25-1085

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. 20-CV-6597 (AS)
Hon. Arun S. Subramanian

BRIEF OF BELMONT ABBEY COLLEGE AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS-APPELLEES

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INTRODUCTION [1]

The First Amendment protects churches from judicial interference in church governance. The Supreme Court affirmed this church autonomy doctrine in *Hosanna-Tabor*, declaring that courts may not "interfere[] with the internal governance of [a] church." *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 188 (2012). The question at the heart of this case is what counts as "internal church governance." History helps provide an answer: it includes at least decisions to discipline ministers and communications about such discipline. As a result, "adjudicating … defamation claims" relating to a church's disciplinary proceedings is "intolerable," because doing so "would require a court to 'interpose' itself into a religious organization's 'decisions … relating to how and by whom [it] spreads [its] message.'" *McRaney v. N. Am. Mission Bd. of the S. Baptist Convention, Inc.*, 2025 WL 2602899, at *20 (5th Cir. Sept. 9, 2025) (citations omitted).

[1] No party's counsel authored this brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting this brief; and no person other than amicus curiae or its counsel contributed money intended to fund preparing or submitting this brief. All parties consent to this brief's filing.

That well-worn principle of ecclesiastical abstention resolves this case. The Russian Orthodox Church Outside of Russia's (ROCOR) defrocking of Alexander Belya, and its communications about that decision, fall squarely within the protections of the church autonomy doctrine. As the district court recognized, analyzing the elements of this defamation claim would require intruding into ROCOR's doctrine and practice. The history of the church autonomy doctrine, from the Founding era through nineteenth-century court precedents and up to the present day, confirms that holding. This Court should affirm.

INTEREST OF AMICUS CURIAE

Founded in 1876, Belmont Abbey College is a private Catholic liberal arts college in Belmont, North Carolina. Its first bricks were laid by Benedictine monks seeking to advance their 1,500-year-old monastic tradition of prayer and learning. Today, Belmont Abbey College builds on that tradition by educating students "in the liberal arts and sciences so that in all things God may be glorified." *About Us*, Belmont Abbey Coll., https://perma.cc/UH65-WS5N. Because the College is foundationally Catholic in its mission, it strives to adhere to the Catholic Church's teachings in all aspects of its pedagogy and governance. Since the time

of Belmont Abbey College's founding, the church autonomy doctrine has protected its religious decisions from intrusion by secular courts.

Belmont Abbey College submits this brief to underscore that the church autonomy doctrine provides a well-established historical and legal foundation for allowing religious institutions to govern their internal affairs, free from government interference. Subjecting religious functions to scrutiny by secular courts would undermine the dual protections of the First Amendment's Religion Clauses and expose religious organizations to civil disputes our legal tradition recognizes should be resolved within the organizations themselves.

ARGUMENT

I. The church autonomy doctrine is deeply rooted in the First Amendment's protection of religious liberties.

The church autonomy doctrine guarantees religious organizations "independence from secular control or manipulation." *Hosanna-Tabor*, 565 U.S. at 186 (citation omitted). The doctrine embodies the dual commands of the First Amendment's Religion Clauses: non-establishment forbids government influence over ecclesiastical decision-making, and free exercise prevents state actors from punishing the practices of religious groups. *See id.* at 188–89. These protections for religious groups

arose from the history that inspired the adoption of the First Amendment. *Id.* at 181–85. The same history confirms why judicial interference would be inappropriate here.

A. History reflects longstanding efforts to protect the separation of religious and civil authority.

Since long before the American Founding, leading thinkers have recognized the need to maintain distinct spheres of church and state sovereignty, preserve church freedom, advance pluralism, and resist coercive conformity. Over time, these varied justifications developed into the core safeguards of today's church autonomy doctrine, which protects churches in cases like this one—including when they speak on who will be their ministers—for both the most ancient and the most distinctively American reasons.

The role of churches in American society today reflects the understanding that church and state are "two separate covenantal associations, two coordinate seats of godly authority and power in society." Paul Horwitz, *Churches as First Amendment Institutions: Of Sovereignty and Spheres*, 44 Harv. C.R.-C.L. L. Rev. 79, 101 (2009). Even the earliest settlers recognized that conflating the two would lead to the

"misery (if not ruine) of both." Laws and Liberties of Massachusetts Bay (1647).

