

No. 21-144

In The
Supreme Court of the United States

SEATTLE'S UNION GOSPEL MISSION,

Petitioner,

v.

MATTHEW S. WOODS,

Respondent.

**On Petition For A Writ Of Certiorari
To The Supreme Court Of Washington**

**BRIEF OF SAMARITAN'S PURSE AS *AMICUS
CURIAE* IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

Samaritan's Purse is a nondenominational evangelical Christian organization providing spiritual and physical aid to hurting people around the world. Since 1970, Samaritan's Purse has helped meet the needs of people who are victims of war, poverty, natural disasters, disease, and famine with the purpose of sharing God's love through His Son, Jesus Christ. Samaritan's Purse serves the Church worldwide to promote the Gospel of the Lord Jesus Christ through acts of service and by sharing the life-giving message of the Gospel. *Amicus* has an interest in this case because the Washington Supreme Court's decision below permits unconstitutional discrimination against religious organizations like Samaritan's Purse that hire only those committed to the organization's religious beliefs and moral vision.

◆

**INTRODUCTION AND
SUMMARY OF ARGUMENT**

The Constitution's vision for religious liberty rejects two fatal errors. On the one hand, by barring laws "respecting an establishment of religion," the First Amendment prohibits government control of religion, thus protecting both religion and the state from the

¹ The parties have received timely notice of *amicus*' intention to file this brief and have consented to its filing in writing. No party's counsel authored this brief in whole or in part, and no person or entity other than *amicus* or its counsel made a monetary contribution intended to fund its preparation or submission.

manifold wars and abuses that inevitably arise when government tries to decide questions of religious truth in a pluralistic society. On the other hand, by guaranteeing free exercise—rather than mere “freedom of worship”—the First Amendment wisely rejects French-style *laïcité*, securing not only an individual freedom to pray and worship, but also a corporate freedom to form religious institutions free from government interference and to live out one’s faith in the world.

In steering this middle course, America has long recognized the importance of religious groups to the social order and thus given “special solicitude to the rights of religious organizations,” even when the beliefs of the ministry conflict with those widely held in society. See *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 189 (2012). As this Court has repeatedly noted, personnel is policy, and this solicitude to make decisions “free from state interference” must thus apply not only to a religious group’s decisions about faith and doctrine, but also to matters of internal governance, including whom the group selects to advance its mission. See *Kedroff v. Saint Nicholas Cathedral of Russ. Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952); *Our Lady of Guadalupe v. Morrissey-Berru*, 140 S. Ct. 2049, 2055 (2020). As with all constitutional rights, this protection is not necessary when society agrees with the religious and moral convictions of an organization but is needed precisely when it does not.

Consistent with these principles, the Third, Fourth, Fifth, Sixth, Ninth, and Eleventh Circuits have all

recognized that the First Amendment protects religious nonprofits' autonomy in hiring those who share their religious beliefs. But the Washington Supreme Court's decision below rejects this well-established and tolerant approach. Its holding is simple: either hire people who actively reject and seek to undermine your religious mission, or close shop.

As Petitioner ably explains, review is necessary to resolve a conflict about an exceptionally important question of constitutional law. Samaritan's Purse submits this brief to highlight the importance of mercy ministries in America and worldwide and to give additional context about just how harmful the decision below is likely to prove if this Court does not step in.

* * *

Beginning with the ministry of Jesus Christ some 2,000 years ago, Christians have consistently engaged in ministries of mercy to the most vulnerable and oppressed. Indeed, this aspect of Christianity is so fundamental that Jesus, in the famous parable of the sheep and the goats, says that those who fail to feed the hungry, show hospitality to the stranger, clothe the naked, and care for the sick and imprisoned "shall go away to everlasting punishment" because "whatever you did not do for one of the least of these, you did not do for me." Matthew 25:45–46 (King James).

Like Petitioner, Samaritan's Purse is a Christian nonprofit that takes Jesus at his word. It seeks to serve the needy not because of some vague humanitarianism, but because of its fundamental conviction that

the claims of Christianity are true and that its moral injunctions—all of them—are binding on Christians. It is the profound and fundamental nature of this belief that has inspired Samaritan’s Purse and many other organizations to be so effective, going where no one else is willing to go at great personal cost and risk. Samaritan’s Purse’s works, without its faith, would be dead.

