

GJR/da  
667-82153

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

**NOTICE OF MOTION**

10 CIV 6005 (RWS)

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO, Tax Id. 873220, Individually and in his Official Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH GERALD NELSON, Tax Id. 912370, Individually and in his Official Capacity, DEPUTY INSPECTOR STEVEN MAURIELLO, Tax Id. 895117, Individually and in his Official Capacity CAPTAIN THEODORE LAUTERBORN, Tax Id. 897840, Individually and in his Official Capacity, LIEUTENANT JOSEPH GOFF, Tax Id. 894025, Individually and in his Official Capacity, SGT. FREDERICK SAWYER, Shield No. 2576, Individually and in his Official Capacity, SERGEANT KURT DUNCAN, Shield No. 2483, Individually and in his Official Capacity, LIEUTENANT CHRISTOPHER BROSCART, Tax Id. 915354, Individually and in his Official Capacity, LIEUTENANT TIMOTHY CAUGHEY, Tax Id. 885374, Individually and in his Official Capacity, SERGEANT SHANTEL JAMES, Shield No. 3004, AND P.O.'s "JOHN DOE" #1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown) (collectively referred to as "NYPD defendants"), JAMAICA HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, Individually and in his Official Capacity, DR. LILIAN ALDANA-BERNIER, Individually and in her Official Capacity and JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEE'S "JOHN DOE" # 1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown),

Defendants.

-----X  
**PLEASE TAKE NOTICE**, that upon the annexed Declaration of Gregory J. Radomisli, Esq., the Exhibits annexed thereto, the accompanying Memorandum of Law, and upon all prior

pleadings and proceedings heretofore had herein, defendant JAMAICA HOSPITAL MEDICAL CENTER, by its attorneys, MARTIN CLEARWATER & BELL LLP, will move this Court at 500 Pearl Street, New York, New York on the 17<sup>th</sup> day of November, 2010 at 12:00 p.m. or as soon thereafter as counsel can be heard, for an Order:

1) Dismissing plaintiff's Complaint pursuant to Rules 8(a)(2), 12(b)(1), 12(b)(6) and 12(c) of the Federal Rules of Civil Procedure because plaintiff cannot state a claim against JAMAICA HOSPITAL MEDICAL CENTER based upon the alleged constitutional violations of its employees;

2) Dismissing plaintiff's Complaint pursuant to Rules 8(a)(2), 12(b)(1), 12(b)(6) and 12(c) of the Federal Rules of Civil Procedure because the moving defendant was not a state actor acting under color of law; and

3) Such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that answering papers, if any, are to be served in accordance with the Federal Rules of Civil Procedure.

Dated: New York, New York  
October 12, 2010

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By



Gregory J. Radomisli (GJR 2670)  
Attorneys for Defendant  
JAMAICA HOSPITAL MEDICAL CENTER  
220 East 42nd Street  
New York, NY 10017  
212-697-3122

TO: COHEN & FITCH, LLP  
Attorneys for Plaintiff  
225 Broadway, Suite 2700  
New York, New York 10007  
(212) 374-9115

LAW OFFICES OF JON L. NORINSBERG  
Attorney for Plaintiff  
225 Broadway, Suite 2700  
New York, New York 10007  
(212) 791-5396

CALLAN KOSTER BRADY & BRENNAN, LLP  
Attorneys for Defendant  
LILIAN ALDANA-BERNIER, M.D.  
One Whitehall Street, 10<sup>th</sup> Floor  
New York, New York 10004  
(212) 248-8800

IVONE, DEVINE & JENSEN, LLP  
Attorneys for Defendant  
ISAK ISAKOV  
2001 Marcus Avenue, Suite N100  
Lake Success, New York 11042  
(516) 326-2400

MICHAEL A. CARDOZO  
CORPORATION COUNSEL  
Attorneys for Defendants  
NEW YORK CITY POLICE DEPARTMENT  
Law Department of the City of New York  
100 Church Street Room 2-124  
New York, New York 10007  
(212) 788-8703