That idea has ancient roots. Writing to Roman Emperor Anastasius in 494 A.D., Pope Gelasius distinguished "the sacred authority" from "the royal power." Gelasius, *Duo Sunt* (494), reprinted in *Epistolae Romanorum pontificum genuinae et quae ad eos scriptae sunt a S. Hilaro usque ad Pelagium II.* vol. 1, at 349–58 (Andreas Thiel, ed., Eduard Peter 1867) (citation modified). As to "the heavenly sacraments," the emperor "should be subordinate to the priestly order," just as the clergy, whose judgments are "excluded from worldy affairs," "obey [the emperor's] laws" in secular matters. *Id.*

The power of this idea endured. In twelfth-century England, when Henry II asserted royal authority over Church courts, public outcry forced a quick reversal. *See* Lael Weinberger, *The Limits of Church* Autonomy, 98 Notre Dame L. Rev. 1253, 1298 (2023)*; see also* Carl H. Esbeck, *Dissent and Disestablishment: The Church-State Settlement in the Early American Republic*, 2004 BYU L. Rev. 1385, 1406–07 (2004). And a century later, the Magna Carta guaranteed that "the English church shall be free, … its rights undiminished, and its liberties

unimpaired" by civil authorities. Magna Carta, cl. 1 (1215), https://perma.cc/E84D-KNN6.

In England, that ideal was often honored in the breach. The English church did not remain free, and with its subordination to royal control came state involvement in both governance and doctrine. Parliament prescribed uniform worship through the *Book of Common Prayer* and positioned the Church of England in line with Protestant doctrine by enacting the Articles of Faith. *See* Esbeck, *Dissent and Disestablishment*, at 1410. The Acts of Uniformity made the Church of England the sole lawful avenue of worship. *See* Act of Uniformity, 1559, 1 Eliz., ch. 2 (Eng.). Other laws barred dissenters from participating in civic life, outlawed unauthorized religious gatherings, and punished Catholics and Protestants alike for defying conformity. *See* First Test Act, 1673, 25 Car. 2, ch. 2 (Eng.); Corporation Act, 1661, 13 Car. 2, ch. 1 (Eng.); Conventicle Act, 1664, 16 Car. 2, ch. 6 (Eng.). Even the Toleration Act of 1689 left in force penalties against Catholics, Jews, and Unitarians. *See* Michael W. McConnell, *Establishment and Disestablishment at the Founding, Part I: Establishment of Religion*, 44 Wm. & Mary L. Rev. 2105, 2114 (2003). In short, the centuries leading up to American

settlement brought into sharp relief the dangers of state interference in church affairs.

B. The early American approach marked a renewed commitment to church autonomy.

Fleeing persecution in the Old World, early American colonists brought the ideal of church-state separation with them—writing it into the laws of even those colonies that had established religions. In Puritan Massachusetts, for example, colonists declared in 1641 that "[e]very Church hath free libertie of Election and ordination of all their officers" as well as "free libertie of Admission, Recommendation, Dismission, and Expulsion, or desposall of their officers, and members." Massachusetts Body of Liberties (1641), reprinted in *Church and State: Documents Decoded* 20 (David K. Ryden & Jeffrey J. Polet eds., 2018).

Even more pointedly, the colonists ensured that civil authorities could put "[n]o Injunctions … upon any Church … in point of Doctrine, worship or Discipline." *Id.* For the colonists, "giving the Spiritual Power … into the hand of the Civil Magistrate" was unthinkable. John Cotton, *A Discourse about Civil Government* (1637–39), reprinted in *The Sacred Rights of Conscience* 135 (Daniel L. Dreisbach & Mark David Hall eds., 2009). And as minister John Leland put it shortly after independence,

state control of religion would reduce the "church []to a creature," and "the gospel []to merchandise." John Leland and L.F. Greene, *The Writings of the Late Elder John Leland Including Some Events in His Life*, 183, 267 (1845).

But having fled religious intolerance in England, the American colonists were animated by more than the Gelasian ideal of independent spiritual authority. Reverend Leland also defended church independence on another ground: because "every man ought to be at liberty to serve God in a way that he can best reconcile to his conscience." Leland & Greene, *The Writings of the Late Elder John Leland*, at 181. This free-exercise principle was well understood in colonies like Rhode Island, Pennsylvania, Maryland, and Carolina, established as havens for religious dissenters. It was Maryland's Toleration Act that first enshrined the words "free exercise" in American law. Maryland Toleration Act of 1649, https://perma.cc/V33Y-TLZ6; *see also* Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1424–26 (1990). And Carolina protected the religious practices of "Jews," "native[Americans]," and "other dissenters" as well as Christian faiths. The Fundamental Constitutions

of Carolina: March 1, 1669, https://perma.cc/5HE8-TEGM; *see also* McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, at 1424–26.

