

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

JUAN BARRERA, JOSE CABRERA,	:	
DANIEL CHAVEZ, JOSE DUMA,	:	
JOSE LLIBISUPA, ISAAC MALDONADO,	:	
EDGAR REDROVAN, NICOLAS SEGUNDO	:	
SANCHEZ, JUAN CARLOS SIMBANA, and	:	
DANILO BRITO VARGAS	:	
	:	
V.	:	No. 3:07CV1436 (RNC)
	:	
MARK BOUGHTON, Mayor of Danbury,	:	
in his official and personal	:	
capacities, et al	:	

FEDERAL DEFENDANTS' ANSWER  
TO THE AMENDED COMPLAINT

Federal Defendants, Richard McCaffrey, James Brown, Ronald Preble, and the United States of America (the "Federal Defendants"), by and through undersigned counsel, respectfully submit the following answer to Plaintiffs' Amended Complaint filed November 26, 2007. The Federal Defendants will not be responding to the titles utilized by Plaintiffs throughout the Amended Complaint. Additionally, the first five paragraphs of the Amended Complaint are Plaintiffs' overview of this litigation, to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations.

1. Paragraph 1 contains a statement of jurisdiction to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations in paragraph 1.

2. Paragraph 2 contains a statement of venue to which no answer is required. To the extent an answer is required, the Federal Defendants admit the allegations in paragraph 2.

3. The Federal Defendants admit that Plaintiff Barrera was taken into Immigration and Customs Enforcement ("ICE") custody on September 19, 2006, and released on bond on or about October 3, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Barrera's race and ethnicity, and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Barrera told ICE officers that he is a citizen of Ecuador.

4. The Federal Defendants admit that Plaintiff Cabrera was taken into ICE custody on September 19, 2006, and released on bond on or about October 23, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Cabrera's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Cabrera told ICE officers that he is a citizen of Ecuador.

5. The Federal Defendants admit that Plaintiff Chavez was taken into ICE custody on September 19, 2006, and released on bond on or about October 24, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Chavez's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Chavez told ICE officers that he is a citizen of Ecuador.

6. The Federal Defendants admit that Plaintiff Duma was taken into ICE custody on September 19, 2006, and released on bond on or about October 3, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Duma's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Duma told ICE officers that he is a citizen of Ecuador.

7. The Federal Defendants admit that Plaintiff Llibisupa was taken into ICE custody on September 19, 2006, and released on bond on or about October 3, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Llibisupa's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Llibisupa told ICE officers that he is a citizen of Ecuador.

8. The Federal Defendants admit that Plaintiff Maldonado was taken into ICE custody on September 19, 2006, and released on bond on or about October 3, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Maldonado's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Maldonado told ICE officers that he is a citizen of Ecuador.

9. The Federal Defendants admit that Plaintiff Redrovan was taken into ICE custody on September 19, 2006, and released on bond on or about October 24, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Redrovan's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Redrovan told ICE officers that he is a citizen of Ecuador.

10. The Federal Defendants admit that Plaintiff Sanchez was taken into ICE custody on September 19, 2006, and released on bond on or about October 23, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Sanchez's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Sanchez told ICE officers that he is a citizen of Ecuador.

11. The Federal Defendants admit that Plaintiff Simbana was taken into ICE custody on September 19, 2006, and released on bond on or about October 20, 2006. The Federal Defendants neither admit or deny the allegations as to Plaintiff Simbana's race and ethnicity and leave Plaintiffs to their proof. The Federal Defendants admit that Plaintiff Sanchez told ICE officers that he is a citizen of Ecuador.

12. The first portion of Paragraph 12 contains allegations which do not relate to the Federal Defendants and, thus, no answer is provided. The Federal Defendants admit that Plaintiff Vargas was detained by ICE and was removed to Ecuador. The Federal Defendants neither admit or deny the allegations as to Plaintiff Vargas's race and ethnicity and leave Plaintiffs to their proof.

