Appendix I

Respondent's oft-repeated error, &/or manifests a persistent disregard of the Doctrine of Stare Decisis, Fed. R. Civ. P., & Due Process of Law

(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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FACT: Litigation is, by definition, adversarial. However, being adversarial need not equate to "fighting" every step of the way. Using the analogy that all litigation is war of a dynamic or destructive discourse; of which, sets forth trials and legal proceedings for the engaging battle of words, wants and wills.

FACT: This confrontational discourse develops strategic practices for the substantive principles for one's life and liberty or for the essential rights that merits enforcement or protection by the law. Respondent's destructive discourse or strategic practice is of ***oft-repeated errors.***

FACT: The Real Party in Interest, the designated adversary and the Respondent by her actions or inactions manifesting oneself as the enemy of justice, but nevertheless, both a perceptible foe to First Amendment freedoms and religious liberty of the Petitioner.

FACT: The Real Party in Interest and Respondent both embraced that Federal sovereign immunity and its *sacred ground* of a Court doctrine, that ***"the King can do no wrong"*** *subjecting* U.S. citizens and the Petitioner with Dominion Theology was a victory completed.

FACT: ***No war fought on earth*** or of its dynamic or destructive discourse was deemed magical, mythical or majestic. All war and its countless forms or forums of dynamic or destructive discourse occurs in a realm of methodical, being malicious filled with mistakes and misery.

FACT: Federal sovereign immunity doctrine is not magical, mythical, but is majestic, manifesting an imposing aspect on religious liberty. This has caused great admiration and respect with the unseen force for a ***system of justification,*** by manifesting a persistent disregard of the Doctrine of Stare Decisis, Fed. R. Civ. P., and with *due process of law* in this case.

FACT: The Respondent's sovereign immunity decision is an impressive scale of attack on a First Amendment case. This autonomous measure provided a dignified or inspiring way for an Order of Dismissal of this case to serve as the ultimate defense for acts of subterfuge.

FACT: The Respondent's sovereign immunity decision imposes her will on her enemy (justice), and sets out to capture the quintessential qualities within the rule of law of this nation.

FACT: The Respondent's sovereign immunity decision established a clear and indisputable fact, that Petitioner has no other adequate means to attain the relief he desires.

DATUM: *"If you know the enemy and know yourself, your victory will not stand in doubt; if you know Heaven and know Earth, you may make your victory complete."*- Sun Tzu, The Art of War.

U. S. Constitution - Article I, Congressional and Legislative Authority & Intent

LAW: Landmark Legislation: The Judiciary Act 1789 1 Stat. 73,

CHAP. XX.-An Act to establish the Judicial Courts of the United States.
SEC. 32. And be it further enacted, That no summons, writ, declaration, return, process, judgment, or other proceedings in civil causes in any of the courts of the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form in such writ, declaration, or other pleading, return, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any time permit either of the parties to amend any defect in the process or pleadings, upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe.

LAW: 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"

[18] Nominal damages for vindicating legal or constitutional rights [OVC/Petition] (Doc. No. 1).

FACT: The Real Party in Interest's motion to dismiss **ECF No. 82** and their MEMORANDUM IN SUPPORT OF UNITED STATES' MOTION TO DISMISS, **ECF No. 83,** and REPLY IN SUPPORT OF UNITED STATES' MOTION TO DISMISS, **ECF No. 86**, of which either forsakes, forgets and forcefully forays, in that precise order, the law (The Judiciary Act 1789 1 Stat. 73, SEC. 32., *inter alia*) &/or even fabricated facts and circumstances that gives flight from the rule of law of this nation.

FACT: Petitioner properly addressed the legal positions, arguments and the legal premises in **ECF Nos. 82**, **83**, **86** through the legal positions, arguments and the legal premises set forth in Petitioner's **Doc. Nos. 85, 87, 88, 89, 90, 92.**

FACT: Respondent's *unjust actions* in **ECF Nos. 93, 94** as Respondent's oft-repeated error, &/or manifests a persistent disregard of the Doctrine of Stare Decisis, and with the ***due process of law*** consequently permeates the Court's doctrine of Federal sovereign immunity as the King's law.

U. S. Constitution - Article II, § 1, Cl. 1: Exec. Power of the President

LAW: "Promoting Free Speech and Religious Liberty"; President Trump issued Exec. Order No. 13798 §4, 82 Fed. Reg. 21675 (May 4, 2017). Made perfectly clear, on October 6, 2017, by U.S. Attorney General Sessions' 25-page Memorandum and 2-page directive ("[Religious Liberty/Directive]").

FACT: The Real Party in Interest, presented a motion to dismiss (ECF No. 82) pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), a request that the Court dismiss with prejudice all counts and claims for relief in Plaintiff's amended complaint.

FACT: This motion **ECF No. 82,** is erroneous or in opposition with [Religious Liberty/Directive] and violates Petitioner's free speech and religious liberty with the claims and causes of actions involved in this suit.

FACT: The Department of Justice, lawyers:

CARRIE COSTANTIN, (no entry made)
Acting United States Attorney

DAVID A. HUBBERT (no entry made)
Acting Assistant Attorney General
Tax Division

GREGORY L. MOKODEAN, Attorney of record

FACT: On 10/**23**/2017, Petitioner filed with the Court, **Doc. No. 89**, captioned as:

LEGAL NOTICE OF "UNITED STATES" GOVERNMENTAL POLICY ON RELIGIOUS LIBERTY PROTECTIONS UNDER FEDERAL LAW

FACT: Petitioner simultaneously filed with the Court, **Doc. No. 90**, captioned as:

NOTICE OF FILING EXHIBITS IN SUPPORT OF LEGAL NOTICE

This notice had attached to it:

1). Department of Justice, Office of Public Affairs' press release titled: "Attorney General Sessions Issues Guidance On Federal Law Protections For Religious Liberty" being more particularly described in **Exhibit V#1** comprising of 1 page.

2). Department of Justice, subject matter "Federal law Protections for Religious Liberty" issued

by Attorney General Sessions more particularly described in **Exhibit V#2** comprising of 25 pages.

3.) Department of Justice, subject matter "Implementation of Memorandum on Federal Law Protections for Religious Liberty" issued by Attorney General Sessions, being more particularly described in **Exhibit V#3** comprising of 2 pages.

4). Federal Register / Vol. 82, No. 88 / Tuesday, May 9, 2017, Presidential Documents, Executive Order 13798 of May 4, 2017; being more particularly described in **Exhibit V#4** comprising of 3 pages.

