COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

No. SJC-13877

CLAIRE FITZMAURICE & others,
Plaintiffs-Appellees,

v.

CITY OF QUINCY & another,
Defendants-Appellants,

On Appeal from an Order of the
Superior Court for Norfolk County

BRIEF OF THE KNIGHTS OF COLUMBUS AS *AMICUS CURIAE* SUPPORTING DEFENDANTS-APPELLANTS AND REVERSAL

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Mass. R. App. P. 17(c)(1) and Supreme Judicial Court Rule 1:21, *Amicus Curiae* Knights of Columbus, by its undersigned counsel, hereby discloses the following:

1. Parent Corporation(s) of Knights of Columbus: None.

2. Publicly Held Corporation(s) Owning More Than 10% of Knights of Columbus: None.

/s/ *Kevin P. Martin*
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ISSUES PRESENTED

1. Whether Article 3 of the Massachusetts Declaration of Rights prohibits the display of statues of internationally recognized symbols of first responders on a public building because the symbols have religious significance for some citizens.

2. Whether the U.S. Constitution permits artwork to be excluded from public display based on religious hostility.

INTEREST OF *AMICUS CURIAE*[1]

Michael J. McGivney was a hero by any measure.

Born to immigrant parents in Connecticut in 1852, he recognized as a young adult that the men of his community at the time—heavily immigrants—were taking on high-risk jobs to support their families, but frequently died in the course of that work, leaving their widows and orphans destitute. He responded by mobilizing that community to help itself, founding in 1882 the Knights of Columbus, a fraternal beneficiary society in which the principal fraternal benefit is life insurance, and which is more broadly dedicated to charity, unity, fraternity, and patriotism.

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[1] No party or counsel for a party authored this brief in whole or in part, and no person or entity—other than *Amicus Curiae*, its members, or its counsel—has contributed money that was intended to fund preparing or submitting this brief. *Amicus Curiae* further declares that neither it nor its counsel represents or has represented any of the parties to this case in another proceeding involving similar issues, nor have they been a party or represented a party in a proceeding or legal transaction that is at issue in the present appeal.

Today, almost 150 years later, the Knights of Columbus consists of 2.2 million members worldwide. In the United States and Canada, the Knights of Columbus protects the financial security of its members, their wives, and their children with over $124 billion of life insurance in force. And Knights everywhere enriched their communities with $197 million in charitable contributions and 48 million hours of volunteer service in 2024 alone.

Michael McGivney was also a Catholic priest. In 1997, his cause for canonization in the Catholic Church was initiated and he was given the title "Servant of God." In 2008, the Vatican declared him "Venerable," in recognition that he led a life of heroic virtue. In 2020, after Pope Francis approved a miracle attributed to his intercession, McGivney was beatified, receiving the title of "Blessed." Members of the Knights of Columbus earnestly pray that he may one day soon be declared a saint—the first U.S.-born priest to be so honored.

Blessed Michael McGivney and his extraordinary achievements should not be excluded from possible recognition by civil authorities—in Massachusetts, where the Knights of Columbus has more than 36,000 members, or anywhere else under the protection of the United States Constitution—because he was *also* a priest, or because he may *also* be a saint. The Knights of Columbus files this brief in part to protect against the possibility of such a future injustice.

The Knights of Columbus also files this brief because of its close ties to the first-responder community, and to assure the protection of first responders' interests.

Police work and firefighting are among the hazardous jobs that members of the Knights of Columbus have undertaken, both historically and currently. In addition to offering those members financial protection for their families through life insurance, the Knights of Columbus has established the Francis P. Matthews and John E. Swift Educational Trust Scholarships, available to the children of full-time firefighters and law enforcement officers who die as a result of criminal violence directed at them while lawfully performing their duties. Similarly, on September 12, 2001, the Knights of Columbus established the Heroes Fund, which provided immediate financial assistance to families of first responders who perished in the attacks, regardless of membership or faith, totaling $1.5 million. (Of the forty-six members of the Knights of Columbus killed in the September 11 attacks, thirteen were firefighters and five were law enforcement officers.)

The Knights of Columbus also serves the spiritual needs of first responders. Local Knights of Columbus councils often sponsor or promote "Blue Masses," which are special liturgies offered to pray for police, firefighters, and other first responders. And in Chicago, three local councils are dedicated specifically to serving first responders—St. Florian, Patron of Firefighters, Council 12911; St.

