

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF WESTCHESTER

3 - - - - -x

4 KASSENOFF, ALLAN,

5 - vs -

Index No. 58217/2019

6 KASSENOFF, CATHERINE,

7 - - - - -x

September 16, 2019

111 Dr. Martin Luther King Jr. Blvd
White Plains, New York 10601

BEFORE: HONORABLE DAVID F. EVERETT,

Justice

A P P E A R A N C E S :

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Attorney for the Plaintiff

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1 THE COURT: So this is the matter of
2 Allan Kassenoff versus Catherine Kassenoff, under
3 Index Number 58217 of 2019.

4 Can I have appearances, please.

5 MR. DIMOPOULOS: Good morning, Your Honor.

6 Gus Dimopoulos, Dimopoulos Bruggemann, on behalf
7 of the plaintiff, Allan Kassenoff, who is here to my right.

8 MS. MOST: Good morning, Your Honor.

9 Carol Most, attorney for the children.

10 MR. NISSMAN: Good morning, Your Honor.

11 Peter Nissman, attorney for Catherine Kassenoff;

12 My associate Heather Hart is to my left, and to
13 her left is Ms --

14 MS. HART: Good morning.

15 THE COURT: Good morning.

16 Be please be seated, everyone.

17 Actually, while you're standing, Mr. Dimopoulos,
18 give me an update on where we are with everything.

19 MR. DIMOPOULOS: Yes, Your Honor.

20 On September 5, 2019, I transmitted to Court
21 Attorney-Referee Irene Ratner a very detailed pre-motion
22 letter, admittedly, violating the matrimonial-part
23 operational two-page limit, because I can't -- as --
24 unfortunately, as hard as we all worked in the room, with
25 Your Honor's assistance, back in June, to craft an order

1 that was going to be workable under the circumstances, and,
2 essentially, assist in protecting the children, we were
3 unsuccessful, unfortunately.

4 The order, which, obviously, we all have in court
5 here today, provides that the mother has, I'm not calling it
6 anything other than supervised. That's what it is.

7 Mr. Lieberman fought so hard to not call it
8 "supervised."

9 But something about, a third party must be present
10 at all times when the mother's access time doesn't roll off
11 the tongue in the same way.

12 So there is an order that, during all times, the
13 mother shall have supervision by a third party.

14 The third party has to be agreed upon by
15 Mr. Kassenoff, and then has to be spoken to by Ms. Most, so
16 that we can ensure that the supervisor is -- knows about the
17 order that's in place.

18 Okay?

19 What ended up happening shortly thereafter,
20 Your Honor, was another thing in the order that was very,
21 very important to my client, in fact, it was, I think, a
22 condition precedent to his consent to the order and not
23 continuing the hearing, was that the existing nanny must be
24 replaced.

25 The order says they will hire a new nanny to

1 replace the live-in nanny.

2 What he knew that day was -- Mr. Kassenoff knew
3 that day, and what I didn't fully understand or advocate
4 for, was that Aurelie, the existing nanny, is very malleable
5 to Mrs. Kassenoff. And she is willing to do things that she
6 shouldn't.

7 For instance, on one occasion when CPS
8 investigated, went to the house on Ms. Kassenoff's time,
9 even though this Court, subsequently, in an appearance and
10 on the transcript, said that, "She is not to be
11 unsupervised," and you put up your finger, "even for
12 one minute," CPS entered the house, found Ms. Kassenoff with
13 the children, and Aurelie was up in her room, sleeping.

14 I believe, without any corroboration at this
15 point, that her access time when Aurelie is around is
16 oftentimes not supervised.

17 In addition to that, there are practical
18 considerations, one of which, she's not a traditional
19 live-in nanny. She wants to come and go as she pleases, and
20 kind of spend overnights when needed.

21 My client works, works very hard.

22 What he needs is somebody who is at the house at
23 set hours on set days that he can rely upon.

24 That means, when they wake up, and he has to get a
25 call to go to work early, the nanny's already there, it's

1 8:00. She doesn't come at nine, and he's got to call the
2 day before.

3 And the third thing is, that Aurelie is clearly on
4 "Team Catherine." Okay? Clearly.

5 She notified Ms. Kassenoff, I don't know when --

6 THE COURT: The parties, who hired her --

7 MR. DIMOPOULOS: Well, they did, they hired her.

8 Right?

9 But, remember, this has got to be a
10 French-speaking nanny, and all this stuff. Okay?

11 She notified my client one day in advance of his
12 access time that she was not going to be able to work the
13 next day.

14 That was problem for him, scrambling.

15 Then, she notified him, and my -- I don't have my
16 notes in front of me, but I think it was, basically, one
17 week before, that she would be out of the country from
18 August 1st to August 15th. Okay?

19 He had to find coverage for 50 percent of the time
20 for a two-week period, on one week's notice. That was a
21 problem.

22 But a bigger problem, was that Ms. Kassenoff knew
23 about that in advance. She won't tell us how far in
24 advance.

25 Worse off, the nanny won't him tell him when she

1 told her.

2 So, there is a deliberate effort here to make my
3 client's parenting as difficult as possible.

4 THE COURT: So let me ask you this:

5 I know what the problems are.

6 What's your proposed solution?

7 MR. DIMOPOULOS: My proposed solution was
8 accomplished on June 10th. Your Honor signed an order that
9 said: The parties shall immediately hire a nanny to
10 replace Aurelie.

11 She consented to it after --

12 THE COURT: You have to -- don't use pronouns.
13 Stick to names.

14 MR. DIMOPOULOS: Okay.

15 Ms. Kassenoff consented to that order. Your Honor
16 signed it.

17 Not a week later, well, we agreed to that because
18 of some other reason.

19 I'm sure we'll hear about it today.

20 The point is, it is a deliberate effort to make
21 his parenting more difficult, as are the triple-booked
22 activities.

23 Now --

24 THE COURT: Let's deal with one thing at a time.
25 Let's talk about the nanny.

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1 MR. DIMOPOULOS: -- okay.

2 THE COURT: So what's your proposed solution?

3 MR. DIMOPOULOS: Very simple: The order of this
4 Court, dated June 10th, be enforced.

5 Ms. Kassenoff must be told that they need -- she
6 needs to hire and cooperate with a live-in nanny.

7 My client went to agencies, made some phone calls,
8 got a few candidates, spoke to her.

9 She said: No. I'm not even going to talk to
10 anybody. I'm not even going to interview anybody.

11 The order needs to be enforced, Your Honor.

12 We need to teach the Kassenoffs, I think my client
13 gets this, but we need to teach them now, orders in this
14 court mean something.

15 THE COURT: I want to address first the nanny
16 situation.

17 Let me hear from Mr. Nissman, and then Ms. Most
18 afterwards.

19 Go ahead.

20 MR. NISSMAN: Thank you.

21 Good morning, Your Honor. Nice to be here.

22 THE COURT: So I don't know how nice it -- if it
23 ever is to be in matrimonial. But thank you.

24 MR. NISSMAN: Maybe I should say, I'll let you
25 know in 15 minutes.

1 THE COURT: Okay.

2 MR. NISSMAN: But, you know, it's terrible, in my
3 view, what the other side wants to do regarding Aurelie.

4 Aurelie was hired by both of the parties. She's
5 been the child's (sic) nanny for over a year. The children
6 adore her. She knows the children.

7 Your Honor probably knows, and if you don't know,
8 I'm telling you, that the children are in distress. They
9 are not doing well.

10 The worst thing we could ever do right now for the
11 children would, now, to take them away from somebody who
12 they're comfortable with during this incredibly stressful
13 time and replace Aurelie with somebody else.

14 When the stipulation was done with
15 Mitch Lieberman, before my time, the reason there was going
16 to be a replacement of the nanny was to hire a full-time
17 live-in nanny.

18 At that point of time, Aurelie was not able to be
19 a live-in nanny.

20 She now is; set schedule, being there full-time
21 with the children, all the time.

22 I let Ms. Most know about that.

23 She is prepared, ready, and willing, and able, to
24 go to work.

25 I had conversations with Miss Most, who I believe

1 supports Aurelie, and said to me, point blank, and she can
2 speak for herself, that Aurelie's neutral. She doesn't have
3 an axe to grind against anybody. There's no Machiavellian
4 plot here to interfere with the father's parenting time, to
5 make things difficult.

