No. 25-849

IN THE

Supreme Court of the United States

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
Petitioner,

v.

DAVID O'CONNELL,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE ALEPH INSTITUTE AS AMICUS SUPPORTING PETITIONER

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INTEREST OF AMICUS CURIAE

The Aleph Institute ("Aleph") is a national nonprofit Jewish organization dedicated to advancing religious life, human dignity, and both civil and religious liberty for people who are isolated from their communities.[1] Rooted in the Orthodox Jewish, Hasidic tradition of Chabad Lubavitch, Aleph provides educational, humanitarian, and pastoral support to those incarcerated, those institutionalized or at risk due to mental illness or addiction, as well as U.S. service members and their families.

Aleph regularly makes internal decisions about the stewardship of religious offerings—a core matter of religious governance. Those faith informed decisions routinely present the kinds of internal religious matters the First Amendment places beyond the reach of civil authority. Therefore, Aleph has a substantial interest in this case as it presents constitutional issues that will affect the ability of religious organizations—including minority faith communities—to make internal-governance and resource-allocation decisions free from civil interference.

INTRODUCTION

Recognized more than 150 years ago as a "spirit of freedom" for religious self-governance, *Kedroff* v. *St. Nicholas Cathedral*, 344 U.S. 94, 116 (1952) (discussing *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679 (1872)), the

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[1] No counsel for a party authored this brief in whole or in part, and no entity or person, other than Aleph, its members, and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. On February 5, 2026, Aleph's counsel notified counsel of record for all named parties of its intent to file this brief.

church autonomy doctrine[2] is a constitutional boundary that safeguards the "right of religious institutions 'to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine,'" *Our Lady of Guadalupe School* v. *Morrissey-Berru*, 591 U.S. 732, 736 (2020) (quoting *Kedroff*, 344 U.S. at 119). This constitutional restraint is grounded in the foundational principle that only religious bodies are competent authorities with respect to their internal practices, decisions, and matters of governance and therefore must remain free from civil interference with respect to such matters. Civil courts are compelled to yield in cases that bears on the internal practices, decisions, and matters of governance of religious groups.

In 2018, Respondent—a parishioner at Sacred Heart Catholic Church in Rhode Island—made a cash offering after his parish priest delivered from the pulpit during Mass a request for parishioners to contribute to "Peter's Pence," an ancient religious offering taken up during worship through which the faithful voluntarily support the Church's mission. Pet.App.5a-6a, 50a. Years later, Respondent concluded that he had misunderstood how the Church administers the offering and so filed a federal class action against Petitioner. Pet.App.169a-193a. The complaint asserts fraud, unjust-enrichment, and breach-of-fiduciary-duty claims, alleging that his parish priest conveyed a misleading impression about the administration of the offering. *Id.*

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[2] While this doctrine has various labels, this brief follows the Court in its use of the term church autonomy. *Our Lady*, 591 U.S. at 747 ("The constitutional foundation for our holding was the general principle of church autonomy.").

Permitting this litigation to proceed, the lower courts committed distinct legal errors. In a short oral ruling, the district court summarily denied Petitioner's request to dismiss, concluding that the claims presented "straightforward" questions—about what Petitioner "represented," what it "knew," and the Church's "relationship" with its faithful—that the court believed could be resolved without impermissible entanglement by applying "neutral principles" of law. Pet.App.35a-37a. The circuit court declined immediate review, accepting the premise that litigation so framed inflicts no present First Amendment injury and that any church autonomy concerns may be addressed later, after discovery and trial. Pet.App.1a-30a. Although analytically distinct, both rulings stem from the same fundamental misunderstanding: neutral principles can be invoked to intrude upon questions of internal church practices, decisions, and governance in any case where the court believes it can resolve claims on secular terms. Those holdings are wholly inconsistent with this Court's jurisprudence.

While this Court has recognized that "neutral principles of law" can be used as a narrow method for resolving certain disputes over formal title to church property without violating church autonomy, *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969) ("*Blue Hull*"), it has never held that neutral principles functions as a universal solvent for litigating internal religious matters. Recasting neutral principles as such—whenever a party invokes secular labels, as here—invites artful pleading and renders virtually any internal religious dispute litigable. That approach constitutes a profound inversion of the church-autonomy

doctrine's limits on civil interference, inviting precisely the entanglement this Court has long forbidden.

