

**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
	}	FILE NUMBER: 4:17 - CV – 750 AGF
Plaintiff,	}	
	}	
-Vs-	}	
	}	
“UNITED STATES” GOVERNMENT,	}	
	}	
Defendants.	}	

**MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF
PLAINTIFF’S NOTICE THAT THE DISTRICT COURT ERRED, AS A MATTER OF LAW &
FACT WITH THE DISTRICT JUDGE ABUSING HER DISCRETION IN THE [AUGUST 18th,
2017 RULING] (ECF No. 66) THEREBY EXHIBITING A WORK OF MANIFESTED INJUSTICE
AND PURSUANT TO A RULE 60(b)(1)(4)(6) MOTION, IN CONJUNCTION WITH,
PLAINTIFF’S RULE 54(a) HYBRID MOTION TO RECONSIDER VACATING AN ORDER**

TO THE HONORABLE JUDGE OF SAID COURT AND DEFENDANTS:

Please Take Notice and **Comes Now**, 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 this MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF PLAINTIFF’S NOTICE THAT THE DISTRICT COURT ERRED, AS A MATTER OF LAW & FACT WITH THE DISTRICT JUDGE ABUSING HER DISCRETION IN THE [AUGUST 18th, 2017 RULING] (ECF No. 66) THEREBY EXHIBITING A WORK OF MANIFESTED INJUSTICE. PLAINTIFF MOVES THE COURT PURSUANT TO Fed. R. Civ. P., RULE 60(b)(1)(4)(6) MOTION, IN CONJUNCTION WITH, PLAINTIFF’S RULE 54(a) HYBRID MOTION TO RECONSIDER VACATING AN ORDER.

“Accordingly”, EXHIBITING A WORK OF MANIFESTED INJUSTICE

“IT IS HEREBY ORDERED that Plaintiff’s motion to reconsider (ECF No. 56) is **DENIED.**”

According to this Court, the following 16 legal premises, points or precepts as set forth in the [AUGUST 18th, 2017 RULING] (ECF No. 66) manifests a form of decision as the legal grounds in support of the above ORDER. Plaintiff seeks to vacate this Order for the grounds and merits as set forth in this Memorandum and Brief in Support of his Notice and PURSUANT TO A RULE 60(b)(1)(4)(6), MOTION IN CONJUNCTION WITH, PLAINTIFF’S RULE 54(a) HYBRID MOTION TO RECONSIDER. Plaintiff maintains the statements of issues presented and *assignment of errors* set forth herein, are *advancing* or ***accordingly***, exhibiting a collective work of manifested injustice.

“This matter is before the Court...”

“This matter is before the Court on Plaintiff’s motion to reconsider the Court’s July 11, 2017 Order (‘July 11 Order’). ECF No. 56.”

The Judge’s submitted premise recharacterizing a *pro se litigant’s motion*, is a *clear abuse of discretion* as this matter was presented before the Court with a clear legal position set forth as:

PLAINTIFF’S MOTION TO RECONSIDER 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 argues that this Court’s pretense mirrors the fact, that District Judge Fleissig’s July 11th 2017 Ruling - (ECF No. 55) in recharacterizing a *pro se litigant’s* “Other Amendments” (ECF Nos. 44) being construed as an amended complaint, now echoes in the Court characterizing the July 11, 2017 **Memorandum** and Order (ECF No. 55) as a matter emulated as “(‘July 11 **Order**’)”.

In the enclosed caption of Plaintiff’s filings (ECF Nos. 56 & 57) is a legal premise that is precise,

clear and concise. This above enclosed caption was measured by Plaintiff, so unexpressed intention or wants would not confuse the Court or the Defendants thereby to construe the legal premise expressed. However, the Court employed in “July 11 Order” a pretense, that restricts the issues to what was considered *versus* the judgement, proceeding, and the type of relief sought or “*other form of decision*” made; that **Rule 54** evokes, in conjunction with Fed. R. Civ. P., Rule 60(b)(1)(4)(6) & Rule 59(e). The Court issued “Memorandum and Order” without a nexus in Rule 54(a): “*Definition; Form. ‘Judgment’ as used in these rules includes a decree and any order from which an appeal lies.*”. **Rule 54(a)** involves “**IT IS HEREBY ORDERED** that Plaintiff’s motion to reconsider (ECF No. 56) is **DENIED**” thus defines a clear error of law with *a decree and any order*.

