

FILED

06-21-2023

CLERK OF WISCONSIN

SUPREME COURT

No. 2020AP002007

In the Supreme Court of Wisconsin

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

v.

STATE OF WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION
Respondent-Co-Appellant,
STATE OF WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT,
Respondent-Appellant.

*On Appeal from the Court of Appeals
reversing the Douglas County Circuit Court,
The Hon. Kelly J. Thimm, presiding
Case No. 2019CV000324*

NON-PARTY BRIEF OF PROFESSORS DOUGLAS LAYCOCK & THOMAS C. BERG IN SUPPORT OF PETITIONERS

TIMOTHY FELDHAUSEN
(WI BAR No. 1050430)
TIFFANY WOELFEL
(WI BAR No. 1093779)
AMUNDSEN DAVIS LLC
*318 South Washington Street
Green Bay, WI 54301
(920) 431-2225
tfeldhausen@
amundsendavislaw.com
twoelfel@
amundsendavislaw.com*

SARAH M. HARRIS (*pro hac vice**)
MARK S. STORSLEE (*pro hac vice**)
ROHIT P. ASIRVATHAM (*pro hac
vice**)
WILLIAMS & CONNOLLY LLP
*680 Maine Avenue SW
Washington, DC 20024
(202) 434-5000
sharris@wc.com*
*Counsel for Non-Parties
Professors Douglas Laycock &
Thomas C. Berg*

* Counsel have concurrently sought admission *pro hac vice*.

TABLE OF CONTENTS

	Page
STATEMENT OF INTEREST.....	5
INTRODUCTION	5
BACKGROUND.....	7
ARGUMENT	10
I. The Court of Appeals’ Interpretation Tramples the Autonomy of Religious Institutions	10
II. The Court of Appeals’ Interpretation Discriminates Among Faiths	14
CONCLUSION	19

TABLE OF AUTHORITIES

Page

CASES

<i>Carson v. Makin</i> , 142 S. Ct. 1987 (2022)	6, 11, 14, 18
<i>Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos</i> , 483 U.S. 327 (1987)	11
<i>Espinoza v. Mont. Dep’t of Revenue</i> , 140 S. Ct. 2246 (2020)	11
<i>Grussgott v. Milwaukee Jewish Day Sch., Inc.</i> , 882 F.3d 655 (7th Cir. 2018) (per curiam)	13, 16
<i>Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC</i> , 565 U.S. 171 (2012)	5, 10
<i>Larson v. Valente</i> , 456 U.S. 228 (1982)	14
<i>Milwaukee Branch of NAACP v. Walker</i> , 2014 WI 98, 357 Wis. 2d 469, 851 N.W.2d 262	6
<i>Our Lady of Guadalupe Sch. v. Morrissey-Berru</i> , 140 S. Ct. 2049 (2020)	<i>passim</i>
<i>Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.</i> , 450 U.S. 707 (1981)	11
<i>Univ. of Great Falls v. NLRB</i> , 278 F.3d 1335 (D.C. Cir. 2002)	16

STATUTE

Wis. Stat. § 108.02(15)(h)2	6, 9
-----------------------------------	------

OTHER AUTHORITIES

Association of Classical Christian Schools, <i>Statement of Faith</i> , https://tinyurl.com/4tz7ez5n	16
Thomas C. Berg, <i>Partly Acculturated Religious Activity: A Case for Accommodating Religious Nonprofits</i> , 91 Notre Dame L. Rev. 1341 (2016)	13, 16
Allison Berry, <i>Why Doesn’t Judaism Promote Conversion, Whereas Other Faiths Do?</i> , Jewish Boston (Jan. 14, 2014), https://tinyurl.com/kjcrdv7	16