ARGUMENT

I. THE CHURCH AUTONOMY DOCTRINE PROHIBITS COURTS FROM ADJUDICATING LAWSUITS CONCERNING RELIGIOUS ORGANIZATIONS' INTERNAL GOVERNANCE AND DECISION-MAKING

A. Grounded In The Constitution And This Nation's Traditions, The Church Autonomy Doctrine Protects An Exclusive Sphere Of Authority

The church autonomy doctrine is anchored in the two "Religion Clauses" of the First Amendment, which "gives special solicitude to the rights of religious organizations" to administer their own affairs. *Hosanna-Tabor Evangelical Lutheran Church & Sch.* v. *EEOC*, 565 U.S. 171, 188-189 (2012). The Establishment Clause restrains the involvement of government in religious groups' internal affairs, while the Free Exercise Clause safeguards the individual and communal freedoms to practice religion. *Our Lady*, 591 U.S. at 747-748 (citing *Hosanna-Tabor*, 565 U.S. at 183-184). In tandem, the Religion Clauses "protect a private sphere within which religious bodies are free to govern themselves in accordance with their own beliefs." *Hosanna-Tabor*, 565 U.S. at 199 (Alito, J., concurring); *Catholic Charities Bureau* v. *Wisconsin Lab. & Indus. Rev. Comm'n*, 145 S.Ct. 1583, 1595 (2025) (Thomas, J., concurring) ("The First Amendment guarantees to religious institutions broad autonomy to conduct their internal affairs and govern themselves."). That separation reflects the foundational First Amendment premise: "both religion and government can best work

to achieve their lofty aims if each is left free from the other within its respective sphere." *McCollum* v. *Board of Educ.*, 333 U.S. 203, 212 (1948).

Religious organizations' "independence" in matters of faith, doctrine, and internal government is "hardly new." *Hosanna-Tabor*, 565 U.S. at 182, 186. Indeed, this understanding did not originate with the Religion Clauses. Rather, it reflects the pre-constitutional "settlement" intended to resolve a centuries-old conflict between church and state by recognizing two distinct spheres of sovereignty. Esbeck, *Dissent and Disestablishment*, 2004 B.Y.U. L. Rev. 1385, 1395-1402 (2004). That settlement rests upon principles of religious liberty and self-governance that are deeply embedded in this Nation's history. *See Hosanna-Tabor*, 565 U.S. at 181-190 (tracing the doctrine's historical foundations).

It was well settled at the Founding that religious bodies possess exclusive authority over the ecclesiastical affairs of their members. Madison, *Memorial and Remonstrance Against Religious Assessments* ¶1 (1785) ("Religion is wholly exempt from [civil government's] cognizance."). Early American voices "embraced the idea of a constitutionalized distinction between civil and religious authorities"—one that both "implied" and "enabled" a "zone of autonomy" in which religious bodies could govern their own affairs. Garnett, Hosanna-Tabor, *Religious Freedom, and the Constitutional Structure*, 2012 Cato Sup. Ct. Rev. 307, 313.

That understanding was not confined to the realm of legislative or executive authority. From our Nation's earliest years, civil courts treated internal church governance as a "distinct jurisdiction," disclaiming both the authority and competence to adjudicate such

matters. Weinberger, *The Origins of Church Autonomy* 2-3 (Feb. 27, 2026) (early American courts "coalesced around [the] general principle [that] matters of internal church governance should be respected by civil courts"). Indeed, this Court's first church autonomy decisions recognized the doctrine on common law, not constitutional, grounds. *Watson*, 80 U.S. 679; *Bouldin* v. *Alexander* 82 U.S. (15 Wall.) 131 (1872). In *Kedroff* and the cases that followed, the Court recognized church autonomy among the protections afforded by the First Amendment. 344 U.S. at 116.

Throughout the doctrine's development, and as this Court routinely instructs, the historical understandings that informed *Watson* remain essential to the doctrine's proper application today. *Kennedy* v. *Bremerton Sch. Dist.*, 597 U.S. 507, 535-536 (2022) (the Religion Clauses must be interpreted according to "historical practices and understandings"); *Our Lady*, 591 U.S. at 748 ("In addition to [our] precedents, we looked to the 'background' against which 'the First Amendment was adopted.'" (quoting *Hosanna-Tabor*, 565 U.S. at 183)).

B. Church Autonomy Is A Rule Of Strict Deference

As developed by this Court, the church autonomy doctrine reflects two core principles. First, religious bodies are "guarantee[d]" a "private sphere" of internal governance to retain exclusive authority over matters of faith, doctrine, and internal governance. *Hosanna-Tabor*, 565 U.S. at 199 (Alito, J., concurring); *Our Lady*, 591 U.S. at 747. Second, courts must afford strict deference to religious organizations' decisions and conduct within that private sphere. *Id.*; *see also* Esbeck, *An Extended Essay on Church Autonomy*, 22 Fed. Soc'y Rev. 244, 260-261 (2021) (explaining that this

Court's church autonomy precedent, from *Watson* through *Our Lady*, provides a structurally protected "zone … of internal governance" that requires "[compulsory] deference" to ecclesiastical decisions).

