at least three circuit courts and one state high court reject ecclesiastical abstention in

favor of “neutral principles” to determine non-property disputes.

The Ninth Circuit expanded neutral principles of law approach to disputes such as church government, order, and polity. Omitting the crucial word “property” with an ellipsis, the Ninth Circuit has misquoted this Court’s holding in *Jones*: “a State may adopt *any* one of various approaches for settling **church . . . disputes.**” *Puri v. Khalsa*, 844 F.3d 1152, 1162 (9th Cir. 2017) (emphasis added); *id.*, at 1167 (describing the question of disputed board positions of a religious organization as “quintessentially ‘susceptible to decision by neutral principles.’” (quoting *Maktab Tarighe Oveyssi Shah Maghsoudi, Inc. v. Kianfar*, 179 F.3d 1244, 1240 (9th Cir. 1999)). Not only does the Ninth Circuit’s treatment of precedent suggest a willful disregard for the limitations this Court imposed over a line of cases, but it actually inverts the rule by treating the ecclesiastical abstention doctrine as an exception to neutral principles analysis—not the other way around. See *id.*, at 1163 (cabining ecclesiastical abstention to cases involving the “freedom to select the clergy”). In *Puri*, the Ninth Circuit refused to abstain from a case similar to this one involving a dispute over board seats with religious requirements. *Id.*, at 1158–59. Never mind that the board seats were reserved for Sikh ministers who satisfied other “religious requirements.” *Id.*, at 1158. This approach

to board membership is incompatible with the Eighth Circuit's approach in *Huttenville*.

The Fifth Circuit similarly narrowed the scope of “purely ecclesiastical questions” on which it will abstain. *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 966 F.3d 346, 349 (5th Cir. 2020). *McRaney* involved a church's termination of the plaintiff and alleged defamation regarding the plaintiff's fitness as a minister and loyalty to the Southern Baptist Convention. *Id.*, at 347. Although the dispute involved church governance, the court deemed it possible for the claim to “be resolved without deciding purely ecclesiastical questions” including “matters of church government.” *Id.*, at 350–51 (quoting *Our Lady of Guadalupe Sch.*, 591 U.S. at 736). Despite a vigorous dissent by Judge Ho, the Fifth Circuit is willing to decide cases well outside the traditional property exception, including those related to religious judgments like a minister's fidelity to a mother church. See *McRaney v. N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 980 F.3d 1066, 1069 (5th Cir. 2020) (Ho, J., dissenting from denial of rehearing). As the narrow 9-8 en banc poll in *McRaney* indicates, the issue is due for clarification by this Court. See *id.*

At least four state high courts have also improperly extended the neutral principles of law approach. Unlike the D.C. Circuit, the District of Columbia Court of Appeals has expressly rejected the

notion that the neutral principles approach applies only to property disputes. Compare *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 357 (D.C. Ct. App. 2005) (refusing to take “a restrictive view of the applicability of the ‘neutral principles of law’ doctrine” to property disputes alone), with *Catholic Univ. of Am.*, 83 F.3d at 465–66 (“the neutral principles’ to which the Supreme Court referred were those embodied in trust and property law”), resulting in different legal standards depending on venue. The Minnesota Supreme Court created the same division with the Eighth Circuit by deciding disputes over church membership. *Piletich v. Deretich*, 328 N.W.2d 696, 701 (Minn. 1982). Other state courts contribute to the division and confusion by inventing their own rules in the place of this Court’s precedent. See *Nation Ford Baptist Church Inc. v. Davis*, 876 S.E.2d 742, 754 (N.C. 2022) (finding that abstention is required for issues pertaining to ministerial employment but applying neutral principles to a church governance issue regarding “whether the Church procedurally followed [its] bylaws”); *Banks v. St. Matthew Baptist Church*, 750 S.E.2d 605, 608 (S.C. 2013) (applying neutral principles in disciplinary context). And the decisions below only exacerbate that confusion.

3. The California Courts' Decisions Deepen the Split Regarding Whether the Neutral Principles Exception Extends Beyond Church Property Cases.

Relying on the Ninth Circuit's errant precedent, the California Court of Appeal in this case interpreted the religious requirements for Bethesda's Board members, thereby striking at the core of Bethesda's religious identity because, "[a]s the old saying goes, personnel *is* policy." *McRaney*, 980 F.3d at 1067 (Ho, J., dissenting from denial of rehearing). The Court of Appeal disregarded that Bethesda's governing documents require an "Evangelical and Charismatic understanding and style of life" and "a theology consistent with the theological position of [Bethesda]." App.7a; App.16a. Instead, the Court of Appeal simply concluded that it could make a "neutral" determination that Presbyterians adhere to a theology close enough to that of an expressly Pentecostal university. App.17a.

In the broader context of the split traced above, the Court of Appeal's decision creates greater confusion regarding whether the neutral principles exception applies outside of property disputes. But "questions of church discipline and the composition of the church hierarchy are at the core of ecclesiastical concern." *Crowder*, 828 F.2d at 726 (quoting *Milivojevich*, 426 U.S. at 716). See also *Natal*, 878 F.2d at 1577 (dismissing claim that would "require judicial

intrusion into[] rules, policies, and decisions which are unmistakably of ecclesiastical cognizance”).

As such, although the courts on the wrong side of the split pay lip service to the limitations put on the neutral principles of law approach (*e.g.*, “so long as it involves no consideration of doctrinal matters,” App.13a), they end up inevitably wading into church governance issues such as questions “discipline, or of faith, or ecclesiastical rule, custom, or law.” *Watson*, 80 U.S. at 727. There is simply no rational way to reconcile the California courts’ decisions here with those of cases like *Hutterville* that abstain from settling disputes over questions of religious leadership. Without a bright line rule from this Court, courts across the country will continue wading into church governance issues. The division and confusion in the lower courts is deep and entrenched, and only review by this Court can resolve it.

II. The Decision Below Widens a Split Regarding Whether Deference Under the Ecclesiastical Abstention Doctrine Encompasses Non-Hierarchical Religious Institutions.

The Court’s cases on ecclesiastical abstention arose from disputes involving hierarchical churches and contain language that focuses solely on hierarchical churches, which has caused some courts to take a narrow view that the First Amendment

affords those sects greater protection than non-hierarchical religious organizations. See, *e.g.*, Michael W. McConnell & Luke W. Goodrich, On Resolving Church Property Disputes, 58 Ariz. L. Rev. 307, 314 (2016) (discussing that non-Christian religious organizations do not fit neatly into the hierarchical versus congregational dichotomy).

The different treatment of hierarchical churches traces to *Watson*, ecclesiastical abstention's progenitor from 1872. That decision stated that "whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the **highest** of these church judicatories . . . the legal tribunals must accept such decisions as final." 80 U.S. at 727. The Court has since repeated such hierarchical language. See, *e.g.*, *Presbyterian Church*, 393 U.S. at 446 ("All who unite themselves to such a body (the general church) do so with an implied consent to (its) government, and are bound to submit to it."); *Milivojevich*, 426 U.S. at 724 (stating "the First and Fourteenth Amendments permit **hierarchical religious organizations** to establish their own rules and regulations for internal discipline and government" (emphasis added)); *Hosanna-Tabor*, 565 U.S. at 187 (stating "the First Amendment commits exclusively to the **highest** ecclesiastical tribunals" (emphasis added) (quoting *Milivojevich*, 426 U.S. at 720)). When discussing the kinds of property disputes civil courts had previously adjudicated, *Watson*

assumed a rather simplistic dichotomy among religious institutions: either (a) a “strictly congregational or independent organization,” which “owes no fealty or obligation to any higher authority,” or (b) a congregation that “is but a subordinate member of some general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control more or less complete . . . over the whole membership of that general organization.” 80 U.S. at 722–23.

That dichotomy and the troubling implication that the First Amendment affords different protections to different religious groups has led some courts to apply ecclesiastical abstention across the board, while others reserve it for hierarchical churches with recognizable judicatories.

At least two circuits have held that ecclesiastical abstention applies only to hierarchical churches. See, e.g., *Church of God in Christ, Inc. v. Graham*, 54 F.3d 522, 527 (8th Cir. 1995) (“[B]ecause the rule of deference is premised on the presence of a hierarchical authority, a necessary predicate of the Church’s argument fails. Thus, *Milivojevich* is inapposite to this case.”); *Dixon v. Edwards*, 290 F.3d 699, 715 (4th Cir. 2002) (“In assessing whether to exercise jurisdiction in a civil proceeding involving a church, it is important to determine whether the church is of a ‘hierarchical’ nature.”). In treating the hierarchical language from this Court’s cases as a necessary

condition for abstention, the Fourth and Eighth Circuits create a different First Amendment protection for churches that are more centrally organized. The task becomes even more complicated when deciding in a given case whether a given religion falls on the hierarchical or non-hierarchical side of the line. In these circuits, even if courts wind up abstaining, the decision to do so is itself rife with religious entwinement.

The same approach prevails in numerous state courts that treat a hierarchical structure necessary for ecclesiastical abstention. See, e.g., *Piletich*, 328 N.W.2d at 700 (“Since it is not a doctrinal matter, nor a matter committed to adjudication by the highest tribunal in a hierarchical church, there is no First Amendment barrier to resolution by the civil courts.”); *Hope Presbyterian Church of Rogue River v. Presbyterian Church (U.S.A.)*, 242 Or. App. 485, 498, (2011), *aff’d*, 352 Or. 668 (2012) (“Under the rule of hierarchical deference, a civil court must first determine the organizational structure of the church and then, if it determines that the church is hierarchical, it must defer to the decision of the highest judicatory body of the hierarchical church.”); *Heartland Presbytery v. Presbyterian Church of Stanley, Inc.*, 53 Kan. App. 2d 622, 624–25 (2017) (affirming the district courts application of “the principle of hierarchical deference” as ecclesiastical abstention is known in Kansas); *Dist. Advisory Bd. of*

S. Fla. Dist. v. Centro De Alabanza Oasis W. Palm Beach, Inc., 338 So. 3d 936, 941 (Fla. Dist. Ct. App. 2022), *review dismissed sub nom. Centro De Alabanza Oasis W. Palm Beach, Inc. v. Dist. Advisory Bd. of S. Fla. Dist. Church of Nazarene, Inc.*, No. SC22-842, 2022 WL 2719507 (Fla. July 13, 2022) (finding the determination of hierarchical nature as a necessary first step).

On the other side of the split, at least one circuit court and a number of district courts have applied ecclesiastical abstention to non-hierarchical churches. In reaching that conclusion, the Eleventh Circuit limited the language from *Watson* that other courts treat as a prerequisite: “The distinction drawn in *Watson* . . . between the types of congregational and hierarchical church polities was relevant only to determining the ecclesiastical body to which the civil court must defer in determining rights to use of property.” *Crowder*, 828 F.2d at 726 n.20. Other courts have not bothered to preserve a role for the distinction at all. See, e.g., *First Baptist Church v. Ohio*, 591 F. Supp. 676, 682 (S.D. Ohio 1983) (“[W]e find it difficult to justify the application of a different standard where a congregational church is involved.”); *Burgess v. Rock Creek Baptist Church*, 734 F. Supp. 30, 31 n.2 (D.D.C. 1990) (same).

Numerous state courts have drawn the same conclusion, usually in more stark terms than their federal counterparts. As the Supreme Court of

Kentucky put it, “[a]ll religious organizations are entitled to protection under the First Amendment.” *St. Joseph Cath. Orphan Soc’y v. Edwards*, 449 S.W.3d 727, 739 (Ky. 2014); see also *Rentz v. Werner*, 156 Wash. App. 423, 433 (2010) (“[A]pplication of the doctrine is warranted where the subject matter of a dispute concerns a church’s ecclesiastical affairs, regardless of whether the church has an adjudicative body in a hierarchical structure.”); *Patterson v. Sw. Baptist Theological Seminary*, 858 S.W.2d 602, 606 (Tex. App. 1993) (giving deference to congregational Southern Baptist church) (citing *Crowder*, 828 F.2d at 727); *Tubiolo v. Abundant Life Church, Inc.*, 167 N.C. App. 324, 328 (2004) (giving deference to a congregational church over a membership issue, “regardless of whether the church is congregational church, incorporated or unincorporated, or an hierarchical church”).

Regarding the dichotomous language from *Watson*, the Illinois and Arizona Courts of Appeals have justified their across-the-board approach to ecclesiastical abstention by reference to more recent decisions, including *Milivojevich*. See *Bruss v. Przybylo*, 385 Ill. App. 3d 399, 417–18 (2008) (rejecting that deference is only owed to hierarchical churches because “the [Supreme Court] Court stresses, without reference to any particular kind of church or church procedure, that civil courts may not resolve controversies on certain subjects”) (citing

Milivojevich, 426 U.S. at 710); *Ad Hoc Comm. of Parishioners of Our Lady of Sun Cath. Church, Inc. v. Reiss*, 223 Ariz. 505, 511 (Ct. App. 2010) (citing *Bruss*, 385 Ill. App. 3d at 422, to “reject[] the notion that the ecclesiastical abstention doctrine applies only to hierarchical churches”).

And, as if intending to illustrate the need for clarity from this Court, the New Jersey Supreme Court issued decisions on both sides of this split within a decade, apparently without recognizing the conflict. Compare *Chavis v. Rowe*, 93 N.J. 103, 110 (1983) (noting that abstention “depend[s] on the church structure,” and “New Jersey courts are to use neutral principles in adjudicating property disputes within a congregational church”) with *Elmora Hebrew Ctr., Inc. v. Fishman*, 125 N.J. 404, 415, 593 A.2d 725, 730 (1991) (affirming that deference should be afforded under the ecclesiastical abstention doctrine “[w]ithout regard to the governing structure of a particular church”—but not confirming whether or not that holding abrogated the approach in *Chavis*).

As a simple matter of equality before the law, the split over whether non-hierarchical religions are also entitled to ecclesiastical abstention is more troubling than the split over whether abstention is appropriate in both property and non-property cases. While the latter is a conventional split that warrants this Court’s resolution, the former risks treating some faiths as second-class citizens in terms of church

autonomy. But because that split is based on this Court's language in *Watson*, picked up in several later cases, only this Court can answer whether a particular ecclesiastical structure is required for courts to abstain from deciding questions of religious adherence and doctrine.

III. This Case Is an Ideal Vehicle to Settle These Important Questions.

Reviewing the instant case would allow this Court to resolve these splits and provide much needed guidance on the broad scope that should be afforded to the ecclesiastical abstention doctrine, and the narrow construction warranted by the neutral principles exception. This case clearly presents non-property issues in a non-hierarchical setting that are inextricably entangled with religious qualifications for governance of a faith-based institution. And neither side has argued that the Board of Directors is a strictly ministerial body that would come within the ministerial exception. Because that issue is not presented—except to the extent that ecclesiastical abstention is the umbrella doctrine from which the ministerial exception derives—this case allows the Court to isolate the role of ecclesiastical abstention in cases of church governance and membership, where that membership serves as a condition for institutional leadership.

Moreover, deciding the question of ecclesiastical abstention would reaffirm this Court's longstanding holding that "religious controversies are not the proper subject of civil court inquiry." *Milivojevich*, 426 U.S. at 713. Far too many courts across the country have muddled or downright obliterated this simple general rule and have instead "impermissibly substitute[d] [their] own inquiry into church polity and resolutions. *Id.*, at 708. The First Amendment demands that courts "accept the ecclesiastical decisions of [religious institutions] as it finds them." *Id.*, at 713. Here, the California courts did the exact opposite by overturning Bethesda's decision and allowing those who do not share Bethesda's religious beliefs to take over the governance of the university. Such an egregious overreach of judicial power guts the First Amendment's core protections against government intrusion.

The Court can also make clear that ecclesiastical abstention applies to every religious institution, whether it is congregational, hierarchical, or anything in between. The Court's unambiguous holding that ecclesiastical abstention applies to non-hierarchical churches will foster religious diversity and freedom—concepts so central to the founding principles of this Nation. The *Watson* Court's distinction between hierarchical and non-hierarchical churches might have captured most of the Christian religious communities present in the United States in the

1800s, but it falls well short of the diversity of churches, synagogues, mosques, Hindu temples, and other religious institutions existing today—to say nothing of the ancillary schools and charities that they operate with differing levels of oversight.

Finally, this case isolates the role of faith-based qualifications that do not implicate secular state interests. While the Kim Board and Cho Board might disagree on whether a Presbyterian believer embodies an “Evangelical and Charismatic understanding and style of life,” App.44a, the State of California has no interest in resolving that dispute. See *Watson*, 80 U.S. at 729 (stating “[i]t is not to be supposed that the judges of the civil courts can be as competent in the ecclesiastical law and religious faith of all [religions] as the ablest men in each are in reference to their own”). Nor does it have any skin in the game on who holds a Pentecostal view of the 12 points in the Bethesda Statement of Faith. But these issues are of paramount importance to Bethesda and warrant respect and deference under the First Amendment.

IV. The Scope of the Neutral Principles Exception to the Ecclesiastical Abstention Doctrine Is a Question of Nationwide Importance.

The First Amendment does not permit a civil court to settle disputes over “church polity” or “church administration.” *Milivojevich*, 426 U.S. at 710. The

California Court of Appeal's declaration that "a 'Protestant' minister, or someone not of the Pentecostal faith" meets the requirements for serving on Bethesda's Board of Directors is an affront to church autonomy and an unconstitutional entanglement with religion. Should that approach—shared by at least the Ninth and Fifth Circuits—persist and propagate, the fundamental identity and autonomy of many religious institutions like Bethesda will be imperiled.

The instant case paints a stark picture of these dangers. Bethesda's very identity as a Pentecostal institution is at stake. Its Board is the highest governing body at the university and retains ultimate power to determine the religious principles and policies governing every aspect of its operations and instruction. Its Bylaws and Statement of Faith go to the heart of this ecclesiastical institution, and to read the Pentecostal faith out of these documents—as the lower court did—is to commit constitutional violence. The Court of Appeal did not appear to grasp the precariousness of Bethesda's position. Nor did it reckon with the faith-centered fallout threatened by its attempts to wash its hands clean of this religious dilemma in the secularized waters of contractual interpretation.

If the Court of Appeal's decision persists undisturbed, other litigants and adjudicators will don the guise of "neutral principles" to invite and interject

judicial determinations into religious institutions' internal debates. Other religious organizations that have not drafted their founding and governing documents to foreclose any conceivable challenge to their religious character will be that much more vulnerable to disruptive agendas and judicial intrusions into their religious character.

Should the Court allow the decision below to stand, it places a great many religious institutions at risk of judicial intrusion into matters theological. Citing “neutral principles,” future courts would be free to examine the bylaws of, say, a Catholic charity and, seeing only broad appeals to Christian tradition, force it to accept Lutheran leaders—regardless of the renowned theological distinctions between those denominations. The decision of a religious institution to select its leaders—administrative as well as ministerial—has “constitutional protection as a part of the free exercise of religion against state interference.” *Kedroff*, 344 U.S. at 116. This Court should grant the Petition and adopt the same “spirit of freedom for religious organizations” that affords them the “power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine” clearly enshrined by the U.S. Constitution to ensure the “free exercise of religion against state interference” in California. *Id.* Without review by this Court, religious autonomy will diminish and religious entanglement will intensify.

Arresting and reversing that trend is a matter of utmost national importance.

CONCLUSION

The Court should grant the Petition.

November 7, 2024

Respectfully submitted,

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APPENDIX

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1a

**APPENDIX A — DENIAL OF REVIEW OF
THE SUPREME COURT OF CALIFORNIA,
FILED JULY 10, 2024**

Court of Appeal, Fourth Appellate District,
Division Three - No. G062514

S284939

IN THE SUPREME COURT OF CALIFORNIA

En Banc

BETHESDA UNIVERSITY *et al.*,
Plaintiffs and Appellants,

v.

SEUNGJE CHO *et al.*,
Defendants and Respondents.

The petition for review is denied.

Kruger, J., was absent and did not participate.

GUERRERO
Chief Justice

**APPENDIX B — OPINION IN THE COURT OF
APPEAL OF THE STATE OF CALIFORNIA,
FOURTH APPELLATE DISTRICT, DIVISION
THREE, FILED MARCH 28, 2024**

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

G062514
(Super. Ct. No. 30-2022-01276823)

BETHESDA UNIVERSITY *et al.*,

Plaintiffs and Appellants,

v.

SEUNGJE CHO *et al.*,

Defendants and Respondents.

Filed March 28, 2024

OPINION

Appeal from an order of the Superior Court of Orange
County, Glenn R. Salter, Judge. Affirmed.

* * *

This case is about two groups, each of which claims
to be the legitimate board of directors of Bethesda

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University (Bethesda), a private Christian University. For ease of reference, and as the parties do themselves, we will refer to one group as the “Kim Board,” led by Kyung-Mun Kim (Kim), and the other group as the “Cho Board,” led by Suengje Cho (Cho).¹ After the election of six new board members, four of whom were Presbyterian, a dispute arose, which resulted in both the Kim Board and the Cho Board claiming that it was the only legitimate board. The crux of the dispute was that, according to the Kim Board, only adherents of the Pentecostal faith could sit on the board.

This dispute eventually led to a hearing under the Corporations Code to determine the proper leadership of Bethesda. Among other things, the trial court determined that nothing in Bethesda’s governing document, its Constitution and Bylaws (Bylaws), prevented a non-Pentecostal Protestant minister from sitting on the board. The court determined that the election that brought the board to a total of 17 members was properly held and valid, and the following individuals were validly elected to the board: Cho, who was board president, Kyong Hwan Ko, Soon Bum Heo, Chi Tae Chung, Kwon Tae Kim, Myung Ho Seo, Dong Hwan-Choi, Eric Choi, Bum Kyu Son, Yoo-Choel Jin, Yong-Joon Kim, Byung-Cho Yang, and Pan Ho Kim.

