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

In the Matter of:	
TERRY LEE HINDS, *Pro se,* Plaintiff,	CIVIL ACTION
-Vs-	FILE NUMBER: 4:17 - CV – 750 AGF
"UNITED STATES" GOVERNMENT, Defendants.	

PLAINTIFF'S REPLY AND OPPOSITION TO DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION (EFC. No. 56)

TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS:

PLEASE TAKE NOTICE, The Department of Justice ("DOJ") has not demonstrated that the Plaintiff failed to assert arguments justifying reconsideration, to rectify a ruling or for relief. This reply first addresses Plaintiffs' general objections to Defendants' response and then secondly addressing each sentence or paragraph with precision, so the Court is clear on Plaintiff's position that no compelling governmental interest exists to prohibit his protected speech of religious beliefs.

I. Defendants' Misread or Misapplied the Law

Plaintiff's argument in support of admitting Defendants' misread or misapplied the law is based on a fundamental misconception of Fed. R. Civ. P. Rule 12(f). Plaintiff asserts the Court erred, as a matter of law, when it failed to recognize the Defendants, 12(f) motion, was in fact or based as a motion to dismiss pursuant to Fed. R. Civ. P. 12(B)(6). Defendants' 12(f) motion with its ***orphan brief*** is outright consumed by these two central thoughts and misleading legal issues:

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.

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

However, as Plaintiff appositely declared in (ECF. No. 54):

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)

"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."

II. A Question of True Relations and Preserving a Right to Appeal

The Defendants, as well as, this Court has forgotten or ignored a 200 year old legal precedent established by the U. S. Supreme Court 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."

This Plaintiff has, by every lawful effort and legal right seeks Court sanctioned relief for the injuries and harm to Plaintiff's life, liberties and his pursuit of happiness. Assuming, *arguendo,* the Defendants' judgements, actions and words are misplaced, misdirected or misleading. This becomes self-evident when directing one's motion and arguments to Judge John Ross who recused himself on May 5, 2017 (Doc. No 31-32). Likewise, as revealed on Defendants' documents (ECF. Nos. 51, 52 & 59) as "Case No. 4:17-CV-750-**JAR**". Even so, Plaintiff's Motion is to reconsider the Court's Ruling of July 11, 2017 (Doc. No. 55) pursuant to Fed. R. Civ. P., Rule 59(e), or under

Rule 54(a)(b) and a Motion for Relief under Fed. R. Civ. P., Rule 60(b)(1)(4)(6) with Plaintiff objecting to a ruling or order pursuant to Fed. R. Civ. P., Rule 46 and in support of said motions submits a Memorandum of Law & Brief (Doc. No. 57).

Defendants' Second Bite of the Apple

"While the entirety of the relief requested is less than clear, the primary aim of Plaintiff's motion appears to be restoring Plaintiff's original complaint, brief in support, and exhibit list (ECF Nos. 1-3), including references to the original complaint in later filings."

Plaintiff's chief goal in this motion is to correct clear errors of law and prevent manifest injustice.

"For the foregoing reasons, and premises consider, Plaintiff respectfully request that this Court reconsider, rectify its ruling, or revisit non-final orders in its discretion as well as, grant relief from a proceeding or Court order regarding to correct clear errors of law, reversible errors or manifested errors of law and fact and to prevent manifest injustice under Rule 59(e), in conjunction with obtaining relief from a proceeding & Order pursuant to Fed. R. Civ. P., Rule 60(b)(1)(4)(6) OR, IN THE ALTERNATIVE, pursuant to Federal Rule of Civil Procedure Rule 54(a)(b) - Judgement on Multiple Claims and Rule 46- Objecting to a Ruling or Order, as set forth herein or in accordance with established law, precedent set forth herein or for such other relief as the Court deems proper." (As set forth in Plaintiff's Memo & Brief page 16 and in his motion, page 7).

Also, as set forth after each argument and issue presented Plaintiff is seeking relief under law:

"Plaintiff seeks relief under Rule 60(b)(1) mistake of law, or surprise; Rule 60(b)(4) the judgment is void as a matter of law, and Rule 60(b)(6) any other reason that justifies relief." See pages 8, 10, 11, 13, 14, & 16 as declared in Plaintiff's Memo & brief in support of his motion.

