COMMONWEALTH OF KENTUCKY
SUPREME COURT OF KENTUCKY
CASE NO. 2012-SC-00502-DG

On Appeal from Kentucky Court of Appeals,
Case No. 2011-CA-000004-MR

DR. LAURENCE H. KANT — **APPELLANT**

v.

LEXINGTON THEOLOGICAL SEMINARY — **APPELLEE**

BRIEF OF AMICA CURIAE ON BEHALF OF APPELLANT, DR. LAURENCE H. KANT

This is to certify that a true and correct copy of the foregoing has been served by mailing same this the 23rd day of April, 2013, to the following: Christopher D. Miller, Arnold & Miller, PLC, 401 West Main Street, Suite 303, Lexington, KY, 40507; Hon. Richard G. Griffith and Hon. Elizabeth S. Muyskens, Stoll Keenon Ogden, PLLC, 300 W. Vine Street, Suite 2100, Lexington, Kentucky 40507, Counsel for Appellees; Judge Kimberly Bunnell, Fayette Circuit Court, 120 N. Limestone, Lexington, Kentucky 40507; Samuel P. Givens, Jr., Clerk, Kentucky Court of Appeals, 360 Democrat Drive, Frankfort, KY 40601; and by mailing ten copies to Hon. Susan Stokley Clary, Clerk, Court Administrator and General Counsel, Kentucky Supreme Court, 209 Capitol Building, 700 Capital Avenue, Frankfort, Kentucky 40601.

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PURPOSE OF THE BRIEF

The purpose of this brief is to assist this Court in considering the differences between a Professor of Religious Studies or History of Religion and a Christian Minister. The distinction between a religion professor who teaches *about* religion and a minister who teaches *of* religion is constitutionally significant under the Supreme Court's First Amendment jurisprudence. An extensive academic literature, which is well-known in universities, divinity schools and seminaries, also clearly distinguishes the professor of religion from the minister. Based on the Court's rulings and that literature, Amica Curiae offers this Court a description and clarification of Appellant Laurence H. Kant's two job titles at Lexington Theological Seminary (LTS): Assistant Professor of Religious Studies and Associate Professor of the History of Religion. Because Appellant is a religion professor, not a minister, the Court of Appeals committed reversible error in dismissing his breach of contract lawsuit against LTS.

Because Amica Curiae Professor Leslie C. Griffin, the William S. Boyd professor of constitutional law at the University of Nevada, Las Vegas, Boyd School of Law, holds a Ph.D. in Religious Studies from Yale University and a J.D. from Stanford Law School, she has written extensively about constitutional law's connection to the discipline of Religious Studies. She has also filed amicus briefs about the ministerial exception in the United States Supreme Court and the U.S. Court of Appeals for the Fifth Circuit.

STATEMENT OF THE CASE

In 2002, Professor Laurence H. Kant accepted a tenure-track position as Assistant Professor of Religious Studies at Lexington Theological Seminary [LTS]. On March 6, 2006, LTS granted Kant tenure as an Associate Professor of the History of Religion.

According to the LTS *Faculty Handbook*, "the precise character of the position for which one is being tenured shall be defined at the time of the tenure decision." (Faculty Handbook, p. 12, RA 0172).

Kant's job title and the scope of his teaching position were negotiated carefully with the deans who reviewed Kant's work and awarded him the tenure contract. By the time he received tenure, Kant had taught fourteen courses at LTS in Jewish Studies, theology, cultural studies, Hebrew Bible, New Testament, ethics, world religions, American religion, genocide, violence, peace studies, and Greek and Hebrew language. (Kant's January 2006 Self-Evaluation for Tenure, pg. 4, RA 0156). Kant's tenured title and the scope of his responsibilities were chosen with care by both sides after Dean Dare informed Kant in a pre-tenure letter that "we need to define more specifically what religious studies should entail." (May 1, 2005 Letter from Dean Dare to Kant, RA 0161) (emphasis in original). In response, Kant identified his core areas of teaching responsibility as Biblical Studies, Jewish Studies and Jewish-Christian Relations, World Religion, Religion and Cultural Studies. Both sides then agreed to the title "associate professor of the history of religion." (March 7, 2006 Letter from Robert Cueni to Kant granting Tenure, RA 0164).