13. As the allegations in Paragraph 13 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

14. As the allegations in Paragraph 14 of the Amended Complaint do not pertain to the Federal Defendants, an answer to

these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

15. As the allegations in Paragraph 15 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

16. As the allegations in Paragraph 16 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

17. As the allegations in Paragraph 17 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

18. As the allegations in Paragraph 18 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

19. As the allegations in Paragraph 19 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

20. As the allegations in Paragraph 20 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

21. As the allegations in Paragraph 21 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

22. As the allegations in Paragraph 22 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

23. Paragraph 23 contains Plaintiffs' characterization of the names and identifies of John Doe defendants to which no answer is required. To the extent Plaintiffs generally allege that "Doe Defendants are responsible and liable for the acts and/or damages in this [Amended] Complaint," and these allegations relate to any unnamed federal agent, the Federal Defendants deny the allegations in Paragraph 23.

24. As the allegations in Paragraph 24 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.



25. The Federal Defendants deny the allegations that Defendant Brown participated in a sting operation at Kennedy Park and admit the remaining allegations in Paragraph 25 of the Amended Complaint, except state that Defendant Brown is now stationed in Springfield, Massachusetts.

26. The Federal Defendants deny the allegations that Defendant McCaffrey participated in a sting operation at Kennedy Park and admit the remaining allegations in Paragraph 26 of the Amended Complaint.

27. The Federal Defendants deny the allegations that Defendant Preble participated in a sting operation at Kennedy Park and admit the remaining allegations in Paragraph 27 of the Amended Complaint.

28. The Federal Defendants deny that any other Immigration and Customs Enforcement ("ICE") officers participated in the arrest of the nine Plaintiffs on September 19, 2006. To the extent plaintiffs allege that other ICE agents participated in the detention of Plaintiffs, the Federal Defendants leave Plaintiffs to their proof.

29. Paragraph 29 contains Plaintiffs' characterization of identities and capacities of the John Doe defendants to which no answer is required. However, to the extent an answer is deemed

required, the Federal Defendants deny the allegations in Paragraph 29 of the Amended Complaint.

30. Paragraph 30 contains Plaintiffs' characterization of the identities of all the defendants to which no answer is required. To the extent an answer is required, the Federal Defendants admit they were acting under the color of federal law. The Federal Defendants do not possess sufficient knowledge or information to answer under what authority the other named defendants were acting.

31. As the allegations in Paragraph 31 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

32. As the allegations in Paragraph 32 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

33. As the allegations in Paragraph 33 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

34. As the allegations in Paragraph 34 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

35. As the allegations in Paragraph 35 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

36. As the allegations in Paragraph 36 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

37. As the allegations in Paragraph 37 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

38. As the allegations in Paragraph 38 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

39. As the allegations in Paragraph 39 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants neither admit or deny the allegations alleged and, instead, refer the Court to the document referenced in this paragraph.

40. As the allegations in Paragraph 40 of the Amended Complaint do not pertain to the Federal Defendants, an answer to

these allegations is not required. To the extent an answer is deemed required, the Federal Defendants neither admit or deny the allegations alleged and, instead, refer the Court to the document referenced to in this paragraph.

41. As the allegations in Paragraph 41 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants neither admit or deny the allegations allege and, instead, refer the court to the document referenced in this paragraph.

42. As the allegations in Paragraph 42 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

43. As the allegations in Paragraph 43 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

44. As the allegations in Paragraph 44 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof. The Federal Defendants admit SID officers are not supervised by ICE officers.

45. Paragraph 45 of the Amended Complaint contains Plaintiffs' characterization of a letter sent by defendant Mayor Boughton to the Director of the United States Citizenship and Immigration Services, which is not a party to this case. For the accuracy of Plaintiffs' characterizations, the Federal Defendants respectfully refer the Court to the document referenced in this paragraph of the Amended Complaint.

46. Paragraph 46 of the Amended Complaint contains Plaintiffs' characterization of copies of correspondence allegedly sent to the Secretary of the Department of Homeland Security. For the accuracy of Plaintiffs' characterization, the Federal Defendants respectfully refer the Court to the documents referenced in Paragraph 46 of the Amended Complaint.