6 If anything, I would suggest that, if there's any
7 sort of strategy, it's coming from the other side, because
8 Aurelie is neutral. And, perhaps plaintiff wants somebody
9 who isn't neutral.

10 But it -- we should be thinking about what's best
11 for these children; and what's best for the children, and
12 that should be the only thing that really matters right now,
13 is they're not undergoing any further stress.

14 It's enough that they know their parents are
15 divorcing, that their parents are separated, that they have
16 this nesting arrangement.

17 I don't think it's a good thing, right now, to
18 say, on top of all of this, guess what? We're going to
19 remove another part of your security blanket. We're going
20 to get rid of Aurelie, and we're going to start from
21 scratch.

22 It's just wrong, and it shouldn't happen.

23 THE COURT: All right.

24 Ms. Most?

25 MS. MOST: So as to the nanny, initially --

1 THE COURT: I'm going address the scheduling now,
2 so let's just talk about the nanny.

3 MS. MOST: Okay.

4 As to the nanny --

5 THE COURT: Aurelie, spell her name.

6 MS. MOST: A-U-R-E-L-I-E, I think.

7 MR. DIMOPOULOS: Yes.

8 THE COURT: A-U-R-E-L-I-E.

9 Okay.

10 MS. MOST: Right.

11 -- you know, I think that the children do love
12 her, and are happy with her.

13 And when I spoke to her, she had told me that she
14 would be available for overnight. I never had a
15 conversation with her that she would be a full-time live-in
16 nanny.

17 I did hear that from Mr. Nissman, but I didn't
18 have that conversation.

19 She is neutral as to both parents. That is
20 absolutely correct, in my mind, after the conversation that
21 I had with her.

22 Whether she's an effective supervisor is another
23 issue, because, see, the lawyer from CPS actually
24 acknowledged that, when CPS arrived, the children were with
25 the mother, and she was asleep upstairs.

1 And that is not in keeping with what Your Honor
2 has directed.

3 I should also tell you that I have not had
4 discussions with people who were on the initial list of
5 supervisors. I have only discussed with supervisors that
6 would be added on.

7 So I did not approve the people who were on the
8 initial list. That wasn't part of what I was asked to do.

9 I did speak to Aurelie about it, and she --
10 I thought she understood what her role was.

11 But if I'm told now that she was sleeping when CPS
12 arrives, that is not -- positive thing.

13 So, that's my only issue.

14 MR. NISSMAN: I just want to just correct the
15 record.

16 She wasn't asleep.

17 When CPS came, the children were not with the
18 mother downstairs. The children were upstairs, watching TV.

19 Aurelie was in her room, getting ready to go to
20 sleep.

21 The meeting with CPS was very late.

22 My client was downstairs, met with CPS downstairs.
23 The kids were not there. They were upstairs.

24 So, you know, I think that's a red herring.

25 But she understands what she needs to do, she does

1 perform the supervision. And she should be the person who
2 remains on it.

3 MR. DIMOPOULOS: Your Honor, I was in the room
4 with Ms. Reid (ph.), the caseworker, and I got the story
5 from her, and this is what was told to me:

6 Ms. Reid said to Catherine, "Where is the
7 supervisor?"

8 "Well, the nanny's the supervisor."

9 "Where is she?"

10 "She's upstairs, sleeping."

11 "Well, go wake her up and tell her to come down."

12 Five minutes later, the nanny comes down.

13 And that's how it happened.

14 So I don't know how, you know, Mr. Nissman puts
15 himself in the room, or gets the information.

16 I have firsthand information.

17 In this court, Your Honor, okay, there needs to be
18 a "one strike and you're out" policy.

19 We -- we -- we -- we can't -- these children have
20 had this nanny one year. This isn't someone who's been with
21 them for, you know, eight years, since they were born.

22 They've had seven nannies --

23 Seven or eight?

24 MR. KASSENOFF: I don't --

25 MR. DIMOPOULOS: He doesn't keep track.

1 -- they've had seven or eight nannies. The oldest
2 child is 10. Okay?

3 This isn't some situation where the Kassenoffs
4 promote this longevity amongst child-care workers. Okay?

5 I'm going to talk to you also about the fact that
6 two of the previous nannies in this case, one of which
7 submitted an affidavit on my client's behalf with the
8 initial application, have been approached by Ms. Kassenoff,
9 and I'm going to call it "threatened."

10 Okay? It's in my motion papers.

11 She is sending these nannies information about the
12 CPS investigation.

13 She has now sent them, even three days after
14 I wrote to this Court, saying, "That's witness tampering,"
15 she's now sending videos and audio of my client to these
16 nannies in an effort to get them to go away.

17 They -- she has said to them --

18 THE COURT: When you say "Go away," meaning, go
19 (Cross-talking) --

20 MR. DIMOPOULOS: Be careful about who you support.
21 I'll read it to you.

22 The text message are included with my letter.

23 She says to one previous child-care worker, who
24 submitted an affidavit in this court:

25 "Once you submit an affidavit in this court you

1 are officially a witness."

2 Okay?

3 "I read your affidavit. I am shocked you would
4 say those things about me.

5 "I hope you are aware of the police and child
6 protection services' investigations against Allan for
7 physically abusing Alli (ph.).

8 "Did he tell you about those? I'm guessing he
9 didn't. They are serious and very recent.

10 "You should be very careful about getting involved
11 with him."

12 Okay?

13 If that -- if she wasn't the mother of three
14 children, and a person who is an attorney in the state of
15 New York, I'd call the police and report this.

16 This is witness tampering, a violation of penal
17 law.

18 I report this to the Court on September 5th. It's
19 included in my pre-motion letter.

20 On September 8th, three days after, she contacts
21 them again, this time, sending audio and video.

22 Okay?

23 I have it on my phone, this is what she says.

24 She sends audio and video, we don't know how much.

25 It says, "Want to see some videos of Allan? Great

1 guy."

2 Okay?

3 There are two nannies that she's contacted. Okay.

4 I don't know who else, because --

5 THE COURT: The previous nannies?

6 MR. DIMOPOULOS: Previous nannies.

7 Mylene Greens (ph.), you can bet your bottom
8 dollar, will be not only a collateral to Mr. Abrams, but she
9 will also be sitting in that box, testifying at the custody
10 trial.

11 Why?

12 She was the nanny for a year and a half. She
13 systematically witnessed countless abuse by Ms. Kassenoff
14 against Alli. She went so far as to make a report to CPS
15 herself.

16 Okay?

17 She knows how damaging that witness is to her.

18 Why does she know?

19 Why else is she -- why else is she contacting her?

20 This needs to stop; there needs to be an order of
21 this Court now.

22 This is the kind of person you're dealing with.

23 We cannot view facts in a vacuum, Your Honor.

24 What they're telling you about Aurelie is fine and
25 good. Okay?

1 But this is the person who's tampering with
2 witnesses.

3 What do you think she's doing to Aurelie?

4 What do you think she's telling her -- what do
5 think she's telling Aurelie?

6 "You better not saying anything."

7 I have no information --

8 THE COURT: So what makes you think that any of
9 that would be any different than (Cross-talking) --

10 MR. DIMOPOULOS: What -- what -- how do I know?

11 Because it's new and it's fresh, and it's someone
12 who's going start off knowing about this Court's order.
13 Okay? That's how it's going to be different. Okay?

14 Second of all, second of all, this isn't -- I'm
15 not reporting one, two, three things to the Court,
16 Your Honor.

17 There are four pages of events that have happened
18 since June 10th.

19 Number one: I -- we know that a supervisor was
20 acting on her behalf, okay, prior to our approval and prior
21 to Ms. Most's discussion with him.

22 THE COURT: On Mrs. Kassenoff's behalf?

23 MR. DIMOPOULOS: Absolutely, absolutely.

24 THE COURT: Try not to use your pronouns.

25 MR. DIMOPOULOS: I'm sorry, Your Honor. You told

1 me that once already. Okay?

