

**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.	}	

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**PLAINTIFF’S THIRD CONSTRUCTIVE NOTICE PERTAINING TO THE COURT’S  
July 11<sup>th</sup>, 2017 Ruling & May 5<sup>th</sup>, 2017 Ruling & February 23<sup>rd</sup>, 2017 Ruling  
[Constructive Notice vs. Actual Notice]**

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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*; providing formal Notice to all interested parties, whereby submits PLAINTIFF’S THIRD CONSTRUCTIVE NOTICE PERTAINING TO THE COURT’S July 11<sup>th</sup> 2017 Ruling & May 5<sup>th</sup> 2017 Ruling & February 23<sup>rd</sup> 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 2<sup>nd</sup> 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 July 11<sup>th</sup> 2017 Ruling - (Doc. No. 55)**

**1.) The July 11<sup>th</sup> 2017 Ruling, a clear abuse of discretion & works a manifest injustice:**

**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.

**IT IS FURTHER ORDERED** that Defendant United States Government’s Motion to Strike Filings or, in the Alternative, for an Extension of time (ECF No. 51) is **GRANTED IN PART** and **DENIED IN PART**. Defendant is ordered to file a responsive pleading within **sixty (60) days** of this Order.

**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**.

**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.

**2.) The July 11<sup>th</sup> 2017 Ruling, in part, also advancing this Court’s legal fiction:**

**The policy of unqualified indifference to ECF No. 45 and ECF Nos. 53 & 54**

This matter comes before the Court on Defendant United States Government's Motion to Strike Filings or, in the Alternative, for an Extension of Time. ECF No. 51. In its motion, Defendant argues that Plaintiff Terry Lee Hinds' June 14 Filings (ECF Nos. 44 and 45), if construed as an amended complaint, should be stricken for failure to comply with Rule 8. In the alternative, if the Court were to construe the June 14 Filings as an amended complaint, Defendant requests 60 days to file responsive pleadings. Plaintiff opposes the motion. ECF No. 54-1. The Court will deny in part and grant in part Defendant's motion.

**"A federal court cannot recharacterize a pro se litigant's motion"**

The purpose of Rule 8 is simply to give the opposing party fair notice of the nature and basis or grounds of the claim and a general indication of the type of litigation involved. 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). Therefore, a document filed pro se is to be liberally construed by the Court and held to less stringent standards than formal pleadings drafted by lawyers. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). District courts may construe filings beyond their description in the captions in order to avoid an unnecessary dismissal, to avoid inappropriately stringent application of formal labeling requirements, or to create a better correspondence between the substance of a pro se filing and its underlying legal basis. *See Castro v. United States*, 540 U.S. 375, 381–82 (2003) (internal citations omitted).

**The Art of Misdirection were "captions do not control" "before trial" vs. "post-trial motion"**

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). Upon review

and liberal construction of the June 14 Filings, the Court construes Plaintiff's Hybrid Pleading Making a Conscientious Effort to Comply with Court's Orders Manifesting an Amended Complaint (ECF No. 44), and the attachments thereto, as an amended complaint. Although Plaintiff's Hybrid Pleading does not comply with the Court's orders to file a short, plain statement, the Court finds that Plaintiff has sufficiently pled violations of his First Amendment rights to put Defendant on notice of his claims and allow Defendant to file a responsive pleading.<sup>1</sup>

**"Believing or assuming something not true is true"**

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.

**A Second Bite of the Apple**

The Court next turns to Defendant's request for an extension. Given the length, complexity, and difficult nature of the claims asserted by Plaintiff, the Court will grant Defendant's request for a 60-day extension to file a responsive pleading. Such an extension will not unfairly prejudice Plaintiff, nor is there evidence that the extension was requested in bad faith. Furthermore, this is Defendant's first request for an extension in this matter, and Plaintiff has been given several extensions by the Court to file his amended complaint.

**As a final matter... legal fictions are to law what fraud is to trade**

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.

**[To LIVE as EVIL]**

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.

**District Judge Ross' May 5<sup>th</sup> 2017 Ruling - (Doc. No. 31)**

**1). The May 5<sup>th</sup> 2017 Ruling, *manifesting & advancing a due process violation***

**IT IS HEREBY ORDERED** that the Clerk of Court shall reassign the case to another judge.

**2). The May 5<sup>th</sup> 2017 Ruling, *in part, also advancing this Court's legal fiction:***

***The lack of a due process right or a de novo determination 28 U.S.C. § 636(b)(1)(C)***

On the Court's own motion and after review of the case, I have determined that I disqualify myself to avoid any potential appearance of impropriety. See 28 U.S.C. § 455. I will therefore return the case to the Clerk of Court to assign the case to a different Judge.

**Magistrate Judge Bodenhausen's February 23<sup>rd</sup> 2017 Ruling - (Doc. No. 8)**

**1). The February 23<sup>rd</sup> 2017 Ruling, *based on RICO & Sherman Anti-Trust Act case***

**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 23<sup>rd</sup> 2017 Ruling, in part, also advancing this Court's legal fiction:**

**The Evil in "Word for Word" as revealed for this case**

The Court finds that Plaintiffs have failed to draft the Amended 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)" and "[e]ach averment of a pleading shall be simple, concise, and direct." Fed. R. Civ. P. 8(a) and (e). "Taken together, Rules 8(a) and 8(e)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules." *Ciralsky v. Central Intelligence Agency*, 355 F.3d 661, 669 (D.C.Cir. 2004). "Extreme length alone, of course, will not always constitute a violation of Rule 8." *Reinholdson v. Minnesota*, 2002 WL 32658480 \*2 (D. Minn. 2002) ("Judges are not like pigs, hunting for truffles buried in briefs [or Complaints].") (quoting *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991)).

