

No. 91615-2

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

ARLENE'S FLOWERS, INC., D/B/A ARLENE'S FLOWERS AND
GIFTS, AND BARRONELLE STUTZMAN,

Appellants.

INGERSOLL AND FREED,

Respondents,

v.

ARLENE'S FLOWERS, INC., D/B/A ARLENE'S FLOWERS AND
GIFTS, AND BARRONELLE STUTZMAN,

Appellants.

MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND BRIEF
NATIONAL RELIGIOUS ORGANIZATIONS AS *AMICI CURIAE* IN
SUPPORT OF APPELLANTS

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**MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN
SUPPORT OF APPELLANTS**

Pursuant to Rule of Appellate Procedure 10.6, the National Association of Evangelicals, the Ethics and Religious Liberty Commission of the Southern Baptist Convention, and the Lutheran Church-Missouri Synod respectfully move to file the attached brief as *amici curiae* in support of Appellants. All parties have consented to the filing of this amicus brief.

I. Identity and Interest of *Amici Curiae*.

The 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. 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.

The Ethics and Religious Liberty Commission of the Southern Baptist Convention is the moral concerns and public policy entity of the Southern Baptist Convention (“SBC”), the nation’s largest Protestant denomination, with more than 15.8 million members worshipping in over

50,000 autonomous churches and church-type missions. The ERLC is charged by the SBC with addressing public policy issues affecting such matters as religious freedom, marriage and family, the sanctity of human life, and ethics. Religious freedom is an indispensable, bedrock value for SBC churches. The Constitution's guarantee of freedom from governmental interference in matters of religious freedom is a crucial protection upon which SBC members and adherents of other faith traditions depend as they follow the dictates of their consciences in the practice of their faith.

The Lutheran Church – Missouri Synod (“the Synod”) has some 6,150 member congregations with 2,200,000 baptized members throughout the United States. It steadfastly adheres to orthodox Lutheran theology and practice, and among its beliefs is the Biblical teaching that marriage is a sacred union of one man and one woman (Genesis 2:24-25), and that God gave marriage as a picture of the relationship between Christ and His bride the Church (Ephesians 5:32). As a Christian body in this country, the Synod believes it has the duty and responsibility to speak publicly in support of traditional marriage and in support of the religious liberty of all to express their religious belief that marriage is a divinely created relationship between one man and one woman.

II. Familiarity with the Issues and the Scope of the Arguments Presented by the Parties

Counsel for *Amici Curiae* have reviewed the Briefs of the Parties and are familiar with the issues raised in this case and the arguments presented by the Parties.

III. Specific Issues to Which the Brief of *Amici Curiae* Will Be Directed

In this brief, *Amici Curiae* address the deeply rooted principles affirmed by the Jewish, Christian, and Islamic religious traditions that a person's religious beliefs must inform all aspects of her life, including her professional activities.

IV. Reasons for Believing that Additional Argument Is Necessary on These Issues

Amici Curiae seek to explain how the resolution of this case may affect a wide range of individuals whose religious views may differ from those of the particular Appellants in this case. In addition, *Amici Curiae* hope to develop in detail certain deeply rooted principles shared by the Jewish, Christian, and Islamic traditions that provide additional support to the arguments presented by the Parties in this case. *Amici Curiae* believe that their diverse backgrounds and their unique perspectives on the religious and philosophical issues implicated by the resolution of this case may assist the Court in its consideration of the Parties' arguments.

Amici Curiae have no direct interest, whether financial or otherwise, in the outcome of this case.

For the reasons stated, *Amici Curiae* respectfully request that the Court grant them leave to participate in this case by filing the attached brief.

Dated: September 30, 2016

Respectfully submitted,

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STATEMENT OF INTEREST OF AMICI CURIAE

The 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. 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.

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depend as they follow the dictates of their consciences in the practice of their faith.