"The Court struck this complaint for violating Federal Rule of Civil Procedure 8 (ECF No. 8)."

Defendants' above statement is misleading, as Fed. R. Civ. P., Rule 8 is a misapplication of law. Plaintiff has no duty to be "devoted to restructuring the pleading" for a more ***secular message*** thereby ***to deliver a different message under exactly the same circumstances*** *adversely effecting or substantially burdening Plaintiff's* ***sincerely held religious beliefs*** *and his civil liberty, including other vital First Amendment rights or protections under the rule of law.* Magistrate Judge John M. Bodenhausen made a finding, based upon: "A review of the Complaint shows that it fails

to comply with the strictures of Rule 8(a)." Moreover, this Judge held in (ECF. No. 8):

"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." (Emphasis added).

Plaintiff's pure speech as protected speech concerning his *sincerely held religious beliefs* involving First Amendment challenges/violation are not an ***"unnecessary matter"***. "A great deal of judicial energy and resources are devoted to restructuring Plaintiff's briefs and complaint under the **2006 Edition** of Federal Rules of Civil Procedure as plainly written (Rule 8(e)(1)) in this Court decision:

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."

The District Court erred, as a matter of law through a Magistrate Judge's ***clear abuse of discretion***.

"Plaintiff subsequently filed documents (ECF No. 44)
that the Court has construed as an amended complaint (ECF No. 55)."

There is no Federal statute manifesting an *"amended complaint"*. There are no Fed. R. Civ. P. or federal regulations governing an *"amended complaint"*. An *"amended complaint"* manifested by Rule 8 *conformity*, burdens substantially more speech than was necessary to achieve a compelling government interest and curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague, as applied. Plaintiff addressed such matters or issue in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#32.

"The Court should deny Plaintiff's motion
because it fails to assert any argument justifying reconsideration."

DOJ's assertion is misplaced as reconsiderations are listed in the Memo/Brief on pages 1 & 2:

"THE COURT'S RULING OF JULY 11, 2017"

"Plaintiff moves the Court to reconsider, rectify its ruling, or revisit non-final orders in it discretion as well as, grant relief from a proceeding or Court order regarding (A/1): Defendant's "Motion to Strike Filings or, in the Alternative, for an Extension of Time" (Doc. No. 51), and (A/2): **"As a final matter"** with "PLAINTIFF'S FIRST MOTION TO REVIEW, ALTER, AMEND, OR VACATE ORDERS PURSUANT TO PLAINTIFF'S FREE EXERCISE OF PURE SPEECH OF RELIGIOUS BELIEFS AND/OR, IN THE ALTERNATIVE, FOR RELIEF FROM ORDERS PURSUANT TO FED. R. CIV. P. RULE 60(b)(6) *'any other reason that justifies relief'"* (Doc. No. 38) and its Memorandum of Law and Brief in Support thereof (Doc. No. 39), and (A/3): Plaintiff's verified complaint/petition, in part, involving legal matters, issues and controversies with U.S. constitutional provisions of law, Establishment Clause challenges, Free Exercise Clause violations or rights being curtailed by the Court and Clerk Office or reduced to ***statutory levels*** of Civil Rights (42 U.S.C. §1983) with the "Nature of Suit" listed or assigned as ("440 Civil Rights: Other") advanced by governmental actors under the ***color of law***, and (A/4): "Amended Complaint" manifested by Rule 8 *conformity*, burdening substantially more speech than was necessary to achieve a compelling reason or curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague, as applied, and (A/5): Misapplication or Mistake of Law, or a manifest error of law or fact in this ruling, and (A/6): "Defendants' motion be stricken from the record, or in the alternative, denied or such other relief as the Court deems proper" pursuant to Plaintiff requests, motions and opposition set forth in (Doc. Nos. 53, 54), and (A/7): Plaintiff's ***Religiosity of Facts*** (Doc. No. 45) existing as protected speech in notice pleadings established as **"Other Amendments"** as a message of pure speech for religious beliefs."

