

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KHA'SUN CREATOR ALLAH, a/k/a/ KHA-SUN ALLAH;
a/k/a/ KHALIQ CLARK,

Plaintiff,

- v -

Civ. No. 9:14-CV-0788
(GLS/DJS)

JOHN ROSATI, *et al.*,

Defendants.

APPEARANCES:

OFFICE OF ANTHONY P. CONSIGLIO
Trial Attorney for Plaintiff
74 Chapel Street, 2d Floor
Albany, New York 12207

HON. ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
*Attorney for Defendants Rosati, LaPan,
LaFountain, and Vandenburg*
The Capitol
Albany, New York 12224

DANIEL J. STEWART
United States Magistrate Judge

OF COUNSEL:

ANTHONY P. CONSIGLIO, ESQ.

RACHEL M. KISH, ESQ.
Assistant Attorney General

ORDER

On August 15, 2016, this Court appointed *pro bono* trial counsel for the Plaintiff. Dkt. No. 38. Shortly thereafter, Plaintiff's trial counsel requested that the Court conduct an *in camera* review of the Defendant's personnel files, Dkt. No. 39, and Defendants' counsel agreed to this procedure. On October 18, 2016, the personnel files for Defendants Rosati, LaPan, LaFountain, and Vandenburg were delivered to the Court, and subsequently reviewed. Having

conducted the review, the Court rules on each personnel file as set forth below:

The *in camera* review of Defendant LaPan's personnel file reflected no documents that the Court considers to be relevant to the Plaintiff's claim or the defenses of the Defendants.

The *in camera* review of Defendants Rosati, LaFountain and Vandenburg's personnel files disclosed certain limited records that relate to the incident in question, and therefore may be relevant to the Plaintiff's claim or the Defendants' defense of that claim. The Court has copied the relevant pages from the personnel files, and those documents are as follows:

1. Vandenburg Personnel File - Employee Accident/Injury Report, and Workers Compensation Benefit Election Form (two pages in total).
2. Lafountain Personnel File - Workers Compensation Administrative Decision, Workers Compensation Case Review Sheet, Employee Accident/Injury Report, Doctors Note dated July 18, 2011 (six pages in total).
3. Rosati Personnel File Part One - Doctors Notes dated July 18, 2011(two versions) and July 28, 2011, and Documentation for Worker's Compensation Leave Form (four pages in total)
4. Rosati Personnel File Part Two - Employee Accident/Injury Report, Worker's Compensation Benefit Election Form, Doctor's Notes dated July 29, 2011(two versions) and July 18, 2011, Worker's Compensation Leave letter date July 20, 2011, Redacted IME report of Granger Associates (nine pages in total).

When retrieving the personnel files, Defendant's counsel shall make a copy of the pages from the personnel files referenced above which have been separated and stapled together by

the Court. Counsel shall redact any information regarding a Defendant's date of birth, home address, and/or social security number from the selected records. The redacted copies shall then be provided to the Plaintiff's counsel by Defense counsel.

The Court directs the Defendant's counsel to immediately retrieve from the Court's courtroom deputy, Maria Blunt, the Rosati, LaPan, LaFountain, and Vandenburg personnel files.

IT IS SO ORDERED.

Date: November 4, 2016
Albany, New York

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

Daniel J. Stewart
U.S. Magistrate Judge