

No. 24–7246

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNION GOSPEL MISSION OF YAKIMA, WASHINGTON,
Plaintiff-Appellee,

v.

NICK BROWN, in his official capacity as Attorney General of Washington State; ANDRETA ARMSTRONG, in her official capacity as Executive Director of the Washington State Human Rights Commission; DEBORAH COOK, in her official capacity as Commissioner of the Washington State Human Rights Commission; GUADALUPE GAMBOA, in her official capacity as Commissioner of the Washington State Human Rights Commission; JEFF SBANH, in his official capacity as Commissioner of the Washington State Human Rights Commission; HAN TRAN, in his official capacity as Commissioner of the Washington State Human Rights Commission,
Defendants-Appellants.

On Appeal from the United States District Court for the Eastern
District of Washington, No. 1:23-cv-03027-MKD

**BRIEF OF *AMICI CURIAE* LIBERTY UNIVERSITY, INC. AND
THOMAS ROAD BAPTIST CHURCH IN SUPPORT OF
PLAINTIFF-APPELLEE**

Mathew D. Staver
Horatio G. Mihet
Daniel J. Schmid
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
(407) 875-1776

court@LC.org – hmihet@LC.org – dschmid@LC.org
Attorneys for Amici Curiae

CIRCUIT RULE 26.1–1 DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1(a) and Ninth Circuit Rule 29–1, Amici Curiae, Liberty University, Inc. and Thomas Road Baptist Church, hereby state that they are both nonstock corporations incorporated under the laws of the Commonwealth of Virginia, that neither issues stock and that no publicly held corporation owns 10% or more of its stock.

TABLE OF CONTENTS

CIRCUIT RULE 26.1–1 DISCLOSURE STATEMENT.....	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iv
INTERESTS OF AMICI CURIAE	6
ARGUMENT.....	8
I. The First Amendment church autonomy doctrine prohibits this Court from exercising jurisdiction over matters relating to religious faith and doctrine.	8
A. The church autonomy doctrine applies to more than just churches and includes protection for religious organizations in general.....	8
B. The First Amendment places employment discrimination suits against religious organizations beyond the reach of judicial inquiry.	10
C. Though earlier ministerial exception cases speak in terms of an affirmative defense subject to Article III review, subsequent cases from the Supreme Court suggest church autonomy principles are a jurisdictional bar to suit.	13
II. The church autonomy doctrine is broader than the limited ministerial exception and applies to <i>all</i> religiously based employment decisions of religious organizations.....	18
III. Religious organizations and churches are permitted to limit employees, including non-ministerial employees, to those who abide by their religious faith, doctrine, and mission.	22
A. By necessity, religious organizations require the employment of individuals who hold non-ministerial positions.	24
B. Even employees who hold non-ministerial positions advance the religious faith, doctrine, and mission of religious organizations.....	30
C. Even remote, information technology, or other logistical positions can and do advance the mission of religious organizations and portray the religious organization’s faith, doctrine, and mission to the public.....	31
D. Requiring a religious organization to employ individuals in any position that do not abide by the organization’s religious faith,	

	doctrine, and mission undermines the constitutionally protected exercise of a religious organization's faith.	36
E.	The decision of whether an individual's conduct, beliefs, and practices are consistent with the religious mission of the religious organization is a decision exclusively the province of the religious organization, and Article III courts have no jurisdiction to second-guess or question those decisions.	39
CONCLUSION		41

TABLE OF AUTHORITIES

Cases

<i>Alcazar v. Corporation of the Catholic Archbishop of Seattle</i> , 627 F.3d 1288 (9th Cir. 2010)	34, 36, 37
<i>Alicea-Hernandez v. Catholic Bishop of Chicago</i> , 320 F.3d 698 (7th Cir. 2003)	38
<i>Behrend v. San Francisco Zen Ctr., Inc.</i> , 108 F.4th 765 (9th Cir. 2024)	34, 35
<i>Belya v. Kapral</i> , 45 F.4th 621 (2d Cir. 2022)	21
<i>Boy Scouts of Am. v. Dale</i> , 530 U.S. 640 (2000)	42
<i>Catholic Charities Bureau, Inc. v. Wisc. Labor & Indus. Rev. Comm.</i> , 605 U.S. 238 (2025)	10
<i>Corp. for Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos</i> , 483 U.S. 327 (1987)	24, 31, 33, 39
<i>Demkovich v. St. Andrew the Apostle Parish, Calumet City</i> , 3 F.4th 968 (7th Cir. 2021)	32, 37
<i>EEOC v. Roman Catholic Diocese of Raleigh</i> , 213 F.3d 795 (4th Cir. 2000)	37
<i>Hernandez v. Comm’r</i> , 490 U.S. 680 (1989)	15
<i>Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC</i> , 565 U.S. 171 (2012)	passim
<i>Jones v. Wolf</i> , 443 U.S. 595 (1979)	13
<i>Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.</i> , 344 U.S. 94 (1952)	11, 13, 14, 19
<i>Korte v. Sebelius</i> , 735 F.3d 654 (7th Cir. 2013)	22, 23, 24
<i>Maktab Tarighe Oveyssi Maghsoudi, Inc. v. Kianfar</i> , 179 F.3d 1244 (9th Cir. 1999)	12
<i>Markel v. Union of Orthodox Jewish Congregations of America</i> , 124 F.4th 796 (9th Cir. 2024)	34
<i>McMahon v. World Vision Inc.</i> , 147 F.4th 959 (9th Cir. 2025)	12, 34, 35, 36
<i>NLRB v. Catholic Bishop of Chicago</i> , 440 U.S. 490 (1979)	18
<i>O’Connell v. United States Conference of Catholic Bishops</i> , 134 F.4th 1243 (D.C. Cir. 2025)	21, 22
<i>Palmer v. Liberty, Inc.</i> , 72 F.4th 52 (4th Cir. 2023)	18, 19
<i>Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem. Presbyterian Church</i> , 393 U.S. 440 (1969)	13

