

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF LOUDOUN

Calvary Road Baptist Church, Community Fellowship Church, Community Christian Academy, and Care Net,

Plaintiffs,

v.

Mark Herring, in his official capacity as Virginia Attorney General,

**SERVE: Mark Herring
Office of the Attorney
General of Virginia
202 N. 9th Street
Richmond, VA 23219**

R. Thomas Payne, II, in his official capacity as Virginia Division of Human Rights and Fair Housing Director,

CASE NO. _____

**SERVE: R. Thomas Payne, II
Director of Civil Rights
Unit/SAAG Fair Housing
202 North 9th Street
Richmond, VA 23219**

State Corporation Commission,

**SERVE: Tyler Building
1300 E. Main Street
Richmond, VA 23219**

Defendants.

COMPLAINT

Plaintiffs Calvary Road Baptist Church (“Calvary Road”), Community Fellowship Church (“Community Fellowship”), Community Christian Academy (“Community Christian”), and Care Net, (collectively, the “Ministries”) for their Complaint state as follows.

INTRODUCTION

Plaintiffs are Christ-centered, Bible-based ministries that have served their communities for decades in many different ways. Calvary Road Baptist Church and Community Fellowship Church open their church doors to the community by inviting everyone in to learn about Christ and to grow in their relationship with Him. Calvary Road Christian School (a ministry of Calvary Road Baptist Church), Grace Christian School (a ministry of Community Fellowship Church), and Community Christian Academy educate their students by teaching each subject through the lens of the Gospel. Care Net offers help and hope to pregnant mothers in need by supporting one of the largest networks of pregnancy centers, churches, and volunteers in the U.S. Each organization ultimately uses its resources as an opportunity to share the love and teachings of Jesus Christ.

Now the very essence of these Ministries is in jeopardy. In April 2020, Governor Ralph Northam signed SB 868, dubbed the Virginia Values Act by its supporters, into law. But rather than protect values, the Act forces people of faith to adopt a particular government ideology under threat of punishment. SB 868 purports to forbid businesses and organizations from discriminating on the basis of sexual orientation and gender identity, but in practice it tramples on the free exercise and free speech rights of religious ministries like Plaintiffs. The Act went into effect July 1, 2020, and now threatens the biblical foundations that Plaintiffs were established upon because the Act lacks any effective religious exemptions for these Ministries.

A day before signing SB 868, the Governor signed HB 1429, which requires the Ministries and other employers that provide health insurance to cover medical treatment that promotes a certain ideology about gender and sexuality. Specifically, it mandates that if the Ministries wish to offer health insurance to their employees, they must cover sex reassignment and “gender affirming” medical procedures — actions that violate their religious convictions.

For the Ministries, personnel is policy; and so they intentionally employ staff and recruit volunteers who further their respective Christian missions. Virginia’s new laws, however, make this free religious exercise and association impossible — and label these liberties “discrimination.”

Together, SB 868 and HB 1429:

- require the Ministries to hire employees who do not share and follow their beliefs on biblical marriage, sexuality, and gender;
- mandate that the Ministries hire employees whose beliefs and lifestyle are antagonistic to the Ministries’ convictions;
- prohibit the Ministries from terminating employees who oppose their missions and convictions;
- require the Ministries to provide their services in a manner that violates their beliefs, by subscribing to ideologies about marriage, sexuality, and gender that the Bible teaches are false;
- ban the Ministries from “directly or indirectly” communicating biblical beliefs on marriage, sexuality, and gender;
- make the Ministries use their facilities in a way that contradicts biblical teachings on sexuality, marriage, and gender;
- force the Ministries to pay for “gender reassignment” procedures in their employee health plans, even though the Ministries object on religious grounds.

SB 868 puts the Ministries in an impossible position: they must either abandon the religious convictions they were founded upon, or be ready to face investigations, an onerous administrative process, fines up to \$100,000 for each violation, unlimited compensatory and punitive damages and attorney-fee awards, and court orders forcing them to engage in actions that would violate

their consciences. Even merely posting their religious beliefs on their own websites could subject the Ministries to prosecution and exorbitant fines. These penalties could easily exceed a million dollars, ruin the Ministries financially, and make continuing their Christian missions impossible.

HB 1429 makes the mandates of SB 868 even worse, forcing the Ministries to pay for “gender reassignment” or “gender transition” procedures that they object to, anytime those procedures are requested by the employees the Ministries are forced to hire. The Ministries’ only option to avoid this compounded conscience violation is to refuse to offer an employer-sponsored health insurance plan at all.

The Virginia Bill of Rights and the Virginia Religious Freedom Restoration Act were enacted to protect the Ministries’ freedom to conduct their religious operations in ways that align with their faith. Calvary Road, Community Fellowship, Community Christian, and Care Net file this pre-enforcement challenge to clarify and protect these religious liberty and free speech rights so they can continue to speak and minister consistent with their religious beliefs — even if the government finds those beliefs repugnant to its own preferred orthodoxy. Ultimately this case is not only about the Ministries. A government that can infringe upon and punish the Ministries’ beliefs on biblical marriage and sexuality today can just as easily violate others’ beliefs tomorrow.

JURISDICTION & VENUE

1. This Court has personal and subject matter jurisdiction under Va. Code §§ 8.01-328.1, 17.1-513.

2. This Court has authority to issue the relief sought under Va. Code §§ 8.01-184-190 (declaratory judgment and costs), 8.01-620 through 633 (injunctive relief and costs), 57-1, and 57-2.02 (declaratory, injunctive, costs, attorneys’ fees).

3. Venue is proper in this judicial district under Va. Code §8.01-261 because the petition is brought in the Circuit Court of the county where the acts giving rise to this Complaint for one of the Ministries will take and have taken place. Care Net has its place of business in this district.

PARTIES

Plaintiff Ministries

4. Calvary Road Baptist Church is a nonprofit church corporation, an independent Baptist church, and affiliated with the Southern Baptist Conservatives of Virginia.

5. Calvary Road Christian School is a nonprofit ministry of Calvary Road Baptist Church that operates a private school with approximately 250 students in preschool through 6th grade.

6. Calvary Road is located in Alexandria Section, Fairfax County, Virginia.

7. Community Fellowship Church is a nonprofit church organization and a nondenominational evangelical church.

8. Grace Christian School is a nonprofit ministry of Community Fellowship Church that operates a private school with approximately 320 students in preschool through 12th grade.

9. Community Fellowship Church and Grace Christian School are located in Staunton, Augusta County, Virginia.

10. Community Christian Academy is a Christian Virginia nonprofit corporation that operates a private school with approximately 50 students in kindergarten through 9th grade.

11. Community Christian is located in Charlottesville, Albemarle County, Virginia.

12. Care Net is a Christian Virginia 501(c)(3) nonprofit corporation that supports a network of more than 1,100 affiliate pregnancy centers, churches, and other ministry organizations and approximately 22,000 volunteers.

13. Care Net's principal place of business is in Lansdowne, Loudoun County, Virginia.

Defendants

14. Virginia Attorney General Mark Herring is the chief executive officer of the Virginia Department of Law, which includes the Division of Human Rights ("Division"). *See, e.g.*, Va. Code §§ 2.2-500, -520.

15. Attorney General Herring administers and enforces Virginia law, works with law enforcement, assists with prosecutions when requested by local Commonwealth attorneys, and defends Virginia's government throughout the state. *See* <https://www.oag.state.va.us/our-office/about-the-office>.

16. Attorney General Herring oversees the Division, designates the Division Director, and administers and enforces SB 828 and HB 1429, the laws challenged in this lawsuit. *See, e.g.*, Va. Code §§ 2.2-500, -520(B), -3906, -3907(A), -3908(C); 1 Va. Admin. Code § 45-20-20 (defining "Director").

17. Attorney General Herring is named as a defendant in his official capacity.

18. Director R. Thomas Payne, II is the Division Director and administers and enforces the SB 828. *See, e.g.*, Va. Code §§ 2.2-520(B), -3907(A); 1 Va. Admin. Code §§ 45-20-90, -100, -120.

19. Director Payne is named as a defendant in his official capacity.

20. Defendant Virginia State Corporation Commission is an independent department of Virginia state government and is the state agency with regulatory authority over insurance.

21. In administering and enforcing the SB 828 and HB 1429, Attorney General Herring and Director Payne have the responsibility and jurisdiction to administer and enforce those laws throughout the Commonwealth of Virginia, including Loudoun, Albemarle, Augusta, and Fairfax Counties. Va. Code §§ 2.2-520; §§ 2.2-3900; 1 Va. Admin. Code § 45-20-10, -20 (defining “Director”).

22. Attorney General Herring can also file suit under SB 868 in any “appropriate circuit court” and may intervene in any private lawsuit seeking to enforce the SB 868 in any general district or circuit court in Virginia. Va. Code §§ 2.2-3906(A); §§ 2.2-3908(A), (C).

23. The State Corporation Commission, as the state agency regulating insurance, has the authority to enforce Title 38.2, where HB 1429 is enacted. *See* Va. Code §§ 38.2-219; 38.2-221; 38.2-3449.1.

FACTUAL ALLEGATIONS

Calvary Road

24. Calvary Road Baptist Church was founded in 1870 as Beulah Baptist Church. Over the years, its name changed but its mission remained the same: to reach people with the Gospel of Jesus Christ.

