CATHOLIC LAWYERS SOCIETY
OF METROPOLITAN DETROIT

Statement on ADM File No. 2022-03
Opposing Proposed Amendment to MCR 1.109(D)(1)(b)

The Court should decline to insert itself into one of the most controversial social issues of our time, declare a winner, dismiss objections as mere products of bigotry, and threaten to punish dissenters whilst ignoring their constitutional rights.

THE INTEREST OF THE SOCIETY

The Catholic Lawyers Society of Metropolitan Detroit (the "Society") is an association of Catholic lawyers and judges that exists to promote the social, intellectual, temporal, and spiritual welfare of its members; to uphold the highest standards and best traditions of the legal profession; and to promote the ideals and beliefs of the Catholic faith through education and charitable acts.

The Society opposes ADM 2022-03 because it proposes the adoption of a rule that is incompatible with the Catholic faith and would infringe on the constitutional rights of Catholic judges. And, although the proposed rule would apply only to judges, we harbor no illusions that Catholic lawyers will be exempt from addressing litigants and judges according to designated pronouns that do not align with the sex in which God created them.

In this statement, we summarize relevant Catholic beliefs, with citations for further study, to explain why the proposed amendment is highly objectionable to Catholic lawyers and judges. We also refute the uncharitable accusations of bigotry leveled by some who have submitted comments in support of the proposed amendment—unironically insulting men and women of deep faith while purporting to invoke decency, civility, and respect for others as justification for the rule. Finally, we respond to substantive legal positions advanced by those who have filed statements supporting the proposed amendment.

The Society's board of directors approved this statement on April 14, 2023.[†]

[†] The Society's board consists of 15 directors divided into two classes consisting of lawyers and one class consisting of judges. The judges abstained from voting on the statement because they may be called upon to interpret the proposed amendment if it is adopted. Cf. Letter from Judges of the Court of Appeals to Larry S. Royster, Esq., Clerk of the Supreme Court, at 2, n 4 (Mar. 1, 2023).

THE STORY OF SALVATION

Religious objections are often demeaned these days as "fig leaves for prejudice," as one supporter of the proposal puts it. Such *ad hominem* attacks are hardly the hallmark of reasoned discourse. Calling those who disagree with you bigots is aimed at silencing dissent by embarrassment. Yet, as Christians, we are "not ashamed of the gospel of Christ," *Romans* 1:16, we rejoice at being "counted worthy of suffering dishonor for the sake of the name [of Jesus]," *Acts* 5:41, and we see our objections as a faithful response to the story of salvation.

Fr. John Riccardo, a priest of the Archdiocese of Detroit, distills the essence of the Good News in *Rescued: The Unexpected and Extraordinary News of the Gospel*, framing the story of salvation into four words: created, captured, rescued, response.[2] We share that story so the Court has a frame of reference for our objections.

Created. Why is there something rather than nothing? Why is there a universe with planets, stars, and galaxies? Why do you exist?

Not mankind.

You.

Why do *you* exist?

Because God, who is love, willed you into existence, and he made it all *for you*. The pinnacle of everything he made—the creature that he most loves—is you. Not "mankind." *You*. He made *you* in his image and likeness, he made *you* for friendship with him, and he made *you* for love.

Captured. Then why is everything in this world so messed up? Because Lucifer, one of the creatures he made, a creature who was made good, chose to rebel against God. He made himself an enemy, a foe of God. He rebelled out of envy.

What did he envy? *You*. He envied you and the plan that God has for you. So he declared war. Not so much against God; Lucifer knows he's a creature who can't vanquish God. So he went to war against the creature God loves the most: *you*. At the beginning of our race, he tricked our first parents into thinking God was not good, that he kept things from us and did not want what was best for us. Falling for that trick, our first parents sold themselves and all of us into slavery against powers we were helpless to compete against: Sin and Death. That we are subject to Death is obvious; the one thing you know with

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[2] See also Jake Khym and Brett Powell, *Men in the Arena: Fr. John Riccardo*, *Way of the Heart* Podcast, Season 12, Episode 15, at 53:33 (Nov. 2, 2022), from which this section is drawn almost verbatim.

certainty will happen to you is that one day you will die. Sin too is obvious. Have you ever done anything you didn't want to do, that you knew you shouldn't do, that you hated doing, but you did it anyway? That's Sin exercising its power, abusing you and causing you to abuse others. It's like being in the hands of a human trafficker.

Rescued. What, if anything, has God done about it? Imagine you're in the hands of that trafficker. You've been abused, and used, and hurt. One night, you're lying there chained up. You feel a touch on your shoulder. You recoil in fear because it means you're about to be hurt. You open your eyes to see the evil about to be visited upon you. But this time, you see the face of someone the likes of whom you've never seen before in your life. You immediately know you're safe; this man isn't here to hurt you. As he stands you up, you begin to feel great love coming from this man. He unchains you and starts to walk you out the door where you've been held captive. You're gripped with exhilaration and terror. Exhilaration because you might get free; terror because you know who's on the other side of the door. When you cross the threshold, you look at the floor and see the strong man who's kept you prisoner. The one who's with you says, "Don't worry about him. I've taken care of him. He can't hurt you anymore." That's Jesus, and that's what he did for you. He rescued you from the powers of Sin and Death. You don't have to sin anymore. You don't have to fear death anymore. They can no longer keep you from the eternal friendship with God that he made you for.

This was all done in the extraordinary way of the Incarnation: God became flesh and hid himself in this world as a man named Jesus, so that he could engage Lucifer in battle. The battle took place during Jesus' passion and death on the cross. On the cross, even though it might seem like Jesus was the victim, he was actually the aggressor. Think about it. He's omnipotent. God couldn't be arrested, chained, scourged, crowned with thorns, and nailed to a cross unless he wanted to be. He hung there to lure the devil in, tricking him as Lucifer tricked our first parents. It was inconceivable for the devil to accept that God would lower himself to become a creature. Jesus submitted to Death—he entered its realm—to subdue it.

> Death could not devour our Lord unless he possessed a body, neither could hell swallow him up unless he bore our flesh; and so he came in search of a chariot in which to ride to the underworld. This chariot was the body which he received from the Virgin [Mary]; in it he invaded Death's fortress, broke open its strong-room and scattered its treasure.

St. Ephrem the Syrian, *Sermon on the Death of Christ*.