<i>Rayburn v. General Conference of Seventh-day Adventists</i> , 772 F.2d 1164 (4th Cir. 1985)	20
<i>Seattle Union Gospel Mission v. Woods</i> , 142 S. Ct. 1094 (2022)	12, 41
<i>Serbian E. Orthodox Diocese for U.S.A. & Canada v. Milivojevic</i> , 426 U.S. 696 (1976)	13
<i>Thomas v. Rev. Bd. of Ind. Empl. Sec. Div.</i> , 450 U.S. 707 (1981)	42
<i>Tucker v. Faith Bible Chapel Int’l</i> , 36 F.4th 1021 (10th Cir. 2022)	21
<i>Union Gospel Mission of Yakima Wash. v. Brown</i> , 162 F.4th 1190 (9th Cir. 2026)	passim
<i>Watson v. Jones</i> , 80 U.S. 679 (1871)	13, 14, 41
Statutes	
Fed. R. App. P. 26.1	i
Ninth Circuit Rule 29–1	i
Wash. Rev. Code §49.60.010	38
Other Authorities	
<i>1 Corinthians</i> 15:10 (NIV)	31
<i>2 Corinthians</i> 5:20 (NIV)	10, 31
<i>I Corinthians</i> 12:12 (NIV).	10
<i>I Corinthians</i> 12:4–6 (NIV)	9
Liberty University, <i>Educational Philosophy & Mission Statement</i> , available at https://www.liberty.edu/about/purpose-and-mission-statement/ (last visited July 21, 2026)	27
Liberty University, <i>Liberty University Quick Facts</i> , available at https://www.liberty.edu/about/liberty-university-quick-facts/ (last visited July 21, 2026)	26
Thomas Road Baptist Church, <i>HopeNow.Tv</i> , available at https://www.hopenow.tv/ (last visited July 21, 2026)	29
Thomas Road Baptist Church, <i>Mission</i> , available at https://trbc.org/about/mission/ (last visited July 21, 2026)	28
Thomas Road Baptist Church, <i>Missions</i> , available at https://trbc.org/outreach/missions/ (last visited July 21, 2026)	29
Thomas Road Baptist Church, <i>Thomas Road On Demand</i> , available at https://watch.trbc.org/ (last visited July 21, 2026)	29

INTERESTS OF AMICI CURIAE¹

Amicus curiae Liberty University, Inc. (“Liberty University”) is one of the largest evangelical Christian institutions of higher education in the world, offering hundreds of programs of study—both residually and online to students around the world—and employing thousands of people that it views as critical to its singular religious mission of “Training Champions for Christ.” and raising up men and women of Christian faith to change the world. Founded in 1971, Liberty University has consistently held to its religious mission and continues to strive in everything it does to train its students in diverse professions from a biblical worldview so that they may impact the world for Christ.

Amicus curiae Thomas Road Baptist Church (“Thomas Road”) was founded in 1956 with the singular mission to change our world by developing Christ-followers who love God and love people. As part of its religious mission and religious message to the world, Thomas Road is built upon the Word of God, boldly proclaims that it has never wavered

¹ No counsel for any party authored this amicus brief in whole or in part and no entity or person, aside from amici, their members, and their counsel, made any monetary contribution toward the preparation or submission of this brief.

nor compromised on the inspired, infallible, and inerrant Word of God, and is committed to accurately teaching and preaching Holy Scripture at every opportunity. Thomas Road has a significant television, radio, and media ministry, providing historical and recent programs that share the Gospel of Jesus Christ to a lost and dying world. Thomas Road has satellite missions, multiple campuses, camps, a pro-life resource center, and countless other ministries that it offers to the community—all focused on fulfilling the Great Commission by taking the Gospel of Jesus Christ from Lynchburg to the world.

Amici's sincerely held religious beliefs compel them to view *every employee*—including those who hold what some would assume are non-religious roles, such as custodians, maintenance staff, creative staff, information technology staff, and administrative staff—as a vital part of the same religious mission. For as Scripture states, “[t]here are different kinds of gifts, but the same Spirit distributes them. There are different kinds of service, but the same Lord. There are different kinds of working, but in all of them and in everyone it is the same God at work.” *I Corinthians* 12:4–6 (NIV). And, “[j]ust as the body, though one, has many parts, but all its many parts form one body, so it is with Christ.” *I*

Corinthians 12:12 (NIV). *Amici*'s beliefs are informed by Scripture that says "we [all] are therefore Christ's ambassadors, as though God were making his appeal through us." *2 Corinthians* 5:20 (NIV). All are ambassadors of Christ and the Christ-centered mission of *Amici*. All are religious and vital to fulfilling the singular religious mission for which *Amici* were founded.

ARGUMENT

- I. **The First Amendment church autonomy doctrine prohibits this Court from exercising jurisdiction over matters relating to religious faith and doctrine.**
 - A. **The church autonomy doctrine applies to more than just churches and includes protection for religious organizations in general.**

"The First Amendment guarantees to religious *institutions* broad autonomy to conduct their internal affairs and govern themselves. This guarantee, which we have called the 'church autonomy doctrine,' provides that *a religious institution is not defined by the corporate entities it chooses to form.*" *Catholic Charities Bureau, Inc. v. Wisc. Labor & Indus. Rev. Comm.*, 605 U.S. 238, 255 (2025) (Thomas, J., concurring) (emphasis added). Though named "church autonomy," its application is broader and encompasses religious organizations in general.

As a threshold matter, the church autonomy doctrine applies to more than just churches and provides identical ecclesiastical protection for religious organizations. *E.g.*, *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952) (“The opinion radiates, however, a spirit of freedom for *religious organizations*, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.” (emphasis added)); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 746 (2020) (“The independence of *religious institutions* in matters of faith and doctrine is closely linked to independence in what we have termed matters of church government [and] protect[s] their autonomy with respect to internal management decisions that are essential to the *institution’s* central mission.” (emphasis added)); *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 188 (2012) (deciding whether “a suit alleging discrimination in employment” infringed “this freedom of a *religious organization*” (emphasis added)). Indeed, as Justice Alito opined concerning a sister organization to religious organization before the Court, “[t]he First Amendment gives

special solicitude to the rights of *religious organizations*.” (emphasis added)). *Seattle Union Gospel Mission v. Woods*, 142 S. Ct. 1094, 1094 (2022).

