Appendix A

Clear and Prejudicial Error of Law and Fact as a Clear Abuse of Discretion
(Facts Necessary to Understand Petitions)
or as parts of the record that may be essential to understand the matters set forth in the petition

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Defects of Justice to Work a Manifest Injustice

FACT: ECF No. 82, on 09/11/2017, the Real Party in Interest, filed a *motion to dismiss*:

"Pursuant to Fed. R. Civ. P. **12(b)(1)** and **12(b)(6)**, the United States requests that the Court dismiss with prejudice ***all counts and claims for relief in Plaintiff's amended complaint***." **Doc. No 44.** "The United States submits the attached memorandum in support of this motion." Emphasis added.

FACT: ECF No. 93, on 12/11/2017, Respondent issued MEMORANDUM AND ORDER thereby accordingly: "**IT IS HEREBY ORDERED** that the motion to dismiss of Defendant United States [ECF No. 82] is **GRANTED**, and the case is dismissed without prejudice."

FACT: The Real Party in Interest's motion was for *lack of subject matter jurisdiction* & *failure to state a claim* re: ***all counts and claims for relief in Plaintiff's amended complaint***. *It was not for summary judgement, or a Rule 12(c) motion for judgment on the pleadings, or; in the alternative, 56(a) motion seeking an order granting summary judgment to them on all counts and claims.*

Egregious Fact*:** *(Departures)* Respondent manifested a *plain error* by granting a motion in favor of *unbridled power, defects of justice,* or for *Federal Sovereign Immunity Doctrine;* invoked by ***vital departures from the law, favoring viewpoint-based discrimination with **Doc. Nos. 28, 33, 34, 44, 45** or viewpoint-based restrictions with **Doc. Nos. 69, 71, 73, 75, 92,** as these documents were made in support of **Doc. Nos. 44**, **45.**

Egregious Fact*:** *(Disruptions)* Respondent unjustly dismissing the entire breadth and merits of Petitioner's case, advancing prejudicial errors of law and fact; manifesting for the Real Party in Interest; a **Rule 56**, *Motion for Summary Judgement* upon unsettled grounds of false facts or ***the color of law artfully premised as a **12(b)(1)** & **12(b)(6)** motion.

Egregious Fact*:** *(Duplicity)* Respondent committed, *clear and prejudicial error of law and fact,* by failing to raise *strict scrutiny review* or *grant legal reliefs sought;* and *altered the law* with total impunity, amounting to a judicial usurpation of power, when Respondent refused to *faithfully fulfill her official duties,* or sworn oath to uphold the U.S. Constitution and the laws made in pursuant thereof for ***acts of subterfuge.

Egregious Fact*:** *(Discredit)* Respondent prevented *"from having any legal effect"* the *claims or reliefs sought* with ***law respecting an establishment of religion that invaded Petitioner's sacred precincts of mind & soul; a *pro se* Plaintiff entitled to *injunctive relief* & *judicial review* ***versus*** *remarks that were taken out of context in an effort to discredit him.*

The Art of Departures, Disruptions, Duplicity and Discredit

Fact: Petitioner was informed in 1988 by a powerful, well-respected and insightful attorney in St Louis that the *practice of law* is an art, with one's position or picture of it not always pleasing.

FACT: In the ***background section*** of Respondent's Memorandum and Order **ECF No. 93**, and within the *opening paragraph* this ***espoused perspective of the law*** and facts are presented:

"This case has a lengthy procedural history.[1] On February 16, 2017, Plaintiff filed a 548-page pro se complaint, in which Plaintiff contends that by virtue of the Tax Code, the Government has established an institutionalized faith and religion of taxism. Compl. at ¶ 305. Plaintiff contends that this institutionalized religion has the effect of endorsing, favoring, and promoting organized religions, which Plaintiff believes violates the Establishment and Free Exercise clauses of the Constitution. He seeks declaratory and injunctive relief, including a permanent injunction enjoining the tax code from having any legal effect, as well as nominal damages." *Id* at Page1, ¶1.

The Art of Departures

"This case has a lengthy procedural history. [1]"

FACT: Respondent's asserted, Plaintiff has "filed 34 'Notices' and 'Declarations'". However, this is a *departure* from facts being self-evident as Petitioner filed 29 "Notice Pleadings" with 7 sworn Declarations, (4 in support of **Doc. No. 44, 45**) along with one "Judicial Notice" returned by the Clerk of the Court's Office, or a notice to present the merits of his action, required notices for exhibits with motions, declarations, and 7 constructive notices about *court practices or proceedings* and/or other numerous notices protecting one's legal rights!

FACT: Respondent's ***departure*** from germane facts of a lengthy procedural history, encompasses Petitioner's 13 motions, with attached brief in support, written requests for: (1) evidentiary hearing, (2) a hearing date, (3) due process hearing, or (4) for leave to file *sur-reply brief*.

FACT: Respondent's assertion: "This case has a lengthy procedural history.[1] " benefits a ***diversion*** & a departure from *procedural due process* for the ***self-serving interests*** of the Respondent.

LAW: Respondent's *departure* from the rule of law (U.S. Supreme Ct. precedents); in such a case that has a *lengthy procedural history* knows ***"Jurisdiction is the right to put the wheels of justice in motion and to proceed to the final determination of the cause upon the pleadings and evidence."*** *See* Illinois Central R. Co. v. Adams, 180 U.S. 28, 29 (1901).

[1]Since filing his lawsuit, Plaintiff has filed 34 "Notices" and "Declarations" with the Court constituting numerous pages and exhibits.

FACT: Respondent's ***departure*** from Fed. R. Civ. P., Rule 8(e) CONSTRUING PLEADINGS, or the requirements of Rule 8(a) are self-evident & self-serving, respectively. Whereas, "Pleadings must be construed so as to do justice." must be self-evident, but not in this case.

FACT: In **ECF No. 55**, Respondent ***alters the law*** to manifest an ***espoused perspective of the law and facts*** by ordering (**Doc. No. 44**) construed as an "amended complaint", and "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." The Court's deviations are departures from the law.

FACT: Petitioner filed **Doc. Nos. 87, 88,** for the vital purposes of this DOJ's mission & message:

The DOJ, should not be seen in the light as the "Department of Justification" *versus* its established role, which the DOJ has declared on its website "The most sacred of the duties of government [is] to do equal and impartial justice to all its citizens." Moreover, the DOJ declares: "This sacred duty remains the guiding principle for the women and men of the U.S. Department of Justice." https://www.justice.gov/about. See Petitioner's **Doc. No. 87,** *at* page 1 & 2.