Professor Kant's course offerings were academic and non-ministerial classes. He was trained to teach those subjects in an academic manner when he received his Ph.D. in Religious Studies at Yale University in 1993, where he acquired advanced linguistic training. Kant has studied and worked in ten languages--ancient Greek, modern Greek, Latin, Hebrew, Aramaic, Syriac, French, Italian, German and English. Before teaching at

LTS, Kant taught biblical courses, including the Hebrew Bible and the New Testament, as academic subjects with linguistic emphasis, at Cornell University and York University.

According to his tenure statement, Professor Kant is also a "committed Jew" and an active member of the Temple Adath Israel congregation. (Kant's January 2006 Self-Evaluation for Tenure, p. 7, RA 0159). Nonetheless, after LTS fired Kant because of a financial emergency in 2009, it successfully argued that Kant's breach of contract lawsuit against the seminary must be dismissed because Kant is a "minister" for purposes of the First Amendment's ministerial exception, which provides an affirmative defense to some employment discrimination lawsuits by ministers against their churches. The appeals court also ruled that Kant's firing was an "ecclesiastical matter" over which the circuit court lacked jurisdiction. *Kant v. Lexington Theological Seminary*, 2012 Ky. App. LEXIS 124.

SUMMARY OF ARGUMENT

The Court of Appeals committed reversible error in dismissing Kant's lawsuit under the First Amendment. Kant is a professor, not a minister, whose breach of contract lawsuit can be heard by the circuit court without entanglement with religion.

The Supreme Court has long recognized the important distinction between "teaching *about* religion, as distinguished from the teaching *of* religion, in the public schools." *School Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203, 306 (1963) (Goldberg, J., concurring). Teaching of religion violates the Establishment Clause because it is evangelical or ministerial in nature. Yet teaching about religion does not. Instead, the Supreme Court has held that "teaching about the Holy Scriptures or about the differences between religious sects" is permitted in public schools because it is "non-

devotional." *Schempp*, 374 U.S. at 300. Therefore, under Supreme Court jurisprudence, Religious Studies and History of Religion professors teach about religion.

Kant's titles as a professor of *Religious Studies* and the *History of Religion* are significant to his breach of contract lawsuit against LTS. The History of Religion and Religious Studies are well-established names for the *academic* study of religion. Scholars of religion have carefully defined those fields to exclude divinity, ministerial, theological and other faith-based studies.

A professor who teaches about religion, even in a seminary setting, is not a minister according to the fact-intensive inquiry about ministerial status required by the Supreme Court in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 132 S. Ct. 694 (2012). *Hosanna-Tabor* emphasized "the formal title given [the employee] by the Church, the substance reflected in that title, her own use of that title, and the important religious functions she performed for the Church" as the key factors in evaluating ministerial status. *Hosanna-Tabor*, 132 S.Ct. at 708. Kant's formal title, the substance reflected in that title, his own use of that title, and the fact that he did not perform religious functions for LTS all belie the Court of Appeals' ruling that he is a minister. *Hosanna-Tabor*, moreover, "express[ed] no view," *id.* at 710, whether the exception applies to breach of contract lawsuits against religious employers. Kant's breach of contract lawsuit is not subject to the ministerial exception. For the same reasons, the lawsuit's resolution will not entangle the circuit court in ecclesiastical matters.

A Jewish professor of History of Religions at a Christian seminary is not a minister for First Amendment purposes. Because Professor Laurence Kant is not a

minister as defined by the Supreme Court in *Hosanna-Tabor*, the circuit court can hear this case. Because Kant is a non-ministerial employee who was fired solely for financial reasons, the circuit court will not become entangled with ecclesiastical matters if it hears Kant's lawsuit. Thus the Fayette Circuit Court and the Kentucky Court of Appeals erroneously dismissed Kant's breach of contract lawsuit under the ministerial exception and the ecclesiastical matters rule. *Kant v. Lexington Theological Seminary*, 2012 Ky. App. LEXIS 124.

ARGUMENT

I. Following the Supreme Court's distinction between teaching *about* and *of* religion in *School Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203 (1963), Appellant Laurence Kant, a Jewish Professor of History of Religion, is a professor, not a minister.