This Court, too, has recognized that the church autonomy doctrine has application to religious organizations in general—not merely official churches. *E.g.*, *Maktab Tarighe Oveyssi Maghsoudi, Inc. v. Kianfar*, 179 F.3d 1244, 1248 (9th Cir. 1999) (“The First Amendment . . . precludes a civil court from determining whether the *religious organization* followed its own ecclesiastical rule.” (emphasis added)); *McMahon v. World Vision Inc.*, 147 F.4th 959, 970 (9th Cir. 2025) (“The Religious Clauses of the First Amendment protect the principle of church autonomy, which guarantees religious *groups*’ independence in matters of faith and doctrine. . . .” (emphasis added)).

B. The First Amendment places employment discrimination suits against religious organizations beyond the reach of judicial inquiry.

Not only does the First Amendment church autonomy doctrine apply broadly to religious organizations, but it places employment discrimination suits against religious entities beyond the jurisdiction of Article III courts. Indeed, it has been settled for over 150 years that the

First Amendment church autonomy doctrine prohibits Article III courts from entertaining suits arising specifically from religious doctrinal positions, as such decisions are exclusively within the province of the religious entity. *See, e.g., Watson v. Jones*, 80 U.S. 679 (1871); *Serbian E. Orthodox Diocese for U.S.A. & Canada v. Milivojevich*, 426 U.S. 696, 709 (1976); *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N.A.*, 344 U.S. 94 (1952); *Jones v. Wolf*, 443 U.S. 595 (1979).

“[T]he First Amendment severely circumscribes the role that civil courts may play in . . . controversies over religious doctrine and practice.” *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem. Presbyterian Church*, 393 U.S. 440, 449 (1969). “Consistently with the First and Fourteenth Amendments civil courts do not inquire” into a religious institution’s decisions of faith and doctrine. *Milivojevich*, 426 U.S. at 708–09. Such a suit “belongs to a class, happily rare in our courts, in which one of the parties to a controversy, essentially ecclesiastical, resorts to the tribunal of the [government] for maintenance of rights which the church has refused, or found itself unable to protect.” *Watson*, 80 U.S. at 713. The Court is not authorized to adjudicate the proper interpretation of religious faith, doctrine, sacred text, or matters of

conformity to religious faith because “the law knows no heresy, and is committed to the support of no dogma.” *Id.* at 728. “All who unite themselves to such a [religious] body do so with an implied consent . . . to submit to it.” *Id.* at 729. “[I]t would be vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed.” *Id.*

As the Supreme Court held in *Watson*, religious institutions “are the best judges of what constitutes an offence against the word of God and the discipline of the church,” 80 U.S. at 732, and “civil courts exercise no jurisdiction [over] a matter which concerns theological controversy, church discipline, ecclesiastical government, or *the conformity of the members of the church to the standards of morals required of them.*” *Id.* at 733 (emphasis added). “This is applicable to questions of discipline, or of faith, or of ecclesiastical rule, custom, or law.” *Kedroff*, 344 U.S. at 115. Whether an employee’s beliefs, conduct, practices, faith, or work is consistent with the standards of conduct required of a religious institution’s doctrinal positions is simply beyond an Article III court’s competency or jurisdictional grant. “It is not within the judicial ken to

question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds.”

Hernandez v. Comm’r, 490 U.S. 680, 699 (1989)

C. Though earlier ministerial exception cases speak in terms of an affirmative defense subject to Article III review, subsequent cases from the Supreme Court suggest church autonomy principles are a jurisdictional bar to suit.

The Supreme Court’s more recent ministerial exception jurisprudence demonstrates that church autonomy principles, which are broader than the more limited ministerial exception cases, properly operate as an immunity from suit, rather than a mere defense to liability. Under the church autonomy doctrine, “courts are *bound to stay out of employment disputes* involving those holding certain important positions with churches and other religious institutions.” *Our Lady of Guadalupe Sch.*, 591 U.S. at 746 (emphasis added). *See also id.* at 747 (“the Religion Clauses *foreclose* certain employment discrimination claims brought against religious organizations” (emphasis added)). “When a school with a religious mission entrusts a teacher with the responsibility of educating and forming students in the faith, judicial intervention into disputes

between the school and the teacher threatens the school’s independence in a way that the First Amendment does not allow.” *Id.* at 762.

As Justice Thomas opined, “[t]he First Amendment’s protection of religious organizations’ employment decisions is *not limited* to members of the clergy or others holding positions akin to that of a ‘minister.’” *Id.* at 762 n.1 (Thomas, J., concurring) (emphasis added). In other words, the church autonomy doctrine provides broader exemption to the religious employment decisions of religious institutions than strictly ministerial choices.

The Fourth Circuit’s decision in *Billard v. Charlotte Catholic High School* further demonstrates the jurisdictional prohibition. 101 F.4th 316 (4th Cir. 2024). There, despite the religious educational institution explicitly waiving the ministerial exception defense in the district court, the Court held that it was nevertheless required to consider it because the immunity the First Amendment provides to religious institutions is “grounded in constitutional structure,” “implicates important institutional interests of the court,” and “involve[s] structural concerns regarding the separation of powers.” *Id.* at 325 (cleaned up).

As the Fourth Circuit put it, the First Amendment itself—through the church autonomy doctrine—“does not protect the church alone; *it also confines the state and its civil courts to their proper roles.*” *Id.* (emphasis added). Because “[t]he First Amendment’s Religion Clauses . . . *bar* the government from interfering with ministerial employment decisions or involving itself in ecclesiastical matters,” *id.* at 326, “*civil courts like ours are bound to stay out of employment disputes*” involving religious institutions. *Id.* (emphasis added).

