

No. 25-849

IN THE
Supreme Court of the United States

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
Petitioner,
v.
DAVID O'CONNELL,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the District of Columbia Circuit**

**BRIEF FOR THE ANGLICAN CHURCH IN
NORTH AMERICA AS *AMICUS CURIAE* IN
SUPPORT OF PETITIONER**

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STATEMENT OF INTEREST

The Anglican Church in North America (ACNA) submits this brief in support of Petitioner.¹

The ACNA is a Province of the global Anglican community, which forms the third largest body of Christians behind the Roman Catholic and Eastern Orthodox churches. With 28 dioceses throughout North America, the ACNA has a profound interest in the preservation of a robust church-autonomy doctrine. Indeed, the ACNA is party to ongoing litigation typifying the real-world importance of all three questions presented by the petition. The ACNA writes in this case to ensure that religious institutions like the United States Conference of Catholic Bishops and the ACNA are not subject to unconstitutional judicial interference in their affairs.

SUMMARY OF ARGUMENT

Everyone agrees that the church-autonomy doctrine prevents courts from adjudicating cases that would intrude on matters of faith, doctrine, and church governance. The dispute in this case—and the split among the circuits—concerns *how* and *when* this constitutional determination is made. Respondent would look only at the claims presented and ask whether they are neutral on their face. And Respondent would treat a

¹ No party or counsel for a party authored this brief in whole or in part. No party, counsel for a party, or person other than *amicus curiae* or its counsel made any monetary contribution intended to fund the preparation or submission of this brief. All parties were notified of *amicus curiae*'s intent to submit this brief at least ten days before it was due.

district court’s answer as non-reviewable until final judgment.

This Court should grant certiorari and reject that view as incompatible with the First Amendment. “[O]ur Constitution deals in substance, not form.” *Sheetz v. County of El Dorado*, 601 U.S. 267, 281 (2024) (Gorsuch, J., concurring). As the petition explains, the First Amendment requires courts to look beyond the cold semantics of the complaint and ask whether resolving the claims will lead the court to interpret religious documents, gainsay spiritual decisions, or otherwise invade a church’s autonomous sphere. The Religion Clauses protect church autonomy from judicial intrusion even when a claim can be cast in ordinary statutory or common-law terms.

This and other ongoing litigation demonstrate that religious disputes are frequently dressed up in secular-sounding clothing. The D.C. Circuit was content to let Respondent’s case proceed against the United States Conference of Catholic Bishops on the theory that his claims are “plausibly” capable of “resolution according to neutral principles of law.” Pet. App. 23a. Yet even generally applicable laws can interfere with faith, doctrine, and church governance.

This Court has repeatedly recognized as much in the employment context. *See e.g., Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 180 (2012). But the danger is not limited to employment disputes. And even when a legal *claim* does not intrude on religious autonomy, a requested *remedy* still might.

Courts should take care to consider the full course of litigation—including both discovery and potential remedies—before deciding that judicial involvement

will not trespass on religious autonomy. That decision should be made at the outset and be subject to immediate appeal. The Constitution's prohibition against government interference in religion applies to all three branches of government, judiciary included. And whether this limit is described as jurisdictional, structural, or an immunity from suit, the result is the same. Questions of faith, doctrine, and church governance are off limits.

The church-autonomy doctrine cannot be treated as a standard defense to be litigated alongside other issues, because the harm of unconstitutional litigation cannot be undone after final judgment. The Religion Clauses are as concerned with the *process* of delving into church disputes as they are with a court's resolution of them. The only way to secure the constitutional boundary is with an early district court determination subject to interlocutory appeal.

The D.C. Circuit, in short, erred as to both the *how* and the *when* of the church-autonomy doctrine. The Court should grant the petition and reverse.

ARGUMENT

I. THE TOUCHSTONE OF THE CHURCH-AUTONOMY DOCTRINE IS PRESERVATION OF RELIGIOUS AUTONOMY, NOT NEUTRAL PRINCIPLES.

1. Our Constitution “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) (quoting *Hosanna-Tabor*, 565 U.S. at 186). The Constitution does so based on “the understanding that church and state are ‘two rightful authorities,’ each supreme in its own sphere.”

Catholic Charities Bureau, Inc. v. Wisconsin Labor & Indus. Review Comm’n, 605 U.S. 238, 257 (2025) (Thomas, J., concurring).

