

IN THE SUPREME COURT OF THE UNITED STATES

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Nos. 19-267 and 19-348

OUR LADY OF GUADALUPE SCHOOL, PETITIONER

v.

AGNES MORRISSEY-BERRU

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ST. JAMES SCHOOL, PETITIONER

v.

DARRYL BIEL, AS PERSONAL REPRESENTATIVE OF  
THE ESTATE OF KRISTEN BIEL

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ON WRITS OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court,  
the Solicitor General, on behalf of the United States, respectfully  
moves that the United States be granted leave to participate in  
the oral argument in this case as amicus curiae supporting

petitioners and that the United States be allowed ten minutes of argument time. Petitioners have agreed to cede ten minutes of argument time to the United States and therefore consent to this motion.

1. In Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC, 565 U.S. 171 (2012), this Court held that the Free Exercise and Establishment Clauses of the U.S. Constitution require a “ministerial exception” that prevents civil courts from adjudicating employment-discrimination claims brought by some employees of religious institutions. The question presented is whether the ministerial exception applies to the claims of respondents here, who are former employees at Catholic primary schools who provided religious instruction.

2. The United States has substantial interests in the resolution of the question presented. This Court’s treatment of the ministerial exception will have repercussions for the application of federal anti-discrimination laws that the federal government enforces, including the federal statutes that respondents invoked here: the Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq., and the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. And the United States has substantial interests both in preserving the free exercise of religion and in ensuring that the federal government avoids a prohibited establishment of religion.

The United States previously presented oral argument as an amicus curiae in Hosanna-Tabor, supra. In addition, the Equal Employment Opportunity Commission participated in the proceedings below in No. 19-348 as amicus curiae supporting respondent. In light of the substantial federal interests in the question presented, the United States' participation at oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

NOEL J. FRANCISCO  
Solicitor General  
Counsel of Record

MARCH 2020