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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case 1:10-cv-06005-RWS

- - - - -x

ADRIAN SCHOOLCRAFT,
Plaintiff,

-against-

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 WILLIAM
GOUGH, Tax Id. 919124, 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, Individually
and in her Official Capacity,
LIEUTENANT THOMAS HANLEY, Tax Id.
879761, Individually and in his
Official Capacity, CAPTAIN TIMOTHY
TRAINER, Tax Id. 899922, Individually
and in his Official Capacity,
(Caption continued on following page.)

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CAPTION: (continued)
SERGEANT SONDR A WILSON, Shield No.
5172, Individually and in her Official
Capacity, SERGEANT ROBERT W. O'HARE,
Tax Id. 916960, Individually and in his
Official Capacity, SERGEANT RICHARD
WALE, Shield No. 3099 and P.O.'s "JOE
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"), FDNY
LIEUTENANT ELISE HANLON, individually
and in her Official Capacity as a
lieutenant with the New York City Fire
Department, 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

111 Broadway
New York, New York
October 8, 2013
10:17 a.m.

DEPOSITION of MICHAEL MARINO, held
at the above time and place, taken
before Al-Furquan Baker, a Shorthand
Reporter and Notary Public of the State
of New York, pursuant to the Federal
Rules of Civil Procedure, Order and
stipulations between Counsel.

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APPEARANCES:

LAW OFFICES OF NATHANIEL B. SMITH
Attorneys for Plaintiff
111 Broadway
New York, New York 10006

BY: NATHANIEL B. SMITH, ESQ.

NYC LAW DEPARTMENT
CORPORATION COUNSEL
Attorneys for Chief Michael Marino
and All City Defendants
100 Church Street
New York, New York 10007

BY: SUZANNA PUBLICKER METHAM, ESQ.

CALLAN KOSTER BRADY & BRENNAN, LLP
Attorneys for Defendant Lilian
Aldana-Bernier
One Whitehall Street
New York, New York 10004

BY: MEREDITH B. BORG, ESQ.

(Continued on following page.)

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APPEARANCES: (Continued)

SCOPPETTA SEIFF KRETZ & ABERCROMBIE
Attorneys for Steven Mauriello
444 Madison Avenue
New York, New York 10022
BY: WALTER A. KRETZ, ESQ.

MARTIN CLEARWATER & BELL
Attorneys for Jamaica Hospital
Medical Center
220 East 42nd Street
New York, New York 10017
BY: BRIAN OSTERMAN, ESQ.

IVONE DEVINE & JENSEN, LLP
Attorneys for Dr. Isak Isakov
2001 Marcus Avenue
Lake Success, New York 11042
BY: BRIAN E. LEE, ESQ.

A L S O P R E S E N T :

MAGDALENA BAUZA
JOHN LENIR

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STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED,
by and among counsel for the respective
parties hereto, that the filing,
sealing and certification of the within
deposition shall be and the same are
hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form
of the question, shall be reserved to
the time of the trial;

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be
signed before any Notary Public with
the same force and effect as if signed
and sworn to before the Court.

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M. Marino

MR. SMITH: Okay.

So we're on the record. It's
10:20.

We're beginning the
deposition of Chief Michael Marino.
It's being videotaped, and the
court reporter is taking down the
testimony. And it's being
videotaped at 111 Broadway, Suite
Number 1305, October 8, 2013.

M I C H A E L M A R I N O,
the Witness herein, having first
been duly sworn by the Notary
Public, was examined and testified
as follows:

EXAMINATION BY

MR. SMITH:

Q. Good morning, chief.
How are you?

A. Good morning, counselor.
I'm fine.

Q. I know from reviewing some of
the documents that you have some
familiarity with this process.

1 M. Marino

2 I just want to make sure that
3 there's some ground rules that we talk
4 about and are understood as we go
5 forward. Okay.

6 A. Yes.

7 Q. The first thing is, and as
8 I'm sure aware of it, it's important
9 for you to let me ask my whole question
10 and then think about what the answer is
11 and then answer the question because
12 the court reporter is taking down
13 everything I say and everything that
14 you say.

15 And if we talk on top of each
16 other, it makes it hard for the court
17 reporter to take down the whole
18 question and the whole answer.

19 Okay?

20 A. Yes, sir.

21 Q. The other thing I would ask
22 is if there is anything about my
23 questions that are unclear, please let
24 me know.

25 Okay?

1 M. Marino

2 A. Yes, sir.

3 Q. You're here under oath. And
4 if you answer my questions, the record
5 will assume and I will assume that you
6 understand my question. And so I just
7 want to remind you that if there is
8 anything unclear or vague, please let
9 me know and I will try to rephrase it.

10 Okay?

11 A. Yes, sir.

12 Q. You understand that you are a
13 defendant in a lawsuit; is that
14 correct?

15 A. I do.

16 Q. And you understand that that
17 lawsuit is brought by Adrian
18 Schoolcraft against you and various
19 other members of the New York City
20 Police Department, right?