47. The Federal Defendants deny the allegations in Paragraph 47 of the Amended Complaint.

48. As the allegations in Paragraph 48 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

49. With respect to the allegation that "all of the day-laborers who gather at Kennedy Park each day are Latino men," the Federal Defendants leave Plaintiffs to their proof. As the remaining allegations in Paragraph 49 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

50. Paragraph 50 of the Amended Complaint contains Plaintiffs' characterizations of Kennedy Park to which no answer is required, and the Federal Defendants leave Plaintiffs to their proof.

51. Paragraph 51 of the Amended Complaint contains Plaintiffs' characterizations of Kennedy Park to which no answer

is required, and the Federal Defendants leave Plaintiffs to their proof.

52. Paragraph 52 of the Amended Complaint states a legal conclusion to which no answer is required, and the Federal Defendants leave Plaintiffs to their proof.

53. Paragraph 53 of the Amended Complaint contains Plaintiffs' allegations regarding the Kennedy Park area to which no answer is required, and the Federal Defendants leave Plaintiffs to their proof.

54. As the allegations in Paragraph 54 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

55. As the allegations in Paragraph 55 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.



56. As the allegations in Paragraph 56 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

57. As the allegations in Paragraph 57 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

58. The Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 58 and leave Plaintiffs to their proof.

59. The Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 58 and leave Plaintiffs to their proof.

60. The Federal Defendants do not possess sufficient information to either admit or deny the allegations in Paragraph 60 and leave Plaintiffs to their proof.

61. As the allegations in Paragraph 61 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is required, the Federal Defendants deny the allegations in Paragraph 61.

62. Paragraph 62 contains Plaintiffs' statement of their case to which no answer is required. To the extent an answer is required, the Federal Defendants admit that McCaffrey, Brown and Preble were present in a bank parking lot in Danbury, Connecticut, near Kennedy Park, on September 19, 2006. The Federal Defendants deny ever being at Kennedy Park.

63. As the allegations in Paragraph 63 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

64. As the allegations in Paragraph 64 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

65. The Federal Defendants admit the allegations in Paragraph 65 of the Amended Complaint.

66. The Federal Defendants deny the allegations in Paragraph 66 of the Amended Complaint.

67. The Federal Defendants deny the allegations in Paragraph 67 of the Amended Complaint.

68. As the allegations in Paragraph 68 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

69. As the allegations in Paragraph 69 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

70. The Federal Defendants deny the allegations in Paragraph 70 of the Amended Complaint.

71. The Federal Defendants deny the allegations in Paragraph 71 of the Amended Complaint.

72. The Federal Defendants admit the allegations in Paragraph 72 of the Amended Complaint.

73. As the allegations in Paragraph 73 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

74. As the allegations in Paragraph 74 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

75. The Federal Defendants admit the allegations in Paragraph 75 of the Amended Complaint.

76. As the allegations in Paragraph 76 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

77. As the allegations in Paragraph 77 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

78. The Federal Defendants admit that they met with the Danbury Police Officers on the morning of September 19, 2006, but deny this was to review "final" plans for the "sting" operation.

79. As the allegations in Paragraph 79 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

80. As the allegations in Paragraph 80 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

81. As the allegations in Paragraph 81 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

82. As Paragraph 82 describes Plaintiffs alleged actions on the morning of September 19, 2006, the Federal Defendants do not have sufficient knowledge or information to either admit or deny these allegations and leave Plaintiffs to their proof.

83. As Paragraph 83 describes what Plaintiffs allegedly saw on the morning of September 19, 2006, the Federal Defendants do not have sufficient knowledge or information to either admit or deny these allegations and leave Plaintiffs to their proof.

84. The Federal Defendants admit that the vehicle was operated by a Danbury Police Officer. The Federal Defendants do not have sufficient knowledge or information to either admit or deny what was said to Plaintiffs as they entered the vehicle driven by the Danbury Police Officer and leave Plaintiffs to their proof.