Just as courts must defer to religious organizations' decisions within their protected sphere, they must also refrain from second-guessing to those organizations' good-faith judgments of what that sphere encompasses. *Hosanna-Tabor*, 565 U.S. at 206 (Alito, J., concurring) (explaining that civil courts are "in no position to second-guess" religious judgments about the importance, scope, or disqualifying significance of religious functions and doctrine). Accordingly, the First Amendment's protections are not limited by judicially imposed criteria or categorical frameworks. *Corporation of Presiding Bishop Church of Latter-day Saints* v. *Amos*, 483 U.S. 327, 341-342 (1987) (Brennan, J., concurring) (The First Amendment protects a private sphere in which religious bodies may "select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions."). Rather, this Court has consistently recognized that the protected sphere of religious autonomy encompasses a wide range of religious life, including all matters of faith, doctrine, worship, custom, religious instruction, ecclesiastical policy, internal governance and discipline, and institutional self-definition. *Hosanna-Tabor*, 565 U.S. at 185-189; *Maryland & Virginia Eldership Churches* v. *Church of God at Sharpsburg, Inc.*, 396 U.S. 367, 370 (1970) (per curiam) ("*Sharpsburg*").

C. Church Autonomy Categorically Prohibits Civil Jurisdiction Over Religious Matters

It is not for civil courts to interfere with decisions that bear on a religious organization's internal ordering

of its faith and mission, regardless of the label attached to the decision. *Hosanna-Tabor*, 565 U.S. at 190; *Our Lady*, 591 U.S. at 755-756. Nor is it for courts to evaluate "the centrality of particular beliefs" and "practices," or "the validity of [peoples'] interpretations of [their] creeds," to see if constitutional protection is owed. *Hernandez* v. *Commissioner*, 490 U.S. 680, 699 (1989) (citing *Thomas* v. *Review Bd.*, 450 U.S. 707, 716 (1981)). For those reasons, this Court has rejected any "checklist" or "rigid formula" for identifying protected religious activity, as such tests would authorize civil courts to define the scope of religious life—a responsibility that would improperly narrow that protected sphere the First Amendment leaves broadly to religious bodies. *Hosanna-Tabor*, 565 U.S. at 190; *Our Lady*, 591 U.S. at 758-759.

As a structural restraint, church autonomy does not merely counsel deference; where it applies, its protections prohibit civil jurisdiction altogether. *Serbian E. Orthodox Diocese* v. *Milivojevich*, 426 U.S. 696, 713-715 (1976) (courts may not resolve matters of "'theological controversy, church discipline, ecclesiastical government, or [decide] conformity'" to "'moral [standards],'" even if civil rights are affected.). The Constitution compels more than respect for ecclesiastical decisions; it bars the "very process of [civil] inquiry" into that protected sphere. *NLRB* v. *Catholic Bishop*, 440 U.S. 490, 502 (1979); *Hosanna-Tabor*, 565 U.S. at 205-206 (Alito, J., concurring) (stating "the mere adjudication" of a church's sincerity "would pose grave problems for religious autonomy"). Applying this principle, the Fifth Circuit recently held that church autonomy operates as a structural, threshold immunity from suit, because religious institutions are constitutionally protected against any judicial intrusion

into ecclesiastical affairs—even brief or preliminary ones. *McRaney* v. *NAMB*, 157 F.4th 627, 644-645 (5th Cir. 2025), *cert. denied* No. 25-810 (U.S.). That result is compelled by this Court's cases, which treat civil inquiry itself as the constitutional injury and therefore require foreclosure at the outset—an understanding, shared by numerous sister courts, that protects religious institutions from the burdens and "prejudicial effects of incremental litigation." *Id.*

Such restraint also reflects the longstanding recognition that civil courts are "singularly ill equipped" to adjudicate questions of religion. *Thomas*, 450 U.S. at 715; *Our Lady*, 591 U.S. at 763 (Thomas, J., concurring) (rejecting judicial authority to classify religious truth or religious functions (citing Madison ¶5, *supra*). In fact, this was central to *Watson's* holding. 80 U.S. at 729 (church governance and discipline, rooted in doctrine, tradition, and usage, "task[] the ablest minds" and exceed civil tribunals' competence).

