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
Pro se,	}
Plaintiff,	}
	}
-Vs-	}
	}
"UNITED STATES" GOVERNMENT,	}
	}
Defendants.	}

MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF
PLAINTIFF'S REQUEST & OPPOSITION TO DEFENDANTS' MOTION TO STRIKE
"June 14 Filings" Pursuant to Federal Rules of Civil Procedure 12(f)

TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS:

Plaintiff respectfully files this Memorandum In Support of Plaintiff's Request and Opposition to Defendants' Motion to Strike "June 14 Filings" Pursuant to Federal Rules of Civil Procedure 12(f).

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.* In support of Notice Pleadings (Doc. No. 44 & 45) and in opposition to a motion, Plaintiff states:

I. INTRODUCTION

The moving Defendants ask this Court to fault a well-settled precedent, with one's ***religious beliefs*** when they declared: *"Additionally, the June 14 Filings are incoherent and disorganized. Many of Plaintiff's allegations are incoherent.[7]"* The U.S. Supreme Court has maintained for over **35 years** in the decision of *Thomas v. Review Bd., Ind. Empl. Sec. Div.,* 450 U.S. 707, 714 (1981):

> "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."

Defendants' Motion to Strike "June 14 Filings" pursuant to Fed. R. Civ. P. Rule 12(f) is premised on a fundamental misunderstanding and as a clever defense ploy. Defendants seek to strike the ***entire breath and merits*** of "June 14 Filings" under Rule 12(f), of which, only allows *"The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."* Accordingly, Rule 12(f) grants no statutory authority to strike the ***entire breath and merits of a pleading,*** only to strike certain portions or a paragraph "***from a pleading".*** Defendants' Motion to Strike is in realty a ***motion to dismiss*** for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(B)(6). Plaintiff states neither proposition is persuasive for the reason set forth herein. In Defendants' Motion to Strike "June 14 Filings" are crafty bespeaks defenses that are without merit and should be denied because: (1) it is not made on statutory grounds; and (2) for reasons explained herein, Plaintiff's opposition to the Defendants' Motion to Strike, and; (3) the Court cannot conclude from the facts or statements in the notices of the "June 14 Filings" any redundant, immaterial, impertinent, or scandalous matter, and (4) the Court should not uphold the Defendants' *developing doctrines of deception*, because deception and its effects are upholding a principle, as cruel, as war itself. **For the record**, this Plaintiff is engaged in a ***war of words***, with this Court and the Defendants in a 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.* Before God and County, as well as, a *'living witness'* [To LIVE as EVIL] shall not prevail *"for I have sworn upon the altar of god, eternal hostility against every form of tyranny over the mind of man."* A statement of religious belief and oath concerning the issues to be decided.

II. ISSUES TO BE DECIDED

A. *Sleight of Hand Issues*

The moving Defendants' motion to strike (Doc. No. 51) is nothing more than a feeble attempt to challenge well-settled law by asserting crafty bespeaks defenses under the smoke screen of **Rule 8**. First, Defendants signify Plaintiff's performances, bespeaks considerably, by claiming a party is *"improperly named"* to the Plaintiff *"filled the docket with numerous motions, briefs, 'notices,' and 'requests,' in addition to an unsuccessful motion for a writ of mandamus from the United States Court of Appeals for the Eighth Circuit."* (Def. Memo. Page 1.)

Second, a memo that speaks to, especially with formality; Defendants have suggested or expressed that this following statement is in some way or somehow relevant to a Rule 12(f) motion:

> Five times, this Court, through three different judges, has ordered Plaintiff to file an amended complaint in compliance with Federal Rule of Civil Procedure 8 ("Rule 8"). (ECF Nos. 8, 18, 29, 36, 42.)Despite his hundreds (if not thousands) of pages of filings, Plaintiff has failed to comply with the Court's orders. He has not filed a complaint that complies with Rule 8. (Def. Memo. P 1.)

Third, improperly labeling Plaintiff's Notice Pleadings as "documents" or as "June 14 Filings" or just as "filings" bespeaks the wide departure of the civil procedures under Rule 12(f).