THE DOJ's MISLEADING POSITION REGARDING CASE LAW FOR **RULE 59(e)**

"'Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence.' *Arnold v. ADT Sec. Servs., Inc.*, 627 F.3d 716, 721 (8th Cir. 2010) (quoting *Hagerman v. Yukon Energy Corp.*, 839 F.2d 407, 414 (8th Cir. 1988)). As Plaintiff acknowledges, a motion for reconsideration is "not a vehicle for simple reargument. Broadway v. Norris, 193 F.3d 987, 990 (8th Cir. 1999) (cited in Pl.'s Mem. of Law & Br. in Supp. 5, ECF No. 57) (affirming denial of motion for reconsideration that 'did nothing more than reargue, somewhat more fully'); accord Arnold v. Wood, 238 F.3d 992, 998 (8th Cir. 2001) (affirming denial of motion for reconsideration that 'largely reasserted contentions made in earlier motions')."

"The **Rule 60(b)(6)** catch-all provision is not a vehicle for setting forth arguments that were made or could have been made earlier in the proceedings. See Broadway v. Norris, 193 F.3d 987, 989-90 (8th Cir. 1999)." Plaintiff ***acknowledges this statement*** not the above, see page 5, ECF No. 57.

"Plaintiff has repeatedly argued that the Court erred in striking his original complaint (ECF Nos. 13-14, 24, 28, 33-34, 38, 40), including filing an unsuccessful petition for mandamus in the Court of Appeals (ECF Nos. 43, 47-48)."

***The following filed documents were not presented as an argument, except for* ECF. No. 38:**

ECF. No. 13

PLAINTIFF'S MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO FILE A RESPONSE TO
The Court's Memorandum and Order dated 23rd day of February, 2017 (ECF No. 8)

ECF. 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)

ECF. No. 24

PLAINTIFF'S NOTICE AND REQUEST FOR A HEARING DATE

ECF. No. 28 (A single notice pleading ruled as insufficient, but many notices are ok)

FIRST NOTICE OF A SHORT AND PLAIN STATEMENT OF THE CLAIM SHOWING
THE PLAINTIFF IS ENTITLED TO RELIEF UNDER THE FIRST AMENDMENT

ECF. No. 33 (A total of 7 "Notices Pleadings" filed; in keeping with Judge Ross' views)

FIRST NOTICE OF 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"

ECF. No. 34 (A total of 7 "Notices Pleadings" filed; in keeping with Judge Ross' views)

FIRST 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"

ECF. No. 38 (Decided, Decreed & Denied as "Moot") *A matter under reconsideration*

PLAINTIFF'S FIRST MOTION TO REVIEW, ALTER, AMEND, OR VACATE ORDERS
PURSUANT TO PLAINTIFF'S FREE EXERCISE OF PURE SPEECH OF RELIGIOUS BELIEFS
AND/OR, IN THE ALTERNATIVE,
FOR RELIEF FROM ORDERS PURSUANT TO FED. R. CIV. P. RULE 60(b)(6)
"any other reason that justifies relief"

ECF. No. 40

PLAINTIFF'S FIRST NOTICE TO 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

ECF. No. 40 (8th Circuit denied the Petition for relief making no response about its merits)

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)

Defendants never raised any objection, motion(s) or denied any of the above matters or notices.

"This Court has repeatedly rejected Plaintiffs' arguments. (ECF Nos. 18, 29, 36, 42.)"

FOR THE RECORD, Plaintiff did not present repeated arguments to the Court rather, presented several requests, notices and a motion for leave for extension of time and to amend summons.

JOHN M. BODENHAUSEN, *Magistrate Judge*. (Doc No. 8)

This matter is before the Court on Plaintiffs' Motion for Leave to Amend Summons (ECF No. 6) of the Original Verified Complaint for Declaratory Judgment, Injunctive and Other Appropriate Relief in This Petition for Quintessential Rights of the First Amendment ("Complaint")(ECF No.1)

JOHN A. ROSS, District Judge. (Doc No. 18)

This matter is before the Court on Plaintiff's pro se Motion for Extension of Time to File a Response to the Court's Memorandum and Order dated 23rd day of February, 2017 (Doc. No. 12). On February 23, 2017, after a review of the Original Verified Complaint for Declaratory Judgment, Injunctive and Other Appropriate Relief in This Petition for Quintessential Rights of the First Amendment ("Complaint") (Doc. No. 1),

JOHN A. ROSS, District Judge. (Doc No. 29)

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). 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."