This principle of “church autonomy” restrains every branch of government—including the judiciary—from interfering in the “private sphere within which religious bodies are free to govern themselves in accordance with their own beliefs.” *Hosanna-Tabor*, 565 U.S. at 199 (Alito, J., concurring). When it comes to “the reach of secular judicial power, the First Amendment’s guarantees are recognized as the ‘ecclesiastical abstention doctrine,’ ” which “precludes secular courts from exercising jurisdiction over ecclesiastical disputes.” *Napolitano v. St. Joseph Catholic Church*, 308 So. 3d 274, 277 (Fla. Dist. Ct. App. 2020).

At ecclesiastical abstention’s core is the “ancient rule [] that a civil court cannot decide questions that are ‘strictly and purely ecclesiastical in [their] character.’ ” *McRaney v. North Am. Mission Bd. of the S. Baptist Convention, Inc.*, 157 F.4th 627, 638 (5th Cir. 2025) (quoting *Watson v. Jones*, 80 U.S. 679, 733 (1872) (alteration in *McRaney*)). “[T]he civil courts exercise no jurisdiction” over any “matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standard of morals required of them.” *Watson*, 80 U.S. at 733.

2. The Constitution’s limits on state power hold regardless of whether a court can apply “neutral principles” to the dispute. A court cannot, for example, use “neutral” defamation law to adjudicate accusations of “biblical impropriety.” *Westbrook v. Penley*, 231 S.W.3d 389, 396 (Tex. 2007); accord *Gaddy v. Corporation of the President of Church of Jesus Christ of*

Latter-day Saints, 148 F.4th 1202, 1214 (10th Cir. 2025) (“the truth or falsity of religious doctrine or beliefs is beyond the proper purview of secular courts and juries”). Likewise, “[t]he ministerial exception”—a specific application of church autonomy—“bars the application of even neutral, generally applicable employment discrimination statutes.” *McRaney*, 157 F.4th at 637.

The neutral-principles approach instead allows courts to adjudicate disputes that happen to involve religious entities but do not intrude on religious matters. But even in church-property disputes, the paradigmatic neutral-principles scenario, “there is substantial danger that the State will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrinal beliefs.” *Serbian E. Orthodox Diocese for U.S. of Am. & Can. v. Milivojevich*, 426 U.S. 696, 709 (1976); *see also infra* pp. 6-18. Thus, “[e]ven if a claim *appears* as though it can be decided using neutral principles of law, ecclesiastical abstention will still apply if the claim is part and parcel of ecclesiastical concerns” or “its adjudication would excessively entangle the court in questions of ecclesiastical doctrine or belief.” *Weems v. Association of Related Churches*, 3:23-cv-00811, 2024 WL 5169901, at *3 (M.D. Fla. Dec. 19, 2024) (emphasis added) (cleaned up). In other words, “a court may constitutionally apply the neutral-principles approach to resolve a property dispute,” but it must “avoid[] deciding ecclesiastical matters and defer[] to the resolution of issues of religious doctrine or polity by the highest court of the hierarchical church.” *Church of God in Christ, Inc. v. L.M. Haley Ministries, Inc.*, 531 S.W.3d 146, 173 (Tenn. 2017).

The application of purportedly neutral principles therefore often poses an acute risk of “intrusion into a religious thicket.” *Milivojevic*, 426 U.S. at 719. The First Amendment analysis, then, is not whether the dispute can be *posed* in purely secular terms, but whether the dispute can be *resolved* without invading the sacred sphere.

II. EVEN NEUTRAL PRINCIPLES MAY INTRUDE ON CHURCH AUTONOMY.

A. Facially secular claims may still require adjudicating matters of faith, doctrine, and church governance.

1. This Court’s ministerial-exception cases illustrate how threats to church autonomy can lurk behind supposedly neutral claims. The Court first recognized the exception in *Hosanna-Tabor*. The Equal Opportunity Employment Commission sued a religious school under the Americans with Disabilities Act of 1990, raising a mine-run legal issue: whether the school had retaliated against one of its teachers for threatening to file an ADA suit. 565 U.S. at 180. The district court could presumably answer that question using the proximate-causation rules it would apply in any other ADA suit. In the D.C. Circuit’s words, the case was resolvable “under straightforward common-law principles.” Pet. App. 8a. The retaliation claim presented no obvious “need to inquire into church operations, religious doctrine, religious hierarchy, or religious decisionmaking to evaluate the merits.” *Id.* (quotation marks omitted). And as this Court noted, the ADA “is a valid and neutral law of general applicability.” *Hosanna-Tabor*, 565 U.S. at 190.