25. Calvary Road Christian School opened in 1976 and provides a Bible-based education offering a Christian worldview and instilling distinctly Christian character, from preschool through 6th grade.

26. In total, Calvary Road has 52 employees: 38 are staff of the Christian School, and 14 are staff of the Church.

27. Calvary Road ensures that each of its employees believes in and follows the teachings of Jesus Christ and the Bible.

Calvary Road's Biblical Beliefs

28. Calvary Road believes that the Bible is the Word of God, divinely revealed and without error.

29. Calvary Road believes that God is holy and morally perfect, and that God is love.

30. Calvary Road believes that all human beings must be born again through faith in Jesus Christ in order to secure salvation.

31. Calvary Road believes that that the local church comprises people who have been baptized and born again, and that the purpose of the local church is fellowship, teaching, and the propagation of the gospel.

32. Calvary Road believes that the broader church as a whole is the body of Christ, with the primary mission to witness concerning Jesus Christ and preach the gospel among all nations.

33. Calvary Road believes that God wonderfully and immutably creates each person as male or female, and that these two distinct, complementary genders together reflect the image and nature of God. Calvary Road believes that rejection of one's biological sex is a rejection of the image of God within that person.

34. Calvary Road believes that marriage has only one meaning: the uniting of one man and one woman in a single, exclusive union, as delineated in Scripture, and that God commands that sexual intimacy occur only between a man and a woman who are married to each other.

35. Calvary Road believes that any form of sexual immorality (including homosexual behavior and bisexual conduct) is sinful and offensive to God.

36. Calvary Road makes these beliefs publicly available on its church website.

37. To preserve its function and integrity, Calvary Road believes that all employees and volunteers must agree to and abide by its beliefs on marriage, sexuality, and gender.

Calvary Road's Ministries

38. Calvary Road offers a women's ministry called Women of the Word that is open to biological females of all ages, for prayer, biblical teaching, and spiritual discussions in a nurturing and relaxed setting. The passion behind Women of the Word is to encourage women to live out biblical truths and intentionally pass those truths on to the next generation. It is open to the public.

39. Calvary Road offers a men's ministry for biological males of all ages in the community to study God's Word and encourage one another in spiritual growth through deep friendships, cultivating godly men.

40. Through its Christian School, Calvary Road offers sports teams and hosts athletic events. It offers volleyball for girls, flag football for boys, and basketball for both girls and boys (in separate divisions). Participation in athletics is based on biological sex.

41. Through its Christian School, Calvary Road also coordinates and hosts summer camps and annual spring musicals. These programs teach lessons from the Bible and are open to the public.

42. Attendees of Calvary Road's summer camps and musicals use Calvary Road's facilities, including its sex-segregated bathrooms.

43. Calvary Road also offers a Children's Consignment Sale multiple times a year, as a ministry to the community, providing low-cost children's clothes while helping members of the community recoup money by selling their used goods. Calvary Road welcomes 200 consigners for each sale, enlists many volunteers, and opens the sales to the public.

Calvary Road's Policies Reflect Its Beliefs

44. In adherence to its religious beliefs, Calvary Road does not permit biological males to participate in girls' or women's events or programs or biological females to participate in boys' or men's events or programs, either in the church or in the school.

45. Calvary Road maintains separate private facilities like bathrooms and locker rooms for males and females. Access to private facilities is limited to those of the same biological sex in accordance with the Calvary Road's teaching on sexuality.

46. Consistent with its religious beliefs, Calvary Road employees refer to individuals using pronouns that correspond to the person's biological sex.

47. Consistent with its religious beliefs, Calvary Road does not allow its employees, volunteers, or students to dress as or present as the opposite sex.

48. Calvary Road Christian School enforces a sex-specific dress code for its students, including sex-specific policies for hair and jewelry.

49. Consistent with its religious beliefs, Calvary Road does not permit teachers in its church or school to contradict its biblical view of marriage and sexuality.

50. Calvary Road at times enrolls children in its Christian School who are not Christians and are not from Christian families, when the student's parents believe that the child will benefit from knowing Jesus Christ as Lord and personal Savior, and desire that their child be educated with a biblical worldview.

51. Calvary Road welcomes workers of any race, color, ethnicity, and national origin in any of its ministries, so long as the potential workers share Calvary Road's religious values and doctrinal beliefs.

Calvary Road's Employee Health Plan

52. Calvary Road offers its employees an employer-sponsored health plan through Kaiser Permanente.

53. Currently, 26 employees are enrolled in Calvary Road's health insurance plan.

54. Calvary Road's health plan renewal date is December 1, 2020.

55. In accordance with its beliefs, Calvary Road objects to paying for puberty blockers, cross-sex hormone therapies, so-called "sex reassignment" surgeries, or any other gender-transition procedures.

Community Fellowship Church

56. Community Fellowship Church is a 501(c)(3) organization founded in 1976 as a nondenominational church. It continues to flourish today as a body of believers in Jesus Christ who seek God and His rule in their lives.

57. Community Fellowship has eight employees, 3 of which are full-time.

58. Grace Christian School is a ministry component of Community Fellowship Church that began in 1980 and operates as a nonprofit religious school. Its goal is to integrate a Christian worldview into all aspects of education, and to teach students to live under the authority of God and for God's glory.

59. Grace Christian has 97 employees: 43 full-time and 54 part-time. It also has three employees shared jointly with Community Fellowship Church.

60. Grace Christian offers athletics, including baseball, basketball, cross country, golf, soccer, volleyball, and wrestling. Its athletics programs are open to Grace Christian students as well as local youths who are homeschooled.

61. Each of Grace Christian's sports is segregated into girls' and boys' divisions, except golf, which is co-ed. Grace Christian requires that boys and girls participating in its sports compete in the division corresponding with their biological sex.

62. Grace Christian offers fine arts programs, including drama classes and theater productions, music festivals, choral performances, instrument lessons, After School Art, and a Fine Arts Summer Camp. The choral and theater performances, and other fine arts programs, are open to the public.

Community Fellowship's and Grace Christian's Beliefs

63. Community Fellowship and Grace Christian, as a single overarching ministry, hold shared religious beliefs.

64. Community Fellowship believes that the Bible is the infallible, authoritative Word of God and basis for understanding all truth.

65. Accordingly, Grace Christian provides Christ-centered education based on the belief that education should inspire young people to love truth because the pursuit of truth ultimately leads to God and His revelation through Jesus Christ.

66. For this reason, Grace Christian integrates the Bible into all academic subjects.

67. Community Fellowship believes that all humans are sinful and can be regenerated and receive salvation only by accepting the gospel message of God's Word.

68. Community Fellowship believes that the Christian life is possible only through the power of the Holy Spirit that enables a person to live a godly, sanctified life.

69. Grace Christian therefore believes that its faculty and staff must understand their need for the Holy Spirit's anointing upon their teaching and the students.

70. Community Fellowship believes that God creates each human uniquely and immutably male or female, and in God's image.

71. Community Fellowship believes that marriage is the single, exclusive union of one man and one woman, and that God intends sexual intimacy to occur only within the unique covenant of marriage.

72. Community Fellowship believes that any form of sexual immorality, including homosexual behavior and bisexual or transgender conduct, as well as orientation or identity with these behaviors, is sinful and outside of God's will.

73. Community Fellowship believes that all persons must be afforded compassion, love, kindness, respect, and dignity, regardless of their beliefs about God's moral imperatives.

74. Community Fellowship makes these beliefs publicly available on its website.

75. Community Fellowship ensures that each of its employees, whether in the church or at Grace Christian School, adhere to its statement of faith and religious beliefs.

Community Fellowship's Other Ministries

76. Community Fellowship welcomes workers of any race, color, ethnicity, and national origin in any of its ministries, so long as the potential workers share Community Fellowship's religious values and doctrinal beliefs.

77. Community Fellowship provides a Youth Ministry that partners with families in the church to encourage children and teenagers to grow in their love for God's Word, to know Jesus Christ as Lord, and to stand firm in a Christian worldview.

78. Community Fellowship has published several books and booklets, and distributes literature that shares teachings on pursuing the Lord and His commands for Christian life.

79. Community Fellowship engages in international outreach in multiple formats, including short-term missions trips, and over the years has trained more than 12,000 Christian leaders on international ministry. Community Fellowship is greatly motivated by the teaching of James 1:27, that a follower of Christ must “look after orphans and widows in their distress and to keep oneself from being polluted by the world.”

80. Community Fellowship offers a Saturday morning men’s group called Band of Brothers, which is focused on service outreach in the local community.

81. Community Fellowship offers a Saturday morning women’s group called Circle of Sisters, which is focused on service projects in the local community.

82. Community Fellowship hosts an annual men’s retreat and an annual women’s retreat.

83. Community Fellowship coordinates weekly small group Bible studies at members’ homes and Wednesday evening Bible classes held at the church.

Community Fellowship’s Practices Reflect Its Beliefs

84. In adherence to its religious beliefs, Community Fellowship does not permit biological males to participate in women’s events or programs or biological females to participate in men’s events or programs, either in the church or at Grace Christian School.

85. Community Fellowship and Grace Christian maintain separate private facilities like bathrooms and locker rooms for males and females. Access to private facilities is limited to those of the same biological sex in accordance with Community Fellowship’s teaching on sexuality.

