No. 25-849

In the Supreme Court of the United States

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
Petitioner,

v.

DAVID O'CONNELL,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF THE STATE OF MISSOURI AND TWENTY-TWO OTHER STATES AS AMICI CURIAE IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Other Authorities

INTRODUCTION AND INTERESTS OF AMICI CURIAE[1]

Amici States all recognize the right of religious entities to be free from needless government interference as core to our pluralistic Republic. One key to protecting that right is the church-autonomy doctrine, which immunizes religious organizations from lawsuits seeking to second-guess theological decisions—including those concerning religious organizations' governance, membership, and doctrine. *See, e.g.*, *United Methodist Church, Balt. Ann. Conf. v. White*, 571 A.2d 790, 793–94 (D.C. 1990).

This case asks the Court to decide whether denials of church autonomy—like qualified immunity and sovereign immunity—are immediately reviewable. Amici States believe they must be. As this Court has recognized, the "very process of inquiry" into religious faith, doctrine, and leadership "may impinge on rights guaranteed by the Religion Clauses." *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 502 (1979). As with other immunity doctrines, wrongly permitting discovery, motions practice, and trial shatters the purpose of the immunity's protection. *See Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985).

The D.C. Circuit thinks otherwise. This case involves a plaintiff's effort to second-guess a Catholic sermon discussing Peter's Pence—an annual offering

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[1] Pursuant to Rule 37.2, amici provided timely notice of their intent to file this brief to all parties.

called for by the Pope. Even though this lawsuit obviously invites federal courts to second-guess the Catholic Church's religious doctrine regarding tithing, the district court allowed this case to proceed. When the U.S. Conference of Catholic Bishops (USCCB) sought an interlocutory appeal on the question of church-autonomy immunity, the D.C. Circuit held that no interlocutory appeal was available because, in that court's view, church autonomy merely provides a merits defense, not an immunity from suit. App. 22a–23a.

The D.C. Circuit's decision departs from the overwhelming majority of state high courts, who recognize that trial-court decisions denying church-autonomy protections are subject to immediate appeal—even as the Second, Seventh, and Tenth Circuits have also shunned proper application of the collateral-order doctrine. *See* Pet. 20–21 (discussing the circuit split); *accord* App. 89a & n.9 (Rao, J., dissenting from denial of rehearing en banc). The notable exception to the trend is Massachusetts, which instead followed the lead of several federal circuits. *See Doe v. Roman Catholic Bishop of Springfield*, 190 N.E.3d 1035, 1044 (Mass. 2022).

This Court should borrow wisdom from the great weight of state high-court decisions and reject the D.C. Circuit's approach. No immunity is worth its salt if a defendant must endure substantial litigation burdens—which, in this context, divert resources from crucial religious activities. And permitting civil courts to sit as theological inquisitions—even temporarily—would eviscerate the Religion Clauses' protections.

Amici respectfully request that the Court grant the USCCB's petition for certiorari and clarify that denials of religious-autonomy protections are subject to immediate review under the collateral-order doctrine.

SUMMARY OF ARGUMENT

The First Amendment broadly "protect[s] the right of churches and other religious institutions to decide matters of faith and doctrine without government intrusion." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 746 (2020) (internal quotation marks omitted). Because of this "general principle of church autonomy," *id.* at 747, courts cannot decide matters of religious doctrine, leadership, membership, or internal affairs. Even the process of litigating such issues—including discovery and adjudication of a claim on the merits—creates both the excessive entanglement and a burden on free exercise that the Religion Clauses proscribe.

Like other substantive protections against suit, church autonomy functions as an immunity—not merely a defense against merits liability. Thus, once invoked by a religious defendant, the court's ability to continue hearing the case given potential church autonomy becomes a threshold issue. And, as with other immunities from suit, *see, e.g.*, *Mitchell*, 472 U.S. at 526, a district court's denial of church autonomy triggers an immediate right of appeal.

While the federal circuits have more recently found themselves divided on whether church autonomy functions as an immunity or a merits defense, state

high courts overwhelmingly treat church autonomy as a threshold issue. For decades, most of these courts have recognized that a defendant's rights under "the First Amendment of the Constitution will be irreparably lost if not adjudicated before trial." *White*, 571 A.2d at 792. As such, state high courts largely uphold a defendant's ability to appeal church-autonomy denials immediately.