	Page
Other Authorities—continued:	
Brief for Amici Curiae Stephen Wise Temple and Milwaukee Jewish Day School in Support of Petitioners, <i>Our Lady of Guadalupe</i> , 140 S. Ct. 2049 (No. 19-267).....	17
Catechism of the Catholic Church	7
Congregation for Bishops, <i>Directory for the Pastoral Ministry of Bishops (Apostolorum Successores)</i> (2004)	8, 12
Diana L. Eck, <i>The Religious Gift: Hindu, Buddhist, and Jain Perspectives on Dana</i> , 80 Soc. Rsch. 359 (2013)	17
Episcopal Charities, <i>About</i> , https://tinyurl.com/yucnerr2	17
Douglas Laycock, <i>Church Autonomy Revisited</i> , 7 Geo. J.L. & Pub. Pol’y 253 (2009)	11
Douglas Laycock, <i>Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy</i> , 81 Colum. L. Rev. 1373 (1981).....	10
Pope Benedict XVI, <i>Deus Caritas Est</i> (2005)	8, 12
Pope Francis, <i>Apostolic Exhortation Evangelii Gaudium</i> (2013)	7
Pope Francis, <i>General Audience</i> (Jan. 18, 2023)	8
Saddleback Church, <i>Peace Community Resource Center</i> , https://tinyurl.com/4s4d6rsz	17
<i>Service to Humanity</i> , Al-Islam.org, https://tinyurl.com/mcye9cee	13
Evan Simko-Bednarski, <i>U.S. Sikhs Travel Their Communities to Feed Hungry Americans</i> , CNN.com (July 9, 2020), https://tinyurl.com/rn988axf	17
U.S. Conference of Catholic Bishops, <i>In All Things Charity</i> (Nov. 18, 1999), https://tinyurl.com/49afv29v	7, 8, 18

STATEMENT OF INTEREST

Douglas Laycock and Thomas C. Berg are leading religious liberty scholars. Professor Laycock has authored six books and 60+ articles on religious liberty. He has argued five religious liberty cases before the U.S. Supreme Court, including *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171 (2012). And the U.S. Supreme Court has cited his religious liberty scholarship eight times. Professor Berg has authored six books, including a leading casebook on religion and the Constitution, as well as dozens of articles and book chapters on religious liberty. The U.S. Supreme Court has twice cited his scholarship.

Amici are well acquainted with the U.S. Supreme Court's religious liberty jurisprudence and have an interest in the sound development of this body of law.

INTRODUCTION

The U.S. Constitution's Free Exercise and Establishment Clauses protect religious organizations' right to decide "matters of faith and doctrine and ... closely linked matters of internal government" free of government interference. *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2060-61 (2020) (citations omitted). The Constitution thus guards each faith's autonomy to decide how to conduct its work in accordance with its beliefs. Both Religion Clauses also prohibit the government from engaging in "denominational favoritism," *i.e.*,

treating religions differently based on their beliefs, practices, or structure. *See Carson v. Makin*, 142 S. Ct. 1987, 2001 (2022).

Those longstanding constitutional principles foreclose the court of appeals' interpretation of Wisconsin law. Wisconsin exempts nonprofits "operated ... by a church" and "operated primarily for religious purposes" from paying into the state's unemployment compensation system. Wis. Stat. § 108.02(15)(h)2. At the Labor and Industry Review Commission's urging, the court of appeals interpreted that exemption to exclude petitioners—the charitable arm of the Catholic Diocese of Superior, whose activities include ministering to those in need "as an expression of the social ministry of the Catholic Church." App.183. Under the government's and court of appeals' view, petitioners are no different from secular groups for statutory purposes because petitioners do not limit aid or employment to Catholics, do not overtly proselytize or worship while serving others, and are structured as separate corporations. App.040-42.

This Court avoids interpretations that create "a constitutional conflict." *Milwaukee Branch of NAACP v. Walker*, 2014 WI 98, ¶64, 357 Wis. 2d 469, 851 N.W.2d 262. But the court of appeals' reasoning would put Wisconsin crosswise with U.S. Supreme Court precedent. The whole point of the Supreme Court's church-autonomy cases is that religious groups, not courts, get to define what counts as acts of faith. And petitioners' decisions about who and how to serve reflect the Catholic Church's

judgments about how to carry out the Church's religious mission. Catholic doctrine requires petitioners to serve all in need and forbids combining service with proselytizing.