2 We now know that Ms. Kassenoff is showing up at
3 the residence on his days, okay, showing up, unannounced.

4 He's at work. Okay?

5 She goes in. She sees the children, she does
6 whatever she has to do in the house.

7 The order is clear.

8 Here's what happens, Your Honor:

9 She's a very smart woman, NYU Law School. Okay?
10 She picks apart nuances in the order.

11 The one I really enjoyed hearing about today?

12 It was Allan's weekend, so he took the kids to a
13 soccer practice on Saturday.

14 Out of the car she comes, with a chair, okay, a
15 coat, refreshments, to watch the soccer practice.

16 She did it, the same thing, on Sunday.

17 Now, she points to the part of the order that
18 says, "Each party shall be allowed to attend public events."

19 But she doesn't have a supervisor.

20 We have photographs of her spending time with the
21 kids, and hanging out with the kids, unsupervised.

22 Counsel says: But there's an exception to the
23 order when it's in public.

24 No, there's not.

25 It says, during all times of her access that

1 she'll supervised.

2 So her position is going to be, when it's not
3 technically her access, and she's just showing up at stuff,
4 that she doesn't have to be supervised.

5 Another example:

6 As you know, the children are involved in, you
7 know, they're going to become the world's foremost concert
8 violinists and celloists (ph.) (sic), and all this stuff,
9 and they go to all these activities in schools.

10 There's a school in Scarsdale called
11 Hoff-Barthelson.

12 And Catherine says to Allan:

13 "Allan, it's your day that she has that lesson
14 for. Are you going to sit in on the private lesson with
15 her?

16 "You can't, because the parent who sits in, it's
17 mandatory for a parent to be there during private lesson,"
18 according to her.

19 "You can't do it because you don't read and write
20 music. And according to the school, the parent that comes
21 there must read and write music."

22 First of all, my client is unaware of any such
23 rule or regulation.

24 Could you imagine? How many people read and write
25 music in this world?

1 So she e-mails him the day before. She says, If
2 you can't go there, can't make it, and you can't have
3 someone that reads and write music, well, I'm happy to go
4 there."

5 I'm in court, actually, on one of our cases the
6 other day. I can't respond to the e-mail, asking permission
7 for her to go.

8 My client goes to the school. Because it's his
9 day, it's his activity, he goes to the school.

10 He sees Ms. Kassenoff's car outside the -- outside
11 of the school. She just shows up on her own.

12 Okay?

13 He walks in, and Aurelie is in the lesson with
14 child. The two other kids are around. I think he said one
15 was in the library, that he couldn't find him.

16 Her car's outside. Nobody has any idea where she
17 is or why she's there.

18 He texts me, "Catherine's here."

19 So, by the way, I got an e-mail.

20 Then we get a response in writing. It was:
21 I went to the public information session in the beginning.
22 If you cared about your child with his violin, you would
23 have known that there was a public session.

24 So she deems that as it's okay to be unsupervised.

25 Okay?

1 We need, Your Honor, therapeutic supervision,
2 okay, because on top of that, here's what she's telling the
3 children. Okay?

4 Halloween this year falls on a day that is his
5 day. Okay?

6 The children, understandably, one in particular --
7 Was it JoJo (ph.) or Charlie?

8 MR. KASSENOFF: JoJo.

9 MR. DIMOPOULOS: -- JoJo, the 5-year-old, is
10 upset. She's not going to see her mother on Halloween, so
11 she calls her on the phone. "Mom, what do you mean I'm not
12 going to see you on Halloween?"

13 Well, Alli was upset by this entire thing, and was
14 on the call on speakerphone.

15 What she does say about him?

16 "Well, he's an Orthodox Jew. They don't celebrate
17 Halloween, so you'll be with me."

18 This is only one incident when he's within
19 earshot. Okay?

20 We have no idea what's going on.

21 I'm also going to talk to you about the current
22 CPS investigation.

23 MR. NISSMAN: May I respond before we get to --

24 MR. DIMOPOULOS: I really -- Your Honor, I would
25 really appreciate --

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1 THE COURT: It's all right, it's okay.

2 Go ahead.

3 MR. DIMOPOULOS: -- so, there's another CPS
4 investigation.

5 THE COURT: Well, you know, I think we should --
6 I'd like to resolve the nanny issue first.

7 MR. DIMOPOULOS: Okay.

8 THE COURT: So let's do that first.

9 MR. DIMOPOULOS: But, Your Honor --

10 MR. NISSMAN: I just want to respond to some of --
11 some of what, and I'll try to be very quick.

12 THE COURT: But you -- I'll give you a chance, if
13 it's other than a nanny issue, to do that later.

14 But if it's something -- right now I just want to
15 resolve (Cross-talking) --

16 MR. NISSMAN: Okay. So just with regard to the
17 nanny, it hasn't been just a year. It's been sixteen
18 months.

19 And you heard what Ms. Most said, that kids love
20 her. She's absolutely neutral.

21 We now know that she's been with the family for
22 16 months, and hired by both.

23 I've explained to you what happened on that one
24 time when CPS came. The kids were not with -- they were
25 upstairs. And she knows she wasn't sleeping, because she

1 came down in her clothing. Didn't come down in a robe or
2 anything like that. She was wake, she was upstairs. But
3 the kids were upstairs also.

4 She should continue.

5 What you're hearing now is something that is only
6 a strategy. And that's why they're trying to talk about the
7 most silliest thing I've ever heard of, of which is some
8 claim of witness tampering.

9 It was the father who approached the nannies, who
10 induced them to write an affidavit. Not every nanny.

11 There's been a huge number of nannies, and it's
12 because it's been a tough family, and there have been tough
13 kids. And these nannies don't like to be in that situation.

14 Another reason why, we've got somebody here for
15 16 months, and can actually continue, and we know will
16 continue, and she'll be a full live-in.

17 But when she read the affidavits from the nannies,
18 she was stunned. And she did not believe that the nannies
19 had all of the information. So she sent them information.

20 There's nothing wrong with that. It is no
21 different than what the father did when he induced the
22 nannies to sign affidavits.

23 That ain't witness tampering.

24 And that's a narrative that Gus is making because
25 everything that I hear from the other side is about this

1 Machiavellian, horrible woman, when she's a lovey, lovely
2 person.

3 We have supervised visitation now, and it really
4 shouldn't be. We'll get to that later.

5 And when she went over to the house, what did she
6 get at the house? She needed her cancer medication. God
7 forbid she couldn't get her cancer medication, and her
8 phone.

9 But this is twisted into, somehow --

10 What's that?

11 MS. KASSENOFF: (Comment to counsel.)

12 MR. NISSMAN: -- and she gave notice to the other
13 side. And she gave notice to the other side.

14 So I won't respond to the rest of what
15 Mr. Dimopoulos said.

16 THE COURT: What's your recommendation, Ms. Most?

17 MS. MOST: If the nanny -- if Aurelie is to be a
18 supervisor, she's not an effective supervisor.

19 MR. NISSMAN: She is.

20 MS. MOST: Not an effective supervisor.

21 So if that's the reason why we're keeping her, she
22 is not an effective supervisor.

23 I think she's an effective nanny.

24 THE COURT: So what's your recommendation?

25 MS. MOST: Well, if she's going to be used as a

1 supervisor, then I don't think she's going to work.

2 MR. NISSMAN: I don't understand what that even
3 means --

4 THE COURT: Well, why don't you explain.

5 MR. NISSMAN: -- with all due respect.

6 MS. MOST: So with all due respect, what you have
7 said about her being asleep is not what CPS said.

8 And the lawyer for CPS, when Gus relayed the story
9 to Ms. Ratner, she said to me, This is Ms. Clemens (ph.),
10 who I know you know, she said to me, "She was fast asleep."
11 She said, "It was unbelievable."

12 So, she's not supervising.

13 Even if the kids are upstairs watching television,
14 and she's asleep, she's not supervising.

15 MR. DIMOPOULOS: You know what's worst,
16 Your Honor, that she's lying to her lawyers, and making her
17 lawyers stand up in court and lie again.