FACT: Petitioner filed **Doc. Nos. 89, 90**, regarding Petitioner's claims and reliefs sought, to wit:

Also, Defendants' Motion (ECF No. 82) was filed in opposition to the requirement in section 32 of the Judiciary Act of 1789, as well as, [Exec.Order/Directive/A.G.Policy]. For the record, 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).

For the premises or reasons set forth herein, Plaintiff requests the above-mentioned attorneys for the Defendants file a MOTION to ***withdraw*** Defendants' pending RULE 12(b)1 MOTION to Dismiss for Lack of Jurisdiction, RULE 12(b)6 & RULE 12(d) MOTION to Dismiss Case filed by Defendants "United States" Government (ECF No. 82). These pending motions or activity is contrary to the rule of law, Plaintiff's religious liberty, constitutional rights or his sacred right of conscience, as well as, the governmental policy set as [Exec.Order/Directive/A.G.Policy]. See Doc. No. 89, *at* page 9, last two paragraphs.

FACT: Petitioner's faith versus the fate of this case is within the proclaimed mission statement of the DOJ. Now, there is hope in a ***quantifiable policy*** issued on October 6, 2017 from an executive order issued from the Office of the President of the United States. Petitioner [believes] this policy will maintain a proper [d]ivision of ***religious liberty*** and its ***free or pure speech*** of it ***vs***. governmental authority curtailing such liberty. See **Doc. Nos. 89, 90.**

FACT: Respondent evidently read Petitioner's **Doc. Nos. 87, 88, 89, 90**, and granted pursuant to **ECF No. 91**, Petitioner leave to file a *sur-rely* point and authorities brief. re **Doc. No. 92.**

FACT: Petitioner filed **Doc. No. 92**, addressing the barred claims and reliefs sought, to wit:

The United States Government and United States of America was founded upon the "Charters of Freedom" manifesting the touchstone for the Rule of Law and as a fountainhead of faith for a Nation. However, Defendants' IRS and their army of tax attorneys of the Department of Justice ("DOJ") have manifested a long history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny. To defend and advance Plaintiff's lawful constitutional and legal rights; has plead this following statement of expressive conduct as pure speech of religious beliefs and conscience. This message is conveyed for content-based purpose or justification. This content or viewpoint of the speech being considered is listed in 23 documents:

"FIRST AMENDMENT RIGHT TO PETITION AND PROTEST"

Plaintiff *exerting legal* rights filed with the Court on February 16, 2017 an [ORIGINAL VERIFIED COMPLAINT FOR DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF INTHIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT, presented with a 16-page Brief in Support, with an Exhibit List consisting of 26 pages instituting 510 Exhibits attached thereto; a case and its controversies listed on 549 pages] ("[OVC/Petition]"). Plaintiff is engaged in peaceful expressive activity pursuant to established fundamental free exercise rights of the First Amendment and the rule of law of this Nation. A message as pure speech of religious belief.[10] (*Id.* at Page 3, 1st & 2nd paragraphs)

FACT: Respondent seemingly never read or ignored issues presented, but *refused discussion* in **ECF No. 93,** with the legal & factual matters presented in **Doc. Nos. 85, 87, 88, 89, 90, 92.**

FACT: Respondent's viewpoints expressed within **ECF No. 93** serve as the dark matter within a *precise language used* advancing a ***legal fiction*** for the *'ceremony of release to elsewhere'*.

FACT: Such illicit notions for the ***injection of injustice*** and its *'ceremony of release to elsewhere'* (a lengthy, costly & time-consuming appeals process) is as real as life itself. To some it is a ***legal purgatory.*** To the Petitioner it is a spiritual death and the destruction to a Nation's soul if this Court (8th Circuit) *refuses* to manifest an equitable remedy or mandate relief where no such relief exists, for arguments that precluded jurisdiction or the reliefs sought.

FACT: Petitioner, as a witness, knows he will NEVER be granted protections or enforcement of the law, if under the same condition, he is allowed to step back into this district courthouse under the usurping authority of ***bias dictum*** or ***unbridled power*** of the Respondent.

FACT: *"This case has a lengthy procedural history"* digresses a ***procedural due process of law.*** Unconstitutional conditions doctrine prohibits forcing a person to choose between two constitutionally protected rights, as witnessed herein, a minefield to be traversed gingerly.

[10] Plaintiff's filings or other pleadings filed in (Doc Nos. 44, 45 49, 50, 54, 65, 69, 71, 73, 75, 76)

FACT: Respondent's ***departures in making this case have a*** *"lengthy procedural history"* can be seen in the surreal light of this decision, which authorizes the Real Party in Interest to make ***a motion to strike*** (**Doc. No. 44**) in the future feasible for violating Rule 8(a), to wit, in **ECF No. 55,** whereby the Respondent ***alters the law*** by declaring, in pertinent parts:

"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.[1]"

FACT: Petitioner's *original verified complaint & petition* **(Doc. No. 1)** was ***unjustly stricken*** from the record by the Court or a Judge's ***sua sponte decisionmaking,*** but, nevertheless, by what method or somehow now, **Doc. No. 44** meets the ***'precision of language'*** of the Court or Respondent's viewpoint &/or content based restrictions written within Rule 8(a).

FACT: Petitioner's **Doc. No. 62** addresses such matters in detail because Petitioner understood that the ending or termination of this case will be injected with departures, disruptions, duplicity and discredit by the Respondent and by the Real Party in Interest.

LAW: Another ***departure in making this case have a*** *"lengthy procedural history,* is when the Respondent failed, by her own actions, to preserve Fed. R. Civ. P., Rule 1, in pertinent part:

> They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

FACT: Some truths are stranger than fictions; but the *visible departures* from U.S. Supreme Court precedents, Fed. R. Civ. P., congressional authority, etc. (addendum of law) was cited in this case by the Respondent as a ***legal fiction*** for a waiver of Federal Sovereign Immunity; causing *unconstitutional conditions,* in part, curtailing *protected speech* for a *public trial.*

FACT: This ***departure*** from a U.S. Supreme Court doctrine (unconstitutional condition, *inter alia,* other gamine doctrines) usurps the United States Constitution, the First & 5th Amendment, the rule of law, including but not limited to, Petitioner's God given unalienable rights.

The Art of Disruptions

"On February 16, 2017, Plaintiff filed a 548-page pro se complaint, in which Plaintiff contends that by virtue of the Tax Code, the Government has established an institutionalized faith and religion of taxism. Compl. at ¶ 305."