On appeal, the Kim Board contends that the trial court lacked jurisdiction to decide Bethesda’s leadership under

1. Some of the names of the individuals involved are inconsistently spelled in the record, most likely due to the romanization of Korean names. We apologize if we have failed to use any preferred spelling.

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the ecclesiastical abstention doctrine and that the court additionally erred in several of its factual findings. We disagree with the Kim Board that the interpretation of Bethesda's governing documents—the very determination that it asked the court to make—invaded the province of ecclesiastical matters. The court was only required to interpret the governing documents, and its factual findings were supported by substantial evidence. We reject the Kim Board's remaining claims of error, and accordingly, we affirm the order.

**I
FACTS**

According to the Bylaws, members of the board were to be elected for three-year terms and were eligible for reelection. In the early part of 2021, the membership of the board was not disputed and was composed of 11 members serving staggered three-year terms.

A quorum, defined in the Bylaws as a majority of the members, held a meeting in June 2021, at which they nominated and unanimously elected six new board members, some of whom would subsequently form part of the Cho Board. This election was held because the terms of several of the board members were due to expire in May 2022. The new board members expanded the size of the board to 17.

Four of the new board members were Presbyterian rather than Pentecostal—Kwon Tae Kim, Myung Ho Seo, Dong Hwan-Choi, and Eric Choi. According to the Kim Board, at the meeting, Cho misrepresented to the

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members present that Bethesda's accrediting agency, the Transnational Association of Christian Colleges and Schools (TRACS), required a diversity of denominations in its leadership, although this was disputed.² The Kim Board asserts this misrepresentation resulted in the election of the four Presbyterian members. Kyung Moon Kim served as chairperson at the meeting where the election was held.

Beginning in early 2022, Kim began attempts to remove the non-Pentecostal board members. At a meeting in February, according to the Kim Board, Cho and the Presbyterian board members objected to the presence of an attorney the Kim Board asserted represented Bethesda and refused to allow the meeting to proceed. According to the Cho Board, nonmembers were not allowed to attend board meetings without the consent of the other members.

Another meeting was held on April 9. The minutes reflect that eight board members attended, virtually or in person. The Kim Board's discussion of this meeting does not include the fact that eight is not a majority of 17. The minutes reflect that "a quorum (7 out of 11)" were present. Kim, however, testified he invited all 17 members to the

2. There are three citations to the record the Kim Board relies upon for this point. One of them is the court's order, which does state that Cho said this. But the citations to the transcript from the hearing do not reflect this statement. Cho denied stating diversity of denominations was required under California law, and Kim testified that Cho said that "it was wrong to have the board" constituted only of Pentecostal members. Kim did not testify that Cho mentioned TRACS or its purported requirements.

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meeting. The directors at the April 9 meeting held a vote “to confirm that the election of the 6 directors [in June 2021] was void and of no effect.” According to the Kim Board, this effectively removed the four Presbyterian members from the board.

At the next meeting, on April 30, what was now the Kim Board elected six new members: Pan Ho Kim, Seon Wook Hwang, Young Hoon Lee, Seung Hyun Moon, Chun Soo Kim, and Min Je Cho. None of the Presbyterian individuals were elected.

On May 24, the Cho Board noticed a board meeting for May 27. Under the bylaws, regular meetings of the board were to be calendared at the first meeting of the year, and two weeks’ notice was required for a specially called meeting. Seven members of the Cho Board attended the meeting and conducted business.

At a June 2 meeting of the Kim Board, seven board members were reelected, and Pan Ho Kim was elected as president of Bethesda. Myung Woo Choi and Kyung Hwan Ko were not reelected, and Cho and Soon Bum Heo were removed from the board.

In August 2022, the Cho Board filed a lawsuit on behalf of Bethesda against the Kim Board for fraudulent deceit and breach of fiduciary duty. The Kim Board, on behalf of Bethesda and Pan Ho Kim, cross-complained, seeking a hearing under Corporations Code section 9418 to determine which board was legitimate. The cross-complaint asked the court to determine that Kyung Moon Kim was the legitimate chair of the board and the Cho

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Board members were not directors, to void the meetings conducted by the Cho Board, and to enter an injunction to prevent the Cho Board from holding itself “out as directors or in any way affiliated with Bethesda University.”

The court scheduled a hearing, and the parties filed briefs. At the hearing, the parties stipulated to the admission of 28 exhibits and the court heard from five witnesses, including Cho and Kim. The parties submitted closing briefs after the hearing.

The court issued a lengthy minute order. The court determined which set of the Bylaws was the genuine and most current governing document. Under the governing Bylaws, the requirements to serve on the board were: “A high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological position of BU. This will be evidenced by their agreement to sign the BU Statement of Faith.”

Other qualifications included: “1. A high level of spiritual development defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological positions of BU.

‘2. A high level of academic preparation that is integral both within the Christian community and also the non-Christian community.

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‘3. Demonstrable leadership skills within the Christian community. This will be evidenced by showing that the potential Board member has held leadership positions either in a church or parachurch setting for a period of at least two years.

‘4. An on-going commitment to ministry within the Christian community. This will be evidenced by the applicant’s current membership in a local church or participation in a local church setting.’”

The Bylaws set the number of board members between 5 and 30 members. Special meetings required two weeks’ notice. The court noted the Bylaws were “poorly drafted, duplicative in many respects, and do not provide the Board Members with the type of guidance one would expect. [¶] One thing, however, is clear: Most of the sections dealing with the qualifications of Board members are aspirational. They do not state, for example, that Directors must possess a certain graduate degree. Nor do they impose a requirement that the Directors only be of the Pentecostal faith, or that they execute the Statement of Faith as a condition of being elected to the Board. The qualifications sections deal almost exclusively with potentialmembers and what Bethesda University is looking for in a Board Member and Director. More importantly, there are no rules that govern how a Board Member may be discharged once elected.”

Accordingly, the court reached the following findings:

“1. The court finds that the election that brought the Board to 17 members was properly held and is valid.

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“2. The court finds that nothing in the [Bylaws] prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board.

“3. The court finds that there is no requirement in the [Bylaws] that a Board member sign a Statement of Faith to become, or remain, a member of the Board.

“4. The court finds that the special meetings brought to remove the Protestant ministers from the Board were not properly noticed under the provisions of the [Bylaws] and are therefore invalid.

“5. The court finds that the Trustee handbook cannot supersede the rules as stated in the [Bylaws].”

The trial court subsequently signed an order stating, among other things, that the Cho Board was the legitimate board, and Cho was the chair. Further, the special meetings brought by the Kim Board to remove the Protestant ministers were not properly noticed.³

The Kim Board now appeals.

3. The court also directed the board to retain an attorney “to draft a workable Constitution, By-Laws, and/or other governing documents that spell out the rules and regulations that will govern it in the future.” (Pursuant to a writ petition by the Kim Board, we stayed this provision of the court’s order while this appeal was pending. In the same order, we also deemed the trial court’s order an injunction.) The parties did not brief this issue; therefore, we do not comment on it further.

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**II
DISCUSSION**

Motion to Take Additional Evidence

Although California ““appellate courts are authorized to make findings of fact on appeal by Code of Civil Procedure section 909 and rule [8.252(b)] of the California Rules of Court, the authority should be exercised sparingly. [Citation.] *Absent exceptional circumstances, no such findings should be made.*”” (*Diaz v. Professional Community Management, Inc.* (2017) 16 Cal.App.5th 1190, 1213.)

The Kim Board asks this court to take the entirety of Bethesda’s “Trustees Handbook” (Handbook) as additional evidence on appeal. They argue three grounds qualify as exceptional circumstances. We do not find any of the three grounds persuasive.

First, the Kim Board claims the Handbook demonstrates the trial court lacked jurisdiction to decide whether non-Pentecostals qualify to serve on Bethesda’s board. But presumably, additional evidence always puts before the appellate court something the moving party feels is decisive or otherwise critical. This does not qualify as “exceptional.” Additionally, the trial court found the Bylaws to be the relevant governing document and specifically ruled the Handbook could not supersede it.

Second, the Kim Board argues the “interests of justice” support taking this additional evidence, because consideration of the “Handbook will permit this

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Court to dispose of this matter” in a single appeal and without remand. But again, this is not an “exceptional” circumstance.

The Kim Board’s third argument is basically repetitive of its second—that this court’s consideration of the Handbook will avoid a remand. Again, this assumes remand is our only recourse here, which is not the case, and in this instance, it does not qualify as exceptional circumstances.

Weighing strongly against the Kim Board is the fact that it admits they had the full Handbook and could have submitted it into evidence at the hearing, as opposed to relying on excerpts. A party’s failure to present all the evidence it could have presented in the trial court does not qualify as exceptional circumstances. Further, “[t]he power created by the statute is discretionary and should be invoked sparingly, and *only to affirm the case.*” (*Golden West Baseball Co. v. City of Anaheim* (1994) 25 Cal.App.4th 11, 42, italics added.) The Kim Board asks us to take additional evidence not to affirm the case, but to reverse it. We decline to exercise our discretion to do so.

Standard of Review

We apply a de novo standard of review to pure questions of law. (*Roberts v. United Healthcare Services, Inc.* (2016) 2 Cal.App.5th 132, 149.) This includes the interpretation of Bethesda’s governing documents. (*Concord Christian Center v. Open Bible Standard Churches* (2005) 132 Cal. App.4th 1396, 1408-1409 (*Concord Christian*).

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We review the trial court’s findings of fact, however, for substantial evidence. “Under that standard, we must consider all the evidence in the light most favorable to the prevailing parties, giving them the benefit of every reasonable inference, and resolving conflicts in support of the judgment.” (*Concord Christian, supra*, 132 Cal. App.4th at pp. 1408-1409.)

Ecclesiastical Abstention Doctrine

Concisely put, the ecclesiastical abstention doctrine, consistent with the First Amendment, prevents courts from involving themselves in doctrinal matters in disputes involving religious bodies.

“The Supreme Court has recognized two principal approaches to deciding church disputes without ‘jeopardiz[ing] values protected by the First Amendment.’” (*Puri v. Khalsa* (9th Cir. 2017) 844 F.3d 1152, 1162.) The first approach, which unsurprisingly is the only approach the Kim Board advances, derived from *Watson v. Jones* (1872) 80 U.S. 679 and cases that followed, is simply to “accept[] the decision of the established decision-making body of the religious organization.” (*Maktab Tarighe Oveyssi Shah Maghsoudi, Inc. v. Kianfar* (9th Cir. 1999) 179 F.3d 1244, 1248.) “[W]here resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church . . . but must accept such decisions as binding on them, in their application to the religious issues of doctrine

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or polity before them.” (*Serbian Eastern Orthodox, Etc. v. Milivojevich* (1976) 426 U.S. 696, 709.)

The Supreme Court has also recognized, however, that some disputes can be resolved by application of completely secular legal rules. This has been referred to the “neutral principles of law approach.” “[T]he First Amendment does not dictate that a State must follow a particular method of resolving church property disputes. Indeed, ‘a State may adopt *any* one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.’” (*Jones v. Wolf* (1979) 443 U.S. 595, 602.) “California courts apply the neutral principles of law approach. . . .” (*Concord Christian, supra*, 32 Cal.App.4th at p. 1412.) As long as the court can decide the relevant issues without making determinations about religious doctrine and polity, the court has jurisdiction to, among other things, interpret governing documents. (*Id.* at pp. 1410-1411.) “[I]n applying neutral principles of law, courts may look not only to California corporations law, but also to the religious corporation’s bylaws and articles of incorporation, as well as the national church’s constitutions, canons, and the like.” (*New v. Kroeger* (2008) 167 Cal.App.4th 800, 820.)

The Kim Board, entirely ignoring the fact that it was the entity that sought this relief in the trial court in the first place, now claims that “this case directly turns on the ability of a religious institution—Bethesda University—to impose religious requirements on board members who are responsible for directing its religious and pedagogical

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mission.” It does not. What this case turns on is the interpretation of Bethesda’s governing documents. The court’s decision seeks only to interpret these documents, not to comment on the ability of Bethesda to draft documents for the future that limit who may serve on its board.

The court’s decision reflects only that “nothing in the Constitution and [Bylaws] prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board.” Further, the court found that the same documents did not require a board member to “sign a Statement of Faith to become, or remain, a member of the Board.” These are no different than other board member requirements commonly found in corporate documents. Either the documents require certain qualifications, or they do not. It does not intrude upon religious or doctrinal matters to read the documents involved and determine what the plain language of the documents states.

The Kim Board brought this case under Corporations Code section 9418, which is part of the Nonprofit Religious Corporation Law. (Corp. Code, § 9411 et seq.) Corporations Code section 9418 has been in existence since 1978 and has never, including in this case, had its constitutionality challenged. Accordingly, we reject the Kim Board’s argument that the trial court lacked jurisdiction to apply neutral principles of corporation law to resolve the dispute before it.

*Appendix B**The Bylaws Do Not Require Board Members to be Pentecostal*

The Kim Board asserts, that as a matter of contract interpretation, the trial court committed error. We begin by looking to the Bylaws, the relevant governing document. Under California law, we construe corporate bylaws under the same rules we use to interpret statutes and contracts. (*Singh v. Singh* (2004) 114 Cal.App.4th 1264, 1294.) “[W]e must interpret a contract in a manner that is reasonable and does not lead to an absurd result. [Citation.] This principle is codified in Civil Code section 1638, which provides: ‘The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.’ (Civ. Code, § 1638.)” (*Roden v. AmerisourceBergen Corp.* (2010) 186 Cal.App.4th 620, 651.)

The Preamble states Bethesda is an “arm of the universal Christian Church” and is a “leadership training ministry which carries out its ministry by providing Biblical Christian higher education for men and women who desire to be leaders in a global society. Bethesda University’s training seeks to build Christian character which will help students to be responsible in applying the claims of Christianity to world problems while developing a Christian world view.” Its “Mission” states that Bethesda “is a Christ-centered community of higher education which aims to prepare students with the academic knowledge, professional skills and spiritual values to become servant leaders in global society.”

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The word “Pentecostal” is mentioned only once in the Bylaws, as far as we can tell. Under “Institutional Objectives,” Bethesda states it is, among others, “committed to the following goals: [¶] Understand theology and society through a Pentecostal Evangelical perspective.” This is specifically phrased as a “goal” and is not included in the section of the Bylaws governing board member qualifications, which it certainly could have been, had the drafters so intended. Indeed, nothing in the section regarding board member qualifications, as quoted above in our discussion of the trial court’s order, requires Pentecostal membership.

The Kim Board points to a statement in the Bylaws that board members will “[s]upport and promote the mission, philosophy, policies, and standards of” Bethesda, and to a statement in the section addressing board qualifications that “Emphasis is placed on those who have been involved in Christian ministry exhibiting *a theology consistent with the theological position of [Bethesda]*. This will be evidenced by their agreement to *sign the [Bethesda] Statement of Faith.*” The Bylaws also states that potential board members “must demonstrate a commitment to the [Bethesda] Statement of Faith.”

Emphasis, however, is not the same as a requirement. Put another way: indicating that emphasis will be placed on a certain trait or characteristic in evaluating potential board candidates is not the same as saying that the trait or characteristic is an indispensable requirement of board membership. Moreover, the Kim Board does not argue that it would be impossible for a Presbyterian to be willing

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to sign, actually sign, or demonstrate a commitment to the Statement of Faith.⁴ Accordingly, we cannot determine that the Bylaws, or the Handbook excerpts included in the record, which similarly do not require Pentecostal membership, include unstated requirements. Cho testified that the key requirement for board members was not the church they belonged to, but their commitment to the Bethesda's goals. "Presbyterian or Pentecostal—as long as they are willing to follow Pentecostal ideals, it doesn't matter." We conclude his understanding is supported by the plain language of the Bylaws.

The Kim Board argues the court may consider evidence outside the Bylaws, including "*church traditions* if sufficiently ascertainable." (*Metropolitan Philip v. Steiger* (2000) 82 Cal.App.4th 923, 932.) While correct, it is not an abuse of discretion to decline to consider this information when the sources of it are members of competing factions with interests to protect. Nor does such evidence need to be considered conclusive or as overriding written governing documents. The same is true of the Handbook—it cannot override the Bylaws.

In sum, our analysis of the Bylaws and the other evidence leads us to the same conclusion as the trial court. While the drafters of Bethesda's Bylaws certainly could have included a requirement that only Pentecostal adherents were eligible, nowhere is such a requirement included, and nothing beyond the plain language of these

4. We cannot opine further on the Statement of Faith, because if it is included in the record, the Kim Board's opening brief does not provide a citation to it.

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documents is required to reach this conclusion. Bethesda's board is free to include such a requirement in the future, but the documents in effect at the time of this dispute did not include such a requirement.

The Kim Board's Fraudulent Inducement Argument

The Kim Board next contends that if jurisdiction exists, the trial court erred by failing to find that Cho's statements at the June 2021 meeting "fraudulently induced" their vote. This is an issue of whether substantial evidence exists to support the order.

But this does not appear to have been properly before the trial court. The Kim Board's cross-complaint was solely for a hearing under the Corporations Code. Fraudulent inducement was not mentioned in the cross-complaint. The issue of what Cho said appears to have been raised for the first time in a footnote in the Kim Board's trial brief, without using the words "fraudulent inducement." We agree with the Cho Board that fraud should have been pleaded in the cross-complaint if the Kim Board intended to raise it, and it should have met the usual requirement to plead fraud with specificity. (*Foster v. Sexton* (2021) 61 Cal.App.5th 998, 1028.)

Even if the court chose to consider this argument, there was substantial evidence to support the trial court's implied ruling that any misstatements by Cho did not rise to the level of fraudulent inducement. The evidence is not as clear-cut as the Kim Board suggests. In support of its claim that Cho stated "that TRACS required the Board

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to have non-Pentecostal members,” the Kim Board cites Cho’s testimony, which stated: “I said it’s TRAC [*sic*] that requires diversity of—and I think it was—actually—it’s long story.” There was no follow up on this point. Kim’s cited testimony on this point was that “Cho said that since Bethesda University is a nonprofit corporation, it was *wrong* to have the Board of Directors constituted only by” Pentecostals. (Italics added.) This is the only testimony on which the Kim Board relied at the hearing, and neither of these pieces of testimony compel a finding that Cho fraudulently misrepresented this fact. “[I]t’s a long story” and “it was wrong” are not the same thing as “TRACS requires” this.⁵ Evidence of other elements of fraudulent inducement are also lacking, including causation and harm. There was substantial evidence to support the trial court’s implied finding that fraudulent inducement sufficient to require voiding the election did not occur.

Properly Noticed Board Meetings

The Kim Board next complains the trial court improperly found that its April and June 2022 meetings were improperly noticed. This is an issue of substantial evidence. Even if we were to find error here, however, it would not warrant remand in light of the trial court’s ruling that the Kim Board was not the validly elected board of Bethesda during this time period. Further, the disputed meetings lacked a quorum of legitimate board members.

5. The trial court’s comment that Cho said otherwise is not supported by the record, and the Kim Board does not provide further citations to the record in support of this assertion.

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Even under the best interpretation of the evidence for the Kim Board, only eight of the 17 members attended the April meeting. That does not constitute a majority of the board, and as we are affirming the court's decision that the members of the Cho Board were legitimately elected, that was not a quorum.

The June meeting included the "replacement" board members who were added at the April meeting held without a quorum. Only seven legitimate members attended the June meeting. This, too, was not a quorum. Accordingly, any error regarding notice was harmless; the board lacked the power to act at either meeting, and whether due to notice or lack of quorum, the result is the same.

The Kim Board's argument that the May 27, 2022 meeting by the Cho Board was improperly noticed is not addressed in the court's order. The Kim Board cites to two pages of the record, but neither includes any mention of this meeting or the issue of notice. Accordingly, we need not consider it.

III DISPOSITION

The court's order is affirmed. The Cho Board is entitled to its costs on appeal. The partial stay issued on May 16, 2023, is dissolved.

/s/
MOORE, ACTING P. J.

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WE CONCUR:

/s/
DELANEY, J.

/s/
GOODING, J.

**APPENDIX C — JUDGMENT OF THE SUPERIOR
COURT OF THE STATE OF CALIFORNIA,
FILED APRIL 7, 2023**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, NORTH JUSTICE CENTER**

Case No. 30-2022-01276823-CU-PP-NJC

**BETHESDA UNIVERSITY, A CALIFORNIA
NON-PROFIT CORPORATION,**

Plaintiff,

v.

**KYUNG MOON KIM, AN INDIVIDUAL; PAN-HO
KIM, AN INDIVIDUAL; YOUNG HOON LEE,
AN INDIVIDUAL; SUN WOOK HWANG, AN
INDIVIDUAL; SEUNG HYUN MOON, AN
INDIVIDUAL; SAMUEL MINJE CHO, AN
INDIVIDUAL; CHUN SOO KIM, AN INDIVIDUAL;
ESTHER KIM, AN INDIVIDUAL; YOUNG HWA
JANG, AN INDIVIDUAL; JI YEON KIM, AN
INDIVIDUAL; AND DOES 1 THROUGH 100,
INCLUSIVE,**

Defendants.

AND RELATED CROSS-ACTION.

