No. 24-154

In the Supreme Court of the United States

CATHOLIC CHARITIES BUREAU, INC., BARRON COUNTY DEVELOPMENTAL SERVICES, INC., DIVERSIFIED SERVICES, INC., BLACK RIVER INDUSTRIES, INC., AND HEADWATERS, INC.,

Petitioners,

v.

STATE OF WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION AND STATE OF WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WISCONSIN

BRIEF OF *AMICI CURIAE* RELIGIOUS LIBERTY SCHOLARS IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICI CURIAE*[*]

Amici are legal scholars who have studied and written extensively on the law of religious liberty. Several *amici* have also argued important religious liberty cases before this Court. *Amici* write to underscore the important constitutional considerations in this case, and to urge the Court to vindicate longstanding principles protecting the religious exercise of all faiths. *Amici*'s full titles and institutional affiliations (listed for identification purposes only) appear in the Appendix.

SUMMARY OF ARGUMENT

This case involves severe governmental interference with religious liberty that strikes at the heart of the First Amendment's most basic guarantees. The First Amendment's Religion Clauses prohibit the government from discriminating among religions or dictating what types of specific religious activities a group must undertake to receive protection under the law. In case after case, this Court has repeatedly invalidated decisions that fail to heed those bedrock commands. Following those principles, four state supreme courts have correctly recognized that religious groups qualify for statutory exemptions from unemployment taxes so long as their activities are motivated by the group's religious mission. And other than considering sincerity, these courts generally defer to how the religious group defines its mission. *See* Pet. 16-20.

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[*] Pursuant to Rule 37.6, *amici* affirm that no counsel for a party authored this brief in whole or in part and that no person other than *amici* or their counsel have made any monetary contributions intended to fund the preparation or submission of this brief. Pursuant to Rule 37.2, *amici* have notified all parties of their intention to file this brief at least ten days prior to filing.

The Wisconsin Supreme Court's 4-3 decision below defies those First Amendment bulwarks. Like many other States and consistent with the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301-3311, Wisconsin requires employers to pay an unemployment-insurance tax, but exempts church-controlled organizations "operated primarily for religious purposes." Wis. Stat. § 108.02(15)(h)(2); *see* Pet. 5-7 & n.1. But, joining several other state supreme courts, the Wisconsin Supreme Court held that an organization is "operated primarily for religious purposes" only if "both the motivations and the activities of the organization" are "religious." Pet.App.6a. Under that approach, courts must assess not just whether an organization is motivated by sincere religious belief, but also whether its activities reflect what the court sees as "hallmarks" of "[t]ypical" religious activity. Pet.App.26a-28a; *see* Pet. 13-14, 21-23. The decision below held that Catholic Charities—the charitable arm of the Roman Catholic Diocese of Superior—was insufficiently "religious" despite its clear religious mission because Catholic Charities does not engage in activities like evangelizing or hiring only co-religionists and performs work that secular organizations could also do. Pet.App.26a, 28a-30a.

That decision is the latest and most egregious example of state supreme court decisions that have charged judges with setting the metes and bounds of religious practice in the context of similar unemployment-tax exemptions. Pet. 21-23 (citing *Terwilliger v. St. Vincent Infirmary Med. Ctr.*, 804 S.W.2d 696, 699 (Ark. 1991); *Samaritan Inst. v. Prince-Walker*, 883 P.2d 3, 7 (Colo. 1994); *Emp. Sec. Admin. v. Balt. Lutheran High Sch. Ass'n*, 436 A.2d 481 (Md. 1981)).

The approach taken by these courts contravenes this Court's First Amendment precedents twice over. To

start, by focusing on supposedly "typical" religious activities, these courts' decisions defy the First Amendment's prohibition on "denominational favoritism," i.e., treating religions differently based on their beliefs, practices, or structure. *See Carson v. Makin*, 596 U.S. 767, 787 (2022); *Larson v. Valente*, 456 U.S. 228, 244 (1982). Ignoring this Court's clear commands, the decision below and its ilk would treat only religious organizations that "imbue program participants with the … faith" via proselytizing, or offer services and employment only to co-religionists, as sufficiently religious to qualify for the exemption. Pet.App.29a-30a.