This Court nonetheless applied the ministerial exception to bar the suit. *Id.* at 188. Although the EEOC’s claims would not require the court to interpret religious documents or parse church doctrine, judicial scrutiny into the teacher’s firing would still threaten the school’s religious autonomy by allowing a court to decide who would be vested with the school’s religious authority. A court judgment requiring a church to retain an unwanted spiritual leader—or punishing a church for failing to do so—would “interfere[] with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs” and thereby infringe on the church’s First Amendment right “to shape its own faith and mission through its appointments.” *Id.* at 187.

Hosanna-Tabor did not limit the ministerial exception to cases in which a religious employer cites religion as the reason for disaffiliating with one of its ministers. The protection extends to any case that would undermine the “authority to select and control who will minister to the faithful.” *Id.* at 195. That authority is as compromised by a legal challenge to a firing based on “poor performance” as it is one based on heretical teaching. *Our Lady*, 591 U.S. at 760. What matters is not facial neutrality but whether litigating the claim will require “judicial interference” with “matters of faith, doctrine, and internal governance.” Pet. 25 (citation omitted). The D.C. Circuit failed to heed that basic principle by putting form over substance, asking only whether Respondent’s fraud claims were “plausibly * * * secular” and “capable of resolution according to neutral principles of law.” Pet. App. 23a.

2. Plausibly secular or not, Respondent's claims prompt a host of inherently religious inquiries. They will force the District Court to examine "what it means when priests speak about religious giving from the pulpit and the Bishops implement canon law." Pet. App. 71a (Rao, J., dissenting from denial of rehearing en banc). They "will thrust a civil jury into questioning the Church's explanation of what it means to 'witness to charity,' 'help the Holy See reach out compassionately to those who are marginalized,' and 'assist the charitable works of Pope Francis.'" Pet. 30 (citing Pet. App. 203a, a church bulletin describing Peter's Pence to prospective donors). And they will require "the Bishops to disclose lengthy donor lists, records of amounts received, and the ways in which contributions made under Peter's Pence were deployed." Pet. App. 93a (Rao, J., dissenting from denial of rehearing en banc); cf. *NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490, 502 (1979) (explaining that the "very process of inquiry" into a church's internal affairs can "impinge on rights guaranteed by" the First Amendment).

The Religion Clauses place all this beyond "the judicial ken." *Hernandez v. Commissioner of Internal Revenue*, 490 U.S. 680, 699 (1989). To be sure, the court of appeals saw this case as one "about what defendant represented, what it knew, and the relationship between defendant and plaintiff as a putative class representative." Pet. App. 8a. But courts should look at more than a complaint's face when applying ecclesiastical abstention. Courts should also look ahead to what discovery and remedial proceedings will entail. The court of appeals should have realized that, in this case, the District Court would be unable to "decide 'whether the Church's statements about its

tithing policy were fraudulent’ without ‘necessarily settling a dispute between the Church and a disaffiliated member concerning the meaning of ‘tithes.’ ” Pet. App. 53a (Walker, J., concurring in denial of rehearing en banc) (brackets omitted) (quoting *Huntsman v. Corporation of the President of Church of Jesus Christ of Latter-day Saints*, 127 F.4th 784, 813 (9th Cir. 2025) (en banc) (Bumatay, J., concurring in the judgment)). And that is precisely the sort of dispute ecclesiastical abstention is meant to keep the courts *out* of.

3. The concern is not limited to this case: It is all too easy for plaintiffs to “cast their religious disputes * * * in common-law terms of fraud or defamation.” Pet. 31. For example, this Court recently considered a petition for certiorari from the Fifth Circuit’s decision in *McRaney v. North American Mission Board*. No. 25-807 (U.S. Jan. 6, 2026); *cert. denied* 2026 WL 490870. *McRaney* involves a minister formerly employed as the executive director and executive missional strategist for the Baptist Convention of Maryland/Delaware. *McRaney*, 157 F.4th at 632. In that role, the plaintiff was responsible for implementing the “evangelical objectives” of a strategic partnership between the Baptist Convention and the North American Mission Board, the goal of which was “to ‘accomplish the Great Commission as given to us by our Lord in Matthew 28:19–20 and Acts 1:8.’ ” *Id.* (quoting agreement).

