

**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.	}
	}

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**MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF  
NOTICE OF MOTION AND MOTION FOR CONTINUANCE OF THIS CIVIL ACTION**

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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 requests and moves the Court for the continuance of this civil action and hereby provides legal reasons and *grounds* for a continuance. Good cause exists for the Request as follows and is a **“non-frivolous motion”**:

**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.

### **PROCEDURAL POSTURE**

#### A. Proceedings in the District Court

On 26<sup>th</sup> day of May, 2017, the Court issued a MEMORANDUM AND ORDER (**Doc. No. 42**) of which declared, 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.

It is clear, but unjust, that the Clerk of Court would be granted powers to defeat a system of *due process*, or worst, reduce our U.S. system of justice to a system of justifications. The “exhibits” or “notices” filed by Plaintiff represent his ideals of substantial due process and due process of law.

There is no law or regulation that equates or constructs an “*amended complaint*”. The above Order of allowing a clerk or a “*non-judge*” to make legal determinations in this civil action or what is “non-frivolous” reaches into the dark realms of banana republics or surreal actions of a Kangaroo Court. The Court unfortunately, as revealed in this case has provided no understandable guidance. This is especially true, when the Court grants or allows *unbridled discretion* to strike the *entire breath and merits* of [OVC/Petition]. Case in point of what is “*a short and plain statement of the claim*” or “averments” of a pleading that shall be “*simple, concise, and direct*”? Plaintiff pleaded the following in [OVC/Petition] and over 1000 more; which has been legally determined not to be of such a nature or a representation of the conformity in Rule 8 or for its *precision of language*.

#### ¶ 252. **Christianity:**

a. Plaintiff [believes] Christianity is a religion and practices it various forms.

**¶ 263. Revealed religion:**

a. Plaintiff [believes] Revealed Religion is a religion; however has no desires to practice it based on the standards of others.

**¶ 264. Identity religion:**

a. Plaintiff [believes] Identity Religion is a religion; and has practice it with the IRS.

**¶ 268. Salvation religion:**

a. Plaintiff [believes] that Salvation religion is a religion; however will not practice it, except for the salvation granted by God not a government acting as a God.

**¶ 274. Scientology:**

a. Plaintiff's [believes] Scientology is a religion however sees no need to practice it.

**¶ 275. Taxology:**

a. Plaintiff's [believes] Taxology is a religion and had practiced it various forms of beliefs, practices and convictions for over 20 years. Plaintiff no long desire the religious practices or choose its religious convictions of Taxology creating his causes of action.

b. Defendants have forced and compelled this Plaintiff to accept, profess and practice Taxology and Taxism by Defendants' law, conduct and activities alleged herein.

**¶ 276. Organized Religion:**

b. Plaintiff [believes] Organized Religion is a religion as set forth in this complaint and has practiced it for over 20 years which Plaintiff calls Taxology.

c. Plaintiff [believes] organized religion and its Mega Churches are being organized on corporal & corporate logic seen as a collective experience of religious phenomenon.

h. Plaintiff [believes] Defendants' tax evangelists are the same as televangelist operating with a different forum.

**¶ 277. Institutionalized religion:**

a. Plaintiff [believes] Institutionalized Faith and its Religion is a religion; however will not practice it, support it or defend it.

b. Plaintiff [believes] Taxism is an evil religion violating the letters and spirit of a Nation's Constitution, as well as, Plaintiff's own personal constitution.

**¶ 279.** Defendants' actions and conduct has established and endorsed an Organized Religion of THEIRS Plaintiff calls Taxology.