Consistent with the First Amendment, groups like Petitioner and Samaritan’s Purse have almost universally been welcomed in America as they live out this calling, even by those who have different moral and religious commitments—and to good effect. By one accounting, religious groups in the United States contribute over \$1.2 trillion in socio-economic value every year.² In recent years, however, a small but vocal group of activists, lawmakers, and judges have come to the conclusion that traditional Christian beliefs are so out of step with their own values that those who seek to live out those Christian beliefs by serving the sick and needy must be stopped.

Petitioner is not alone in being attacked over its faith. Samaritan’s Purse recently was subjected to attempted cancellation when it sought to help treat COVID-19 patients during the worst days of the pandemic in New York City. It had worked with city authorities to set up a mobile field hospital in Central Park to take in hundreds of patients who would not

² Brian J. Grim & Melissa E. Grim, *The Socio-economic Contribution of Religion to American Society*, 12 INTERDISCIPLINARY J. RSCH. ON RELIGION 24 (2016).

otherwise have received care. While everyone agreed that this life-saving work was crucial, a group of activists and politicians took offense at the fact that Samaritan's Purse hires only those who share its Christian faith and moral commitments, including a belief that the blessings of sexual intimacy are reserved solely for marriages between one man and one woman. The city's human rights commission then opened an investigation into Samaritan's Purse, and leading state and federal lawmakers publicly attacked Samaritan's Purse for its adherence to its Christian faith.

Unlike Petitioner, Samaritan's Purse was able to weather this storm intact—for now. But if lower courts are permitted to encroach on religious groups' autonomy, the inevitable result will be that scores of Christian mercy ministries that serve in the United States will be forced to close in the near future. This will not only harm these groups, but also the many vulnerable people they serve. The Constitution prohibits such a perverse and intolerant result. And this Court should therefore grant certiorari and reverse the decision below—now, before Washington's errors spread.

◆

ARGUMENT

I. Christians Have Been Ministering to the Poor and the Sick for Two Thousand Years.

Samaritan's Purse takes its name from the parable of the Good Samaritan, in which Jesus explains Christian charity to one of his fellow first century Jews,

who asked, “who is my neighbor?” Jesus responds by telling of a man attacked by robbers while on a journey to Jericho. The traveler is beaten, stripped of his clothes, and left for dead on the side of the road. Two Jewish religious leaders—a priest and a Levite—pass him by, pretending not to see or hear him. But a Samaritan, a social, ethnic, and political enemy of the wounded man, has compassion, “and he went to him, and bound up his wounds, pouring in oil and wine, and set him on his own beast, and brought him to an inn, and took care of him.” Luke 10:34. “And the next day he took out two denarii [each worth a day’s wage] and gave them to the innkeeper, saying, ‘Take care of him, and whatever more you spend, I will repay you when I come back.’” Luke 10:35.

Imagine the surprise of a first-century Jew upon hearing this parable. It is difficult to overstate how much Jews and Samaritans hated one another. The two groups had once been a single people, but, according to tradition, after the Assyrian hordes killed or carried off into captivity most inhabitants of Samaria in the 8th century B.C., the remaining Hebrews in that region had intermarried with other peoples and—crucially—disagreed profoundly with the Jews about whether God should be worshiped at Mount Gerizim (in Samaria) or Jerusalem (in Judea). Jews of the first century viewed Samaritans as half-breeds and heretics. Yet a Samaritan is the model Christ chose for the Christians to follow.

As the Samaritan did for the injured Jew, so the Christian is to do for the Jew, the Samaritan, the Roman, and anyone in need.

A. Christian mercy ministries serve to witness the love of Christ.

The earliest Christians sought to live out the parable of the Good Samaritan in their ministries of mercy to friend and foe, stranger and neighbor, alike. In the second and third centuries, the Roman Empire faced the terrible Antonine and Cyprian Plagues, which may have killed as much as a quarter of the Empire's population.³ While the rich and powerful fled to the hills, Cyprian, the bishop of Carthage for whom the second plague was later named, urged Christians to go forth caring for plague victims and endure suffering in following Christ's example.⁴ They answered the call, tending the sick and the dying, heedless of the danger to themselves.

This powerful witness of the Christian faith was noticed by non-Christians. The Emperor Julian the Apostate (so-called because of his conversion to paganism after a Christian upbringing) complained bitterly that Christianity "has been specially advanced through the loving service rendered to strangers, and through their care for the burial of the dead. . . .

