

667-82153

CERTIFIED  
TRANSCRIPT

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
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ADRIAN SCHOOLCRAFT,  
Plaintiff,  
-against- Index No.  
10CIV-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, stg. 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"), 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  
EMPLOYEES "JOHN DOE" # 1-50, Individually

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and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown),  
  
Defendants.

- - - - -x

220 42nd Street  
New York, New York  
May 30, 2014  
10:28 a.m.

VIDEOTAPED DEPOSITION of ANTHONY J. MAFFIA, a Witness on behalf of one of the Defendants, JAMAICA HOSPITAL MEDICAL CENTER, in the above-entitled action, held at the above time and place, taken before Margaret Scully-Ayers, a Shorthand Reporter and Notary Public of the State of New York, pursuant to Order and the Federal Rules of Civil Procedure.

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APPEARANCES:

NATHANIEL SMITH, ESQ.

Attorney for Plaintiff

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JOHN LENOIR, ESQ.

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BY: NOT PRESENT

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Corporation Counsel

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THE CITY OF NEW YORK

100 Church Street

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BY: RYAN SHAFFER, ESQ.

File # 2010-033074

(Appearances continued on next page.)

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APPEARANCES CONTINUED

SCOPPETTA, SEIFF, KRETZ & ABERCROMBIE,  
ESQS.

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220 42nd Street

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BY: GREGORY RADOMISLI, ESQ.

File # 667-82153

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Attorneys for Defendant

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Lake Success, New York 11042

BY: MICHAEL T. IVONE, ESQ.

(Appearances continued on next page.)

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APPEARANCES CONTINUED

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Attorneys for Defendant

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BY: PAUL CALLAN, ESQ.

File # 090.155440

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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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MR. SMITH: Going on the record  
10:28.

This is the videotape deposition  
of Jamaica Hospital. We are at the  
offices of Martin, Clearwater & Bell  
at 220 East 42nd Street.

And would you mind swearing in  
the Witness, please.

[Whereupon, an oath was  
administered.]

A N T H O N Y J. M A F F I A, the Witness  
herein, having first been duly sworn by the  
Notary Public, was examined and testified as  
follows:

EXAMINATION BY MR. SMITH:

Q. What is your name?

A. Anthony J. Maffia.

Q. Where do you reside?

A. 722 Willow Road, Franklin  
Square, New York 11010.

MR. RADOMISLI: Pursuant to the  
federal rules, we reserve our right to  
review and make corrections to the  
transcript.

1 A. MAFFIA

2 MR. SMITH: Okay.

3 Q. Good morning, Mr. Maffia. Is  
4 that how you pronounce it?

5 A. Correct.

6 Q. My name is Nathaniel Smith, and  
7 I'm an attorney. I represent Adrian  
8 Schoolcraft who was an individual who  
9 brought a claim against Jamaica Hospital.  
10 He was admitted against his will by  
11 Jamaica Hospital, and he brought a  
12 lawsuit against Jamaica Hospital and  
13 others.

14 There's a few rules and  
15 procedures. I'm sure your counsel spoke  
16 with you about them; the rules and  
17 procedures. I just want to clarify that  
18 we both agree on them at the beginning of  
19 the record. Okay?

20 A. Okay.

21 Q. Is that all right?

22 A. Okay.

23 Q. If I ask you a question and you  
24 don't understand, will you please let me  
25 know?



1 A. MAFFIA

2 A. Okay.

3 Q. You've just been sworn to tell  
4 the truth so it's important that you do  
5 that but also important that you  
6 understand my questions because if I ask  
7 a question and you answer, I'm going to  
8 assume and the record is going to assume  
9 that you understood the question.

10 If you have any concerns about  
11 the question, please let me know and I  
12 will do my best to rephrase it. Okay?

13 A. Okay.

14 Q. Have you ever been deposed  
15 before?

16 A. No.

17 Q. Who are you currently employed  
18 by?

19 A. Jamaica Hospital Medical  
20 Center.

21 Q. What is your position there?

22 A. Vice president of psychiatry.

23 Q. How long have you been the vice  
24 president of psychiatry?

25 A. Since 1995.

1 A. MAFFIA

2 MR. IVONE: Read that back.

3 [The requested portion of the  
4 record was read.]

5 Q. Is there a department within  
6 Jamaica Hospital that you work in?

7 A. Yes, the Department of  
8 Psychiatry.

9 Q. How long have you worked within  
10 the Department of Psychiatry at Jamaica  
11 Hospital?

12 A. Since 1995.

13 Q. Can you describe for me the  
14 organizational structure of the  
15 Department of Psychiatry?

16 MR. RADOMISLI: Objection to  
17 form.

18 But you can answer the question.

19 A. The organizational structure is  
20 that there is a vice president, myself,  
21 who reports to the chief operating  
22 officer of the hospital.

23 There is clinical chairman who  
24 reports to the chief operating officer,  
25 the medical board, and the president of

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A. MAFFIA

the hospital; and he takes care of all clinical matters.

And I take care of -- responsible for the administrative matters.

Q. What is the name of the individual who was in charge of the clinical matters?

A. Dr. Seeth, S-E-E-T-H, first name; last name Vivek, V-I-V-E-K. He's a physician.

Q. Are you a physician?

A. I am not.

Q. Do you report to the same individuals that Vivek reports to?

A. Well, he reports to the medical board, and I report to the chief operating officer and the president.

He reports to the medical board, the chief operating officer, and the president.

Q. Who is the chief operating officer?

A. William Lynch.

1 A. MAFFIA

2 Q. Have you reported to Lynch  
3 throughout your tenure and Jamaica  
4 Hospital?

5 A. No.

6 Q. Who else was the chief  
7 operating officer?

8 A. Prior to Mr. Lynch was Mr.  
9 Bruce Flanz, F-L-A-N-Z, first name Bruce.

10 Q. When did Lynch become the chief  
11 operating officer?

12 A. About one year ago.

13 Q. In 2009 Flanz was the chief  
14 operating officer of the hospital?

15 A. That's correct.

16 Q. As the vice president, what are  
17 your duties?

18 A. My duties are administrative in  
19 nature.

20 Q. Can you explain that in a  
21 little bit more detail?

22 A. I'm responsible for program  
23 development; budgets; finance; grant  
24 writing; any other administrative issues;  
25 development of space; construction; those

1 A. MAFFIA

2 types of things.

3 Q. Exclusively for the Department  
4 of Psychiatry?

5 A. That's correct.

6 Q. When you say "program  
7 development," what kind of program  
8 development are you referring to?

9 A. To new ideas and concepts for  
10 different types of programs we can  
11 utilize at the hospital to assist the  
12 community; for instance, operations that  
13 would help patients utilize a mental  
14 health clinic more than an inpatient  
15 setting, a CPEP, Comprehensive  
16 Psychiatric Emergency Program.

17 Q. Was there a CPEP at the  
18 hospital in 2009?

19 A. No.

20 Q. When did a CPEP operation  
21 commence at the hospital?

22 A. Last year.

23 Q. Was it that last year that  
24 there were renovations done to the  
25 psychiatric emergency room?

1                   A. MAFFIA

2           A.       That's correct.

3           Q.       And those renovations were done  
4 in order to obtain the CPEP  
5 authorization?

6           A.       That's correct.

7           Q.       What kind of psychiatric  
8 facility did the hospital have in 2009?

9           A.       They had a mental health  
10 clinic, a psychiatric emergency  
11 department, and two psychiatric inpatient  
12 units.

13                   MR. IVONE: I'm sorry.

14                   THE WITNESS: Two psychiatric  
15 inpatient units.

16                   MR. RADOMISLI: Off the record.

17                   [Discussion held off the  
18 record.]

19           Q.       You said there was a clinic at  
20 the hospital?

21           A.       Uh-huh.

22           Q.       What did the clinic do?

23           A.       Sees outpatients.

24           Q.       And the psychiatric ER, what  
25 does that do?

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A. MAFFIA

A. Sees emergency patients.

Q. What are emergency patients?

A. Patients that are brought in requiring emergency care either by ambulance, by police, by families or themselves.

Q. What are the circumstances under which patients require emergency care?

MR. RADOMISLI: Objection, goes beyond the scope.

Don't answer the question.

MR. SMITH: Don't answer the question?

MR. RADOMISLI: You are limited by court order.

MR. SMITH: Well, I'm not going to quibble with you about that, but I think I need a little bit of latitude to understand the nature of the operations and all the other areas.

So give me a little bit of latitude so we won't get into an unnecessary delay.

1 A. MAFFIA

2 MR. RADOMISLI: The question is

3 --

4 MR. SMITH: I understand what  
5 the court order was. I think you do  
6 to.

7 So I'm suggesting give me a  
8 little bit of latitude and if you  
9 think I'm really going beyond the  
10 limitations, that might be a good  
11 point to tell the Witness not to  
12 answer the question.

13 MR. RADOMISLI: I think the  
14 question that you just asked goes  
15 beyond it.

16 Q. The two wards that you  
17 mentioned, units, what do they do?

18 A. They see psychiatric patients.

19 Q. Where are they located?

20 A. They are on the second and  
21 third floor of what is known as the C  
22 building at the hospital.

23 Q. Is there any difference between  
24 the two units?

25 A. No.



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A. MAFFIA

Q. How many beds in each unit?

A. Twenty-five.

Q. What is your year of birth?

A. 1949.

Q. What is your highest level of education?

A. Master's degree.

Q. In what?

A. Social work.

Q. When did you get that?

A. 1977.

Q. From where?

A. Adelphi University.

Q. What did you do after that?

A. Worked at what was Booth Memorial Medical Center, now New York Hospital Queens.

Q. Doing what?

A. Social work.

Q. What was your next form of employment?

A. Winthrop University Hospital.

Q. Doing what?

A. Social work. I was the

1 A. MAFFIA

2 assistant director of social work there.

3 Q. What was your next form of  
4 employment?

5 A. Jamaica Hospital. I was the  
6 director of social work there.

7 Q. When did you start working at  
8 Jamaica Hospital?

9 A. 1986.

10 Q. What were your duties as a  
11 director of social work in 1986?

12 A. To supervise and direct the  
13 social work services at the hospital.

14 Q. What are the social work  
15 services at the hospital?

16 MR. RADOMISLI: What were they  
17 back in 1986?

18 MR. SMITH: No, what are they.

19 A. Now?

20 Q. Yes.

21 A. I'm not the director of social  
22 work anymore.

23 Q. At the time that you were, what  
24 were the social work activities?

25 MR. RADOMISLI: Objection.

1 A. MAFFIA

2 But you can answer.

3 A. They provided discharge  
4 planning services to the patients in the  
5 hospital.

6 Q. Anything else?

7 A. Also counseling services to the  
8 same patients and their families.

9 Q. What kind of counseling?

10 A. Counseling around discharge,  
11 assistance at home, basically, medical  
12 social work. It wasn't psychiatric  
13 social work.