FACT: On 10/**26**/2017, Respondent entered an Order **ECF No. 91,** granting Petitioner's request for leave Doc. No. 87 to file a sur-rely brief of points and authority regarding **ECF No. 86.**

Petitioner filed **Doc. No. 92**, in direct support of his legal & constitutional rights or protections afforded under the [Religious Liberty/Directive], captioned as, to wit:

PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION OF THE "REPLY IN SUPPORT OF UNITED STATES' MOTION TO DISMISS", ECF No. 86

FACT: Petitioner presented the Court the following premises, argument, law and facts, of which, was ignored or not appropriately addressed by the Respondent in **ECF No. 93**, to wit:

I. INTRODUCTION AND STAGE OF PROCEEDINGS

A. Protection of Religious Liberty & Speech as a primary right of self-government.

B. The protected speech in the pure speech of religious beliefs cannot be dismissed.

C. A case of actual controversies appropriate for judicial power & determination.

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.

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

B. The Defendants’ claim of Federal Sovereign Immunity is barred under the First Amendment or repugnant to the Constitution of the United States and the laws in pursuance thereof or predisposed in Langford v. United States, 101 U.S. 341 (1879)

C. Defendants cited Inapplicable Case Law or proffers legal positions that have no merits

IV. “EVEN IF PLAINTIFF COULD IDENTIFY A WAIVER OF SOVEREIGN IMMUNITY, RELIEF IS PRECLUDED.”

Appendix D

A. Declaratory Judgment Act, 28 U.S.C. §§2201, 2202

B. Injunctive Relief *versus* Ant-Injunction Act (“AIA”)
(equitable and ancillary relief including preliminary and permanent injunctive relief)

C. Pursuant to Fed. R. Civ. P, Rule 52, Judgment on Partial Findings

D. Federal Rules of Civil Procedure, Rule 8(a)

E. Rule 57 of the Federal Rules of Civil Procedure

F. U.S. Const. Art. III, Sec. 2. Pursuant to 28 U.S. Code § 1651 – Writs,

G. First Amendment Relief in the right to petition

V. “IN ANY CASE, PLAINTIFF HAS NOT PLED A VIOLATION OF THE FIRST AMENDMENT.”

A. Defendants raised no objection or defense to Notice Pleadings (Doc. Nos. 33 & 34)

B. Plaintiff's Notice Pleadings with the "Religiosity of Facts" 1 to 7. (Doc. No. 45.)

C. See Appendix D addressing why relief is not precluded listed as A through G

VI. CONCLUSION

FACT: Respondent's **ECF No. 93,** failed to identify which Rule of Fed. R. Civ. P. was *controlling* or upheld the guiding principles of [Religious Liberty/Directive] for such dismissal, as an oft-repeated error, and manifested a persistent disregard for the due process of law when **Doc. No. 92** was ignored or not appropriately addressed by the Respondent in ECF No. 93.

FACT: Respondent's oft-repeated error, and manifesting a persistent disregard of the Doctrine of Stare Decisis, Fed. R. Civ. P., & due process of law encroaches upon Article II, § 1, Cl. 1: Exec. Power of the President

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U. S. Constitution - Article III, §§ 1 and 2 Judicial Power of Federal Courts

LAW: The Court, with the Respondent, clothed with immense power can and should exercise a heighten standard of review concerning the actions, facts and merits of this case.

FACT: Respondent made no such ***judicial review*** nor evoked a *strict scrutiny standard* within the vital matters and legal issues presented to the Court in **Doc. No. 92**, or in other such briefs filed by the Petitioner. Such action or inaction of an official duty constitutes Respondent's *oft-repeated error* with this case.

FACT: Petitioner's **Doc. No. 92** informed the Respondent about his concerns with the Real Part in Interest, advancing a continuous policy or Doctrine of Deception involving them and their statements with this case & its controversy, on pages 26 to 29 of **Doc. No 92**, to wit:

Defendants' Doctrine of Deception [57]

[57]Defendants' Doctrine of Deception outlined, documented and revealed in Doc. Nos. 54 & 57)

FACT: The Real Party in Interest, did not made this allegation, but, the Respondent making this assertion or conclusion that the facts of this case, of which, no such fact(s) exist to make these two statements or absurd allegations in the discussion section of **ECF No. 93**, to wit:

This action "pertains to taxes" and was not brought under 26 U.S.C. § 7428. Therefore, the Declaratory Judgment Act does not grant this Court jurisdiction to enter declaratory judgment on the constitutionality of assessing and collecting taxes from Plaintiff. *Id.* at page 5 of b. Declaratory Judgment Act. (Emphasis added)

Lastly, Plaintiff cannot show irreparable harm because he has an adequate remedy at law. For instance, he may "pay the tax, file a claim for refund with the IRS, and sue for refund" once he has exhausted his administrative remedies, as discussed below. *Id.* at page 7 of c. Anti-Injunction Act.

FACT: Petitioner seeking a proper judicial review, made these statements in Doc. No. 92, in his sur-rely and IN OPPOSITION OF THE "REPLY IN SUPPORT OF UNITED STATES' MOTION TO DISMISS", ECF No. 86, to wit on page 2, last paragraph, to wit:

"The AIA applies to Plaintiff's claims, and Plaintiff does not argue otherwise."
See Pagonis v. United States, 575 F.3d 809, 815 (8th Cir. 2009)

Defendants' above mentioned legal propositions are egregious and erroneous. Simply because Anti-Injunction Act, 26 U.S.C. § 7421(a) ("AIA") does not apply to the Plaintiff's suit that concerns law respecting an establishment of religion or the endorsement of religious activities or Defendants' advancement of making a proper return to the IRS and their religious beliefs and practices, in violation of the free exercise clause. The AIA involves restraining the assessment or collection of any tax, not the ***collective experience*** of religious belief of law that has no legal effect, pursuant to 26 U.S.C. § 7806. Plaintiff avers Defendants' IRS has made no claims that the Plaintiff owe a Federal income tax or is subject to internal revenue taxes set forth in 28 U.S. Code § 1396 - Internal revenue taxes. Furthermore, regarding Federal Debt Collection Procedure, pursuant to U.S. Code › Title 28 › Part VI › Chapter 176 › Subchapter A › § 3002: Definitions as used in this chapter: (2) "Court" means any court created by the Congress of the United States, ***excluding the United States Tax Court***. Plaintiff [believes] ***United States Tax Court*** is the Temple of Taxism as the Orthodox Church of Taxology.[65] Nevertheless, Defendants' IRS have threatened Plaintiff with ***"additional civil and criminal penalties"*** [66] as well as, ***"be subject to federal criminal prosecution and imprisonment"*** [67] or has mailed a large host of IRS Notices without OMB# [68] but did issued Privacy Act Notice 609 declaring, in part,

"If you do not a return, do not provide required information, or provide false or fraudulent information, the law says that we may have to charge you penalties and, in certain cases, subject you to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on your tax return. This could make your tax higher or delay any refund. Interest may also be charged."

