

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

CLAIRE FITZMAURICE & OTHERS,

Plaintiffs-Appellees,

v.

CITY OF QUINCY & ANOTHER,

Defendants-Appellants.

On Appeal from a Decision of the
Superior Court in Norfolk County

**BRIEF FOR AMICUS CURIAE THE SYNOD OF BISHOPS OF THE
RUSSIAN ORTHODOX CHURCH OUTSIDE OF RUSSIA IN SUPPORT
OF DEFENDANTS-APPELLANTS**

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April 15, 2026

CORPORATE DISCLOSURE STATEMENT

Pursuant to S.J.C. Rule 1:21, The Synod of Bishops of the Russian Orthodox Church Outside of Russia states that it is a not-for-profit organization organized under the laws of the state of New York. No publicly held corporation has any ownership interest in Synod of Bishops of the Russian Orthodox Church Outside of Russia.

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STATEMENT OF INTEREST OF AMICUS CURIAE¹

The Synod of Bishops of the Russian Orthodox Church Outside of Russia (“ROCORA”) is a semi-autonomous part of the Russian Orthodox Church. ROCORA opened its first Massachusetts parish in 1951² and is among the array of minority religious faiths in Massachusetts.³ In addition to its continuation of 1,000 years of history and tradition, ROCORA teaches a rich Christian faith, observing several doctrines that distinguish it from other Christian sects, such as Roman Catholicism.⁴

¹ Pursuant to Mass. R. A. P. 17(c) (5), amicus declare that no party or counsel for a party authored this brief in whole or in part and that no person other than amicus, its members, or its counsel has made any monetary contributions intended to fund the preparation or submission of this brief. Amicus and its counsel further declare that, although amicus have filed amicus briefs on similar issues in other cases, they have not represented one of the parties to the present appeal in any proceeding involving similar issues, nor have they been a party or represented a party in a proceeding or transaction that is at issue in the present appeal.

² See “*The People of Holy Epiphany Church – A Talk by Professor Leonid Heretz on the Boston Parish*”, E. Am. Diocese: Russian Orthodox Church Outside Russ., (Jan. 25, 2026) https://www.eadiocese.org/news_260302_4 (“Boston saw in this influx of new people the possibility of establishing a parish of the Church Abroad here. Through the joint efforts of the new immigrants with the old, our Church of the Holy Epiphany was founded in 1951.”).

³ See *People in Massachusetts*, Pew Rsch. Ctr.: Religious Landscape Study 2023-2024, <https://www.pewresearch.org/religious-landscape-study/state/massachusetts/> (last visited Apr. 6, 2026).

⁴ See Regulations of the Russian Orthodox Church Outside of Russia ¶ 4, (stating that ROCORA “is guided by Holy Scripture and Tradition, by the Holy Canons and Church laws, the regulations and pious customs of the Church of Russia and, in particular, by the resolution of His Holiness the Patriarch, the Most Holy Synod, and the Highest Church Sobor of the Russian Orthodox Church dated 7/20 November, 1920, No. 362, by the resolutions of sobors and declarations of the

For example, “[t]he Sobor of Bishops ... is the highest law-making administrative, judicial and controlling body in the [ROCOR],” Regulations of the Russian Orthodox Church Outside of Russia ¶ 7, whereas, Roman Catholics believe that “the Roman Pontiff ... has full, supreme, and universal power over the whole Church,” Catechism of the Catholic Church ¶ 882.

Like the Roman Catholic Church, ROCOR venerates Michael the Archangel and the third-century Roman soldier Florian.⁵ It does so through tradition and the church’s liturgical calendar. As a matter of tradition, the Russian Orthodox Church, the Mother Church of ROCOR, has sanctioned a series of books describing the lives of the saints, such as Saints of the Russian Lands, Saints of Mount Athos, and European Saints.⁶ The ROCOR Calendar (“Calendar”) is published annually based

Russian Orthodox Church Abroad”).

⁵ See, e.g., Orthodox Calendar, Holy Trinity: Russian Orthodox Church, <https://www.holytrinityorthodox.com/htc/orthodox-calendar/#> (last visited Apr. 7, 2026) (recognizing Florian on May 17 and Michael on November 21). See generally About Calendar, Holy Trinity: Russian Orthodox Church, <https://www.holytrinityorthodox.com/htc/orthodox-calendar/about-calendar/> (last visited Apr. 7, 2026) (“Holy Trinity’s website calendar features an exhaustive catalog of saints highlighting those listed in the official calendar of the Moscow Patriarchate.”).

⁶ Избранные жития святых, в Европейских и иных землях просиявших [The Chosen Lives of the Saints, in the European and Other Lands Engulfed: A-E], составление и перевод А.А. Бузова [compiled and translated by A.A. Burov], Москва [Moscow] (2005-2015) (available at https://azbyka.ru/otechnik/Zhitija_svjatykh/izbrannye-zhitija-svjatyh-v-evropejskih-i-inyh-zemljah-prosijavshih/) [hereinafter Lives of the Saints].

on the Typikon, one of the Orthodox Church’s seminal texts, which defines liturgical structure, order, and precedence.⁷ The Calendar identifies feasts, cultural practices, dictates for lent and fasts, and acknowledges the saints to be commemorated on their respective days—including Michael and Florian.

The questions presented in this appeal are of substantial importance to ROCOR given its interest in protecting the public square from the eradication of religious imagery, in correcting the Appellees’ and the Superior Court’s erroneous association of Michael and Florian exclusively with Roman Catholicism, and in protecting for religious faiths a sphere of authority over their own determination and expression of their beliefs and devotions free from civil—including judicial—intrusion.

