UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- x
SERGIO ALBERTO BARCO MERCADO, etc.,

Plaintiff,

-against-

MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security, etc., et al.,

Defendants.
- x

USDS SDNY
DOCUMENT
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DATE FILED: 10/2/2026

25-cv-6568 (LAK)

AMENDED FINAL JUDGMENT OF PERMANENT INJUNCTION

LEWIS A. KAPLAN, *District Judge*.

The Court having considered the full evidentiary record and the parties' submissions and arguments in support of and in opposition to converting into a permanent injunction the preliminary injunction entered in this matter on September 17, 2025, having rendered its findings of fact and conclusions of law in an opinion of even date, having certified a class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), and having concluded that plaintiff and the class are entitled to injunctive relief, it is hereby

ORDERED that each of defendants, the officers, agents, servants, employees, and attorneys of each of them, and all persons in active concert or participation with any of the foregoing, who receive actual notice of this Permanent Injunction by personal service or otherwise be and hereby are **ENJOINED AND RESTRAINED** as follows:

1. Defendants shall ensure that no person detained by U.S. Immigration and Customs Enforcement ("ICE") at 26 Federal Plaza, New York, New York (hereinafter, "Detainee"),

is held or detained in any hold room or other room, cell, or other space for any length of time during which they are not free to leave (a "Hold Room") including but not limited to those on the fifth, ninth, and tenth floors:

(a) Having a floor area (exclusive of floor area within eight feet from any toilet) less than fifty square feet multiplied by the number of such Detainees held therein;

(i) For the tenth-floor hold rooms, this equates to the following occupancy caps: Room #1 = 11, Room #2 = 1, Room #3 = 1, and Room #4 = 9;

(ii) For the ninth-floor hold rooms, this equates to the following occupancy caps: Room #1 = 2, Room #2 = 1, Room #3 = 1, and Room #4 = 1 (Room #1 does not have a toilet, so individuals detained there must have prompt access to one when requested);

(b) That is not furnished with a clean bedding mat or mattress, pillow, and blanket for sleeping for each Detainee held overnight;

(c) That is not kept at a temperature between 68 and 74 degrees Fahrenheit;

(d) In which the lights are not dimmed between the hours of 9:00 p.m. and 7:00 a.m.;

(e) That is not cleaned thoroughly at least three times each day;

(f) That is not furnished with adequate supplies of soap, paper towels, toilet paper, oral hygiene products (including toothbrushes and

toothpaste), and, in the case of a Hold Room containing one or more female Detainees, feminine hygiene products; or

(g) In which each Detainee is not provided three meals per day that meet the U.S. recommended dietary allowances, accompanied by one bottled water per meal, approximately six hours apart and in accord with any dietary and religious restrictions.

2. Defendants shall provide Detainees with means of making confidential, unmonitored, unrecorded, temporally unrestricted, and free telephone calls to counsel or prospective counsel (which shall take place in a private room that is not subject to auditory monitoring), with means allowing for connection with outside interpretation services during the call, within one hour after arriving at the Hold Rooms and within four hours of a request made by either the Detainee or the Detainee's counsel (regardless of whether the attorney has filed a Form G-28) within the period 9:00 a.m. to 5:00 p.m. or, for a request made thereafter, by 11:00 a.m. the following day.

3. Defendants, promptly upon request and without charge, shall provide to Detainees:

(a) Clean clothing items and a private area for the purpose of changing clothing;

(b) Soap, paper towels, toilet paper, oral hygiene products (including toothbrushes and toothpaste), and, for female Detainees, feminine hygiene products, if sufficient such materials are not available in a Hold Room;

(c) The services of a licensed medical professional, at least one of whom shall be on site at all times;

(d) Bottled water;

(e) One additional meal per day; and

(f) An additional blanket.

4. Defendants shall ensure that, prior to being placed in a Hold Room, each Detainee receives a basic medical screening by a licensed medical professional sufficient to:

(a) Identify and begin any necessary treatment of any known acute or emergent past or chronic medical conditions – including history of mental illness and dependence on any mood and mind-altering substances – and any disabilities or impairments affecting major life activities;

(b) Provide continued access to previously prescribed medication;

(c) Recognize, segregate, and treat those with communicable diseases; and

(d) Prescribe medically necessary special diets.

