

**IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

In re: TERRY LEE HINDS	}	
	}	
Petitioner,	}	
	}	
vs.	}	
	}	Case # RE: 17-2199
The Honorable Judge Audrey G. Flessig	}	
United States District Court,	}	
Eastern District of Missouri	}	
Respondent.	}	
	}	
“UNITED STATES” GOVERNMENT,	}	
Real Party in Interest.	}	

**VERIFIED PETITION FOR A WRIT OF MANDAMUS AND PROHIBITION
OR OTHER APPROPRIATE RELIEF PURSUANT TO 28 U.S.C. § 2106 and
Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803)**

Petitioner, TERRY LEE HINDS, a *pro se* Plaintiff in Civil Action No. 4:17- CV-750 AGF captioned as TERRY LEE HINDS v. “UNITED STATES” GOVERNMENT, in the United States District Court for the Eastern District of Missouri, hereby applies, pursuant to the provisions of section 1651, Title 28, United States Code, and Rule 21(a) of the Federal Rules of Appellate Procedure, for a writ of mandamus and prohibition or other relief determined pursuant to 28 U.S. Code § 2106, and the rule of law to be issued by this court directing the Honorable Audrey G. Flessig, Judge of the United States District Court for the Eastern District of Missouri, to vacate her order (**Doc. No. 36**) denying Petitioner's motions (**Doc. Nos. 19, 30**) in response to abuses of judicial power and the Court allowing *non-judges* (Clerk of Court, deputies or *pro se* lawyers of the Clerk’s Office) exercising judicial authority without a Court Order over the Petitioner’s case. Without a writ of mandamus and prohibition Petitioner is compelled to make a choice between his religious beliefs as professed versus renouncing religious beliefs for a secular message as ordered.

TABLE OF CONTENTS

JURISDICTION..... Page 4

CONSTITUTIONAL PROVISIONS..... 5

FEDERAL STATUTES / U.S. CODE / Fed. R. Civ. P. / case law.....*passim*

U.S. SUPREME COURT DOCTRINES AND DECISIONS.....5 & 6

RELIEF SOUGHT.....7

ISSUE PRESENTED.....10 & 11

STATEMENT OF FACTS.....12 to 19

REASONS WHY THE WRIT SHOULD ISSUE.....19 to 23

CONCLUSION.....28 &29

CERTIFICATE OF SERVICE.....30

TABLE OF CITATIONS OR AUTHORITIES

CONSTITUTIONAL PROVISIONS

Article V, United States Constitution.....*passim*

First Amendment of the United States Constitution..... *passim*

FEDERAL STATUTES / U.S. CODE / Fed. R. Civ. P./ Case Law

Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488 (1993)
codified at 42 U.S.C. § 2000bb through 42 U.S.C. § 2000bb-4 (“RFRA”).....4 & 20

28 U.S. Code § 1651 – Writs.....4

28 U.S. CODE § 2071. Rule-making power generally.....4 & 20

28 U.S. Code § 2106 – Determination.....4 & 8

Rule 8 of Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) 2006 & 2016 Editions..... *passim*

Rule 12 - Fed. R. Civ. P. Defenses and Objections.....5 & 20

In re Bieter, 16 F.3d 929, 932 (8th Cir. 1994).....13

U.S. SUPREME COURT DOCTRINES AND DECISIONS

Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803).....5 & 9

Cantwell v. Connecticut, 310 U.S. 296, 304 (1940).....5

Ashcroft v. Free Speech Coalition, 535 U.S. 234, 253 (2002).....5

Ashcroft v. American Civil Liberties Union, 535 U.S. 564, 573 (2002).....5

Employment Div. v. Smith, 494 U.S. 872, 888 (1990).....5 & 6

California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 510-511 (1972).....6

Neitzke v. Williams, 490 U.S. 319, 328 (1989).....6

Thomas v. Review Bd., Ind. Empl. Sec. Div., 450 U.S. 707, 714 (1981).....6

Schnecko v. Bustamonte, 412 U.S. 218, 229 (1973).....6

Cheney v. U.S. Dist. Court for the Dist. of Columbia, 542 U.S. 367, 380 (2004).....12

Perry v. Sindermann, 408 U.S. 593 (1972).....6 & 7

Palko v. Connecticut, 302 U.S. 319, 327, (1937).....7

Unconstitutional Conditions Doctrine & Substantive Due Process Doctrine.....6 & 7

United States v. Lanier, 520 U.S. 259, 266 (1997).....7

Snyder v. Massachusetts, 291 U.S. 97, 105 (1934).....27

FIRST AMENDMENT RIGHT TO PETITION AND PROTEST

Plaintiff *exerting legal rights* filed with the Court on February 16, 2017 an “[ORIGINAL VERIFIED COMPLAINT FOR DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF IN THIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT, presented with a 16 page Brief in Support, with an Exhibit List consisting of 26 pages instituting 510 Exhibits attached thereto; a case & its controversies listed on 549 pages]” (“[OVC/Petition]”). Plaintiff is *engaged in peaceful expressive activity* pursuant to established *fundamental free exercise rights* of the First Amendment and the rule of law of this Nation. A message as *pure speech* of religious belief.

JURISDICTION

This Court has jurisdiction to issue a writ of mandamus and prohibition to the district court and the U.S. District Judge Flessig under the All Writs Act, 28 U.S.C. 1651, and Rule 21(a) of the Federal Rules of Appellate Procedure and for the District Court is 28 U.S.C. § 1331.

CONSTITUTIONAL PROVISIONS

Article V, United States Constitution in pertinent part provides:

No person shall be deprived of life, liberty, or property, without due process of law.

First Amendment establishment/free exercise clause of the United States Constitution proclaims, decrees and guarantees: *“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”*

FEDERAL STATUTES / U.S. CODE / Fed. R. Civ. P.

Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488 (1993) codified at 42 U.S.C. § 2000bb through 42 U.S.C. § 2000bb-4 (“RFRA”)

28 U.S. Code § 1651 – Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

28 U.S. Code § 2071. Rule-making power generally, especially (f) “No rule may be prescribed by a district court other than under this section.”

28 U.S. Code § 2106 - Determination

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

Rule 8 of Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) 2006 & 2016 both **Editions**

Rule 12 - Fed. R. Civ. P. Defenses and Objections: Rule 12(f): **MOTION TO STRIKE**. The court *may strike from a pleading* an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

U.S. SUPREME COURT DOCTRINES AND DECISIONS

Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803)

“The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection.”