In these colonies, safeguarding tolerance and pluralism became an additional basis for protecting ecclesiastical independence. They became some of the most forceful in protecting church autonomy. As Rhode Island founder and minister Roger Williams explained, in his colony, civil "magistrates … [would] have no power of setting up the form of church government, electing church officers, [or] punishing with church censures." Roger Williams, *The Bloudy Tenent of Persecution* 213–14 (Edward B. Underhill ed., Hanserd Knollys Society 1848) (1644).

After independence, states followed suit. For example, after a long history of fining and imprisoning non-Anglicans, Virginia's statute for religious freedom ensured that "opinions in matters of religion" would not diminish one's civil standing. Thomas Jefferson, *An Act for establishing religious Freedom* (1786), reprinted in Encyclopedia Virginia, https://perma.cc/FQ5L-WK9D; *see also* Alex Colvin, *Religious Liberty in Virginia: How 'Dissenters' Parlayed Oppression into Freedom*, J. of the American Revolution (Oct. 14, 2016), https://perma.cc/WMC8-7R4S. In

short, by the time of the American Founding, church autonomy was ubiquitous, motivated by both church-state separation and free-exercise protection.

These commitments also run throughout the writings and letters of the Founders. James Madison, for instance, wrote in his *Memorial and Remonstrance* that matters of religious conscience lie beyond "the cognizance of Civil Government." *See* James Madison, *Memorial and Remonstrance Against Religious Assessments* ¶ 1 (1785). In The Federalist No. 10 he identified the "variety of sects" as a safeguard against tyranny. The Federalist No. 10 (J. Madison). And when asked to provide his thoughts on whom the Catholic Church should appoint to govern its affairs in the new Louisiana territory, he demurred. He couldn't offer an opinion, he explained, because "the selection of ecclesiastical individuals" is an "entirely ecclesiastical" matter over which the civil authorities have no power. *Letter from James Madison to Bishop Carroll* (1806), reprinted in 20 *Records of the American Catholic Historical Society* 63–64 (1909); *see Hosanna-Tabor*, 565 U.S. at 184 (recounting the incident).

Benjamin Franklin, too. When the French papal nuncio asked him whether the Confederation Congress would approve the pope's choice of

a French bishop to oversee American Catholicism, he said that asking the Confederation Congress to weigh in would be "absolutely useless," since "according to its powers and its constitutions," Congress couldn't "intervene in the ecclesiastical affairs of any sect." Derek H. Davis, *Religion and the Continental Congress, 1774–1789: Contributions to Original Intent* 122 (2000). He was right. The Confederation Congress resolved that the pope's choice of a leader for American Catholics was "without the jurisdiction and powers of Congress, who have no authority to permit or refuse it." *Id.* at 124.

Likewise President Washington. In a 1789 letter to the General Committee of the United Baptist Churches, he wrote that he would have refused to sign the Constitution if he had the "slightest apprehension" that it would "endanger the religious rights of any ecclesiastical society." *Letter from George Washington to the United Baptist Churches in Virginia* (1789), reprinted in Timothy L. Hall, *Religion in America* 369 (2007).

It's unsurprising, then, that the principle of church independence is embedded throughout American law, from the Founding to today, and not just in the church autonomy doctrine itself. From the nation's

earliest income tax laws, for instance, Congress has consistently exempted churches from taxation, carving out a unique space in society for churches. *See, e.g.*, Revenue Act of 1894, ch. 394, § 32, 28 Stat. 570. Today that tradition is codified in § 501 of the Internal Revenue Code. 26 U.S.C. § 501. The Supreme Court has similarly upheld state property tax exemptions, explaining that such measures reflect concerns over the "latent dangers" of burdening religious exercise. *Walz v. Tax Comm'n*, 397 U.S. 664, 673 (1970). Bankruptcy law follows a similar pattern. Congress amended Chapter 7 bankruptcy to ensure that charitable contributions to houses of worship could not be counted as evidence that a church's bankruptcy protection was unwarranted. *See* Pub. L. No. 105-183, 112 Stat. 517 (1998).

In sum, American law from the Founding to the present day ensures that religious bodies would have the freedom to conduct their affairs without government interference.

II. Courts have long honored these principles, declining to weigh in on church governance and discipline, including in libel cases.

