

No. 96132-8

SUPREME COURT OF THE STATE OF WASHINGTON

MATTHEW S. WOODS, Appellant,

v.

SEATTLE'S UNION GOSPEL MISSION, Respondent

MOTION FOR PERMISSION TO FILE A BRIEF *AMICI CURIAE*
SUPPORTING RESPONDENT SEATTLE'S UNION GOSPEL MISSION
BY

ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL,
AGUDATH ISRAEL, BELLEVUE CHRISTIAN SCHOOL, CHRISTIAN
LEGAL SOCIETY, CRISTA MINISTRIES, ETHICS AND RELIGIOUS
LIBERTY COMMISSION OF THE SOUTHERN BAPTIST
CONVENTION, GENERAL CONFERENCE OF SEVENTH-DAY
ADVENTISTS, INTERVARSITY CHRISTIAN FELLOWSHIP,
LUTHERAN CHURCH-MISSOURI SYNOD, NATIONAL ASSOCIATION
OF EVANGELICALS, NORTHSORE CHRISTIAN ACADEMY,
NORTHWEST UNIVERSITY, SEATTLE CHRISTIAN SCHOOL, UNION
OF ORTHODOX JEWISH CONGREGATIONS, AND WORLD VISION,
INC. (U.S.)

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Pursuant to RAP 10.6, these religious organizations in Washington respectfully move this Court for permission to file an *amici curiae* brief to assist the Court in determining the constitutionality of the religious nonprofit exemption in the Washington Law Against Discrimination (WLAD).

Applicants' Identity and Interest in the Outcome of This Case

The Movant *Amici Curiae* consist of a wide range of nonprofit organizations with ministry to and employees in Washington State, providing faith-infused social services, religious education, and other charitable services to Washington residents. They are currently exempted from the definition of “employer” under the WLAD.

The **Association of Christian Schools International** (ACSI) is a nonprofit association providing support services to 24,000 Christian schools in over 100 countries. ACSI serves nearly 3,000 Christian preschools, elementary, and secondary schools and 90 post-secondary institutions in the United States, including over 40 member-schools in each of Washington and Oregon. Member-schools educate some 5.5 million children around the world. ACSI accredits Protestant pre-K – 12 schools, provides professional development and teacher certification, and offers member-schools high-quality curricula, student testing and a wide

range of student activities. ACSI members advance the common good by providing quality education and spiritual formation to their students. Our calling relies upon a vibrant Christian faith that embraces every aspect of life. This gives ACSI an interest in ensuring expansive religious liberty with strong protection from government attempts to restrict it.

Agudath Israel of America, founded in 1922, is a national grassroots Orthodox Jewish organization. Among its other functions and activities, Agudath Israel articulates and advances the position of the Orthodox Jewish community on a broad range of legal issues affecting religious rights and liberties in the United States. Agudath Israel regularly intervenes at all levels of government—federal, state, and local; legislative, administrative, and judicial (including through the submission or participation in *amicus curiae* briefs)—to advocate and protect the interests of the Orthodox Jewish community in the United States in particular and religious liberty in general. Agudath Israel joins this brief because we believe that limiting the exemption that the state's anti-discrimination law provides to religious organizations such that they would no longer be able to consider the religious conduct of prospective employees in hiring decisions would constitute an unconstitutional infringement of their ability to only hire those whose

conduct conforms to their religious beliefs. There are at least five Orthodox Jewish day schools in Washington State, and a decision that would require them to hire teachers whose personal conduct is directly contrary to the tenets of Orthodox Judaism (or be penalized for violating the state's anti-discrimination law) would undermine a central component of the religious mission and purpose of those schools, which is to ensure that their teachers serve as proper role models for their students of religious conduct and behavior.

Bellevue Christian School (BCS) is a private interdenominational Pre-K through 12th Grade Christian school organized as a Washington State non-profit corporation. Founded in 1950, BCS operates on three campuses (Clyde Hill, Medina, and Woodinville) and employs 109 faculty in the education of approximately 1,100 students. The mission of BCS is “[t]o prepare young people to live faithfully for God in a rapidly changing world with the ability to understand, evaluate, and transform their world from the foundation of God’s unchanging values.” Critical to achieving that mission is the cultivation of a genuine faith community. The faculty, staff, and administrators draw encouragement and unity from their common commitments to the teachings of Jesus Christ and from their communion of prayer and spiritual disciplines. Whether principal, teacher,

administrator, athletics coach, custodian, or bus driver, there is no BCS employee whose faith conviction does not contribute in meaningful ways to the school's core mission. BCS intends that every interaction be filled with purpose and intentionality. A casual conversation between a student and the Deli Clerk may have more transformational potential than a lecture in biblical studies. The Court's long-held recognition of the categorical exemption in the WLAD of the hiring practices of religious nonprofit organizations is vital to BCS's continuing ability to effectively pursue its educational mission.