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[65] Exhibit H- #11, The Orthodox Church of Taxology – Temple of Taxism /16 pages (Doc No. 3)
[66] See Appendix C
[67] See Exhibit L- #35, list of IRS Letters to Plaintiff many without valid OMB control number
[68]* None of these IRS documents have a required or a valid OMB control number

FACT: Respondent, **never addressed** this statement made above,

> Plaintiff avers Defendants' IRS has made no claims that the Plaintiff owe a Federal income tax or is subject to internal revenue taxes set forth in 28 U.S. Code § 1396 - Internal revenue taxes.

FACT: Respondent's legal discussion with Declaratory Judgment Act and Anti-Injunction Act is a Hornbook of law or misplaced in this type of civil action with its controversies concerning the Real Party in Interest's establishment, endorsement or advancement of religion.

NOTE: The Privacy Act Notice 609 is an element for one's faith in Hornbook law of THE**IRS**.

LAW: The Court has held in CATERPILLAR TRACTOR CO. v. UNITED STATES 589 F.2d 1040, 1044 (1978): "It is hornbook law that informal publications all the way up to revenue rulings are simply guides to taxpayers, and a taxpayer relies on them at his peril. See, e. g., Carpenter v. United States, 495 F.2d 175 (5th Cir. 1974); Adler v. Commissioner, 330 F.2d 91 (9th Cir. 1964)."

U.S. Supreme Court Doctrines, Controlling Law or Case Precedents

FACT: The Petitioner's case was reassigned to the Respondent "for all further proceedings" on 05/**05**/2018, **ECF No. 32**, pursuant to ORDER in **ECF No. 31**, that the Clerk of Court shall reassign the case to another judge.

FACT: Respondent's oft-repeated error, &/or manifests a persistent disregard of the Federal Rules Civil Procedure and with the ***due process of law*** as required or sanctioned by U.S. Supreme Court Doctrines, Controlling Law or Case Precedents is profound and self-evident.

FACT: On 05/**08**/2017 Petitioner's *free exercise right* to petition for *due process of law* and protest the ***color of law***, invoked Fed. R. Civ. P., pursuant to:

> Rule 8. General Rules of Pleading
> (d) PLEADING TO BE CONCISE AND DIRECT; ALTERNATIVE STATEMENTS; INCONSISTENCY.
> (1) In General. Each allegation must be simple, concise, and direct. No technical form is required.

FACT: Respondent's oft-repeated error, in **ECF No. 36** is profound, self-evident and perpetual.

Matters of Law and Fact in ECF No. 36

This matter is before the Court on Plaintiff's motion for extension of time (ECF No. 35). On February 23, 2017, the Court[1] ordered Plaintiff to file an amended complaint that complies with Rule 8 of the Federal Rules of Civil Procedure. ***Since then, Plaintiff has filed seventeen motions or other documents, none of which appear to have any basis in law or fact.*** (Emphasis added). *Id.* Memo & Order, page 1, first paragraph

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for extension of time [ECF No. 35] is **GRANTED in part**.

IT IS FURTHER ORDERED that Plaintiff must file his amended complaint that complies with Rule 8 of the Federal Rules of Civil Procedure by **June 15, 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.

FACT: Respondent's actions are inconsistent with the ***rule of law*** and pursuant to **Doc. No. 33** ***passim.*** When protected speech becomes frivolous, [Protected Speech] become spirited.

Doc. No. 33, as Seven Defined, Distinct, Discrete, & Decisive Notice Pleadings

OF UNJUST BURDENS ON FREE EXERCISE PRINCIPLES AND ON PLAINTIFF'S CONSTITUTIONAL RIGHTS OF THE FIRST AMENDMENT AND, IN THE ASSESSMENT OF TRUTH FOR Rule 8(d)(1) pleading requirement that "each allegation must be simple, concise and direct"

FACT: Petitioner's has plead within each Notice of Unjust Burdens these statements having a true basis in law or fact; contrary to Respondent's ***viewpoint-based discrimination*** and what was decreed as being ***frivolous***. Respondent provided **no facts** why such legal matters are ***frivolous***, when clothed with immense powers to protect and guaranteed rights or duties.

FACT: Petitioner stated the following in **Doc. No. 33:**

¶ 3). FOR THE RECORD, Plaintiff's [OVC/Petition], as well as, his *legal conduct* and *pure speech* is under the full protection of ***free exercise principles*** of the First Amendment to the United States Constitution. Furthermore, Plaintiff's *constitutional rights* to ***formulate a legal protest*** and *precisely assemble* an [OVC/Petition] is in the ***right to petition*** the government, ***"showing that the pleader is entitled to relief"*** under Rule 8(a)(1) and of declaratory and prospective injunctive relief.

¶ 4). The preceding [Court's Presiding Judge, the Honorable John M. Bodenhausen] ("[Judge]") made a *review, finding, and Order* (Doc. No. 8) thereby imposed unconstitutional ***viewpoint-based restrictions*** on Plaintiff's free, pure, or [Protected Speech]. The Order engaged in *viewpoint-driven conduct* & regulating speech based on its content, against Plaintiff's *religious beliefs*, content published in [OVC/Petition]. A result when attempting to *redress grievances* with Defendants and to protest unconstitutional activities. ***"The First Amendment, our precedent makes plain, disfavors viewpoint-based discrimination."*** See Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 828 (1995) *quoting* Wood v. Moss, 572 U.S. ___ (2014).

¶ 5). FOR THE RECORD, the [Judge] did not provide any prior verbal or written notice or a hearing, prior to issuing an instant Order striking the ***entire breath and merits*** of [OVC/Petition] which defeats an adversarial system of justice and does not advance a defining and distinctive feature of the United States' legal system. [RFRA] affords the Plaintiff adjudicatory procedures.