FACT: Petitioner filed **549**-page *pro se* complaint/**Petition** in which Petitioner [OVC/Petition] **Doc. No. 1** was unjustly stricken from the record for a ***legal fiction of judicial economy*** and, for the content-based restrictions, inserted into Fed. R. Civ. P., Rule 8(a) or as a ***prior restraint*** on the protected speech of ***petition speech*** or ***pure speech*** of religious beliefs and conscience, and Petitioner's ***free speech*** to *protest the color of law* by governmental actors.

FACT: The above facts are manifested by *viewpoint discrimination* of Respondent & a Magistrate Judge, both *superseding* the *practice of law* by one's own ***perspective of the law and facts.*** This ***disturbance of the law*** usurps the U. S. Constitution, the First Amendment, Court doctrines, including Petitioner's God given unalienable rights to life, liberty and his own pursuits of happiness, granted and guaranteed by the 5th Amendment *due process clause*.

FACT: Respondent's above-captioned statement is so convoluted, it is hard to understand where Petitioner's truths of law and fact begins and where the Respondent's ***legal fictions*** end.

FACT: Respondent elected to pick ***only two*** averments being "Compl. *at* ¶ 305." and **ECF No. 85** *at* 15. This proffered *surreal distraction* promotes the idea that no other averments of facts exist within Petitioner's case or that the law premised and presented by the Petitioner is not *germane* to Respondent's decision-making, regarding the dismissal of the case; of which concerns constitutional claims, duties and rights, *inter alia,* of the parties involved.

FACT: The above captioned statement made by Respondent's *decision-making* inferred that:

"Plaintiff contends that by virtue of the Tax Code, the Government has established an institutionalized faith and religion of taxism. Compl. at ¶ 305."

FACT: This statement distorts or disrupts what background information is to be relied upon, and is not the meaning of what was actually written by Petitioner in "Compl. *at* ¶ 305.", to wit:

"Plaintiff [believes] Taxology, like Scientology, advances its religion through the authority, power and use of tax-exempt status. See [OVC/Petition] page 75 at ¶ 305."

FACT: Respondent's *discretion* to cite Petitioner's ***stricken*** complaint/petition, **Doc. No. 1,** when the Real Party in Interest's motion to dismiss concerned only an "amended complaint" **Doc. No. 44** *serves as a disruption or distraction* from matters that were to be considered.

FACT: Respondent relied upon, as the background of this case, **ECF No. 85 *at* 15** proffering:

"Specifically, Plaintiff challenges the Government's "new priesthood for [the] religious doctrine of legalism." See **ECF No. 93**, Background, at page 3, last paragraph.

FACT: HOWEVER, Petitioner made this statement of religious belief at **ECF No. 85 *at* 15:**

"The Plaintiff [believes] that Mr. Mokodean and tax lawyers of the Department of Justice ("DOJ") represent the new priesthood for their religious doctrine of legalism."

FACT: Respondent's proffered viewpoints are a *distraction* from the facts of this case, &/or worse a *departure* from Respondent in ***faithfully fulfilling her official duties*** or her sworn oath to uphold the U.S. Constitution & the laws made in pursuant thereof, for works of injustice.

FACT: Petitioner's various statements, notices, and even briefs addressing Mr. Mokodean and tax

lawyers of the Department of Justice ("DOJ") are about their ***pursued perspective of the law*** and facts, of which, concerns Petitioner's pure speech of religious beliefs and practices of the Real Party in Interest. See Petitioner's Memo & Briefs **(Doc. Nos. 2, 54, 57, 92).**

FACT: Respondent's *pervasive distractions* and numerous *departures of law and fact*, including, acting *de facto*, as the lead counsel for the Real Party in Interest is disturbing to Petitioner. Note: Respondent worked in and served as the U.S. Attorney for this Eastern District of Missouri; however, currently, her duties as a Federal Judge, should be separate from former allegiances to the DOJ, or favoring IRS tax attorneys or other lawyers for the government.

FACT: Petitioner states, that Respondent ***'takes issue'*** with a statement & facts in **ECF No. 85** ***at*** **15,** and is either disturbed or annoyed by the following statements on that page, to wit:

Real lawyers, who practice constitutional law, uphold established legal principles in the rule of law, or have read, like the Plaintiff has done, thousands of the Court's, Memorandums and Orders, Appellate Cases, and Supreme Court decisions thereby knows:

> "[J]urisdiction is a threshold question, [and] judicial economy demands that the issue be decided at the outset rather than deferring it until trial." Osborn v. United States, 918 F.2d 724, 729 (8th Cir. 1990).

The Plaintiff assert the record reveals (ECF. No. 8) that judicial economy demands were reviewed by this Court, thus Defendants' 12(b)(1) motion is moot. The Plaintiff assert the record reveals the Defendants' 12(b)(6) motion is frivolous based upon Plaintiff's notice pleadings **(Doc. Nos. 28, 33, 34, 44 & 45)**.

FACT: The Court's ruling in **ECF No. 8** determined that no jurisdiction questions exist.

FACT: Respondent's art of *disruptions* ***cannot*** distract or conceal the facts in **Doc. No. 92**, and particularly within the ten (10) legal premises in Section II, on pages 5 thru 15, to wit:

II. PLAINTIFF'S GERMANE RESPONSE IN OPPOSITION TO DEFENDANTS' "REPLY IN SUPPORT OF UNITED STATES' MOTION TO DISMISS"

A. The "United States" to sue and be sued being unequivocally expressed.

B. The Legal Fiction in a Waiver of Federal Sovereign Immunity v. Free Exercise Clause.

C. Federal sovereign immunity doctrine is the earmark of *"the King can do no wrong"*.

D. This Suit concerns Constitutional law & its rights; not common law or contract rights.

E. Defendants' actions or consensus disregarded or abandon Federal Sovereign Immunity.

F. A "waiver" of Federal Sovereign Immunity by the United States is a presumption.

G. Federal Sovereign Immunity Doctrine conflicts with constitutional restrictions.

H. Federal Sovereign Immunity Doctrine amends the Constitution of the United States.

I. A *republican form* of government is guaranteed & bars Federal Sovereign Immunity.

J. Traditional tools of statutory construction being unequivocally expressed.

FACT: Respondent reliance upon only ***two*** *averments* of ***mixed fact and law*** ("Compl. *at* ¶ 305." & ECF. No. 85 *at* 15) serves as a *distraction.* More importantly, the Respondent is creating within this theater of law, for the art of disruptions, disturbances or distractions, a war of words. The Respondent, by misdirecting facts or manifesting a smoke screen for legalism wasteland has sanctioned the ***injection of injustices*** which gave birth to such real conflicts.