By dying on the cross, Jesus could storm hell and rescue our ancestors. Then he came back for us. With his resurrection, he overcame the power of Sin and Death once and for all.

Response. Who will you ever be able to trust more than the one who freed you from hell by sacrificing his own life? What will you give him for rescuing you? There's really only one answer: everything.

Of course, God created you with free will. You can always choose to reject his love and cooperate with Sin and Death. Like the strong man tied up outside the cell, they're still there. And they'll gladly keep you away from God if *you* let them. But why would you ever want to untie them and willingly go back into the dungeon?

That's the story of the Gospel.

You matter to God.

So much so that you're worth fighting for and dying for.

And the only right and just response is to give him first place in your life.

HOW THE PROPOSED RULE CONFLICTS WITH CATHOLIC BELIEFS

Having shared the Good News, we hope the Court recognizes that the proposed rule treads upon the creation element of the Gospel. The Catholic Church has spent 2,000 years teaching the details of each element of the story through the revealed word of God, the sacraments, and the Church's traditions. We focus here on creation to explain how the proposed rule conflicts with Catholic beliefs.

"A fundamental tenet of the Christian faith is that there is an order in the natural world that was designed by its Creator and that this created order is good." U.S. Conference of Catholic Bishops Committee on Doctrine, *Doctrinal Note on the Moral Limits to Technological Manipulation of the Human Body* ¶2 (Mar. 20, 2023) ("USCCB Note"). "What is true of creation as a whole is true of human nature in particular: there is an order in human nature that we are called to respect. In fact, human nature deserves utmost respect since humanity occupies a singular place in the created order[.]" *Id.*, at ¶3. "'God created man in his own image, in the image of God he created him, ***male and female he created them***.' Man occupies a unique place in creation: (I) he is 'in the image of God"; (ii) in his own nature he unites the spiritual and material worlds; (III) he is created '***male and female***'; [and] (IV) God established him in his friendship." *Catechism of the Catholic Church* ("CCC"), at ¶355 (2d ed., 2000), quoting *Genesis* 1:27 (emphases added).[3]

[3] See also *Matthew* 19:4 ("Jesus said in reply, 'Have you not read that from the beginning the Creator "made them male and female," and said "For this reason a man shall leave his father and mother and joined to his wife, and the two shall become one flesh?"'").

"The root reason for human dignity lies in man's call to communion with God." St. Paul VI, *Gaudium et Spes* §19 (1965).[4]

"Man and woman have been ***created***, which is to say, ***willed*** by God: on the one hand, in perfect equality as human persons; on the other, in their respective beings as man and woman. 'Being man' or 'being woman' is a reality which is good and willed by God: man and woman possess an inalienable dignity which comes to them immediate from God their Creator." CCC, at ¶369 (emphases in original). Having been made in God's image, "man may not despise his bodily life. Rather he is obligated to regard his body as good and to hold it in honor since God has created it and will raise it up on the last day." CCC, at ¶364, quoting *Gaudium et Spes*, at §14. "[W]hatever violates the integrity of the human person, such as mutilation … are infamies indeed. They poison human society, and … are a supreme dishonour to the Creator." *Gaudium et Spes*, at §27; St. John Paul II, *Evangelium Vitae* §3 (1995).[5]

"To find fulfillment as human persons, to find true happiness, we must respect that order. We did not create human nature; it is a gift from a loving Creator. Nor do we 'own' our human nature, as if it were something that we are free to make use of in any way we please." USCCB Note, at ¶3. "A crucial aspect of the order of nature created by God is the body-soul unity of each human person. Throughout her history, the Church has opposed dualistic conceptions of the human person that do not regard the body as an intrinsic part of the human person, as if the soul were essentially complete in itself and the body were merely an instrument used by the soul." *Id.*, at ¶4. "[T]he Church has always maintained that, while there is a distinction between the soul and the body, *both* are constitutive of what it means to be human, since spirit and matter, in human beings, 'are not two natures united, but rather their union forms a single nature.'" *Ibid.*, quoting CCC, at ¶365. "Just as bodiliness is a fundamental aspect of human existence, so is either 'being a man' or 'being a woman' a fundamental aspect of existence as a human being, expressing a person's unitive and procreative finality." USCCB Note, at ¶5.

Early in his pontificate, Pope Francis explained why transgenderism conflicts with the right order of things:

> **[*Modern gender ideology*]** denies the difference and reciprocity in nature of a man and a woman and envisages a society without sexual differences, thereby eliminating the anthropological basis of the family. This ideology leads to education programmes and legislative enactments that ***promote a personal identity*** and emotional intimacy

[4] The Latin title *Gaudium et Spes* translates to English as "Joy and Hope."

[5] The Latin title *Evangelium Vitae* translates to English as "The Gospel of Life."

> ***radically separated from the biological difference between male and female.*** Consequently, human identity becomes the choice of the individual, one which can also change over time.
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> It is a source of concern that some ideologies of this sort, which seek to respond to what are at times understandable aspirations, manage to assert themselves as absolute and unquestionable, even dictating how children should be raised.[6] … ***It is one thing to be understanding of human weakness and the complexities of life, and another to … fall into the sin of trying to replace the Creator.*** We are creatures, and not omnipotent. Creation is prior to us and must be received as a gift. At the same time, ***we are called to protect our humanity, and this means, in the first place, accepting it and respecting it as it was created.***

Pope Francis, *Amoris Lætitia* ¶56 (2016).[7]

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[6] In an alarming trend, some courts are now citing opposition to a child's desire to "transition" as a factor in favor of stripping parents of the God-given and constitutionally protected right to the custody and parenting of their children. It seems increasingly "absolute and unquestionable" that judges view resistance to transgender ideology as a new secular heresy from which they must protect children. See, *e.g.*, *Schoenheide v Shaw*, 2022 MI App 360568–39, pp 20–21 (affirming a trial court's decision to consider, among other things, a mother's "resistance" to "transitioning" her daughter into a "male" against the mother when evaluating which parent has a "stable home"); *SP v CB*, 2023 WL 1458605, at *5 n 6, *12 (NY Sup Ct, Jan 31, 2023) (citing a mother's "misgendering" of her female child instead of using the child's preferred "they/them/their" pronouns as a factor in stripping her of custody, based on the judge's personal belief that "misgendering" affects mental health and "denies a person the autonomy to determine and outwardly express their gender[.]"); *In re KL*, 252 Md App 148; 258 A3d 932 (2021) (affirming the decision of a trial court to expand the limited guardianship of a social services department over a boy who wanted to "transition" to a girl over the mother's objection because "[m]other … simply is not accepting of KL's female gender identity, referring to her by the pronoun 'he[,]' in contrast to the department "which has supported KL's gender transition over the years[.]"); *Matter of AC*, 198 NE3d 1 (Ind App, 2022) (affirming the trial court's order depriving parents of custody over their son when their son claimed mental health problems because his parents did not support his desire to be treated as a female; the opinion engaged in legal sophistry to find that the court was taking custody, not because of the parents' religious objections to transgenderism, but because those objections were causing adverse health effects—paving the way for any child to get his or her way by tantrums).