**ORDER RE DETERMINATION OF VALIDITY
OF ELECTION OF BOARD OF DIRECTORS
OF BETHESDA UNIVESITY, PURSUANT TO
CORP. CODE, § 9418.**

Appendix C

Assigned for All Purposes To:

Judge: Hon. Glenn Salter

Dept: N06

Action Filed: August 19, 2022

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

The evidentiary hearing to determine the validity of the election of the Board of Directors of Bethesda University, pursuant to Corporations Code section 9418, came on regularly for hearing in Department N6 of the above-entitled court, with the Honorable Glenn Salter presiding. Matthew A. Reynolds appeared for Plaintiff and Cross-Defendants who were known at the evidentiary hearing as the “Cho Board.” Chad Biggins appeared for Defendants and Cross-Complainant who were known at the evidentiary hearing as the “Kim Board.”

The Court, having conducted an evidentiary hearing, read and considered the trial and closing briefs and exhibits submitted by the parties, the testimony of witnesses and the argument of counsel, and good cause appearing therefor,

THE COURT FINDS AND ORDERS as follows:

1. The “Cho Board,” as defined within this action, is the legitimate and governing Board of Directors of Bethesda University. The Cho Board was Plaintiff, Bethesda University and the named Cross--Defendants. The election that brought

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the Board to 17 members was properly held and is valid;

2. The current composition of the Board is as follows: Seung Je Cho, Kyong Hwan Ko, Soon Bum Heo, Chi Tae Chung, Kwon Tae Kim, Myung Ho Seo, Dong Hwan-Choi, Eric Choi, Bum Kyu Son, Yoo-Choel Jin, Yong-Joon Kim, Byung-Cho Yang, and Pan Ho Kim;
3. The current president of the Board is Seung Je Cho.
4. Nothing in the Constitution and By-Laws prevents a “Protestant” minister, or someone not of the Pentecostal faith, from serving on the Board;
5. There is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board;
6. The special meetings brought by the Kim Board to remove the Protestant ministers from the Board were not properly noticed under the provisions of the Constitution and By-Laws and are therefore invalid; and
7. The Trustee handbook cannot supersede the rules as stated in the Constitution and By-Laws.

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8. The Cho Board of Bethesda University is to retain an attorney to draft a workable Constitution, By-Laws, and/or other governing documents that spell out the rules and regulations that will govern it in the future. The current aspirational set of rules is all but unworkable in those situations where there is a true conflict between competing factions.

A true and correct copy of the Court's March 27, 2023 minute order is attached hereto as Exhibit A.

IT IS HEREBY ORDERED.

Order will become effective on 12 noon of 10 April 2023.

Dated: April 7, 2023

/s/ Glenn Salter
Hon. Glenn Salter
Judge of the Superior Court of the
State of California

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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE**

North Justice Center
1275 N. Berkeley Ave
Fullerton, CA 92838

SHORT TITLE: Bethesda University vs. Kim

**CLERK'S CERTIFICATE, OF MAILING/
ELECTRONIC SERVICE**

CASE NUMBER:
30-2022-01276823-CU-PP-NJC

I certify that I am not a party to this cause. I certify that a true copy of the above Minute Order dated 03/27/23 has been placed for collection and mailing so as to cause it to be: mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Fullerton, California on 3/27/23. Following standard court practice the mailing will occur at Sacramento, California on 3/28/23.

BIGGINS LAW GROUP
3701 WILSHIRE BOULEVARD 410
LOS ANGELES, CA 90010

Clerk of the Court, by:

/s/, Deputy

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I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 03/27/23, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on March 27, 2023, at 8:38: 19 AM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by:

/s/, Deputy

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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
NORTH JUSTICE CENTER**

MINUTE ORDER

DATE: 03/27/2023

TIME: 07:55:00 AM

DEPT: N06

JUDICIAL OFFICER PRESIDING: Glenn Salter

CLERK: D. Velasquez

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT:

CASE NO: 30-2022-01276823-CU-PP-NJC

CASE INIT.DATE: 08/19/2022

CASE TITLE: Bethesda University vs. Kim

**CASE CATEGORY: Civil - Unlimited CASE TYPE:
Petition - Partnership & Corporate governance**

EVENT ID/DOCUMENT ID: 73981115

EVENT TYPE: Under Submission Ruling

APPEARANCES

There are no appearances by any party.

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The Court, having taken the above-entitled matter under submission on 02/02/2023 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The discrete issue at this juncture is who comprises the Board of Directors of Bethesda University [Bethesda]. There are two competing factions. On one side is what is called the “Cho” Board. On the other is the “Kim” Board. The dispute centers on how certain board meetings were conducted and the validity of purported Board elections in 2021 and 2022. The following facts and procedure are undisputed:

Bethesda is private Christian University founded in 1976 by Yonggi Cho and is accredited by the Association for Biblical Higher Education and the Transnational Association of Christian Colleges and Schools. It is also approved by California’s Bureau for Postsecondary Education.

Bethesda is governed by an elected Board of Directors. Because a determination as to which Board is the correct board does not involve questions of theology, the matter is properly before this court under the laws governing Non-Profit Religious Corporations.

Pursuant to the agreement of the parties and the directives of Corporations Code section 9418, the court held an evidentiary bench trial as to which Board is the proper and legal Board of Bethesda.

*Appendix C***FACTS****A. The Pleadings**

The corporate entity known as Bethesda filed pleadings both as plaintiff and as cross-complainant. The complaint was filed by the “Cho Board.” The Cross-complaint was filed by the “Kim Board.”

1. The Allegations in the Complaint

Bethesda (the “Cho Board”) filed a complaint for fraud, breach of fiduciary duty, declaratory and injunctive relief. It named as defendants Kyung Moon Kim, Pan-Ho Kim, Young Hoon Lee, Sun Wook Hwang, Seung Hyun Moon, Samuel Minje Cho, Chun Soo Kim, Esther Kim, Young Hwa Jang, and Ji Yeon Kim. (See ROA 2.) (The court notes that some of the names are spelled differently from one document to the next, and even sometimes within the same document.)

It alleged that in 2021 the Board had 11 members. Bethesda normally maintained 12 members, but one had resigned. The terms of six members expired May 22, 2022: Kyung-Mun Kim, Ho-Joon Jeon, Yong-Woo Choi, Myung-Woo Choi, Seung Je-Cho, and Han-Up Chang. The terms of the other five members expired October 16, 2023: Yoo-Cheol Jin, Yong-Joon Kim, Byung Cho Yang, Kyong Hwan Ko, and Soon Bum Ho.

Because the terms of six Board members expired in May 2022, the Board met on June 14, 2021, “for purposes of

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electing six new Board members.” Seven Board members attended, a quorum. The Board elected six new members, bringing the total Board members to 17: Pan-Ho Kim, Chi Tae Chung, Kwon Tae Kim, Myung Ho Seo, Dong Hwan Choi, and Eric Choi. The Complaint asserted these are the “legitimate new Board members.”

Ten months later, on April 9, 2022, Kyung Moon Kim (identified in the Complaint as “Defendant KIM” (2:1-3)), who served as Chairman of the Board, scheduled a “special board meeting,” at which he declared that the six “new members” were not validly elected. They had not submitted “a resume as part of their application process.” Bethesda alleged this special Board meeting was invalid because there was no quorum.

On April 30, 2022, Kyung Moon Kim scheduled another “special board meeting” at which six new Board members were elected: Pan-Ho Kim, Young Hoon Lee, Sun Wook Hwang, Seung Hyun Moon, Samuel Minje Cho, and Chun Soo Kim. (It appears that they cannot all be called “new” members because one of them, Pan-Ho Kim, was already a Board member.)

On May 22, 2022, Kyung Moon Kim’s term expired by its own terms.

On May 27, 2022, the Board convened a Board of Directors meeting. This Board consisted of the five members whose terms ended in October 2023, and the new members elected on June 14, 2021. The Board determined that the special meeting on April 30, 2022, was invalid because

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there was no quorum. Of the 11 Board members present, Soon Bum Heo was selected as Chairman of the Board. One of the Directors, Seung Je Cho, was President of Bethesda and occupied a house provided by Bethesda.

On June 3, 2022, Director Seung Je Cho received a letter from Kyung Moon Kim as Chairman of the Board. He notified Cho to vacate the Bethesda house.

On June 13, 2022, the defendants filed a Statement of Information with the California Secretary of State. It purported to remove Seung Je Cho as President of Bethesda.

Since then, defendant Kyung Moon Kim and the members elected April 30, 2022, “have improperly appointed their own president and have undertaken and implemented actions to unlawfully usurp authority and control over [Bethesda’s] operations and management.”

2. The Bethesda Cross-Complaint

Bethesda and Pan-Ho Kim filed a Cross-Complaint seeking a hearing pursuant to Corporations Code section 9418. It named as cross-defendants Seungje Cho, Soon Bum Huh, Ji Tae Jung, Myung Ho Suh, Eric Choi, Kyung Hwan Ko, Kwon Tae Kim, Dong Hwan Choi, and Bum Kyu Son.

It alleged that Kyung Moon Kim “was and is the Chairman of the Board.” He set a special meeting of the Board of Directors for February 19, 2022, but it “was obstructed by

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Seungje Cho (then president of Bethesda) and the meeting did not proceed.”

Kim “duly and properly noticed another special meeting” for April 9, 2022. Seungje Cho did not attend, and the meeting went forward. “Meanwhile, Seungje Cho decided to improperly form his own board of directors. However, this purported ‘board’ is invalid as it was unauthorized and violative of the bylaws.”

On June 2, 2022, a “regular board meeting was held.” A quorum was present and “the board of directors unanimously voted to terminate [] President Cho from all positions he held with Bethesda University effectively immediately.” Seungje Cho was terminated, and he filed for unemployment benefits. The President of the University is Pan-Ho Kim.

B. The Non-Pleadings

The Complaint and the Cross-Complaint are standard pleadings. But there is also a “wild” pleading and an absence of expected pleadings.

1. Bethesda’s “First Amended Complaint”

In the file under Register of Actions No. 29 is a document listed as “First Amended Complaint.” It is actually an amended complaint *in the unlawful detainer action* brought by “Bethesda University” against Seungje Jeremiah Cho. (See Case No. 30-2022-1281601.)

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The court finds it irrelevant to the discrete legal issue presented here.

2. The Absence of Any Answers

No Answers have been filed as to the Complaint or the Cross-Complaint.

However, it does not appear that the case must be at issue in order to conduct a hearing pursuant to Corporations Code section 9418. Given the short time frame within which the hearing must be held (i.e., five days by statute), the court concludes Answers would be helpful but that they are not mandatory.

C. The Testimony

At the evidentiary hearing, the position of the “Cho Board” matched the allegations in the Complaint. It argued there was valid quorum at the June 14, 2021 meeting and that ends the dispute.

The “Kim Board,” however, took a more nuanced view towards the new members that were elected on June 14, 2021. It was not simply that there were no resumes, it was more that at least four of them were not of the proper denomination. They were not Pentecostal and had not signed the mandatory form that demanded allegiance to Bethesda’s core principles.

*Appendix C***1. Plaintiff's Case (the "Kim Board")**

Bethesda (the "Kim Board") called three witnesses. The first was Seung Je Cho pursuant to Evidence Code section 776. The second was Esther Cho. The third, appearing remotely, was Kyung Moon Kim. (The court notes that the reporter's transcript incorrectly shows Kyung Moon Kim as a defense witness.)

Seung Je Cho

Cho stated that was still the President of Bethesda, having been appointed in "May of 2019, May or June."

There are two sets of By-laws for Bethesda. Cho was shown Exhibit 1, which shows a revision date of September 16, 1999. He stated that these were not the correct By-Laws for the University. He had never seen them before.

Cho stated that he duties as President of Bethesda was, in brief, to "run the school well." He was also required as part of his duties to report to the Board and carry out their directives.

Cho stated that from 2019 through 2021 he was both the President of Bethesda and a member of the Board of Directors. Bethesda is a Christian University and is "nondenomination." The school used to be called Bethesda University of California but is now called Bethesda University. Exhibit 1, which refers to the Pentecostal statement of faith is from "very long time ago." The By-Law in that exhibit is not the current By-Law.

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Cho was the “acting secretary” of the Board of Directors for the Board meeting of June 14, 2021. He would outline the minutes of the meeting before and then make corrections to the minutes afterwards. The meeting minutes state that, “Here, accordingly, we plan to newly invite six board members to make the number 17 in total.”

Even though he did not know him, Pan-Ho Kim was made President based on Kyung Moon Kim’s “proposal.” On the minutes, and where his signature was, Cho struck out “board member” and wrote in “president.” But he could have put in either one because he was both.

One new member was Gwon Tae Kim, pastor of a Presbyterian church. But he “was also part of Full Gospel Church.” Other new members were Presbyterian. Cho clarified that, “when you say ‘Presbyterian,’ doesn’t matter for the sake of being—running the school and be the leader of the Board. Because Presbyterian or Pentecostal—as long as they are willing to follow Pentecostal ideals, it doesn’t matter.”

Cho denied telling the Board prior to the vote that California law required diversity of denominations. Rather, he told them the accreditation agency for theological schools (TRACS) required it. Cho remembered one other time, maybe in 2020, when the Board was not “full gospel Pentecostal.” One member was not Pentecostal, and he was later removed. There was no reason for his removal. But he was not removed because he was not full gospel

Cho prepared the minutes for the Board meeting of February 19, 2022. (See Exhibit “9.”) There was a quorum.

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Although the minutes state that, “Bethesda University staff members shall consult attorney regarding the existing issues,” Cho stated that “there were no existing problems.”

A special meeting was scheduled for April 9, 2022, to discuss the appointment of the new directors at the June 14, 2021 meeting. (Exhibit “11”) Neither Cho nor the new Board members attended the June 14, 2021 meeting. He denied “interfering” or telling the Presbyterian Board members not to attend in order to prevent a quorum from forming. He also specifically denied being at the meeting on April 9, 2022. (Curiously, the attorney for plaintiff Bethesda suddenly stated: “I know you were present at the meeting.”) meeting.”)

Exhibit “12” are minutes of that meeting. They state, “Chairman Kim advised that the Board should vote on whether to void the appointment of six Directors appointed on June 14, 2021, due to several defects including invalid procedures, and that they do not subscribe to the theology consistent with Bethesda University as is required of all Board members pursuant to the Bylaws.” Cho said this was the first time he had seen the minutes of that meeting, but he was aware of the vote.

Cho said he did not attend any Board meeting in April 2022. He received correspondence from Kyung Moon Kim wanting to set up a Board meeting. He was also asked to provide certain financial information. He was clear that he “did not refuse to answer Chairman Kim’s request.” Rather, he refused to answer attorney Biggins’ request. He thought Biggins “was not a good person.”

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Cho was unaware of a Board meeting noticed for May 17, 2022. “This is my first time ever seeing this [*sic*] minutes.” He did not remember Chairman Kim’s term was ending. On May 24, 2022, Cho sent out notice of a Board meeting for May 27, 2022. He attended the meeting. He thought four of the “Presbyterians” attended, as well. Kyung Moon Kim did not attend. An election was held at that meeting. (See Exhibit “22.”)

Cho conceded he was aware of the Trustee’s Handbook of 2020-2021 which provided: “The term of office for each Trustee shall begin at the conclusion of the meeting at which he or she is elected and shall continue for the elected term until the conclusion of the annual meeting, parentheses, or special meeting held for the purpose of the election of trustees, close parentheses, in the year in which his or her term ends and until a successor has been elected and qualified.”

Cho did not attend the June 2, 2022, meeting called by Kyung Moon Kim. He acknowledged he was “terminated at Bethesda University” on or about June 2. He believed he “was terminated by unlawful people.” He filed for EDD but did not receive any benefits.

Cho acknowledged that Exhibit “101” was the Constitution and By-laws “used by Bethesda in regard to the Board of Directors.” The terms of the Directors were three years. He was elected to the Board in 2020. (See Exhibit “108.”) At the time, there were 14 Board members. Three of the members were no longer on the Board as of the June 14, 2021, meeting. Eight members signed the meeting

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minutes. Two others were there but did not sign because Hight was enough.

Sixteen of the 17 Board members attended the February 19, 2022 meeting. The six new members had been invited to attend it and they did. For the May 27, 2022, Board meeting, Kyung Moon Kim and the other Board members whose terms had expired days earlier were not invited.

The correct By-laws are Exhibit “101.”

Esther Cho

Esther Cho is not related to Seung Je Cho. She is the current Vice-President of Bethesda. She came to the University in 2004, and during that time has never heard of any Board member not being Pentecostal. She also had never heard of any TRACS rule that required denominational diversity on the Board.

She has never attended a Board meeting because she was not eligible. “From what I heard, the President and/or the Vice-President are not qualified to attend the Board meetings.”

Kyung Moon Kim

Reverend Kim is a senior pastor of Yoido Full Gospel, Jungdong Church. He is also Chairman of Bethesda and has been on the Board of Directors of Bethesda for over 10 years.

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At the June 14, 2021, Board meeting a resolution was reached bringing in new Directors “who were Presbyterian.” These members were brought in because Seung Ja Cho said that because “Bethesda University is a nonprofit corporation, it was wrong to have the Board of Directors constituted only by the Full Gospel members. So at his request, Presbyterian pastors were brought in.”

In the 30 plus years since Bethesda was founded there had never been an “occasion when a Presbyterian member or pastor was ever brought into Bethesda University Board as a Director.” This was a problem, in part, because Bethesda is a “seminary school that teaches Pentecostal theology to the student.” Kim was also concerned because “when the Presbyterian Directors came in, they did not show any respect towards Pentecostal denomination.”

The Board held an emergency meeting on February 19, 2022. But the Presbyterian pastors wanted to know why the attorney, Chad Biggins, was there and refused to go forward with the meeting with him.

Another meeting was called for in April 20;2. Its purpose was to discuss the “issues involving the Presbyterian Directors.” Kim called the meeting, but the Presbyterians did not attend. He did not know if a quorum had been reached but the members in attendance reached a resolution. A majority of them did not “reaffirm” the Presbyterian members as Directors.

Given Bethesda’s theology, the Presbyterians “were not suitable to be the members of the Pentecostal denomination.” He complained that, “Not only that, they

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didn't have any respect towards the Board Chairman." They raised all sorts of procedural questions and created a hostile mood. "Moreover, later on, I found out that pursuant to our school bylaws, the Presbyterian members were not allowed to be on our Board []. President—former President Seungje Cho never told me about that at all. So that's why they were terminated and removed on April 9th."

2. The Cross-Complainant's Case (the "Cho Board")

Bethesda called two witnesses: The first was Kwon Tae Kim. And the second was Kyong Hwan Ko.

Kwon Tae Kim

Kim attended the February 19, 2022, Board meeting as a member of the Board of Directors. Sixteen total Board members attended that meeting. He recognized four of the new Board members at the meeting and understood the other two were also in attendance. There were no issues that day with any of the six new Board members attending that meeting.

It was a "good meeting." Two individuals who were not members were asked to leave. The attorney for the "Kim Board" was told to put any comments in writing and was otherwise asked to leave.

He never signed a 'statement of faith.' However, he is a pastor, had studied theology, and would "preach sermons at Bethesda."

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Kwang Hwan Ko

Ko has a doctorate in Christian Ministry. He has been a Board member at Bethesda for 20 years.

Ko attended the June 14, 2021, Board meeting. Only Board members were allowed to attend. This was consistent with his experience during his time there. Nine Board members attended that meeting.

At the June 14, 2021, meeting, Ko recommended four new Board members. Kyung Moon Kim recommended one, and Seung Ja Kim recommended one. All six new Board members were elected. That meeting was typical of the way in which new Board members were elected over the 20 years of his experience.

Ko also attended the May 27, 2022, Board meeting. He was formerly affiliated with the Yoido Full Gospel Church. His church is “independent,” but it is a Pentecostal church.

II. ANALYSIS

A. The hearing was held pursuant to Corporations Code section 9418 to determine the proper governing Board.

1. Corporations Code section 9418

Subdivision (a) of section 9418 states that upon the filing of an action “by any director or member, or by a person who had the right to vote in the election at issue after [they] “has exhausted any remedies provided in the articles or

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bylaws,” the court “shall determine the validity of any election or appointment of any director of any corporation.”

Subdivision (c) of that section then states that the court, “in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper.”

2. The Bethesda University Constitution and By-Laws

There is a genuine dispute as to the current governing documents of Bethesda University.

There is evidence that Exhibit “1” is the governing document. It is dated 1999 and purports to be the “Bylaws” for Bethesda University of California. But whether Bethesda University of California (BUG) continues to exist is problematic. None of the pleadings reference Bethesda by that name. Rather, everyone references the corporation as Bethesda University. The court questions whether Exhibit “1” is the most current governing document.

There is evidence that Exhibit “101” is the governing document. Although it is not dated, it is entitled “Bethesda University-Constitution and By-Laws.” The name “Bethesda University” reflects the name the parties have used for the corporation in their pleadings, and it is the only one that a witness identified as the most current version of the governing document.

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Although the evidence is thin, the court finds that Exhibit “101” is the genuine and most current governing document for the corporation known as Bethesda University and which is a party to this action. In spite of that precise finding, the two documents are remarkably similar, especially as they address the key issues in this section 9418 hearing. In short, it does not appear that it makes any legal or practical difference as to which document is used.

3. Standing

There is no dispute as to the standing of the competing boards to seek resolution of the validity of the Board of Directors in this action. The court finds they both have standing.

4. Exhaustion of Remedies

There is no claim by one side that the other side has failed to exhaust any remedies provided in the governing documents. The court has reviewed Exhibit “101” and cannot find any provision that allows, or compels, any administrative remedy prior to filing an action under section 9418. The court finds that the issue is ripe for court review.

B.

Under the Constitution and By-Laws of Bethesda University, the Board of Directors may consist of between 5 and 30 members.