AUDREY G. FLEISSIG, District Judge. (Doc No. 36)

This matter is before the Court on Plaintiff's motion for extension of time (ECF No. 35). Nevertheless, the Court will grant a limited additional period of time to Plaintiff to file an amended complaint.

AUDREY G. FLEISSIG, District Judge. (Doc No. 42)

Before the Court are certain documents received by the Court for filing by plaintiff Terry Lee Hinds as of May 23, 2017.

Therefore, plaintiff's "exhibits" contained in his "First Notice and Demand for Mandatory Judicial Notice in Support of Plaintiff's Free Exercise Right to Make a Complaint/Petition Judicial Notice #1" were returned to him on May 23, 2017. In lights of plaintiff's failure to comply with the Court's prior Memorandum and Order, the Clerk of Court will once again be instructed, by Order of this Court, to continue to return to plaintiff any additional "exhibits" or "notices" filed by plaintiff not presented in support of an amended complaint or non-frivolous motion in this matter.

Actually from a Judge who has never declared or acknowledge she read or review the complaint.

"Plaintiff raises no new legal or factual ground justifying reconsideration.
The Court should deny Plaintiff's motion on this basis alone."

Plaintiff's 59(e) motion is not being used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to the entry of judgment. However, a *"factual ground justifying reconsideration"* does exist. Because, ***clear abuses of discretion*** and "it is necessary to correct errors of law or fact and prevent manifest injustice, when Plaintiff was denied a full and fair opportunity to litigate his claims and thereby preventing the Plaintiff from receiving adequate redress." Page 9 (ECF. No. 57). In brevity, Plaintiff's legal and factual grounds, in part, as set forth in his MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF (ECF. No. 56):

PAGES 6 & 7:

(D). Rule 46. Objecting to a Ruling or Order driven or controlled by Rule 54(a)(b), *inter alia.*
(a). *Pure Speech of Religious Belief and the Sacred rights of Conscience as Protected Speech*
"Plaintiff request the [OVC/Petition] be reinstated as the ruling or *decision* of excluding evidence or an order striking this pleading is unconstitutional and should be vacated, ***as manifest errors of law or fact***, to wit:"

"However, the Court notes that Plaintiff's originally-filed complaint, brief in support, and exhibit list (ECF Nos. 1-3) have been stricken by the Court. ECF No. 8. As a result, Plaintiff cannot incorporate those filings into his amended complaint. Therefore, to the extent the amended complaint references Plaintiff's previously-filed complaint, brief and support, and exhibits, those provisions will be stricken." [July 11, 2017 Ruling] page 2, last paragraph.

"These actions adjudicates claims and rights, inter alia." "Plaintiff has addressed such issues or matters in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#28"

PAGE 7:

II. Seven Primary Arguments as Issues Presented for Reconsideration, to Rectify and Relief

"Plaintiff argues [July 11, 2017 Ruling] has erroneous judgements, decrees, or decisions, as a matter of law that, if not corrected will result in a manifest injustice or create a clear or reversible errors."

PAGES 7 & 8:

"(A/1): *The Bad faith in Crafty Bespeaks Defenses for Extension of time, inter alia"*

"Plaintiff's motion and detailed brief, was clear, Defendant's motion and request in (Doc. No. 51) 'is improper, or without legal foundation utilizing inapposite cases and should be stricken, or in the alternative, denied.' Moreover, surprise, "In the Eyes of Carrie Costantin, 'Respectfully submitted,'" a motion without proper notice of entry or her name represented on the docket sheet. Accompany with an orphan brief and clear prejudice to manifest a 'responsive pleading within sixty (60) days of this order'."

"Plaintiff has addressed such issue or matter in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#29"

PAGES 8, 9 & 10:

"(A/2): 'As a final matter' *a Standard of Moot vs. a Clear Abuse of Discretion"*

"The Court *de facto* judgement or as a non-final order decreed **(As a final matter)**, manifested injustice or abuse for an *unmerited period* of eight weeks; only ***to produce the right moment*** for a Judge to validate ***'prejudicial error'***. Thereby a ruling, and not a motion ***manifests applied insignificance*** or rendered it oddly moot."