In the current landscape, religious defendants can enjoy greater substantive rights in state courts than in some federal courts. That divergence cries for this Court's intervention—to say nothing of the split between the federal circuits and the (lopsided) split between state high courts. Meanwhile, state-court decisions—largely applying federal First Amendment doctrine—stand as a well-percolated body of law available for this Court's use. The Court should therefore grant review and reverse the D.C. Circuit's decision.

ARGUMENT

I. The Religion Clauses Prevent Excessive Judicial Entanglement in Matters of Religion.

As this Court has succinctly explained, "the general principle of church autonomy" under the Religion Clauses protects religious organizations' "independence in matters of faith and doctrine and in closely linked matters of internal government." *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 747 (2020). This understanding of the need to protect religious autonomy proceeds from the Religion Clauses'

core aim—to prevent the post-Reformation English experience of the government dictating religious affairs. *See id.* at 747–49.

Hence, the church-autonomy doctrine prohibits courts from deciding matters "of faith and doctrine." *Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). Rather, the Religion Clauses require courts to "take care to avoid 'resolving underlying controversies over religious doctrine.'" *Our Lady of Guadalupe*, 591 U.S. at 751 n.10. It "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." *Serbian E. Orthodox Diocese for U.S. of Am. & Can. v. Milivojevich*, 426 U.S. 696, 711 (1976) (quoting *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 729 (1871)).

In the same vein, the church-autonomy doctrine "protects a church's internal communications relating to church governance or matters of faith or doctrine." *McRaney v. N. Am. Mission Bd. of S. Baptist Convention, Inc.*, 157 F.4th 627, 640 (5th Cir. 2025). For good reason—the "very process of inquiry" into such issues "may impinge on rights guaranteed by the Religion Clauses." *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 502 (1979). As the Seventh Circuit has explained, "probing" an organization's "ministerial work" yields "the state—acting through a court—interfer[ing] with the Free Exercise Clause, 'which protects a religious group's right to shape its own faith

and mission.'" *Demokovich v. St. Andrew the Apostle Par.*, 3 F.4th 968, 980 (7th Cir. 2021) (en banc).

Under those principles, the district court should have quickly dismissed this case, which invites the federal courts to second-guess the Catholic Church's doctrinal position on charitable contributions. Here, any federal-court adjudication would "enmesh the court in endless inquiries as to whether each . . . act was based in Church doctrine"—a decision that courts cannot make. *Alicea-Hernandez v. Catholic Bishop of Chi.*, 320 F.3d 698, 703 (7th Cir. 2003). This in turn threatens to "pit[] church and state as adversaries," subjecting religious institutions to pervasive monitoring and probing. *Rayburn v. Gen. Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1171 (4th Cir. 1985).

The burdens of discovery and secular scrutiny, in turn, may "produce by . . . coercive effect the very opposite of that . . . contemplated by the First Amendment." *McClure v. Salvation Army*, 460 F.2d 553, 560 (5th Cir. 1972); *see Demkovich*, 3 F.4th at 982–83; *Whole Woman's Health v. Smith*, 896 F.3d 362, 373 (5th Cir. 2018); *In re Lubbock*, 624 S.W.3d 506, 515–16 (Tex. 2021). "Having once been deposed, interrogated, and haled into court," a religious institution may start to make spending decisions "with an eye to avoiding litigation or bureaucratic entanglement rather than upon the basis of their own personal and doctrinal assessments" according to the institution's religious mission. *EEOC v. Catholic Univ. of Am.*, 83 F.3d 455, 467 (D.C. Cir. 1996) (quoting *Rayburn*, 772 F.2d at 1171).

II. Under the Collateral-Order Doctrine, Denials of Church-Autonomy Immunity Should Be Immediately Appealable.

The Religion Clauses should do more than (eventually) bar Respondent's claim on the merits. To avoid impinging on the Religion Clauses' protections, courts must decide early in litigation whether the Clauses bar suit. *See McRaney*, 157 F.4th at 641 ("Like other immunities from suit, church autonomy must be resolved at the threshold of litigation."); *Harris v. Matthews*, 643 S.E.2d 566, 570 (N.C. 2007) (emphasizing how a defendant "will be irreparably injured if the trial court becomes entangled in ecclesiastical matters from which it should have abstained"). Hence, parties must be able to seek "an immediate interlocutory appeal" of a decision denying that the Religion Clauses foreclose a claim. *McRaney*, 157 F.4th at 641.