5. Defendants shall ensure that Detainees throughout their detention:

(a) May retain personal, prescribed inhaled medication that was in their possession at the time of arrest;

(b) Receive and retain personal, prescribed inhaled medication that family members or their attorney(s) bring for them to 26 Federal Plaza;

(c) Have the same prescription immediately made available to them to keep in their possession after being prescribed such medication by ICE medical personnel; and

(d) Have prompt access to other required prescribed medication from ICE medical personnel.

6. Defendants shall ensure that each Detainee receives without charge a printed Notice of Rights, in the form annexed hereto and labeled ANNEX, stating that the Detainee has the rights provided for in this Permanent Injunction. Defendants, without charge, shall provide to each Detainee who is not proficient in either English or Spanish with access to and the services of an interpreter to translate the Notice of Rights into such Detainee's native language. The Notice of Rights shall be posted also in a semi-permanent fashion (drilled or securely attached, and laminated) in the processing area of the tenth floor and on any other floor with one or more Hold Rooms and on a wall of each Hold Room such that the Notice of Rights can be viewed by each Detainee in a Hold Room.

7. Defendants shall ensure that each Detainee signs a copy of the Notice of Rights and shall save that copy in their files. Upon plaintiff's request, defendants shall produce to plaintiff's counsel either those signed Notices of Rights or a log confirming that every Detainee has received the Notice of Rights.

8. Defendants shall ensure that each Detainee who is illiterate or has limited English and Spanish proficiency and speaks a language in which written material provided to such Detainee (including the Notice of Rights required by Paragraph 6 and all ICE- and facility-related information and communications) has not been translated into such Detainee's native language with an in-person or telephonic oral translation of such written material into such language.

9. Defendants shall ensure that when calls are made to (212) 436-9400 or any other number designated for attorneys to call to contact or schedule calls with Detainees at 26 Federal Plaza (the "Designated Number"), such calls are answered by a Supervisory Detention and

Deportation Officer ("SDDO") or, if an SDDO is not available, by another individual under the supervision of an SDDO, or if such an individual likewise is not available, that the call be transferred to a call center where it is answered either by an individual instructed regarding the requirements of this Permanent Injunction or connected to a voicemail account. Defendants shall ensure that, if the call is not answered by an SDDO or a person under the supervision of an SDDO, there is an opportunity to leave a voicemail and the attorney receives a response to any message left between 9:00 a.m. and 5:00 p.m. within four hours or, for any message left thereafter, by 11:00 a.m. the following day.

10. Defendants shall ensure that:

(a) Protocols for attorneys to schedule telephone calls with Detainees, including a telephone number for attorneys to call, are conspicuously displayed on a page for 26 Federal Plaza on the ICE internet web site;

(b) The Designated Number is monitored and answered without undue delay between the hours of 9:00 a.m. and 5:00 p.m., and defendants comply with the requirements identified in Paragraph 9 above when answering and responding to such calls;

(c) A call with the relevant Detainee is scheduled for the date and time requested by the attorney or as soon thereafter as is reasonably possible and no later than within four hours of a request made within the period 9:00 a.m. to 5:00 p.m. or, for any request made thereafter, by 11:00 a.m. the following day;

(d) The relevant Detainee is informed of the requested call and the scheduled date and time fixed for the call and is provided with the

means necessary to participate in the attorney call as scheduled in a confidential, unmonitored, unrecorded, and temporally unrestricted manner; and

(e) Phone numbers for pro bono legal service providers are posted next to the phones used for attorney calls and handed out to individuals with the Notice of Rights when Detainees arrive at the Hold Rooms.

11. Defendants shall ensure that the Online Detainee Locator System of ICE accurately identifies the location of each Detainee in real time or as close thereto as is reasonably possible, and no later than three hours after a Detainee is transferred into or out of 26 Federal Plaza. The Designated Number shall be displayed on the Online Detainee Locator System and identified as the number to call to reach someone being held at 26 Federal Plaza. This provision excludes those protected from disclosure under 8 U.S.C. § 1367(a)(2), but where disclosure falls within this provision, ICE shall indicate on the Online Detainee Locator System that (a) it has custody of the individual; (b) display the phone number that can be used by attorneys to contact the affected individual; and (c) without listing the person's location at 26 Federal Plaza, include language that confirms the individual is confined within the jurisdiction of the U.S. District Court for the Southern District of New York.

