

No. 22-1440

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

LONNIE BILLARD,
Plaintiff-Appellee,

v.

CHARLOTTE CATHOLIC HIGH SCHOOL,
MECKLENBURG AREA CATHOLIC SCHOOLS, AND
ROMAN CATHOLIC DIOCESE OF CHARLOTTE,
Defendants-Appellants.

Appeal from the United States District Court for the
Western District of North Carolina
Case No. 3:17-cv-0011

**BRIEF OF AMICI CURIAE THE CHRISTIAN AND MISSIONARY
ALLIANCE; EVANGELICAL COUNCIL FOR FINANCIAL
ACCOUNTABILITY; CHRISTIAN CARE MINISTRY, INC.; THE
NAVIGATORS; CROSS CATHOLIC OUTREACH; TYNDALE HOUSE
MINISTRIES; SAMARITAN'S PURSE; REGENT UNIVERSITY; GRACE TO
YOU; FOCUS ON THE FAMILY; ECO: A COVENANT ORDER OF
EVANGELICAL PRESBYTERIANS; INTERNATIONAL MISSIONS, INC.,
dba CHRISTAR; SIM USA INCORPORATED; OC INTERNATIONAL, INC.;
THE EVANGELICAL ALLIANCE MISSION (TEAM); FAR EAST
BROADCASTING COMPANY, INC.; THE CROWELL TRUST; THE
CHRISTIAN COMMUNITY FOUNDATION, INC. dba WATERSTONE; THE
CATHOLIC DIOCESE OF COLORADO SPRINGS; CALVARY CHAPEL
FORT LAUDERDALE; AND CHERRY HILLS COMMUNITY CHURCH IN
SUPPORT OF DEFENDANTS-APPELLANTS**

John Melcon
Stuart Lark
Sherman & Howard L.L.C.
90 South Cascade Avenue, Suite 1500
Colorado Springs, CO 80903
(719) 475-2440
jmelcon@shermanhoward.com
slark@shermanhoward.com

Counsel for Amici Curiae

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE CHRISTIAN AND MISSIONARY ALLIANCE

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: The Christian and Missionary Alliance

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

EVANGELICAL COUNCIL FOR FINANCIAL ACCOUNTABILITY (ECFA)
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: Evangelical Council for Financial Accountability (ECFA)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

CHRISTIAN CARE MINISTRY, INC.
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Christian Care Ministry, Inc.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE NAVIGATORS

(name of party/amicus)

who is AMICUS, makes the following disclosure:
 (appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
 If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
 If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: The Navigators

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

CROSS CATHOLIC OUTREACH

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John MelconDate: 9/28/2022Counsel for: Cross Catholic Outreach

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

TYNDALE HOUSE MINISTRIES

(name of party/amicus)

who is AMICUS, makes the following disclosure:
 (appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
 If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
 If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Tyndale House Ministries

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

SAMARITAN'S PURSE

(name of party/amicus)

who is AMICUS, makes the following disclosure:
 (appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
 If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
 If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Samaritan's Purse

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

REGENT UNIVERSITY
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Regent University

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

GRACE TO YOU

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/27/2022

Counsel for: GRACE TO YOU

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

FOCUS ON THE FAMILY

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John MelconDate: 9/28/2022Counsel for: Focus on the Family

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

ECO: A Covenant Order of Evangelical Presbyterians
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: ECO: A Covenant Order of Evangelical Presbyterians

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

INTERNATIONAL MISSIONS, INC. dba Christar
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: International Missions Inc. dba Christar

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

SIM USA INCORPORATED
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John MelconDate: 9/28/2022Counsel for: SIM USA Incorporated

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

OC INTERNATIONAL, INC. (One Challenge)
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: OC International, Inc. (One Challenge)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE EVANGELICAL ALLIANCE MISSION (TEAM)
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: The Evangelical Alliance Mission (TEAM)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

FAR EAST BROADCASTING COMPANY, INC.

(name of party/amicus)

who is AMICUS, makes the following disclosure:
 (appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
 If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
 If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Far East Broadcasting Company, Inc

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE CROWELL TRUST

(name of party/amicus)

who is AMICUS, makes the following disclosure:
 (appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
 If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
 If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John MelconDate: 9/28/2022Counsel for: The Crowell Trust

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE CHRISTIAN COMMUNITY FOUNDATION, INC. dba WaterStone
(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: The Christian Community Foundation, Inc. dba WaterStone

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

THE CATHOLIC DIOCESE OF COLORADO SPRINGS

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Date: 9/28/2022

Signature: /s/ John Melcon

Counsel for: The Catholic Diocese of Colorado Springs

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

CALVARY CHAPEL FORT LAUDERDALE

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Calvary Chapel Fort Lauderdale

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

DISCLOSURE STATEMENT

- In civil, agency, bankruptcy, and mandamus cases, a disclosure statement must be filed by **all** parties, with the following exceptions: (1) the United States is not required to file a disclosure statement; (2) an indigent party is not required to file a disclosure statement; and (3) a state or local government is not required to file a disclosure statement in pro se cases. (All parties to the action in the district court are considered parties to a mandamus case.)
- In criminal and post-conviction cases, a corporate defendant must file a disclosure statement.
- In criminal cases, the United States must file a disclosure statement if there was an organizational victim of the alleged criminal activity. (See question 7.)
- Any corporate amicus curiae must file a disclosure statement.
- Counsel has a continuing duty to update the disclosure statement.