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Article III provides for “Board of Directors Qualifications.” It states that “Board Directors must possess the following characteristics.” The first bullet point states that Directors must possess, “A high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological position of BU. This will be evidenced by their agreement to sign the BU Statement of Faith.”

Other listed qualifications are a “high level of academic awareness” and “demonstrable leadership skills within Christian community.” The leadership skills “will be evidenced by showing that the potential Board member has held a leadership position either in a church or parachurch setting for a period of at least 2 years.” Directors must also possess an “on-going commitment to ministry within the Christian community.” It adds that, “this will be evidenced by the potential Christian setting.”

In the section entitled “Policies and Procedures for the election of Board Members, Article III states that potential Board members *must* “demonstrate commitment to their own spiritual growth, [] the BU Statement of Faith, [] local church ministry, [and they must fill out the applicable application for the Board members as developed by BU.” It then provides that potential Board members *should* “fill out application for the position, [] consult posted job descriptions for the vacant position, [and] submit application to the office of the Board of Directors

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along with their resumes or vitae that will enhance their application and will demonstrate their ability to fill the vacant position.”

It is declared the policy of Bethesda University that, “terms of office are to rotate in order to ensure that at all times a majority of the Board be experienced members. In addition, a system of rotation should encourage inclusion of new Board members.”

Article IV is entitled “Board members.” It sets the number of Board members between 5 and 30 members. This section then provides for the “election procedure” and “Board Member Qualifications,” and how meetings are to be handled.

Section 2 b) states under qualifications that, “Board members are expected to agree with the purpose of Bethesda University and are expected to model Christian character consistent with its purpose and mission.”

Under Board Member Qualifications, it states that “BU seeks Board members who can contribute to its educational and spiritual objectives.” It adds that, “Board members must possess the following characteristics:

“1. A high level of spiritual development defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological positions of BU.

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“2. A high level of academic preparation that is integral both within the Christian community and also the non-Christian community.

“3. Demonstrable leadership skills within the Christian community. This will be evidenced by showing that the potential Board member has held leadership positions either in a church or parachurch setting for a period of at least two years.

“4. An on-going commitment to ministry within the Christian community. This will be evidenced by the applicant’s current membership in a local church or participation in a local church setting.”

Under the section entitled “Meetings and Order of Business,” it states that “two weeks notice must be given for a specially called meeting.”

C.

The “Constitution and By-Laws” of Bethesda University are poorly drafted, duplicative in many respects, and do not provide the Board Members with the type of guidance one would expect.

One thing, however, is clear: Most of the sections dealing with the qualifications of Board members are aspirational. They do not state, for example, that Directors must possess a certain graduate degree. Nor do they impose a requirement that the Directors only be of the Pentecostal

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faith, or that they execute the Statement of Faith as a condition of being elected to the Board. The qualifications sections deal almost exclusively with potential members and what Bethesda University is looking for in a Board Member and Director. More importantly, there, are no rules that govern how a Board Member may be discharged once elected.

Based on the above:

1. The court finds that the election that brought the Board to 17 members was properly held and is valid.
2. The court finds that nothing in the Constitution and By-Laws prevents a “Protestant” minister, or someone not of the Pentecostal faith, from serving on the Board.
3. The court finds that there is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board.
4. The court finds that the special meetings brought to remove the Protestant ministers from the Board were not properly noticed under the provisions of the Constitution and By-Laws and are therefore invalid.
5. The court finds that the Trustee handbook cannot supersede the rules as stated in the Constitution and By-Laws.

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Based on the above:

The court finds, and exercises its power, to direct the Board of Bethesda University to retain an attorney to draft a workable Constitution, By-Laws, and/or other governing documents that spell out the rules and regulations that will govern it in the future. The current aspirational set of rules is all but unworkable in those situations there is a true conflict between competing factions.

The clerk is directed to send a copy of this minute order to counsel. The prevailing party shall prepare an appropriate order for the court's signature.

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**APPENDIX D — DENIAL OF REHEARING OF
THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA, FOURTH APPELLATE DISTRICT,
DIVISION THREE, FILED APRIL 18, 2024**

IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

G062514

(Super. Ct. No. 30-2022-01276823)

BETHESDA UNIVERSITY *et al.*,

Plaintiffs and Appellants,

SEUNGJE CHO *et al.*,

Defendants and Respondents.

ORDER DENYING PETITION FOR REHEARING

The petition for rehearing is DENIED.

MOORE, ACTING P. J.

WE CONCUR:

DELANEY, J.

GOODING, J.

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**APPENDIX E — APPELLANT’S BRIEF IN
THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA, FOURTH APPELLATE DISTRICT,
DIVISION THREE, FILED AUGUST 29, 2023**

No. G062514

**IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT,
DIVISION THREE**

BETHESDA UNIVERSITY AND PAN-HO KIM,

Cross-Complainants and Appellants,

vs.

SEUNGJE CHO, SOON BUM HEO, MYUNG HO
SEO, ERIC CHOI, BEOM KYUN SOHN,
AND ROES 1-100,

Cross-Defendants and Respondents.

*Appeal From The Superior Court
For The County Of Orange
Case No. 30-2022-01276823-CU-PP-NJC
The Honorable Glenn R. Salter *
Dept. N06* (657) 622-5606*

APPELLANTS’ BRIEF

Appendix E

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*Attorneys for Appellants Bethesda University
and Pan-Ho Kim*

Appendix E

**CERTIFICATE OF INTERESTED ENTITIES
OR PERSONS**

(Cal. Rules of Court, Rule 8.208)

Bethesda University and Pan-Ho Kim submit the following certificate of interested entities or persons:

Name of Interested Entity of Person	Nature of Interest
Yoido Full Gospel Church	Financial, Religious

DATED: August 29, 2023

Respectfully submitted,

**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**

/s/Crystal Nix-Hines

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[TABLES OF CONTENTS AND AUTHORITIES
OMITTED]

*Appendix E***INTRODUCTION**

Cross-Complainants and Appellants Bethesda University (“Bethesda” or the “University”) and Pan-Ho Kim (collectively, “Appellants” or the “Kim Board”) appeal from the superior court’s March 27 and April 7, 2023 Orders (the “Orders”). The superior court disregarded federal and state law, intruded unconstitutionally into an ecclesiastical dispute, and disregarded the plain language of the governing documents when it held that Respondents Seungje [Seung Je] Cho, Soon Bum Heo, Myung Ho Seo, Eric Choi, Beom Kyun Sohn, and Roes 1-100 (collectively, “Respondents” or the “Cho Board”) are the legitimate and governing Board of Directors of Bethesda University.

Bethesda University is a private, Christian university in Anaheim, California, founded upon Pentecostal Theology. It was founded in 1976 by Yoido Full Gospel, a Pentecostal church based in South Korea, considered one of the largest churches in the world. Bethesda’s mission is to equip future leaders with the skills and Christian framework to become leaders pursuing important world missions, religious studies, and promotion of the Pentecostal movement and the worship of God. In recent years, however, Bethesda has been beset by Respondents’ attempts to seize control of the Board through underhanded and fraudulent actions. The superior court erred by blessing Respondents’ maneuvers in contravention of the law as well as the facts.

On June 14, 2021, Bethesda’s Board of Directors elected six new members, including four who were

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Presbyterian, after Respondent Seungje Cho duped the Board into believing that Bethesda needed non-Pentecostal members in order to remain accredited. The Board of Directors subsequently held a series of properly noticed board meetings in early 2022 to void the election of the improperly-elected board members, elect new board members in their place, and reelect members whose terms were concluding. But Respondents disrupted and boycotted these board meetings in order to deny a quorum, then held an improperly noticed meeting designed to take control of the University. These actions failed, and control of Bethesda remained in the hands of Appellants until the superior court's erroneous Orders dated March 27 and April 7, 2023 (the "Orders").

The superior court's Orders should be reversed for three reasons, each of which provides an independent legal basis for reversal. *First*, under the ecclesiastical abstention doctrine, the superior court did not have subject matter jurisdiction to decide Bethesda's religious leadership. Rather than abstain from determining the acceptable religious qualifications of the governing board of a religious institution, as is required under longstanding First Amendment principles, the superior court expressly held that individuals who are *not* of the Pentecostal faith may not only serve on Bethesda's Board of Directors, but may constitute the *swing vote* that dictates the future composition of the Board. The superior court thereby contradicted federal and state law and disregarded the unambiguous language of Bethesda's governing documents, which require board members to subscribe to the prescribed faith.

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Second, the superior court erred by disregarding evidence that the June 14, 2021 election of four “Cho Board” members resulted from fraudulent inducement. The record clearly establishes this: Respondent Seungje Cho fraudulently induced the Board into adding four non-Pentecostal members—all aligned with Mr. Cho—by misrepresenting that Bethesda’s accrediting agency, the Transnational Association of Christian Colleges and Schools (“TRACS”), required diversity of denominations in Bethesda’s leadership. In fact, this was demonstrably false. Despite acknowledging Mr. Cho’s misleading representation, the superior court inexplicably disregarded the fraud committed upon Bethesda University and its Board of Directors in its rulings.

Third, the superior court misinterpreted the governing documents and misapplied California law when it held that the Kim Board’s meetings in 2022 were improperly noticed while the meeting of the “Cho Board” during the same time period was valid. The evidence establishes precisely the opposite: the Kim Board meetings were properly noticed and had a quorum of legitimate board members, while the “Cho Board” meeting was improperly noticed and lacked a quorum. Under longstanding California law, Respondents’ attempts to sabotage free and fair board elections through boycotts and other disruptive tactics should have been invalidated by the superior court, rather than upheld.

For these reasons, and the others identified below, Appellants respectfully request that the Court reverse the challenged Orders.

*Appendix E***BACKGROUND****A. The Parties**

Appellant and Cross-Complainant Bethesda University (“Bethesda” or “the University”), is a private Christian university located in Anaheim, California that advances Pentecostal theology. (Reporter’s Transcript [“RT”] 44:3-4, 62:9.) Bethesda was founded in 1976 by the Yoido Full Gospel Church, a Pentecostal megachurch in South Korea. (RT 30:2-7, 62:9.) Bethesda is a “leadership training ministry which carries out its ministry by providing Biblical Christian higher education” and which “seeks to build Christian character which will help students to be responsible in applying the claims of Christianity to world problems while developing a Christian world view.” (Appellants’ Appendix [“AA”] 458.)

Appellant and Cross-Complainant Pan-Ho Kim is an individual who is currently and was previously on the Board of Directors of Bethesda University. Pan-Ho Kim was a member of the Kim Board that governed Bethesda University during the relevant time period. Other current and former members of the Kim Board include Chairman Kyung Moon Kim, Young Hoon Lee, Sun Wook Hwang, Seung Hyun Moon, Samuel Minje Cho, and Chun Soo Kim. The Kim Board is so-called for the purpose of this litigation because it is led by its chairman, Kyung Moon Kim.

Respondent Seungje Cho, Soon Bum Heo, Myung Ho Seo, Eric Choi, Beom Kyun Sohn, and Roes 1-100

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are current or former members of the so-called “Cho Board.” Together with individuals Chi Tae Jung, Kyung Hwan Ko, Kwon [Gwon] Tae Kim, and Dong Hwan Choi, Respondents purport to be the governing Board of Directors for Bethesda. The “Cho Board” is so-called for the purpose of this litigation because it is led by Seungje Cho (although the purported chairman of the Cho Board is Soon Bum Heo).

B. Bethesda’s Governing Documents

It is undisputed that Bethesda’s governing documents include its Constitution and By-Laws (the “By-Laws”) (AA 458-475) and the Trustee Handbook dated October 26, 2020 (AA 351-369; RT 80:11-12). Respondents admitted in their complaint and trial brief that the By-Laws and the Trustee Handbook are the governing documents of Bethesda University. (AA 12, 31.) These governing documents set forth the mission and institutional objectives of Bethesda University, as well as the rules governing: (i) qualifications for the Board of Directors (referred to as “Trustees” in the Trustee Handbook), (ii) procedures for board meetings and board elections, and (iii) the terms of office for board members.

Bethesda’s Mission and Objectives. As stated in the By-Laws and the Trustee Handbook, Bethesda’s mission is as follows:

Bethesda University is a Christ-centered community of higher education which aims to prepare students with the academic knowledge,

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professional skills and spiritual values to become servant leaders in global society.

(AA 357, 458.)

The governing documents plainly state that the “purpose” and “institutional objective” of the University is to advance the Pentecostal faith: “To fulfill its mission, Bethesda University is committed to the following goals: Understand theology and society through a *Pentecostal* Evangelical perspective.” (AA 459 [emphasis added], AA 357.)

Board Member Qualifications. The By-Laws and the Trustee Handbook set forth the qualifications for board members, many of which explicitly require adherence to the Pentecostal faith:

Board members must possess . . . [a] high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology *consistent with the theological position* of [Bethesda]. This will be evidenced by their agreement to sign the [Bethesda] *Statement of Faith*.

(AA 460 [emphasis added]; 467, 367.)

“All potential Board members . . . must demonstrate a commitment to the [Bethesda] Statement of Faith [and]

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must demonstrate a commitment to local church ministry.”) (AA 368-369, 461.) “Board members are expected to agree with the purpose of Bethesda University and are expected to model Christian character consistent with its purpose and mission.” (AA 467.)

Board Member Elections and Term of Office.

“Members of the Board will be elected to the Board by majority vote of the Board of Directors on a three-year term basis and are eligible for reelection at the conclusion of each three-year term. Terms of office are to rotate in order to ensure that at all times a majority of the Board be experienced members.” (AA 369, 462.)

The Trustee Handbook sets forth the specific circumstances in which a board member’s term expires. “The term of office for each Trustee shall begin at the conclusion of the meeting at which he or she is elected and shall continue for the elected term until the conclusion of the annual meeting (or special meeting held for the purpose of the election of Trustees) in the year in which his or her term ends and *until a successor has been elected and qualified.*” (AA 366 [emphasis added].)

Board Meetings – Notice Period and Quorum.

“The regular meetings of the Board of Directors shall be held at least two times annually. These meetings shall be calendared annually at the first meeting of the year. Special meetings shall be called by the Board Chair in consultation with the President. Two weeks notice [sic] must be given for a specially called meeting.” (AA 467-468.)

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“A quorum shall be required to conduct and make decisions at all officially called business meetings of the Board of Directors. A quorum is defined as the presence of the majority of officially appointed and elected members of the Board of Directors at the Board meeting.” (AA 468.)

C. The June 14, 2021 Board Meeting

Bethesda’s Board of Directors held a duly noticed meeting on June 14, 2021, with at least seven of the Board’s twelve members in attendance. (AA 371-374; RT 87:21-25.) Members in attendance included Chairman Kyung Moon Kim (“Chairman Kim”), Seungje Cho, Yong Jun Kim, Yong Woo Choi, Byeong Cho Yang, Kyung Hwan Ko, and Soon Bum Heo. (AA 373-374.) Absent members included Yu Chul Chin and Han Yeh Chang. (*Id.*; AA 356, 370.)

During the meeting, six new board members were nominated, of which four were Presbyterian rather than Pentecostal. (AA 373, 479-497.) Bethesda had never previously had a non-Pentecostal board member, and its governing documents required that board members adhere to the Pentecostal faith. (RT 100:3-18, 127:18-24; AA 357, 367-369, 459-461, 467.)¹ Yet, Mr. Cho told the members in attendance—falsely—that Bethesda’s accrediting agency, the Transnational Association of Christian Colleges and Schools (“TRACS”), required Bethesda to include a diversity of denominations in its leadership. (RT 54:4-9

1. While two witnesses testified that Bethesda had never had a non-Pentecostal board member, Mr. Cho testified that he could recall a single non-Pentecostal member who was promptly removed from the Board. (RT 55:1-56:4.)

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["I said its [TRACS] that requires diversity..."]; RT 126:24-127:9 ["President Seungje Cho said that since Bethesda University is a nonprofit corporation, it was wrong to have the board of directors constituted only by the full gospel members. So at his request, Presbyterian pastors were brought in."]; AA 309 ["[Mr. Cho] told them that the accreditation agency for theology schools (TRACS) required [diversity of denominations]."])

As a result of this misrepresentation, the Board voted to elect the six new members, including four Presbyterians who did not adhere to the Pentecostal faith and were therefore ineligible to sit on the Board under the governing documents. (AA 373, 357, 367-369, 459-461, 467, 479-486, 492-493.) The four new non-Pentecostal members were Eric Choi, Kwon [Gwon] Tae Kim, Myung Ho Seo, and Dong Hwan Choi. (AA 373, 479-486, 492-493.)

The two new Pentecostal members included Chi Tae Chung and Appellant Pan-Ho Kim. (AA 373.) Following the board meeting, one member—Eun Jin Chang—resigned from the Board. (*Id.*)

Following the June 14, 2021 meeting, the Board contained 13 undisputed members and four disputed Presbyterian members:

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Board of Directors – June 14, 2022	
Position	Name
Chairman	Kyung Moon Kim
President	Seungje Cho
Member	Yu Chul Chin
Member	Myung Woo Choi
Member	Ho Yun Jun
Member	Yong Jun Kim
Member	Yong Woo Choi
Member	Byeong Cho Yang
Member	Han Yeh Chang
Member	Kyung Hwan Ko
Member	Soon Bum Heo
Newly-Elected Member	Pan-Ho Kim
Newly-Elected Member	Chi Tae Chung
<i>Disputed Member</i>	Kwon Tae Kim
<i>Disputed Member</i>	Myung Ho Seo
<i>Disputed Member</i>	Dong Hwan Choi
<i>Disputed Member</i>	Eric Choi

(AA 370.)

D. The 2022 Board Meetings

Bethesda's legitimate Board of Directors—the Kim Board—held a series of board meetings in the first half of 2022 to remove the non-Pentecostal members from the

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Board and to elect new members. Mr. Cho and his rogue faction—the “Cho Board”—sought to disrupt and boycott these meetings in order to deny a quorum, then held an improperly-noticed and illegal board meeting designed to seize control of Bethesda. These key meetings are as follows:

February 19, 2022 Board Meeting. Chairman Kim intended to have a board meeting in January 2022 to address the issue of non-Pentecostal members on the Board. (RT 128:5-22.) Mr. Cho asked to postpone the meeting so that he could attend in person. (RT 128:23-129:6.) Chairman Kim noticed the board meeting on January 12, 2022, and it was held on February 19, 2022. (AA 380.) But the meeting was disrupted by Mr. Cho and the Presbyterian board members, who objected to the presence of Bethesda’s then-counsel and refused to allow the meeting to proceed. (RT 130:19-9; 134:4-16, AA 380.)

April 9, 2022 Board Meeting. On March 18, 2022, Chairman Kim notified the other board members of a meeting to be held on April 9, 2022. (AA 388.) The agenda items included discussion of the June 14, 2021 board member elections. (*Id.*) Eight board members attended the April 9, 2022 meeting: Chairman Kim, Han Yeh Chang, Yu Chul Chin, Ho Yun Jun, Yong Jun Kim, Yong Woo Choi, Pan-Ho Kim and Byeong Cho Yang. (AA 391.) Mr. Cho, the four non-Pentecostal members, and other Cho Board members refused to attend. (AA 391-392.)

According to the meeting minutes, the Board discussed the issue of having non-Pentecostal board

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members, who were ineligible to serve as board members under the By-Laws:

Chairman Kim advised that the Board should vote on whether to void the appointment of 6 directors appointed on June 14, 2021 due to several defects including invalid procedures and that they do not subscribe to the theology consistent with Bethesda University as is required of all board members pursuant to the Bylaws.

(AA 391.) The board members present (with the exception of Pan-Ho Kim, who abstained), voted to “confirm that the election of the 6 directors was void and of no effect.” (AA 391-392.) As a result, the legitimate Board consisted of eleven members: Chairman Kim, Mr. Cho, Yu Chul Chin, Myung Woo Choi, Ho Yun Jun, Yong Jun Kim, Yong Woo Choi, Byeong Cho Yang, Han Yeh Chang, Kyung Hwan Ko, and Soon Bum Heo. (AA 392.)

Board of Directors – April 9, 2022	
Position	Name
Chairman	Kyung Moon Kim
President	Seungje Cho
Member	Yu Chul Chin
Member	Myung Woo Choi
Member	Ho Yun Jun
Member	Yong Jun Kim

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Member	Yong Woo Choi
Member	Byeong Cho Yang
Member	Han Yeh Chang
Member	Kyung Hwan Ko
Member	Soon Bum Heo
Newly-Elected Member	Pan-Ho Kim
Newly-Elected Member	Chi Tae Chung
Disputed Member	Kwon Tae Kim
Disputed Member	Myung Ho Seo
Disputed Member	Dong Hwan Choi
Disputed Member	Eric Choi

(AA 370, 373, 392.)

April 30, 2022 Board Meeting. On April 9, 2022, Chairman Kim properly gave notice that the next board meeting would occur on April 26, 2022. (AA 392, AA 405.) The agenda included the reelection of current board members and the appointment of new board members. (AA 405.) On April 14, 2022, at Chairman Kim’s direction, then-counsel for Bethesda provided updated notice that the board meeting was being postponed to April 30, 2022. (AA 408)

Seven of the eleven legitimate board members attended the April 30 board meeting, giving the Board a quorum. (AA 410.) Mr. Cho and the other members of the “Cho Board” once again refused to attend. (*Id.*) During the meeting, the Board elected six new members: Pan-Ho

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Kim, Seon Wook Hwang, Young Hoon Lee, Seung Hyun Moon, Chun Soo Kim, and Min Je Cho. (AA 411.)