The plaintiff’s relationship with the Mission Board soured over disagreements about how to carry out the partnership objectives. *Id.* The Mission Board said it would terminate the agreement because of the plaintiff’s failure to meet the partnership’s expectations—which in turn prompted the Baptist Convention to fire

the plaintiff. *Id.* The plaintiff then sued, claiming that the Mission Board defamed him and tortiously interfered with his employment contract. *Id.* at 650.

A divided Fifth Circuit affirmed dismissal of the case under the church-autonomy doctrine. But not because the case screamed religious dispute. As the dissent saw it, nothing about the complaint involved “faith and doctrine.” *Id.* at 659 (Ramirez, J., dissenting) (citation omitted). It alleged “familiar state law tort claims” asking the court to “apply neutral principles of tort law.” *Id.* The dissent could foresee nothing that “implicate[d] religious questions”—only standard litigation fare such as “whether [the Mission Board] acted intentionally with an unlawful purpose in informing [the Baptist Convention] that [the plaintiff] engaged in ‘serious and persistent’ disregard of the Agreement without right or justifiable cause, and whether these actions caused [the Baptist Convention] to fire” the plaintiff. *Id.* at 660.

But as the majority recognized, the reality of litigation would be more complicated. The district court would eventually have to assess the plaintiff’s compliance with the partnership agreement—a document brimming with Christian doctrine that governed its essential terms. *Id.* at 651. The agreement tasked the Baptist Convention with “penetrating lostness,” “making disciples,” and “church planting.” *Id.* (quoting the agreement). It “define[d] a partnership predicated on commitments to biblical authority, kingdom advancement and evangelism, and explicitly incorporate[d] the [Southern Baptist Convention’s] confession of faith.” *Id.* The majority held that “how these values, goals, and beliefs translate to specific strategies for successful evangelism are ‘religious

controversies that are not the proper subject of civil court inquiry.’” *Id.* (brackets omitted) (quoting *Milivojeovich*, 426 U.S. at 713).

The Fifth Circuit rightly homed in on the litigation’s impact instead of the nature of the claims asserted. The court recognized that although “the secular meaning of ‘breach’” requires no reference to religious principles, “determining *what conduct constitutes breach* of” “an inherently religious document that is steeped in religious doctrine” very well might. *Id.* (emphasis original) (quotation marks omitted). In *McRaney*, it was the “*application* of neutral rules to religious institutions” that required unlawful “‘interference with an internal church decision.’” *Id.* (quoting *Hosanna-Tabor*, 565 U.S. at 190); accord *Our Lady*, 591 U.S. at 751 n.10 (warning that “courts must take care to avoid ‘resolving underlying controversies over religious doctrine’”) (quoting *Presbyterian Church v. Hull Church*, 393 U.S. 440, 449 (1969)). The same is true here. See Pet. 29–31. Yet the D.C. Circuit came out the other way.

4. The ACNA is party to ongoing litigation that further illustrates how seemingly secular disputes can intrude on church autonomy. See *Jurisdiction of the Armed Forces & Chaplaincy v. Anglican Church in North America*, No. 2:25-cv-12848 (D.S.C.). The Special Jurisdiction of the Armed Forces and Chaplaincy is a canonical ministry within the ACNA responsible for the oversight of ACNA clergy serving as government chaplains. ECF 13-1 at 13; ECF 13-17 at 2 ¶ 5.²

² All ECF citations are to the docket in *Jurisdiction of the Armed Forces & Chaplaincy v. Anglican Church in North America*, No. 2:25-cv-12848 (D.S.C.)

The ACNA installed Bishop Derek Jones as the Bishop of the Special Jurisdiction in 2014, where he served until September 2025. ECF 13-18 at 2 ¶ 10, 3 ¶ 14; ECF 13-17 at 1 ¶ 2, 2 ¶ 4. Last summer, the ACNA's Office of the Archbishop received credible complaints regarding Bishop Jones, resulting in a directive from ACNA leadership that Bishop Jones and his staff cooperate with a formal investigation in accordance with the disciplinary procedures in ACNA's Constitution and Canons. ECF 35-9 at 1–2. Rather than comply, the Special Jurisdiction's executive committee purported to withdraw from the ACNA. *Id.*

After learning that Bishop Jones intended to cause the Special Jurisdiction to “leave the ACNA,” the Special Jurisdiction's Provost asked the ACNA's Archbishop for “immediate temporary episcopal oversight of all Chaplains” and that “all Chaplains be brought up to speed on all the recent proceedings and that we be advised on our canonical relationship with Bishop Jones, the ACNA, and the future of” the chaplains' legal authority to work as chaplains in the federal government. ECF 13-17 at 7.