The Lutheran Church – Missouri Synod (“the Synod”) has some 6,150 member congregations with 2,200,000 baptized members throughout the United States. It steadfastly adheres to orthodox Lutheran theology and practice, and among its beliefs is the Biblical teaching that marriage is a sacred union of one man and one woman (Genesis 2:24-25), and that God gave marriage as a picture of the relationship between Christ and His bride the Church (Ephesians 5:32). As a Christian body in this country, the Synod believes it has the duty and responsibility to speak publicly in support of traditional marriage and in support of the religious liberty of all to express their religious belief that marriage is a divinely created relationship between one man and one woman.

INTRODUCTION AND STATEMENT OF THE CASE

Christianity, Judaism, and Islam all instruct that one’s faith beliefs must be fully integrated into one’s daily life, including one’s work. Believers in these faiths do not leave their religious values behind when they leave the church, synagogue, or mosque. Rather, they strive to obtain a “vital synthesis” between their work and religious values.

For millions of these believers, their religious values include the historic belief that marriage is the divinely ordained union between man and

woman. This belief is deeply rooted in the sacred scriptures and traditions of Christianity, Judaism, and Islam. The belief does not arise from animus or bigotry, but from the teaching that marriage between man and woman is part of God’s plan and divinely ordained for procreation of children.

Because of the “vital synthesis” between their religious values and work, the religious consciences of many believers requires them to avoid participating in, publicly endorsing, or celebrating same-sex weddings. Their beliefs do not require them to discriminate against any person, but only require them to avoid actively celebrating or supporting wedding ceremonies that contradict their religious conscience. This Court should respect the sincere consciences of such religious believers.

ARGUMENT

I. Millions of Christians, Jews, and Muslims Sincerely Believe That Their Religious Beliefs Must Be Fully Integrated Into Their Lives in a “Vital Synthesis” of Work and Religious Values.

For millions of believing Christians, Jews, and Muslims, it is axiomatic that the practice of faith does not end when they leave the church, synagogue, or mosque. Rather, they believe they are called to live out their faith beliefs—including their fundamental beliefs about sex, marriage, and the family—in every aspect of their lives, including work.

Christian, Jewish, and Muslim teachers have all emphasized this instruction that one's faith beliefs should be fully integrated in every aspect of the believer's life. For example, the Catechism of the Catholic Church instructs that "[b]y reason of their special vocation it belongs to the laity [i.e. ordinary believers] to seek the kingdom of God by engaging in temporal affairs and directing them according to God's will." CATECHISM OF THE CATHOLIC CHURCH ¶ 898 (1997). Lay believers are called "to illuminate and order all temporal things with which they are closely associated" in light of the Catholic faith. *Id.*

Indeed, the Catholic Catechism's teaching on this point echoes one of the dominant themes of the Second Vatican Council of 1962-65. The Council's Pastoral Constitution of the Church in the Modern World instructed that "[t]he split between the faith which many profess and their daily lives deserves to be counted among the more serious errors of our age. . . . The Christian who neglects his temporal duties, neglects his duties toward his neighbor and even God, and jeopardizes his eternal salvation." *Gaudium et Spes*, ¶ 43, at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html (1965). Rather, Catholics are called to bring their faith in Christ "to all their earthly activities and to their humane, domestic, professional, social and technical

enterprises,” by “gathering them into one *vital synthesis* with religious values, under whose supreme direction all things are harmonized unto God’s glory.” *Id.* (emphasis added). The goal of this “vital synthesis” of religious values with work is to “contribute to the sanctification of the world by fulfilling their own particular duties” in personal and professional life. *Christifideles Laici*, ¶ 15, at http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_30121988_christifideles-laici.html (1988).