Cantwell v. Connecticut, 310 U.S. 296, 304 (1940)

“Freedom of conscience and freedom to adhere to such religious organization or form of worship as the *individual may choose cannot be restricted by law*. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts, - ***freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be.*** Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection.” (Emphasis added)

Ashcroft v. Free Speech Coalition, 535 U.S. 234,253 (2002)

“First Amendment freedoms are most in danger when the government seeks to control thought or to justify its laws for that impermissible end. The right to think is the beginning of freedom, and speech must be protected from the government because speech is the beginning of thought.”

Ashcroft v. American Civil Liberties Union, 535 U.S. 564, 573 (2002)

"[A]s a general matter, 'the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content'"

Employment Div. v. Smith, 494 U.S. 872, 888 (1990)

“As we reaffirmed only last Term, ‘[i]t is not within the *judicial ken* to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretation of those creeds.’ *Hernandez v. Commissioner*, 490 U.S. at 490 U. S. 699. *Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.*” (Emphasis added).

Employment Div. v. Smith, 494 U.S. 872, 888 (1990)

“The *compelling interest test* effectuates the First Amendment's command that religious liberty is an independent liberty, that it occupies a preferred position, and that the Court will not permit

encroachments upon this liberty, *whether direct or indirect*, unless required by clear and compelling governmental interests "of the highest order," *Yoder*, supra, 406 U.S. at 406 U. S. 215”

California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 510-511 (1972)

The Free Petition Clause encompasses petitions to all three branches of the federal government—the Congress, the executive including administrative agencies and the judiciary.

Neitzke v. Williams, 490 U.S. 319, 328 (1989).

“There, we stated that an appeal on a matter of law is frivolous where ‘[none] of the legal points [are] arguable on their merits.’ *Id.* at 386 U. S. 744. By logical extension, a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact.”

Thomas v. Review Bd., Ind. Empl. Sec. Div., 450 U.S. 707, 714 (1981)

“The determination of what is a "religious" belief or practice is more often than not a difficult and delicate task, as the division in the Indiana Supreme Court attests. [Footnote 7] However, the resolution of that question is not to turn upon a judicial perception of the particular belief or practice in question; ***religious beliefs need not be acceptable, logical, consistent, or comprehensible to others*** in order to merit First Amendment protection.” (Emphasis added)

Schneckloth v. Bustamonte, 412 U.S. 218, 229 (1973)

"It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen and against any stealthy encroachments thereon."

The ***Unconstitutional Conditions Doctrine*** is a rule which describes that the government cannot condition a person's receipt of a governmental benefit on the waiver of a constitutionally protected right; even if the government may withhold that benefit altogether. This doctrine further hold that the government cannot force a person to choose between two constitutionally protected rights, in exchange for discretionary benefits, where the property sought has little or no relationship to the benefit conferred.

Perry v. Sindermann, 408 U.S. 593, 597 (1972)

“It may not deny a benefit to a person on a basis that infringes his constitutionally protected interest, especially his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to ‘produce a result which [it] could not command directly.’ *Speiser v. Randall*, 357 U. S. 513, 357 U. S. 526. Such interference with constitutional rights is impermissible.”

Substantive Due Process Doctrine

The courts have viewed the Due Process Clause and sometimes other clauses of the Constitution as embracing those fundamental rights that are "implicit in the concept of ordered liberty. Such protections, sufficient and timely notice regarding why a party is required to appear before a court or notice provided prior to encroaching government action(s), the right to an *impartial trier of fact* and *trier of law*, and the right to give testimony and present relevant evidence at hearings.

Palko v. Connecticut, 302 U.S. 319, 327, (1937)

“This is true, for illustration, of freedom of thought, and speech. Of that freedom one may say that it is the matrix, the indispensable condition, of nearly every other form of freedom. With rare aberrations, a pervasive recognition of that truth can be traced in our history, political and legal.”

United States v. Lanier, 520 U.S. 259, 266 (1997)

“There are three related manifestations of the fair warning requirement. First, the vagueness doctrine bars enforcement of ‘a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.’” Connally v. General Constr. Co., 269 U. S. 385, 391 (1926); accord, Kolender v. Lawson, 461 U. S. 352, 357 (1983); Lanzetta v. New Jersey, 306 U. S. 451, 453 (1939).”

STATEMENT OF RELIEF SOUGHT

Mandamus

Petitioner, respectfully requests that the Court grant this petition for a writ of mandamus, to compel the district court or direct Judge Flessig to perform a duty which the law clearly and positively requires by: (1) upholding First Amendment *fundamental free exercise rights* of the Petitioner; and (2) upholding Supreme Court’s doctrine/decisions *supra* versus a *judge’s unbridled power in the precision of language* for the conformity of an ambiguous and vague rule, and (3) upholding the Court established *first amendment strict scrutiny test* or standards for the Petitioner’s pure or protected speech of religious beliefs and civil liberty *versus* a judge’s *sua sponte decisionmaking, striking the entire breath and merits* of Petitioner’s [OVC/Petition] for a more secular message administered through the ambiguous requirements of Rule 8 conformity, and (4) upholding the invocation of the Court’s *safeguards of substantive due process violations*, utilizing Judicial Review Tests manifested in the “compelling interest test” when considering germane or vital constitutional questions presented in Petitioner’s motions, briefs or notices, or

other pleadings which requires the Court, and government officials and their actions in this case to be narrowly tailored and least restrictive means to further a compelling governmental interest.

Prohibition

Furthermore, Petitioner, respectfully requests that the Court grant this petition for a writ of prohibition, to prevent the district court or Judge Flessig from exercising its power in a manner unauthorized by law thereby, (1) prohibiting *non-judges* (Clerk of Court, deputy clerks or *pro se* lawyers of the Clerk Office) from *exercising judicial authority*, by defacing Petitioner's complaint as "Civil Rights 42 U.S.C 1981", or declaring the nature of the suit as "Civil Rights, Other", or reviewing and returning without a Court Order or due process, documents filed with the Clerk, and (2) prohibiting Judge Flessig from imposing unconstitutional viewpoint-based restrictions on Plaintiff's free or pure speech, as well as, viewpoint-based discrimination on Plaintiff's [Protected Speech] when she declared "Plaintiff needs to focus on presenting his factual allegations to the Court in a manner that complies with the Rules, rather than filing frivolous notices and motions." and (3) prohibiting Judge Flessig from exerting legal decisions in opposition to Petitioner's cited U.S. Supreme Court decisions or violating the *separation of powers doctrine* by acting as counsel for the "Defendants" rather than the arbitrator for a system of justice, and (4) prohibiting Judge Flessig from compelling the Petitioner to a make a choice between exercising First Amendment rights of protected or pure speech of religious beliefs or infringe on the sacred right of conscience; *versus* manifesting an amended complaint to serve a more secular message concerning pure speech of religious beliefs, or his sacred right of conscience, in favor of attaining court relief or obtaining a governmental benefit or right.