"In any event, a court has the ***power to revisit its prior decisions*** when ***"the initial decision was 'clearly erroneous and would work a manifest injustice'."*** Starks v. Rent-A-Center, 58 F.3d 358, 364 (8th Cir.1995); (quoting Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 817, 108 S. Ct. 2166, 100 L.Ed.2d 811 (1988))."

"Plaintiff has addressed such issues or matters in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#30"

PAGES 10, 11 & 12:

"(A/3): *This Court as the adversary, not as the arbiter for justice"*

"This argument and issues proceeds under, the United States Constitution and the Supreme Court's doctrine of the separation of powers, and Plaintiff's free exercise of the First Amendment. Plaintiff argues [July 11, 2017 Ruling] *manifest injustice* when advancing a doctrine of deception asserting 'Although Plaintiff's Hybrid Pleading does not comply with the Court's orders to file a short, plain statement'. Plaintiff *constitutional holds* the Court or a Judge can be or exist as ***'one's advocate'*** however, not as one's adversary, manifesting itself as the Devil's Advocate, especially when the Defendants have not raised any objections, answers or defenses to this First Amendment case and its controversies. Plaintiff's [OVC/Petition] concerns Constitutionally Protected Interests of U. S. constitutional provisions of law, Establishment Clause challenges, Free Exercise Clause violations and rights. However, reduced by the Court and Clerk Office to a ***statutory level*** known as Civil Rights (i.e. 42 U.S.C. 1983) with the 'Nature of Suit' listed or assigned as ('440 Civil Rights: Other') advanced by governmental actors under the ***color of law*** or serving as a Devil's Advocate."

Judge Fleissig is acting as Plaintiff's adversary and not as the arbiter for justice by proclaiming:

"The Court has also reviewed Plaintiff's requests to change the 'Cause' on the Court's docket sheet because '42:1981 Civil Rights' is an inaccurate representation of his case. The Court will order the clerk of the court to update the 'Cause' to reflect that this matter asserts violations of Plaintiff's constitutional (i.e. civil) rights, which may be brought under 42 U.S.C. § 1983."

"As to Plaintiff's objections to the 'Nature of Suit,' the Court finds that '440 Civil Rights: Other' most accurately represents the claims brought by Plaintiff. However, the Court will instruct the Clerk of the Court to mail to Plaintiff documents listing the 'Nature of Suit' codes and their descriptions. If Plaintiff wishes to assign a different code to his case, he may file such a request, including the proper code, with the Court."

"IT IS FURTHER ORDERED that the Clerk of the Court will change the 'Cause' listed on the docket sheet to reflect that the matter is brought pursuant to § 1983."

"IT IS FINALLY ORDERED that the Clerk of Court will mail a blank civil cover sheet and civil nature of suit code descriptions sheet to Plaintiff."

"These matters were not addressed in Defendants' motion or its ***orphan brief*** in support thereof or presented as an issue by the Plaintiff to be of the framework of [July 11, 2017 Ruling]. Plaintiff is surprise any Federal Judge b**elie**ves that constitutional rights or claims are somehow reduced as a statute ***'to reflect that the matter is brought pursuant to § 1983'."*** "Plaintiff has addressed such matters or issue in a Statement of the Issues Presented and Assignment of Errors, more particularly described in Exhibit U#31"

PAGES 12 & 13:

"(A/4): *'Amended Complaint' is* [To LIVE as EVIL]"

"The legal theory of an *'Amended Complaint'* is a policy and custom of the Court. Consequently in this First Amendment case this policy and practice ***is not a valid exercise of discretion.*** Plaintiff's case is seeking "DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE

RELIEF", but this practiced custom as developed into a forum with a *designed result,* advancing [A Complacent Policy of Indifference to Evil] *per se* ('[To LIVE as EVIL]'). Plaintiff assert that the legal standard applied by this District Court, misinterpreted Rule 15(a)(2) and the precedent established in *Foman v. Davis,* 371 U.S. 178, (1962)."