Great teachers of the Protestant tradition assert the same doctrine. For example, Martin Luther “often speaks about specific occupations, but the purpose in doing so is not to restrict vocation to occupation but to affirm that even the most mundane stations are places in which Christians ought to live out their faith.” Marc Kolden, *Luther on Vocation*, 3 WORD & WORLD 382 (Oct. 1, 2001), available at <http://www.elca.org/JLE/Articles/1015>. Thus, for example, the Lutheran Church-Missouri Synod summarizes Luther’s doctrine that even mundane occupational tasks are integral to the Christian vocation: “Luther puts it strongly: Vocations are ‘masks of God.’ On the surface, we see an ordinary human face – our mother, the doctor, the teacher, the waitress, our pastor – but, beneath the appearances, God is ministering to us through them. God is hidden in human vocations.” Lutheran Church-Missouri Synod, *Life Library – Vocation*, at

<http://www.lcms.org/page.aspx?pid=870>. “With the doctrine of vocation, everyday life is transfigured. We realize that the way to serve God is not by some extraordinary act of mystical devotion, but by serving our neighbors in the daily circumstances of life—in our families, our jobs, our church and our involvement in the community.” *Id.*

John Calvin shared a similar doctrine of vocation: “Calvin regarded vocation as a calling into the everyday world. The idea of a calling or vocation is first and foremost about being called by God, to serve Him within his world.” Alister McGrath, *Calvin and the Christian Calling*, 1999 FIRST THINGS 94 (July 1999), available at <https://www.firstthings.com/article/1999/06/calvin-and-the-christian-calling>. Under this doctrine, one’s daily occupations, including one’s work, are part of a fully integrated synthesis of one’s faith life, beliefs, and values: “Work was thus seen as an activity by which Christians could deepen their faith, leading it on to new qualities of commitment to God. Activity within the world, motivated, informed, and sanctioned by Christian faith, was the supreme means by which the believer could demonstrate his or her commitment and thankfulness to God.” *Id.*

Contemporary Protestant teachers have continued to emphasize this doctrine. For example, one prominent Baptist preacher has aptly stated, “Our work, our jobs, our careers—those things are not just incidentals or

necessary evils that we tack on to our spiritual lives. Our jobs are a massive arena in which God matures us as Christians and brings glory to himself.” Southern Baptist Convention, Ethics & Religious Liberty Commission, *The Gospel at Work: A Conversation with Greg Gilbert and Sebastian Traeger* (Jan. 15, 2014), at <http://erlc.com/resource-library/articles/the-gospel-at-work-a-conversation-with-greg-gilbert-and-sebastian-traeger>. Similarly, a former President of the Ethics and Religious Liberty Commission of the Southern Baptist Convention stated: “As Southern Baptists, we believe God has endowed all people with the freedom to believe and express religious faith. . . . Americans should not have to check the freedom to exercise their faith at the door of their workplace.” Southern Baptist Convention, Ethics and Religious Liberty Commission, *SBC’s Richard Land Testifies in Support of Workplace Religious Freedom Act* (Nov. 10, 2005), at <http://erlc.com/resource-library/press-releases/sbcs-richard-land-testifies-in-support-of-workplace-religious-freedom-act>.

Moreover, the doctrine that one’s faith should be fully integrated into the believer’s daily life—including her job, occupation, and profession—has deep roots in non-Christian religions as well. For example, it is a central tenet of Judaism that, throughout one’s daily life, “[o]nly to God should you incline your thoughts and your actions.” Moses ben Maimon (Maimonides), *The Thirteen Foundations of Judaism*, Principle V

(Marc Mermelstein tr.), at <http://www.mesora.org/13principles.html>. Prominent Jewish teachers have decried the modern tendency to “think of religion as that which takes place in the synagogue or within the realm of ritual,” or as something that “can be consigned to the leisure-time activities, allocated to the Sabbath.” Rabbi Michael Strassfeld, *Avodah: Vocation, Calling, Service*, at <http://www.myjewishlearning.com/article/avodah-vocation-calling-service>. Rather, “work is not just necessary to earn a living, it is a way, perhaps *the* way, to engage in Torah. . . . The Torah is meant to be lived, not studied. We are to meditate on it day and night . . . by engaging fully in the world while mediating on the Torah and its teaching regarding honesty and living with awareness.” *Id.*

Similarly, “Islam regards it as meaningless to live life without putting [one’s] faith into action and practice,” and claims that living the central tenets of the faith “weaves [believers’] everyday activities and their beliefs into a single cloth of religious devotion.” Oxford Islamic Information Centre, *Five Pillars of Islam*, at <http://www.islaminfouk.com/five-pillars-of-islam.html>.