[7] The Latin title *Amoris Lætitia* translates to English as "The Joy of Love."

Ven. Pius XII taught that a person "is not the absolute master of himself, of his body, of his mind. He cannot dispose of himself just as he pleases … [he] does not have an unlimited power to effect acts of destruction or of mutilation of a kind that is anatomical or functional." USCCB Note, at ¶7, quoting Pope Pius XII, Discours aux participants au Congrès International d'Histopathologie du Système Nerveux (Sept. 14, 1952).

"There are essentially two scenarios recognized by the Church's moral tradition in which technological interventions on the human body may be morally justified: (1) when such interventions aim to repair a defect in the body; [and] (2) when the sacrifice of a part of the body is necessary for the welfare of the whole body." USCCB Note, at ¶8. See also Pope Pius XI, *Casti Connubii* ¶71 (1930) (noting that sacrificial interventions are permissible only "when no other provision can be made for the good of the whole body"). Interventions that "aim to alter the fundamental order of the body" fall into neither category. *Ibid.*

Surgical and chemical interventions that aim to exchange the sex characteristics of a person's body for those of the opposite sex or for simulations thereof are "not morally justified as attempt to repair a defect in the body or as attempts to sacrifice a part of the body for the sake of the whole." USCCB Note, at ¶¶14-15. "First, they do not repair a defect in the body: there is no disorder *in the body* that needs to be addressed; the bodily organs are normal and healthy." *Id.*, at ¶15 (emphasis added). Second, in the sacrificial context, "removal or reconfiguration of the bodily organ is reluctantly tolerated as the only way to address a serious threat *to the body*." *Ibid.* (emphasis added). Yet, in the case of so-called gender-affirming treatments, "the removal or reconfiguring [of the person's anatomy] is itself the desired result," rendering them morally unjustified. *Ibid.*

One could rightly observe at this point that the proposed rule has nothing to do with such interventions, only forms of address that correspond with the person's declared pronouns. But the same false sense of compassion that drives such interventions for those experiencing gender dysphoria also animates the proposed rule. It would be false compassion to "affirm" a visibly gaunt anorexic by agreeing she is overweight and encouraging her to lose weight. It is equally false compassion to "affirm" those with gender dysphoria by encouraging their disordered self-perception by using false pronouns or offering surgical or chemical alterations of their bodies. See Diocese of Lansing, *Theological Guide on The Human Person & Gender Dysphoria* 12 n.13 (2021) ("DOL Guide").

The Church recognizes the need for pastoral guidance and a merciful concern for those afflicted with this condition—to accept them with love, respect, compassion, and sensitivity—but without "diminish[ing] or deny[ing] the gift of our bodies ***as given to us by God.***" *Id.*, at 12 (emphasis added).

"'To love is to will the good of another.'" CCC, at ¶1766, quoting St. Thomas Aquinas, *Summa Theologicæ* I–II, Q.26, art. 4. Leading another into error—and thereby leading them away from God and the person who God created them to be—is by definition willing what is bad for another. It is therefore never an authentic expression of love. The nature of truth is correspondence of the mind with reality. St. Thomas Aquinas, *Summa Theologiæ*, I, Q.16, art. 2. "To decouple the mind from objective reality is to erode the foundations of our dignity and our awareness of the genuine needs of our neighbor." DOL Guide, at 15. Thus, "affirming" the gender dysphoric person's objective misconception of the self erodes truth, can therefore never be "the good of another" and thus can never be an authentic expression of love. As St. Teresa Benedicta of the Cross—who was known as Edith Stein before converting from Judaism, becoming a Discalced Camerlite nun, and being gassed at Auschwitz—explained with beautiful simplicity: "Do not accept anything as the truth if it lacks love. And do not accept anything as love which lacks truth! ***One without the other becomes a destructive lie***." St. John Paul II, *Homily at the Canonization of Edith Stein* §6 (May 1, 1987) (emphasis added).

It is out of genuine love that Catholicism rejects transgenderism. We will the good of our brothers and sisters in Christ. And the good is, objectively, for them to see in their bodies the truth: the person who God created as inescapably male or female.

Rather than let them show ***genuine*** love and respect toward litigants as they were created by God, the rule demands that Catholic judges subscribe to and promote the destructive lie that those experiencing gender dysphoria have the power to re-create themselves in their own image by fiat and to bend the will of everyone around them to "affirm" that belief.

ANALYSIS

I. Constitutional objections

A. Freedom of speech

"Free speech … is essential to our democratic form of government, and it furthers the search for truth." *Kennedy*, 142 S Ct at 2464. "***Whenever [government]*** prevents individuals from saying what they think on important matters or ***compels them to voice ideas with which they disagree, it undermines these ends.***" *Kennedy v Bremerton Sch Dist*, —US—; 142 S Ct 2407, 2464; 213 L Ed 2d 755 (2022) (cleaned up).

So essential is free speech to a free people, our Founders restricted the government's power to abridge it: "Congress shall make no law … abridging the freedom of speech[.]" U.S. Const., amd. I. Notwithstanding the explicit reference to Congress, the First

Amendment applies to the whole of government, including the judicial branch. *Richmond Newspapers, Inc v Virginia*, 448 US 555, 575; 100 S Ct 2814; 65 L Ed 2d 973 (1980). It also applies to state governments by way of the Due Process Clause of the Fourteenth Amendment. *Cantwell v Connecticut*, 310 US 296, 303; 60 S Ct 900; 84 L Ed 1213 (1940).

