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response and summary

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Re: Marcus Conte v. The Brooklyn Hospital Center [THBC] Case No. 10207504

Dear Division,

As per your request, here is my "response and summary" to Respondent's one-party conference. Investigator's notes are in *italics*.

Participants:

*Barbara Hoey-Rp
Attorney Maria Biaggi-Rp
Attorney Thomas Foley-Director of Labor Relations
Maria Miranda-Investigator
Security Guard 1
Security Guard 2*

Attorney Note: The encounter that was provided was not Mr. Conte's first visit to the hospital, on a previous day he was there and then returned the day of the incident. The video is on his Youtube and she would like me to view it.

TBHC begins with an easily disproved conspiracy theory, "*on a previous day he [defendant] was there and then returned the day of the incident.*" Not true. I have NEVER been to The Brooklyn Hospital Center prior to April 1, 2020, and never went back after that. I have only been to TBHC one time, and never on 'a previous day.' I reported on several other hospitals in similar situations during the pandemic, but never TBHC.

As far as 'a video on my Youtube' that 'shows on a previous day he was there,' no such video exists: because I was never there. If a video does exist TBHC certainly would provide a URL and title for us to see. They did not, because no such video exists. TBHC

simply floats a bogus conspiracy theory about a news reporter who went to TBHC days before to make trouble, then returned to make more trouble. It's totally ridiculous.

Security Guard 1:

-I received a notification that Mr. Conte was outside and that he needed to assist Security Guard 2 with someone who was video taping -This was via radio -We went outside the main lobby and he asked Mr. Conte to leave the premises because there is no videotaping on the premises. -Did walk the hall with the other two individuals but did not hear the exchange. I was in the background and was unable to hear what the parties said to each other. -Saw the complainant leave the property, and that's the last I've seen of him.

Regarding Security Guard 1,

I will never assume someone is racist unless, and until, racist slurs come out of his or her mouth. Based on his proximity to the attack as seen in the video [Exhibit 1 & 2] it is unlikely Security Guard 1 heard Security Guard 2 level his racist comment, **“Get your White Privilege out of here.”** What is certain about Security Guard 1 is he overheard and participated in the prior and latter exchanges, and clearly failed to take action against his racist colleague when I complained about him. The video shows Security Guard 1 engaging in earlier and latter verbal exchanges. By not acting responsibly, Security Guard 1 is guilty of turning a blind eye on Racism.

If the question is, 'is Security Guard 1 as racist as Security Guard 2,' that would be impossible to determine prior to cross-examination. As well, are security guards 1 & 2 in a higher conspiracy to keep 'white people of privilege' away from the hospital? That would also require cross-examination and a deep dive into their personal history together. We do not know the relationship, if any, between these two men. Also, how many guards are employed by TBHC, and how many are black?

What we do know for certain is Security Guard 2 is a racist who initiated a racist attack against this reporter. Direct Evidence is in the video of him saying, **“Get your White Privilege out of here.”** “In discrimination cases, direct evidence is that evidence which requires the conclusion that unlawful discrimination was at least a motivating factor.” *Laderach v. U-Haul of Northwestern Ohio*, 207 F.3d 825, 829 (6th Cir. 2000) (quoting *Jacklyn v. Schering-Plough Healthcare Prods. Sales Corp.*, 176 F.3d 921, 926 (6th Cir. 1999)). “Direct evidence that proves the existence of a fact without requiring any inferences.” *Rowan v. Lockheed Martin Energy Sys., Inc.*, 360 F.3d 544, 548 (6th Cir. 2004).

Security Guard 2:

-When did you first see him? I saw him by the Emergency room. When did you approach him? I didn't approach him but I informed him he was videotaping and told him had to leave. Before on the same day is when this happened. By the emergency room he was nasty in the beginning and called me jagoff and a dickhead and then he walked off. After that he left, he walked down, and he saw Mr. Conte going up the main steps towards the main lobby and that's when he radioed Security Guard 1 for help.

Security Guard 2 begins by stating the ridiculous; *"I didn't approach him but I informed him."* How did he 'inform' me without approaching me? Did he send smoke signals? Maybe he sent me a fax? My camera NEVER stops rolling throughout my entire 30-minute visit to TBHC (live on YouTube, time stamped without edits). I had no direct communication with Security Guard 2 prior to the incident at the main entrance. I did observe security guard 2 with three (3) other 'security guards' standing by the 'emergency room / Covid tent' but I didn't speak to any of them. Someone wearing a long white lab coat and white mask tried to say something nasty to me but I really couldn't hear what he said. I was busy talking to my audience [camera] and never spoke with any guards directly until Security Guard 1 & 2 accosted me at the main entrance.

Security Guard 2 testifies that he took an interest in me and followed me around. Why was Security Guard 2 following me around? Was it because I am White and he doesn't like white people that he assumes have 'privilege?' Did he follow any 'black' reporters that day, or just me? He says he engaged me twice when he clearly engaged me only once.

-After Security Guard 1 came out, I told him again that he needs to leave. We exchanged words, his words weren't very pleasant, I assume he was upset that he had to leave. I said "do you have rights or privilege? Get out of here" Thinks that Complainant heard "white privilege" instead. Is denying he said it at all. (Asked Security Guard if he had seen the video, and still denies making the statement).

As if TBHC's testimony couldn't get more frivolous, I almost fell off my chair when I read Security Guard 2 say, *"I said, "do you have rights or privilege? Get out of here."* It's totally unbelievable. No reasonable person watching the video would come to any other conclusion than Security Guard 2 said, **"Get your white privilege out of here."** The video is very clear. In fact, in a mock trial on my YouTube channel 100's of volunteer 'jurors' watched and listened, and every single juror heard, **"Get your white privilege out of here."** Not a single juror heard anything different. Not a single one. Security Guard 2 gives conflicting testimony that is not supported by the evidence.

MOCK TRIAL:

LIVE JURY TRIAL in Marcus Conte v. 'Racist Negro' @ The Brooklyn Hospital Center, NYSDHR # 10207504 - August 11, 2020 - <https://youtu.be/pl56V9yC6ek>

Summary,

Throughout this litigation, TBHC continues to push frivolous Answers and debunked conspiracy theories. They lie about what security guard 2 said, refuse to accept the wrong they did to me and waste the time and resources of the Division. Sadly, TBHC pretends everybody is as gullible and or stupid as they are. It is shocking to realize that discrimination at TBHC will remain unchecked while they are offered this due process. Based on the above-mentioned merit, and all other merit brought forth in this case, I am confident the Division will return a decision of Probable Cause.

Sincerely,
--Marcus Conte