12. Defendants shall not retaliate in any manner against plaintiff or any other member of the class, or any witness or declarant (including in his or her immigration proceedings or in any other context) for reporting or complaining about any alleged violation of this Permanent Injunction or any conditions of confinement or attorney access issues at 26 Federal Plaza.

13. Upon request made no more frequently than once each month, defendants shall allow plaintiff's counsel to inspect and copy the contractors' logbooks (or if such logbooks are

discontinued, an equivalent or comparable documentation system) documenting the Detainee count and other information for the prior month.

SO ORDERED.

Dated: October 2, 2026
Issued at: 10:42 a.m.

Lewis A. Kaplan
United States District Judge

ANNEX

NOTICE OF RIGHTS REGARDING CONDITIONS AND ATTORNEY ACCESS AT 26 FEDERAL PLAZA

BARCO MERCADO V. MULLIN ET AL.,
Case No. 25 Civ. 6568 (LAK)
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

TO: All individuals who are or will be held by ICE at 26 Federal Plaza ("26 Fed") in Manhattan.

You have rights while being held here, as detailed below, including the right to call an attorney in a private setting, and to receive medical attention and necessities. A Court Order mandates that you will not be retaliated against for exercising these rights.

On September 24, 2026, Judge Lewis Kaplan of the United States District Court for the Southern District of New York issued a Permanent Injunction in this class action lawsuit requiring the U.S. Department of Homeland Security (DHS), including Immigration and Customs Enforcement (ICE), to provide certain necessities and attorney access at 26 Fed (described below).

Summary of Your Rights and ICE's Obligations Under the Permanent Injunction:

1. **ICE must ensure the following conditions are maintained at 26 Fed:**
   a. The largest Hold Room on the 10th floor of 26 Fed may only hold eleven (11) people, the next largest Hold Room may only hold nine (9) people, and the two smallest Hold Rooms may only hold one (1) person each. The Hold Room on the 9th floor that does not have a toilet may only hold two (2) people, and the people held in that room must have prompt access to a toilet when requested. The other three Hold Rooms on the 9th floor may only hold one (1) person each.
   b. Anyone detained in any other space in 26 Fed must be provided with at least fifty square feet of space, exclusive of floor area within eight feet from a toilet.

c. You have the right to be provided with a clean bedding mat, blanket, and pillow for sleeping if you are held overnight.

d. The Hold Rooms must be cleaned thoroughly at least three times each day.

e. The Hold Rooms must be kept at a temperature between 68 and 74 degrees Fahrenheit.

f. The lights must be dimmed in the Hold Rooms between the hours of 9 p.m. and 7 a.m.

g. The Hold Rooms must have soap, paper towels, toilet paper, toothbrushes, toothpaste, and feminine hygiene products. If such supplies are not available, you have the right to request and receive the requested supplies without charge.

h. You have the right to request and receive clean clothing items and a private area to change.

i. You have the right to request and receive an additional blanket.

j. You have the right to receive three meals per day that meet the U.S. recommended dietary allowances (according to dietary and/or religious restrictions), with one bottled water per meal, approximately six hours apart.

k. You have the right to request and receive one additional meal per day.

l. You have the right to request and receive additional bottled water.

m. You have the right to services of a licensed medical professional, at least one of whom must be on site at all times.

n. You have the right to receive a basic medical screening by a licensed medical professional before being placed in a Hold Room. Such screening must identify any serious medical conditions, disabilities, communicable diseases, and medically necessary specific diets, and must ensure that you have continued access to previously prescribed medication.

o. You have the right to retain personal, prescribed inhaled medication that was in your possession at the time of arrest, that family members or attorney(s) bring for you to 26 Fed, or that ICE medical personnel prescribe for you.

p. You have the right to have prompt access to other required prescribed medication from ICE medical personnel.

q. You have the right to be given this Notice of Rights in English and Spanish when you arrive at the Hold Rooms. If you are not proficient in English or Spanish, ICE must provide you access to an interpreter to translate this Notice of Rights into your native language.

2. **ICE must provide for confidential legal calls at 26 Fed**:

a. You have the right to engage and consult with an attorney or attorneys by telephone.

b. ICE must provide you the ability to make confidential, unmonitored, unrecorded, and free calls to counsel or prospective counsel, without any time limits and with the means allowing for connection to outside interpretation services during the call. These calls shall take place in a private room that is not subject to auditory monitoring.

c. ICE must give you the opportunity to make a legal phone call within one (1) hour of arriving at the Hold Rooms.