Christian Legal Society (CLS), founded in 1961, is a national nondenominational association of Christian attorneys, law students, and law professors with members in Washington. Because of its commitment to helping economically disadvantaged persons, CLS's Christian Legal Aid program helps meet the urgent legal and spiritual needs of the most vulnerable members of society by supporting a network of independent faith-based legal aid programs. Based on its belief that the Bible commands Christians to plead the cause of the poor and needy and to share the Gospel of Jesus, CLS encourages and equips individual attorneys to volunteer their time and resources to help those in need in their communities. CLS provides resources and training to assist approximately

fifty local legal aid programs with 125 clinic locations nationwide, including in Washington.

CRISTA Ministries is an international, nondenominational, Christian human services organization that primarily serves in the four areas of: (1) Humanitarian Disaster Relief and Development; (2) Education; (3) Christian Media; and (4) Community Health Care. CRISTA's more than 1,500 employees serve throughout Washington state and in more than 15 countries globally, providing human services and ministering to more than 8 million beneficiaries annually. The organization's stated purpose is to seek and provide opportunities to demonstrate Christ's love by maintaining and operating a non-profit organization which actively provides appropriate avenues of Christian service to accomplish that mission.

CRISTA Ministries employs numerous individuals to carry out its work and witness. Some such employees are assigned to predominantly ecclesiastical roles; others are not. All, however, play a significant role in promoting the mission and vision of the organization, and the duties of every employee include the responsibility to minister, witness and pray in various capacities. Accordingly, the issues addressed in this brief are of great interest and importance to CRISTA Ministries.

The **Ethics and Religious Liberty Commission of the Southern Baptist Convention** (ERLC) is the moral concerns and public policy entity of the Southern Baptist Convention (SBC), the nation's largest Protestant denomination, with over 46,000 churches and 15.2 million members. The ERLC is charged by the SBC with addressing public policy affecting such issues as religious liberty, marriage and family, the sanctity of human life, and ethics. Religious freedom is an indispensable, bedrock value for Southern Baptists. The Constitution's guarantee of freedom from governmental interference in matters of faith is a crucial protection upon which SBC members and adherents of other faith traditions depend as they follow the dictates of their conscience in the practice of their faith. Southern Baptists believe that their personal conduct at all times, and in every area of life, should reflect and authenticate their belief in, and a desire to obey, the Word of God.

The **General Conference of Seventh-day Adventists** is the highest administrative level of the Seventh-day Adventist Church and represents more than 154,000 congregations with more than 21 million members worldwide, including 6,300 congregations and more than 1.2 million members in the United States. In the State of Washington, the Adventist work is divided between three conferences with 46,000 members in 229

congregations. Further, the Adventist Church has 41 primary and secondary schools in Washington and one institution of higher learning—Walla Walla University. All of these church entities employ individuals in a number of capacities and have a strong interest in maintaining the right to hire employees who align with the church’s beliefs, mission and conduct standards, including sexual behavior.

InterVarsity Christian Fellowship/USA (“InterVarsity”) is a Christian ministry with the purpose of establishing and advancing “witnessing communities of students and faculty who follow Jesus as Savior and Lord” and who are “growing in love for God, God’s Word, God’s people of every ethnicity and culture and God’s purposes in the world.” InterVarsity has been active on U.S. campuses since the late 1930s. It currently has over 1,000 chapters on more than 600 campuses nationwide. Fourteen of those chapters serve colleges and universities in Washington, including Gonzaga University, Northwest University, Pacific Lutheran University, Seattle University, University of Puget Sound, University of Washington, Washington State University, and Whitman College. InterVarsity employs over 29 staff in Washington State and, additionally, there are many InterVarsity volunteers on those campuses. All InterVarsity staff, student leaders, and volunteers are required to affirm InterVarsity’s “What We

Believe” and agree to exemplify its core Christian values

<https://intervarsity.org/about-us/what-we-believe>. InterVarsity believes that this religious criteria is necessary because its staff, volunteers, and student leaders fill an important spiritual role for the ministry, such as leading its religious services and Bible studies; leading and participating in prayer, worship, and religious teaching; determining the religious content of its meetings; selecting guest speakers and identifying religious topics to cover during events; ministering to their peers individually; planning and scheduling ministry events on campus; and determining what kind of outreach and service activities to engage in to advance InterVarsity’s religious mission. Being led by individuals who - - by word or personal conduct - - deny or reject InterVarsity’s faith and standards of conduct would undermine the group’s religious mission and message, and would compromise InterVarsity’s Christian identity and purpose.

