No. 96132-8

SUPREME COURT OF THE STATE OF WASHINGTON

MATTHEW S. WOODS, Appellant,

v.

SEATTLE'S UNION GOSPEL MISSION, Respondent

BRIEF OF 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/USA, LUTHERAN CHURCH-MISSOURI SYNOD, NATIONAL ASSOCIATION OF EVANGELICALS, NORTHSHORE CHRISTIAN ACADEMY, NORTHWEST UNIVERSITY, SEATTLE CHRISTIAN SCHOOL, UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA, AND WORLD VISION, INC. (U.S.) AS *AMICI CURIAE* SUPPORTING RESPONDENT SEATTLE'S UNION GOSPEL MISSION

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provisions and Statutes

Other Authorities

STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici Curiae consist of religious educational institutions in the State of Washington; nationwide religious denominations and associations with constituent members, service programs and employees in this state; and several Christian international humanitarian nonprofits headquartered in the state. As "sectarian" not-for-profit employers in the State, *Amici* have a direct interest in preserving the WLAD's exemption to protect their civil liberties of religious belief and exercise through their staffing decisions.

SUMMARY OF ARGUMENT

This case does not present a clash between civil rights and religious freedom because seventy years ago the Washington Legislature crafted its nondiscrimination law to include protection for the essential right of religious nonprofits to hire employees who agree with their religious beliefs as defined by the religious organizations. Religious freedom is itself a civil right, and one of "vital importance," in this Court's words.

This right of a religious nonprofit to hire persons who agree wholeheartedly with its religious mission is protected not only by the Washington Law Against Discrimination (WLAD), but also by Article I, §11 of the Washington Constitution, which guarantees "absolute freedom of conscience." This Court has emphasized that under this provision courts must make "every effort" to protect religious conscience – an easy task

when the state law at issue itself protects religious nonprofits' employment decisions.

Under all three opinions in *Ockletree v. Franciscan Hospital*, WLAD's protection for religious nonprofits is constitutionally sound as applied here to an employment decision clearly related to the religious nonprofits' religious beliefs or practices, as well as to the hiring of an applicant for a job with religious responsibilities.

Applying WLAD to protect the Mission's employment decision here avoids the direct conflict with the federal Free Exercise and Establishment Clauses created by the underlying premises of the *Ockletree* dissents. These premises were rejected by the United States Supreme Court in *Corporation of Presiding Bishop v. Amos*, which *unanimously* held that the Establishment Clause allows a legislature to exempt a religious nonprofit from nondiscrimination liability for employing persons who adhere to its religious faith, whether in "secular" or "religious" activities. The Court further ruled that the Establishment Clause is not violated by an exemption for religious employers that does not include secular employers, nor are "equal protection principles" violated. Neither is the Establishment Clause violated by an exemption that is not required by the Free Exercise Clause. Instead, Justices Brennan and Marshall condemned "a searching case-by-case analysis" to "determin[e] whether

an activity is religious or secular" because it would "result[] in considerable ongoing government entanglement in religious affairs" that violates the Establishment Clause and infringes free exercise rights.

ARGUMENT

I. Under Washington's Constitution, This Court Must "Make Every Effort" to Accommodate Religious Freedom.

Article I, §11 of the Washington Constitution guarantees "[a]bsolute freedom of conscience." This Court has frequently said that "[t]his constitutional guaranty of free exercise is 'of vital importance.'" *First Covenant Church of Seattle v. City of Seattle,* 120 Wn.2d 203, 226, 840 P.2d 174 (1992) (quoting *Bolling v. Superior Court*, 16 Wn.2d 373, 381, 133 P.2d 803 (1943)); *Munns v. Martin*, 131 Wn.2d 192, 200, 930 P.2d 318 (1997). The importance of religious freedom is a key reason this Court gave for adopting the religion-protective standard of strict scrutiny under Article I, §11. *See First Covenant*, 120 Wn.2d at 224-26. This Court has said that it is "'the most important dut[y] of our courts to ever guard . . . religious liberty, and to see to it that these guarantees are not narrowed or restricted because of some supposed emergent situation.'" *Id.* at 225 (quoting *Bolling*, 16 Wn.2d at 385-86). Indeed, Washington "exhibits a long history of extending strong protection to the free exercise of religion." *Id.* at 225.