85. As Paragraph 85 describes what Plaintiffs allegedly relied upon before entering the Danbury vehicle, the Federal Defendants do not have sufficient knowledge or information to either admit or deny these allegations and leave Plaintiffs to their proof.

86. The Federal Defendants admit the allegations contained in Paragraph 86.

87. The Federal Defendants lack sufficient knowledge or information to either admit or deny the course the vehicle driven by the Danbury Police Officer. The Federal Defendants admit that the vehicle ended up in bank parking lot on Main Street in Danbury, Connecticut.

88. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 88 and leave Plaintiffs to their proof.

89. The Federal Defendants admit the allegations in Paragraph 89 of the Amended Complaint.

90. The Federal Defendants deny the allegations in Paragraph 90.

91. The Federal Defendants deny the allegations that, "upon seizing each plaintiff," ICE detained each plaintiff and told them they were under arrest. The Federal Defendants admit that

after plaintiffs were asked a series of questions about their admissibility and citizenship and after they were fingerprinted by an ICE officer, they were handcuffed and placed in the back of a van.

92. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in paragraph 92 of the Amended Complaint.

93. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 93 of the Amended Complaint.

94. The Federal Defendants admit that they arrested and took custody of the Plaintiffs on September 19, 2006.

95. To the extent the allegations in Paragraph 95 refer to the actions of the Federal Defendants, the allegations in Paragraph 95 of the Amended Complaint are denied.

96. The Federal Defendants deny the allegations in Paragraph 96 of the Amended Complaint.

97. As the allegations in Paragraph 97 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge



or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

98. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 98 and leave Plaintiffs to their proof.

99. The Federal Defendants admit the allegations in Paragraph 99.

100. The Federal Defendants admit the allegations in Paragraph 100.

101. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations with respect to what Plaintiff Chavez saw at the Danbury Police Station and leave Plaintiffs to their proof. As the remaining allegations in Paragraph 101 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

102. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 102 of the Amended Complaint and leave Plaintiffs to their proof.

103. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 103 of the Amended Complaint and leave Plaintiffs to their proof.

104. Paragraph 104 of the Amended Complaint contains Plaintiffs' characterization of facts listed in the Danbury Police Department booking records. For the accuracy of Plaintiffs' characterization, the Federal Defendants respectfully refer to the documents referenced in Paragraph 104 of the Amended Complaint.

105. Paragraph 105 of the Amended Complaint contains Plaintiffs' characterization of facts listed in the Danbury Police Department booking records. For the accuracy of Plaintiffs' characterization, the Federal Defendants respectfully refer to the documents referenced in Paragraph 105 of the Amended Complaint.

106. The Federal Defendants admit that no criminal charges have been filed against Plaintiffs by the Federal Government as a result of the incident alleged in this Amended Complaint. The Federal Defendants leave Plaintiffs to their proof with respect to the general allegation that no criminal charges have ever been filed against the Day-Laborer Plaintiffs.

107. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 107 of the Amended Complaint and leave Plaintiffs to their proof.

108. As the allegations in Paragraph 108 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

109. As the allegations in Paragraph 109 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

110. As the allegations in Paragraph 110 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

111. As the allegations in Paragraph 111 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

112. The Federal Defendants admit that Plaintiffs were transferred to ICE custody from the Danbury Police Department on the morning of September 19, 2006. The Federal Defendants leave Plaintiffs to their proof with respect to what time this transfer actually occurred.

113. The Federal Defendants admit the allegations in Paragraph 113 of the Amended Complaint.

114. The Federal Defendants admit the allegations in Paragraph 114 of the Amended Complaint.

115. The Federal Defendants admit that Defendant McCaffrey did serve as the examining officer for the Plaintiffs. The Federal Defendants deny that this was in violation of the federal immigration regulations.

