

NO. 19-2142

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IN THE  
**United States Court of Appeals**  
**for the Seventh Circuit**

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SANDOR DEMKOVICH,  
*Plaintiff-Appellee,*

v.

ST. ANDREW THE APOSTLE PARISH, CALUMET CITY, and  
THE ARCHDIOCESE OF CHICAGO,  
*Defendants-Appellants.*

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On Appeal from the United States District Court for the Northern District of  
Illinois, Eastern Division Case No. 1:16-cv-11576

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**MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF  
ANSWERING THE CERTIFIED QUESTION IN THE NEGATIVE OF  
CATHOLICS FOR CHOICE, JANE DOE INC., GLAD, LAMBDA LEGAL,  
NELA, NOW FOUNDATION, THE SHRIVER CENTER ON POVERTY  
LAW, SPARK REPRODUCTIVE JUSTICE NOW!, AND THE  
WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS &  
URBAN AFFAIRS**

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As set forth in detail below in the specific description of the interest of each signatory, proposed amici curiae are organizations dedicated to fighting for the civil rights and reproductive freedom of communities with a strong interest in the vigorous enforcement of Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act. Amici organizations seek to give voice to those most affected by application of the proper enforcement of anti-discrimination laws, and most devastated by judicially-created exceptions thereto. Amici organizations also seek both to balance the current legal presentation made to the Court and to advance an argument for judicial restraint so plainly lacking in the briefing to date.

This Court did not receive any amicus briefs in advance of the issuance of the panel decision on August 31, 2020. This Court then received at least seven different amici curiae briefs from over thirty entities/professors arguing in favor of Defendants-Appellants' rehearing en banc petition. As of December 9, 2020, the day the Court granted en banc review, no amicus briefs in support of Plaintiff-Appellee had been submitted -- as is not unusual, given the very low probability of en banc review in the typical case. On December 15, 2020, the Court issued an order that "Any potential amicus curiae may move for leave to file a brief in support of appellee not later than January 5, 2021." This set off a whirlwind of activity over the holidays to try to provide the Court with a different perspective. Due to some confusion about the word count for the briefs, Bradley Girard of

Americans United for the Separation of Church and State emailed the Clerk of the Court and got this response:

From: CA7 Calendar Clerk <CA7\_CalendarClerk@ca7.uscourts.gov>  
Sent: Tuesday, December 22, 2020 2:38 PM  
To: Bradley Girard <girard@au.org>  
Subject: Fwd: Question about an amicus brief

Good Afternoon,

The word limit would be 7,000 in this particular case.

Thank you,  
Clerk's Office

Proposed amici have secured the consent of Plaintiff-Appellant to file the attached brief. Defendants-Appellants have limited their consent to briefs under 2,600 words, despite receiving over 15,000 words of amicus support for their position. Amici's submitted brief is within the scope of the Plaintiff-Appellant's consent, a shade longer than the Defendants'-Appellants' consent, and thousands of words under the word limit cited by the Clerk of Court. The following amici, listed below in alphabetical order, respectfully request the Court to grant leave for its filing.

**Catholics for Choice** ("CFC") represents the majority of Catholics on issues of sexual and reproductive rights and health, and is the leading voice in debates at the intersection of faith, reproductive health, rights and justice and religious liberty. Founded in 1973, CFC seeks to shape and advance sexual and reproductive

ethics that are based on justice, reflect a commitment to human rights, and respect and affirm the capacity of all to make moral decisions about their lives. CFC's work promotes respect for the moral autonomy of every person, based on the foundational Catholic teaching that every individual must follow their own conscience and respect others' right to do the same.

Through strategic litigation, public policy advocacy, and education, **GLBTQ Legal Advocates & Defenders** (GLAD) works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. GLAD has litigated widely in both state and federal courts in all areas of the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender individuals, and people living with HIV and AIDS. GLAD has an enduring interest in ensuring that employees receive full and complete redress for violation of their civil rights in the workplace.

**Jane Doe Inc., the Massachusetts Coalition to End Sexual and Domestic Violence**, works to amplify the voices of all who are impacted by sexual and domestic violence and to undo the social injustices that perpetuate an abuse of power. We seek to prevent gender-based violence by changing the lens through which people view the experiences of survivors and by promoting equity and justice for everyone. Survivors of sexual and domestic violence are directly impacted by the issues central to this matter, and we are interested in highlighting

the danger to the most vulnerable in our community from overly expansive and unjustified claims of exemptions from generally applicable laws.

