

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In the Matter of:	}	
	}	
	}	CIVIL ACTION
TERRY LEE HINDS,	}	FILE NUMBER: 4:17 – CV – 750JMB
<i>Pro se,</i>	}	
	}	
Plaintiff,	}	
	}	
-Vs-	}	
	}	
“UNITED STATES” GOVERNMENT,	}	
	}	
	}	
Defendants.	}	
	}	

**PLAINTIFF’S NOTICE AND REQUEST FOR EXTENSION OF TIME TO BE GIVEN
AN OPPORTUNITY TO PROPERLY PRESENT THE MERITS OF HIS ACTION
AND/OR, IN THE ALTERNATIVE,
*to make a conscientious effort to comply with the court's initial review order***

TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS:

Please take notice that the undersigned, Plaintiff TERRY LEE HINDS, (“Plaintiff”) appearing *Pro se* in support of his *civil action* for ***rights, privileges, or immunities*** secured by the U.S. Constitution and the Rule of Law, thereby to *secure, protect and defend* Plaintiff’s *free exercise of unalienable rights to life, liberty and pursuit of happiness*, hereby request the Court to grant an extension of time to be *given an opportunity to properly present the merits of his action*, seeking a sixty (60) day extension of time, to and including July 14, 2017 and states the following:

PROCEDURAL POSTURE

1). The Court issued Memorandum and Order dated 10th day of March, 2017 (Doc. No. 18). [Judge Ross] declared upon *further review* of a “547-page Complaint, with 4,451 paragraphs, the Court finds it clearly does not comply with Rule 8”, which requires a "short and plain statement

of the claim(s)" and that "[e]ach averment of a pleading shall be simple, concise, and direct." [Judge Ross] "ORDERED that Plaintiff shall file an amended complaint in *conformity* with the *requirements* of Rule 8 no later than Friday, May 19, 2017. Failure to do so may result in dismissal of this action."

2). Although the district court did not make explicit the source of its authority to dismiss Plaintiff's action and since Rule 8 grants no authority or has a legal mechanism for a dismissal of his action for a lack of conformity with the requirements of Rule 8; Plaintiff believes the Court will operate under Rule 41(b) which holds:

Rule 41. Dismissal of Actions

(b) Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an adjudication on the merits.

3). The 8th Circuit Court of Appeals has held:

A district court has the power to order on its own initiative a dismissal for failure to comply with a court order under Rule 41(b), and such an order is reviewed on appeal for abuse of discretion. *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir. 1985). Because it operates as an adjudication on the merits, a Rule 41(b) dismissal is " 'a drastic sanction which should be exercised sparingly.' " *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (quoting *Pardee v. Stock*, 712 F.2d 1290, 1292 (8th Cir. 1983)). The district court should only exercise this dismissal power when the plaintiff has demonstrated a " 'clear record of delay or contumacious conduct.' " *Haley*, 761 F.2d at 491 (citations omitted).

4). **The U.S. Supreme Court** has held in a *pro se* case quoting *Swierkiewicz v. Sorema N. A.* 534 U.S. 506 (2002): Given the Federal Rules' simplified standard for pleading, "[a] court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *Hishon v. King & Spalding*, 467 U. S. 69, 73 (1984). If a pleading fails to specify the allegations in a manner that provides sufficient notice, a defendant can move for a more definite statement under Rule 12(e) before responding. Moreover, claims lacking merit may be dealt with through summary judgment under Rule 56. The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading system, which was adopted to focus litigation on the merits of a claim. See *Conley*, supra, at 48 ("The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits"). Furthermore, Rule 8(a) establishes a pleading standard without regard to whether a claim will succeed on the merits. "Indeed it may appear on the face of the pleadings that a recovery is very remote and unlikely but that is not the test." *Scheuer*, 416 U. S., at 236.

5). Because there is no record of delay or contumacious conduct in this case, and as Defendants have not currently filed any motion(s) to dismiss Plaintiff's [OVC/Petition], raised any defenses, admissions or denials, or plead affirmative defenses, including making any claims or exercise certain rights under Fed. R. Civ. P. Rule 8; *and with the potential dismissal of this action operating as an adjudication on the merits*, Plaintiff seeks relief. Plaintiff's request exhibits no prejudices.

WHEREFORE, for the foregoing reasons, and to advance The U.S. Supreme Court Doctrine of *due process of law*, Plaintiff respectfully requests an extension of time be granted, as prayed herein to be allowed until and including July 14, 2017 to be *given an opportunity to properly present the merits of his action*, and/or for other such relief as the Court deems necessary.

Respectfully Submitted,

Date: May 8, 2017

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CERTIFICATE OF SERVICE AND DELIVERY

I hereby certify that the foregoing was filed this 8th day of May, 2017 and served upon Defendants and its U.S. Attorney, by the Plaintiff, hand delivery and by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-6866 at the following address:

U.S. Attorney or Acting U.S. Attorney Costantin
The United States Attorney's Office
Eastern District of Missouri
Thomas Eagleton U.S. Courthouse
111 S. 10th Street, 20th Floor, St. Louis, MO 63102

Initials _____

Signatures of

Date: May 8th, 2017

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LEGAL NOTICE OF THE FOLLOWING:

Plaintiff mailed a copy to Gregory L. Mokodean not because of any assume legal right and/or reasonability or responsibility of the Plaintiff, rather for my respect for the U.S. Justice Department

Gregory L. Mokodean
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Washington, D.C. 20044
First Class U.S. Mail & Non-Certified

Signatures of

Date: May 8th, 2017

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