Michael the Archangel, Patron of Police, Council 12173; and St. Jude First Responder Council 17110.

Members of the Knights of Columbus stand directly alongside first responders in their critical work of service to people suffering disasters. As "second responders," local councils and individual members provide food, water, and necessities after the initial emergency of a natural or man-made disaster. These efforts are undertaken in collaboration and coordination with police and firefighters—sometimes including training and other preparation with their assistance—and the Knights' second-responder teams often include current and retired first responders.

Police and firefighters—so many of whom are, or work with, brother Knights—should not be consigned to a work environment utterly stripped of religious meaning. Their dangerous work is also deeply challenging spiritually and naturally raises ultimate questions. And especially for those police and firefighters who are Catholic, excluding statues of figures who exemplify the virtues of their professions *precisely because* those figures also happen to be Catholic saints conveys an impermissible message of government hostility to their faith.

The Knights of Columbus stands up now to guard against this risk of religious discrimination in the form of excessive and overzealous secularization.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Superior Court determined that Article 3 of the Massachusetts Declaration of Rights bars Quincy's planned installation of two statues on its new public safety building, simply because the figures that the statues portray are associated with the Catholic religion. History and tradition cut against reading Article 3 to require that result, and the United States Constitution may well forbid such a construction. This Court should reverse.

I. As confirmed by both Massachusetts and national history, Article 3 does not require the exclusion of religiously affiliated imagery from government spaces.

As originally adopted, Article 3 called for the funding of specific religious institutions supported by public taxes, but it also separately declared that "the good order and preservation of civil government, essentially depend upon piety, religion, and morality." Mass. Const. pt. 1, art. 3 (1780). While public funding of churches was eventually repudiated through amendments to Article 3 in 1833, Article 3's more general statement concerning the importance of religion to society remains.

Plaintiffs try to read more into the 1833 amendments, but their own cited sources do not support Plaintiffs' arguments. Indeed, Plaintiffs have been unable to identify a single historical concern with displays similar to Quincy's—despite such displays existing all around the Commonwealth for a large part of its history.

Notably, Massachusetts's historical embrace of religion is not unique. The history surrounding the U.S. Constitution's First Amendment points in the same direction.

II. Principles of constitutional avoidance also weigh in favor of Quincy's interpretation of Article 3. Simply put, the Court should not accept Plaintiffs' invitation to construe Article 3 to exclude individuals from consideration for public honor or representation on public property *precisely because of their religious affiliation or beliefs*. A Massachusetts city or town may wish to honor individuals for their good works or example during their lifetimes. Yet Plaintiffs' theory would forbid any city or town from honoring with a statue those individuals—however worthy they may be—if they *also* have a religious vocation or are *also* known for their Christian faith. On this logic, for example, Boston's current statue of Reverend Martin Luther King, Jr., would violate Article 3.

That result would, of course, be absurd; it also would be unconstitutional. The federal Constitution forbids governments from imposing special disabilities based on religious belief and from acting with hostility toward religion. Excluding otherwise meritorious individuals from public recognition because their religious beliefs are apparent, or even inseparable, from their public identity constitutes unfavorable treatment based on religion. Yet Plaintiffs' theory would require precisely that result, forcing governments in the Commonwealth to intentionally omit known religious figures from public honor. Supreme Court precedent rejects

that approach. This Court fairly can, and therefore should, reject Plaintiffs' interpretation of Article 3 in order to avoid generating at least a federal constitutional issue, if not an outright violation.

ARGUMENT

I. Article 3 does not require the exclusion of religious imagery from government spaces.

Although the parties dispute whether the *Lemon* test should govern Plaintiffs' Article 3 claim, they agree that resolving this case requires a consideration of history and tradition. *Compare* Blue Br. 36, *with* Red Br. 27. Rightfully so, because this Court has made clear that history is just as relevant to Article 3's meaning, *see Colo v. Treasurer & Receiver Gen.*, 378 Mass. 550, 554 (1979), as it is to the First Amendment's meaning, *see Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535 (2022) ("[T]he Establishment Clause must be interpreted by reference to historical practices and understandings." (citation modified)). Properly understood, Article 3's history, like that of the First Amendment, confirms what this Court said long ago: "[C]omplete obliteration of all vestiges of religious tradition from our public life"—which is what Plaintiffs seek on a going-forward basis here—"is unnecessary to carry out the goal[] of nonestablishment ... set forth in our State and Federal Constitutions." *Colo*, 378 Mass. at 561.