Review & Determination

In the alternative, Petitioner, seeks other relief pursuant to 28 U.S.C. § 2106. A review of

Orders engaged in viewpoint-driven conduct & regulating speech based on its content, against Petitioner's religious beliefs, being content expressed, published and *religiously proclaimed* by the Petitioner in [OVC/Petition]. These Orders showed that the government burdened substantially more speech than was necessary to achieve its legitimate goals or curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague as applied. This unjust or prejudicial treatment transpired; when Petitioner attempted to redress *vital grievances* with the Defendants when protesting unconstitutional conditions and activities set forth in Petitioner's [OVC/Petition].

Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803)

Furthermore, Petitioner request this Court review and vacate the ORDER in (Doc. No. 36) that manifested an injustice with the civil liberty of Petitioner's pure speech of religious beliefs as being protected speech, however, being declared as "*frivolous*" by Judge Flessig; "*that all of Plaintiff's pending motions are DENIED as frivolous, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.*" This Order defeats the very principle in Marbury v. Madison: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection." Petitioner's First Amendment legal process or conduct is not frivolous nor is it a frivolous act; when Petitioner is claiming the protection of the laws when he receives an injury, while embracing those *fundamental rights* that are "implicit in the concept of ordered liberty" or "deeply rooted in the Nation's history or traditions".

The Issues Presented in Response to Abuses of Judicial Power

This petition addresses where a district judge refused to take legal action she is required to take, as well as, has taken particular actions that she is not empowered to take where discretion is not allowed. In this free exercise/establishment case of exceptional circumstances, three Federal

Judges have ordered the Petitioner's *sincerely held religious beliefs*, content expressed, published and *religiously proclaimed* by the Petitioner in [OVC/Petition] shall conform to the ambiguous and vague requirements within Rule 8. These Orders, if complied with by Petitioner shall abridge, modify, or cause him to **renounce a substantive right**, in favor of a more secular message. These district judges' gross abuses of judicial power have imposed unnecessary and severe restrictions on Plaintiff's protected or pure speech in a *free exercise right* of religious beliefs and is absolutely unwarranted. In addition, Petitioner seeks to remove or curtail the current danger of caprice discrimination in the administration of the laws in this case and its controversies, enabling the Petitioner to conform his conduct to the requirements of law, and permit a meaningful judicial review exercised by the right to due process of law.

ISSUE PRESENTED, (#1)

Whether a district court can, compel the Petitioner to a make a choice between pure speech of his *sincerely held religious belief* for a more *secular message* that is *simple, concise, and direct* based on these ambiguous and vague requirements for the conformity of Rule 8.

ISSUE PRESENTED, (#2)

Whether District Judge Flessig, can curtail or **define** *First Amendment free exercise rights* by using the *equivocal thought* of "conformity" for a government's *practice* advanced by Rule 8's **precision of language** as a *pleading shall be simple, concise, and direct*; which makes PLAINTIFF'S FREE EXERCISE OF PURE SPEECH OF RELIGIOUS BELIEFS insignificant and without **any application** within a Court of law. Can Judge Flessig allow this case be defaced as or exist as "Civil Rights".

ISSUE PRESENTED, (#3)

Whether a district court can, based its action on the **brevity** of Fed. R. Civ. P. RULE 8(a)(2) and in RULE 8(d)(1) or for the **generality** of its terms; thus abridging, modifying or prohibiting several

substantive rights, such as in the right to petition, practice protected speech, protest government actions or to seek relief or even allowed to declare one's *sincerely held religious beliefs* professed and proclaimed by the Petitioner, as witnessed within the body and spirit of [OVC/Petition].

ISSUE PRESENTED, (#4)

Whether District Judge Flessig, as a *government official* can exercise unfettered discretion that allows *arbitrary application* becoming a means of suppressing a particular point of view, religious beliefs or compel Petitioner to question, renounce or revise his sincerely held religious beliefs to meet or conform with Rule 8 requirements without first unitizing *first amendment strict scrutiny standards* protecting Petitioner's pure or protected speech of religious beliefs and of civil liberty.

ISSUE PRESENTED, (#5)

Whether a district court can, manifests a *penalty* and *stiff encroachments* on *fundamental free exercise principles* of the First Amendment, when an Order forces Petitioner *to deliver a different message under exactly the same circumstances* in favor of a more secular message of a particular viewpoint of a government official.

ISSUE PRESENTED, (#6)

Whether a district court can, engaged in *viewpoint-driven conduct* & regulating speech based on its content, against Plaintiff's *sincerely held religious beliefs*, content expressed, published and *religiously proclaimed* by the Petitioner in [OVC/Petition].

ISSUE PRESENTED, (#7)

Whether District Judge Flessig can *proscribe speech* concerning Petitioner's *free exercise* of constitutional rights in this case; specifically the impairment of his ability to communicate his religious message or by disregarding fundamental rights listed in Petitioner's motion (Doc. No. 19) or by curtailing Petitioner's freedom of thought, while evoking governmental censorship on

pure or protected speech by dictating “that all of Plaintiff’s pending motions are DENIED as *frivolous*, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.”

STATEMENT OF THE CASE

The Nature of the Suit

This suit is complex litigation concerning religion, law and liberty, with traditional and hybrid rights within a complaint and a PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT. The action is an original verified complaint for declaratory judgement, injunctive and other appropriate relief whereby the Plaintiff seeking prospective reliefs, pursuant to his [OVC/Petition] in order to be able to run his business and conduct his personal or private affairs in a manner consistent with his religions, religious values and within his “[sincerely held religious beliefs]” (“[believes]”); that have shaped his *life, liberties and pursuant of happiness*, as well as, his little company of a spiritual enterprise from its start. The Plaintiff [believes] and [conscience] dictates, he has a constitutional right to endorse, indoctrinate, or proselytize a religion with the *free exercise* right of religious belief over the lack of such belief. Therefore, this Court must guarantee full First Amendment protection to both the practice of the establishment, endorsement or proselytizing a religion, and with the *free exercise of religious beliefs.... as one cannot exist without the other.*

Statement of Facts and Orders Challenged

A writ of mandamus is an extraordinary remedy appropriate only in exceptional circumstances, such as those amounting to a judicial “usurpation of power” or a clear abuse of discretion. *Cheney v. U.S. Dist. Court for the Dist. of Columbia*, 542 U.S. 367, 380 (2004). Petitioner avers there are “five nonconclusive guidelines” in determining whether to grant

mandamus relief. The five guidelines are: (1) the party seeking the writ has no other adequate means, such as direct appeal, to attain the relief desired; (2) the petitioner will be damaged or prejudiced in a way not correctable on appeal; (3) the district court's order is clearly erroneous as a matter of law; (4) the district court's order is an oft-repeated error, or manifests a persistent disregard of the federal rules; and (5) the district court's order raises new and important problems or issues of first impression. See *In re Bieter*, 16 F.3d 929, 932 (8th Cir. 1994).