As a structural protection, the church autonomy doctrine leaves little room for balancing competing interests. *McRaney*, 157 F.4th at 641 ("Where the church autonomy doctrine applies, its protection is total."). Even in compelling, well-intentioned cases, this Court has refused to second-guess religious communities' internal religious decisions. For instance, the Court has declined to intervene even where a state court deemed a church's decisions "arbitrary" and inconsistent with its "own laws and procedures," *Milivojevich*, 426 U.S. at 712-713; where a church was allegedly commandeered by a hostile government and infiltrated by "atheistic or subversive influences," *Kedroff*, 344 U.S. at 108-109; and where a church purportedly "departed from the tenets of faith and

practice" in place when congregants had "affiliated with it," *Blue Hull*, 393 U.S. at 441.

Likewise, the doctrine mandates dismissal even when important rights are implicated, as courts may not adjudicate civil rights, contract, or tort claims that would entangle them in religious organizations' internal affairs. *See, e.g.*, *Hosanna-Tabor*, 565 U.S. at 182-188 (barring adjudication of employment-discrimination claim); *Demkovich* v. *St. Andrew Apostle Par.*, 3 F.4th 968 (7th Cir. 2021) (hostile-work-environment); *McRaney*, 157 F.4th 627 (defamation); *Hutchison* v. *Thomas*, 789 F.2d 392 (6th Cir. 1986) (same). While the "interest of society" in enforcing civil rights is "undoubtedly important," "so too is the interest of religious groups in choosing … [how to] carry out their mission." *Hosanna-Tabor*, 565 U.S. at 196. When those interests conflict, "the First Amendment [strikes] the balance for us," and civil jurisdiction gives way. *Id*; *United States* v. *Stevens*, 559 U.S. 460, 470 (2010) ("The First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs.").

The threshold question compelled by this Court's church-autonomy jurisprudence in any litigation involving religious groups is whether litigation of the claim would address a form of protected religious activity, such as faith, worship, and matters of religious governance. *Milivojevich*, 426 U.S. at 713-715. Where it does, the civil court is without any authority to hear the claim—whether by "neutral principles" or otherwise. *Id.*

D. "Neutral Principles" Protects Church Autonomy In Disputes Concerning Formal Title To Real Property

The neutral-principles framework is not an "exception" to church autonomy. Treating it as such, as the lower courts did here, misstates both its function and its narrow scope. *McRaney*, 157 F.4th at 648-649 & n.7 ("[T]he [neutral or] ordinary principles approach is endogenous to the church autonomy doctrine—it is not some freestanding exception to the doctrine that allows courts to tread on *terra sancta* in the name of 'neutrality.'" (citing *Shannon* v. *Frost*, 42 Ky. 253 (1842))).

Properly understood, neutral principles is a limited adjudicatory method that allows courts to resolve a narrow subset of disputes without religious entanglement. Specifically, this Court has recognized the use of neutral principles only in the limited context of church disputes that concerned formal title to real property, where the dispute could be resolved by applying traditional legal instruments (such as deeds, corporate charters, or trust instruments) without interpreting doctrine or interfering with church governance—thus meriting its other, more accurate name, the "***formal title doctrine***." *Sharpsburg*, 396 U.S. at 369-370 (emphasis added).

The Court first discussed the neutral-principles method in dicta in *Blue Hull*, where it reversed a state-court decision that had resolved a church property dispute by finding that the church had departed from its faith and practice. 393 U.S. 440. This Court held that the First Amendment forbids civil adjudication of property disputes requiring inquiry into doctrine, because such inquiry is "wholly inconsistent with the

American concept of the relationship between church and state." *Id.* at 445-447 (relying on *Watson*). Writing for the Court, Justice Brennan alluded to an alternative approach, whereby courts may resolve disputes that concerned title to local church property, provided they follow "neutral principles of law, developed for use in all property disputes." *Id.* at 449. Justice Brennan did not apply this approach or explain its contours.

Neutral principles received similar treatment a year later in *Sharpsburg*, where a state court resolved an intra-church dispute using state statutes governing religious corporations, deeds, corporate charters, and provisions of the church constitution bearing on property ownership and control. 396 U.S. 367-368. In an unsigned, per curiam opinion, this Court approved that resolution, noting only that the "dispute involved no inquiry into religious doctrine." *Id.* In another concurrence, Justice Brennan reasserted his position from *Blue Hull*—that neutral principles may be used only for disputes over religious property—emphasizing that under this "'formal title doctrine,'" civil courts may rely solely on deeds and other secular indicia and may not apply neutral principles if doing so requires resolving "doctrinal issues." *Id.*

The application of neutral principles received majority approval for the first (and only) time in *Jones* v. *Wolf*, 443 U.S. 595 (1979)—a closely divided 5-4 decision reflecting deep disagreement over its application. The Court held that, in limited instances, courts may adopt "neutral principles of law *as a* ***means of adjudicating a church property dispute***." *Id.* at 604. (emphasis added). However, the Court cautioned that, even in this narrow context, "the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes," and that

"courts [are constitutionally prohibited] from resolving church property disputes on the basis of religious doctrine and practice." *Id.* at 602.[3] Again, the Court did not explain what neutral principles entailed, noting only that "[t]he method relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges." *Id.* at 603.