A. Nothing in Article 3's history supports reading the provision to ban public displays of religious imagery.

Article 3's history shows that the 1833 amendments were singularly focused on ending the Commonwealth's system of religious assessments—not purging religion from the public square. In arguing otherwise, Plaintiffs contort the historical debate over religion's role in Massachusetts beyond recognition. Massachusetts's historical record is simply devoid of any concern with public displays of religious imagery like Quincy's here.

1. As originally adopted in 1780, Article 3 provided for "public support of religion." *Caplan v. Town of Acton*, 479 Mass. 69, 76 (2018). That public support was expressed in three ways: "(1) ceremonially; (2) morally; and (3) institutionally." John Witte Jr., *"A Most Mild and Equitable Establishment of Religion": John Adams and the Massachusetts Experiment*, 41 J. Church & St. 213, 237 (1999).

The Constitution's ceremonial support of religion was characterized by, among other things, the preamble's reference to "the constitution as 'a covenant' or 'compact' between the people and God," and its general invocation of God "by name or pseudonym (the 'Great Legislator of the Universe,' and 'Supreme Being') a dozen times." Witte, *supra*, at 238-39. Moral support for religion also was "set out clearly ... in the 1780 Constitution," including, specifically, in Article 3. *Id.* at 240. Article 3 declared that "the happiness of a people, and good order and preservation of civil government, essentially depend upon piety, religion, and morality; and ...

these cannot be generally diffused through a Community, but by the institution of publick Worship of God, and of public instructions in piety, religion, and morality." *Id*. (quoting Mass. Const. pt. 1, art. 3 (1780)). The constitutional provisions reflecting these types of ceremonial and moral support of religion were not seen as problematic, and indeed "were passed without controversy" in 1780. *Id.* at 240; *see id.* at 241 (observing that "[n]one of these provisions establishing a public religious morality triggered much debate").

Any controversy was focused on Article 3's institutionalization of religion, in particular its "establishment of specific religious institutions supported by public taxes." *See* Witte, *supra*, at 242. That "provision for public [financial] support of clergy" garnered significant opposition—both leading up to Article 3's adoption and in the years preceding the later 1833 amendments. *See* T.J. Curry, *The First Freedoms, Church and State in America to the Passage of the First Amendment* 172-73 (1986). Yet even those opposed to Article 3's assessment regime viewed "financial support of religion" as different in kind than "vaguer, less direct or explicit kinds of assistance." *Id.* at 174-75.

This history informs what the 1833 amendments to Article 3 were intended to accomplish. *See Caplan*, 479 Mass. at 76-77 (reciting the history of Article 3 and the passage of the 1833 amendments thereto); *see also Home Bldg. & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 453 (1934) ("The history of the times, the state of things

existing when the provision was framed and adopted should be looked to in order to ascertain the mischief and the remedy."). History shows that those amendments were designed to remove the Commonwealth's "establishment of specific religious institutions supported by public taxes," but there is no evidence of any intent to eliminate "religious ceremonies and religious morality" from public life. Witte, *supra*, at 241-42. Even today, Article 3 declares that "the 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." *Id.* (quoting Mass. Const. pt. 1, art. 3, as amended by art. 11 of the Amendments). Indeed, references to God remain throughout the Commonwealth's Constitution. *See id.* at 238-41; *see also, e.g.*, Mass. Const. pt. 1, art. 2.

2. Plaintiffs do not contest history's relevance to the inquiry but instead attempt to rewrite that history. They claim that the 1833 amendments followed a "much broader" "struggle" against organized religion, which they say proves that the amendments "were not enacted solely to end a targeted assessment regime." Red Br. 46.

Plaintiffs' own principal authority, a book from 2022, refutes this view, explaining that opposition to Article 3 was rooted in "the public support of the ministry" through Article 3's assessment regime. *See* Steven K. Green, *Separating Church and State: A History* 60 (2022) (quoting Ronald M. Peters, Jr., *The*

Massachusetts Constitution of 1780: A Social Compact 31 (1978)), *cited in* Red Br. 46; *see also id.* at 62 (noting "[t]he debate over the propriety of an assessment ... continued throughout the drafting of the Massachusetts Constitution"). And it confirms that, in the years leading up to 1833, "[t]he immediate focus for those advocating" for reforms was "eliminat[ing] the assessment system[.]" *Id.* at 97.