II. The Mission is Entitled to the Exemption in RCW 49.60.040(11) Unless its Application Here is Unconstitutional, But to Hold the

Statutory Exemption Unconstitutional as Applied Here Would Directly Contravene Both the Washington Supreme Court's Decision in *Ockletree* and the United States Supreme Court's Decision in *Amos*.

The Mission falls squarely within the protection afforded by RCW 49.60.040(11), which excludes "any religious or sectarian organization not organized for private profit" from the definition of "employer." This Court applies the statutory text unless it is plainly unconstitutional on its face or as applied. Under the reasoning of all three opinions in *Ockletree v. Franciscan Health System*, 179 Wn.2d 769, 317 P.3d 1009 (2014), the exemption in RCW 49.60.040(11) is constitutional *on its face*. It is also constitutional *as applied* to a religious nonprofits' employment decisions that are clearly "related to [its] religious beliefs or practices."

Yet it is important to note that the dissents' basic premises are at loggerheads with the United States Supreme Court's decision in *Corporation of Presiding Bishop v. Amos*, 483 U.S. 327, 107 S. Ct. 2862, 97 L.Ed.2d 273 (1987). There the Court held *unanimously* that a statutory exemption for religious nonprofits' employment decisions regarding "secular" jobs does not violate the Establishment Clause. Indeed, in the words of Justices Brennan and Marshall, "[a] case-by-case analysis for all activities [of a religious nonprofit employer] would both produce excessive government entanglement with religion and create the danger of chilling religious activity." *Id.* at 344 (Brennan, J., concurring). As the

Amos Court ruled, governmental probing into religious nonprofits' employment decisions to determine whether a job, activity, or rationale is "religious" or "secular" creates an unacceptable risk of violating both the Establishment and Free Exercise Clauses. *Id.* at 336.

A. Because the Mission's Employment Decision is "Related to [its] Religious Beliefs or Practices," the Application of the Exemption Here is Constitutional under *Ockletree*.

A religious nonprofit commonly forms around a set of religious beliefs that are the reason for its existence and the essence of its identity. In order to ensure that it will not drift away from its core religious values, a religious nonprofit often requires its employees to affirm their agreement with its religious beliefs and practices. Peter Greer and Chris Horst, *Mission Drift* 47-48 (2014).

To that end, the Mission requires every employee to affirm its religious beliefs and "to live in accordance with what the Mission believes the Bible teaches." Resp. Br. 4-5; CP 65. The Mission's job application asks applicants to describe their religious beliefs and practices. CP 368-69; Resp. Br. 4; CP 67, 332, 702-703. The three attorneys on the legal clinic staff must meet these religious requirements. Resp. Br. 7-8.[1]

[1] Religious nonprofits' ability to make employment decisions based on their religious beliefs is vital to their continued contribution to their communities' common good. *See* Thomas C. Berg, *Partly Acculturated Religious Activity: A Case for Accommodating Religious Nonprofits,* 91 Notre Dame L. Rev. 1431 (2016); Thomas C. Berg, *Progressive*

This case arose when the Mission decided not to employ an applicant because he disagreed with both its religious beliefs and the religious practices that authenticate agreement with its beliefs. The applicant's disagreement with the Mission's religious beliefs meant that he was unable to express the Mission's religious message, as the Mission understands its religious message, in his communication with its clients, other staff members, and greater community. Under the reasoning of all three *Ockletree* opinions, the exemption in RCW 49.60.040(11) is constitutional on its face and as applied to a religious nonprofit whose employment decision is "related to [its] religious beliefs or practices."

1. The exemption is facially constitutional, as each of the three *Ockletree* opinions held. The lead opinion held that the WLAD exemption of religious nonprofit organizations from the definition of "employer" did not violate either Wash. Const. Art. I, § 11 or § 12, on its face or as applied. 179 Wn.2d at 788-789. Justice Wiggins "agree[d] with the lead opinion's conclusion" that the WLAD exemption was "not facially unconstitutional." *Id.* at 805 (Wiggins, J., concurring in part in dissent). The four-justice dissent highlighted its agreement with the lead opinion's "uncontroversial proposition: religious institutions hold a special place in

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Arguments for Religious Organizational Freedom: Reflections on the HHS Mandate, 21 J. Contemp. Legal Issues 279 (2013).

our society and may be granted certain statutory exemptions without offending the constitution." *Id.* at 789 (Stephens, J., dissenting). It held the exemption "invalid only as applied to plaintiffs whose dismissal was unrelated to their employers' religious beliefs or practices." *Id.* at 804 n.6.

