No. 25-1131

IN THE
Supreme Court of the United States

MISSIONARIES OF SAINT JOHN THE BAPTIST, INC.,
Petitioner,

— v.—

JOEL FREDERIC, ET UX.,
Respondents.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF KENTUCKY

BRIEF OF MONSIGNOR CHARLES M. MANGAN AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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IDENTITY AND INTEREST OF *AMICUS CURIAE*[1]

Monsignor Charles M. Mangan is a Catholic priest and seminary professor. He has advanced academic expertise in Mariology. Mariology is the theological study of the Blessed Virgin Mary, Marian devotion, and Mary's place in the Catholic Church and in the religious life of Catholics. Monsignor Mangan is also an expert on devotional Marian grottos. Catholics use these grottos as sacred spaces to practice their faith in parishes, schools, public places, and private backyards.

Monsignor Mangan has no interest in the outcome of this case. Given his expertise, he seeks only to explain the historical, cultural, and religious context of Marian devotion within the Catholic Church. He seeks to explain the place of grottos honoring the Blessed Virgin Mary in Catholic life. Petitioner Missionaries of Saint John the Baptist wishes to build just such a grotto. But the courts below treated it as an optional add-on to Catholic worship. Monsignor Mangan knows that such a view is mistaken. The context he offers bears directly on the question before the Court. It shows that building a Marian grotto is a religious exercise in the fullest sense. And it shows that Marian devotion and grottos are devotional practices the First Amendment protects. As that context supports Petitioner's position, Monsignor Mangan submits this brief in support of Petitioner.

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[1] No counsel for a party authored this brief in whole or in part. No party, counsel for a party, or any person other than *amicus curiae* or his counsel made a monetary contribution intended to fund the preparation or submission of this brief. *See* Sup. Ct. R. 37.6.

SUMMARY OF THE ARGUMENT

We never give more honor to Jesus than when we honor His Mother, and we honor her simply and solely to honor Him all the more perfectly.

These words are attributed to St. Louis de Montfort. They capture the Catholic Church's devotion to the Blessed Virgin Mary. Catholics express that devotion in words. They also express it in devotional practices and in sacred spaces built to honor Our Lady. For generations, Catholics of every nationality and age have built Marian grottos. They pray in these spaces. They seek guidance there. And they honor Jesus Christ and His Mother there.

Petitioner Missionaries of Saint John the Baptist sought to do the same thing. It applied to build a modest grotto behind its church. The grotto would honor the Virgin Mary's apparition to St. Bernadette at Lourdes, France. *See* Pet. Br. 1. The church has stood on the property for nearly a century. It predates the City of Park Hills' 1974 zoning ordinance. *See id.* at 12. The local Board of Adjustment approved the grotto. *Id.* at 1, 44–45. But on neighbors' challenge, the Kentucky courts held that the zoning ordinance bars it. The Kentucky Supreme Court then held that this bar does not substantially burden Petitioner's religious exercise under RLUIPA. *See Missionaries of Saint John the Baptist, Inc.* v. *Frederic*, 727 S.W.3d 400 (Ky. 2025). That holding is wrong, and the Court should reverse it.

First, RLUIPA and the First Amendment protect religious exercise broadly. RLUIPA defines "religious exercise" to cover "any exercise of religion, whether or

not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A). It also provides that "[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise." *Id.* § 2000cc-5(7)(B). These protections reach Catholic devotions as fully as the practices of any other faith.

Second, building and using a Marian grotto is a core Catholic religious exercise. Devotion to Mary runs from Scripture and the early Church to the present day. Marian grottos give that devotion a physical home. They are sacred places for prayer, reflection, and worship. They are not decorations.

Third, the Court should confirm that Marian devotion, including the building and use of Marian grottos, is a central and long-standing Catholic practice. The courts below treated the grotto as merely incidental to the Catholic faith. That view is mistaken. Indeed, RLUIPA does not ask courts to decide which devotions are essential to a faith. It protects religious exercise "whether or not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A). And the First Amendment forbids courts from second-guessing which devotions matter to believers.

Fourth, a ruling for Petitioner will protect religious liberty for believers of every faith. If the decision below stands, courts may rank religious practices by their perceived importance. RLUIPA forbids that. And the risk is not limited to Catholics. A rule that lets the government ban a church's grotto without justification would equally ban the construction of other religious spaces.