³ Kyle Harper, *Pandemics and Passages to Late Antiquity: Rethinking the Plague of c. 249-70 Described by Cyprian.*, 28 *J. OF ROMAN ARCHAEOLOGY* 223 (2015).

⁴ *Id.*

that the godless Galileans care not only for their own poor but for ours as well; while those who belong to us look in vain for the help that we should render them.”⁵

This pattern continued throughout Christian history. In the middle ages, for instance, Christians came together to care for a world repeatedly ravaged by poverty and plague. When between one-third and half of the British population was killed by the Black Death in the 14th century, the sick fled to the care of monks and nuns at nearby abbeys.⁶ During the Reformation when the plague beset Wittenberg, Martin Luther stayed and urged others to stay and care for the sick.⁷ His charity led to the sickness of his wife and loss of his baby daughter, Elisabeth. John Calvin similarly risked death by personally leading visitations to the homes of those sick with plague in Geneva.⁸

This tradition was continued in the new world by Christian groups as diverse as the Quakers, Catholics, and Puritans. To pick just one particularly stirring example, in 1873, Saint Damien of Molokai traveled to the then Kingdom of Hawai’i to teach his Catholic

⁵ Ken Curtis, *The Spread of Early Christianity*, CHRISTIANITY.COM (May 3, 2010), <https://www.christianity.com/church/church-history/timeline/1-300/the-spread-of-the-early-church-11629561.html>.

⁶ Hugh Willmott, *A Black Death Mass Grave at Thorton Abbey*, 94 ANTIQUITY 179, 180, 188–189 (2020).

⁷ A. Hancock, *Calculated Risks: Exploring Plague Ethics with Luther and Barth*, 40 ACTA THEOLOGICA 64, 69 (2020).

⁸ Morgan Lee, *Epidemic Tore Through John Calvin’s Geneva Five Times*, CHRISTIANITY TODAY (Apr. 17, 2020), <https://www.christianitytoday.com/ct/podcasts/prayer-amid-pandemic/john-calvin-plague-geneva-predestination.html>.

faith and care for the patients in its leper colony.⁹ He dressed their ulcers and made coffins for their dead until he himself succumbed to leprosy after 15 years of service.¹⁰ Hawaii commemorated him with a statue that still stands in the National Statuary Hall of the Capitol building.¹¹ Such mercy ministry was not the province only of dedicated missionaries and leaders. When the Spanish Flu struck in 1918, killing nearly 700,000 in the United States alone, ordinary lay Christians of all denominations across the country came together, in small groups and large, to pray and to care for the sick.¹²

B. America has welcomed this love.

Unlike the Emperor Julian, the American tradition has welcomed mercy ministries, even when performed by religious groups that many viewed with suspicion or even overt hostility. Religion and religious liberty, after all, have, from the beginning, been cornerstones of the American republican culture. For example, in his farewell address, George Washington called

⁹ Libert Boeynaems, *Father Damien*, CATHOLIC ENCYCLOPEDIA (last visited Aug. 17, 2021), <http://www.newadvent.org/cathen/04615a.htm>.

¹⁰ *Id.*

¹¹ *Father Damien*, ARCHITECT OF THE CAPITOL (last visited Aug. 17, 2021), <https://www.aoc.gov/explore-capitol-campus/art/father-damien>.

¹² John Mark Hicks, *How Churches of Christ responded when the 1918 ‘Spanish flu’ killed millions*, CHRISTIAN CHRONICLE (Mar. 17, 2020) <https://christianchronicle.org/how-churches-of-christ-responded-when-the-1918-spanish-flu-killed-millions/>.

“[r]eligion and morality” the “firmest props of the duties of men and citizens.”¹³ John Adams expressed a similar sentiment when he wrote that “Our Constitution was made only for a moral and religious People. It is wholly inadequate to the government of any other.”¹⁴ This was not merely because of the need for citizens to have a strong personal moral code or respect for authority, but also, as de Tocqueville noted, because of the way in which religion encouraged service and self-sacrifice in the establishment of social institutions such as hospitals and schools.¹⁵ In de Tocqueville’s judgment, it was therefore necessary for Americans to “maintain Christianity . . . at all cost.”¹⁶

America has largely heeded this wise advice, and many of the best parts of American social and political life owe their existence to the mercy ministries of American Christians. Thus, writing in 1864, President Lincoln could observe that the government has been “nobly sustained . . . by all the churches” and “God bless the Methodist Church—bless all the churches—

¹³ George Washington, *Transcript of President George Washington’s Farewell Address (1796)*, OUR DOCUMENTS (last visited Aug. 17, 2021), <https://www.ourdocuments.gov/doc.php?flash=false&doc=15&page=transcript>.