On its face, the proposed rule would compel speech. It would mandate the use of false pronouns unless otherwise necessary to ensure a clear record: "[C]ourts are ***required*** to use [false] personal pronouns when referring to or identifying the party or attorney, either verbally or in writing. Nothing in this subrule prohibits the court from using the individual's name or other respectful means of addressing the individual ***if*** doing so will help ensure a clear record." ADM 2022-03, Proposed Amendment to MCR 1.109(D)(1)(b) (emphases added). The plain language of the proposed rule says that a judge cannot use "other respectful means" of addressing a litigant ***unless*** he or she needed to do so to ensure a clear record. And this is confirmed by the proposed official comment, which provides that the rule would "***require*** courts to use th[e] [false] pronouns both verbally and in writing, ***unless*** doing so would result in an unclear record." *Id.*, at cmt. (emphases added).

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, shall prescribe ***what shall be orthodox*** in politics, nationalism, religion, or other matters of opinion ***or force citizens to confess by word or act their faith therein***." *West Va Bd of Educ v Barnette*, 319 US 624, 642; 319 S Ct 1178; 87 L Ed 1628 (1943) (emphases added). Laws that compel speech "pose the inherent risk that the Government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information or ***[to] manipulate the public debate through coercion rather than persuasion.***" *Turner Broad Sys, Inc v FCC*, 512 US 622, 641; 114 S Ct 2445; 129 L Ed 2d 497 (1994) (emphasis added). Compelling speech also coerces people into betraying their convictions. *Kennedy*, 142 S Ct 2464. "***Forcing free and independent individuals to endorse ideas they find objectionable is always demeaning***[.]" *Ibid.* (emphasis added) See also *Janus v Am Fed'n of State, Co, & Muni Employees*, —US—; 138 S Ct 2448, 2463; 201 L Ed 2d 924 (2018) ("***compelling individuals to mouth support for views they find objectionable violates that cardinal constitutional command***[.]"). "[F]or this reason, … a law commanding 'involuntary affirmation' of objected-to beliefs [requires] 'even more immediate and urgent grounds' than a law demanding silence." *Kennedy*, 142 S Ct at 2464. Promoting strongly disputed notions of civility cannot warrant compelling Catholic judges into betraying their religious convictions by involuntarily affirming gender ideologies that conflict with Church doctrine on the order of creation.

There are those who contend that mandating the use of false pronouns is a *de minimis* infringement on free speech. The Supreme Court of the United States has already

rejected a seriousness-of-the-infringement approach to First Amendment jurisprudence and confirmed that the First Amendment protects against the State "invad[ing] the sphere of intellect and spirit" and compelling a person to become an unwilling courier of "idea[s] they find morally objectionable." *Wooley v Maynard*, 430 US 705, 715; 97 S Ct 1428; 51 L Ed 2d 752 (1977). This is precisely what the proposed rule does to Catholic judges. To borrow from academia, the rule "ideologically colonizes" the intellect and spirit of dissenting jurists and compels them to espouse an idea they find morally objectionable—to wit: that a man can be a woman, that a woman can be a man, or that a person can have no sex or gender at all.

Proponents of the rule also point to the distinction drawn between government as sovereign and government as employer. In *Garcetti v Ceballos*, 547 US 410; 126 S Ct 1951; 164 L Ed 2d 689 (2006), the high court held that the First Amendment does not protect public employees from discipline for speech made in the discharge of their official duties, while leaving intact protections for speech that public employees make as citizens on matters of public concern. The *Garcetti* principle does not apply, however, to elected officials. "The state cannot regulate the substance of elected officials' speech under the First Amendment without passing the strict scrutiny test." *City of El Cenizo v Texas*, 890 F3d 164, 184 (CA 5, 2018), citing *Williams–Yulee v The Fla Bar*, 575 US 433, 444; 135 S Ct 1656; 191 L Ed 2d 570 (2015). To pass strict scrutiny, the state's restriction of speech must be narrowly tailored to serve a compelling interest. *Williams-Yulee*, 575 US, at 444. Because the proposed court rule would "command[] 'involuntary affirmation' of objected-to beliefs[,]" only the most "immediate and urgent grounds" could be compelling enough to even entertain the idea of compelling speech in the manner contemplated by the rule. *Kennedy*, 142 S Ct at 2464. Proponents contend they are seeking only to promote respect and civility, but such generic, subjective concepts have never sufficed as a compelling interest, much less do they rise to "immediate and urgent" grounds as to warrant compelling Catholic judges—or judges of other faiths that believe humanity was divinely created as a sexually dimorphous race—to involuntarily affirm a contrary belief to which they morally object.

A few supporters have cited *Grievance Administrator v Fieger*, 476 Mich 231; 719 NW2d 123 (2006), as providing constitutional cover for the proposed rule, but there is ample daylight between the facts in *Fieger* and the iconoclastic nature of the proposed rule. The first and most obvious distinction is that *Fieger* did not involve ***compelled*** speech. Second, Mr. Fieger was sanctioned for the "crudest and most vulgar" language: he "declare[d] war" on the judges who ruled against him; likened them to Hitler, Goebbels, and Braun; and said they should "kiss [his] ass" and be sodomized with a finger, a plunger, or a fist *Id.*, at 261. In remanding for entry of an order of reprimand, the Court said, "[a]s

should be clear, these [ethics] rules are designed to prohibit only 'undignified,' 'discourteous,' and 'disrespectful' conduct or remarks. The rules are a call to discretion and civility, ***not to silence or censorship***, and they do not even purport to prohibit criticism." *Id.*, at 246 (emphasis added). To cite *Fieger* as support for the constitutionality of the proposed rule would validate the fear of retired Justice Cavanaugh, a liberal lion of the Court: "[D]espite the majority's protestations to the contrary, [upholding the civility rules] does in fact impermissibly exalt the protection of judges' feelings over the sanctity of the First Amendment's guarantee of freedom of speech." *Id.*, at 282 (Cavanaugh, J., dissenting). Substitute "litigants'" for "judges'" and the concern remains exactly the same.

Some proponents couch their support as promoting impartiality, fairness, and integrity of elected judges, which has been accepted in the past as a compelling interest. *Williams–Yulee*, 575 US at 445. But these attributes of judicial office have a historical meaning: "A judge instead must 'observe the utmost fairness,' striving to be 'perfectly and completely independent, ***with nothing to influence or control him but God and his conscience***.'" *Id.*, at 447, quoting Address of John Marshall, Proceedings and Debates of the Virginia State Convention of 1829–1830, p 616 (1830). See also, *e.g.*, *Republican Party of Minn v White*, 536 US 765, 775–76; 122 S Ct 2528; 153 L Ed 2d 694 (2002) (noting the historical definition of "impartiality" is equal application of the law and holding that neither this historical definition nor nonstandard definitions of preconceived legal views and open-mindedness qualify as compelling state interests for abridging free speech—reasoning that also calls *Fieger* into question). No proof has been put forward to suggest that any judge, much less a Catholic judge, has ruled for or against a person on a point of law or a question of fact because he or she claimed transgendered status.