14 Q. What did you do next?

15 A. In 1995 I was promoted to vice  
16 president of psychiatry at Jamaica  
17 Hospital.

18 Q. Those are the duties that you  
19 have and that's the title that you have  
20 today?

21 A. That's correct.

22 Q. Was your work as a social  
23 worker prior to coming to Jamaica  
24 Hospital medical social work?

25 A. Yes.

1                   A.   MAFFIA

2           Q.       Did it also involve psychiatric  
3 social work?

4           A.       At Winthrop the answer -- yeah,  
5 and at Jamaica -- Booth also. It was  
6 limited experience in psychiatry there at  
7 Winthrop. I had some experience in  
8 psychiatric social work there.

9           Q.       What was your experience in the  
10 psychiatric social work?

11          A.       There was a psychiatric unit at  
12 Winthrop, and I supervised the social  
13 work there.

14          Q.       Do you have any training in  
15 psychiatric social work?

16          A.       Social work is social work.  
17 Psychiatry is only the division that you  
18 work in.

19          Q.       Is that an answer to my  
20 question?

21          A.       [Indicating.]

22          Q.       Yes?

23          A.       Yes.

24                   If you are a social worker in a  
25 psychiatric setting, that's where you

1 A. MAFFIA

2 work. If you were a social worker in a  
3 medical setting, you do social work in a  
4 medical setting.

5 The differentiation is the type  
6 of social work you provide. Social work  
7 in general as a service or diploma is  
8 social work.

9 Q. Do you have any licenses?

10 A. Yes.

11 Q. What licenses do you have?

12 A. I am LCSW, a licensed clinical  
13 social worker.

14 Q. Any other licenses?

15 A. No.

16 Q. As a licensed social worker,  
17 did you have to take any examinations?

18 A. Yes.

19 Q. Who administered those  
20 examinations?

21 A. The State of New York.

22 Q. Do you also have to have  
23 certain educational requirement?

24 A. Master's degree.

25 Q. Either in your studies to

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A. MAFFIA

obtain your master's degree or in your studies to obtain any prior degrees, did you have any training in psychiatric social work?

MR. RADOMISLI: Objection.

You can answer.

A. No.

Q. Have you ever had any training in psychiatric social work?

MR. RADOMISLI: Asked and answered.

You can answer.

A. Yes.

Q. What was your training in psychiatric social work?

A. When I worked at Booth Memorial Medical Center, there was a psychiatric unit there. I provided services there and was supervised by the director of the department.

Q. And that was the extent of your training in psychiatric social work?

MR. RADOMISLI: Objection to form.

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A. MAFFIA

MR. SMITH: You can answer.

A. At Booth.

Q. How were you trained?

MR. RADOMISLI: He is not here as a personal witness. He is here as a corporate witness.

MR. SMITH: But I'm trying to understand the foundation for the subject matters I'm going to ask him about.

MR. RADOMISLI: Well, I'm not sure that that question goes to the issues. I'm not going to give you a hard time, but at some point --

MR. SMITH: Okay. I'm just trying to find out what his training was in psychiatric social work in forms not only from his experience and the level of his foundation for the testimony.

MR. RADOMISLI: Not really. The foundation of his testimony is his role as VP director and VP in psychiatric.

1 A. MAFFIA

2 MR. SMITH: I'm not going to go  
3 into this in great detail.

4 Q. Sir, can you just briefly  
5 describe for me what training you got for  
6 psychiatric social work?

7 A. I received training also at  
8 Winthrop when I was a supervisor of the  
9 unit there and there were educational  
10 programs that I would attend along with  
11 other social workers and team members.

12 Q. What were these educational  
13 program about?

14 A. They would be called case  
15 conferences, grand rounds, individual  
16 conferences about certain patients with  
17 psychiatrists who would discuss the  
18 patients.

19 Q. Have you ever received any  
20 training in order to determine whether or  
21 not a patient is a danger to themselves  
22 or others?

23 MR. RADOMISLI: Objection.

24 I'm going to direct him not to  
25 answer. It's beyond the scope.



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A. MAFFIA

Q. At Jamaica Hospital, do you have any role in making assessment of dangerousness of individuals who are mentally ill or have been alleged to be mentally ill?

A. No, the physicians do that.

Q. What did you do to prepare for today's deposition?

A. Met with the attorneys or attorney.

Q. When?

A. Over about a two- or three-week period probably.

Q. My question was when?

A. When, sorry. Once a week for the last three weeks.

MR. RADOMISLI: Don't look at me.

THE WITNESS: I apologize. I'm just trying to remember.

MR. SMITH: Did you say don't look at him?

MR. RADOMISLI: Don't look at me. I can't give you the answer.

1 A. MAFFIA

2 Q. How many times did you meet,  
3 How many times did you meet with the  
4 attorney for Jamaica Hospital in this  
5 case?

6 A. Three times.

7 Q. How long were each of these  
8 meetings?

9 A. Between hour and a half to two  
10 hours.

11 Q. Did you look at any documents?

12 A. Yes.

13 Q. What documents did you look at?

14 A. Some of the policies that the  
15 Department of Psychiatry has.

16 Q. How many policies did you look  
17 at?

18 A. I don't know, several.

19 Q. Did you look at anything else  
20 other than Department of Psychiatry  
21 policies?

22 A. No.

23 Q. What were the policies about?

24 A. One policy was about  
25 involuntary admission.

1 A. MAFFIA

2 Q. What were the other policies  
3 about?

4 A. Similar.

5 Q. I don't know what that means.

6 A. There was some policies about  
7 involuntary admission and some of the  
8 issues surrounding the mental hygiene law  
9 and the policies. I looked at those.

10 Q. I'm not sure you're answering  
11 my question.

12 What policies of the hospital  
13 did you look at in preparing for your  
14 deposition?

15 A. It was a policy on involuntary  
16 admissions.

17 Q. You told me about that.

18 A. Right.

19 Q. What other policies did you  
20 look at in preparing for your deposition?

21 A. I can't recall. I know it was  
22 that one. I don't recall. I'm sorry.

23 Q. Who were the attorneys that you  
24 met with on those three occasions when  
25 you prepared for your deposition?

1                   A. MAFFIA

2           A.       On all three occasions, counsel  
3 present [indicating], also there was  
4 another attorney that we met with Mr.  
5 Thrope, T-H-R-O-P-E.

6           Q.       Who is Mr. Thrope?

7           A.       He was one of the attorneys for  
8 the hospital.

9           Q.       Does he work for Martin,  
10 Clearwater & Bell?

11          A.       No, he does not.

12          Q.       He is in-house counsel for the  
13 hospital?

14          A.       No, he works for a firm. I  
15 don't know.

16                   In-house, does that mean we  
17 employ him and he works at the hospital?  
18 I don't understand.

19          Q.       What is the name of the firm?

20          A.       Foley & Lardner.

21          Q.       It's your understanding he was  
22 the attorney representing the hospital?

23          A.       That's correct.

24          Q.       Was there anybody else present?

25          A.       Yes.

1 A. MAFFIA

2 Q. Who?

3 A. Dr. Vivek was present at one  
4 meeting.

5 Q. Anybody else present at any of  
6 these meetings?

7 A. No.

8 Q. Is Dr. Vivek your peer, your  
9 superior, or your subordinate at the  
10 hospital?

11 A. He is --

12 MR. RADOMISLI: Objection to  
13 form.

14 A. He is a peer.

15 Q. Have you spoken with anybody  
16 else at the hospital about your  
17 deposition?

18 A. No.

19 Q. Have you done anything else  
20 other than meet with the attorneys and  
21 Dr. Vivek on the three occasions and  
22 looked at the policy documents that you  
23 mentioned?

24 A. Say that again.

25 Q. I'll be happy to.

1 A. MAFFIA

2 Other than meeting the  
3 attorneys on these three occasions --

4 A. Uh-huh.

5 Q. -- and other than looking at  
6 these policy documents for the hospital,  
7 did you do anything else to prepare for  
8 today's deposition?

9 MR. RADOMISLI: Other than Dr.  
10 Vivek.

11 MR. SMITH: He was at one of the  
12 meetings.

13 THE WITNESS: Right.

14 Q. Other than being in these three  
15 meetings and other than looking at these  
16 policy documents, did you do anything  
17 else to prepare for your deposition?

18 A. No.

19 Q. What is your understanding of  
20 the subject matter that you are here to  
21 testify about?

22 A. I'm here to testify about four  
23 issues: One was about structure of the  
24 hospital; something about cameras;  
25 policies; and I forget the fourth one.

1 A. MAFFIA

2 I'm sorry.

3 Q. Was the fourth one performance  
4 evaluations at the hospital for doctors?

5 A. Yes [indicating].

6 Q. Is that correct?

7 A. Yes. Sorry.

8 Q. Does the hospital have any  
9 procedures, protocols, or practice with  
10 respect to doing evaluations on the  
11 performance of doctors that work for it?

12 A. Yes.

13 Q. What are those?

14 A. They get a yearly evaluation.

15 Q. Is there a policy document that  
16 describes what that yearly evaluation  
17 covers?

18 A. The evaluation which I'm  
19 somewhat familiar with has the tenet of  
20 what the evaluation is about; what the  
21 doctor is evaluated on. It kind of  
22 serves as the policy and the evaluation  
23 tool.

24 Q. Can you explain that answer?

25 A. In other words, on the

1                   A. MAFFIA

2                   evaluation there are things that the  
3                   doctor was evaluated on and that serves  
4                   as the policy.

5                   Is there a policy they get a  
6                   yearly evaluation, the answer is yes.

7                   Q.           So there is a form of  
8                   evaluation used to evaluation doctors?

9                   A.           That's correct, right.

10                  Q.           And the form covers certain  
11                  subject matters; is that correct?

12                  A.           Yes.

13                  Q.           And are you telling me that the  
14                  hospital policy about what the factors  
15                  are in order to assess the performance of  
16                  the doctors who works at the hospital are  
17                  set forth in the form?

18                  A.           Yes.

19                  MR. SMITH: I request the  
20                  production of the form, Jamaica  
21                  Hospital evaluation that was employed  
22                  to evaluate doctors for the period  
23                  2007, '8, '9.

24                  MR. RADOMISLI: Taken under  
25                  advisement. Please follow up in



1                   A. MAFFIA

2                   writing.

3                   Q.        Have you looked at that form  
4 recently?

5                   A.        Yes, just perused it briefly.

6                   Q.        When?

7                   A.        During one of our conversations  
8 with the attorneys.

9                   Q.        What do you recall about the  
10 form?

11                  A.        It has certain items that the  
12 physicians are evaluated on.

13                  Q.        What are the items?

14                  A.        Their ability to relate to  
15 patients, ability to relate to staff, the  
16 ability to work on an interdisciplinary  
17 team, those are some of the items.

18                  Q.        I would like to know all of the  
19 items.

20                  A.        I couldn't recount them all.

21                  Q.        Do you have them here today?

22                  A.        I don't have them.

23                  Q.        So you're not ready to testify  
24 about the subject matter of the  
25 evaluation process for doctors at Jamaica

1                   A. MAFFIA

2   Hospital, are you?

3           A.     I don't --

4           MR. RADOMISLI:   Objection to  
5           form.

6           A.     I don't do the evaluations.

7           Q.     So you are not prepared to talk  
8           to me about what the evaluations of  
9           doctors are, right?