18 MR. NISSMAN: Nobody is lying about anything.

19 And we can solve the problem in two seconds.

20 If Ms. Most doesn't believe she's acting
21 effectively as a, quote/unquote, supervisor, we can have
22 specific directions from the Court that tell her,
23 specifically, what her role is to be.

24 MR. DIMOPOULOS: Your Honor, Ms. Most spoke to
25 her.

1 THE COURT: (Cross-talking) --

2 MR. NISSMAN: No, I'm not talking about Ms. Most
3 having a conversation.

4 I'm talking about a written order from the Court,
5 that's provided to the nanny, that she will have to follow,
6 and she can understand that fully. She's not an uneducated
7 woman. She's smart. She can figure this out if she has the
8 proper direction from the Court.

9 We have to start doing things here in this case
10 which hasn't been done so far, and that's to look out for
11 what's good for the children.

12 That has been lost in this notion of mother
13 needing to have explicitly supervised visitation every
14 second, to the point where, even though we an order that
15 says she can attend public events, which, usually, by the
16 way, in my experience, you know, gets rid of any requirement
17 of additional supervision, because there's other people
18 there, and it's in public.

19 It -- we're distorting this entire case.

20 These kids are going to be hurt by this system
21 until we actually do things that are right for the children.

22 I hear Mr. Dimopoulos talking about the activities
23 for the children, and mocking it: All these kids are master
24 violinists.

25 You know what? Let's think about the kids. They

1 love violin. They've been in activities. They've been
2 doing these things.

3 Why are we making fun of this?

4 THE COURT: Well, here's -- well, two things.

5 Let me ask Ms. Most: Do you think that Aurelie is
6 capable of doing the job if given additional instructions,
7 or do you think this is just a lost cause?

8 MS. MOST: I don't think she's capable of
9 supervising.

10 MR. NISSMAN: That's not what you said to me --

11 MS. MOST: I think she's capable to be a good
12 nanny.

13 I do not think --

14 MR. NISSMAN: You're parsing words.

15 MS. MOST: -- she's capable of supervising.

16 MR. NISSMAN: I think it's terrible.

17 MR. DIMOPOULOS: We still have the motion --

18 THE COURT: So here's the bottom line:

19 We do need a live-in nanny. And I'm going to give
20 great consideration to what Ms. Most has said, and I think
21 we're going to have -- and we are going to have to get
22 another nanny.

23 It's just a question of how we're going to do this
24 in a way that causes the least disruption, and gets us
25 through this transition.

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1 MS. MOST: I have very serious concerns.

2 I sat outside, talking to CPS. And, you know,
3 they're asking that you -- they're -- they suggested that
4 you order a COI, but it has to be ordered to be completed
5 before October 16th.

6 So, you know --

7 THE COURT: Can you draft that?

8 MR. DIMOPOULOS: I'm going submit an order. I'll
9 submit it to both attorneys by the end of the business day
10 tomorrow.

11 If we're going to get involved -- excuse me for
12 not saying it.

13 If we're going to get involved parsing words on
14 the order, I'm going submit it with an emergency
15 application, because Ms. Clemens has told us that it must be
16 received, signed, prior to October 16th.

17 I don't want to get into a whole process.

18 MS. MOST: And the reason for that, Judge, is that
19 there is a lot of information here that is extremely
20 troubling.

21 And, in fact, they are --

22 THE COURT: You want to state that for the record,
23 what that is?

24 MS. MOST: Well, it's --

25 THE COURT: To the extent that you can?

1 MS. MOST: Well, it's troubling because they feel
2 that --

3 THE COURT: "They."

4 Everyone's using pronouns.

5 MS. MOST: -- CP -- I'm sorry.

6 MR. DIMOPOULOS: Your Honor, we've been taught in
7 2019 to not use pronouns -- to use pronouns.

8 MS. MOST: Right, there's a new -- there are new
9 pronouns too.

10 But any rate, see, I spoke to Ms. Clemens, the
11 CPS worker was there. She's extremely concerned. And
12 Ms. Clemens said that they are -- they -- they -- if
13 anything else happens here, they will be going to family
14 court with a neglect, and it could be against both parents
15 because, you know, maybe they feel the father isn't doing
16 enough.

17 But the problem is, when they met with the mother,
18 they limited -- they limited -- on the prior founded report,
19 she limited them to meeting with the children --

20 THE COURT: Again --

21 MS. MOST: -- okay.

22 The mother limited CPS to meeting with the
23 children, in her presence. And she was -- CPS was allowed
24 to ask only three questions.

25 And that kind of behavior is very troubling to

1 them -- to CPS. Very troubling.

2 So that troubles me, Judge. That troubles me.

3 THE COURT: So you want -- we're going to have a
4 COI.

5 MS. MOST: We need a COI. It must be signed prior
6 to October 16th, and the reason for that is, that if this
7 current report against the father comes back unfounded,
8 they will not able to give you any information that they
9 have on this investigation.

10 And the only way any information can come back is
11 if it's required to do a report prior to October 16th, which
12 is the date they must finish their report by. And if it's
13 unfounded, they have no access to that information.

14 THE COURT: "They," meaning...?

15 MS. MOST: Meaning CPS cannot --

16 MR. NISSMAN: Your Honor --

17 MS. MOST: So -- so I am very concerned.

18 I'm very anxious for the forensic report because
19 I'm hoping that we will have more information.

20 But --

21 THE COURT: What's the status on that?

22 MS. MOST: I believe that they are next up, you
23 know, to be called on Dr. Abrams' schedule.

24 You know, I don't want to misspeak, but I think
25 that's where they are.

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1 This is a troubling case.

2 And I don't have, I don't have enough information
3 to say mom doesn't need supervision/mom needs supervision.

4 I don't know enough yet.

5 But what I heard out there from CPS was troubling
6 to me. And they're troubled.

7 MR. NISSMAN: Your Honor, I just want to say
8 something.

9 To begin with, the only person who's been
10 indicated by CPS for any physical assault has been the
11 father. Let's not forget this.

12 The father -- and I -- we confirmed this with CPS
13 today.

14 The father has been indicated. There has been
15 sufficient credible evidence that he was physically abusive
16 and kicked one of the children.

17 The mother was indicated for failure to supervise
18 properly, tangentially, because she didn't prevent him,
19 I suppose, from doing that.

20 He's the only one who's been indicated.

21 The other side has been having conversations with
22 CPS and CPS attorney.

23 I don't know what say in these conversations.

24 But because my client is not the subject of the
25 investigation, we haven't been afforded the same

1 opportunity.

2 What we did receive from opposing counsel was a
3 very nasty letter, saying that our client reported -- made a
4 report to CPS, the new report, which is actually untrue.

5 In fact, the children were in camp for two weeks.

6 The only person, between the two, Alli -- who had
7 access to Alli during that period of time was the father.

8 And the report, as it turns out, was done by the
9 camp, which we confirmed, and sent to everybody.

10 So -- and JoJo had met with CPS, I believe, at the
11 school. There wasn't a limitation of three questions.
12 Nothing like that at all was said when we met with
13 Ms. Ratner, with CPS.

14 So, you know, we have concerns as well.

15 This case began with an order of protection that
16 my client had against the father for the physical assault
17 that he was indicated on.

18 And then because of an audio tape, that was
19 misrepresented to be a current audio tape, that was from a
20 year earlier, that wasn't -- that didn't show the greatest
21 behavior on my client's part, we ended up with the
22 supervised visitation.

23 We have audios, we have videos, of the father
24 doing some terrible things as well. And Dr. Abrams can
25 opine on that.

1 She's done everything that she can do now under
2 the direction of the Court. She has been in therapy with
3 Dr. Filova.

4 (Clarification requested by the court reporter.)

5 MR. DIMOPOULOS: Filova, F-I-L-O-V-A.

6 She's also been seeing Dr. Sarah Weiss, who is a
7 Ph.D., she has a specialty in parenting.

8 She's there with Dr. Weiss to help her with her
9 own parenting.

10 And Dr. Weiss has not observed anything of
11 concern; neither has Filova.

12 So we've got a terrible situation.

13 And I got to tell you, I'm disappointed with the
14 AFC saying that Aurelie's a great nanny, but, somehow, she
15 can't do supervision.