This Fourth Circuit’s *Billard* decision appropriately applies broadly—to all “employment disputes,” not just those disputes involving pastors, clergy, teachers, and the like. “The term ‘minister’ is shorthand for somebody who qualifies for the ministerial exception,” but “the title of the exception made it into the case law only ‘because the individuals involved in the pioneering cases were described as ‘ministers,’ and not because the title – with its independent religious significance governs the analysis.” *Id.* at 326 n.4 (quoting *Our Lady of Guadalupe*, 591 U.S. at 746). The First Amendment is intended to and must “shelter certain employment decisions from the scrutiny of civil authorities.” *Billard*, 101

F.4th at 329 (quoting *E.E.O.C. v. Roman Catholic Diocese of Raliegh*, 213 F.3d 795, 801 (4th Cir. 2000)).

Judge Richardson’s concurring opinion in *Palmer v. Liberty University, Inc.*, is also instructive. 72 F.4th 52 (4th Cir. 2023). There, Judge Richardson noted that the ministerial exception unequivocally “bars employment claims made by ministers against religious institutions.” *Id.* at 76 (Richardson, J., concurring) (emphasis added). Relying on the Supreme Court’s decision in *NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502 (1979), Judge Richardson demonstrated that the First Amendment prohibits “the very process of inquiry” into a religious institution’s employment decisions, *id.* (emphasis added), because “adjudicating the merits of [plaintiff’s] claim would force us to make that inquiry” into a religious institution’s decisions about employment. *Id.* “Before biting into that apple, we should determine whether the First Amendment protects Liberty” from that very inquiry. *Palmer*, 72 F.4th at 76. (emphasis added). “It plainly does. The First Amendment’s ministerial exception bars [the employee’s] suit.” *Id.*

Judge Richardson further noted that the First Amendment “entitles Liberty to *absolute immunity* over its decisions to fire” its employees. *Id.*

(emphasis added). The reason is simple: “[s]werving around th[e] issue” of jurisdiction in the beginning of litigation “veers [the court] too close to the very interests that the First Amendment protects, and risks entangling us in inherently religious questions.” *Id.* It is critical that this Court stay far clear of the inquiry contemplated by employment discrimination suits brought against religious institutions because the ministerial exception is but one “specific facet of the church-autonomy doctrine that guards a religious institution’s authority to select certain personnel.” *Id.* The church-autonomy doctrine “protects religious institutions’ power to decide for themselves, free from state interference, matters of church government, as well as those of faith and doctrine.” *Id.* (quoting *Kedroff*, 344 U.S. at 116), and this includes employment decisions.

Once a court decides that the church autonomy principles are at issue, *its inquiry ends*. “Not only is there no *need* to inquire into [a religious organization’s] motives[,] that inquiry itself may offend the First Amendment.” *Id.* Simply put, the church autonomy doctrine is intended “to protect a religious institution *not only from ultimate liability, but also from judicial inquiry itself*.” *Id.* at 78 (emphasis added).

This is because the inquiry itself “encompasses more than just digging through a religious institution’s employment files and deposing its leaders . . . the mere act of *questioning* the institution’s motives—even if the court ultimately decides that those motives are pure—cheapens its authority over ecclesiastical affairs.” *Id.* (cleaned up) (emphasis added).

The Fourth Circuit’s decision in *Rayburn v. General Conference of Seventh-day Adventists* bolsters this conclusion. 772 F.2d 1164 (4th Cir. 1985). There, the court held that “[a]ny attempt by government to restrict a church’s free choice of its leaders thus constitutes a burden on the church’s free exercise rights.” *Id.* at 1168 (emphasis added). Because intrusion into the employment decisions of religious institutions would violate the First Amendment, the Fourth Circuit held that “the Constitution requires that civil authorities decline to review” such employment decisions, even if the parties seem to invite it to. *Id.* at 1172.

This Court should find the same is true here.

II. The church autonomy doctrine is broader than the limited ministerial exception and applies to *all* religiously based employment decisions of religious organizations.

Though related, the church autonomy doctrine is necessarily broader than the ministerial exception to which it gave birth.

Undoubtedly, the Supreme Court has recognized that employment discrimination suits against religious institutions are barred when the particular litigant is claiming discrimination in employment *as a type of minister*. *E.g.*, *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 188 (2012) (“Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of a church, depriving the church of control over the selection of those who will personify its beliefs.”).

The church autonomy doctrine, however, is broader than the limited ministerial exception. *See, e.g.*, *Tucker v. Faith Bible Chapel Int’l*, 36 F.4th 1021, 1028–29 (10th Cir. 2022) (noting that “[t]he ministerial exception is a *narrower offshoot* of the *broader church autonomy doctrine*” (emphasis added)); *O’Connell v. United States Conference of Catholic Bishops*, 134 F.4th 1243, 1254 (D.C. Cir. 2025) (same); *Belya v. Kapral*, 45 F.4th 621, n.10 (2d Cir. 2022) (same).

Indeed, because “[t]he church autonomy doctrine derives from the Religious Clauses of the First Amendment” and “protects against government interference in matters of faith and doctrine,” *O’Connell*, 134

F.3d at 1254, Article III courts “may not interpret a religious law *or wade into religious disputes*.” *Id.* (emphasis added). As the Seventh Circuit put it, the church autonomy doctrine broadly respects the autonomy of religious organizations “to shape their own missions, conduct their own ministries, and generally govern themselves in accordance with their own doctrines as religious institutions.” *Korte v. Sebelius*, 735 F.3d 654, 677 (7th Cir. 2013).

As the panel rightly concluded (and as this Court should affirm on rehearing), “the church autonomy doctrine is broader than the ministerial exception.” *Union Gospel Mission of Yakima Wash. v. Brown*, 162 F.4th 1190, 1203 (9th Cir. 2026), *vacated on rehearing*.² As a broader doctrine under the Free Exercise and Establishment Clauses of the First Amendment, the church autonomy doctrine “forbids government intrusion into the internal management decision that are essential to the institution’s central mission.” *Id.* (quoting *Our Lady of Guadalupe*, 591 U.S. at 746.) “[I]nternal management decisions may include a religious

² *Amici* understand that the panel’s opinion was automatically vacated by operation of Circuit Advisory Committee Note to Rules 40–2 to 40–3. For ease of reference, *Amici* will refer to the vacated opinion as the “Panel Opinion” for the remainder of the Brief.

organization’s policy of hiring co-religionists for non-ministerial roles.”

