The Washington Flyer
October 11, 2019

"Secularism is unconstitutional . . . preferring those who do not believe over those who do believe. . . . It is the duty of government to deter no-belief religions. . . . Facilities of government cannot offend religious principles."
United States Supreme Court, 1963
School District of Abington Township v. Schempp

AACS Joins Amicus Brief Supporting Freedom of Religious Schools in Employment Decisions
The AACS has joined an amicus brief which supports the freedom of a religious school to make employment decisions without government interference. The case, *Our Lady of Guadalupe School vs. Morrissey-Berru*, involves a Catholic school that did not renew a teacher's contract after determining the teacher was not fulfilling her responsibilities in teaching the faith-based curriculum and programs as required by the school. The teacher, Agnes Morrissey-Berru, in turn filed a lawsuit against the school claiming age discrimination, which resulted in a ruling by the Ninth Circuit Court in her favor. After an appeal, the U.S. Supreme Court agreed to take the case and will hear oral arguments this fall. The AACS joined several other religious educational organizations and civil liberty organizations in submitting an amicus brief which argues that the First Amendment's ministerial exception prevents the government from adjudicating in employment decisions of ministers in religious institutions, and, therefore, the Court should rule in favor of the religious liberty of the school to make its own employment decisions. The Ninth Circuit's decision considered the ministerial exception but determined that, although the teacher had some religious duties at the school, her position could not be covered by the ministerial exception because she lacked a religious title and training. The amicus brief argues that "the Ninth Circuit's approach . . . discriminates against religious groups that rely heavily on educators and schools to 'transmi[t] the[ir] faith to the next generation.'" The brief references the High Court's 2012 decision in the *Hosanna-Tabor* case which involved a Lutheran school's decision to terminate the employment of one of its teachers. In the *Hosanna-Tabor* case, the Supreme Court ruled that a teacher in a faith-based school qualified as a minister, and, therefore, the ministerial exception applied and the court could not intervene. The amicus brief offers a thorough argument why "the principles underlying the First Amendment's ministerial exception are best served by applying the exception to all who act as ministers on behalf of their religious organization." Furthermore, the brief offers a thorough explanation as to why requirements by a court, "such as titles, training, or credentials" for the title of minister, "unconstitutionally invites judicial second-guessing of a religious organization's understanding of who may fulfill ministerial functions and discriminates against those faiths who eschew such offices or requirements."

Supreme Court Hears Religious Liberty and Education Cases
This week, the Supreme Court heard oral arguments in three cases that ask the court whether *sex* includes sexual orientation and gender identity in Title VII of the Civil Rights Act. In one of the three cases, *Harris Funeral Homes v. Equal Employment Opportunity Commission*, the plaintiff is a man who was fired after

informing his employer that he would start presenting as a woman at work. The employers in all three cases are arguing that the Court cannot redefine *sex* to include sexual orientation and gender identity without creating confusion regarding the original intent and language of the law. Furthermore, a ruling to redefine *sex* will reach far beyond employment law, inevitably eradicating differences between men and women in sports, dress codes, homeless shelters, and sex-segregated bathrooms and locker rooms. Solicitor General Noel Francisco, representing the United States and joining the employers, also noted that, unlike legislative bodies, the Court would not be able to provide religious freedom or free speech protections if it rules in favor of the employees. In another important case, *Espinoza v. Montana Department of Revenue*, the Court will determine whether Montana violated the First Amendment by excluding religious schools from a state tax credit scholarship program. In refusing to include religious groups in the program, the state relied heavily on its Blaine Amendment, which prohibits direct or indirect government funding of religious schools. A positive ruling from the Court could invalidate Blaine Amendments in Montana and 37 other states.

Supreme Court to Hear Pro-Life Case

In addition to hearing important religious liberty cases this term, the Supreme Court has also agreed to hear an abortion case out of Louisiana. In *June Medical Services v. Gee*, the Court will determine whether Louisiana's law requiring abortionists to have admitting privileges at a nearby hospital constitutes an undue burden on women's right to have an abortion, according to the standard created in the Court's 1992 ruling in *Planned Parenthood v. Casey*. Since there are only three operating clinics and four abortionists in Louisiana, abortion rights advocates are claiming that the law would force the abortion clinics to close and cause women to drive out of state to obtain an abortion. As states have enacted more rigorous pro-life protections, lower courts across the country have blocked such laws from going into effect, claiming that they unconstitutionally limit a woman's right to an abortion. In *Whole Women's Health v. Hellerstedt* (2016), the Supreme Court ruled 5-3 that a similar Texas law was unconstitutional because it would result in widespread closures of abortion clinics and prevent many people from obtaining abortions. However, the Fifth Circuit Court of Appeals, in ruling to uphold the Louisiana law, found that Louisiana's law significantly differed from Texas's law and did not place an undue burden on women. A Court ruling in favor of Louisiana would not decimate *Roe v. Wade*, but it would enable states to enforce reasonable regulations on the abortion industry and save innocent lives in the process.

In Case You Missed It:

Weekly Market Update provided by Jeff Beach of the AACS Investment Team at Merrill Lynch

Lindsey Burke: Universal School Choice Is Needed: Your Address Shouldn't Limit Your Child's Future

Teachers Unions Have Abandoned Teachers

Education in the 2020 Presidential Race

Trump Admin Sends $33.6 Million of Planned Parenthood's Taxpayer Funding to Legitimate Health Care Groups

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