Likewise, the court of appeals' interpretation would cause exactly the kind of discrimination among sects that the Constitution forbids. Under that interpretation, groups that restrict aid and employment to co-religionists are deemed to operate "primarily for religious purposes" and thus can claim the statutory exemption—but equally religiously motivated groups without such restrictions cannot. Groups that overtly proselytize or worship while serving others are exempt—but not other faiths. And religious groups that house their charitable arms within the church's aegis, rather than separately incorporating them, get better statutory treatment than other faiths. To avoid these constitutional problems, this Court should reject that interpretation and hold that petitioners satisfy the statutory exemption.

BACKGROUND

1. For Catholics, "[s]ocial ministry is an expression of the Gospel" and "a fundamental element of the mission of the Church." U.S. Conference of Catholic Bishops, *In All Things Charity* (Nov. 18, 1999), <https://tinyurl.com/49afv29v>. Indeed, "[c]harity is the greatest social commandment." Catechism of the Catholic Church ¶ 1889. This "mandate of charity" requires serving "all peoples" regardless of their particular faith. Pope

Francis, *Apostolic Exhortation Evangelii Gaudium* ¶ 181 (2013). And charitable efforts “cannot be used as a means of engaging in ... proselytism.” Pope Benedict XVI, *Deus Caritas Est* ¶ 31 (2005). 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.’” Pope Francis, *General Audience* (Jan. 18, 2023).

By the early twentieth century, however, parishes and dioceses struggled to administer wide-ranging charitable works effectively while carrying out other religious missions. As “local pastors struggled to fulfill the temporal as well as spiritual needs of parishioners, bishops began to formalize the apostolate of charity by establishing diocesan Catholic Charities agencies.” U.S. Conference of Catholic Bishops, *In All Things Charity* (Nov. 18, 1999), <https://tinyurl.com/49afv29v>. Indeed, the Vatican-level department that oversees the appointment of bishops and the establishment of particular churches has pronounced that “[t]o facilitate aid for the needy in the most effective manner, the Bishop should promote a diocesan branch ... Catholic Charities, or other similar organization[] ... under his guidance.” Congregation for Bishops, *Directory for the Pastoral Ministry of Bishops (Apostolorum Successores)* ¶ 195 (2004).

Petitioner Catholic Charities Bureau “provide[s] services to the poor and disadvantaged as an expression of the social ministry of the Catholic Church” and strives “in its activities and actions

[to] reflect gospel values” and act “consistent with ... the mission of the Diocese of Superior.” App.183-85, 207-08. “[T]he entire organization begins and ends with” the bishop of the Diocese, who is the president of the Bureau and appoints the boards of directors of the Bureau and its sub-entities. R.100:130; App.201, 203. Consistent with Catholic teaching, the Bureau serves all without proselytizing. App.011; Petrs’ Br. 16.

2. Wisconsin exempts nonprofits “operated ... by a church” and “operated primarily for religious purposes” from paying into the state’s unemployment compensation system. *See* Wis. Stat. § 108.02(15)(h)2. Adopting the Commission’s interpretation of that provision, the court of appeals held that Catholic Charities Bureau and its sub-entities should be denied that exemption because they are not “operated primarily for religious purposes.” According to the court of appeals, the statute exempts only organizations whose *activities* are primarily religious. App.025.

Under that interpretation, the court of appeals deemed petitioners’ work insufficiently religious because petitioners “do not operate to inculcate the Catholic faith” or “evangeliz[e]”; do not limit their services to Catholics; do not engage “in religious rituals or worship services”; “do not require their employees” to be Catholic; receive significant funding “from government contracts or private companies”; and are “structured as separate corporations.” App.040-42. The Commission (at 32) again urges that same reading.

ARGUMENT

This Court should reject the court of appeals' interpretation of Wisconsin's statutory exemption. That interpretation contravenes the First Amendment and U.S. Supreme Court jurisprudence by purporting to define what characteristics make a group's activities sufficiently "religious" and by picking characteristics that some faiths—but not others—embrace.

I. The Court of Appeals' Interpretation Tramples the Autonomy of Religious Institutions

The court of appeals' interpretation impermissibly injects courts into paramount matters of church governance, violating both Religion Clauses.