No. 20-1440 Caption: Billard v. Charlotte Catholic High School, et al.

Pursuant to FRAP 26.1 and Local Rule 26.1,

CHERRY HILLS COMMUNITY CHURCH

(name of party/amicus)

who is AMICUS, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
2. Does party/amicus have any parent corporations? ☐ YES ☒ NO
If yes, identify all parent corporations, including all generations of parent corporations:
3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☒ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation? ☐ YES ☒ NO
If yes, identify entity and nature of interest:
5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:
6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☒ NO
If yes, the debtor, the trustee, or the appellant (if neither the debtor nor the trustee is a party) must list (1) the members of any creditors' committee, (2) each debtor (if not in the caption), and (3) if a debtor is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of the debtor.
7. Is this a criminal case in which there was an organizational victim? ☐ YES ☒ NO
If yes, the United States, absent good cause shown, must list (1) each organizational victim of the criminal activity and (2) if an organizational victim is a corporation, the parent corporation and any publicly held corporation that owns 10% or more of the stock of victim, to the extent that information can be obtained through due diligence.

Signature: /s/ John Melcon

Date: 9/28/2022

Counsel for: Cherry Hills Community Church

TABLE OF CONTENTS

	Page(s)
TABLE OF AUTHORITIES	ii
INTEREST OF AMICI CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT.....	3
ARGUMENT.....	5
I. Title VII’s religious exemption accommodates and preserves the associational religious exercise of faith communities like <i>amici</i>	5
II. Under section 702, Title VII does not apply to a religious employer’s requirements regarding the religious beliefs, observance, or practice of its employees	9
A. Section 702 is triggered when a religious organization makes an employment decision based on the alignment of an individual’s religious beliefs, observance, or practice with its own	10
B. When an employment action triggers the 702 exemption, none of Title VII applies.....	15
III. The district court’s contrary interpretation of Title VII is incorrect	19
A. The district court misapplied prior cases instead of relying on the text of the 702 exemption	20
B. The district court’s approach leads to absurd results.....	24
C. The district court erred by considering and rejecting only the broadest alternative to its interpretation.....	27
CONCLUSION	30
CERTIFICATE OF COMPLIANCE	31
CERTIFICATE OF SERVICE.....	32

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Billard v. Charlotte Cath. High Sch.</i> , No. 3:17-CV-00011, 2021 WL 4037431 (W.D.N.C. Sept. 3, 2021)	passim
<i>Bostock v. Clayton County</i> , 140 S. Ct. 1731 (2020)	17, 18, 25
<i>Boy Scouts of America v. Dale</i> , 530 U.S. 640 (2000)	7
<i>Burwell v. Hobby Lobby</i> , 573 U.S. 682 (2014)	6
<i>Christian Legal Society v. Walker</i> , 453 F.3d 853 (7th Cir. 2006)	7
<i>Cline v. Catholic Diocese of Toledo</i> , 206 F.3d 651 (6th Cir. 2000)	17, 26
<i>Corp. of the Presiding Bishop v. Amos</i> , 483 U.S. 327 (1987)	9, 19, 22
<i>Curay-Cramer v. Ursuline Acad. of Wilmington</i> , 450 F.3d 130 (3d Cir. 2006)	14
<i>Doe v. Cath. Relief Servs.</i> , No. cv-CCB-20-1815, 2022 WL 3083439 (D. Md. Aug. 3, 2022)	2
<i>Ganzy v. Allen Christian Sch.</i> , 995 F. Supp. 340 (E.D.N.Y. 1998)	17
<i>Hall v. Baptist Memorial Health Care Group</i> , 215 F.3d 618 (6th Cir. 2000)	14, 16, 17
<i>Kennedy v. St Joseph’s Ministries</i> , 657 F.3d 189 (4th Cir. 2011)	passim
<i>Little v. Wuerl</i> , 929 F.3d 944 (3rd Cir. 1991)	passim

<i>Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n</i> , 138 S. Ct. 1719 (2018)	18
<i>Obergefell v. Hodges</i> , 576 U.S. 644 (2015)	18
<i>Rayburn v. Gen. Conf. of Seventh-Day Adventists</i> , 772 F.2d 1164 (4th Cir. 1985)	3, 20, 21, 22
<i>Redhead v. Conf. of Seventh-Day Adventists</i> , 440 F. Supp. 2d 211 (E.D.N.Y. 2006)	17
<i>Starkey v. Roman Cath. Archdiocese of Indianapolis, Inc.</i> , 41 F.4th 931 (7th Cir. 2022)	24
<i>Vigars v. Valley Christian Ctr. of Dublin</i> , 805 F. Supp. 802 (N.D. Cal. 1992)	17
<i>Wisconsin v. Yoder</i> , 406 U.S. 205 (1972)	6

Statutes

42 U.S.C. § 2000e-1(a)	passim
Title VII of the Civil Rights Act of 1964	passim

Other Authorities

Alex Reed, <i>Religious Organization Staffing Post-Bostock</i> , 43 BERKELEY J. EMP. & LAB. L. 203 (2022)	27
H.R. Rep. No. 914, 88th Cong. § 703 (1963)	10
John Melcon, <i>Thou Art Fired: A Conduct View of Title VII’s Religious Employer Exemption</i> , 19 RUTGERS J. L. & RELIGION 280 (2018)	28

INTEREST OF AMICI CURIAE ¹

Amici comprise a diverse group of nonprofit Christian religious organizations involved in many different activities including humanitarian relief, social services, education, evangelism, discipleship, missions, Bible teaching, broadcasting, publishing, health care sharing, campus ministry, camping, financial services, and congregational care. *Amici* are located throughout the United States and are active in every state and in many other countries. Collectively, *amici* employ thousands of individual workers.