In sum, under all these faith traditions, “freedom to embrace religion as a way of life isn’t an optional extra added on to practicing that way of life; freedom to embrace and hold onto religion *is a constitutive component of a religion’s way of life* without which that very way of life is

fundamentally compromised. For world religions, freedom of religion is a key substantive good.” Miroslav Volf, *FLOURISHING: WHY WE NEED RELIGION IN A GLOBALIZED WORLD* 113 (2015).

II. Millions of Christians, Jews, and Muslims Adhere to the Deeply Rooted Religious Belief that Marriage Is the Divinely Ordained Union of Man and Woman.

For millions of religious believers, part of this “vital synthesis” of their religious values includes the deeply rooted belief that marriage is the divinely ordained union of a man and a woman.

For example, both the scriptures and the traditions of Judaism have historically been understood to prohibit same-sex sexual relations and (by necessary implication) same-sex marriage. The Book of Genesis grounds marriage in the procreative union of male and female: “In the image of God he created him; male and female he created them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth and subdue it.” *Genesis* 1:27-28. The second chapter of Genesis describes God fashioning Eve from Adam’s rib as foreshadowing marriage between man and woman. *Genesis* 2:21-22. “Then the man said, ‘This at last is bone of my bones and flesh of my flesh’ Therefore a man leaves his father and mother and cleaves to his wife, and they become one flesh.” *Genesis* 2:23-24. Hebrew Scriptures include additional passages understood as rejecting same-sex sexual relations, such as Lot’s experience

in Sodom, *see Genesis* 19:4-10, as well as explicit prohibitions against the practice of two men having sexual relations. *Leviticus* 18:21-23, 20:13.

Many Jewish communities today still adhere to the historic understanding of these biblical texts. For example, a statement of the Orthodox Union in 2006 stated that “[h]omosexual behavior between males or between females is absolutely forbidden by Jewish law, beginning with the biblical imperative” *See* Rabbi Tzvi Hersh Weinreb, *Orthodox Response to Same-Sex Marriage* (June 5, 2006), at <https://advocacy.ou.org/orthodox-response-to-same-sex-marriage/>. This understanding remains rooted in the procreative nature of male-female relations ordained in the Book of Genesis. *See id.*

Like Jewish teaching, long-established Christian doctrine interprets biblical texts as proscribing same-sex sexual relations, and thus, by necessary implication, same-sex marriage. Christians have long understood the New Testament to teach the same doctrine that Jews discern in the Books of Genesis and Leviticus. For example, in the Gospel of Matthew, Jesus Christ quotes from the Book of Genesis in a statement long understood as reaffirming the marital union as between male and female: “Have you not read that he who made them from the beginning made them male and female, and said, ‘For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh’?”

Matthew 19:4-5. In his Epistle to the Romans, St. Paul describes the ways of the ungodly as given up “to dishonorable passions,” described as “the men likewise gave up natural relations with women and were consumed with passion for one another.” *Romans* 1:26-27. Similarly, St. Paul’s Epistle to the Ephesians describes the procreative union of man and woman in marriage as reflecting the love between Christ and his Church: “‘For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh.’ This mystery is a profound one, and I am saying that it refers to Christ and the church.” *Ephesians* 5:31-32.