The Archbishop responded with a series of pastoral letters explaining that “the Special Jurisdiction itself remains a canonical ministry of the Anglican Church in North America that was created and sustained by our canons” and that the Special Jurisdiction “does not have canonical authority to withdraw.” ECF 35-9 at 2; *see also* ECF 35-10. The letter further explained that new pastoral oversight had been appointed for the Special Jurisdiction's chaplains and that “[c]haplains ordained in the ACNA retain their orders” and the ability to serve as government chaplains. ECF 35-9 at 3.

Undeterred, an Alabama corporation associated with the Special Jurisdiction sued under its corporate name, alleging that the Archbishop's communications interfered with the plaintiff's business relationships and infringed trademarks the plaintiff owns. *See* ECF 35. Underlying these claims is the plaintiff's contention that the ACNA does not control the Special Jurisdiction and never has. *See e.g.*, ECF 21-1 at 3 ¶ 6 (declaration of Bishop Jones stating that "[t]he big lie that Defendant is promoting is that Plaintiff 'was part of ACNA, subject to its oversight, and without power to terminate the relationship between the two'"). The plaintiff characterizes that as a "corporate dispute" concerning "purely secular business matters relating to ACNA's violations of trademark law, trade secrets laws, and unfair competition law." ECF 42 at 1, 4.

The actual experience of litigation has proven otherwise. In an effort to demonstrate its ownership and control of the Special Jurisdiction, the ACNA has already been obliged to place before the district court myriad ecclesiastical documents, including: (1) correspondence between the ACNA and the primate of the Church of Nigeria, showing how the Special Jurisdiction and its leadership was canonically transferred from the Church of Nigeria's Convocation of Anglicans in North America to the ACNA, *see* ECF 13-18 at 1-3 ¶¶ 3-13, ECF 43-5, ECF 43-6, ECF 43-7; (2) the ACNA's Constitution and Canons, identifying the Special Jurisdiction as a canonical ministry within the ACNA, ECF 13-1 at 13-15; (3) clerical oaths of conformity and obedience, demonstrating that the Special Jurisdiction's leadership was installed by, and remains subordinate to, the ACNA's ecclesiastical hierarchy, ECF 13-19 at 4, 6; (4) a certificate of investiture, showing that Bishop Jones was installed "into

the office of Bishop of the Special Jurisdiction of the Armed Forces and Chaplaincy *in the Province of the Anglican Church in North America*,” ECF 13-19 at 6 (emphasis added); and (5) meetings of the ACNA’s executive committee, demonstrating that the Special Jurisdiction has historically understood itself to require the ACNA’s permission to take major steps like changing its name, ECF 43-1 at 3–5; *see also* ECF 43-10.

The plaintiff disputes the meaning and import of these documents. *See e.g.*, ECF 21-1 at 4 ¶ 14; ECF 35-4 at 1. But that is “exactly the inquiry that the First Amendment prohibits.” *Milivojeovich*, 426 U.S. at 713. It is not for courts to identify the “true” church, *Watson*, 80 U.S. at 703, or to otherwise assess intrinsically religious questions like “the validity of particular litigants’ interpretations” of religious papers. *Hernandez* 490 U.S. at 699.

Nor would judicial intrusion cease upon a determination that the Special Jurisdiction belongs to the ACNA. The court may then be asked to interpret the ACNA’s Constitution and Canons to determine whether the Special Jurisdiction is a diocese “free to withdraw from the Province by action of their own governing bodies.” ECF 13-1 at 3; *compare* ECF 35-4 (invoking this provision), *with* ECF 35-9 (explaining that this provision does not apply because the Special Jurisdiction is not a diocese but a canonical ministry).