21 A. I do.

22 Q. And are you represented by
23 counsel here today?

24 A. I am.

25 Q. Who?

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M. Marino

would just note that we have been on the record for at this point for almost exactly six hours and 40 minutes at this point.

MR. LEE: Do you mind if I ask just a couple of questions of the witness.

MR. SMITH: I'm not agreeing with that characterization of the number of hours on the record.

Go ahead.

You can ask whatever you want.

EXAMINATION BY

MR. LEE:

Q. Chief, did you ever go to Jamaica Hospital on the evening of October 31, 2009?

A. Absolutely not.

Q. Did you ever speak with any hospital personnel on October 31, 2009?

A. Absolutely not.

Q. Did you ever speak to any hospital personnel in the week after

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M. Marino

October 31, 2009?

A. Absolutely not.

Q. Did you ever speak to any doctors who treated Officer Schoolcraft at Jamaica Hospital during the week after October 31, 2009?

A. Absolutely not.

Q. Did you directed any EMS personnel, paramedics or NYPD employees to say anything to the people at Jamaica Hospital concerning Schoolcraft's condition?

A. Absolutely not.

[Continued on the next page to allow for signature line and jurat.]

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

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 WILLIAM GOUGH, Tax Id.
919124, Individually and in his Official
Capacity, ST. FREDERICK SAWYER, Shield No.
2567, Individually and in his Official
Capacity, SERGEANT KURT DUNCAN Shield No.
2583, Individually and in his Official
Capacity, LIEUTENANT CHRISTOPHER BROSCHART,

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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, Individually and in
his Official Capacity, 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. LILLIAN
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.

111 Broadway

New York, New York

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November 7, 2013

10:10 A.M.

VIDEO DEPOSITION of THEODORE
LAUTERBORN, the Defendant in the
above-entitled action, held at the above
time and place, taken before Dawn Miller, a
Notary Public of the State of New York,
pursuant to court order and stipulations
between Counsel.

* * *

1 A P P E A R A N C E S

2 LAW OFFICES OF NATHANIEL B. SMITH

3 Attorneys for Plaintiff

4 111 Broadway

5 New York, New York 10006

6 BY: NATHANIEL B. SMITH, ESQ.

7

8 ALSO PRESENT: JOHN LENOIR, ESQ.

9 MAGDALENA BAUZA, VIDEOGRAPHER

10

11

12

13

14 MICHAEL CARDOZO, ESQ. - CORPORATION COUNSEL

15 NEW YORK CITY LAW DEPARTMENT

16 Attorneys for Defendants THEODORE

17 LAUTERBORN and ALL CITY DEFENDANTS

18 100 Church Street

19 New York, New York 10007

20 BY: SUZANNA PUBLICKER METHAM, ASST.

21 CORPORATION COUNSEL

22 RYAN G. SHAFFER, ASST. CORPORATION

23 COUNSEL

24 FILE NO.: 2010-033074/CONTROL # SSS08994

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A P P E A R A N C E S

MARTIN, CLEARWATER & BELL, LLP

Attorneys for Defendant JAMAICA HOSPITAL
MEDICAL CENTER

220 East 42nd Street
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BY: BRIAN E. LEE, ESQ.

CALLAN, KOSTER, BRADY & BRENNAN, LLP

Attorneys for Defendant LILLIAN
ALDANA-BERNIER

One Whitehall Street
New York, New York 10004

BY: MATTHEW J. KOSTER, ESQ.

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A P P E A R A N C E S
SCOPPETTA, SEIFF, KRETZ & ABERCROMBIE,
ESQS.
Attorneys for Defendant DEPUTY INSPECTOR
STEVEN MAURIELLO
444 Madison Avenue
New York, New York 10022
BY: WALTER A. KRETZ, ESQ.
FILE NO.: 2010-033074

1 S T I P U L A T I O N S

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4 IT IS HEREBY STIPULATED AND AGREED, by
5 and among the Attorneys for the respective
6 parties hereto that filing and sealing be
7 and the same are hereby waived.

8

9 IT IS FURTHER STIPULATED AND AGREED
10 that all objections except as to form of
11 the question, shall be reserved to the time
12 of trial.

12

13 IT IS FURTHER STIPULATED AND AGREED
14 that the within examination may be signed
15 and sworn to before any notary public with
16 the same force and effect as though signed
17 and sworn to before this Court.

17

18 T H E O D O R E L A U T E R B O R N ,
19 having been first duly sworn by Dawn
20 Miller, a Notary Public within and for the
21 State of New York, was examined and
22 testified as follows:

23

 MR. SMITH: On the record, it
24 is 10:10. It is November 7th 2013.

25

We are at my offices at 111 Broadway,

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T. LAUTERBORN

New York, New York, Suite 1306.

We are here today for the deposition of Captain Lauterborn and the deposition is being videotaped as well as we have a court reporter here.