10          MR. RADOMISLI:   Objection.   He  
11          is --

12          MR. SMITH:   You can object.   You  
13          can instruct him not to answer  
14          questions.   Please don't make any  
15          speeches.

16          MR. RADOMISLI:   I'm going to  
17          object to that question.

18          MR. SMITH:   You can answer.

19          MR. RADOMISLI:   He cannot  
20          answer.   He is here to answer  
21          questions about the evaluation  
22          process.

23          MR. SMITH:   Stop.   You're  
24          interrupting my examination.

25          Q.     Do you want to answer my

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A. MAFFIA

question, please?

MR. RADOMISLI: No.

MR. SMITH: You're telling him not to answer a question about whether or not he is prepared to answer as to the subject matter that the Court directed him to appear before me and answer. Is that what you're doing?

MR. RADOMISLI: No. The form of the question is improper.

MR. SMITH: Fine. If the form is improper, the form is improper; but to instruct him not to answer the question because of that is completely improper, okay, and you know it so stop it.

MR. RADOMISLI: Don't raise your voice.

MR. SMITH: I'm not raising my voice. I'm frustrated every time I ask a question I try to get basic information, I get stall tactics like this.

MR. RADOMISLI: Stall tactics?

1 A. MAFFIA

2 MR. SMITH: I'm asking the  
3 Witness whether or not he is prepared  
4 to testify about one of the subject  
5 matters that the Court directed you to  
6 produce him on.

7 MR. RADOMISLI: Fine.

8 MR. SMITH: And you're  
9 instructing not to answer that  
10 question.

11 MR. RADOMISLI: Not in that  
12 form. Don't ask it in the negative.  
13 Ask a positive question.

14 Q. Are you prepared to testify on  
15 the subject matters of the performance  
16 evaluation process for doctors at Jamaica  
17 Hospital?

18 A. I can testify as to -- ask me a  
19 question and I try to help you.

20 Q. I just asked you a question,  
21 sir. Do you want to answer my question?

22 Are you prepared to testify  
23 about the factors that go into the  
24 evaluation of doctors at Jamaica  
25 Hospital?

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A. MAFFIA

A. I know what some of the factors are.

Q. But some of the factors you don't know?

A. That's correct. I can't remember all of them.

MR. SMITH: My suggestion, Counsel, is you either get me a copy of this form now and I show it to the Witness or we are going to have to come back.

MR. RADOMISLI: He can testify about the evaluation process. You specifically asked for documents before the court conference, and the Court did not allow you to get it.

He is here to talk about the evaluation process of the doctors. It doesn't necessarily mean it's exhaustive, every single item. He can tell you what he can tell you. He is prepared to tell you about the process.

MR. SMITH: I don't mean to

1                   A. MAFFIA

2                   lecture you about the law. The fact  
3                   is he has an obligation to study the  
4                   subject matter of the 30(b)(6) witness  
5                   and come here prepared to provide  
6                   information, complete information  
7                   about the subject matter.

8                   To me he has not done that  
9                   because he says I don't know some of  
10                  the factors but I don't know all of  
11                  them, and I looked at the form but I  
12                  can't remember everything.

13                  So, again, I suggest to you, you  
14                  get me the form and you present it to  
15                  the Witness that he looked at recently  
16                  so we can complete this witness's  
17                  examination, or we were going to have  
18                  to have another fight. It's up to  
19                  you.

20                  MR. RADOMISLI: The Witness is  
21                  prepared to answer your questions.  
22                  It's not a memory test.

23                  If you want to ask him about  
24                  certain things whether X is  
25                  considered, Y is considered, go ahead.

1                   A. MAFFIA

2                   He is not here to reiterate the entire  
3                   form. He is not required to do that.  
4                   He is familiar enough with the process  
5                   and the what factors are considered.

6                   The fact that he may not be able  
7                   to remember every single one, does not  
8                   disqualify him as a competent witness.

9                   MR. SMITH: Well, I disagree  
10                  with you.

11                  So you are not going to get that  
12                  form so we can complete his  
13                  examination?

14                  MR. RADOMISLI: I'll think about  
15                  it. Move onto other topics.

16                  MR. SMITH: That's reasonable.

17                  We will leave the performance  
18                  evaluation subject matter and come  
19                  back to that later.

20                  Q.        What is the organizational or  
21                  corporate structure of Jamaica Hospital?

22                  MR. IVONE: Read that back.

23                  [The requested portion of the  
24                  record was read.]

25                  A.        Jamaica Hospital has a board of

1                   A. MAFFIA

2       trustees with a chairman and then there  
3       are several officers on the board, board  
4       members. Under that is the president and  
5       CEO of the hospital. Underneath the  
6       president and CEO is the chief operating  
7       officer and the chief financial officer.  
8       Kind of across from that is the medical  
9       board. Underneath the medical board who  
10      has a president, there are the clinical  
11      chairmen which also report to the  
12      president and CFO and COO; and there are  
13      vice presidents underneath the president  
14      and the chief operating officer.  
15      Underneath the vice presidents are  
16      various administrators and directors of  
17      services.

18                   Jamaica Hospital is  
19      not-for-profit hospital.

20           Q.       Who is the chairman?

21           A.       The board of trustees?

22           Q.       Yes.

23           A.       Neil Phillips.

24           Q.       Who is the president of the  
25      hospital?



1 A. MAFFIA

2 A. Mr. Bruce Flanz.

3 Q. And the CEO?

4 A. He is the CEO.

5 Q. And the COO?

6 A. Mr. William Lynch.

7 Q. And the CFO?

8 A. Mounir, M-O-U-N-I-R; last name  
9 Doss, D-O-S-S.

10 Q. How many vice presidents are  
11 there?

12 A. I believe there are six.

13 Q. What are their titles other  
14 than yours?

15 A. There is a vice president for  
16 finance; vice president ambulatory care,  
17 vice president for  
18 rehabilitation/transitional care  
19 services. I'm trying to remember, jeez.  
20 I'm missing something. I'm sorry. I  
21 will remember.

22 Q. If it comes to your mind, let  
23 me know?

24 A. I apologize.

25 Vice president of nursing, Miss

1 A. MAFFIA

2 Holley, H-O-L-L-E-Y.

3 Q. Does the hospital have separate  
4 departments?

5 A. Yes.

6 Q. Who are those?

7 A. There are quite a few. Are you  
8 talking about clinical departments?

9 Q. I want to know about the  
10 organizational structure.

11 A. The Department of Surgery; the  
12 Department of Medicine; Department of  
13 OB/GYN; Department of Pediatrics. There  
14 is the Department of Rehabilitation  
15 Medicine; pediatrics, and Department of  
16 Anesthesia, Emergency Department, there a  
17 whole series of other departments:  
18 pulmonary; respiratory; social work;  
19 quality improvement. There's dozens.

20 Q. I would like know to the extent  
21 that you have to rattle off those  
22 departments, I would like to know what  
23 they are.

24 A. Let's see. I mentioned  
25 respiratory, instruction, engineering,

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A. MAFFIA

housekeeping, plant operations, human resources, there is the Finance Department, Benefits Department, Department of Nursing, Department of Ambulatory Care, case management, the list goes kind of on and on.

Q. Who runs the Emergency Department?

A. Dr. Doughlin. He is the chairman of emergency medicine.

Q. Who runs the Finance Department?

A. Mounir Doss, the chief financial officer.

Q. Is the Finance Department responsible for determining whether or not services the hospital provides will be covered by insurance, among other things?

A. I can't answer your question the way you phrased it. Could you just ask it another way? I'm sorry.

Q. Is there a particular department within the hospital

1                   A.   MAFFIA

2   responsible for determining whether or  
3   not the hospital will be reimbursed by  
4   insurance or some other third-party  
5   payer?

6                   A.   The Finance Department would  
7   usually bill or send the bills out to the  
8   insurance company.

9                   Q.   Which department contacts  
10   insurance companies to find out whether  
11   or not a service to be provided will be  
12   covered?

13                  A.   Usually, it would be the  
14   Finance Department and case management.

15                  Q.   Who runs case management?

16                  A.   Cheryl Mersten, M-E-R-S-T-E-N,  
17   I believe. She runs case management.

18                  Q.   Is there a Security Department?

19                  A.   Yes, there is. I left that  
20   out.

21                  Q.   Who runs the Security  
22   Department?

23                  A.   Presently.

24                  Q.   Yes?

25                  A.   Mr. Charles Neacy, N-E-A-C-Y.

1 A. MAFFIA

2 Q. Who ran security in 2009?

3 A. I think it was a Mr. Martinez.

4 Q. What was his first name?

5 A. Francisco. I might be wrong

6 about that. I believe it was him.

7 Q. How many people worked in the  
8 Security Department?

9 A. I don't know.

10 Q. Any of them formal NYPD?

11 A. I don't know that either.

12 Q. Who are the other directors of  
13 the Security Department who you can think  
14 of?

15 A. Previous directors?

16 Q. Yes.

17 A. There was prior to Mr.  
18 Martinez, there was a Clarence Herring.

19 Q. Can you spell that?

20 A. H-E-R-R-I-N-G?

21 Q. Anybody else?

22 A. Prior to him was a gentleman by  
23 the name of David McJolly, M-C-J-O-L-L-Y.

24 Q. And prior to him?

25 A. A gentleman by the name of

1                   A. MAFFIA

2       Buster Stratton.

3           Q.       Prior to Stratton?

4           A.       I don't know. I'm sorry.

5           Q.       I have exhausted your

6       knowledge?

7           A.       Right, it's before my time.

8                   MR. RADOMISLI: Off the record.

9                   [Discussion held off the  
10       record.]

11                  MR. SMITH: Going off the  
12       record, 11:13 a.m.

13                  [Whereupon, at 11:13 a.m., a  
14       recess was taken.]

15                  [Whereupon, at 11:13 a.m., the  
16       testimony continued.]

17                  MR. SMITH: Going on the record.  
18       It's still 11:13. We were just off  
19       for a few seconds.

20           Q.       Is the Security Department at  
21       Jamaica Hospital the department that's  
22       responsible for the operations of  
23       security cameras?

24           A.       Yes.

25           Q.       What kind of security cameras

1                   A. MAFFIA  
2           were at Jamaica Hospital in  
3           October/November 2009?

4           A.        The cameras were broken.

5           Q.        So there were cameras in the  
6           hospital, but they were broken?

7           A.        That's correct.

8           Q.        How many cameras were there in  
9           the hospital?

10          A.        In the entire hospital?

11          Q.        Yes.

12          A.        I couldn't even begin to guess.

13                   MR. SMITH: I think that  
14           question was a little bit poorly  
15           formed, very badly, poorly formed.

16          Q.        How many camera systems were  
17           there in the hospital in October 2009?

18          A.        There was one system.

19          Q.        Just to clarify my bad  
20           question: And that system had various  
21           cameras located throughout the hospital?

22          A.        [Indicating.]

23          Q.        Is that correct?

24          A.        Yes, that's correct.

25          Q.        Including cameras in the

1                   A. MAFFIA

2       emergency room?