When the Supreme Court barred prayer and devotional Bible study from the public school classroom in 1963 as violations of the Establishment Clause in *Schempp*, it clarified that its ruling did not ban the study of religion. The Court explained that the Establishment Clause does not prohibit the "study of the Bible or of religion, when presented objectively as part of a secular program of education." *Schempp*, 374 U.S. at 225. An influential distinction came from Justice Goldberg's concurrence, which "recognize[d] the propriety . . . of the teaching *about* religion, as distinguished from the teaching *of* religion, in the public schools." *Schempp*, 374 U.S. at 306; *see also Kant v. Lexington Theological Seminary*, 2012 Ky. App. LEXIS 124, at *47 (Keller, J. dissenting) ("the majority fails to differentiate between teaching religion and teaching about religion.").

Before *Schempp*, religion teachers had long debated whether teaching religion at public universities was constitutionally permissible. They worried that the Establishment

Clause did not allow state institutions to promote the study of religion in any form. *See* Paul G. Kauper, *Law and Public Opinion*, in *Religion and the State University* 69 (Erich A. Walter ed., 1958). For scholars in religion, *Schempp* settled an open question and established the constitutionality of teaching academic Religious Studies, but not faith-based Theology, in state universities. To those scholars, Religious Studies is teaching about religion; Theology, as well as Divinity and Ministry, however, are teaching of religion. *See generally* Leslie C. Griffin, *"We Do Not Preach. We Teach."*, 19 *Quinnipiac L. Rev.* 1 (2000); Conrad Cherry, *Hurrying Toward Zion: Universities, Divinity Schools, and American Protestantism* (1995).

Since 1963, scholars of religion have built their entire discipline around this idea that their job is to teach about religion in an objective and secular manner. For this reason, they named their discipline Religious Studies to emphasize its academic character and to distinguish it from the more traditional study of Theology. Traditional Theology, which developed in the medieval university, presupposed faith commitment to one theological tradition. *See Locke v. Davey*, 540 U.S. 712, 721 (2004) ("majoring in devotional theology is akin to a religious calling as well as an academic pursuit"). Religious Studies is the opposite. The title may be somewhat confusing because "the activity itself is not religious." *Study of Religion(s)*, in *A New Dictionary of Religions* 498, 499 (John R. Hinnells ed., 1995). Nonetheless, the categories are well-known to professors in public and private universities, seminaries and divinity schools.

After *Schempp*, Religious Studies became the popular nomenclature for American non-theological, non-ministerial study of religion. The names History of Religion and Comparative Religion are common synonyms for Religious Studies. Those labels

attracted Supreme Court attention: "it might well be said that one's education is not complete without a study of *comparative religion* or the *history of religion* and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities." *Schempp*, 374 U.S. at 225 (emphasis added). In other words, the Supreme Court has recognized these studies as distinctly non-ministerial and academic.

The modern development of Religious Studies post-*Schempp* revolutionized the study of religion in the United States as schools of all sorts, public and private, non-religious and religious, added the academic study of religion to their curricula. *See* Dorothy C. Bass, *Revolutions, Quiet and Otherwise: Protestants and Higher Education During the 1960s*, in *Caring for the Commonweal: Education for Religious and Public Life* 207, 222 (Parker J. Palmer et al. eds., 1990). By definition and tradition, History of Religion and Religious Studies retain their academic status wherever they are studied. They are taught in public and private universities as well as seminaries and divinity schools without losing their academic, non-ministerial status. Their subject matter is determined by the professor's course coverage, not by his institutional affiliation. Scholars in religion routinely teach those subjects in an academic manner that does not require them to espouse any particular faith or to become clergy in a particular tradition. Likewise, History of Religions does not lose its academic character when it is taught at a Christian seminary. Divinity school students may study non-ministerial courses as part of their training just as law students occasionally add economics or accounting courses in order to enhance their understanding of the law.

A. The title assigned to Appellant in his tenure contract—Associate Professor of the History of Religion—demonstrates that he is a professor, not a minister.