That the neutral-principles approach is limited to church property disputes is reinforced by the Court's treatment of the approach in other cases.

The Court rejected extending the use of neutral principles outside the property-dispute context in *Milivojevich*, a case involving disputed control over the "property and assets" of the Serbian Eastern Orthodox Diocese for the United States of America and Canada. 426 U.S. at 698, 705-708. Specifically, the dispute in that case flowed from contested questions of church governance and discipline, namely the Serbian Orthodox Church's decisions to reorganize the American-Canadian Diocese into three new dioceses and to defrock one of its bishops. *Id.* at 707-708. A state's high court, under the guise of "neutral principles," invalidated the Serbian Orthodox Church's internal decisions as "arbitrar[y]." *Id.* at 721. Writing for the Court, Justice Brennan rejected that approach and reversed, holding that civil courts may not invalidate a church's decisions "on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law." *Id.* at 713. Adhering to *Watson*'s rule of

[3] These cautions were not enough for the dissent. 443 U.S. at 610, 616-620 (warning that applying this "new [neutral-principles] analysis" risked "intrusion" into ecclesiastical matters "forbidden by the First Amendment," such that only deference can prevent unconstitutional entanglement).

strict deference, Justice Brennan explained that these disputes—one concerning internal church administration (diocesan reorganization) and the other a clerical determination (bishop laicization)—were categorically beyond civil review under the First Amendment. *Id.* Because the state court's use of neutral principles required judicial inquiry into whether the Church had complied with its own ecclesiastical law and procedures, the Court held that even an ostensibly neutral analysis transgresses the constitutional boundary forbidding civil adjudication of ecclesiastical governance. *Id.* at 713-715.

The Court's decision in *Milivojevich*, issued following *Blue Hull* and *Sharpsburg*, reflects a deliberately restrained approach to neutral principles that, consistent with *Watson*, treats the method as unavailable where its application would intrude upon matters of church governance. Pet.App.68a (Rao dissent) ("Outside of the property context, the Supreme Court has safeguarded the sphere of church autonomy even when a lawsuit was framed under general legal principles."). The Court's later decision in *Jones* does not undermine this understanding. By leaving intact the continuous line of strict deference from *Watson* through *Milivojevich*, and expressly limiting the use of neutral principles to certain church property cases, *Jones* is properly understood as strengthening, not weakening, the protections of the church autonomy doctrine. Horwitz, *Churches As First Amendment Institutions: Of Sovereignty and Spheres*, 44 Harv. C.R.-C.L. L. Rev. 79, 118 (2009) ("*Jones* was … an effort to accommodate church autonomy, not to eliminate it. Whether or not the neutral-principles approach is an especially helpful one in settling church property disputes, it should be clear

that it does not contradict, but rather serves, the principle of church autonomy.").

The restrained approach to neutral-principles exercised in *Milivojevich* is evident in more recent precedent, including the Court's unanimous decision in *Hosanna-Tabor*, where it expressly declined federal-respondent's invitation to extend the neutral-principles method beyond property disputes. *Compare* EEOC Br.27-28, No. 10-553 (U.S. Aug. 2011) (claiming neutral principles are not limited to property cases) *with Hosanna-Tabor*, 565 U.S. at 190 (rejecting the argument that "neutral law[s] of general applicability" overcome a church's autonomy in ministerial decisions); *see also Our Lady*, 591 U.S. 732 (no mention of neutral principles).

II. THE LOWER COURTS' APPLICATION OF NEUTRAL PRINCIPLES VIOLATED THE PROTECTED SPHERE OF RELIGIOUS JUDGMENT

A. Courts Are Barred From Adjudicating Disputes Concerning Religious Offerings

By treating Respondent's claims as susceptible to neutral adjudication, the district court misapplied the church autonomy doctrine by not first considering whether the dispute concerned matters of church governance and instead recharacterized inherently religious activity as no different than "secular" activity amenable to civil litigation. That approach is incompatible with the First Amendment. The challenged conduct here implicates four categories of activity squarely within the Constitution's protected religious sphere—each category independently triggers church-autonomy protection placing this dispute beyond the reach of civil adjudication.