86. Consistent with their religious beliefs, Community Fellowship and Grace Christian employees refer to individuals using pronouns that correspond to the person’s biological sex.

87. Consistent with their religious beliefs, Community Fellowship and Grace Christian do not allow their employees, volunteers, or students to dress as or present as the opposite sex.

88. Consistent with their religious beliefs, Community Fellowship and Grace Christian do not permit teachers in the church or school to contradict a biblical view of marriage and sexuality.

89. Grace Christian ensures that all children enrolling in its school have at least one parent who professes and practices the Christian faith, to ensure that families are in agreement with the school's Christ-centered philosophy and are a good fit for its mission.

90. Accordingly, Grace Christian would not admit a student whose parents were in a same-sex relationship.

91. Consistent with its beliefs, Grace Christian would not knowingly admit a student who embraces a homosexual, bisexual, or transgender lifestyle or identity.

92. Grace Christian enforces a sex-specific dress code for girls and boys in its middle school and high school grades.

Community Christian Academy

93. Community Christian is a private religious school.

94. Community Christian has 13 employees, 5 full-time and 8 part-time.

95. Community Christian was founded in 2012 with the mission to develop students who live lives devoted to Christ and to mankind.

96. The Bible-based mission of Community Christian shapes every aspect of its academy. This mission directs Community Christian's philosophy, drives its various offerings, and influences all its employment decisions.

Community Christian's Biblical Beliefs

97. Community Christian models and applies basic Christian principles and encourages students to live lives according to God's Word.

98. Community Christian exists to:

- Glorify God by reflecting His nature and Truth through the vehicle of a strong academic school.
- Reflect the diversity of the body of Christ.
- Engage the culture to promote critically thinking students and to bring the light of Christ to the community.

99. Community Christian believes that God has established marriage as a lifelong, exclusive relationship between one biological man and one biological woman and that all intimate sexual activity outside the marriage relationship, whether heterosexual, homosexual, or otherwise, is immoral and therefore sin.

100. Community Christian believes that God created the human race male and female, and that all conduct with the intent to adopt a gender other than one's birth gender is immoral and therefore sin.

101. Community Christian enforces sex specific dress-codes for males and females for employees and students. These dress codes are required by and based upon its religious convictions.

102. Community Christian does not permit staff or students to dress as the opposite sex. Community Christian requires all staff, students, and parents of students to support all the policies and procedures of the school.

103. Because of SB 868 ban on certain publications, Community Christian took its statement of faith off its website.

Community Christian's Offerings

104. Community Christian's school is open to applications from members of the public.

105. In addition to a rigorous academic curriculum for kindergarten through 9th grade, Community Christian offers students Bible classes and teaches them to apply a biblical worldview to relevant issues of the day. These teachings include Christian views of marriage and sexuality.

106. Community Christian, through its teachers, also offers frequent opportunities for prayer and worship throughout the school community.

107. Community Christian maintains separate private facilities like bathrooms and locker rooms for males and females. Access to private facilities is limited to those of the same biological sex in accordance with the school's teaching on sexuality.

Community's Employees Further Its Biblical Mission

108. Community Christian hires teachers who integrate a biblical perspective throughout their instruction.

109. For every position at the school, Community Christian explicitly hires only mature, Spirit-led Christians.

110. Because Community Christian sees teachers as leaders who must provide spiritual examples, it is important to Community that its teachers live out their faith at work and at home.

111. Community Christian outlines Bible-oriented job descriptions and requirements because it seeks to work with like-minded people of faith who want to carry out its biblical mission.

112. Every Community Christian employee must sign the organization's Statement of Faith and abide by its biblical teachings on marriage and sexuality.

113. Every staff and volunteer position at Community Christian serves a physical as well as spiritual function.

114. Community Christian’s religious mission cannot be implemented by those who disagree with or live antithetically to its religious mission. Community Christian’s religious beliefs require it to hire only those who agree with and live consistent with its religious beliefs, and to separate from employment those who fail to believe in and live according to its religious beliefs.

Care Net

115. Care Net is a 501(c)(3) pregnancy center network and nonprofit organization.

116. Care Net has 31 full-time employees.

117. Care Net was founded in 1975 with the mission to help women and men making life-affirming decisions through a Christ-centered network of support.

118. The Bible-based mission of Care Net shapes every aspect of the ministry. This mission directs Care Net’s philosophy, drives its various ministry programs, and influences all its employment decisions.

Care Net’s Biblical Beliefs

119. Care Net seeks to create a culture where women and men faced with pregnancy decisions are transformed by the Gospel of Jesus Christ and empowered to choose life for their unborn children and abundant life for their families.

120. Care Net also has a “Pro Abundant Life” philosophy based on John 10:10, where Christ says, “The thief comes only to steal and kill and destroy. I came that they may have life and have it abundantly.”

121. First, Care Net’s “Pro Abundant Life” philosophy means “Embracing Christ.” It believes that saving babies’ lives is important and also that saving lives for eternity in Heaven is the most important thing they can do. Care Net aims to support and encourage efforts to help

mothers and fathers making pregnancy decisions come to transformative relationships with Jesus Christ.

122. Second, Care Net’s “Pro Abundant Life” philosophy means “Embracing Marriage.” It believes that beyond saving a baby, raising the child in the God-ordained institution of a marriage between one biological man and one biological woman is important. Care Net believes that Jesus was born to a mother and father providing a model as the ideal environment to raise thriving children. It therefore seeks to celebrate and encourage marriage whenever possible.

123. Third, Care Net’s “Pro Abundant Life” philosophy means “Embracing Fatherhood.” It believes that each child should have a father—a biological male figure—involved during pregnancy and throughout the child’s life, thereby providing the child with the best chance to thrive. Care Net therefore seeks to celebrate and encourage the fathers’ involvement during pregnancy decisions and throughout the lives of the children who need them.

124. Care Net believes that God created humanity as male and female (Genesis 1:27).

125. Care Net’s Bylaws state that it “believe[s] God wonderfully and immutably creates each person either male or female, and that two distinct sexes together reflect the image and nature of God,” and that its “communication with clients and all other persons reflects th[is] reality of God’s creation.”

126. Care Net believes that God’s directives—to have dominion over the earth and to fulfill his goals of procreation, union, fellowship, and worship—are given to men and women together.

127. Care Net believes that confusion about gender identity, and attempts to live as a member of the opposite sex, are not consistent with God’s design of women and men.

128. Care Net further believes that the divinely ordained purpose of sex and sexual identity is for procreation and for facilitating unity in the lifelong commitment of marriage between one man and one woman, which fosters a secure and nurturing environment for children and which reflects the unity of Christ and the church.

Care Net's Ministries

129. Care Net supports one of the largest networks of pregnancy centers in North America. Its network has more than 1,100 independent, affiliated pregnancy centers and more than 22,000 volunteers providing support to women and men considering abortion.

130. In 2018 alone, Care Net pregnancy centers provided clients with more than \$62 million in free services.

131. Care Net also operates a Pregnancy Decision Line. It is the U.S.'s only national call center that provides coaching to people considering abortion.

132. Care Net trains a network of churches to provide the biblical discipleship, counseling, and support that women and men need to make pregnancy decisions. It also supports building bridges between churches and pregnancy centers, so that women and men do not have repeated pregnancy crises.

133. Care Net equips pro-life people to save babies from abortion. It provides free online courses, eBooks, research studies, a 40-day biblical devotional, and other resources to help people intercede for babies at risk.

Care Net's Employees Further Its Biblical Mission

134. Care Net hires employees who empower women and men to make courageous, biblical, life-affirming choices.

135. Care Net’s Expectations of Employee Conduct document sets forth the expectation that “all staff represents Care Net—and more importantly, the Gospel of Jesus Christ—in their work as well as in their private lives,” that “staff must be committed to glorifying God and witnessing to His love in the person of His Son Jesus Christ in all aspects of their lives and work,” and further that all staff must “abide by biblically-sound standards.”

136. Care Net’s Employee Handbook states that employees make a “commitment to . . . a biblical lifestyle both inside and outside of Care Net.”

137. Care Net’s Expectations of Employee Conduct forbids sexual conduct outside of the biblical covenant of marriage between one man and one woman.

138. Care Net’s Employee Handbook states that “sexual intimacy is to be enjoyed only in the context of biblical marriage between a man and a woman.”

139. Care Net outlines Bible-oriented job descriptions and requirements because it seeks to work with like-minded people of faith who want to carry out its biblical mission.

140. Every Care Net job posting states that Care Net seeks people who “have a heart for Christ-centered ministry.”

141. Each Care Net job position requires that the applicant be a “Spiritually-mature Christian,” that they include a statement describing their relationship with Jesus Christ, and that they have a strong commitment and dedication to Care Net’s pro-life position.

142. Every Care Net employee must sign the organization’s Statement of Faith, Mission, Vision, and Core Values.

143. Care Net’s Statement of Faith includes that it “believe[s] the Bible to be the inspired, the only infallible, authoritative Word of God.”

144. Every staff and volunteer position at Care Net serves a physical as well as spiritual function. Every staff member serves in its prayer ministry and partakes in a mandatory, Bible-based devotion every morning for 30 minutes.

145. Care Net staff members include Pregnancy Decision Line Coaches who provide spiritual and moral support over the phone to women and men making difficult pregnancy decisions and Donor Care Specialists who pray with donors and provide donors with customer services.

