

In one of its first decisions of 2012, the United States Supreme Court held that an employee who qualified under the "ministerial exception" cannot bring a wrongful termination suit against its religious employer. Because the media is already starting to misunderstand and misrepresent some of the rulings in this case, we are providing our own summary to you.



Background Facts.

[Hosanna-Tabor v EEOC](#) Cheryl Perich was employed as a "called" teacher by the Hosanna-Tabor Evangelical Lutheran Church and School in Redford, Michigan. Ms. Perich began working for the school in 1999. In 2004, she became ill and was forced to take a disability leave for a portion of the 2004/2005 school year. In February 2005, Perich attempted to return to work. However, the school had already filled her position for the year and was concerned that her medical condition had not fully resolved in a way that would allow her to resume her former responsibilities. The school offered her an opportunity to resign her position with some medical benefits, but Ms. Perich refused to resign and instead showed up to work anyhow. When she was asked to leave, she refused until she was given some written statement that she had appeared in the building for work. She also stated that she intended to pursue her legal rights by suing under the Americans with Disabilities Act. A few weeks later, the School Board officially fired Ms. Perich specifically citing her insubordination and disruptive behavior for attempting to return to work and threatening to file suit.

In short, the facts of this case are very clear that Perich was not fired for any religious reason. More importantly, the facts show that she was specifically fired for threatening to pursue a lawsuit under the Americans with Disabilities Act.

The Americans with Disabilities Act does allow an employee to bring suit when they have been terminated because they attempted to assert their rights under the Act. However, the Americans with Disabilities Act also has a "ministerial exception" which allows entities to give "preference in employment to individuals of a particular religion" and to "require that all applicants and employees conform to the religious tenants of such organization."

It is also important to note that as a "called" teacher, Perich had a unique position in this school. She was required to take specific religious courses and both the school and Perich held her out as a commissioned minister because of these classes and job title. It is interesting to note, however, that at this school a "called" teacher and a "lay" teacher had exactly the same dailey duties and responsibilities. In her absence, the woman who took Perich's place was a "lay" teacher.

Ruling of the Case.

The United States Supreme Court held that Perich could not sue the school for *any type* of wrongful termination under the facts of this case. Because the Supreme Court found that the First Amendment clearly prevented any Federal Government agency from interfering in a religious organization's choice of minister, the Court held that anyone serving in a ministerial capacity cannot sue under Federal Discrimination Laws to force a religious institution to keep him or her employed.

[\[1\]](#)

The Court wrote:

requiring a Church to accept or retain an unwanted minister, or punishing a Church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the Church, depriving the Church of control over the selection of those who will personify its beliefs.

The Court found that because Perich was held out as having a distinct role from other teachers, which included not only a title, but also religious training and a formal commissioning, and because Perich accepted that role, she could not bring suit under this Federal Statute. The Court said that although other teachers performed the same functions and the relatively small amount of time Perich spent on religious activities were relevant, they were not dispositive of the fact that she was nonetheless a minister for purposes of the exception.

Conclusion.

The ruling of the Supreme Court in *Hosanna-Tabor* makes clear that if an employee is held out in a ministerial capacity, that person cannot sue a religious institution for employment discrimination of any type. The discrimination does not have to be related to the actual ministerial work of the Church. The Court specifically stated, however, that this ruling expressed “no opinion” of whether such employees could bring other types of lawsuits against their religious employers.

[1] The ruling specifically does not prohibit other types of lawsuits if applicable.

[Joomla SEO powered by JoomSEF](#)