THE ORDERS

Magistrate Judge H. Bodenhausen

This matter was originally assigned to the [Court's Presiding Judge, the Honorable John M. Bodenhausen] (“[Judge]”). Petitioner received, via U.S. mail a Court Memorandum and Order dated 23rd day of February, 2017 (**Doc. No. 8**). The [Judge] made a finding, based upon: “*A review of the Complaint shows that it fails to comply with the strictures of Rule 8(a)*” and “*that Plaintiff Request for Leave to Amend Summons as to Listing Plaintiff's Name and Address on Summons* (ECF No. 6) is DENIED AS MOOT.”

The [Judge] *sua sponte decisionmaking*, and/or the Court acting on its own initiative has determined: “*The Court finds that filing a responsive pleading to the instant Complaint would not only be difficult but costly in terms of time and money especially in light of the numerous legal theories advanced in the case. Accordingly, finding the Complaint violates Rule 8(a) and (e) to the extent that a great deal of judicial energy and resources would have to be devoted to restructuring the pleading and streamlining the unnecessary matter, the Court will strike the Complaint.*”

The [Judge] *sua sponte decisionmaking*, and/or with the Court acting on its own initiative, *arguably strikes the entire breath and merits* of [OVC/Petition] thereby *Ordering* “*that Plaintiff shall file an Amended Complaint in conformity with the requirement of Rule 8 no later than March*

20, 2017". The evidence of this Memorandum and Order is more particularly described in Exhibit A; attached to this petition and incorporated by reference as if fully set forth herein.

Pursuant to Local Rule 2.08, and Petitioner's *anxieties* about a fair hearing, *due process of law* and the [Judge] total lack of concern with a Petitioner's *free exercise rights* and *establishment challenges*, and in addition to, additional burdens placed upon a *pro se* Plaintiff and the First Amendment; Petitioner requested and received a reassignment of this case to a District Judge. (Doc. No. 16). "IT IS HEREBY ORDERED that the above styled cause is randomly reassigned from Magistrate Judge H. Bodenhausen to District Judge John A. Ross." ("[Judge Ross]") An Ordered dated March 7, 2017.

District Judge John A. Ross

The Court issued Memorandum and Order dated 10th day of March, 2017 (**Doc. No. 18**) without the Defendants in this case making any motions, raising a defense or objections to the [OVC/Petition] under Rule 8 or any other Federal Rules of Civil Procedure ("Fed. R. Civ. P.");

[Judge Ross] *sua sponte decisionmaking*, and/or with the Court acting on its own initiative decreed, "*upon further review of his 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.'*". The evidence of this Memorandum and Order is more particularly described in Exhibit B#1; attached to this petition and incorporated by reference as if fully set forth herein.

It is very important to note, to assist the Court and [Judge Ross] **prior to** the Court issuing this Order; Petitioner informed the Court of *vital legal matters*, such as the [Judge] using the **2006 Edition** of Fed. R. Civ. P. as well as, he based his legal review, findings and Order of Petitioner's case and its controversies on the facts and controversies as declared in a case over **10 years ago**,

concerning in part, a class action “asserting federal claims under the Sherman Act and four claims under RICO”. See (Doc. No. 14) “PLAINTIFF’S NOTICE OF OBJECTIONS AND OPPOSITION TO The Court’s Memorandum and Order dated 23rd day of February, 2017 (ECF No. 8)”. Petitioner filed this notice on March 7, 2017.

However, the Court and [Judge Ross] declared “IT IS HEREBY 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.*” Petitioner, here and now being warned of a probable *dismissal of this action*, therefore raised particular and appropriate legal objections; filed two germane motions however, the Court refused to respond or move to render a decision on these two motions entered under (Doc. No. 19) filed on the 13th day of March, 2017 and (Doc. No. 20) filed on the 17th day of March, 2017.

Petitioner, filed on 27th day of March, 2017, “PLAINTIFF’S NOTICE AND REQUEST FOR A HEARING DATE”, (Doc. No. 24), however no response from the Court or [Judge Ross]. Petitioner, marshaling his case, and to make a conscientious effort to comply with the court's initial review order, filed on the 10th day of April, 2017 a “FIRST NOTICE OF A SHORT AND PLAIN STATEMENT OF THE CLAIM SHOWING THE PLAINTIFF IS ENTITLED TO RELIEF UNDER THE FIRST AMENDMENT” (Doc. No. 28). Interestingly, [Judge Ross] responded in a time frame of less than **24 hours** regarding a particular Notice, however not Petitioner’s two motions filed **4 weeks ago**.

The Court responded and [Judge Ross] issued an *instant Order (Doc. No. 29)* entered on 11th day of April, 2017 and decreed: “This matter is before the Court on Plaintiff’s FIRST NOTICE OF A SHORT AND PLAIN STATEMENT OF THE CLAIM SHOWING THE PLAINTIFF IS ENTITLED TO RELIEF UNDER THE FIRST AMENDMENT (Doc. No. 28). Even if the Court were to liberally construe Plaintiff’s Notice as an amended complaint, the Court would nevertheless finds that the Notice does not comply with the Court’s previous Orders (see Doc. Nos. 8, 18).”

[Judge Ross] ruling on a question of law, further stating “More specifically, to the extent he seeks to incorporate the entirety of his original complaint, Plaintiff has not complied with the Court’s order that he file an amended complaint in conformity with the requirements of 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.’ Accordingly, IT IS HEREBY ORDERED that Plaintiff shall file an amended complaint in conformity with the requirements of Rule 8 no later than Friday, May 19, 2017. Plaintiff is again cautioned that failure to do so may result in dismissal of this action.”. [Judge Ross] declaring that one notice is not sufficient by law, but numerous such notice would meet his standards or exceed the initial court orders. The evidence of this Order is more particularly described in Exhibit B#2; attached to this petition and incorporated by reference as if fully set forth herein.

