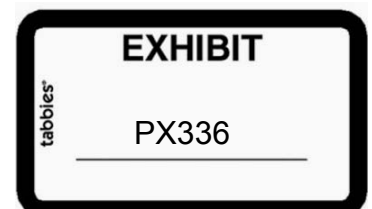


WITNESS DECLARATION OF SERGIO BARCO MERCADO

I, Sergio Barco Mercado, 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 personal knowledge, and at trial, I can and will reaffirm that the declaration is true and correct.
2. I am a citizen of Peru and currently reside in New Jersey.
3. I came to the U.S. in 2022 to seek asylum. I filed a timely asylum application the next summer, and I have consistently attended court since I got here and updated my address. I have two children; my youngest was born in New York about a year ago.
4. I was scheduled to attend an immigration court date at 26 Federal Plaza in New York City, New York on Friday, August 8, 2025. The day of my court appearance, because of the risk of being taken into custody at 26 Federal Plaza and concern that I would not be able to timely communicate with my attorney, I authorized Make the Road New York, Wang Hecker LLP, the ACLU, and NYCLU to file suit on my behalf and for others also denied access to legal counsel and subject to inhumane conditions. I was aware of the requirements to serve as a class representative and was and continue to be willing to actively do so to the best of my ability.
5. After I attended my court appearance on August 8, 2025, I was surrounded, handcuffed, and detained by immigration agents.
6. I was taken to the 10th floor of 26 Federal Plaza and held there until Sunday, August 10, when I was moved to Orange County Jail in the late afternoon.
7. The conditions I was subjected to at 26 Federal Plaza were extremely bad. I reviewed the complaint filed in this case with an attorney, and I experienced exactly the conditions that it describes. During my time there, I was not able to shower. There were no beds. The room smelled of sewage. I was freezing; I was given only an aluminum blanket, but it was not enough to stay warm.
8. I was provided a small portion of food only twice a day and it was inedible. The meals were frozen, and the guards would heat them.
9. It was extremely crowded inside the holding areas. I estimate that the room was around 20 by 50 feet, and it always had at least 40 people inside and sometimes more. I spoke with many people there who had been detained for 6 or 7 days in that room.
10. The other detained people and I did not always get enough water. There was one guard who would sometimes hold a bottle of water up and people would wait to have him squirt some into our mouths, like we were animals and not people.



11. ICE did not make a distinction between legal and non-legal calls. I was never offered a private or confidential call, and it was not possible to get such a call, even when I asked for one to speak to my attorney. We were given only very short calls once each day. But they were not private.
12. I had the phone number for my attorney, Andres Santamaria, and on Sunday, August 10, I called him. But the call was very brief—maybe one or two minutes—and it was not private. There was a guard next to me as I called, and I could hear a second person breathing audibly on the line. So I believe that there were at least two people monitoring my call.
13. I was in a lot of pain as a result of my tooth. My face was swollen and I was worried that it was infected; it was very painful and was impacting my speech. I asked for medicine, and I received pain medication while at 26 Federal Plaza but that was it. I saw many other people in the same situation, including diabetics who were not receiving their medication. They were also given the same meals as everyone else. Even if those people protested and said they could not eat the food, the guards would not give them anything different. After I got out of custody, I got my tooth pulled and felt much better.
14. I continue to want to be a class representative in this litigation because what is happening at 26 Federal Plaza is not right. I am a young and relatively healthy person, apart from my dental pain, but I also saw people inside 26 Federal Plaza who were disabled and very vulnerable. Most people do not have lawyers, and they cannot fight on their own.
15. I continue to want to stand up for the people who are there so that everyone at 26 Federal Plaza can get better food and medicine and the conditions should be humane.
16. I also want to be a class representative so that people detained at 26 Federal Plaza can have confidential phone calls and longer phone calls to family; better conditions; and better medical care. More call access would have been very important to me when I was detained there. I would have liked to have had more time to be able to ensure that my family was okay and taken care of. My oldest child asked for me every day while I was detained. He wanted to play with me. It was a very hard experience.
17. My attorneys have explained to me that a temporary restraining order was issued in this case in August 2025 and a preliminary injunction was issued in September 2025. They explained that the orders imposed important new requirements on how people should be treated at 26 Federal Plaza. I was very happy to hear that.
18. My attorneys also explained that there were ongoing disputes over whether the government was doing some of the things it was ordered to at 26 Federal Plaza, like offering private legal calls. I understand that as a result of that, ICE is now offering private calls.
19. I also understand that my attorneys engaged in discovery and took depositions and that the trial is upcoming at the end of May. I hope that as a result of the trial, the order put in

19. I also understand that my attorneys engaged in discovery and took depositions and that the trial is upcoming at the end of May. I hope that as a result of the trial, the order put in place by the Court becomes permanent and provides even more protection to the people being held at 26 Federal Plaza. I would also like to make sure that it is enforced and that the Court's orders continue to address the needs of people in detention.
20. Unfortunately, I was arrested on May 11, 2026 and have been in criminal custody since that time. An attorney on the class counsel team came to visit me today and has kept me updated on the litigation and the trial. I am prepared to testify despite my current situation, if my attorneys and the Court can facilitate me doing so.
21. What happened to me at 26 Federal Plaza was very traumatizing and I remain committed to doing what I can to stop others from having the same experience.

DATED: May 15, 2026
Toms River, NJ

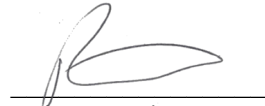
A handwritten signature in black ink, appearing to read 'Sergio Barco Mercado', written over a horizontal line.

Sergio Barco Mercado

CERTIFICATE OF TRANSLATION

I, Paige Austin, certify that I am fluent in both English and Spanish. On May 15, 2026, I prepared a Spanish translation of the foregoing statement and gave the Spanish-language translation to Mr. Sergio Barco Mercado for his review prior to signing the foregoing statement in English. The Spanish-language translation of the foregoing document was accurate and correct to the best of my knowledge.

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



Paige Austin
Make the Road New York
301 Grove St.
Brooklyn, NY 11237
paige.austin@maketheroadny.org
Tel: (718) 565-8500 ext. 4139