

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

TOM JORSCH AND LISA GUINN,	)	
	)	
Petitioners,	)	
	)	
v.	)	Case No. 20-1385
	)	
NATIONAL LABOR RELATIONS	)	
BOARD,	)	
	)	
Respondent.	)	

**STATEMENT OF ISSUES TO BE RAISED**

Pursuant to the Court’s order dated September 29, 2020, Petitioner Tom Jorsch and Lisa Guinn submit their statement of issues to be raised in this appeal. The issues are as follows:

- (1) Whether the NLRB erred in determining that it would infringe on rights protected by the First Amendment Religion Clauses for the NLRB to exercise jurisdiction over faculty of a self-identified religious college like Respondent who are not held out as performing and do not perform a religious function?
- (2) Whether the NLRB erred in overruling *Pacific Lutheran University*, 361 NLRB 1404 (2014)?

(3) Whether the NLRB erred in not finding, like the Administrative Law Judge, that Respondent discharged the Charging Parties in violation of Section 8(a)(3) of the Act and committed other unfair labor practices in violation of the Section 8(a)(1) of the Act, including by promulgating and maintaining a rule preventing employees from speaking about terms and conditions of employment with each other, by asking employees to sign an agreement not to disclose a Tenure Plan, and by informing employees that they were being terminated for engaging in protected, concerted activity?

(4) Whether this Court should overrule its prior decisions in *Duquesne University v. NLRB*, 947 F.3d 824 (2020), *Carroll College, Inc. v. NLRB*, 558 F.3d 568 (D.C. Cir. 2009), and *University of Great Falls v. NLRB*, 278 F.3d 1335 (D.C. Cir. 2002)?

Respectfully submitted,

SCHUCHAT, COOK & WERNER

/s/ Jim Coppess

Jim Coppess  
American Federation of Labor  
and  
Congress of Industrial  
Organizations  
815 16th Street, NW  
Washington, DC 20006  
(202) 637-5337  
(202) 637-5323 (fax)  
jcoppess@afICIO.org

/s/ Christopher N. Grant

Christopher N. Grant (MO Bar  
#53507)  
555 Washington Ave, Suite 520  
St. Louis, Missouri 63101  
(314) 621-2626  
(314) 621-2378 (fax)  
cng@scwattorney.com

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> of October, 2020, the foregoing was served on all parties or their counsel of record through the CM/ECF system.

In addition, I certify on this 29<sup>th</sup> day of October 2020, I caused the foregoing document to be served by US first-class mail on the Employer, Bethany College, through its attorney:

Gregory Goheen  
McAnany, Van Cleave & Phillips, P.A.  
10 E. Cambridge Circle Drive, Suite 300  
Kansas City, KS 66103

/s/ Christopher N. Grant  
Christopher N. Grant