

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
SPRINGFIELD DIVISION**

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|---|---|--------------------------------|
| SEXUAL MINORITIES UGANDA, | : | CIVIL ACTION |
| | : | |
| Plaintiff, | : | 3:12-CV-30051-MAP |
| | : | |
| v. | : | JUDGE MICHAEL A. PONSOR |
| | : | |
| SCOTT LIVELY, individually and as president of Abiding Truth Ministries, | : | |
| | : | |
| Defendant. | : | |

NOTICE OF APPEAL

Defendant, Scott Lively, hereby notices his appeal to the United States Court of Appeals for the First Circuit from the following Orders of this Court:

- 1) Order Granting Defendant Scott Lively’s Motion for Summary Judgment¹ (dkt. 350); and
- 2) Memorandum and Order denying Defendant Scott Lively’s Motion to Dismiss (dkt. 59).

¹ Although this Order granted summary judgment in favor of Defendant-Appellant Lively, multiple jurisdictional grounds exist for its review by the First Circuit, including: (1) to reform the Order and eliminate from it certain extraneous but prejudicial language immaterial to the disposition of the case and which the district court had no jurisdiction to entertain or enter; *see, e.g., Elec. Fittings Corp. v. Thomas & Betts*, 307 U.S. 241, 242 (1939); *Camreta v. Greene*, 563 U.S. 692, 702-703 (2011); *Conwill v. Greenber Taurig, L.L.P.*, 448 F. App’x 434, 436-37 (5th Cir. 2011); and (2) to correct the district court’s error in failing to dismiss Plaintiff’s state law claims with prejudice, such that they cannot be re-filed in state court. *See e.g., LaBuhn v. Bulkmatic Transport Co.*, 865 F.2d 119, 121-122 (7th Cir. 1988); *Briscoe v. Fine*, 444 F.3d 478, 495-96 (6th Cir. 2006).

Respectfully Submitted,

Philip D. Moran (MA 353920)
265 Essex Street, Suite 202
Salem, Massachusetts 01970
T: 978-745-6085
F: 978-741-2572
philipmoranesq@aol.com

/s/Horatio G. Mihet
Mathew D. Staver[†]
Horatio G. Mihet[†]
Roger K. Gannam[†]
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854-0774
T: 407-875-1776
F: 407-875-0770
court@lc.org
hmihet@lc.org
rgannam@lc.org

[†]Admitted *pro hac vice*
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed electronically with the Court on June 8, 2017. Service will be effectuated by the Court's electronic notification system upon all counsel or parties of record.

/s/ Horatio G. Mihet
Horatio G. Mihet
Attorney for Defendant Scott Lively