Christian teachers in both the Catholic and the Protestant traditions have understood such scriptural passages as reflecting a divine proscription on same-sex relations, and a theological view of male-female marriage as uniquely reflective of God’s love for mankind. For example, in the thirteenth century, St. Thomas Aquinas, a theologian widely revered in the Catholic tradition, interpreted *Romans* 1:27 as prohibiting sexual relations outside of man-woman marriage, including same-sex relations. Thomas Aquinas, *SUMMA THEOLOGICA* II-II, Q. 154, art. 12 (Tr. 1920), *available at* <http://www.newadvent.org/summa/3154.htm#article11>. Martin Luther likewise commented that non-marital sexual relations “depart[] from the natural passion and longing of the male for the female, which is implanted into nature by God.” Martin Luther, 3 *LUTHER’S WORKS* 255 (1961).

This historic understanding has carried forward in the modern era. In the Catholic tradition, the current Catechism of the Catholic Church states: “Basing itself on Sacred Scripture, . . . tradition has always declared that ‘homosexual acts are intrinsically disordered.’ They are contrary to the natural law. They close the sexual act to the gift of life. They do not proceed from genuine affective and sexual complementarity.” CATECHISM OF THE CATHOLIC CHURCH ¶ 2357. Pope Francis reaffirmed this doctrine in his recent apostolic exhortation, *Amoris Laetitia*, the Joy of Love, which discerned “absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God’s plan for marriage and family.” *Amoris Laetitia*, ¶ 52 (Mar. 19, 2016), at http://w2.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf.

Numerous Protestant denominations share this historic understanding. For example, the Lutheran Church-Missouri Synod teaches that “[h]omosexual behavior is prohibited in the Old and New Testaments as contrary to God’s design,” and “on the basis of Scripture, marriage is the lifelong union of one man and one woman.” Lutheran Church-Missouri Synod, *LCMS Views – Marriage/Human Sexuality* 10, available at <http://www.lcms.org/faqs/lcmsviews> (“*LCMS Views*”).

The National Association of Evangelicals, representing forty Protestant denominations, has likewise reaffirmed this understanding of marriage: “As first described in Genesis and later affirmed by Jesus, marriage is a God-ordained, covenant relationship between a man and a woman. This lifelong, sexually exclusive relationship brings children into the world and thus sustains the stewardship of the earth.” See National Association of Evangelicals, *God Defined Marriage* (June 26, 2015), at <http://nae.net/god-defined-marriage/>.

Similarly, the Mormon Church has “reaffirm[ed] the Church’s declaration that marriage is the lawful union of a man and a woman.” Church of Jesus Christ of Latter-day Saints, *The Divine Institution of Marriage*, NEWSROOM (Aug. 13, 2008), at <http://www.mormonnewsroom.org/article/the-divine-institution-of-marriage>. “From the beginning, the sacred nature of marriage was closely linked to the power of procreation. . . . Only a man and a woman together have the natural biological capacity to conceive children.” *Id.*

Islamic scriptures and commentators have long adhered to the same view that same-sex relations are prohibited by divine law. The Qur’an includes two references to same-sex relations, both commenting on the story of Lut (“Lot” in the Hebrew scriptures) and setting forth what Islamic commentators have interpreted as a clear prohibition on same-sex relations.

See *Qur'an* 7:80-81; *Qur'an* 26:165; Islamic Shura Council of Southern California, *Islamic Perspective on Same-Sex Marriage* (July 7, 2015), at http://www.shuracouncil.org/Shura/Same_Sex_Marriage_Stmt_070715.pdf. Islamic communities in Western nations continue to adhere to this historic understanding of divine law. For example, in 2013, over 500 British Muslim leaders signed a public letter opposing the legalization of same-sex marriage in Great Britain. *Muslim Leaders Stand Against Gay Marriage*, THE TELEGRAPH (May 18, 2013), at <http://www.telegraph.co.uk/comment/letters/10065280/Muslim-leaders-stand-against-gay-marriage.html>. The letter stated: “Marriage is a sacred contract between a man and a woman that cannot be redefined.” *Id.* Similarly, in the United States, the Islamic Shura Council of Southern California issued in 2015 a statement that the “Islam never has, and never will, sanction or perform same-sex marriage since it is a clear violation of Islamic law.” *Islamic Perspective on Same-Sex Marriage, supra.*

III. The American Tradition of Respecting Religious Freedom of Conscience Protects the “Vital Synthesis” of the Religious Believer’s Faith and Occupation.

