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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

PLAINTIFF,

-against-

Case No:
10-CIV-6005

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 GEOFF, 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 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")

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Date: September 23, 2014

Time: 9:24 A.M.

(DEPOSITION OF ROY LUBIT, M.D., Ph.D.)

1 R. LUBIT, M.D., Ph.D.

2 Q. Was anybody with you when you
3 had had interviews with Mr. Schoolcraft?

4 A. No.

5 Q. Did you tape-record the
6 interview?

7 A. No.

8 Q. Did you videotape the
9 interview?

10 A. No.

11 Q. When did you first become
12 involved in this case?

13 A. I would have to check my
14 billing records.

15 Q. You've written reports like the
16 one you've given us today before, correct?

17 A. Yes.

18 Q. And you were aware that when
19 you wrote your report it was to contain a
20 complete opinion regarding the care and
21 treatment rendered to Mr. Schoolcraft,
22 correct?

23 MR. SMITH: Objection to form.

24 A. Yes. Certainly the focus was
25 going to be whether the admission, whether

1 R. LUBIT, M.D., Ph.D.

2 the commitment was appropriate.

3 Q. But you were aware that the
4 report was intended to be a complete
5 rendition of your opinion?

6 MR. SMITH: Objection to form.

7 Q. Right?

8 A. As complete as it could be at
9 that time. New information becomes
10 available at points. And my opinion then
11 can alter if new information becomes
12 available, which would change that --

13 Q. But at the time, Doctor --
14 excuse me. At the time you wrote it, it
15 was intended to be a complete opinion,
16 correct?

17 MR. SMITH: Objection; asked
18 and answered and argumentative.

19 You can answer.

20 A. A complete opinion as much as I
21 could think of the questions that one might
22 want to ask.

23 There are times when lawyers
24 ask questions that I hadn't thought that
25 they would want to ask, and I may have a

1 R. LUBIT, M.D., Ph.D.
2 solid basis for rendering an expert opinion
3 on that question. Just because I didn't
4 think of it when I was writing the report
5 on my own doesn't mean that I can't -- that
6 I shouldn't be able to have that other
7 opinion. So I answer as much to my ability
8 as I thought people might want to know.

9 Q. And when you reviewed the case
10 were you trying to be objective?

11 A. Yes.

12 Q. And would your report reflect
13 your objective evaluation?

14 A. Yes.

15 Q. You didn't word it in a way to
16 help one side?

17 A. I do not intentionally do that.

18 Q. Your intention was to render an
19 objective report based on your objective
20 review of everything you told me you
21 reviewed, correct?

22 A. Yes.

23 Q. Now, you have a bias against
24 involuntary commitment, don't you?

25 MR. SMITH: Objection to form.

1 R. LUBIT, M.D., Ph.D.

2 A. I wouldn't say that I have a
3 bias against it. I have a concern. I have
4 involuntarily committed, in all likelihood,
5 over a thousand people. Two thousand
6 people. I have been the expert on the
7 Plaintiff's side for when hospitals have
8 failed to commit someone that they should
9 have, something terrible happened.

10 I think that doctors often do
11 not take with adequate seriousness at
12 times, like in this case, I think the
13 doctors did not take the adequate
14 seriousness the important -- the impact of
15 committing someone that there is a very big
16 negative impact to that that one should
17 consider and not take it lightly.

18 Q. But you agree that your -- you
19 use the term anti-paternalism, correct?

20 A. Yes.

21 MR. SMITH: Objection to form.

22 Q. What do you mean by that?

23 A. That to hospitalize someone
24 against their will according to 9.39,
25 according to, you know, police and