SUMMARY OF THE ARGUMENT

At issue in this appeal is whether the display of two statues with both religious and secular significance offends Article 3 of the Declaration of Rights of the Massachusetts Constitution. It does not.

Article 3 contains no categorical prohibition on the Commonwealth’s—and, in this case, the City of Quincy’s—use of religious imagery or symbols on public property. For good reason: such images are embedded in the foundation of Western

⁷ See St. Innocent Liturgical Calendar (Archpriest John Whiteford & Aleksandr Andreev eds., 2026).

Civilization, convey secular messages, and accordingly, permeate throughout Massachusetts public life. But, even if the use of such imagery could, in some circumstances, amount to subordination under Article 3, statues of Michael and Florian do not. Contrary to the Superior Court's conclusion, multiple religions *in addition to Roman Catholicism*—including Russian and Greek Orthodoxy—revere Michael and Florian such that public expressions of such figures do not express religious favoritism. And, Michael and Florian, like so many other religious symbols across the Commonwealth, bear a permissible and worthy secular message, even if that secular message has religious origins: the protective services provided by law enforcement and firefighters.

Finally, analyzing Article 3 according to the United States Supreme Court's now-discarded *Lemon* test impermissibly threatens religious liberty by entangling civil authorities, such as the Superior Court below, with religion—the very entanglement the Religion Clauses of the First Amendment to the United States Constitution and *Lemon* are intended to prevent.

BACKGROUND

Appellees, a group of residents of the City of Quincy, brought suit against the City and its Mayor, Thomas P. Koch, asserting that two statues of Michael the Archangel and Florian to be installed outside the City's new Public Safety Building subordinated their religions to Roman Catholicism. Add.67. The Superior Court

entered a preliminary injunction enjoining Quincy from installing the statues, concluding that Appellees were likely to succeed on the merits in proving that the statues violated the guarantee of Article 3 of the Massachusetts Declaration of Rights that the Commonwealth would not favor *in law* any one religion over another.

In reaching that decision, the Superior Court applied the United States Supreme Court's now-discarded test in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), to conclude that raising the statues on City property promoted "Catholicism" over and at the expense of all other religions. Add.80-83. According to the Superior Court, "the statues at issue convey a message endorsing one religion over others" because they "patently endorse Catholic beliefs." Add.82. The Superior Court reached that decision despite Michael's and Florian's significance in religions other than Roman Catholicism, and despite the Commonwealth's long history of religious imagery placed on public property to convey secular meaning.

ARGUMENT

I. PUBLIC DISPLAY OF RELIGIOUS IMAGERY DOES NOT VIOLATE ARTICLE 3.

Religious symbolism is no stranger to public life. From courtrooms to public parks, displays of religious imagery color the fabric of the Commonwealth. Article 3 of the Massachusetts Declaration of Rights is not antagonistic to those displays; indeed, it expressly acknowledges religion's important role in civic life. *See* Art. 3, *as amended by* Art. 11 ("[T]he public worship of God and instructions in piety,

religion and morality, promote the happiness and prosperity of a people and the security of a republican government ...”). The Superior Court’s erroneous interpretation of Article 3, however, improperly pits Church against State, making them impermissibly “aliens to each other—hostile, suspicious, and even unfriendly.” *Colo v. Treasurer & Receiver Gen.*, 378 Mass. 550, 561 (1979). Article 3 does not countenance such hostility.

A. Article 3 Does Not Require The Erasure Of Religious Imagery From Public Property.

Article 3 protects against the Commonwealth’s playing favorites among religious sects. It provides that “all religious sects and denominations, ... shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.” Art. 3, *as amended by* Art. 11. That text does not require the sterilization of all religious references and messages in the public square. Rather, Article 3 forbids unequal protection or subordination of one religious sect to another *in law*—*i.e.*, *legal* preference for one religion over another. *See, e.g., Colo*, 378 Mass. at 560-561. For that reason, it is no surprise that this Court has never required that the public square be devoid of religious imagery—whether installed 100 years ago, in 2026, or in the future.

Religious imagery has been a staple of the American—and the Commonwealth’s—public square since its founding. *See Van Orden v. Perry*, 545 U.S. 677, 678 (2005) (“From at least 1789, there has been an unbroken history of

official acknowledgment by all three branches of government of religion’s role in American life.” (citing *Lynch v. Donnelly*, 465 U.S. 668, 674 (1984))). The Great Seal of the United States, adopted in 1782, features an image of the Eye of Providence with the inscription *Annuit Coeptis*, which means “He [God] has favored our undertakings.”⁸ Since 1823, the City of Boston has proclaimed the Latin motto, “SICUT PATRIBUS SIT DEUS NOBIS,” or “God be with us as He was with our fathers” in English on its seal.⁹ The Ether Monument in the Boston Public Garden, erected in 1868, embodies the parable of the Good Samaritan chronicled in Luke’s Gospel.¹⁰ And in 2019, a 16-foot-tall Celtic cross was dedicated on Deer Island in Boston Harbor as a monument to Irish immigrants who died while quarantined.¹¹ Plymouth also houses the National Monument to the Forefathers—the Nation’s

⁸ U.S. Dep’t of State, Bureau of Public Affairs, The Great Seal of the United States 4 (July 2003) (alteration in original), <https://diplomacy.state.gov/wp-content/uploads/2022/10/Great-Seal-PDF.pdf>.