- ¶ 280. Plaintiff avers Defendants' religion, Taxology is not his chosen religious practices.
- ¶ 281. Plaintiff avers Defendants chosen religious practices is Taxology.
- ¶ 291. Plaintiff [believes] Taxology is something one does, as well as something one believes in.
- ¶ 294. Defendants are motivated by religious syncretism; with Defendants' organized religion Taxology, not unlike Scientology and are comparative religions.
- ¶ 302. Defendants' proselytism, or law respecting an establishment of religion is repugnant to Plaintiff's beliefs.
- ¶ 305. Plaintiff [believes] Taxology, like Scientology advances its religion through the authority, power and use of tax-exempt status.
- ¶ 306. Plaintiff avers Taxology, like Scientology, both recognize the institution of marriage.
- ¶ 307. Plaintiff [believes] Taxology, like Scientology; the worshipping of a god or any gods is not essential to their religion.
- ¶ 311. Plaintiff [believes] Taxology; like Scientology, provides spiritual initiatives and spiritual screening.
- ¶ 312. Plaintiff [believes] Taxology; like Scientology provides certain insights concerning the Laws of Attraction.
- ¶ 313. Plaintiff [believes] Taxology; like Scientology, affects human behavior.
- ¶ 314. Plaintiff [believes] Taxology; like Scientology provides certain insights to the way of happiness; when we seek a return involving our core values that guide our path.
- ¶ 316. Plaintiff [believes] these certain insights of Taxology, like Scientology provide a path for a proper way of life to achieving its members' vision.
- ¶ 366. Plaintiff [believes] Taxology, is similar to Christianity, Islam and Judaism of which these religions create powerful human emotions that give meaning to our lives or shape one's destiny.
- ¶ 367. Plaintiff [believes] Taxology creates powerful human emotions, such as: love, happiness, guilt and the extremes ranges of hate.
- ¶ 368. Plaintiff avers Christianity, Islam and Judaism create powerful human emotions, such as: love, happiness, guilt and the extremes ranges of hate.
- ¶ 369. Plaintiff [believes] Taxology creates negative human thoughts, such as: anger, annoyance, contempt, disgust, frustration, and doubt.
- ¶ 370. Plaintiff avers Christianity, Islam and Judaism create negative human thoughts, such as: anger, annoyance, contempt, disgust, frustration, and doubt.
- ¶ 371. Plaintiff [believes] Taxology creates positive human thoughts, such as: hope, aspiration, pride, satisfaction, enlightenment and trust.

¶ 372. Plaintiff avers Christianity, Islam and Judaism create positive human thoughts, such as: hope, aspiration, pride, satisfaction, enlightenment and trust.

¶ 375. Plaintiff [believes] in Taxology its body of believers practice [Worship].

¶ 376. Plaintiff avers in Christianity, Islam and Judaism its body of believers practice worship.

¶ 377. Plaintiff [believes] Taxology creates the agitation of human emotions, such as: stress, shock, tension, or despair and sadness.

¶ 378. Plaintiff avers Christianity, Islam and Judaism create the agitation of human emotions, such as: stress, shock, tension, or despair and sadness.

¶ 379. Plaintiff [believes] Taxology creates negative human emotions, such as: anxiety, fear, embarrassment, helplessness, powerlessness, and worry.

¶ 380. Plaintiff avers Christianity, Islam and Judaism create negative human emotions, such as: anxiety, fear, embarrassment, fear, helplessness, powerlessness, and worry.

¶ 381. Plaintiff [believes] Taxology creates positive human emotions, such as: affection, joy, and delight.

¶ 382. Plaintiff avers Christianity, Islam and Judaism create positive human emotions, such as: affection, joy, delight.

¶ 385. Plaintiff [believes] Taxology involves the sacred and the profane.

¶ 386. Plaintiff avers Christianity, Islam and Judaism involve the sacred and the profane.

¶ 387. Plaintiff [believes] Taxology manifest a strong system of dutiful devotions, religious beliefs and devout practices.

¶ 388. Plaintiff avers Christianity, Islam and Judaism manifest a strong system of dutiful devotions, religious beliefs and devout practices.

¶ 389. Plaintiff avers Taxology, like Christianity, Islam and Judaism reveals the institution of marriage.

¶ 390. Plaintiff avers Taxology, like Christianity, Islam and Judaism recognize the “blind” and the needs of low income people.

¶ 391. Plaintiff avers Taxology, like Christianity, Islam and Judaism has leaders.

¶ 392. Plaintiff [believes] certain aspects of Taxology, like Christianity, Islam and Judaism is beyond human understanding or remains unknowable.