Lastly, the Defendants, who have not raised a single defense, objection, or made a response or denial with a docket filled with numerous motions, briefs, notices, and requests, but now seeks a *"sleight of hand"* legal remedy, by referring to Rule 8 or it ambiguous and vague requirements over **30 times** in their Memorandum of Support. Crafty bespeaks defenses are not of Rule 12(f).

B. ***The Issue at Hand***

Defendants have asked the Court, under Rule 12(f), to grant the extraordinary remedy of striking two sets of seven **notice pleadings**, being the ***entire breath and merits*** of ***amended statements*** set forth within "June 14 Filings". These so called "filings" by the Defendants, existing as "short and plain statement of the claim showing that the pleader is entitled to relief" or such statements that "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)). Plaintiff's Hybrid Pleadings set forth as Revelation #1 through #7 (Doc. No. 44) and PLAINTIFF'S CONSCIENTIOUS EFFORT TO COMPLY WITH COURT'S ORDERS TO MANIFEST AN AMENDED COMPLAINT WITHIN A RELIGIOSITY OF FACTS (Doc. No. 45) set forth as Religiosity of Facts #1 through #7 was filed by the Plaintiff in support of Court Orders, Fed. R. Civ. P. RULE 15(a)(2), and the First Amendment; but the alleged applicable Rule 12(f) and crafty defense ploys by the Defendants, do not provide for this motion ***to strike*** in this context. The Court must decide whether the moving Defendants have satisfied the strict requirements under Rule 12(f) of the Federal Rules of Civil Procedure, thus to have stricken from the record the ***entire breath and merits*** of ***Plaintiff's notice pleadings,*** aka "June 14 Filings".

III. RELEVANT FACTS

A. BACKGROUND OF CASE

a. ***Pure Speech of Religious Belief***

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.* ***Pure speech*** in United States law is the communication of ideas through spoken or written words or through conduct limited in form that is necessary to convey the idea. It is distinguished from symbolic speech or "speech plus," which involves conveying an idea or message through behavior. ***Pure speech*** is accorded the highest degree of protection under the First Amendment to the U.S. Constitution. Fact is Plaintiff's "June 14 Filings" are pure speech regarding ***statements of religious beliefs,*** exercised as amendments to an [OVC/Petition] of which coexist with Plaintiff's complaint.

b. ***Free Exercise of Protected Speech***

The First Amendment states, in relevant part, that: "Congress shall make no law...abridging freedom of speech." While it states "Congress," the protections are also against state government and local public officials or any governmental authority or its officials at any level of government from making any law, policy, orders or rules that abridges a person's protected speech. However, simply because the governmental authority cannot make a law, policy, orders or rules of this nature does not mean that individuals are free to say anything that they want to that presents a *clear and present danger* to society or if speech constitute libel, obscenity or slander. First Amendment guarantees, as the Supreme Court has explained, *"If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." Texas v. Johnson*, 491 U.S. 397, 415 (1989). "June 14 Filings" are pure speech in exercising protected speech of religious beliefs.

c. ***Viewpoint Based Restrictions & Viewpoint Discrimination***

Government suppression of otherwise legal speech can be justified only if the government can advance a compelling reason. For example, national security concerns might justify suppression

of an article describing military strategy in wartime. More often, free speech cases involve claims that government regulations are vague or overly broad, or that the government is engaging in viewpoint discrimination – trying to suppress speech because of opposition to the message it conveys. Freedom of speech and its forms of expression are protected to varying degrees, often depending on where the expression occurs, and whether the law, regulation, policy or order is formulated or applied to affect the content or viewpoint of the speech in that forum. The preceding [Court's Presiding Judge, the Honorable John M. Bodenhausen] ("[Judge]") made a review, finding, and Order (Doc. No. 8) thereby imposed unconstitutional viewpoint-based restrictions on Plaintiff's free, pure, or [Protected Speech]. The Order 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 Petitioner in [OVC/Petition]. This Order 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. The Supreme Court has held: "The First Amendment, our precedent makes plain, disfavors viewpoint-based discrimination." See Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 828 (1995) quoting Wood v. Moss, 572 U.S. ___ (2014).

d. *Plaintiff's Other Notice Pleadings* (Doc. No. 33 & 34)