Amici conduct all their activities as an exercise of their Christian beliefs and in furtherance of their respective Christian missions. In addition, and importantly, *amici* are guided by their beliefs to carry out their activities as *associations* of like-minded believers, and doing so is an expression of those beliefs. Indeed, the experience of community within religious associations often inspires and energizes their service to others. Moreover, the shared religious beliefs and practices among

¹ All parties have consented to the filing of this brief. No counsel for a party authored any part of this brief, and no person other than *amici* made a monetary contribution toward the preparation or submission of this brief.

those carrying out *amici*'s activities ensure that these activities are conducted in a manner that distinctly expresses and exercises each organization's religious convictions.

With respect to federal and state laws limiting associational rights, *amici* have a vital interest in, and increasingly rely upon, religious exemptions such as those contained in Title VII of the Civil Rights Act of 1964. These exemptions preserve *amici*'s legal rights to exercise and express their religious beliefs not just through their activities but also through their associations as faith communities.

In this case, the district court below misinterpreted Title VII's religious exemption in a flawed decision that is contrary to precedent in this Court and other circuits, and that threatens to undermine *amici*'s rights to associational religious exercise and expression. At least one other district court in this circuit has adopted the same erroneous interpretation of Title VII. *See Doe v. Cath. Relief Servs.*, No. cv-CCB-20-1815, 2022 WL 3083439, at *4–5 (D. Md. Aug. 3, 2022). The present appeal provides an important opportunity for this Court to confirm the proper meaning of the religious exemption in Title VII and the protections it offers for faith communities like *amici*.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case is about whether religious organizations can require their employees to agree with or live in accordance with their religious beliefs, including their beliefs pertaining to marriage and human sexuality. Although several considerations speak to this issue—including the church autonomy, freedom of association, and Religious Freedom Restoration Act (“RFRA”) arguments raised by Appellants—this Court need look no further than the text of Title VII itself to resolve this appeal. Accordingly, *amici* urge this Court to start and end with the statute and its religious exemption, a straightforward reading of which requires reversal. *See Rayburn v. Gen. Conf. of Seventh-Day Adventists*, 772 F.2d 1164, 1166 (4th Cir. 1985) (beginning with statutory analysis because “we must first determine whether Title VII and the First Amendment necessarily collide”).

Title VII’s primary religious exemption, codified at 42 U.S.C. section 2000e-1(a) (“section 702” or the “702 exemption”), reflects this country’s long tradition of recognizing religious association as a form of protected religious exercise and expression. Religious organizations like *amici* commonly require their employees to embrace and model their religious

beliefs—a requirement that emerges from these organizations’ religious convictions about how their associational practices impact the carrying out of their respective missions and activities.

The 702 exemption accommodates and preserves associational religious exercise by permitting religious employers to maintain religious requirements for their employees. Under the exemption’s plain language, Title VII’s substantive provisions—including its prohibitions on religious discrimination and sex discrimination—“shall not apply” to religious organizations like *amici* when they make employment decisions based on the religious beliefs, observance, or practice of individual employees. As this Court has expressly recognized, the purpose of the 702 exemption is “to enable religious organizations to create and maintain communities composed solely of individuals faithful to their doctrinal practices” and “to employ only persons whose beliefs and conduct are consistent with the [organizations’] religious precepts.” *Kennedy v. St Joseph’s Ministries*, 657 F.3d 189, 194 (4th Cir. 2011) (quoting *Little v. Wuerl*, 929 F.3d 944, 951 (3rd Cir. 1991)).

Ignoring the statutory text and this Court’s precedent (as well as that of other circuits), the court below came to the opposite conclusion and

rendered summary judgment *against* Appellants Charlotte Catholic High School, Mecklenburg Area Catholic Schools, and the Catholic Diocese of Charlotte (collectively, “Charlotte Catholic”). The district court erroneously held that the 702 exemption does not permit religious organizations to maintain associational requirements connected with their beliefs about marriage and sexuality. *Billard v. Charlotte Cath. High Sch.*, No. 3:17-CV-00011, 2021 WL 4037431, at *7–11 (W.D.N.C. Sept. 3, 2021). Instead, according to the district court’s logic, religious organizations must—under Title VII—employ individuals who reject, violate, or disparage their beliefs on these topics.

In short, the court misapplied prior cases without analyzing the text, fabricated a novel test that produces absurd results, and committed a straw man fallacy by considering and rejecting only the broadest alternative to its interpretation.

ARGUMENT

I. Title VII’s religious exemption accommodates and preserves the associational religious exercise of faith communities like *amici*.

Religious exercise often includes both individual and associational (or communal) elements. In a case protecting employers’ religious exercise

rights, Justice Kennedy described how our country's commitment to religious liberty encompasses the individual element as exercised throughout society:

In our constitutional tradition, freedom means that all persons have the right to believe or strive to believe in a divine creator and a divine law. For those who choose this course, free exercise is essential in preserving their own dignity and in striving for a self-definition shaped by their religious precepts. Free exercise in this sense implicates more than just freedom of belief. It means, too, the right to express those beliefs and to establish one's religious (or nonreligious) self-definition in the political, civic, and economic life of our larger community.