¹⁴ Letter from John Adams to Massachusetts Militia (Oct. 11, 1798).

¹⁵ ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 489 (Harvey C. Mansfield and Delba Winthrop trans., 2002).

¹⁶ *Id.* at 519.

and blessed be God, Who, in this our great trial, giveth us the churches.”¹⁷

As Lincoln suggested, this American acceptance of religious charity has crossed sectarian divides. Quakers, long distrusted by Puritans, set up schools, hospitals, and almshouses throughout New England.¹⁸ Catholics, feared and reviled by Protestants through much of American history, had by 1900 established more than 800 Catholic institutions dedicated to the care of the unwanted: children, the elderly, the sick, and the disabled.¹⁹

This tradition continues today. Christians and religious of all denominations run charitable hospitals, homeless shelters, legal aid clinics, centers to help vulnerable women and children, and soup kitchens; totaling over \$1.2 trillion in socio-economic value every year contributed by religious groups in the United States.²⁰ As with the Christians of the past, they serve because of their faith, and many make it a particular point to serve everyone in need, regardless of their beliefs.

¹⁷ ABRAHAM LINCOLN, 7 COLLECTED WORKS OF ABRAHAM LINCOLN 351 (Roy P. Balser ed. 1953).

¹⁸ Debbie M. Price, *For 175 Years: Treating Mentally Ill With Dignity*, NEW YORK TIMES (Apr. 17, 1988).

¹⁹ Linda Plitt Donaldson & Kathleen Belanger, *Catholic Social Teaching*, 39 SOCIAL WORK AND CHRISTIANITY 119, 119 (2012).

²⁰ Brian J. Grim & Melissa E. Grim, *The Socio-economic Contribution of Religion to American Society*, 12 INTERDISCIPLINARY J. RSCH. ON RELIGION 24 (2016).

C. Samaritan’s Purse continues the long history of Christian mercy ministry.

Founded in 1970, Samaritan’s Purse is a non-denominational evangelical Christian aid organization with field offices in 17 countries and ministry partners in more than 100 countries.²¹ Its mission is to share God’s love by providing spiritual and physical aid to the victims of war, poverty, natural disasters, disease, and famine around the world.²²

Samaritan’s Purse’s most famous program is likely Operation Christmas Child. Each November, Samaritan’s Purse organizes thousands of churches, schools, and local groups to fill shoeboxes with toys, school supplies, and other small gifts.²³ Since 1993, more than 188 million children in more than 170 countries and territories have received an Operation Christmas Child shoebox.²⁴ The purpose of this ministry is about more than mere “aid”—it is to give the

²¹ Samaritan’s Purse, *Facts*, SAMARITAN’S PURSE (last visited Aug. 19, 2021), <https://www.samaritanspurse.org/media/fact-sheet-samaritans-purse/>.

²² Samaritan’s Purse, *Statement of Faith*, SAMARITAN’S PURSE (last visited Aug. 17, 2021), <https://www.samaritanspurse.org/our-ministry/statement-of-faith/>.

²³ Samaritan’s Purse, *Operation Christmas Child, Mission and History*, SAMARITAN’S PURSE (last visited Aug. 17, 2021), <https://www.samaritanspurse.org/operation-christmas-child/mission-and-history/>.

²⁴ *Id.*

children and their parents “a tangible expression of God’s love.”²⁵

The staff of Samaritan’s Purse also show this love in the care of the sick, often at great personal cost. In October of 2013, for example, Dr. Kent Brantly came to Liberia to serve in a two-year medical mission, joined by his wife, Amber, a nurse, and their two young children.²⁶ In June of 2014, the Liberian Ebola outbreak began.²⁷

Ebola patients were funneled to the Samaritan’s Purse Hospital, as it was the best equipped to handle them.²⁸ As the outbreak grew worse, Amber and the two children returned to the United States, but Dr. Brantly stayed.²⁹ He felt called by God to continue caring for the sick, and he did so until he himself contracted Ebola and nearly died. After his recovery, he returned to medical missions in Africa, and was eventually named by Time magazine as a Person of the Year.³⁰

