

No. 25-1085

**In the United States Court of Appeals
FOR THE SECOND CIRCUIT**

ALEXANDER BELYA,

Plaintiff-Appellant,

v.

HILARION KAPRAL, AKA METROPOLITAN HILARION, NICHOLAS
OLKHOVSKIY, VICTOR POTAPOV, SERGE LUKIANOV, DAVID STRAUT,
ALEXANDRE ANTCHOUTINE, GEORGE TEMIDIS, SERAFIM GAN, BORIS
DMITRIEFF, JOHN DOES 1 THROUGH 10, EASTERN AMERICAN DIOCESE OF
THE RUSSIAN ORTHODOX CHURCH OUTSIDE OF RUSSIA, THE SYNOD OF
BISHOPS OF THE RUSSIAN ORTHODOX CHURCH OUTSIDE OF RUSSIA, MARK
MANCUSO,

Defendants-Appellees,

PAVEL LOUKIANOFF,

Defendant.

*On Appeal from the United States District Court
for the Southern District of New York, No. 1:20-cv-6597*

**BRIEF OF THE ROMAN CATHOLIC ARCHDIOCESE OF NEW
YORK AND SIX OTHER DENOMINATIONAL ORGANIZATIONS
AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS-
APPELLEES AND AFFIRMANCE**

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RULE 26.1 STATEMENT

Amici curiae the Roman Catholic Archdiocese of New York, the Antiochian Orthodox Christian Archdiocese of North America, the Dioceses of New Gracana-Midwestern America and of Eastern America of the Serbian Orthodox Church, the Bulgarian Eastern Orthodox Diocese of the USA, Canada, and Australia, the Orthodox Church in America, and the Anglican Church in North America state that they have no parent corporation and do not issue stock.

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INTEREST OF *AMICI CURIAE*¹

Amici curiae are a diverse coalition of denominational organizations that are entrusted by their members to declare church doctrine, to discipline leaders who violate church teaching, and to protect the faithful from false teachers and unworthy leaders. As detailed further below, *amici* are protected by, and rely upon, the constitutional rights of faith communities to govern their own ecclesiastical matters.

This lawsuit seeks relief that, if granted, would unconstitutionally chill, and open the door to attacks on, the freedom of faith communities to govern their religious affairs. The district court correctly determined that Plaintiff’s claims, in addition to failing on the merits, “would drag the Court and jury into matters of faith, spiritual doctrine, and internal church governance—precisely what the church-autonomy doctrine is designed to prevent.” *See* JA1572; SPA2. *Amici* submit this brief to ask this Court to affirm the judgment below and reaffirm the rights of faith communities to select, train, promote, and discipline their own ministers free from the oversight of secular courts.

¹ All parties have consented to the filing of this brief. No counsel for any party authored this brief in whole or in part, and no person or entity aside from *amici* and their counsel funded the brief’s preparation or submission.

The **Roman Catholic Archdiocese of New York** is the second-largest Catholic diocese in the United States, with more than 2.8 million Catholics and nearly 300 parishes within the Archdiocese's ten counties. Erected in 1808, the Archdiocese is led by His Eminence Timothy Cardinal Dolan, the auxiliary bishops of the Archdiocese, and nearly 1,000 priests.

The **Antiochian Orthodox Christian Archdiocese of North America** is part of the Greek Orthodox Patriarchate of Antioch and All the East. The Archdiocese has nearly 300 parishes and 600 clergy in the United States and Canada. The Archdiocese was established in 1923 and is led by His Eminence Metropolitan Saba Isper.

The **Dioceses of New Gracanica-Midwestern America and of Eastern America of the Serbian Orthodox Church** have nearly 100 parishes in 38 states and the District of Columbia. The Dioceses minister to the more than 750,000 persons of Serbian descent who live in those states, as well as to those other Orthodox Christians who have chosen to accept the jurisdiction of the Serbian Orthodox Church. The Dioceses are led by Most Reverend Metropolitan Longin Krco and Right Reverend Bishop Irinej Dobrijevic, respectively.