As discussed, millions of Catholics, Protestants, Jews, and Muslims believe that they must live out their faith in their daily lives, including their work life; and this faith includes a deeply rooted belief that marriage is a divinely ordained union between a man and a woman. These beliefs are not

rooted in any animus against person or group, and they do not require believers to discriminate against any group. Rather, they require these believers to avoid solemnizing, celebrating, or publicly endorsing marriages that violate their faith beliefs, and avoid the appearance of doing so. Their religious consciences forbid them to participate in, celebrate, or endorse same-sex *wedding ceremonies*.

First, it is axiomatic that the teachings of Judaism, Christianity and Islam are not rooted in bigotry or animus. For example, describing “the attitude toward homosexual individuals prescribed by the Jewish tradition,” Orthodox Rabbi Weinreb directs that “tolerance for individuals who manifest homosexual tendencies is certainly a Jewish value.” *Orthodox Response to Same-Sex Marriage, supra*. “The tolerance rightly shown to these individuals by no means condones their behavior, but accepts them as people who may be misled or misinformed.” *Id.* Likewise, Rabbi Dr. Nachum Amsel comments that “[w]e do not and cannot reject people as Jews and as individuals because of a particular sin.” Rabbi Dr. Nachum Amsel, *Homosexuality in Orthodox Judaism* 5, at http://lookstein.org/resources/homosexuality_amsel.pdf.

Similarly, the Christian teaching on marriage is founded on a divinely ordained understanding of human sexuality, and Christian churches condemn any rejection of individuals. The Catechism of the

Catholic Church directs that all persons with homosexual inclinations “must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided.” CATECHISM OF THE CATHOLIC CHURCH ¶ 2358. Pope Francis confirmed this instruction in *Amoris Laetitia*, stating that “[w]e would like before all else to reaffirm that every person, regardless of sexual orientation, ought to be respected in his or her dignity and treated with consideration. . . .” *Amoris Laetitia* ¶ 250.

Protestant authorities emphasize the same point. The Lutheran Church-Missouri Synod instructs that “[t]he redeeming love of Christ, which rescues humanity from sin, death, and the power of Satan, is offered to all through repentance and faith in Christ, regardless of the nature of their sinfulness.” *LCMS Views*, at 11. The National Association of Evangelicals likewise emphasizes that “[a]s witnesses to the truth, evangelicals should be gracious and compassionate to those who do not share their views on marriage.” *God Defined Marriage, supra*.

All of these instructions reflect the Christian view that the historic doctrine of marriage is not rooted in animus, but in the divinely ordained procreative potential of male-female unions. In 2015, dozens of prominent Catholic and Protestant theologians joined this statement: “Throughout history and across all cultures, marriage has been understood to be the union of male and female and is organized around the procreative potential of that

union.” Evangelicals and Catholics Together, *The Two Shall Become One Flesh: Reclaiming Marriage*, FIRST THINGS (March 2015).

Muslim scholars similarly instruct that Muslims are to treat homosexual persons, both Muslim and non-Muslim, with the same respect due to all other people. For example, the Islamic Shura Council of Southern California instructs that “[p]eople practicing something immoral according to Islamic values still deserve the basic respect and rights of any other human being. . . . Muslims should not discriminate and/or harass anyone.” *Islamic Perspective on Same-Sex Marriage*, *supra*.

Thus, Judaism, Christianity, and Islam uniformly and consistently uphold marriage between a man and a woman as divinely ordained while condemning prejudice or animus against any person. But teachers in all of these faiths counsel against any *public witness* or activity that would seem to celebrate, endorse, or condone same-sex weddings. In the wake of the recent legalization of same-sex marriage, many Jewish, Christian, and Islamic leaders have called for believers to engage in respectful public witness supporting the historic understanding of marriage.