3           A.       In which emergency room?

4           Q.       How many emergency rooms are  
5       there?

6           A.       Two.

7           Q.       Is there a difference between  
8       the two?

9           A.       Sure: One is medicine/surgery.  
10       One is psychiatry.

11          Q.       I see. Isn't the psychiatric  
12       emergency room adjacent --

13          A.       Yes.

14               MR. RADOMISLI: Let him finish.

15               THE WITNESS: I apologize. I'm  
16       sorry.

17               MR. RADOMISLI: You're doing  
18       fine.

19               MR. SMITH: I think so too.

20               THE WITNESS: I don't know if  
21       that's good or bad. Sorry.

22               MR. SMITH: In terms of  
23       answering and breaking from the normal  
24       casual conversation, in my view,  
25       you're fine.



1                   A. MAFFIA

2           Q.       In 2009, the psychiatric ER was  
3 directly to the left of the emergency  
4 room when you walked in through the  
5 double doors and faced the nurses'  
6 station, right?

7           A.       That's correct.

8           Q.       And were there security cameras  
9 in the medical ER area?

10          A.       Yes.

11          Q.       Were there security cameras in  
12 the psychiatric ER section of the  
13 hospital at the same time in November  
14 2009?

15          A.       Yes.

16          Q.       Were there also cameras in the  
17 entrance way to the hospital, the  
18 entryway to the emergency room at the  
19 hospital?

20          A.       I'm not sure what you mean.  
21 Which entryway?

22          Q.       When a patient is brought to  
23 the hospital in the ambulance, the  
24 ambulance parks in a certain location?

25          A.       Yes, that's correct.

1 A. MAFFIA

2 Q. Four or five different parking  
3 spots, correct?

4 A. [Indicating.]

5 Q. Is that correct?

6 A. Yes.

7 Q. And the patient is brought  
8 through some doors to the hospital. To  
9 the right is the emergency room, right?

10 A. Yes.

11 Q. Are there cameras in the area  
12 of the interior of the hospital, right  
13 there?

14 A. Yes.

15 Q. Are there cameras in the  
16 exterior showing what is going on  
17 directly outside the hospital where the  
18 ambulances park?

19 A. I can't answer that for sure.

20 Q. Were there also cameras in the  
21 wards of the hospital in October 2009?

22 A. What do you mean by wards?

23 Q. All right.

24 Was there a camera system in  
25 the two psychiatric wards at Jamaica

1                   A. MAFFIA

2   Hospital in October 2009?

3           A.       Yes.   They were broken then.

4           Q.       I got that.   I just want to  
5   know whether or not there were little  
6   cameras there set up but weren't working,  
7   right?

8           A.       No, they weren't.

9           Q.       How long had they been broken  
10   as of October 31, 2009?

11          A.       They had been nonoperational  
12   probably since 2003.   I'm guessing at the  
13   year, but it's a long time.

14          Q.       Why did the hospital permit the  
15   cameras system to remain inoperable for  
16   such a long period of time?

17          A.       Because the cost of replacing  
18   all of them because the machinery was  
19   old, outdated, and they didn't have the  
20   money to do it.

21          Q.       When did the hospital fix the  
22   security camera system?

23          A.       The hospital, as far as I know,  
24   fixed the security system only in the  
25   Department of Psychiatry and that was

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A. MAFFIA

after we got grant money to do it.

Q. When was that?

A. We did the new CPEP I guess that was 2011/2012 when the construction took place.

Q. When you say that the camera system at the hospital was broken in 2009, does that mean it was completely inoperable in any fashion?

A. That's correct.

Q. Have you looked at the hospital chart with respect to Schoolcraft?

A. No.

Q. Have you ever looked at the law governing involuntary admissions in the state of New York?

A. Not the entire law.

Q. What parts of the law have you looked at?

A. The parts that are in the policy.

MR. SMITH: I want to mark this as Exhibit 130.

[The document was hereby marked

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A. MAFFIA

as Plaintiff's Exhibit 130 for  
identification, as of this date by  
the attorney.]

MR. SMITH: Let's take a  
five-minute break.

Going off the record. It's  
11:21.

[Discussion held off the  
record.]

[Whereupon, at 11:21 a.m., a  
recess was taken.]

[Whereupon, at 11:36 a.m., the  
testimony continued.]

MR. SMITH: Back on the record.  
It's 11:36.

Off the record I marked as  
Exhibit 130 a group of documents that  
came from the Jamaica Hospital  
production. They don't have Bates  
stamp numbers on them, but they were,  
I believe, the sections from the  
production by Jamaica Hospital  
relevant to Jamaica Hospital policies  
regarding its admission procedures at

1 A. MAFFIA

2 the hospital.

3 MR. RADOMISLI: Just so the  
4 record is clear, we served them on  
5 August 5, 2011.

6 MR. SMITH: Right.

7 Q. Have you had a chance to look  
8 at the document part of 130, sir?

9 A. Yes.

10 Q. Were these all of the documents  
11 that you looked at in preparing for your  
12 deposition, or were they just some of  
13 them?

14 A. These are the ones.

15 Q. These are all of the ones?

16 A. Yes.

17 Q. Can you tell me what the  
18 documents that are Exhibit 130 are,  
19 generally?

20 A. Generally, one is the Emergency  
21 Admission Procedure and that lists the  
22 section of New York State Mental Hygiene  
23 Law for admission.

24 The next page is the  
25 Involuntary Legal Status Admission Policy

1                   A. MAFFIA

2       when someone is brought to the hospital  
3       and evaluated by the physician.

4                   The next one is the Emergency  
5       Admission Status where the mental hygiene  
6       law would apply and how the physician  
7       would evaluate a patient based on the  
8       law, what the procedure would be.

9                   And the last, I think it's the  
10      last one, it's the admission from the  
11      emergency room to the floor to the  
12      inpatient unit and what that would  
13      entail.

14                  Q.       Are there any other pertinent  
15      policies with respect to the hospital  
16      that aren't set forth here in connection  
17      to a decision to admit on an involuntary  
18      basis an individual?

19                  A.       No, I believe this is all.

20                  Q.       On the third page of that  
21      document at the bottom there is  
22      indication of reviewed, revised, and a  
23      series of dates.

24                            Do you see that?

25                  A.       Yes, I do.

1 A. MAFFIA

2 Q. Who is involved in the  
3 reviewing and revising the Jamaica  
4 Hospital involuntary hospital procedures?

5 A. That would be the physicians,  
6 the chairman the associate chairman.

7 These are policies for  
8 physicians so they would review those.

9 Q. And the chairman is Dr. Vivek?

10 A. That's correct.

11 Q. Who is the associate chairman?

12 A. Dr. Vinod, V-I-N-O-D; last name  
13 Dhar, D-H-A-R.

14 Q. And Vivek and Dhar were the  
15 chairman and associate chairman of the  
16 Psychiatric Department in 2009?

17 A. Yes.

18 Q. And they are currently in those  
19 positions; is that true?

20 A. Yes, Dr. Vivek was the  
21 chairman. I have to remember when doctor  
22 Dhar came back.

23 You will have to excuse me, we  
24 had changes in personnel and I don't  
25 exactly recall when Dr. Dhar came.



1 A. MAFFIA

2 Q. Who was Dhar's predecessor?

3 A. Dr. Bamji. He was not there at  
4 the time.

5 Q. In October of '09?

6 A. Yes.

7 Q. So Dhar was?

8 A. I believe he was there. I can  
9 check and make sure. I don't want to....

10 Q. How did you spell the other  
11 individual's name?

12 A. Bamji, B-A-M-J-I. First name  
13 is Dinshaw, D-I-N-S-H-A-W.

14 Q. Is there anybody else at the  
15 hospital responsible for participating in  
16 the review and the revision of policies  
17 with respect to involuntary admissions?

18 A. It would be those people.

19 Q. Anybody else?

20 A. I don't believe so.

21 Q. Were you at all involved in  
22 that activity?

23 A. I was involved only that I had  
24 read them and -- but the physicians are  
25 the ones that are really involved with

1 A. MAFFIA

2 the particular use of this.

3 Q. On the second page of this  
4 document, there is a caption for a policy  
5 called, "Involuntary Legal Status."

6 A. Yes.

7 Q. When does this policy apply?

8 A. Well, the involuntary legal  
9 status would apply if the patient is ill,  
10 mentally ill, and for some reasons does  
11 not feel that they need to be admitted or  
12 the physician feels for some reason that  
13 they need to be admitted.

14 Q. Do you know whether or not  
15 Schoolcraft was admitted under this  
16 policy?

17 MR. RADOMISLI: Objection to  
18 form.

19 Q. Under the policy in front of  
20 you right now.

21 MR. RADOMISLI: That's the 927?

22 MR. IVONE: Isn't that a  
23 psychiatric decision?

24 MR. SMITH: Forget about it. I  
25 withdraw the question.

1 A. MAFFIA

2 Q. You see on the second page of  
3 Exhibit 130, there is a "Procedure"  
4 heading, do you see that?

5 A. Uh-huh, yes.

6 Q. It says, 1, "An application for  
7 the admission of patient under this  
8 status will be made by any person."

9 Do you see that?

10 A. Yes.

11 Q. Who are the individuals who can  
12 make an application for admission under  
13 this procedure?

14 A. It says in the policy, "An  
15 application for admission of a patient  
16 under this status may be made by any  
17 person with whom the patient resides:  
18 father or mother; husband or wife;  
19 brother or sister; or the child of any  
20 person or the nearest available relative;  
21 the committee of such a person, an  
22 officer of any public or well-recognized  
23 charitable institution, agency, or home  
24 in who's institution the person resides;  
25 the director of community/service social

1 A. MAFFIA

2 service official; the director of the  
3 hospital or designee."

4 Q. Do you know whether or not the  
5 Plaintiff, Officer Schoolcraft, in this  
6 case, was committed under this procedure?

7 A. I don't.

8 Q. Turn to the next policy  
9 document called, "Emergency Admission  
10 Status."

11 A. Okay.

12 MR. IVONE: What page number?

13 MR. SMITH: A page number on the  
14 bottom of 17. It's about five pages  
15 in.

16 Q. Do you see in the reviewed  
17 portion of this document the series of  
18 dates?

19 A. Yes.

20 Q. There is a review date of April  
21 '09; also a review date of April 2010.

22 A. Yes.

23 Q. Am I correct that every April,  
24 the hospital would undergo a review and  
25 make any revisions that the people doing

1 A. MAFFIA

2 the review thought were appropriate in  
3 April?

4 A. Yes.

5 Q. It looks like there was a  
6 review done between April '09 and April  
7 2010.

8 Do you know if there were any  
9 changes to this policy document during  
10 that year period?

11 A. No, I don't.

12 Q. Who would know?

13 A. Probably the physicians who  
14 reviewed it, the chairman, the associate  
15 chairman. I don't know that there were  
16 any revisions done.

17 MR. RADOMISLI: Off the record.

18 MR. SMITH: Off the record.

19 It's 11:46.

20 [Discussion held off the  
21 record.]