16 I mean, it's very disappointing.

17 THE COURT: Well, she's here to call balls and
18 strikes, and that's what I need her to be doing.

19 MR. NISSMAN: It's another person's opinion.

20 MS. MOST: Just, I just -- part of my conversation
21 out there, the father's report was for, apparently, some
22 cuts and bruises.

23 Acknowledged, not -- you know, it's not positive.

24 The problem is, the mother was indicated for stuff
25 that is much more troubling to me, and that is the, really,

1 almost emotional abuse of the children; the way that Alli is
2 treated, the way the girls are treated.

3 MR. NISSMAN: She wasn't indicated for that.

4 THE COURT: Hold on.

5 MR. DIMOPOULOS: Yes, she was.

6 MS. MOST: Yes, she was. I just spoke to them.

7 MR. NISSMAN: Well, she's not making it up.

8 MS. MOST: She's indicated.

9 THE COURT: We can't have cross-conversations.

10 MS. MOST: So --

11 MR. NISSMAN: (Cross-talking) --

12 MS. MOST: -- okay --

13 THE COURT: Counsel, no cross-conversations.

14 MS. MOST: -- Your Honor, what is "inadequate
15 guardianship"?

16 According to them, meaning CPS --

17 I'm sorry. I probably don't speak well.

18 According to CPS, the inadequate guardianship is
19 extremely troubling, because it's treating Alli differently,
20 having the girls understand that Alli is adopted. There's a
21 level of abuse in the house they didn't like.

22 For example, Alli doesn't have a bed. She sleeps
23 on the floor. The mother took away her bed at some point.

24 According to CPS. I'm just repeating the
25 conversation.

1 THE COURT: I understand.

2 MS. MOST: So they -- the mother was indicated,
3 and it was a very negative indication as far as I'm
4 concerned.

5 THE COURT: We have to -- okay, go ahead. Got
6 that.

7 MS. MOST: They're also troubled by the fact that
8 this child made this report to camp.

9 And what they're troubled about is exactly what
10 troubles me, and that is, that these children are --
11 potentially, it's my worry, I'm -- you know, I'm not worried
12 about this, that they are almost being -- everything that
13 happens to them, it's like a reminder.

14 Oh, remember, daddy did this, daddy did this.

15 So remember, last year, daddy pushed me across the
16 wall.

17 Remember, this?

18 It's constant with them.

19 And CPS is very concerned about it because it's
20 the same story that's being reported to them over and over
21 and over again.

22 THE COURT: So let's move forward.

23 And so how do we -- you can remain seated.

24 How do we deal with getting a new nanny?

25 Let's start with that.

1 MS. MOST: Well, I think that one of the other
2 issues, if I could just take a step back --

3 THE COURT: But get back to this (Cross-talking)--

4 MS. MOST: I will get back to this, I promise.

5 -- is that, you know, the girls need a therapist.

6 So what happens with the therapist?

7 They pick a therapist. Mom rushes the children to
8 the therapist. She takes -- makes an appointment the father
9 could never possibly get to.

10 And she's -- if you -- and I've seen the reports,
11 because it was provided to me by the mother's counsel.

12 She goes, meets with them. She is in the meeting
13 with the girls. She has individual meeting with the
14 therapist.

15 And it's in the report, constantly, talking about
16 what's occurring, and it's her story.

17 The father never even gets a chance to come in
18 there.

19 THE COURT: I get it.

20 MS. MOST: And so what has to happen is that,
21 maybe he has to be the one to hire a nanny. And I have to
22 speak to them, if they're going be able to supervise.

23 But we also need a new therapist, and we need a
24 new therapist that is not somebody from a group, that you're
25 picking out somebody you don't know.

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1 THE COURT: Why do we need a therapist?

2 MS. MOST: For the little -- for the girls.

3 THE COURT: Yeah, but, why?

4 MS. MOST: Well, we've agreed that there's going
5 to be a new therapist --

6 THE COURT: Okay.

7 MS. MOST: -- so that the father can -- it has to
8 be someone who's available at nights or on weekends so that
9 he can also go.

10 And so -- but we need to have the situation where
11 the mom can't run in there and sort of discolor the --
12 this -- situation --

13 THE COURT: Well, they'll have to go at the same
14 time (Cross-talking)--

15 MR. DIMOPOULOS: Your Honor -- Your Honor, please,
16 can I --

17 MS. MOST: -- well, (Cross-talking)--

18 MR. DIMOPOULOS: -- Your Honor, Your Honor, I now
19 have Alssaro Counseling Services' reports. Okay?

20 This is the agreed-upon therapist for the two
21 youngest kids. Okay?

22 I've seen a lot of troubling things in this case.

23 This is the worst, and it relates back to the
24 nanny issue.

25 Here's how it happened:

1 We're in here on June 9th, or 10th. We're
2 agreeing on it. Okay?

3 Mom says, Mr. Lieberman says, We only need like a
4 social worker-type person for the two youngest kids.
5 I don't think we need a Psy.D., I don't think we need a
6 Ph.D., I don't think we need an M.D.

7 That was universally agreed to, even by my client.

8 Okay?

9 Everybody said how resilient Charlie and JoJo
10 were. My goodness, how they've witnessed all of this stuff.

11 Right?

12 So we leave here.

13 She rushes to Alssaro, unilaterally selects the
14 therapist, unilaterally selects the day, and goes on
15 three sessions before my client has a chance to know what's
16 going on.

17 Okay?

18 She takes them on the three sessions.

19 I now have almost 30 pages of records. Okay?

20 First of all, every single thing told to this
21 therapist is negative about my client.

22 There was an OP placed against the father;
23 although, now, it has been lifted by the judge in order to
24 access rights to the father.

25 Patently unfa! -- untrue.

1 That is not what happens.

2 Your Honor -- I'm sorry. I'm long-winded
3 sometimes.

4 30 pages of misinformation (Cross-talking)--

5 THE COURT: So what are you suggesting? Give me
6 the solution.

7 MR. DIMOPOULOS: She can have no involvement in
8 the selection of a nanny.

9 My client will select her. She'll -- discuss it
10 with the AFC.

11 What will happen is this: The nanny will be
12 poisoned.

13 First of all, practically, if you wanted to be
14 underhanded about this process, and you're Ms. Kassenoff,
15 and you want to keep Aurelie, what do you do?

16 Walk into every interview with that nanny and say,
17 Hmm, you don't want to work here. Woo, get out of here.
18 We're bad.

19 What happened, six months go by. Aurelie is still
20 your nanny. You're not being supervised. Mission
21 accomplished.

22 Absolutely, and I'm not playing that game.

23 This is the father of three children. He has
24 every incentive to hire the best and most-qualified person.

25 He will get referrals. He will get resumés. He

1 will discuss it with the Court-appointed attorney for those
2 children. And we will keep this person away from
3 misinformation and propaganda.

4 Because if you read these medical records, I'll
5 try the case with this. That's all I need.

6 Okay?

7 A 5-year-old did not go into this therapist and to
8 detail the results of litigation and hearings.

9 Then the father's to be home the next three days.
10 The father throwing the mother across the room, and
11 physically harming her sister Alexandra. JoJo, the
12 5-year-old, express fearing for her safety and her mother's
13 safety.

14 Yet CPS investigates, and interviews JoJo, on his
15 lap, saying "Dad's the best."

16 Here's the fundamental issue in this case, and I'm
17 going to sum it up in one long sentence:

18 We need to figure out, why, when those three
19 children are with dad, they're perfectly happy. Convey to
20 CPS they have no fear of him. He doesn't hit them. He
21 doesn't mistreat them. He's wonderful.

22 While those three children, when they're with mom,
23 report to the police, to child protective services, and to
24 their therapist, that he is a miserable and abusive person
25 who hurts people.

1 Once we figure out why that happens, this case is
2 over.

3 MR. NISSMAN: Judge, I have to respond.

4 First of all, I got to tell you something.

5 I looked at these videotapes, and audiotapes, and
6 you know what? He was miserable and abusive. There's no
7 doubt about it.