"This Court so called ***'amended complaint'*** is not created by any Federal Statute or even within Fed. R. Civ. P. Rule 8. An ***'amended complaint'*** established by Court order or interpreted as Rule 8 conformity; has burden substantially more speech than was necessary to achieve a compelling reason or curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague, as applied. [To LIVE as EVIL] becomes self-evident when the Court decided that Plaintiff's motion (Doc. No. 38) was 'moot' because the Court erred in its decision that (Doc. No. 44) would suffice as an "amended complaint" or ***'does not comply with the Court's orders to file a short, plain statement'***."

"Plaintiff addressed such matters or issue in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#32"

PAGES 13 & 14:

"(A/5): *Misapplication, mistake of law or a manifest error of law or fact"*

"The Court has relies on erroneous conclusions of law; or misapplies its factual or legal premises. Plaintiff assert that the legal standard applied by district court's opinion or decisions ignored Rule 15(a)(2) and ***the precedent established by the Rule of Law***, being more particularly described in Exhibit U#36"

"An *'amended complaint'* practice is a misapplication, mistake of law or a manifest error of law or fact. Rule 15(a)(2) "Other Amendments" governs 'notice pleadings' in furtherance of a compelling governmental interest using the least restrictive means of furthering that compelling governmental interest. But according to the Court, [OCV/Petition] does not exist. A complaint must exist before 'Other Amendments' can take effect in application to the legal process. Pursuant to Fed. R. Civ. P., Rule 15(a)"

"'Amendments Before Trial' with Rule 15(2) endorses "Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.'"

"Defendants have made a claim in their *orphan brief* that 'notice pleadings' *aka other amendments*

before trial is the same as 'June 14 Filings'." The Court's [July 11, 2017 Ruling] manifested this:

"Plaintiff argues that Rule 8 does not authorize the Court to construe the June 14 Filings as an amended complaint. However, ***'captions do not control' a filing if the body of that filing*** presents a claim. See Estate of Snyder v. Julian, 789 F.3d 883, 886 (8th Cir. 2015)." (Emphasis added)

In fact, *captions do not control,* if the body of a ***post-trial motion*** or *memorandum* presents a claim.

"IT IS HEREBY ORDERED that Plaintiff's Hybrid Pleading Making a Conscientious Effort to Comply with Court's Orders Manifesting an Amended Complaint (ECF No. 44) is construed as an amended complaint." ***This is a misapplication, mistake of law or a manifest error of law or fact.***

"Plaintiff addressed such matters or issue in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#33"

PAGES 14 & 15:

"(A/6): *The Merits, a Lack of Due Process and stricken from the record"*

"Plaintiff avers Defendants ***never filed a motion to dismiss***, nor did Plaintiff ask, argued, or moved the Court that he should be allowed to amend his [OVC/Petition] to remedy the alleged violations or shortcomings of Rule 8."

"But, the Court cited an **'unpublished'** opinion, manifesting error of law or fact, for an [OVC/Petition] that was stricken from the record based on **formalities**, however '*Courts generally prefer to decide claims on their merits instead of on their pleadings*.' Wisdom v. First Midwest Bank, of Poplar Bluff, 167 F.3d 402, 409 (8th Cir. 1999)." See [July 11, 2017 Ruling] page 1, 2nd para. However, initially *Plaintiff's claims were never decided on the merits*, rather formalities leaving "substantial" constitutional questions and the evidence presented to be stricken from the record by the unbridled power of discretion and decree."

"A ***lack of due process*** prevails again, when Plaintiff's motion was utterly ignored about matters

stricken from the record:

Plaintiff 'hereby request and move the Court *to manifest a legal ruling and order in accordance with Federal Rules of Civil Procedure and within Plaintiff's legal and constitutional rights*, that the Defendants' 'Motion to Strike Filings or, in the Alternative, for an Extension of Time' (Doc. No. 51) ***is improper, or without legal foundation utilizing inapposite cases and should be stricken, or in the alternative, denied.'"*** See Plaintiff motion (Doc. No. 54) (Emphasis added)

"Plaintiff is claiming the protection of the laws when he receives an injury. Plaintiff addressed such matters or issue in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#34"

PAGES 15 & 16:

"(A/7): *Notice Pleadings with the 'Religiosity of Facts'* 1 to 7. (ECF No. 45.)"