The Founding's respect for church autonomy played out in caselaw. From the earliest cases addressing the question, American courts have

recognized that they had no power to meddle in internal church affairs. Whether the dispute arose from matters of church doctrine, discipline, or the announcement of censure, courts recognized that safeguarding a church's spiritual independence and protecting religious pluralism required a zone of autonomy within which civil courts were powerless to interfere.

For instance, when in the nineteenth-century a suspended minister sued his church for backpay, the New York Court of Appeals declined to weigh in. *Reformed Protestant Albany Dutch Church of Albany v. Bradford*, 8 Cow. 457, 457–460 (N.Y. 1826). Spiritual and civil authority were not to be mixed, and the issues were "subjects of ecclesiastical cognizance exclusively," as they implicated the church's view of the proper moral conduct of its ministers. *Id.* at 505. The court warned of the serious dangers of "public investigations" into church ministers by means of civil lawsuits. *Id.* at 504. These matters were for churches to resolve on their own, and "not to be made the subjects of judicial inquiry in [the] courts of justice." *Id.* at 507.

Likewise, the Pennsylvania Supreme Court refused to scrutinize church governing documents to decide whether a churchgoer's

excommunication was legitimate. *German Reformed Church v. Com. ex rel. Seibert*, 3 Pa. 282, 282–285 (1846). Delving into that controversy, the court held, would be "unwise," as civil courts are "incompetent judges of matters of faith, discipline, and doctrine." *Id.* at 291.

In yet another example, the Illinois Supreme Court refused to weigh in on a dispute within the Episcopal Church regarding the trial of a minister for using unorthodox baptismal language. *Chase v. Cheney*, 58 Ill. 509, 542 (1871). This time free-exercise concerns came to the fore. The court realized that the "freedom … of worship" could not survive "if the civil courts trench upon the domain of the church," *id.* at 537, and declined to become the "*de facto* head of the church" by issuing opinions interpreting the church's governing religious texts, *id.* at 535. The "civil power," the court observed, exists to "contribute to [the] protection" of "free exercise and enjoyment" of religion, but what exercise and enjoyment looks like "must be … as each man, and each voluntary association of man, may determine." *Id.*

These state courts were not alone. The Supreme Court came to the same conclusion about church autonomy in *Watson v. Jones*, 80 U.S. 679 (1872). The Walnut Street Church had broken into two factions,

each claiming control over the church's property. *Id.* at 713–714. But the Court declared that examining church governing documents would "deprive these bodies of the right of construing their own church laws." *Id.* at 733. Any such intrusion into a sphere of church autonomy was intolerable, and the Court rejected any attempt to involve itself with matters of "discipline, or of faith, or of ecclesiastical rule, custom or law." *Id.* at 727.

Church-autonomy holdings extended to libel suits too. Church discipline played a major role in early nineteenth-century American churches. *See* Gregory A. Wills, *Democratic Religion: Freedom, Authority, and Church Discipline in the Baptist South 1785–1900* 5 (2003). Nineteenth-century courts were thus no stranger to libel suits stemming from these disciplinary proceedings. Even so, courts rejected such claims.

For instance, in an 1808 case, *Jarvis v. Hatheway*, 3 Johns. 180 (N.Y. Sup. Ct. 1808), a New York court declined to police church discipline. During church disciplinary proceedings, one church member accused another of forgery. *Id.* at 180. When the accused sued for libel, the court ruled against him, emphasizing the church-disciplinary context.

Id. at 183. The propriety of such discipline was "not a point for [the court] to determine." *Id.* Applying the principle of church autonomy, the court recognized that "[e]very sect of Christians are at liberty to adopt such proceedings for their regulation as they see fit," so the court couldn't weigh in on those proceedings. *Id.*

The Massachusetts Supreme Judicial Court reached a similar decision in the influential 1850 case, *Farnsworth v. Storrs*, 59 Mass. 412 (1850). After a church excommunicated one of its members and announced its decision from the pulpit, the former member sued the church for libel. *Id.* at 412. With an eye to the long history of separate spiritual and civil authority, the court rejected the plaintiff's attempt to invoke a court's civil power to disturb a church's decision. *Id.* at 415. One of the key "powers and privileges" enjoyed by churches and "established by long and immemorial usage," the court explained, is the "authority to deal with their members" for conduct that violates church teaching. *Id.*