ARGUMENT

I. RLUIPA AND THE FIRST AMENDMENT BROADLY PROTECT RELIGIOUS EXERCISE, INCLUDING THE BUILDING OF RELIGIOUS STRUCTURES AND THE PRACTICE OF CATHOLIC DEVOTIONS.

Catholics and their religious and faith-based practices and devotions are clearly and broadly protected by the First Amendment of the United States Constitution and RLUIPA.

A. The Free Exercise Clause, RFRA, and RLUIPA protect the religious practices of Americans of all faiths.

The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I. The Free Exercise Clause applies to the States through the Fourteenth Amendment. *Cantwell* v. *Connecticut*, 310 U.S. 296, 303 (1940). It protects the exercise of religious belief against restraint by the government. *See Sch. Dist. of Abington Twp., Pa.* v. *Schempp*, 374 U.S. 203, 222–23 (1963). For decades, courts applied strict scrutiny to government action that burdened religious exercise. *See, e.g.*, *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972); *Sherbert* v. *Verner*, 374 U.S. 398 (1963).

In 1990, this Court held that neutral, generally applicable laws that incidentally burden religion do not violate the Free Exercise Clause. *See Emp. Div., Dep't of Human Res. of Oregon* v. *Smith*, 494 U.S. 872, 874, 890 (1990). Congress responded. In 1993, it passed the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb *et seq*. RFRA restored

strict scrutiny for government action that substantially burdens religious exercise, even incidentally. Congress meant to "provide very broad protection for religious liberty." *Burwell* v. *Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693 (2014). *See also* Ky. Rev. Stat. § 446.350.

RFRA "provides that '[g]overnment shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability,' unless the government 'demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.'" *Holt* v. *Hobbs*, 574 U.S. 352, 357 (2015) (alteration in original) (quoting 42 U.S.C. § 2000bb-1(a), (b)). That is a demanding standard. It "provide[s] greater protection for religious exercise than is available under the First Amendment." *Id.*

RLUIPA extends the same protection to land use. RFRA's sister statute bars the government from imposing or implementing a land use regulation in a manner that "imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc(a)(1). As this Court has explained, "Congress enacted RLUIPA and its sister statute" RFRA "to provide very broad protection" for religious exercise. *Holt*, 574 U.S. at 356. Both statutes carry forward the First

Amendment's promise that no law shall "prohibit[] the free exercise" of religion. U.S. Const. amend. I.

B. RLUIPA expressly protects the building of religious structures, regardless of whether a court deems the practice central to one's faith.

RLUIPA's text answers two questions that matter here. The first is whether building a religious structure counts as religious exercise. It does. The statute says so directly: "The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose." 42 U.S.C. § 2000cc-5(7)(B). A Catholic church that wants to build a grotto for prayer and devotion on its own land is engaged in religious exercise.

The second question is whether a court may discount a practice because it is not required by the faith. It may not. Both RFRA and RLUIPA define "religious exercise" as "any exercise of religion, whether or not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A); *see also* 42 U.S.C. § 2000bb-2(4). "This broad definition evinces Congress's intent to expand the concept of religious exercise that was used by courts in identifying 'exercise of religion.'" *Adkins* v. *Kaspar*, 393 F.3d 559, 567 (5th Cir. 2004).

This rule reflects a long-standing principle. "Many cherished religious practices are performed devoutly by adherents who nonetheless do not or cannot insist that those practices are mandated." *Levitan* v. *Ashcroft*, 281 F.3d 1313, 1320 (D.C. Cir. 2002). The

law protects those practices all the same. *See, e.g.*, *Frazee* v. *Illinois Dep't of Emp. Sec.*, 489 U.S. 829, 834 (1989) ("[W]e reject the notion that to claim the protection of the Free Exercise Clause, one must be responding to the commands of a particular religious organization."). And the Free Exercise Clause "protects not only the right to harbor religious beliefs inwardly and secretly." *Kennedy* v. *Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022). It also protects "the ability of those who hold religious beliefs of all kinds to live out their faiths in daily life through 'the performance of (or abstention from) physical acts.'" *Id.* (quoting *Smith*, 494 U.S. at 877). Building a grotto and praying in it are exactly such physical acts.