Professor Kant's contract with LTS must be interpreted in light of the post-*Schempp* development of the academic study of religion. According to the LTS Faculty Handbook, "the precise character of the [tenured] position for which one is being tenured shall be defined at the time of the tenure decision." (Faculty Handbook, p. 12, RA 0172). Kant was hired onto the tenure track under the title "Assistant Professor of Religious Studies," (May 30, 2002 Letter from Robert Cueni to Kant, RA 0686), and tenured under the title "Associate Professor of the History of Religion." (RA 0164). Kant's tenured title and the scope of his responsibilities were chosen with care by both sides after Dean Dare informed him in a pre-tenure letter that "we need to define more specifically what religious studies should entail." (RA 0164). In response, Kant identified his core areas of teaching responsibility as Biblical Studies, Jewish Studies and Jewish-Christian Relations, World Religion, Religion and Cultural Studies. These are all secular, academic courses. The Seminary and Kant entered into a mutually binding agreement that Kant was a professor, not a minister.

It is noteworthy that Kant's biblical courses were history- and language-based, relying on his training in ten languages. The circuit court mistakenly found that Kant was a minister because it believed he taught a course in the Old Testament. *Kant*, 2012 Ky. App. LEXIS 124, at *10. This finding reflects a fundamental misunderstanding of the subject matter of Kant's teaching. As his tenure statement reflects, Kant, as a Jewish professor of Religious Studies, taught courses in the *Hebrew Bible*. The Hebrew Bible is the Jewish name for the books that Christians call the Old Testament. As a matter of

faith, Christians call the Hebrew Bible the Old Testament because they believe it is a precursor to and a predictor of Jesus Christ and the New Testament. *See generally* Walter Brueggemann, *An Introduction to the Old Testament: The Canon and Christian Imagination* (2003). As a Jewish professor and a practicing Jew, however, Kant could not equate the Hebrew Bible with the Old Testament and did not do so. He taught the Hebrew Bible in an academic, non-ministerial manner. His one course in theology was also taught in a comparative religion, non-devotional manner. See *Locke v. Davey*, 540 U.S. 712, 734 (2004) (Thomas, J., dissenting) ("theology does not necessarily implicate religious devotion or faith.").

B. A practicing Jew cannot be a minister of the Disciples of Christ.

Kant's tenure statement also establishes that he is a practicing Jew and an active member of the Temple Adath Israel congregation. He described his contribution to LTS "as a representative of my faith, tradition, and people . . . I was able to communicate theologically and spiritually with others first as a human being and then as a Jew." (Kant's January 2006 Self-Evaluation for Tenure, pg. 1, RA 0153). As Judge Keller observed in her dissent, "A basic tenet of Christianity is that Jesus Christ is the Son of God. Judaism does not accept that tenet. Therefore, it appears that, because of this seminal difference, Kant, as a practicing Jew, would not be qualified to be a minister of any Christian faith." *Kant*, 2012 Ky. App. LEXIS 124, at *48 (Keller, J. dissenting).

The question of Kant's status is much deeper than one of qualifications for ministry. Following another religion is considered apostasy in Judaism. *Deuteronomy* 13:6-11. "As a bitterly persecuted minority religion, Judaism inevitably regarded apostasy as a despicable act of desertion, treason, and weakness." Apostasy, in *Oxford*

Dictionary of the Jewish Religion 57 (R. J. Zwi Werblowsky & G. Wigoder, eds., 2d ed. 2011). To rule that a Jew is a Christian minister could imply that such a person is an apostate or heretic who has left Judaism. This Court should not so define Kant.

Kant's tenure statement was clear that his colleagues had welcomed him to LTS as a Jew and that he did not share their faith. This Court should not impose ministerial status on an individual who could in no circumstances be viewed as a minister of the Disciples of Christ. *See Dias v. Archdiocese of Cincinnati*, 2013 WL 360355, 4 (S.D. Ohio, 2013) (Because Plaintiff, as a non-Catholic, was not permitted to teach Catholic doctrine, she cannot genuinely be considered a "minister" of the Catholic faith.); *Hendricks v. Marist Catholic High School*, 2011 WL 996757, 3 (D. Or., 2011) (Employment contract entitled "Employment Agreement for a Lay Teacher" does not establish high school teacher as an actual or prospective minister). The broadest reading of the ministerial exception encourages courts "to defer to a religious organization's good faith understanding of who qualifies as a minister" *Hosanna-Tabor*, 132 S. Ct. at 710 (Thomas, J., concurring). There is *no* good faith evidence in the record that LTS "sincerely considered [Kant] a minister." *Id.* at 711. There could be no such evidence. Laurence Kant is a practicing Jew and was recognized as such by his employer.

