

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERGIO ALBERTO BARCO MERCADO, etc.,

Plaintiff

-against-

25-cv-6568 (LAK)

KRISTI NOEM, Secretary of the U.S. Department of
Homeland Security, etc., et al.,

Defendants.

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TEMPORARY RESTRAINING ORDER

LEWIS A. KAPLAN, *District Judge*.

Plaintiff having moved for a temporary restraining order, for a preliminary injunction, and certification of a class of allegedly similarly situated individuals, and the Court having concluded that plaintiff and members of the alleged class have suffered, and are likely to suffer, irreparable harm absent the temporary relief granted herein, and to prevail on the merits of their claims to an extent that would justify preliminary and permanent relief substantially as set forth below, it is hereby

ORDERED that defendants, their officers, agents, servants, employees, and attorneys, and all persons in active concert and participation with them who receive actual notice of this Order, are ordered and enjoined, pending the earlier of (a) the determination of plaintiff's motion for a preliminary injunction and (b) 11:59 p.m. on August 26, 2025, as follows:

1. They shall ensure that no person detained by ICE at 26 Federal Plaza, New York, New York (hereinafter "Detainees"), is held or detained in any hold room or other room, cell or other space (collectively referred to as a "Hold Room")

- (a) having a floor area (exclusive of floor area within 8 feet from any toilet) less than 50 square feet multiplied by the number of such detainees held therein;
- (b) that is not furnished with a clean bedding mat for sleeping for each Detainee held overnight;
- (c) that is not cleaned thoroughly at least three times each day;
- (d) that is not furnished with adequate supplies of soap, towels, toilet paper, oral hygiene products (including tooth brushes and toothpaste) and, in the case of a Hold Room containing one or more female Detainees, feminine hygiene supplies;
- (e) from which Detainees are not provided with means of making confidential, unmonitored, unrecorded, temporally unrestricted, and free legal telephone calls to counsel (with interpreters for non-English speaking Detainees) within 24 hours of being detained and at least once during each subsequent 12 hour period while they are detained together with the ability to schedule legal calls with counsel within 6 hours of a request made within the period 9 a.m. to 4 p.m. and within 16 hours of a request made thereafter; or
- (f) for which there is less than one land line telephone dedicated solely to accommodating Detainee legal calls for each five or fewer Detainees in each Hold Room.

2. They shall ensure that every Detainee held in a Hold Room shall, within one hour after his/her arrival in a Hold Room, be given a printed Notice of Rights stating that the Detainee

has the following rights, which the defendants shall ensure are respected and complied with:

- (a) To engage and consult with an attorney or attorneys;
- (b) To have confidential, unmonitored, unrecorded, temporally unrestricted, and free legal telephone calls with counsel (with interpreters for non-English speaking Detainees) within 24 hours of being detained and at least once during each subsequent 12 hour period while they are detained;
- (c) To schedule legal calls with counsel within 6 hours of a request made within the period 9 a.m. to 4 p.m. and within 16 hours of a request made thereafter;
- (d) To request and, promptly upon request, to be provided without charge with clean clothing and with a private area for the purpose of changing clothing;
- (e) To request and – if sufficient requested materials are not available in the Hold Room – promptly to be provided without charge soap, towels, toilet paper, oral hygiene products (including tooth brushes and toothpaste) and, in the case of Hold Rooms containing one or more female Detainees, feminine hygiene supplies;
- (f) To request and to be provided without charge with professional services of licensed medical personnel between the hours of 7 a.m. and 9:30 p.m. and, in case of emergency, during all other periods;
- (g) To retain prescription medications in their possession at the time of arrest and to receive and retain such medicines brought for them by

family members or their attorney(s) to the ICE field office; and

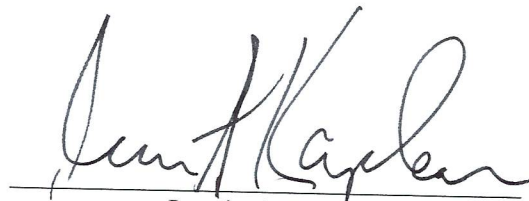
- (h) To request and, promptly upon request, to receive an additional blanket or blankets.
 - (i) To request and, promptly upon request, to be provided without charge with bottled water.
 - (j) To request, and promptly upon request, be provided with one additional meal per day.
3. They shall ensure that the Online Detainee Locator System of defendant Immigration and Customs Enforcement (“ICE”) accurately identifies the location of each Detainee in real time or as close thereto as is reasonably possible.
4. Commencing no later than August 14, 2025, they shall 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;
 - (b) The aforementioned telephone number is monitored and answered without undue delay from 9 a.m until 5 p.m.
 - (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;
 - (d) The relevant Detainee is informed of the requested call with the Detainee and the scheduled date and time fixed for the call and that the Detainee is provided with the means necessary to conduct confidential,

unmonitored, unrecorded, temporally unrestricted attorney call as scheduled.

5. The Notice of Rights required by paragraph 2 shall be furnished to each detainee in English and Spanish. Each Detainee who is not proficient in either English and Spanish shall be provided without charge with access to and the services of an interpreter to translate the Notice of Rights into such Detainee's native tongue.
6. They shall ensure that each Detainee who is illiterate or has limited English and Spanish proficiency and speaks a language in which written material (including the Notice of Rights required by paragraph 2) has not been translated with in-person or telephonic oral translation. This includes all ICE- and facility related information and communications.
7. They shall not retaliate in any manner against Plaintiff (including in his or her immigration proceedings or in any other context) for complaining about any alleged violation of this temporary restraining order.
8. This order is conditioned upon the posting by or on behalf of plaintiff at or before 5 p.m. on August 15, 2025 of a bond or other security in the amount of ten dollars.

Dated: August 12, 2025

Issued at: 3:56 pm

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", written over a horizontal line.

Lewis A. Kaplan
United States District Judge