⁹ *Symbols of the City of Boston*, City of Boston, <https://www.boston.gov/departments/tourism-sports-and-entertainment/symbols-city-boston> (last visited Apr. 8, 2026).

¹⁰ See Ether Monument, Friends of the Public Garden, <https://friendsofthepublicgarden.org/donate/ether-monument/> (last visited Apr. 8, 2026); *Luke* 10:30-37.

¹¹ Tetrault, *Memorial Commemorates Irish who Died Fleeing the Great Hunger*, *Boston Pilot* (May 31, 2019), <https://www.thebostonpilot.com/article.php?ID=185154>.

largest granite statue standing at 81-feet tall; on it, is a figurine depicting ‘faith’ holding a Bible.¹²

In recognition of the hospitality for religion in American public life, religious symbols have repeatedly been upheld as lawful under the First Amendment to the United States Constitution. Neither a 6-foot-tall stone display of the Ten Commandments erected outside a state capital, *Van Orden*, 545 U.S. at 688, nor a 32-foot-tall Latin cross standing at a well-trafficked intersection, *American Legion v. American Humanist Ass’n*, 588 U.S. 29, 43-44 (2019), expresses undue partiality toward a particular religion.

The same holds true under the Massachusetts Constitution. *See Colo*, 378 Mass. at 560 (acknowledging that “the ‘hermetic separation’ of church and State” is not only a factual fallacy, but it “is an impossibility which the Constitution has never required”). Indeed, Appellees have been unable to identify a *single* case in which this Court ordered religious imagery removed from the public square. That is not surprising: the display of religious imagery with secular significance does not subordinate one religion to another, let alone *in law*. *See* Art. 3, *as amended by* Art. 11. Imagery with religious resonance gives no legal privilege to one sect over

¹² National Monument to the Forefathers, *See* Plymouth, Mass: History, Museums & Monuments, <https://seeplymouth.com/listing/national-monument-to-the-forefathers/> (last visited Apr. 9, 2026).

another. *See id.* The public display of religious imagery does provide public funding to one religion over another. *Cf. Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 17-18 (1947) (upholding state funding of transportation provided to children sent to both public and private, including parochial, schools). And no persons of any particular religion are deprived of any public office. *Cf. Torcaso v. Watkins*, 367 U.S. 488, 496 (1961) (invalidating state requirement that notaries must affirm their belief in God to obtain their commissions).

Imagery with religious resonance does not even reflect a preference—or endorsement—of one sect over another. No religion is given a particular platform for proselytizing with images unadorned by textual messaging. *Cf. Town of Greece v. Galloway*, 572 U.S. 565, 583 (2014) (explaining that public prayer that does not proselytize does not violate the Establishment Clause). No religious meaning is publicly ascribed to the imagery such that it encourages devotion. *Cf. Shurtleff v. City of Boston*, 596 U.S. 243, 258-259 (2022) (observing that, where the government does not dictate the meaning of a religious symbol, the government is not justified in prohibiting the religious display on Establishment Clause grounds). No service is conditioned upon subscription to any religious tenant. *Cf. Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 466-467 (2017) (holding that public funding may not be conditioned on a recipient’s surrender of its religiosity).

B. The Display Of Religious Imagery Can Have Secular Meaning Independent Of Its Religious Significance.

Although originally rooted in some religious tenet, a religious image can, when placed in a public, secular forum, symbolize and project a secular message. *See American Legion*, 588 U.S. at 60 (“A monument may express many purposes and convey many different messages, both secular and religious.”). Such symbols abound in Western Civilization without subjugating one religion to another.

For example, the Rod of Asclepius,¹³ as well as the caduceus,¹⁴ are often used to symbolize medicine and the medical profession;¹⁵ their use does not imply that all

¹³ *See, e.g., Rod of Asclepius*, Encyc. Britannica (Feb. 4, 2026), <https://www.britannica.com/topic/Rod-of-Asclepius> (explaining that the Rod of Asclepius is “associated with Asclepius, the Greco-Roman god of medicine” and “is used as a symbol of the medical profession” and noting that it is featured “on emergency vehicles across the globe”).

¹⁴ *See, e.g., Rod of Asclepius*, Encyc. Britannica (Feb. 4, 2026), <https://www.britannica.com/topic/Rod-of-Asclepius> (“The caduceus is associated with the Roman god Mercury and his Greek equivalent, Hermes. ... The caduceus has often been used in medical contexts despite a lack of mythological basis; some historians believe this may be rooted in the historic use of astrology in healing.”).

¹⁵ *See, e.g., Boston EMS (@bostonemsofficial)*, Instagram, <https://www.instagram.com/bostonemsofficial/> (featuring Boston EMS official logo, which contains Rod of Asclepius, as profile picture); U.S. Dep’t of Health & Hum. Servs.: Off. of Surgeon Gen., <https://www.hhs.gov/surgeongeneral/index.html> (displaying seal of United States Surgeon General, which includes the caduceus); *see also* Shah et al., *Caduceus vs. Rod of Asclepius: A Serpentine Dilemma in Medical Iconography*, 100 *Postgrad Med. J.* 613-615 (Oct. 28, 2024), <https://academic.oup.com/pmj/article/100/1186/613/7301419> [<https://doi.org/10.1093/postmj/qgad093>] (stating that Caduceus and the Rod of Asclepius are “two distinct symbols commonly associated with medicine, each with its own unique origins”).