¶ 393. Plaintiff avers in Taxology, a strong belief in being “taxed again” is important; where as in Christianity a strong belief in being “born-again” is important.

¶ 394. Plaintiff avers in Taxology, there is a strong belief in seeking a return from the IRS where as in Christianity there is a strong belief in seeking a return of Jesus Christ.

¶ 396. Plaintiff avers Taxology, like Hinduism consists of many diverse traditions and has no founder with a transcendent leader as a guru or sage.

¶ 397. Plaintiff avers Hinduism is a way of life, a Dharma, that is, the law that governs all favorable action.

¶ 398. Plaintiff [believes] Taxology is a path of life, a code, that is, the law that governs all favorable action.

¶ 399. Plaintiff avers Hinduism is a conglomeration of religious, philosophical, and cultural ideas and practices that originated in India.

¶ 400. Plaintiff [believes] Taxology is a conglomeration of religious, philosophical, and cultural ideas and practices that originated in the USA.

¶ 401. Plaintiff [believes] [Taxology] like many religions of the past or present is a “source of revelations” serving as an “intelligent design”.

¶ 403. Plaintiff [believes] and [conscience] dictates [Intellectual Tithing] provides a “source of revelations” not a source of revenues.

¶ 405. Plaintiff [believes] he is of an “intelligent design” seeking to do God’s will and his works.

¶ 407. Defendants’ [Taxism] created taxation without representation.

¶ 408. Defendants’ [Taxology] advances taxation without representation.

¶ 409. Defendants’ [THE CODE] endorsed taxation without representation.

¶ 411. Defendants’ institutionalized faith in Taxism created actual legal coercion, thereby inculcates obedience to authority by force of law and threat of penalty.

¶ 412. Plaintiff [believes] Defendants have substituted public legislative authority for religious decision-making in support of an institutionalized religion, the Plaintiff calls Taxism.

¶ 417. Plaintiff [believes] Defendants’ IRS are the “creator” of an entity known as “Taxprayer”.

¶ 419. Defendants’ institutionalized religion endorses the concepts of religiosity.

¶ 435. Plaintiff avers in Art. I, Sec. 2, clause 3 of the U.S. Constitution determines the limitations of what entity shall be not taxed: i.e. (“excluding Indians not taxed,”)

¶ 436. Plaintiff avers in Art. I, Sec. 2, clause 3 of the U.S. Constitution (“excluding Indians not taxed,”) is exercising the same power as “tax exempt status” in support of Taxism.

¶ 437. Plaintiff avers Taxpayers not taxed is the same as “Indians not taxed”.

¶ 440. Plaintiff avers there are Taxpayers not being taxed because of “tax exempt status”.

¶ 442. Plaintiff avers the United States Court of Federal Claims is the proper legal authority to resolve federal taxing matters where a claim exist that money is owed.

¶ 443. Plaintiff avers exclusions from tax are not a power authorized to Congress or Executive Branch, thus this activity supports a religious practice of Taxism and Taxology.

¶ 444. Plaintiff avers tax deductions are not a power authorized to Congress or Executive Branch, thus this activity supports a religious practice of Taxism and Taxology.

¶ 445. Plaintiff avers tax credits are not a power authorized to Congress or Executive Branch, thus this activity supports a religious practice of Taxism and Taxology.

¶ 446. Plaintiff avers tax adjustments are not a power authorized to Congress or Executive Branch, thus this activity supports a religious practice of Taxism and Taxology.

¶ 447. Plaintiff avers tax abatements are not a power authorized to Congress or Executive Branch, thus this activity supports a religious practice of Taxism and Taxology.

¶ 456. Defendants' "Revenue Rulings" creates a fusion of government and religious functions.

¶ 457. Plaintiff avers "Revenue Rulings" substitute's public legislative authority for religious decision-making.

¶ 459. Plaintiff [believes] "Revenue Rulings" are religious indoctrination.

¶ 460. Plaintiff [believes] "Revenue Rulings" supports Defendants' institutionalized religion.