146. Care Net seeks out Christians to serve in its ministry who live up to biblical standards at work and at home.

147. Care Net enforces sex specific dress-codes for male and female employees. These dress codes are required by and based upon its religious convictions.

148. Care Net's religious beliefs require it to hire only those who agree with and live consistent with its religious beliefs, and to fire those who fail to believe in or live according to its religious beliefs.

Care Net's Group Health Insurance Plans

149. Care Net promotes the physical and spiritual well-being and health of its employees. This includes providing generous health insurance coverage.

150. Consistent with Care Net's religious beliefs, it provides a fully insured health plan for its employees. Approximately 25 employees are enrolled in Care Net's fully insured health plan. Including dependents, the total number of people enrolled in the fully insured health plan is approximately 64.

151. Care Net’s employee health plan excludes gender-transition treatments and procedures. This policy exclusion exists because Care Net holds a biblical view of human sexuality and gender identity.

152. Care Net’s health plan renewal date is December 1, 2020.

153. In accordance with its beliefs, Care Net objects to paying for puberty blockers, cross-sex hormone therapies, so-called “sex reassignment” surgeries, or any other gender-transition procedures.

SB 868 Threatens the Ministries’ Employment Decisions

154. The Ministries seek autonomy in their employment decisions to ensure that their employees can effectively carry out the mission of their respective religious ministries and institutions.

155. SB 868 endangers Plaintiffs’ rights to operate their ministries in accordance with their beliefs. It substantially revises the Virginia Human Rights Act, and affects many other religious ministries across Virginia as well.

156. SB 868’s Compelled Hiring Provision makes it unlawful for employers, even religious ones, to take into account sexual orientation or gender identity when making employment decisions. Va. Code § 2.2-3900(B)(2). It applies to employers that “employ[] 15 or more employees.” Va. Code § 2.2-3905(A). Its prohibition on “unlawful discharge” applies to employers that employ “more than five persons.” Va. Code § 2.2-3905(A).

157. Calvary Road, Community Fellowship, and Care Net are employers in Virginia that employ more than 15 full-time persons and are therefore subject to SB 868.

158. Community Christian employs more than 5 and less than 15 people and is therefore subject to SB 868.

159. It is unclear what actions constitute an actual or constructive “unlawful discharge.” Community Christian Academy could be liable for committing an “unlawful discharge” because a person claims those ministries engaged in “unlawful employment practices” that led to a constructive discharge. For this reason, Community Christian is unsure if it is also subject to the “unlawful employment practices” provision of the SB 868.

160. The Compelled Hiring Provision does not carve out a clear religious exemption for ministries like Calvary Road, Community Fellowship, Community Christian, and Care Net.

161. In fact, legislators rejected a floor amendment that would have conformed the Act’s language to a similar religious exemption in federal law.

162. While the Act should not be construed to hold that religious organizations operating consistent with their religious beliefs is discrimination or otherwise unlawful under the Act, the lack of a clear exception and the animus expressed by the legislators in passing the Act give the Ministries concern that the Act may be threatened, used, and enforced against them in violation of their constitutionally protected liberties as described in the following paragraphs.

163. In contradiction to the Virginia Bill of Rights and the Virginia Act for Religious Freedom, SB 868, as applied to the Ministries, leaves the Ministries without protection to only employ persons whose beliefs and conduct align with their own. If the Ministries choose to employ only those who abide by their respective religious convictions on marriage and sexuality, they will face the threat of SB 868’s severe fines and penalties.

164. Specifically, the Act states that:

- Employers are forbidden to “hire, discharge, or otherwise discriminate against any individual with respect to such individual’s compensation, terms,

conditions, or privileges of employment because of such individual's . . . sexual orientation [or] gender identity.” Va. Code § 2.2-3905(B)(1)(a).

- Employers may not consider sexual orientation or gender identity in determining programs, apprenticeships, trainings, or promotions. Va. Code § 2.2-3905(B)(4).
- Employers may not limit, segregate, or classify employees in any way that would deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee because of their protected status. Va. Code § 2.2-3905(B)(1)(a).

165. As applied to Plaintiffs, the Compelled Hiring Provision cripples their ministries in several different ways.

166. The Ministries are prohibited from enforcing sex-segregated policies or private spaces in their organizations such as in bathrooms, showers, and gyms.

167. Calvary Road, Community Fellowship, and Community Christian have various changing areas and other private facilities, such as bathrooms and locker rooms. These ministries can no longer require only biologically female staff use the same bathrooms and locker rooms as the young female students they oversee, and cannot enforce the sex-segregated spaces and privacy that are so crucial to their religious beliefs.

168. The Compelled Hiring Provision also prevents the Ministries from enforcing their own separate male and female dress codes, even if they believe an employee is violating it by dressing as the opposite sex.

169. Under the Act, the Ministries cannot enforce a policy against cross-dressing even though such conduct goes against the beliefs clearly outlined in these organizations' Statements of Faith.

170. The Compelled Hiring Provision forces Plaintiffs' staff to use incorrect pronouns to refer to an employee who identifies as transgender, even though it contradicts the employee's biological sex, because using correct pronouns could be considered "discriminat[ing]" based on "gender identity."

171. The Ministries deeply believe in the biblical principle that men and women cannot change their sexes. They believe that any attempt to do so is sinful and wrong, and that calling someone by an incorrect pronoun would be telling a lie.

172. Yet under the Act, the Ministries' staff are compelled to engage in speech that goes against their consciences by lying about other people's biological sex.

173. Further, HB 1429 requires Plaintiffs to include cross-sex hormones, "sex reassignment" surgeries, and puberty blockers in employee health plans, which the employees mandatorily hired under the Compelled Hiring Provision could then take advantage of.

174. Even though Plaintiffs believe, as a matter of religious conviction, that it would be sinful and immoral for them intentionally to pay for, participate in, facilitate, or otherwise support transgender ideology, they face the threat of prosecution and unlimited fines if they fail to comply.

175. Under SB 868, employers are guilty of an "unlawful employment practice" when sexual orientation and gender identity, is "a *motivating factor* for any employment practice, *even though other factors also motivate the practice.*" Va. Code § 2.2-3905(B)(6) (emphasis added).

176. This Motivating Factor Provision vastly expands Virginia's discrimination law, which typically protected an employer taking an employment action against an employee of a

protected class if the employer could show a legitimate nondiscriminatory reason justifying the action. Legitimate reasons include documented proof of an employee's tardiness or performance problems.

177. This new Motivating Factor Provision makes the Ministries potentially liable for alleged subjective discrimination even if there are legitimate, objective reasons for the employment action.

178. An employee identifying as transgender or in a same-sex marriage who is not meeting performance goals, but feels uncomfortable when the Ministries share their views on biblical marriage and sexual identity, could still claim that their sexual identity was a motivating factor in an adverse employment action. This is a dangerous provision that can be weaponized against employers who act in good faith in making employment decisions.

179. Because biblical views on marriage and sexuality are central to Plaintiffs' ministries, Plaintiffs need the freedom to operate according those beliefs, including the autonomy to separate from employees who espouse conflicting beliefs such as transgender ideology or endorsement of same-sex marriage.

180. SB 868 further states:

[It is not unlawful] to *admit or employ* any individual... on the basis of such individual's *religion, sex, or age* in those certain instances where religion, sex, or age is a bona fide occupational qualification *reasonably necessary* to the normal operation of that particular employer. Va. Code § 2.2-3905.C.1. (emphasis added).

181. For the Ministries, it is not "certain instances" but *all* instances in which religion — including biblical beliefs on marriage, sexuality, and gender — is reasonably necessary to the employee's roles, duties, and the Ministries' operations as a whole.

182. SB 868 expressly excludes sexual orientation and gender identity as bases for bona fide occupational disqualification. Va. Code §§ 2.2-3905.C.1., 2.2-3905.C.3.

183. Therefore, while the Act allows certain religious employers to hire on the basis of religion, by mandating acceptance of certain viewpoints on sexual orientation and gender identity, the Act on its face does not permit religious organizations to ensure that employees hold beliefs or conform their conduct to certain religious convictions involving marriage and sexuality.

184. This exclusion is devastating for organizations like the Ministries, which aim to employ only individuals who will abide by the Ministries' convictions about marriage and sexuality — not just those who merely profess to follow the Christian religion.

185. SB 868 provides no protection for religious employers like the Ministries, which would discipline or terminate an employee for publicly supporting causes contrary to the Ministries' religious mission or beliefs, or for conduct in conflict with Ministries' core faith tenets, including those relating to sexual orientation and gender identity.

186. Calvary Road Christian School, Grace Christian School, and Community Christian Academy could be forced to retain teachers who are in same-sex relationships while teaching students that such behavior violates their faith. The schools could also be forced to retain guidance counselors who take gender-suppressing hormones or who undergo sex reassignment surgeries in an attempt to change the sex given to them by God.

187. For the Ministries, there is no value in being able to purposefully hire someone of the same religion if there is no corresponding ability to hold them accountable for violating that religion's teachings.

188. SB 868 threatens to take away the Ministries' ability to make employment decisions consistent with the very faith they espouse.

189. Because SB 868 creates doubt about whether the Ministries can employ only individuals who share all of their religious beliefs and will act in accordance with those beliefs on marriage, sexuality, and gender, the Act chills the Ministries' religious exercise by creating a risk of legal liability.

