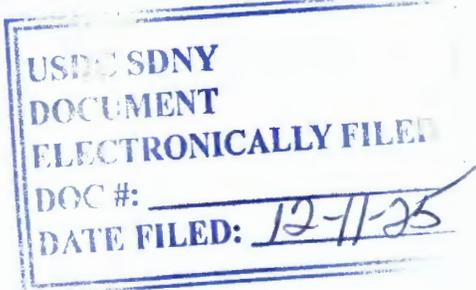


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December 10, 2025

By ECF

Hon. Lewis A. Kaplan
United States District Judge
U.S. District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

*Re: Plaintiffs' Motion for Contempt and Sanctions
Barco Mercado v. Noem et al., 25 Civ. 6568 (LAK) (KHP)*

Your Honor:

This firm, along with the American Civil Liberties Union Foundation, New York Civil Liberties Union Foundation, and Make the Road New York, represents Plaintiff Sergio Alberto Barco Mercado and the provisionally certified class (together, "Plaintiffs") in the above-entitled action. We write pursuant to the Court's Order at the December 8 conference, which directed Plaintiffs to inform the Court by December 11 what discovery Plaintiffs seek in connection with their motion for contempt and sanctions. ECF Nos. 108–117. Plaintiffs hereby request that the Court order an expedited discovery schedule as detailed below and further request that the Court adjourn Plaintiffs' reply brief deadline to January 16, 2026 to allow for this discovery to proceed first. Defendants consent to Plaintiffs' request to adjourn their reply deadline but do not consent to Plaintiffs' request for expedited discovery.

Plaintiffs submit that the evidence provided in their underlying motion, ECF Nos. 108–107, meets the standard for a finding of contempt, and Defendants' opposition – which includes new information (that Plaintiffs sought repeatedly in advance of filing their motion) – raises additional questions concerning compliance, *see* ECF Nos. 122–23. Nevertheless, in the interest of judicial economy and efficiency, we believe the proposed approach will allow for proper development of the record and permit the parties to explore whether the motion can be resolved without the Court's intervention.

As noted at the December 8 conference, Defendants' deadline to respond to Plaintiffs' Interrogatories and document demands was December 8. To date, Defendants have provided only objections and some very limited preliminary responses; defense counsel has indicated that they intend to produce at least some remaining Interrogatory responses by Friday, December 12. Additionally, Defendants stated in their initial discovery responses that they would provide

documents on a rolling basis, without giving a date certain by which they would produce all responsive documents.

The outstanding Interrogatory responses and document demands are directly relevant to the contempt motion, as they seek information about the individuals responsible for overseeing and implementing the detailed provisions of the Court's Orders and seek documents regarding Defendants' practices at 26 Federal Plaza pertaining to attorney access and conditions of confinement. While Plaintiffs would like full responses to all of their discovery demands as soon as possible, for purposes of the contempt motion, Plaintiffs request that by December 22, 2025 Defendants (1) provide full responses to Plaintiffs' Interrogatories and (2) produce documents responsive to Plaintiffs' document demands, with a narrowed date range of August 12, 2025 to the date of production, *i.e.* all responsive documents from the date the Court issued the TRO.

Following the Interrogatory responses and production of documents, Plaintiffs request the opportunity to conduct a preliminary deposition of William Joyce, the declarant submitting sworn testimony in opposition to the contempt motion, of no more than four hours, during the week of January 6, 2026 with a focus on Defendants' compliance with the Court's Orders, reserving all rights to later depose Joyce again once all document discovery has been produced. Plaintiffs further reserve the right to serve additional notices of deposition for the week of January 6 upon the identification of other individuals in Defendants' Interrogatory responses who are responsible for overseeing implementation of specific aspects of the Court's Orders, for example, the individual(s) responsible for facilitating and scheduling attorney call requests with detained individuals.

As noted above, Plaintiffs further request that the Court adjourn Plaintiffs' reply deadline for the motion for contempt until January 16, 2026 to allow for this targeted, expedited discovery schedule to proceed. By January 16, Plaintiffs would then either file a reply brief or alternatively withdraw the contempt motion without prejudice, if Defendants provide sufficient evidence and assurances by that date that they have come into compliance with the Court's orders. In accordance with Your Honor's individual rules, we attach a stipulation because the adjournment request is upon consent.

We are of course available to discuss these matters further at the Court's request.

Respectfully submitted



Heather Gregorio

Encl.

Granted in all respects.

SO ORDERED



LEWIS A. KAPLAN, USDJ 12/11/25