Petitioner, seeking a ruling for two motions filed on 13th day and on the 17th day of March, 2017 and with “PLAINTIFF’S NOTICE AND REQUEST FOR A HEARING DATE”, (Doc. No. 24) filed on 27th day of March, 2017; and with the Petitioner having no other adequate means to attain the relief he desires and with the exceptional circumstances amounting to a judicial usurpation of power and a clear abuse of discretion by [Judge] arguably striking the entire breath and merits of the [OVC/Petition] Petitioner became convince the Court or [Judge Ross] was allowing the time to run out before due process could take place.

Petitioner, filed on 28th day of April, 2017 “PLAINTIFF’S NOTICE AND REQUEST FOR A DUE PROCESS HEARING DATE OR, IN THE ALTERNATIVE, AN INSTANT RULING OR DECISION ON CONSTITUTIONAL RELIEF REQUESTED PURSUANT TO MOTIONS AND BRIEFS FILED WITH THE COURT/Doc. Nos. 19 & 20”. See **(Doc. No. 30)**. Furthermore, Petitioner filed on May 8th 2017, fourteen (14) additional pleading or supplementary Notices (Doc. Nos. 33 & 34) seeking conformity with the law and to make a conscientious effort to comply with the court's

initial review order. [Judge Ross] declared Petitioner “*seeks to incorporate the entirety of his original complaint*” through one notice was insufficient by law or within his discretion of the case.

Unknown to the Petitioner until Tuesdays May 9, 2017, via U.S. mail that on Friday 5th day of May, 2017 [Judge Ross] recused himself declaring: “On the Court’s own motion and after review of the case, I have determined that I disqualify myself to avoid any potential appearance of impropriety. See 28 U.S.C. § 455. I will therefor return the case to the Clerk of Court to assign the case to a different Judge. Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall reassign the case to another judge.” (Doc. No. 31).

Because of the potential *dismissal of this action* operating as an adjudication on the merits, and Petitioner facing a new Judge or a court assigned deadline, filed on May 8, 2017 “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”. (Doc. No. 35).

District Judge Audrey G. Flessig

The Clerk of the Court reassigned this case to U.S. District Judge the Honorable Audrey G. Flessig. (“Judge Flessig”). Petitioner received this Notice on Wednesday May 10, 2017, via U.S. mail. (Doc. No. 32). Petitioner then received Judge Flessig’s Court’s Memorandum and Order dated 12th day of May, 2017 on Wednesday May 17, 2017, via U.S. mail (**Doc. No. 36**).

Judge Flessig issued a Memorandum and Order (**Doc. No. 36**) that adversely effects the Petitioner’s First Amendment free exercise rights, negates certain U.S. Supreme Court doctrines or decisions and manifested an injustice with Petitioner’s religious beliefs as being declared frivolous by Judge Flessig. Judge Flessig declared, in part: “*Plaintiff needs to focus on presenting his factual allegations to the Court in a manner that complies with the Rules, rather than filing*

frivolous notices and motions.”

Accordingly, Judge Flessig issued the following Orders:

“IT IS HEREBY ORDERED, that Plaintiff’s motion for extension of time [ECF No. 35] is **GRANTED in part.**”

“IT IS FURTHER ORDERED that Plaintiff must file his amended complaint that complies with Rule 8 of the Federal Rules of Civil Procedure by **June 15, 2017.**”

“IT IS FURTHER ORDERED that all of Plaintiff’s pending motions are **DENIED** as frivolous, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.” The evidence of this record of Judge Flessig Memorandum and Order, dated 12th day of May is more particularly described in Exhibit C#1; attached to this petition and incorporated by reference as if fully set forth herein.

Judge Flessig then issued another Memorandum and Order, dated 26th day of May 2017 (**Doc. No. 42**) in response the Petitioner’s verbal complaint with the Office of the Clerk that took place on Tuesday, 23rd day of May 2017. Petitioner was informed by Brittney Porter, Deputy Clerk that she was in contact with a certain staff member of Judge Flessig office and was instructed to return Petitioner’s Judicial Notice #1 filed with the Clerk’s office on Friday, 19th day of May 2017. Ms. Porter stated she could not divulge the name of the staff member, however a letter was sent by the Clerk Office pursuant to the judge’s staff instructions. Petitioner requested a copy of this letter, (Doc. No. 37) and observed that this letter from the Clerk’s Office was not accompany by a Court Order. Petitioner requested to speak with the person in charge, Gregory J. Linhares. Mr. Linhares disclosed his office was following the Court Order (Doc. No. 36) **“IT IS FURTHER ORDERED** that all of Plaintiff’s pending motions are **DENIED** as frivolous, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.”

Petitioner appropriately informed Mr. Linhares this Order concerns “**motions**” **only not** “notices” especially Judicial Notice entering into the record evidence. Mr. Linhares stated it was his policy and the authority comes from Office of Clerk of the Court. Petitioner asked why or how can personnel’s from his Office or a staff member of a judge can make vital or important legal decisions concerning Petitioner’s case, such as defacing his civil cover sheet or refusing to enter into the docket of this case evidence properly submitted when his Office stamped its seal on the submitted notice. Mr. Linhares provided no answers and that Petitioner can take such matters up with Judge Flessig regarding Petitioner’s complaint prohibiting *non-judges* (Clerk of Court, deputies, pro se lawyers of the Office of the Clerk) from exercising judicial authority without a Court order in place. The evidence of this letter of the Clerk’s Office is more particularly described in Exhibit D; attached to this petition and incorporated by reference as if fully set forth herein.

Judge Flessig’s then issued an *ex post facto* Memorandum and Order (**Doc. No. 42**) on the 26th day of May 2017 decreeing in part: “**IT IS FURTHER ORDERED** that the Clerk of Court will be instructed, by Order of this Court, to continue to return to plaintiff any additional “exhibits” or “notices” filed by plaintiff that are not presented in support of an amended complaint or non-frivolous motion in this matter.” The evidence of Judge Flessig *ex post facto* Memorandum and Order, dated 26th day of May 2017 is more particularly described in Exhibit C#2; attached to this petition and incorporated by reference as if fully set forth herein.

