

DECLARATION OF NATHAN YAFFE

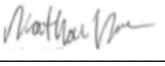
I, Nathan Yaffe, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently and truthfully to these matters.
2. I am an attorney at the Law Office of Matthew Bray, which is located at 119 West 23rd Street, Suite 900, New York, NY 10011.
3. I am an attorney in good standing in the state of New York. I am admitted in the Southern District of New York, the Eastern District of New York, the Second Circuit Court of Appeals, and the D.C. Circuit Court of Appeals. I specialize in the practice of immigration law.
4. I was recently retained to represent a 19-year-old minor, AG, in immigration matters.
5. Upon information and belief, AG was taken into custody and detained by Immigration and Customs Enforcement (“ICE”) at 26 Federal Plaza, New York, NY, on August 21, 2025. On that day and the following, the Online Detainee Locator System showed that his “current detention facility” was “26 Federal Plaza.” Upon information and belief, my client was detained at 26 Federal Plaza since his detention on August 21 through late August 22.
6. After I learned of AG’s detention, I tried to contact him as quickly as possible. AG had several legal remedies available to him, including seeking release on bond. I also worried that was being held in dangerous, inhumane conditions, and I wanted to try to provide with as much relief from those conditions as I could, and to do so as quickly as possible. AG is also a primary caretaker for a 2-year-old U.S. citizen child, and I wanted to discuss with him urgent care and financial arrangements to ensure the continued care of his child.
7. Since learning of my client’s detention at 26 Federal Plaza, I tried unsuccessfully to schedule a legal call to speak with him. On August 21, between 3:00 PM and 4:00 PM, I tried the number listed on the ICE website for the New York City field office (212-436-9315), but a recording indicated it is disconnected. On August 21, between 3:00 PM and 4:00 PM, I also tried the number that shows up on the ICE Detainee Locator website for 26 Federal Plaza (212-620-3441), but no one answered. On the morning of August 22, between 9:00 AM and 11:00 AM, I tried both numbers again. Again, a recording said the field office number (212-436-9315) was disconnected. I tried the number on the Detainee Locator website (212-620-3441) five times during this 2-hour window, but no one answered.
8. During this same two-hour window on August 22, I emailed two email addresses I have used in the past to correspond with the New York City field office. I received a reply from

Assistant Field Office Director Nancy Zanello. Her response prompted me to access her declaration of August 18, submitted in *Barco Mercado v. Noem*, ECF 74, where I discovered a third number that I could not find online, 212-863-3401. Someone answered my call at this number, and provided further instructions, which included emailing NYCDetaineeInquiry@ice.dhs.gov. Upon doing so, however, I was advised that no calls were available until the week of August 25, with the earliest available time being August 26 at 2:00 PM. That this window is the first availability for a phone call was confirmed to me in a follow-up telephone conversation with the same officer with whom I corresponded via the NYCDetaineeInquiry@ice.dhs.gov email address. Unfortunately, my client was subsequently transferred to a detention facility in Texas prior to my being allowed to have a legal call. In the meantime, his father filed a *pro se* habeas petition as “next friend” of AG in the District Court for the Southern District of New York. As of today, the petition remains pending; AG’s removal is stayed pending further order of the Court; and his immigration court case has been transferred to El Paso’s detained immigration court, where it remains pending.

9. Annexed to my declaration as exhibits are true and correct copies of the emails I have sent and received using my email address, nathan.yaffe@protonmail.ch, corresponding with AFOD Zanello via nancy.zanello@ice.dhs.gov, and the emails I have sent and received using my email address, corresponding with other field office employees at NYCDetaineeInquiry@ice.dhs.gov and NewYork.Outreach@ice.dhs.gov.

Executed on 9 of September, 2025, at New York, New York.

/s/ 

Nathan Yaffe, Esq.,
Law Office of Matthew Bray
119 West 23rd Street, Suite 900
New York, NY 10011
(646) 253-0580

EXHIBIT 1

RE: Legal Call Scheduling: Non-Compliance with Barco Mercado v. Noem

From Zanello, Nancy <Nancy.Zanello@ice.dhs.gov>
To nathan.yaffe@protonmail.ch
CC New York.Outreach<NewYork.Outreach@ice.dhs.gov>
Date Friday, August 22nd, 2025 at 11:44 AM

Good morning,

Signed G-28 received.