The **Bulgarian Eastern Orthodox Diocese of the USA, Canada, and Australia** is one of fifteen dioceses of the Patriarchate of Bulgaria. It consists of 37 parishes and monasteries in the United States, Canada, and Australia, with most parishes and all monasteries located in the United States. The Diocese is led by His Eminence Metropolitan Joseph, a bishop and member of the Holy Synod of Bishops of the Patriarchate of Bulgaria.

The **Orthodox Church in America** traces its origins to the arrival of Russian Orthodox missionaries in Alaska in 1794. It was granted independence from the Russian Orthodox Church in 1970. Today, the Orthodox Church in America counts some 700 parishes, missions, communities, monasteries, and institutions throughout the United States, Canada, and Mexico. The Orthodox Church in America is one of the autocephalous, self-governing, Orthodox Churches throughout the world.

The **Anglican Church in North America** (“ACNA”) unites more than 125,000 Anglicans in more than 1,000 congregations and twenty-eight dioceses across the United States and Canada into a single Church. It is a Province in the Fellowship of Confessing Anglicans, initiated at

the request of the Global Anglican Future Conference (GAFCon) and formally recognized by the GAFCon Primates—leaders of Anglican Churches representing 70 percent of active Anglicans globally. The ACNA is determined with God’s help to maintain the doctrine, discipline, and worship of Christ as the Anglican Way has received them and to defend the God-given inalienable human right to free exercise of religion.

SUMMARY OF ARGUMENT

For centuries, American courts have recognized that religious liberty depends on the independence of churches to govern their doctrine, leadership, and discipline free from state interference. That principle—rooted as far back as Magna Carta, enshrined in the Religion Clauses of the First Amendment, and reaffirmed in decisions of the U.S. Supreme Court and this Court over the last two decades—bars civil courts from second-guessing ecclesiastical determinations about who may serve as a minister. This case asks whether disaffected ministers can circumvent those centuries-old principles through artful pleading.

Plaintiff’s claims, though styled to sound in tort, directly challenge a religious order’s deliberations about clerical fitness and thus fall squarely within the core of church autonomy. At bottom, Plaintiff seeks

money damages for a statement by church leadership that he was not qualified to serve as a Russian Orthodox Bishop. Embedded in that claim is a challenge to the underlying ecclesiastical determination that Plaintiff lacked such qualifications. Permitting civil courts to check the work of religious leaders entrusted to make such determinations would chill churches from candidly addressing clergy conduct, expose internal communications to intrusive discovery, and invite every disappointed or defrocked clergyman to repackage ecclesiastical disputes as secular torts. Worse still, the specter of such liability would force churches to make personnel decisions with an eye towards litigation risk, rather than purely based on religious doctrine.

The district court correctly recognized these constitutional limits, and affirmance is necessary to preserve the First Amendment's protection of religious independence. This Court should affirm.

ARGUMENT

I. THE CHURCH-AUTONOMY DOCTRINE IS A BEDROCK FIRST AMENDMENT PROTECTION.

A. Centuries of Precedent and Tradition Reaffirm the Right of Churches to Select, Train, and Discipline Ministers.

From the founding of our Republic, courts have recognized that religious liberty safeguards the independence of churches to govern religious doctrine, church leadership, and ministerial discipline free from state interference. The Supreme Court has reaffirmed that principle repeatedly, most recently in *Our Lady of Guadalupe v. Morrissey-Berru*, which reiterated that the First Amendment forbids government intrusion into a church’s choice of its ministers. 591 U.S. 732, 745–47 (2020). Likewise, judicial precedent is unanimous a church must also be free to, without state interference, censure, discipline, and remove the ministers it has freely chosen since, “[w]ithout that power, a wayward minister’s preaching, teaching, and counseling could contradict the church’s tenets and lead the congregation away from the faith.” *Id.* at 747; accord *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 188 (2012) (holding that requiring a church to “retain an unwanted

minister ... intrudes upon more than a mere employment decision,” but instead reaches the heart of a church’s spiritual mission”).