C. These protections apply fully to Catholic practices and devotions.

The Free Exercise Clause, RFRA, and RLUIPA do not "differentiate among bona fide faiths." *Cutter* v. *Wilkinson*, 544 U.S. 709, 723 (2005). RLUIPA "confers no privileged status on any particular religious sect, and singles out no bona fide faith for disadvantageous treatment." *Id.* at 724. Catholic devotions are protected on the same terms as the practices of any other faith.

This Court and other federal courts have often recognized Catholic beliefs and practices as protected religious exercise. These protected beliefs and practices include those that have been at the heart of seminal cases that have shaped the country's understanding of the comprehensive protections the First Amendment offers to each American. *See, e.g.*, *Fulton* v. *City of Philadelphia*, 593 U.S. 522, 526–30, 542–43 (2021) (acknowledging Catholic religious

belief about marriage as a sacred bond between a man and a woman, which informed a Catholic foster care agency's decisions on whom to certify as eligible couples); *Roman Catholic Diocese of Brooklyn* v. *Cuomo*, 592 U.S. 14, 16–21 (2020) (executive order capping attendance at houses of worship while allowing other businesses to operate without similar limits was against the Free Exercise Clause); *Little Sisters of the Poor Saints Peter & Paul Home* v. *Pennsylvania*, 591 U.S. 657, 668 (2020) (acknowledging Catholic belief "that deliberately avoiding reproduction through medical means is immoral" (quotation omitted)).

Lower courts have done the same for Catholic devotions tied to sacred places and objects. *See Catholic Healthcare Int'l, Inc.* v. *Genoa Charter Twp., Michigan*, 82 F.4th 442, 449–51 (6th Cir. 2023) (town's demand that a Catholic organization obtain a special land use permit for an outdoor Stations-of-the-Cross prayer trail, and its ban on organized gatherings on the property, likely violated RLUIPA); *Chalifoux* v. *New Caney Indep. Sch. Dist.*, 976 F. Supp. 659, 670–71 (S.D. Tex. 1997) (wearing rosaries was protected by the Free Exercise Clause, despite the defendant's inaccurate claim that the "act of wearing rosaries . . . is neither a requirement of orthodox Catholicism nor a common Catholic practice").

The Court is thus no stranger to wrestling with the tension brought about by conduct that inhibits, in some way, sincere religious beliefs and practices by Catholics. And in many of these cases, the Court—and the federal courts below it—has explicitly defended the "First Amendment's terms and long-

settled rules." *Roman Catholic Diocese of Brooklyn*, 592 U.S. at 23 (Gorsuch, J., concurring). The same rules should govern Petitioner's grotto.

II. MARIAN DEVOTION AND PRACTICES HONORING THE VIRGIN MARY, INCLUDING THE BUILDING AND USE OF MARIAN GROTTOS, ARE CENTRAL TO CATHOLIC RELIGIOUS EXERCISE.

Because the courts below misjudged the place of Marian grottos in Catholic life, Monsignor Mangan offers the following context. It shows that Petitioner's grotto is not an accessory to its faith. It is an expression of that faith.

A. Marian devotion lies at the core of Catholic belief.

From the moment when we were called to the See of Peter, we have constantly striven to enhance devotion to the Blessed Virgin Mary.

Pope Paul VI wrote these words in the introduction to *Marialis Cultus* (1974). They confirm that Marian devotion is "deeply rooted in orthodox Catholic beliefs." *See Chalifoux*, 976 F. Supp. at 670 (explaining that the rosary[2] is "central to orthodox

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[2] Rosaries are used to pray the "Rosary of the Virgin Mary." That prayer is "clearly Marian in character" and "is at heart a Christocentric prayer." Pope John Paul II, Apostolic Letter *Rosarium Virginis Mariae* to the Bishops, Clergy and Faithful on the Most Holy Rosary, ¶ 1 (2002). *See also Polish Nat'l Catholic Church of the Holy Mother of the Rosary* v. *Diocese of Buffalo*, 171 N.Y.S. 401, 403 (Sup. Ct. 1918) ("[T]he devotion of the Rosary was instituted by St. Dominic in the year 1215, and for centuries has become and has been recognized as a devotion by the Roman Catholic Church throughout the world, and that

Catholicism"). Indeed, this strong devotion to Our Lady, and the use of objects to honor her, "is unique among all Christian denominations." *Id.*

Marian devotion is the Catholic practice of venerating the Blessed Virgin Mary as the Mother of God and the spiritual mother of all peoples. "Mary was the first Christian." Monsignor Charles M. Mangan, *How Can I Attain Heaven?*, Servants of the Pierced Hearts of Jesus (2006), https://tinyurl.com/mr3a8nrh (last accessed Nov. 19, 2026). Devotion to the Mother of God is thus central to the Catholic faith.