¶ 461. Plaintiff [believes] "Revenue Rulings" encourages or endorses institutionalized faith.

¶ 664. Plaintiff [believes] refunds, exemptions, exclusions, credits, deductions, adjustments, abatements of taxes is religious indoctrination in Mammon.

¶ 714. Plaintiff's [conscience] dictates taxation with representation is a requirement and not an option of good government.

¶ 715. Plaintiff's [conscience] dictates taxation without representation is conducted by the IRS.

¶ 716. Plaintiff's [conscience] dictates taxation without representation is conducted by the Internal Revenue Service.

¶ 717. Plaintiff avers taxation without representation is conducted by the Defendants.

¶ 721. Plaintiff avers Revenue bill or deficiency bill that becomes law is taxation with representation.

¶ 725. Plaintiff's [conscience] dictates the IRS was not never authorized with any power to be "the foundation for all that our nation is capable of".

¶ 726. Plaintiff avers the IRS should not become "the foundation for all that our nation is capable of" however the IRS has become the foundation for all that our nation is capable of.

¶ 727. Plaintiff's [conscience] dictates that Plaintiff should not have to establish any goals of the IRS.

¶ 1020. Plaintiff avers Defendants' Internal Revenue Service is aware of the religious concept or established criteria for a Mega-church.

¶ 1191. Plaintiff avers the United States Tax Court, is not a "Court" pursuant to U.S. Code > Title 28 > Part VI > Chapter 176 > Subchapter A > § 3002 set forth in 28 U.S.C. §3002: Definitions affirming: As used in this chapter: (2) "Court" means any court created by the Congress of the United States, excluding the United States Tax Court.

¶ 1237. Plaintiff [believes] Defendants are constructing [THE CODE] as more moralistic than mathematical.

¶ 1241. Plaintiff [believes] Defendants are sanctioning an IRS Dogma of THEIRS – F.E.A.R. = False Evidence Appearing Real.

¶ 1243. Plaintiff [believes] Defendants are indorsing a recognized religious creed of "[Our core values guide our path to achieving our vision.]" per se as ("[Creed]").

¶ 1244. Plaintiff's [conscience] dictates Defendants' [Creed] has not nothing to do with the secular power to lay and collect taxes on incomes.

¶ 1245. Plaintiff [believes] Defendants are instituting IRS Core Values to share, believe in and are practiced by many people.

¶ 1246. Plaintiff [believes] Defendants' IRS Core Values were established to advance religion.

¶ 1247. Plaintiff [believes] Defendants' IRS path is for a religion of reality.

If the above mention statements or averments, as declared by the Court are not of a "short and plain statement of the claim" or "averments" that are "simple, concise, and direct" as pleaded and declared in [OVC/Petition], what can meet the measure of the conformity with the unknowable or incomprehensible thoughts of any Federal Judge? Once again the Court has failed to provide legal guidance or present usefully examples of what constitute a conformity within Rule 8.

Plaintiff's case and its controversies has been presided over by three Federal judges for the very short period of approximately 4 months. The initial Judge **JOHN M. BODENHAUSEN**, a *Magistrate Judge* issued Memorandum and Order dated 23<sup>rd</sup> day of February, 2017 (**Doc. No. 8**) decreeing in part:

A review of the Complaint shows that it fails to comply with the strictures of Rule 8(a). The Court finds that Plaintiff has failed to file the Complaint in accordance with Rule 8(a) and (e) of the Federal Rules of Civil Procedure, which require a "short and plain statement of the claim(s)" (e).

"Taken together, Rules 8(a) and 8(e)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules."

Apparently, according to Judge Bodenhausen "*the strictures of Rule 8(a)*" in this case are the very same as in a case existing over 10 years ago, concerning in part, a *class action "asserting federal claims under the Sherman Act and four claims under RICO"*. That Case: 4:05-cv-01853-ERW Doc. #: 37, Filed: 06/06/06 of which was consolidated with 11 other cases by Judge E. RICHARD WEBBER; however, Judge Bodenhausen evoking or relying on, *word for word*, 3 of the 5 pages of Judge Webber's Memorandum and Order, Doc. # 37. Judge Bodenhausen's abuse of discretion becomes self-evident when the misapplication of law, whether grounded in case law cited for Case: 4:05-cv-01853-ERW and/or when utilizing the strictures of Rule 8, **2006 Edition** of Fed. R. Civ. P. "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."