Plaintiffs claim that the debates in Massachusetts were about the "magistrate's authority over religious matters" more broadly. Red Br. 46. That is wrong. The cited authority states only generally that one "argument against establishments" in the "*various states*" was that "they perpetuated a false claim that civil magistrates had authority over religious matters." Green, *supra*, at 64 (emphasis added). It does not claim that the same rationale drove the debates in *Massachusetts*, specifically. To the extent Article 3 opponents adopted such reasoning, the only evidence is that they did so to advocate for the end of Article 3's taxation regime. *See id.*

3. Putting aside whether the 1833 amendments were part of some broader struggle, there is no evidence that advocates for the amendments were concerned with religious imagery, such as Quincy's proposed statues. Plaintiffs have not identified a single historical concern with, or challenge to, public displays of religiously affiliated symbols or figures.

That is not because such imagery is lacking in the Commonwealth. As Quincy's opening brief notes, religious "symbols have long stood on public property

throughout Massachusetts"—from Moses at the John Adams Courthouse, to David at the State House, to Minerva at the Boston Public Library. Blue Br. 42-43; *id.* 21-22. Some have stood since the mid- to late-1800s, while others were erected more recently. *Id.* at 21-22. For example, in December 2022, a sculpture representing the Reverend Martin Luther King, Jr., a Baptist minister, was installed on the Boston Common, a public park. *See* Kalia Richardson, *In Boston, 'The Embrace' Honors Dr. Martin Luther King Jr.'s Legacy*, N.Y. Times (Jan. 15, 2023), https://tinyurl.com/2p9mfbp6; Rudy Mitchell, *MLK in Boston*, Emmanuel Gospel Ctr., https://tinyurl.com/yc2wefwf (last visited Apr. 14, 2026) (describing Reverend King's work as a pastor and preacher in Boston). All these statues, both new and old, have stood without Article 3 challenge.

The public display of religious imagery in the Commonwealth is much like legislative prayer. The former, like the latter, has long "continued without apparent dissension," even "[t]hroughout [our] history of often vigorous debate about the proper relationship between church and State." *Colo*, 378 Mass. at 556. "The long history of" such public displays, and their "acceptance as an uncontroversial part of our ... State tradition," is particularly strong evidence that Article 3 does not demand "the cessation of the practices challenged here." *Id.* at 557, 561; *see Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014) (noting that the challenged "practice ... was accepted by the Framers and has withstood the critical scrutiny of time").

B. History surrounding the First Amendment supports reading Article 3 to permit public displays of religious imagery.

Massachusetts is not unique in its historic acceptance of public displays of religious messages and figures. At the federal level, for example, "[t]here is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789." *Lynch v. Donnelly*, 465 U.S. 668, 674 (1984).

Start with prayer. "From our Nation's origin, prayer has been a prominent part of governmental ceremonies and proclamations." *Lee v. Weisman*, 505 U.S. 577, 633 (1992) (Scalia, J., dissenting). Legislative prayer, for example, is "deeply embedded in the history and tradition of this country," from "colonial times through the founding of the Republic and ever since." *Marsh v. Chambers*, 463 U.S. 783, 786 (1983). Our foundational documents as a country are imbued with religious language, with the Declaration of Independence notably "'appeal[ing] to the Supreme Judge of the world for the rectitude of our intentions' and avow[ing] 'a firm reliance on the protection of divine Providence.'" *Lee*, 505 U.S. at 633 (Scalia, J., dissenting). Prayer also has featured heavily in the inaugural addresses of our Presidents, with the practice dating back to George Washington, who, "after swearing his oath of office on a Bible, ... deliberately made a prayer a part of his first official act as President." *Id.*

As another example, the government has long celebrated religious holidays.

From our earliest days as a Nation, "long before Independence, a day of Thanksgiving was celebrated as a religious holiday to give thanks for the bounties of Nature as gifts from God." *Lynch*, 465 U.S. at 675. "President Washington and his successors proclaimed Thanksgiving, with all its religious overtones, a day of national celebration and Congress made it a National Holiday more than a century ago." *Id.* Thanksgiving "has not lost its theme of expressing thanks for Divine aid any more than has Christmas lost its religious significance." *Id.* Indeed, "Executive Orders and other official announcements ... have proclaimed both Christmas and Thanksgiving National Holidays in religious terms." *Id.* at 676.