And there’s more. The plaintiff alleges that ACNA tortiously interfered with various Special Jurisdiction contracts. ECF 35 at 41–44 ¶¶ 213–232. These claims will require proof that the church’s statements about its governance and episcopal communications with its chaplains were “intentional procurement of [] breach.” *Dutch Fork Dev. Grp. II, LLC v. SEL Props.*,

753 S.E.2d 840, 844 (S.C. 2012). Plaintiff also repeatedly alleges “malice” on the part of ACNA’s leadership. *E.g.*, ECF 35 at 24 ¶ 95, 27 ¶ 116, 38 ¶ 196. Probing the motives of the ACNA’s ministers in these paradigmatic ecclesiastical actions would “dangerously undermine * * * religious autonomy,” *Hosanna-Tabor*, 565 U.S. at 205 (Alito, J., concurring), constituting a “substantial transgression[]” into its “constitutionally protected sphere of independence,” Pet. App. 86a (Rao, J., dissenting from denial of rehearing en banc). Indeed, “the burdens and indignities of having coercive state power pry into internal religious affairs” are often enough to price a church out of its rights “if a church autonomy defense is not resolved correctly at the threshold.” Pet. 32. And for many plaintiffs, the “pressure is the point.” Pet. 19. The church-autonomy doctrine should prevent these efforts to “leverag[e] civil power for religious ends.” *Id.*

Respondent’s suit here, in short, is not a one-off. Like these others, Respondent’s suit threatens to “entangle[]” the district court in an “essentially religious controversies[y].” *Milivojeovich*, 426 U.S. at 709.

B. Facially neutral remedies may also intrude on church autonomy.

1. The ministerial exception, as mentioned, insulates religious institutions’ “selection of those who will personify its beliefs” from generally applicable employment discrimination laws. *Hosanna-Tabor*, 565 U.S. at 188; *supra* pp. 6-7. But a former church official cannot use a defamation or emotional-distress claim to collaterally attack his termination any more than he can use an ADA claim to attack it directly. *Id.* at 653–654. Even when reinstatement is off the table, damages remedies have a chilling effect that can

unduly interfere with future church decisions. *See* Pet. 32 (describing the “in terrorem” effect of damages claims) (citation omitted).

The plaintiff in *McRaney* attempted just such an end-run around the ministerial exception. But as the Fifth Circuit explained, the plaintiff could not “dodge the ministerial exception by recasting his tortious interference claim as a defamation or emotional distress claim” because the latter two claims are still at bottom “a collateral attack on [the Baptist Convention’s] ministry-leadership decisions.” *McRaney*, 157 F.4th at 653 & n.9 (citation omitted).

The remedies Respondent seeks here would likewise intrude on church autonomy. Respondent “seeks sweeping injunctive relief and millions in disgorgement and damages.” Pet. App. 72a (Rao, J., dissenting from denial of rehearing). The claimed damages’ chilling effect is self-evident. Respondent “effectively asks for the return of all money *ever* donated by living American Catholics to Peter’s Pence”—a result which would have untold impact on the Church’s day-to-day operations and would undoubtedly alter the way the Church speaks about tithing going forward. *Id.* “Nothing says ‘entanglement with religion’ more” than adjudicating whether a church “should have spoken with greater precision about inherently religious topics.” *Huntsman*, 127 F.4th at 796–799 (Bress, J., concurring).

Of even greater concern is Respondent’s request for “class-wide injunctive relief requiring the Bishops to administer Peter’s Pence in a judicially prescribed manner.” Pet. App. 72a (Rao, J., dissenting from denial of rehearing en banc). “In attempting to change the way the Catholic Church speaks about, solicits,

and deploys religious donations, Respondent essentially seeks the structural reform of a religious institution.” *Id.* A secular court may not “countenance such a request.” *Id.*

The relief sought in the current litigation against the ACNA about the Special Jurisdiction is likewise a case study in how facially neutral remedies may be weaponized to “thrust civil courts into church pulpits and pews.” Pet. 3. The plaintiff’s demand for damages, for instance, is a collateral attack on the ACNA’s ecclesiastical decision regarding the episcopacy of the Special Jurisdiction. *See* ECF 35 at 37–38 (asking for profits or treble damages for the ACNA’s “false claims that it deposed [the Special Jurisdiction]’s bishop”). The plaintiff there also seeks *punitive* damages for communications with Anglican chaplains allegedly “made with malice * * * and an intent to harm.” *Id.* at 44–45. A monetary judgment punishing the ACNA for its interpretation of church canons and correspondence is as much a threat to church autonomy as is the court’s intrusion into those questions in the first place.