The LGBTQA Law Section of the State Bar of Michigan cites a 2016 report from Lambda Legal that cites a single instance of a person, filing a complaint for divorce, being offended that a court clerk in Massachusetts asked to see proof of birth for the named defendant. This reportedly "forced" the filer to "out" the defendant "as a trans person." Lambda Legal, *Protected and Served?*, at 7 (2016). This anecdote did not involve a judge (and judges, not clerks, are the target of the proposed rule). Nor did it involve any context. Assuming this account is true—no last name is provided, no case number, no courthouse, nothing is supplied that would allow the reader to verify the story—one is left to wonder if proof of birth was a legal requirement in Massachusetts or if there was some administrative reason why the information was requested. To make a knee-jerk assumption of discrimination based on this story is cognitive bias. "To a man with a hammer, everything looks like a nail."

The same report is cited for the proposition that 13 percent of those surveyed were "denied equal treatment or service, verbally harassed, or physically attacked in [court or in a courthouse] in the past year because of being transgender."[8] *Id.*, at 14. Yet the report defines such denials, harassment, and attacks in a most curious way: "[Percent] of those who said staff knew or thought they were transgender." *Ibid.* How does one square this with the proposed rule? By such logic, 100 percent of those who declare pronouns will be victimized because, apparently, merely knowing (or suspecting) that a person identifies as transgender is *ipso facto* discrimination, harassment, or violence to the authors of the report.

In the very judicial opinion that seems to have served as the impetus for the proposed rule, the concurrence in *People v Gobrick*, 2021 MI App-U 352180-40; 2021 WL 6062732, at *9 (Dec. 21, 2021), Judge Boonstra "fully concur[red] in the majority's legal analysis and in its decision to affirm [the] defendant's conviction and sentence," while expressing his opposition to entertaining false pronouns. Presumably, the authors of the Lambda Legal

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[8] Of note, the survey consisted of 2,376 participants who self-reported being 18 years old or older, living in the United States, completing at least one-third of unspecified "key demographic questions," and self-identifying as one or more of "LGB, questioning, queer, SGL, other sexual orientation, transgender, two spirit, genderqueer, gender-nonconforming, other gender identity, [or] HIV-positive." Lambda Legal, *Protected and Served?*, at 6 (2016). Because the survey is not limited to those identifying as transgender, we cannot know how many survey respondents are captured within the 13 percent who claimed discrimination, harassment, or violence. But even assuming *arguendo* every respondent claimed transgender status, the maximum number equals 308 people who reported such adversity in the courts *nationwide*. Our nation numbers 334.5 million. A 2022 UCLA study reported that 1.6 million Americans self-identify as transgender. Jody L. Herman, *et al.*, *How many adults and youth identify as transgender in the United States?* at 1, UCLA School of Law Williams Institute (Jun. 2022). If one assumes *arguendo* that these reports are scientifically valid, as one imagines their authors would, extrapolating the data to the general population would go something like this:

> The number of people claiming to be transgendered (T_N), multiplied by 13%, equals the number of people claiming to be transgendered people who also claim to have suffered discrimination in courts or courthouses (T_D), divided by the national population (P) equals the rate of discrimination (R_D),

represented by the formula: $T_D \div P = R$, where $T_D = T_N \times 0.13$. Entering the variables yields this result: 1,640,000 multiplied by 0.13 equals 213,200, which is then divided by 334,500,000, which equals 0.0006 percent. Unverified claims of discrimination by six ten-thousandths of one percent of the population hardly suggests rampant discrimination or harassment by the judicial branch against those who self-identify as transgendered.

report would consider Judge Boonstra's opinion to be discrimination or harassment. Yet he wrote only to express his disagreement with using false pronouns. If that is the motive for the proposed rule—to silence dissenting views on gender ideology—and we perceive that it is, then the rule is not about ensuring judicial "impartiality, fairness, [or] integrity," but about forcing judges to conform to an ideology contrary to an immutable truth of their faith.

It also proves fanciful the idea that judges could, without causing the same offense, declare their belief in traditional gender norms and state in a footnote or in a concurring or dissenting opinion that they are using false pronouns under compulsion of law. Tyler Sherman, *All Employers Must Wash Their Speech Before Returning to Work: the First Amendment & Compelled Use of Employees' Preferred Gender Pronouns*, 26 Wm & Mary Bill of Rights J 219, 236 (contending that mandatory pronoun laws are constitutional because employers would remain "free to post signs declaring their religious or political support for traditional gender norms … and … to engage in conversation with customers in order to explain their beliefs"—as if a person offended by being "misgendered" would take no offense at such a discussion or a sign (or a passage in a judicial opinion) that reads some variation of "God made us male and female; men are men and women are women, and genital mutilation cannot alter that. I am compelled to use false pronouns by laws indulging this fiction."). We have already seen examples where such approaches provoke not only the same hostility that "misgendering" would but also threats of discipline. In the State of Washington, for example, a storeowner and a patron sparred over a sign rejecting the idea that transwomen are women. Emily Crane, *Store owner gets in heated exchange with transgender woman over offensive sign*, NY Post (Aug. 6, 2021) (while we do not endorse the crude wording of the sign, the point remains that the option endorsed in the law review article is not a viable one, as any disapproval of gender ideology will trigger hostile responses from those unwilling to tolerate opposing viewpoints, as happened between this shopkeeper and patron). And in Ohio, college professor Nicholas Meriwether was investigated for creating a hostile environment in the classroom by referring to students as "sir" or "miss" based on their biological sex out of a sincerely held religious belief, and he was told he could not include a disclaimer on his syllabus to state his beliefs and that he was complying with a pronoun policy under compulsion. His only option was to scrub pronouns from his speech, comply with the policy, or be fired. Fortunately for Professor Meriwether, the U.S. Court of Appeals for the Sixth Circuit found that the college trampled on his First Amendment rights. *Meriwether v Hartop*, 992 F3d 492 (CA 6, 2021).