By congressional action, "it has long been the practice that federal employees are released from duties on these National Holidays, while being paid from" the public fisc. *Lynch*, 465 U.S. at 676. "Thus, it is clear that Government has long recognized—indeed it has subsidized—holidays with religious significance." *Id.* The same holds true for numerous other holidays—various cities and towns in Massachusetts, for example, close the public schools on various Christian, Jewish, Muslim, and Hindu holy days, even as public employees remain paid. *See, e.g.*, *Hopkinton Public Schools 2025-2026 School Calendar*, Hopkinton Pub. Schs., https://tinyurl.com/4rhf59mw (last visited Apr. 14, 2026) (listing Rosh Hashanah, Yom Kippur, Diwali, Eid al Fitr, and Good Friday as days off).

There also is a long-standing tradition of "governmental sponsorship of

graphic manifestations of [our religious] heritage." *Lynch*, 465 U.S. at 677. Public art galleries "display religious paintings ... predominantly inspired by one religious faith." *Id.* at 676. "The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages," including "the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages." *Id.* at 676-77. The United States Supreme Court is adorned with a statue of Moses holding the Ten Commandments. *Id.* at 677. Other examples span from municipal nativity scenes, *id.* at 679, to crosses marking memorial sites, *Am. Legion v. Am. Humanist Ass'n*, 588 U.S. 29, 66 (2019), to the Ten Commandments displayed outside of state capitol buildings, *Van Orden v. Perry*, 545 U.S. 677, 690 (2005) (plurality opinion). The Reverend Martin Luther King, Jr. is honored in federal public spaces, including on the National Mall, in the United States Capitol, and on the Lincoln Memorial.

In short, our national "history is pervaded by expressions of religious beliefs," including the types of "graphic manifestations" that Plaintiffs challenge here. *See Lynch*, 465 U.S. at 677. This national history, like the Commonwealth's own, confirms that Quincy's statues pose no constitutional problem. "Simply having religious content or promoting a message consistent with a religious doctrine" is not the type of "establishment" with which the Establishment Clause, or our Declaration

of Rights, is concerned. *See Van Orden*, 545 U.S. at 690.

II. Plaintiffs' position could result in applications of Article 3 that violate the U.S. Constitution.

Quincy's interpretation of Article 3 is not only the best reading of constitutional text and history, but it also is preferable in view of the canon of constitutional avoidance.

The First Amendment "protects not only the right to harbor religious beliefs inwardly and secretly," but also protects the right to live one's faith in daily life. *Kennedy*, 597 U.S. at 524. That faith may be a powerful motivating force behind a person's contributions to society—including educating, caring for the sick, housing the homeless, feeding the hungry, peacemaking, firefighting, or sacrificing oneself for others. Some of the first canonized American saints, for example, were educators and cared for orphans: Frances Cabrini and Elizabeth Ann Seton. Frances Cabrini's contributions have been recognized via a memorial statue in Battery Park in New York City. *See* Blue Br. 24. The Reverend Martin Luther King, Jr., was also deeply motivated by his faith to further the causes of justice, peace, and freedom in this country. *See* Martin Luther King, Jr., *Why Jesus Called Man a Fool* (Aug. 27, 1967) ("[A]ll that I do in civil rights I do because I consider it a part of my ministry. I have no other ambitions in life but to achieve excellence in the Christian ministry.").[2]

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[2] *See* Theodore McDarrah, *Why Martin Luther King Jr.'s Faith-Based Leadership Endures*, Forbes (Jan. 19, 2026), https://tinyurl.com/2kk4zvxj.

The Founder of *Amicus* the Knights of Columbus, Blessed Michael McGivney, is another example of a citizen whose faith was key to his many contributions to our country. *Supra* pp. 7-8. Born in 1852 to immigrant parents, McGivney mobilized his community to assist families, widows, and orphans. He recognized that many fathers frequently died taking on hazardous work to support their families, leaving their widows and orphans in poverty. He responded by founding the Knights. Today, the Knights of Columbus protects the financial security of many thousands of its members and their families, provides hundreds of millions of dollars in charity, and performs millions of hours of volunteer work. A civil authority may wish to recognize McGivney's extraordinary service to those in need and his enduring legacy. But his religious vocation as a priest and his deep faith were integral to who he was and to his lifetime works. He already has been beatified and may even be sainted by the Catholic Church. McGivney's religious core should not exclude him from government recognition too.

