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NEWS RELEASE

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Court Issues Troubling Decision In Dover Intelligent Design Case

ANN ARBOR, MI — Today the district court judge issued a lengthy opinion in the *Kitzmiller v. Dover Area School District* case, holding that the School District violated the Establishment Clause of the United States Constitution by reading to students of a ninth-grade biology class a short, one-minute statement that mentions “intelligent design” twice. Pursuant to this statement, the book *Of Pandas and People*, which addresses intelligent design arguments, was placed in the school district library for students to voluntarily review, along with other books that are critical of intelligent design. This statement was read in a class in which Darwin’s theory of evolution was taught pursuant to the Pennsylvania academic standards and pursuant to its standing in the scientific community. Moreover, the primary and only required text for this class, *Biology* by Prentice Hall, fully and comprehensively covers the theory of evolution, and it was co-authored by one of the experts who testified for the Plaintiffs. According to the judge’s opinion, this “policy” violates the Establishment Clause, which states, “Congress shall make no law respecting an establishment of religion.”

Richard Thompson, President and Chief Counsel for the Law Center, commented, “What is clear from this decision is that our present Establishment Clause jurisprudence, as several Supreme Court justices have noted, is in hopeless disarray and in need of substantial revision. In his opinion the judge bemoaned that the school district ‘deserved better than to be dragged into this legal maelstrom, with its resulting utter waste of monetary and personal resources.’ In this respect, he was correct. This case should have never made it into a federal courthouse. The Founders of this country would be astonished at the thought that this simple curriculum change ‘established religion’ in violation of the Constitution that they drafted.”

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Several Supreme Court justices have openly criticized the way in which this body of constitutional law has developed. For example, Justice Thomas stated in his concurring opinion in the pledge of allegiance case, “Our jurisprudential confusion has led to results that can only be described as silly.” In *Edwards v. Aguillard*, a case relied upon by the district court in which the Supreme Court held that it was unconstitutional to teach creationism alongside evolution, Justice Scalia criticized the Court’s “embarrassing Establishment Clause jurisprudence.” In a school prayer case, then Justice Rehnquist noted, “It is impossible to build sound constitutional doctrine upon a mistaken understanding of constitutional history, but unfortunately the Establishment Clause has been expressly freighted with Jefferson’s misleading metaphor for nearly 40 years.” Justice Rehnquist is referring to the metaphor of the wall of separation between church and state.

Thompson continued, “The district court’s decision today continues along this path of applying a fundamentally flawed jurisprudence. Unfortunately, until the Supreme Court adopts a more coherent and historically sound jurisprudence, school districts like Dover will be at risk of costly lawsuits by the ACLU for adopting such modest curriculum changes such as the one at issue.”

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