FACT: Respondent deliberate disruptions of facts and evolving departures from the law regarding matters of life, law or liberty of religious beliefs will not prevail. See Psalm *at* 18.

The Art of Duplicity

"Plaintiff contends that this institutionalized religion has the effect of endorsing, favoring, and promoting organized religions, which Plaintiff believes violates the Establishment and Free Exercise clauses of the Constitution."

FACT: The art of duplicity has a full range of deceitfulness in speech or conduct, as by speaking or acting in two different ways to different people concerning the same matter; re: double-dealing or two faced. e.g. a sworn oath of Office **vs.** discarding First Amendment claims.

FACT: The roots of duplicity meaning can be found in the initial "dupl-," from the Latin duplex, meaning twofold, or double. One can easily see how acting in double, or in two ways at different times, can be a way of deceiving or lying. The duplicitousness of human nature is evident in the widespread usage of other terms with similar roots.

FACT: Hypocrisy is the pretense of possessing qualities of sincerity, goodness, devotion, etc. and is considered by the Petitioner as the genesis, consensus and principle element of duplicity.

FACT: In the *discussion section* of **ECF No. 93**, and within "c. Anti-Injunction Act" on page 7 the Respondent presents this perspective of the law, but not *germane to this case*, to wit:

"The exception to the Anti-Injunction Act does not apply in this case. The Court cannot say that the United States is certain to lose on the merits. Courts have long held that religious beliefs in conflict with the payment of taxes are no basis for challenging the collection of a tax. See, e.g., *U.S. v. Lee*, 455 U.S. 252, 260 (1982). Courts have likewise found the federal tax system constitutional under the Establishment Clause. See, e.g., J*immy Swaggart Ministries v. Bd. of Equalization of Cal.*, 493 U.S. 378, 394 (1990)."

FACT: The Respondent stated: "The Court cannot say that the ***United States is certain to lose on the merits.***" (Emphasis added)

FACT: Respondent's statement addressed an interesting point of law; but her duplicity ***dismisses Petitioner's case on the merits***, while basing her decisions on (1) a. Sovereign Immunity, and (2) b. Declaratory Judgment Act, and (3) c. Anti-Injunction Act, and (4) d. Exhaustion of Administrative Remedies, and (5) e. Bivens claim. re **ECF No 93.**

FACT: Respondent's states, cites or advances her decision-making based on, in part, to wit:

"Courts have long held that religious beliefs in conflict with the payment of taxes are no basis for challenging the collection of a tax. See, e.g., *U.S. v. Lee*, 455 U.S. 252, 260 (1982)."

LAW: *Id at* 455 U.S. 252, 260 (1982), in pertinent part:

Unlike the situation presented in *Wisconsin v. Yoder, supra*, it would be difficult to accommodate the comprehensive

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social security system with myriad exceptions flowing from a wide variety of religious beliefs. The obligation to pay the social security tax initially is not fundamentally different from the obligation to pay income taxes; the difference -- in theory at least -- is that the social security tax revenues are segregated for use only in furtherance of the statutory program. There is no principled way, however, for purposes of this case, to distinguish between general taxes and those imposed under the Social Security Act.

FACT: Petitioner's case has nothing to do with social security system or one's obligation to pay the social security tax because of the religious beliefs of the Amish or being a self-employed Amish member. Simply this case relied upon does not involve or address matters of the U.S. government endorsing or advancing law respecting an establishment of religion.

FACT: This case law cited by Respondent has no relevant facts or similarly issues addressed by the Petitioner, simply because he has averred this issue of fact and law, respectively:

"Plaintiff has a First Amendment free exercise right of religious beliefs; thereby [believes] in Taxology and [Taxism]; but conversely has a First Amendment Establishment right not to practice, partake or advance these established religions." [OVC/Petition] page 9, at ¶ 34 and [Revelation #1] at ¶ 98.

FACT: Respondent states, cites or advances her decision-making based on, in part, to wit:

"Courts have likewise found the federal tax system constitutional under the Establishment Clause. See, e.g., *Jimmy Swaggart Ministries v. Bd. of Equalization of Cal., 493 U.S. 378, 394 (1990).*"

LAW: *Id at* 493 U.S. 378, **394** (1990), in pertinent part:

The issue presented, therefore, is whether the imposition of sales and use tax liability in this case on appellant results in "excessive" involvement between appellant and the State and "continuing surveillance leading to an impermissible degree of entanglement."

FACT: Petitioner's case has nothing to do with "the imposition of sales and use tax liability" or with "excessive" involvement between him and any State of the Union or for reasons of a:

"law requires retailers to pay a 6% sales tax on in-state sales of tangible personal property and to collect from state residents a 6% use tax on such property purchased outside the State."

FACT: *see* Appendix V, for the law and reasons why the Anti-Injunction Act is not controlling.

LAW: (PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS)

Pub. L. 105–206, title III, §3468, July 22, 1998, 112 Stat. 770 , provided that:

(a) Prohibition.- No officer or employee of the United States may request a taxpayer to waive the taxpayer's right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

(b) Exceptions.- Subsection (a) shall not apply in any case where-

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily; or
(2) the request by the officer or employee is made in person and the taxpayer's attorney or other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer's attorney or other representative.

FACT: Respondent's ***perspective of the law***, and not the ***practice of the law***, as well as, the Real Party in Interest, *genesis* that a waiver exists is the hypocrisy of hopelessness. As such, the impossibility that Mr. Mokondean, an officer or employee of the United States, cannot not request a taxpayer to waive the taxpayer's ***right to bring a civil action against the United States*** or any officer or employee of the United States for ***any action t***aken in connection with the ***internal revenue laws.*** (Emphasis added)

FACT: *see* Appendix W, The Merits of the Case and its Constitutional Claims to properly address the *outright duplicity* of this above statement. Respondent seeks to control the Petitioner's case and the arguments or legal premises. The Court should not accept this practice of law.

FACT: The sole matter presented before the Court concerned only the dismissal of the *all counts and claims within an* "amended complaint" **Doc. No 44** and did not concern any the other notices, pleadings, declarations of the Petitioner or with striking the exhibits in the record.

FACT: Respondent's dim perspective of the law as a dark matter; increases the ***real gravity of***

duplicity, which cannot be weigh or measured by the unseen vacuum of legalism. The light of truth shall prevail, when these facts were averred by Petitioner in **Doc. No. 44**, to wit:

[Revelation #1]

I. PRELIMINARY STATEMENT - NATURE OF THE CASE & ITS CONTROVERSIES

¶ 1) This action arises under the Establishment/Free Exercise Clause of the First Amendment of the United States Constitution.