¶ 10). The U.S. Supreme Court has held this broader concept of *individual freedom of mind*:
There is certainly some difference between compelled speech and compelled silence, but, in the context of protected speech, the difference is without constitutional significance, for the First Amendment guarantees "freedom of speech," ***a term necessarily comprising the decision of both what to say and what not to say.*** In reaching our conclusion, we relied on the principle that "[t]he *right to speak and the right to refrain from speaking are complementary components of the broader concept of* **'individual freedom of mind**,'" as illustrated in Tornillo. 430 U.S. at 430 U. S. 714 (quoting West Virginia Board of Education v. Barnette, 319 U. S. 624, 319 U. S. 637 (1943)). See also Pacific Gas & Electric Co. v. Public Utilities Comm'n of California, 475 U. S. 1, 475 U. S. 9-

11 (1986) (plurality opinion of Powell, J.) (characterizing Tornillo in terms of freedom of speech); Harper & Row Publishers, Inc. v. Nation Enterprises, 471 U. S. 539, 471 U. S. 559 (1985); Abood v. Detroit Board of Education, 431 U. S. 209, 431 U. S. 234-235 (1977); West Virginia Board of Education v. Barnette, supra. These cases cannot be distinguished simply because they involved compelled statements of opinion, *while here we deal with compelled statements of "fact":* either form of compulsion ***burdens protected speech***. Emphasis added. See Riley v. National Fed. of the Blind of North Carolina, 487 U.S. 781, 797, 798 (1988).

¶ 11). FOR THE RECORD, the [ORDERS] administered by the [Judge] and [Judge Ross] is an *unjust burden* and *abuse of discretion* over the ***free exercise principles*** of the Plaintiff's right to *pure speech*. These [ORDERS] advances *compelled speech* of the Plaintiff, in a limited Forum (Courthouse) concerning his free, pure and [Protected Speech] exercised as [OVC/Petition]. This *unbridled brevity* in the *requirements* with Rule 8 or in the *generality* of what should constitute conformity has manifested a ***lack of due process*** of the Fifth Amendment of the U.S. Constitution.

¶ 12). FOR THE RECORD, [ORDERS] *'grounds'* are based on the ***brevity*** of Fed. R. Civ. P. RULE 8(a)(2) and in RULE 8(d)(1) or for the ***generality*** of its terms; thus, exhibiting a lack of compliance with the *void for vagueness doctrine* or allowing a *substantial due process* violation.

¶ 13). FOR THE RECORD, A judge's sua sponte decisionmaking, and/or with the Court acting on its own initiative, on the basis of formalities of Plaintiff's [OVC/Petition] and/or "A document filed pro se is 'to be liberally construed,' Estelle, 429 U.S., at 106, 97 S.Ct. 285, and 'a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers,' *ibid.* (internal quotation marks omitted). Cf. Fed. Rule Civ. Proc. 8(f) ("All pleadings shall be so construed as to do substantial justice")" under the Federal Rules of Procedures ("Fed. R. Civ. P.") ***present or past.*** See Erickson v. Pardus, 127 S.Ct. 2197 (2007).

FACT #1: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

Plaintiff's [OVC/Petition], as well as, his *legal conduct* and *pure speech* is under the full protection of ***free exercise principles*** of the First Amendment to the United States Constitution.

FACT #2: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

"The First Amendment, our precedent makes plain, disfavors viewpoint-based discrimination." See Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 828 (1995) *quoting* Wood v. Moss, 572 U.S. ___ (2014). See Doc. No. 33 in all seven notice pleadings.

FACT #3: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

[RFRA] affords the Plaintiff adjudicatory procedures.

FACT #4: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

The U.S. Supreme Court has held this broader concept of ***individual freedom of mind*** for the First Amendment guarantees "freedom of speech," a term necessarily comprising the decision of both what to say and what not to say. In reaching our conclusion, we relied on the principle that **"[t]he right to speak and the right to refrain from speaking are complementary components of the broader concept of 'individual freedom of mind,'"** See Riley v. National Fed. of the Blind of North Carolina, 487 U.S. 781, 797, 798 (1988).

FACT #5: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

This *unbridled brevity* in the *requirements* with Rule 8 or in the *generality* of what should constitute conformity has manifested a ***lack of due process*** of the Fifth Amendment of the U.S. Constitution.

FACT #6: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

FOR THE RECORD, [ORDERS] *'grounds'* are based on the ***brevity*** of Fed. R. Civ. P. RULE 8(a)(2) and in RULE 8(d)(1) or for the ***generality*** of its terms; thus, exhibiting a lack of compliance with the ***void for vagueness doctrine*** or allowing a ***substantial due process*** violation.

FACT #7: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

"A document filed pro se is 'to be liberally construed,' Estelle, 429 U.S., at 106, 97 S.Ct. 285, and 'a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers,' *ibid.*

FACT: Petitioner's has plead within each Notice of Unjust Burdens these statements having a true basis in law or fact; contrary to Respondent's ***viewpoint-based discrimination*** and what was decreed as being *wrongdoing* by the Petitioner. Respondent provided **no law** why such legal matters are ***frivolous***, when clothed with immense powers to protect and guaranteed rights or duties.

FACT: Petitioner stated the following in **Doc. No. 33:**

FOR THE RECORD, "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Iqbal, 129 S. Ct. at 1949 (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). This pleading standard is satisfied if the complaint's "factual content . . . allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "`give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic Corp. v. Twombly, 550 U.S. ___, ___, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)).

FOR THE RECORD, In reviewing the sufficiency of a complaint, the court determines whether the plaintiff is entitled to offer evidence to support his claims—not whether the plaintiff will ultimately prevail. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds by Davis v. Scherer*, 468 U.S. 183 (1984).

FOR THE RECORD, the [ORDERS] ***has compelled the Plaintiff to make a choice***. A continuing of the harm inflicted upon Plaintiff by the challenged law, conduct and activity of the Defendants, as well as accept *diminished fundamental free exercise rights* of the First Amendment. This compared to the ***conformity*** *with the requirements of Rule 8* to obtain a governmental benefit of court sanctioned relief involving Defendants' beliefs, activities, conduct or from enjoining IRS enforcement of the [THE CODE] specified herein. A choice creating heartfelt burdens on Plaintiff.