(1) *An Act of Worship.* The solicitation and donation of a sacred offering is not a commercial transaction that civil courts may repackage as secular activity. It is an act of worship or expression of religious devotion and charity, long recognized as constitutionally protected religious exercise, *see Cantwell* v. *Connecticut*, 310 U.S. 296, 306-307 (1940) (conditioning religious solicitation on governmental approval "lay[s] a forbidden burden upon the exercise of liberty protected by the Constitution"), as well as a pervasive feature across various faith traditions, *see* Lincoln, *Religious Giving* (May 2008) (religious giving is the most significant, consistent category of charitable behavior and is driven by theological norms, communal reinforcement, and institutional expectation). This includes Orthodox Judaism, which views tzedakah (charitable giving) not as a philanthropic exercise, but a moral obligation, rooted in scripture and mitzvah (divine commandment). Deuteronomy 15:7-11 (commanding that one "not harden [one's] heart" but "open [one's] hand" to the poor); Maimonides, *Mishneh Torah, Hilchot Matanot Aniyim* 7:1 (treating tzedakah as a mandatory religious obligation, rather than voluntary generosity). Allowing legal challenges to acts of worship—such as the solicitation of an offering and a donation in response to such solicitation—invites civil authority into the heart of First Amendment protection. *See, e.g., Bell* v. *Presbyterian Church*, 126 F.3d 328, 332-333 (4th Cir. 1997) (holding that decisions about how to spend "religious outreach funds" fall within "the ecclesiastical sphere that the First Amendment protects from civil court intervention"); *Ambellu* v. *Re'ese Adbarat Debre Selam Kidist Mariam*, 387 F.Supp.3d 71, 80 (D.D.C. 2019) ("How a church spends worshippers' contributions

is, like the question of who may worship there, central to the exercise of religion.").

(2) *Religious Instruction.* Exhortations by clergy to engage in acts of worship are forms of spiritual instruction—not commercial representations subject to secular judgment. *Widmar* v. *Vincent*, 454 U.S. 263, 269 (1981) ("[R]eligious worship and discussion… are forms of speech and association protected by the First Amendment."); *Hosanna-Tabor*, 565 U.S. at 188-189 (courts may not assess the substance of religious communications without violating the First Amendment). Permitting claims challenging the veracity of exhortations to greater devotion and religiously-motivated charity invites civil authority into the heart of religious doctrine and meaning, requiring courts to interpret doctrinal teaching, evaluate spiritual motivations, and referee ecclesial relationships. *Fowler* v. *Rhode Island*, 345 U.S. 67, 70 (1953) (Courts may not "approve, disapprove, classify, regulate, or in any manner control sermons delivered at religious meetings."); *Huntsman* v. *Church of Latter-day Saints*, 127 F.4th 784, 798 (9th Cir. 2025) (Bress, J., concurring) ("Nothing says 'entanglement with religion' more than [plaintiff]'s apparent position that the head of a religious faith should have spoken with greater precision about inherently religious topics, lest the Church be found liable for fraud."). Weighing fraud claims challenging clergy exhortations regarding religious offerings is indistinguishable from weighing fraud claims regarding temporal indulgences—a quintessential religious dispute that wrought asunder Christendom in the Sixteenth Century.

(3) *Ecclesiastical Stewardship of Sacred Offerings.* Decisions regarding how offerings are held, managed, and disbursed are inseparable from the church's

religious mission exercised through ecclesiastical governance—they are not managerial choices open to secular oversight. *Milivojevich*, 426 U.S. at 714-715 ("[I]t is the essence of religious faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria."); *International Soc'y for Krishna Consciousness, Inc.* v. *Barber*, 650 F.2d 430, 442 (2d Cir. 1981) ("solicitation of contributions is central to missionary evangelism"). This holds true for Orthodox Jewish communities, which are governed by detailed religious law concerning the collection and administration of charitable funds. *Shulchan Aruch*, Yoreh De'ah §§ 247-259 (communal collection and distribution of charitable offerings is as a matter of internal religious governance). Permitting claims challenging the extent to which a religious organization's spending decisions are consistent with exhortations to worship invites civil authority in quintessential issues of church governance and doctrine. *Bible Way Church* v. *Beards*, 680 A.2d 419, 429 (D.C. 1996) ("[A] church's financial regime," including its collection and allocation of contributions, falls within religious domain protected by the church autonomy doctrine.).