Following the April 30 board meeting, the Board consisted of 17 members:

Board of Directors – April 30, 2022	
Position	Name
Chairman	Kyung Moon Kim
President	Seungje Cho
Member	Yu Chul Chin
Member	Myung Woo Choi
Member	Ho Yun Jun
Member	Yong Jun Kim
Member	Yong Woo Choi
Member	Byeong Cho Yang
Member	Han Yeh Chang
Member	Kyung Hwan Ko
Member	Soon Bum Heo
Newly-Elected Member	Pan-Ho Kim
Newly-Elected Member	Seon Wook Hwang
Newly-Elected Member	Young Hoon Lee
Newly-Elected Member	Seung Hyun Moon
Newly-Elected Member	Chun Soo Kim
Newly-Elected Member	Min Je Cho

(AA 410-411.)

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May 27, 2022 Meeting. On May 24, 2022, members of the Cho Board provided untimely and improper notice that a regular board meeting would be held just three days later, on May 27, 2022. (AA 431.) Per the By-Laws, regular board meetings must be calendared at the first board meeting of the year, and special board meetings need to be called by the Chairman of the Board with at least two weeks' notice. (AA 467-468.) The agenda of the May 27 meeting included the appointment of new directors. (AA 431.) Seven members of the "Cho Board" attended the May 27 meeting: Mr. Cho, Kyong Hwan Ko, Soon Bum Heo, Chi Tae Chung, and the four non-Pentecostal members: Myung Ho Seo, Kwon Tae Kim, Dong Hwan Choi, and Eric Choi. (AA 434.) Of the seven attendees, five had been removed from Bethesda's Board of Directors during the April 9, 2022 board meeting. (AA 391-392.)

During the May 27 meeting, Mr. Cho and the other attendees purported to elevate current board member Soon Bum Heo to chairman of the board, even though Mr. Heo was still a student at the University. (AA 435; RT 101:3-103:13) The "Cho Board" also purported to reelect Mr. Cho and elect a new board member: Beom Kyun Sohn. (AA 436) Finally, the "Cho Board" voted to void the minutes of the April 9 meeting. (*Id.*)

June 2, 2022 Board Meeting. On May 12, 2022, Chairman Kim notified the other board members that a meeting would be held June 2, 2022. (AA 426-427.) The agenda included the re-election of the officers of the Board of Directors. (*Id.*) Thirteen board members attended the June 2 meeting, including the six members who were

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newly elected at the April 30 meeting. (AA 443.) Once again, Mr. Cho and his allies on the “Cho Board” refused to attend. (*Id.*)

The Board reelected seven board members to new three-year terms: Chairman Kim, Ho Yun Jun, Yong Woo Choi, Han Yeh Chang, Yong Jun Kim, Yu Chul Chin, and Byeong Cho Yang. (AA 443-444.) In addition to continuing his board role, Pan-Ho Kim was elected as Mr. Cho’s successor as president of Bethesda University. (*Id.*) The Board declined to reelect Myung Woo Choi or Kyung Hwan Ko, thus ending their terms as board members. (AA 444) In addition, the Board voted to remove Mr. Cho from the Board for insubordination, refusal to attend board meetings, and attempts to hold illegal board meetings. (*Id.*) The Board also voted to remove board member Soon Bum Heo for the same reasons. (*Id.*)

As a result of the above meetings, by early June 2022 there were now two competing boards that both claimed to be the legitimate governing body of Bethesda University: the Kim Board and the “Cho Board”:

Position	Kim Board	“Cho Board”
Chairman	Kyung Moon Kim	Soon Bum Heo
President	Pan-Ho Kim	Seungje Cho
Member	Ho Yun Jun	Eric Choi
Member	Yong Woo Choi	Beom Kyun Sohn
Member	Han Yeh Chang	Chi Tae Chung
Member	Yong Jun Kim	Yong Jun Kim

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Member	Yu Chul Chin	Yu Chul Chin
Member	Byeong Cho Yang	Byeong Cho Yang
Member	Young Hoon Lee	Myung Ho Seo
Member	Sun Wook Hwang	Kwon Tae Kim
Member	Seung Hyun Moon	Kyong Hwan Ko
Member	Samuel Minje Cho	Dong Hwan Choi
Member	Chun Soo Kim	Pan-Ho Kim

(AA 410, 434-436, 443-444.)

Yet only one of these competing boards—the Kim Board—was the legitimate Board of Directors in charge of Bethesda University. (AA 443.) The Kim Board continued to govern Bethesda from June 2022 until the superior court’s Orders handed control to the “Cho Board” in April 2023. (AA 451, 452, 454-455, 303.)

E. The Proceedings Below

On August 19, 2022, Respondents filed a complaint on behalf of Bethesda University against Chairman Kyung Moon Kim and members of the Kim Board for fraudulent deceit and breach of fiduciary duty. (AA 10-22.) Appellants thereafter filed a cross-complaint on November 15, 2022 requesting a hearing under Corporations Code section 9418 to determine the proper leadership of Bethesda University. (AA 23-26.) The Cross-Complaint sought a confirmation that Chairman Kim was the proper chairman, a determination that the meetings conducted by the “Cho Board” were invalid, and injunctive relief to

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prevent Respondents from using Bethesda University's trademark or holding themselves out as directors. (AA 26.)

The superior court scheduled an evidentiary hearing, and the parties subsequently filed pre-trial briefs. (AA 28-39, 84-93.)

On December 20, 2022, the superior court conducted an evidentiary hearing on Appellants' single cause of action for a hearing pursuant to Corporations Code section 9418. (RT 6; AA 302.) At the outset of the hearing, the parties stipulated to the admission of 28 exhibits, a list of which was filed with the court. (RT 11:10-13:3; AA 108-110.) The parties collectively called five witnesses: Kyung Moon Kim, Seungje Cho, Esther Cho, Kwon Tae Kim, and Kyong Hwan Ko. (RT 2.)

The parties filed closing briefs on January 23, 2023. (AA 114-138, AA 268-286.)

F. The Superior Court's Decision

On March 27, 2023, the superior court issued a Minute Order, ruling as follows:

1. "[T]he [June 14, 2021] election that brought the Board to 17 members was properly held and is valid";
2. "[N]othing in the Constitution and By-Laws prevents a 'Protestant' minister, or someone not of the Pentecostal faith, from serving on the Board";

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3. “[T]here is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board”;
4. “[T]he special meetings brought to remove the Protestant ministers from the Board were not properly noticed under the provisions of the Constitution and By-Laws and are therefore invalid”; and
5. “[T]he Trustee Handbook cannot supersede the rules as stated in the Constitution and By-Laws.”

(AA 299.)

On April 6, 2023, Appellants timely filed a Notice of Appeal with respect to the superior court’s March 27 Minute Order pursuant to Code of Civil Procedure § 904.1(a)(6). (AA 300.)

On April 7, 2023, the superior court signed an Order Re Determination of Validity of Election of Board of Directors of Bethesda University, Pursuant to Corp. Code, § 9418. Therein, the superior court held that:

1. “The ‘Cho Board’ . . . is the legitimate and governing Board of Directors of Bethesda University. . . . The [June 14, 2021] election that brought the Board to 17 members was properly held and is valid”;

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2. “The current composition of the Board is as follows: Seung Je Cho, Kyong Hwan Ko, Soon Bum Heo, Chi Tae Chung, Kwon Tae Kim, Myung Ho Seo, Dong Hwan-Choi, Eric Choi, Bum Kyu Son, Yoo-Choel Jin, Yong-Joon Kim, Byung-Cho Yang, and Pan Ho Kim”;
3. “The current president of the Board is Seung Je Cho”;
4. “Nothing in the Constitution and By-Laws prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board”;
5. “There is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board”; 27
6. “The special meetings brought by the Kim Board to remove the Protestant ministers from the Board were not properly noticed under the provisions of the Constitution and By-Laws and therefore invalid”;
7. “The Trustee Handbook cannot supersede the rules as stated in the Constitution and By-Laws”; and
8. “The Cho Board of Bethesda University is to retain an attorney to draft a workable

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Constitution, By-Laws, and/or other governing documents that spell out the rules and regulations that will govern it in the future. The current aspirational set of rules is all but unworkable in those situations where there is a true conflict between competing factions.”

(AA 303-304.) The superior court further indicated that the order “will become effective on 12 noon of 10 April 2023.” (AA 304.)

Accordingly, Appellants timely filed a notice of Appeal of the April 7 Order that same day, on April 7, 2023. (AA 315.)

On April 10, 2023, Appellants filed an *ex parte* application for a stay pending appeal, which was promptly denied by the trial court. On April 17, 2023, Appellants filed a petition for writ of supersedeas in this superior court seeking a temporary stay. (*See* April 17, 2023 Petition for Writ of Supersedeas.) The petition was granted in part and denied in part. This Court stayed the trial court’s order requiring Respondents to draft new governing documents, but declined to stay the trial court’s order placing the “Cho Board” in charge of Bethesda University. (*See* May 16, 2023 Order.)

STATEMENT OF APPEALABILITY

As this Court previously recognized, the superior court’s Orders resulted a prohibitory injunction placing the “Cho Board” in charge of Bethesda University. (*Id.*)

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The Orders are therefore appealable under Code of Civil Procedure § 904.1(a)(6).

STANDARD OF REVIEW

“When the trial court’s resolution of a question of law is challenged, its legal conclusion is reviewed de novo.” (*Vosburg v. Cnty. of Fresno* (2020) 54 Cal.App.5th 439, 460.) “Constitutional issues are always reviewed de novo.” (*Vo v. City of Garden Grove* (2004) 115 Cal.App.4th 425, 433.) When reviewing constitutional issues de novo, the reviewing court “exercises its independent judgment, without deference to the trial court’s ruling.” (*California Assn. of Retail Tobacconists v. State of California* (2003) 109 Cal.App.4th 792, 807; see also *DVD Copy Control Assn., Inc. v. Bunner* (2003) 31 Cal.4th 864, 889 [“Facts that are germane to [a] First Amendment analysis must be sorted out and reviewed de novo, independently of any previous determinations by the trier of fact.”] [internal quotation marks and citations omitted].)

The superior court’s interpretation of the By-Laws and the Trustee Handbook is also reviewed de novo. (See *Bear Creek Master Assn. v. S. California Invs., Inc.* (2018) 28 Cal.App.5th 809, 819 29

[“Contractual provisions are interpreted de novo where, as here, their interpretation turns solely on the language of the provisions and does not involve the credibility of any evidence extrinsic to the provisions”]; *Concord Christian Ctr. v. Open Bible Standard Churches* (2005) 132 Cal.App.4th 1396, 1408 [“To the extent our determination . . . depends on the judicial interpretation of

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the articles of incorporation, bylaws, and other governing documents [of a religious organization] we must apply neutral principles of law de novo.”.)

ARGUMENT**I. UNDER THE ECCLESIASTICAL ABSTENTION DOCTRINE, THE SUPERIOR COURT LACKED JURISDICTION TO DECIDE BETHESDA’S LEADERSHIP**

The Establishment Clause of the First Amendment strictly limits the jurisdiction of civil courts to intrude on sacrosanct religious matters. Disregarding these limitations, the superior court decided that non-Pentecostal individuals may serve on Bethesda’s Board of Directors. Appellants repeatedly objected to the inclusion of four Presbyterian members on the Board—a circumstance that arose only due to Respondent Seungje Cho’s fraudulent inducement, as discussed in Section II—yet the superior court brushed aside these concerns and decided, erroneously, that it could dictate Bethesda’s religious leadership. This was a violation of the ecclesiastical abstention doctrine and mandates reversal of the Orders below due to lack of subject matter jurisdiction.

A. The First Amendment Prohibits Civil Courts From Resolving Doctrinal Issues

The First Amendment of the United States Constitution provides in pertinent part that “Congress shall make no law respecting an establishment of religion, or prohibiting

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the free exercise thereof...” (U.S. Const., 1st Amend.) The due process clause of the Fourteenth Amendment has been held to incorporate the guarantees of the First Amendment, thereby limiting the powers of the states. (See *Everson v. Board of Ed. of Ewing Tp.* (1947) 330 U.S. 1, 14-15; *Episcopal Church Cases* (2009) 45 Cal.4th 467, 479 fn. 2.)

Article I, section 4 of the California Constitution similarly states: “Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.”

Consistent with these constitutional rights, courts abstain from interfering in ecclesiastical matters. “[W]hen rival church factions seek resolution of a church property dispute in the civil courts there is substantial danger that the State will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrinal beliefs. Because of this danger, the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes.” (*Serbian E. Orthodox Diocese for U.S. of Am. & Canada v. Milivojevich* (1976) 426 U.S. 696, 709 (internal quotation marks omitted).)

While state courts are permitted to resolve property disputes under “neutral principles of law,” “secular courts must not entangle themselves in disputes over church

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doctrine or infringe on the right to free exercise of religion.” (*Diocese of San Joaquin v. Gunner* (2016) 246 Cal.App.4th 254, 268.) “[I]f the dispute does not involve the ownership of property—if it concerns issues such as church doctrine, membership, credentials of clergy, discipline of clergy and members, or church governance and organization—the matter is to be left to internal decision-making processes of the church itself.” (*Schofield v. Superior Ct.* (2010) 190 Cal.App.4th 154, 162; *Episcopal Church Cases* (2009) 45 Cal.4th 467, 473 [“State courts must not decide questions of religious doctrine; those are for the church to resolve.”].)

Accordingly, “the First Amendment does not permit a civil court to determine [a] religious leader,” *Samuel v. Lakew* (D.C. 2015) 116 A.3d 1252, 1261 (citation omitted), or to settle disputes over “church polity” or “administration,” *Milivojevich*, 426 U.S. at 710. “[Q]uestions of . . . church hierarchy are at the core of ecclesiastical concern,” *id.* at 717, and religious entities must have “autonomy with respect to internal management decisions” bearing on their “mission,” *Our Lady of Guadalupe Sch. v. Morrissey-Berru* (2020) 140 S. Ct. 2049, 2060. (See also *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC* (2012) 565 U.S. 171, 188 [courts cannot “interfere[] with the internal governance of the church”].) Thus, if “the identity of the governing body or bodies that exercise general authority within a church is a matter of substantial controversy, civil courts are not to make the inquiry[.]” (*Maryland & Virginia Eldership of Churches of God v. Church of God at Sharpsburg, Inc.* (1970) 396 U.S. 367, 369 [Brennan, J., concurring]; *Jones v. Wolf* (1979) 443 U.S.

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595, 605 [if “locus of control” is “ambiguous,” locating it would involve “impermissible inquiry into church polity”] [citation omitted].) “Ecclesiastical abstention . . . provides that civil courts may not redetermine the correctness of . . . some decision relating to government of the religious polity. Rather, we must accept as a given whatever the entity decides.” (*Paul v. Watchtower Bible & Tract Soc. of New York, Inc.* (9th Cir. 1987) 819 F.2d 875, 878 n.1.)

California courts, consistent with federal courts, lack subject matter jurisdiction to decide doctrinal issues or issues of faith. “If the problem was whether the pastor was preaching a theology contrary to the denominational doctrine or conducting religious services in a manner out of harmony with the ritual of the church, it would clearly not be within the province of a court to interfere, and the controversy would have to be settled by the church tribunals.” (*Singh v. Singh* (2004) 114 Cal.App.4th 1264, 1277–78, quoting *Providence Baptist Church of San Francisco v. Superior Ct. in & for City & Cnty. of San Francisco* (1952) 40 Cal.2d 55, 63.)

Non-church entities, including educational institutions, have successfully invoked the ecclesiastical abstention doctrine to protect their own religious beliefs, practices and missions. (See, e.g., *Garrick v. Moody Bible Inst.*, (N.D. Ill. 2019) 412 F.Supp.3d 859, 868-69 [educational institution]; *Hubbard v. J Message Grp. Corp.* (D.N.M. 2018) 325 F.Supp.3d 1198 [nonprofit organization]; *Klouda v. Southwestern Baptist Theological Seminary* (N.D. Tex. 2008) 543 F.Supp.2d 594, 611 [seminary president].) That is because the doctrine focuses on the “subject-matter of

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[the] dispute,” not the identity of the parties. (*Watson v. Jones* (1871) 80 U.S. 679, 733.)

Here, this case directly turns on the ability of a religious institution—Bethesda University—to impose religious requirements on board members who are responsible for directing its religious and pedagogical mission. This is a core concern of ecclesiastical abstention, and not an issue that can be adjudicated through “neutral principles of law.” The superior court’s failure to abstain from interfering with and determining the appropriate religious qualifications of the leadership of Bethesda University represents a clear departure from settled precedents.

B. The Superior Court Unconstitutionally Determined The Religious Leadership Of Bethesda University

Disregarding longstanding First Amendment principles, the superior court nonetheless became “entangled in [an] essentially religious controvers[y] [and] intervene[d] on behalf of groups espousing particular doctrinal beliefs.” (*Milivojevich*, 426 U.S. at 709.) The superior court determined that the governing board of Bethesda University, a Pentecostal institution, may not void the election of non-Pentecostal board members. (AA 299, 303.) This ruling deprived Bethesda of “autonomy with respect to internal management decisions.” (*Our Lady of Guadalupe*, 140 S. Ct. at 2060.) The Orders violate the Establishment Clause and should be reversed.

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It is undisputed that four of the six board members elected during the June 14, 2021 board meeting were Presbyterian, not Pentecostal. (AA 131, 309, 479-486, 492-493.) It is also undisputed that this fundamental doctrinal issue—adherence to a faith other than Pentecostalism—was the reason the majority of the other members of the Board voted to void their elections in April 2022. (AA 391 [proposing vote to “void the appointment of 6 directors appointed on June 14, 2021 due to several defects including . . . that they do not subscribe to the theology consistent with Bethesda University as is required of all board members pursuant to the Bylaws”]; AA 33 [Cho Board Trial Brief] [describing the Cho Board’s decision to disassociate from the Board as a “schism”]; RT 127:25-128:22.)

Although Appellants did not specifically argue the issue of ecclesiastical abstention prior to the trial court issuing its Orders, Appellants raised the underlying doctrinal dispute in their pre-trial brief (AA 87-88), during the evidentiary hearing in December 2022 (RT 16:14-18:19, RT 127:13-128:22), and in their closing brief (AA 270-271). Moreover, this issue cannot be waived. “The lack of subject matter jurisdiction cannot be waived and may be raised at any time, even for the first time on appeal.” (*All. for Cal. Bus. v. State Air Res. Bd.* (2018) 23 Cal.App.5th 1050, 1060.) There is thus no merit to an argument that Appellants waived the issue of ecclesiastical abstention in the lower court.

Moreover, Respondents acknowledged these constitutional issues in their closing brief, arguing that

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the superior court could not “adjudicate ecclesiastical matters” including the specific issue of whether the four Presbyterian individuals were “Pentecostal enough” to sit on Bethesda’s Board of Directors. (AA 133-135.) The superior court was therefore well aware of the doctrinal dispute and the relevant law. The court should have considered, *sua sponte*, whether it had subject matter jurisdiction to determine whether the Presbyterians members were eligible to sit on Bethesda’s Board—an inquiry that would have necessarily led the court to determine that fundamental First Amendment principles enshrined in the Constitution and case law required ecclesiastical abstention.

Instead, the superior court disregarded these constitutional questions entirely, and ruled that “[n]othing in the Constitution and By-Laws prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board.” (AA 299, 303.) Not only has the superior court deprived Bethesda of “autonomy” in selecting its own religious leadership, but its decision gives the Cho-aligned Presbyterian board members effective control over Bethesda University now and into the future. Such an affront to the Establishment Clause of the First Amendment cannot stand.

C. Bethesda’s Governing Documents Require Board Members To Adhere To Pentecostal Faith

The superior court improperly made a determination, based on its misinterpretation of the governing documents, that it was permissible for four non-Pentecostal members

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to become a *swing voting bloc* dictating future control of Bethesda University. In doing so, the superior court disregarded evidence establishing that no such noncompliant director had ever served in the history of Bethesda. Furthermore, purported installation of any such director betrays the religious mission of the University and the University's By-Laws.

In the March 27 order, the trial court incorrectly held that the religious requirements set forth in the By-Laws were merely “aspirational” and not mandatory:

Most of the sections dealing with the qualifications of Board members are aspirational. They do not state, for example, that Directors must possess a certain graduate degree. Nor do they impose a requirement that the Directors only be of the Pentecostal faith, or that they execute the Statement of Faith as a condition of being elected to the Board. The qualifications sections deal almost exclusively with potential members and what Bethesda University is looking for in a Board Member and Director.

(AA 298, 313.)

The superior court therefore concluded that “[n]othing in the Constitution and By-Laws prevents a ‘Protestant’ minister, or someone not of the Pentecostal faith, from serving on the Board” and “[t]here is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board[.]” (AA 299, 303.)

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Purely as a matter of contract interpretation, the superior court committed error. As demonstrated by the excerpts that the superior court quoted in its Orders, as well as the provisions that it did not reference, the By-Laws and the Trustee Handbook explicitly require that board members will adhere to and support Pentecostal theology and sign a Statement of Faith. For example, Article II of the By-Laws, titled “Purpose,” states that “To fulfill its mission, Bethesda University is committed to the following goal[]: Understand theology and society through a *Pentecostal* Evangelical perspective.” (AA 458-459 [emphasis added].) Article III, Section I states that Board members “will . . . [s]upport and promote the mission, philosophy, policies, and standards of [the University].” (AA 459.) Under “Board of Directors Qualifications,” the By-Laws state, in relevant part: “Emphasis is placed on those who have been involved in Christian ministry exhibiting a *theology consistent with the theological position of [Bethesda]*. This will be evidenced by their agreement to *sign the [Bethesda] Statement of Faith*.” (AA 460 [emphasis added].) Under “Policies and Procedures for the Election of Board Members,” the By-Laws state, in relevant part: “All potential Board members must meet the following general requirements . . . They must *demonstrate a commitment to the [Bethesda] Statement of Faith*.” (AA 461 [emphasis added].) The Trustee Handbook, which Respondents conceded was one of the governing documents of Bethesda University (AA 12, AA 31), contain similar doctrinal requirements for board members. (AA 357, 367-369.) In short, the plain language of the governing documents forecloses the superior court’s conclusion.

