

# Reason

May 1, 2012

## Unwanted ministers: religious freedom upheld

By Root, Damon

IN JANUARY the U.S. Supreme Court handed down a unanimous decision in what started out as a very controversial case. At issue in *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission* was whether the "ministerial exception" to federal anti-discrimination law shielded a parochial school from a workplace disability lawsuit filed by a discharged teacher. According to the school, its internal personnel decisions should be shielded by the First Amendment's requirement that Congress make no law "prohibiting the free exercise" of religion.

The Obama administration took a very different view of the First Amendment's scope, arguing in its brief that "the Free Exercise Clause provides petitioner with no defense to an [Americans With Disabilities Act] claim for unlawful retaliation." As waiter Olson, a senior fellow at the **Cato Institute's** Center for Constitutional Studies, observed, that meant the White House "had taken the disturbing position that there should be no ministerial exception at all to stand between churches and the full panoply of official employment regulations."

The Court also perceived a threat to religious freedom. "By imposing an unwanted minister," Chief Justice John Roberts wrote for the majority, "the state infringes the Free Exercise Clause, which protects a religious group's right to shape its own faith and mission through its appointments."