Id. Indeed, “deciding who can work non-ministerial roles for a religious organization may be a matter of their religious mission and message.” *Id.*

This is why, when passing Title VII itself, Congress saw fit to include a categorical exemption for religious organizations.

The religious-employer exemptions in Title VII and the ADA are legislative applications of the church-autonomy doctrine. By their terms the exemptions are limited to religiously affiliated employers, a limitation that makes sense in light of the rationale for the rule. *The exemption is categorical, not contingent; there is no balancing of competing interests, public or private. In other words, where it applies, the church-autonomy principle operates as a complete immunity, or very nearly so.* Such a strong hands-off principle isn’t justified for organizational associations that are not religiously affiliated.

Korte, 735 F.3d at 678 (emphasis added).

And the rationale behind this categorical exemption is that it was constitutionally required by the First Amendment, and in the same manner Washington’s Law Against Discrimination is subject to a similar abstention into religious employment disputes. Indeed, “*Title VII’s religious exemptions, though statutory, are also constitutionally inspired, implementing the First Amendment’s command to avoid intrusive inquiry into religious belief.*” *Billiard v. Charlotte Cnty. High Sch.*, 101 F.4th 316, 329 (4th Cir. 2024) (quoting *Corp. for Presiding Bishop of Church of Jesus*

Christ of Latter-day Saints v. Amos, 483 U.S. 327, 339 (1987)) (emphasis added). See also *Shaliehsabou v. Hebrew Home of Greater Washington, Inc.*, 363 F.3d 299, 306 (4th Cir. 2004) (same).

Thus, the constitutionally grounded church autonomy doctrine is broader than the ministerial exception and permits Union Gospel Mission—and all religious institutions—to limit their employment rosters to only those who the religious entity find to sufficiently share their faith, mission, doctrine, and beliefs. Second-guessing religious institutions’ fundamental right to govern their own internal management decisions writ large would run roughshod over the First Amendment and cannot be permitted. It must be that way because “the Religion Clauses work together to protect the institutional freedom of the church for itself, and not simply as a proxy for the religious-liberty rights of individuals, in light of the Constitution’s ordering of the relationship between religion and government.” *Korte*, 735 F.3d at 678.

III. Religious organizations and churches are permitted to limit employees, including non-ministerial employees, to those who abide by their religious faith, doctrine, and mission.

As Justice Thomas has opined, civil courts are required to defer to a religious organization’s determination of who can serve as an employee.

Our Lady of Guadalupe Sch. v. Morrissey-Beru, 591 U.S. 732, 763 (2020) (Thomas, J., concurring). The reason for the deference to a religious institution’s employment decisions is simple: “judges lack the requisite understanding and appreciation of the role played *by every person who performs a particular role in every religious tradition.*” *Id.* (emphasis added). Indeed, “judges do not shirk their judicial duty or provide a mere rubber stamp when they defer to a religious organization’s sincere beliefs.” *Id.* “Rather, they heed the First Amendment, which commands civil courts to decide legal disputes without resolving underlying controversies over religious doctrine.” *Id.* “[T]he Religion Clauses do not permit governmental interference with a religious group’s right to shape its own faith and mission through its appointments. To avoid such interference, we should defer to these groups’ good-faith understandings of which individuals are charged with carrying out the organizations’ religious missions.” *Id.* at 765 (cleaned up). Washington’s Law Against Discrimination fails to heed the First Amendment’s warning and impermissibly intrudes into religious employment decisions.

A. By necessity, religious organizations require the employment of individuals who hold non-ministerial positions.

The First Amendment protects a religious institution’s “autonomy with respect to internal management decisions that are essential to the institution’s central mission.” *Our Lady of Guadalupe*, 591 U.S. at 746. That central purpose of the religious protection afforded to religious organizations is in no way diminished by the fact that it necessarily requires employment of individuals in non-ministerial positions.

Take *Amicus* Liberty University. Liberty University is one of the largest Christian educational institutions in the world, with an active enrollment of over 140,000 students.³ It has over 700 unique programs of study, and over 600 online programs.⁴ Its campus is over 7,000 acres, and it has over 195 buildings and structures on campus comprised of over 7.9 million square feet of indoor building space.⁵ With such vast array of

³ See Liberty University, *Liberty University Quick Facts*, available at <https://www.liberty.edu/about/liberty-university-quick-facts/> (last visited July 21, 2026).

⁴ *Id.*

⁵ *Id.*

facilities, programs, and students, Liberty University necessarily requires employees of all kinds to fulfill its mission. An institution cannot have over 7.9 million square feet of building facilities without plumbers, electricians, custodians, maintenance workers, and those whose role some would mistakenly view as non-religious. Nor could an institution with 600 online programs fulfill its singular religious mission without significant rosters of employees with information technology competence. But, regardless of the role of any particular employee at Liberty University, the institution views all its employees as *central to fulfilling its mission* to “develop Christ-centered men and women with the values, knowledge, and skills to impact the world.”⁶ This is because an explicitly Christian workforce not only serves its students; they must serve each other as they carry forth their joint religious mission, supporting one another through prayer, a sacrificial work ethos, and a unified standard for living and interacting with their fellow man. Liberty University explicitly states that it is only able to fulfill its religious mission by

⁶ See Liberty University, *Educational Philosophy & Mission Statement*, available at <https://www.liberty.edu/about/purpose-and-mission-statement/> (last visited July 21, 2026).

ensuring that all employees, all programs, all facilities, and everything that it does advances that critical mission. Indeed, “[t]hrough its residential and online programs, services, facilities, and collaborations, the University educates men and women who will make important contributions to their workplaces and communities, follow their chosen vocations as callings to glorify God, and fulfill the Great Commission.”⁷

Or, consider *Amicus* Thomas Road Baptist Church. The church was founded in 1956 with the singular mission “to change our world by developing Christ-followers who love God and love people.”⁸ As part of its religious mission and religious message to the world, “Thomas Road is built upon the Word of God,” boldly proclaims that it has “never wavered nor compromised on the inspired, infallible, and inerrant Word of God,” and that it is “committed to accurately teaching and preaching Holy Scripture at every opportunity.”⁹ Thomas Road has a significant television, radio, and media ministry, providing historical and recent

⁷ *Id.*

⁸ See Thomas Road Baptist Church, *Mission*, available at <https://trbc.org/about/mission/> (last visited July 21, 2026).