An individual's publicly-known religious affiliation and belief cannot, under the U.S. Constitution, be a factor in a government's unfavorable treatment of that person, such as exclusion from public honor. States have a duty "not to base laws or regulations on hostility to a religion or religious viewpoint." *Masterpiece Cakeshop v. Colo. C.R. Comm'n*, 584 U.S. 617, 638 (2018). A state's selection process cannot be based on an "impermissible motive" such as religious

discrimination. *Marsh*, 463 U.S. at 793; *see Town of Greece*, 572 U.S. at 597 (Alito, J., concurring) (noting case would be "very different[]" if list of guest chaplains were drawn "with a discriminatory intent" to exclude Jewish rabbis).

Yet Plaintiffs seek to enshrine such a discriminatory rule in Massachusetts law. Under the guise of seeking "neutrality," Plaintiffs ask this Court to exclude representations of figures with known religious affiliations and beliefs from public spaces. *See*, *e.g.*, Red Br. 12, 29-30. While Plaintiffs appear content to let existing statues remain—a position contrary to the logic of their legal position—they urge the Court to adopt a discriminatory rule moving forward. *Id.* at 29-30. They make that position clear by seeking to prohibit the representation of figures whose religious beliefs and affiliation "cannot [be] strip[ped] away." *Id.* at 35. "Stripped away" how much, and according to whom? Could McGivney's priesthood, possible sainthood, and faith-based motivation for his charity be sufficiently "stripped away," for example? Fortunately, this excessively entangling and wholly un-administrable inquiry is precluded by the U.S. Constitution, which forbids any requirement that persons "strip away" their religious beliefs or affiliation in order to participate in public life on the same terms as other citizens. *See McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in the judgment) ("In short, government may not … fence out from political participation those, such as ministers, whom it regards as overinvolved in religion.").

The risks of discrimination with Plaintiffs' approach are only increased when they ask the Court to impose a test that takes account of a figure's "divisive political potential." *E.g.*, Red Br. 27, 40-42. Plaintiffs' entire case centers on their allegations that they feel threatened by, for example, a depiction of a historical Roman heroically fighting a fire, because he is also revered as a saint in the Catholic tradition. *Id*. at 16, 22. According to Plaintiffs, a depiction of a Catholic religious figure on public property communicates implicit "subordination" of Plaintiffs' own religious or secular traditions. *Id*. at 22. But one fairly wonders whether Plaintiffs would seek to block a new statue of the Reverend Martin Luther King, Jr., on this theory, despite his being a Baptist minister. And if not, Plaintiffs' proposed test for Article 3 would fairly appear not to be about depictions of religiously affiliated persons *per se*, but instead about religiously affiliated persons—or religions—that they personally disfavor. *See Palmore v. Sidoti*, 466 U.S. 429, 433 (1984) ("Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect."). It is easy to see how such a malleable and subjective test could devolve into ugly sectarianism—that is, the targeting of one religion (or some) disfavored in a particular time or place, rather than the broader exclusion of all religions—and so unsurprisingly the federal Constitution forbids it.

Even if Plaintiffs' legal theory were evenhanded among religions, it would still be inconsistent with *Espinoza v. Montana Department of Revenue*, 591 U.S.

464 (2020). In that case, Montana excluded schools owned or controlled in whole or in part by a church, religious sect, or denomination from receiving funds under a scholarship program that otherwise provided funds to any qualified education provider. *Id.* at 470. The Supreme Court held that the Montana law violated the federal Free Exercise Clause. That Clause "'protects religious observers against unequal treatment' and against 'laws that impose special disabilities on the basis of religious status.'" *Id.* at 475 (quoting *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 458 (2017)). "[D]isqualifying otherwise eligible recipients from a public benefit 'solely because of their religious character' imposes 'a penalty on the free exercise of religion that triggers the most exacting scrutiny.'" *Id.* (quoting *Trinity Lutheran*, 582 U.S. at 462). Plaintiffs' vision of "neutrality" as requiring the exclusion of those affiliated with a religion or who hold religious beliefs would require state governments to impose special disabilities on the basis of religious status. The government would be forced to discriminate based on religious identity, which is enough to invalidate a state policy. *Id.* at 476-79.

