

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SERGIO ALBERTO BARCO MERCADO, on his own
behalf and on behalf of others similarly situated,

Plaintiff,

v.

KRISTI NOEM, Secretary of the U.S. Department of
Homeland Security, in her official capacity;
DEPARTMENT OF HOMELAND SECURITY;
TODD LYONS, Acting Director, Immigration and
Customs Enforcement, in his official capacity;
IMMIGRATION AND CUSTOMS ENFORCEMENT;
MARCOS CHARLES, Acting Executive Associate
Director, Immigration and Customs Enforcement,
Enforcement and Removal Operations, in his official
capacity; LADEON FRANCIS, Acting Field Office
Director of New York, Immigration and Customs
Enforcement, in his official capacity,

Defendants.

Case No. 25 Civ. 6568

**ORDER TO SHOW CAUSE
FOR A TEMPORARY
RESTRAINING ORDER
AND PRELIMINARY
INJUNCTION**

Upon the annexed Memorandum of Law, declarations, and exhibits; it is hereby

ORDERED, that the above-named Defendants show cause before a motion term of this
Court, at Room _____, United States Courthouse, 500 Pearl Street, in the City, County
and State of New York, on September 12, at 10 o'clock in the morning thereof, or as soon
thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the
Federal Rules of Civil Procedure:

1) Enjoining Defendants to ensure that:

- a. hold rooms are not filled beyond their maximum capacity (defined as 50
square feet per person);

- b. clean bedding mats are provided for sleeping for all detained individuals held overnight, and such individuals are provided with sufficient space to lie down to sleep, without having to sleep in a toilet or bathroom area;
 - c. nutritious meals that meet acceptable dietary standards are provided three times per day at six-hour intervals;
 - d. hold rooms and bathrooms are safe and clean;
 - e. bathrooms are in a separate room from where detained individuals are sleeping;
 - f. detained individuals have access to basic, adequate hygiene products, and
 - g. detained individuals have access to prescribed medication as necessary.
- 2) Enjoining Defendants to open 26 Federal Plaza in Manhattan (“26 Fed”) for legal visitation seven days per week, eight hours per day on business days and four hours per day on weekends and holidays;
- 3) Enjoining Defendants to permit individuals detained at 26 Fed to make outgoing confidential legal calls to counsel within 12 hours of being detained at 24 Fed and at least once during each subsequent 12-hour period while they are detained;
- 4) Enjoining Defendants to permit attorneys to schedule legal calls with detained individuals at 26 Fed within 6 hours of a request made during business hours and within 12 hours of a request made at other times;
- 5) Enjoining Defendants to accurately update the location of detained individuals held at 26 Fed in Defendant Immigration and Customs Enforcement (“ICE”)’s Online Detainee Locator System within 24 hours of their transfer to the facility;

- 6) Enjoining Defendants to maintain publicly available information regarding protocols for attorney-client communication via Defendant ICE's website; and
- 7) Enjoining Defendants to provide written information regarding protocols for attorney-client communication in English, Spanish, Haitian Creole, French, Wolof, and Mandarin to all people detained by Defendants at 26 Fed; and
- 8) Enjoining Defendants from retaliating in any form against Plaintiff in his immigration proceedings or in any other capacity for asserting his constitutional rights.

ORDERED that answering papers, if any, must be served by email on Plaintiff's attorneys of record in this action no later than 5 p.m. on August 29, 2025, and reply papers, if any, must be served by hand or email upon Defendants' attorneys no later than 5 p.m. on September 9, 2025; and it is further

ORDERED that service by email of a copy of this Order and the annexed Declarations, exhibits, pleadings, and memoranda of law upon the Defendants' counsel that have appeared in this action as of the issuance of this order, or otherwise on the Chief of the Civil Division for the U.S. Attorney's Office for the Southern District of New York, Jeffrey Oestericher, on or before ____ o'clock in the _____ morning/afternoon, _____, 2025 shall be deemed good and sufficient service thereof.

DATED: New York, New York

ISSUED: _____

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2025, I served by electronic mail this Order to Show Cause for a Temporary Restraining Order or Preliminary Injunction upon the following counsel of record for the defendants in this case:

Jeffrey Oestericher, Jeffrey.Oestericher@usdoj.gov and
Brandon Waterman, Brandon.Waterman@usdoj.gov

DATED: New York, New York
August 8, 2025

/s/ Heather Gregorio
Heather Gregorio