1. The U.S. Supreme Court has long held that religious organizations have the right to decide "matters of church government" and "faith and doctrine" for themselves "free from state interference." *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 185-86 (2012) (citations omitted); *Our Lady of Guadalupe*, 140 S. Ct. at 2060-61. The Supreme Court has recently referred to those protections as a right to "church autonomy." *Our Lady of Guadalupe*, 140 S. Ct. at 2060-61.

This right to church autonomy means 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); *see Carson*, 142 S. Ct. at 2001. And churches, not the government, have “the right to choose from among ... forms of church organization.” Douglas Laycock, *Church Autonomy Revisited*, 7 Geo. J.L. & Pub. Pol’y 253, 258 (2009). Requiring religious organizations to compromise on matters of doctrine or internal structure as a “condition on benefits or privileges inevitably deters or discourages the exercise of First Amendment rights.” *See Espinoza v. Mont. Dep’t of Revenue*, 140 S. Ct. 2246, 2256-57 (2020) (citations omitted).

Relatedly, the church autonomy doctrine prohibits government from deciding religious questions. “The determination of what is a ‘religious’ belief or practice is ... [a] delicate task” and “the resolution of that question is not to turn upon a judicial perception of the particular belief or practice.” *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981). Among other problems, forcing a religious organization to “predict which of its activities a secular court will consider religious ... might affect the way [the] organization carrie[s] out ... its religious mission.” *See Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 336 (1987). Both Religion Clauses prohibit that outcome. *Our Lady of Guadalupe*, 140 S. Ct. at 2060-61.

2. The court of appeals’ interpretation violates those precepts by creating a de facto checklist of genuine religiosity.

For instance, the court of appeals acknowledged that it denied the Bureau and its sub-entities the statutory exemption because of the church's decision about how best to structure itself: "[T]he result in this case would likely be different if CCB and its sub-entities" were not "structured as separate corporations." App.042. But the Church's decision about structure flows from its religious obligation to help those in need and from internal decisions about "the most effective manner" in which to fulfill that obligation. See *Congregation for Bishops, Directory for the Pastoral Ministry of Bishops (Apostolorum Successores)* ¶ 195 (2004).

Likewise, the court of appeals' interpretation passes judgment on "matters of faith and doctrine" by conditioning the statutory exemption on a requirement that religious organizations engage in certain practices. See *Our Lady of Guadalupe*, 140 S. Ct. at 2060. For example, under the court of appeals' interpretation, a group is more likely to qualify as "religious" if its activities "focus on the inculcation of [its] faith and worldview." App.042. But 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).

The court of appeals also considered service directed toward co-religionists to be more religious than service directed to outsiders. App.041. But Catholics are called to "provide services to all people in need, regardless of their religion." App.011. And

many Muslims too believe their “duty to help [those] in difficulty” extends to all. *Service to Humanity*, Al-Islam.org, <https://tinyurl.com/mcye9cee>.

Further, when classifying groups as “religious,” the court of appeals instructed that practices involving “rituals” or “worship” should count as more religious. App.041. But in myriad faiths, fasting, meditation, unshorn beards, and charitable giving carry deep religious significance in and of themselves, without accompanying conduct that is more explicitly devotional.

Similarly, the court of appeals saw organizations that “require their employees ... to be of the ... faith” as more religious. App.041. But “[j]ust as engaging in acts of service is a legitimate, familiar way of exercising religion, so is engaging in acts of service carried out by persons who do not believe all of the religion’s tenets.” Thomas C. Berg, *Partly Acculturated Religious Activity: A Case for Accommodating Religious Nonprofits*, 91 Notre Dame L. Rev. 1341, 1351 (2016). Thus, when courts apply the ministerial exception, “[t]here is no requirement that an organization exclude members of other faiths in order to be deemed religious.” *Grussgott v. Milwaukee Jewish Day Sch., Inc.*, 882 F.3d 655, 658 (7th Cir. 2018) (per curiam).