REASONS WHY THE WRIT SHOULD ISSUE

The law is clear and unambiguous. Due process of law, U.S. Supreme Court doctrines, civil liberty and Petitioner’s *fundamental freedoms* concerning his religious beliefs, conscience and protected speech are the central issues and factors herein, however declared by the Court as “frivolous”. Judge Flessig *abuse of judicial power* is clear, that her manipulated concept of *due process* is “*due*

to the frivolous nature of the exhibits and excessive page length” that was entered into the record pursuant to Petitioner’s Notices (Doc. Nos. 40, 41). These exhibits are of Petitioner’s religious beliefs and revelations of God’s Kingdom on Earth, however are deemed *frivolous* to a government official (judge) and is where the third branch of U.S. government, the Court can or will modulate or curtail protected religious beliefs, or prohibit protected or pure speech and expression by Court Order because its “frivolous”. Petitioner asserts these Orders is a usurpation of power or the judges clear abuses of judicial power where discretion is not allowed.

The five nonconclusive guidelines whether to grant a writ

(1) Petitioner asserts he has no other avenue to seek relief apart from petitioning for a writ of mandamus. There are no clear alternative means to secure relief if the Court fails to recognize the Petitioner’ sincerely held religious beliefs or uphold Court doctrines of *due process* and *first amendment strict scrutiny* tests. Petitioner argues the Court’s non-compliance with Fed. R. Civ. P. (Rule 12(f)), RFRA, 28 U.S.C. § 2071, or the *rule of law*: “First Amendment freedoms are most in danger when the government seeks to control thought or to justify its laws for that impermissible end” manifests no other adequate means of seeking relief, such as a direct appeal, to attain the desired relief when “*all of Plaintiff’s pending motions are DENIED as frivolous, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.*”

(2) Petitioner asserts he will be damaged or prejudiced in a way not correctable on appeal after final judgment when compelled by the Court or Judge Flessig; forcing the Petitioner to choose between two constitutionally protected rights, in exchange for discretionary benefits or for vague and ambiguous requirements or conditions for receipt of a governmental benefit on the waiver of a constitutionally protected right; even if the government may withhold that benefit altogether. Petitioner has also been burden and prejudiced in a way not correctable on appeal when compelled

to question, renounce or *revise his sincerely held religious beliefs* to meet or conform to Rule 8 requirements advancing a more secular message manifested within an amended complaint. Petitioner will continued to be prejudiced or damaged in such a way as to be irremediable on direct appeal, if his sincerely held religious beliefs or right of conscience or protected speech are declared *frivolous* by the Court.

(3) The district court's order is clearly erroneous as a matter of law manifesting a persistent disregard of applicable law for either procedural or substantive law, as well as the federal rules; especially, when the Court used the **2006 Edition** of Fed. R. Civ. P. as a guideline for conformity with Rule 8. The right to petition the Court, to file motions seeking relief or how to exercise protected speech or protest government activities, or defacing Petitioner's [OVC/Petition] are not procedural or substantive matters committed to discretion. Petitioner's right to a particular result is "clear and indisputable" thereby not to control the decision of the trial court but rather to confine the trial court to the sphere of its discretionary power. The trial court has performed or says it is going to perform a judicial function (like deciding a Petitioner's rights under law by dismissing the case) in a way that the court does not have the legal power to do. Furthermore, the Judge Flessig legal decision claiming Petitioner's sincerely held religious beliefs are "frivolous" or Petitioner protecting his first amendment right to the best of his god given abilities as a frivolous action is clearly erroneous as a matter of law.

(4) The district court's order is an oft-repeated error and manifests a pattern evincing a consistent disregard for the federal rules of procedure or the rule of law cited in motions, notices and the controlling legal principles set forth in [OCV/Petition]. Judge Flessig oft-repeated error in this case is "that all of Plaintiff's pending motions are **DENIED** as frivolous". In law, frivolous litigation is the practice of starting or carrying on lawsuits that, due to their lack of legal merit,

have little to no chance of being won. Judge Flessig has used the term frivolous, (over 100 times 1/19/2017 to 7/30/2010) according to: <http://courtweb.pamd.uscourts.gov/courtweb/FullText.aspx> This *CourtWEB Rulings Report* information site is government controlled where it revealed that Judge Flessig always explains what is frivolous by precise legal reason(s) or the grounds why a plaintiff's actions are "frivolous". However in Petitioner's case Judge Flessig or the district court's order creating an oft-repeated error, proclaiming the Petitioner's sincerely held religious beliefs as frivolous without the precise legal reason(s) or grounds why the Petitioner's actions are legally "frivolous". This district court's order is an oft-repeated error, as Judge Flessig never declared the "reason(s)" or "grounds" **why** or **how** his motions are allegedly *frivolous*, however did so for other plaintiffs in other cases, according to the Petitioner search of over 100 court records. The evidence of this record of Judge Flessig is more particularly described in Exhibit E; attached to this petition and incorporated by reference as if fully set forth herein. Petitioner legally maintains U.S. Supreme Court landmark decisions and germane doctrine do not allow the Court, or government officials or the IRS to declare a citizen's sincerely held religious beliefs as frivolous.

(5) The district Court's orders raises new and important procedural problems, or issues of law of first impression. Petitioner raises important procedural matters in the ISSUE PRESENTED, (#1) through (#7). However the issue whether Fed. R. Civ. P. 2006 or 2016 Editions can superseded or govern Petitioner's *free exercise rights* of the First Amendment through the application or imposing unconstitutional viewpoint-based restrictions on Plaintiff's pure or protected speech, as well as viewpoint-based discrimination on Plaintiff's [Protected Speech] raises new and important procedural problems, or issues of law of first impression. These Orders engaged in viewpoint-driven conduct & regulating speech based on its content, against Plaintiff's religious beliefs, content expressed, published and religiously proclaimed by the Plaintiff in [OVC/Petition]. This

Court should determine whether the Orders of three Federal Judges can compel religious speech to take on the form of Rule 8 conformity in favor of a more secular message. This government type censorship and the distortion of religious discourse of a *particular viewpoint is endorsed by the government in the case* through **viewpoint regulations**, as set forth within *Rule 8(a)(2) and Rule 8(d)(1)*. Another issue of first impression involves Petitioner's constitutional right not to separate his religious beliefs from his secular beliefs. The Court's Orders in question **forces Petitioner to deliver a different message under exactly the same circumstances in favor of a more secular message of a particular viewpoint of a government official**. Another important procedural problem is that the Defendants in this case is the "UNITED STATES" GOVERNMENT, with the Court, and the judges as government officials operating under the third branch of government. An issues of law of first impression, is revealed in Petitioner's [OVC/Petition] ¶ 34 "Plaintiff has a First Amendment free exercise right of religious beliefs; thereby [believes] in Taxology and [Taxism]; but conversely has a First Amendment Establishment right not to practice, partake or advance these established religions." Petitioner has alleged in his [OVC/Petition] that Defendants has established and endorsed an Organized Religion of **THEIRS** *per se as* Taxology with an [Institutionalized Faith in Taxism] *per se as* [Taxism]. One of Petitioner's vibrant claims in the [OVC/Petition] seeks constitutional protection through DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF IN THIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT. Petitioner asserts Quintessential Rights are sanctioned by the Ninth Amendment of the United States Constitution under the protection or protocols of the First Amendment.