²⁵ *Id.*

²⁶ Kent Brantly, *This Is What It Feels Like to Survive Ebola*, TIME (Sep. 5, 2014), <https://time.com/3270016/ebola-survivor-kent-brantly/>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Bobby Ross, *Ebola Survivor Dr. Kent Brantly Returning to Africa as Medical Missionary*, CHRISTIAN CHRONICLE (July 16, 2019), <https://christianchronicle.org/ebola-survivor-dr-kent-brantly-returning-to-africa-as-medical-missionary/>.

Why did Brantly put his life at risk to care for the sick 5,000 miles from home? “God has placed a call on all of us,” Brantly explained.³¹

That same call led doctors with Samaritan’s Purse to build an emergency field hospital just east of Mosul, Iraq to care for those wounded in the battle with ISIS fighters. The doctors treated “more traumatic injuries in a matter of months than many large hospitals in the United States see in a year,” all only miles from ISIS-occupied territory.³² These doctors risked their lives to care the injured—of different faiths, from far off countries, and even ISIS fighters who sought to kill them—all to show “the love of Jesus Christ.”³³

Everything Samaritan’s Purse does comes back to deeply held biblical beliefs acted out in the tradition of mercy ministry. Its selflessness and focus on helping others are only possible because of the organization’s faith. To maintain this mission, it is critical that everyone in Samaritan’s Purse—from the CEO and the doctors to the security guards and the janitors—believe that God is calling them to do this work. No better

³¹ Erik Tryggestad, ‘*God has placed a call on all of us*’, CHRISTIAN CHRONICLE (Aug. 13, 2014), <https://christianchronicle.org/god-has-placed-a-call-on-all-of-us/>.

³² Samaritan’s Purse, *Samaritan’s Purse Doctors in Iraq Respond to More Level-1 Trauma Patients in Three Months Than Some Large U.S. Hospitals See in One Year*, SAMARITAN’S PURSE (Mar. 24, 2017), <https://www.samaritanspurse.org/our-ministry/1000-victims-of-conflict-in-mosul-treated-at-emergency-field-hospital-press-release/>.

³³ *Id.*

example of this can be found than Samaritan's Purse's efforts during the COVID-19 epidemic.

II. Doctors from Samaritan's Purse Saved Hundreds of Lives in New York While Critics Tried to Shut Them Down Over Their Faith.

A. Doctors from Samaritan's Purse treated all who came to them in Central Park.

When the COVID-19 outbreak began in early 2020, Samaritan's Purse responded by deploying field hospitals in hot spots. Its first field hospital was set up in Cremona, Italy.³⁴ A full medical team of nurses and doctors were airlifted to Italy on March 17th and began treating the severely ill within days.³⁵ "Everyone has been working around the clock, getting things done, filling in wherever they can. We're all motivated by a desire to love like Jesus loves, to be His hands and feet and to be the miracle in darkness," medical director Kelly Suter explained.³⁶ All of the workers, whether treating patients, answering the phones, or cleaning

³⁴ Jackie Vandinther, 'No patient dies alone': Samaritan's Purse nurse on working in one of Italy's hardest-hit virus zones, CTV NEWS (May, 14 2020), <https://www.ctvnews.ca/health/corona-virus/no-patient-dies-alone-samaritan-s-purse-nurse-on-working-in-one-of-italy-s-hardest-hit-virus-zones-1.4939980>.

³⁵ *Id.*

³⁶ Mike Thom, *Mission organization opens field hospital in Italy*, CHVN (Mar. 24, 2020), <https://chvnradio.com/articles/mission-organization-opens-field-hospital-in-italy>.

the floors, viewed their work as an expression of Christian charity.

As COVID-19 spread into the United States, Samaritan's Purse prayed that it could again be of service. In New York the situation became particularly dire.³⁷ New York City hospitals were short on ventilators, beds, and staff; the overwhelmed healthcare system was brought to the point of panic. Mt. Sinai Hospital requested help to handle the onslaught, and Samaritan's Purse answered the call, setting up an Emergency Field Hospital in Central Park.³⁸

On April 1st, the Field Hospital opened.³⁹ Each day, Samaritan's Purse told Mt. Sinai how many beds were available, and Mt. Sinai selected which patients to send.⁴⁰ There was no litmus test for patients; as they had in Iraq and Liberia, the doctors from Samaritan's Purse treated all patients who came to them with respect, dignity, compassion, and kindness.