That approach disfavors many religious traditions, including Roman Catholics, whose faith requires them to serve all comers. For they believe in Jesus's teaching that "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me." Matthew 25:40 (King James). The "corporal works of mercy" that the court below rejected as insufficiently religious are in fact typical of many religious organizations. The Wisconsin court's gross inaccuracy in labeling such activities as not typical of religion discriminates against faiths that do not fit the court's pre-determined template. Judges should not be picking and choosing which groups receive a benefit based on their own idiosyncratic views of what is or isn't 'really' religious.

Further, by conditioning governmental exemptions on whether organizations engage in supposedly "typical" religious activities, these courts impermissibly enmesh judges in religious questions. Under Wisconsin's test and similar approaches in Arkansas, Colorado, and Maryland, judges ask whether a religious organization's activities "can [also] be provided by organizations of … secular motivations." Pet.App.30a; *see* Pet. 21-23. Yet this Court has

repeatedly instructed courts to avoid "judicial entanglement in religious issues," *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 761 (2020), including by "litigating in court about what does or does not have religious meaning," *New York v. Cathedral Acad.*, 434 U.S. 125, 133 (1977).

These decisions have now created an untenable patchwork of conflicting law for religious groups across the country. Absent this Court's intervention, national religious organizations must choose between adherence to their faith and receiving a state benefit based on a judicially-mandated code of orthodoxy. Moreover, allowing courts to limit a state's unemployment-tax exemption only to organizations engaged in "typical" religious activities chills the ability of religious organizations to serve as their faith demands, and provides a blueprint for undermining religious exemptions in other contexts.

Courts have no business discriminating among faiths or denying benefits based on idiosyncratic judgments that only some religious activity is "religious enough" to warrant protection. Pet.App.79a (Grassl Bradley, J., dissenting). Religious liberty means liberty for all, not just for those who conform to a judge's intuitions about which religious endeavors count. Only this Court's intervention can restore uniformity and safeguard the basic constitutional rights of religious organizations, no matter where they are located or how they choose to serve.

ARGUMENT

I. The Decision Below Defies the Religion Clauses' Basic Guarantees

The Religion Clauses prohibit all governmental actors—including state courts—from discriminating among religions and from entangling themselves in religious

questions. Conditioning a tax exemption on whether judges view an organization's activities as sufficiently religious, as Wisconsin and three other States now do, flouts those clear principles. This Court should intervene to reaffirm the First Amendment's basic promises and restore uniformity in this critical area of law.

A. Requiring Religious Organizations to Engage in "Typical" Religious Activity Discriminates Among Faiths

1. If left undisturbed, the Wisconsin Supreme Court's approach to the Religion Clauses would erode the cardinal command that governmental actors cannot prefer one religion over another. Denominational neutrality is both the "clearest command of the Establishment Clause" and "inextricably connected with … the Free Exercise Clause." *Larson*, 456 U.S. at 244-45; *accord Carson*, 596 U.S. at 787; *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). Accordingly, "[t]he government must be neutral when it comes to competition between sects," including when administering exemptions. *Zorach v. Clauson*, 343 U.S. 306, 314 (1952); *Cutter v. Wilkinson*, 544 U.S. 709, 720 (2005).

This Court's ministerial-exception cases illustrate the principle. There, this Court has held that the First Amendment prohibits the government from interfering with religious groups' employment decisions concerning their "ministerial" employees—employees who perform an important religious role. *Our Lady of Guadalupe*, 591 U.S. at 760-61; *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 196 (2012). In determining who is a minister under the exception, this Court has warned against relying on one-size-fits-all indicators of religiosity—like employees' titles or specific kinds of religious training—because doing so would risk "impermissible discrimination" among faiths. *Our Lady*

of Guadalupe, 591 U.S. at 752-53. Self-evidently, the First Amendment protects all religious organizations, whether the organization's activities are "typical" among faiths or not.

The same non-discrimination principle applies in the benefits context. In *Carson*, this Court held that the Free Exercise Clause forbids selectively excluding religious schools from receiving state benefits based on their religious activities. 596 U.S. at 780-82. The Court explicitly rejected the idea that a state may exclude only "sectarian" schools that "promote[] a particular faith and present[] academic material through the lens of that faith." *Id.* at 775, 787 (internal quotation marks omitted). According to the Court, "scrutinizing whether and how a religious school pursues its educational mission would … raise serious concerns about … denominational favoritism." *Id.* at 787. Here too, the principle is clear: When administering benefits applicable to a general class of religious organizations, courts must avoid conditioning eligibility on attributes over which "religious traditions may differ." *See Our Lady of Guadalupe*, 591 U.S. at 753.