The Church has always emphasized Mary's status as the "Virgin Mother of God." She is "free from all sin." She "hear[s] the prayers" of Catholics as "the mother of all His members." Pope Pius XII, *Mystici Corporis Christi*, ¶ 110 (1943). The Catholic belief in Mary's freedom from original sin is rooted in Scripture itself. Monsignor Charles M. Mangan, *Feast of Immaculate Conception recognizes Mary's sinless nature*, Catholic Review (November 23, 2021), https://tinyurl.com/57c67bnd (last accessed Nov. 19, 2026) (discussing Genesis 3:15 and Luke 1:28).

Marian devotion takes many forms. One is the Angelus. Catholics pray it at set times of day to commemorate the Incarnation and the Angel Gabriel's announcement to Mary that she would conceive a Son by the power of the Holy Spirit. *See*

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in 1275 this devotion of the Rosary was made a part of the liturgy of the Roman Catholic Church").

Emilie Griffin, *The Angelus*, AMERICA MAGAZINE, March 3, 2003.[3]

Another is the Rosary of the Virgin Mary. *See* Pope John Paul II, Apostolic Letter *Rosarium Virginis Mariae* to the Bishops, Clergy and Faithful on the Most Holy Rosary, ¶ 5 (2002) ("The Rosary belongs among the finest and most praiseworthy traditions of Christian contemplation.").

A third is Marian Consecration, spread especially by St. Louis de Montfort. Through it, a person formally entrusts himself to the Blessed Virgin Mary and to her intercession with Jesus Christ. *See* J. Patrick Gaffney, *St. Louis Mary Grignion de Montfort and the Marian Consecration*, 35 MARIAN STUDIES J. 14, 111–12 (1984).[4]

Each form of Marian devotion matters deeply to Catholics. They believe that Marian devotion "takes its origin and effectiveness from Christ, finds its complete expression in Christ, and leads through Christ in the Spirit to the Father." Pope Paul VI, *Marialis Cultus*, introduction.

Put simply, Mary leads Catholics to Christ. "Indeed every authentic development of Christian worship is necessarily followed by a fitting increase of veneration for the Mother of the Lord." *Id.* So "[m]any forms of piety toward the Mother of God developed

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[3] Available at: https://tinyurl.com/24x7pbay (last accessed Nov. 19, 2026).

[4] Available at: https://perma.cc/64HX-N5TU (last accessed Nov. 19, 2026).

that help bring us closer to her Son."[5] "[I]n the sphere of worship this devotion necessarily reflects God's redemptive plan, in which a special form of veneration is appropriate to the singular place which Mary occupies in that plan." Pope Paul VI, *Marialis Cultus*, introduction.

Thus, the "Church honors her as the Mother of God, looks to her as a model of perfect discipleship, and asks for her prayers to God on our behalf."[6]

B. Marian devotion is deeply rooted in Catholic history and religious beliefs, from the early Church to today.

Catholic devotion to Mary began in the early Church and continues today. "If one studies the history of Christian worship, in fact, one notes that both in the East and in the West the highest and purest expressions of devotion to the Blessed Virgin have sprung from the liturgy or have been incorporated into it." Pope Paul VI, *Marialis Cultus*, Part One, Section One ¶ 15. "Throughout the centuries, the Church has turned to the Blessed Virgin in order to come closer to Christ."[7]

Marian devotion is rooted in Scripture. From the cross, Jesus said to His mother, "Woman, behold your son"; and He said to the beloved disciple, "behold your mother." John 19:26–27.

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[5] United States Conference of Catholic Bishops (USCCB), *Mary*, available at: https://perma.cc/B45S-TSP3 (last accessed Nov. 19, 2026).

[6] USCCB, *supra*.

[7] USCCB, *supra*.