⁹ *Id.*

programs sharing the Gospel of Jesus Christ to a lost and dying world. It does so through its HopeNow.TV ministry¹⁰ and Thomas Road OnDemand¹¹ programs. Thomas Road has satellite missions, multiple campuses, camps, a pro-life resource center, and countless other ministries that it offers to the community—all focused on “fulfilling the Great Commission by taking the Gospel of Jesus Christ from Lynchburg to the World.”¹²

All of these ministries require employees that hold what some would erroneously call non-religious roles, including custodians, maintenance staff, creative staff, information technology staff, and administrative staff. Critically, Thomas Road believes in Scripture’s teaching that all of its employees, staff, volunteers, and members are required to “love the Lord your God with all you heart, with all your soul, and with all your

¹⁰ See Thomas Road Baptist Church, *HopeNow.Tv*, available at <https://www.hopenow.tv/> (last visited July 21, 2026).

¹¹ See Thomas Road Baptist Church, *Thomas Road On Demand*, available at <https://watch.trbc.org/> (last visited July 21, 2026).

¹² See Thomas Road Baptist Church, *Missions*, available at <https://trbc.org/outreach/missions/> (last visited July 21, 2026).

mind.”¹³ Thomas Road does not believe it can comply with that command without heeding the requirement of “all,” which means “All is not limited to Sundays – all is everything we have, every moment we are given and in every situation that God brings into our path,” and that “[t]rue worship of God is to be reflected in our lifestyle – in every moment . . . in every decision . . . *in every relationship*.”¹⁴ Thus, “in every relationship”—including the relationship Thomas Road has with every one of its employees and their relationship to each other—it has sincere religious beliefs that each individual helps it achieve its religious mission of reaching a lost world for Christ, even if those employees are not strictly employed in what some would consider religious positions. To Thomas Road Baptist Church, every position is religious and critical to pursuing its religious mission and message.

As *Amici*’s fundamental beliefs demonstrate, both *Amici* “sincerely believe that its non-ministerial employees must adhere to and live according to its religious principles to accomplish its religious mission.”

¹³ See Thomas Road Baptist Church, *Mission*, available at <https://trbc.org/about/mission/> (quoting *Matthew* 22:37).

¹⁴ *Id.*

Union Gospel, 162 F.4th at 1204 (Panel Opinion). *Amici*'s beliefs are informed by Scripture that says "we [all] are therefore Christ's ambassadors, as though God were making his appeal through us," 2 *Corinthians* 5:20 (NIV), and that as Christ's ambassadors every employee must "agree with one another in what [they] say and that there be no divisions among [them], but that [they] be perfectly united in mind and thought." 1 *Corinthians* 15:10 (NIV). This applies to the pastor and the plumber; the chancellor and the custodian; the residential and remote; the instructor and the IT worker; the deacon and the dishwasher. All are ambassadors of Christ and the Christ-centered mission of *Amici*. And the decision to employ only those who share their fundamental religious beliefs is the organization's alone.

The First Amendment prohibits Article III courts from "requiring [a religious organization], on the pain of substantial liability, to predict which of its activities a secular court will consider religious." *Amos*, 483 U.S. at 336. *Amici* and all religious organizations have "[t]he authority to engage in this process of self-definition [and] condition employment in certain activities on subscription to particular religious tenets." *Id.* at 342 (Brennan, J., concurring). That applies to so-called religious employees

and supposed non-religious employees alike, for as *Amici*'s religious beliefs compel—there is no distinction between the two. *All are religious and required to fulfill the singular religious mission for which they were founded.*

B. Even employees who hold non-ministerial positions advance the religious faith, doctrine, and mission of religious organizations.

As the Seventh Circuit has recognized, there is truth in the age-old adage that “personnel is policy.” *Demkovich v. St. Andrew the Apostle Parish, Calumet City*, 3 F.4th 968, 978 (7th Cir. 2021). This is particularly true in the religious workplace where “[r]eligion permeates the [religious organization] in ways it does not in other workplaces.” *Id.* The Panel Opinion likewise appropriately recognized that when it comes to personnel decisions, religious organizations are *sui generis* in that the notion that “personnel is policy . . . applies perhaps even more so for religious organizations.” *Union Gospel*, 162 F.4th at 1204 (Panel Opinion). As Justice Brennan recognized in *Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, religious communities and organizations “represent an ongoing tradition of shared

beliefs,” and are “organic entit[ies] not reducible to a mere aggregation of individuals.” 483 U.S. 327, 342 (1987) (Brennan, J., concurring).

Because religious organizations reflect more than a traditional partnership, association, organization, or other aggregate of individuals formed for economic or commercial purposes, employees of those unique entity are necessarily different than other organizations. The reason is simple: “[d]etermining that certain activities are in furtherance of an organization’s religious mission, and *that only those committed to that mission should conduct them*, is thus a means by which a religious community defines itself. *Id.* (emphasis added). *See also Union Gospel*, 162 F.4th at 1204 (Panel Opinion) (same). “Solicitude for a [religious organization’s] ability to do so reflects the idea that furtherance of the autonomy of religious organizations often furthers individual religious freedom as well.” *Amos*, 483 U.S. at 342 (Brennan, J., concurring).

C. Even remote, information technology, or other logistical positions can and do advance the mission of religious organizations and portray the religious organization’s faith, doctrine, and mission to the public.