Plaintiff filed, other Notice Pleadings (Doc. No. 33 & 34), pursuant to Court' Orders, Fed. R. Civ. P. Rule 15(a)(2), his First Amendment free exercise rights and in accordance with U.S. Supreme Court decisions regarding "Notice Pleadings". Plaintiff filed on May 8, 2017 a collective set of seven Notices concerning "UNJUST BURDENS ON FREE EXERCISE PRINCIPLES AND ON PLAINTIFF'S CONSTITUTIONAL RIGHTS OF THE FIRST AMENDMENT AND, IN THE ASSESSMENT OF TRUTH FOR Rule 8(d)(1) pleading requirement that 'each allegation must be simple, concise and direct'". **(Doc. No. 33).** Plaintiff also filed on May 8, 2017 a collective set of seven distinct "NOTICE OF A SHORT

AND PLAIN STATEMENT OF THE CLAIM SHOWING THE PLAINTIFF IS ENTITLED TO RELIEF UNDER THE FIRST AMENDMENT AND, IN THE ASSESSMENT OF TRUTH FOR A fact-based pleading and Rule 8 entitlement; giving rise to plausibility of 'entitlement to relief'" **(Doc. No. 34).** These Notice Pleadings (Doc. No. 33 & 34) were properly entered into the record providing "formal Notice to all interested parties and the Court". Defendants failed to respond to such matters

B. DISCUSSION

a. *"Notice Pleading"*

Notice pleading refers to a style of pleading in which all the technical facts aren't required to be spelled out in the document, but only those which are sufficient to put the other parties on notice, or made aware of, the claim or defense being made. Notice pleading is the dominant form in the United States today. In 1938, the Federal Rules of Civil Procedure were adopted. One goal was to relax the strict rules of code pleading. Code pleading had served four purposes: notice, issue narrowing, pleading facts with particularity and eliminating meritless claims. The Federal Rules eliminated all of those requirements except for the notice requirement (hence we call it notice pleading). The requirements that were eliminated were shifted to discovery (another goal of the FRCP). In notice pleading, plaintiffs are required to state in their initial complaint only a short and plain statement of their cause of action. The idea is that a plaintiff and their attorney who have a reasonable but not perfect case can file a complaint first, put the other side on notice of the lawsuit, and then strengthen their case by compelling defendant to produce evidence during the discovery phase. For Supreme Court standards, see Exhibit # U-27 attached hereto and incorporated herein.

b. *Conformity with the requirements of Rule 8*

Rule 8 provides no authority or mechanism to manifest the so-called "amended complaint". Rule 8 is not concern with or involves requirements regarding "redundant, immaterial, impertinent, or scandalous matter". Rule 8 expresses no direct authority for the Court to grant or manifest a new

pleading labeled as “amended complaint”. With the opposing party's written consent or the court's leave, a party may add “Other Amendments” to an existing “complaint” or other pleadings in accordance with or defined in Fed. R. Civ. P. Rule 7. The Fed. R. Civ. P. Rule 15(a)(2) allows for “Other Amendments” particularity ***“a party may amend its pleading”.*** For legal guidance Black’s Law dictionary defines “What is AMENDMENT OF PLEADING?” “the changing of a pleading that will correct any errors and to make a more accurate presentation of all of the facts.” http://thelawdictionary.org/amendment-of-pleading/. The conformity within the requirements of Rule 8 manifest ***statutory censorship*** or **viewpoint based restrictions** which, in this case, involves suppression of pure speech of religious belief as protected speech, thus raising issues of freedom of speech, which is protected by the First Amendment to the United States Constitution.

c. ***Defendants failed to satisfy the strict requirements of Rule 12(f)***

Neither Fed. R. Civ. P. 12(f) nor any other part of the Federal Rules of Civil Procedure authorizes the use of a motion to strike the context of “short and plain statement of the claim showing that the pleader is entitled to relief” or such statements that “give the defendant fair notice of what the the claim is and the grounds upon which it rests.” Furthermore the ***statutory grounds*** of Rule 12(f), are limited to “The court may ***strike from a pleading*** an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” There is no *unbridled power* in Rule 12(f), or any discretion, deviation or deception allowing the Court ***to strike the entire breath and merits*** of Plaintiff’s “June 14 Filings”. The court ***may strike from a*** pleading redundant, immaterial, impertinent, or scandalous matter, however, no authority to strike a complaint or “June 14 Filings” under Rule 12(f). ***Plaintiff’ religious beliefs are not redundant, immaterial, impertinent, or scandalous matters.*** Defendants failed to cite any germane rule or other authority for their motion to strike “filings”. Defendants’ motion should be denied for this reason alone.