These five issues presented are in response to abuses of judicial power or a usurpation of power. Although all five factors need not be satisfied, it is clear that the third factor, the existence of clear error as a matter of law, should be given substantial weight.

Abuse of Judicial power

“**IT IS FURTHER ORDERED** that all of Plaintiff’s pending motions are DENIED as **frivolous**, and Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time.” (Doc. No. 36) Petitioner maintains this Order is an abuse of judicial power and is further evidence that Judge Flessig has become the chief adversary in this case and not the Court arbitrator of a case. The Defendants never make any objections or raised a defense concerning Petitioner’s motions (Doc. Nos. 19, 30). However the following *facts and law* as set forth in Petitioner’s (Doc. No. 19) have been deemed *frivolous* by Judge Flessig, as set forth her Memorandum and Order (Doc. No. 36) although the Defendants have made no such claim, Petitioner stated:

¶ 2). Plaintiff, while exercising a fundamental right to petition, and to practice his protected speech, *inter alia*, filed a civil action against the Defendants pursuant to an Original Verified Complaint and petition to secure court sanctioned relief and defend or determine certain rights, privileges, or immunities as set forth appropriately and lawfully described within the complaint (ECF No. 1).

¶ 3). Plaintiff discovered during his case management and looking for Judge Bodenhausen’s local rules that govern the activities in his courtroom; this civil action, with the “NATURE OF SUIT” or causes were falsely existing as: 440 Civil Rights, Other for reason(s) unknown to the Plaintiff.

¶ 4). Upon further investigation, Plaintiff found on the PACER’s system this Case No. 4:17 – CV – 750JMB was being administered as a “Cause of Action: 42:1981” - Equal rights under the law.

¶ 5). Plaintiff, as a former Police Officer, knowing 42 U.S. Code § 1981, concerns, in part, “to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.”. 42 U.S.C. § 1981 (a) Statement of equal rights. No such facts pleaded in

(ECF No. 1).

¶ 6). For the RECORD, Plaintiff is a white person and this case has “NOT A THING TO DO WITH” Civil Rights or in § 1981(b) “Make and enforce contracts” defined and/or with § 1981(c) Protection against impairment, of 42 U.S.C., including but not limited to, the “Sherman Anti-Trust Act”.

¶ 9). Plaintiff provides this Notice with the hope he can preserve his legal rights and that this Court has the power to correct a mistake, or worst the *nature driven prejudices* with *Pro se* complaints.” See ¶ 8 of Notice (ECF No. 11). See NOTICE TO THE NATURE OF SUIT IN OPPOSITION TO CIVIL COVER SHEET; more particularly described in Exhibit U-#9 and attached hereto in Plaintiff’s Brief In Support of this motion and incorporated by reference as if fully set forth herein.

¶ 10). Plaintiff, acting upon *good faith* in our System of Justice and the *integrity* of our Federal Court system, Plaintiff waited until 10 days to determine if this activities was a “mistake” or a deliberant act. On Monday, Plaintiff contacted a deputy clerk of the Court Office (Betsy) and was informed legal status was 440 Civil Rights, Other and the Presiding Judge was notified via (ECF No. 11).

¶ 11). Plaintiff requested that she or the Clerk or the Court change the status or “NATURE OF SUIT” to reflect Plaintiff’s actions, pursuant to the written instruction provided by the Court in JS 44 form and as to the Plaintiff’s Cover Sheet he submitted at this time of filing this *constitutional lawsuit*.

¶ 12). The deputy clerk (Betsy) politely and professionally explained their Office has no power to arbitrarily change the status of a case with the nature of this suit reviewed by “*PRO SE LAWYERS*” of the Office of the Clerk/Court and legally determined a customary Civil Rights’ Cause of Action.

¶ 20). When Plaintiff asked to speak to or with PRO SE LAWYERS he was informed that he could

have no contact with them. Plaintiff was advised the Presiding Judge has taken no action at this time and with no other way to preserve or protect Plaintiff's legal and constitutional rights, moves this Court to assure *due process* is properly in place, and uphold legal and ***fundamental rights*** of the Plaintiff as set forth and described herein this motion and Plaintiff's Brief in Support thereof.

¶ 21). Plaintiff avers he has a ***fundamental right*** to petition the Court for infringements, deprivations or violations of rights, privileges, or immunities secured by the U.S. Constitution and the Rule of Law, when seeking Court sanction or constitutional relief or any other reason(s) that justifies relief.

¶ 22). Plaintiff avers he has a ***fundamental right*** to protected speech as set forth in his complaint.

¶ 23). Plaintiff avers he has a ***fundamental right to due process of law***, that all legal proceedings will be fair and ***that one will be given notice*** of the proceedings and an opportunity to be heard ***before*** the government acts to take away one's life, liberty, or property. So far, not so in this case.

¶ 24). Plaintiff avers he has a ***fundamental right*** to protest pursuant to this civil action for *rights, privileges, or immunities* secured by the U.S. Constitution and the ***Rule of Law***, thereby to *preserve or protect and defend* Plaintiff's ***free exercise of unalienable rights to life, liberty and pursuit of happiness*** IN THIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT.

¶ 25). Plaintiff avers he has a ***fundamental right*** to the right of [conscience] *to preserve, protect and defend* the Constitution of the United States with his ***absolute allegiance*** to God and Country.

¶ 26). Plaintiff avers he has a ***fundamental right*** to Court sanctioned ***right to relief*** as one's Quintessential Rights of the First Amendment, against the United States, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the court.

¶ 27). Plaintiff avers he has a ***fundamental right*** to his sincerely held religious beliefs as set forth and described in [OVC] with Plaintiff's practices of religion(s) shall be free from undue burdens

as promulgates by U.S. Supreme Court tests, doctrines, the rule of law or by decision of this case.

¶ **WHEREFORE**, premises considered and for the *germane* facts herein, the Plaintiff prays for *constitutional relief* by upholding *fundamental rights* set forth herein be granted; and moves the Court to correct the legal status of this case FOR THE RECORD, in effect the “NATURE OF SUIT” *wrongful* as 440 Civil Rights, Other, **42 U.S.C § 1981** and/or In the Alternative, FOR COURT ORDERED SANCTIONS AGAINST PRO LAWYER(S) OF THE OFFICE OF THE CLERK/COURT WHO VIOLATED PLAINTIFF’S FUNDAMENTAL RIGHTS or such other relief as the Court deems proper.