(4) *Ecclesial Relationships Between the Individual and Spiritual Authorities*. Finally, allowing parishioners to challenge how religiously-motivated charity is spent invites civil authority into intra-religious relationships and authority, quintessential issues of religious governance. Respondent did not donate to a civic charity governed by secular norms; he entrusted his offering to the Catholic Church under a hierarchical authority structure defined by doctrine. That relationship presupposes the Church's authority to determine how offerings will be used in furtherance of

its mission. Individuals who unite with a church do so "with an implied consent" to its governance and "are bound to submit to it," *Kedroff*, 344 U.S. at 114; otherwise, such consent would be "vain" and would invite the "total subversion" of religious bodies by permitting any aggrieved member to appeal ecclesiastical decisions to secular courts, *Watson*, 80 U.S. at 729. Civil courts cannot reimagine that ecclesial relationship as a secular fiduciary arrangement without invading into intra-religious relationships and governance.

B. Church Autonomy Is a Structural Limitation on Judicial Power To Be Resolved At The Outset

The circuit court compounded the district court's error by deferring application of church autonomy rather than enforcing it at the outset. Although the panel acknowledged the doctrine, it denied interlocutory review on the mistaken belief that any First Amendment injury could be remedied after final judgment. That premise rests on the same misunderstanding of neutral principles that infected the ruling below.

The constitutional injury here does not arise only from an adverse judgment. It arises from litigation or the "very process of inquiry" itself. *Catholic Bishop*, 440 U.S. at 502. Allowing Respondent's claims to proceed into discovery would, among other things, permit the very types of compelled inquiry that inflict constitutional harm. *See, e.g.*, *NAACP* v. *Alabama*, 357 U.S. 449, 462 (1958) (compelled disclosure of membership lists, even if intended to enforce law, may effectively curtail constitutional freedoms). It would impose on religious organizations the "significant

burden" of having "to predict which of its activities a secular court will consider religious." *Amos*, 483 U.S. at 336.[4] And it would otherwise permit litigation into questions about what religious practitioners and leaders heard, intended, and believed about the religious offering—precisely the "questions [that] would risk judicial entanglement in religious issues." *Our Lady*, 591 U.S. at 761.

In sum, construing church autonomy as a fact-dependent merits defense rather than a structural limit on adjudication, the circuit court made constitutional protection contingent on litigation outcomes and forced religious institutions to endure unconstitutional entanglement before obtaining the relief the First Amendment affords.

C. The Lower Courts' Errors Stem from a Shared Misunderstanding of the Neutral-Principles Framework and Its Proper Place in the Analysis

The lower courts' errors, while distinct and occurring at different stages of the litigation, reflect the same basic misunderstandings of the neutral-principles framework.

First, the lower courts' decisions apply neutral principles to various tort claims that fall well outside the narrow category of disputes over formal title to real church property. Second, both courts rested on a methodological error by treating neutrality as an analytic starting point, rather than a contingent method available

[4] Concerns about applying standard tort concepts in religious settings have led many courts to reject a wide range of claims against religious defendants. Idleman, *Tort Liability, Religious Entities, and the Decline of Constitutional Protection*, 75 Ind. L.J. 219, 234-237 (2000) (collecting cases).

only after confirming the absence of ecclesiastical intrusion.

The threshold inquiry is not whether a dispute can be resolved by neutral principles, nor whether it presents an explicit doctrinal controversy, but whether adjudication would require the court to address protected religious activity—including forms of worship, internal religious communications, or church governance. *Milivojevich*, 426 U.S. at 713-715. Only after concluding that resolution will *not* interfere with ecclesiastical matters may a court consider whether neutral principles can be applied. Conversely, "[w]hen neutral principles is the starting point for analysis," courts are prone to overlook or misclassify religious conduct to justify adjudication. Weinberger, *The Limits of Church Autonomy*, 98 Notre Dame L. Rev. 1253, 1278 (2023); Pet.App.67a (Rao dissent) ("*Hosanna-Tabor* and *Our Lady* express a self-evident principle: if the mere invocation of neutral principles permits a court to interfere with church autonomy, then the constitutional protection is a dead letter.")

By starting the analysis with neutrality, the courts below inverted the constitutional order. Guided by neutral principles, the district court believed it could work backward to identify sufficient "secular" elements to justify adjudication. Likewise, by mis-ordering its analysis, the circuit court made church autonomy contingent on factual development rather than antecedent to it. Guided by the same methodological error, both courts ignored the same constitutional boundary: Whenever resolution of a claim requires judicial interference with religious doctrine, liturgical speech, or internal church governance, the First Amendment bars courts from proceeding. *Hosanna-Tabor*, 565 U.S. at 188-189; *Our Lady*, 591 U.S. at 746; *see also Blue Hull*, 393 U.S.

at 449 ("First Amendment values are plainly jeopardized" when litigation turns on ecclesiastical questions).

III. This Case Warrants Review To Enforce The First Amendment's Limits On Civil Adjudication Of Religious Affairs

This case is an ideal vehicle to restore the proper constitutional boundary and reaffirm the limits the First Amendment places on civil adjudication of religious affairs.