FOR THE RECORD, Plaintiff shall remained uncertain as to declare rights and legal remedies promulgated under the U.S. Constitution and [CLP] because of Defendants' law, conduct and activity alleged *supra*, and now compromised by the insipid thoughts and actions of the Court unjust [ORDERS] weighed upon First Amendment *free exercise principles*, because declaratory relief is, therefore, appropriate to resolve these controversies of constitutionally protected interest.

FOR THE RECORD, The U.S. Supreme Court has held that Federal or State Government may not deny a benefit to a person on a basis that infringes his constitutionally protected interest, especially his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to "produce a result which [it] could not command directly." Speiser v. Randall, 357 U. S. 513, 357 U. S. 526. Such interference with constitutional rights is impermissible. Emphasis added.

FOR THE RECORD, This civil action docket sheet should properly represent this case **"Cause: 28:2201 Injunction"** with the "Nature of Suit" as First Amendment challenges/violations seeking declaratory and other appropriate relief. Currently the record does not reflect this fact.

FACT #1: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Iqbal, 129 S. Ct. at 1949 (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007))

FACT #2: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

"a short and plain statement of the claim showing that the pleader is entitled to relief." Specific facts are not necessary; the statement need only "`give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic Corp. v. Twombly, 550 U.S. ___, ___, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)).

FACT #3: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

In reviewing the sufficiency of a complaint, the court determines whether the plaintiff is entitled to offer evidence to support his claims—not whether the plaintiff will ultimately prevail. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds by Davis v. Scherer*, 468 U.S. 183 (1984).

FACT #4: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

This compared to the ***conformity*** *with the requirements of Rule 8* to obtain a governmental benefit of court sanctioned relief involving Defendants' beliefs, activities, conduct or from enjoining IRS enforcement of the [THE CODE] specified herein.

FACT #5: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

…now compromised by the insipid thoughts and actions of the Court unjust [ORDERS] weighed upon First Amendment *free exercise principles*, because declaratory relief is therefore, appropriate to resolve these controversies of constitutionally protected interest.

FACT #6: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

This would allow the government to ***"produce a result which [it] could not command directly."*** Speiser v. Randall, 357 U. S. 513, 357 U. S. 526. See Doc. No. 33 in all seven notice pleadings.

FACT #7: Respondent's actions are inconsistent with the rule of law and pursuant to **Doc. No. 33** declaring this point of law as *frivolous*:

This civil action docket sheet should properly represent this case **"Cause: 28:2201 Injunction"** with the "Nature of Suit" as First Amendment challenges/violations seeking declaratory and other appropriate relief. Currently the record does not reflect this fact.

FACT: Respondent's *oft-repeated error* or actions that manifests a persistent disregard of the with due process of law is vast with the controlling law of this case or with the case precedents cited by Respondent or relied upon by the Court.

DISCUSSION
a. Sovereign Immunity

FACT: Respondent's ***oft-repeated error*** with case law is ***self-evident*** or ***misplaced***, to wit:

Lastly, to the extent Plaintiff challenges the constitutionality of the doctrine of sovereign immunity itself, the doctrine pre-dates the Constitution and has been consistently upheld by the United States Supreme Court. *See, e.g., U.S. v. Thompson*, 98 U.S. 486, 489 (1878); *U.S. v. Lee*, 106 U.S. 196, 204 (1882); *State of Kan. v. U.S.*, 204 U.S. 331, 341 (1907).
See **ECF No. 93** at page 5.

LAW: *U.S. v. Thompson*, 98 U.S. 486, 489 (1878)

The United States, whether named in a state statute of limitations or not, is not bound thereby, and when it sues in one of its own courts, such a statute is not within the provisions of the Judiciary Act of 1789 which declare that the laws of the states, in trials at common law, shall be regarded as rules of decision in the courts of the United States in cases where they apply

This state of things indicates a general conviction throughout the country that there is no foundation for a different proposition. There are also adjudications in the state reports upon the subject, but they concur with those to which we have referred. Among the earliest of them is *Stoughton v. Baker*, 4 Mass. 521. In that case, Chief Justice Parsons said: "No laches can be imputed to the government, and against it no time runs so as to bar its rights." The examination of the subject by Judge Story in *United States v. Hoar, supra*, is a fuller one than we have found anywhere else.

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He and Parsons are in accord. So far as we are advised, the case before us stands alone in American jurisprudence. It certainly has no precedent in the reported adjudications of the federal courts.

LAW: *U.S. v. Lee*, 106 U.S. 196, 204 (1882);

1. The doctrine that, except where Congress has provided, the United States cannot be sued examined and reaffirmed. *Id. at* Syllabus #1

3. The constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law, nor private property taken for public use without just compensation, relate to those rights whose protection is peculiarly within the province of the judicial branch of the government. Cases examined which show that the courts extend protection when the rights of property are unlawfully invaded by public officers. *Id. at* Syllabus #1

The other point raised is that the right to pay the taxes between the advertisement and day of sale in any other mode than by personal appearance of the owner before the commissioners did not exist in cases where the United States became the purchaser. As it could never be known until the day of sale whether the United States would become the purchaser or not, it would seem that the duty of the commissioners to receive the taxes was to be exercised without reference to the possibility of the land being struck off to the United States.

Page 106 U. S. 204

In the case of *Cooley v. O'Connor*, 12 Wall. 391, it was held that the act contemplated that a certificate of sale should be given when the United States became the purchaser, as in other cases, and no reason is shown why that certificate should have any greater effect as evidence of title than in the case of a private purchaser, nor why it should not be subject to the same rules in determining its validity, nor why the payment or tender of the tax, interest, and costs, should not be made by an agent in the one case as in the other.

LAW: *State of Kan. v. U.S.*, 204 U.S. 331, 341 (1907):

Where the name of a state is used simply for the prosecution of a private claim, the original jurisdiction of this Court cannot be maintained.

Although a state may be sued by the United States without its consent, public policy forbids that the United States may, without its consent, be sued by a state.

The facts are stated in the opinion.

Page 204 U. S. 337

Title passed by the grant on the performance of its conditions and to the grantees to whom the patents were to be issued, and here section 3 provided that patents should issue not to the state, but to the railroad company direct.

And if the lands in the Indian Territory could be held in any view to have been granted *in praesenti*, such grant was certainly not to the State of Kansas.