MS. METHAM: Before we start I'd like to put a couple of stipulations, as we stated about the video recording, the video must be focused on Captain Lauterborn without anyone else on camera, no zooming in or out, no panning. Discussion of Attorneys' Eyes Only are confidential materials and must be separately recorded as the transcript must also be separately bound.

I would also just request a copy of the transcript for Captain Lauterborn to review pursuant to the 30E1 Procedure.

MR. SMITH: All of those decisions are the courts. This is being taken pursuant to order,

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pursuant to the Federal procedure.

Good morning, Captain.

THE WITNESS: Good morning.

MR. SMITH: My name is Nathaniel Smith. I represent Adrian Schoolcraft in the lawsuit you're one of the defendants in. I assume you're familiar with the existence of the lawsuit, right?

THE WITNESS: Yes.

MR. SMITH: Have you ever been deposed before?

THE WITNESS: I believe it was one other time.

MR. SMITH: You recognize that you're under oath right now, right?

THE WITNESS: Yes.

MR. SMITH: Because of the oath, it's important that if you have any questions or if anything that I say to you or ask is unclear, that you let me know, okay?

THE WITNESS: Sure.

MR. SMITH: Because if I ask

1
2 you a question and you answer the
3 question, since you're under oath,
4 it's going to appear that you're
5 speaking under oath and you're
6 understanding the question. It's
7 important, at the threshold, just to
8 be clear, that if you have any
9 questions, you let me know, okay?

10 THE WITNESS: Absolutely.

11 EXAMINATION BY

12 MR. SMITH:

13 Q. State your name and address for
14 the record, please.

15 A. Theodore Lauterborn, One Police
16 Plaza, New York, New York 10038.

17 Q. Where are you, currently,
18 working?

19 A. I, currently, work in Brooklyn
20 South Narcotics.

21 Q. What's your position or title?

22 A. I'm Captain of the group.

23 Q. What group?

24 A. Group Number 1 covers three
25 commands.

1
2 hours now. Your time is done. If any
3 of the other defendants have questions
4 --

5 MR. SMITH: You're terminating
6 my examination right now?

7 MS. METTHAM: Yeah, you went
8 for seven hours on the record and --

9 MR. SMITH: I have got some
10 more questions for the witness. I'm
11 not done.

12 MS. METTHAM: Okay.

13 MR. LEE: I have about five
14 questions.

15 MR. SMITH: Your terminating
16 my examination?

17 MS. METTHAM: You used the
18 seven hours that were available to
19 you.

20 MR. SMITH: I will continue my
21 examination on another day.

22 EXAMINATION CONDUCTED BY

23 MR. LEE:

24 MR. LEE: Good evening. I
25 represent one of the doctors who

1

2

treated the plaintiff at Jamaica

3

Hospital, Dr. Isakov. I have a few

4

questions for you.

5

Q. At anytime on October 31 or

6

thereafter, did you speak to any hospital

7

personnel at anytime?

8

A. No, I did not.

9

Q. Did you speak with any doctors or

10

nurses from Jamaica Hospital at anytime?

11

A. No, I did not.

12

Q. Did you ever instruct any NYPD

13

employees to tell people at Jamaica

14

Hospital anything?

15

MR. LEE: Bad question. Let

16

me withdraw it.

17

Q. Did you ever instruct any NYPD

18

personnel what to say to hospital personnel

19

when they got there?

20

A. No, I did not.

21

Q. Did you ever speak with Dr.

22

Isakov at anytime?

23

A. No, I did not.

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MR. LEE: Nothing further.

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MS. METHAM: I have a few

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ADRIAN SCHOOLCRAFT,

Plaintiff,

Index No.

vs.

10 Civ 6005 (RWS)

CITY OF NEW YORK, et al.,

Defendants.

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VOLUME II

CONTINUED DEPOSITION OF TIMOTHY CAUGHEY

New York, New York

Monday, December 9, 2013

Reported by:

Diane Buchanan

JOB NO. 1779274

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December 9, 2013

2:47 p.m.

Continued Deposition of TIMOTHY
CAUGHEY, held at the Law Offices of
Nathaniel B. Smith, 111 Broadway, New
York, New York 10006, pursuant to
Notice, before Diane Buchanan, a Notary
Public of the State of New York.

1 A P P E A R A N C E S:

2

3 LAW OFFICE OF NATHANIEL B. SMITH

4 Attorneys for Plaintiff

5 111 Broadway

6 New York, New York 10006

7 BY: NATHANIEL B. SMITH, ESQ.

8 JOHN LENOIR, ESQ.

9

10 MICHAEL CARDOZO

11 Corporation Counsel of the City of New

12 York

13 100 Church Street

14 New York, New York 10007

15 BY: RYAN SHAFFER, ESQ.

16

17 MARTIN CLEARWATER & BELL, LLP

18

19 Attorneys for Jamaica Hospital Center

20

21 220 East 42nd Street

22

23 New York, New York 10017

24

25 BY: BRIAN OSTERMAN, ESQ.