8 And if I show you those tapes, and we will at some
9 point, you'll think he was miserable and abusive.

10 He is not the man they are trying to tell you he
11 is. They are fooling this Court; trying to.

12 MR. DIMOPOULOS: Why did you settle the case?

13 MR. NISSMAN: The -- the -- the nanny should be
14 selected -- first of all, it should be Aurelie.

15 Fine. Even though she's a great nanny, somehow
16 she's incapable of supervision?

17 Fine, we select a new nanny.

18 Not great for the kids, fine.

19 They do it together.

20 THE COURT: So the other thing, on top of
21 everything else, is they need a live-in. That's another
22 (Cross-talking)--

23 MR. NISSMAN: Well, Aurelie was going to be
24 live-in.

25 But they do it -- they do it together.

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1 They do it together.

2 Yeah, I was going to say, Aurelie was giving up
3 her lease to be a live-in. Was going to give up her lease
4 to be a live-in.

5 Fine.

6 So, in terms of the therapist, the parties agree
7 that it will be Alssaro.

8 The father didn't do anything.

9 The mother made an appointment with the available
10 therapist, Cavallo (ph.). They had an intake with her, but
11 they also met with the children alone.

12 Nothing prevented the father from doing it.

13 When Referee Collins heard this case, and was
14 briefed in front of them, because the father said he could
15 only do it on the weekend, Referee Collins said, Why don't
16 you see if they're available during the evening sometime.

17 He didn't want to do that.

18 So then they switched to another therapist for the
19 weekend.

20 Guess what?

21 The therapist doesn't have enough time on the
22 weekend to really do a full --

23 So you know what happens?

24 You got -- now you got kids who need therapy.

25 Everybody says it's a terrible case.

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1 They haven't had any therapy.

2 Wonderful.

3 So now we're getting of the therapist. We're
4 getting of the nanny.

5 Maybe the father should just do everything himself
6 because he's such a wonderful guy.

7 THE COURT: Hold up.

8 MR. DIMOPOULOS: Let me say one thing --

9 THE COURT: Hold on. No.

10 Let me hear from Ms. Most about the therapist.

11 MR. NISSMAN: And, also, so she should just note
12 that the report from Alssaro had said that Charlotte had
13 suicidal ideation.

14 Suicidal ideation.

15 That's not coming from the mother. That's not
16 between the two parties.

17 That's what she observed.

18 Something needs to happen here.

19 MS. MOST: I spoke to the therapist -- the initial
20 therapist twice. And --

21 THE COURT: That's --

22 MS. MOST: That was --

23 THE COURT: -- Cavallo.

24 MS. MOST: -- Ms. Cavallo.

25 And she --

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1 THE COURT: Has she seen the two younger children?

2 MS. MOST: -- she was seeing -- Ms. Cavallo was
3 seeing JoJo and Charlie, the two younger children.

4 And she told me that -- Ms. Cavallo told me that
5 she had concerns about the father. That JoJo was suffering
6 from PTSD.

7 So I said, Oh!

8 And they talk about something that occurred -- the
9 child reported something that just occurred in May, and it
10 wasn't what was in keeping.

11 And we actually talked about this in court once
12 before because I reported this to the Court.

13 This was that incident, where the mother alleged
14 the father threw her across the room.

15 And in the medical records, it said the children
16 did not witness that.

17 However, the child -- this was a year ago, and the
18 child reported on her first visit with them, that it just
19 happened.

20 And that is one of the things that really, really
21 concerned me. And I talked about that with the Court
22 because it was almost remaking new memories for the
23 children.

24 And --

25 THE COURT: Was this (Cross-talking)--

1 MS. MOST: -- what Ms. Cavallo said was that, it
2 was interesting because, she came -- the child came in with
3 a list of her issues.

4 THE COURT: And how old is -- this was JoJo or
5 Charlie?

6 MS. MOST: JoJo, who was just in kindergarten.
7 Okay?

8 MR. DIMOPOULOS: Five.

9 MS. MOST: She's 5 years old.

10 "I don't sleep at night."

11 THE COURT: Came in with a list, you mean with a
12 written list?

13 MS. MOST: No, not a written list.

14 She reported verbally all of her issues.

15 And the therapist said to me, "You know, it was
16 like somebody looked up online what 'PTSD,' and told the
17 child what to say," because that's how she reported it.

18 That was very troubling to me.

19 And then, when she talks about her father, the
20 therapist reported, that she loves him. They have a good
21 time.

22 But she reported that she's afraid of him. She
23 cries at night. She can't sleep.

24 You know, there must have been five things that
25 she reported.

1 And so that in itself, after I spoke to the
2 therapist, was troubling, because she also had no
3 information from the father, and all she had was continuous
4 ongoing information from the mother.

5 When I spoke to her about Charlie, she never said
6 that she had suicidal ideations. She didn't say any of that
7 to me.

8 I did see it in the records.

9 I'm actually more concerned about Charlie,
10 individually, than I am JoJo, because Charlie is more
11 affected by what has gone on in the home in the past. She
12 hates Alli.

13 Both girls, when I first met with them, talked
14 about, you know, Alli's not part of the family. She's
15 adopted. She -- you know, she doesn't sleep with us. We
16 eat separately.

17 THE COURT: Eat separately?

18 MS. MOST: They eat -- the girls eat with their
19 mother. Alli was -- ate in her room, is what I was told by
20 the girls.

21 The second time I met with the girls, now the
22 father's got the kids half the time.

23 JoJo loves her sister Alli. Loves her more than
24 Charlie, actually, because Charlie is mean.

25 Charlie says to me that she hates Alli. Alli's an

1 embarrassment to her.

2 You know, and I sort of get it. Alli is a very
3 difficult little girl.

4 She is, Judge, there's no question, this is a
5 child who is really a difficult child.

6 She can be sweet and adorable, but these people
7 have their hands full. She is a -- she is a difficult
8 little girl.

9 And, you know, I think we'll know more from
10 Dr. Ravitz. I don't know when that report will be due, but,
11 we'll know more about what's happening.

12 But I did speak at length with her neurologist,
13 and he thinks that she is a child who will eventually be
14 diagnosed as having either a personality disorder or a
15 sociopathic kind of disorder.

16 So he thinks that she --

17 THE COURT: This is Dr. Ravitz who said this?

18 MS. MOST: No, no.

19 This is a Marty Kutcher, who's a neurologist --

20 THE COURT: I'm sorry.

21 MS. MOST: -- is treating her.

22 So, you know, the situation with the girls --

23 THE COURT: That's a pretty serious statement.

24 MS. MOST: Yes, pretty serious.

25 And I won't be surprised if that's what happens at

1 the end of the day.

2 -- but what's going on with these girls, they
3 really need a good therapist; but they need a good
4 therapist. Not somebody who has two years' experience. And
5 I don't even know what experience --

6 THE COURT: So can all three see the same
7 therapist, or that's not --

8 MR. DIMOPOULOS: No. Two.

9 MS. MOST: Well -- no, no.

10 Right now, Alli is being evaluated by Dr. Ravitz.
11 I'm not sure how far along that is, or when we're expecting
12 to hear from him. But he's going to make a recommendation,
13 and he will recommend a therapist.

14 THE COURT: Okay.

15 MS. MOST: What I think --

16 THE COURT: So she's not in therapy at the
17 present --

18 MS. MOST: Not at the present.

19 -- what JoJo and Charlie need is a solid therapist
20 that has a good reputation that we worked with.

21 MR. NISSMAN: So, Judge, I just -- just to correct
22 the record, the father did meet with a therapist. I've got
23 the presenting note from July 24th.

24 "Therapist met with father for collateral session.

25 "Father provided therapist with psychosocial

1 history and his perceptive of family conflict. Father
2 provided updates on court-related matters in regard to
3 custody battle.

4 "Therapist provided father update on Charlotte's
5 progress towards treatment goals and objectives.

6 "Recommendations: Continue current therapy and
7 treatment."

8 And also you should now, that a lot of the time --
9 most of the times that Charlotte was taken to the therapy,
10 was taken by Aurelie, taken by the nanny. Not with my
11 client.

