

**Via CM/ECF**

Catherine O'Hagan Wolfe, Clerk of Court  
U.S. Court of Appeals for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, New York 10007

December 7, 2016

**RE: *Fratello v. Roman Catholic Arch. of New York*, No. 16-1271.  
Notice of Supplemental Authority, *Mary Beth Ginalski v.  
Diocese of Gary*, et al., No. 15-cv-95, 2016 WL 7100558 (N.D.  
Ind. Dec. 5, 2016).**

Dear Ms. Wolfe:

This week a federal district court found that the ministerial exception covered a Catholic school principal solely because of her “role as principal” of the school. *Ginalski v. Diocese of Gary*, No. 15-cv-95, 2016 WL 7100558, at \*8 (N.D. Ind. Dec. 5, 2016).

The case concerned a principal whose role required that she “faithfully reflect the teachings of the Roman Catholic Church” and apply those “teachings . . . in every aspect of the School.” *Id.* at \*3. Notably, the principal’s title did not include religious terminology, her “day-to-day” functions were “very similar” to those she performed as a public school principal, and she had not received significant religious training. *Id.*

After her contract was not renewed, she sued for, *inter alia*, sex discrimination. *Id.* at \*1.

Citing this case and others, the court found Ginalski qualified as a “minister” because “[l]ike the plaintiff in *Fratello*, by accepting the ministry of being a principal, Ginalski ‘became the head of an undeniably Catholic institution.’” *Id.* at 6 (quoting *Fratello v. Roman Catholic Archdiocese of New York*, 175 F. Supp. 3d 152, 166 (S.D.N.Y. 2016)). The court noted that, in fact, *Fratello* was an easier case because, “in contrast to . . . the principal in *Fratello*,” there was “no evidence before the Court that Ginalski performed religious functions such as leading daily prayers[.]” *Id.* at \*7. Despite that contrast and Ginalski’s lack of religious “title and training,” the court found that “the ministerial *role* assigned to and accepted by Ginalski as the head of the Catholic high school [is] sufficient for the Court to apply the ministerial exception[.]” *Id.* at \*8 (emphasis added); *see also id.* at \* 5 (her “leadership role” gave her “a ‘role distinct from that of most of [the school’s] members,’” quoting *Hosanna-Tabor v. EEOC*, 132 S. Ct. 694, 707 (2012)).

*Ginalski* directly supports Appellees’ argument that *Fratello*’s role as principal of a Catholic school is a sufficient basis for upholding the

decision below, and presumptively so. Appellees Br. 33-37. *Ginalski* also directly rejects Fratello's main arguments, particularly her myopic focus on title, *e.g.*, Fratello Br. 6.

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Respectfully submitted,

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