doctors believe in Greek pantheism or express a preference that all EMTs should worship Hermes. Similarly, the Ten Commandments symbolize law; their display does not dictate that all lawyers adhere to an Abrahamic faith nor evince a preference that all judges practice one.¹⁶ Images of Justitia or Themis represent justice; they do not convey that justice may only be meted out to Greek or Roman pantheists.¹⁷ Likewise, images of Libertas, including the Statute of Liberty, personify freedom; they do not require all Americans—including naturalized Americans—to swear allegiance to Roman pantheism.¹⁸

¹⁶ See, e.g., Office of Curator, *Symbols of Law*, SCOTUS (Sep. 28, 2015), https://www.supremecourt.gov/about/SymbolsofLawInfoSheet%209-28-2015_Final.pdf (“Throughout the history of western art, tablets have been used to signify the Law. This tradition is closely associated with Moses, the Hebrew lawgiver, who, according to the Book of Exodus, descended from Mount Sinai with two stone tablets inscribed with the Ten Commandments. Over time, the use of two tablets has become a symbol for the commandments, and more generally, ancient laws.”). See generally *Exodus* 20:1-17; *Exodus* 34:11-26; *Deuteronomy* 5:6-21.

¹⁷ See, e.g., Office of Curator, *Figures of Justice*, SCOTUS (Sep. 11, 2009), <https://www.supremecourt.gov/about/FiguresofJustice-9-11-2009-approved.pdf> (“*Justice* is one of the most recognized legal symbols visible in the architecture of the Supreme Court Building. Portraying *Justice* as a female figure dates back to depictions of *Themis* and *Justicia* in ancient mythology. *Themis*, known for her clear-sightedness, was the Greek Goddess of Justice and Law. In Roman mythology, *Justicia* was one of the four Virtues along with *Prudence*, *Fortitude*, and *Temperance*.”).

¹⁸ See, e.g., *Libertas*, Encyc. Britannica (Jan. 14, 2008), <https://www.britannica.com/topic/Libertas-Roman-religion> (noting that “*Libertas*, in Roman religion,” is the “personification of liberty and personal freedom” and “was given a temple on the Aventine Hill about 238 BC”); *Liberty Enlightening the World*, Nat’l Park Serv.: Statue Of Liberty (Mar. 6, 2026), <https://www.nps.gov/stli/index.htm> (“The Statue of Liberty Enlightening the

Like the adopted religious imagery of the medical and legal professions, religious imagery adopted by law enforcement and firefighters can symbolize the services they provide without expressing any specific religious preference. Law enforcement across the country and Commonwealth frequently adorn their badges with a star,¹⁹ the symbol used by various religions to denote ultimate power and authority—including the incarnation of an all-powerful God.²⁰ But the use of the star does not convey that all law enforcement should engage in astrology, or intimate that only followers of Jesus Christ—to whom the Magi were led by a star—warrant

World’ is recognized as a universal symbol of freedom and democracy.”); Moreno, *Introduction to Images of America: The Statue of Liberty* (2004) (stating that the Statue of Liberty takes the form of “Libertas, the classical goddess of freedom” with origins “dating back to ancient Rome, where she had been worshipped by the religious men and women of antiquity” and further describing the statue as “the ultimate patriotic symbol of the country, a universal symbol of freedom to all nations and all peoples”).

¹⁹ See, e.g., *The Police Badge – Origins and Meaning*, Wash., D.C. Metro. Police Mem’l & Museum, <https://www.dcpolicememorial.org/the-police-badge-origins-and-meaning/> (last visited Apr. 6, 2026) (noting that “[t]he police badge is a symbol of authority”); *Commonwealth v. Schoener*, 491 Mass. 706, 716 (2023) (“The primary function of a police badge is to identify its holder as having lawful authority.” (citing *Commonwealth v. Gray*, 423 Mass. 293, 296 (1996))).

²⁰ See, e.g., Rochberg, *The Heavenly Writing: Divination, Horoscopy, and Astronomy in Mesopotamian Culture 1* (2004) (“To the ancient Mesopotamian literati of the middle of the first millennium B.C., the patterns of stars covering the [night] sky were a celestial script. ... Representing the work of the divine, the stars, ‘written’ in the sky as they were conceived to be, could convey a sense of the eternal.”); *Matthew 2:1-2* (“When Jesus was born in Bethlehem of Judea, in the days of King Herod, behold, magi from the east arrived in Jerusalem, saying, ‘Where is the newborn king of the Jews? We saw his star at its rising and have come to do him homage.’”).

police protection. The Florian and Maltese Crosses decorate fire departments worldwide, likening the public service they provide to that offered by the Knights of Malta during the Crusades.²¹ But those crosses do not require all firefighters to be Christian, express a preference for Christian firefighters, or convey that only Christians will be served by firefighters.

Nothing in Article 3 compels the denudation of this imagery from property of the Commonwealth. Nor does it provide any reason why some religious imagery with secular meaning is permissible but other religious imagery is not. It does not state that the absence of challenge for a period of time is determinative. It does not

