

EXHIBIT 9

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 ADRIAN SCHOOLCRAFT,

6 Plaintiff,

Case No:

7 - against -

10 CV 06005

8 THE CITY OF NEW YORK, ET AL.,

9 Defendants.
10 -----X

11
12 220 East 42nd Street
13 New York, New York

14 July 7, 2014

15 10:06 a.m.
16

17 DEPOSITION OF VINOD DHAR, M.D., pursuant to
18 Notice, taken at the above place, date and
19 time, before DENISE ZIVKU, a Notary Public
20 within and for the State of New York.
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1 VINOD DHAR, M.D.

2 Q. Pursuant to the policy?

3 A. Substantial risk is to prevent
4 the potential risk.

5 Q. My question is if you have a
6 risk, but it's only a potential risk, is
7 that sufficient to qualify as a substantial
8 risk under the policy?

9 A. Under the policy, yes.

10 Q. So any risk is a substantial
11 risk under the policy?

12 A. Under the policy for 9.39, yes.

13 Q. Why is that?

14 A. Safety.

15 Q. The safety of whom?

16 A. The person.

17 Q. What does the term substantial
18 risk mean to you, Doctor?

19 A. It's a very undefined term that
20 is used by different agencies by different
21 professionals. There's a patient in the
22 nursing home, there is a patient coming from
23 -- patient living in the home by himself, he
24 is -- has no food, has no heat, and if the
25 neighbors complain that he's smelling. So

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2 somebody will go there and make an
3 assessment and if what they find there is
4 potentially a dangerous situation, they will
5 remove the patient and bring to the
6 emergency room. So there is a substantial,
7 as well as, potential.

8 Q. Isn't there a difference in your
9 mind between any risk and substantial risk?

10 MR. RADOMISLI: I'm going to
11 object to the extent you're asking for
12 his mind. If you want to ask whether
13 it's a policy --

14 MR. SMITH: Okay. Fine. I will
15 ask what the policy is and see if he
16 thinks there's any distinction either
17 because we are mincing words here.

18 Q. Under the Jamaica Hospital
19 policy, is there any difference between a
20 potential or any potential risk of
21 dangerousness and a substantial risk of
22 dangerousness?

23 A. Again, it's a clinical judgment.
24 I don't think it's defined in the policy.

25 Q. In your opinion, is there a

1 VINOD DHAR, M.D.

2 difference between any potential risk and a
3 substantial risk of dangerousness?

4 MR. RADOMISLI: He is here as a
5 30(b)(6) witness.

6 Q. Okay. You can answer the
7 question.

8 MR. RADOMISLI: No, he can't.

9 MR. SMITH: You're instructing
10 him not to answer that question?

11 MR. RADOMISLI: It's not proper
12 of a 30(b)(6) witness. You know that.

13 MR. SMITH: No, I don't.

14 MR. RADOMISLI: I cited a case.
15 Don't answer that question. It's not
16 proper.

17 Q. Does the term substantial risk,
18 as defined in the Jamaica Hospital policy,
19 include any risk of harm?

20 A. Yes.

21 Q. So under Jamaica's policy, any
22 possible risk is a sufficient basis in which
23 to involuntarily admit somebody, because of
24 the conclusion that they are dangerous to
25 themselves or others; is that correct?

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2 MR. RADOMISLI: Objection to the
3 form.

4 A. Yes.

5 Q. Is part of Jamaica's policy in
6 making this assessment about risk of
7 dangerousness to seek out to protect the
8 community, as well as, the patient?

9 A. Both.

10 Q. I'm sorry?

11 A. Both patient, as well as, the
12 community.

13 Q. Why is the hospital involved in
14 seeking out to make the community safe?

15 MR. RADOMISLI: Objection to
16 form.

17 A. Because article 9.39 is safety
18 for patient and others.

19 Q. So Jamaica Hospital views one of
20 its roles under 9.39 is to make the
21 community safe?

22 MR. RADOMISLI: Objection to
23 form.

24 A. I don't think it's question of
25 making the community safe. It's making --