2. The Wisconsin Supreme Court followed several other state courts in limiting the state's unemployment-tax exemption to church-controlled organizations engaged in "typical" religious activities. Pet.App.26a-29a; Pet. 21-23. According to the court, that approach was necessary in part because "[t]he Religion Clauses are inherently in tension with each other" and require "balanc[ing] the competing interests" of church and state. Pet.App.35a-36a. But as this Court recently reiterated, that approach is entirely backwards: The Religion Clauses "have 'complementary' purposes, not warring ones." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 533 (2022) (quoting *Everson v. Bd. of Ed. of Ewing*, 330 U.S.

1, 13 (1947)).

That fundamental misconception of the First Amendment produced further errors in the court's analysis. The Wisconsin Supreme Court bucked other state courts, which correctly follow this Court's precepts and ask only whether an organization's motivations reflect sincere religious belief. Pet. 16-20. Instead, the court below insisted an organization must also engage in "[t]ypical" religious activities, like "imbu[ing] program participants with the Catholic faith" via proselytizing or offering "employment … and services" only to individuals of a certain religion. Pet.App.26a, 28a-30a. State supreme courts in Arkansas, Colorado, and Maryland have adopted the same basic approach, asking whether an organization's activities are sufficiently religious based on a judge's "ad hoc" assessment concerning things like proselytizing or hiring only co-religionists. *Samaritan Inst.*, 883 P.2d at 7-8; *Emp. Sec. Admin.*, 436 A.2d at 487; *Terwilliger*, 804 S.W.2d at 698-99; *see also* Pet. 21-23.

That religious-activities test vitiates the Religion Clauses' basic non-discrimination principles. For starters, asking whether groups like Catholic Charities proselytize or "attempt to imbue program participants with the Catholic faith," Pet.App.29a-30a, blatantly penalizes religious groups whose beliefs demand a different approach. For instance, a core tenet of the Catholic faith is that Catholics must "never seek to impose the Church's faith upon others" while serving. Pope Benedict XVI, Deus Caritas Est ¶ 31 (2005); *see also* Pope Francis, General Audience (Jan. 18, 2023) (Catholic charity "is about loving [others] so that they might be happy children of God[,]" "not about proselytism … so that others become 'one of us.'"). Many Jews similarly view service as a distinct mode of worship separate from proselytizing, and most

Jews do not proselytize at all. *See, e.g.*, Allison Berry, *Why Doesn't Judaism Promote Conversion, Whereas Other Faiths Do?*, Jewish Bos. (Jan. 14, 2014), https://tinyurl.com/kjcrtdv7. By contrast, many (not all) evangelical Christians view conversion and overt worship as indispensable elements of their charitable activities. *See* Thomas C. Berg, *Partly Acculturated Religious Activity: A Case for Accommodating Religious Nonprofits*, 91 Notre Dame L. Rev. 1341, 1352 & n.48 (2016). In Arkansas, Colorado, Maryland, and Wisconsin, then, a subset of evangelical Protestants are likely to qualify for the law's tax exemption, while Catholics and Jews will not. That is textbook discrimination based solely on the substance of what different religious groups believe.

Likewise, these state supreme courts define "typical" religious activity as hiring or serving only co-religionists, and evaluate an organization's religiosity on that basis. Pet.App.29a-30a; *Terwilliger*, 804 S.W.2d at 699; *Samaritan Inst.*, 883 P.2d at 8; *Emp. Sec. Admin.*, 436 A.2d at 487 (considering the "[c]omposition of" the faculty and student body). But conditioning an exemption on a demand that religious organizations hire or serve only members of their own faith penalizes religious traditions whose beliefs and practices differ on that score.

