

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

In the Matter of:	}	
	}	
TERRY LEE HINDS,	}	
<i>Pro se,</i>	}	CIVIL ACTION
Plaintiff,	}	FILE NUMBER: 4:17 - CV – 750 AGF
	}	
-Vs-	}	
	}	
“UNITED STATES” GOVERNMENT,	}	
	}	
Defendants.	}	

**PLAINTIFF’S SECOND CONSTRUCTIVE NOTICE PERTAINING TO THE COURT’S
May 26th, 2017 Ruling & April 11th, 2017 Ruling & February 23rd, 2017 Ruling
[Constructive Notice vs. Actual Notice]**

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*; providing formal Notice to all interested parties, whereby submits PLAINTIFF’S SECOND CONSTRUCTIVE NOTICE PERTAINING TO THE COURT’S May 26th 2017 Ruling & April 11th 2017 Ruling & February 23rd 2017 Ruling in opposition with Actual Notice having a basis in law and fact. In support of this Constructive Notice vs. Actual Notice, Plaintiff states or show the Court as follows:

I. CONSTRUCTIVE NOTICE & LEGAL FICTION

1). ***Constructive notice*** is the ***legal fiction*** that signifies that a person or entity should have known, as a reasonable person would have, of a legal action taken or to be taken, even if they have no

actual knowledge of it.

2). What is **LEGAL FICTION**? (Black's Law Dictionary Online Legal Dictionary 2nd Ed.)

“Believing or assuming something not true is true. Used in judicial reasoning for avoiding issues where a new situation comes up against the law, changing how the law is applied, but not changing the text of the law.” See <http://thelawdictionary.org/legal-fiction/>

District Judge Fleissig’s May 26th 2017 Ruling - (Doc. No. 42)

1.) The May 26th 2017 Ruling, a clear abuse of discretion & works a manifest injustice:

IT IS HEREBY ORDERED that plaintiff must file an amended complaint in compliance with Federal Rules of Procedure 8 and 10 **no later than June 15, 2017.**

IT IS FURTHER ORDERED that “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,” interpreted as a motion for reconsideration of the Court’s Order requiring plaintiff to file an amended complaint, is **DENIED.**

IT IS FURTHER ORDERED that the Clerk shall maintain, in paper format only, the exhibits attached to “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.”

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.

2.) The May 26th 2017 Ruling, in part, also advancing this Court’s legal fiction:

Plaintiff’s May 19, 2017 filing creates a de facto Ruling for an act under the color of law

Before the Court are certain documents received by the Court for filing by plaintiff Terry Lee Hinds as of May 23, 2017. On May 23, 2017, the Court received a one-inch-thick stack of

documents entitled, “First Notice and Demand for Mandatory Judicial Notice in Support of Plaintiff’s Free Exercise Right to Make a Complaint/Petition Judicial Notice #1.” In addition, on this same date, plaintiff has submitted another one-inch-thick stack of documents entitled, “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.”

Although the first set of documents submitted by plaintiff contained the word “complaint” in the heading, the documents presented to the Court were, in actuality, nothing more than, “exhibits” gathered from filings in other courts around the nation and presented to this Court as a “package” of purported “evidence” in support of plaintiff’s assertions. In other words, none of the documents submitted by plaintiff contained plaintiff’s own writings.

The Court’s order of May 12 “will not entertain any similar motions” vs. notices and exhibits

As plaintiff was told in the Court’s May 12, 2017 Memorandum and Order, this Court will no longer accept any additional frivolous “notices” and “exhibits” from plaintiff that are devoid of factual allegations. 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.

Legal Rulings allowed by Non Judge(s) on evidentiary matters & “notices”

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.

Plaintiff’s Notice (Doc. No. 35) transformed into a surreal “motion for reconsideration”

The Court has also reviewed “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," as well as the documents attached as an exhibit to plaintiff's Notice. The Court interprets this Notice as a motion for reconsideration of the Court's May 12, 2017 Memorandum and Order requiring plaintiff to file an amended complaint in this action. In his Notice, plaintiff argues that he believes his original, verified complaint is not "groundless or meritless."

This Court has already found that plaintiff's original complaint failed to comply with Rule 8 of the Federal Rules of Civil Procedure. The Court then Ordered, on February 23, 2017, for plaintiff to file an amended complaint in this action. Plaintiff has on several occasions been granted an extension of time to file an amended complaint in compliance with this Court's Orders, but he has failed to do so, instead having filed more than seventeen other motions or documents in this matter that appear to have any basis in law or fact. If plaintiff wishes to proceed in this action, he must file an amended complaint in this action that comports with this Court's prior Orders and complies with Federal Rules of Procedure 8 and 10. His motion for reconsideration of the Court's prior Orders requiring him to file an amended complaint will be denied. Further, the exhibits attached to "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" will not be scanned into the Court's electronic filing system due to the frivolous nature of the exhibits and the excessive page length. The Clerk will be instructed to maintain the exhibits in paper format.