116. The Federal Defendants admit the allegations in Paragraph 116 of the Amended Complaint.

117. The Federal Defendants deny that Plaintiffs were denied access to telephones at the immigration offices in Hartford, Connecticut. The remaining allegations in Paragraph 117 contain Plaintiffs' characterization of actions taken by Suffolk County and Plymouth County prison officials. To the extent an answer is required, the Federal Defendants lack sufficient knowledge or information to either admit or deny these remaining allegations, and leave Plaintiffs to their proof.

118. The Federal Defendants deny the allegations in Paragraph 118 of the Amended Complaint.

119. The Federal Defendants are without sufficient knowledge or information to either admit or deny the allegations in Paragraph 119 of the Amended Complaint and leave Plaintiffs to their proof.

120. The Federal Defendants deny the allegations in Paragraph 120 of the Amended Complaint.

121. The Federal Defendants can neither admit or deny the allegations with respect to what Plaintiff Barrera claims to have understood as alleged in Paragraph 121 of the Amended Complaint and leave Plaintiff to his proof. The Federal Defendants deny the remaining allegations in Paragraph 121.

122. The Federal Defendants admit that Plaintiffs were told that, in order to have an Immigration Judge review their bond determination, they had to sign the I-286 Bond Determination form requesting such review.

123. The Federal Defendants deny the allegations in Paragraph 123 of the Amended Complaint.

124. The Federal Defendants deny the allegations in Paragraph 124 of the Amended Complaint.

\_\_\_\_125.\_\_\_\_ As the allegations in Paragraph 125 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To extent an answer is required, the Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 125 and leave Plaintiffs to their proof.

126. As Paragraph 126 contains Plaintiffs' characterization of actions taken by County prison officials, an answer to these allegations is not required from the Federal Defendants. To extent an answer is required, the Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 126 and leave Plaintiffs to their proof.

127. As Paragraph 127 contains Plaintiffs' characterization of actions taken by County prison officials, an answer to these allegations is not required from the Federal Defendants. To extent an answer is required, the Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 127 and leave Plaintiffs to their proof.

128. As Paragraph 128 contains Plaintiffs' characterization of actions taken by County prison officials, an answer to these allegations is not required from the Federal Defendants. To extent an answer is required, the Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 128 and leave Plaintiffs to their proof.

129. As Paragraph 129 contains Plaintiffs' characterization of actions taken by County prison officials, an answer to these allegations is not required from the Federal Defendants. To extent an answer is required, the Federal Defendants do not possess sufficient knowledge or information to either admit or deny the allegations in Paragraph 129 and leave Plaintiffs to their proof.

130. The Federal Defendants admit the allegations in Paragraph 130 of the Amended Complaint.

131. The Federal Defendants admit the allegations in Paragraph 131 of the Amended Complaint.

132. The Federal Defendants lack sufficient knowledge or information to either admit or deny what the Immigration Court in Boston, Massachusetts, did with respect to scheduling bond redetermination hearings, and leave Plaintiffs to their proof.

133. The Federal Defendants do not possess sufficient knowledge or information to either admit of deny the allegations in Paragraph 133 of the Amended Complaint and leave Plaintiffs to their proof.

134. The Federal Defendants do not possess sufficient knowledge or information to either admit of deny the allegations in Paragraph 134 of the Amended Complaint and leave Plaintiffs to their proof.

135. The Federal Defendants admit that Plaintiffs Cabrera, Chavez, Redrovan Sanchez, and Simbana were transferred to Texas on October 3, 2006. The Federal Defendants do not possess sufficient knowledge or information to either admit of deny the remaining allegations in Paragraph 135 of the Amended Complaint and leave Plaintiffs to their proof.



136. The Federal Defendants admit the allegations in Paragraph 136 of the Amended Complaint.

137. The Federal Defendants deny the allegations in Paragraphs 137 of the Amended Complaint.

138. The Federal Defendants admit the a bond redetermination hearing was held on October 16, 2006, in Harlingen, Texas. The Federal Defendants lack sufficient knowledge or information to either admit or deny the remaining allegations in this paragraph and leave Plaintiffs to their proof.