The Church has always read this passage to confirm Mary's role as Mother of the Church. *See* Pope John Paul II, *Redemptoris Mater* (1987), Part I, ¶¶ 24, 47. Catholics believe that "Mary belongs indissolubly to the mystery of Christ, and she belongs also to the mystery of the Church from the beginning, from the day of the Church's birth." *Id.* ¶ 27. So "from generation to generation, in the midst of all the nations of the earth," Catholics are urged to "find the one 'who believed that there would be a fulfillment of what was spoken to her from the Lord.'" *Id.* (quoting Luke 1:45).

To that end, the title "Mother of the Church" appears in theological writings as early as the 1100s. *See* David Jenuwine, *The Blessed Sacrament and the Blessed Virgin Mary* (Jan. 28, 2019; Updated: May 29, 2020), https://perma.cc/5HUE-8JHN; Matthew Mauriello, *Mary, Mother of the Church*, Fairfield County Catholic (Jan. 1996).[8] Each generation of Catholics has carried this devotion forward.

Even from the beginning, "the fathers of the Church lavished praise upon the Ever-Virgin, using an array of vivid and informative titles to describe the sinless Mother of God." Monsignor Mangan, *Feast of Immaculate Conception*, *supra*. Those titles include "Lily Among Thorns," "Immaculate," "Fountain Ever Clear," and "Holy and Stranger to All Stain of Sin." *Id.* About 1,600 years ago, St. Peter Chrysologus wrote: "The Virgin is truly blessed, for she possessed the splendor of virginity and achieved the dignity of motherhood. . . . She is truly blessed, for she received

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[8] Available at: https://perma.cc/9Z59-TUTT (last accessed Nov. 19, 2026).

the glory of the divine Son and is queen of all chastity." Monsignor Charles M. Mangan, *Our Lady of the Rosary*, The Arlington Catholic Herald, Oct. 6, 2021.[9]

The title *Theotokos* (Mother of God) was already widespread in the third century. The oldest known Marian prayer, *Sub tuum praesidium* (Under Your Protection), uses it. That prayer dates to around 250 A.D. *See* Pope John Paul II, *We Can Count on Mary's Intercession*, L'Osservatore Romano, November 12, 1997, at 11 ¶ 1.[10]

Today, the Catechism of the Catholic Church teaches that Mary is "the most excellent fruit of redemption," "truly 'Mother of God,'" the "handmaid of the Lord," and the "new Eve, mother of the living." Catechism of the Catholic Church (CCC) ¶¶ 508–11 (Ascension ed. 2022).

Many Catholics also believe in Mary's continued presence in the life of the Church. That belief has shaped Marian devotion over the centuries. Marian apparitions are the best-known example. The Church holds that the first Marian apparition occurred in 40 A.D. in Spain, when Mary appeared to the Apostle James. *See* Alejandro Bermudez, *Why Our Lady of the Pillar is the patroness of Spain and the Americas*, EWTN News (Oct. 12, 2021), https://tinyurl.com/2ptz987n. Later apparitions include Our Lady of Guadalupe in 1531, Our Lady of

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[9] Available at: https://tinyurl.com/bdfr6upf (last accessed Nov. 19, 2026).

[10] Available at: https://tinyurl.com/4ptrzj7y (last accessed Nov. 19, 2026).

Lourdes in 1858, and Our Lady of Fatima in 1917. *See* Annelise Jolley, *A liberatory look at Marian apparitions*, U.S. Catholic (Dec. 10, 2024), https://perma.cc/5RAE-TJA5. Devotions tied to these apparitions remain a living part of Catholic practice. Catholics believe Mary appeared in these "places of crisis, violence, and transformation" to offer intercession and guidance. *Id.*

At bottom, Catholics believe that "the Virgin is more powerful than all others as a means for uniting mankind with Christ." Pope Pius X, *Ad Diem Illum Laetissimum*, ¶ 8 (1904). Mary has inspired millions of Catholics to honor her, to seek her intercession, and to follow her "sure[]" and "direct road" "for uniting all mankind in Christ." *Id.* ¶ 5.

C. Building and using Marian grottos like Petitioner's is an integral part of Catholic religious exercise.

Marian grottos give this Catholic devotion a physical place. Building, using, and preserving them is as important to Catholics– as the devotion they serve. Petitioner's planned grotto is one example. *See* Pet. Br. 1, 11–12.