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Moreover, as indicated earlier, Bethesda was founded by Yoido Full Gospel Church, the largest megachurch in South Korea. (RT 30:2-31:23, 127:10-12.) In light of the inter-relationship between Yoido and Bethesda, it is clear that “a theology consistent with the theological position of [Bethesda]”—founded by the *leading* Pentecostal church in the world that adheres strictly to furthering Pentecostal principles and values—necessarily must fully embrace and further the Pentecostal denomination. As Chairman Kim testified, “[Bethesda] is a seminary school that teaches Pentecostal theology to the student. So having other denomination directors would not be suitable for a Pentecostal theological school.” (RT 128:9-12.) 39

Even if the By-Laws and the Trustee Handbook were ambiguous or silent on the issue, which they are not, the superior court should have deferred to Bethesda’s religious autonomy on the question of religious leadership. If Bethesda were a church or synagogue instead of a Christian university, no court would question the notion that the institution may mandate that its leaders adhere to a prescribed faith.

Evidence outside the governing documents confirms that Bethesda requires its board members to be Pentecostal. “[U]nder California law, the “bylaws” of a religious corporation can include more than just a document bearing that title. . . . [T]he Religious Corporation Law is designed specially to permit bylaws of a religious corporation to include other types of rules and regulations to be found in various religious documents such as canons, constitutions, or rules of other religious

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bodies; church traditions if sufficiently ascertainable; rules of a religious superior; and similar sources.” (*Metro. Philip v. Steiger* (2000) 82 Cal.App.4th 923, 932 [citation omitted].)

Here, the “traditions” of Bethesda, as revealed during the evidentiary hearing, confirm Appellants’ interpretation. Mr. Kim testified that “over the 30-plus years since Bethesda University was founded, there has never been an occasion when a Presbyterian member or pastor was ever brought into [the] Bethesda University Board as a director.” (RT 127:20-24.) Esther Cho, the vice president of Bethesda University, testified that she had “never” heard of any board members being anything other than Pentecostal in her 19 years at the University. (RT 100:3-18.) Even Respondent Cho testified that there was only one instance when there was a non-Pentecostal Board member before 2021, conceding that such member had been promptly removed from the Board. (RT 55:1-56:4.)

Under “neutral principles of law” the superior court could have properly adjudicated the question of whether the contested board members had fulfilled the requirements set forth in the By-Laws by signing the Statement of Faith. The court simply avoided this straightforward evidentiary issue by deciding, contrary to the plain, controlling language cited above, that “[t]here is no requirement in the Constitution and By-Laws that a Board member sign a Statement of Faith to become, or remain, a member of the Board[.]” (AA 299, 303.) Tellingly, during the evidentiary hearing, Respondents failed to produce any evidence establishing that the Presbyterian board members had ever signed the Statement of Faith,

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nor have Respondents argued that they did so in any of their briefs. (AA 28-39, 114-138.) By declining to take any cognizance of this dispositive issue, the superior court either second-guessed the judgment made by Bethesda's religious leadership or else disregarded a neutral principle spelled out in the By-Laws and the Trustee Handbook. Neither course of action is consonant with settled First Amendment law.

The superior court erred in disregarding the governing documents in a way that is contrary to the clearly stated religious mission of Bethesda, the plain dictates of its By-Laws and Trustee Handbook, and the prior practices of the University. Had the superior court properly abstained from intruding upon Bethesda's religious governance and second-guessing its implementation of its governing documents, the superior court would have deferred to the controlling Kim Board's straightforward determination in April 2022 that the four Presbyterian members were not eligible members of the Board. This error on an issue of First Amendment law necessitates reversal of the Orders below.

II. THE SUPERIOR COURT DISREGARDED EVIDENCE ESTABLISHING THAT CHO FRAUDULENTLY INDUCED THE ELECTION OF FOUR NON-PENTECOSTAL MEMBERS IN JUNE 2021

Even if the superior court had subject matter jurisdiction to decide the validity of the June 2021 election pursuant to "neutral principles of law," *Singh*, 114 Cal.App.4th at 1278, (it did not), the superior court

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erred by disregarding evidence that the election of four non-Pentecostal members in June 2021 was a result of fraudulent inducement. The superior court’s ruling affirming the validity of the June 2021 election is legally erroneous and unsupported by the evidence, and should be reversed.

As the evidence established, Mr. Cho fraudulently induced the Board into voting in four, non-Pentecostal members by misrepresenting that Bethesda’s accrediting agency, TRACS, required diversity of denominations. (RT 54:4-9 [“I said its [TRACS] that requires diversity..”]; RT 126:24-127:9 [“President Seungje Cho said that since Bethesda University is a nonprofit corporation, it was wrong to have the board of directors constituted only by the full gospel members. So at his request, Presbyterian pastors were brought in.”].) In fact, TRACS has since stated the exact opposite in writing—that there was no such requirement. (AA 288.) The superior court acknowledged Mr. Cho’s false statement, writing “[Cho] told [the Board] the accreditation agency for theological schools (TRACS) required [diversity of denominations].” (AA 294.) But the court improperly failed to address Appellants’ arguments that this constituted fraudulent inducement.

“To establish a claim for fraudulent misrepresentation, the plaintiff must prove: ‘(1) the defendant represented to the plaintiff that an important fact was true; (2) that representation was false; (3) the defendant knew that the representation was false when the defendant made it, or the defendant made the representation recklessly and

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without regard for its truth; (4) the defendant intended that the plaintiff rely on the representation; (5) the plaintiff reasonably relied on the representation; (6) the plaintiff was harmed; and (7) the plaintiff's reliance on the defendant's representation was a substantial factor in causing that harm to the plaintiff.” (*Graham v. Bank of America, N.A.* (2014) 226 Cal.App.4th 594, 605–606 [citing *Perlas v. GMAC Mortgage, LLC* (2010) 187 Cal. App.4th 429, 434]; *cf.* Cal. Elec. Code § 18500 [“Any person who commits fraud or attempts to commit fraud . . . in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony[.]”].)

Each of the above elements is met here: (1) Mr. Cho represented to Appellants that TRACS required the Board to have non-Pentecostal members (RT 54:4-9, 126:24-127:9); (2) that representation was in fact false, as confirmed by TRACS (AA 288); (3) Mr. Cho knew that the representation was false or made the representation recklessly and without regard for its truth (RT 54:4-26; (4) Mr. Cho intended that Appellants rely on the representation (RT 126:24-127:9); (5) Appellants reasonably relied on the representation when voting to elect the four Presbyterian members (*Id.*); (6) Appellants were harmed (RT 127:2-128:19); and (7) Appellants' reliance on Mr. Cho's representation was a substantial factor in causing that harm (*Id.*).

This argument was properly preserved for appeal. In their trial brief, Appellants argued that “[t]he reason [the Presbyterian members] were elected at the time was because Mr. Cho stated that it was required that

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denominations be mixed pursuant to non-profit laws in California so the board members trusted what he was saying—although later they realized it was not true and there is no requirement that a Full Gospel organization must have other denominations on the governing board.” (AA 88 n. 6.)

At the evidentiary hearing, Seungje Cho admitted that he said “TRAC (sic) requires diversity[.]” (RT 54:4-9.) Chairman Kyung Moon Kim testified that other members relied upon Mr. Cho’s assertion: “Seungje Cho said . . . it was wrong to have the Board of Directors constituted only by the Full Gospel members. So at his request, Presbyterian pastors were brought in.” (RT 126:24-127:9.) In their closing brief, Appellants argued that Mr. Cho made false statements regarding TRACS accreditation to secure the election of non-Pentecostal members. (AA 271, 280, 286).

The superior court acknowledged Mr. Cho’s false statement in its March 27 Order: “Cho denied telling the Board prior to the vote that California law required diversity of denominations. *Rather, he told them the accreditation agency for theological schools (TRACS) required it.*” (AA 294 [emphasis added].) Yet, the superior court failed to address this dispositive issue despite evidence establishing that Mr. Cho fraudulently induced the other board members. Instead, the superior court’s Orders somehow conclude that the June 14, 2021 election, which grew the Board to seventeen members and added four Presbyterian members, was “properly held and is valid.” (AA 299, 303.) Because the superior court’s ruling is unsupported by the evidence, it should be reversed.

*Appendix E***III. THE SUPERIOR COURT ERRED AS A MATTER OF LAW IN ITS RULINGS REGARDING THE 2022 BOARD MEETINGS**

The superior court committed further reversible error when it held that (i) the April 2022 and June 2022 board meetings held by the Kim Board were improperly noticed while (ii) the May 2022 meeting held by the “Cho Board” was valid. (AA 299, 303.) Had the trial court properly applied the law to the facts presented, it would have determined that the Kim Board meetings were properly noticed and had a quorum of legitimate members, while the “Cho Board” meeting was improperly noticed and lacked a quorum.

A. The April 2022 and June 2022 Board Meetings Were Properly Noticed

The superior court erred in holding that the April 2022 Board meetings that removed the non-Pentecostal members “were not properly noticed . . . and therefore invalid.” (AA 299, 303.)

First, the superior court misinterpreted the notice provisions of the By-Laws. The By-Laws set forth the notice procedures for regular and special meetings. “The regular meetings of the Board of Directors shall be held at least two times annually. These meetings shall be calendared annually at the first meeting of the year.” (AA 467.) “Special meetings shall be called by the Board Chair in consultation with the President. Two weeks [sic] notice must be given for a specially called meeting.” (AA 467-468.)

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There is no evidence that any of the at-issue meetings in 2022 were regular meetings, as no additional meetings were calendared during the first meeting of the year (the February 19, 2022 meeting). (AA 380.) Accordingly, each of the meetings at issue were “special” meetings, and would have to be called “by the Board Chair” with two weeks’ notice. (AA 467-468.) These requirements were plainly met for each of the meetings the Kim Board held (April 9, 2022, April 30, 2022, and June 2, 2022), as the stipulated evidence shows that Chairman Kim provided notice at least two weeks in advance. (AA 388, 405, 408, 426-427.) The superior court abused its discretion in determining that notice was lacking; no evidence so proves.

Second, Respondents never argued—in their trial brief, during the evidentiary hearing, or in their closing brief—that any of the Kim Board meetings were improperly noticed. Not a single witness at trial testified that notice was lacking. Appellants, meanwhile, repeatedly challenged the insufficient notice of the May 27 Meeting. (AA 90, 93, 270, 274-275, 285.) The superior court erred in contradicting the undisputed fact that the April and June 2022 meetings were properly noticed.

At the April 2022 Board Meetings, six members elected in June 2021 were removed and six new members were elected. (AA 391-392, 410-411.) At the June 2022 meeting, seven members of the Kim Board were elected to a new term. (AA 443-444.) The superior court’s reason for holding these meetings invalid—that they “were not properly noticed”—is contrary to the facts and reflects clear error.

*Appendix E***B. The May 27, 2022 Meeting Was Not Properly Noticed**

The superior court compounded its error by implicitly holding that the May 27, 2022 was properly noticed. (AA 299, 303.) The evidence is undisputed that *only three days' notice* was provided, which is nowhere close to the *two weeks* required by the By-Laws. (AA 431, 467-468.) What is more, contrary to the By-Laws, the meeting was called by members of the Cho Board rather than Chairman Kim. (AA 431.) Because the By-Laws require that the Board Chair call the meetings “*in consultation with*” the President (AA 468), and do not give the president independent authority to notice and call board meetings, the May 27, 2022 meeting called by the Cho Board members was invalid. The purported actions at the May 27 meeting (the election of Bum Kyu Sohn, the reelection of Seungje Cho, and the elevation of Soon Bum Heo to chairman) were therefore void and of no effect.

While the meeting was described in the notice as a regular meeting (AA 431), such meetings “shall be calendared annually at the first meeting of the year” (AA 467). As discussed earlier, there is no evidence that this May meeting—or any other meeting—was scheduled at the first meeting of the year on February 19, 2022. (AA 380.) It follows that this meeting was not a valid “regular meeting,” nor was it a valid “special” meeting for the reasons stated above.

The superior court therefore erred in holding that the votes taken at this meeting changed the composition

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of the Board. Notably, the superior court's holding is irreconcilable with its holding regarding the April 2022 and June 2022 meetings, given that those meetings were all noticed more than two weeks in advance. (AA 388, 405, 408, 426-427.)

C. The April 2022 And June 2022 Board Meetings Had A Quorum, Because The Four Non-Pentecostal Members Were Not Legitimate Board Members

Although it was not the apparent basis of the superior court's Orders, Respondents argued below that the April 2022 and the June 2022 meetings lacked a quorum. (AA 30, 34,39, 118-119, 126-129.) "A quorum shall be required to conduct and make decisions at all officially called business meetings of the Board of Directors. A quorum is defined as the presence of the majority of officially appointed and elected members of the Board of Directors at the Board meeting." (AA 468.) According to Respondents, the April 9, 2022 meeting had just seven legitimate board members out of the 17 board members that existed following the June 14, 2021 board meeting, and therefore lacked a quorum. (AA 126.) According to the minutes of the meeting, however, eight board members attended. (AA 391.)

As discussed above in Section I, four of the board members elected at the June 14, 2021 meeting were ineligible to sit on the Board because they did not adhere to the Pentecostal faith as required by the By-Laws and Trustee Handbook, and did not sign the Statement

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of Faith. Under the ecclesiastical abstention doctrine, civil courts cannot dictate the appropriate religious qualifications for leaders of a religious institution. As also discussed above in Section II, the four Presbyterian members were only elected due to an act of fraud, such that they were not legitimate board members.

Therefore, of the 17 board members following the June 14, 2021 election, only 13 were legitimate. The eight board members who attended the April 9, 2022 board meeting therefore constituted a quorum, and the seven members who voted to void the Jun 14, 2021 election constituted a governing majority. (AA 391-392.)

Following the April 2022 board meeting, the board had 11 members. Seven of these members attended the April 30, 2022 board meeting, at which six new board members were elected. (AA 410.) During the June 2, 2022 meeting, 13 of the 17 legitimate board members attended. (AA 443.) In other words, *each* of the board meetings held by the Kim Board in 2022 had a quorum.

D. Cho's Boycott Of The April 2022 and June 2022 Meetings Was An Attempt To Deny A Quorum And Prevent Free And Fair Elections Of Board Members

Even if this Court were to determine that the four Presbyterian board members were legitimate, it was legal error for the superior court to find the meetings in April 2022 and June 2022 invalid. To the extent these meetings lacked a quorum, that was only due to the intentional

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boycott of the meetings by Mr. Cho and his supporters. Under longstanding precedents, these undemocratic, obstructionist tactics designed to prohibit free and fair elections should not have been credited, without any ostensible examination, by the superior court.

The undisputed evidence showed that Mr. Cho and his supporters repeatedly sought to sabotage the Kim Board's leadership. *First*, Mr. Cho and his supporters disrupted the February 2022 meeting, which had been intended to address the June 14, 2021 election. (RT 130:19-9; 134:4-16, AA 380.) *Second*, Mr. Cho and his supporters purposely boycotted the April 2022 and June 2022 meetings despite receiving proper notice. (AA 388, 405, 408, 426-427.) *Third*, Mr. Cho held an improperly noticed meeting in May 2022 designed to entrench his power by renewing his term in office and electing a new chairman. (AA 431, 434-436.)

Under California law, courts have broad powers to ensure that elections of directors are fair and just. Corporations Code section 9418 states as follows:

The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper.

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(Cal. Corp. Code § 9418(c); *accord* Cal. Corp. Code § 709(c) (the trial court “may direct such other relief as may be just and proper” when determining validity of elections of directors of a corporation).)

Consistent with this broad and equitable authority, courts may prohibit directors of a corporation from usurping power by boycotting free and fair elections. “Defendants and their supporters, if any, cannot be permitted to obstruct the policy of the state which requires that the affairs of a corporation be managed by fairly elected directors, merely by staying away from a court-ordered election of which due notice was given.” (*Burnett v. Banks* (1955) 130 Cal.App.2d 631, 637; *Korean United Presbyterian Church v. Presbytery of the Pac.* (1991) 230 Cal.App.3d 480, 504–05 [holding that obtaining control of a corporation by a rogue faction in violation of the By-Laws was unlawful and their actions while in power were invalid].)

“Certainly no directors of a corporation, whatever their number, may perpetuate themselves in office by refusing to call an election. . . . It is clear that the court has the right when it appears that a corporation election will not be held because of the failure of its directors to call it, or that such directors will not conduct a free, fair and full election to order one held under court auspices.” (*Singh*, 114 Cal.App.4th at 1278, quoting *Burnett*, 130 Cal. App.2d at 634-35; see also *Braude v. Havenner* (1974) 38 Cal.App.3d 526, 532 [holding that incumbent directors may not use corporate election procedures “solely to perpetuate themselves in office”].)

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Here, to the extent the superior court’s decision rested on a claimed lack of quorum, the superior court improperly condoned Mr. Cho’s sabotage of the duly-elected Board by failing to acknowledge the results of the April 2022 and June 2022 board meetings. Even if this Court decided that the June 2021 elections were valid, it should reverse the superior court’s holding that (i) the April 2022 and June 2022 meetings were invalid and (ii) the May 2022 meeting was proper. The Court must not permit bad-faith attempts by rogue officers to deny a quorum to a duly-elected Board of Directors in order to prevent free and fair elections. At the very least, it should be incumbent upon the superior court to acknowledge the highly suspect nature of Mr. Cho’s conduct and explain any decision to give that conduct judicial sanction.

E. The Superior Court Disregarded Bethesda’s Governing Documents and California Law In Holding That Certain Board Members’ Terms Expired in May 2022

The trial court further erred in holding that the three-year terms of Kim and four others expired on May 22, 2022. (AA 292, 303.) Under Bethesda’s Trustees Handbook and California law, however, the board members’ terms continue until a successor is elected. To date, *no* successors have been elected.

According to the Trustee Handbook, “[t]he term of office for each Trustee . . . shall continue for the elected term until the conclusion of the annual meeting (or special meeting held for the purpose of the election of

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Trustees) in the year in which his or her term ends and *until a successor has been elected and qualified.*” (AA 366 (emphasis added).) This is consistent with California law governing non-profit religious corporations. (See Cal. Corp. Code § 9220 [“Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected *and until a successor has been elected and qualified*, unless the director has been removed from office.”] [emphasis added].)

The superior court held that “the Trustee handbook cannot supersede the rules as stated in the Constitution and By-Laws.” (AA 299, 303, 314.) First, Respondents admitted in their complaint and trial brief that the Trustee Handbook is one of the governing documents of Bethesda University. (AA 12, 31.) Second, the Trustee Handbook and the By-Laws are not inconsistent. The By-Laws are *silent* as to whether Board members’ terms continue until a successor is elected. Therefore, the specific language under the Trustee Handbook should control. (See *Nat’l Ins. Underwriters v. Carter* (1976) 17 Cal.3d 380, 386 [“Under well established principles of contract interpretation, ‘. . . when a general and particular provision are inconsistent, the latter is paramount to the former.’”] [quoting Cal. Civ. Proc. Code § 1859].) Board members stay in office “until a successor has been elected and qualified.” (AA 366; *accord* Corporations Code § 9220.)

Here, no successors have been validly elected to succeed the board members whose terms would have ended in May 2022. The May 27, 2022 meeting, which

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lacked proper notice, also lacked a quorum since only seven board members (of the 17 board members alleged by Respondents) attended. (AA 434.) Therefore, the superior court erred in holding (i) that the members whose terms expired in May 2022 are no longer members of the Board, and (ii) that the actions taken at the May 27, 2022 meeting are valid.

CONCLUSION

For the reasons stated above, this Court should reverse the superior court's orders and rule that the Kim Board is the legitimate Board of Directors of Bethesda University. Alternatively, this Court should vacate the superior court's orders and remand the case for further proceedings.

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Respectfully submitted,

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*Attorneys for Appellants Bethesda
University and Pan-Ho Kim*

**APPENDIX F — BETHESDA UNIVERSITY
CONSTITUTION AND BY-LAWS**

Bethesda University

CONSTITUTION AND BY-LAWS

Preamble

Bethesda University, as an arm of the universal Christian Church, is a leadership training ministry which carries out its ministry by providing Biblical Christian higher education for men and women who desire to be leaders in a global society. Bethesda University's training seeks to build Christian character which will help students to be responsible in applying the claims of Christianity to world problems while developing a Christian world view.

The Board of Trustees has the legal and autonomous responsibility of oversight for the institution and any affiliate or auxiliary entity it may establish. The Board holds all tangible and intangible property in trust.

Mission

Bethesda University is a Christ-centered community of higher education which aims to prepare students with the academic knowledge, professional skills and spiritual values to become servant leaders in global society.

Article I. Name

The name of this institution shall be Bethesda University (BU).