The Court, and DOJ has continue to fail at pursuing the truth, especially when the Defendants in

their 12(f) motion pursued, in part, in striking the entire breathe of Plaintiff's notice pleadings:

"The documents in the second set are titled 'Plaintiff's Conscientious Effort to Comply with Court's Orders to Manifest an Amended Complaint within a Religiosity of Facts' and labelled

'Religiosity of Facts' 1 to 7. (ECF No. 45.)" See Defendants' Motion (Doc. No. 51) page 1.

The DOJ never brought up this matter up in their response; nor the Court, as a matter of law and fact or issue a decision about Plaintiff's *Notice Pleadings with the "Religiosity of Facts"* 1 to 7.

"The Court, manifesting a First Amendment and *due process* violations by failing to acknowledge or address 'Religiosity of Facts' *de facto* rebuffing *sincerely held religious beliefs* of the Plaintiff. Plaintiff addressed such matters or issue in the Statement of the Issues Presented and Assignment of Errors, being more particularly described in Exhibit U#35"

"Not only is it improper, Plaintiff's motion for reconsideration fails on its merits because, as the Court properly held (ECF No. 55), Plaintiff's request to restore his original complaint is moot."

PLAINTIFF'S FIRST MOTION TO REVIEW, ALTER, AMEND, OR VACATE ORDERS (Doc. No 38) was pronounced as "moot" ***not*** an "original complaint is moot." The Court erred, for many reasons.

In reply to this misdirection, Plaintiff's set forth the following in (ECF. No. 54), in part, declaring:

"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."*

Besides, in Plaintiff's MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF (ECF. No. 56):

"Plaintiff's Motion (ECF No. 38) has a substantial effect or outcome on core issues and fundamental rights that are not beyond the reach of the law. The *abuse of discretion* conducted by Judges in this case is a common factor. Judge Fleissig's [July 11, 2017 Ruling] insipid decision decreed, in part:

As a final matter, Plaintiff, in his Motion to Review, Alter, Amend or Vacate Orders (ECF No. 38), sought relief from the Court's previous orders requiring him to file an amended complaint (ECF Nos. 8, 18, and 29). The Court has interpreted ECF No. 44 as an amended complaint. Therefore, the relief sought in Plaintiff's Motion to Review, Alter, Amend or Vacate Orders will ***be denied as moot.***" (Emphasis added). See Pl.'s Mem. of Law & Br. in Supp. 8-9, ECF No. 57.

And

"IT IS FURTHER ORDERED that "Plaintiff's First Motion to Review, Alter, Amend, or Vacate Orders Pursuant to Plaintiff's Free Exercise of Pure Speech of Religious Beliefs and/or, in the Alternative, For Relief from Orders Pursuant to Fed. R. Civ. P. Rule 60(b)(6)" (ECF No. 38) is **DENIED as moot**." See Pl.'s Mem. of Law & Br. in Supp. 9, ECF No. 57.

The Court never decided or decreed Plaintiff original complaint is moot. Rather, Judge Fleissig's [July 11, 2017 Ruling] wrongfully determined Plaintiff's ***pure speech*** (ECF. No. 38) was "moot".

PLAINTIFF'S FIRST MOTION TO REVIEW, ALTER, AMEND, OR VACATE ORDERS PURSUANT TO PLAINTIFF'S FREE EXERCISE OF PURE SPEECH OF RELIGIOUS BELIEFS AND/OR, IN THE ALTERNATIVE, FOR RELIEF FROM ORDERS PURSUANT TO FED. R. CIV. P. RULE 60(b)(6)
"any other reason that justifies relief

In spiritual stake in First Amendment values, PURSUANT TO PLAINTIFF'S FREE EXERCISE OF PURE SPEECH OF RELIGIOUS BELIEFS; Plaintiff relies upon and submits evidence that is self-authenticating pursuant to Fed. R. Civ. P., Rule 902(5). The following item of evidence is self-authenticating and require no extrinsic evidence of authenticity in order to be admitted. The published government document concerns the **"FIRST AMENDMENT – RELIGION AND FREE EXPRESSION"** and it bears the seal as an official publication of the Government Printing Office, being more particularly described in Exhibits Z #1, attached hereto and incorporated by reference as if fully set forth herein. The facts in this document are "viewed in the light most favorable to the [Strouds]." See Torgerson v. City of Rochester, 643 F.3d 1031, 1042 (8th Cir. 2011) (en banc).

