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BLOGS

Employment Law Updates

Supreme Court Broadens Ministerial Exception to Nondiscrimination Laws for Religious Employers

This week, the U.S. Supreme Court affirmed First Amendment protections for religious institutions in the hiring and firing of employees who play an important role in carrying out the institutions religious mission. In *Our Lady of Guadalupe School v. Morrissey-Berru*, the Court upheld the dismissal of employment discrimination claims brought by two teachers against their Catholic school employers under the ministerial exception, a legal doctrine that prohibits courts from getting involved in employment disputes between religious institutions and their ministerial employees. The ministerial exception was recognized in 2012 by the Supreme Court in *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*. In *Hosanna-Tabor*, the Court unanimously recognized that the First Amendments Religion Clauses foreclose certain employment-discrimination claims brought against religious organizations, applying the ministerial exception to bar an ordained teacher from bringing a claim for disability discrimination under federal law. The *Hosanna-Tabor* Court refused to adopt a rigid formula for the ministerial exception and, instead, identified four relevant factors for deciding whether an employee qualifies as a minister for purposes of the exception. The first factor is whether the employee held the title of minister. The second factor is whether the employees position reflected a significant degree of religious training. The third factor is whether the employee held herself out as a Minister of the Church. The fourth factor is whether the employees job duties reflected a role in conveying the Church's message and carrying out its mission. In *Hosanna-Tabor*, the Court did not state how these four factors should be analyzed or whether any factor should be given particular weight.

The two cases underlying this weeks Supreme Court decision involved teachers who were employed by Catholic schools. Both teachers were employed to develop and promote a Catholic School faith community, and their duties included teaching religion at times in the classroom and worshipping and praying at times with their students. In reaching its decision, the Supreme Court reiterated that the four factors discussed in *Hosanna-Tabor* are not to be rigidly applied, but that courts must take all relevant circumstances into account to determine whether a position implicates the fundamental purpose of the ministerial exception. The Court embraced a broad, flexible view of the ministerial exception, focusing on the religious education duties of the teachers in imparting the faith to their students, a duty lying at the core of their employers message and its religious mission.

Religious employers should analyze the potential application of the ministerial exception in defense of employment discrimination claims. As application of the ministerial exception is fact-intensive, religious organizations should review job descriptions to ensure the descriptions accurately reflect the religious duties of the position and the employees role in conveying the organizations message and carrying out its mission.