**Lambda Legal Defense and Education Fund, Inc.** (“Lambda Legal”) is the nation's oldest and largest non-profit legal organization committed to achieving full recognition of the civil rights of LGBTQ people and people living with HIV through impact litigation, education, and public policy work. As particularly appropriate here, Lambda Legal has been on the cutting edge of issues presented in this appeal as party counsel and/or amicus counsel: arguing for Title VII coverage of sexual orientation and gender identity discrimination,<sup>1</sup> arguing for proper, robust Title VII coverage of religious discrimination;<sup>2</sup> and highlighting the importance and danger to the most vulnerable in our community from overly expansive and unjustified claims of exemptions from generally applicable laws.<sup>3</sup>

Founded in 1985, the **National Employment Lawyers Association** (NELA) is the largest bar association in the country focused on empowering workers’ rights

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<sup>1</sup> *Hively v. Ivy Tech Comm. Coll.*, 853 F.3d 339 (7th Cir. 2017) (en banc) (sexual orientation, party counsel); *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011) (gender identity, party counsel); *Fletcher v. Alaska*, 443 F. Supp. 3d 1024 (D. Alaska 2020) (same).

<sup>2</sup> *EEOC v. Abercrombie & Fitch*, 575 U.S. 768 (2015) (amicus supporting Muslim woman worker denied employment for wearing hijab).

<sup>3</sup> *Fulton v. City of Philadelphia*, 19-123, Brief of Amici Curiae Organizations Serving LGBTQ Youth in Support of Respondents, 2020 WL 5020356 \*11 (August 20, 2020) (arguing against the shrinking, unsupported by social science, of “the pool of families willing to care for LGBTQ-identified youth and able to offer them supportive care”).

attorneys. NELA and its 69 circuit, state, and local affiliates have a membership of over 4,000 attorneys who are committed to protecting the rights of workers in employment, wage and hour, labor, and civil rights disputes. NELA has a particular interest in the current attempt to broaden the ministerial exception to hostile work environment claims, as any expansion would potentially strip thousands of people of the workplace protections guaranteed by our nation's laws. NELA and its members, who litigate these issues on behalf of employees, advocate for protecting religious freedom while shielding workers from invidious discrimination in the workplace and ensuring continuity in the application of anti-discrimination laws.

**The National Organization for Women (NOW) Foundation** is a 501(c)(3) entity affiliated with the National Organization for Women, the largest grassroots feminist activist organization in the United States with chapters in every state and the District of Columbia. NOW Foundation is committed to ending discrimination in the workplace against women as well as against LGBTQIA+ individuals and persons of color, among other objectives.

**The Shriver Center on Poverty Law** (Shriver Center) has a vision of a nation free from poverty with justice, equity and opportunity for all. The Shriver Center provides national leadership to promote justice and improve the lives and opportunities of people with low income, by advancing laws and policies, through

litigation, and legislative and administrative advocacy. The Shriver Center is committed to economic security and advancement, including the achievement of equal opportunities for women, people of color, and LGBTQ individuals.

Founded in 2007, **SPARK Reproductive Justice NOW!** works to build and strengthen the power of our communities and a reproductive justice movement that centers Black Women, Women of Color, and Queer & Trans Youth of Color in Georgia and the South. Based in Atlanta, Georgia, we have fostered a dynamic, collaborative model of advocacy, leadership development, collective action, and discourse that creates change and impact for Black women and queer people's struggles for reproductive justice. We are committed to a complete vision of reproductive justice where our base has access to economic security and are protected from employment discrimination.

**The Washington Lawyers' Committee for Civil Rights & Urban Affairs** is a non-profit civil rights organization established to eradicate discrimination and poverty by enforcing civil rights laws through litigation and public policy advocacy. It has successfully handled thousands of civil rights cases on behalf of individuals and groups regarding discrimination on the basis of race, national origin, gender, and disability. Among other things, the Washington Lawyers'

Committee represents clients challenging discrimination and harassment in employment. Title VII is an essential tool in the Committee's advocacy.

January 5, 2021

Respectfully Submitted,

/s/ Gregory R. Nevins

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Lambda Legal, NELA, NOW  
FOUNDATION, The Shriver Center on  
Poverty Law, SPARK Reproductive  
Justice NOW!, and The Washington  
Lawyers' Committee for Civil Rights &  
Urban Affairs*