In sum, the court of appeals’ box-ticking exercise invites courts to dictate how churches must structure themselves and lets courts disregard acts of faith that do not fit a predetermined mold—exactly the type of governmental interference the

Constitution forbids. And allowing courts to become arbiters of religiosity would enmesh courts in questions of faith they are ill-suited to resolve, such as what acts even count as “worship” or “proselytizing,” and who qualifies as a member of a given religion.

The Commission (at 43) claims that courts are free to make these calls because “the U.S. Supreme Court conducts a fact-based inquiry into whether an employee performs ‘vital religious duties’ for analyzing the ministerial exception.” 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. Thus, the U.S. Supreme Court has cautioned that when undertaking these inquiries, “courts must take care to avoid resolving underlying controversies over religious doctrine.” *Our Lady of Guadalupe*, 140 S. Ct. at 2063 n.10 (citations omitted).

II. The Court of Appeals’ Interpretation Discriminates Among Faiths

The Religion Clauses also prohibit the government from preferring one religion over another. Denominational neutrality is both the “clearest command of the Establishment Clause” and “inextricably connected with ... the Free Exercise Clause.” *Larson v. Valente*, 456 U.S. 228, 244-45 (1982); *accord Carson*, 142 S. Ct. at 2001.

When an exemption extends generally to “religious” groups—or, as here, to entities with “religious” purposes—applying the exemption to exclude particular religious groups with

certain attributes or practices is textbook denominational discrimination. The U.S. Supreme Court’s ministerial-exception cases illustrate this principle. They hold that the First Amendment prohibits courts or legislatures from interfering with religious groups’ employment decisions concerning their “ministerial” employees—employees who perform an important religious role. *Our Lady of Guadalupe*, 140 S. Ct. at 2055.

In determining who is a minister under the exception, the Court has warned against relying on one-size-fits-all indicators of religiosity that would risk “impermissible discrimination” amongst faiths. *Id.* at 2063-64. For instance, “attaching too much significance to [employees’] titles would risk privileging religious traditions with formal organizational structures over those that are less formal.” *Id.* So would treating certain degrees or training as dispositive, given that “religious traditions may differ in the degree of formal religious training thought to be needed in order to teach.” *Id.* at 2064.

Here, the court of appeals’ crabbed reading of the exemption discriminates among faiths based on differences in their religious practices. For example, the court of appeals’ view that an organization is more religious when it combines charitable work with formal worship or evangelizing discriminates against those whose beliefs require separating service from proselytizing. *See id.* at 2069-70; App.041. Many evangelical Christians view conversion and overt worship as indispensable elements of their

charitable activities. *See* Berg, *Partly Acculturated Religious Activity*, at 1352 & n.48. But Catholics and Jews view service itself as a distinct mode of worship that should remain separate from proselytizing.¹ Thus, the D.C. Circuit refused to interpret an exemption for religious organizations to turn on whether the institution engaged in “hard-nosed proselytizing,” lest the court create a constitutional problem by “prefer[ring] some religions” or “some approaches to indoctrinating religion” over others. *Univ. of Great Falls v. NLRB*, 278 F.3d 1335, 1345-46 (D.C. Cir. 2002).

The court of appeals’ interpretation also invites discrimination by deeming groups that hire outside of the faith or provide aid to all to be less “religious.” *See* App.041. As the Seventh Circuit has observed, courts should not use “inclusion as a weapon” against certain religious organizations. *See Grussgot*, 882 F.3d at 657-58; *accord Great Falls*, 278 F.3d at 1345-46. Some religious organizations require employees to share the organization’s faith.² Others do not; Jewish preschools, for

¹ *Supra* pp. 7-8; *see, e.g.*, Allison Berry, *Why Doesn’t Judaism Promote Conversion, Whereas Other Faiths Do?*, Jewish Boston (Jan. 14, 2014), <https://tinyurl.com/kjertdv7>.

² *See, e.g.*, Association of Classical Christian Schools, *Statement of Faith*, <https://tinyurl.com/4tz7ez5n> (“We welcome members who hold to traditional, conservative Christian orthodoxy and our statement of faith.”).