An adjudication & recharacterizing THE COURT’S RULING OF JULY 11, 2017 proffered in “July 11 Order” is a misapplication, mistake of law or a manifest error of law or fact. PLAINTIFF’S MOTION TO RECONSIDER THE COURT’S RULING OF JULY 11, 2017 pertains to a large host of issues presented, seeking to correct clear errors of law and prevent manifest injustice. Especially when the Court mistakenly decided issues outside of those the parties presented for determination. Such matters upon which to predicate a motion to reconsider regarding *exceptional circumstances*.

The Issue Presented and Assignment of Error - (#1)

Under due process, the *free exercise clause* and judicial candor, does the unbridled power or discretion prevail when Plaintiff’s motion evoked Fed. R. Civ. P. Rules 54(a) and 59(e) and Rule 60(b)(1)(4)(6) which advances legal rights to correct clear errors of law and prevent manifest injustice, in conjunction with obtaining relief from a *proceeding* on a motion & its **Order**.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when *recharacterizing* a *pro se* litigant’s motion beyond the nexus of protected speech of the First Amendment or to restrict the relief sought under Federal Rules of Civil Procedure?

Answer: Yes.

***“Plaintiff argues, inter alia,” other matters presented but not addressed by this Court
(Doc. Nos. 53, 54, 56, 57, 58 & 62)***

“In his motion, Plaintiff argues, inter alia, that it was a clear error of law when the Court construed his hybrid pleading (ECF No. 44) as an amended complaint, granted Defendant an extension of time to file a responsive pleading, and denied as moot Plaintiff’s motions to vacate the Court’s orders requiring Plaintiff to file an amended complaint.”

The Issue Presented and Assignment of Error - (#2)

Under the *free exercise clause* in right to petition and protest government activity curtailing protected speech, does a District Judge have unbridled discretion to curtail or control Plaintiff’s pure speech when; addressing legal rights, relief sought and issues presented that pertains to Plaintiff’s *free exercise* of religious belief and right of conscience or First Amendment challenges.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when legal matters and arguments presented in Plaintiff’s motion (Doc. No. 56) or in his Memorandum and Brief in Support (Doc. No. 57); that was ignored or properly considered or fully address by the Court or Judge in (ECF No. 66) as a basis of law and fact for the relief sought?

Answer: Yes.

Note: The issues presented, matters for consideration or errors of law listed on page 2 of Plaintiff’s motion declared: “Plaintiff moves the Court to reconsider, rectify its ruling, **or** revisit non-final orders in its discretion, as well as, grant relief from a proceeding or Court order regarding:”

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

“(A/2): ‘As a final matter’ *a Standard of Moot vs. a Clear Abuse of Discretion*”

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

“(A/4): ‘Amended Complaint’ is [To LIVE as EVIL]”

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

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

“(A/7): *Notice Pleadings with the ‘Religiosity of Facts’ 1 to 7. (ECF No. 45.)*”

The above listed issues presented, matters for consideration or errors of law were not addressed.

Defendants' response (ECF No. 59) testing greater leeway not legal sufficiency

"Defendant opposes the motion."

The Issue Presented and Assignment of Error - (#3)

Under Federal Rule of Civil Procedure, Rule 8(a)(2) which requires "a short and plain statement of the claim showing that the pleader is entitled to relief" does, Defendants' 12(f) motion to strike the entire breath and merits of Plaintiff's "notices pleadings" (Doc Nos. 44 & 45) served as or *de facto* is a motion to dismiss, when Fed. R. Civ. P., 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" which manifested any redundant, immaterial, impertinent, or scandalous matter.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Judge misread or misapplied the law ordering Defendants to file a responsive pleading within sixty (60) days of the July 11 Order or the Court failed to recognize the Defendants, 12(f) motion, was in fact or was based as an improper motion to dismiss pursuant to Fed. R. Civ. P., Rule 12(b)(6) or failure to state a claim upon which relief can be granted?

Answer: Yes.

