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

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6 ADRIAN SCHOOLCRAFT,
7 Plaintiff,

8 -against-

9 THE CITY OF NEW YORK, DEPUTY CHIEF
10 MICHAEL MARINO, Tax Id. 873220,
11 Individually and in his Official
12 Capacity, ASSISTANT CHIEF Patrol
13 Borough Brooklyn NORTH GERALD NELSON,
14 Tax Id. 912370, Individually and in his
15 official Capacity, DEPUTY INSPECTOR
16 STEVEN MAURIELLO, Tax Id. 895117,
17 individually and in his Official
18 Capacity, CAPTAIN THEODORE LAUTERBORN,
19 Tax Id. 897840, Individually and in his
20 Official Capacity, LIEUTENANT WILLIAM
21 GOUGH, Tax Id. 919124, Individually and
22 in his Official Capacity, SGT.
23 FREDERICK SAWYER, Shield No. 2576,
24 Individually and in his Official
25 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 SONDRA 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.

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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:

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BY: SUZANNA PUBLICKER METTHAM, ESQ.

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(Continued on following page.)

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

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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.

* * *

1 M. Marino

2 MR. SMITH: Okay.

3 So we're on the record. It's
4 10:20.

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

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

17 EXAMINATION BY

18 MR. SMITH:

19 Q. Good morning, chief.

20 How are you?

21 A. Good morning, counselor.

22 I'm fine.

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

1 M. Marino

2 A. A situation.

3 Q. They used the term "caper"?

4 A. No.

5 Q. What, to the best of your
6 recollection, did they say?

7 A. A bag of shit.

8 Q. And what's that a reference
9 to?

10 MS. PUBLICKER METHAM:

11 Objection.

12 You can answer.

13 A. Just what it sounds like. A
14 situation, an unpleasant situation.

15 Q. Did they tell you anything
16 else about their situation?

17 A. Oh, yes.

18 Q. Would you mind sharing that
19 with us?

20 A. Sure.

21 They told me that a police
22 officer left at around 14:00, which
23 would be 2:00 p.m. He was ordered not
24 to go, and he left. They told me that
25 the officer was acting irrationally,

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M. Marino

that he had had psychiatric evaluations in the past and that he had been answering his cellphone and that he stopped. And they believed that the officer was, already had or was going to hurt himself.

Q. Do you remember who told you this?

A. I can't say. I believe it was Captain Lauterborn, but I really can't say.

Q. Did they say anything else to you?

A. Yes.

Q. What else did they say?

A. They told me that their plan was to go to his house and get the key from the landlord and let themselves in and see if he was in the apartment.

Q. Did they tell you anything else?

A. No.

Q. Did you say anything in response?

1 M. Marino

2 A. Yes.

3 Q. What did you say?

4 A. I asked him who they notified
5 so far because it had been a couple of
6 hours since this disappearance of the
7 officer.

8 And then I instructed them
9 that they were to notify operations and
10 get his plate number out and notify the
11 Emergency Service unit.

12 And that under no
13 circumstances were they to let
14 themselves into that house alone like
15 that, and that they could respond to
16 his house with emergency service
17 following the proper procedures.

18 And if he answered the door,
19 see if he needs medical help. If he
20 doesn't answer the door, under no
21 circumstances were they to go in until
22 my arrival.

23 Q. Why did you tell them that
24 they were not to go into his house?

25 A. You have a police officer who

1 M. Marino

2 you think is going to hurt himself and
3 he's at that level of anxiety, if you
4 just can go into the house like that,
5 you may push his hand where he may hurt
6 himself or try to hurt you or you would
7 have to hurt him.

8 It's a dangerous situation.
9 It's got to be handled properly.

10 The whole idea is to prevent
11 him from hurting himself, not to
12 aggravate it.

13 Q. Did you tell them anything
14 else?

15 A. I don't think that I said
16 much more than that at that time, no.

17 Q. Were these orders that you
18 were giving them?

19 A. Yes, they were.

20 Q. Do you know whether or not
21 they made any notes of these orders in
22 their memo books or anywhere else?

23 MS. PUBLICKER METHAM:

24 Objection.

25 You can answer.

1 M. Marino

2 A. I don't remember any.

3 Q. All right.

4 When you got to the landing
5 on the second floor, what discussions
6 do you recall?

7 A. I was informed that there
8 were two officers in the backyard and
9 one lieutenant, as I said, in the
10 front. They had been there for a
11 while. And they were all soaked from
12 the rain. Emergency Services had been
13 attempting to establish some kind of
14 contact with no result.

15 And at one point it was
16 related to me that the landlord firmly
17 believed that Schoolcraft was still
18 inside because he had heard him moving
19 around, but hadn't heard any movement
20 for an hour.

21 But he couldn't have left
22 because there are police officers
23 surrounding the premise and in the
24 hallway.

25 Q. Who provided this information

1 M. Marino

2 they had spoken to Adrian Schoolcraft's
3 father before you entered into this
4 course of action?

5 A. I don't remember that, no.

6 Q. Did Captain Lauterborn at any
7 time ever tell you that he had
8 conversations with Larry Schoolcraft
9 before you entered into this course of
10 action to enter Adrian's apartment?

11 A. No, nobody told me that.

12 Q. What time of the day was it
13 when you entered into this course of
14 action?

15 A. I couldn't say.

16 Q. It was dark outside?

17 A. I believe that it was.

18 Q. After having this
19 conversation with the officers on the
20 landing, what happened next?

21 A. The Emergency Service
22 officers opened the door as I asked
23 them to. And you can see inside to the
24 left (indicating). It was a door open
25 inwards from left to right