

1 seek redress from a governmental entity or officer or employee of a governmental entity.
2 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the
3 complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or
4 fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a
5 defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be
6 liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.
7 1990).

8 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement
9 of the claim showing that the pleader is entitled to relief." "Specific facts are not
10 necessary; the statement need only "give the defendant fair notice of what the . . . claim
11 is and the grounds upon which it rests." *Erickson v. Pardus*, 127 S. Ct. 2197, 2200
12 (2007) (citations omitted). Although in order to state a claim a complaint “does not need
13 detailed factual allegations, . . . a plaintiff's obligation to provide the 'grounds of his
14 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic
15 recitation of the elements of a cause of action will not do. . . . Factual allegations must
16 be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v.*
17 *Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer
18 "enough facts to state a claim for relief that is plausible on its face." *Id.* at 1974. Pro se
19 pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696,
20 699 (9th Cir. 1990).

21 II. Legal Claims

22 Plaintiff claims that ICE officers violated his constitutional rights to due process,
23 to equal protection, and to be free from unlawful searches and seizures. However,
24 Plaintiff does not name or otherwise identify any Defendant, except to say they are ICE
25 officers. Without sufficient identifying information, at a minimum their names and
26 locations, Defendants cannot be served with process. Plaintiff must promptly take steps
27

1 to discover the names of the unnamed defendants and provide that information to the
2 Court in an amended complaint. The burden remains on the Plaintiff and the Court will
3 not undertake to investigate the names and identities of unnamed defendants.

4 Plaintiff will be provided with thirty days in which to file an amended complaint
5 to correct this deficiency.

6 CONCLUSION

7 For the foregoing reasons and for good cause shown,

8 1. The complaint is DISMISSED WITH LEAVE TO AMEND, as indicated
9 above. Plaintiff shall file an amended complaint within *thirty (30) days from the date of*
10 *this order* in which he provides sufficient information to identify and locate the
11 Defendants, including at a minimum their names and place of employment. The
12 amended complaint must include the caption and civil case number used in this order and
13 the words "COURT ORDERED AMENDED COMPLAINT" on the first page. Failure
14 to amend within the designated time will result in dismissal of the complaint.

15 2. Plaintiff is advised that an amended complaint supercedes the original
16 complaint. "[A] plaintiff waives all causes of action alleged in the original complaint
17 which are not alleged in the amended complaint." *London v. Coopers & Lybrand*, 644
18 F.2d 811, 814 (9th Cir. 1981). Also, defendants not named in an amended complaint are
19 no longer defendants. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.), *cert.*
20 *denied*, 506 U.S. 915 (1992).

21 3. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the
22 Court informed of any change of address and must comply with the Court's orders in a
23 timely fashion. Failure to do so may result in the dismissal of this action under Federal
24 Rule of Civil Procedure 41(b).

25 //

26 //

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 ROBERTO X. BLANDINO,
6 Plaintiff,

Case Number: CV10-04529 JSW

7 **CERTIFICATE OF SERVICE**

8 v.

9 IMMIGRATION & CUSTOMS et al,
10 Defendant.

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
12 Court, Northern District of California.

13 That on November 30, 2010, I SERVED a true and correct copy(ies) of the attached, by placing
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
16 delivery receptacle located in the Clerk's office.

17 Roberto X. Blandino
18 A077223173
19 ICE Detention Facility
20 215 5th Street
21 Marysville, CA 95901-0029

22 Dated: November 30, 2010



23 Richard W. Wieking, Clerk
24 By: Jennifer Ottolini, Deputy Clerk
25
26
27
28