



THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION  
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FOR IMMEDIATE RELEASE

**SUPREME JUDICIAL COURT AFFIRMS JURISDICTION OF THE MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION TO INVESTIGATE DISCRIMINATION  
CLAIMS AGAINST RELIGIOUS ORGANIZATIONS**

**September 20, 2012 – Boston, MA.** The Supreme Judicial Court (“SJC”) has upheld the authority of the Massachusetts Commission Against Discrimination (“MCAD”) to investigate and adjudicate claims of discrimination against religious organizations in a decision released yesterday in Temple Emanuel of Newton v. Massachusetts Commission Against Discrimination. A complaint of age discrimination was filed on August 4, 2008 against Temple Emanuel by a part-time teacher in the Sunday and after-school religious program, who alleged that after 24 years teaching in the program and having her contract renewed, Temple Emanuel failed to rehire her after a reorganization of its program because of her age. Temple Emanuel unsuccessfully sought to dismiss the complaint at the MCAD arguing that the Commission lacked subject matter jurisdiction pursuant to a ministerial exemption in the statute and that any investigation of its decision-making by the Commission amounted to constitutional harm protected by the First Amendment. The Temple filed a court action that resulted in an order from Judge Nancy S. Holtz dismissing the teacher’s complaint.

The MCAD appealed the judge’s decision and the SJC reversed Judge Holtz’ decision, holding that the MCAD did indeed have the right to investigate the age discrimination claim filed against Temple Emanuel and that the superior court had not had statutory authority to intervene to halt the Commission’s administrative proceedings. The Court also confirmed that religious organizations are subject to court and administrative proceedings and that the First Amendment, particularly the ministerial exemption, is not a bar to the Commission’s jurisdiction, but can be raised as an affirmative defense to a claim of discrimination, citing the recent U.S. Supreme Court case of Hosanna-Tabor. The Court further rejected the idea that the participation of a church, synagogue, or other religious institution or organization in an MCAD investigation is the constitutional harm the First Amendment protects against, concluding that there is no violation in investigating the circumstances of a minister or employee’s denial or reemployment. Finally, the SJC recognized that the Commission is fully capable of determining whether a complaint should be dismissed on First Amendment religious grounds during the



course of the administrative process and in fact has dismissed complaints for precisely this reason.

"We are gratified that the Supreme Judicial Court has reaffirmed its support of and confidence in the MCAD's administrative proceedings, as established by the Legislature, with this decision," commented Sunila Thomas-George, the Investigating Commissioner for this case. "As the chief civil rights law enforcement agency in the Commonwealth, the MCAD is responsible for protecting the rights of all citizens, and is very sensitive to First Amendment issues. The Commission is, in fact, responsible for protecting the religious rights of employees in the workplace, and by the same token, has always been respectful of the rights of religious organizations, dismissing cases as the SJC noted, when appropriate."

The SJC, relying solely on facts developed on appeal, facts it determined to be undisputed, concluded that Temple Emmanuel's decision not to rehire the MCAD complainant as a teacher at the religious school is protected by the First Amendment, and ordered the Commission to dismiss the complaint at issue. The Commission was represented by General Counsel Catherine Ziehl and Commission Counsel Caitlin Sheehan.

Further information about MCAD and the civil rights laws we enforce is available at [www.mass.gov/mcad](http://www.mass.gov/mcad).

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