English text

d. You have the right to schedule additional confidential legal calls with counsel within four (4) hours of a request made by either you or your attorney (regardless of whether the attorney has filed a Form G-28) between 9 a.m. and 5 p.m. and by 11 a.m. the next day for a request made after those hours.

e. ICE must post a list of pro bono legal service providers next to the phones in the Hold Rooms and hand you the list with this Notice of Rights when you arrive at the Hold Rooms.

3. **ICE must allow attorneys to schedule legal calls with individuals detained at 26 Fed**: Attorneys (regardless of whether they have filed a Form G-28) have the right to schedule confidential legal calls with you within four (4) hours of a request between 9 a.m. and 5 p.m., and by 11 a.m. the next day for a request made after those hours, and you must be informed of such scheduled calls and be provided with the means necessary to participate in the call as scheduled in a confidential, unmonitored, and unrecorded manner, without time limits.

4. **ICE may not retaliate against anyone for reporting or complaining about any violations of the Permanent Injunction or any conditions of confinement or attorney access issues at 26 Fed.**

* * *

To report a violation of any of these requirements to class counsel, please call:

(718) 475-7832

This number is only for reporting violations of the above requirements. If no one answers, please leave a voicemail with your name, A number (if you know it), and a summary of the information you would like to report. Please do not call this number to request legal representation for individual cases.

Signed: _____ _____

Name Date

AVISO DE DERECHOS RESPECTO A LAS CONDICIONES Y EL ACCESO A ABOGADOS EN 26 FEDERAL PLAZA

BARCO MERCADO V. MULLIN ET AL.,
Caso No. 25 Civ. 6568 (LAK)
EN EL TRIBUNAL DE DISTRITO DE LOS ESTADOS UNIDOS
PARA EL DISTRITO SUR DE NUEVA YORK

PARA: Todas las personas que están o serán detenidas por el Servicio de Inmigración y Control de Aduanas (ICE, Immigration and Customs Enforcement) en 26 Federal Plaza ("26 Fed") en Manhattan.

Usted tiene derechos mientras se encuentra en detención aquí, como se detalla a continuación, incluido el derecho a llamar a un abogado en un entorno privado, y a recibir atención médica y artículos de primera necesidad. Una orden judicial dispone que no se tomarán represalias en su contra por ejercer estos derechos.

El 24 de septiembre de 2026, el Juez Lewis Kaplan del Tribunal de Distrito de los Estados Unidos para el Distrito Sur de Nueva York emitió una medida cautelar permanente en esta demanda colectiva que exige al Departamento de Seguridad Nacional (DHS, Department of Homeland Security) de EE. UU., incluido el Servicio de Inmigración y Control de Aduanas (ICE), proporcionar ciertos artículos de primera necesidad y acceso a abogados en 26 Fed (se describen a continuación).

Resumen de sus derechos y de las obligaciones del ICE conforme a la medida cautelar permanente:

1. **ICE debe garantizar que se mantengan las siguientes condiciones en 26 Fed:**
   a. La sala de detención más grande del piso 10.° de 26 Fed solo puede albergar a once (11) personas; la sala de detención que le sigue en tamaño solo puede albergar a nueve (9) personas; y las dos salas de detención más pequeñas solo pueden albergar a una (1) persona cada una. La sala de detención del piso 9.° que no tiene baño solo puede albergar a dos (2) personas, y las personas detenidas en esa sala deben tener acceso rápido a un baño cuando lo soliciten. Las otras tres salas de detención del piso

9.° solo pueden albergar a una (1) persona cada una.

b. A cualquier persona detenida en cualquier otro espacio de 26 Fed, se le deben proporcionar al menos cincuenta pies cuadrados de espacio, excluida el área del piso a menos de ocho pies de un inodoro.

c. Usted tiene derecho a recibir una colchoneta, una manta y una almohada limpias para dormir si se le detiene durante la noche.

d. Las salas de detención deben limpiarse a fondo al menos tres veces al día.

e. Las salas de detención deben mantenerse a una temperatura de entre 68 y 74 grados Fahrenheit.

f. Las luces deben atenuarse en las salas de detención entre las 9 p.m. y las 7 a.m.