139. The Federal Defendants admit the a telephonic bond redetermination hearing was held for Plaintiff Redrovan. The Federal Defendants lack sufficient knowledge or information to either admit or deny the remaining allegations in this paragraph and leave Plaintiffs to their proof.

140. The Federal Defendants admit the allegations in Paragraph 140 of the Amended Complaint.

141. The Federal Defendants admit the allegations in Paragraph 141 of the Amended Complaint, except Plaintiff Chavez was released on bond on October 24, 2006, not October 23, 2006.

142. The Federal Defendants admit the allegations in Paragraph 142 of the Amended Complaint except Plaintiff Redrovan was released on bond on October 24, 2006, not October 23, 2006

143. The Federal Defendants admit the allegations in Paragraph 143 of the Amended Complaint, except Plaintiff Sanchez was released on bond on October 23, 2006, not October 20, 2006.

144. The Federal Defendants admit the allegations in Paragraph 144 of the Amended Complaint.

145. Paragraph 145 contains Plaintiffs' characterization of their claims and conclusions of law to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations in Paragraph 145.

146. Paragraph 146 contains Plaintiffs' characterization of their claims and conclusions of law to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations in Paragraph 146.

147. Paragraph 147 contains Plaintiffs' characterization of their claims and conclusions of law to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations in Paragraph 147.

148. Paragraph 148 contains Plaintiffs' characterization regarding present day congregation by Day Laborers at Kennedy Park, to which no answer is required. To the extent an answer is required, the Federal Defendants lack sufficient knowledge or

information to either admit or deny the remaining allegations in this paragraph and leave Plaintiffs to their proof.

149. Paragraph 149 contains Plaintiffs' characterization of the state of mind of the Danbury community, to which no answer is required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

150. As the allegations in Paragraph 150 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

151. As the allegations in Paragraph 151 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

152. As the allegations in Paragraph 152 of the Amended Complaint do not pertain to the Federal Defendants, an answer to

these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

153. As the allegations in Paragraph 153 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

154. Paragraph 154 of the Amended Complaint contains Plaintiffs' characterization of the NCIC database maintained by the Federal Bureau of Investigations, to which no answer is required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

155. Paragraph 155 of the Amended Complaint contains Plaintiffs' characterization of the NCIC database maintained by the Federal Bureau of Investigations, to which no answer is required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to

either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

156. Paragraph 156 of the Amended Complaint contains Plaintiffs' characterization of the NCIC database maintained by the Federal Bureau of Investigations, to which no answer is required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

157. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 157 of the Amended Complaint and leave Plaintiffs to their proof.

158. Paragraph 158 contains Plaintiffs' characterizations of immigration warrants to which no answer is required. To the extent an answer is required, the Federal Defendants admit that immigration warrants, which are issued only after a Final Order from an Immigration Judge of the Bureau of Immigration Appeals, are civil in nature, need not be presented to a judge, and are not subject to review. The Federal Defendants lack sufficient knowledge or information to either admit or deny the remaining allegations in Paragraph 158 of the Amended Complaint.

159. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 159 of the Amended Complaint and leave Plaintiffs to their proof.

160. The Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in Paragraph 160 of the Amended Complaint and leave Plaintiffs to their proof.

161. The Federal Defendants deny the allegations in Paragraph 161 of the Amended Complaint.

162. Paragraph 162 of the Amended Complaint contains Plaintiffs' characterization of the law to which no answer is required.

163. Paragraph 163 of the Amended Complaint contains Plaintiffs' characterization of the law to which no answer is required.

164. The Federal Defendants admit the allegations in Paragraph 164 of the Amended Complaint.

165. As the allegations in Paragraph 165 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

166. As the allegations in Paragraph 166 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

167. As the allegations in Paragraph 167 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

168. As the allegations in Paragraph 168 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

169. As the allegations in Paragraph 169 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge

or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

170. As the allegations in Paragraph 170 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

171. As the allegations in Paragraph 171 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

172. As the allegations in Paragraph 172 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

173. As the allegations in Paragraph 173 of the Amended Complaint do not pertain to the Federal Defendants, an answer to



these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

174. In 2007, there were no immigration detention facilities in the State of Connecticut. The Federal Defendants admit that Plaintiff Vargas was detained at the Wyatt Detention Center in Rhode Island.