This Court has noted that even remote, information technology, and other logistical employment positions can and do advance the mission of a religious organization. *E.g., McMahon v. World Vision, Inc.*, 147 F.4th

959 (9th Cir. 2025); *Behrend v. San Francisco Zen Ctr., Inc.*, 108 F.4th 765 (9th Cir. 2024); *Markel v. Union of Orthodox Jewish Congregations of America*, 124 F.4th 796 (9th Cir. 2024); *Alcazar v. Corporation of the Catholic Archbishop of Seattle*, 627 F.3d 1288 (9th Cir. 2010).

In *Behrend*, the Court specifically noted that religious organizations are not limited in their autonomy to only the selection of “those with ‘key roles’ in preaching and transmitting the faith to others.” 108 F.4th at 768. Rather, the Court appropriately noted that the First Amendment’s protection for the religious autonomy of religious organizations, and “precedent from our court and the Supreme Court evinces a *much broader rule* that covers” more than solely so-called “key positions.” *Id.* (emphasis added). And that much broader rule requires application of religious autonomy to any employment decision reflecting the religious organization’s ability to “*carry[] out its mission.*” *Id.* (emphasis original). There, the plaintiff argued that his religious employer was required to abide by secular employment non-discrimination laws because “he performed mostly menial work,” and that the First Amendment only provides autonomy for “teachers and leaders” of the faith. *Id.* at 769. This

Court rightly concluded that “*precedent clearly forecloses that view, and for good reason.*” *Id.* (emphasis added).

This Court held that even janitorial, menial, and administrative work can be included in the employment central to a religious organization’s mission, and therefore exempt from employment discrimination laws. In *Behrend*, the employee was tasked primarily with “performing maintenance, kitchen, and guest services.” *Id.* at 770. Part of his task was janitorial, as he was required to “clean the temple.” *Id.* Though the employee described his role as “menial” and though his functions were largely logistical, the employer viewed his tasks and his role as “carrying out the Center’s mission.” *Id.* The First Amendment therefore precluded his employment discrimination claims.

Or, take *World Vision*. There, this Court again held that the critical inquiry to a religious organization’s exclusion from the application of employment discrimination laws turns on whether the employee is carrying out “the core missions of their respective organizations.” 147 F.4th at 973. Importantly, the position for which the religious organization was deemed exempt was a *remote position with purely clerical and administrative responsibilities in a call center*. The employee

of World Vision was “remote,” “did not require any formal religious education or training,” involved “answering calls,” “data entry,” and other “administrative” functions. *Id.* at 967, 973. Despite noting that the relevant job at World Vision involved “secular and administrative duties,” the First Amendment nevertheless exempted World Vision from employment discrimination suits because the remote call-center employee was viewed by the religious organization as advancing the “very core of World Vision’s mission.” *Id.* at 975. And, because World Vision viewed its remote employees as vital to its religious mission, this Court correctly held that such description and understanding of the position was dispositive of whether the First Amendment exempted it from employment discrimination claims. *Id.* (“a religious institution’s explanation of the role of such employees in the life of the religious in question is important.”).

Finally, consider *Alcazar v. Corporation of the Catholic Archbishop of Seattle*, 627 F.3d 1288 (9th Cir. 2010). There, though the plaintiff was studying to become an ordained priest, his employment at the time of his suit was primarily that of a building maintenance worker. *Id.* at 1292 (noting he “was hired to do maintenance of the church and assisted with

Mass”). Though he had no formal recognition in the church at the time and primarily functioned as a maintenance worker, this Court nevertheless held his employment discrimination claims were prohibited by the First Amendment. *Id.* at 1293. In fact, the Court went so far as to say it would not have mattered for purposes of the Archbishop’s exemption under the First Amendment that “[t]he church placed Rosas at St. Mary’s Parish to perform some seminarian duties, such as assisting with Mass, and that, in Rosas’ spare time, he applied for a secular maintenance position at the church and was hired to do maintenance of the church.” *Id.* at 1293. The conclusion would have been the same either way, and the First Amendment would bar suits under both.

Other circuit court decisions, too, have held that religious entities are exempt from employment discrimination suits in logistical and administrative positions. *See EEOC v. Roman Catholic Diocese of Raleigh*, 213 F.3d 795, 802 (4th Cir. 2000) (music director); *Starkey v. Roman Catholic Archdiocese of Indianapolis, Inc.*, 41 F.4th 931, 942 (7th Cir. 2022) (guidance counselor); *Demkovich v. St. Andrew the Apostle Parish, Calumet City*, 3 F.4th 968, 985 (7th Cir. 2021) (choir director); *Alicea-Hernandez v. Catholic Bishop of Chicago*, 320 F.3d 698, 704 (7th

Cir. 2003) (press secretary); *Markel v. Union of Orthodox Jewish Congregations of America*, 124 F.4th 796 (9th Cir. 2024) (kitchen supervisor); *Shaliehsabou v. Hebrew Home of Greater Washington, Inc.*, 363 F.3d 299, 309 (4th Cir. 2004) (kitchen supervisor).

D. Requiring a religious organization to employ individuals in any position that do not abide by the organization’s religious faith, doctrine, and mission undermines the constitutionally protected exercise of a religious organization’s faith.

No one disputes that eliminating discrimination in employment is a laudable goal. Washington claims that goal here. Wash. Rev. Code §49.60.010. But,

[i]n cases like the one before us now—where the goal of the civil law in question, the elimination of discrimination against persons [with certain beliefs], is so worthy—*it is easy to forget that the autonomy of religious groups, both here in the United States and abroad, has often served as a shield against oppressive civil laws.*

Hosanna-Tabor, 565 U.S. at 199 (Alito, J., concurring) (emphasis added).

And, “[t]o safeguard this crucial autonomy, we have long recognized that the Religion Clauses protect a private sphere within which religious bodies are free to govern themselves in accordance with their own beliefs.” *Id.*

That freedom necessarily includes the right to determine who holds the requisite beliefs, faith, character, and conduct to advance the religious organization’s mission. “Religious groups are the archetype of associations formed for expressive purposes, and their fundamental rights surely include the freedom to choose who is qualified to serve as a voice for their faith.” *Id.* at 200–01. Indeed, “[w]hen it comes to the expression and inculcation of religious doctrine, *there can be no doubt the messenger matters.*” *Id.* at 201 (emphasis added). This is true whether the message is to those outside the organization or to coworkers within it. Because the messenger matters, “a religious organization is able to condition employment in certain activities on subscription to particular religious tenets.” *Amos*, 483 U.S. at 342 (Brennan, J., concurring).