190. One of the fundamental purposes for the Virginia Bill of Rights is to prevent the government from interfering with religious organizations and how they make employment decisions.

191. SB 868 uproots long-held protections for religious organizations, preventing ministries across Virginia from functioning and serving the communities as they always have.

The Act Threatens Plaintiffs' Ministries and Community Programs¹

192. Plaintiffs desire to operate their ministries in ways that are consistent with their religious mission.

193. Yet SB 868 prohibits "unlawful discrimination because of" sexual orientation in "places of public accommodation." Va. Code § 2.2-3900(B)(1)-(2).

194. SB 868 expansively defines a "place of public accommodation" as "all places or businesses offering or holding out to the general public goods, services, privileges, [or] advantages" Va. Code § 2.2-3904(A).

195. This expansive and vague definition appears to sweep in places of worship and religious schools that are traditionally exempt from these types of laws.

¹ Because Care Net is a private, closed facility, it brings no allegations based on the provisions of the Act regarding places of public accommodation.

196. SB 868 exempts from the definition any “place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public,” Va. Code § 2.2-3904(C), without defining what “open to the public” means.

197. On its face, the Act purports to include churches as public accommodations, even though churches have never been found to be places of public accommodation under the law in Virginia or elsewhere in the United States.

198. As a result, Calvary Road Baptist Church and Community Fellowship Church, which have an “all-comers” policy where members of the community are welcome to walk in and enjoy the facilities and services, appear to be incorrectly considered “places of public accommodation.”

199. Likewise, religious schools open to the community, such as Calvary Road Christian School, Grace Christian School, and Community Christian Academy, appear to be incorrectly considered “places of public accommodation.”

200. These organizations also advertise goods, services, privileges, and advantages to the general public on their websites and by word-of-mouth.

201. The Act prohibits “unlawful discrimination” in “places of public accommodation” in § 2.2-3904(B) through two clauses: the “Accommodation Clause” and the “Publication Clause.”

The Accommodation Clause

202. The Accommodation Clause makes it unlawful “for any person ... to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, ... or to segregate or discriminate against any [] person in the use [of]” any “advantages, ... services, or privileges made available in any place of public accommodation ... on the basis of ... sexual orientation....” *Id.* at § 2.2-3904(B).

203. The Accommodation Clause thus prohibits the Ministries from offering sex-specific ministries, classes, and services for biological women and men.

204. Each of the Ministries' sex-specific programs targets a special segment of the population and seeks, among other things, to teach them of God's truth about biblical marriage, sexuality, and gender identity.

205. The Act forces Calvary Road and Community Fellowship to include a biological male as part of the women's Bible study — if the man identifies as a woman.

206. The Accommodation Clause requires Calvary Road Christian School, Grace Christian School, and Community Christian Academy to admit and retain students that do not agree with or do not abide by their beliefs regarding sexuality.

207. The Accommodation Clause likewise requires Calvary Road, Community Fellowship, and Community Christian, in their school and/or church facilities, to permit individuals to use bathrooms designated for the opposite biological sex — despite the Ministries' conscientious objections — if the individuals profess a gender identity that contradicts their biological sex.

208. Similarly, Calvary Road Christian School and Grace Christian School offer sex-specific youth sports that promote celebrating the unique body that God gave both men and women.

209. The Accommodation Clause forces Calvary Road and Grace Christian to open these sex-specific sports to members of the opposite sex, despite the fact that letting biological males compete against girls in sports would be unfair, and despite the fact that permitting such an arrangement runs directly counter to the schools' biblical philosophy.

210. Even the Ministries' written policies publicly advocating for biblical sexuality and identity could violate the Accommodation Clause if deemed "discrimination" against same-sex marriages or transgender ideology. The faith-based lesson plans, teaching materials, and written messages outlining their biblical worldview would be fodder for any individual aiming to weaponize the Act against them.

211. The Accommodation Clause appears to forbid Calvary Road and Community Fellowship from exclusively providing wedding services for opposite-sex, Christian couples. As churches that open their facilities for weddings, receptions, and events, the Act appears to force them to facilitate same-sex weddings and ceremonies or face the steep fines that come with violating it.

212. The Accommodation Clause therefore undercuts the Ministries' message that marriage should be between one man and one woman, and that biological sex is fixed at birth and determine by God's providence.

213. The Accommodation Clause also harms the Ministries' reputation and credibility among the population they serve, by forcing them to contradict their own mission and beliefs.

The Publication Clause

214. The Publication Clause makes it unlawful for any person in a place of public accommodation "to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the effect that any of the accommodations, advantages, ... privileges, or services of any such place [of public accommodation] shall be refused, withheld from, or denied to any individual on the basis of ... sexual orientation [or] gender identity." Va. Code § 2.2-3904(B).

215. By prohibiting “attempt[ing] to refuse, withhold from, or deny” a service on the basis of sexual orientation, both the Publication Clause and the Accommodation Clause bar the Ministries from explaining on their websites about God-given identity and marriage between a man and a woman.

216. The Publication Clause prohibits the Ministries from communicating by notice or by advertisement the truthful information that their services may be limited based on characteristics such as biological sex or sexual orientation.

217. Calvary Road Christian School, Grace Christian School, and Community Christian Academy could be held in violation of the Publication Clause when writing in ads that they only require students to conduct themselves according to biblical views of sex, marriage, and gender.

218. Because of the Publication Clause and fear of punishment under it, Calvary Road, Grace Christian, and Community Christian have removed their statements of faith regarding marriage and sexuality from their school websites.

SB 868 Has Onerous Enforcement Mechanisms and Severe Penalties

219. SB 868 allows Defendants Herring and Payne to enforce the law against the Ministries in many ways.

220. SB 868 empowers the Attorney General to file a civil action in the appropriate circuit court if he “has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted” under the Act. Va. Code § 2.2-3906(A).

221. SB 868 also empowers the Attorney General to file a civil action in the appropriate circuit court if he “has reasonable cause to believe ... that any person or group of persons has been

denied any of the rights granted by this chapter and such denial raises an issue of general public importance.” Va. Code § 2.2-3906(A).

222. The Attorney General was appropriated additional funds for fiscal years 2020–2021 and 2021–2022 so that additional attorneys could “be directed to the Division of Human Rights for enforcement related to” SB 868.²

223. In addition, SB 868 empowers any “person claiming to be aggrieved by an unlawful discriminatory practice,” or the Attorney General or Director on behalf of such person, to file a complaint with the Division. Va. Code § 2.2-3907(A).

224. The Division may also “[i]nquire into incidents that may constitute unlawful acts of discrimination” and “[s]eek through appropriate enforcement authorities, prevention of or relief from an alleged unlawful discriminatory practice.” Va. Code § 2.2-520(B)(3)-(4).

225. After receiving a complaint, the Division must serve the complaint on the person alleged to have engaged in an unlawful discriminatory practice (the “Respondent”). Va. Code § 2.2-3907(B); 1 Va. Admin. Code 45-20-20 (defining “Respondent”).

226. Also, after receiving a complaint, the Division is required to investigate “to determine whether there is reasonable cause to believe the alleged discrimination occurred.” Va. Code § 2.2-3907(C).

227. During this investigation, the Director has authority to request position statements, evidence, and additional information from the complaining party and the Respondent. 1 Va. Admin. Code 45-20-20(A)-(B).

² *Amendments to House Bill 30*, H. Appr. Comm. (Feb. 16, 2020), http://hac.virginia.gov/committee/files/2020/2-18-20/HB_30_amendments_with_cover.pdf.

228. If the Respondent refuses to provide this information, the Attorney General may apply to the appropriate circuit court for a subpoena if he “believe[s] that any person has engaged in or is engaging in any unlawful discriminatory practice.” Va. Code § 2.2-521.

229. The Director may also hold a fact-finding hearing with the complaining party and the Respondent. Va. Code § 2.2-520(B)(1); 1 Va. Admin. Code 45-20-80(C).

230. The fact-finding hearing requires the Respondent to “appear in person or by counsel or other qualified representative before the agency or its subordinates, or before a hearing officer for the informal presentation of factual data, argument, or proof in connection with any case.” Va. Code § 2.2-4019(A)(ii).

231. The Division may also “hold hearings pursuant to the Virginia Administrative Process Act § 2.2-4000 et seq.” Va. Code § 2.2-520(B)(1).

232. In these hearings, the parties may have an attorney and the presiding officer may administer oaths and affirmations, receive evidence, hold settlement conferences, and receive proposed findings and conclusions from the parties. Va. Code § 2.2-4020(C)-(D).

233. The presiding officer must then make factual findings and render a decision about probable cause. Va. Code § 2.2-4020(C).

234. The Division may also use any other means during its “investigation sufficient to determine whether there is reasonable cause to believe the alleged discrimination occurred.” Va. Code § 2.2-3907(D); 1 Va. Admin. Code 45-20-80(D).

235. The investigatory process imposes a significant burden on the Ministries in that the Division is required to investigate every complaint “sufficient to determine whether there is reasonable cause to believe the alleged discrimination occurred.” Va. Code § 2.2-3907(D).

236. This investigation occurs in an adversarial process where the claims of the complaining party are pitted against the Respondent, and the Division investigates the Respondent on the complaining party's behalf.

237. The Division can also compel the Respondent to respond to the complaint and supply additional information and participate in informal and formal hearings during its investigation. *See* Va. Code §§ 2.2-3907; 15.2-854.