²¹ See, e.g., International Association of Fire Chiefs & National Fire Protection Association, *Fundamentals of Firefighter Skills 6* (5th ed. 2024) (firefighter teaching and training guide stating that the Maltese and Florian Crosses are “symbol[s] ... used to represent the fire service”); *Maltese Cross: Firefighting History*, City of Waltham, Mass.: Fire Dep’t, <https://www.city.waltham.ma.us/fire-department/pages/maltese-cross> (last visited Apr. 6, 2026) (“The symbol of the maltese cross appears throughout the fire service on stations, apparatus, department patches and union logos. This insignia has become synonymous with firefighters. ... Through its history, the cross has come to represent the same fire service ideals of saving lives and extinguishing fires. The earliest accounts of the maltese cross trace the symbol to the Knights of Saint John of Jerusalem ... [who] earned a reputation for” their “heroic deeds” as “firefighters” during the Crusades.); *Why Is the Maltese Cross the Symbol for Fire Service*, Town of Hull, Mass.: Fire Dep’t, <https://www.town.hull.ma.us/fire-department/faq/why-maltese-cross-symbol-fire-service> (last visited Apr. 6, 2026) (“The insignia of the fire service is the ... Maltese Cross. The cross represents the fire service ideals of saving lives and extinguishing fires. The fire service borrows the emblem of the cross from the Knights of St. John of Jerusalem They chose the cross of Calvary as their symbol, since they fought their battles as a holy cause.”).

state that widespread acceptance of a secular meaning—or ignorance of the religious meaning—is determinative. And it does not state that the divisiveness of the imagery—whether potential, actual, anticipated, or proven—is determinative. *Contra Colo*, 378 Mass. at 558. Nor could it: affording legal preference for only certain religious imagery is facially inconsistent with Article 3’s express admonition that religions “shall be equally under the *protection of the law*” and “no subordination of any one sect or denomination to another *shall ever be established by law.*” Art. 3, *as amended by* Art. 11 (emphasis added).

II. QUINCY’S DISPLAY OF MICHAEL AND FLORIAN DOES NOT PREFERENCE ROMAN CATHOLICISM OVER ALL OTHER FAITHS.

Even if religious imagery could violate Article 3, the display of depictions of Michael and Florian on Quincy’s Public Safety Building does not. That is so for two related yet independently sufficient reasons. First, multiple religions venerate Michael and Florian, so their depiction outside Quincy’s Public Safety Building cannot subordinate, contrary to the Superior Court’s conclusion, all religions to Roman Catholicism. Second, the statues convey an unobjectionable secular meaning strongly tied to their placement: the protection provided to the City of Quincy by its police officers and firefighters.

A. Michael And Florian Play Prominent Roles In Religions Other Than Roman Catholicism, Including ROCOR.

Quincy’s proposed display does not preference one sect or denomination over all others because, contrary to the Superior Court’s conclusion, Michael the Archangel and Florian are not exclusive to Roman Catholicism—or even Christianity.

Michael has a vast reach, dating back to the Old Testament. Michael is acknowledged in Judaism, Islam, Santería, and throughout the Christian tradition for his role in meting out God’s protection and justice. The Book of Daniel introduces “Michael, who stands beside the sons of your people,”²² and in Jewish tradition, he acts in “expressions of G-d’s kindness.”²³ Surah 2 of the Qu’ran recognizes Michael as one of Allah’s “angels” and “messengers,” as he, an archangel, is “said to effectuate God’s *rizq*,” or “providence.”²⁴ Santerians, meanwhile, may call upon

²² *Daniel* 12:1.

²³ Davidson, *What Are Angels*, Chabad.org, https://www.chabad.org/library/article_cdo/aid/692875/jewish/What-Are-Angels.htm#footnoteRef9a692875 (“Every angel is ‘programmed’ to perform certain tasks; such as Michael who is dispatched on missions which are expressions of G-d’s kindness; Gavriel, who executes G-d’s severe judgments; and Rafael, whose responsibility it is to heal.”).

²⁴ *Qur’an* 2:98 (“Whoever is an enemy of Allah, His angels, His messengers, Gabriel, and Michael, then let them know that Allah is certainly the enemy of the disbelievers.”); *Mīkāl*, Encyc. Britannica (May 5, 2020), <https://www.britannica.com/topic/Mikal> (describing “Mīkāl, in Islam, [as an] archangel said to effectuate God’s *rizq* (providence) as well as natural phenomena, such as rain, and who is often paired with Jibrīl”).

“Saint Michael ... for protection, justice, and spiritual strength,” and he “is often associated with Orisha Ogun, the god of war and iron.”²⁵ Christians, too, learn of Michael’s role in casting Satan out of Heaven in the great war between God, his angels, and the forces of the Devil.²⁶ And in the ROCOR tradition specifically, Michael is celebrated with a feast day, called the Synaxis of the Archangel Michael and the other Bodiless Powers, on each November 21.²⁷ Veneration of Michael in the ROCOR tradition is widespread, as reflected by Akathist hymns and churches

²⁵ See also *Who Is Saint Michael The Archangel?*, Original Botanica (May 2, 2023), <https://originalbotanica.com/blog/a-history-of-saint-michael?srsltid=AfmBOoqLbYPLeX4anKOcMr5umC7RYTn3CmSMMdEQHHeiSU5NGcXIT-bY> (“In Santeria and Yoruba, Saint Michael is often associated with Orisha Ogun, the god of war and iron. He is called upon for protection, justice, and spiritual strength.”).

²⁶ *Revelation* 12:7-12.

²⁷ ROCOR adheres to the old-style Julian Calendar. Under it, Michael’s feast day is November 8.

bearing his titular dedication.²⁸ Traditional ROCOR iconography depicts Michael winged, armored, and shown in triumph over demonic forces, as illustrated below²⁹:



²⁸ E.g., *Akathist to Archangel Michael*, Akathist.com: Prayers of Supplication, <https://www.akathists.com/archangel-michael/akathist/> (last visited April. 13, 2026); *An Archpastoral Visit on the 125th Anniversary of Archangel Michael Parish on the Cote d’Azur*, Synod of Bishops of the Russ. Orthodox Church Outside of Russ. (Nov. 25, 2019) https://www.synod.com/synod/eng2019/20191125_encannes.html (stating that on Archangel Michael’s feast day “the relics of the saint [were venerated] and ... an Akathist to him [was read]”); Saint Michael the Archangel Orthodox Mission, Burlington, VT United States, Russ. Orthodox Church Outside of Russ.: Parish Directory, <https://directory.stinnocentpress.com/viewparish.cgi?Uid=581&lang=en> (last visited Apr. 13, 2026).