22 [Whereupon, at 11:46 a.m., a  
23 recess was taken.]

24 [Whereupon, at 11:47 a.m., the  
25 testimony continued.]

1 A. MAFFIA

2 MR. SMITH: Going back on the  
3 record. It's 11:47.

4 Counsel and I have discussed  
5 this document. I think counsel for  
6 the hospital want's to make a  
7 statement.

8 MR. RADOMISLI: Yes.

9 It's my understanding it just  
10 says "reviewed." It was reviewed and  
11 not revised.

12 In contract, if you look at the  
13 admission for the emergency room  
14 policy, it has reviewed dates and also  
15 a couple of dates where it was  
16 revised.

17 It's my understanding as far as  
18 the Emergency Admission Status policy,  
19 the one we produced and marked today,  
20 was the one in effect in 2009.

21 MR. SMITH: Thank you.

22 Q. The Emergency Admission Status  
23 policy says, reading the first part,  
24 "Jamaica Hospital Medical Center will  
25 admit appropriate patients in emergency

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A. MAFFIA

situation under New York State Mental Hygiene Law Article 9.39 with careful attention to the preservation of their legal rights as well as their safety."

Do you see that, sir?

A. Yes, I do.

Q. Is this one of the policy statements of the hospital that you reviewed, studied, prepared to appear today for?

A. Yes.

Q. The reference to emergency situations, can you explain to me what the emergency situations are there are being referenced in this statement?

A. They would be anybody who would be presenting a danger to themselves or others.

Q. And the reference to careful attention, what does that mean?

A. To make sure that the patients are treated properly and that the proper evaluations by the physicians are done.

Q. Why is careful attention

1                   A. MAFFIA

2           required under Jamaica Hospital policy?

3           A.        Because it's the patient's  
4           right to have a careful review and to get  
5           the best medical care possible.

6           Q.        You agree with me involuntary  
7           admission is a deprivation of a person's  
8           right to freedom on some level?

9                   MR. RADOMISLI:  Objection.

10                  MR. CALLAN:  Objection.

11                  MR. RADOMISLI:  Don't answer the  
12           question.

13                  MR. SMITH:  On what basis are  
14           you instructing the Witness not to  
15           answer that question?

16                  MR. RADOMISLI:  Beyond the scope  
17           of the deposition.

18           Q.        The next sentence reads,  
19           "Patients alleged to have a mental  
20           illness for which immediate observation,  
21           care, and treatment in the hospital is  
22           appropriate and is likely to result in  
23           serious harm to himself and others, may  
24           be admitted under this provision for a  
25           period of 15 days."



1                   A. MAFFIA

2                   Do you see that?

3           A.       Yes, I do.

4           Q.       Is this another one of the  
5 policy statements that you studied?

6           A.       Yes.

7           Q.       The phrase "mental illness,"  
8 what does that mean?

9           A.       What does the phrase "mental  
10 illness" mean? In this context, I'm  
11 assuming that would be the physician's  
12 decision to determine what the mental  
13 illness is.

14                   Mental illness can be a wide  
15 range and variety of things. That's  
16 where the physicians have to make that  
17 determination.

18           Q.       The physicians have to make a  
19 determination whether or not the patient  
20 has a mental illness, right?

21           A.       Uh-huh.

22           Q.       Is that correct?

23           A.       Right.

24           Q.       What I want to know is what is  
25 Jamaica Hospital's definition of a mental

1 A. MAFFIA

2 illness under this policy?

3 A. It would be the same definitions  
4 that are set down in the DSM 5, then the  
5 DSM 4.

6 Q. What are those?

7 A. It's an entire book full of  
8 definitions.

9 MR. IVONE: You are basically  
10 asking him to make a decision as a  
11 physician.

12 MR. SMITH: I'm asking him to  
13 explain Jamaica Hospital's policy and  
14 some of the terms in its policy.

15 MR. IVONE: You are going beyond  
16 that.

17 MR. SMITH: I disagree with you  
18 so.....

19 Q. Did I understand you to be  
20 saying that Jamaica Hospital defines  
21 mental illness as all of the categories  
22 that are set forth in the DSM?

23 A. I would say the answer to that  
24 is partially, yes, that's correct. You  
25 need to understand that some of that is

1                   A. MAFFIA

2           governed by the state law.

3           Q.        I'm not asking about the law.

4           I'm asking you --

5           A.        That's what I'm saying.  It's

6           governed by the state law.

7                   MR. SMITH:  I'm going to

8           rephrase the question.

9           Q.        Under this policy how does  
10          Jamaica Hospital define the term or the  
11          phrase "mental illness"?

12          A.        I don't know that I can answer  
13          that.

14                   MR. RADOMISLI:  Asked and  
15          answered.

16          Q.        Why can't you answer that  
17          question?

18          A.        Because the term is a broad  
19          term and I'm not a physician so I can't  
20          make a determination based on each  
21          individual case that comes.  That's not  
22          happening here.  So I can't give you that  
23          answer.  It's much to general.

24          Q.        And you can't provide me with a  
25          general definition of mental illness?

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A. MAFFIA

MR. CALLAN: Objection. You are asking him for a medical conclusion, Counsel.

MR. SMITH: I'm asking him to explain a phrase in the Jamaica Hospital policy.

MR. CALLAN: Which is defined by the physicians who work for Jamaica Hospital, not somebody who is an administrator.

MR. SMITH: Then maybe we need a medical person to come here and explain this to us. That's a question I'm going to tender to Jamaica Hospital's counsel.

MR. RADOMISLI: He testified, as far as I recall, that the definition of mental illness is what is based on the DSM so he anticipated that question. What is the next question?

MR. SMITH: The next question is and still was: Can he provide a general definition of mental illness as defined under the hospital policy?

1 A. MAFFIA

2 MR. RADOMISLI: And he --

3 MR. SMITH: His answer to that  
4 is no, I can't, right?

5 MR. RADOMISLI: His answer was  
6 the reference to the DSM.

7 Q. Let me ask the question again:  
8 Can you provide a general definition of  
9 mental illness?

10 A. No, I can't do that with  
11 certainty here because the term is so  
12 broad and the amount of the information  
13 you would have to have would be so long,  
14 I couldn't put it in five words or ten  
15 words. It would be something best asked  
16 a physician about, not me.

17 Q. The policy statement goes on to  
18 say that for a patient whose alleged to  
19 have a mental illness for which immediate  
20 observation, care, and treatment is  
21 appropriate.

22 Do you see that?

23 A. Yes.

24 Q. Can you explain to me what this  
25 phrase "immediate observation, care, and

1                   A. MAFFIA

2           treatment" means?

3           A.        The care and treatment would be  
4           up to the physician and so would the  
5           immediate observation.

6                   If the physician sees the  
7           patient and feels the patients needs to  
8           be admitted to the emergency room, they  
9           will.

10           Q.       The policy goes to say that  
11           likelihood to result in serious harm is  
12           defined as, and there are two  
13           subcategories.

14                   The first one says "Substantial  
15           risk of physical harm to himself as  
16           manifested by threats of or attempts at  
17           suicide or serious bodily harm or other  
18           conduct demonstrating he is dangerous to  
19           himself; or 2, a substantial risk of  
20           physical harm to other persons as  
21           manifested by homicidal or other violent  
22           behavior by which others are placed in  
23           reasonable fear of serious physical  
24           harm."

25                   Do you see those references,

1                   A. MAFFIA

2           sir?

3           A.       Yes, I do.

4           Q.       In both subcategory 1 and 2,  
5           there is a reference to substantial risk.

6                   Do you see that?

7           A.       Yes, I do.

8           Q.       What does that mean?

9                   MR. IVONE:  Objection to that.  
10           It requires a physician to make that  
11           determination as to what is or is not  
12           substantial risk.

13                   MR. CALLAN:  I join.

14                   MR. IVONE:  You can't ask this  
15           witness to be describing that.

16                   MR. RADOMISLI:  Is it the  
17           physician who determines what  
18           substantial risk is?

19                   THE WITNESS:  Of course.

20           Q.       So you are unable to provide me  
21           with the definition of this phrase  
22           "substantial risk"; is that correct?

23           A.       That's correct.

24           Q.       Does the decision to  
25           involuntarily admit a patient at Jamaica

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A. MAFFIA

Hospital require that the patient take any kind of action as opposed to having any kind of thoughts which suggest that the patient is either dangerous to himself, herself, or others?

MR. RADOMISLI: Objection to the form.

MR. IVONE: Read that back.

[The requested portion of the record was read.]

MR. IVONE: Objection. He can't make these decisions to respond to that. He is not a physician to be able to do that. I object very strongly.

They may have had physicians here having seen -- those are the ones, not this witness.

MR. SMITH: Well --

MR. RADOMISLI: Or your own expert.

MR. SMITH: Yes, well, I understand your objection.

Q. I guess my question is: In



1                   A. MAFFIA

2   light of that objection, do you agree  
3   with that objection the person to whom  
4   these questions should be directed is the  
5   physician at Jamaica Hospital, not  
6   yourself?

7                   MR. IVONE:   He can't make the  
8   decision to whom you have to direct  
9   your question.  You can't direct it to  
10   him.

11                  MR. SMITH:   I want to know  
12   whether or not he agrees with you.

13                  MR. IVONE:   It's whether he can  
14   answer it.

15                  MR. SMITH:   What I'm saying to  
16   the Witness, does he agree with you he  
17   is not the proper person to be asking  
18   and answering theses question.

19                  MR. RADOMISLI:  The problem is  
20   he just testified about what the  
21   policy is.  You're asking about the  
22   application of the policy.  The  
23   application of the policy is not what  
24   he's here to testify about.

25                  MR. SMITH:   I think you are

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A. MAFFIA

splitting hairs.

MR. RADOMISLI: I'm not. You asked the Court to talk about other things, and all he said was, Judge Sweet said it's the admissibility policy of the hospital and included in that would be any determination made by the hospital part of that policy with respect to allocation to different wards.

He can testify this is what the policy is and can tell you about the policy, but you can't ask him about the application of the policy.

MR. SMITH: I'm afraid he can't even explain to me what the policy means. I think, I don't know, that you agree with me that he can't do that, certainly other counsel have indicated they think that the Witness is not capable of telling me what the phrases in the policy mean.

If you agree with their objection, I think you would agree

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A. MAFFIA

with me we need another person with the capacity to explain what these terms mean; i.e., a physician.

If you don't agree with that, it seems to me you have to allow me to inquire about this.

Frankly, they might be right, this objection is well-founded. This is the witness presented to me to provide testimony about the policy of Jamaica Hospital with respect to involuntary admissions.

MR. RADOMISLI: Right.

MR. SMITH: So we either get another doctor or I'm going to continue with this witness without prejudice to asking that somebody with better knowledge shows up.

MR. RADOMISLI: His testimony was it's up to the physician to make that determination, that's the answer.

MR. SMITH: I'm going to ask the Witness another question.

Q. Sir, Mr. Maffia, do you agree

1                   A. MAFFIA

2           with the objection that was just made by  
3           counsel for Dr. Isakov?