Burwell v. Hobby Lobby, 573 U.S. 682, 737 (2014) (Kennedy, J., concurring).

On this same foundation, the Supreme Court has regularly recognized that our laws also protect the communal element of religious exercise. For example, in *Wisconsin v. Yoder*, the Court observed that “Old Order Amish communities today are characterized by a fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence.” 406 U.S. 205, 210 (1972). The Court further noted that the Amish base this concept on “their literal interpretation of the Biblical injunction from the Epistle Of Paul to the Romans, ‘be not conformed to this world’” *Id.* at 216.

Different religious organizations, even those of the same general faith tradition, will reach different conclusions regarding the extent of associational requirements of their faith. Perhaps not many religious organizations believe the requirements apply as extensively as do the Amish. What matters is that in each case the determination is based on religious beliefs as interpreted and applied by the religious organization and is therefore an instance of religious exercise.²

Religious organizations like *amici* intertwine their carrying out of activities in service to God and society with their associating of employees committed to their beliefs and mission. Indeed, the latter often energizes the former. To this end, religious organizations commonly require employees to embrace and model the organization's religious beliefs. Such a requirement helps these organizations ensure that their activities—some of which may be similar to those of secular organizations—maintain their distinctive religious character. For *amici*, the point is not just that services are provided, but that services are provided by

² Courts have also recognized that expressive religious association is protected by the freedom of association arising from the First Amendment. *See, e.g., Christian Legal Society v. Walker*, 453 F.3d 853 (7th Cir. 2006). *Cf. Boy Scouts of America v. Dale*, 530 U.S. 640 (2000).

individuals committed to the organization's religious beliefs as an expression and exercise of those beliefs.

Statutory religious exemptions—like the 702 exemption in Title VII—accommodate and preserve this associational aspect of religious exercise and expression. These exemptions recognize that religious employment standards, when applied by religious organizations, are not the type of invidious discrimination civil rights laws are aimed at eliminating. Instead, the 702 exemption enables religious employers to “create and maintain communities composed solely of individuals faithful to their doctrinal practices” and “employ only persons whose beliefs and conduct are consistent with the employer's religious precepts.” *Kennedy*, 657 F.3d at 194 (quoting *Little*, 929 F.3d at 951).

In the Supreme Court's leading case upholding the 702 exemption, Justices Brennan and Marshall accurately captured the associational aspect of religious exercise when they observed that “determining that certain activities are in furtherance of an organization's religious mission, *and that only those committed to that mission should conduct them*, is . . . a means by which a religious community defines itself.” *Corp.*

of the Presiding Bishop v. Amos, 483 U.S. 327, 342 (1987) (emphasis added) (Brennan and Marshall, JJ., concurring). They further explained:

[R]eligious organizations have an interest in autonomy in ordering their internal affairs so that they may be free to: select their own leaders, define their own doctrines, resolve their own disputes, and run their own institutions. Religion includes important communal elements for most believers. They exercise their religion through religious organizations For many individuals, religious activity derives meaning in large measure from participation in a larger religious community. *Such a community represents an ongoing tradition of shared beliefs, an organic entity not reducible to a mere aggregation of individuals.*

Id. at 341–43 (emphasis added) (internal quotation omitted).

II. Under section 702, Title VII does not apply to a religious employer’s requirements regarding the religious beliefs, observance, or practice of its employees.

In crafting the 702 exemption, Congress “painted with a broad brush” to ensure associational religious exercise and expression would remain “free from government intervention.” *Kennedy*, 657 F.3d at 194. Section 702 accomplishes this by permitting religious organizations to maintain religious requirements for employees. Under the plain language of section 702, the entirety of Title VII—including its prohibition on sex discrimination—does not apply to religious organizations like *amici* (and Charlotte Catholic) when they make employment decisions based on the

religious beliefs, observance, or practice of individual employees or job applicants.

A. Section 702 is triggered when a religious organization makes an employment decision based on the alignment of an individual's religious beliefs, observance, or practice with its own.

By its terms, the 702 exemption kicks in whenever a religious employer exercises a preference for individuals whose religious beliefs and/or conduct align with the employer's religious requirements.

In full, the exemption reads:

This subchapter shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

42 U.S.C. § 2000e-1(a).

To be sure, this language does not create a blanket exemption for religious employers, although Congress considered such an approach. *See* H.R. Rep. No. 914, 88th Cong. § 703 (1963). Instead, the 702 exemption applies to religious organizations' "employment of individuals of a particular religion." But what does the reference to "individuals of a particular religion" mean?

The answer is found in Title VII’s inclusive definition of “religion,” which confirms that an individual’s “particular religion” is much more than his or her self-described denominational affiliation. Throughout Title VII, “religion” means “all aspects of religious observance and practice, as well as belief.” 42 U.S.C. § 2000e(j). Thus, the 702 exemption comes into play when a religious employer makes an employment decision based on the alignment of an individual’s religious belief, observance, or practice with its own.