²⁹ Михаил архангел (в деяниях) [Michael the Archangel (in Acts)], Иконография восточно-христианского искусства: Проект научного отдела Факультета Церковных Художеств Православного Свято-Тихоновского Гуманитарного Университета [Iconography of E. Christian Art: Project of the Sci. Dep’t of the Fac. of Church Arts of St. Tikhon’s Orthodox Univ. for the Humans.] (available at <https://icons.pstgu.ru/icon/2666>).

Nor is Florian's veneration limited to Roman Catholicism. According to ROCOR tradition, Florian was a commander in the Roman imperial army stationed in eastern Bavaria; during the reign of Diocletian, Florian was ordered to partake in the persecution of Christians.³⁰ When Florian refused, he was beaten, but goaded his captors by saying "I am not afraid of your torture, order a strong fire, and with the name of God I will enter it without harm."³¹ Fittingly for his bravery in the face of immolation, Florian, in ROCOR tradition, has received customary and historical devotion for divine protection from fire. That reverence also derives from ROCOR devotional tradition attributing to Florian various miracles, including the quelling of a "large fire with a single bucket of water."³² ROCOR iconography depicts Florian in images such as the one below³³:

³⁰ See Святой Флориан, мученик († 304, память 3 мая) [Saint Florian, Martyr († 304, memory 3 May)] in *Lives of the Saints* (available at https://azbyka.ru/otechnik/Zhitija_svjatykh/izbrannye-zhitija-svjatyh-v-evropejskih-i-inyh-zemljah-prosijavshih/1047).

³¹ *Id.*

³² *Id.*

³³ *Id.*



The Calendar remembers Florian on May 17 together with those martyred with him in A.D. 304.³⁴

Thus, contrary to the Superior Court’s and Appellees’ assertion, Michael and Florian are *not* exclusively Catholic saints nor venerated exclusively by Roman Catholics. *See, e.g.*, Add.82 (“The Complaint here plausibly alleges that the statues at issue convey a message endorsing *one religion* over others. As noted, the statues represent two *Catholic* saints – the patron saint of police officers and the patron saint of firefighters.” (emphasis added)); Appellees’ Br. 13 (framing question presented as whether installing “two new ten-foot-tall statues of saints *associated with one religious denomination*” violates Article 3); *id.* 14-15 (describing Michael and Florian as uniquely Catholic figures); *id.* 33-34 (stating that protective symbolism

³⁴ In the Julian Calendar, Florian is commemorated on May 4.

of Michael and Florian is “grounded in Catholic tradition”). That they are venerated across multiple religious traditions undermines any conclusion that their display on the City of Quincy’s Public Safety Building favors Roman Catholicism—or even Christianity—over other religions. *Contra* Add.85 (“[M]embers of the community not adherent to Catholic or Christian teaching who pass beneath the two statues to report a crime may reasonably question whether they will be treated equally.”).

B. Depictions Of Michael And Florian Have Secular Meaning.

Far from bearing only religious meaning, depictions of Michael and Florian celebrate secular feats and virtues. Michael and Florian—like the Rod of Asclepius and caduceus, Justia and Themis, Libertas, the Ten Commandments, the star, and the Florian and Maltese crosses—represent an inherently secular service performed by Quincy’s policemen and firefighters.

Michael symbolizes the defense of good over evil, and the protection of the community from harm; Florian, like the eponymous cross, connotes the protection of the community from fire. That symbolism, as Mayor Koch recognized, not only represents the heroic service Quincy’s public safety officials provide, but it serves as a rallying cry and morale boost for Quincy’s public safety officers. As Mayor Koch explained, Michael and Florian were selected on account of “their status as symbols in police and fire communities worldwide,” to “symbolize the values of truth, justice and the prevalence of good over evil,” and to “honor, inspire, and

encourage [Quincy's] First Responders and ensure their lifesaving work would remain maximally effective.” Appellants’ Opening Br. 52.

Those are secular values exclusive to no religion. And nothing about that symbolism, common to religions beyond just Roman Catholicism, including ROCOR, subordinates all other religions to Roman Catholicism—or even Judaism, Islam, or apostolic Christianity. Indeed, the character of the secular message conveyed is no different to the secular message conveyed by the representation of the parable of the Good Samaritan in Boston’s Ether Monument. In both circumstances, religious imagery adorns a public monument—the depiction in the Ether Monument of a parable from the New Testament, and the depiction at the City of Quincy’s Public Safety Building of figures significant to various religions for their particular virtues. And in both circumstances, the religious imagery conveys a secular message—in the case of the Ether Monument, the relief of suffering; in the depiction at the City of Quincy’s Public Safety Building of Michael and Florian, protection from harm and associated suffering.