175. The Federal Defendants admit the allegations in Paragraph 175 of the Amended Complaint.

176. Paragraph 176 of the Amended Complaint contains Plaintiff Vargas's characterization of his injuries to which no answer is required.

177. Paragraph 177 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 176 of the Amended Complaint.

178 - 194. As the allegations in Paragraphs 178 to 194 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

195. Paragraph 195 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 194 of the Amended Complaint.

196. The Federal Defendants deny the allegations in Paragraph 196 of the Amended Complaint.

197. The Federal Defendants deny the allegations in Paragraph 197 of the Amended Complaint.

198. As the allegations in Paragraph 198 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

199. Paragraph 199 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is deemed required, the Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

200. Paragraph 200 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 199 of the Amended Complaint.

201. The Federal Defendants deny the allegations in Paragraph 201 of the Amended Complaint.

202. The Federal Defendants deny the allegations in Paragraph 202 of the Amended Complaint.

203. The Federal Defendants deny the allegations in Paragraph 203 of the Amended Complaint.

204. Paragraph 204 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is required, the Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

205. Paragraph 205 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 204 of the Amended Complaint.

206 - 242. As the allegations in Paragraphs 206 to 242 of the Amended Complaint do not pertain to the Federal Defendants, an answer to these allegations is not required. To the extent an answer is deemed required, the federal defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

243. Paragraph 243 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 242 of the Amended Complaint.

244. The Federal Defendants deny the allegations in Paragraph 244 of the Amended Complaint.

245. Paragraph 245 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is deemed required, the federal defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

246. Paragraph 246 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 245 of the Amended Complaint.

247. The Federal Defendants deny the allegations in Paragraph 247 of the Amended Complaint.

248. The Federal Defendants deny the allegations in Paragraph 248 of the Amended Complaint.

249. The Federal Defendants deny the allegations in Paragraph 249 of the Amended Complaint.

250. Paragraph 250 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is deemed required, the

Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

251. Paragraph 251 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 250 of the Amended Complaint.

252. The Federal Defendants deny the allegations in Paragraph 252 of the Amended Complaint.

253. Paragraph 253 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is deemed required, the Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

254. Paragraph 254 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 253 of the Amended Complaint.

255. The Federal Defendants deny the allegations in Paragraph 255 of the Amended Complaint.

256. The Federal Defendants deny the allegations in Paragraph 256 of the Amended Complaint.

257. The Federal Defendants deny the allegations in Paragraph 257 of the Amended Complaint.

258. Paragraph 258 of the Amended Complaint contains Plaintiffs' characterization of their injuries to which no answer is required. To the extent an answer is deemed required, the Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

259. Paragraph 259 incorporates all preceding paragraphs. The Federal Defendants hereby incorporate by reference their answers to Paragraphs 1 through 250 of the Amended Complaint.