II. Appellant is not a minister according to the factors identified by the Supreme Court in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 132 S. Ct. 694 (2012).

In *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 132 S. Ct. 694 (2012), the Supreme Court for the first time recognized a ministerial exception, grounded in the Religion Clauses of the First Amendment, that requires the dismissal of some employment discrimination lawsuits by ministers against their religious employers.

The Opinion of the Court refused "to adopt a rigid formula for deciding when an employee qualifies as a minister" and chose a fact-dependent, case-by-case approach. *Id.* at 707. Justice Alito's concurrence recommended that courts "focus on the function performed by persons who work for religious bodies." *Hosanna-Tabor*, 132 S. Ct. at 711 (Alito, J., concurring). Under either standard, Appellant is not a minister.

A. Under the Supreme Court's fact-based test of a minister in *Hosanna-Tabor*, Appellant is not a minister.

The Court's ruling in *Hosanna-Tabor* was heavily fact-dependent. The case involved a "commissioned" teacher at a Lutheran elementary school, Cheryl Perich, who was fired when she tried to return to work after a medical leave of absence for narcolepsy. Perich alleged retaliation under the Americans With Disabilities Act.

Focusing on the employee's *function* instead of her ordination, the Sixth Circuit Court of Appeals had allowed Perich's lawsuit to proceed on the grounds that her *primary duties* were secular, not religious. *EEOC v. Hosanna-Tabor Evangelical Lutheran Church and School,* 597 F.3d 769, 778 (6th Cir. 2010). Several circuit courts had adopted the "primary duties" test as the best method for determining ministerial status. *See Alcazar v. Corporation of the Catholic Archbishop of Seattle*, 627 F.3d 1288, 1291-92 (9th Cir. 2010) (identifying circuit court tests for the ministerial exception). The Sixth Circuit viewed Perich's duties as primarily secular because she taught the same classes as lay teachers and spent minimal time (only 45 minutes) during the school day on religious activity. *Hosanna-Tabor,* 597 F.3d at 779-80.

The Supreme Court firmly rejected the primary duties test, concluding that ministerial status "cannot be resolved by a stopwatch." *Hosanna-Tabor,* 132 S. Ct. at 709. Here, despite the Supreme Court's rejection of the primary duties test in *Hosanna-*

Tabor, the Kentucky Court of Appeals improperly analyzed Kant's duties at the seminary under the primary duties standard. *See Kant*, 2012 Ky. App. LEXIS 124, at *29 ("Kant's primary duties at LTS consisted of teaching students who desired to become involved in Christian ministry"; "Kant's primary duties involved teaching religious-themed courses at a seminary").

Instead of the primary duties test, the Court in *Hosanna-Tabor* summarized four issues relevant to Perich's ministerial status: "the formal title given Perich by the Church, the substance reflected in that title, her own use of that title, and the important religious functions she performed for the Church." *Id.* at 708. Perich's formal title was "Minister of Religion, Commissioned," which reflected the religious substance of her work at Hosanna-Tabor. *Id.* at 707. "Perich held herself out as a minister of the Church," not only by accepting the church's call to service and describing herself as a minister at Hosanna-Tabor, but also by claiming a housing allowance on her tax return that was available only to members of the ministry. *Id.* at 707-708. Finally, as a teacher, "Perich performed an important role in transmitting the Lutheran faith to the next generation." *Id.* at 708.

Here, under the Court's four factors, Professor Laurence Kant is in completely different circumstances from Perich and is therefore not a minister. First, his formal title was Associate Professor of History of Religion, which, as argued above, is a purely secular, academic title. Second, the substance reflected in Kant's title—that he is Professor of Biblical Studies, Jewish Studies and Jewish-Christian Relations, World Religion, Religion and Cultural Studies—is also academic and secular. Third, Kant not only used that non-ministerial title, but created it in collaboration with the administrators at LTS so that the scope of his tenure would be clear. Fourth, Kant did not perform any

religious functions for the Disciples of Christ and could not do so as a practicing Jew. As his tenure statement explains, whenever he participated in the school's religious functions, he did so as a matter of professional and interfaith courtesy to a religion not his own. (Kant's January 2006 Self-Evaluation for Tenure, RA 0153-0160). Unlike Perich, Kant is not a minister.