The Amended Complaint alleges numerous claims for relief, including causes of action based on state law antitrust claims and federal claims pursuant to the Sherman Act and RICO. The Amended Complaint also contains class action allegations. Violations of the short and plain statement rule have included complaints that were too long. See *United States ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, 379 (7th Cir. 2003) (finding 400 paragraphs covering 155 pages asserting numerous variations of fraud instead of a concise statement illustrated by 400 concrete examples of fraud in violation of Rule 8); *In re Westinghouse Secs. Litigation*, 90 F.3d 696, 703 (3d Cir. 1996) (finding a complaint more than 600 paragraphs and 240 pages was too long); *Kuehl v. FDIC*, 8 F.3d 905, 908-09 (1st Cir. 1993) (358 paragraphs in only 43 pages); *Michaelis v. Nebraska State Bar Assoc.*, 717 F.2d 437, 439 (8th Cir. 1983) (144 paragraphs in 98

pages); *Nevijel v. North Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981) (dismissing 98-page complaint containing 144 paragraphs).

Indeed, the Supreme Court has noted the practical importance of “sharpening and limiting the issues” in the pleading stages, to facilitate resolution at the final stage. *O’Donnell v. Elgin, Joliet & Eastern Ry. Co.*, 338 U.S. 384, 392 (1949).

The 973-page Amended Complaint is by virtue of its length alone problematic. Courts are empowered to dismiss excessively wordy complaints because such complaints “make[] it difficult for the defendant to file a responsive pleading and make[] it difficult for the trial court to conduct orderly litigation.” *Vicom, Inc. v. Harbridge Merchant Servs., Inc.*, 20 F.3d 771, 775-76 (7th Cir. 1994) (199-page, 385 paragraph complaint “violated the letter and spirit of Rule 8(a)). Further, courts faced with hopelessly verbose complaints must consider “the right of ... defendants to be free from... costly and harassing litigation.” *Id.* at 776. An unnecessarily long complaint makes it difficult for the Court to conduct an orderly litigation and the Defendants to file a responsive pleading. *Id.* at 775-76.

The Court finds prejudice on the part of Defendants inasmuch as the Amended Complaint’s unnecessary prolixity of the pleading places an undue burden on the responding parties. *Roberto’s Fruit Mkt., Inc. v. Schaffer*, 13 F. Supp.2d 390, 395 (E.D. N.Y. 1998) (quoting *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988)) (“[U]nnecessary prolixity in a pleading places an unjustified burden on the court and the party who must respond to it because they are forced to select the relevant material from a mass of verbiage.”). The Court finds that filing a responsive pleading to the instant Amended Complaint would not only be difficult but costly in terms of time and money especially in light of the complex legal theories advanced in the case. Accordingly, finding the Amended 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 Amended Complaint and grant Plaintiffs leave to replead. As a matter of prudent case management, the Court directs Plaintiffs to file a streamlined and reorganized Amended Complaint removing unnecessary and redundant allegations as required by Rule 8 thereby clarifying and expediting all further proceedings in the case to the advantage of the litigants, counsel, and the Court.

## 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 July 11<sup>th</sup> 2017 Ruling & May 5<sup>th</sup> 2017 Ruling & February 23<sup>rd</sup> 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 SIXTH DECLARATION OF TERRY LEE HINDS, in part, is evidence of Rule 8 conformity and are facts in support of First Amendment challenges and violations in this case.
- 3). The *Evolution of Evil*, in no small measure is found in... our beliefs, practices and personal or legal judgements... and is advanced by law respecting an establishment of religion. The evidence in this case will show that Defendants cannot administer a wicked law impartially. You can only destroy, you can only punish and Plaintiff rightfully warns this Court; that a wicked law, like cholera, destroys everyone it touches, its upholders as well as its defiers. Because fanaticism and ignorance is forever busy and needs feeding. Actual notice given in Plaintiff's Exhibit K#47.
- 4). 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.

5). To advance the legal grounds, evidence and the merits of Plaintiff's civil action and the legal activities in this case, Plaintiff submits the SIXTH 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.

6). Plaintiff's SIXTH 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, or 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.).

7.) 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.

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

9). U.S. Supreme Court precedent as held in *Cantwell v. Connecticut, 310 U.S. 296, 304 (1940)*:  
"Freedom of conscience and freedom to adhere to such religious organization or form of worship

as the *individual may choose cannot be restricted by law*. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts, - *freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be*. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definition to preserve the enforcement of that protection.” (Emphasis added)

Respectfully Submitted,

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

Dated this 23<sup>st</sup> day of August, 2017

**CERTIFICATE OF SERVICE AND DELIVERY**

I hereby certify that the foregoing was filed this 23<sup>st</sup> day of August, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-6996 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*

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TERRY LEE HINDS, *Pro se, Plaintiff*