2. The three *Ockletree* opinions parted company as to the constitutionality of the exemption *as applied*: whether Article I, § 12 "limited the ability of religiously-affiliated corporations to engage in discrimination *unrelated to their religious beliefs or practices*." *Id.* at 789 (Stephens, J., dissenting) (emphasis added). The dissent argued that the exemption is unconstitutional as applied to a claim of race or disability discrimination where a hospital asserted no relationship between any religious belief, practice, or activity and its decision to fire a security guard. *Id.* The dissent "would hold only that portion of RCW 49.60.040(11) granting a privilege to religious nonprofits invalid, and *only as applied* to plaintiffs whose dismissal was unrelated to *their employers' religious beliefs or practices*." *Id.* at 804 n.6 (emphasis added).

While agreeing that the exemption was unconstitutional *as applied* to a security guard's claims of race and disability discrimination, Justice Wiggins nonetheless "agree[d] in part with the lead opinion's conclusion that there is a reasonable ground for the exemption for religious and sectarian organizations." *Id.* at 806 (Wiggins, J., concurring in part in

dissent). Justice Wiggins explained that "the constitutionality of the exemption depends entirely on whether the employee's job responsibilities relate to the organization's religious practices," that is, "cases in which the job description and responsibilities include duties that are religious or sectarian in nature." *Id.*

Thus, under the reasoning of each *Ockletree* opinion, RCW 49.60.040(11) is completely constitutional as applied here where a religious nonprofit's employment decision clearly "relate[s] to religious beliefs or practices." The Mission exists to obey the Bible's numerous commands to serve God by serving those in need. *See, e.g.,* Deuteronomy 15:11; Psalms 82:3-4; Proverbs 29:7, Isaiah 58:6. The Mission believes that, in order to perform its mission, its staff must agree with the Mission's understanding of the Bible's authority to instruct their daily lives. Among the Bible's many teachings on conduct, the Mission holds a sincere religious belief in limiting sexual conduct to male-female marriage. This belief is not only what the Mission believes the Bible teaches, but it is also understood by many religious organizations to be a strong indicator of whether a person acknowledges the Bible's authority and is willing to live according to its teachings.

3. Application of RCW 49.60.040(11) is constitutional *as applied* here under any of the *Ockletree* opinions. The lead opinion in *Ockletree*

would not scrutinize the Mission's employment decisions once the Mission established that it is a religious nonprofit. The dissents, however, would scrutinize to some degree the Mission's employment decisions.

The four-justice dissent would examine whether a religious nonprofits' employment decision was related to its "religious beliefs or practices." 179 Wn.2d at 804 n.6 (Stephens, J., dissenting). The Mission's employment decision here was based entirely on its religious beliefs or practices. Early in the application process, the applicant volunteered information indicating that he did not agree with the Mission's religious beliefs. In one of his emails during the application process, he called for "a *change* in [the Mission's] policy" that "excluded [him] from employment" because of the Mission's requirement that its staff "live by a Biblical moral code that excludes, among other things, homosexual behavior." CP 135 (emphasis added). During this litigation, he has continued to state his disagreement with the Mission's religious beliefs and practices. Because the Mission declined to hire this applicant due to his disagreement with its religious beliefs or practices, the dissent's test is amply satisfied.

For the same reasons, Justice Wiggins' dissent also supports the Mission's exemption because "RCW 49.60.040(11) is constitutionally applied in cases in which the job description and responsibilities include duties that are religious or sectarian in nature." 179 Wn.2d at 806. Faith-

based legal aid clinics have long been an important feature of the American legal aid landscape.[2] The Mission here expects its three legal aid attorneys to counsel clients and provide them with advice in personal matters. These employees daily encounter occasions to speak consistently—or inconsistently—with the organization's values, as they pray with clients and work with the Mission caseworker to address the client's needs holistically. Resp. Br. 7, CP 321-22, 372. The Mission's employment decision meets the dissents' requirements for constitutional application of the exemption. But as a federal constitutional matter, government scrutiny of religious nonprofits' employment decisions triggers significant establishment and free exercise issues.