Page 204 U. S. 341

The road, in aid of which the grant was made to the state, extended no farther than the southern boundary thereof, and the patents were to be issued to the company. True, as declared in section 1, the road was to be constructed "with a view to an extension of the same through a portion of the Indian Territory to Fort Smith, Arkansas," and that extension was authorized by section 8, but the lands referred to in section 9 were not lands in the State of Kansas, nor was that state mentioned in the section. It seems clear that those lands were not intended to be granted to that state for the construction of a road beyond its boundaries.

FACT: Respondent's ***oft-repeated error*** with case law is ***self-evident*** or ***misplaced***, to wit:

"[T]he United States, as sovereign, is immune from suit save as it consents to be sued." *Lehman v. Nakshian*, 453 U.S. 156, 160 (1981). Federal courts generally lack jurisdiction to hear claims against the United States because of sovereign immunity. *Barnes v. U.S.*, 448 F.3d 1065, 1066 (8th Cir. 2006). This immunity can be waived, but the waiver must be clear and unmistakable. *U.S. v. Mitchell*, 445 U.S. 535, 538 (1980). Courts narrowly construe such waivers. *U.S. v. Sherwood*, 312 U.S. 584, 587–88 (1941); *see also Ginter v. U.S.*, 815 F. Supp. 1289, 1293 (W.D. Mo. 1993) (such a waiver "must be strictly construed, unequivocally expressed, and cannot be implied"). See **ECF No. 93** at page 5.

LAW: *Lehman v. Nakshian*, 453 U.S. 156, 160 (1981).

The Age Discrimination in Employment Act of 1967 (ADEA or Act) was amended in 1974 to extend to federal employees the Act's protection of older workers against discrimination in the workplace based on age. Section 15(c) of the Act provides that any aggrieved federal employee "may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes" of the Act.

Noting that Congress had conferred jurisdiction over ADEA suits upon the federal district courts, rather than the Court of Claims, the Court of Appeals concluded that, "absent a provision as to the method of trial, a grant of jurisdiction to a district court as a court of law carries with it a right of jury trial.'" Id. at 63, 628 F.2d at 63 (quoting 5 J. Moore, J. Lucas, & J. Wicker, Moore's Federal Practice 38.32 [2], p. 38-236 (1979) (footnotes omitted)). The Court of Appeals also adopted the District Court's view of the "legal . . . relief" language in § 15(c). Further, it was the court's view that the existence of the explicit statutory right to jury trial in suits against private employers does not

Page 453 U. S. 160

negate the existence of a right to jury trial in suits against the Government, since the provision for jury trials in private suits was added only to resolve a conflict in the Courts of Appeals on that issue and to confirm the correctness of this Court's decision in the Lorillard case.

LAW: *Barnes v. U.S.*, 448 F.3d 1065, 1066 (8th Cir. 2006)

Lee Barnes appeals the dismissal by the district court[1] of his action filed under the Federal Tort Claims Act (FTCA), *see* 28 U.S.C. §§ 1346, 2671-2680. We affirm.

The determination of whether a private analogue exists is made in accordance with the law of the place where the relevant act or omission occurred. 28 U.S.C. § 1346(b)(1). Relying on *Scottsdale Ins. Co. v. Ratliff*, 927 S.W.2d 531 (Mo.Ct.App.1996), Mr. Barnes contends that his FTCA action may proceed because Missouri law recognizes a cause of action for negligent inspection and

negligent advice. But for a defendant to be liable under those theories, it must have first owed the plaintiff a duty under Missouri law to inspect and to advise, and Missouri law imposed no such duty on the FSIS. Although the FSIS is required to follow the inspection standards established by its administrator, 9 C.F.R. § 381.4, this duty is imposed by the federal government, not by the state.

[448 F.3d 1067]

Mr. Barnes maintains that the government is nevertheless liable under Missouri's "good Samaritan" rule, a principle under which one who "`undertakes . . . to render services to another'" may sometimes be held liable for a failure to exercise reasonable care in doing so. *Stanturf v. Sipes*, 447 S.W.2d 558, 561-62 (Mo.1969) (per curiam) (quoting Restatement (Second) of Torts, § 323). He relies on *Indian Towing Co. v. United States*, 350 U.S. 61, 61-62, 76 S.Ct. 122, 100 L.Ed. 48 (1955), in which the plaintiff brought an action under the FTCA, contending that its tugboat ran aground because the Coast Guard failed to maintain a lighthouse. The United States sought dismissal for lack of subject matter jurisdiction; because no private person operated lighthouses, the government argued that there was no private analogue of the government's conduct. The district court granted the motion, and the Fifth Circuit affirmed, *Indian Towing Co. v. United States*, 211 F.2d 886, 886 (5th Cir.1954) (per curiam).

DATUM: Petitioner's lawsuit was not filed in the Court of Federal Claims.

FACT: Petitioner never maintain that the government is nevertheless liable under Missouri's "good Samaritan" rule, a principle under which one who "`undertakes . . . to render services to another'" may sometimes be held liable for a failure to exercise reasonable care in doing so.

FACT: Petitioner never maintain or contend that his action may proceed because Missouri law recognizes a cause of action for negligent inspection and negligent advice.

LAW: *U.S. v. Mitchell*, 445 U.S. 535, 538 (1980)

Held: The General Allotment Act cannot be read as establishing that the United States has a fiduciary responsibility for management of allotted forest lands, and thus does not provide respondents with a cause of action for the damages sought. Pp. 445 U. S. 538-546.

(a) Neither the Tucker Act, under which the individual claimants premised jurisdiction in the Court of Claims, nor § 24 of the Indian Claims Commission Act, on which jurisdiction over the Tribe's claim was based, confers a substantive right against the United States to recover money damages. Pp. 445 U. S. 538-540.

The United States moved to dismiss the respondents' actions on the ground that it had not waived its sovereign

Page 445 U. S. 538

immunity with respect to the claims raised. The Court of Claims, sitting en banc, denied the Government's motion. 219 Ct.Cl. 95, 591 F.2d 1300 (1979). Reasoning that Government mismanagement of the kind alleged breaches the Government's fiduciary duty under the General Allotment Act, the court held that the Act provides Indian allottees a cause of action for money damages against the United States.