The evidence of this motion and its brief in support thereof are more particularly described in Exhibit F #1 & #2; attached to this petition and incorporated by reference as if fully set forth herein.

Additionally the following *facts and law* as set forth in Petitioner’s (Doc. No. 30) have been deemed *frivolous* by Judge Flessig, as set forth her Memorandum and Order (Doc. No. 36) although the Defendants have made no such claim, Petitioner stated:

PLAINTIFF’S NOTICE AND REQUEST FOR A DUE PROCESS HEARING DATE
OR, IN THE ALTERNATIVE,
AN INSTANT RULING OR DECISION ON CONSTITUTIONAL RELIEF REQUESTED
PURSUANT TO MOTIONS AND BRIEFS FILED WITH THE COURT/Doc. Nos. 19 & 20

¶ 2). “It is now the settled doctrine of this Court that the Due Process Clause embodies a system of rights based on moral principles so deeply imbedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history. Due Process is that which comports with the deepest notions of what is fair and right and just.” Solesbee v. Balkcom, 339 U.S. 9, 16 (1950) (Justice Frankfurter dissenting). Due process is violated if a practice or rule “offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.” See Snyder v. Massachusetts, 291 U.S. 97, 105 (1934).

¶ 7). FOR THE RECORD, one of Plaintiff’s *moral principles* and a *sincerely held religious belief*, is written as God’s Ninth Commandment, *Thou Shall Not Bear False Witness* with this law,

deeply embedded within a *secular belief and practices* of the Court. Plaintiff's OVC/Petition has declared, under Oath, and under penalty of perjury the subject matter, controversies, germane facts, including but not limited to evidence of Plaintiff's claims and causes of action. However, the Court has insipidly allowed or erroneously endorsed this case and its controversies as "**Civil Rights**".

¶(7). FOR THE RECORD, this Court created a burden on the Plaintiff's *religious belief* and the governmental *pro se lawyers* of the Court manifesting a self-evident and self-serving lie. This lie and unjust burden caused Plaintiff a hardship and a lack of belief in those who had trusted him.

¶ **WHEREFORE**, for the foregoing reasons, and to advance The U.S. Supreme Court Doctrine of *due process of law*, Plaintiff respectfully request for a due process hearing date or, in the alternative, an *instant ruling* or decision on the constitutional relief requested, as well as, the for purpose of obtaining a ruling or order directing an act to be performed pursuant to said motions. The evidence of Petitioner's notice and request (Doc. No. 30) are more particularly described in Exhibit G; attached to this petition and incorporated by reference as if fully set forth herein.

Petitioner asserts that U.S. Supreme Court decisions (rule of law) or its doctrine of due process are not frivolous. Petitioner asserts his religious beliefs are not frivolous. However, the Court's Orders in question appear to have no basis in law or fact; therefore, Petitioner believes these Orders are frivolous in nature and constitutes abuses of judicial power or usurping power.

CONCLUSION

To maintain the integrity of the federal judicial system, the Court must be concerned whether the parties received fair and impartial treatment of their claims. At the risk of undermining the public's confidence in the judicial process, the legal welfare of the parties or legal rights of the Petitioner; our U.S. System of Justice must take priority over other considerations of protecting *just-a-system of justification*, or the abuses of judicial power, which holds in this case as "*a great*

deal of judicial energy and resources would have to be devoted to restructuring the pleading and streamlining the unnecessary matter, the Court will strike the Complaint.” In the matter presently under review, justice requires that the District Court's Orders in question be vacated and the issues placed before a new judge.

WHEREFORE, the premises considered, and to advance due process, Petitioner prays the petition for a writ of mandamus and prohibition should be granted and order that an answer to the petition be filed by respondent. Petitioner certify that he has served copies of this petition on the respondent judge and all other parties to the action in the trial court.

Respectfully Submitted,

Date: May 31, 2017

In re: TERRY LEE HINDS, Petitioner,
438 Leicester Square Drive
Ballwin, Missouri 63021
636-675-0028
quest76@att.net

Exhibits attached hereto:

Exhibit A- Magistrate Judge H. Bodenhausen, Memorandum & Order (Doc. No. 8)

Exhibit B#1 - District Judge John A. Ross, Memorandum & Order (Doc. No. 18)

Exhibit B#2 - District Judge John A. Ross, Order (Doc. No. 29)

Exhibit C#1 - District Judge Audrey G. Flessig, Memorandum & Order (Doc. No. 36)

Exhibit C#2 - District Judge Audrey G. Flessig, Memorandum & Order (Doc. No. 42)

Exhibit D – Letter from the Office of the Clerk (Doc. No. 37)

Exhibit E - <http://courtweb.pamd.uscourts.gov/courtweb/FullText.aspx>

Exhibit F- #1 & #2 Petitioner’s Motion and Brief in Support thereof (Doc. No. 19)

Exhibit G- Petitioner’s Motion for a Due Process Hearing (Doc. No. 30)

The undersigned hereby certifies that on this 31th day of May, 2017, the above was filed with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit.

VERIFICATION OF PETITION FOR A WRIT

I, Terry Lee Hinds of lawful age is the Plaintiff in this civil action. I verify that I read this verification and Petition filed involving this case: FILE NUMBER: 4:17 – CV – 750 AGF on May 30, 2017, and declare under penalty of perjury and under the laws of the United States of America that the foregoing facts in the Petition are correct and true to the best of my knowledge, information and my sincerely held religious beliefs.

Executed this 31th day of May, 2017

Respectfully submitted,

In re: TERRY LEE HINDS, Petitioner,
438 Leicester Square Drive
Ballwin, Missouri 63021
PH (636) 675-0028

CERTIFICATE OF SERVICE AND DELIVERY

I hereby certify that the foregoing was filed this 31th day of May, 2017 and served upon the Respondent, the Honorable Judge Audrey G. Flessig, United States District Court, Eastern District of Missouri by hand delivery at Office of Judge Flessig served by the Petitioner.

I hereby certify that the foregoing was filed this 31th day of May, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-6873 at the following address:

Gregory L. Mokodean
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238
Washington, D.C. 20044

Initials _____

Signatures of

Date: May 31th, 2017

In re: TERRY LEE HINDS, Petitioner,
438 Leicester Square Drive
Ballwin, Missouri 63021
636-675-0028