Pursuant to Local Rule 2.08, and Plaintiff's *anxieties* about a fair hearing, *due process of law* and the [Judge] total lack of concern with a Plaintiff's *free exercise rights* and *establishment challenges*, and in addition to, additional burdens placed upon a *pro se* Plaintiff and the First Amendment; Plaintiff 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<sup>th</sup>, 2017.

The Court then issued Memorandum and Order dated 10<sup>th</sup> 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 Fed. R. Civ. P.

It is apparent [Judge Ross] is also relying on Rule 8, **2006 Edition**, decreeing in part:

“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 **av**erment of a pleading shall be simple, concise, and direct.’” (emphasis added)

As the Court is well aware the **2006 Edition** of Rule 8, uses “[e]ach *av*erment” **versus** “Each *allegation*” as used in **2016 Edition** of Rule 8. The words “*av*erment” and “*allegation*” have different meanings and legal standards according Black’ Law Dictionary.

[Judge Ross]’s Memorandum and Order (**Doc. No. 18**) held in part “It appears that Plaintiff is now seeking reconsideration of the Court’s Order” in reference to (Doc. No. 14) “PLAINTIFF’S NOTICE OF OBJECTIONS AND OPPOSITION TO The Court’s Memorandum and Order dated 23<sup>rd</sup> day of February, 2017 (ECF No. 8)”. Plaintiff raised certain legal matters (abuse of discretion, misapplication of law, reversible error or a manifested injustice) in (Doc. No. 14) to which such matters were either overlook or ignored by the Court. [Judge Ross] failed to mention in his “*review of his 547-page Complaint, with 4,451 paragraphs*” that Plaintiff set forth *seven causes of action* seeking DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF through *seven claims for relief*. [Judge Ross] made no mention in his review Plaintiff filed a 16 page brief or declared under what authority or law that grants *unbridled discretion* to strike the *entire breath and merits* of [OVC/Petition]. It should be noted neither Bodenhausen nor [Judge Ross] have declared Plaintiff’s religious belief as frivolous or Plaintiff legal actions or statements as frivolous.

On the Court’s own motion and after review of the case, [Judge Ross] recused himself. Pursuant to the order of recusal by the Honorable John A. Ross on May 5, 2017, IT IS HEREBY ORDERED that the above styled cause is reassigned to the Honorable Audrey G. Flessig. (Doc. No. 32).

Judge Flessig, entered this case with three pending motions (**Doc. Nos. 19, 20, 30**), filed as early as March 13, 2017, 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 Plaintiff's case, which [Judge Ross] refused or ignored. Another example of an *abuse of discretion*. Judge Flessig's Memorandum and Order dated 12<sup>th</sup> day of May, 2017, in response to Plaintiff's motion for extension of time (Doc. No. 35) declared in part: "*On February 23, 2017, the Court<sup>1</sup> ordered Plaintiff to file an amended complaint that complies with Rule 8 of the Federal Rules of Civil Procedure. Since then, Plaintiff has filed **seventeen motions or other documents**, none of which appear to have any basis in law or fact.*"

Judge Flessig, the Court and Defendants are well aware this case and its controversies concerns religion, law respecting an establishment of religion, the free exercise of fundamental rights of religious beliefs, right of conscience, including but not limited to protected speech. However, Judge Flessig and the other Judges have presume to determine the place or facts of a particular belief in a religion, as well as, *the plausibility of Plaintiff's religious claims*. These three Judges who have made adverse ruling in Plaintiff's case have totally ignored his complaints about Rule 8 conformity and have elected to ignored the Court established *compelling interest test* involving a federal statute or a vocal policy of the Court's Orders, of which, are 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]. Plaintiff has revealed in those "*seventeen motions or other documents*", as well as, in other such Notices that governmental actions, which now includes the Court, willful manifested a full array or unseemly collection of *discriminating acts* against this Plaintiff, his religious beliefs and his pure and protected speech within [OVC/Petition]. The U. S. Supreme Court recognizes race, national origin, religion and alienage as suspect classes; it therefore analyzes any government action that discriminates against these classes under strict scrutiny. Plaintiff, has a constitutional right of

association to rely on and have belief in U.S. Supreme Court doctrines, decision and tests. Case in point, *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”