These protections stem from a deep historical tradition. The Magna Carta declared that “the English church shall be free, and shall have its rights intact and its liberties unfringed upon.” Magna Carta cl. 1 (1215), *reprinted in Select Historical Documents of the Middle Ages* 135–36 (London, Ernest F. Henderson trans., 1896). The Framers embraced this principle and enshrined it in the Religion Clauses of the First Amendment. *See Hosanna-Tabor*, 565 U.S. at 182–84. From the beginning, American courts have recognized that the ability of churches to govern their own ministers is essential to the nation’s commitment to protect religious life from state interference.

Each of the Religion Clauses secures this independence in its own, complementary way: the Free Exercise Clause protects a church’s right to “shape its own faith and mission through its appointments,” and the Establishment Clause bars the state from dictating “who will minister to the faithful.” *Hosanna-Tabor*, 565 U.S. at 188, 195. Because ministers are the primary instruments through which a church teaches and practices its faith, “the relationship between an organized church and its

ministers is its lifeblood.” *McClure v. Salvation Army*, 460 F.2d 553, 558–59 (5th Cir. 1972). Put simply, “the messenger matters.” *Hosanna-Tabor*, 565 U.S. at 201 (Alito, J., concurring). This is not limited to one denomination but is a universal principle across traditions: Catholic canon law, Orthodox synodal practice, Methodist and Baptist polity, and countless other faiths all vest decisive authority in their communities to determine who may lead, teach, and represent the faith.

A necessary concomitant of the freedom to select ministers is the need on occasion to discipline and terminate ministers. Churches may make the decision to remove a minister in various scenarios where the minister’s conduct contradicts the church’s teaching. For instance, churches have removed ministers for criminal violations.² In less extreme examples, churches may remove a minister for non-criminal behaviors that do not align with the church’s view. For instance, some churches removed ministers for alcohol abuse and marital infidelity.³ Other

² See, e.g., Corey G. Johnson & John Romano, *The Rev. Henry Lyons Forced Out as Pastor of Tampa Church Amid Accusations of Theft, Misconduct*, Tampa Bay Times (Apr. 2, 2018), <https://bit.ly/3ydkLMX>; Adelle M. Banks, *Prominent Bishop of AME Zion Church Suspended, Faces Financial Accusations*, Religion News Serv. (Jan. 8, 2021), <https://bit.ly/3sUs0IF>.

³ See, e.g., Leanne Italie, *Megachurch Pastor Carl Lentz Fired, Admits Cheating on Wife*, Assoc. Press (Nov. 5, 2020), <https://bit.ly/3sJ462z>; Leonardo Blair, *Perry Noble*
(continued on next page)

churches have even voted to remove pastors whose political and ideological views do not align with those of the church.⁴ These reasons may often appear nonsensical—even improper—were they used to justify termination in other settings, but this simply reflects the necessity and the fact that ministers are held to different, ecclesiastical standards, which civil courts are not equipped or empowered to enforce.

The church-autonomy doctrine also safeguards the internal processes by which churches deliberate about clergy conduct. Internal communications—whether letters, memoranda, or synodal deliberations—are themselves ecclesiastical acts protected by the First Amendment. These internal mechanisms of discipline are how faith communities preserve doctrine and protect the faithful. When senior clergy deliberate over whether a candidate’s conduct or qualifications align with church doctrine, those discussions are no less religious than the ordination liturgy itself. Courts have long recognized that “internal

Fired for Alcoholism, Strained Marriage; Is Under Psychiatric Care, NewSpring Church Confirms, Christian Post (July 10, 2016), <https://bit.ly/3my7pIL>.