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Article II, Purpose

INSTITUTIONAL OBJECTIVES (GOALS)

To fulfill its mission, Bethesda University is committed to the following goals:

- Understand theology and society through a Pentecostal Evangelical perspective.
- Develop an integrative spiritual life which encourages students in the development of spiritual disciplines and leads to a life based on biblical morals and ethics in every area of their life.
- Develop the knowledge, professional skills and attitudes appropriate to volunteer or professional involvement in ministry.
- Develop the ability and passion to engage in a lifetime of serving the Lord.
- Able to demonstrate information literacy skills by being able to access, evaluate, synthesize, and present credible information from a variety of resources.

Article III. Governance

Section 1. Board of Directors

The mission of BU should not be the mission of any one individual nor should any person on the Board of

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Directors have the right to advance their own personal and professional agendas at the expense of BU's mission. With this in mind, BU requires that personal interests always be kept in check with what is required for successful fulfillment of the goals of the Board. Teamwork also means that a person on the Board of Directors will:

1. Support and promote the mission, philosophy, policies, and standards of BU as adopted by each segment of the school,
2. Treat colleagues of all levels with kindness and in the same manner in which he/she wishes to be treated,
3. Speak constructively of each member, even though differences of opinion may be expressed,
4. Refrain from spreading ill will and unsubstantiated rumor, faults, or wrongdoing,
5. Refrain from personal agendas and will put the BU's mission ahead of any personal agenda or career aspirations.

Board of Directors Qualifications

BU seeks a Board of Directors who will contribute to its educational and spiritual objectives. Employees other than the President of BU are prohibited from serving on the Board of Directors. The same individual cannot serve currently as both institutional President and Chair of the Board. Board Directors must possess the following characteristics:

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1. A high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological position of BU. This will be evidenced by their agreement to sign the BU Statement of Faith.
2. A high level of academic awareness that is integrous both within the Christian community and also to the non-Christian community.
3. Demonstrable leadership skills within Christian community. This will be evidenced by showing that the potential Board member has held a leadership position either in a church or parachurch setting for a period of at least 2 years.
4. An on-going commitment to ministry within the Christian community. This will be evidenced by the potential member's current membership in a local church or participation in a local church setting.

The Board of Directors is the legally constituted agency through which the constituency of the Corporation expresses itself in matters of basic policy. The major responsibilities which devolve upon the directors are to:

1. Select and appoint the President of the University.
2. Use discretionary power for the determination of policy.

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3. Oversee and approve the educational programs offered by the school, and make certain that its quality satisfies the purposes and objectives of the school.
4. Be financially responsible for the acquisition, conservation, and management of school funds and properties.
5. Delegate administrative power to the President of the school.

Policies and Procedures for the election of Board Members.

The purpose of this section is to outline general policies and procedures for the election of Board members at BU. Board members are tasked with the general oversight of the property, business and concerns of the University, and is the legally constituted agency through which the constituency of the Corporation expresses itself in matters of basic policy. Employees other than the President of BU are prohibited from serving on the Board of control. The same individual cannot serve currently as both institutional President and Chair of the Board.

All potential Board members must meet the following general requirements:

1. They must demonstrate a commitment to their own spiritual growth.
2. They must demonstrate a commitment to the BU Statement of Faith.

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3. They must demonstrate a commitment to local church ministry.
4. They must fill out the applicable application for the Board members as developed by BU.

Potential Board members should follow the following procedures:

1. Fill out application for the position.
2. Consult posted job descriptions for the vacant position.
3. Submit application to the office of the Board of Directors along with their resumes or vitae that will enhance their application and will demonstrate their ability to fill the vacant position.
4. Applicant will be notified by the Office of the Board of Directors concerning their status either by mail or by phone for the vacant position.

Members of the Board will be elected to the Board by majority vote of the Board of Directors on a three-year term basis and are eligible for reelection at the conclusion of each three-year term. Terms of office are to rotate in order to ensure that at all times a majority of the Board be experienced members. In addition, a system of rotation should encourage inclusion of new Board members.

*Appendix F***Section 2. Bethesda University Administration**

The Administrative Structure: refers to BU personnel who administrate the various functions of the institution. The following titles are considered administrative personnel of BU:

1. President serves as the Chief Executive Officer.
2. Vice President of Operations — oversees the general administration of the University.
3. Chief Academic Officer — oversees the academic programs and faculty of the University.
4. Chief Financial Officer — The person given the responsibility of managing school finances and all business matters.
5. Dean of Students — also referred to as Chief Student Personnel Officer — oversees student affairs.
6. Director of Development — oversees Advancement (giving) to the University.
7. Registrar — The person given the responsibility to insure that student records and transcripts are properly managed and the responsibility of managing student registration documents.
8. Librarian — The person given the responsibility of managing the library and insuring that policies

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for library operation are effectively developed and implemented.

Full-time Faculty: refers to all personnel who have official appointment as faculty of the school. This is designated by appointment of the President upon hiring. It is possible that administrators may also be classified as full-time faculty and be given faculty status.

Staff: refers to personnel of the school not classified as administration or faculty. This includes all positions such as secretaries, administrative assistants, and all non faculty/non-administrative personnel.

Employee: refers to all personnel of BU who do not hold credentials as clergy and who do not minister as professionally credentialed clergy but who work at BU. This also excludes those personnel who have faculty appointment.

*Appendix F***Relationship of the Administrative Structure to the Mission of Bethesda University**

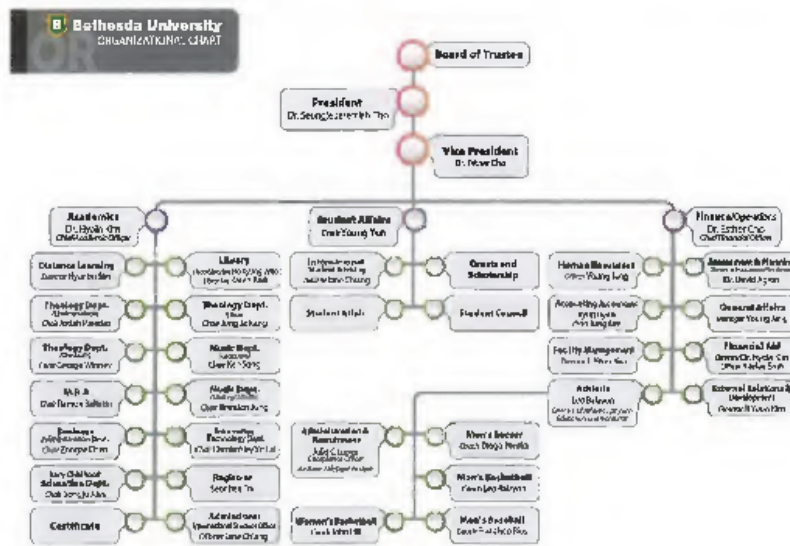
The Administrative structure serves the mission of BU insuring that the general directives of the school's functions are implemented. It is the responsibility of the administration of BU to monitor the daily activities of the school and to provide leadership in meeting the various contemporary demands of building a Christian University that will provide trained and qualified leaders for ministry in the Christian community. The purpose of the Administrative structure is to help in developing consistent policies that facilitate efficient management of the institution.

It is the goal of BU's administration that the Administrative structure be sensitive to the cultural demands of both the institution and its constituency keeping in mind the social setting in which the institution exists. While the school seeks to build Christian character and a balanced Christian worldview in its students, these values should also be manifested in the policies and procedures developed and implemented by the institution. This will facilitate the leadership development of BU's students through modeling the desired Christian character sought for in its students. This Administrative structure is not intended to become a law unto itself but it should remain flexible to change as chances are required.

Chart on next page documents the BU's Administrative Structure:

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**Bethesda University
Organizational Chart**



a) There are distinctions between the roles of the board and the administration. The role of the board is to set or approve policies. The board had no role pertaining to daily operations or supervision of any employee other than the President/CEO. To assure the policies and procedures are implemented, the board appoints and periodically evaluates a President/CEO. The role of the President is to carry out the published board policies and fulfill the tasks defined in a written job description.

b) The President is the Chief Executive Officer of the school who is responsible to use his /her delegated administrative power to assure the execution of Board

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policy. He/she shall supervise the functioning of the other major administrative officers of the school to whom he/she delegates authority and responsibility relative to their assignments. When there are vacancies in administrative positions he/she is responsible to nominate and in other ways assist the Board in filling said administrative positions.

c) Administrative officers of the school shall be subordinates of the President. Each administrative officer is responsible to use his/her delegated authority and responsibility to assure the administration of the school toward its purpose and objectives.

Section 3. Faculty

a) Prospective faculty members are evaluated and selected on the basis of professional preparation, competence, and performance as indicated in previous related experiences, Christian commitment, agreement with the purposes and objectives of the school, and potential for future personal development and contribution to the school's program.

b) The faculty of the school shall be administrated by the Chief Academic Officer and the faculty shall be represented in all curriculum matters and faculty matters on the Board by the President in consultation with the Chief Academic Officer. There shall be a faculty handbook which shall contain specific policies on employment, review, remuneration and benefits, teaching load, enrichment, and due process matters. Faculty will regularly meet

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on an organized basis under the leadership of the Chief Academic Officer.

Section 4. Student Body

There shall be a student body leadership organization to provide leadership on student matters, promote a sense of Christian community among the students and facilitate communication between the student body and faculty, administration, and Board.

There shall be a separate student body leadership organization in each program. The student body leadership organizations shall be administrated by the Chair of Students who is under the direction of the President.

Article IV. Board of Directors

The main governing body responsible for insuring that the mission of the school is accomplished. All issues, policies, and decisions related to the filling of mission are settled at this level. The Board of Directors employs a President of the institution to insure that its policies and missions decisions are implemented. The President is a member of the Board.

Section 1. Number

The number of Directors of the Board shall be no less than five and no more than thirty members.

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Section 2. Election

- a) Members shall be elected to the Board by majority vote of the Board of Directors for a three-year term and are eligible for reelection for the additional three-year term.
- b) Board members are expected to agree with the purpose of Bethesda University and are expected to model Christian character consistent with its purpose and mission.
- c) A Board position shall be declared vacant when a Board member resigns.
- d) In the event that a Board position becomes vacant in mid-term, the Board shall elect, by a majority vote, a qualified successor to fill the unexpired term. This person may be re elected to a full term.

Board Member Qualifications

BU seeks Board members who can contribute to its educational and spiritual objectives. Employees other than the President of BU are prohibited from serving as a Board member. The same individual cannot serve currently as both institutional President and Chair of the Board. Board members must possess the following characteristics:

- 1.) A high level of spiritual development defined in terms of Evangelical and Charismatic

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understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological positions of BU.

- 2.) A high level of academic preparation that is integral both within the Christian community and also to the non-Christian community.
- 3.) Demonstrable leadership skills within the Christian community. This will be evidenced by showing that the potential Board member has held leadership positions either in a church or parachurch setting for a period of at least two years.
- 4.) An on-going commitment to ministry within the Christian community. This will be evidenced by the applicant's current membership in a local church or participation in a local church setting.

Section 3. Meetings and Order of Business

- a) The regular meetings of the Board of Directors shall be held at least two times annually. These meetings shall be calendared annually at the first meeting of the year. Special meetings shall be called by the Board Chair in consultation with the President. Two weeks notice must be given for a specially called meeting.
- b) The following shall be the order of business at each meeting of the Board, but the rules of order may be

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suspended and any matter considered or postponed by the action of 2/3 of the Directors present and voting.

- 1.) Roll call
 - 2.) Consideration of minutes of preceding regular meetings, and any special meetings held subsequently, and their approval or amendment
 - 3.) Reports of officers and/or agents
 - 4.) Reports of standing committees
 - 5.) Reports of special committees
 - 6.) Unfinished business
 - 7.) New business
 - 8.) Elections
 - 9.) Petitions and communication
 - 10.) Adjournment
- c) A quorum shall be required to conduct and make decisions at all officially called business meetings of the Board of Directors. A quorum is defined as the presence of the majority of officially appointed and elected members of the Board of Directors at the Board meeting.

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Section 4. Duties of the Board of Directors

The Board of Directors is charged with the general oversight of the property, business, and concerns of the University, and is the legally constituted agency through which the constituency of the Corporation expresses itself in matters of basic policy. The duties shall be the following:

- a) The Board of Directors shall elect and supervise the President of BU.
- c) The Board of Directors shall appoint any other administrative officers as may be deemed necessary upon recommendation by the President.
- c) The Board of Directors has developed policies for the selection of faculty members upon recommendation of the President.

Section 5. Officers of the Board of Directors

Employees other than the President of BU are prohibited from serving on the Board of Directors. The same individual cannot serve currently as both institutional President and Chair of the Board, any board officer or Chair of any sub-committee.

- a) There shall be a Chair, a Vice-Chair, a Secretary, and a Treasurer of the Board of Directors.
- b) Each Officer shall be elected to serve a three-year term. Election shall be made by two thirds majority vote of the Board of Directors.

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- c) Vacancies created by resignation of Board officers shall be filled by appointment of the Board of Directors.

Section 6. Duties of the Officers of the Board of Directors

- A) The Chair of the Board of Directors shall:
 - 1. Preside at all meetings of the Board of Directors and shall perform all other duties as are customary to this office, or as may be required by the Board of Directors
 - 2. Be an ex-officio member of all committees of the University.
 - 3. Appoint in consultation with the Board of Directors the respective standing and ad hoc committees.
 - 4. Sign all legal documents: deeds, deeds of trust, mortgages, notes, debentures, leases, assignments, conveyances, annuities, bonds, etc., as is customary to this office and as may be authorized by the Board of Directors.
 - 5. Sign certificates of validity regarding the purchase, sale, encumbrance, alienation of real property, and, if necessary, shall sign the document of dissolution as provided in the Bylaws.

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B) The Vice-Chair of the Board shall:

1. Preside at the Board Meetings in the absence of the Chair, and may perform all the duties of the Chair at the authorization of either the Chair or the Board of Directors.
2. Sign, in lieu of the Chair or Secretary, all documents which either of them is authorized to sign under the following circumstances: When either the Chair, or the Secretary is absent, and he/she has received a written or telegraphed authorization from the absent officer. When there is a vacancy in either office of the Chair or the Secretary, or in the event either of said officers is incapacitated, and the Vice-Chair has been authorized by the Board of Directors to act in his/her stead.
3. Be an ex-officio member of all committees of the University.

C) The Secretary shall:

1. Record fully and accurately all the proceedings and decisions of the Board of Directors, and shall forward a copy of the same to each Director immediately after each meeting of the Board.
2. Act as the Secretary of the corporation in all ordinary and legal matters.

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3. Be the custodian of the corporate seal, and shall affix the same to all papers and documents, as he/she shall be authorized by the Board of Directors.
 4. Sign all legal documents — deeds, deeds of trust, mortgages, notes, debentures, leases, assignments, conveyances, annuities, bonds, etc., as is customary to this office, or as may be authorized by the Board
 5. Sign certificates of validity regarding the purchase, sale, etc., of real property, and, if necessary, shall sign the document of dissolution as provided in the Bylaws.
 6. Perform other functions as are customary for the Secretary, or as may be authorized by the Board of Directors.
 7. Be an ex-officio member of all committees of the University.
- D) The Treasurer of the Board of Directors shall:
1. Give oversight in consultation with the President to the preparing and reporting of the certified annual audit of the school finances for the Board of Directors.
 2. Shall cause to be kept an accurate record of all disbursements and receipts of the University.

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3. shall cause to be developed an accurate budget of expenses and receipts accurately reflecting the goals and mission of the University.
4. Be an ex-officio member of all committees of the University.

Article V. Committees

A) Executive Committee:

The Executive Committee shall consist of the Board Chair, Vice Chair, Treasurer, Secretary, University President, and a Board member appointed by the Chair. The Executive Committee shall:

1. Meet in the interim between official Board meetings to act on behalf of the Board.
2. Develop policies as needed for the administration of the University.

B) Finance/Endowment Committee:

The Finance/Endowment Committee shall consist of the Chair, Vice Chair, Secretary, Treasurer, University President and other Board Members as appointed by the Chair to develop funding and endowments for the continued support of the University's mission. The Finance Committee shall:

1. To assist in generating resources needed to sustain and improve the institution

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2. Facilitate the Board's duty to regularly and systematically evaluate its fiscal condition and management of its financial operations including its use of appropriate internal and external mechanisms which ensure financial stability including enrollment management, diversification of revenue resources, and realistic budgeting
3. Shall review and develop all policies for the University's administration, faculty, and staff and recommend their adoption to the Board of Directors.
4. Shall review and develop the University's tuition and fees and shall recommend their adoption to the Board of Directors.

C) Long Range Planning Committee

The Long Range Planning Committee shall consist of the Chair, the Vice Chair, and the Secretary, Treasurer, the President, one Board member appointed by the Chair of the Board of Directors, the Chief Academic Officer, the Alumni President, and others as deemed appropriate by the Chair and the University President.

The Long Range Planning Committee shall:

1. Interface with the administration and board to assure the development, board approval and implementation of a comprehensive strategic plan

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with input from the annual assessment plan which includes an analysis of internal and external factors

2. Evaluate all facets of the University's ministry, including but not limited to the board and its members, administration, faculty, curriculum, finances, student body, spiritual life, and facilities, to assess the University's ministry effectiveness. Any assessment data, reports or proceedings are to be made available to our accrediting agencies upon their request
3. Shall develop long range plans which will facilitate the ministry of the University and which will aid in achieving the stated goals of the University.
4. Be accountable for the reporting of these goals to the Board of Directors.

D) Spiritual Life Committee

The Spiritual Life Committee shall consist of the Chair, Vice Chair, President, Dean of Students, and other Board members as appointed by the Chair to give oversight to the University's spiritual life.

F) Board Personnel Committee

The Personnel Committee shall consist of the Chair, Vice Chair, President, and other Board members as appointed by the Chair to recruit and orient new board

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members as well as to assure the board is provided with regular updates pertaining to mission, finances and programs. To facilitate recruitment needs, this committee is to annually prepare two lists. One list is of the type new members who would be an asset to the board. On this list should be considerations of the variety of professional competencies that would strengthen the board, as well as how well the board represents the ethnic diversity of the constituency.

G) Other Committees

The Board may, at its discretion, provide for such other committees as it deems appropriate.

Article VI. Administrative Officers of the University

The principal administrative officers of the University are the President and such other officers as determined by the University's Board of Directors. Employees other than the President of BU are prohibited from serving on the Board. The same individual cannot serve currently as both institutional President and Chair of the Board.

Section 1. Duties of the President

The President shall:

- a) Act as the Chief Executive Officer responsible to the Board of Directors and charged with putting into effect policies and regulations.

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- b) Represent the University as its official spokesperson to the constituency, to accreditation agencies, and to the public in general.
- c) Promote harmony and unity of purpose among the members of the teaching and administrative staff, Board of Directors, and constituency.
- d) Present to the faculty on proper occasions the directives of the Board of Directors.
- e) Prepare the necessary reports concerning the University and to present applicable reports to the Board of Directors, to the constituency, and appropriate to governing and accrediting agencies.
- f) Select, in cooperation with the Chief Academic Officer, teaching and administrative staff and recommend their employment to the Board of Directors.
- g) Recommend to the Board of Directors for approval appropriate salary levels for all administrators, faculty, and staff.
- h) Shall develop and organize an administrative team to insure that the school is fulfilling its mission.
- i) Shall raise funding from individuals, churches, alumni, and supporting organizations in support of school's program and in conjunction with the Board of Directors.

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- j) Delegate responsibilities to major officers in addition to their prescribed duties.
- k) Provide for the preparation of the annual University operating budget and after approval of the Board of Directors, assure its execution.
- l) With the approval of the Board of Directors, the President may appoint assistants to the office of President who bear staff relationship and shall be responsible to the President.

Article VII. Property

All property, shall be taken, held, sold, transferred, or conveyed, in the corporate name of Bethesda University.

Section 1. Authorization for Purchase and Sale of Real Property

Authorization for purchase or sale of real property shall be given by 1/2 vote of a quorum, present and voting, at a regular or special meeting of the Board of Directors.

Section 2. Certification

The Chair and the Secretary of the Board of Directors shall certify in such purchase or sale, conveyance, lease or mortgage, that the same has been duly authorized by the vote of the Board of Directors. The Chair of the Board of Directors and the Secretary shall sign all papers and documents required in carrying out the will of the Board

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of Directors in transactions in the name of Bethesda University.

Section 3. Dissolution

All properties of Bethesda University are irrevocably dedicated to the purposes set forth in these Bylaws. In the event of the dissolution of the Corporation, all property and assets shall be distributed in accordance to the stated procedures in the corporations Articles of Incorporation.

Article VIII. Amendments

These Bylaws may be amended by a majority vote of a quorum at the annual meeting of the Board of Directors.

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**APPENDIX G — BETHESDA UNIVERSITY
TRUSTEES HANDBOOK**

EXHIBIT 2

TRUSTEES HANDBOOK

Bethesda University

2020-2021

730 North Euclid Street, Anaheim, California 92801
Tel: (714) 683-1212, Fax: (714) 683-1205

Revised on 10-26-2020

[Table of Contents omitted]

Preface: A Message from the Founder

Leadership is the most critical need in the current movement of the Holy Spirit within the worldwide Church. The vision of Bethesda University is to prepare students with the academic knowledge, professional skills needed to become leaders in world place and world missions by building churches and Bible institution around the world. All over the world there is an acute need for trained Christian leaders. The Church of our Lord is experiencing explosive growth throughout the world, and I believe the Lord is looking for firmly dedicated hearts and minds, capable of mastering the dynamic and complex patterns of contemporary society to build His Kingdom.

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Bethesda University is the fulfillment of a vision to build a spirit-filled institution that will serve the people called to ministry and serve the Holy Spirit in His works in this world.