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*, 140 S. Ct. 2049 (No. 19-267). Similarly, Sikhs and Hindus regularly engage in acts of service directed toward non-adherents.³ The court of appeals' interpretation would treat those faiths differently. And it would effectively disadvantage minority faiths whenever they lack a constituency large enough to hire exclusively from their own faith.

The court of appeals' interpretation also discriminates against denominations that favor separately structured charitable arms. *See* App.042. Catholics and Episcopalians, for instance, have religious communities with complex polities that often carry out their charitable activities through separate legal instrumentalities. By contrast, many evangelical Christians and other groups maintain churches that tend to be more independent from one another, and thus eschew separate instrumentalities at the denominational level.⁴ In both cases, those decisions are

³ *See, e.g.*, Evan Simko-Bednarski, *U.S. Sikhs Travel Their Communities to Feed Hungry Americans*, CNN.com (July 9, 2020), <https://tinyurl.com/rn988axf>; Diana L. Eck, *The Religious Gift: Hindu, Buddhist, and Jain Perspectives on Dana*, 80 Soc. Rsch. 359, 359 (2013).

⁴ *See, e.g.*, App.183-85; Episcopal Charities, *About*, <https://tinyurl.com/yucnerr2>; Saddleback Church, *Peace Community Resource Center*, <https://tinyurl.com/4s4d6rsz>.

inseparable from theological judgments about each community's "temporal as well as spiritual needs." *See* U.S. Conference of Catholic Bishops, *In All Things Charity* (Nov. 18, 1999), <https://tinyurl.com/49afv29v>. Just as courts cannot "privileg[e] religious traditions with formal organizational structures over those that are less formal," courts cannot privilege informal structures over formal ones without offending the Religion Clauses. *See Our Lady of Guadalupe*, 140 S. Ct. at 2064.

The Commission (at 37) suggests that concerns about denominational discrimination are unfounded because the unemployment exemption was not "drafted to target specific religions." But differential treatment based on "how a religious [organization] pursues its ... mission" implicates "denominational favoritism," even without evidence of animus. *See Carson*, 142 S. Ct. at 2001; *Our Lady of Guadalupe*, 140 S. Ct. at 2063-64; *supra* pp. 14-15. Regardless of motives, courts must avoid reading general religious exemptions or benefits—such as those for organizations with "religious purposes"—to turn on attributes over which "religious traditions may differ." *See Our Lady of Guadalupe*, 140 S. Ct. at 2063-64.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted,

Electronically signed by: Timothy
Feldhausen

TIMOTHY FELDHAUSEN
(WI Bar No. 1050430)
TIFFANY WOELFEL
(WI Bar No. 1093779)
AMUNDSEN DAVIS LLC
*318 South Washington Street
Green Bay, WI 54301
(920) 431-2225
tfeldhausen@amundsendavislaw.com
twoelfel@amundsendavislaw.com*

SARAH M. HARRIS (*pro hac vice**)
MARK S. STORSLEE (*pro hac vice**)
ROHIT P. ASIRVATHAM (*pro hac vice**)
WILLIAMS & CONNOLLY LLP
*680 Maine Avenue SW
Washington, DC 20024
(202) 434-5000
sharris@wc.com*

*Counsel for Non-Parties Professors
Douglas Laycock & Thomas C. Berg*

June 21, 2023

COMBINED CERTIFICATIONS

1. Certification as to Form and Length: I certify that this brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b), (bm), and (c) for a brief and appendix produced with a proportional serif font. The length of this brief, not including the caption, tables of contents and authorities, signature blocks, and certifications, is 2,991 words. It has been prepared in a 14-pt. proportional serif font.

2. Certificate of Service: I certify that this brief (and this Certification) has been served on all parties through the Court's electronic filing system pursuant to the Clerk's designation of this case as part of the Supreme Court's e-Filing Pilot Program.

Dated: June 21, 2023

Electronically signed by: Timothy Feldhausen
Timothy Feldhausen (WI Bar No. 1050430)

AMUNDSEN DAVIS LLC

318 South Washington Street

Green Bay, WI 54301

(920) 431-2225

tfeldhausen@amundsendavislaw.com

Counsel for Non-Parties Professors

Douglas Laycock & Thomas C. Berg