***"As a final matter" an exceptional circumstance relevant only where it bars adequate redress
"in conjunction with Rule 60(b)(1)(4)(6)"***

"A 'motion to reconsider' is not explicitly contemplated by the Federal Rules of Civil Procedure.
Broadway v. Norris, 193 F.3d 987, 989 (8th Cir. 1999)."

The Issue Presented and Assignment of Error - (#4)

Under a nexus, Federal Rules of Civil Procedure, Rule 59(e) "Motion to Alter or Amend a

Judgment,” and **Rule 54(a)** “Definition; Form. ‘Judgment’ as used in these rules includes a decree and any order from which an appeal lies” does; Plaintiff’s motion to reconsider, rectify its ruling, or revisit non-final orders in its discretion encompass or also prevail as a Rule 59(e) motion when; “It is necessary to correct a clear error of law or prevent manifest injustice, the principal element of this motion.” *quoting page 3* (Doc. No. 57).

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Judge ruled Plaintiff’s motion to reconsider was not germane to a 59(e) motion or the Court held **“As a final matter”** “the relief sought in Plaintiff’s Motion to Review, Alter, Amend or Vacate Orders will be denied as moot” (Doc. No. 38) being an *exceptional circumstance* relevant only where it bar adequate redress?

Answer: Yes.

“A Time for Choosing”

“The Court must first determine whether a ‘motion for reconsideration’ is in fact a Rule 59(e) ‘Motion to Alter or Amend a Judgment,’ or a Rule 60(b) ‘Motion for Relief from Judgment or Order.’ *Id.*”

The Issue Presented and Assignment of Error - (#5)

Under the United States Supreme Court precedent in *White v. New Hampshire Department of Employment Security*, 455 U.S. 445, 451, (1982) does, Rule 59(e) provides a means “to support reconsideration [by the court] of matters properly encompassed in a decision on the merits” when the Plaintiff ***legally holds*** the [Memorandum and Order of Judge Fleissig’s Ruling of July 11, 2017], (“[July 11, 2017 Ruling]”) constitutes an opinion, a determination, a judgement, decree or ***“other form of decision”***. A motion to reconsider &/or rectify, filed within ten days following the entry of an order is governed by Fed. R. Civ. P. 59(e) and when it is necessary to correct a clear

error of law or prevent manifest injustice, the principal element of Plaintiff's motion.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion especially when the [July 11, 2017 Ruling] effects the rights and obligations of the parties, the relief requested or *manifests another form of decision* involving *free exercise* violations or Establishment Clause challenges or other pending issues not presented in Defendants' motion (ECF No. 51) or in Defendants' response (ECF No. 59) to Plaintiff's motion Re 56?

Answer: Yes.

Rule 54(a)(b) which can be used to seek reconsideration of interlocutory orders

"Here, Plaintiff's motion for reconsideration is not directed to a final judgment. Instead, it is directed to a nonfinal order."

The Issue Presented and Assignment of Error - (#6)

Under a *system of due process* and the Plaintiff's First Amendment right of pure speech as protected speech does the unbridled power or discretion in the [July 11, 2017 Ruling] (ECF No. 55) and in [AUGUST 18th, 2017 RULING] (ECF No. 66) become the Court's interlocutory orders, when Rule 54(a)(b) which can be used to seek reconsideration of interlocutory orders or when the "Plaintiff moves the Court to reconsider, rectify its ruling, ***or*** revisit non-final orders in its discretion" under Rule 54(a) as set forth and detailed in (Doc. No. 57).

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court issued, in reality or for all practical purposes ***interlocutory orders*** or when the ***Judge decided to stricken from the record*** (ECF Nos. 2-3) or "Here, Plaintiff's motion for reconsideration is not directed to a final judgment. Instead, it is directed to a nonfinal order."?

Answer: Yes.

Note: Interlocutory actions are taken when a Question of Law must be answered by an appellate court.

A Clear Abuse of Discretion

“Therefore, the Court will construe the motion for reconsideration as a Rule 60(b) motion.”

The Issue Presented and Assignment of Error - (#7)

Under the United States Supreme Court precedent in *White v. New Hampshire Department of Employment Security*, 455 U.S. 445, 451, (1982) does, Rule 59(e) provides a means “to support reconsideration [by the court] of matters properly encompassed in a decision on the merits” when the [July 11, 2017 Ruling] (ECF No. 55) in part, manifesting an *evidentiary ruling* as to “Plaintiff’s previously-filed complaint, brief and support, and exhibits, those provisions will be stricken” with [AUGUST 18th, 2017 RULING] (ECF No. 66) encompassing a decision on the merits of Plaintiff’s motion and brief in support (Doc. Nos. 56 & 57) regarding, in part, the merits of (ECF Nos. 2-3).