For the record, *no compelling interest test* have been administer in this case, however the obvious encroachments upon Plaintiff’s religious liberty, *whether direct or indirect*, requires a clear and compelling governmental interests “of the highest order”. It is apparent Judge Flessig’s abuse of discretion or misapplication of the law, *whether direct or indirect*, has declared Plaintiff’s motions or notices, “*none of which appear to have any basis in law or fact*”. This is in opposition to the U.S. Supreme Court precedent or Plaintiff’s pleading in Notices under (Doc. No. 32):

FOR THE RECORD, "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 129 S. Ct. at 1949 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). This pleading standard is satisfied if the complaint's "factual content . . . allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atlantic Corp. v. Twombly*, 550 U.S. \_\_\_, \_\_\_, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)).

FOR THE RECORD, In reviewing the sufficiency of a complaint, the court determines whether the plaintiff is entitled to offer evidence to support his claims—not whether the plaintiff will ultimately prevail. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds by Davis v. Scherer*, 468 U.S. 183 (1984).

Furthermore, including but not limited to, what the U.S. Supreme Court has held for over 30 years, Plaintiff has already pleaded in Notices particularly within (Doc. No. 34):

FOR THE RECORD, in the case of *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982), the Court held *a constitutional limitation on the lower courts to dismiss an action*: The Court traditionally has held that the Due Process Clauses protect civil litigants who seek recourse in the courts, either as defendants hoping to protect their property or as plaintiffs

attempting to redress grievances. In *Societe Internationale v. Rogers*, 357 U. S. 197 (1958), for example -- where a plaintiff's claim had been dismissed for failure to comply with a trial court's order -- the Court read the "property" component of the Fifth Amendment's Due Process Clause to impose

"constitutional limitations upon the power of courts, even in aid of their own valid processes, to dismiss an action without affording a party the opportunity for a hearing on the merits of his cause."

*Id.* at 357 U. S. 209. See also *Hammond Packing Co. v. Arkansas*, 212 U. S. 322, 212 U. S. 349-351 (1909) (power to enter default judgment); *Hovey v. Elliott*, 167 U. S. 409 (1897) (same); *Windsor v. McVeigh*, 93 U. S. 274 (1876) (same). Cf. *Wolff v. McDonnell*, 418 U. S. 539, 418 U. S. 558 (1974).

It is apparent, the Court under Judge Flessig's directions has overlook or disregarded the "Notices" of *germane facts* set forth within (Doc. No. 33, 34) as the factual content that allows the court to draw the reasonable inference that the Defendants are liable for the misconduct alleged.

#### B. The District Court Erred as a Matter of Law

This motion would allow the Plaintiff to address where the District Court erred as a matter of law by its failure to comply with U.S. Supreme Court decisions, doctrines or tests which are preserved as a matter of law. Plaintiff's civil action has rely on the following for Court guidance and the grounds for exerting First Amendment rights in this case and its controversies:

#### ***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)

***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."

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).”

**CONCLUSION**

**WHEREFORE**, premises considered and for the *germane* facts herein, the Plaintiff prays for *constitutional and court relief* by upholding ***fundamental rights*** set forth herein being guaranteed; and moves the Court to grant the continuance of this civil action for the provided legal reasons and *grounds* and to 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 22<sup>th</sup> day of June, 2017

*Respectfully submitted,*

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**CERTIFICATE OF SERVICE AND DELIVERY**

I hereby certify that the foregoing was filed this 22<sup>th</sup> 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 22<sup>th</sup>, 2017

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