The only provision of the Federal Rules of Civil Procedure that specifically authorizes motions to strike is Rule 12(f), which applies solely to ***"pleadings,"*** a term that is defined in Rule 7(a) to include only complaints, answers, cross-claims, and counterclaims. However, the Plaintiff's Revelation #1 through #7 (Doc. No. 44) and PLAINTIFF'S CONSCIENTIOUS EFFORT TO COMPLY WITH COURT'S ORDERS TO MANIFEST AN AMENDED COMPLAINT WITHIN A RELIGIOSITY OF FACTS (Doc. No. 44) set forth as Religiosity of Facts #1 through #7 (Doc. No. 45), arise, in part, under Fed. R. Civ. P. RULE 15(a)(2). ***"Other Amendments."*** Consequently, "June 14 Filings" are not a *per se* "pleading" as defined in Rule 7(a) and therefore not subject to Rule 12(f) requirements. Furthermore the "June 14 Filings" also arises under the First Amendment guarantees of religious beliefs, protected speech, the right to petition and protest government unconstitutional activities.

IV. LAW AND ARGUMENT

A. DEFENDANT'S MOTION TO STRIKE HAS NO MERITS

Defendants argue initially that: "**The Court Should Strike Plaintiff's June 14 Filings."** "Because Plaintiff's June 14 Filings Do Not Request any Relief, the Court Should Strike them for Violating the Court's Orders." **(Def. Memo. Page 6).** Defendants then argued: "If the June 14 Filings Are Construed as an Amended Complaint, the Court Should Strike them for Violating Rule 8." **(Def. Memo. Page 7).** Finally, Defendants argued that this Court should "In the event that the Court determines both (1) that the June 14 Filings are an amended complaint and (2) that they comply with Rule 8, the United States respectfully requests a sixty-day extension of time to respond." **(Def. Memo. Page 11)** All these core arguments are meritless. Defendants failed to satisfy the requirements of Rule 12(f). Furthermore, even if the Court were inclined to entertain these core arguments at this preliminary stage, the moving Defendants premise their position on inapposite cases. To navigate the deep and murky waters of Defendants' inapposite cases, the Court should

review Plaintiff's notices, briefs and motions addressing such matters as set forth under (Doc. No. 11, 12, 14, 19, 38, 39). This case has nothing to do with civil rights or the Sherman Anti-trust Act.

1. *Rule 12(f) Motion to Strike Standard and Requirements*

Fed R. Civ. P. Rule12 (f) grants a mechanism for striking certain ***improper matters***. It provides:

(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.

2. ***Applicable Legal Standards of Rule 12(f)***

a. In the Eyes of the 8th Circuit

Rule 12(f) of the Federal Rules of Civil Procedure provides that a "court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. Rule 12(f). "Parties filing a motion to strike under Fed. R. Civ. P. 12(f) bear the burden of providing the Court any reason why this language is immaterial, impertinent, or scandalous." Simms, 2009 WL 943552 at *2 (internal citation omitted). "Although the Court enjoys 'broad discretion' in determining whether to strike a party's pleadings, such an action is 'an extreme measure.'" Airstructures Worldwide, LTD v. Air Structures Am. Techs. Inc., No. 4:09CV10, 2009 WL 792542, at *1 (E.D. Mo. Mar. 23, 2009) (quoting Stanbury Law Firm v. IRS, 221 F.3d 1059, 1063 (8th Cir. 2000)). "A motion to strike should 'be denied if the defense is sufficient as a matter of law or if it fairly presents a question of law or fact which the court ought to hear.'" Bartoe v. Mo. Barge Line Co., No. 1:07CV165, 2009 WL 1118816, at *1 (E.D.Mo. Apr. 24, 2009) (quoting Lunsford v. United States, 570 F.2d 221, 229 (8th Cir. 1977)). "'Motions to strike under Fed. R. Civ. P. 12(f) are viewed with disfavor and are infrequently granted.'" Champion Bank v. Reg'l Dev., LLC, No. 4:08CV1807, 2009 WL 1351122, at *4 (E.D. Mo. May 13, 2009) (quoting