4                   MR. IVONE:   My name is Ivone.

5                   You can't really ask him to make  
6           a decision as to whether I'm right or  
7           wrong.   That's what you asked him to  
8           do.

9                   MR. SMITH:   I want to know  
10           whether he agrees with you that --

11                   MR. IVONE:   That's not his  
12           function, to make a decision as to  
13           whether I'm right or wrong.

14                   MR. CALLAN:   I don't think he's  
15           gone to law school and to judge  
16           whether an objection is valid or  
17           invalid.

18                   MR. RADOMISLI:   Objection to  
19           that question.

20           Q.       Do you believe that you are  
21           capable of providing testimony to me  
22           today about the meaning of the hospital  
23           policy that's before you?

24                   MR. RADOMISLI:   Well, objection.

25                   He doesn't know what you are going to

1                   A. MAFFIA

2           ask so....

3           Q.       Can you answer the question,  
4 please?

5           A.       Repeat it.

6                   [The requested portion of the  
7 record was read.]

8           A.       I can discuss the policy, but I  
9 can't discuss any part that a physician  
10 would play in the implementation,  
11 evaluation of the policy as it regards to  
12 patients.

13          Q.       I don't understand that  
14 distinction. I'm going to try this  
15 question again: Does the hospital policy  
16 with respect to involuntary admissions  
17 require as a condition of involuntary  
18 admission that the patient take any  
19 affirmative steps or manifest any kind of  
20 conduct as opposed to only requiring that  
21 the patient entertain certain kinds of  
22 thoughts?

23          A.       To the best of my knowledge, it  
24 could be and may be both.

25          Q.       Can you explain that answer to

1                   A. MAFFIA

2   me both?

3           A.       You can either think it or act  
4   it.

5           Q.       And so the patient could either  
6   think dangerous thoughts or act with  
7   conduct that is construed as dangerous  
8   and that could be sufficient to  
9   involuntarily admit the patient; is that  
10   that's correct?

11           MR. RADOMISLI:  Objection.

12                   Don't answer.

13           MR. SMITH:  What basis?

14           MR. RADOMISLI:  Beyond the  
15   scope.  You're asking about the  
16   application of the policy, not to tell  
17   you what the policy is.

18           MR. SMITH:  I think we are going  
19   to have to have another witness come  
20   and explain some of these phrases in  
21   this document to me.

22                   Without waving that position,  
23   I'm going to continue with this  
24   examination of this witness.

25           MR. RADOMISLI:  From my

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A. MAFFIA

perspective, you were able to ask both doctors who actually implemented the policy about the policy at their depositions, and it's also you're asking for essentially expert testimony from a corporate witness which is not permitted.

MR. SMITH: I'm not asking for expert testimony. I'm asking Jamaica Hospital to explain to me its policy, that's what I'm asking.

So far I haven't heard anything by Jamaica Hospital explaining what this policy it has actually means.

MR. RADOMISLI: He said that the policy is determined by the physician.

MR. SMITH: Then I need to speak to a physician.

MR. RADOMISLI: And you did.

MR. SMITH: No, who speaks on behalf of the hospital, not on behalf of himself or herself.

Let's go on.

Q. On the second page of the

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A. MAFFIA

document, Procedure 1, "Following an examination and interviews with other informants which may be available should the examining physician consider the patient to meet the criteria before he should certify this finding on Form OMH 474."

Do you see that?

A. I do.

Q. Where it says, "following an examination," what examination is being referred to there?

A. That would be the psychiatric assessment.

Q. And when a patient is brought into the hospital, when should the psychiatric assessment be conducted?

MR. RADOMISLI: According to the policy?

MR. SMITH: Yes.

MR. RADOMISLI: Review the policy, see if there is anything in there about that.

A. This is the admitting doctor



1                   A. MAFFIA  
2    should be responsible for this  
3    assuring --

4                   MR. RADOMISLI:   He is asking  
5                   when does the first one have to be  
6                   done, is there anything in this policy  
7                   that says that?

8                   THE WITNESS:   I don't see  
9                   anything.

10                  Q.     Do you know when the first  
11                  psychiatric evaluation should be  
12                  conducted?

13                  MR. RADOMISLI:   Objection.  
14                  Don't answer the question.

15                  MR. SMITH:    Because there is  
16                  nothing written in the policy, you are  
17                  telling him not to answer the  
18                  question?

19                  MR. RADOMISLI:   That's correct.

20                  MR. SMITH:    I'm going to have to  
21                  take this up with the Court.

22                  Q.     It says here in the Jamaica  
23                  Hospital policy, there is a reference to  
24                  informants.

25                  Do you see?

1                   A. MAFFIA

2           A.       I do.

3           Q.       What does that mean?

4           A.       That means anybody who brought  
5 the patient in who has information about  
6 the patient.

7           Q.       Are doctors required to conduct  
8 an investigation prior to making a  
9 decision to involuntarily admit a  
10 patient?

11                   MR. RADOMISLI:  Objection.

12                   Don't answer it.

13                   MR. SMITH:  On what basis?

14                   MR. RADOMISLI:  A, it goes  
15 beyond the scope of the deposition; B,  
16 you are asking him to comment on care  
17 rendered by codefendants which is not  
18 proper; C, he is not a doctor.  He is  
19 telling you what the policy is.

20                   MR. SMITH:  I disagree.  He is  
21 not telling me what the policy is.  
22 He's telling me that I can read the  
23 words on the page.  And you are  
24 telling him if it's not on the page,  
25 don't answer the question.

1                   A. MAFFIA

2                   We can play this game, but it's  
3                   a game. It's not real from my  
4                   perspective.

5                   MR. RADOMISLI: It's real from  
6                   perspective. The order is very clear.

7                   Q.           There is a reference on line 6  
8                   to a patient being able to give written  
9                   notice.

10                  Do you see that?

11                  A.           Number 6?

12                  Q.           "If at any time after  
13                  admission, the patient or relative or  
14                  friend or the MHLs gives written notice  
15                  to the director of request for a court  
16                  hearing."

17                  Do you see that?

18                  A.           Yes, yes, I do.

19                  Q.           What constitutes a written  
20                  notice under the policy?

21                  A.           A written notice, you can give  
22                  them a letter.

23                  Q.           Is a letter the only kind of  
24                  written notice that's required under the  
25                  policy?

1                   A. MAFFIA

2           A.        I don't know.

3           Q.        If a patient says I want to get  
4 out, would you please put that down in  
5 the hospital chart --

6           A.        You could --

7           Q.        -- is that written notice?

8           A.        Yes.

9                    Also, do you know what MHLS is?

10          Q.        Is that Mental Health Law  
11 Services?

12          A.        Legal services, yeah.

13                    This means that every year a  
14 patient on the inpatient service has  
15 legal counsel representation.

16                   MR. RADOMISLI:  Objection to the  
17 form of the last question because it  
18 talks about a court hearing, not I  
19 want to get out.

20          Q.        The next policy statement,  
21 Admissions to Emergency Room subject  
22 matter --

23                   MR. IVONE:  Is that 7?

24                   MR. SMITH:  No, this is the next  
25 policy statement staring on page 44.

1                   A. MAFFIA

2                   MR. IVONE:    Okay.

3                   MR. SMITH:    Goes onto 45,  
4                   Caption subject, Admissions  
5                   to Emergency Room.

6                   MR. IVONE:    I have it.

7                   Q.            Is this the procedure for  
8                   taking a patient from the psychiatric  
9                   emergency room to one of the wards?

10                  A.            Yes.

11                  Q.            On the next page, No. 3, "It's  
12                  the responsibility of the admitting  
13                  psychiatrist to determine if the patient  
14                  is medically suitable for the inpatient  
15                  unit."

16                                Do you see that?

17                  A.            Yes.

18                  Q.            What are the circumstances  
19                  under which an individual would not be  
20                  medically suitable for the inpatient  
21                  unit?

22                                MR. IVONE:    Doesn't that state  
23                                who makes that decision here, "the  
24                                admitting psychiatrist."

25                                MR. SMITH:    That's what it says

1 A. MAFFIA

2 here. I agree with you.

3 MR. IVONE: How can he answer  
4 the question?

5 Q. Can you answer the question?

6 A. The physician makes the  
7 determination about admission.

8 Q. Can you answer my question,  
9 sir?

10 MR. RADOMISLI: He just did.

11 Q. Yes or no?

12 A. No.

13 Q. Am I correct that the hospital  
14 policy on involuntary admission requires  
15 the physicians to make a determination  
16 about whether or not a patient is a  
17 danger to themselves or others?

18 A. Yes.

19 Q. Under the hospital policy, what  
20 is the degree of likelihood that the  
21 patient will engage in dangerousness  
22 that's required in order to involuntarily  
23 admit a patient?

24 MR. RADOMISLI: Objection.

25 A. I'm sorry?

1                   A. MAFFIA

2                   MR. RADOMISLI: You can answer.

3                   MR. IVONE: Can you please read  
4 that back.

5                   [The requested portion of the  
6 record was read.]

7                   MR. IVONE: Objection to this  
8 witness answering such a question.

9                   Q. Can you answer the question,  
10 please?

11                   MR. IVONE: It's a medical  
12 decision.

13                   MR. RADOMISLI: That's going to  
14 be his answer.

15                   Q. Can you answer my question,  
16 please?

17                   A. It's a medical decision.

18                   Q. Are you capable of providing  
19 information about the level of potential  
20 risk that is required in order to  
21 involuntarily admit a patient?

22                   MR. IVONE: Objection.

23                   MR. RADOMISLI: Objection to  
24 form.

25                   You can answer.

1 A. MAFFIA

2 A. It's a medical question. The  
3 physician determines.

4 Q. So you can't provide  
5 information on that, is that what are  
6 you're telling me?

7 A. The physician does.

8 Q. You're not answering the  
9 question. I understand the physician  
10 said that.

11 Are you telling me you are not  
12 capable of providing that information?

13 A. I'm not a physician.

14 Q. And therefore you are not  
15 capable of providing me with the  
16 information I'm requesting; is that  
17 correct?

18 A. Yes.

19 MR. RADOMISLI: Objection to  
20 form.

21 Q. In Dr. Bernier's deposition,  
22 she testified that if there was any  
23 potential risk of dangerousness that she  
24 would involuntarily admit the patient.

25 Is that consistent with



1                   A. MAFFIA

2   hospital policy?

3                   MR. RADOMISLI:  Objection.

4                   Don't answer the question.

5                   Beyond the scope.

6           Q.     At Dr. Isakov's deposition, he  
7   said that it doesn't matter, this is from  
8   page 98.

9                   "It doesn't matter what level  
10   of risk, if there is a risk, I think it's  
11   my duty to protect the patient.

12                  There was a follow-up question.

13                  "Question:  So it doesn't  
14   matter what level of risk so long as you  
15   perceive a risk, you are going to admit  
16   him?

17                  "Answer, Yes, right."

18                  Is that testimony by Dr. Isakov  
19   consistent with hospital policy on the  
20   determination of whether or not to  
21   involuntarily admit a patient based on a  
22   dangerousness assessment?