Thank you,

Nancy Zanello

Assistant Field Office Director

Detained Docket & Jail Liaison Unit

Juvenile Unit

New York Field Office

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

Cell: 602-723-5481 | Desk: 212-863-3402

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From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 11:41 AM

To: Zanello, Nancy <Nancy.Zanello@ice.dhs.gov>

Cc: New York.Outreach <NewYork.Outreach@ice.dhs.gov>

Subject: RE: Legal Call Scheduling: Non-Compliance with Barco Mercado v. Noem

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Director Zanello,

I note that you are ignoring your failure to comply with *Barco Mercado* after I have repeatedly advised you of it, which has nothing to do with your objection to the G-28 I submitted to you previously. I will share this exchange with counsel in *Barco Mercado*.

Regardless, the G-28 I submitted to NYCDetaineeInquiry@ice.dhs.gov is now signed, by my client's father, who is recognized in his Office of Refugee Resettlement Verification of Release as my client's custodian and his release sponsor. The G-28 bearing this signature is attached.

Best wishes,

Nathan

Nathan Yaffe

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.

On Friday, August 22nd, 2025 at 11:35 AM, Zanello, Nancy <Nancy.Zanello@ice.dhs.gov> wrote:

Good morning,

Your G28 is not signed. A G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, is used to provide information about your eligibility to act on behalf of an applicant, petitioner, or respondent and is required for any information regarding any alien. G-28 is unsigned by your supposed client or authorized signatory therefore we cannot disclose information nor facilitate a call.

Thank you,

Nancy Zanello

Assistant Field Office Director

Detained Docket & Jail Liaison Unit

Juvenile Unit

New York Field Office

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

Cell: 602-723-5481 | Desk: 212-863-3402

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From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 11:31 AM

To: Zanello, Nancy <Nancy.Zanello@ice.dhs.gov>

Cc: New York.Outreach <NewYork.Outreach@ice.dhs.gov>

Subject: RE: Legal Call Scheduling: Non-Compliance with Barco Mercado v. Noem

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Dear Director Zanello,

The website for the ODLS, also referenced in your declaration of August 18, ECF 74, provides the following number: (212) 620-3441. I called that number 5 times since 9 AM; it was never answered. Thus, as I previously stated, you are not in compliance with the order in that case, which states that the number posted on the website be "monitored and answered without undue delay from 9 a.m. until 5 p.m."

Nonetheless, your declaration of August 18 also references two other numbers: (212) 436-9315 and (212) 863-3401. The first number is available online at the NY Field Office website, but is disconnected. The second number ((212) 863-3401) was monitored and someone answered when I called. I do not see that this number is available online at all, much less "conspicuously displayed" as required by *Barco Mercado*.

Per the instructions from the officer who answered that number, I have submitted a duly executed G-28 to NYCDetaineeInquiry@ice.dhs.gov, which I was advised is the process for requesting a legal call. I will follow up if a legal call is not scheduled within 6 hours, as required by *Barco Mercado*.

Best wishes,

Nathan

Nathan Yaffe

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.

On Friday, August 22nd, 2025 at 9:59 AM, Zanello, Nancy <Nancy.Zanello@ice.dhs.gov> wrote:

Good morning,

I am well versed in Barco Mercado.

You are using the incorrect link, also provided in the lawsuit. The ICE Detainee Locator is where the public can find the office and detainee information. Here is the link: <https://locator.ice.gov/odls/#/search>

A G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, is used to provide information about your eligibility to act on behalf of an applicant, petitioner, or respondent and is required for any information regarding any alien.

As such, your G-28 is unsigned by your supposed client or authorized signatory therefore we cannot disclose information nor facilitate a call.