Other proponents contend that "misgendering people is harmful and creates an unsafe environment." Such statements rest on a freewheeling conception of harm and safety. Within our lifetimes, parents routinely taught children to be thick-skinned with a simple rhyme: "sticks and stones may break my bones, but words will never hurt me."

The speech-is-violence crowd rejects such common wisdom. It advocates for cocooning people from the "harm" of others disagreeing with their viewpoint, their "lived experience," or perceived insensitivity (*i.e.*, so-called microaggressions). It claims that anyone unwilling to "go along to get along" with the crowd creates an unsafe environment and must be banished to preserve a "safe space" for the fragile objector. In essence, proponents of this view posit that there is a legal right not to be offended, and that offensive speech must be suppressed in the name of "tolerance and inclusiveness." To them, feelings are more important than constitutional rights. And they detect no irony that suppressing speech with which they disagree is—by definition—intolerant and excludes the suppressed speaker. "***[L]earning how to tolerate speech … of all kinds is part of learning how to live in a pluralistic society, a trait of character essential to a tolerant citizenry.***" *Kennedy*, 142 S Ct, at 2430.

Still other proponents of the rule contend anything short of full-throated support of their gender ideologies is "bigoted" and "hateful" speech unworthy of First Amendment protections. As explained earlier, the Catholic position is neither bigoted nor hateful; it is grounded in biblical truth and authentic love for the person as God truly created him or her. Those tolerant and inclusive souls who cannot tolerate Catholic beliefs should consider that even Voltaire, an avowed secularist who spent his life criticizing the Catholic Church, believed in defending the speech of his clerical opponents unto death: "Reverend, I detest what you write, but I would give my life to make it possible for you to continue to write." Letter from Voltaire to Abbé (Fr.) François Louis Henri Leriche (Feb. 6, 1770).

Espousing a similar view on freedom of speech, Justices Holmes and Brandeis once opined, "if there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought—not free thought for those who agree with us, but freedom for the thought that we hate." *United States v Schimmer*, 279 US 644, 654–55; 49 S Ct 448; 73 L Ed 889 (1929) (Holmes, J., dissenting). See also *Texas v Johnson*, 491 US 397, 414; 109 S Ct 2533; 105 L Ed 2d 342 (1989) ("If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.") Although Holmes and Brandeis were dissenting justices in *Schimmer*, their view was later vindicated when the Court quoted them when overruling *Schimmer* less than 20 years later in *Girouard v United States*, 328 US 61, 68; 66 S Ct 826; 90 L Ed 1084 (1946). Indeed *Girouard* carried their view even further:

> The victory for freedom of thought recorded in our Bill of Rights recognizes that in the domain of conscience there is a moral power higher than the State. ***Throughout the ages men have suffered death rather than subordinate their allegiance to God to the authority of the***

> ***State.*** Freedom of religion guaranteed by ***the First Amendment is the product of that struggle.*** As we recently stated, … ***freedom of thought, which includes freedom of religious belief, is basic in a society of free men*** … Over the years, Congress has meticulously respected that tradition ***and even in time of war*** has sought to accommodate the military requirements to the religious scruples of the individual.

Id., at 68–69 (emphases added). *Girouard* calls to mind the mother and her seven sons who bravely faced torture and brutal deaths for refusing the king's command to eat pork in violation of Jewish dietary laws, 2 *Maccabees* 7, and the martyrdom of St. Polycarp, the bishop of Smyrna and a disciple of St. John the Apostle, who was killed around 155 A.D. for refusing to offer a pinch of incense to Caesar lest he betray God. *Martyirum Polycarpi*, Chaps. 9–16.

Lamentably, there prevails today a sentiment that society can no longer endure the tension between freedom (to do as we ought in the eyes of God) and license (to do as we please), and that the tension must be resolved in favor of licentiousness at the expense of religious liberty. Yet the Supreme Court of the United States, when the world was at war (and far more concerned with real aggressions than "micro" ones), confidently "appl[ied] the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization [of our nation]." *Barnette*, 319 US at 641. It went on to observe that "freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order [or, as here, the proposed order that would be dictated by the proposed amendment]." *Id.* at 642. Forcing acquiescence to a litigant's pronouns would demand that the Catholic judge accept and conform to the dictates of gender ideology—an ideology that the Church teaches is a destructive lie about the very nature of what it means to be created in the image of God. The proposed rule thus "invades the sphere of intellect and spirit which [the] First Amendment … reserves from all official control." *Id.* at 642.

B. Freedom of worship

Our state constitution—ordained by a people "grateful to Almighty God for the blessings of freedom," Const (1963) preamble, and who recognize that "[r]eligion, morality, and knowledge [are] necessary to good government and the happiness of mankind," Const (1963), art. 8, §1—protects every person's "liberty to worship God according to the dictates of his own conscience." Const (1963), art 1, §4. The Worship Clause in Michigan's constitution protects religious liberty "at least" as much as the Free Exercise Clause of the First Amendment. *People v DeJonge*, 442 Mich 266, 273, n 9; 501 NW2d 127 (1993).

Justice Murphy observed when concurring in *Barnette*, a Free Exercise Clause case, that "[o]fficial compulsion to affirm what is contrary to one's religious beliefs is the antithesis of freedom of worship which, it is well to recall, was achieved in this country only after what [Thomas] Jefferson characterized as the 'severest contests in which I have ever been engaged.'" *Barnette*, 319 US at 646 (Murphy, J., concurring). The proposed rule, as already outlined earlier, would constitute official compulsion to affirm gender ideologies that are contrary to Catholic religious beliefs and therefore infringe on Catholic judges' freedom of worship.