B. To Hold the Exemption Unconstitutional as Applied to the Mission's Employment Decision Based on Its Religious Beliefs and Practices Would Directly Contravene the United States Supreme Court's Decision in *Amos.*

The *Ockletree* dissent's holding is entirely dependent on its mistaken conclusion that RCW 49.60.040(11) violates the federal Establishment Clause. 179 Wn.2d at 800-805 (Stephens, J., dissenting). But *Amos* forecloses use of this reasoning to hold RCW 49.60.040(11) unconstitutional as applied here.

[2] *See, e.g.,* Amelia J. Uelmen, *Symposium on Religious Values and Poverty Law: Clients, Lawyers, and Communities Foreword,* 31 Fordham Urb. L.J. 1 (2003).

Both dissents rely on judges' line-drawing between "religious" and "secular" – a task that judges, no matter how well-educated or well-intentioned, are ill-equipped to undertake and are barred by the First Amendment from trying. Even if a court reaches the correct result, the discovery process is rife with entanglement that violates the Establishment Clause and chills religious nonprofits' free exercise.

1. In *Amos*, the Court held that the Establishment Clause Is Not Violated by a Religious Exemption that Allows Religious Nonprofits to Make Employment Decisions Based on Their Religious Beliefs.

When enacted in 1964, § 702 of Title VII of the 1964 Civil Rights Act exempted only the *religious* activities of religious employers. *Amos*, 483 U.S. at 332 n.9. But in 1972, Congress amended § 702 to "extend[] the exemption to *all activities of religious organizations*" in order to "take the political hands of Caesar off of the institutions of God, where they have no place to be." *Id*. at 332 n.9, quoting 118 Cong. Rec. 4503 (1972) (statement of Sen. Ervin) (emphasis added). The issue decided in *Amos* was whether applying § 702, as legislatively expanded, to the "secular nonprofit activities of religious organizations violate[d] the Establishment Clause of the First Amendment." 483 U.S. at 330. The Supreme Court unanimously held that exempting a religious organization's "secular

nonprofit activities" did not violate the Establishment Clause, but instead avoided creating the entanglement prohibited by the Establishment Clause.

As in this case, the issue in *Amos* was not whether the employee self-identified as a member of the religious employer's faith, but whether the *religious employer* considered the employee to be conducting himself in a manner consistent with the employers' religious beliefs and practices. Specifically, in *Amos*, a religious nonprofit discharged a janitor who no longer qualified for a "temple recommend," which was reserved for persons "who observe the Church's standards . . . ." *Id.* at 330 & n.4.

2. In *Amos*, the Court Rejected Several Basic Premises Underlying the *Ockletree* Dissent's Conclusion that the Establishment Clause is Violated by RCW 49.60.040(11)'s Exemption of Religious Nonprofit Employers.

a. An exemption for religious employers that does not include secular employers does not violate the Establishment Clause.

The lower court in *Amos* had ruled in favor of the janitor based on the erroneous premise that the Establishment Clause would be violated if the exemption were not limited to only religious activities of religious employers because 1) the religious exemption "single[d] out religious entities for a benefit, rather than benefiting a broad grouping of which religious organizations are only a part" and 2) burdened employees' free exercise rights. *Id.* at 333. The *Ockletree* dissent similarly held that "[t]he

distinction WLAD draws between religious and secular nonprofits violates the federal First Amendment establishment clause." 179 Wn.2d at 804.

But the *Amos* Court roundly rejected that the Establishment Clause was violated by an exemption which 1) was limited to religious employers or 2) applied to religious employers' religious *and secular* activities. 483 U.S. at 330. Instead, the Court concluded that "[w]here, as here, government acts with the proper purpose of lifting a regulation that burdens the exercise of religion, *we see no reason to require that the exemption comes packaged with benefits to secular entities*." *Id.* at 338 (emphasis added). Justices Brennan vociferously defended the constitutionality of a *categorical* rule protecting *religious* nonprofits: "While not every nonprofit activity may be operated for religious purposes, the likelihood that many are makes a categorical rule a suitable means to avoid chilling the free exercise of religion." *Id.* at 345.

b. An exemption for religious employers but not for secular employers does not offend equal protection principles.