¶ 2) This lawsuit is not about taxation. It is about religion and what is central to one's sincerely held religious beliefs, its expressive activities, the nature of the relevant forums or the rule of law used, primarily aimed at protecting non-economic interests of a spiritual and religious nature as opposed to a physical or pecuniary nature.

¶ 3) Where a given religion is strongly associated – or perceived to be associated, manifested by the said parties proselytizing or when engaged in numerous forms of religiously oriented expressions of their activities, it cultivates intrinsic and expressive associations.

¶ 4) The legal endorsements of the said parties proselytizing or when engaged in numerous forms of religiously oriented expressions of their activities through the Internal Revenue Code and its Federal Taxing Statutes ("IRC/FTS") has encouraged loyalty and given a hierarchy exclusive patronage of the national government involving the spheres of religious activity.

¶ 5) Plaintiff's conscience dictates free exercise principles do not cause a man to sacrifice his integrity, his rights, the freedom of his convictions, the honesty of his feelings, or the independence of his thoughts. These are Mankind's supreme possessions. These are not the objects of sacrifice.

¶ 6) Plaintiff's [sincerely held religious beliefs] ("[believes]") the mind is a sacred place with the human heart (emotions) being a sacred space found within us all. Within these most sacred precincts of private & domestic life, religious experiences are created for many people or this Plaintiff.

¶ 7) In light of forces and influences in the forums of dialogue shared or exercised in the eyes of its beholders, whether reserved or germane to said Parties' participation is an issue herein.

¶ 8) Whether openly or secretly in the affairs of any religious practice, Federal questions arise in the interplay between Establishment challenges and the free exercise clause and what is truly the right test(s) for evaluating such issues presented in this case and its controversies.

¶ 9) Plaintiff [believes] when a person believes in, practices or makes a proper return to the Internal Revenue Service ("IRS") and their path of life, beliefs and practices it manifests Worship of Argumentative Wealth, Words & Wants of Materialism.

¶ 10) Plaintiff [believes] Worship of Argumentative Wealth, Words & Wants of Materialism is manifested as a system of Worthship.

¶ 11) Defendants have manifested a proselytizing effect for a religion of reality, advanced by an IRS Path of Life to keep your Faith THEIRS.

¶ 12) Religious activities of Defendants' endorsements are advanced by an Organized Religion of THEIRS, *per se* as Taxology.

Inter alia, in [Revelation #1] the Petitioner has averred:

¶ 98) Plaintiff avers he has a First Amendment free exercise right of religious beliefs; thereby [believes] in Taxology and [Taxism]; but conversely has a First Amendment Establishment right not to practice, partake or advance these established religions.

¶ 99) Plaintiff's [conscience] dictates: I am an architect of my [LLP]. I know what is to come by the principle on which it is built. Freedom is the light of all sentient beings with the right to exist as I Am, not as any person.

¶ 101) Plaintiff avers he brings this action as a U.S. Citizen, not to define him as an IRS' taxp[r]ayer or as a customer ***"dealing"*** with the Internal Revenue Service.

¶ 102) Plaintiff avers his [Questions Utilizing Evidence Seeking Truth] *per se* as ("[Q.U.E.S.T.]") warrants one's Quintessential Rights with the prospective relief in a right to exist as I Am versus a personal stake as *defined, designed, driven, devalued, degraded, deprived*, or fearful to be *destroyed* by law respecting an establishment of religion in a matrix of ***religious dealings***.

[Revelation #2]

II. JURISDICTION AND VENUE

¶ 1) This action arises under the Establishment/Free Exercise Clause of the First Amendment to the United States Constitution and presents federal questions within this Court's jurisdiction under Article III of the Constitution, with federal claims and the jurisdiction of this Court invoked pursuant to 28 U.S.C. § 1331.

¶ 2) This civil action is also founded upon the Constitution of the United States of America, or numerous Acts of Congress, or regulation of an executive department. As such, this Court has jurisdiction over Defendant United States of America under 28 U.S.C. § 1346(a)(2).

¶ 3) The Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff's state claims arising under the Constitution of the State of Missouri because those claims are related to the federal claims and are part of a single case or controversy.

¶ 4) The Court may grant preliminary and permanent injunctive relief under Federal Rule of Civil Procedure 65 and by the inherent equitable powers of this Court. The Court may grant declaratory relief under Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202 implemented through Rule 57 of the Federal Rules of Civil Procedure.

¶ 5) Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because: Defendants are a governmental entity located in this district; and a substantial part of the events or omissions giving rise to the claims occurred in this district or will continue to occur in this district; with Defendants performing their official duties in, and with Plaintiff residing in and has a dwelling in this judicial district.

¶ 6) Divisional venue is proper in the Eastern Division because the events leading to the claim for relief arose in the County of Saint Louis, Missouri, E.D.Mo. L.R. 2.07 (A)(1) and (B)(1).

[Revelation #3]

III. THE PARTIES

¶ 1) Plaintiff, TERRY LEE HINDS, born on September 11, 1955, is a "national born" Citizen of the United States of America and a legal Citizen of the State Missouri pursuant to the U.S. Constitution and Constitution of the State of Missouri and a person who pays or is subject to federal *internal revenue taxes;* and state or local taxes.

¶ 2) Plaintiff lawful maintains these types of legal status or citizenships are a constitutional right. The statutes conferring citizenship in Title 8 of the U.S. Code are a privilege granted. Plaintiff existing with citizenship status, not as a customer or other status of the Defendants.

¶ 3) Plaintiff was exercising his U.S. & Missouri Constitutional rights, privileges & immunities during the acts, policies, practices, customs, procedures & events set forth herein. Plaintiff is a legal resident of the State of Missouri and is a registered voter in St. Louis County for over the past 30 years. Plaintiff's domicile is at or home address is 438 Leicester Square Drive Ballwin, Missouri 63021.

¶ 4) Plaintiff, is proceeding as a *pro se* litigant pursuant to 28 U.S.C. § 1654 which provides: *"In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."* Plaintiff is freely exercising a right to Petition herein.

¶ 5) Plaintiff avers he is a religious Plaintiff who deeply holds very genuine or "[sincerely held religious beliefs]" (hereinafter "[believes]") and who practices religion over non-religion as set forth in this [OVC] and deprived of [LLP] subject to the current case or controversies.

