

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

GREGORY McKENNA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ST. LOUIS COUNTY POLICE DEPT. et al,) )  
 )  
 Defendants. )

Case No. 4:09CV1113 CDP

**DEFENDANTS UNKNOWN AGENTS OF THE FEDERAL BUREAU OF  
INVESTIGATION’S MOTION TO DISMISS**

COMES NOW Defendants Unknown Agents of the Federal Bureau of Investigation (“Unknown FBI Agents”)in both their individual and official capacity, by and through their attorneys, Michael W. Reap, Acting United States Attorney for the Eastern District of Missouri, and Nicholas P. Llewellyn, Assistant United States Attorney for said District, pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief can be granted, and moves this Honorable Court for an Order dismissing Plaintiff’s Amended Complaint, with prejudice.

Moreover, the United States should be substituted as the proper defendant in place of Defendants Unknown FBI Agents, acting in their official capacity, and Plaintiff’s Amended Complaint for alleged common law torts should be dismissed, with prejudice, for failure to exhaust administrative remedies.

An accompanying Memorandum of Law in support of this Motion is attached.

Respectfully submitted,

MICHAEL W. REAP  
Acting United States Attorney

*s/ Nicholas P. Llewellyn*  
NICHOLAS P. LLEWELLYN #52836  
Assistant United States Attorney  
Chief, Civil Division  
Thomas F. Eagleton Courthouse  
111 South 10<sup>th</sup> Street, Rm 20.333  
St. Louis, Missouri 63102  
(314) 539-2200  
(314) 539-2777 Fax

**CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2009, the foregoing *Motion to Dismiss* was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system and sent by certified U.S. Mail to:

Gregory McKenna  
Plaintiff *Pro Se*  
9937 Young Drive, H  
Beverly Hills, CA 90212

*s/ Nicholas P. Llewellyn*  
NICHOLAS P. LLEWELLYN  
Assistant United States Attorney