District Judge Ross' April 11th 2017 Ruling - (Doc. No. 29)

1). The April 11th 2017 Ruling, *in part, manifesting a patently coercive predicament:*

IT IS HEREBY ORDERED that Plaintiff shall file an amended complaint in conformity with the requirements of Rule 8 no later than Friday, May 19, 2017. ***Plaintiff is again cautioned that failure to do so may result in dismissal of this action. (Emphasis added)***

2). The April 11th 2017 Ruling, in part, also advancing this Court's legal fiction:

“he seeks to incorporate the entirety of his original complaint”

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 find 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,

[A]verment vs. [A]llegation

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.”

Magistrate Judge Bodenhausen's February 23rd 2017 Ruling - (Doc. No. 8)

1). The February 23rd 2017 Ruling, curtailing Plaintiff's right to petition and protest

IT IS HEREBY ORDERED that Plaintiff shall file an Amended Complaint in conformity with the requirements of Rule 8 no later than March 20, 2017.

2). The February 23rd 2017 Ruling, in part, also advancing this Court's legal fiction:

Rule 8(e)(1) is pursuant to 2006 Edition of Fed. R. Civ. P.

In the Complaint, *pro se* Plaintiff seeks monetary damages, declaratory relief, equitable relief, and injunctive relief, naming as Defendant the United States Government. Plaintiff purports to allege numerous constitutional violations in the 547-page Complaint with 4,451 paragraphs. 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."

II. ACTUAL NOTICE HAVING A BASIS IN LAW OR FACT

- 1). Conveying facts to a person with the intention to apprise that person of a proceeding in which his or her interests are involved, or informing a person of some fact that he or she has a right to know and which the informer has a legal duty to communicate. This is known as actual notice.
- 2). However, the *constructive notice* pertaining to the Court's May 26th 2017 Ruling & April 11th 2017 Ruling & February 23rd 2017 has or maintains the *legal fiction* that Plaintiff's original verified complaint/petition failed to comply with Rule 8 conformity of which entails a "short and plain statement of the claim(s)" and that "[e]ach averment of a pleading shall be simple, concise, and direct." The FIFTH DECLARATION OF TERRY LEE HINDS, in part, is evidence of Rule 8 conformity and the facts in support of First Amendment challenges and violations in this case.
- 3). For the record, the **April 11th 2017 Ruling** never dismissed Plaintiff's notice pleading (Doc. No. 28) manifested as "Other Amendments" pursuant to Fed. R. Civ. P., Rule 15(a)(2).
- 4). For the record, see Plaintiff's notice pleading (Doc. No. 28):

FIRST CLAIM FOR RELIEF

Violation of the Free Exercise Clause in the Right of Religion & Belief, *inter alia*
Violations of the Establishment Clause of the First Amendment of the U.S. Constitution
Declaratory Judgement, Injunctive and other Appropriate Relief

- 5). This Court's legal practice with Federal Rule of Civil Procedure, Rule 8 conformity in this case are in practical effect, a quarantine on established constitutional or legal rights, invading the safe harbors of personal thoughts, as well as, depriving a natural person of the legal shelters found in a Nation's constitutional design or within the rule of law.

6). To advance the legal grounds, evidence and the merits of Plaintiff's civil action and the legal activities in this case, Plaintiff submits the FIFTH DECLARATION OF TERRY LEE HINDS in support of this Notice and in opposition to this Court's *legal fiction*. Plaintiff actual notice of "short and plain statement of the claim(s)" and that "[e]ach averment of a pleading shall be simple, concise, and direct" was a status existing within the Plaintiff's original verified complaint/petition.

7). Plaintiff's FIFTH DECLARATION OF TERRY LEE HINDS is set forth and attached hereto and incorporated by reference as if fully set forth herein. This Declaration is an actual notice having a basis in law and fact and is evidence, which is also establish in support of Plaintiff's Hybrid Pleading Making a Conscientious Effort to Comply with Court's Orders Manifesting an Amended Complaint and labelled (Revelation #1 to #7) (ECF No. 44) and 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.).

8.) Plaintiff provides this [Constructive Notice vs. Actual Notice] with the hope he can preserve his legal rights and that this Court has the power to correct an abuse of discretion, prevent manifested injustice or allow relief from an order due to: (1) mistake, inadvertence, surprise, or excusable neglect; (2) the judgment is void, as a matter of law, (3) any other reason that justifies relief, or worst the *nature driven prejudices* with *Pro se* complaints.

9). **For the record**, this is not the form of a motion, rather [Constructive Notice vs. Actual Notice].

10). U.S. Supreme Court precedent as held in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), in part: "A given law might not establish a state religion, but nevertheless be one "respecting" that end in the sense of being a step that could lead to such establishment, and hence offend the First Amendment."

and

“In the absence of precisely stated constitutional prohibitions, we must draw lines with reference to the three main evils against which the Establishment Clause was intended to afford protection: ‘sponsorship, financial support, and active involvement of the sovereign in religious activity.’”
Walz v. Tax Commission, 397 U. S. 664, 397 U. S. 668 (1970).

Respectfully Submitted,

TERRY LEE HINDS, *pro se Plaintiff*
438 Leicester Square Drive
Ballwin, Missouri 63021
PH (636) 675-0028

Dated this 22st day of August, 2017

CERTIFICATE OF SERVICE AND DELIVERY

I hereby certify that the foregoing was filed this 22st day of August, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-6989 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

TERRY LEE HINDS, *Pro se, Plaintiff*