For example, the chief Rabbi of Great Britain, Lord Rabbi Jonathan Sacks, has called for respectful and courteous public witness in support of the historic understanding of marriage. In a famous 2014 speech to a Vatican conference on family life, Rabbi Sacks instructed that “our

compassion for those who choose to live differently should not inhibit us from being advocates for the single most humanizing institution in history [*i.e.*, male-female marriage].” Lord Rabbi Jonathan Sacks, *Humanum Colloquium on Complementarity* (Nov. 17, 2014), at <https://cvcomment.org/2014/11/18/in-full-the-lord-sacks-speech-that-brought-the-vatican-conference-to-its-feet/>.

Numerous voices in the Christian tradition accord with Rabbi Sacks. For example, a chief official of the Southern Baptist Convention has publicly stated that “[a]ll of us must stand together on conserving the truth of marriage as a complementary union of man and woman. . . . [T]here is a distinctively Christian urgency for why the Christian churches must bear witness to these things.” Rev. Dr. Russell D. Moore, President of the Ethics & Religious Liberty Commission of the Southern Baptist Convention, *Man, Woman, and the Mystery of Christ: An Evangelical Protestant Perspective*, TOUCHSTONE (Nov. 18, 2014), at <http://www.touchstonemag.com/archives/article.php?id=28-02-022-c>.

Similarly, the National Association of Evangelicals counsels that “[e]vangelicals and other followers of the Bible have a heightened opportunity to demonstrate the attractiveness of loving Christian marriages and families.” *God Defined Marriage, supra*.

The Mormon Church has made a similar statement, urging its members as “responsible citizens” to publicly promote adherence to the historic understanding of marriage: “We call upon responsible citizens and officers of government everywhere to promote those measures designed to maintain and strengthen the family as the fundamental unit of society.” *Divine Institution of Marriage, supra.*

In 2015, Catholics and Evangelicals agreed: “As Christians, it is our responsibility to bear witness to the truth about marriage as taught by both revelation and reason. . . . Christians have too often been silent about biblical teaching on sex, marriage, and family life. . . . If we are to remain faithful to the Scriptures and to the unanimous testimony of the Christian tradition, there can be no compromise on marriage.” Evangelicals and Catholics Together, *The Two Shall Become One Flesh, supra.*

Islamic authorities have concluded likewise: “Sexual behavior within a society is not a purely private concern but rather affects all the people living in that society. Islam does not forcefully impose its teachings upon people of other faiths and persuasions. Nonetheless, it draws certain moral lines to make sure that the entire society is not affected negatively.” *Islamic Perspective on Same-Sex Marriage, supra.*

Many believers interpret these calls for positive public witness as implying that believers should not publicly contradict their churches’

teachings on marriage, including by participating in the celebration of same-sex marriages. For example, the Catholic Church forbids “scandal,” defined as actions that might encourage other persons to engage in wrongdoing. “Anyone who uses the power at his disposal in such a way that it leads others to do wrong becomes guilty of scandal and responsible for the evil that he has directly or indirectly encouraged.” CATECHISM OF THE CATHOLIC CHURCH ¶ 2287. Thus, in addition to avoiding personal complicity, Catholic believers are gravely concerned that commercially participating in celebrating or solemnizing same-sex marriage would send a public message of approval, constituting impermissible “scandal.” *Id.*

Thus, in order to be responsible public witnesses for their beliefs on marriage, millions of Christians, Jews, and Muslims sincerely believe that they must at least avoid publicly supporting same-sex marriage. Millions of believers who reasonably conclude that publicly witnessing to their belief in marriage as the union of man and woman requires refraining from participating in same-sex wedding celebrations.

CONCLUSION

This Court should give great weight, and afford full legal protection, to the sincere beliefs of religious conscience that prohibit Arlene’s Flowers and Barronelle Stutzman from actively participating in or celebrating a same-sex marriage ceremony.

Dated: September 30, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

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