First, the below decisions exemplify a deepening confusion among courts over the proper scope of neutral principles and its relationship to church autonomy. Some courts properly restrict neutral principles to the narrow church-property context, while others treat neutrality as a threshold filter that secularizes religious conduct and defers autonomy review.[5] Accordingly, certain religious bodies are left with weakened First Amendment protection merely because of the jurisdiction in which they are sued and subject to forum shopping. Clarification is needed to reaffirm that neutral principles cannot displace the Constitution's threshold bar on civil adjudication of ecclesiastical matters. *Belya* v. *Kapral*, 59 F.4th 570, 580 (2d Cir. 2023) (Parks, J., dissenting) ("the panel's novel extension of the 'neutral-principles' approach [outside the property-dispute context] is inconsistent with precedent and threatens to eviscerate the church autonomy doctrine.").

Second, the harm produced by this confusion is immediate and irreparable. When courts begin with neutral principles and relegate autonomy to the merits, the

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[5] Pet.26-31 (analyzing the minority of jurisdictions permitting internal-church-governance challenges under the "neutral-principles" approach, and the majority that properly confine the approach consistent with this Court's precedent.

constitutional injury arises the moment civil discovery, compelled disclosure, or judicial inquiry into religious meaning begins—long before final judgment. *Catholic Bishop*, 440 U.S. at 502. That injury cannot be cured on appeal. *Roman Catholic Diocese* v. *Cuomo*, 592 U.S. 14, 19 (2020) (per curiam) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."). A doctrine intended to provide absolute protection is vacuous if religious bodies must first endure the very entanglement the First Amendment exists to prevent.[6] Left uncorrected, such harm and confusion will recur: litigants will recast ecclesiastical grievances as secular claims, forcing religious bodies into intrusive litigation over matters the Constitution places beyond civil authority.

Finally, such an unrestrained neutral-principles regime will disproportionately harm minority and small faith communities, like Aleph. Inquiries and

[6] These concerns are hardly novel. Four Members of this Court recently warned that the First Amendment forbids civil authorities from imposing their own judgments on matters of religious meaning and governance, emphasizing that the Constitution does not allow government to "enforc[e] its own preferred interpretation of Holy Scripture." *Yeshiva Univ.* v. *YU Pride All.*, 143 S.Ct. 1 (2022) (Alito, J., dissenting). This warning reflects the settled principle that the First Amendment is violated when religious institutions are forced to participate in civil processes that evaluate internal religious judgment, because "[t]he loss of First Amendment rights for even a short period constitutes irreparable harm." *Id.* at 2. (citing *Cuomo*, 592 U.S. at 19). The error identified in *Yeshiva*—treating internal religious governance as subject to ordinary civil regulation under a purportedly neutral framework—is the same here. Because compelled participation in such processes inflicts irreparable harm independent of final judgment, the resulting constitutional injury is not theoretical but ongoing, precisely the injustice highlighted in the *Yeshiva* dissent.

interpretations of religious meaning inevitably rely on culturally dominant assumptions about religion, resulting in unfamiliar religious practices being more likely to be mischaracterized as secular or incidental. *See Markel* v. *Orthodox Jewish Congregations*, 124 F.4th 796, 807-810 (9th Cir. 2024) (Orthodox Jewish practices often involve conduct that appears secular to outsiders—such as kosher supervision or financial administration—but is governed by detailed religious law and constitutes religious, not commercial, activity). These biases, coupled with the limited financial means of minority faith communities, make such communities more likely to bear irreparable harm caused by misapplication of the church autonomy doctrine. *Cf.* Per Curiam Op.6, *Mirabelli* v. *Bonta*, No. 25A810 (U.S.) ("The denial of plaintiffs' constitutional rights during the potentially protracted appellate process constitutes irreparable harm.").

At bottom, by virtue of their size, cultural and linguistic roots, public familiarity, polity, and financial resources, certain religions would receive less legal protection under a broad neutral-principles regime. *Our Lady*, 591 U.S. at 763-764 (Thomas, J., concurring) (warning that courts risk disadvantaging religions "outside of the 'mainstream'"). The First Amendment expressly forbids such disparate treatment. *Larson* v. *Valente*, 456 U.S. 228, 244 (1982) ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."); *Employment Div.* v. *Smith*, 494 U.S. 872, 902 (1990) (O'Connor, J., concurring) (the First Amendment exists "precisely to protect the rights of those whose religious practices are not shared by the majority and may be viewed with hostility").

CONCLUSION

This Court should grant the petition and reverse.

Respectfully submitted.

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