238. The Division's investigation may last up to six months. Va. Code § 2.2-3907(H).

239. Once the Division completes its investigation, it issues a report determining whether there is reasonable cause to believe the Respondent committed the alleged unlawful discriminatory practice. Va. Code § 2.2-3907(D).

240. If the Division concludes there is reasonable cause to believe the Respondent committed the alleged unlawful discriminatory practice, the Division "shall immediately endeavor to eliminate any alleged unlawful discriminatory practice by informal methods such as conference, conciliation, and persuasion." Va. Code § 2.2-3907(F).

241. If the Division cannot settle the complaint or determines that settlement "is unworkable and should be bypassed," the Division closes the case and gives notice to the complaining party of his right to file a civil action. Va. Code § 2.2-3907(F).

242. At any time after a notice of discrimination is issued, the Division or the complaining party may petition a court for temporary relief, "including an order or judgment restraining the Respondent from doing or causing any act that would render ineffectual an order that a court may enter" regarding the complaining party. Va. Code § 2.2-3907(G).

243. Once a complaining party receives notice of his right to file a civil action, he may file a civil action in an appropriate general district or circuit court with jurisdiction over the Respondent. Va. Code § 2.2-3908(A).

244. If a court determines that an employer or place of public accommodation has violated the Act by committing unlawful discrimination, that court has substantial remedial powers.

245. In civil actions filed by the Attorney General, the court may award the following remedies after finding unlawful discrimination has occurred:

- “preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation ..., as is necessary to assure the full enjoyment of the rights granted by this chapter,” Va. Code § 2.2-3906(B)(1);
- a civil penalty “not exceeding \$50,000 for a first violation” and “not exceeding \$100,000 for any subsequent violation,” Va. Code § 2.2-3906(B)(2);
- “compensatory damages and punitive damages,” Va. Code § 2.2-3906(C); and
- “reasonable attorney fees and costs.” Va. Code § 2.2-3906(B)(3).

246. Any “aggrieved person” may intervene in an action filed by the Attorney General. Va. Code § 2.2-3906(D).

247. If an aggrieved party intervenes and the court finds that unlawful discrimination has occurred, the court may award the aggrieved person the remedies described in paragraph 244 in addition to remedies awarded to the Attorney General. *See also* Va. Code §§ 2.2-3906(D), -3908(B).

248. In civil actions filed by the Attorney General, the Division, or an aggrieved person who obtains a right-to-sue letter, the court may award the following remedies to the aggrieved person after finding unlawful discrimination has occurred:

- “any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice” Va. Code § 2.2-3908(B);
- “compensatory and punitive damages” Va. Code § 2.2-3908(B); and
- “reasonable attorney fees and costs.” Va. Code § 2.2-3908(B).

249. The Attorney General may also intervene in a civil action filed by an aggrieved person if the case is of “general public importance.” Va. Code § 2.2-3908(C).

250. If the Attorney General intervenes in such an action and the court finds that unlawful discrimination has occurred, the court may award the Attorney General the remedies described in paragraph 245 in addition to the remedies awarded to the aggrieved person. *See also* Va. Code § 2.2-3908(B)-(C).

251. The punitive damages are designed to be especially severe.

252. For example, Delegate Marcus Simon (D-53) made the following comment during a House General Laws Committee meeting:

I’ve actually looked at the [uncapped punitive damages in Virginia’s law] language ... and I think it’s actually doing *exactly* what we intended for it to do. If you don’t want to be subject to unlimited punitive damages, don’t discriminate on the basis of sexual orientation I mean, this wasn’t meant to be a non-punitive bill. We created a private right of action for a reason. And so I think that the bill accomplishes *exactly* what it’s intended to do in the form that it’s intended to do it.

253. As Delegate Simon indicated, the Act is intended to force the Ministries and people with like beliefs to choose between either risking bankruptcy and being punished for their religious convictions, or abandoning their ministries altogether.

254. The Ministries face credible threats and substantial risks that they will be investigated or prosecuted under Virginia's law for maintaining Bible-based practices and policies that run counter to the provisions of SB 868.

SB 868 Targets Only Views the Government Disfavors

255. SB 868 prohibits the Ministries from promoting and celebrating certain religious views about marriage, sexuality, and gender, while allowing other organizations to promote and celebrate their views supporting same-sex marriage and transgender ideology.

256. This distinction in treatment is based on particular viewpoints about marriage, sexuality, and gender.

257. This distinction in treatment is also based on the content that is expressed, through programs, services, and communications.

258. The Ministries hold the particular views and express the particular content that SB 868 targets for punishment.

259. Other organizations promote and celebrate same-sex marriage and transgender ideology through their programs, services, and communications.

260. The Ministries seek to serve the same communities as these other organizations that hold contrary views about sexuality, marriage, and gender.

261. SB 868 imposes increased regulatory burdens on the Ministries that it does not impose on other Virginia organizations holding different views.

262. Under SB 868, the Ministries must refrain from celebrating biblical marriage, sexuality, and gender identity, and from providing sex-specific classes and services, while many other Virginia organizations do not face these burdens because they willingly promote classes and services endorsing transgender ideology, homosexuality, and same-sex marriage.

263. This differential treatment makes it harder for the Ministries to promote their programs and services, compared to other organizations, and imposes a reputational harm and stigma on their ministries that these other organizations do not suffer.

264. The Ministries support the rights of other organizations to communicate their sincerely held beliefs and to conduct their operations in a way that promotes these beliefs.

265. The Ministries would simply like to enjoy these same freedoms themselves.

266. SB 868 contains several exemptions that undermine any basis for compelling Plaintiffs to engage in actions that go against their beliefs. *See, e.g.*, Va. Code §§ 2.2-3904(D)(i) (exempting public accommodations from serving individuals under eighteen for any reason), -3905(A)-(B)(1)(a)-(b) (exempting employers with fewer than 15 employees from some employment decisions), -3905(B)(8) (allowing employers to state preferences in postings for bona fide occupational qualifications).

SB 868 was prompted by religious animus

267. In debate surrounding the passage of the SB 868, many Virginia legislators explicitly stated their hostility toward religious beliefs that define marriage as between one man and one woman.

268. Leading Delegates stated that they disagreed with the theological beliefs espoused by organizations like the Ministries and apparently deemed those religious views unworthy of legal protection in their view of how the SB 868 should be applied.

269. For example, during a debate in the Virginia House of Delegates over an amendment to SB 868 that would have excluded “a religious corporation, association, society, or unincorporated house of worship” from the definition of public accommodation, Delegate Joshua Cole (D-28) said:

I understand we have theological disagreements and we have theological beliefs of what we’re supposed to carry out, but if you are a public organization, your doors are supposed to be open to everyone in the public. ... What are we doing with our witness when we allow organizations to say just because we have St. Peter’s behind it, or Christian behind it, ... that we don’t like you so don’t come over here. ... Madame Speaker as an ending thought, I will let you know that in Jesus’ day the sinner was not his enemy. It was the church.

270. During that same debate, Delegate Mark Levine (D-45) stated that “religious bigotry is bad,” which in context implied that religious organizations that had objections to hiring someone because of their sexual orientation were bigoted.

271. Upon information and belief, many legislators applauded after both statements.

272. Likewise, the Virginia legislature rejected amendments to SB 868 that would have (1) exempted religious organizations from “provid[ing] employment that would be inconsistent with its deeply held religious beliefs regarding sexual orientation”; (2) allowed “a religious organization” to “require that all employees or applicants for employment conform to the religious tenets of such organization”; (3) exempted “a religious corporation, association, educational or charitable institution, or society from taking such action as it deems necessary to promote the religious principles by which it is established or maintained”; and (4) allowed “a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society,

from taking such action as it deems necessary to promote the religious principles by which it is established or maintained.”³

273. The Virginia legislature also rejected an amendment that would have clearly exempted “a religious corporation, association, society or unincorporated house of worship” from the definition of a public accommodation.⁴

274. Before and after passing the Act, other state representatives expressed antagonism toward religious beliefs defining marriage as between one man and one woman.

275. For example, SB 41 2016 was a bill that would have allowed religious persons to object to solemnizing a marriage “in accordance with a sincerely held religious belief ... that marriage is or should be recognized as the union of one man and one woman.”⁵

276. Senator Adam Ebbin (D-30) opposed SB 41 2016, stating, “[T]his bill carves out a space for bigotry cloaked under the guise of religious freedom.”

277. Senator Ebbin was the chief patron of the SB 868.

278. Likewise, HB 773 2016 was a bill that would have prohibited a government entity from “tak[ing] any discriminatory action against a person ... on the basis that such person believes, speaks, or acts in accordance with a sincerely held religious belief or moral conviction that (i) marriage is or should be recognized as the union of one man and one woman”⁶

279. Delegate Mark Sickles (D-43) called HB 773 2016 “a discrimination bill.”

280. Delegate Simon said HB 773 2016 was “a license to discriminate.”

³ See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+amd+HB1663ASR>; <https://lis.virginia.gov/cgi-bin/legp604.exe?201+amd+SB868AHR>; and <https://lis.virginia.gov/cgi-bin/legp604.exe?201+amd+SB868ASR>.

⁴ See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+amd+HB1663ASR>.

⁵ See <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+SB41ER+pdf>.