Marian grottos are shrines or caves dedicated to the Blessed Virgin Mary. Most replicate the site of Our Lady's apparitions at Lourdes, France, in 1858. Lourdes itself is a Catholic shrine and pilgrimage site. *See* Cynthia A. Kiigemagi, *Our Lady of the Island: Our Lady of Lourdes Grotto Reproduction and Use in Two Newfoundland Communities*, 1–4 (Nov. 2022) (Ph.D. dissertation, Memorial University of Newfoundland), https://perma.cc/E7R4-X9VP (last accessed Nov. 19, 2026). Catholics believe that at

Lourdes "Our Blessed Lady told St. Marie Bernadette Soubirous (1844-79) within the cave at Massabielle near Lourdes, France in 1858, [that] she is the Immaculate Conception." Monsignor Mangan, *Feast of Immaculate Conception*, *supra*. Petitioner's grotto would honor that very apparition.

Marian grottos appear throughout the world. They testify to a devotion that crosses national boundaries and generations. *See, e.g.*, Jenara Kocks Burgess, *The story of a grotto, a small town, and the intercession of our Lady*, North Texas Catholic (June 29, 2017), https://tinyurl.com/wz4ux9r9 (last accessed Nov. 19, 2026); Jean Pierre Fava, *The fascinating story of the Marian National Shrine and Our Lady of the Grotto of Mellieha, in Malta*, Aleteia (May 26, 2020), https://perma.cc/7ZY3-EEXY; Howard Chua-Eoan, *Cocktails & Carnage: Finding Mary of Manaoag*, Roads & Kingdoms (Aug. 15, 2013), https://tinyurl.com/mszsus9m (last accessed Nov. 19, 2026).

Grottos are sacred spaces. Catholics go there to pray, to discern, to reflect, and to honor Mary. They go there to imitate Mary's "fidelity to her Divine Son," which "is the balm that every soul would well imitate." Monsignor Charles M. Mangan, *Our Lady's Example*, The Arlington Catholic Herald, March 18, 2015.[11] Grottos are places of solace. Visitors practice their daily devotions there through quiet contemplation. That is true of public grottos at parishes and universities. It is also true of simple backyard shrines. *See, e.g.*, Joni Moths Mueller, *A*

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[11] Available at: https://perma.cc/5HQR-9XHA (last accessed Nov. 19, 2026).

sacred space, We Are Marquette (Oct. 15, 2018), https://perma.cc/DYE8-LD99; Michelle McDaniel, *How to create your own Marian garden*, North Texas Catholic (Oct. 7, 2021), https://perma.cc/Q86A-DTVZ (last accessed Nov. 19, 2026).

The physical place itself matters. Grottos "become spiritual sensory thresholds or doorways where devotees can approach Mary through the agency of the material world." Kiigemagi, *supra*, at 12. As one scholar observes, "[i]nsight into Marian devotion is vital for understanding Catholic religious observances," including the "construction" of Marian grottos. *Id.* at 3. "Mary's image can move the individual to spiritual contemplation and/or political action." *Id.* And "[s]tatues of the Virgin Mary and other objects of devotion represent a material medium in connection with the holy family." *Id.* Grottos "tie communities to a global spiritual narrative concerning Marian piety." *Id.* at 11.

Marian grottos are thus visible markers of Catholic faith in Jesus Christ. They also proclaim Mary's unique role in what Catholics believe is God's plan of salvation. *See* CCC ¶ 411 (preservation from sin); ¶¶ 484, 490 (Annunciation); ¶¶ 490–93 (Immaculate Conception); ¶¶ 496–98, 502–07 (perpetual virginity); ¶ 966 (Assumption); ¶¶ 969–70 (mediatrix of grace). For that reason, the building and opening of a grotto is a cause for celebration in a Catholic parish. *See, e.g.*, Hannah Heil, *St. John Neumann dedicates Marian grotto*, The Catholic Times (May 15, 2024), https://perma.cc/Y9FL-7D79; Robert Fastiggi, *Honor thy Mother: Six U.S. shrines dedicated to the Virgin Mary* (May 7, 2024),

https://tinyurl.com/54rr45km (last accessed Nov. 19, 2026).

In short, Marian grottos "serve as a special and sacred place of devotion, inspiration and prayer." Mueller, *supra*. They are part of the long and rich tradition of Marian devotion. Building one is a religious exercise.