After all, immunity doctrines "exist to protect important values from the very process of judicial review and civil litigation." Lael Weinberger & Branton J. Nestor, *Church Autonomy and Interlocutory Appeals*, 100 NOTRE DAME L. REV. (forthcoming 2026) (manuscript at 36–37).[2] Sovereign immunity, of course, insulates government actors not only from judgments, but also from the litigation process itself. *See id.* at 39. Qualified immunity, too, permits a defendant to escape litigation once it becomes clear that the doctrine's protections attach to the defendant. *See, e.g.*, *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985).

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[2] Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6073729.

Like sovereign immunity and qualified immunity, church autonomy "functions as a structural limit on judicial authority over a particular subject matter—matters of church government, faith, and doctrine." Weinberger & Nestor, *supra* at 7; *see Conlon v. Inter-Varsity Christian Fellowship*, 777 F.3d 829, 836 (6th Cir. 2015) (explaining how the Religion Clauses impose a "structural limitation . . . on the government"). Similar to sovereign immunity, the roots of church autonomy derive from "jurisdictional" concerns—namely the authority of the court to speak on the disputed matter. *See* Weinberger & Nestor, *supra* at 39–40 (describing the Eleventh Amendment and comparing the doctrines). Specifically, as with states protected by the Eleventh Amendment, "[r]eligious institutions have a sphere of autonomy or sovereignty or dignity which the Establishment and Free Exercise Clauses together safeguard." *Id.* at 45. And like qualified immunity, courts can adjudicate whether and how church autonomy protects the party invoking it. *See id.* at 47; *see also S. Methodist Univ. v. S. Cent. Jurisdictional Conf. of the United Methodist Church*, 716 S.W.3d 475, 502 (Tex. 2025) (Young, J., concurring) ("The lack of civil jurisdiction over religious questions, therefore, does not necessarily entail a lack of jurisdiction over the *entire* dispute.").

When it comes to immunity doctrines, there is no principled reason to treat religious defendants less favorably than States or public officials. *Cf. McRaney*, 157 F.4th at 641. As in those other immunity contexts, "intrusions [on church autonomy during litigation] cannot be remedied after the district court renders final judgment." *Id.* at 645; *see Geo Grp., Inc. v. Menocal*, No. 24-758, 2026 WL 513536, at *5 (U.S. Feb. 25, 2026) (describing the hallmarks of immunity).

Sure enough, between an interlocutory appeal and a final judgment, religious organizations could suffer immense irreparable harm. Religious entities forced to defend against litigation will endure substantial litigation expenses—diverting resources from crucial religious activities. Indeed, "[i]f a church autonomy defense is erroneously denied and interlocutory appeal is unavailable, the church may need to wait years until it can seek appellate relief." Weinberger & Nestor, *supra* at 6. And religious organizations forced to submit to discovery will endure invasive judicial oversight into internal doctrinal and organizational deliberations. *Id.* at 6–7 (highlighting the risk that churches will "be subjected to expensive and intrusive discovery, depositions, and trial implicating matters of church government, faith, and doctrine"). All of this, of course, risks chilling religious organizations from zealously advancing their ministries. *Cf. Mitchell*, 472 U.S. at 525–26 (making the same observation about the importance of qualified immunity).

Those risks are on full display in this case. Because of Respondent's fraud allegations, the USCCB faces a "protracted legal process." *Rayburn*, 772 F.2d at 1171. And if this Court denies review, the USCCB will endure a burdensome discovery process, "potentially empowering [Respondent] to harass, impose disastrous costs on, and uniquely burden" the Catholic Church. *Whole Woman's Health*, 896 F.3d at 373–74.

In addition to sparing religious organizations from irreparable litigation burdens, allowing an interlocutory appeal for church-autonomy defenses helps the judiciary steer clear of civil "entanglement[s]" with religion. *Rayburn*, 772 F.2d at 1171. For example, if this case proceeds into discovery, courts may be forced

to adjudicate sensitive and difficult evidentiary disputes over which internal religious documents the Catholic Church must turn over to Respondent. Thus, the very process of "*[a]djudicating . . . claims*" could "lead to impermissible intrusion into, and excessive entanglement with, the religious sphere." *Demkovich*, 3 F.4th at 980 (emphasis added).

The Court should grant review and decide whether religious organizations can be forced to endure litigation burdens before their claims to church-autonomy immunity are decided.