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when they failed to consider the LAW AND ARGUMENT revealing “I. Applicable Legal Standard for Reconsideration to rectify issues presented and for relief” “(A). Fed. R. Civ. P. Rule 59(e)”, and “(B). Fed. R. Civ. P. Rule 60(b)” and “(C). Fed. R. Civ. P. Rule 54(a)(b)”?

Answer: Yes.

Plaintiff’s “enumerated circumstances” of Rule 60(b)(1)(4)(6) & now judicial inadvertence

“Rule 60(b) allows relief from an order due to: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.”

The Issue Presented and Assignment of Error - (#8)

Under the United States Supreme Court precedent in *White v. New Hampshire Department of Employment Security*, 455 U.S. 445, 450 does the aim to empower district courts “to rectify its own mistakes in the period immediately following the entry of judgment” prevail when Plaintiff’s “*enumerated circumstances*” encompasses Rule 60(b)(1)(4)(6) and embroils *judicial inadvertence* or on the other hand, when the District Court concludes, without listing a single reason how or why Plaintiff has not satisfied his burden under Rule 60(b) thus embracing *judicial inadvertence*.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court elected not to rely on Plaintiff’s “*enumerated circumstances*” of Rule 60(b)(1)(4)(6) as set forth in Plaintiff’s motion, brief in support, & exhibits (Doc. Nos. 56, 57, 58) or the Judge’s *judicial inadvertence*, by failing to set forth *particular reasons* or address the Issues Presented or the Assignment of Errors revealed in exhibits (Doc. No. 58) of such circumstances?

Answer: Yes.

The Law of “exceptional circumstances” & “extraordinary remedy”

“Fed. R. Civ. P. 60(b); *see also Elder-Keep v. Aksamit*, 460 F.3d 979, 984 (8th Cir. 2006). Relief under “Rule 60(b) is an “extraordinary remedy” that is “justified only under ‘exceptional circumstances.’ ” *Prudential Ins. Co. of Am. v. Natl. Park Med. Ctr., Inc.*, 413 F.3d 897, 903 (8th Cir. 2005) (quoting *Watkins v. Lundell*, 169 F.3d 540, 544 (8th Cir. 1999)).”

The Issue Presented and Assignment of Error - (#9)

Under Fed. R. Civ. P. 60(b) being advanced as an *extraordinary remedy* does, Plaintiff’s *exceptional circumstances* as set forth & defined in Plaintiff’s motion, brief in support & exhibits (Doc. Nos. 56, 57, 58) divulge the Judge’s *judicial inadvertence* in (ECF No. 66) when such remedy is necessary to accomplish justice in the light of events contemplated by the moving party,

thereby rendering implementation of the decree inequitable or the *order* from which an appeal lies.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court elected not to rely on Rule 54(a) as a definition of “judgement” or when the Judge did not assess such circumstances against the very high threshold of judicial candor or a Judge’s discretion required for Rule 60(b)(6) relief or from the order which an appeal lies?

Answer: Yes.

The Court’s Adjudications as written in (ECF Nos. 8, 18, 29, 36, 42, 55 & 66)

Further, “[r]elief is available under Rule 60(b)(6) only where exceptional circumstances have denied the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.” *Harley v. Zoesch*, 413 F.3d 866, 871 (8th Cir. 2005).

The Issue Presented and Assignment of Error - (#10)

Under the First Amendment of protected speech of religious belief, Rule 8 conformity and Rule 60(b)(6) does, *exceptional circumstances* of burdening substantially more speech than was necessary to achieve a compelling government interest or curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague, as applied, or when *exceptional circumstances* have denied substantial rights of the Plaintiff or to a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.

Did the District Court erred, as a matter of law or fact and/or a District Judges abused their discretion when the Court failed to meet the high threshold required for a compelling government interest with protected speech or in Judges denying the moving party a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress?

Answer: Yes.

“It is not a vehicle for simple reargument on the merits.”

