

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JALAL SHEHADEH,

Plaintiff,

v.

MARKWAYNE MULLIN, *in his official
capacity as Secretary of the Department of
Homeland Security*

Defendant.

CASE NO. _____

**DECLARATION OF PLAINTIFF JALAL SHEHADEH IN SUPPORT OF TIME-
SENSITIVE MOTION FOR RETURN OF PROPERTY
PURSUANT TO FED. R. CRIM. P. 41 (g)**

I, Jalal Shehadeh, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge:

1. I am a United States citizen and a practicing attorney.
2. I have been a member of the Florida Bar since 2009. I am further admitted to practice in the U.S. District Court for the Southern District of Florida. I primarily practice real estate and corporate law, but I also provide pro bono representation to individuals and organizations in civil rights matters.
3. I serve on the boards of the Florida Muslim Bar Association and the Palestinian American Bar Association.
4. In my legal practice, I represent clients in civil rights and constitutional cases. My work has included active representation in matters concerning Palestinian and pro-Palestinian

advocacy, including *Jewish Voice for Peace, South Florida v. City of Miami Beach*, No. 1:25-cv-24126-RAR (S.D. Fla.) and *S. Fla. Muslim Fed'n, Inc. v. Atrium Trs. I LP*, No. 24-61811-CIV-SINGHAL (S.D. Fla.). I am additionally counseling prospective clients contemplating litigation in similar matters.

5. My personal cellular telephone is also used in connection with my legal practice. It contains confidential, attorney-client privileged communications with clients and other confidential information relating to client matters.

6. To my knowledge, I am not the subject of any pending criminal investigation, and there is no search warrant, arrest warrant, or other judicial process authorizing the seizure, search, or continued retention of my cellular telephone.

7. I have traveled internationally on numerous occasions, including to Palestine in 2023 and 2025. I also returned from Italy in August of 2026 without incident. Before September 17, 2026, I had not been subjected to secondary screening of the kind described.

8. On September 17, 2026, I was returning to the United States from Palestine to visit family in the town I grew up in. I entered the United States through Newark Liberty International Airport in Newark, New Jersey, and was scheduled to continue onward to Miami.

9. I arrived at Newark Liberty International Airport at approximately 3:30 p.m. My departing flight was scheduled for 5:44 p.m.

10. After my arrival, I was referred to a secondary inspection area operated by United States Customs and Border Protection ("CBP"). While officers directed me to the inspection area, I was not given any information as to why I was being placed in this room or why my passport was being held. After waiting for approximately ten minutes, I asked one of the officers "Who is in charge of my file?", and he responded, "We all are," without providing any helpful information.

11. After approximately ten more minutes, I approached a different officer, explaining I did not know why I had been placed in that room, that I am an American citizen coming home and that I was concerned that this delay may needlessly cause me to miss my flight; this officer assured me there was “plenty of time” and someone would be out to see me soon.

12. After about five additional minutes, two CBP officers collected me from the sitting area and informed me that I had been selected for what they described as a “random customs check.”

13. During the secondary inspection, CBP officers asked me questions concerning the purpose of my travel. In response to questions about my family, I identified my parents, my siblings, and my wife. My wife, Katherine Giannamore, and I are also partners of Shehadeh Giannamore, PLLC. During the course of questioning, I informed the officers that I am an attorney. At the end of the questions, I reiterated my concern to the officers that I did not want to miss my flight.

14. CBP officers sought to inspect my luggage and my personal cellular telephone.

15. Though I did not object to the search of my luggage, I stated that I did not consent to a search of my cellular telephone.

16. I expressly informed the CBP officers that my phone contained attorney-client privileged and confidential communications relating to my clients and legal practice. The officers stated that they were not surprised given that I am an attorney, but the issue was above their heads, and indicated that their superiors would better address my concerns. The officers explained that sometimes the phone needs to be sent to the Office of Legal Counsel to perform the search.

17. The officers stated they believed that the Office of Legal Counsel would be permitted to see attorney client privileged information since they were also attorneys. I expressed

that attorney-client privilege does not allow other attorneys to access privileged communications. The officers did not seem to understand what attorney-client privilege entailed.

18. CBP officers conducted a cursory search of my luggage. They did not seize my laptop computer. They then requested that I have a seat while they awaited a response from their supervisors.

19. Thirty minutes before my flight was scheduled to depart, I returned to the office where the officers were located. I explained that any additional delay would result in my missing the flight. I told them that it was unacceptable for them to cause me to miss my flight for an ostensibly random check and they lacked any reasonable suspicion or probable cause. The officers did not refute this and instead, stated that it was out of their hands and they needed to wait for a response from the higher ups.

20. After approximately one and a half hours of primarily waiting in the secondary screening area, I informed officers that I had missed my connecting flight and requested that I be able to use my laptop computer and cellular telephone for work while I waited. I was permitted to use my laptop and cellular telephone while I remained in the secondary inspection area.