⁶ See <https://leg1.state.va.us/cgi-bin/legp504.exe?161+ful+HB773H1+pdf>.

281. Delegate Charniele Herring (D-46) said HB 773 2016 gave “a free pass to discriminate.”

282. Delegate Sam Rasoul (D-11) said HB 773 2016 “gives state approval to discriminate against others,” “sends a terrible message,” and “sets an unwelcoming and hostile tone to people.”

283. In a committee meeting on HB 1049 2020, Jeffrey Caruso of the Virginia Catholic Conference proposed an amendment to the bill because the “religious tenets of our organization would be that, that marriage is the union of a man and a woman and we would expect that employees of our organization would adhere to that standard of conduct”

284. Senator Ghazala Hashmi (D-10) responded, “I just have a real problem with that line of argument. As a Commonwealth, we are committed to nondiscrimination. ... And so I have an issue with that argument.”

285. All of the state legislators listed in paragraphs 269–284 voted for passing the Act.⁷

286. Attorney General Herring has exhibited similar religious animus in arguing for other laws that infringe on religious freedom in the name of promoting particular ideologies about marriage, sexuality, and gender. *See, e.g.,* Amici Br. of Massachusetts et al., *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 2020 WL 1875621 (April 8, 2020); Amici Br. of Virginia et al., *Our Lady of Guadalupe School v. Morrissey-Berru*, 2020 WL 1478592 (Mar. 11, 2020); Amici Br. of Massachusetts et al., *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 2017 WL 5127307 (Oct. 30, 2017). In each of these cases, the Supreme Court’s decision held that the law Attorney General Herring supported was unconstitutional as a violation of religious liberty.

⁷ *See* <https://lis.virginia.gov/cgi-bin/legp604.exe?201+mbr+SB868>.

H.B. 1429 – Compelled Health Insurance Coverage

287. On April 10, 2020, Governor Northam signed HB 1429, which was codified at Section 38.2-3449.1 of the Virginia Code and entitled, “Prohibited discrimination based on gender identity or status as a transgender individual.”

288. HB 1429 took effect on July 1, 2020.

289. HB 1429 states that an employee health plan may not “deny or limit coverage or impose additional cost sharing or other limitations or restriction on coverage . . . for health care services that are ordinarily or exclusively available to covered individuals of one sex, to a transgender individual on the basis of the fact that the individual’s sex assigned at birth, gender identity, or gender otherwise recorded is different from the one to which such health services are ordinarily or exclusively available.”

290. HB 1429 states that “[a]n individual shall not be subjected to discrimination under a health benefit plan on the basis of gender identity or being a transgender individual, including by being denied coverage of medically necessary transition-related care.”

291. The term “medically necessary transition-related care” is a defined term. It includes facilitating coverage for gender-affirming therapy, cross-sex hormones, and “gender-reassignment” surgery.

292. HB 1429 contains no religious exemption.

293. HB 1429 requires employers like Calvary Road and Care Net, which provide full coverage health insurance for employees to pay for “gender-affirming” therapy, cross-sex

hormones, and “gender-reassignment” surgery in their employee benefit plans, even though they have religious objections to doing so.⁸

LEGAL ALLEGATIONS

294. Plaintiffs Calvary Road, Community Fellowship, Community Christian, and Care Net, are “employers,” are subject to and must comply with SB 868.

295. The Act on its face includes Plaintiffs Calvary Road, Community Fellowship, Community Christian, as “places of public accommodation,” which are subject to and must comply with SB 868.

296. The Act violates, chills, and deters the Ministries from exercising their constitutional rights.

297. Plaintiffs Calvary Road and Care Net are subject to and must comply with HB 1429.

298. HB 1429 compels Calvary Road and Care Net to violate their religious convictions regarding participating in and supporting medical treatment contrary to their religious teachings.

299. As a direct and proximate result of Defendants’ violation of the Ministries’ constitutional rights, the Ministries have suffered and will suffer ongoing irreparable harm as well as economic injury (including lost donations and tuition), entitling the Ministries to declaratory and injunctive relief.

300. The Ministries do not have an adequate monetary or legal remedy for the loss of their constitutional rights.

301. Unless Defendants are enjoined, the Ministries will continue to suffer irreparable harm and economic injury.

⁸ While Community Fellowship Church and Community Christian Academy share these religious beliefs and objections, because they do not provide employer-sponsored health plans, they do not bring claims based on HB 1429.

COUNT I
Violation of Plaintiffs’ Right to Free Exercise of Religion Under the Virginia Religious Freedom Restoration Act
(Va. Code §57-1)

302. The Ministries reallege all matters set forth in paragraphs 1–301 and incorporate them herein.

303. The Ministries’ sincerely held religious beliefs prohibit them from providing or facilitating sex-specific services and programs to persons of the opposite sex.

304. The Ministries’ sincerely held religious beliefs prohibit them from hiring employees, hosting volunteers, and admitting and retaining students who do not comport with the tenets of their faith, including biblical teachings on marriage, sexuality, and gender.

305. The Ministries’ sincerely held religious beliefs prohibit them from using preferred pronouns that do not correlate to an individual’s biological sex.

306. The Ministries’ sincerely held religious beliefs prohibit them from allowing sex-specific bathrooms and private spaces to be accessed by members of the opposite sex.

307. The Ministries’ sincerely held religious beliefs prohibit them from providing or facilitating coverage for “gender-transition” therapy, cross-sex hormones, or “gender-reassignment” surgery, and from providing a health insurance plan that covers access to those services.

308. When the Ministries comply with their sincerely held religious beliefs on marriage, sexuality, and gender identity, they exercise religion within the meaning of the Virginia Religious Freedom Restoration Act.

309. SB 868 and HB 1429 impose a substantial burden on the Ministries’ religious exercise and coerce them to change or violate their religious beliefs.

310. SB 868 and HB 1429 penalize the Ministries for offering sex-specific classes and services, for seeking to work with like-minded religious adherents, for refusing to offer health insurance plans that cover medical procedures aimed at altering biological sex, for providing services to the public in accordance with their religious convictions, and for teaching and counseling on biblical marriage and sexuality.

311. SB 868 and HB 1429 substantially burden the Ministries' religious exercise when they force the Ministries to choose between following their religious commitments and suffering debilitating punishments or violating their consciences to avoid those punishments.

312. SB 868 and HB 1429 also chill the Ministries' religious exercise within the meaning of the Virginia Religious Freedom Restoration Act.

313. SB 868 and HB 1429 expose the Ministries to substantial fines, and financial and administrative burdens for their religious exercise.

314. SB 868 and HB 1429 also expose the Ministries to substantial disadvantages in successfully operating their outreach ministries, because they penalize their particular viewpoints.

315. SB 868 and HB 1429 do not further a compelling governmental interest.

316. SB 868 and HB 1429 are not narrowly tailored to achieve a compelling governmental interest.

317. SB 868 excludes some other types of organizations (with fewer than 15 employees for certain provisions and fewer than 6 employees for other provisions) and classes of people (under the age 18), demonstrating that the government does not consider the interest that allegedly underlies SB 868 to be compelling.

318. SB 868 and HB 1429, as applied to the Ministries, violate the Virginia Religious Freedom Restoration Act.

COUNT II
Violation of Plaintiffs' Right to Free Exercise of Religion Under the Virginia Constitution
(Va. Const., art. I, § 16)

319. The Ministries repeat and reallege each allegation contained in paragraphs 1–301 of this Complaint.

320. The Ministries' sincerely held religious beliefs prohibit them from teaching and affirming anything in violation of their biblical views on marriage, sexuality, and gender identity; offering sex-specific classes and services to persons of the opposite sex; hiring persons who do not ascribe to and live in accordance with their views on biblical marriage, sexuality, and gender identity; providing coverage for medical services that attempt to alter biological sex; providing services to the public in a way that violates their views on biblical marriage, sexuality, and gender identity; using pronouns that do not correspond to a person's biological sex; and opening up sex-specific private spaces to members of the opposite sex.

321. When the Ministries comply with their sincerely held religious beliefs on biblical marriage, sexuality, and gender identity, they exercise religion within the meaning of the Free Exercise Clause.

322. SB 868 and HB 1429 impose a substantial burden on the Ministries' religious exercise and coerce them to change or violate their religious beliefs.

323. Defendants substantially burden the Ministries' religious exercise when they force them to choose between either following their religious commitments and suffering debilitating punishments or violating their consciences to avoid those punishments.

324. SB 868 and HB 1429 are not neutral.

325. SB 868 and HB 1429 are not generally applicable.

326. SB 868 and HB 1429 are targeted with hostility toward the Ministries' viewpoints on marriage, sexuality, and gender.

327. SB 868 exempts certain types of organizations (with fewer than 15 full-time employees and fewer 5 employees) and classes of people (under the age 18), but does not exempt the Ministries, even though their religious beliefs prevent them from complying with SB 868.

328. SB 868 and HB 1429 do not further a compelling governmental interest.

329. Compelling the Ministries to speak and operate in violation their beliefs is hardly the least restrictive means of advancing any interest the government claims had in passing SB 868 and HB 1429.

330. SB 868 and HB 1429 coerce the Ministries to change or violate their religious beliefs.

331. SB 868 and HB 1429 chill the Ministries' religious exercise.

332. SB 868 and HB 1429 expose the Ministries to substantial fines, and financial and administrative burdens for their religious exercise.