¶ 6) The Plaintiff avers he is also a spiritual & moral Plaintiff who exercises his ***sacred right*** of "[conscience]" (hereinafter "[conscience]") entailing spiritual, ethical, and moral beliefs that dictates conformity to what one considers to be correct, right, or morally good for his [LLP], this Nation or the World he currently lives in or for the World within his next life.

Inter alia, in [Revelation #3] the Petitioner has averred:

¶ 14) Defendants, "UNITED STATES" GOVERNMENT at all times relevant to this complaint is ultimately responsible for the actions, conduct, events and inactions alleged herein; existing as the

system of government for UNITED STATES OF AMERICA (the "United States"), which is a sovereign and body politic.

¶ 15) Defendants, "UNITED STATES" GOVERNMENT are within the *legal* jurisdiction of the "United States" with its principle place of business in Washington D.C.

¶ 16) Defendants, the "United States" is defined by 28 USC 3002 (15) "United States" means—(A) a Federal corporation; (B) an agency, department, commission, board, or other entity of the United States; or (C) an instrumentality of the United States.

¶ 17) "UNITED STATES" GOVERNMENT pursuant to 5 U.S.C. § 101 (Government Organization and Employees) has 15 Executive Departments, with The Department of the Treasury, The Department of Justice and The Department of Commerce, and Department of Labor actions or inactions being challenged.

¶ 18) Defendants, "UNITED STATES" GOVERNMENT refers to the "United States" system of government or any agency, entity, commission, service, bureau, office or instrumentality thereof, including without limitation the Internal Revenue Service and the IRS regardless of their past or current status or titles.

[Revelation #4]

IV. LAW AT ISSUE AND LEGAL FRAMEWORK
Section A – United States Supreme Court Doctrines & Related Tests or Law

¶ 1) Plaintiff avers he has a lawful right to rely on the guarantees and protections set forth in Exhibit A- #1 through Exhibit A- #11 with the confidence that the existing government or its authorities cannot take away established rights, privileges or immunities with impunity or without the due process of law.

Inter alia, in [Revelation #4] the Petitioner has averred:

¶ 13) Plaintiff's proposed the Doctrine of Operative Facts in the Rule of Law germane in this case, more particularly described in Exhibit A- #12 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

[Revelation #5]

IV. LAW AT ISSUE AND LEGAL FRAMEWORK
Section B - U. S. Constitutional Provisions & germane Amendments at issue in this Case

¶ 1) Plaintiff avers The First Amendment mandates: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." more particularly described in Exhibit B- #1 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 2) Plaintiff avers The Due Process of Fifth Amendment which holds in part: "No person shall… be deprived of life, liberty, or property, without due process of law...", more particularly described in Exhibit B- #2 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 3) Plaintiff avers The Ninth Amendment of Unenumerated rights of which holds: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." more particularly described in Exhibit B- #3 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

Inter alia, in [Revelation #5] the Petitioner has averred:

¶ 7) Plaintiff avers Article VI, Clause 2 mandates: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof… shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby any Thing in the Constitution or Laws of any state to the Contrary notwithstanding." The Supremacy Clause of the United States Constitution is more particularly described in Exhibit B- #7 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

[Revelation #6]

IV. LAW AT ISSUE AND LEGAL FRAMEWORK
Section C – Plaintiff's Quintessential Rights of [Controlling Legal Principles] ("[CLP]")

¶ 1) Plaintiff's [conscience] dictates as the architect of his [LLP]; he knows what is to come by the principle on which it is built. Plaintiff's [conscience] dictates free exercise principles as set forth in [OVC] and declares he has a First Amendment Quintessential Right to [CLP].

¶ 2) [CLP] consist of United States Supreme Court doctrines, decisions, court applied tests, requirements & case law that the Plaintiff utilizes to help form his personal constitution which was built upon the foundational cornerstone of who created reason, not religion; "Jesus Christ Himself as the Chief cornerstone" of One Nation Under God established as "IN GOD WE TRUST".

¶ 3) Plaintiff's personal constitution has determined and dictates he has a free exercise First Amendment Quintessential Right to [CLP] as set forth in Martin v. Hunter's Lessee, 14 U.S. 1 Wheat. 304 304 (1816); more particularly described in Exhibit C- #1 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

***Inter alia*,** in [Revelation #6] the Petitioner has averred:

¶ 98) Plaintiff's personal constitution has determined and dictates he has a free exercise First Amendment Quintessential Right to [CLP] as set forth in Our Decision with God-given unalienable rights; more particularly described in Exhibit C- #96 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

[Revelation #7]

IV. LAW AT ISSUE AND LEGAL FRAMEWORK
Section D– An Intersection of Church and State- Personal Constitution & U.S. Constitution

¶ 1) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, not of a religion through Exhibit D- #1, Justice – Equality – Service – Unity – Sacrifice; more particularly described in Exhibit D- #1 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 2) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, not of a religion through Exhibit D- #2, Separation of Powers Doctrine (a system of checks and balances); more particularly described in Exhibit D- #2 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

Inter alia, in [Revelation #7] the Petitioner has averred:

¶ 30) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, and American Civil Religion through Exhibit D- #30, Intelligent Design of Civil Religion; more particularly described in Exhibit D- #30 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 31) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, and American Civil Religion through Exhibit D- #31, The Intersection of Church and State/Our Church of Greater Reality; more particularly described in Exhibit D- #31 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 32) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, and American Civil Religion through Exhibit D- #32, [Commanding Heights] E Pluribus Unum (Latin for "Out of many, one"); more particularly described in Exhibit D- #32 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

¶ 33) Plaintiff's personal constitution in pursuant of his [LLP] has established legal evidence of reason, and not of any religion through Exhibit D- #33, The Intersection of Church and State – A Threshold for Understanding; more particularly described in Exhibit D- #33 attached to Plaintiff's Exhibit List (Doc. No. 3) and incorporated by reference as if fully set forth herein.

The Art of Discredit

"He seeks declaratory and injunctive relief, including a permanent injunction enjoining the tax code from having any legal effect, as well as nominal damages."

FACT: Respondent's art of discredit is a powerful tool or vital instrument for engines of injustice.

Proof: The above captioned statement of the Respondent, reveals the difference between tool and maker, especially when Petitioner's remarks were taken out of context in an effort to discredit him.

FACT: The Respondent, by Court Order **ECF No. 55** decreed:

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.