At the core of what the 702 exemption protects is a religious organization’s preference for employees who are *fellow believers*. For most *amici*, the associational requirements of their faith compel them to limit employment opportunities to individuals who share and embrace *amici*’s religious beliefs. Often, these beliefs are expressed in a “doctrinal statement” or “statement of faith”—a document employees must personally agree with in order to work for the organization. If a job applicant expresses that he or she does not share—and cannot accept—the employer’s religious beliefs, no job offer is made.

In some cases, even if an employee proclaims allegiance to a certain faith tradition—e.g., Christianity—and does not disclose disagreement

with any specific beliefs held by the organization (beliefs the employee is required to affirm and hold), the employee's rejection of the organization's beliefs may nevertheless be exposed by the employee's conduct. In such circumstances, a religious employer may—through careful spiritual discernment—conclude the employee does not in fact share its religious beliefs. This dynamic is not limited to Christian organizations. An Orthodox Jewish or Muslim organization that expects employees to maintain a kosher or halal diet might reasonably conclude that an employee who consumes pork is not actually a fellow believer. Either way, the fundamental issue is the disconnect between the organization's religious beliefs and those of the individual.

Some *amici* and other religious organizations choose—for religious and mission-based reasons—not to require certain employees to agree with all of their beliefs. Yet these organizations still require employees to *respect* and *live in accordance with* their beliefs, e.g., to refrain from *conduct* that contradicts the organization's beliefs. Encompassed in this standard is a requirement that employees not advocate for religious beliefs contrary to those of the organization. For *amici*, one key reason for such a standard is that even employees who do not provide formal

teaching or instruction play a role in exercising and expressing the organization's beliefs, both internally and to the public. Employees engaging in conduct or advocacy contrary to *amici's* religious beliefs would undermine the ability of *amici* to maintain spiritual unity and effectively carry out their religious missions.

The 702 exemption clearly applies when a religious organization requires employees—even those who are not fellow believers—to live in accordance with its religious beliefs and not to advocate for contrary positions. As Title VII's definition of "religion" confirms, the exemption is triggered when a religious employer prefers individuals because of their "religious observance and practice," not just "belief." 42 U.S.C. § 2000e(j). In other words, when the 702 exemption authorizes religious employers to select individuals because of their "particular religion," this includes individuals' particular conduct and advocacy. A religious employer is permitted to select individuals who conform to and respect its religious beliefs and expectations and to reject others who do not.

The caselaw bears this out. In the seminal case *Little v. Wuerl*, the Third Circuit upheld a Catholic school's decision not to renew the contract of a *non-Catholic* teacher who had remarried in violation of

Catholic teaching on marriage. 929 F.3d 944 (3d Cir. 1991). Noting Title VII’s “broad” definition of religion, the Third Circuit held that “the permission to employ persons ‘of a particular religion’ includes permission to employ only persons whose beliefs and conduct are consistent with the employer’s religious precepts.” *Id.* at 951. *Accord Curay-Cramer v. Ursuline Acad. of Wilmington*, 450 F.3d 130, 141 (3d Cir. 2006) (holding section 702 barred sex discrimination claim brought by teacher dismissed for engaging in pro-choice advocacy in violation of Catholic teaching); *Hall v. Baptist Memorial Health Care Group*, 215 F.3d 618, 623 (6th Cir. 2000) (holding 702 protected Baptist college when it fired Student Services Specialist after she—a lesbian—became ordained in church known for pro-LGBT stance).

This court’s decision in *Kennedy* supports this text-based reading. In that case, a Catholic institution discharged a non-Catholic worker who refused to comply with the employer’s requirement regarding appropriate attire “for a Catholic facility,” prompting the worker to bring claims under Title VII for religious harassment, retaliation, and discriminatory discharge (the employee’s non-conformist garb was, for her, “a matter of religious principle”). *Id.* at 190–91.

Importantly, there was no dispute that the 702 exemption precluded the employee's discriminatory discharge claim. *Id.* at 191. The only question in the appeal was whether the exemption also extended to the employee's harassment and retaliation claims, a question this court answered in the affirmative based on "the plain language" of the exemption. *Id.* at 193–94, 196.

Thus, *Kennedy* teaches two things: (1) the text of the exemption is what matters and (2) where an aggrieved employee brings a religious discrimination or harassment claim premised on conduct disapproved by a religious employer, disposition of the case in the employer's favor is straightforward.

B. When an employment action triggers the 702 exemption, none of Title VII applies.

When a religious employer makes an employment decision because of an individual's religious beliefs, observance, or practice under section 702, the rest of Title VII drops out of the equation.

The 702 exemption provides that "with respect to the employment of individuals of a particular religion" at a religious organization, "[t]his subchapter shall not apply." 42 U.S.C. § 2000e-1(a) (emphasis added). In context, "[t]his subchapter" refers to Title 42, Chapter 21,

Subchapter VI, i.e., all of Title VII. *See Kennedy*, 657 F.3d at 194. Thus, where a covered religious organization makes an employment decision on the grounds of the employee’s religion, i.e., “all aspects of religious observance and practice, as well as belief,” 42 U.S.C. § 2000e(j), none of Title VII’s other substantive provisions apply. The operation of 702’s religious exemption parallels its alien exemption: Where an employment decision involves “aliens outside any State,” none of Title VII’s substantive provisions apply.

This means Title VII permits a religious employer to maintain religious standards even if the prohibited conduct or advocacy might be said to implicate matters of sex, such as where a religious employer prohibits employees from engaging in same-sex intimate conduct or from promoting such conduct. As courts have recognized, the statutory language requires this result—the text dictates that *none* of Title VII’s substantive prohibitions apply to employment decisions based on religious requirements for employees.

