

GJR/da
82-82153

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

DECLARATION

Civil Action No.:
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.

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GREGORY J. RADOMISLI, declares the following pursuant to 28 USC §1746,

under penalty of perjury:

1. I am a Member of Martin Clearwater & Bell LLP, attorneys of record for defendant JAMAICA HOSPITAL MEDICAL CENTER and am fully familiar with the facts and circumstances of this action by virtue of a review of the file in my office.

2. This Declaration is respectfully in opposition to plaintiff's motion pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment.

3. As discussed in detail in the accompanying Memorandum of Law, plaintiff's motion should be denied for the following reasons:

a) JAMAICA HOSPITAL MEDICAL CENTER cannot be subject to direct liability under 42 USC §1983;

b) Plaintiff's counsel has not established as a matter of law that any defendant engaged in state action;

c) Plaintiff's counsel has not established the absence of any issue of fact as to whether JAMAICA HOSPITAL MEDICAL CENTER can be held vicariously liable for the alleged constitutional violations of the codefendant psychiatrists; and

d) Plaintiff's counsel has not established that JAMAICA HOSPITAL MEDICAL CENTER is liable for negligence *per se*.

4. Attached hereto are true copies of the following Exhibits:

a) Exhibit A – Plaintiff's Third Amended Complaint;

b) Exhibit B – The deposition transcript of Dr. Vinod Dhar; and

c) Exhibit C – The deposition transcript of Dr. Lillian Aldana-Bernier.

WHEREFORE, it is respectfully requested that plaintiff's motion be denied in its entirety, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
February 11, 2015

Yours, etc.,

MARTIN CLEARWATER & BELL LLP

By: 

Gregory J. Radomisli (GJR - 2670)

A Member of the Firm

Attorneys for Defendant

JAMAICA HOSPITAL MEDICAL CENTER

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