³⁷ New York Times, *New York Has Roughly 5% of Coronavirus Cases Worldwide*, NEW YORK TIMES (Mar. 22, 2020), <https://www.nytimes.com/2020/03/22/nyregion/coronavirus-new-york-update.html>.

³⁸ Letter from David L. Reich, President of Mount Sinai Hospital, to Sapna Raj, Deputy Commissioner of the New York City Commission on Human Rights (April 23, 2020).

³⁹ Anna Medaris Miller, *What It's Like Inside the Central Park Field Hospital in New York City*, BUSINESS INSIDER (Apr. 9, 2020), <https://www.businessinsider.com/central-park-field-hospital-org-samaritans-purse-were-at-war-2020-4>.

⁴⁰ Letter from David L. Reich, President of Mount Sinai Hospital, to Sapna Raj, Deputy Commissioner of the New York City Commission on Human Rights (Apr. 23, 2020).

In the desperate month that Samaritan's Purse was in New York, it treated some 315 New Yorkers at a time when no one else could.⁴¹

B. Their good works were questioned because of their faith.

While the vast majority of New Yorkers welcomed Samaritan's Purse with gratitude, a small group of political activists opposed its mission because they disagreed with Samaritan's Purse's religious beliefs. Just a few days after the Field Hospital opened, performance artist Billy Talen planted a rainbow flag outside the Field Hospital in protest of Samaritan's Purse's adherence to traditional Christian beliefs about marriage.⁴² The next day, Timothy Lunceford-Stevens, a veteran member of the activist group ACT UP,⁴³ "volunteered" to work at the Field Hospital, likely knowing he would

⁴¹ Michael Foust, *Samaritan's Purse Leaving NYC After Caring for 315 Patients 'In Jesus' Name'*, CHRISTIAN HEADLINES (May 4, 2020), <https://www.christianheadlines.com/contributors/michael-foust/samaritans-purse-leaving-nyc-after-caring-for-315-patients-in-jesus-name.html>.

⁴² Jake Offenhartz, *Rev. Billy Arrested for Planting Rainbow Flag at Central Park Tent Hospital Run by Anti-Gay Group*, GO-THAMIST (Apr. 6, 2020), <https://gothamist.com/news/rev-billy-arrested-planting-rainbow-flag-central-park-tent-hospital>.

⁴³ Benjamin Shepard, *Review: Christophe Broqua, Action = Vie: A History of AIDS Activism and Gay Politics in France*, LOGOS J. (last accessed Aug. 19, 2021), <http://logosjournal.com/2021/review-christophe-broqua-action-vie-a-history-of-aids-activism-and-gay-politics-in-france-philadelphia-temple-university-press-2020/>.

be turned away because he could not agree to Samaritan's Purse's "Statement of Faith."⁴⁴

As a religious association, Samaritan's Purse requires all staff to agree to its "Statement of Faith" and "Christian Code of Conduct." The Statement of Faith affirms belief in the Bible, in the three persons of the Holy Trinity, in the divinity of Jesus Christ, and that God has personally called everyone to live a Christian life—among other things, to pray, to evangelize, and to engage in sexual intimacy only in the context of marriage between a man and woman.⁴⁵ The Christian Code of Conduct likewise requires staff to live biblically pure lives, including by abstaining from pornography and sex outside of marriage. It also requires them to avoid conflicts of interest, and to treat every patient with respect, and to help victims of poverty, natural disasters, and disease with the purpose of sharing God's love.

These requirements are no secret. They are core to the faith and mission of Samaritan's Purse. After Lunceford-Stevens was turned away for refusing to sign the "Statement of Faith," he filed a complaint with

⁴⁴ Tyler O'Neil, *Protesters Compare Samaritan's Purse to KKK as Christian Charity Serves Coronavirus Patients*, PJ MEDIA (Apr. 24, 2020), <https://pjmedia.com/culture/tyler-o-neil/2020/04/24/protesters-compare-samaritans-purse-to-kkk-as-christian-charity-serves-coronavirus-patients-n385840>.