Perhaps most egregiously, the plaintiff seeks a wide range of permanent injunctive relief that would invade the ACNA’s ecclesiastical autonomy and require ongoing judicial superintendence of the ACNA’s affairs. The requested injunction would prohibit the ACNA from “representing that Bishop Jones is no longer the ‘Bishop of the Armed Forces and Chaplaincy’ or that ACNA has replaced him in that position.” ECF 35 at 53. It would also prohibit the ACNA from “recruiting any chaplains, mission[s], chapels or parishes that are in or under Plaintiff’s jurisdiction.” *Id.* And it would require the ACNA to destroy church

property and church communications using the allegedly infringing trademarks. ECF 35 at 30, 34, 48–50.

Such an injunction would intrude on the ACNA’s religious autonomy: “[T]he right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine . . . is unquestioned.’ ” *McRaney*, 157 F.4th at 654 (quoting *Watson*, 80 U.S. at 728–729). Yet the plaintiff’s requested relief would prevent the ACNA from recruiting its own chaplains amid a church schism, limit what the ACNA can say about its own governance, and otherwise censor its communications to its own members.

2. These cases amply justify Judge Rao’s warning: “[I]f the mere invocation of neutral principles permits a court to interfere with church autonomy, then the constitutional protection is a dead letter.” Pet. App. 67a (Rao, J., dissenting from denial of rehearing en banc). Superficially secular claims may often turn out to “involve depositions of church leaders, probing inquiries into ecclesiastical doctrine and church structure, and discovery of sensitive church communications.” *Id.* at 86a. Similarly, even facially neutral remedies may in effect entangle the courts in “questions of faith, scripture, and religious doctrine.” *McRaney*, 157 F.4th at 654.

It is therefore critical that courts do more than ask whether a plaintiff’s claims “plausibly” threaten church autonomy. Pet. App. 23a. Courts must think carefully about the litigation’s substance and apply the First Amendment to bar suit anytime judicial intervention would intrude on religious independence—regardless of whether the challenged conduct could be evaluated on purely neutral or secular terms. The Court should take this case to say so.

III. THE CHURCH-AUTONOMY DOCTRINE IS A STRUCTURAL LIMITATION THAT SHOULD BE IMMEDIATELY REVIEWABLE TO AVOID IRREPARABLE FIRST AMENDMENT HARM.

1. The church-autonomy doctrine is “rooted in constitutional limits on judicial authority.” *Lee v. Sixth Mt. Zion Baptist Church of Pittsburgh*, 903 F.3d 113, 118 n.4 (3d Cir. 2018). As this Court has explained, “[t]he prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment.” *New York v. Cathedral Acad.*, 434 U.S. 125, 133 (1977).

Courts have thus recognized that the church-autonomy doctrine marks out a structural³ boundary. See Pet. 16-19. This Court’s opinions are replete with structural language. Although *Watson* was not decided on constitutional grounds, the Court nevertheless held that “the jurisdiction of civil courts being confined to ‘civil actions,’ they may not take cognizance of purely spiritual or ecclesiastical questions.” 80 U.S. at 710. Recognizing that *Watson* “radiates * * * a spirit of freedom for religious organizations,” the Court later “constitutionalized” its rule, invalidating a New York statute because it “intrude[d] * * * the power of the state into the forbidden area of religious freedom contrary to the principles of the First Amendment.” *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94, 116, 119 (1952). And in *Hull*, the

³ The limitation is structural regardless of whether or to what extent it is “jurisdictional” in any of the many senses of that term. See *Watson*, 80 U.S. at 732 (“There is, perhaps, no word in legal terminology so frequently used as the word jurisdiction”).

Court held that “the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes.” 393 U.S. at 449.

More recently, this Court has observed that “the Religion Clauses ensured that the new Federal Government—unlike the English Crown—would have no role in filling ecclesiastical offices,” *Hosanna-Tabor*, 565 U.S. at 184, and held that the “independence of religious institutions in matters of ‘faith and doctrine’ ” and their “independence in * * * ‘matters of church government’ ” “protect[s] their autonomy,” *Our Lady*, 591 U.S. at 746. These are aspects of a structural limitation.