In *Hall*, for example, the Sixth Circuit held that the 702 exemption allowed a Baptist school to terminate an employee for “assum[ing] a leadership position in an organization that publicly supported

homosexual lifestyles,” that is, for displaying public support for conduct in violation of the religious employer’s requirements for employees. 215 F.3d at 627.³

Bostock supports this result. In that case, the Supreme Court ruled that discrimination because of a person’s sexual orientation or gender identity is a form of “sex” discrimination prohibited under section 703(a) of Title VII. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1740–41 (2020). But nothing in *Bostock* narrows the scope of the 702 exemption, which—again—provides that Title VII’s prohibition on sex discrimination does not apply to a religious employer’s enforcement of its religious requirements for employees. Indeed, the Supreme Court expressly highlighted the 702 exemption in *Bostock*, acknowledging its role in

³ Similarly, numerous courts have correctly held that even though firing a female employee because of pregnancy constitutes unlawful sex discrimination, it is nevertheless permissible for a religious organization to discharge an employee for violating the organization’s religious prohibition on extramarital sex, even where the employee’s pregnancy serves as the evidence of the prohibited conduct. *See, e.g., Cline v. Catholic Diocese of Toledo*, 206 F.3d 651 (6th Cir. 2000); *Redhead v. Conf. of Seventh-Day Adventists*, 440 F. Supp. 2d 211 (E.D.N.Y. 2006), *adhered to on reconsideration*, 566 F. Supp. 2d 125 (E.D.N.Y. 2008); *Ganzy v. Allen Christian Sch.*, 995 F. Supp. 340 (E.D.N.Y. 1998); *Vigars v. Valley Christian Ctr. of Dublin*, 805 F. Supp. 802 (N.D. Cal. 1992).

protecting religious employers from being forced to “violate their religious convictions.” *Id.* at 1753–54.⁴

Furthermore, *Bostock* articulates no policy basis for extending Title VII to a religious organization’s employment decisions maintaining its religious beliefs pertaining to marriage and sexuality. Instead, the Supreme Court has repeatedly characterized traditional religious beliefs on these topics as “decent and honorable” and entitled to “proper protection.” *Obergefell v. Hodges*, 576 U.S. 644, 672, 679 (2015). *See also Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n*, 138 S. Ct. 1719, 1727 (2018). Even the district court acknowledged that religious objections to same-sex marriage are “protected views.” 2021 WL 4037431 at *1.

In sum, the plain language of Title VII protects associational religious exercise by permitting religious employers like *amici* to base hiring decisions on individuals’ religious beliefs, observance, or practice. As numerous courts have recognized, this is a crucial “means by which a

⁴ Moreover, nothing in the section 702 exemption references section 703(a) under which sex discrimination is prohibited.

religious community defines itself.” *Amos*, 483 U.S. at 342 (Brennan and Marshall, JJ., concurring).

III. The district court’s contrary interpretation of Title VII is incorrect.

Ignoring the plain text of the 702 exemption, the court below erroneously held that Title VII prohibits religious organizations like *amici* and Charlotte Catholic from engaging in associational religious exercise by declining to employ individuals who engage in public advocacy and conduct contrary to their religious beliefs—namely, their religious beliefs about marriage and human sexuality.

To support this conclusion, the district court distinguished “religious discrimination” from “sex discrimination” and reasoned that the 702 exemption is a “narrow” one that only “exempt[s] religious institutions from suits for religious discrimination” and “do[es] not permit sex discrimination.” 2021 WL 4037431 at *6–8. The court distilled its view into a two-prong test, contriving out of thin air that “religious entities are only allowed to be shielded from liability when they can show (1) the purpose of the employment decision is religious discrimination, and (2) that sex is not a but-for cause in the decision.” *Id.* at *10. Applying this cramped and contrived view of section 702, the court ruled that the

exemption did not shield Charlotte Catholic because this case “is a classic example of sex discrimination under the but-for causation standard of *Bostock*.” *Id.* at *8.

The district court’s analysis is flawed because it misapplies prior cases instead of examining the text, leads to absurd results, and ignores the best alternative to an interpretation of the 702 exemption the court rejected as too broad.

A. The district court misapplied prior cases instead of relying on the text of the 702 exemption.

In holding that the 702 exemption affords no protection to Charlotte Catholic against Appellee’s sex discrimination claim, the district court purported to rely on this Court’s prior 702 cases: *Rayburn v. Gen. Conf. of Seventh Day Adventists* and *Kennedy v. St Joseph’s Ministries*. But these cases do not support the district court’s interpretation of Title VII.

Rayburn involved a pastoral candidate who sued her religious denomination for sex and race discrimination after being passed over for a ministry position ultimately given to another woman. 772 F.2d at 1165. Before holding that the plaintiff’s claims were barred by the First Amendment, this Court noted that section 702 did not apply because the exemption “does not confer upon religious organizations a license to make

those same decisions on the basis of race, sex, or national origin.” 772 F.2d at 1166. The district court in the present case latched onto this language, but did so without grasping the context. *See* 2021 WL 4037431 at *8. In *Rayburn*, the religious employer made no assertion that its hiring decision was a matter of a religious preference, and thus *Rayburn* does not resolve—or even address—whether the exemption applies where an employer’s action is based on an individual’s religious beliefs or conduct that involve sex.