The individual claimants in this action premised jurisdiction in the Court of Claims upon the Tucker Act, 28 U.S.C. § 1491, which gives that court jurisdiction of "any claim against the United States founded either upon the Constitution, or any Act of Congress." The Tucker Act is "only a jurisdictional statute; it does not create any substantive right enforceable against the United States for money damages." *United States v. Testan,* 424 U. S. 392, 424 U. S. 398 (1976). The Act merely "confers jurisdiction upon [the Court of Claims] whenever the substantive right exists." *Ibid.* The individual claimants, therefore, must look beyond the jurisdictional statute for a waiver of sovereign immunity with respect to their claims

FACT: The language of the Respondent that: ***"This immunity can be waived, but the waiver must be clear and unmistakable."*** cannot be found within this case relied upon by the Court.

DATUM: Petitioner's lawsuit was not filed in the Court of Federal Claims.

FACT: Petitioner never maintain or contend that the Tucker Act, under which the individual claimants premised jurisdiction in the Court of Claims, nor § 24 of the Indian Claims Commission Act, on which jurisdiction over the Tribe's claim was based, confers a substantive right against the United States to recover money damages.

FACT: Petitioner never maintain or contend that his action confers a substantive right against the United States to recover money damages. The action is about seeking relief and remedy regarding an injury or harm committed by the Real Party in Interest concerns, *inter alia,* substantive and fundamental right.

LAW: *U.S. v. Sherwood,* 312 U.S. 584, 587–88 (1941)

Syllabus

A New York court, acting under authority of § 795 of the New York Civil Practice Act, made an order authorizing a judgment creditor to sue under the Tucker Act, to recover damages from the United States for breach of its contract with the judgment debtor, the order directing that, out of the recovery, the judgment creditor should be entitled to a sum sufficient to satisfy his judgment with interest, costs, etc. The state law cited makes the judgment debtor a necessary party, and authorizes him, in any suit so brought, to attack the validity of the order and of the judgment on which it is founded.

Held:

1. That a suit brought accordingly against the United States and the judgment debtor was not within the jurisdiction of the federal court. P. 588.

This conclusion presupposes that the United States, either by the rules of practice or by the Tucker Act or both, has given its consent to be sued in litigations in which issues between the plaintiff and third persons are to be adjudicated. But we think that nothing in the new rules of civil practice, so far as they may be applicable in suits brought in district courts under the Tucker Act, authorizes the maintenance of any suit against the United States to which it has not otherwise consented. An authority conferred upon a court to make rules of

Page 312 U. S. 590

procedure for the exercise of its jurisdiction is not an authority to enlarge that jurisdiction and the Act of June 19, 1934, 48 Stat. 1064, 28 U.S.C. § 723b, authorizing this Court to prescribe rules of procedure in civil actions gave it no authority to modify, abridge, or enlarge the substantive rights of litigants or to enlarge or diminish the jurisdiction of federal courts.

Nor, with due regard to the words of § 2 of the Tucker Act and to its legislative history, can we say that the United States has consented to the maintenance of suits against the Government in the district courts which could not be maintained in the Court of Claims. The section must be interpreted in the light of its function in giving consent of the Government to be sued, which consent, since it is a relinquishment of a sovereign immunity, must be strictly interpreted. *Schillinger v. United States,* 155 U. S. 163; *Price v. United States,* 174 U. S. 373; *United States v. Michel,* 282 U. S. 656; *United States v. Shaw,* 309 U. S. 495; *United States v. United States Fidelity & Guaranty Co.,* 309 U. S. 506; *cf. Federal Housing Administration v. Burr,* 309 U. S. 242, 309 U. S. 247. Section 2, authorizing suits against the Government in district courts, is an integral part of the statute, other sections of which revised and enlarged the classes of claims against the United States which could be litigated in the Court of Claims. It was the jurisdiction thus defined and established for that court which was extended by the section to the district courts in the specified instances, for, in consenting to suits against the Government in the district courts, Congress prescribed that the jurisdiction thus conferred should be "concurrent" with that of the Court of Claims.

DATUM: Petitioner's lawsuit was not filed in the Court of Federal Claims.

SECOND OPINION: Petitioner's profession and the spiritual enterprise of his business is about the business of life, liberty and the pursuit of happiness. Furthermore, one such pursuit of happiness is found within the working of liberty under the law. Evidence of this fact is within this case and of its controversies.

FACT: Respondent has ***taken a liberty*** with the Petitioner and this case. Apparently, she thinks her own judgement is greater than Petitioner's rights, privileges or immunity under the enforcement or the protection of the law.

FACT: Respondent cannot discern the unique jurisdiction of the U.S. Court of Claims and a U.S. District court, although the district court can be concerned with "money issues" that matter to some people, but not the Respondent in this case.

FACT: Petitioner never maintain or contend that the Tucker Act or that this action concerns 42 U.S. Code §§ 1918 or 1983, including this decree written in **ECF. No. 55** at page 3:

The Court has also reviewed Plaintiff's requests to change the "Cause" on the Court's docket sheet because "42:1981 Civil Rights" is an inaccurate representation of his case. The Court will order the clerk of the court to update the "Cause" to reflect that this matter asserts violations of Plaintiff's constitutional (i.e. civil) rights, which may be brought under 42 U.S.C. § 1983.

FACT: Petitioner declares before this Honorable Court, and this Nation's Almighty God, that the above mention statement is ***overwhelming evidence*** that Respondent's ***oft-repeated error***, &/or manifests a persistent disregard of the Federal Rules Civil Procedure and with the due process of law of this case and its controversies.

FACT: The District court does not apply the **correct law**; as the **controlling law** for ***sovereign Immunity*** in this case is in ***Langford v. United States,*** 101 U.S. 341 (1879) the Court held:

> ***"As applicable to the government or any of its officers, the maxim that the King can do no wrong has no place in our system of constitutional law."*** *Id.* at Syllabus #1.

LAW: *Langford v. United States* 101 U.S. 341, 343-344 (1879)

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. 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.*** It is not easy to see how the first proposition *can have any place in our system of government*. ***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***. (Emphasis added)

FACT: Respondent has refused to accept the facts plead in this case pursuant to **ECF No. 93** as the ***I**nternal **R**eligious **S**ervice* as the entity ("IRS") was manifested in the year **"1646".** See Petitioner's Exhibit G- #6 The Promise Land & [THE BOOK] "IRS Historical Fact Book" / 4 pages.