Some religious organizations require employees to share the organization's faith. *See, e.g.*, Ass'n of Classical Christian Schs., Statement of Faith, https://tinyurl.com/4tz7ez5n ("We welcome members who hold to traditional, conservative Christian orthodoxy and our statement of faith[.]"). Others do not: Jewish preschools, for instance, employ non-Jews to teach religious doctrines. *See* Brief for Amici Curiae Stephen Wise Temple and Milwaukee Jewish Day School in Support of Petitioners at 8, *Our Lady of Guadalupe*, 591 U.S. 732 (No. 19-

267). Likewise, Sikhs, Muslims, and Hindus all regularly serve non-adherents. *See, e.g.*, Evan Simko-Bednarski, *U.S. Sikhs Tirelessly Travel Their Communities to Feed Hungry Americans*, CNN.com (July 9, 2020), https://tinyurl.com/rn988axf; Service to Humanity, Al-Islam.org, https://tinyurl.com/mcye9cee; Diana L. Eck, *The Religious Gift: Hindu, Buddhist, and Jain Perspectives on Dana*, 80 Soc. Rsch. 359, 359 (2013). In Wisconsin and jurisdictions on its side of the split, courts "less … familiar with minority faith traditions" may not consider all these groups sufficiently religious, solely because they adhere to their particular faith's teachings about hiring or serving non-members. *See* Pet.App.105a-106a (Grassl Bradley, J., dissenting).

That result undermines a core purpose of the Religion Clauses—"preventing government from deciding what kind of religion the populace will or will not practice," especially based on the government's own "preferred orthodoxy." Mark Storslee, *Religious Accommodation, the Establishment Clause, and Third-Party Harm*, 86 U. Chi. L. Rev. 871, 919, 929 (2019). And the Wisconsin Supreme Court's response—that denying a benefit inflicts no harm because disfavored groups can still "engag[e] in [their] religious activities," Pet.App.50a—underscores the problem. Just because a religious group can still practice its faith *some* way is no justification for ongoing discrimination or for penalizing the religious practice actually at issue. *Holt v. Hobbs*, 574 U.S. 352, 361-62 (2015). Rather, "condition[ing] the availability of benefits upon [a recipient's] willingness to violate a cardinal principle of [its] religious faith effectively penalizes the free exercise of [its] constitutional liberties." *Sherbert v. Verner*, 374 U.S. 398, 406 (1963); *Carson*, 596 U.S. at 780.

B. Judicial Inquiries into Which Activities Are "Typically" or "Primarily" Religious Entangle Courts in Religious Questions

Without this Court's intervention, the Wisconsin Supreme Court's decision would wreak havoc upon the constitutional prohibition on "judicial entanglement in religious issues." *Our Lady of Guadalupe*, 591 U.S. at 761; *see also, e.g.*, *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 502 (1979). Requiring that religious organizations engage in "typical" religious activity to qualifying for governmental exemptions necessarily requires judges to grade organizations' work against a judge-made test of religiosity.

1. Courts lack the power to make "intrusive judgments regarding contested questions of religious belief or practice." *Colo. Christian Univ. v. Weaver*, 534 F.3d 1245, 1261 (10th Cir. 2008) (McConnell, J.). Indeed, "[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." *New York*, 434 U.S. at 133.

That prohibition on judicial entanglement follows directly from the Constitution's guarantee of church autonomy, i.e., the "right of churches and other religious institutions to decide matters of faith and doctrine without government intrusion." *Our Lady of Guadalupe*, 591 U.S. at 746 (cleaned up). Forcing a religious organization to "predict which of its activities a secular court will consider religious" imposes a "significant burden" on free exercise, effectively "chilling religious activity" that deviates from the government's pre-set template. *See Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 336 (1987); *id.* at 344 (Brennan, J., concurring in the judgment). Likewise, allowing courts to adjudicate religious questions permits

government actors to "dictate" and "influence" matters of faith and doctrine—an evil that is "one of the central attributes of an establishment of religion." *Our Lady of Guadalupe*, 591 U.S. at 746.

Prohibiting courts from entangling themselves in religious questions ensures that churches, not the government, decide how a church's "work will be conducted." Douglas Laycock, *Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy*, 81 Colum. L. Rev. 1373, 1398 (1981). Again, the ministerial exception is illuminating. In *Our Lady of Guadalupe*, a private plaintiff suing a religious school contended that the ministerial exception can never apply to employees who are not "a 'practicing' member of the religion with which the employer is associated." 591 U.S. at 761. But the Court roundly rejected that suggestion. Considering whether a specific leader is a "co-religionist" or "whether the faith tradition … regarded the person as a member" would inevitably make the ministerial exception dependent on a judge's "own credentialing requirements" and "risk judicial entanglement in religious issues" as a result. *Id.* at 759-61.