Kennedy likewise does not support the district court’s approach. That case only involved claims premised on religious discrimination, not sex discrimination. 657 F.3d at 191. The Court held as a matter of straightforward statutory interpretation that section 702 barred all these religion-based claims. But like *Rayburn*, the decision does not address situations where—as here—an individual’s disapproved religious beliefs or conduct also implicate sex.

If anything, *Kennedy* supports the application of the 702 exemption to such cases insofar as the Court expressly adopted the Third Circuit’s characterization of the exemption’s purpose; namely: “to enable religious organizations to create and maintain communities composed solely of

individuals faithful to their doctrinal practices” and “to employ only persons whose beliefs and conduct are consistent with the [organizations’] religious precepts.” 657 F.3d at 194 (quoting *Little*, 929 F.3d at 951). For this purpose to be achieved, the 702 exemption must be interpreted according to its plain text: the exemption applies whenever a religious organization makes an employment decision based on an individual’s religious beliefs, observance, or practice.

In short, neither *Rayburn* nor *Kennedy* support the district court’s crabbed interpretation of the exemption. *Rayburn* simply stands for the unobjectionable proposition that section 702 does not provide a blanket exemption for religious employers, which everyone agrees with. See *Rayburn*, 772 F.2d at 1171. *Kennedy* confirms that 702 “exempts religious organizations from Title VII’s prohibition against discrimination in employment on the basis of religion,” *Amos*, 483 U.S. at 329, highlighting that this includes both “beliefs and conduct.” 657 F.3d at 194. But it does not follow from these agreed-upon premises that religious organizations cannot make *religion-based* employment decisions that yield what might otherwise be viewed as falling within Title VII’s prohibition on sex discrimination.

Resolving that question requires turning back to the language of the exemption. Yet the district court made little effort to unpack the text and structure of section 702, despite the court's emphasis elsewhere that questions of statutory interpretation must be resolved by examining a statute's "plain language." 2021 WL 4037431 at *16–22 (interpreting "the plain text" of RFRA). Had the district court performed the appropriate textual analysis, it would have been obliged to conclude that because Charlotte Catholic's decision was based on Appellee's lack of religious alignment, Title VII's prohibition on sex discrimination does not apply.⁵

As the district court noted, the scope of Title VII's religious exemption is a matter for Congress. 2021 WL 4037431 at *11. And Congress intended a broad scope when it said that "[t]his *subchapter* shall not apply" to a religious organization's application of religious requirements for employees.

⁵ The district court erroneously characterized Appellee's Facebook post as a mere "engagement announcement" and stated that Charlotte Catholic "only considered [the post] advocacy because of [Appellee's] sex." 2021 WL 4037431 at *7. This conclusion is belied by the very words of the post, e.g., Appellee's stern admonishment: "If you don't agree with this...keep it to yourself." *Id.* at *4. These words reveal that Appellee himself viewed his post as *advocating for* and *promoting* a particular belief about marriage—a belief he anticipated others might not "agree with."

B. The district court's approach leads to absurd results.

The district court's interpretation of the 702 exemption, created out of whole cloth, is also flawed because it leads to at least three absurd results.

First, the district court's approach sets up an untenable distinction between "religious discrimination" and "sex discrimination." Yet, in many situations like the present case, these are just two sides of the same coin. What appears from one vantage point to be religious discrimination is, from another, sex discrimination. As Judge Easterbrook framed it in a similar case: "The Diocese is carrying out its theological views; that its adherence to Roman Catholic doctrine produces a form of sex discrimination does not make the action less religiously based." *Starkey v. Roman Cath. Archdiocese of Indianapolis, Inc.*, 41 F.4th 931, 947 (7th Cir. 2022) (Easterbrook, J., concurring).

To say—as the district court did below—that religious employers are permitted to engage in religious discrimination but not sex discrimination is to completely miss the issue in cases like these. The real issue is what the 702 exemption says about situations where a religious employer's religious requirements yield what might otherwise be

characterized as sex discrimination. The answer, again, is that where the religious employer's decision is based on an individual's compliance with applicable religious requirements, the rest of Title VII, including its prohibition on sex discrimination, does not apply.

Second, the district court's approach renders *Bostock*'s discussion of the 702 exemption incoherent. Under the district court's ill-conceived test for applying the exemption, "religious entities are only allowed to be shielded from liability when they can show . . . that sex is not a but-for cause in the decision." 2021 WL 4037431 at *10. The unavoidable consequence of the district court's test is that the exemption will *never* apply to any sex discrimination claim arising under *Bostock*, i.e., any claim where sex is alleged as a but-for cause of the employment decision. *See Bostock*, 140 S. Ct. at 1739. On the district court's view, it makes no difference in such cases whether a religious employer's religious requirements were the basis for the decision.

Aside from the textual problems with this approach (discussed above), it is at odds with the Supreme Court's comments in *Bostock* itself, which indicate the 702 exemption will apply to at least *some* claims arising from that decision. *See* 140 S. Ct. at 1754 (reassuring religious

employers because Title VII includes “an express statutory exception for religious organizations”). The district court’s interpretation of the 702 exemption would turn these remarks into an incoherent delusion.