The **Lutheran Church—Missouri Synod** (“the Synod”) , a Missouri nonprofit corporation, is an international Lutheran denomination with more than 6,000 member congregations, 22,000 ordained and commissioned ministers, and 2 million baptized members throughout the United States. In addition to numerous Synod-wide related entities, it has

two seminaries, nine universities, the largest Protestant parochial school system in America, and hundreds of recognized service organizations operating all manner of charitable nonprofit corporations throughout the country. The Synod treasures and fully supports religious liberty and the preservation of all First Amendment protections. In the state of Washington, the Synod has some 115 member congregations, 56 of which operate Lutheran schools, and 22 recognized service organizations. Consequently, the Synod has a keen interest in the Court upholding the religious exemption that is the subject of this case.

National Association of Evangelicals (NAE) is the largest network of evangelical churches, denominations, colleges, and independent ministries in the United States. It serves 40 member denominations, as well as numerous evangelical associations, missions, nonprofits, colleges, seminaries and independent churches, including many located in Washington. NAE serves as the collective voice of evangelical churches and other religious ministries. It believes that God has ordained marriage as the most basic unit for the building of earthly societies, and that the union is alone reserved for the joining of one man and one woman. NAE members, including churches, schools and charities in Washington state

and beyond, rely on the right to hire staff who share their religious principles and seek to model them in their behavior, including their intimate relationships, in order to maintain their distinctive identity and mission.

Northshore Christian Academy provides a private Christian education to over 800 students from pre-kindergarten through 8th grade. It is a ministry of Northshore Christian Church (NCC), an independent, nondenominational church serving Everett and the greater Snohomish County area. The Academy's mission is to partner with families to provide a superior Christian education, developing spiritual, academic, and personal excellence in a Christ-centered environment. The Academy filters all learning through a Biblical worldview that recognizes Christ as Creator and Lord, integrating faith and learning as we educate and equip the whole child to impact a changing world for the glory of God. Every employee of the Academy plays a role in the spiritual development of each student, from teachers who provide direct discipleship of students within the classrooms, to administrators, playground monitors, and custodial staff who are expected to engage with the school and the children as models of faith in action in accordance with our Standards of Christian Conduct and in the spirit of Colossians 3:23: "Whatever you do, work at it with all your

heart, as working for the Lord, not for men.... It is the Lord Christ you are serving." The loss of the Academy's ability to hire only those who share its worldview and whose goal is to advance its religious mission - - by word and example - - would be catastrophic to its character as a Christian school, depriving it of one of - if not the - most important attributes to the families who choose to enroll their children. The existing exemption in the WLAD acknowledges the mischief inherent in the courts attempting to define going forward how each role at the Academy serves to advance our mission. Christianity cannot be reduced to a class or a study topic; it is a life lived - in all aspects - in accordance with the tenets of our shared faith, and every employee is hired with the expectation that they will encourage the students in their personal faith journey and live as daily examples of service to God.

Northwest University was founded as Northwest Bible Institute in 1934 to teach Biblical principles. Our original charter foresaw the training of Christian students for a variety of fields outside the clergy, but the aim has always been to integrate the Bible with every field of study. We have remained faithful to that objective in becoming a comprehensive university, and our distinctive culture depends on the teaching of Biblical principles in spirituality, morality, and ethics. We continue to be a

community of moral discipline and practice, and that is the reason why students choose to attend our institution and the reason why their parents support their choices. We uphold their values with sincerity and consistency. One of the democratic education principles we cherish as a learning community holds that everyone at Northwest is a teacher as well as a learner. If we were forced by the state to hire employees who do not share our moral beliefs or who do not abide by our Christian conduct standards (which include sexual expression solely within heterosexual marriage), it would fundamentally compromise our reason for existing. We stand with Union Gospel Mission because our future integrity and freedom of conscience depends on their success in this case.

The **Northwest Ministry Network of the Assemblies of God** has been in existence since 1919 and wishes to be added to the friend of the court brief on behalf of the Seattle Union Gospel Mission. We are a biblically based, Pentecostal Christian network of approximately 350 churches, some with Christian day schools or daycares, and 1,400 credentialed ministers in the State of Washington and the North part of the state of Idaho. In the State of Washington alone, we have more than 330 churches with nearly 136,000 adherents. Those churches and their non-profit entities or parachurch ministries employ nearly 2,400 people. We hold to biblical

values and the inerrancy of Scripture, and our biblical beliefs would conflict with many current cultural trends. We believe it is important that we have the right to hire only those who share our biblical beliefs and values.