260. The Federal Defendants deny the allegations in Paragraph 260 of the Amended Complaint.

261. The Federal Defendants deny the allegations in Paragraph 261 of the Amended Complaint.

262. The Federal Defendants deny the allegations in Paragraph 262 of the Amended Complaint.

263. The Federal Defendants deny the allegations in Paragraph 263 of the Amended Complaint.

264. The Federal Defendants deny the allegations in Paragraph 264 of the Amended Complaint.

265. The Federal Defendants deny the allegations in Paragraph 265 of the Amended Complaint.

266. The Federal Defendants deny the allegations in Paragraph 266 of the Amended Complaint.

267. The Federal Defendants deny the allegations in Paragraph 267 of the Amended Complaint.

268. The Federal Defendants deny the allegations in Paragraph 268 of the Amended Complaint.

269. The Federal Defendants deny the allegations in Paragraph 269 of the Amended Complaint.

270. The Federal Defendants deny the allegations in Paragraph 270 of the Amended Complaint.

271. The Federal Defendants deny the allegations in Paragraph 271 of the Amended Complaint.

272. The Federal Defendants deny the allegations in Paragraph 272 of the Amended Complaint.

273. The Federal Defendants deny the allegations in Paragraph 273 of the Amended Complaint.

274. The Federal Defendants deny the allegations in Paragraph 274 of the Amended Complaint.

275. The Federal Defendants deny the allegations in Paragraph 275 of the Amended Complaint.

276. The Federal Defendants deny the allegations in Paragraph 276 of the Amended Complaint.

277. The Federal Defendants deny the allegations in Paragraph 277 of the Amended Complaint.

278. The Federal Defendants deny the allegations in Paragraph 278 of the Amended Complaint.

279. Paragraph 279 of the Amended Complaint contains Plaintiffs' characterization that they suffered damages to which no answer is required. To the extent an answer is deemed required, the Federal Defendants deny the allegations in this paragraph and leave Plaintiffs to their proof.

280. The Federal Defendants deny the allegations in Paragraph 280 of the Amended Complaint.

281. The Federal Defendants deny the allegations in Paragraph 281 of the Amended Complaint.

282. Paragraph 282 states Plaintiffs' characterization of the law to which no response is required.

283. The Federal Defendants admit the allegations in Paragraph 283 of the Amended Complaint.

284. The Federal Defendants admit the allegations in Paragraph 257 of the Amended Complaint.

285. The Federal Defendants admit that decisions on the FTCA claims were not made within the six months after the claims were filed.

286 - 325. As the allegations in Paragraphs 286 to 385 of the Amended Complaint do not pertain to the Federal



Defendants, an answer to these allegations is not required. incorporates all preceding paragraphs. To the extent an answer is deemed required, the Federal Defendants lack sufficient knowledge or information to either admit or deny the allegations in this paragraph and leave Plaintiffs to their proof.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Pursuant to the Immigration and Nationality Act, the Court lacks jurisdiction over the subject matter of the action.

#### **SECOND AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs claims against the United States are barred by exceptions to the Federal Tort Claims Act.

#### **FOURTH DEFENSE**

Plaintiffs' claims against the individual federal defendants, McCaffrey, Preble and Brown, are barred by the doctrine of qualified immunity.

**FIFTH DEFENSE**

\_\_\_\_Plaintiffs' claims with respect to their detention at the Plymouth County and Suffolk County facilities are barred by the independent contractor exception to the Federal Tort Claims Act.

**SIXTH DEFENSE**

In the event judgment is entered for or against the United States, the Federal Tort Claims Act Judgment Bar mandates that the individual federal defendants are no longer liable to the plaintiff for damages, even if the individual federal defendants are found liable before the Federal Tort Claims Act judgment enters.

**SEVENTH DEFENSE**

Plaintiffs are not entitled to a jury trial on their Federal Tort Claims Act claims.

**EIGHTH DEFENSE**

Plaintiffs are not entitled to attorney's fees under the Equal Access to Justice Act on the Federal Tort Claims Act claims.

**NINTH DEFENSE**

Plaintiffs' claims are barred to the extent that they are based on the exercise of or performance or the failure to

exercise or perform a discretionary function or duty. 28 U.S.C.  
§ 2680(a).

**TENTH DEFENSE**

The Amended Complaint requests punitive damages which are  
not recoverable under the Federal Tort Claims Act. 28 U.S.C.  
§ 2674

**ELEVENTH DEFENSE**

Plaintiffs are not entitled to recover damages under the  
Federal Tort Claims Act in excess of that claimed  
administratively.

**TWELFTH DEFENSE**

Decisions made or positions taken by agency attorneys with  
respect to bond determinations are entitled to absolute immunity.

Respectfully submitted,

Nora R. Dannehy  
Acting United States Attorney

/s/ Michelle L. McConaghy

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CERTIFICATION OF SERVICE

\_\_\_\_\_I hereby certify that on March 20, 2009, a copy of the foregoing motion to dismiss with attachments was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Michelle L. McConaghy

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