

Appendix B - Facts of &/or Malfeasance of Fundamental Error
(Facts Necessary to Understand Petitions)

or as parts of the record that may be essential to understand the matters set forth in the petition

FACT: A *fundamental error* is a type of legal or judicial error.

Plain Error of Law:

Clear error that is so obvious and substantial that an appellate court should address the problem in order to ensure the justice system is not eroded. The appellate court should review and rectify a plain error even if neither party may have properly preserved the issue by objecting to the error at the time the error was made or raising the issue in the appeal.

FACT: On 12/11/2017 Respondent issued MEMORANDUM AND ORDER **ECF No. 93**, thereby encompassing her entire *decision-making* or *discretion* therein. This advance a clear error that is so obvious and substantial of a plain error so prejudicial by an illegitimate or a bias:

CONCLUSION

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.

IT IS FURTHER ORDERED that all pending motions are **DENIED as moot**. A separate Order of Dismissal shall accompany this Memorandum and Order.

FACT: **Contemporaneously**, Respondent’s MEMORANDUM AND ORDER **ECF No. 93**, and its CONCLUSION was premised *without a reference, criterion or a section* known as:

STANDARDS OF REVIEW &/or LEGAL STANDARD

FACT: Furthermore, this MEMORANDUM AND ORDER **ECF No. 93**, and its CONCLUSION were premised *without a vital or pertinent section* known as:

SUMMARY OF ARGUMENT

FACT: Respondent circumvented Judiciary Act of 1789, SEC. 32., & the Court failed to “proceed and give judgment according as the right of the cause and matter in law shall appear unto them.” Therefore, the Respondent *usurping the constitutional authority* of the Congress.

FACT: Respondent did not fittingly address Petitioner’s arguments regarding the legal issues or premises presented *in favor* of *ambiguity, a lack of judicial review* or her *bias dictum*.

FACT: *Additionally*, Respondent’s **ECF No. 93** never provides *any notice* or her intent of what Federal law or Rule of Fed. R. Civ. P., the “*motion to dismiss*” was *premised upon*.

FACT: *This ambiguity & mootness alike fear & fate are powerful combinations of subterfuge.*

FACT: *Ambiguity is a powerful weapon in the arsenal of deception.* Especially, when practiced by *duplicity*, when Respondent refused to *faithfully fulfill her official duties*, or sworn oath to uphold the U.S. Constitution & the laws made in pursuant thereof for *acts of subterfuge*.

FACT: In the “**DISCUSSION**” *section* of MEMORANDUM AND ORDER **ECF No. 93**, what is *noticeability absent*, facial wanting or even absent-minded is this legal fact or issue:

A motion to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1) may be either a “facial” challenge based on the face of the pleadings, or a “factual” challenge, in which the court considers matters outside the pleadings. See *Titus v. Sullivan*, 4 F.3d 590, 593 (8th Cir. 1993); *Osborn v. United States*, 918 F.2d 724, 729, n. 6 (8th Cir. 1990); *C.S. ex rel. Scott v. Mo. State Bd. of Educ.*, 656 F. Supp. 2d 1007, 1011 (E.D. Mo. 2009).

FACT: Here in their motion, the Real Party in Interest’s challenge is based on the face of the pleadings and is therefore a facial attack, **ECF No. 83**, to wit:

In a facial challenge such as this, “all of the factual allegations concerning jurisdiction are presumed to be true and the motion is successful if the plaintiff fails to allege an element necessary for subject matter jurisdiction.” *Id. at page 4, Argument*

FACT: It is unknown, if Respondent’s decision is “facial” or a “factual” approach as the Court considers matters outside the pleadings:

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

Specifically, Plaintiff challenges the Government’s “new priesthood for [the] religious doctrine of legalism.” ECF No. 85 at 15.

FACT: Pursuant to the Court Orders, Petitioner, seeking what constitutes an amended complaint did file 29 “Other Amendments” as *notice pleadings* (**Doc. Nos. 28, 33, 34, 44, 45.**)

FACT: Respondent failed to address: *Langford v. United States*, 101 U.S. 341, 343-344 (1879)

LAW: *A fundamental error of legal or judicial error occurred when Respondent ignored, elected, or refused to consider and reify legal issues presented, only to dismiss later as moot, Petitioner’s motions concerning matters of procedural due process of law, inter alia.*

*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.*