12 So, again, we hear things that are not accurate.

13 MR. DIMOPOULOS: Want a solution?

14 I'll give you a solution.

15 MR. NISSMAN: Let me just finish.

16 We believe that the kids should continue seeing
17 their therapist.

18 Once again, all we're doing here, because of, in
19 my view, the other side's strategy, is to eliminate all of
20 the security and comfort that these children have.

21 I have -- their answer to activities that the
22 children have enjoyed for years, is they're not agreeing to
23 anything.

24 Their answer to the therapist is, like, let's get
25 another one, who cares.

1 Their answer with respect to the nannies, let's
2 get a new one.

3 THE COURT: All right, but here's a new
4 situation --

5 Hold on, Mr. Dimopoulos.

6 MR. DIMOPOULOS: I'm not saying a word.

7 I'm stretching.

8 THE COURT: -- I'm getting this, not just from
9 Mr. Dimopoulos. I'm getting these observations from
10 Ms. Most.

11 And I have to give -- as the person representing
12 the children, I have to give deference to a lot of what
13 she's saying.

14 So, here's the bottom line:

15 We're going to have a live-in nanny.

16 We're going to have a new therapist.

17 The issue now is, how do we find those people?

18 MS. MOST: Okay, so --

19 THE COURT: Ms. Most?

20 MS. MOST: -- I made some recommendations for a
21 therapist. And I recommended Andrea --

22 They didn't want somebody who's a social worker.

23 And so then I recommended Susan Adler.

24 THE COURT: Susan Adler?

25 MS. MOST: Susan Adler.

1 And she's -- she's in -- I think she's in the Rye
2 area, so it's not far away.

3 THE COURT: So what are her credentials, what is
4 her title?

5 MS. MOST: I know she's a doctor, Susan Adler.

6 What is she?

7 MR. NISSMAN: I think she's a Psy.D.

8 MS. MOST: A Psy.D.?

9 But she's had a lot of experience, and we need
10 someone who is not inexperienced.

11 THE COURT: Can we get --

12 MS. MOST: And I just want to tell you, that when
13 I spoke to Mrs. Kassenoff's, she's not the therapist, but
14 she's working Sarah Weiss, and I told her some of the
15 things that Ms. Cavallo told me, she said, "She's too
16 inexperienced."

17 THE COURT: All right, so let's do this:

18 Given that I'm ordering that there be a new
19 nanny --

20 (Interruption by the court reporter.)

21 THE COURT: I'm sorry.

22 Given that I'm ordering a new nanny, a live-in
23 nanny, and given that I'm ordering a new therapist, can both
24 sides agree to Ms. Adler?

25 MR. DIMOPOULOS: Yes.

1 MR. NISSMAN: Your Honor, I don't know anything
2 about Susan Adler, so I don't want to commit right now.

3 But I do recognize we need the children in therapy
4 asap.

5 So I will do what I need to do to see -- confirm
6 what Ms. Most says about her, and I will get back to
7 everybody before the end of the week.

8 THE COURT: All right.

9 MR. DIMOPOULOS: Your Honor, the problem with that
10 is, we've already been through about five recommendations,
11 and they've all been turned down. Okay?

12 MS. MOST: Well, not by them.

13 Some of them were turned down by me.

14 THE COURT: But Mr. Nissman is not making an
15 unreasonable --

16 Do you think you can do that by Thursday?

17 MR. NISSMAN: Yes.

18 THE COURT: Okay.

19 MR. DIMOPOULOS: More importantly, Your Honor,
20 though, I will propose that we submit a separate order for
21 therapy, with one very important provision in it: Neither
22 party shall discuss outside of the presence of the other
23 the treatment of the therapist, by an order we give to the
24 therapist.

25 They should be able to each --

1 THE COURT: That's fine.

2 MR. DIMOPOULOS: -- okay.

3 If what we care about is these kids getting
4 better, then neither party needs to talk to the therapist at
5 all. They know what to do.

6 THE COURT: That's fine.

7 So here's the bottom line:

8 Mr. Nissman will check out Ms. Adler's --
9 Dr. Adler's qualifications.

10 Maybe the three of you can do a conference call on
11 Thursday, if, in fact, she's agreeable.

12 And, Mr. Nissman, unless there's some really
13 strong --

14 MR. NISSMAN: I understand.

15 THE COURT: -- problem with Dr. Adler, I really
16 think she should -- you should consent to her.

17 And then you'll sub -- I guess you need an
18 order --

19 MR. DIMOPOULOS: I'll submit an order to
20 Mr. Nissman and Ms. Most.

21 THE COURT: And, also -- well, wait till he agrees
22 to it.

23 And, also, there can be terms in that order,
24 stating, that neither parent shall have conversations with
25 the doctor in the absence of the other.

1 MS. MOST: I can have the right to talk to my
2 clients' therapist?

3 THE COURT: Absolutely.

4 MR. DIMOPOULOS: Your Honor --

5 THE COURT: That should go in the order also.

6 MR. DIMOPOULOS: -- two brief financial things,
7 and then we can --

8 THE COURT: Well, let's -- no, we've got to talk
9 about the nanny.

10 MR. NISSMAN: Well, Judge, I'm not -- I'm not sure
11 if -- and no offense to Ms. Most, I'm not sure if she
12 should be speaking to the children's therapist --

13 MS. MOST: They're my clients.

14 MR. NISSMAN: -- directly.

15 No, I understand that they're the clients.

16 But I'm not sure if it's appropriate to have that
17 done. I -- you know --

18 THE COURT: Well, let me ask: Is it to get
19 information from the therapist, or to provide information
20 to the therapist?

21 MS. MOST: I think I have a right to do both.

22 MR. NISSMAN: That's not fair. She's another
23 litigant here.

24 While she's representing (Cross-talking)--

25 MR. DIMOPOULOS: She's not a litigant.

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1 MR. NISSMAN: -- well, she is --

2 MS. MOST: I represent the children.

3 MR. DIMOPOULOS: -- as another attorney.

4 You're not guardian ad litem. You're attorney for
5 the children.

6 THE COURT: Right.

7 MR. NISSMAN: I am an attorney for my client, Gus
8 for the other.

9 If -- if -- if -- it is a different rule if you're
10 going to allow another attorney in this case to speak to the
11 therapist, and not have counsel (Cross-talking)--

12 MR. DIMOPOULOS: Let's deal with --

13 MR. NISSMAN: -- I think, Judge, since we're all
14 concerned about any influence, there should be none from
15 anybody.

16 The therapist should meet with the children, treat
17 the children.

18 The parties will only be together, as Your Honor
19 says. And the therapist can send in a report.

20 MR. DIMOPOULOS: Don't you see what's going on
21 here?

22 THE COURT: Hold, hold.

23 MR. DIMOPOULOS: It's silence everybody.

24 THE COURT: Hold on.

25 MR. DIMOPOULOS: No, the case law says she can

1 speak with -- the case law says it: best interests.

2 THE COURT: Hold on.

3 I think this (Cross-talking)--

4 MR. NISSMAN: Well, what I'm asking, Judge, that
5 it should be limited to Ms. Most inquiring about the
6 therapeutic sessions. And not talking about the court
7 case, not giving her view, her view, on the litigation.

8 It will change this.

9 THE COURT: Well, I don't know that she has to
10 talk about the litigation, but she can talk about her
11 conversations with the children.

12 MR. NISSMAN: That's fine.

13 But not about the litigation.

14 MS. MOST: Okay.

15 MR. DIMOPOULOS: But, Your Honor --

16 MS. MOST: I agree.

17 THE COURT: Hold on. Hold on.

18 MR. DIMOPOULOS: -- there's cases on this.

19 THE COURT: Hold on, hold on.

20 Ms. Most, what do you have in mind?

21 MS. MOST: I think that, since they're my clients,
22 I actually have never heard of an attorney for the children
23 being limited in how they talk to their clients' therapist.

24 However, I'm -- I'm happy to just talk about the
25 children, and not about the litigation per se.

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1 THE COURT: See -- yeah, I haven't made a decision
2 on that, but if you're fine with that --

3 MS. MOST: I'm fine with that.

4 THE COURT: -- all right.

5 So -- so you will incorporate that in your
6 proposed order, that Ms. Most will talk about the children,
7 but not the litigation per se. Okay?