23                  MR. RADOMISLI:  Objection.

24                  Don't answer the question.

25                  MR. IVONE:  Objection.

1                   A. MAFFIA

2                   MR. CALLAN:  Objection.

3           Q.       Does hospital policy require  
4           that when police officers present an  
5           individual to the hospital that the  
6           police officers sign any documents or  
7           make any certifications when tendering a  
8           patient for assessment by the Psychiatric  
9           Department?

10                  MR. RADOMISLI:  Read that back,  
11                  please.

12                  [The requested portion of the  
13                  record was read.]

14                  MR. IVONE:  Objection.

15                  MR. RADOMISLI:  Objection,  
16                  beyond the scope.

17                  MR. SMITH:  Are you instructing  
18                  him not to answer that question also?

19                  MR. RADOMISLI:  It's beyond the  
20                  scope.

21                  MR. SMITH:  Yes, and he is  
22                  instructed not to answer the question?

23                  MR. RADOMISLI:  Yes.

24                  Just read it back one more time  
25                  for me.

1                   A. MAFFIA

2                   [The requested portion of the  
3                   record was read.]

4                   [A document was hereby marked  
5                   as Plaintiff's Exhibit 131 for  
6                   identification, as of this date.]

7                   Q.        I'm going to show you what I'm  
8                   marking as Plaintiff's Exhibit 131. This  
9                   is a one-page document that comes out of  
10                  a hospital chart.

11                  Are you familiar with this  
12                  form?

13                  A.        Yes.

14                  Q.        What is this form?

15                  A.        Notice of Status and Rights of  
16                  Emergency Admission.

17                  Q.        Is this a document that's  
18                  required under hospital policy to be  
19                  given to patients who are involuntarily  
20                  committed at the hospital?

21                  MR. RADOMISLI:  Objection to  
22                  form.

23                  You can answer.

24                  A.        Yes.

25                  Q.        Do you see in the upper

1                   A. MAFFIA

2       right-hand corner, there is a date that's  
3       handwritten in there?

4                   MR. RADOMISLI: I'm not going to  
5       let him testify about the form.

6                   MR. SMITH: So if I ask him what  
7       this form is, what some of the  
8       language on the form says, you are not  
9       going to allow him to answer it?

10                  MR. RADOMISLI: Well, maybe I'll  
11       allow him to answer questions  
12       regarding the language on the form;  
13       certainly nothing handwritten by  
14       somebody else.

15                  MR. SMITH: All right.

16       Q.        Directly to the left of the  
17       handwritten portion, what does that say?

18       A.        Where am I looking at? What  
19       are you talking about?

20       Q.        Do you see "Date of Arrival At  
21       Hospital"?

22       A.        Okay.

23       Q.        Do you see that?

24       A.        Yes.

25                  MR. IVONE: Sorry. Where are

1                   A. MAFFIA

2                   you talking about?

3                   MR. SMITH: Do you see the date  
4                   11/1 or 11/3 in handwriting on the  
5                   upper right-hand portion by your  
6                   thumb?

7                   MR. RADOMISLI: That's a  
8                   question to the attorney.

9                   Q.            Directly to the left of that  
10                  handwriting there is a column, "Date of  
11                  Arrival at Hospital," right?

12                 A.            Okay. Yes.

13                 Q.            In this form, what is that a  
14                  reference to?

15                 A.            On this form what is that date  
16                  a reference to?

17                 Q.            Yes. What are you supposed to  
18                  write, date of arrival at the hospital,  
19                  what date are you supposed to put down?

20                 MR. RADOMISLI: Is there a  
21                  policy that governs what date you put  
22                  down? Look at the policy.

23                 THE WITNESS: No.

24                 Q.            Is that defined in the policy?

25                 A.            I don't think so.

1 A. MAFFIA

2 MR. RADOMISLI: Then it's beyond  
3 the scope.

4 Q. Aren't you supposed to put down  
5 the date that the patient got to the  
6 hospital on this form, this notice?

7 MR. RADOMISLI: Objection, asked  
8 and answered.

9 Don't answer the question.

10 MR. SMITH: Don't answer the  
11 question?

12 MR. RADOMISLI: Right, because  
13 he testified it wasn't in the policy.

14 Q. Doesn't this form that was  
15 created by the hospital require the  
16 information about when the patient got to  
17 the hospital to be recorded in the notice  
18 that is given to the patient?

19 A. This is given to the patient,  
20 yes.

21 Q. The form is given to the  
22 patient, right?

23 A. Yes.

24 Q. And somebody from the hospital  
25 is supposed to write the date that the

1                   A. MAFFIA

2 patient got to the hospital, right?

3                   MR. RADOMISLI: Is that in the  
4 policy? Look at the policy, testify  
5 about the policy.

6                   THE WITNESS: No, it's not in  
7 the policy.

8                   Q. So there is nothing in the  
9 hospital policy about recording when the  
10 patient gets to the hospital; is that  
11 right?

12                   MR. RADOMISLI: About the policy  
13 we have before looking at?

14                   MR. SMITH: Right.

15                   Q. There is nothing in the  
16 involuntary admissions policy at Jamaica  
17 Hospital that would require there be some  
18 sort of documentation of when the patient  
19 got to the hospital; is that correct?

20                   A. There's not in this policy, no.

21                   Q. So that's correct?

22                   A. Right, yes.

23                   Q. I have shown you all of the  
24 documents --

25                   A. Yes.

1                   A. MAFFIA

2           Q.       -- that I believe are the  
3 hospital policy and you told me that's  
4 all of it. So there is nothing else,  
5 there is no other pieces of paper I  
6 should be looking for?

7                   MR. RADOMISLI: Pertaining to  
8 involuntary admissions?

9                   MR. SMITH: Yes.

10          Q.       Pertaining to involuntary  
11 admissions, right?

12          A.       Yes.

13          Q.       So there is no policy about  
14 involuntaries where the hospital required  
15 documentation of when the patient got to  
16 the hospital; is that correct?

17                   MR. RADOMISLI: Objection.

18          Q.       In the policy?

19                   MR. RADOMISLI: Asked and  
20 answered.

21                   You can answer again.

22          A.       In the policy there is none.

23          Q.       Who created that form, Exhibit  
24 131, not the handwriting, just the  
25 preprinted form?



1 A. MAFFIA

2 A. I believe the Office of Mental  
3 Health.

4 Q. New York State?

5 A. Yes.

6 Q. Does hospital policy permit an  
7 individual to be held for observation for  
8 a period of time before psychiatric  
9 assessment is conducted of the patient?

10 A. The psychiatric assessment, you  
11 are talking about the emergency room or  
12 on the floor?

13 Q. I'm talking about anywhere, for  
14 any reason.

15 A. If a patients to the --

16 MR. IVONE: Aren't you asking a  
17 question that's statutory? Some other  
18 questions --

19 Q. Would you please answer my  
20 question?

21 A. If the patient comes to the  
22 emergency room, the psychiatric  
23 assessment is done in the emergency room.

24 Q. Is there anything in Jamaica  
25 Hospital policy that authorizes an

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A. MAFFIA

individual to be held for observation  
prior to a psychiatric assessment?

MR. IVONE: Read that back.

[The requested portion of the  
record was read.]

A. Are we talking about a  
psychiatric emergency room or any  
emergency room anywhere in the hospital?

Q. Under any circumstances, sir.

MR. IVONE: Objection. Isn't  
this a decision by a physician to  
decide that?

Q. Would you answer my question,  
please?

MR. IVONE: Objection.

MR. RADOMISLI: Review the  
policy and answer his question.

A. In the Emergency Department in  
psychiatry when a patient goes in, he  
gets the psychiatric assessment.

If he is in the another  
emergency room for other reasons like the  
medical emergency room, that evaluation  
would have to be done by a consulting

1 A. MAFFIA

2 psychiatrist.

3 Q. You are not answering my  
4 question.

5 Is there anywhere in Jamaica  
6 Hospital policy some sort of  
7 authorization to hold a patient before  
8 the patient is psychologically evaluated?

9 A. I'm sorry. I can't answer  
10 that, I don't know.

11 Q. In this case Schoolcraft was  
12 brought to the hospital on the night of  
13 October 31, 2009, and he was  
14 psychologically assessed the following  
15 day.

16 Is there anything in Jamaica  
17 Hospital policy that authorizes it or  
18 permits any of its employees to hold a  
19 patient against the patient's will before  
20 the patient has been evaluated for  
21 involuntary admission?

22 A. I don't believe that I know  
23 that.

24 Q. Does hospital policy require  
25 physicians to consider the safety of the

1                   A. MAFFIA

2       community in making involuntary admission  
3       decisions?

4           A.       The admission decision is based  
5       on the 9.39 regulation from the mental  
6       hygiene law which is again a danger to  
7       self or others. The physician makes that  
8       determination.

9           Q.       So does the hospital policy  
10       require physicians to protect the  
11       community?

12                   MR. RADOMISLI: Objection to  
13       form.

14                   You can answer.

15           A.       Yes.

16           Q.       What are the factors involved  
17       in making an involuntary commitment  
18       decision?

19           A.       The physician has to evaluate  
20       the patient as it states in the law.  
21       They have to determine if the patient is  
22       a danger to himself or others.

23           Q.       Are you capable of providing me  
24       with information about how that decision  
25       is made on a particularized basis?

1 A. MAFFIA

2 A. No, because the psychiatric  
3 assessment is done by the physician.

4 Q. Is there any time requirement  
5 in the hospital policy governing when a  
6 second evaluation must be done in order  
7 to maintain a patient's status as an  
8 involuntary?

9 A. I think that's in the policy.  
10 Let me check the policy. I think it's  
11 "The admitting doctor will be responsible  
12 for" --

13 THE REPORTER: You have to slow  
14 down.

15 Q. You don't have to read it out  
16 loud. Take a look and tell me whether or  
17 not there is such a requirement.

18 A. Yes. It's conducted.

19 Q. What is the requirement?

20 A. Conducted within 48 hours of  
21 admission.

22 Q. So the second evaluation has to  
23 be done within 48 hours of admission?

24 A. Uh-huh.

25 THE REPORTER: Yes?

1 A. MAFFIA

2 THE WITNESS: Yes.

3 Q. When you say that the second  
4 evaluation has to be done within 48 hour  
5 of the admission, do you mean the second  
6 evaluation has to be done within 48 hours  
7 of the initial decision to involuntarily  
8 admit the patient?

9 A. No. It says "admission." So  
10 if the patient is admitted, then within  
11 48 hours of the admission, they would do  
12 the evaluation.

13 Q. That's admission. If the  
14 patient is admitted in the medical, is  
15 that a reference to medical admission?

16 MR. RADOMISLI: Objection to  
17 form.

18 A. No.

19 Q. What is that a reference to?

20 A. We are talking about the  
21 Psychiatric Department here.

22 Q. So the 48 hour clock begins  
23 when the patient is admitted in the  
24 psychiatric unit, right?

25 A. It says here, patient is --

1                   A. MAFFIA

2       "The evaluation/examination is conducted  
3       within 48 hours of admission."