Thank you,

Nancy Zanello

Assistant Field Office Director

Detained Docket & Jail Liaison Unit

Juvenile Unit

New York Field Office

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

Cell: 602-723-5481 | Desk: 212-863-3402

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From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 9:02 AM

To: New York.Outreach <NewYork.Outreach@ice.dhs.gov>

Subject: RE: Legal Call Scheduling: Non-Compliance with Barco Mercado v. Noem

You don't often get email from nathan.yaffe@protonmail.ch. [Learn why this is important](#)

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You are not in compliance with the court order, which requires public posting of a number rather than submission of a G-28.

Please publicly post the number.

My G-28 is attached.

Nathan Yaffe

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.

On Friday, August 22nd, 2025 at 8:56 AM, New York.Outreach <NewYork.Outreach@ice.dhs.gov> wrote:

Good morning,

Please submit a duly executed G-28 on behalf of your client.

Thank you

New York Outreach

From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 8:49 AM

To: New York.Outreach <NewYork.Outreach@ice.dhs.gov>; NYCEROAttorneyInquiries, <NYCEROAttorneyInquiries@ice.dhs.gov>

Subject: Legal Call Scheduling: Non-Compliance with Barco Mercado v. Noem

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To whom it may concern:

I am attempting to set up a legal call with my client, who was apprehended at immigration court yesterday and is currently detained at 26 Federal Plaza. Pursuant to *Barco Mercado v. Noem*, No. 1:25-cv-06568 (SDNY), ICE is under federal court order in this case to: "ensure that: (a) A telephone number for attorneys to call in order to schedule telephone calls with Detainees is conspicuously displayed on the ICE internet web site." See ECF 65.

No such number appears to be available on the website. The 26 Federal Plaza Field Office page (<https://www.ice.gov/field-office/new-york-city-field-office>) displays a number which is not functional.

Please provide the number for me to call to schedule a legal call with my client. Please also post the number on the Field Office website conspicuously—or direct me to where it is posted—in compliance with the *Barco Mercado* order.

Best wishes,

Nathan

Nathan Yaffe

Law Office of Matthew Bray

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.

EXHIBIT 2

RE: Legal Call Request - [REDACTED]

From NYCDetaineeInquiry, <NYCDetaineeInquiry@ice.dhs.gov>

To nathan.yaffe@protonmail.ch

Date Friday, August 22nd, 2025 at 2:47 PM

We will reach out to the detainee and respond to you.

K.T

Enforcement and Removal Operations

New York Field Office

U.S. Immigration and Customs Enforcement

201 Varick St RM 1219

New York, NY 10014

From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 1:16 PM

To: NYCDetaineeInquiry, <NYCDetaineeInquiry@ice.dhs.gov>

Subject: RE: Legal Call Request - [REDACTED]

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Hello,

I request a call on Tuesday at 2:00 PM. What number do I call to initiate the legal call?

Best wishes,

Nathan

Nathan Yaffe

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.

On Friday, August 22nd, 2025 at 11:47 AM, NYCDetaineeInquiry, <NYCDetaineeInquiry@ice.dhs.gov> wrote:

Hello,

All available slots for this week have been filled . The next available slots for next week occur every hour ,starting at 8:00AM and ending 3:00PM.Please select a date and time that works best for you .

Not available

Mon-25th

Tues 26th -1400pm-1500pm

Wed 27th -10am-11am

Thur 28th -1400pm -1500pm

Thank you

K. T

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

New York Field Office

201 Varick St Rm 1219

New York, NY 10014

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From: Adam Burstain <adamburstain@quinnemanuel.com>

From: Nathan Yaffe <nathan.yaffe@protonmail.ch>

Sent: Friday, August 22, 2025 11:17 AM

To: NYCDetaineeInquiry, <nycdetaineeinquiry@ice.dhs.gov>

Subject: Legal Call Request - [REDACTED]

You don't often get email from nathan.yaffe@protonmail.ch. [Learn why this is important](#)

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To whom it may concern:

Please find a properly executed G-28 for my client, [REDACTED].

I am requesting a legal call to be scheduled with him at your earliest convenience this afternoon between 1 PM and 6 PM, pursuant to *Barco Mercado v. Noem*.

Best wishes,

Nathan

Nathan Yaffe

Office address:

119 West 23rd Street, Suite 900

New York, NY 10011

(646) 253-0580

Sent with [Proton Mail](#) secure email.