

## Exhibit U#33

(A/5): *Misapplication, mistake of law or a manifest error of law or fact*

### STATEMENT OF THE ISSUES PRESENTED AND ASSIGNMENT OF ERRORS

#### ISSUE PRESENTED # I. (A/5)

Under the *establishment clause* of the First Amendment, does the right of sincerely held religious beliefs, established as content expressed, published and religiously proclaimed by the Plaintiff in an [OVC/Petition] exist as a particular belief in a religion or the plausibility of a religious claim particularly when First Amendment violations of free exercise rights are claimed, which co-exist with Plaintiff's establishment clause challenges as presented in [OVC/Petition].

- Establishment Clause of the First Amendment to the United States Constitution
- Free Exercise Clause of the First Amendment to the United States Constitution
- The *due process of law* provision of the Fifth Amendment, U.S. Constitution
- Religious Freedom Restoration Act ("RFRA") (42 U.S.C. § 2000bb et seq.)
- *Cantwell v. Connecticut*, 310 U.S. 296, 303-304 (1940)
- *Thomas v. Review Bd., Ind. Empl. Sec. Div.*, 450 U.S. 707, 714 (1981)
- *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803)
- *Sherbert v. Verner*, 374 U.S. 398 (1963)
- *Wisconsin v. Yoder*, 406 U.S. 205 (1972)
- *Employment Div. v. Smith*, 494 U.S. 872, 886-87 (1990)

#### ASSIGNMENT OF ERROR # I. (A/5.1)

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court disregarded Plaintiff's right of sincerely held religious beliefs, established as content expressed, published and religiously proclaimed by the Plaintiff in an [OVC/Petition] existing as a particular belief in a religion or the plausibility of a religious claim?



**ASSIGNMENT OF ERROR # I. (A/5.2)**

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court failed to uphold, protect or guarantee Plaintiff's right of sincerely held religious beliefs, established as content expressed, published and religiously proclaimed by the Plaintiff in an [OVC/Petition] existing as a particular belief in a religion or the plausibility of a religious claim?

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**ASSIGNMENT OF ERROR # I. (A/5.3)**

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court degraded Plaintiff's establishment clause challenges as presented for the Court's policy of indifference to constitutional evils through misapplication, mistake of law or a manifest error of law or fact?

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**ISSUE PRESENTED # II. (A/5)**

Under Rule 59(e) of the Federal Rules of Civil Procedure which allows a court "to rectify its own mistakes in the period immediately following entry of judgment." does the Plaintiff's right to petition the government (i.e. Defendants or the Court) concerning protected speech of religious beliefs prevail when the Court is adjudicating Plaintiff's motions, notice pleadings or [OVC/Petition] not in furtherance of a compelling governmental interest; or using the least restrictive means of furthering of a compelling governmental interest.

- Free Exercise Clause of the First Amendment to the United States Constitution
- The *due process of law* provision of the Fifth Amendment, U.S. Constitution
- Religious Freedom Restoration Act ("RFRA") (42 U.S.C. § 2000bb et seq.)
- *Cantwell v. Connecticut*, 310 U.S. 296, 303-304 (1940)
- *White v. New Hampshire Dept. of Employment Sec.*, 455 U.S. 445, 450 (1982).

**ASSIGNMENT OF ERROR # II. (A/5.1)**

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court is adjudicating Plaintiff's motions, notice pleadings or [OVC/ Petition] not in furtherance of a compelling governmental interest; or using the least restrictive means of furthering of a compelling governmental interest?

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**ASSIGNMENT OF ERROR # II. (A/5.2)**

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court when it failed to administer the strict scrutiny test of a compelling governmental interest prior to striking the entire breath and merits of Plaintiff's [OVC/Petition]?

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**ASSIGNMENT OF ERROR # II. (A/5.3)**

Did the District Court err, as a matter of law, and/or District Judge(s) abuse their discretion when the Court ordered an "amended complaint" to be manifested by the Plaintiff under the threat of dismissing his civil action, without a federal statute that authorizes an "amended complaint"?