FACT: Petitioner **never** asserted, averred or even alleged that Petitioner's case or its controversies concerns a matter of 42 U.S.C. §1981 or 42 U.S.C. §1983. See Petitioner's filings, *passim.*

FACT: The power to make assumptions widely held, or on a one-to-one person basis, serve as a reliable tool to affect fruitfully another's credibility, if not, to devalue or undermining the claims of this lawsuit. This is self-evident within Respondent's **ECF No. 93.**

FACT: Respondent, while clothed with immense power censured & espoused in **ECF No. 93**:

"Plaintiff challenges the Government's "new priesthood for [the] religious doctrine of legalism." ECF No. 85 at 15." (*Id.* at page 3, last paragraph).

"He also contends that the sovereign immunity doctrine is a legal fiction and conflicts with the Constitution. ECF No. 92." (*Id.* at page 3 last paragraph into page 4).

"To the extent Plaintiff seeks monetary damages relating to the assessment of taxes, his claim is again barred by sovereign immunity because the United States has not waived its sovereign immunity for Bivens-type constitutional tort claims alleging damages caused by the government's violation of the plaintiff's constitutional rights. Phelps v. U.S., 15 F.3d 735, 739 (8th Cir. 1994); Olson v. Soc. Sec. Admin., 243 F. Supp. 3d 1037, 1053-54 (D.N.D. 2017)." (*Id.* page 9, last para.)

FACT: These above statements of Respondent are not true. Petitioner's remarks or claims were taken out of context in an effort to discredit him and devalue or undermining the claims of this lawsuit. These statements are manufactured arguments or a premise of the Respondent.

FACT: Logically, an argument is held in discredit if the underlying premise is found, "So severely in error that there is cause to remove the argument from the proceedings because of its prejudicial context and application...". This is the real intent of the Respondent.

FACT: Petitioner has witnessed as a police officer, and now within this case, the massive tools of government and its very elaborate mechanisms of law, which have unfortunately developed an irrefutable ***environment of fear, frustration and fate*** leaving the entire needs of our legal system of commerce, customers, citizens or any person to fall victim to the same immutable laws. The wheels of Justice & its arsenal of free people demand faith in the law.

FAITH: Our own faith, legal abilities and moral reasoning of a Nation depends on how we make or use the tools that are set before us, to extend our abilities, to further our reach, and fulfill our aspirations. *However, we must never let them define us as a nation or as free people.*

For if there is no difference between tool and maker, then who will be left to build our world? Petitioner does not take credit for that thought, nor is he discredited by its works.

FACT: ***The use of deception and its effects… is upholding a principle as cruel as war itself.***

FACTS: Respondent & the Real Party in Interest are engaged in a fateful war of words with the the Petitioner, whereas the arguments of law or fact are reduced to casualty of causation or formalities, not the claims or rights of constitutional injuries addressed. This litigation has advanced itself as a battlefield for the [Commanding Heights] with the Real Party in Interest demanding, and Respondent advancing **Federal Sovereign Immunity Doctrine** as a Dominion Theology for a Nation and its subject, because ***the King can do no wrong***.

FACT: This litigation is about ***free exercise*** claims and rights and establishment clause challenges. It is not about Federal Sovereign Immunity Doctrine as a Dominion Theology for a Nation and its subject, because this "One Nation under God", and a U.S. Constitution and 50 State Constitutions have established citizens, not subjects to be enslaved for the realm of the IRS.

FACT: Petitioner set forth & seeks "DECLARATORY JUDGEMENT, INJUNCTIVE AND OTHER APPROPRIATE RELIEF IN THIS PETITION FOR QUINTESSENTIAL RIGHTS OF THE FIRST AMENDMENT". Petitioner filed an Original Verified Complaint existing as ***pure speech*** of *religious beliefs* and of the *rights of conscience.* This ***petition speech*** is afforded full First Amendment protections, under the law, with highest strict scrutiny standards applied as its guardian.

FACT: Respondent in this case, is acting as a tool of government, and as the maker of the Real Party in Interest's legal arguments while advancing their premises as lead counsel for the defense, suddenly becomes apparent when looking at this single statement, to wit:

> "He also contends that the sovereign immunity doctrine is a legal fiction and conflicts with the Constitution. ECF No. 92."

FACT: Real Party in Interest raised no objection or made a request or rely to Petitioner's **Doc. No. 92.** However, it was not necessary when a single statement made by the Respondent, discredits **Doc. No. 92** under the sole premise ***"that the sovereign immunity doctrine is a legal fiction"***. Petitioner never made this claim or offer it as a legal premise or argument.

FACT: Petitioner did make this statement in Doc. No. 92, page 1, in pertinent part, to wit:

The Court's doctrine requiring a waiver of Federal sovereign immunity *versus* Plaintiff's ***primary right*** *of self-government* regarding religious liberty & conscience resigns the *first duty* of government:

> "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***." [9] (Emphasis added)

FACT: Petitioner did make this legal premise in Doc. No. 92, page 5, in pertinent part, to wit:

II. PLAINTIFF'S GERMANE RESPONSE IN OPPOSITION TO DEFENDANTS' "REPLY IN SUPPORT OF UNITED STATES' MOTION TO DISMISS"

"Plaintiff provides no authority to the contrary,
and his suit must therefore be dismissed for failure to establish a waiver of sovereign immunity."[17]

A. ***The "United States" to sue and be sued being unequivocally expressed***

Congress has conferred legal standing on the "United States" to sue and be sued pursuant to 28 U.S. Code § 1345 - United States as plaintiff and 28 U.S. Code § 1346 - United States as defendant, respectively. This action and claim is in accord with 28 U.S.C. § 1346(2), seeking, in part, $1.00:[18]

28 U.S.C. §1346(a)(2) in pertinent parts: "The district courts shall have original jurisdiction…Any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department"

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[17] Defendants' Reply in Support of United States Motion to Dismiss (ECF No. 86) Sec. I on p.2
[18] Nominal damages for vindicating legal or constitutional rights [OVC/Petition] (Doc. No. 1).

FACT: Petitioner did make this legal premise in Doc. No. 92, page 6, in pertinent part, to wit:

B. ***The Legal Fiction in a Waiver of Federal Sovereign Immunity v. Free Exercise Clause***

Plaintiff's ***free exercise rights*** of the First Amendment as set forth in this case and its controversies is not a *legal fiction,* nor requires a waiver of Federal Sovereign Immunity, because ***fundamental rights*** are constitutional protections or guarantees. First Amendment rights cannot be burden and the Court has succinctly held ***"it is always in the public interest to protect constitutional rights"***.[21] A waiver of U.S. sovereign immunity is an unjust burden. It is a ***legal fiction;*** when the Defendants raised a medieval court's cannon to avoid issues of a new situation of law or to deprive the Plaintiff of protection in ***free exercise clause rights*** of the First Amendment. What is **LEGAL FICTION**?