Lunsford, 570 F.2d at 229). Because striking a party's pleadings is such an extreme measure, motions to strike are viewed with strong disfavor. Stanbury Law Firm v. IRS, 221 F.3d 1059, 1063 (8th Cir. 2000). "Rule 12(f) motions are generally disfavored because they are often used as delaying tactics, and because of the limited importance of pleadings in federal practice." Bureerong v. Uvawas, 922 F.Supp. 1450, 1478 (C.D. Cal. 1996) (citation and quotations omitted).

b. In the Eyes of Judge Ross

Under Federal Rule of Civil Procedure 12(f), "the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Although the district court enjoys "broad discretion" in determining whether to strike a party's pleadings, such an action is an "extreme and disfavored measure." Stanbury Law Firm v. I.R.S., 221 F.3d 1059, 1063 (8th Cir. 2000); Lunsford v. United States, 570 F.2d 221, 229 (8th Cir. 1977). Motions to strike are properly directed only to material contained in pleadings. The Federal Rules of Civil Procedure define pleadings as "a complaint and an answer; a reply to a counterclaim ...; an answer to a cross claim ...; a third-party complaint ...; and a third party answer." Fed. R. Civ. P. 7(a). Motions, briefs, memoranda, objections or affidavits may not be attacked by a motion to strike. 2 James W. Moore, et al., Moore's Federal Practice § 12.37[2] (3rd ed.2008). See Coleman v. City of Pagedale, No. 4:06–CV–1376 ERW, 2008 WL 161897, *4 (E.D. Mo. Jan. 15, 2008) (sur-reply and memorandum were not pleadings and could not be attacked with a motion to strike). This is word for word in a Memorandum and Order, dated 31st day of October, 2016 in the case of CARLTON MILLER v. UNITED STATES, No. 4:16-CV-00488-JAR and No. 4:14-CR-00353-JAR-1.

3. ***Defendants' Surreal Legal Standards of Rule 12(f)***

a. In the Eyes of Carrie Costantin, "Respectfully submitted,"

"The United States moves, pursuant to Federal Rule of Civil Procedure 12(f), the Court to strike

Plaintiff's two sets of seven documents filed on June 14, 2017." (Def. Motion page 1, para 1.) It is fatal, to our U.S. system of justice and legal procedures that the Court would allow, endorse, or egregiously advance the Defendants' defense ploys or expand beyond the ***statutory grounds*** of Defendants' pending motion. Defendants' "Motion to Strike Filing" is pursuant to Fed R. Civ. P. Rule12 (f) exclusively; however Defendants argument is based on:

I. "The Court Should Strike Plaintiff's June 14 Filings.

A. Because Plaintiff's June 14 Filings Do Not Request any Relief, the Court Should Strike them for Violating the Court's Orders."

"The Court should strike Plaintiff's filings to enforce the Court's Orders." (Def. Memo. page 6, para 1.) The Defendants are seeking relief pursuant to the strict requirements of Rule12 (f), to which, Rule 12(f) does not authorize or remotely concern thoughts of: "Plaintiff's June 14 Filings Do Not Request any Relief" or "the Court Should Strike them for Violating the Court's Orders." It is a fact of law and for the record, Rule12 (f) makes no allowance for the Defendants or Ms. Costantin to act in the capacity of the Court or as a judge.

Rule12 (f) concerns ***"an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter"*** not within or whether the Plaintiff's "June 14 Filings" arguably violates "the Court's Orders". Furthermore, Defendant's surreal argument is further advanced on Plaintiff allegedly violating Rule 8 conformity, impudently declaring within the Rule 12(f) motion itself:

"These filings do not comply with the Court's Orders that Plaintiff file an amended complaint in compliance with Rule 8. They are not an amended complaint, as they state no claim for relief. But, even if the Court were to construe them as an amended complaint, they do not comply with Rule 8, and therefore Plaintiff has failed to satisfy the Court's Orders." Def. Mot. page 1, para 1.