Seattle Christian School (SCS) is the oldest multi-denomination Protestant Christian school in the Puget Sound region. Current enrollment is over 500 students in grades PK-12 and we employ approximately 80 faculty, staff and administrators. Since 1946, SCS has served families who desire their children to be educated by like-minded adults who hold orthodox Christian beliefs. With this mission in mind, all employees and Board members affirm a statement of faith and a code of personal conduct each school year. Our statement of faith outlines orthodox Christian beliefs and our code of conduct asks employees to adhere to these beliefs while carrying out their duties as well as in their personal lives outside of school. Among other areas of lifestyle adherence, the code of conduct prohibits sexual activity outside the 2000-year-old orthodox position of a marriage between a man and a woman. These measures are essential for us to help incoming employees better understand who we are as a school and what will be required of them if they choose to serve at SCS. If we could not assure families that the adults who are shaping the hearts and minds of

their children were not in alignment with their beliefs, our enrollment and existence as a school would be in grave jeopardy. The school's survival depends on the state law that permits our Christ-centered school to require employees to affirm our statement of faith and to agree to abide by our code of personal conduct in every area of their lives – including sexual activity.

The **Union of Orthodox Jewish Congregations of America** (“Orthodox Union”) is the nation's largest Orthodox Jewish umbrella organization, representing nearly one thousand synagogues throughout the United States. The Orthodox Union also represents the interests of hundreds of Orthodox Jewish day schools whose primary mission is the inculcation of the Jewish faith in the community's children. Through the Orthodox Union Advocacy Center, the organization regularly participates in *amicus* briefs to inform the courts of the Orthodox Jewish community's perspective on critical issues such as those implicated in this case.

World Vision, Inc. (U.S.) is a Christian humanitarian organization headquartered in Federal Way, Washington and dedicated to working with children, families, and their communities worldwide to reach their full

potential by tackling the causes of poverty and injustice. Throughout the world, we support the provision of emergency relief in disasters as well as long-term sustainable development in the areas of food, maternal and child health, birth spacing, education (especially of girls), economic livelihood, child protection, and gender equality. World Vision internationally has become the world's largest private provider of clean water.

World Vision, Inc. (U.S.) sincerely believes that the key to its effectiveness lies in the following of Jesus by every employee, director and volunteer; so, since its founding in 1950, World Vision, Inc. (U.S.) exercises its constitutional right to hire Christians who share our common faith and who agree to seek to abide by our standards of Christian conduct in their lives.

Movants' Familiarity with the Issues and Scope of the Arguments

Movants have studied the record below as well as the parties' briefing to date. A number of the movant *amici* have decades of experience in the legal defense of religious freedom, particularly cases like this that challenged the hiring rights of religious individuals. The Christian Legal Society, through Movants' Washington counsel of record, presented briefing and oral argument before this court in one of the controlling decisions in this case applying the Washington State

Constitution: *First Covenant Church of Seattle v. City of Seattle*, 120 Wn.2d 203, 840 P.2d 174 (1992), as well as in the related case of *First Methodist Church of Seattle v. Seattle Landmarks Preservation Board*, 129 Wn. 2d 238, 916 P.2d 374 (1996).

Specific Issues To Which The Applicants' Brief Is Directed

The brief of amici curiae will argue that applying WLAD to protect the Mission's employment decision avoids the direct conflict with the federal Free Exercise and Establishment Clauses created by the underlying premises of the *Ockletree* dissents; that these premises were rejected by the United States Supreme Court in *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327 (1987), which *unanimously* held that the Establishment Clause allows the legislature to exempt a religious nonprofit from nondiscrimination liability for employing persons who adhere to its religious faith, whether in "secular" or "religious" activities; that the high court in *Amos* ruled that the Establishment Clause is not violated by such an exemption that does not include secular employers, and that neither are "equal protection principles" violated by a religious exemption; and that the Establishment Clause is not violated by an exemption that is not required by the Free Exercise Clause. Finally, the brief of amici curiae will argue from *Amos* that "a searching case-by-case

analysis” to “determin[e] whether an activity is religious or secular” would “result[] in considerable ongoing government entanglement in religious affairs” that violates the Establishment Clause and infringes free exercise rights.

Why Additional Argument On These Issues Is Necessary

Movant *amici curiae* respectfully submit that the Court would benefit from the vantage points of religious educational institutions in this state; national religious organizations of diverse faiths with employees and adherents in Washington; as well as one of the state’s largest faith-based employers (headquartered in Washington State). *Amici* cast light on how appellant’s claims threaten the purpose and existence of many associations in the religious community of Washington State. Equally important, because this case challenges a unanimous holding of the Supreme Court of the United States, the *amici* will provide a perspective of national religious organizations that would bear the precedential consequences of an adverse ruling by this Court.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I directed the Motion to File Amici Curiae Brief Supporting Respondent Seattle's Union Gospel Mission to be served by e-filing on January 22, 2019 to the following:

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