"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."*[22]

Plaintiff provides this *proper authority* which is contrary to Defendants' legal fiction in a waiver of Federal Sovereign Immunity and is pursuant to ***free exercise clause claims and rights,*** to-wit: Amendment 5, United States Constitution Bill of Rights, in pertinent part provides:

"No person shall be… deprived of life, liberty, or property, without due process of law.

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[21] Phelps-Roper v. Nixon, 545 F.3d 685, 690 (8th Cir. 2008)
[22] http://thelawdictionary.org/legal-fiction/ (Black's Law Dictionary Online Legal Dict. 2nd Ed.)

FACT: Petitioner did make this legal argument in Doc. No. 92, page 9, in pertinent part, to wit:

D. ***This Suit concerns Constitutional law & its rights; not common law or contract rights***

This U.S. Supreme Court case is not amenable to Defendants' legal position of a waiver or legal proposition that Federal *sovereign immunity* prevails over constitutional law or its claims, to-wit:

"1. That the maxim of English constitutional law, that the King can do no wrong, is one which the courts must apply to the government of the United States, and that therefore there can be no tort committed by the government." See Langford, 101 U.S. at 343-343

"It is not easy to see how the first proposition can have any place in our system of government. **We have no King to whom it can be applied.** The President, in the exercise of the executive functions, bears a nearer resemblance to the limited monarch of the English government than any other branch of our government, and is the only individual to whom it could possibly have any relation. **It cannot apply to him, because the Constitution admits that he may do wrong, and has provided, by the proceeding of impeachment, for his trial for wrongdoing, and his removal from office if found guilty**. None of the eminent counsel who defended President Johnson on his impeachment trial asserted that by law he was incapable of doing wrong, or that, if done, it could not, as in the case of the King, be imputed to him, but must be laid to the charge of the ministers who advised him." *Id.* at 343-343. (Emphasis Added)

"It is to be observed that the English maxim does not declare that the government, or those who administer it, can do no wrong; for it is a part of the principle itself that wrong may be done by the governing power, for which the ministry, for the time being, is held responsible; and the ministers personally, like our President, may be impeached; or, if the wrong amounts to a crime, they may be indicted and tried at law for the offense." *Id.* at 343-343. (Emphasis Added)
"We do not understand that either in reference to the government of the United States**,** or of the several states, or of any of their officers, *the English maxim has an existence in this country.*" *Id.*

FACT: Petitioner did make this legal argument in Doc. No. 92, page11, in pertinent part, to wit:

F. ***A "waiver" of Federal Sovereign Immunity by the United States is a presumption.***

Federal Sovereign Immunity is a court doctrine, but its waiver or consent creates a presumption. *"The power to create presumptions is not a means of escape from constitutional restrictions."*[30]
It is apparent that a constitutional prohibition cannot be simply transgressed indirectly by the creation of a legal presumption any more than it can be violated by permitting Federal Sovereign Immunity which is offensive to the other proclaimed court doctrines listed herein. Plaintiff avers the presumption a Federal Sovereign Immunity and its waiver or consent involves strict scrutiny standards of the First Amendment. The presumption of a waiver of Federal Sovereign Immunity v. consent by statute from Federal Sovereign Immunity is a matter of "strict scrutiny". The notion of "levels of judicial scrutiny", including strict scrutiny, was introduced in Footnote 4 of the U.S. Supreme Court decision in United States v. Carolene Products Co. (1938), one of a series of decisions testing the constitutionality of New Deal legislation. U.S. courts apply the strict scrutiny standard in two contexts: when a fundamental constitutional right is infringed, particularly those

found in the Bill of Rights and those the court has deemed a fundamental right protected by the Due Process Clause or "liberty clause" of the 14th Amendment, or when a government action applies to a "suspect classification," such as race, national origin or religion.[31]

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[30] *Bailey v. State of Alabama,* 219 U. S. 219, 239 (1911)
[31] Exhibit A- #4, Strict Scrutiny Test manifested in "Compelling Interest Test" (Doc. No. 3)

FACT: Petitioner did make this legal premise in Doc. No. 92, page 15, in pertinent part, to wit:

III. "SOVEREIGN IMMUNITY BARS PLAINTIFF'S CLAIMS AGAINST THE UNITED STATES BECAUSE HE HAS NOT ESTABLISHED A WAIVER."

A. *The Legal Fiction of Federal Sovereign Immunity Creating an Indispensable Party*

A **wavier** is the voluntary relinquishment or surrender of some known right or privilege. It is not the same as ***consenting to litigation*** or seeking a removal of *real or potential liability* for the other party in a contract agreement. Federal Sovereign Immunity is not established as a waiver of a right; rather as a ***legal fiction*** exercised as a court doctrine. This ***privilege of pride*** manifests a contempt for the *rule of law* and First Amendment rights. This *legal fiction* of the Defendants demonstrates the tyranny of *medieval doctrines* or worst the Defendants are allowed to becomes a lawbreaker or an ***indispensable party.***

FACT: The Real Party in Interest 12b(1) & 12b(6) motion seeks ***dismissing*** *"all counts and claims for relief in Plaintiff's amended complaint"* **ECF No. 82**. But nevertheless, within a ***debase belief*** of a different thought presented in their legal brief, **ECF No. 86**, command, in part:

> "Plaintiff provides no authority to the contrary,
> and ***his suit must therefore be dismissed*** for
> failure to establish a waiver of sovereign immunity." (Emphasis added)

FACT: As Petitioner stated on page 1 of this petition, to wit:

Sequentially, the District Court erred as a matter of law, by usurping the constitutional authority of the Congress, or when issuing an Order that ***cannot pass constitutional muster***. Significantly, this *semi-autonomous invisible line* with the word ***waiver = consent*** [2] are not of a corresponding meaning, nor as a *visibly equivalent in law* to affirm the Real Party in Interest's argument to precluded jurisdiction or relief.

FACT: Respondent did not conduct a proper ***judicial review*** or ***strict scrutiny***. Append. B, B-1.

LAW: Respondent's clear and prejudicial error of law and fact as a clear abuse of discretion are so self-evident or indisputable that further facts are unnecessary, but are available, *or as parts of the record that may be essential to understand the matters set forth in the petition.*

See Petitioner's filings entered into the Court's Pacer system for germane documents.
See Clerk of Court Office, Eastern District of Missouri stored in paper form for such Exhibits.