The solid foundation of Gods holy Word is taught at Bethesda University by a qualified and dedicated faculty. The training they provide is a spring board for committed individuals eager to fulfill the redemptive task of the Great Commission. The school's goal is to raise up Christian leaders who hear the voice of God and who are guided by the sound principles of God's Word. There is a unity of purpose at Bethesda University that binds together spiritual and academic growth, producing balanced and life-growing ministry.

With this mission and purpose in mind for Bethesda University, I am pleased that you have joined the Board of Trustees to guard the mission and purpose of the institution, and to guide it to its destiny in preparing leaders for the Lord's Church and society.

Dr. Yonggi Cho
Founder

BOARD OF TRUSTEES

	NAME	OCCUPATION
Founder	Rev. Yonggi Cho	Emeritus/Formal Senior Pastor, Yoido Full Gospel Church

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Co-Chairman of Board	Dr. Grace Sung-Hoe Kim	President, Hansel University
Co-Chairman of Board	Rev. Kyung Moon Kim	Senior Pastor, Yoido Full Gospel Jungdong Church
President	Dr. Seung Je Jeremiah Cho	President, Bethesda University
Trustee	Rev. Yu Chul Chin	Senior Pastor, LA Full Gospel Church
Trustee	Rev. Myung Woo Choi	Senior Pastor, Yoido Full Gospel Gangnam Church
Trustee	Rev. Ho Yun Jun	Senior Pastor, Yoido Full Gospel Kangbuk Church
Trustee	Rev. Yong Jun Kim	Senior Pastor, Yoido Full Gospel Dobong Church
Trustee	Rev. Yong Woo Choi	Senior Pastor, Yoido Full Gospel Sinansan Church
Trustee	Rev. Byeong Cho Yang	Senior Pastor, Yoido Full Gospel Hansel Church
Trustee	Rev. Han Yeh Chang	Senior Pastor, Taipei Full Gospel Church
Trustee	Rev. Kyung Hwan Ko	Senior Pastor, Full Gospel Wondang Church
Trustee	Soon Bum Huh	CEO, DIA Samshin Corp.
Trustee	Eun Jin Chang	Formal Chairman of Nokwon Incorporated Association

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MISSION STATEMENT

Bethesda University is a Christ-centered community of higher education which aims to prepare students with the academic knowledge, professional skills and spiritual values to become servant leaders in global society.

INSTITUTIONAL OBJECTIVES (GOALS)

To fulfill its mission, Bethesda University is committed to the following goals:

- Understand theology and society through a Pentecostal Evangelical perspective.
- Develop an integrative spiritual life which encourages students in the development of spiritual disciplines and leads to a life based on biblical morals and ethics in every area of their life.
- Develop the knowledge, professional skills and attitudes appropriate to volunteer or professional involvement in ministry.
- Develop the ability and passion to engage in a lifetime of serving the Lord.
- Able to demonstrate information literacy skills by being able to access, evaluate, synthesize, and present credible information from a variety of resources.

* * *

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5. Maintain appropriate appearance and dress. Recognizing that members of BU community are called to be leaders in the Church and in society, the university requires its members to follow standards of modesty in dress and appearance. The Bible exhorts believers to be examples to those around them (1 Tim. 4:12) and to give no offense to others (I Cor. 10:32). Therefore, members of the BU community should never allow their appearance to be a stumbling block to anyone.

**Bethesda University
CONFLICTS OF INTEREST POLICY**

To the Trustees, Officers and Employees of Bethesda University:

I. REASON FOR POLICY.

Bethesda University is a nonprofit religious corporation (“Corporation”). As a Trustee, officer or employee of the Corporation, you are subject to certain legal obligations in the performance of the duties of your position. For this reason, the Corporation is establishing this Conflicts of Interest Policy (“Policy”) for its Trustees, officers, and employees.

You are required to exercise good faith in all transactions involving your duties, and you are subject to certain legal obligations not to use your position, or knowledge gained through your position, for your personal benefit. In your dealings with the Corporation, you should be mindful of potential Conflicts of Interest.

*Appendix G***II. STANDARD OF CARE.**

The performance of the duties of your position shall be in good faith, in a manner you believe to be in the best interests of the Corporation, with such, care, including reasonable inquiry, as is appropriate under the circumstances,

You are entitled to rely on the information, opinions, reports or statements (including financial statements and other financial data) prepared or presented by officers or employees of the Corporation, legal counsel, independent accountants, and other experts who provide professional services to the Corporation, providing that you believe they are reliable and competent, and that the matters which they present are within their professional or expert competence. You may also rely on the information, opinions, reports or statements of any committee of the Board of Trustees with respect to matters within that committee's designated authority if you believe the committee merits your confidence and any religious authorities whose position or duties in the Corporation you believe justify reliance and confidence and whom you believe to be reliable and competent in the matters presented. Finally, you are entitled to rely on the information, opinions, reports or statements of any person, firm, or committee if, after reasonable inquiry when the need therefore is indicated by the circumstances, you have no knowledge that would cause your reliance to be unwarranted.

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III. SITUATIONS IN WHICH CONFLICTS MAY ARISE.

Your personal interests may conflict with the interests of the Corporation if:

- (1) you are a person who solicits, bids, contracts, or supplies goods or services to the Corporation or if you have a financial interests a company which does so;
- (2) you are a person from whom or to whom the Corporation leases property or equipment, or you have a financial Interest in a company which does so;
- (3) you are a person with whom the Corporation is dealing or is planning to deal, or you have a financial interest In a company with whom the Corporation is dealing or planning to deal in connection with the purchase or sale of real property, securities, or other property;
- (4) you have any ownership interest in, are employed by, or are an officer or Trustee of another company which competes with or affects the operations of the Corporation;
- (5) you accept gifts or gratuities of any kind or unsecured loans from any person, company, or entity that engages in transactions with the Corporation;

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- (6) you have obtained an interest in real estate, securities, or other property that the Corporation is considering buying or leasing;
- (7) you use any “insider” information obtained in the performance of your corporate duties for your own personal advantage;
- (8) you have a financial interest as a creditor of a person or company that is engaging in transactions with the Corporation, or
- (9) you are an officer, serve on the Board of Directors or the Board of Trustees, participate in the management of, or are employed by a person or company that engages in transactions with the Corporation, other than this Corporation’s own subsidiaries or affiliated corporations.

Please note that a conflict of interest may be either direct or indirect, You will have an indirect interest in a transaction, company or entity if:

- (1) any of your relatives by blood or marriage has an interest in it;
- (2) any of your relatives by blood or marriage is a beneficiary, personal representative, or trustee of an estate or trust which has such an interest; or
- (3) any of your relatives by blood or marriage owns stock or any other form of interest in any company

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which has such an interest, or is a Trustee, officer, or employee of such company,

For purposes of this Policy, an individual is a relative by blood or marriage if he or she is a spouse, father, mother, brother, sister, grandfather, grandmother, grandson, granddaughter, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, or mother-in-law.

IV. POLICY.

This Policy requires you to make a full disclosure to the Board of Trustees of the Corporation of all material facts regarding any possible conflict of interest, to describe the transaction, and to disclose the details of your interest in it. Upon request by the Board of Trustees or any authorized committee of the Board of Trustees, you must disclose the source and amount of any income or other economic benefit to be derived from the transaction by you or by an entity in which you have any interest. The Corporation shall, as appropriate, seek the opinion of legal counsel and such other authorities as may be required, before entering into any such transaction, before approving a transaction described in this Policy, the Board of Trustees will attempt, in good faith and after reasonable investigation under the circumstances, to determine that:

- (1) the Corporation is entering into the transaction for its own benefit;
- (2) the transaction is fair and reasonable as to the Corporation at the time the Corporation entered

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into the transaction or is in furtherance of the Corporation's religious purposes;

- (3) the Board of Trustees has knowledge of the material facts concerning the transaction and the trustee, officer or employees interest in the transaction;
- (4) the Corporation cannot obtain a more advantageous arrangement with reasonable effort under the circumstances or the transaction is in furtherance of the Corporation's religious purposes.

The Board of Trustees must then approve the transaction by a vote of a majority of the Board of Trustees then in office, without counting the vote of any Trustee who may have a conflict of interest due to the transaction under consideration.

V. INTERPRETATION.

The potential conflicts of interest listed in this Policy are by way of example only and are not intended to be an exhaustive list of all transactions by which the Corporation may be affected or injured. It is assumed that you will recognize other analogous situations in which conflicting interests may arise, and that you will comply with your duty to bring such situations to the attention of the Board of Trustees. The fact that you may have one of the interests described in this Policy does not necessarily mean that a conflict exists, or that the conflict, if it exists, is of such a material nature to be of practical importance.

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However, it is the policy of the Board of Trustees that the existence of any interest described herein shall be disclosed before any transaction is consummated. You have a continuing responsibility to scrutinize any transaction in which you are directly or indirectly involved for potential conflicts of interest and to make a full disclosure to the Board of Trustees of the Corporation. The Board of Trustees shall then determine whether a conflict of interest exists and shall take the appropriate action. All decisions regarding conflict of interest rest in the sole discretion of the Board of Trustees in the exercise of its ultimate judgment of the best interests of the Corporation.

PLEASE READ THE FOREGOING CAREFULLY, THEN COMPLETE, SIGN AND RETURN THE FOLLOWING DISCLOSURE STATEMENT TO THE BOARD OF TRUSTEES IN CARE OF THE UNDERSIGNED.

BOARD OF TRUSTEES

By /s/ _____
Sunghae Kim
Co-Chairman

By /s/ _____
Kyung Moon Kim
Co-Chairman

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**Bethesda University
CONFLICT OF INTEREST
DISCLOSURE STATEMENT**

I hereby certify that I have carefully read and hereby acknowledge receipt of a copy of the foregoing Conflict of Interest Policy. In signing this Disclosure Statement, I have considered not only the literal expression of the Policy but also what I believe to be the spirit of the Policy as well. I hereby certify that except as hereinafter stated, neither I nor any of my relatives by blood or marriage has any direct or indirect interest that conflict with the interests of Bethesda University.

The exceptions are as follows (if none, state “none” and, if more space is required, please attach additional page(s):

If any situation should arise in the future which, as discussed in the foregoing Conflicts of Interest Policy, may involve one or my relatives by blood or marriage in a conflict of interest, I will promptly disclose the circumstances to the Board of Trustees of Bethesda University.

Date: _____

/s/ _____
(Signature)

(Position)

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Method of Selection of Members

After the initial appointment of the Trustees by the Incorporator of this corporation, the Trustees shall be elected by the Board on a rotation basis. One-third (1/3) of the Trustees, or as close to one-third (1/3) as is possible, shall be elected at each annual meeting of the Board.

Potential Trustees are nominated by the Executive Committee (all current Trustees may submit recommendations to the committee) and these nominees are presented to the full Board for election.

Orientation of New Trustees

Each year the President conducts a thorough orientation for new Board members. Using the Trustees Manual and related literature, the President provides an introduction to the institution and a complete understanding of a Trustees role on the Board. The orientation session is indicated on the Board's official calendar.

Length of Service of Members and Officers

Each Trustee shall hold office for a term of three (3) years unless a Trustee is completing the term of a Trustee whose office is vacant (in which case the replacement Trustee shall complete the remaining term of the prior Trustee) or unless the number of Trustees has been changed (in which case the Trustees may be elected for terms of one (1) year and two (2) years in order to continue the rotation basis for the Board). If an annual meeting is not held or the Trustees are not elected thereat, the Trustees may

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be elected at any special meeting of Trustees held for that purpose. However, at the first meeting of the Board, the Trustees shall be elected for terms of one (1) year, two (2) years, and three (3) years in order to begin the rotation basis for the Board. The term of office for each Trustee shall begin at the conclusion of the meeting at which he or she is elected and shall continue for the elected term until the conclusion of the annual meeting (or special meeting held for the purpose of the election of Trustees) in the year in which his or her term ends and until a successor has been elected and qualified. Trustees may be reelected by the pleasure of the Board or removed from the Board without cause. On the occasion that a new Trustee is completing the term of a Trustee whose office is vacant, the new Trustee would complete the remaining term of the prior Trustee and is eligible for reelection to a full term.

Organizational Structure**Board of Trustees**

The mission of BU should not be the mission of any one individual nor should any person on the Board of Trustees have the right to advance their own personal and professional agendas at the expense of BU's mission. With this in mind, BU requires that personal interests always be kept in check with what is required for successful fulfillment of the goals of the Board. Teamwork also means that a person on the Board of Trustees will:

1. Support and promote the mission, philosophy, policies, and standards of BU as adopted by each segment of the school,

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2. Treat colleagues of all levels with kindness and in the same manner, in which he/she wishes to be treated,
3. Speak constructively of each member, even though differences of opinion may be expressed,
4. Refrain from spreading ill will and unsubstantiated rumor, faults, or wrongdoing,
5. Refrain from personal agendas and will put the BU's mission ahead of any personal agenda or career aspirations.

Board of Trustees Qualifications

BU seeks a Board of Trustees who will contribute to its educational and spiritual objectives. Employees other than the President of BU are prohibited from serving on the Board of Trustees. The same individual cannot serve currently as both institutional President and Chair of the Board. Board Directors must possess the following characteristics:

1. A high level of spiritual development and integrity defined in terms of Evangelical and Charismatic understanding and style of life. Emphasis is placed on those who have been involved in Christian ministry exhibiting a theology consistent with the theological position of BU. This will be evidenced by their agreement to sign the BU Statement of Faith.

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2. A high level of academic awareness that is integrous both within the Christian community and also to the non-Christian community.
3. Demonstratable leadership skills within Christian community. This will be evidenced by showing that the potential Board member has held a leadership position either in a church or para-church setting for a period of at least two years.
4. An on-going commitment to ministry within the Christian community. This will be evidenced by the potential member's current membership in a local church or participation in a local church setting.

The Board of Trustees is the legally constituted agency through which the constituency of the Corporation expresses itself in matters of basic policy. The major responsibilities which devolve upon the directors are to:

1. Select and appoint the President of the University.
2. Use discretionary power for the determination of policy.
3. Oversee and approve the educational programs offered by the school, and make certain that its quality satisfies the purposes and objectives of the school.
4. Be financially responsible for the acquisition, conservation, and management of school funds and properties.

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5. Delegate administrative power to the President of the school.

**Policies and Procedures for
the election of Board Members**

The purpose of this section is to outline general policies and procedures for the election of Board members at BU. Board members are tasked with the general oversight of the property, business, and concerns of the University, and is the legally constituted agency through which the constituency of the Corporation expresses itself in matters of basic policy. Employees other than the President of BU are prohibited from serving on the Board of control. The same individual cannot serve currently as both institutional President and Chair of the Board.

All potential Board members must meet the following general requirements:

1. They must demonstrate a commitment to their own spiritual growth.
2. They must demonstrate a commitment to the BU Statement of Faith.
3. They must demonstrate a commitment to local church ministry.
4. They must fill out the applicable application for the Board members as developed by BU.

Potential Board members should follow the following procedures:

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1. Fill out application for the position.
2. Consult posted job descriptions for the vacant position.
3. Submit application to the office of the Board of Trustees along with their resumes or vitae that will enhance their application and will demonstrate their ability to fill the vacant position.
4. Applicant will be notified by the Office of the Board of Trustees concerning their status either by mail or by phone for the vacant position.

Members of the Board will be elected to the Board by majority vote of the Trustees on a three-year term basis and are eligible for reelection at the conclusion of each three-year term. Terms of office are to rotate in order to ensure that at all times a majority of the Board be experienced members. In addition, a system of rotation should encourage inclusion of new Board members.

Bethesda University Administration

The Administrative Structure: refers to BU personnel who administrate the various functions of the institution. The following titles are considered administrative personnel of BU:

1. President serves as the Chief Executive Officer.

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EXHIBIT 3

BOARD OF TRUSTEES

	NAME	OCCUPATION
Chairman of Board	Rev. Kyung Moon Kim	Senior Pastor Yoido Full Gospel Jungdong Church
President	Dr. Seung Je Jeremiah Cho	President
Member	Rev. Yu Chul Chin	Senior Pastor
Member	Rev. Myung Woo Choi	Senior Pastor
Member	Rev. Ho Yun Jun	Senior Pastor
Member	Rev. Yong Jun Kim	Senior Pastor
Member	Rev. Yong Woo Choi	Senior Pastor
Member	Rev. Byeong Cho Yang	Senior Pastor
Member	Rev. Han Yeh Chang	Senior Pastor
Member	Rev. Kyung Hwan Ko	Senior Pastor
Member	Soon Bum Huh	CEO
Member	Chi Tae Chung	Formal Board Chairman
Member	Rev. Pan-Ho Kim	Senior Pastor
Member	Rev. Eric Choi	Senior Pastor
Member	Dong Hwan Choi	President
Member	Rev. Kwon Tae Kim	Senior Pastor
Member	Rev. Myungho Seo	Senior Pastor

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EXHIBIT 6

Bethesda University Board of Directors
Meeting Agenda

Date: ~~July~~ [June SJC] 14, 2021

Agenda Title: Annual Affirmation, 2019-2020 Financial Closing, 2021-2022 Budget. Board Manual, Program Change, Board Member Appointment, Etc.

We have reviewed the latest version of the following documents. The motion to approve the documents was made by Ko, Kung Hwan and seconded by Choi, Yong Woo. The motion passed.

Annual Affirmation (Annual Affirmation [in Korean])

- Christian Biblical Foundations: Statement of Faith
- Purposes and objectives: Mission Statement and Institutional Objectives
- Philosophy and Ethical and Moral Values specified in the TRACS Foundational Standards (IEF 1a)
- ABHE Statement of Faith
- TRACS Statement of Faith
- Strategic Plan including Survey Report
- Assessment Report

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Agenda (Agenda)

- 2021-2022 Preliminary Budget: Covid support money and music recording room use fees are included in the miscellaneous incomes of revenue.
- 2019-2020 Financial Closing (Financial Summary):—
 - General Affairs Division: Under the laws of the State of California, the hourly minimum wage went up by \$1/hr each year, and as a result, the hourly pay for teaching assistants went up. Compensation for the heads of academic departments also went up. Accordingly, the overall payroll expenses went up. In conjunction, the payroll tax expenses also went up. An audit on financial aids resulted in payment of penalties.
 - Music Department: Due to Covid, it became difficult to offer on- campus classes, so we came to purchase equipment for on-line classes. We also purchased equipment and supplies for Covid-protection and social distancing for the classes that have to be conducted on-campus.
 - Incomes and expenses related to Covid support, and incomes and expenses related to loan interest are separately reported and included in the aggregate closing numbers.
- Board Manual: The following particulars have been updated: “The board is to conduct their evaluation

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every other year according to the procedures in the assessment plan and using the form therein.”

- Academic Catalog: Graduation fee increased; “Financial Aid” section is revised; “Medical and Compassionate Withdrawal Procedure” section is added.
- Student Handbook: “Financial Aid” section is revised; “Medical and Compassionate Withdrawal Procedure” section is added.
- Faculty Handbook: “Total Time Estimate” section of the Syllabus form is revised.
- Distance Education Student/Faculty Manual: “Assignment & Conference” section of online education is enhanced.
- Administration and Personnel Manual: Payroll system is changed such that all faculty members working in administrative positions and all staff members (non-exempt employees) are now subject to clock-in and clock-out whenever they start and end work, and whenever they take 10-minute breaks and meal breaks. According to the timesheets they submit, they are paid hourly wages. In relation to payroll, the sections related to employee category and holiday/overtime pay policy have been updated.

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- Program Change (Program Change [in English])
 - (1) Change BA in Early Childhood Education program to Business Administration concentration
BA in Early Childhood Education program -> BA in Business Administration concentration
 - (2) Change BA in Design program to Information Technology
BA in Design program -> BA in Information Technology concentration

Other Agenda (Other agenda [in English])

- Strategic Planning and Key Priorities Survey (Survey Form Attached)
- SWOT Analysis (Survey Form Attached)

Online Survey Link: <https://www.surveymonkey.com/r/TXKVJZK>

- Changes: Board Members

For 2020, the number of board members was 18. Currently, 12 members serve on the board, as a result of reasons, among others, that Board Member Yonggi Cho resigned, and Co-Chair Sung Rye Kim passed away. After this board meeting, Board Member Eun J in Chang will resign, so we will have a total number of 11. Accordingly, we plan to newly invite 6 board members to make the number 17 in total.

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Pastor Gwon Tae Kim (Senior Pastor, United Church of the Presbyterian Church in Korea)

Pastor Myung Ho Sub (Senior Pastor, Saeroun Church)

Elder Ji Tae Chung (former Chair, Bethesda University)

Pastor Dong Hwan Choi (President, Asia-Pacific Christian College and Seminary (APCCS))

Pastor Eric Choi (Commissioned Pastor, Sangdo Church)

Pastor & President, General Full Gospel World Missions, Inc.

The following members were present and a quorum was achieved. After some discussion, we voted unanimously to approve the following:

RESOLVED, that in this meeting of the board of directors, the agenda items above are hereby approved by Bethesda University.

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Position Title	Name	Signature
Board Member [President SJC]	Seung Je Jeremiah Cho	/s/ Seung Je Jeremiah Cho
Position Title	Name	Signature
Board Member	Kyung Moon Kim	/s/ Kyung Moon Kim
Position Title	Name	Signature
Board Member	Kyong Hwan Ko	/s/ Kyong Hwan Ko
Position Title	Name	Signature
Board Member	Ho Youn Jun	/s/ Ho Youn Jun
Position Title	Name	Signature
Board Member	Byung [ill.] Yang	/s/ Byung [ill.] Yang
Position Title	Name	Signature
Board Member	Yong Joon Kim	/s/ Yong Joon Kim