## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

Civil Action No.: 15-13030-NMG	

## DEFENDANTS GALLAGHER, THURLOW, CHAMBERS, MILLEY, GILBERT, <u>SAPIA</u>, <u>MCNEICE, I.C.E. DOES 21-30 AND UNITED STATES' MOTION TO DISMISS</u>

Defendants Gallagher, Thurlow, Chambers, Milley, Gilbert, Sapia, McNeice, I.C.E. Does 21-30<sup>1</sup>, and the United States, hereby move to dismiss Plaintiff's Complaint because he failed: (1) to serve properly a copy of the Complaint on all parties under Fed.R.Civ.P. 4; (2) to plead with proper particularity the acts of each individually named Defendant for *Bivens* purposes under Fed. R. Civ. P. 8(a); (3) even if he met the pleading requirements of Rule 8(a), Plaintiff's Complaint fails to state a valid claim as a matter of law; (4) Defendants are entitled to qualified immunity; and (5) Plaintiff failed to exhaust his administrative remedies under the FTCA.

<sup>&</sup>lt;sup>1</sup> Because Plaintiff is alleging a *Bivens* claim against ICE Does 21-30, undersigned counsel cannot represent unnamed individuals for this purpose.

Defendants rely on the Memorandum of Law filed simultaneously herewith.

Respectfully submitted,

CARMEN M. ORTIZ UNITED STATES ATTORNEY

By: /s/ Michael Sady

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## **LOCAL RULE 7.1 CERTIFICATION**

Pursuant to Local Rule 7.1, because the Plaintiff is *pro se*, undersigned counsel has not attempted to contact him to narrow the issues.

/s/ Michael Sady

Michael Sady Assistant United States Attorney

## **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to <u>pro</u> <u>se</u> plaintiff, Emmanuel Andro, 1764 Dorchester Ave. #2, Boston, MA 02124, via first class mail.

Dated: August 8, 2016

/s/ Michael Sady

Michael Sady

**Assistant United States Attorney**