What's more, the court added, "it was quite within the scope and order of church discipline" for a church to "announce" an excommunication. *Id.* at 416–17. And not only was the church's decision to

excommunicate the plaintiff protected, but so too was its decision to "pronounce the result." *Id.* at 416. Just as the litigation privilege protects civil litigants from libel suits based on their filings in civil courts, the principle of church autonomy means that the content of spiritual disciplinary proceedings cannot give rise to libel suits. Given the "*quasi* judicial" character of church disciplinary proceedings, church communications relating to such proceedings—whether "orally or in writing"—are "protected by law." *Id.*

A few years later, the Massachusetts Supreme Judicial Court addressed the issue again in *Fairchild v. Adams*, 65 Mass. 549 (1853). In that case, a pastor who belonged to a Christian ministers' association sued another member of the association for slander. The pastor alleged that the other member had slandered him while discussing allegations against the pastor at a meeting of the ministers' association that included nonmembers. *Id.* at 556–557. The association voted to expel the pastor. *Id.* The court ruled for the defendant association member, *id.* at 563, echoing the logic of the previous cases. Every church is "privileged to maintain the discipline of their respective churches according to their various usages," which extends to "the making of complaints and

accusations, the production and discussion of evidence, and the recording of their proceedings." *Id.* at 560.

The Supreme Court of Missouri arrived at a similar conclusion in *Landis v. Campbell*, 79 Mo. 433 (1883). The defendant, the pastor of a Presbyterian church, read out to the congregation the decision to excommunicate the plaintiff, who then sued for libel. *Id.* at 434–435. The case originally reached trial, where the judge instructed the jury to consider the legitimacy of the excommunication. *Id.* at 436. But the Missouri Supreme Court denounced that jury instruction because "civil courts cannot review the decisions of ecclesiastical judicatories." *Id.* at 437. And like the excommunication itself, the decision to announce it "of itself, [can] furnish no foundation for an action." *Id.* at 440.

Nineteenth-century courts thus consistently respected the principle forbidding judicial interference in internal church governance. Applying that principle to libel suits, these courts recognized that entertaining such claims would violate the autonomy and self-governance churches enjoy and would tread on the free-exercise protections that autonomy safeguards. They recognized, in other words, that the American legal

tradition's rich religious liberty protections must extend to church communications regarding a church's disciplinary and doctrinal decisions.

III. Consistent with historical practice, the modern church autonomy doctrine protects ecclesiastical decisions and the communications implementing them.

The same principles that underlie the church autonomy doctrine's roots form the basis of the modern doctrine and resolve this case. Control over religious employees is "an essential component" of a church's 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). So modern courts routinely hold that church autonomy covers communications about "governance or matters of faith or doctrine." *McRaney*, 2025 WL 2602899, at *9. Straightforward application of that rule makes cases like this one easy.

To start, recent Supreme Court jurisprudence tracks the doctrine's historical justifications and indicates that it protects church communications. For instance, in *Hosanna-Tabor*, the Court explained that the Establishment Clause forbids the state from reallocating authority, while the Free Exercise Clause preserves a church's right to govern itself. *See* 565 U.S. at 184-85. Taken together, the Religion Clauses

"give[] special solicitude to the rights of religious organizations," including institutional independence in internal governance. *Id.* at 189. And, as the Court fleshed out in *Our Lady of Guadalupe*, internal governance includes the selection, supervision, removal, and discipline of ministers, because those decisions are "essential to the institution's central mission." *Our Lady of Guadalupe v. Morrissey-Berru*, 591 U.S. 732, 746 (2020). It follows from this caselaw, then, that communications implementing or explaining church decisions—like those at issue here—are an essential function of ecclesiastical governance.

Lower courts have consistently recognized this point. The Sixth Circuit affirmed a dismissal for lack of jurisdiction over a Methodist minister's complaint against various church officers for defamation, intentional infliction of emotional distress, and breach of contract, because the case "involve[d] a church decision on the status of one of its ministers." *Hutchinson v. Thomas*, 789 F.2d 392, 392–96 (6th Cir. 1986). The Fourth Circuit similarly found that it lacked jurisdiction over an ordained minister's claims of wrongful termination, tortious interference, intentional infliction of emotional distress, and breach of contract. *Bell v. Presbyterian Church (U.S.A.)*, 126 F.3d 328, 330–333 (4th Cir. 1997).