⁴⁵ Samaritan's Purse, *Statement of Faith*, SAMARITAN'S PURSE (last accessed Aug. 19, 2021), <https://www.samaritanspurse.org/our-ministry/statement-of-faith/>.

the New York City Commission on Human Rights.⁴⁶ The Commission immediately launched an investigation and set off an avalanche of protests and political posturing.⁴⁷

On April 14th, the Reclaim Pride Coalition and ACT UP staged a protest outside of the field hospital.⁴⁸ Longtime LGBTQ activist, Jay W. Walker, compared Samaritan’s Purse to the KKK.⁴⁹ Steven Thrasher, a scholar at Northwestern University, wrote in a statement that he was, “particularly worried about the Samaritans causing harm to LGBTQ people.”⁵⁰

The next day, Reps. Jerry Nadler, Alexandria Ocasio-Cortez, and other Members of Congress wrote a letter demanding an investigation into Samaritan’s Purse, suggesting (baselessly) that the Field Hospital may have been refusing to treat “LGBTQIA+ individuals.”⁵¹ New York City Council Speaker Corey Johnson

⁴⁶ Tyler O’Neil, *Protesters Compare Samaritan’s Purse to KKK as Christian Charity Serves Coronavirus Patients*, PJ MEDIA (Apr. 24, 2020), <https://pjmedia.com/culture/tyler-o-neil/2020/04/24/protesters-compare-samaritans-purse-to-kkk-as-christian-charity-serves-coronavirus-patients-n385840>.

⁴⁷ Matt Tracy, *Reclaim Pride Protests Samaritan’s Purse at Central Park*, GAY CITY NEWS (Apr. 15, 2020), <https://www.gaycitynews.com/reclaim-pride-protests-samaritans-purse-at-central-park/>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Letter from Jerry Nadler et al. to Andrew Cuomo, Bill de Blasio, and Kenneth L. Davis (Apr. 10, 2020) <https://twitter.com/RepJerryNadler/status/1248712796944183298/photo/3>.

called for Samaritan’s Purse to leave saying, “Their continued presence here is an affront to our values of inclusion, and is painful for all New Yorkers.”⁵² A timorous Mayor de Blasio called Samaritan’s Purse “very troubling” and sent officials from his office to monitor the Field Hospital.⁵³ Now-former Governor Cuomo, in his typically brash style, vowed to apply New York income tax to the Samaritan’s Purse medical staff who had come in from out of state.⁵⁴

The New York City Commission on Human Rights demanded production of all Samaritan’s Purse’s policies and procedures for anti-discrimination, documentation for training employees, documents on how patients were selected for the Field Hospital and asked for descriptions of how Samaritan’s Purse treats patients or visitors who self-identify as LGBT.⁵⁵

⁵² Jonathan S. Tobin, *Corey Johnson’s deranged slam of Samaritan’s Purse—Which Only Helped NYC*, NEW YORK POST (May 4, 2020), <https://nypost.com/2020/05/04/corey-johnsons-deranged-slam-of-samaritans-purse-which-only-helped-nyc/>.

⁵³ Julia Marsh & Kate Sheehy, *De Blasio: Evangelical Charity Running Central Park Hospital Won’t Discriminate*, NEW YORK POST (Mar. 31, 2020), <https://nypost.com/2020/03/31/evangelical-central-park-hospital-wont-discriminate-de-blasio/>.

⁵⁴ Patrick Gleason, *Andrew Cuomo Confirms New York Will Tax Out-Of-State Volunteer Health Workers. Congress Can Stop This*, FORBES (May 8, 2020), <https://www.forbes.com/sites/patrickgleason/2020/05/08/andrew-cuomo-confirms-new-york-will-tax-out-of-state-volunteer-health-workers-congress-can-stop-this/>.

⁵⁵ Letter from Sapna V. Raj, Deputy Commissioner of the New York City Commission on Human Rights to J. Todd Chasteen, Corporate Counsel of Samaritan’s Purse (April 10, 2020) (on file with Samaritan’s Purse).

