

No. 24-1239

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IN THE  
**Supreme Court of the United States**

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DR. CARA WESSELS WELLS,  
*Petitioner,*

*v.*

TEXAS TECH UNIVERSITY, ET AL.,  
*Respondents.*

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ON PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE FIFTH CIRCUIT

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**BRIEF OF AMICUS CURIAE  
WORKPLACE FAIRNESS  
IN SUPPORT OF PETITIONER**

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## INTEREST OF AMICUS CURIAE

Workplace Fairness is a national nonprofit organization dedicated to advocating for the rights and dignity of workers.<sup>1</sup> We promote equitable treatment in the workplace and provide legal information to empower individuals facing unfair or discriminatory employment practices. With extensive experience in employment law, our organization educates workers and employers about their legal rights and responsibilities under statutes such as Title VII of the Civil Rights Act of 1964. We submit this brief to emphasize the urgent need to ensure that Title VII's protections extend to all individuals who perform work in professional environments, including those in unpaid positions.

## SUMMARY OF ARGUMENT

Title VII prohibits employment discrimination against “any individual” on the basis of race, color, religion, sex, or national origin. The Fifth Circuit’s decision denying Title VII protection based solely on the absence of formal compensation undermines the statute’s text, purpose, and enforcement. Courts in the Sixth and Ninth Circuits have correctly applied a more inclusive approach, focusing on the nature of the

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<sup>1</sup> In accordance with Supreme Court Rule 37, Workplace Fairness affirms that no person or entity other than the Workplace Fairness and its counsel authored this brief in whole or in part, and that no person or entity other than Workplace Fairness and its counsel contributed money intended to fund the preparation or submission of this brief. Counsel for the parties received notice of Workplace Fairness’ intent to file an amicus brief at least ten days before filing.

working relationship rather than remuneration. The Court should grant certiorari to resolve this circuit split and reaffirm that civil rights protections in the workplace must not depend on pay status.

## **ARGUMENT**

### **I. Title VII's Broad Language Encompasses Unpaid Workers in Employment-Like Roles**

The plain language of Title VII states that it is unlawful for an employer to discriminate against “any individual” because of a protected characteristic. Congress could have limited the statute’s reach to only paid employees but chose not to. The use of the broader phrase “any individual” signals an intent to provide expansive protection. Conditioning such rights on receipt of wages is unsupported by the statutory text and runs counter to the statute’s remedial purpose. Title VII’s protective scope was designed to combat workplace discrimination in all its forms. The Fifth Circuit’s reliance on remuneration as a threshold requirement inserts a limitation that the statute itself does not impose. By interpreting “any individual” to exclude unpaid workers, the Fifth Circuit undermines the statute’s goal of eradicating discriminatory practices and leaves a significant segment of the workforce—interns, fellows, volunteers, and others—outside the law’s protection. Courts should instead interpret the statute in light of its plain meaning and its broad remedial purpose. Doing so ensures that Title VII continues to fulfill its role as a cornerstone of workplace civil rights, reaching all individuals subjected to discriminatory treatment in employment-like settings.

## **II. Other Circuits Apply a Totality-of-the-Circumstances Test that Reflects Workplace Reality**

The Sixth Circuit, among others, has adopted a fact-sensitive approach grounded in common-law agency principles. In *Bryson v. Middlefield Volunteer Fire Dep't*, 656 F.3d 348 (6th Cir. 2011), the courts recognized that unpaid individuals may still qualify as employees when they perform substantial work under the control or authority of an organization. These courts focus on the functional realities of the relationship, not its financial terms. Dr. Wells' circumstances closely parallel this precedent. Like the plaintiff in *Bryson*, she engaged in ongoing, structured work under institutional oversight while contributing meaningfully to a professional environment where she faced alleged retaliation for engaging in protected activity. The Sixth Circuit's framework would have rightly afforded her protection.

Dr. Wells' circumstances closely parallel those precedents. Like the plaintiff in *Bryson*, she engaged in ongoing, structured work under institutional oversight. And as in *Hairston*, she contributed meaningfully to an academic and professional environment where she faced alleged retaliation for reporting misconduct. The Sixth and Ninth Circuit frameworks would have rightly afforded her protection.

### **III. Excluding Unpaid Workers Undermines Title VII and Enables Discrimination**

Denying Title VII coverage to unpaid individuals creates a dangerous loophole. Interns, trainees, fellows, and volunteers—often among the most vulnerable in the workplace—can be subjected to discrimination and harassment without recourse, simply because they are unpaid. The Fifth Circuit’s bright-line rule leaves millions of individuals vulnerable to discrimination and harassment. In Dr. Wells’ case, she was allegedly subjected to retaliation after reporting sexual misconduct—yet denied any remedy solely because she did not receive formal compensation. Such a rule incentivizes employers to reclassify vulnerable workers to avoid liability and contradicts the core mission of Title VII: to eliminate workplace discrimination in all its forms. This outcome starkly contradicts Title VII’s core mission to eradicate workplace discrimination.

### **IV. The Circuit Split Requires Resolution to Preserve National Consistency**

The current conflict among circuits creates uncertainty and results in unequal protection of civil rights depending on geographic location. The Court’s guidance is essential to ensure that all individuals who serve in employment-like roles, regardless of compensation, are afforded the full protection of federal civil rights law.

**CONCLUSION**

For the foregoing reasons, amicus curiae Workplace Fairness respectfully urges the Court to grant the petition for certiorari and clarify that Title VII extends its protection to unpaid individuals who work in professional roles under the control of an employer.

Respectfully submitted,

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