Plaintiffs' view is also inconsistent with the reasoning in *Kennedy v. Bremerton School District*. In *Kennedy*, the Supreme Court rejected a view of the Establishment Clause that "clash[ed]" with the Free Exercise and Free Speech Clauses. 597 U.S. at 532, 544. In that case, a school district relied on an erroneous view of the Establishment Clause to justify suppressing the religious freedom of a

school coach. The district believed it was obligated to censor private religious speech in order to, in the Court's words, "purge from the public sphere anything an objective observer could reasonably infer endorses or partakes of the religious." *Id.* at 534-35 (citation modified). Likewise here, Plaintiffs believe that governments must omit anyone associated with a religion from a place of public honor. "The Constitution neither mandates nor tolerates that kind of discrimination." *Id.* at 544; *see also Shurtleff v. City of Boston*, 596 U.S. 243, 261 (2022) (Kavanaugh, J., concurring) (A "government *violates* the Constitution when (as here) it *excludes* religious persons, organizations, or speech because of religion from public programs, benefits, facilities, and the like.").

This Court should interpret Article 3 to avoid potential problems under the federal Constitution. That interpretive approach is consistent with this Court's precedent. In *Commonwealth v. DeJesus*, for example, the Court interpreted Article 14 of the Massachusetts Constitution to be consistent with the Fourth Amendment. 489 Mass. 292, 296 (2022). So too here, the Court should interpret Article 3 to avoid a hostility to religion that would pose "a potential constitutional dilemma, as it 'might lead to the untenable result that the Massachusetts Declaration of Rights does not protect rights guaranteed by the Federal Constitution.'" *Id.* at 295 (citation modified).

Importantly, the doctrine of constitutional avoidance does not apply only

where there is a definitive conflict between Massachusetts and federal law. A "potential constitutional dilemma" is sufficient. *DeJesus*, 489 Mass. at 295. In applying the doctrine of constitutional avoidance to statutes, this Court has the "duty, '[w]here fairly possible,' to construe the statutory language 'so as to avoid not only the conclusion that it is unconstitutional but also grave doubts upon that score.'" *Edwards v. Commonwealth*, 488 Mass. 555, 567 (2021) (citation modified); *see Sch. Comm. of Greenfield v. Greenfield Educ. Ass'n*, 385 Mass. 70, 79 (1982) (recognizing the "duty to construe statutes so as to avoid … constitutional difficulties, if reasonable principles of interpretation permit it."). In *Greenfield*, the Court identified that a certain interpretation "would render the statute [at issue] constitutionally suspect on First Amendment grounds," and therefore rejected that interpretation. 385 Mass. at 79-81. Likewise here, the Court should reject Plaintiffs' interpretation of Article 3, which is both "constitutionally suspect" (and then some) and "fairly possible" to avoid: the federal constitutional issues generated by Plaintiffs' interpretation are several and manifest, as illustrated above, and Plaintiffs do not even attempt to argue that theirs is the only reasonable interpretation available to this Court.

CONCLUSION

This Court should reverse the Superior Court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Kevin P. Martin, counsel for *Amicus Curiae*, certify pursuant to Rule 17(c)(9) of the Massachusetts Rules of Appellate Procedure, that this brief complies with the rules of court that pertain to the filing of briefs, including but not limited to Mass. R. App. P. 16, 17 and 20. This brief contains 5,156 words, excluding the parts of the brief exempted by Mass. R. App. P. 20(a)(2)(D). The brief has been prepared in a proportionally spaced typeface, 14-point Times New Roman font, using Microsoft Word 2016.

Dated: April 15, 2026

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COMMONWEALTH OF MASSACHUSETTS
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CERTIFICATE OF SERVICE

I, Kevin P. Martin, counsel for *Amicus Curiae*, hereby certify this 15th day of April, 2026, that I have served a copy of this Brief of the Knights of Columbus as *Amicus Curiae* Supporting Defendants-Appellants and Reversal in *Claire Fitzmaurice v. City of Quincy*, Case Number SJC-13877, by causing it to be delivered by eFileMA.com to counsel of record who are registered users of eFileMA.com. I further certify that I have served copies of the brief by email on the following counsel of record for the parties:

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