⁴ See e.g., Frank Langfitt, *Pastor Pushed Out After Parishioners Complain About Focus on Racial Justice*, NPR (Feb. 4, 2025), <https://tinyurl.com/5h7yer42>; Owen Daugherty, *Congregation Ousts Pastor Over Sign Outside Church Saying Homosexuality is ‘Still a Sin,’* The Hill (Jan. 16, 2019), <https://tinyurl.com/59kdt99b>.

church personnel matter[s] . . . fall squarely within the areas of church governance and doctrine protected by the First Amendment.” *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 658 (10th Cir. 2002). Attempting to parse “facts” from “religious” judgments in such communications would itself violate the Establishment Clause. *Whole Woman’s Health v. Smith*, 896 F.3d 362, 373 (5th Cir. 2018).

For these reasons, decisions regarding who may serve, and how churches evaluate and communicate about clergy conduct, fall within the church’s exclusive domain. The right to choose ministers “without government restriction underlies the well-being of religious communities.” *Rweyemamu v. Cote*, 520 F.3d 198, 205 (2d Cir. 2008) (citation modified). “Questions of church discipline and the composition of the church hierarchy are at the core of ecclesiastical concern.” *Serbian E. Orthodox Diocese for U.S. & Can. v. Milivojevich*, 426 U.S. 696, 717 (1976). Accordingly, decisions regarding who may serve and how churches evaluate or communicate about clergy conduct lie within the church’s exclusive constitutional domain. Civil courts may not second-guess those judgments without violating the First Amendment.

B. The Inquiry Invited by Plaintiff Here Would Intrude on Core Church-Autonomy Principles.

Plaintiff's claims arise directly from Defendants' determination that Plaintiff was not qualified to serve as a bishop and that he had not been duly elected as such. Such a claim targets "a 'core matter of ecclesiastical self-governance' at the 'heart' of the church's religious mission," and represents "the most spiritually intimate grounds of a religious community's existence." *Hankins v. Lyght*, 441 F.3d 96, 117 (2d Cir. 2006) (Sotomayor, J., dissenting) (citation omitted).

Plaintiff's defamation theory cannot be untangled from those ecclesiastical judgments. His core claim (that he was falsely accused of "forgery") cannot be adjudicated without deciding whether ROCOR's Synod had in fact elected him, what role Metropolitan Hilarion's letters played, and whether those communications were "valid" under church law. To be clear, *amici* take no position on the answers to these questions; it is not *amici*'s job any more than it is the job of secular courts to decide this question. Whether an election of a church leader "took place" or whether a bishop's letter was "irregular" are inherently ecclesiastical questions that only the chosen leadership of ROCOR can make.

Nor can Plaintiff's claim be salvaged by recasting inherently religious issues in seemingly secular terms. As the district court recognized, testing whether the "accusations of forgery weren't substantially true" would "require divining what ROCOR doctrine requires" for letters confirming an election. JA1583; SPA13. Adjudicating Belya's claim to be a bishop would thus "plunge an inquisitor into a maelstrom of Church policy, administration, and governance." *Rweyemamu*, 520 F.3d at 209 (citation modified) (quoting *Natal v. Christian & Missionary All.*, 878 F.2d 1575, 1576 (1st Cir. 1989)).

While this case presents a unique and peculiar dispute between one church and one minister, the consequences of this Court's ruling will have profound effects for the more than 17,000 houses of worship in this Circuit⁵ and the millions of believers they serve. Civil liability for internal communications surrounding the election of a church leader would chill churches from exercising their constitutional right to deliberate, discipline, and protect the faithful. "[A] church is not truly free to manage its affairs, practice its faith, and publicly proclaim its doctrine if lawyers

⁵ See Ass'n of Religious Data Archives, *Connecticut, New York, Vermont - State Membership Report* (2020), <https://bit.ly/4nNVFyu>.

and judges lie in wait to pass human judgment on whether the church should have chosen its words more carefully.” *In re Diocese of Lubbock*, 624 S.W.3d 506, 521 (Tex. 2021) (Blacklock, J., concurring). Allowing courts to second-guess a church’s ability to select, train, discipline, and remove ministers would strike at the very heart of religious independence, which is why the Constitution bars claims like this at the threshold.