III. THE COURT SHOULD RECOGNIZE AND CONFIRM THE IMPORTANCE OF MARIAN DEVOTION AS PRACTICED BY CATHOLICS.

The important, critical nature of Marian devotion and grottos honoring the Blessed Virgin Mary for Catholics and organizations like Petitioner in this case is undeniable. Marian devotion and the building of grottos for Our Lady are Catholic devotional practices. They should be protected by the Free Exercise Clause of the First Amendment, RFRA, and RLUIPA.

Yet, as the history of this case has shown, courts may still mistake Marian devotion for something merely incidental to the Catholic faith. The Kentucky Court of Appeals thus reasoned that laws that may burden such devotional practices are "not inherently inconsistent with [Catholics'] religious beliefs." *Frederic* v. *City of Park Hills Bd. of Adjustment*, 2023 WL 8286391, at *7 (Ky. Ct. App. 2023). And while the Kentucky Supreme Court shied away from such a pronouncement, it also avoided explicit acknowledgment that Marian devotion and the construction of Marian grottos were important, central, and long-standing Catholic beliefs that should be generally protected by the Free Exercise Clause. *See Missionaries of Saint John the Baptist,*

Inc. v. *Frederic*, 727 S.W.3d 400, 416 (Ky. 2025). But it still held that barring the grotto did not substantially burden Petitioner's religious exercise. And it did not acknowledge that building and using a Marian grotto is an important, long-standing Catholic practice.

Both approaches are wrong. As Part II shows, a Marian grotto is not an accessory. It is a sacred space for one of the oldest and most widespread Catholic devotions. More basically, RLUIPA does not ask courts to decide which devotions are essential to a faith. The statute protects religious exercise "whether or not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A). And it expressly treats building on real property for religious purposes as religious exercise. *Id.* § 2000cc-5(7)(B). A court that weighs whether a devotion is important enough to protect has asked the wrong question.

The First Amendment points the same way. The Free Exercise Clause protects believers who "live out their faiths in daily life through 'the performance of (or abstention from) physical acts.'" *Kennedy*, 597 U.S. at 524 (quoting *Smith*, 494 U.S. at 877). It does not require believers to show that a practice is mandated. *See Frazee*, 489 U.S. at 834. And courts have rejected attempts to discount Catholic devotions as optional. *See Chalifoux*, 976 F. Supp. at 670–71. The same principles should guide the substantial-burden inquiry under RLUIPA.

This Court should thus make clear that Marian devotion—much like the other Catholic beliefs that have been at issue before this Court and other federal

courts—*is* a long-standing and historical Catholic devotional practice entitled to the Free Exercise Clause's protections. Without the Supreme Court weighing in on this issue, there is a substantial risk that future courts will disregard these devotional practices or wrongly treat them as merely ancillary to the Catholic faith, to the detriment of every Catholic's First Amendment rights.

IV. A RULING FOR PETITIONER WILL PROTECT RELIGIOUS LIBERTY FOR BELIEVERS OF EVERY FAITH.

Lastly, if the decision below stands, there is a real risk that courts will treat Marian devotion, and devotions like it, as merely incidental to faith. That result would conflict with this Court's treatment of other Catholic practices. *See Fulton*, 593 U.S. at 526–30, 542–43; *Roman Catholic Diocese of Brooklyn*, 592 U.S. at 16–21; *Little Sisters of the Poor*, 591 U.S. at 668. It would also invite courts to rank religious practices by their perceived importance. RLUIPA forbids that. *See* 42 U.S.C. § 2000cc-5(7)(A).

The risk is not limited to Catholics. RLUIPA, like the Free Exercise Clause, singles out no faith for special treatment. *See Cutter*, 544 U.S. at 723–24. A rule that lets the government ban a church's grotto without justification would equally let it ban a synagogue's sukkah, a temple's shrine, or a mosque's prayer space. Congress enacted RLUIPA to prevent that. The Court should hold that a land use regulation that prohibits a religious institution from building a religious structure on its own property substantially burdens religious exercise. And it should make clear that Marian devotion, including

the building and use of Marian grottos, is a religious exercise that RLUIPA and the First Amendment protect.

CONCLUSION

The Court should reverse the judgment of the Supreme Court of Kentucky. It should hold that prohibiting Petitioner from building a Marian grotto on its own property substantially burdens Petitioner's religious exercise under RLUIPA. And it should confirm that Marian devotion, including the building and use of grottos honoring the Blessed Virgin Mary, is a long-standing Catholic religious practice protected by RLUIPA and the First Amendment.

Respectfully submitted,

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