“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*, 193 F.3d at 989–90.”

The Issue Presented and Assignment of Error - (#11)

Under the free exercise clause in the right to petition and protest, due process of law, or the 8th Circuit Court of Appeals precedent in *Arnold v. Wood*, 238 F.3d 992, 998 (8th Cir. 2001) and in *Sellers v. Mineta*, 350 F.3d 706, 716 (8th Cir. 2003), does Plaintiff’s constitutional rights and the Court’s legal duties under the rule of law upholding Court precedent prevail, when *Broadway*, 193 F.3d at 989–90 pertains to a motion under Rule 59(e) *verses* here ruled as a Rule 60(b) motion.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court did not consider Plaintiff’s constitutional rights, procedural due process or the duty of the Judge to understand Court precedent or apply Rule 60(b)(6) catch-all provision with the proper legal discretion as **“It is not a vehicle for simple reargument on the merits.”**?

Answer: Yes.

Note:

"We review a district court's denial of relief under Fed.R.Civ.P. 60(b) only for abuse of discretion." *Arnold v. Wood*, 238 F.3d 992, 998 (8th Cir. 2001).

We will reverse the denial of a Rule 60(b) motion only upon a showing of a clear abuse of discretion. *Sellers v. Mineta*, 350 F.3d 706, 716 (8th Cir. 2003).

Rule 60(b)(6)’s catch-all provision is to be “used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized only where extraordinary circumstances prevented a party from taking timely action to prevent or correct an erroneous judgment.” *Harvest v. Castro*, 531 F.3d 737, 749 (9th Cir. 2008) (quoting *Latshaw v. Trainer Wortham & Co., Inc.*, 452 F.3d 1097, 1103 (9th Cir. 2006)).

The fundamental requisite of due process of law is the opportunity to be heard. “It is a regular and lawful method of proceeding, practiced from time immemorial.” (quoting *Ex parte Wall*, 107 U.S. 265, 289 (1883)).

“The Court mistakenly decided issues outside of those the parties presented for determination”

“In his motion to reconsider, Plaintiff raises the same arguments that he has advanced in various pleadings throughout this litigation.”

The Issue Presented and Assignment of Error - (#12)

Under the First Amendment in the right to petition and protest, due process of law or the U.S. Supreme Court precedent and a touchstone ruling in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803) does Plaintiff’s constitutional rights, guarantees and protections or a legal right to *procedural due process* prevail, when the Court mistakenly decided issues outside of those the parties presented for determination or when Plaintiff “In his motion to reconsider, Plaintiff raises the same arguments that he has advanced in various pleadings throughout this litigation.”

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court did not properly consider Plaintiff’s constitutional rights and protections in procedural due process or in the duty of the Judge to uphold Court’s precedent or apply proper discretion without advancing or ***accordingly***, exhibiting a collective work of manifested injustice?

Answer: Yes.

Note:

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.”

An artful pretense devises as “carefully reviewed the motion” but no reference to its brief

The Court has carefully reviewed the motion
and concludes that Plaintiff has not satisfied his burden under Rule 60(b).

The Issue Presented and Assignment of Error - (#13)

Under procedural due process of law and a First Amendment right to protest government activity or petition for legal rights; does an undue burden on a First Amendment right to protest or petition government activity or a review with procedural due process of law protect the legal rights of the Plaintiff, when the Court is to liberally construe in the light of Plaintiff's pro se status in regards to legal issues presented or such matters that should be properly addressed by the Judge.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when this Court exhibited an artful pretense devises as "carefully reviewed the motion" but no reference to its ***brief in support thereof*** (Doc. No. 57) was mentioned or when the Judge elected not to address certain issues presented or specified a remedy or relief upon written request?

Answer: Yes.

The Working Art of Adjudication includes "moot" or "frivolous"

"His motion and related filings include arguments that were
or could have been made earlier in the proceedings."