The conclusion is the same under Justice Alito's concurrence in *Hosanna-Tabor*, which holds that the ministerial exception "should apply to any 'employee' who leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith." *Hosanna-Tabor*, 132 S.Ct. at 712. Kant did not lead a religious organization, conduct worship services or important religious ceremonies or serve as a messenger or teacher of the Disciples of Christ. As he explained to the circuit court, "I cannot espouse Christian or Disciples of Christ (DOC) doctrine, because I do not believe it. I cannot lead a Christian worship service or officiate at Christian events, because I am neither licensed nor qualified to do so." (¶3, ROA 0665). Kant, a Jewish professor, was not someone who preached LTS' beliefs, taught its faith, or carried out its religious mission. He is not a minister.

B. *Hosanna-Tabor* allows the courts to hear breach of contract cases without violating the ministerial exception or becoming entangled in religion.

In *Hosanna-Tabor* the Court explicitly "express[ed] no view on whether the exception bars other types of suits, including actions by employees alleging breach of contract or tortious conduct by their religious employers." *Id.* at 710. Therefore this Court may authorize the circuit court to apply Kentucky breach of contract law to Kant's lawsuit without running afoul of the First Amendment. *See, e.g., Minker v. Baltimore*

Annual Conference of United Methodist Church, 894 F.2d 1354, 1360-61 (D.C. Cir. 1990) (district court can hear civil contract claims without excessive entanglement).

The Court of Appeals relied upon this Court's precedent, *Music v. United Methodist Church,* 864 S.W.2d 286 (Ky. 1993), to conclude that Kant's lawsuit would inevitably entangle the court with religion. *Music* does not control this case because the facts of this case are distinguishable. *Music* involved an *actual Methodist minister* suing *his own church* for failing to follow the procedures in its own Methodist *Book of Discipline*. Unlike Kant, Rev. Charles W. Music was a pastor within the United Methodist Church that he sued. Music's contract dispute was based on rules and procedures identified in the Methodist *Book of Discipline*, which is a theological document that courts are not qualified to interpret. As this Court explained, allowing the courts to hear Music's lawsuit "would inevitably require interpretation of provisions in the *Book of Discipline* that are highly subjective, spiritual, and ecclesiastical in nature. Such suit necessarily involves interpretation of the minister's occupational qualifications, and therefore forecloses any inquiry by civil courts." *Music*, 864 S.W.2d at 290. Kant's lawsuit is different. In contrast to Rev. Music, Kant is a secular employee suing a religious employer whose faith he does not share to enforce an employment contract.

Two judges on the Court of Appeals agreed there is no excessive entanglement with religion in this case. As Judge Acree explained, *absent the affirmative defense of the ministerial exception*, "'the civil courts could adjudicate the rights under the [employment contract] without interpreting or weighing church doctrine but simply by engaging in the narrowest kind of review of a specific church decision [-- to terminate Kant, as opposed to another employee]. Such review does not inject the civil courts into

substantive ecclesiastical matters.'" *Kant*, 2012 Ky. App. LEXIS 124 at *34-35 (quoting *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 451 (1969)). As argued above, the ministerial exception does not apply to this case. Therefore the breach of contract issue can be resolved in Judge Acree's narrow manner without involving church doctrine.

As Judge Keller explained, this case involves an employer's decision to terminate tenure contracts under circumstances of economic exigency. *Kant*, 2012 Ky. App. LEXIS 124 at *49. Following her suggestions, upon remand, the court could conduct additional discovery and "then address whether LTS's tenure policy contains an implied right of termination for economic reasons and if the economic conditions support the application of any such implied right." *Id.* Thus the dispute can be resolved according to "neutral principles of law" without becoming entangled in religious questions. *Music*, 864 S.W.2d at 287; *Jones v. Wolf*, 443 U.S. 595, 600-01 (1979).

CONCLUSION

For the foregoing reasons, Amica Curiae respectfully requests this Court to overturn the decision of the Court of Appeals and remand the case to the Fayette Circuit Court to hear Appellant's breach of contract against Appellee.

Respectfully submitted,

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