Third, district court’s approach creates an intolerable “favored nation” status for same-sex couples. On the district court’s distorted treatment of the 702 exemption, same-sex intimate conduct prohibited under a religious employer’s religious beliefs and standards would be afforded an untouchability not available for prohibited opposite-sex intimate conduct, a result remarkably incongruent with the goal of eliminating sex discrimination.

This strange consequence follows from the fact that courts have already established that religious organizations may, under the 702 exemption, discharge employees for engaging in opposite-sex intimacy that violates the organizations’ religious beliefs; namely, a belief that intimate sexual conduct must be confined to traditional one man, one woman marriage. *See Cline*, 206 F.3d at 658 (collecting cases). It would violate the nondiscrimination norms underlying Title VII to say that religious organizations are prohibited from discharging employees if the offending sexual conduct happens to involve two persons of the *same sex*.

C. The district court erred by considering and rejecting only the broadest alternative to its interpretation.

The court below further erred—and committed a straw man fallacy—when it ignored the best alternative to a reading of the 702 exemption it considered to be too broad.

The district court reasoned that accepting Charlotte Catholic’s construction of the statute “would let religious employers completely bypass Title VII liability, if they could prove their discrimination *was related to a religious justification*.” 2021 WL 4037431, at *10 (emphasis added). Notwithstanding the district court’s misguided policy-driven approach, the court failed to credit or grapple with the better alternative interpretation; namely, that the exemption is triggered only where the employment action is based on the alignment of *the individual’s* religious beliefs, observance, or practices with those of the religious employer.

To be sure, some commentators have argued that what matters for purposes of the 702 exemption is only that the decision was motivated by *the organization’s* religious beliefs. See Alex Reed, *Religious Organization Staffing Post-Bostock*, 43 BERKELEY J. EMP. & LAB. L. 203, 213–16 (2022) (labeling this view the “Religiously Motivated Interpretation” and providing critique); John Melcon, *Thou Art Fired: A Conduct View of Title*

VII's Religious Employer Exemption, 19 RUTGERS J. L. & RELIGION 280, 293–95 (2018) (labeling this interpretation the “Broad View” and providing critique). However, this minority view has not been adopted by the courts and should not have been the district court’s foil.

The better alternative to the broad view rejected by the district court is the view articulated above, i.e., when a religious organization makes a hiring decision based on alignment of *the individual’s* religious beliefs, observance, or practice with organization’s, none of Title VII applies. This rule holds even where the religious beliefs, observance, or practice at issue relate to marriage and human sexuality.

Thus, Title VII permits religious organizations like *amici*—as a matter of associational religious exercise—to hire only individuals who *agree with* their religious beliefs about marriage and sexuality. Indeed, such a policy does not even raise concerns about sex discrimination, since an individual’s religious beliefs are wholly distinct from the individual’s sex. It is self-evident that when a religious employer refuses to hire an applicant that, say, rejects the employer’s religious views about the Trinity, the applicant’s sex is irrelevant to the employer’s action. The same is also true when a religious employer refuses to hire an applicant

that rejects the employer's religious beliefs about marriage and human sexuality, including when something about the applicant's conduct exposes the lack of shared beliefs.⁶ (But even if the religious employer's actions in these sorts of "shared belief" scenarios could be said to raise concerns about sex discrimination, it would be immaterial because Title VII's prohibition on sex discrimination "shall not apply" when a religious employer selects an individual because of the alignment of the individual's particular religious beliefs.)

Additionally, the 702 exemption permits a religious organization like Charlotte Catholic to employ only individuals who *respect* and *live in accordance with* the organization's religious beliefs about marriage and sexuality, even if such individuals are not required to share the organization's beliefs on these topics. The basis for this approach is, again, the expansive definition Congress assigned to "religion" in Title VII—it includes "all aspects of religious observance and practice,"

⁶ In these instances, one might be inclined to think sex is a but-for cause in the employment decision, but it is not. The employee's sex is—at most—a factor in the circumstances exposing the employee's personal rejection of the organization's beliefs. Beliefs about marriage and sexuality are not themselves "sexed" and do not turn on an individual's sex any more than beliefs about predestination, holy communion, or the afterlife.

not just “belief.” 42 U.S.C. § 2000e(j). It is irrelevant whether the conduct or advocacy proscribed by the religious employer—such as sexual intimacy outside a one-man, one-woman marriage—might otherwise be protected by Title VII’s ban on sex discrimination, since this ban does not apply where, as here, the religious employer acts on its determination that the individual is not of the employer’s particular religion as reflected in the employer’s religious requirements and standards of conduct.

CONCLUSION

For the foregoing reasons, *amici* respectfully request that this Court reverse the district court’s flawed summary judgment order and confirm the proper interpretation and application of the 702 exemption, as articulated above.

Respectfully submitted,

/s/ John Melcon

John Melcon

Stuart Lark

Sherman & Howard L.L.C.

90 South Cascade Avenue, Suite 1500

Colorado Springs, CO 80903

(719) 475-2440

jmelcon@shermanhoward.com

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

This brief complies with type-volume limits of Federal Rule of Appellate Procedure 29(a)(5) and Circuit Rule 29 because it contains 6,164 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Date: September 29, 2022

/s/ John Melcon

John Melcon

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I certify that on September 29, 2022, the foregoing document was served on all parties or their counsel of record through the CM/ECF system.

Date: September 29, 2022

/s/ John Melcon

John Melcon

Counsel for Amici Curiae