Similarly, the Court rejected the argument that a religious exemption "offend[ed] equal protection principles" by either disadvantaging religious *employees* in relation to secular employees, or advantaging religious *employers* in relation to secular employers. *Id.* at 338-339 & n. 16. The Court dismissed the argument because "Congress

acted with a legitimate purpose in expanding the . . . exemption to cover all activities of religious employers" when it acted to "alleviat[e] significant governmental interference with the ability of religious organizations to define and carry out their religious missions." *Id*.

c. An exemption for religious employers that protects both their religious and secular activities does not violate the Establishment Clause.

The four-justice *Ockletree* dissent relies on another mistaken premise rejected in *Amos*: "Because WLAD grants immunity from discrimination claims that are unrelated to the employer's religious beliefs, it is not necessary to alleviate a concrete and substantial burden on religious exercise," and, therefore, violates the federal Establishment Clause. 179 Wn.2d at 804 (Stephens, J., dissenting). But this is the precise holding of *Amos*: the Establishment Clause is not violated when the legislature exempts religious employers' *secular* activities because it seeks "to minimize governmental interference with the decision-making process in religions." 483 U.S. at 336.

d. An exemption need not be required by the Free Exercise Clause in order to be constitutional.

The *Amos* Court explained that "there is ample room for accommodation of religion under the Establishment Clause." *Id.* at 338. The Court stressed the significant breathing room that religious

exemptions inhabit between what the Free Exercise Clause *requires* and what the Establishment Clause *prohibits*. *Id.* at 334. *See generally*, Carl H. Esbeck, *Do Discretionary Religious Exemptions Violate the Establishment Clause?*, 106 Ky. L. J. 603 (2018). But the *Ockletree* dissent rested on the mistaken premise that "[t]he State may grant special benefits to religious affiliated corporations without violating the establishment clause, *but only when necessary* to alleviate a burden on free expression that is substantial and concrete. 179 Wn.2d at 803 (Stephens, J., dissenting) (emphasis added). Even while observing that it was a "*permissible* legislative purpose to alleviate significant governmental interference with the ability of religious organizations to define and carry out their religious missions," the *Amos* Court was clear that such a legislative purpose was not *required.* 483 U.S. at 335.

e. A religious exemption does not violate the Establishment Clause because it allows religious nonprofits to advance their religion.

Neither does an exemption violate the Establishment Clause "simply because it *allows* churches to advance religion, which is their very purpose. For a law to have forbidden 'effects' . . . it must be fair to say that the *government itself* has advanced religion through its own activities and influence." *Id.* at 337. Similarly, RCW 49.60.040(11) does not violate

the Establishment Clause simply because it leaves religious nonprofits free to make employment decisions consistent with their religious beliefs.

3. In *Amos*, the Court Rejected the Line-Drawing between Religious and Secular Activities Required by the *Ockletree* Dissents Because Such Line-Drawing Risks Violating the Free Exercise and Establishment Clauses.

The Supreme Court in *Amos*, *id.* at 331 n.6, rejected the exact line-drawing proposed by the dissent and Justice Wiggins in *Ockletree* , *i.e.*, the idea that government may or can decide which of a religious employer's activities are religious and which are secular without violating the Establishment Clause. As the Court declared, "[t]he line is hardly a bright one, and an organization might understandably be concerned that a judge would not understand its religious tenets and sense of mission." *Id.* at 336. In their oft-quoted concurrence, Justices Brennan and Marshall agreed that "[t]he particular character of nonprofit activity makes inappropriate a case-by-case determination whether its nature is religious or secular." *Id.* at 340; *see id.* at 343 ("What makes the application of a religious-secular distinction difficult is that the character of an activity is not self-evident."). The progressive icons condemned "a searching case-by-case analysis" to "determin[e] whether an activity is religious or secular" because it would "result[] in considerable ongoing government entanglement in religious affairs." *Id.* at 343.