As the Panel Opinion correctly observed, requiring *all employees—even non-ministerial ones*—to subscribe to the religious organization’s tenets falls within the protection of the Free Exercise Clause.

If a religious institution sincerely believes that its non-ministerial employees must adhere to and live according to its religious principles to accomplish its religious mission, the only way a court could adjudicate a dispute for a plaintiff would be to rule that the religious institution cannot seek that “mission” or that the hiring policy isn’t necessary to that “mission”—inherently religious questions. Such a ruling would violate the institution’s free exercise rights to shape its

own faith and mission and would improperly establish an ecclesiastical decision for the institution. And if the institution were forced to disregard or alter its religious mission to satisfy secular law, that could limit or remove its mission from the public sphere altogether. And so, in some cases, we may permit a religious organization to condition employment, even non-ministerial employment, on subscription to particular religious tenets.

Union Gospel, 162 F.4th at 1204 (Panel Opinion).

The reason the Free Exercise Clause prohibits Article III courts from imposing employment discrimination laws upon religious organizations, even in the context of non-ministerial roles, is to facilitate the religious organization's very existence, mission, and message.

Religious teachings cover the gamut from moral conduct to metaphysical truth, and both the content and credibility of a religion's message depend vitally on the character and conduct of its teachers. *A religion cannot depend on someone to be an effective advocate for its religious vision if that person's conduct fails to live up to the religious precepts that he or she espouses.* For this reason, a religious body's right to self-governance must include the ability to select, and to be selective about, those who will serve as the very embodiment of its message and its voice to the faithful. A religious body's control over such employees is an essential component of its freedom to speak in its own voice, both to its own members and to the outside world.

Hosanna-Tabor, 565 U.S. at 201 (Alito, J., concurring).

In fact, protecting a religious organization's right to select only those who share its fundamental beliefs, Scriptural interpretations, and

standards of conduct is vital to the very existence of religious organizations, and courts must zealously guard against infringements on those irreducible constitutional protections.

To force religious organizations to hire messengers *and other personnel* who do not share their religious views would undermine not only the autonomy of many religious organizations but also their continued viability. If States could compel religious organizations to hire employees who fundamentally disagree with them, many religious non-profits would be extinguished from participation in public life—perhaps by those who disagree with their theological views most vigorously. Driving such organizations from the public square would not just infringe on their rights to freely exercise religion but would greatly impoverish our Nation’s civic and religious life.

Seattle’s Union Gospel Mission v. Woods, 142 S. Ct. 1094, 1096 (2022)

(Alito, J., Statement respecting denial of certiorari) (emphasis added).

E. The decision of whether an individual’s conduct, beliefs, and practices are consistent with the religious mission of the religious organization is a decision exclusively the province of the religious organization, and Article III courts have no jurisdiction to second-guess or question those decisions.

It bears repeating that for over 150 years the Republic has recognized that “the conformity of the members of the church to the standards of moral required of them” is “a matter over which the civil courts exercise no jurisdiction.” *Watson v. Jones*, 80 U.S. 679, 733 (1872).

Put simply, “it is not within the judicial function and judicial competence to inquire whether the petitioner or his fellow worker more correctly perceived the commands of their common faith. *Courts are not arbiters of scriptural interpretation.*” *Thomas v. Rev. Bd. of Ind. Empl. Sec. Div.*, 450 U.S. 707, 716 (1981) (emphasis added). “[J]udges have no warrant to second-guess that judgment or to impose their own credentialing requirements.” *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 760 (2020). And this is true for all employees, members, or individuals associated with a religious organization. Were it otherwise, “forcing a groups to accept certain members” or employees would “impair its ability to express those views, and only those views, that it intends to express,” and “[t]hat principle applies with special force to religious groups, whose very existence is dedicated to the collective expression and propagation of shared religious ideals.” *Hosanna-Tabor*, 565 U.S. at 200 (Alito, J., concurring) (quoting *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000)). The decision of the panel should be affirmed, and Union Gospel Mission adjudged exempt from employment discrimination claims under the church autonomy doctrine. The First Amendment tolerates nothing less.

CONCLUSION

For the foregoing reasons, and for those artfully articulated by the Panel Opinion, the Court should affirm the panel and hold that Union Gospel Mission is exempt from Washington's Law Against Discrimination when it makes employment decisions on the basis of its religious mission.

Respectfully submitted,

/s/ Daniel J. Schmid

Mathew D. Staver

Horatio G. Mihet

Daniel J. Schmid

LIBERTY COUNSEL

P.O. Box 540774

Orlando, FL 32854

(407) 875-1776

court@lc.org – hmihet@lc.org

dschmid@lc.org

*Counsel for Amici Curiae Liberty
University and Thomas Road Baptist
Church*

CERTIFICATE OF COMPLIANCE

This brief complies with the word limit of Fed. R. App. P. 29(a)(5) because, excluding the portions exempted by Fed. R. App. R. 32(f), this brief contains 6,985 words, which complies with Circuit Rule 29–2(c)(3).

This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

/s/ Daniel J. Schmid

Mathew D. Staver

Horatio G. Mihet

Daniel J. Schmid

LIBERTY COUNSEL

P.O. Box 540774

Orlando, FL 32854

(407) 875-1776

court@lc.org – hmihet@lc.org

dschmid@lc.org

*Counsel for Amici Curiae Liberty
University and Thomas Road Baptist
Church*

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2026, I electronically filed the foregoing Amicus Brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the ACMS system, which will accomplish service on counsel for all parties through the Court's electronic filing system.

/s/ Daniel J. Schmid
Mathew D. Staver
Horatio G. Mihet
Daniel J. Schmid
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
(407) 875-1776
court@lc.org – hmihet@lc.org
dschmid@lc.org
*Counsel for Amici Curiae Liberty
University and Thomas Road Baptist
Church*