II. THE RISK OF LITIGATION THREATENS RELIGIOUS LIBERTY AND UNDERMINES THE CHURCH-AUTONOMY DOCTRINE.

In physics, the “observer effect” states that to observe a phenomenon is necessarily to change it. A related concept is true here: when religious determinations are made under the watchful eye of plaintiffs’ lawyers and secular legal systems, those determinations will necessarily change—from ones made solely based on the dictates of faith and doctrine, into ones that weigh religious principles against litigation exposure. Even if the ultimate outcome of the decision is unchanged, the perversion of purely religious decisionmaking with secular legal concerns is intolerable from a First Amendment perspective. And *amici* know that, inevitably, some churches will alter their decisions to avoid crippling

financial liability—they may retain a minister who based on purely ecclesiastical grounds is unsuited, choose to overlook a grounds for discipline, or opt for a quieter resolution that does not alert the faithful to an unworthy minister.

The First Amendment’s protection for church autonomy means little if the freedom it guarantees can be eroded through the process of litigation. The district court correctly recognized that adjudicating Plaintiff’s claims would entangle the judiciary in matters of faith, doctrine, and internal governance, explaining that “a trial in this case would drag the Court and jury into matters of faith, spiritual doctrine, and internal church governance—precisely what the church-autonomy doctrine is designed to prevent.” JA1572; SPA2. That conclusion is firmly grounded in the Supreme Court’s teaching that decisions about ministers are the heart of the First Amendment’s protection of religious freedom. *Kedroff*, 344 U.S. at 116 (the First Amendment guarantees religious bodies “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.”); *see also Our Lady of Guadalupe Sch.*, 591 U.S. at 746 (“[A]ny attempt by government

to dictate or even to influence such matters would constitute one of the central attributes of an establishment of religion. The First Amendment outlaws such intrusion.”)

The danger lies not only in an adverse judgment but in the process of litigation itself. The Fourth Circuit in *Rayburn v. General Conference of Seventh-Day Adventists* warned against precisely this danger, warning that churches, facing litigation, might shape their spiritual decisions “with an eye to avoiding litigation or bureaucratic entanglement rather than [relying on] their own personal and doctrinal assessments of who would best serve the pastoral needs of their members.” 772 F.2d 1164, 1171 (4th Cir. 1985). *Rayburn* also explained that even allowing such claims to proceed is constitutionally harmful because “[c]hurch personnel and records would inevitably become subject to subpoena, discovery, cross-examination, the full panoply of legal process designed to probe the mind of the church in the selection of its ministers.” *Id.* Without strong ex ante protection, the mere threat of litigation forces churches to weigh doctrine against legal risk, placing a price tag on the exercise of faith.

III. ARTFUL PLEADING CANNOT BE USED TO EVADE THE CHURCH-AUTONOMY DOCTRINE.

The First Amendment’s protection for church autonomy does not depend on how a complaint is captioned. *Hosanna-Tabor* and *Our Lady of Guadalupe School* make clear that civil courts may not entertain employment disputes brought by ministers against their churches. 565 U.S. at 188; 591 U.S. at 746. In response, clever plaintiffs have sought to recast employment or disciplinary grievances in tort terms—alleging defamation, emotional distress, and the like in hopes that a new label will draw courts into what the Constitution forbids. But there is no constitutional difference between ordering a church to retain a minister it no longer wishes to employ and imposing monetary damages for choosing to remove him. Both outcomes penalize the exercise of religious judgment and chill the freedom that the First Amendment guarantees.