Strict scrutiny applies to challenges arising under the Worship Clause, regardless of whether the government action at issue is generally applicable and religion-neutral. *McCready v Hoffius*, 459 Mich 131, 143–45; 586 NW2d 723 (1998), vacated in part on other grounds, 459 Mich 1235; 593 NW2d 545 (1999). Strict scrutiny assesses: (1) whether a belief, or conduct motivated by the belief, is sincerely held; (2) whether that belief, or conduct motivated by the belief, is religious in nature; (3) whether a state regulation burdens the exercise of that belief or conduct; (4) whether a compelling state interest justifies the burden imposed on that belief or conduct; and (5) whether there is a less obtrusive form of regulation available to the state. *DeJonge*, 442 Mich at 280. As outlined in *The Story of Salvation* and *How the Proposed Rule Conflicts with Catholic Beliefs* sections above, the use of correct pronouns is a sincerely held belief that is religious in nature and, as explained in in those sections and in Section I.A, *supra*, the proposed rule burdens that belief for Catholic judges because it would require them to use false pronouns except in the presumably rare instance when it would be necessary for a clear record. For the reasons explained in Section I.A, *supra*, none of the motives for the rule advanced by its proponents qualify as a compelling state interest, which this Court has defined thusly: "[A] compelling state interest must be truly compelling, threating the safety or welfare *of the state* in a clear and present manner." *Id.* at 287 (emphasis added). Protecting someone from perceived slights is not the kind of clear and present threat to the safety or welfare of the state that can pass muster under the fourth element of the *DeJonge* test.

C. Religious civil rights clause

The same section of our state constitution also provides that "[t]he civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief." Const (1963), art 1, §4. The proposed rule runs afoul of this clause because it would impose a *de facto* religious test for judicial office—Catholics and others who believe in traditional binary sex and gender as a tenet of their faith risk being removed from judicial office if they do not comply with the rule. Const (1963), art 6, §30(2) (granting this Court the power to remove a judge for "misconduct in office");

MCR 9.202(B)(1)(c)–(d) (defining misconduct in office as persistent failure to treat persons fairly and courteously and as treatment of a person unfairly or discourteously because of the person's race, gender, or other protected personal characteristic). We have little doubt that the proponents of the rule would consider violations to be misconduct in office and would weaponize the rule to seek the removal of judges who decline to use false pronouns (absent a risk of an unclear record). It takes no imagination to foresee that those like the ones who heckled United States Circuit Judge Kyle Duncan at Stanford Law School over his refusal to use the false pronouns demanded by a sex offender (and who felt justified in calling for the rape of his daughter over their disagreement with his position) would gleefully file a complaint with the Judicial Tenure Commission over a violation of the proposed rule.

In the same vein, the proposed rule will discourage people of faith from running for office, functioning practically like the old "No Irish Need Apply" signs of an apparently not-so-bygone era. To this we observe: "The trenchant words in the preamble to the Virginia Statute for Religious Freedom remain unanswerable: 'all attempts to influence the mind by temporal punishment, or burthens [burdens], or by civil incapacitations, tend only to beget habits of hypocrisy and meanness.'" *Barnette*, 319 US at 646 (Murphy, J., concurring).

D. Free exercise of religion

"Where the Free Exercise Clause protects religious exercises, whether communicative or not, the Free Speech Clause provides overlapping protection for expressive religious activities." *Kennedy*, 142 S Ct at 2421 (citations omitted). "That the First Amendment doubly protects religious speech is no accident. It is a natural outgrowth of the framers' distrust of government attempts to regulate religion and suppress dissent." *Id.*, citing A Memorial and Remonstrance Against Religious Assessments, in Selected Writings of James Madison 21, 25 (R. Ketcham ed. 2006). "[I]n Anglo–American history, … government suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince." *Kennedy*, 142 S Ct at 2421.

Proponents of the proposed rule may wave away religious liberty concerns, citing the rational basis test that often applies to free-exercise claims since *Employment Div, Dep't of Human Res v Smith*, 494 US 872; 110 S Ct 1595; 108 L Ed 2d 876 (1990). But even *Smith* recognized that strict scrutiny applies when a challenged government action implicates more than one constitutionally protected interest. *People v DeJonge*, 442 Mich 266, 249 n 27; 501 NW2d 127 (1993) (noting that *Smith*, 494 US at 881–83, acknowledged that strict scrutiny applies when religious liberty claims arise "in conjunction with other

constitutional protections"). Here, the proposed rule implicates both freedom of speech and religious liberty, so strict scrutiny applies. And, for reasons already argued, the proposed rule cannot pass strict scrutiny.

At least one proponent contends that "judicial displays of religiosity are unconstitutional" violations of the Establishment Clause, citing *American Civil Liberties Union of Ohio Found, Inc v DeWeese*, 633 F3d 424 (CA 6, 2011), and *North Carolina Civil Liberties Union Legal Found v Constangy*, 947 F2d 1145 (CA 4, 1991). But those cases turned on the now-abandoned *Lemon* test. *Kennedy* retired the *Lemon* test because it wrongly treated the Establishment Clause as superior to the Free Exercise Clause whenever there was a clash between the interests protected by both clauses. As Justice Gorsuch explained, "the Establishment Clause does not include anything like a modified heckler's veto, in which religious activity can be proscribed based on perceptions or discomfort." *Kennedy*, 142 S Ct at 2427 (cleaned up). "The Clauses have 'complementary' purposes, not warring ones where one Clause is always sure to prevail over the others." *Id.*, at 2426.

Nor is a religious objection to compelled use of false pronouns remotely akin to the facts in *DeWeese* or *Constangy*. In *DeWeese*, the judge posted the Ten Commandments in his courtroom. In *Constangy*, the judge opened court with a prayer. While neither ruling prohibiting these acts would likely survive *Kennedy*, the use of truthful pronouns—he/him/his for men, and she/her/hers for women—is not remotely akin to posting the Ten Commandments or opening court with a prayer. Or "administer[ing] the Eucharist in the courtroom" for that matter, as one proponent put it.

II. The proposed rule is vague and overbroad.

Several who commented in support of the proposed rule seem to assume that there are only three pronoun options—she/her/hers, he/him/his, and they/them/their—and that compliance would be simple. But as twelve Court of Appeals judges and the Diocese of Lansing observe, the proposed rule calls for the use of "any" pronoun, which opens the way to a limitless variety of pronouns, including those that are offensive, abusive, or obscene. And nothing in the proposed rule limits the scope of personal pronouns to those pertaining to sex or gender. People who believe they are animals, elves, objects, and even weather systems[9] would be entitled to be addressed as such and in ways that they alone get to define.

[9] See, *e.g.*, *Otherkin*, Wikipedia; *Why be human when you can be otherkin?*, University of Cambridge (Jul. 16, 2016); Callie Beusman, *I Look at a Cloud and I See It as Me: The People Who Identify as Objects*, Vice (Aug. 3, 2016) ("But the category of non-human is far broader than one would initially suspect. In addition to the otherkin [who] identify as animals, there are some who identify as mythical creatures, like dragons, fairies, or

It is no response that we can deal with such absurdities as they arise. By what standard would the Court specify acceptable pronouns?[10] The creation of an "approved pronouns lexicon" would create its own set of constitutional and procedural problems. And of course, today's supporters who fall on the wrong side of that absurdity line will be tarred as tomorrow's bigots, haters, and transphobes.