It is this entanglement problem that the *Ockletree* dissent overlooked as the reason why "the distinction WLAD draws between religious and nonprofit employers" actually is "reasonable." 179 Wn.2d at 804. That is, application of WLAD to secular nonprofits does not create an entanglement problem because no line-drawing between "secular" and "religious" activities is required. By contrast, when the employer is religious (as in this case), the government treads a hazardous minefield that easily leads to entanglement which violates the Establishment Clause.

Furthermore, the entanglement chills many religious nonprofits' free exercise of religion. As the Court explained:

> It is a significant burden on a religious organization to require it, on pain of substantial liability, to predict which of its activities a secular court will consider religious. The line is hardly a bright one, and an organization might understandably be concerned that a judge would not understand its religious tenets and sense of mission. Fear of potential liability might affect the way an organization carried out what it understood to be its religious mission.

483 U.S. at 336. Justices Brennan and Marshall agreed that "this prospect of government intrusion" and "ongoing government entanglement in religious affairs" could chill religious organizations' "free exercise activity." *Id.* at 343. They warned that free exercise rights would also be jeopardized by a religious nonprofits' loss of autonomy to "[d]etermin[e]

that certain activities are in furtherance of an organization's religious mission, and that only those committed to that mission should conduct them." *Id*. at 342. This autonomy the appellant challenges here.

4. This Case is Controlled by—Indeed the Claim for the Exemption's Validity is Even Stronger than in—*Amos*.

Just as in *Amos*, where making a distinction between the "religious" and "secular" activities was fraught with difficulties and potential entanglement, so too is drawing such a line as to whether a religious nonprofit like the Mission made decisions "related to" its religious beliefs or practices, as the *Ockletree* dissent would require. The line-drawing between jobs that are "religious" or "secular" that Justice Wiggins' decision would require is similarly fraught with potential entanglement. But even assuming *arguendo* that the "religious/secular" line could be drawn in some cases, it is entangling to draw it here, in a case involving a staff lawyer who—while presenting secular legal advice—also counsels the client on sensitive decisions that often touch on faith and morality. The Supreme Court in *Amos* held unanimously that the Title VII exemption could apply to a janitor, and the job in this case is far more sensitive. The role of a staff lawyer at the Mission epitomizes the potential for entanglement in trying to draw a principled line between job duties that are "secular" and job duties that can be "religious."

The Mission's decision not to hire a job applicant based on conduct that violated its religiously-grounded standards of behavior is just as religiously sensitive as the religious employer's action in *Amos* that also was based on an employee's failure to meet its religiously grounded standards of behavior. Indeed, federal appellate courts have held that a religious employer's action discharging an employee for conduct contravening religious standards fits within the *very* exemption that *Amos* upheld, § 702.[3] These decisions hold that when an organization demands that individuals adhere to a standard of conduct, it is preferring individuals "of a particular religion" under § 702. Thus, the interest involved in this case is actually the *same* interest that *Amos* unanimously held could be accommodated. To strike down the exemption as applied here would violate the Supreme Court's *Amos* ruling.

III. A Decision Denying Religious Nonprofits Their Right to Make Employment Decisions Based on Their Religious Beliefs Would Have Significant Consequences For Private Religious Education.

If Washington parents can no longer count on their children's religious schools having the right to make employment decisions

[3] *See, e.g., Curay -Cramer v. Ursuline Acad.*, 450 F.3d 130 (3d Cir. 2006) (exemption protected Catholic school that discharged teacher for signing a pro-choice advertisement); *Hall v. Baptist Mem'l Health Care Corp.*, 215 F.3d 618 (6th Cir. 2000) (exemption protected Baptist institution that discharged administrator in a same-sex relationship); *Little v. Wuerl*, 929 F.2d 944 (3d Cir. 1991) (exemption protected Catholic school's discharge of teacher for re-marrying without first annulling a prior marriage).

consistent with their religious beliefs and conduct standards, they will no longer be willing to pay tuition for schools in which the ethos and teachers are no different from tuition-free public schools. The loss of RCW 49.60.040(11)'s protection could well mark the end of private education in this State.

CONCLUSION

The judgment of the trial court should be affirmed.

Respectfully submitted,

January 22, 2019

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CERTIFICATE OF SERVICE

I hereby certify that I directed the 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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