III. State-Court Decisions Exemplify How Church Autonomy Should Operate.

In many respects, state courts have led the way in recognizing that where the protections embodied in the Religion Clauses apply, they "grant churches an immunity from civil [merits] discovery." *United Methodist Church, Balt. Annual Conf. v. White*, 571 A.2d 790, 792–93 (D.C. 1990); *see Presbyterian Church (U.S.A.) v. Edwards*, 566 S.W.3d 175, 179 (Ky. 2018) (holding that religious institutions are "immune not only from liability, but also 'from the burdens of defending the action'"). These existing strands of doctrine deserve this Court's attention.

To begin, many state courts explicitly root their expansive church-autonomy protections in the First Amendment and this Court's precedents. *See, e.g.*, *Tilsen v. Benson*, 299 A.3d 1096, 1107 (Conn. 2023); *Pfeil v. St. Matthews Evangelical Lutheran Church of Unaltered Augsburg Confession of Worthington*, 877 N.W.2d 528, 532–34 (Minn. 2016); *Catholic Diocese of Jackson v. De Lange*, 341 So.3d 887, 892 (Miss. 2022); *Harris*, 643 S.E.2d at 570–71; *Church of God in*

Christ, Inc. v. L.M. Haley Ministries, Inc., 531 S.W.3d 146, 158–59 (Tenn. 2017). Hence, their analysis can prove just as insightful as federal-circuit opinions on a now well-percolated matter.

From this experience, established bodies of precedent have emerged. Indeed, this Court's own early decisions respecting church autonomy looked to state law for doctrinal foundations. *See Bouldin v. Alexander*, 82 U.S. (15 Wall.) 131, 139–40 (1872) (relying on *Shannon v. Frost*, 3 B. Mon. 253, 258 (Ky. 1842), for the proposition that courts "cannot decide who ought to be members of the church"); *Watson*, 80 U.S. (13 Wall.) at 730–34 (examining state-court decisions and agreeing that decisions within the purview of religious bodies are not open to reexamination in civil courts). As with this Court's early church-autonomy encounters, state-court decisions can provide helpful data points for this Court's Religion Clauses jurisprudence. *See* JEFFREY S. SUTTON, 51 IMPERFECT SOLUTIONS 172 (2018) (explaining how this Court's First Amendment jurisprudence can benefit from preceding experiences of state courts).

A. State Courts Have Recognized the Importance of Church Autonomy.

A decided majority of these cases—at least among state high courts—hold that church autonomy broadly shields religious entities from the rigmarole of civil litigation when pertaining to matters inherently spiritual. *See State ex rel. Watson v. Farris*, 45 Mo. 183, 198–200 (1869) (surveying early state cases and concluding that courts are bound by ecclesiastical bodies on matters of faith, internal discipline, and governance); Douglas Laycock, *Church Autonomy Revisited*,

7 GEO. J.L. & PUB. POL'Y 253, 266–68 (2009) (discussing the doctrine). *But see Doe v. Roman Catholic Bishop of Springfield*, 190 N.E.3d 1035, 1044 (Mass. 2022) (declining to treat church autonomy as an immunity).

These decisions have come in a broad range of contexts—from the criminal law to property disputes. *See, e.g.*, *Struemph v. McAuliffe*, 661 S.W.2d 559, 566–67 (Mo. Ct. App. 1983) (examining a property dispute based on "neutral principles"); *Norfolk Presbytery v. Bollinger*, 201 S.E.2d 752, 756–57 (Va. 1974) (confronting questions of property ownership). With civil-litigation specifically, state courts have handled all manner of claims alleging harm inflicted by religious actors. *See* Lael Weinberger, *The Limits of Church Autonomy*, 98 NOTRE DAME L. REV. 1253, 1262–67 (2023); *see, e.g.*, *Paine-Elliott v. Roman Catholic Archdiocese of Indianapolis, Inc.*, 193 N.E.3d 1009, 1011–13 (Ind. 2022) (alleging intentional interference with an employment contract); *Pfeil*, 877 N.W.2d at 542 (confirming the doctrine prohibited defamation and negligence claims stemming from religious discipline).