"Plaintiff has filed an amended complaint.
The amended complaint replaced Plaintiff's original complaint."

Again, For the Record, Plaintiff has not filed "amended complaint" rather filed a hosts of "Other Amendment" serving as Notice Pleadings". The Defendants have cited the following authority, only, in part, thus declaring in: *"Cartier v. Wells Fargo Bank, N.A.*, 547 F. App'x 800, 803 (8th Cir. 2013) ("[I]t is well-established that an amended complaint supersedes an original complaint

and renders the original complaint without legal effect."); *accord Blando v. Nextel West Corp. (In re Wireless Tel. Fed. Cost Recovery Fees Litig.)*, 396 F.3d 922, 928 (8th Cir. 2005)"

However, and more importantly, the Defendants failed to read or want to recognize the very next paragraph express as ***"This court, however, does recognize an exception to the amended complaint rule."*** as held and quoting In re: ATLAS VAN LINES, INC. v. Poplar Bluff Transfer Company; 209 F.3d 1064 (2000). *In re Wireless Tel. Fed. Cost Recovery Fees Litig.)*, 396 F.3d 922, 928 (8th Cir. 2005) the Court precedent held and is clear about ***a party to amend its complaint***:

"However, when a district ***court orders a party to amend its complaint***, or when ***the decision to amend is otherwise involuntary***, the question of ***proper removal*** must ***be answered by examining the original rather than the amended complaint***. Atlas, 209 F.3d at 1067 (citing Humphrey v. Sequentia, Inc., 58 F.3d 1238, 1241 (8th Cir.1995))." (Emphasis added)

"We held that such a motion was involuntary because the plaintiff faced the Hobson's *choice of amending his complaint or* ***risking dismissal.*** There, we explained that the *plaintiff was confronted with a* ***patently coercive predicament*** *in that the plaintiff could either file an amended complaint or risk dismissal of her entire case*. Atlas, 209 F.3d at 1067." (Emphasis added)

Plaintiff's case, *a case of first impression in several respects* under a hindsight precedent, has this Plaintiff confronted with a ***patently coercive predicament in*** that the Plaintiff could either file "Other Amendments" to manifest an amended complaint or ***risk dismissal of his entire case***.

"Therefore, even if the Court were to consider Plaintiff's repeated argument,
it should once more deny as moot Plaintiff's request to restore his original complaint."

Plaintiff is at a lost as to this above statement. This statement has nothing to do with the elements or grounds of granting or denying a 12(f) motion to strike or for the extension of time. This Court's surreal decisions about civil rights status, or waiting 9 weeks to make a ruling to dismiss legal and constitutional rights as simply as "moot" is deciding issues outside of those the parties presented for determination. Plaintiff has evoked applicable legal standard for reconsideration, to rectify the

issues presented and for relief. Plaintiff is exercising his constitutional rights to petition and protest while preserving a right to appeal at a later date, if necessary. The Defendants in their response failed to address the issues and matters to be reconsider in the **Court's Ruling of July 11, 2017** to correct clear errors of law and prevent manifest injustice under Rule 59(e), in conjunction with obtaining relief from a proceeding & Order pursuant to Fed. R. Civ. P., Rule 60(b)(1)(4)(6) OR, IN THE ALTERNATIVE, Federal Rule of Civil Procedure Rule 54(a)(b) and Rule 46- Objecting to a Ruling or Order. *Plaintiff under the rule of law has a* ***spiritual stake in First Amendment values***.

III. Conclusion

Because, Plaintiff seeks to *correct clear errors of law* and *prevent manifest injustice* with the Court mistakenly decided issues outside of those the parties presented for determination are such matters upon which to predicate a motion to reconsider. Plaintiff requests that his motion be granted.

Executed this 4th day of August, 2017

Respectfully submitted,

TERRY LEE HINDS, Plaintiff, *Pro se*
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 4th day of August, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7015-3430-0000-3764-9370 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 TLH

Signatures of

Attachment: 1 Exhibit of 300 pages

TERRY LEE HINDS, *Pro se,* Plaintiff