

HIGH COURT ORDERS HHS MANDATE COMPROMISE

Recently, the U.S. Supreme Court decided to order the lower courts to reconsider the constitutionality of the Health and Human Services (HHS) mandate.

Given the 4-4 split in the high court, this ruling is not altogether a bad decision. Ideally, the justices would have affirmed the religious liberty interests that are central to this lawsuit, *Zubik v. Burwell*. But it is auspicious nonetheless because it suggests that a less restrictive accommodation will be crafted, thus affording greater religious liberty protections than might otherwise be the case.

At the end of March, the justices asked both sides to submit new legal briefs that would (a) provide for the healthcare services that the Obama administration wants to be made available to Catholic non-profit employees, and (b) provide protection for the religious liberty interests of these entities. Today's ruling is entirely in keeping with this stance: a compromise beyond what has thus far been brooked must be reached.

Many alternatives will be forthcoming, but all should allow Catholic non-profits to remain one step removed from sanctioning morally offensive healthcare procedures. It is also important to keep in mind that it is not just contraceptives that are being mandated, it is abortion-inducing drugs; they were included so it would pave the way for the federal government to order Catholic hospitals to perform abortions.

Then there is the larger issue: The federal government has no legal or moral right to decide that a Catholic institution is

not legitimately Catholic if it employs and/or services a large number of non-Catholics. If this issue isn't resolved, then it will only postpone the day of reckoning.