Some courts have even described their inability to decide matters covered by church-autonomy doctrine as "jurisdictional." *See, e.g.*, *Aldersgate United Methodist Church of Montgomery v. Ala.-W. Fla. Conf. of United Methodist Church, Inc.*, 411 So.3d 328, 330–31 (Ala. 2024) (per curiam); *De Lange*, 341 So.3d at 896; *Church of God in Christ, Inc.*, 531 S.W.3d at 158–59; *Okla. Annual Conf. of United Methodist Church, Inc. v. Timmons*, 538 P.3d 163, 167 (Okla. 2023); *In re Lubbock*, 624 S.W.3d at 509; *see also* Weinberger, *supra* at 1318 (describing how religious entities are "a jurisdic-

tion separate from the state, in the literal sense of being an *authority* distinct from the state"). As one opinion cogently put it, "Jurisdiction here bears its truest and rawest meaning: *power*. Courts are not 'divested' of jurisdiction in some formalistic sense—they simply lack any power in the first place to opine as to religious truth or to meddle in the inner-workings of religious entities." *S. Methodist Univ.*, 716 S.W.3d at 500 (Young, J., concurring). Hence, "a case that raises only purely religious issues must be dismissed. Courts lack the *power* to resolve such issues." *Id.*

Other courts do not go as far as describing church-autonomy doctrine as affecting the court's jurisdiction. But they nonetheless recognize that a court cannot involve itself with "interpretation of religious doctrine, policy, and administration" given the operation of constitutional protections. *Gibson v. Brewer*, 952 S.W.2d 239, 246–47 (Mo. 1997) (en banc) (Benton, C.J.). Hence, regardless of labels, "[w]here the church autonomy doctrine applies, its protection is total." *McRaney*, 157 F.4th at 641.

B. State Courts Have Found Church-Autonomy Denials Immediately Appealable.

Once viewed as an immunity, the question of interlocutory appeal becomes straightforward. *See supra* at 7–9 (describing how church autonomy functions as an immunity). Hence, state courts that treat church autonomy as an immunity have held denials of church autonomy immediately appealable. *See, e.g.*, *Edwards*, 566 S.W.3d at 180; *Smith v. Supple*, 293 A.3d 851, 863–64 (Conn. 2023) (citing *Dayner v. Archdiocese of Hartford*, 23 A.3d 1192, 1199–1200 (Conn. 2011), *abrogated on other grounds by Hosanna-Tabor*

Evangelical Lutheran Church & Sch. v. EEOC, 565 U.S. 171 (2012)).

Notably, the D.C. Court of Appeals found its collateral-order standard—rooted in the federal standard—met for denials of church autonomy. *See White*, 571 A.2d at 792 (describing the familiar three-part collateral-order standard). As then-Chief Judge Rogers wrote, denial of church autonomy "conclusively determined the disputed issue of [the organization's] claim of immunity from suit in the civil courts." *Id.* "Second, the very nature of an immunity claim makes it collateral to and separable from the merits of" the employment suit. *Id.* Specifically, by "contending that the First Amendment protects the church from judicial inquiry," the organization did "not address the merits of the assertions in [the plaintiff's] complaint against the church." *Id.* As a result, "the elements of [the organization's] immunity claim are clearly independent of any [alleged] liability." *Id.*

Finally, the organization's "claim of immunity under the Free Exercise Clause and the Establishment Clause of the First Amendment of the Constitution will be irreparably lost if not adjudicated before trial." *Id.* In support of this proposition, Chief Judge Rogers cited various strands of this Court's immunity precedent—including qualified immunity, Speech & Debate Clause immunity, and double jeopardy. *See id.* All told, as with any other constitutionally rooted immunity, the D.C. Court of Appeals saw no barrier to a collateral-order appeal of a church-autonomy denial. *See id.* at 793 (explaining that if "claims fall within the scope of [the church's] immunity, once exposed to discovery and trial, the constitutional rights of the

church to operate free of judicial scrutiny would be irreparably violated").

Likewise, for courts that treat church autonomy as implicating jurisdiction, a denial must be immediately appealable. *See, e.g.*, *De Lange*, 341 So.3d at 891–92 (allowing appeal); *In re Lubbock*, 624 S.W.3d at 512 (providing mandamus review). As the Supreme Court of North Carolina explained, immediate appeal of a dismissal denial must occur because if "First Amendment rights are implicated," then "a civil court action cannot proceed without impermissibly entangling the court in ecclesiastical matters." *Harris*, 643 S.E.2d at 569.

