

# U.S. Supreme Court to Decide Whether ‘Ministerial Exception’ Covers Catholic School Teachers

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The U.S. Supreme Court has agreed to review two consolidated cases that will afford it an opportunity to develop the “ministerial exception” to employment discrimination laws it first announced in a 2012 case, *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission*, 565 U.S. 171. (See our article, [‘Ministerial Exception’ Bars Ministers’ Discrimination Claims, U.S. Supreme Court Rules.](#))

The two consolidated cases are *Our Lady of Guadalupe School v. Morrissey-Berru*, No. 19-267, and *St. James School v. Biel*, No. 19-348. They involve lawsuits brought by teachers in California Catholic schools for alleged job discrimination. In both cases, the plaintiffs do not have formal training or titles, but taught Catholic doctrine and other subjects. One of them, Kristen Biel, sued under the Americans with Disabilities Act after she was diagnosed with breast cancer and the school did not renew her contract. (Her suit is being pursued by her husband.) The other plaintiff, Agnes Morrissey-Berru, sued for age discrimination after the school did not renew her contract.

In both actions, the district courts granted the schools’ motion to dismiss on the ground the ministerial exception applied to the plaintiffs and therefore, provided immunity to the schools. The U.S. Court of Appeals for the Ninth Circuit reversed in both cases, holding the teachers were not covered by the exception because neither the teachers nor the schools considered them to be ministers, as reflected in their job titles.

“Morrissey-Berru’s formal title of ‘teacher’ was secular,” a three-judge panel of the Ninth Circuit wrote in an unsigned opinion. “Aside from taking a single course on the history of the Catholic church, Morrissey-Berru did not have any religious credential, training or ministerial background. Morrissey-Berru also did not hold herself out to the public as a religious leader or minister .... She committed to incorporate Catholic values and teachings into her curriculum, as evidenced by several of the employment agreements she signed, led her students in daily prayer, was in charge of liturgy planning for a monthly Mass, and directed and produced a performance by her students during the school’s Easter celebration every year. However, an employee’s duties alone are not dispositive.”

In Biel’s case, nine judges dissented from the full Ninth Circuit’s decision to deny rehearing, saying the three-judge panel had made a mistake in focusing on Biel’s job title rather than the substance of what she did. “Courts are ill-equipped to gauge the religious significance of titles or the sufficiency of training,” Judge Ryan D. Nelson wrote. “Biel’s title may appear to carry little or no religious significance to a court unfamiliar with the customs of Catholic education, but Biel’s employment at St. James had significant religious substance.”

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