The Issue Presented and Assignment of Error - (#14)

Under *procedural due process of law* or Fed. R. Civ. P., Rule 60(b) does the law prohibit, control or restrict a motion for reconsideration, "in conjunction with obtaining relief from a proceeding & Order pursuant to Fed. R. Civ. P., Rule 60(b)(1)(4)(6)" in *exceptional circumstances* of **moot** or **frivolous** when declared by the Court; denying a moving party a full & fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the relief sought in Plaintiff's Motion to Review, Alter, Amend or Vacate Orders

was denied as moot (Doc. No. 38) or when the Judge ruled Plaintiff's "motion and related filings include arguments that were or could have been made earlier in the proceedings" were "frivolous" (Doc. No. 36) or that the Clerk of Court will "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"? (Doc. No. 42).

Answer: Yes.

Note:

(ECF. No. 36) – 12th day of May, 2017

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.

(ECF. No. 42) – 26th day of May, 2017

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.

The Exclusion of Evidence constitutes an Exceptional Circumstance, inter alia

"Furthermore, Plaintiff has provided the Court with no exceptional circumstances that might constitute grounds for the Court to reconsider its July 11 Order."

The Issue Presented and Assignment of Error - (#15)

Under Fed. R. Civ. P., Rule 60(b) advanced as an extraordinary remedy does, the *exclusion of evidence* constitutes an exceptional circumstance, *inter alia*, when the Court mistakenly decided issues outside of those the parties presented for determination, or as exceptional circumstances of burdening substantially more speech than was necessary to achieve a compelling government interest or curtails speech with Fed. R. Civ. P. Rule 8(a) and 8(d) operating as unconstitutionally vague, as applied, furthermore, when exceptional circumstances have denied substantial rights of

the Plaintiff or to a full and fair opportunity to litigate his claim and have prevented the moving party from receiving adequate redress.

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the relief sought in Plaintiff's motion to reconsider (ECF No. 56) was **DENIED** and when this Court "*construe the motion for reconsideration as a Rule 60(b) motion*" as opposed to or ignored the fact that Rule 59(e) was a valid exercise of discretion, as well as, also *germane*?

Answer: Yes.

Note:

"This matter is before the Court..."

Especially when the Court mistakenly decided issues outside of those the parties presented for determination. Such matters upon which to predicate a motion to reconsider regarding ***exceptional circumstances***.

The Court's Adjudications as written in (ECF Nos. 8, 18, 36, 42, 55 & 66)

The Issue Presented and Assignment of Error - (#10)

The Working Art of Misdirection & Misapplication

IT IS FURTHER ORDERED that, in light of Plaintiff's notice as to the civil cover sheet and civil nature of suit (ECF No. 60), the Clerk of the Court shall assign to this lawsuit a nature of suit code of 950: Constitutional-State Statute, and a cause of action code of 28:2201 Constitutionality of State Statute(s).¹ Plaintiff is advised that the Court cannot assign more than one code to any given action.

¹ Plaintiff correctly points out that while the codes seem to implicate the constitutionality of state, rather than federal, statutes, the civil nature of suit code description for 950 includes an "[a]ction drawing into question the constitutionality of a federal or state statute."

The Issue Presented and Assignment of Error - (#16)

Under the First Amendment right to petition and protest government activity (Congress,

Executive Branch, The Court) does, the procedural due process, the protected speech of pure speech, the religious beliefs of the Plaintiff, or judicial candor prevail, when

“IT IS FURTHER ORDERED that, in light of Plaintiff’s notice as to the civil cover sheet and civil nature of suit (ECF No. 60), the Clerk of the Court shall assign to this lawsuit a nature of suit code of 950: Constitutional-State Statute, and a cause of action code of 28:2201 Constitutionality of State Statute(s) as a true or valid representation the Plaintiff made in (ECF No. 60) or in (Doc. No. 11).”

Did the District Court erred, as a matter of law or fact and/or a District Judge abused her discretion when the Court failed to uphold or maintain Plaintiff’s constitutional and legal rights?

Answer: Yes.

Conclusion

For the forgoing reasons and legal premises noticed & considered, Plaintiff seeks appropriate relief through these motions and request for the Court to manifest a legal ruling and order in accordance to Plaintiff’s legal & constitutional rights or civil liberties. Plaintiff request the Court in accordance with established law, grant his hybrid motions or for such other relief as the Court deems proper.

Respectfully submitted,

Executed this 5th day of September, 2017

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 5th day of September, 2017 and served upon Defendants and its U.S. Attorney, by First class postage prepaid, U.S. Certified mail # 7009-0960-0000-0249-7085 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