It is apparent within the eyes of Carrie Costantin, Acting United States Attorney, ***who failed to make proper notice of entry into this case***; main or chief concern is with Plaintiff compliance with the ***conformity with Rule 8.*** However, the Defendants failed present any defenses, objections or

denials under the requirements of **Rule 8(b) or 8(c)**. Defendants' instant motion is not made pursuant to Rule 8 or any other Federal Rule of Civil Procedure beyond Rule 12(f) or Rule 6(b)(1). Defendants ***own conformity*** with Fed R. Civ. P. should be brought into the light justice, especially when their Memorandum in Support declares the ***strike concerns Rule 8*** and not Rule 12(f) burden of providing what is redundant, immaterial, impertinent, or scandalous. In Def. Memo. on Page 7:

> "B. If the June 14 Filings Are Construed as an Amended Complaint, the Court Should Strike them for Violating Rule 8."

"Even if the Court were to disagree and liberally construe the June 14 Filings into an amended complaint, the Court should still strike the June 14 Filings for violating the Court's Orders and failing to comply with Rule 8. Five times, the Court has ordered Plaintiff to file an amended complaint in compliance with Rule 8. To the extent Plaintiff intended the June 14 Filings to serve as an amended complaint, they are an attempt to circumvent the spirit of Rule 8 by filing extensive material across fourteen documents and incorporating over four hundred exhibits comprising thousands of pages."

Plaintiff's Notice Pleadings (Doc. No. 44 & 45) aka "June 14 Filings" cannot be stricken from the record as Rule 8 has no such mechanism nor does Rule 12(f) allow *such grounds* as declared above.

4. *The Potential Prejudice to Plaintiffs from excluding Evidence*

Plaintiff's Notice Pleadings (Doc. No. 44, 45) aka "June 14 Filings" has incorporated by reference, as if fully set forth therein certain exhibits as evidence more particularly described in Plaintiff's Exhibit List (Doc. No. 3). The exclusion of these exhibits would constitute an abuse of discretion and reversible error, as well as, manifest prejudice to the Plaintiff or a violation of *due process.*

B. OTHER MATTERS NOT SUBJECT TO DEFENDANTS' RULE 12(F) ARGUMENT

A. *A failure to respond to Plaintiff's Complaint, Notices, Motions or other legal process*

Defendants' Memorandum in Support of their Rule 12(f) motion is based on the *entire breath* of legal matters the Defendants failed to respond to regarding Plaintiff's [OVC/Petition] or other Pleading Notices, various Motions or other legal process. Defendants' Memorandum in Support, has little to do with the any requirements of a Rule 12(f) motion, however, does set out 4 pages of

a "PROCEDURAL HISTORY", of which, list documents Defendants failed to raise or establish any claims or rights under **Fed R. Civ. P., Rule 8 (a) CLAIM FOR RELIEF** OR UNDER **Fed R. Civ. P., Rule 8(b) DEFENSES; ADMISSIONS AND DENIALS** or under **Fed R. Civ. P., Rule 8(c) AFFIRMATIVE DEFENSES** or under **Fed R. Civ. P., Rule 8(d) PLEADING TO BE CONCISE AND DIRECT; ALTERNATIVE STATEMENTS; INCONSISTENCY.**

b. *Plaintiff's other 14 Notices Pleadings* (Doc. No. 33 & 34) *filed* May 8th, 2017

Defendants' are attempting to take a second or third bite at the apple, by filing a Rule 12(f) motion that does nothing more than review previously litigated matters, of which needlessly consumes this Court's time and efforts to resolve this litigation. As listed on page 4, paragraph 1 of Defendants' Memorandum in Support Defendants have made a misleading statement by declaring:

