

**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 – 750 AGF
<i>Pro se,</i>	}	
Plaintiff,	}	
	}	
-Vs-	}	
	}	
“UNITED STATES” GOVERNMENT,	}	
	}	
Defendants.	}	
	}	

NOTICE OF MOTION AND MOTION FOR CONTINUANCE OF THIS CIVIL ACTION

TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS:

Comes now, the Plaintiff in the above entitled civil action, and moves the Court to continue this case and its seven causes of action from its present setting or proscribed status. In support thereof, the Plaintiff would respectfully show unto the Court the following:

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.

I. Legal reasons and *grounds* for a continuance,

1). Plaintiff has a First Amendment *free exercise right* to continue to petition and protest, unjust governmental actions through this civil action.

2). Plaintiff seeks DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF IN THIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT.

3). To properly address the *brevity* of Fed. R. Civ. P. RULE 8(a)(2) and in RULE 8(d)(1) or for the generality of its terms, as construed by the District Court, which violates a practice or negates a premise in the Religious Freedom Restoration Act and *void for vagueness doctrine* of the United States Supreme Court.

4). To properly address the reversible error and circumvent a miscarriage of justice on any grounds where "substantial rights" be affected.

5). To properly address Rule 8 conformity as too vague to provide fair notice of what conduct is prohibited and to avoid arbitrary and discriminatory enforcement or for a manifested injustice for dismissing this civil action for a lack of "conformity" based on viewpoint and content based restrictions.

6). To properly address the legal exercise as construed by the U.S. Supreme Court, the Court established First Amendment strict scrutiny test or standards for the Plaintiff's pure or protected speech of religious beliefs and civil liberty.

7). upholding the invocations of the Court's safeguards of substantive due process violations, by utilizing Judicial Review Tests manifested in the "compelling interest test" when considering germane or vital constitutional questions presented in Plaintiff's motions, briefs or notices.

8). To properly address or review of Orders engaged in viewpoint-driven conduct &

regulating speech based on its content, against Plaintiff's religious beliefs, being content expressed, published and religiously proclaimed by the Plaintiff in [OVC/Petition].

9). allow for additional time to complete discovery and an evidentiary hearing, versus excluding evidence which a party was entitled to have admitted, or rejecting the evidence in question that is of such character as to have affected the outcome of the trial.

10). To properly address an abuse of discretion, where the district court rests its conclusion on clearly erroneous factual findings or erroneous legal conclusions.

11). To properly address an abuse of discretion, where the district court compelled Plaintiff to make a choice between his religious beliefs as professed *versus* renouncing religious beliefs for a secular message as ordered.

12). To properly address an abuse of discretion, where the Court condition Plaintiff's receipt of a governmental benefit or right on the waiver of a constitutionally protected right; even if the Court may withhold that benefit or right altogether.

13). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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."

14). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

15). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

16). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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'."

17). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

18). To properly address an abuse of discretion, or misapplication of law, as construed by

the U.S. Supreme Court, which violates a practice or negates a premise in *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”.

19). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

20). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

21). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

22). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *Schneekloth 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."

23). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise of Unconstitutional Conditions Doctrine, 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.

24). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

25). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in Substantive Due Process Doctrine, 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.

26). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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.”

27). To properly address an abuse of discretion, or misapplication of law, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in *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).”

28). To properly address an abuse of discretion, and the manifested injury by using Rule 8 conformity as an unconstitutional abridgement of Plaintiff’s right to protected speech, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in Elrod v. Burns, 427 U.S. 347, 373 (1976); Kirkeby v. Furness, 52 F.3d 772, 775 (8th Cir. 1995): “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”

29). To properly address an abuse of discretion, and a miscarriage of justice on any grounds where "substantial rights" be affected by allowing *non-judges* (Clerk of Court, deputy clerks or *pro se* lawyers of the Clerk Office) *the free exercise of judicial authority*, by defacing Plaintiff’s complaint as “Civil Rights 42 U.S.C 1981”, or declaring the nature of the suit as “Civil Rights, Other”.

30). To properly address an abuse of discretion, and unconstitutional activity on grounds where "substantial rights" be affected, as construed by the U.S. Supreme Court, which violates a practice or negates a premise in Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 828 (1995) quoting Wood v. Moss, 572 U.S. ____ (2014): “The First Amendment, our precedent makes plain, disfavors viewpoint-based discrimination.”

31). To properly address an abuse of discretion, concerning the Court lack of interest in making a ruling or providing relief concerning PLAINTIFF’S FIRST MOTION TO REVIEW, ALTER, AMEND, OR VACATE ORDERS (Doc. No. 36).

32). To properly address Rule 8 (a) and (e) **2006 Edition** of Fed. R. Civ. P., as construed

by the District Court Judges in this case, violates the 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”).

33). To properly address where the District Court erred in applying, the district court Judge’s *sua sponte decisionmaking*, and/or with the Court acting on its own initiative, by striking *the entire breath and merits* of Plaintiff’s [OVC/Petition] thereby defeating Plaintiff’s seven claims for relief and the right to petition and protest governmental unconstitutional activities, manifesting reversible error, that affects substantial rights.

34). To properly address, prior to dismissal of this civil action and without affording the Plaintiff an opportunity for a hearing on the merits of his cause and reenter exhibits into the record.

35). To properly address, pursuant to Fed. R. Civ. P. 65 Plaintiff will seek a preliminary injunction and a permanent injunction enjoining and restraining Defendant and all other persons in concert with Defendant from participating in any way, directly or indirectly, in Establishment/Free Exercise Clause violations where such legal determinations are relevant.

II. This motion is made, not for purposes of delay only, but so that justice may be done and to advance *due process* while upholding United States Supreme Court’s doctrines, decisions or tests declared *supra*, which are preserved as a matter of law.

III. Plaintiff has used *due diligence* and will proceed with prosecution and management of his case at such time as the Court directs. Oral Argument is not requested and testimony is not required. Attached hereto is a memorandum in support of this motion pursuant to Local Rule 7 - 4.01. (A) Motions and Memoranda.

Wherefore, the Plaintiff prays that this Honorable Court grant said motion and that this case and its seven causes of action be continued to a trial setting and Plaintiff be allow to properly

address matters set forth herein and postpone any final judgement until, such matters of the abuses of discretion, misapplication of law or a miscarriage of justice on any grounds where "substantial rights" be affected, first and foremost, be heard and resolved by this Court.

Executed this 22th day of June, 2017

Respectfully submitted,

TERRY LEE HINDS, Plaintiff,
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 22th day of June, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7008-3230-0001-6638-2461 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: June 22th, 2017

TERRY LEE HINDS, Pro se, Plaintiff
438 Leicester Square Drive
Ballwin, Missouri 63021
636-675-0028