That the secular message originated from a religious context does nothing to undermine the inherently secular message the imagery conveys. *Contra* Add.88 (asserting that secular messages conveyed “in [the] context [of] a Biblical figure” is necessarily a religious message). All religious imagery that adorns the fabric of the Commonwealth—the Rod of Asclepius and caduceus, Justia and Themis, Libertas,

the Ten Commandments, the star, the Florian and Maltese crosses, and the Ether Monument—originates from a religious context and conveys a secular meaning that originated from that context. But that does not mean that it *necessarily, exclusively, or even predominantly* conveys a *religious* meaning. And it certainly does not mean, as Appellees incorrectly assert, that anyone actually believes—particularly not Roman Catholics—that anyone is actually “provide[d] protection” by “physical representations” of Michael and Florian, Appellees’ Br. 34; the Roman Catholic Church teaches that religious images are not to be worshiped precisely because they in and of themselves have no independent power. *See* Catechism of the Catholic Church ¶ 2132.

Accordingly, it is simply not true that Quincy’s adornment of its Public Safety Building with religious imagery representing the very services its public-safety officials provide subordinates every other faith to Roman Catholicism in violation of Article 3’s prohibition on religious subordination. Nothing in Article 3 provides any reason why the Ether Monument is constitutional but statutes of Michael and Florian are not.

III. THIS COURT SHOULD JETTISON *LEMON*’S NOW-DISCARDED TEST.

As the United States Supreme Court has acknowledged, the test announced in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), for whether government conduct constitutes an “establishment” of religion in violation of the First Amendment of the

United States Constitution has proven unworkable, contradictory, and overly hostile toward religion. *E.g.*, *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 534 (2022) (“[T]his Court long ago abandoned *Lemon* and its endorsement test offshoot” given “the ‘shortcomings’ associated with [its] ‘ambitiou[s],’ abstract, and ahistorical approach to the Establishment Clause” (second alteration in original) (quoting *American Legion*, 588 U.S. at 49-50 (plurality opinion))). The Superior Court’s application of *Lemon* only proves *Lemon*’s shortcomings: the Superior Court got mired in, and entangled with, doctrinal questions concerning what is and is not ‘Catholic’ doctrine, practice, and imagery, all under the guise of preventing the very entanglement it purported to avoid. *Lemon* is also particularly ill-suited to Article 3 given its hostility to religion and the fundamental differences between Article 3’s protection against subordination and the First Amendment’s protection against any “establishment.”

A. The Court Should Reject *Lemon* As Unworkable And, As Demonstrated By The Superior Court’s Analysis, Internally Inconsistent.

Justices of the United States Supreme Court have sharply criticized *Lemon*’s test since its adoption, with some Justices voicing their concerns for decades. *See, e.g.*, *Kennedy*, 597 U.S. at 535 n.4 (“In the last two decades, this Court has often criticized or ignored *Lemon* and its endorsement test variation. ... A vast number of Justices have criticized those tests over an even longer period.” (collecting

criticism)). That is because *Lemon*'s framework has “‘invited chaos’ in lower courts, led to ‘differing results’ in materially identical cases, and created a ‘minefield’ for legislators.” *Id.* at 534 (quoting *Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 768 n.3 (1995) (plurality opinion)); *Shurtleff*, 596 U.S. at 279 (Gorsuch, J., concurring in the judgment) (“The hard truth is, *Lemon*'s abstract and ahistoric test put ‘[p]olicymakers ... in a vise between the Establishment Clause on one side and the Free Speech and Free Exercise Clauses on the other.’” (citing *Capitol Square*, 515 U.S. at 767-768 (plurality opinion))).

Likewise, United States Supreme Court Justices and commentators have observed that the *Lemon* test is inherently contradictory because it occasions the kind of impermissible entanglement it purports to prohibit. Facially, *Lemon* proscribes “excessive entanglement between government and religion.” *Lemon*, 403 U.S. at 614. But, in application, it requires just that entanglement. Courts cannot determine whether a government act has the purpose or effect of furthering a particular religion without entangling themselves with religious doctrines or disputes. *See, e.g.,* McConnell, *Religious Freedom at a Crossroads*, 59 U. Chi. L. Rev. 115, 119 (1992) (“[The *Lemon* test’s] ‘entanglement’ prong forbids what [its] ‘effects’ prong requires—leaving states no alternative but to exclude religious groups altogether.”); *cf. Doe v. Roman Catholic Bishop of Springfield*, 490 Mass. 373, 380 (2022) (“The First Amendment prohibits civil courts from intervening in disputes concerning

religious doctrine, discipline, faith, or internal organization.” (quoting *Hiles v. Episcopal Diocese of Mass.*, 437 Mass. 505, 510 (2002)); *Martin v. Corporation of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints*, 434 Mass. 141, 152 (2001) (“It is not permissible for a judge to determine what is or is not a matter of religious doctrine.” (collecting cases)).

The Superior Court’s decision only proves this point: it could not apply the *Lemon* test without getting itself entangled with what are and what are not the beliefs, practices, and symbolism of Roman Catholicism. To determine what religion was supposedly endorsed by the Michael and Florian statues, the Superior Court impermissibly “troll[ed] through ... religious beliefs.” *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion). For example, the Court explained that “[i]n Christian scripture, Michael is identified as an archangel who led the forces of the God in a battle against ‘[t]he huge dragon, the ancient serpent, who is called the Devil and Satan,’ and his followers, and threw them down from heaven.” Add.69 (quoting *Revelation* 12:7-9). The Court went on to describe what it viewed as Roman Catholic teaching, explaining that, “[i]n the Catholic teaching, Saint Michael is venerated as the patron saint of the police.” *Id.* (noting, in a footnote, Merriam-Webster Online Dictionary’s definition of a ‘patron saint’).