2. Focusing on "typical" religious activities, as courts in Wisconsin, Arkansas, Colorado, and Maryland now do, impermissibly entangles courts in religious questions. Under Wisconsin's approach, judges must inquire not just whether a religious organization's activities are rooted in its religious mission, but also whether those activities are "primarily religious in nature." Pet.App.29a-30a. To support that conclusion, the Wisconsin Supreme Court misread this Court's ministerial-exception precedents to say that courts should undertake their own analyses of "both the professions and actions of the organization to determine the organization's 'mission.'" Pet.App.25a. But the

ministerial-exception caselaw holds the opposite: Courts ask whether an employee's activities are important in carrying out duties the *church* considers religiously important, not those a *judge* deems "typically" or "primarily" religious. Correspondingly, this Court has cautioned that when applying the ministerial exception or similar protections, "courts must take care to avoid resolving underlying controversies over religious doctrine." *Our Lady of Guadalupe*, 591 U.S. at 751 n.10 (internal quotation marks omitted). Requiring judges to inquire whether an activity is "sufficiently" or "primarily" religious "forces courts to answer debatable theological questions courts have no authority to answer," and unconstitutionally chills religious activity. Pet.App.114a (Grassl Bradley, J., dissenting).

Start with the Wisconsin Supreme Court's insistence that a religious organization's activities are not "primarily religious" if they may also "be provided by organizations of … secular motivations." Pet.App.29a-30a. Virtually *any* activity—from growing a beard to ingesting specific substances—may be done for secular as well as religious reasons. *Cf. Holt*, 574 U.S. at 355 (half-inch beard); *Emp. Div. v. Smith*, 494 U.S. 872, 877-78 (1990) (peyote or bread and wine). Accordingly, this Court's precedents ask only whether a religious activity is sincere and "rooted in religious belief," not whether it is *specially* or *uniquely* religious. *Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972). By contrast, the test employed by Wisconsin and other courts invites judges to "scrutiniz[e] whether and how a religious [organization] pursues its … mission," *Carson*, 596 U.S. at 787, punishing those who deviate from a judge's "subjective[]" sense of which activities are "stereotypically religious," Pet.App.79a (Grassl Bradley, J., dissenting).

The Wisconsin Supreme Court also discounted Catholic Charities' religiosity because Catholic Charities employs non-Catholics. Pet.App.30a. But a rule that religious organizations are more likely to qualify for an exemption where they hire or serve only co-religionists necessarily requires judges to "impose their own credentialing requirements" about who qualifies as a true member of the faith, and "risk[s] judicial entanglement" in theological issues as a result. *Our Lady of Guadalupe*, 591 U.S. at 759, 761.

The court also suggested that, to be "primarily religious," Catholic Charities' activities should have been accompanied by distribution of "religious materials." Pet.App.29a. But that demand also invites judicial inquisitions into theological matters, creating profound uncertainty for religious organizations. To determine whether an organization's activities or materials satisfy the court's test, at minimum a judge would need to scrutinize the itineraries, books, and practices of religious organizations to assess the amount of theological content as a percentage of matters covered. *Cf. Terwilliger*, 804 S.W.2d at 699 (holding that a Catholic hospital run by the Sisters of Charity of Nazareth failed to qualify for an exemption in part because "religion [wa]s involved in less than 1% of the budget"). And to assess how strongly a religious organization's activities or literature cut in favor of applying the exemption, courts might well assess each book or activity's theological quality, specificity, and consistency with the organization's claimed religious beliefs.

That intrusive inquiry is anathema to the Constitution's protections, and for good reason. Under Wisconsin's approach, religious organizations must somehow predict how judges will rate their activities as a condition

of receiving a benefit. Invariably, asking judges to identify "primarily" or "typically" religious activities embroils courts in religious questions, forcing them to assign religious significance based on their own intuitions and biases. That exercise threatens to "chill[] religious activity," by making an otherwise available benefit contingent on conformity to a judge-mandated version of religiosity. *Amos*, 483 U.S. at 344 (Brennan, J., concurring in the judgment).