FACT: Respondent has refused to observe or read germane U.S. Supreme Court decision, to wit:

LAW: *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979)

“Congressional statements made at the time of these reenactments indicate that Congress was primarily concerned with unauthorized disclosure of business information by feckless or corrupt revenue agents [Footnote 22] for
Page 441 U. S. 297

in the early days of the Bureau of Internal Revenue, it was the field agents who had substantial contact with confidential financial information. [Footnote 23]”

[Footnote 22]

See, e.g., 26 Cong.Rec. 6893 (1948) (Sen. Aldrich) (expressing concern that taxpayer's confidential information is "to be turned over to the tender mercies of poorly paid revenue agents"); id. at 6924 (Sen. Teller) (exposing records to the "idle curiosity of a revenue officer"). See also Cong.Globe, 38th Cong., 1st Sess., 2997 (1864) (Rep. Brown) (expressing concern that 1864 revenue provisions would allow "every little petty officer" to investigate the affairs of private citizens).

[Footnote 23]

There was virtually no Washington bureaucracy created by the Act of July 1, 1862, ch. 119, 12 Stat. 432, the statute to which the present Internal Revenue Service can be traced. Researchers report that, during the Civil War, 85% of the operations of the Bureau of Internal Revenue were carried out in the field, "including the assessing and collection of taxes, the handling of appeals, and punishment for frauds" -- and this balance of responsibility was not generally upset until the 20th century. L. Schmeckebier & F. Eble, The Bureau of Internal Revenue 8, 40-43 (1923). Agents had the power to enter any home or business establishment to look for taxable property and examine books of accounts. Information was collected and processed in the field. It is, therefore, not surprising to find that congressional comments during this period focused on potential abuses by agents in the field, and not on breaches of confidentiality by a Washington-based bureaucracy.

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Due Process of Fifth Amendment of United States Constitution

LAW: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

FACT: The Respondent, has a long procedure history of walking around issues of due process and Fed. R. Civ. P. Rules within this case.

LAW: 28 U.S. Code § 2071. Rule-making power generally, especially (f) "No rule may be prescribed by a district court other than under this section."

FACT: On May 19th 2017 Petitioner seeking the due process of law with the Respondent and the Clerk of the Court, & its pro se lawyers filed on May 19th 2017, **Doc. No. 37** with the Court captioned as, to wit:

FIRST NOTICE AND DEMAND FOR MANDATORY JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S FREE EXERCISE RIGHT TO MAKE A COMPLAINT/PETITION JUDICIAL NOTICE #1

FACT: Petitioner's **Doc. No. 37** was an act that was legal when committed, however the Clerk of the Court, to defeat Petitioner's due process rights, informed Petitioner that **ECF No. 36** gave him the power to refuse or return this NOTICE AND DEMAND FOR MANDATORY JUDICIAL NOTICE.

FACT: Petitioner informed Mr. Gregory J. Linhares and Ms. Brittney Porter, Deputy Clerk that **ECF No. 36** concerned **"frivolous motions"** not judicial notices or any legal notices. See **Doc. No. 43,** Petition for Writ of Mandamus, pages 17, 18 & 19.

FACT: Petitioner informed Mr. Gregory J. Linhares and Ms. Brittney Porter, Deputy Clerk that **ECF No. 36** granted them no power to curtail Rule 5 or violate 18 U.S. Code § 2076 - Clerk of United States District Court because the Order stated ***"Plaintiff is advised that the Court will not entertain any similar motions filed by Plaintiff at this time."***

FACT: This Judicial Notice #1 was returned on 05/23/2017 **Doc. No. 37**, (RETURN LETTER) pursuant to Clerk of the Court, based on **ECF No. 36**, with no mention in the letter about our face to face discussion, or the lack of authority in 05/12/2017 Order **ECF No. 36.**

FACT: Petitioner's **Doc. No. 37** was an act that was legal when committed, however the Clerk of the Court and the Respondent, working together to defeat Petitioner's due process rights, manifested **ECF. No. 42** on 26th day of May, 2017, thereby to serve as ex post facto law, to wit:

> **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.

FACT: The Respondent granted the Clerk of Court, a non-judge, the right to curtail due process of law in contravention of Fed. R. Civ. P., Rule 5 or violates 18 U.S. Code § 2076 - Clerk of United States District Court.

FACT: On 06/01/2017 Petitioner filed a petition for relief from the Respondent's illicit orders, captioned as,

VERIFIED PETITION FOR A WRIT OF MANDAMUS AND PROHIBITION OR OTHER APPROPRIATE RELIEF PURSUANT TO 28 U.S.C. § 2106 and Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803)

FACT: On 06/19/2017, this Court denied Petitioner relief **ECF. No. 47, 48.**

FACT: Petitioner filed on 07/28/207, **Doc. No. 61**, captioned as, to wit:

> PLAINTIFF'S NOTIFICATION TO CLERK OF COURT AS TO ACCEPTING A LIST & ITS ATTACHED EXHIBITS (Doc. No. 58) FOR FILING, YET FAILED TO PROPERLY ENTER INTO THE RECORD OR NEGLECTED TO SUBMIT CERTAIN DOCUMENTS

TO THE HONORABLE JUDGE OF SAID COURT AND CLERK OF COURT, LINHARES:

1). Court clerks are duty-bound to know the law and to docket and process the filings that they receive. Delivery of documents to the office of the clerk of the court constitutes filing.

2). Federal Rule of Civil Procedure, Rule 5(d)(2)(A) governs such matters complain of herein, as well as, Rule 5(4) which states:

> Rule 5. Serving and Filing Pleadings and Other Papers
>
> (4) Acceptance by the Clerk. The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

FACT: Respondent's oft-repeated error, or manifesting a persistent disregard of Fed. R. Civ. P., and with due process of law is self-evident when examining the notices in this case.

FACT: Respondent, based on her needs or concerns and not of the Doctrine of Mootness has revealed a pattern to dismiss matters that are not "moot" but are moving and revealing the realm as described on page one of this Appendix, for a system of justification.

In support of Petitioner's *standards of review* or *legal standards* resigned as a body of law the following law reviews are germane to facts or Respondent's oft-repeated error, &/or manifesting a persistent disregard of the Doctrine of Stare Decisis, Fed. R. Civ. P., & Due Process of Law

California Law Review
VOL. **62 December** 1974 No. **5**
Mootness in Judicial Proceedings:
Toward a Coherent Theory……. 60 pages
Don B. Kates, Jr. and William T. Barker

And

Notre Dame Law School
Scholarly Works Faculty Scholarship
1-1-2010
Stare Decisis as Judicial Doctrine…… 57 pages
Randy J. Kozel
Notre Dame Law School, rkozel@nd.edu

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.