The implications of the structural nature of the church-autonomy doctrine are broad. Because the church-autonomy doctrine is “a structural limitation imposed on the government by the Religion Clauses,” it is “a limitation that can never be waived,” *Conlon v. InterVarsity Christian Fellowship*, 777 F.3d 829, 836 (6th Cir. 2015), and courts “retain discretion to raise and consider it *sua sponte*,” *Billard v. Charlotte Catholic High Sch.*, 101 F.4th 316, 325 (4th Cir. 2024). Moreover, the courts’ intrusion on ecclesiastical authority is irreparable. *See* Pet. 18–19. By the time the Petitioner wins its case, it “will have already faced costly and intrusive demands to identify all donors to Peter’s Pence, produce all documents related to the Pope’s use of an offering given to him by the faithful, account for all church laws and guidelines relating to Peter’s Pence, and turn over all communications with the ‘Holy See, Vatican City, and Apostolic Nunciature’ relating to Peter’s Pence.” Pet. 18 (brackets omitted). Appellate review following final judgment would be too little too late.

2. Without immediate review, the process will be the punishment. *See* Pet. 23–24. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam). And as this Court explained half a century ago, “[i]t is not only the conclusions that may be reached * * * which may impinge on rights guaranteed by the Religion Clauses, but also the very process of inquiry leading to findings and conclusions.” *NLRB*, 440 U.S. at 502.

Even the *prospect* of litigating ecclesiastical matters is harmful: “[I]t is a significant burden on a religious organization to require it, on pain of substantial liability, to predict which of its activities a secular court will consider religious.” *Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 336 (1987). Indeed, “a determination of what is a ‘religious’ belief or practice entitled to constitutional protection may present a most delicate question.” *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972).

Allowing litigation on matters within church autonomy also harms the courts. *See* Pet. 33. The First Amendment’s “constitutional protection is not only a personal one; it is a structural one that categorically prohibits federal and state governments from becoming involved in religious leadership disputes.” *Conlon*, 777 F.3d at 836. It is therefore imperative that a court “not allow itself to get dragged into a religious controversy even if a religious organization wants it dragged in.” *Tomic v. Catholic Diocese of Peoria*, 442 F.3d 1036, 1042 (7th Cir. 2006), *abrogated in other respects by Hosanna-Tabor*, 565 U.S. 171.

That is because “[t]he prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment.” *Cathedral Acad.*, 434 U.S. at 133. And as a result, “courts should refrain from trolling through a person’s or institution’s religious beliefs.” *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality op.).

On top of all these concerns is the risk that comes from the state merely being adjacent to an ecclesiastical matter. When a court adjudicates a facially neutral dispute that implicates “controversies over religious doctrine and practice,” “the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern.” *Hull*, 393 U.S. at 449. And these hazards are not theoretical; courts have lamented that meddling in the affairs of religious institutions forces the state to take positions on institutions’ religious missions. *See, e.g., University of Great Falls v. NLRB*, 278 F.3d 1335, 1341 (D.C. Cir. 2002).

3. These important interests cannot be vindicated after final judgment.

Hull is instructive. *Hull* was a classic property dispute between two local churches and the parent denomination, just the sort of case usually proposed as susceptible to resolution by “neutral principles.” *Hull*, 393 U.S. at 442. Indeed, *Hull* stated that “there are neutral principles of law” that “can be applied without ‘establishing’ churches.” *Id.* at 449. But Georgia’s courts had “violated the command of the First Amendment” requiring “civil courts to decide church property

disputes without resolving underlying controversies over religious doctrine.” *Id.*

Hull reached this Court only after a jury trial, final judgment, and an appeal to the Georgia Supreme Court. *Id.* at 443–444. For nearly three years, the church was not autonomous in its sphere: a jury invaded “to determine whether the actions of the general church ‘amount to a fundamental or substantial abandonment of the original tenets and doctrines of the (general church), so that the new tenets and doctrines are utterly variant from the purposes for which the (general church) was founded.’” *Id.* at 444. Regardless of the merits of the underlying property dispute, Georgia’s courts had no authority to resolve “a matter ‘strictly ecclesiastical,’ ” that “is the church’s alone.” *Hosanna-Tabor*, 565 U.S. at 195 (quoting *Kedroff*, 344 U.S. at 119).

The same is all-the-more-true in this case, where Respondent seeks not only to hold Petitioner liable in damages for its ministry but to enjoin—to *control*—the country’s Roman Catholic bishops. In a perfect world, district courts would never overstep in the first instance. But if they do, an immediate appeal is essential before even more damage is done.

CONCLUSION

For the foregoing reasons and those in the petition,
the petition should be granted.

Respectfully submitted,

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