II. The Wisconsin Supreme Court's Approach Threatens Religious Organizations of All Stripes

This Court's intervention is imperative to bring uniformity to the law and protect the rights of religious organizations. Left undisturbed, the conflicting patchwork of state supreme court decisions leaves religious groups in an untenable position, especially given the number of religious groups that operate nationwide and now face competing criteria.

Like other non-profits, many church-affiliated religious organizations operate on a national scale, fulfilling their religious missions across state lines while varying in their practices concerning things like serving only co-religionists or evangelizing. *See, e.g.*, The Church of Jesus Christ of Latter-day Saints, Philanthropies, https://tinyurl.com/va6puefe (providing aid "without regard to cultural or religious affiliation"); Lutheran Church Charities, Human Care Ministry, https://tinyurl.com/2ke6xzrv (offering food or housing "while making … spiritual support a priority"). Given the current split among state courts, these organizations and others face significant pressure to alter their ministries state-by-state, solely to satisfy judicial litmus tests of religiosity. That situation places a significant practical burden on religious organizations. And even more offensively, it deprives them of the basic

freedom to "decide matters of faith and doctrine" without judicial "second-guess[ing]." *Our Lady of Guadalupe*, 591 U.S. at 746, 759 (cleaned up).

If left undisturbed, the Wisconsin Supreme Court's approach also threatens to extend to myriad other sorts of religious exemptions. The Wisconsin Supreme Court ostensibly grounded its religious-activities test in statutory language limiting the unemployment-tax exemption to organizations "operated primarily for religious purposes." *See* Pet.App.6a, 28a (quoting Wis. Stat. § 108.02(15)(h)(2)). But courts can easily repurpose a requirement that an organization engage in "typical" religious activities to limit eligibility for any other benefit or exemption. In Maryland, for instance, "religious organization[s]" do not have to pay the sales and use tax on sales "made for the general purposes of the … organization." Md. Tax Gen. § 11-204(b)(1). Under the religious-activities test, however, those same religious organizations could be denied this exemption based solely on the insistence that an organization's practices aren't "sufficiently religious" to satisfy a judge's vague predispositions. Pet.App.53a (Grassl Bradley, J., dissenting).

Nor is it difficult to imagine courts employing a religious-activities test to undermine the ministerial exception itself. For instance, a court employing Wisconsin's test might well reason that, although a religious organization performing charity or engaged in education is motivated by religious belief, because many of its activities "can [also] be provided by organizations of … secular motivations," the Constitution poses no barrier to government dictating who may lead the organization and teach its members. Pet.App.30a. Wisconsin's test is a blueprint for undermining religious exemptions across the board.

Under Wisconsin's approach, religious organizations

claiming a tax exemption will likely face invasive litigation touching on core ecclesiastical functions. At the same time, Wisconsin's approach deepens the division of authority among state courts, placing religious organizations at the whim of state judges and their vision of religiosity. Religious organizations should not be forced to "predict which of [their] activities a secular court will consider religious" as a condition of protection. *Amos*, 483 U.S. at 336.

* * *

This case plainly satisfies the Court's criteria for review and may even warrant summary reversal. The Wisconsin Supreme Court's religious-activities test discriminates among religions in contravention of a long line of this Court's cases. The Wisconsin Supreme Court's religious-activities test also conflicts with this Court's many cases forbidding governmental entanglement in religious questions. The split of authority among state courts is reason enough to grant review. But, even beyond the need to resolve the well-established split, this Court frequently grants review to correct a lower court's extreme doctrinal disconnect from this Court's more recent precedents. *See, e.g.*, *Shurtleff v. Boston*, 596 U.S. 243 (2022).

The ruling below threatens the rights of national religious organizations to accomplish their missions wherever they are located. And it threatens the rights of local religious organizations to survive on shoestring budgets without abandoning their faith. Under our Constitution, religious organizations enjoy the freedom to order their affairs based on the dictates of their respective faiths, not the biases of judges and bureaucrats. This Court should intervene now to restore uniformity on basic First Amendment precepts that affect a multitude of faiths across the country.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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