> "However, the Court also ruled that Plaintiff's seventeen other "motions or other documents" did not "appear to have any basis in law or fact." (*Id.* at 1.) Therefore, the Court denied them as frivolous and advised Plaintiff that the Court would not entertain any similar motions filed by Plaintiff. (*Id.*)"

The record shows, Judge Fleissig Memorandum and Order **(Doc. No. 36)** *did not dismiss* Plaintiff's 14 Notices (Doc. No. 33 & 34) because the Court's Order was **limited to** *"all of Plaintiff's pending motions are DENIED as frivolous"*. These motions that were "DENIED" were filed under Judge Ross reign, who refused to make a ruling or ignored the relief sought. A First year law student knows notice are not motions. These initial 14 Notices Pleadings (Doc. No. 33 & 34) are now in the record, because the Defendants failed to raise any defenses or make any objections under any germane Federal Rules Civil Procedure. These initial 14 Notice Pleadings (Doc. No. 33 & 34) were directed "TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS" A point of law, Judge Fleissig Memorandum and Order (Doc. No. 36) concerned **only one matter:** "This matter is before the Court on Plaintiff's motion for extension of time (ECF No. 35)." That matter was set forth to the Court, as well as, the Defendants as:

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

Plaintiff's initial Notice Pleadings (Doc. No. 33 & 34) were not of this particular Notice and Request because Plaintiff was seeking "EXTENSION OF TIME TO BE GIVEN AN OPPORTUNITY TO PROPERLY PRESENT THE MERITS OF HIS ACTION". Judge Fleissig Memorandum and Order (Doc. No. 36) uneasiness about *"seventeen motions or other documents, none of which appear to have any basis in law or fact*" did not involve Plaintiff's Notice Pleadings (Doc. No. 33 & 34) rather Plaintiff's numerous Briefs in support of his motions as the ***"other documents".*** Plaintiff's initial Notice Pleadings (Doc. No. 33 & 34) advances Plaintiff's "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 declares and submits the following notice and pursuant to Plaintiff's constitutional protected free exercise rights to petition the U.S. government and to protest U.S. government activities through this civil action and its pleadings, and in so doing providing formal Notice to all interested parties and the Court:". However, Judge Fleissig Memorandum and Order (Doc. No. 36) decreed in part:

> 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. (Emphasis added)

Plaintiff's believes no Federal Judges, who has made an Oath to the U.S. Constitution, could think *notice pleadings* involving a *"civil action for rights, privileges, or immunities secured by the U.S. Constitution and the Rule of Law"* or regarding *"free exercise of unalienable rights to life, liberty and pursuit of happiness"* would produce pleadings *"none of which appear to have any basis in law or fact"* Bedside, a first year law student knows "Notice Pleadings" (Doc. No. 33 & 34) are not a "motion" and a civil action regarding constitutional rights has a viable basis in law and fact.

V. CONCLUSION

The Roberts Court's decisions about the requirements of federal pleading have engendered significant controversies in the conformity with Rule 8(a) or 8(d). The cases, Bell Atlantic Corp. v. Twombly and Ashcroft v. Iqbal, have been said by some to have destroyed the federal notice-pleading system and radically tipped the balance in favor of defendants, as well as, for plaintiffs who have to defend their pleadings or action from a zealous judge's ***sua sponte*** decisionmaking, or the Court acting on its own initiative ***striking the entire breath and merits of a pleading***, simply for the reason *"that a great deal of judicial energy and resources would have to be devoted to restructuring the pleading and streamlining the* ***unnecessary matter****"* concerning ***religious beliefs.***

VI. RELIEF REQUESTED

Defendants bear the burden of providing the Court specified reason(s) why Plaintiff's language in the "June 14 Filings" is redundant, immaterial, impertinent, or scandalous. Defendants have failed to meet this burden and because *"the Court must view the pleadings in a light most favorable to the pleading party"* Plaintiff request the Court deny their Motion to Strike Filings, or, in the Alternative, for an Extension of Time, as Defendants sudden concern is not for good cause shown.

Respectfully submitted,

Executed this 5th day of July, 2017

_____

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 5th day of July, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-6743 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: July 5th, 2017

TERRY LEE HINDS, Pro se, Plaintiff
438 Leicester Square Drive
Ballwin, Missouri 63021