Samaritan's Purse dutifully complied, sending copies of the Nondiscrimination Agreement all staff members had signed and a copy of the Mt. Sinai Hospital patient Bill of Rights, which was displayed and followed in every ward of the Field Hospital.⁵⁶ Dr. David Reich, president of Mt. Sinai hospital and himself in a committed homosexual relationship,⁵⁷ wrote in a letter of support that, "Mount Sinai and Samaritan's Purse are unified in our mission to provide the same world-class care to anyone and everyone who needs it, no questions asked. We are all focused on one thing: saving lives."⁵⁸

On April 30th, as the deaths in New York began to slow, the Commission closed the investigation, finding that Samaritan's Purse had not discriminated against any patients or potential patients at the field hospital, but it warned that it would continue to investigate further complaints.⁵⁹ The Field Hospital closed after

⁵⁶ Letter from Kristin K. Waggoner, Counsel for Samaritan's Purse, to Sapna V. Raj, Deputy Commissioner of the New York City Commission on Human Rights (April 23, 2020) (on file with Samaritan's Purse).

⁵⁷ New York Times, *Weddings/Celebrations; Keith Marran Jr., David Reich*, NEW YORK TIMES (Nov. 24, 2002), <https://www.nytimes.com/2002/11/24/style/weddings-celebrations-keith-marran-jr-david-reich.html>.

⁵⁸ Letter from David L. Reich, President of Mount Sinai Hospital, to Sapna Raj, Deputy Commissioner of the New York City Commission on Human Rights (April 23, 2020) (on file with Samaritan's Purse).

⁵⁹ Letter from Sapna V. Raj, Deputy Commissioner of the New York City Commission on Human Rights to Kristin K.

discharging its last patient on May 8th,⁶⁰ and the doctors and nurses moved on to working in other field hospitals in North Carolina, California, Mississippi, and the Bahamas.⁶¹

The Commission's investigation was nominally about Samaritan's Purse's discrimination against patients. But a quick inspection of its long history of serving all comers or its "Christian Code of Conduct", which requires that staff treat everyone with respect, would quickly refute that suspicion. The true genesis and purpose of the investigation, launched by an activist's complaint, was to undermine Samaritan's Purse's policy of hiring only Christians who share its beliefs to serve in its Christian ministry.

Waggoner, Counsel for Samaritan's Purse (April 30, 2020) (on file with Samaritan's Purse).

⁶⁰ Yonat Shimron, *Samaritan's Purse Central Park Field Hospital to Close as Virus Cases Drop in NYC*, RELIGION NEWS SERVICE (May 4, 2020), <https://religionnews.com/2020/05/04/samaritan-purses-central-park-field-hospital-to-close-as-virus-cases-drop/>.

⁶¹ Samaritan's Purse, *Responding to Coronavirus*, SAMARITAN'S PURSE (last accessed Aug. 19, 2021), <https://www.samaritanspurse.org/our-ministry/covid-19-response/>; Leah Willingham, 'Heart-breaking': Mississippi Gets 2nd Field Hospital in Days, AP (Aug. 18, 2021), <https://apnews.com/article/health-education-coronavirus-pandemic-mississippi-0601fa79209539675f77f608fb5ee65f>.

III. This Court Should Grant Certiorari Because There is a Well-Developed Conflict Below and Because the Case is Exceptionally Important.

Samaritan’s Purse strongly agrees with Petitioner that certiorari should be granted in its case. The United States has long valued religious nonprofits and protected their First Amendment autonomy to hire those who share their religious beliefs.

In organizations, secular and religious, employees play a crucial role in preserving institutional values and mission.⁶² “[R]eligious institutions. . . requiring personal witness in word and deed . . . are more likely to succeed in their religious aims than institutions that do not.”⁶³

The Washington Supreme Court’s decision below sends an unmistakable message that religious organizations like Samaritan’s Purse, which requires staff to affirm a statement of faith that includes biblical understandings about marriage, sex, and sexuality, are simply not welcome in the State of Washington. Samaritan’s Purse has served the desperate in some of the most hostile places on earth, such as Liberia and Iraq, but if tragedy strikes in Seattle, Samaritan’s Purse would be turned away. The Washington Supreme Court’s decision also creates a serious and intractable conflict among the lower courts, which heretofore had

⁶² Helen Alvare, *Church Autonomy After Our Lady of Guadalupe School*, 27 TEX. REV. L. & POL. 319, 355 (2021).

⁶³ *Id.*

universally recognized a religious nonprofit's autonomy to hire those who share its religious beliefs.⁶⁴ This issue is important and this case is an ideal vehicle to resolve this conflict.

◆

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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⁶⁴ Pet. For Certiorari, *Seattle's Union Gospel Mission v. Woods*, No. 21-144 (Aug. 3, 2021).