21. Not five minutes had passed before the female CBP officer approached me and stated that she would need to take possession of my phone as we waited for her supervisor. I pressed my phone's power button so that my phone was locked but not fully powered off. I then handed her my phone.

22. Over another hour had passed. I was in secondary screening for approximately three hours when the CBP supervisor arrived and spoke with me concerning the attorney-client privileged information on my phone.

23. The supervisor proposed reviewing the phone with me and having me identify the particular applications that contained attorney-client privileged information.

24. I explained that this would not adequately protect my clients' privileged and confidential information. My phone is a personal device that I also use in my legal practice, and—as is this case for most attorneys—my personal and professional communications are intermingled across applications, text messages, and other portions of the device.

25. For that reason, it was not possible for me simply to identify particular applications that contained privileged information while permitting CBP to search everything else.

26. I reiterated that I did not consent to CBP searching the contents of my phone. I also reiterated to the officers that I did not believe they had reasonable suspicion or probable cause to search my phone. Again, the officers did not refute this. The female officer instead rhetorically asked if I was aware of the border rules, to which I responded: “It does not matter what the border rules are, you may think it is normal to search citizens phones like this because you do it all the time, but it is not normal to search citizens phones without an objective reason to need to do so.”

27. The CBP officers then informed me that they would seize my phone.

28. The officers further informed me that CBP's Office of Chief Counsel would review the matter and determine how to address the attorney-client privileged information contained on the device. The female CBP officer stated that the Office of Chief Counsel would take my phone, search the device, and, in her words, certainly not do anything illegal.

29. For the third time during this encounter, I repeated that I was not giving consent for officers to search my phone. I explicitly stated that I did not give consent to any arm of the agency to search my phone, including the Office of Chief Counsel.

30. The officers did not provide me with any details about the parameters or methods of the intended phone search.

31. The phone CBP seized is my Samsung Galaxy Z Fold7.

32. CBP provided me with a "Detention Notice and Custody Receipt for Detained Property" for my phone. A true and correct copy of that document is attached as Exhibit A. The Officers did not provide their names or contact information on the form.

33. I was permitted to leave the secondary inspection area at approximately 7:30 p.m. CBP returned my other belongings, including my laptop computer, but retained my cellular telephone.

34. In total, I was in secondary inspection for approximately four hours.

35. The phone contains text messages with clients, WhatsApp communications with clients and co-counsel, other communications with co-counsel, client contact information, emails, photographs of documents, case-related notes, calendar information, client files with PDFs and work product.

36. I am concerned that a search or forensic extraction of my phone could expose attorney-client privileged communications and other confidential information concerning my clients.

37. I am also concerned that merely returning the physical phone after reviewing or copying its contents would not remedy the disclosure of privileged or confidential client information that may already have occurred.

38. I need my cellular telephone for my legal practice. I use my phone to communicate with clients and co-counsel, access my email and calendar, receive and review communications concerning active client matters, and access applications that I use in the course of my work. Since

CBP seized my phone on September 17, 2026, I have been unable to access communications and other information stored on the device and have had to make alternative arrangements to maintain communications relating to my legal practice.

39. My inability to access the phone has interfered with my ability to communicate with clients and co-counsel and to access information necessary for my legal work.

40. I have had to replace my phone, recover accounts, and change authentication methods as a result of CBP's continued possession of my phone. I have bank accounts and authentication methods for over twenty businesses, including my law office where I am a law partner with my wife. One of the bank accounts is a client trust account. The authentication method to transact on that client trust account was unique to the phone that CBP seized. Similarly, the authentication method for my Law Firm Office Management platform was also unique to the seized phone. I have had to reestablish authentication methods on my new phone.

41. Of course, because the seized phone is also my personal phone, it contained years of personal information, such as photos, communications with my friends and family, location data, browsing data, and more. As the Supreme Court has recognized, I have constitutionally protected privacy interests in that information as well as material pertaining to my legal practice. As of the date of this Declaration, CBP has not returned my cellular telephone.

42. Since September 17, 2026, CBP has not contacted me.

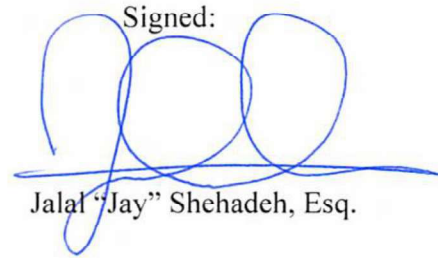
43. CBP has not informed me whether it has searched, imaged, extracted, copied, or otherwise accessed information contained on my phone.

44. CBP has not informed me of any warrant, criminal proceeding, forfeiture proceeding, or other judicial process authorizing the continued retention of my phone.

45. CBP has not informed me when my phone will be returned.

46. I want my cellular telephone returned immediately. I am also concerned about the retention, use, or disclosure of any attorney-client privileged or confidential information that CBP may have obtained from the device.

Dated: September 26, 2026

Signed:

Jalal "Jay" Shehadeh, Esq.