333. SB 868 and HB 1429 expose the Ministries to substantial disadvantages in being able to operate their outreach ministries to serve the populations they wish to serve; in the way they wish to serve them.

334. SB 868 and HB 1429 are designed in a way that makes it impossible for the Ministries and other similar religious organizations to comply with their religious beliefs.

335. SB 868 was promulgated to suppress the religious exercise of the Ministries and others with like beliefs about marriage and sexuality.

336. SB 868 and HB 1429, as applied to the Ministries, violate the Ministries' rights secured to them by the Free Exercise Clause of the Virginia Constitution.

COUNT III
Violation of Plaintiffs' Right to Freedom of Speech Under the Virginia Constitution
(Va. Const. art. I, § 12)

337. The Ministries repeat and reallege each allegation contained in paragraphs 1–301 of this Complaint.

338. The Virginia Free Speech Clause protects the Ministries' ability to speak, create speech, publish speech, and associate with others for expressive purposes.

339. The Virginia Free Speech Clause also protects the Ministries' ability to not speak, to decline to create speech, and to decline to associate with others for expressive purposes.

340. The Virginia Free Speech Clause also protects the Ministries' right to be free from content-, viewpoint-, and speaker-based discrimination.

341. The Virginia Free Speech Clause also prohibits the government from conditioning a benefit on the relinquishment of any free speech right.

342. The Ministries' organizations, and all activities associated with the various services and programs they provide, are forms of protected speech and expressive association.

343. The Compelled Hiring Provision of SB 868 interferes with the Ministries' right to speak freely and ask questions of job applicants regarding their specific beliefs and lifestyle with respect to marriage, sexuality, or gender.

344. The Termination Ban of SB 868 interferes with the Ministries' right to speak freely and ask questions of employees regarding their specific beliefs and lifestyle with respect to marriage, sexuality, or gender.

345. The Motivating Factor Provision of SB 868 interferes with the Ministries' right to speak freely about the Ministries' beliefs regarding marriage, sexuality, or gender, lest the Ministries' speech be later cited in a dispute over an individual's separation from employment.

346. The Accommodation Clause compels speech the Ministries object to; interferes with their teaching, counseling, and praying about biblical matters; compels them to engage in expressive associations to convey messages they consider objectionable; forbids them to speak about their programs, services, and beliefs as they would like; and regulates speech, association, and publication based on content, viewpoint, and speaker identity.

347. The Accommodation Clause is a content-, viewpoint-, and speaker-based regulation that prevents Plaintiffs from adopting and openly declaring their desired pattern and practice of teaching, counseling, and praying that marriage is only between one man and one woman, and from declining to teach, counsel, or pray in a way that affirms marriages other than those between one man and one woman or that endorses transgender ideology.

348. The Accommodation Clause bans, chills, and burdens the Ministries' desired speech and association by requiring the Ministries to engage in speech and associations they object to.

349. The Publication Clause chills, bans, and burdens the Ministries' desired speech and association by requiring Plaintiffs to engage in speech and associations they object to and by prohibiting the Ministries from communicating by notice or by advertisement that their services may be limited based on characteristics such as biological sex and prohibiting them from writing in job postings that they seek individuals who also share their biblical views.

350. The Act is a content-, viewpoint-, and speaker-based regulation that bans, chills, and burdens the Ministries' desired speech and publication of that speech on the Ministries' websites, materials, and directly to the population they serve, and inhibits Plaintiffs from forming expressive associations they desire to form and from avoiding expressive associations that would require them to convey objectionable messages.

351. Defendants have no compelling or even valid interest to justify infringing on the Ministries' free speech and free expressive association, nor is SB 868 narrowly tailored to any purported interest.

352. Accordingly, as applied to the Ministries, the employment provisions, Accommodation Clause and Publication Clause violate the Virginia Constitution's protections for free speech and free association.

COUNT IV
Violation of the Virginia Constitution Establishment Clause
(Va. Const., art. I, § 16)

353. The Ministries repeat and reallege each allegation contained in paragraphs 1–301 of this Complaint.

354. The Virginia Constitution's Establishment Clause protects the Ministries' right to participate and to not participate in religious exercises in ways consistent with their religious beliefs.

355. SB 868 forces the Ministries to participate in exercises contrary to their sincere religious beliefs.

356. The Establishment Clause requires the government to act with a secular purpose and to neither promote nor inhibit religion.

357. SB 868 targets the Ministries by singling out their religious speech and belief for hostility, and by showing favoritism towards, preferring, and promoting religious beliefs that approve of same-sex marriage and transgender ideology.

358. SB 868 also singles out the Ministries based on disfavored religious views and sends a message that religious persons with beliefs like the Ministries' are second-class citizens, outsiders, and not full members of the community.

359. SB 868 also forces the Ministries to give up their beliefs to engage in their religiously motivated activities in ways that inhibit religion and are not neutral.

360. HB 1429 targets the Ministries by singling out their religious beliefs for hostility, and by showing favoritism towards, preferring, and promoting religious beliefs that approve of transgender ideology.

361. HB 1429 singles out the Ministries based on disfavored religious views and sends a message that religious persons with beliefs like the Ministries' are second-class citizens, outsiders, and not full members of the community.

362. HB 1429 also forces the Ministries to give up their beliefs in order to engage in their religiously motivated activities, in ways that inhibit religion and are not neutral.

363. Defendants do not serve a compelling or even valid interest in a narrowly tailored way by compelling the Ministries to participate in conduct contrary to their sincerely held religious beliefs.

364. Defendants do not serve a compelling or even valid interest in a narrowly tailored way by favoring certain religious beliefs over the Ministries' beliefs

365. Defendants do not serve a compelling or even valid interest in a narrowly tailored way by enacting laws with the primary purpose or effect of disfavoring certain religious views.

366. Accordingly, as applied to the Ministries, SB 868 violates the Virginia Constitution's protections to be free from religious establishments.

367. Likewise, as applied to the Ministries, HB 1429 violates the Virginia Constitution's protections to be free from religious establishments.

COUNT V
Violation of Plaintiffs' Right to Due Process Under the Virginia Constitution
(Va. Const. art. I, § 11)

368. The Ministries repeat and reallege each allegation contained in paragraphs 1–301 of this Complaint.

369. The Due Process Clause of the Virginia Constitution guarantees persons the right to due process of law, which includes the right to be free from vague guidelines granting officials unbridled discretion.

370. The vague language of SB 868 violates the Ministries’ right to due process.

371. First, SB 868 uses undefined terms such as “discriminate” and “discriminatory,” which do not clearly specify the criteria for what it means to discriminate or what an employer or place of public accommodation must do to comply with SB 868.

372. Second, SB 868 also prohibits an “unlawful discharge” without clarifying what the term means and entails, leaving the Ministries with no clear guidance on which activities to avoid and what constitutes such a discharge.

373. SB 868 also uses circular definitions, including an exemption to the definition of “place of public accommodation” for “a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public”—without specifying what it means to be “open to the public.”

374. These provisions use vague and undefined terms and guidelines granting officials unbridled discretion. SB 868 is therefore vague on its face and as applied to the Ministries and does not provide them fair notice.

375. Defendants have the power to investigate, apply, and enforce SB 868.

376. SB 868 gives Defendants discretion to investigate and determine violations, to issue notices of right to sue over alleged violations, and to seek relief against alleged violators.

377. As such, SB 868 is devoid of procedural safeguards to protect any entity subject to it. The broad powers given to the Division violate the concepts of legal fairness, objectivity, and due process.

378. Because of the vagueness of the Act, the Ministries are not able to operate in their community in accordance with their religious mission and beliefs without the threat that the Act will be enforced against them.

379. SB 868 does not serve any compelling, significant or legitimate, or even valid interest in a narrowly tailored way.

380. Accordingly, as applied to the Ministries, SB 868's vague language and lack of procedural safeguards violate the Ministries' rights under the Virginia Constitution to due process under the laws.

Prayer for Relief

Plaintiffs respectfully ask this Court to enter judgment against Defendants and provide the following relief:

1. A declaration that SB 868 does not apply to Plaintiffs because Plaintiffs are protected by its religious exemptions.
2. A declaration that SB 868 as applied to Plaintiffs violates their rights under the Virginia Religious Freedom Restoration Act; their rights to Free Exercise, Free Speech, Freedom of Association, and Due Process rights under the Virginia Constitution; and their rights under the Establishment Clause in the Virginia Constitution.
3. A declaration that HB 1429 as applied to Plaintiffs violates their rights under the Virginia Religious Freedom Restoration Act, and Free Exercise and Establishment Clause rights under the Virginia Constitution.

4. A permanent injunction to stop Defendants and any person acting in concert with them from:
 - a. enforcing SB 868 against Plaintiffs and other similarly situated religious organizations; and
 - b. enforcing HB 1429 against the Plaintiffs and other similarly situated religious organizations.
5. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy so that these declarations shall have the force and effect of a final judgment;
6. That this Court retain jurisdiction of this matter for the purpose of enforcing its orders;
7. That this Court award Plaintiffs' costs and expenses in this action, including reasonable attorneys' fees, in accordance with Va. Code § 8.01-190 and Va. Code § 57-2.02(D);
8. That this Court issue the requested injunctive relief without a condition of bond or other security required of Plaintiffs; and
9. That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted,

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