The Supreme Court of North Carolina's holding is also noteworthy because it involved a dispute regarding church funds. Specifically, the plaintiffs sought to litigate "conversion of funds" and "breach of fiduciary duty" claims following discord over changes to a church's governance. *Id.* at 568. The religious defendant unsuccessfully sought dismissal and brought an interlocutory appeal. *Id.* The court held that the denial of the defendant's motion to dismiss qualified for immediate review. *Id.* at 568–69. Looking to this Court's First Amendment precedent, the court explained that the question of impermissible entanglement between the judiciary and a religious organization implicated a "substantial" right that must receive immediate review. *Id.* at 569. The court likewise explained that delaying final resolution of the church-autonomy question threatened irreparable harm on the defendant. *Id.* (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Hence, the court (speaking in terms of subject-matter jurisdiction) found the matter immediately appealable. *Id.* at 570.

Whether subject-matter jurisdiction or immunity, the effect remains the same. Namely, the issue must be decided at the threshold of litigation. *See* Lael Weinberger, *Is Church Autonomy Jurisdictional?*, 54 LOY. U. CHI. L.J. 471, 500–05 (2022) (discussing how, as with other immunities, church autonomy must be immediately appealable). When "a church autonomy defense is erroneously denied and litigation allowed to proceed, there is no way to undo the interference with the religious institution that occurs simply by virtue of the litigation itself." *Id.* at 504. All told, unlike some of their federal counterparts, the decided majority of state high courts have correctly found that church-autonomy denials warrant immediate appeals. *Compare supra* at 12–15 (collecting cases finding an immediate right of appeal), *with Doe*, 190 N.E.3d at 1044 (finding no right to immediate appeal).

IV. Permitting Continued Disjunction Would Be Harmful.

This Court should grant this case to resolve the deep split among federal appellate and state high courts. Most state high courts and some federal courts rightly hold that religious organizations asserting church-autonomy protection are entitled to an immediate interlocutory appeal. *See McRaney*, 157 F.4th at 641; *Rayburn*, 772 F.2d at 1171; *see also supra* at 12–15 (collecting state cases).

But other courts—including the D.C. Circuit in this case—have gotten this issue wrong. *See* App. 22a–23a; *Belya v. Kapral*, 45 F.4th 621, 633 (2d Cir. 2022); *Doe*, 190 N.E.3d at 1044–45 (citing cases and holding that church autonomy is a merits defense that

does not trigger interlocutory appeal). In those jurisdictions, religious organizations face substantial litigation expenses—even in cases that clearly implicate core disputes over church doctrine (like this one).

This deep split highlights the reality that religious organizations face different rules depending on where litigation occurs. Sure enough, religious organizations are sometimes subject to different rules in courts *within the same territory*. For example, in Washington D.C., a religious organization sued in federal court has no interlocutory appeal. App. 22a–23a. Yet, if this case had been filed directly across the street in D.C. Superior Court, the D.C. Court of Appeals would have heard a denial of the USCCB's church-autonomy immunity. *See White*, 571 A.2d at 792–93 (describing how the "immunity claim can be exercised, if at all, only before trial, and must be reviewed pretrial or it can never be reviewed at all"). Needless to say, such discrepancies between federal and state courts ring alarm bells—even when core constitutional rights are not at stake. *Cf. Erie R. Co. v. Tompkins*, 304 U.S. 64, 74–75 (1938) (describing "the mischievous results" that occur when the federal court applies different rules of decision from the state).

But Washington, D.C. is hardly an anomaly. Connecticut suffers the same divergence between state and federal-circuit rules of decision on whether church-autonomy denials can qualify for immediate appellate review. *Compare Dayner*, 293 A.3d at 1198, *with Belya*, 45 F.4th at 633. And the Supreme Court of Oklahoma saw fit to grant an extraordinary writ to a denial of church autonomy because, in that court's view, civil courts have no jurisdiction over claims covered by the doctrine. *See Timmons*, 538 P.3d at 170.

Yet the Tenth Circuit would force the same claims through litigation on the merits. *See Tucker v. Faith Bible Chapel Int'l*, 36 F.4th 1021, 1025, 1036 (10th Cir. 2022) (denying that church-autonomy doctrine "immunizes a religious employer *from suit*"). The Court should grant review and provide uniform protection for religious defendants under the Religion Clauses.

CONCLUSION

Church-autonomy doctrine ensures that civil courts do not transgress the Religion Clauses by keeping courts out of religious disputes. Treating the doctrine as a mere merits defense rather than an immunity eviscerates the doctrine's protections—a point state courts have recognized for decades. The Court should grant the petition for certiorari and reverse.

Respectfully submitted,

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