This case illustrates that danger. Unable to contest the Synod’s decision directly under employment law, where the ministerial exception is clear and dispositive, Plaintiff restyles his grievance as defamation. That sort of artful pleading threatens to erode the First Amendment’s protection by allowing courts to intrude indirectly into ministerial selection and discipline. The threat that *Rayburn* identified (churches

altering spiritual decisions to avoid judicial scrutiny) arises just as forcefully here in the defamation context. 772 F.2d at 1171. If internal church communications and decisions about ministerial fitness can be second-guessed through tort suits, religious bodies will be chilled from candidly evaluating their leaders, and secular courts will be drawn into inherently ecclesiastical judgments. Extending the church-autonomy doctrine to Plaintiff's claim is essential to prevent end-runs around the First Amendment and to safeguard the independence of churches in governing their ministries.

A court parsing a church's religious statements is harmful to religion no matter how the claim is pleaded. For instance, an aggrieved former church member cannot invite a court to parse church leaders' religious statements as part of a misrepresentation claim to receive back previous tithes. *Huntsman v. Corp. of the President of the Church of Jesus Christ of Latter-Day Saints*, 127 F.4th 784, 800 (9th Cir. 2025) (Bumatay, J., concurring). That is because "the Constitution leaves matters of faith exclusively to the people and their Creator," so the style of pleading does not override longstanding constitutional protections or transform religious questions into neutral principles. The harm is the same no

matter the caption: civil courts deciding questions of religious truth. But “that the Civil Magistrate is a competent Judge of Religious Truth . . . is an arrogant pretension falsified by the contradictory opinions of Rulers in all ages.” James Madison, *Memorial and Remonstrance Against Religious Assessments* (1785), reprinted in 5 *The Founders’ Constitution* 83 (Philip B. Kurland & Ralph Lerner eds., 1987).

Courts have rightly rejected similar attempts to repackage ecclesiastical disputes. In *McRaney v. N. Am. Mission Bd. of the S. Baptist Conv., Inc.*, the Fifth Circuit held that defamation claims attacking a church’s internal personnel decisions were barred by both the ministerial exception and general church-autonomy principles. No. 23-60494, 2025 WL 2602899, at *17 (5th Cir. Sept. 9, 2025). The court recognized that the First Amendment protects not only against reinstatement orders but also against monetary sanctions that punish a church for acting on its religious convictions. The same is true here: imposing liability for ROCOR’s internal communications about the qualifications of its clergy would accomplish indirectly what *Hosanna-Tabor* and *Our Lady of Guadalupe* forbid directly.

The district court’s decision is therefore consistent with more than a century of precedent affirming that civil courts may not intrude on “theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them.” *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 733 (1871). Decades later, the Court reaffirmed the same principle in *Kedroff* and *Hosanna-Tabor*, holding that such matters fall outside the competence of secular courts. *See also Huntsman*, 127 F.4th at 792–93 (Bress, J., concurring); *McRaney*, 2025 WL 2602899, at *6; *Markel v. Union of Orthodox Jewish Congregations of Am.*, 124 F.4th 796, 802–03 (9th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025). That principle applies no less here. Whether the claim is styled as an employment case or, as in this case, as defamation, both would require judicial intrusion into the church’s governance of its ministers. The Constitution rightly protects religion from such secular overwatch and recognizes the religious domain enjoys its own Sovereign. The district court’s dismissal thus represents not only the correct application of the church-autonomy doctrine, but the only result consistent with the First Amendment.

CONCLUSION

For these reasons, and those stated by Plaintiffs-Appellees, the judgment of the district court should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of this Court's Local Rules 29.1 and 32.1(a)(4) and Fed. R. App. P. 29(a)(5) because, excluding the parts of the brief exempted by Fed. R. App. 32(f), it contains 3,607 words.

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

October 16, 2025

/s/ Daniel J. Hay
DANIEL J. HAY

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the Court's appellate CM/ECF system.

I certify that all participants in the case have been served a copy of the foregoing by the Court's appellate CM/ECF system or by other electronic means.

October 16, 2025

/s/ Daniel J. Hay
DANIEL J. HAY