That probing led to judicial determinations about what constitutes “Catholic” imagery, beliefs, and doctrine—a sphere that both this Court and the United States

Supreme Court has long recognized civil courts are incompetent to adjudicate. *See, e.g., Hernandez v. Commissioner*, 490 U.S. 680, 699 (1989) (explaining it is not for courts to evaluate “the centrality of particular beliefs” and “practices,” or “the validity of [peoples’] interpretations of [their] creeds” (citing *Thomas v. Review Bd.*, 450 U.S. 707, 716 (1981)); *Martin*, 434 Mass. at 152. For example, the Superior Court concluded that “the statues are drawn directly from and are wholly consistent with Catholic scripture, teaching and iconography.” Add.87. The Superior Court also concluded that “[t]he statues, particularly when considered together, patently endorse *Catholic* beliefs.” Add.82 (emphasis added). It also waded into—and as Section II.A *supra* makes clear, incorrectly determined—the extent to which Michael and Florian are significant to and venerated in other religions. *See, e.g.,* Add.85 (stating that “Defendants’ actions in adorning a public building with massive statues *significant only to one religion* serves to subordinate the religions of all other members of the public utilizing that building.” (emphasis added)).

As these examples demonstrate, *Lemon* is internally inconsistent and demonstrates why the United States Supreme Court has rejected it. Making determinations about religious doctrine, belief, and practices, requires the very entanglement with religion against which *Lemon* purported to protect.

B. *Lemon* Is Overly Hostile To Religion And Inconsistent With The Commonwealth's Recognition Of Religion's Value In Public Life.

The Constitution of the Commonwealth has long recognized the value of religion in public life. Article 3 says so expressly: “[T]he public worship of God and instructions in piety, religion and morality, promote the happiness and prosperity of a people and the security of a republican government” Art. 3, *as amended by* Art. 11; *see also Colo*, 378 Mass. at 561 (rejecting “[t]he complete obliteration of all vestiges of religious tradition from our public life”).

Lemon's test, however, has always been inconsistent with recognizing the value of religion in public life. Indeed, given the prevalence of religious symbols in the country's history, the United States Supreme Court has acknowledged that *Lemon's* test is particularly inappropriate for religious symbols in the public square. *See American Legion*, 588 U.S. at 51-52 (plurality opinion). That is because adherence to *Lemon* would require the “government [to] roam[] the land, tearing down monuments with religious symbolism and scrubbing away any reference to the divine,” which would “strike many as aggressively hostile to religion.” *Id.* at 56 (majority opinion). Indeed, as Justices of the United States Supreme Court have acknowledged, few public displays of religion were deemed unconstitutional before *Lemon* but cases challenging public displays of religion “came fast and furious” after *Lemon*. *See Shurtleff*, 596 U.S. at 278-279 (Gorsuch, J., concurring in the judgment).

Accordingly, given its inherent hostility to religion, continued reliance on *Lemon* would be inconsistent with Article 3, and the Court should instead follow the United States Supreme Court in rejecting *Lemon* and its progeny.

C. The *Lemon* Test Was Developed To Purportedly Protect Against State Action Different To That Proscribed By Article 3.

As the United States Supreme Court acknowledged in *Lemon*, the authors of the First Amendment to the United States Constitution “did not simply prohibit the establishment of a state church or a state religion [T]hey commanded that there should be ‘no law respecting an establishment of religion.’” *Lemon*, 403 U.S. at 612. And “[a] given law might not establish a state religion but nevertheless be one ‘respecting’ that end in the sense of being a step that could lead to such establishment and hence offend the First Amendment.” *Id.* *Lemon*’s three-pronged test—particularly the purpose and effect prongs—was formulated to address that specific prohibition, protecting against state *advancement* of religion. *Id.* at 612-613.

Article 3 contains no such prohibition. It does not speak of an “established” religion. Nor does it prohibit any law “respecting” an establishment of religion. Rather, it provides that “all religious sects and denominations . . . shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.” Art. 3, *as amended by* Art. 11. The touchstone of Article 3 is therefore not to prevent the Commonwealth from taking steps to advance religion, but to ensure no religion is subordinated to

another *by law*. Indeed, the Massachusetts Constitution has an entirely different provision—Article 18 of the Amendments to the Massachusetts Constitution—that protects against the advancement of religion. *See* Art. 18, § 2, of the Amendments to the Massachusetts Constitution, *as amended by* arts. 46 and 103 of the Amendments.

Accordingly, a three-prong test of which two prongs are intended to protect against the advancement of religion, and the third is intended to avoid “entanglement” with religion, is ill-suited to an assessment of the extent to which sects and denominations are being treated equally or subordinated to one another in law. Rather, the Court should focus on the extent to which any one religious group is receiving a *legal* privilege over all other religious groups. *That* is against what Article 3 protects.

CONCLUSION

For the foregoing reasons, the Superior Court’s order should be reversed.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE
PURSUANT TO MASS. R. A. P. 17 (c) (9)**

I hereby certify that, to the best of my knowledge, this brief complies with Mass. R. A. P. 17 and 20. The brief is in Times New Roman 14-point font, contains 6,735 non-excluded words, and was prepared using Microsoft Word for Office 365. I have relied on the word count feature of this word processing system in preparing this certificate.

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CERTIFICATE OF SERVICE

I, Robert Kingsley Smith, hereby certify, under the penalties of perjury, that on April 15, 2026, I caused a true and accurate copy of the foregoing to be filed and served on the following counsel of record via the Massachusetts Odyssey File & Serve site, or pursuant to Mass. R. A. P. 13 and 19 for those counsel or parties not registered in the Court's e-filing system:

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