The court explained that decisions concerning ecclesiastical employees are "within the ecclesiastical sphere that the First Amendment protects from civil court interference." *Id.* at 333. And likewise, the Seventh Circuit held that it couldn't adjudicate a Catholic school teacher's state-law claims of contractual interference and intentional employment interference without "excessive judicial entanglement in ecclesiastical matters." *Starkey v. Roman Catholic Archdiocese of Indianapolis*, 41 F.4th 931, 942, 944–945 (7th Cir. 2022).

Similarly, courts recognize that the First Amendment does not require religious organizations to make their governance decisions in secret. Instead, it protects a church's ability "to discuss church doctrine and policy freely" with both "members and non-members." *Bryce v. Episcopal Church*, 289 F.3d 648, 658 (10th Cir. 2002). It shields both internal and external communications and allows religious institutions to "engage freely in ecclesiastical discussions with more than just [their] members." *In re Diocese of Lubbock*, 624 S.WAmeri.3d 506, 518 (Tex. 2021), cert. denied, 142 S. Ct. 434 (2021); *accord* W. Cole Durham & Robert Smith, *1 Religious Organizations & The Law* § 5:17 (2017).

It's thus widely recognized that the First Amendment requires that churches be allowed to make and communicate employment decisions without court interference. And plaintiffs can't get around that rule by repackaging ecclesiastical governance announcements as "facially secular" torts like libel. *McRaney*, 2025 WL 2602899, at *14 (5th Cir. Sept. 9, 2025). History shows that the "ordinary principles" approach "is not some freestanding exception to [church autonomy] that allows courts to tread on *terra sancta* in the name of 'neutrality.'" *Id.* at *15.

That logic controls here. ROCOR's senior clergy communicated up the hierarchy to its Synod, identified canonical irregularities with Father Alexander's appointment, and requested an ecclesiastical investigation. Each of these steps is quintessential church adjudication of alleged misconduct. Church officials documented concerns according to church law and asked the governing body to act. Just as the *Farnsworth* pastor nearly two centuries ago acted "within the scope of [his] authority" by reading the excommunication document the church adopted, so too did ROCOR's leaders act within their power by documenting their concerns and submitting them to their authorities. *Farnsworth*, 59 Mass. at 416. To hold otherwise would require either secret church

disciplinary proceedings or court oversight of ecclesiastical processes. Neither would be consistent with the First Amendment.

Similarly, the challenged statements here are exactly the kind of communication the church autonomy doctrine protects. Those statements explain ROCOR's judgments on whether Father Alexander could be recognized as a bishop and recount internal concerns about the bona fides of prior correspondences, all for the purpose of advising ROCOR's highest authorities on how to proceed under church doctrine. They therefore constitute communications about pure intra-church affairs, not secular publications inviting tort liability.

The concern is not merely about liability but also about the process itself. The Supreme Court recognized that forcing a religious body to predict how a civil judge will classify its activities is itself a "significant burden," as a church may reasonably fear a court will misapprehend its "religious tenets and sense of mission." *Corp. of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 336 (1987). Adjudicating the documents' authenticity would require a civil jury to decide what ROCOR's canonical procedures require and

whether ecclesiastical correspondence met ROCOR's standards—all paradigmatically ecclesiastical questions beyond civil adjudication.

CONCLUSION

A letter from clergy to church authorities identifying canonical concerns and requesting an ecclesiastical process sits at the church autonomy doctrine's core, historically and doctrinally protected from civil review. A contrary rule would invert the First Amendment and the longstanding principles at the heart of the church autonomy doctrine. It would mean that the moment a church addressed the broader community about its leaders, discipline, or doctrine, it would forfeit protection and face tort liability. This interpretation cannot be reconciled with the Religion Clauses' promise of autonomy. For these reasons, the Court should affirm the decision below.[2]

Respectfully submitted,

/s/ *Joshua C. McDaniel*

[2] Amicus thanks Daibik Chakraborty, Caeli Jojola, and Ben Sutter, students in the Harvard Law School Religious Freedom Clinic, for helping prepare this brief.

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CERTIFICATE OF COMPLIANCE

This brief complies with Fed. R. App. P. 32(a)(7)(B) because it contains 4,488 words, excluding the parts exempted by Fed. R. App. P. 32(f).

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

Dated: October 16, 2025

/s/ *Joshua C. McDaniel*
Joshua C. McDaniel

CERTIFICATE OF SERVICE

I certify that on October 16, 2025, I served this document on all parties or their counsel of record via CM/ECF.

Dated: October 16, 2025

/s/ *Joshua C. McDaniel*
Joshua C. McDaniel