The exception to the proposed rule—allowing correct pronouns when using false pronouns would result in an unclear record—suffers from similar problems. By what standard would a judge decide that the record would be unclear if false pronouns were used? What findings would a judge need to make before "using an individual's name or other respectful means"? Would that decision be challengeable on appeal, and if so, using what standard of review? Would this lead to an increase of interlocutory appeals or complaints for superintending control? If the next highest tribunal disagreed with the lower tribunal(s), would that support vacatur or reversal of a lower judgment, or would it be "harmless error"—a phrase well understood in the legal community, but one that would likely further "trigger" a dissatisfied litigant who "feels harmed" by the error? Would a finding of error automatically result in a referral to the Judicial Tenure Commission?

III. The mask has slipped on the supposed distinction between sex and gender drawn by adherents to gender ideologies.

When public discussion of transgenderism started in earnest just a few years ago, much emphasis was placed on the supposed distinction between sex and gender. Today, that pretense has been dropped. Several jurisdictions, including Michigan, now allow residents to reclassify their sex on vital records and identification documents—records that have never listed "gender." One can even self-designate a sex of "X." See Mich Sec'y of State Sex Designation Form (Nov. 2021). The newspeak is "trans women are women" and "trans men are men." See, *e.g.*, Tweet of Justin Trudeau (Mar. 8, 2023) ("I want to be very clear about one more thing: trans women are women."); Henry Zeffman, *Transgender women are women, says [Sir] Keir Starmer[, MP and Leader of the Labour*

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vampires; fictionkin, who identify as fictional characters, frequently from anime series or videogames; weatherkin, like Marco, who identify as weather systems; conceptkin, who identify as abstract concepts; spacekin, who identify as celestial bodies; and several other even more obscure categories (musickin, timeperiodkin—the list goes on).").

[10] It is worth pausing here to note that the Court has never required judges or attorneys to use specific terms when referring to someone's sex, race, or ethnicity—*e.g.*, "woman" instead of "lady" or "girl"; "Latina/Latino" instead of "Hispanic." It has wisely allowed usage to evolve organically and trusted to the good sense, and courtesy, of the bench and bar.

Party] in call for legal action, The Times (Mar. 12, 2022); Tweet of National Hockey League (Nov. 22, 2022) ("Trans women are women. Trans men are men. Nonbinary identity is real."). We are now treated to bizarre coverage of criminal charges against a "female [for] using 'her penis' to rape two vulnerable women," Aaron Kliegman, *Male rapist transitions before trial, sent to all-female prison as transgender woman*, NY Post (Jan. 26, 2023). See also, Ed Whelan, *Judicial pronoun police issue warning to prosecutors*, National Review (Nov. 25, 2022) (recounting how the California Court of Appeals admonished a prosecutor for "misgendering" a female defendant who led police on a chase in her car but then decided to "identify as male" at trial).

The judiciary should not validate this ideology, much less give it preeminence in the marketplace of ideas. It would be wrong for the Court to proceed as if this ideology were neutral and incontestable truth. Even for those who do not share our religious objections, some find the entire concept of pronouns to be illiberal by its very nature. As one playwright, journalist, and political satirist recently observed:

> Activists insist that it is just a way to be inclusive and polite—and in many cases that is clearly the intention. Yet the genuinely liberal position is to oppose pronoun declaration, and it is worth outlining this case in full given that most of us, at some point in the near future, will be faced with the choice between explaining our reasons for refusing or capitulating for the sake of an easy life.
>
> When you ask someone to declare pronouns, you are doing one of two things. You are either saying that you are having trouble identifying this person's sex, or you are saying that you believe in the notion of gender identity and expect others to do the same. As a species we are very well attuned to recognising the sex of other people, so, for the most part, to ask for pronouns is an expression of fealty to a fashionable ideology—and to set a test for others to do likewise.
>
> * * *
>
> Yet gender identity ideology is simply not a belief system that most people share. I do not identify as male; it's a biological fact, as mundane as the fact that I've got blue eyes or that I'm right-handed. I am not here talking about gender dysphoria—those people who feel a[t] odds with their sex and seek to adapt either through medical procedures or the way in which they present themselves—but rather the notion that we each have an inherent gender that has nothing to do with our bodies. This is akin to a religious conviction, and we would be rightly appalled if employers were to demand that their

> staff proclaim their faith in Christ the Saviour or Baal the Canaanite god of fertility before each meeting.
>
> * * *
>
> It is often forgotten that many transgender people are opposed to pronoun declaration for a number of reasons. It draws needless attention to them when they just want to get on with their lives. It can have the effect of "outing" people against their will, particularly if they are in the early stages of their transition. It creates a false impression that gender identity ideology is the norm even though it is a belief system shared by relatively few. Most importantly, compelled speech is a fundamentally illiberal prospect, one that should always be resisted by all.
>
> It is strange that the objections to pronoun declaration are so often construed as being "reactionary" when they are essentially progressive. Many who believe in liberal values will therefore feel uncomfortable in refusing to state pronouns at work. But until more people are prepared to make their feelings clear on this issue, it will continue to be misinterpreted as "a Right-wing talking-point."
>
> A refusal to participate in these rituals need not be antagonistic, and most employers will be happy to hear your reasons. There is always the possibility that you could be accused of transphobia or hate, but this is simply part of the coercive strategy. For all the awkward conversations that might arise, there is nothing Right-wing about standing up to ideologues who insist on imposing their values onto everyone else.

Andrew Doyle, *The liberal case against pronouns: There's nothing progressive about compelled speech*, UnHerd (Mar. 2, 2022).

CONCLUSION

St. Thomas More, the patron saint of lawyers and statesmen and a loyal servant of King Henry VIII, resisted unto death the king's claim to be head of the Church in England. He famously told the crowd at his execution, "I die the king's good servant and God's first." Catholic judges are good and faithful servants of the law, but they are always servants of God first. The Court should not adopt a rule that will abridge their freedom of speech and their freedom of worship and require them to choose between public service and faithfulness to Almighty God.