g. Las salas de detención deben contar con jabón, toallas de papel, papel higiénico, cepillos de dientes, pasta dental y productos de higiene femenina. Si dichos suministros no están disponibles, usted tiene derecho a pedir y recibir los suministros solicitados sin cargo alguno.

h. Tiene derecho a solicitar y recibir prendas de vestir limpias y un área privada para cambiarse.

i. Tiene derecho a solicitar y recibir una manta adicional.

j. Tiene derecho a recibir tres comidas al día que cumplan con las cantidades diarias recomendadas en EE. UU. (de acuerdo con restricciones dietarías o religiosas), con una botella de agua por comida, con aproximadamente seis horas de diferencia entre ellas.

k. Tiene derecho a solicitar y recibir una comida adicional al día.

l. Tiene derecho a solicitar y recibir agua embotellada adicional.

m. Tiene derecho a los servicios de un profesional médico con licencia; debe haber al menos uno presente en el lugar en todo momento.

n. Tiene derecho a recibir una evaluación médica básica por parte de un profesional médico con licencia antes de que se le detenga a una sala de detención. Dicha evaluación debe identificar cualquier afección médica grave, discapacidad, enfermedad transmisible y dietas específicas médicamente necesarias, así como garantizar que tenga acceso continuo a la medicación previamente recetada.

o. Tiene derecho a conservar la medicación personal para inhalar recetada que tenía en su posesión al momento del arresto, que familiares o abogados le lleven a 26 Fed, o que el personal médico del ICE le recete.

p. Tiene derecho a disponer de acceso rápido a otros medicamentos recetados necesarios por parte del personal médico del ICE.

q. Tiene derecho a que se le entregue este Aviso de Derechos en inglés y español cuando llegue a las salas de detención. Si no domina el inglés o el español, ICE debe proporcionarle acceso a un intérprete para traducir este Aviso de Derechos a su idioma nativo.

2. **ICE debe proporcionar llamadas legales confidenciales en 26 Fed**:

a. Usted tiene derecho a comunicarse y consultar con un abogado o abogados por teléfono.

b. ICE debe brindarle la posibilidad de realizar llamadas confidenciales, no monitoreadas, no grabadas y gratuitas a un abogado o abogado potencial, sin límites de tiempo y con los medios que permitan la conexión a servicios de interpretación externos durante la llamada. Estas llamadas deberán realizarse en una sala privada que no esté sujeta a monitoreo auditivo.

c. ICE debe darle la oportunidad de realizar una llamada legal dentro de la primera (1) hora de su llegada a las salas de detención.

d. Usted tiene derecho a programar llamadas legales confidenciales adicionales con un abogado dentro de las cuatro (4) horas siguientes a una solicitud hecha por usted o por su abogado (sin importar si el abogado ha presentado un Formulario G-28) entre las 9 a.m. y las 5 p.m., y antes de las 11 a.m. del día siguiente si la solicitud se hace después de ese horario.

e. ICE debe colocar una lista de proveedores de servicios legales gratuitos junto a los teléfonos en las salas de detención y entregarle dicha lista junto con este Aviso de Derechos cuando llegue a las salas de detención.

3. **ICE debe permitir que los abogados programen llamadas legales con las personas detenidas en 26 Fed**:

   Los abogados (sin importar si han presentado un Formulario G-28) tienen derecho a programar llamadas legales confidenciales con usted dentro de las cuatro (4) horas siguientes a una solicitud hecha entre las 9 a.m. y las 5 p.m., y antes de las 11 a.m. del día siguiente si la solicitud se hace después de ese horario; dichas llamadas programadas se le deben informar a usted y también se le deben proporcionar los medios necesarios para participar en la llamada según lo programado, de manera confidencial, no monitoreada y no grabada, sin límites de tiempo.

4. **ICE no puede tomar represalias contra nadie por denunciar o presentar quejas sobre violaciones a la medida cautelar permanente o sobre cualquier condición de detención o problema de acceso a un abogado en 26 Fed.**

* * *

Para denunciar una violación de cualquiera de estos requisitos al abogado de la acción colectiva, llame al:

(718) 475-7832

Este número es únicamente para denunciar violaciones de los requisitos mencionados anteriormente. Si nadie contesta, deje un mensaje de voz con su nombre, el número A (si lo sabe) y un resumen de la información que desea denunciar. No llame a este número para solicitar representación legal en casos individuales.

Firmado:_____ _____

Nombre Fecha