4           Q.       And the term "admission," is  
5       referring to the admission of the patient  
6       by the psychiatric emergency room, right?

7           MR. RADOMISLI:  Objection to  
8       form.

9           Can you rephrase it?

10          Q.       The term "admission" refers to  
11       admission of the patient by the  
12       Psychiatric Department of the hospital;  
13       is that right.

14          MR. RADOMISLI:  Objection to  
15       form.

16          You can answer.

17          A.       If a patient --

18          MR. RADOMISLI:  Just answer his  
19       question.  If you can't answer the  
20       question, tell him.

21          Read it back.

22          [The requested portion of the  
23       record was read.]

24          A.       Yes.

25          MR. SMITH:  Can you get me that

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A. MAFFIA

performance evaluation form?

MR. RADOMISLI: Because that portion is going to be marked confidential.

Off the record.

[Discussion held off the record.]

MR. SMITH: Going off the record. It's 12:36.

[Discussion held off the record.]

[Whereupon, at 12:36 p.m., a recess was taken.]

[Whereupon, at 12:44 p.m., the testimony continued.]

MR. SMITH: Back on the record 12:44.

MR. RADOMISLI: Plaintiff's counsel and I had an off-the-record conversation, and I indicated that I will consider bringing back a doctor to testify solely on behalf of Jamaica Hospital to testify about the admissibility policy of the hospital.



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A. MAFFIA

I will let plaintiff's counsel know within two weeks and everybody else as well whether we will voluntarily produce a witness, a physician witness, from the hospital to testify about that particular issue.

MR. SMITH: Okay.

MR. RADOMISLI: Now, let's go to the confidential portion of the deposition.

[Whereupon, the following is deemed confidential:]

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A. MAFFIA

[The document was hereby marked as Plaintiff's Exhibit 132 for identification, as of this date by the attorney and deemed confidential.]

MR. SMITH: I'm placing before the Witness a document an 11-page document stamped Plaintiff's Exhibit 132 and also been labeled by Jamaica Hospital's counsel as confidential, entitled, "Jamaica Hospital Job Description Performance Evaluation."

Do you mind if I get a copy of that too?

MR. RADOMISLI: Sorry. Sure.

THE WITNESS: Here.

MR. SMITH: You should have the one with the sticker on it if there are any questions about the copying.

Q. Mr. Maffia, is this the form of evaluation that you had mentioned earlier in your testimony?

A. Yes, it is.

Q. And you looked at that form in

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A. MAFFIA

preparing for your testimony today?

A. Yes.

Q. Are there any other forms or any other documents that are relevant to an assessment of the performance of a doctor at Jamaica Hospital?

MR. RADOMISLI: Objection to form.

A. [Indicating.]

Q. You have to answer yes or no.

A. Are there any others, no, I don't believe.

Q. Do you see on the first page there is a reference to ADA codes?

A. Right.

Q. What are those?

A. Um -- those are, um -- I'm trying to remember because they are in the back, the Americans with Disabilities Act codes. If you turn to page --

Q. I see this is the list on page 5.

A. Right, so if you --

MR. RADOMISLI: Answer the

1 A. MAFFIA

2 question.

3 Q. These are references to  
4 categorizing the various work categories  
5 either within or outside of the Americans  
6 with Disabilities Act Essential Job  
7 Functions?

8 A. Yes.

9 Q. Who was the one that filled out  
10 or prepared these forms with respect to  
11 individual psychiatrists in the  
12 Psychiatric Department of Jamaica  
13 Hospital?

14 A. Who does the evaluations?

15 Q. Yes.

16 A. The physicians are evaluated by  
17 the unit chief.

18 Q. Who were or was the unit chief  
19 in October 2009?

20 A. I believe this was a Dr.  
21 Edelman, Martha Edelman, E-D-E-L-M-A-N.

22 Q. Does this evaluation apply to  
23 doctors or psychiatrists who work in the  
24 emergency room as well and doctors or  
25 psychiatrists that work in the various

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A. MAFFIA

wards?

A. Yes.

Q. Does the evaluation process track the number of patients that a doctor sees during a period of time?

A. No.

Q. Does the evaluation process at Jamaica Hospital track the amount of revenue that a physician generates or assists in generating for purposes of assessing the performance of the doctor?

A. No.

Q. Does the evaluation process keep track of whether or not a physician or psychiatrist in the Psychiatric Department maintain levels of training?

A. Well, there is a -- yes, it does.

Q. Where is that on the form?

A. There is a skill competency check on the second page and....

Q. What are you referring to, specifically?

A. I'm sorry. It says "Skills."

1                   A. MAFFIA

2       So those competencies would have to be  
3       fulfilled.

4                   If you also look at "Learning  
5       Resources."

6           Q.       What page are you at?

7           A.       I think it looks like page 6.

8           Q.       What are those?

9           A.       So those would be things that  
10       the supervisor would assess and evaluate  
11       the physician on.

12                   It says, "the application of  
13       knowledge and of skills appropriate to  
14       care of patients."

15          Q.       Where were you just reading  
16       from?

17          A.       I'm sorry under, "Criteria for  
18       Success."

19          Q.       Yes.

20          A.       Number 1.

21          Q.       Thank you.

22                   Is the process for evaluating  
23       Dr. Bernier the same as the process for  
24       evaluating Dr. Isakov?

25          A.       The process, yes.

1                   A. MAFFIA

2           Q.       Does the hospital generate  
3 statistics on length of stay of  
4 involuntary admission patients?

5                   MR. RADOMISLI: Don't answer the  
6 question.

7                   Beyond the scope.

8           Q.       On page 7 there is some  
9 information requested by the form.

10                   Can you explain to me how this  
11 relates to the performance of a  
12 physician?

13           A.       Yes. It's performance  
14 criteria, knowledge and ability, skills  
15 you would have to demonstrate.

16                   Now on this form, it's a  
17 generic form used for all the evaluations  
18 so some of the areas don't apply; for  
19 instance, neo relates to infants. We are  
20 not going to evaluate on that. It's a  
21 general form.

22                   If you go to the next page, it  
23 says "Adulthood, 19 to 65." We would be  
24 using these criteria.

25           Q.       These are criteria to measure

1                   A. MAFFIA

2   the performance of the doctor or the  
3   patient?

4           A.       The physician so that they know  
5   the general components of some of the  
6   things that they have to be involved in.

7           Q.       For example, No. 7 in the  
8   category "Adulthood, 19 to 65 years,"  
9   "Impact of Drug and/or Alcohol Abuse,"  
10   the column to the right, done or not  
11   done.

12                   What if somebody were to check  
13   the box done with respect to that  
14   category, what would that mean with  
15   respect to the performance of the  
16   physician?

17           A.       Means that there was some  
18   education that they received during the  
19   year or supervision that they had  
20   surrounding that issue.

21           Q.       So the items 1 through 10  
22   reflect areas that physicians were  
23   provided information about during the  
24   course of the year?

25           A.       Yes.



1 A. MAFFIA

2 Q. On page 10 there is a reference  
3 under "Critical Skills" column to  
4 "Psychiatric Presentations."

5 Do you see that?

6 A. Sorry, I'm getting there, yes.

7 Q. Page 10 under "Critical Skills"  
8 at the bottom it says, "Psychiatric  
9 Presentations. What is that a reference  
10 to?

11 A. I'm not exactly sure because I  
12 don't do the evaluations, but I believe  
13 it had to do with how patients present.

14 Q. What does that have to do with  
15 how doctors perform?

16 A. The ability to diagnose  
17 patients.

18 Q. In reviewing the performance of  
19 physicians in the Psychiatric Department  
20 at Jamaica Hospital, does the hospital  
21 keep track of the number of patients seen  
22 by a doctor on an annual basis?

23 A. No.

24 Q. So the number of patients that  
25 a psychiatrist sees on an annual basis is

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A. MAFFIA

irrelevant of an evaluation of their performance; is that correct?

A. I'm trying to frame an answer so that I can give you the correct view.

The way physicians are assigned patients is done by the unit chief. They get a specific group of patients to see. They are supposed to see those patients.

We keep track of the amount of the patients that come to our unit who are admitted so the unit chief tracks how many patients the doctors will see.

We don't keep a log on how many they see every year, but they are given a certain groups of patients to see.

If there were 25 beds, the doctors divide the patients. The unit chief gets less because he has administrative work to do.

Q. So am I correct that the volume or number of patients seen by a psychiatrist is not a factor in the evaluation of the performance of the doctor?

1 A. MAFFIA

2 A. Not necessarily, no.

3 Q. I don't know what you mean by  
4 not necessarily.

5 A. The quality is more important  
6 in many cases than the amount. The  
7 amount are prescribed, as I mentioned,  
8 each staff doctor gets nine or ten  
9 patients each. The unit chief gets the  
10 remainder.

11 Q. So the work is evenly  
12 distributed, right, is that what you're  
13 saying?

14 A. Pretty much, yes, but the unit  
15 chief gets less because he has  
16 administrative work.

17 Q. What about the psychiatrist not  
18 on the admissions floor but psychiatrists  
19 making decisions about whether or not to  
20 voluntarily admit patients, are they  
21 evaluated in the numbers of patients that  
22 they see or the number of patients that  
23 they admit?

24 A. Can I clarify, can I ask a  
25 question.

1 A. MAFFIA

2 Q. Sure.

3 A. Are you talking about the  
4 psychiatrists in the emergency room.

5 Q. Yes.

6 A. Or the psychiatrists that are  
7 consultants on the medical side?

8 Q. Both, actually.

9 A. So admission to psychiatry is  
10 based on acuity.

11 MR. RADOMISLI: Listen to his  
12 question. The evaluation of the  
13 psychiatrist.

14 THE WITNESS: Okay.

15 MR. RADOMISLI: Are they  
16 evaluated -- when psychiatrists are in  
17 the emergency room, is part of their  
18 evaluation based on the number of  
19 patients they decide to move on to  
20 involuntarily admission to the  
21 hospital?

22 THE WITNESS: No, absolutely  
23 not.

24 [Whereupon, the following is not  
25 deemed confidential:]

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A. MAFFIA

MR. SMITH: Thank you, Mr.  
Maffia. I don't have anymore  
questions at this time.

MR. CALLAN: No questions.

[TIME NOTED: 1:04 p.m.]

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ANTHONY J. MAFFIA

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Subscribed and sworn to  
before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2014.

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Notary Public

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I N D E X

WITNESS	EXAMINATION BY	PAGE
A. Maffia	Mr. Smith	7

E X H I B I T S

PLAINTIFF'S	DESCRIPTION	PAGE
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Exhibit 131	Page of hospital Chart	91
Exhibit 132	Confidential Document	105

Attorney Smith has retained all exhibits.

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R E Q U E S T S

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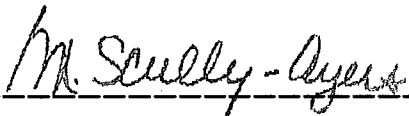
CERTIFICATION

I, MARGARET SCULLY-AYERS, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June, 2014.

  
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MARGARET SCULLY-AYERS

\* \* \*





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