8 MR. DIMOPOULOS: I think we're walking a very
9 slippery slope here, for the record, Your Honor.

10 THE COURT: Let's do it this way:

11 Unless the discussion has to do with the impact of
12 the litigation on the children.

13 How's that?

14 MS. MOST: Okay.

15 MR. NISSMAN: Judge, a quick procedural question.

16 I think we're on Wednesday, on a cross-motion that
17 opposing counsel had filed regarding issues that now are all
18 resolved.

19 Would you agree?

20 So we can either -- because one of the issues was,
21 the children seeing Dr. Ravitz.

22 They are.

23 THE COURT: That's resolved.

24 MR. NISSMAN: That's resolved.

25 THE COURT: Well, they're going to be moved to --

1 MR. NISSMAN: I think the other big issue was --

2 (Off-the-record discussion with court staff.)

3 (Back on the record.)

4 THE COURT: So that's resolved.

5 MR. NISSMAN: The other issue had to do with
6 Alssaro, which we've just resolved.

7 THE COURT: Correct.

8 MR. NISSMAN: And I think the last issue had to do
9 with the nanny, with Aurelie.

10 And I think that's resolved.

11 THE COURT: So the only thing we have to do with
12 that now is, Ms. Most, how do you propose we hire the
13 nanny?

14 MS. MOST: I think that -- I'm not sure the
15 parties can do it together, which is how I think it should
16 happen. I'm just not sure it can happen in this case.

17 THE COURT: Are you in the nanny-hiring business?

18 MS. MOST: I would be happy to speak to the nanny,
19 and let the nanny know what the supervisory role would be.

20 But I think that a parent who is familiar with
21 what they need in their home should be speaking to them.

22 THE COURT: The problem is, and this is really
23 allegation at this point, but, Mr. Kassenoff is alleging
24 that Mrs. Kassenoff is poisoning the nannies.

25 And, again, like I said, it's an allegation at

1 this point.

2 But, I'm trying to create a situation where --

3 MS. MOST: That allegation refers to the old
4 nannies. I'm not sure that it refers to the current nanny.

5 MR. DIMOPOULOS: Your Honor, look, here's what's
6 going to happen, it's already happened before. Okay?

7 In the beginning she was agreeing to hire the
8 nanny. Okay?

9 She got some names. Then she brought up the
10 "French" requirement.

11 There's absolutely no way we are consenting, and
12 we're putting it on the record this time, because we didn't
13 last time, and I ate my hat, because my client sat to me and
14 said to me, when we were settling the case the last time,
15 "Make sure you put in there, she doesn't have to speak
16 French."

17 And I was, like, Allan, stop, you're being
18 unreasonable.

19 And then what happens? She's got to speak French.

20 We need a nanny who has experience in child care,
21 and a good resumé, and keeps these kids safe, and does it
22 responsibly.

23 We do not need someone who speaks a specific
24 language.

25 THE COURT: That's fine.

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1 So let's say we take out take that requirement --

2 MR. DIMOPOULOS: It was never a requirement.

3 She made it a requirement.

4 THE COURT: Well, it's not a requirement.

5 MR. DIMOPOULOS: And she's going to make it again,
6 and try to make it again a requirement.

7 Why don't we do this, okay?

8 My client will go out -- it's not going to be a
9 process that happens in a week.

10 My client will go out and get some names. Okay?

11 He will submit them. Okay?

12 THE COURT: To...?

13 MR. DIMOPOULOS: To Ms. Most.

14 Ms. Most will vet them.

15 I mean, I personally don't think that mom should
16 have a role in this, because of what she's done, and because
17 of how this has gone down.

18 THE COURT: Well, the problem that I have,
19 I should tell you, Mr. Nissman, is, if Mrs. Kassenoff is
20 the person who is supervised, I don't know that she should
21 have a --

22 MR. NISSMAN: Well, Judge, it's -- first of all,
23 it's -- it's -- (a) we don't believe she should be
24 supervised. Put that aside for now; (b) The -- in my view,
25 the most important role is to have a qualified nanny.

1 I think that any nanny who receives the
2 information from the Court or Ms. Most will perform their
3 duties. They're all mandated reporters, they have to do it.

4 Because of an allegation made on the other side,
5 my client should not now be deprived of having any input
6 into the selection of a nanny.

7 What if, my client proposes nannies, we can talk
8 about how many. The other side proposes nannies. We can do
9 it blindly.

10 Ms. Most can do her own due diligence on the
11 people, and we could take it from there on her
12 recommendation.

13 I do think, though --

14 THE COURT: Ms. Most, what do you think about that
15 idea?

16 MS. MOST: I'm fine with that idea.

17 THE COURT: Fine.

18 MR. NISSMAN: -- and lastly, Judge, I mean,
19 I know --

20 THE COURT: So the bottom line is, that sounds
21 really good.

22 Okay. Both sides will submit names to Ms. Most,
23 she'll do the vetting, and we'll take it from there.

24 MR. NISSMAN: And, Your Honor, lastly, you know --

25 THE COURT: So the French is not a requirement.

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1 MR. NISSMAN: -- I was just going to address that
2 real quickly.

3 Charlotte does go to French school.

4 It's -- she's in French school, which is the
5 reason we had asked that.

6 THE COURT: Well, and here's the thing --

7 MR. NISSMAN: And always had a French nanny.

8 MR. DIMOPOULOS: Guys, Rome is burning, and we're
9 talking about French.

10 THE COURT: Hold on one second.

11 MR. NISSMAN: Again --

12 THE COURT: Let's put it this --

13 Hang on.

14 Let's put it this way:

15 If there is a suitable nanny who speaks French,
16 that's all well and good.

17 However, if the best person, and the person
18 everyone can agree on, does not speak French, then --
19 I understand that it's desirable for someone who's trying to
20 learn a language to have that.

21 But --

22 MR. DIMOPOULOS: And my client doesn't have a
23 problem.

24 THE COURT: -- there are more significant issues.

25 If Mrs. Kassenoff would like find nannies who

1 speak French, I'm sure Ms. Most will consider them, and
2 consider the fact in the decision, that she does -- if the
3 nanny, he or she, does speak French.

4 MR. NISSMAN: And I have one last application,
5 Judge, because, you know, my -- my -- we feel very strongly
6 that the need for the third-party presence is not
7 necessary.

8 My client, in addition to seeing Dr. Filova, who's
9 aware of everything, and doesn't see a mental-health issue;
10 and, Sarah Weiss, who also is aware, and has seen the tapes,
11 including the ones that has troubled the Court, doesn't
12 believe there's an issue, Your Honor had said, let's await
13 until the completion of the forensic.

14 The problem is, we haven't even started the
15 forensic yet, and it's dragging on.

16 So I'd like to be able to -- I don't know if we
17 need to have a hearing scheduled, but we should be able
18 to -- there should be something that allows my client to
19 make her case for a lifting of the supervision.

20 THE COURT: This is the problem with that, this is
21 what we addressed when the case first came in:

22 I can't hold a legitimate hearing and make a
23 decision, an informed decision, without having a forensic.

24 And I understand you're concerned about the timing
25 of this, that it is taking a long time.

1 But I would feel very ill at ease to making a
2 decision in this matter like this without having a forensic.

3 MR. NISSMAN: Understood, Judge.

4 Can I ask, then, that -- the current order
5 provides that the mother can have -- can be at these public
6 events that the kids participate in.

7 The other side, and maybe Your Honor agrees, that
8 the provision for a third-party presence applies to that as
9 well.

10 Given how long this is taking, can we modify the
11 order, or clarify the order, because it's really not totally
12 clear, that if it's a public event; a soccer practice or a
13 soccer game or a recital, and other parents are there, that
14 the mother does not need to have an additional person,
15 quote/unquote, supervising?

16 THE COURT: The fact that it's in public doesn't
17 preclude the mother from having contact with the children.

18 So I think that might be *inappropriate.

19 Ms. Most, do you want to weigh in on this?

20 MS. MOST: I said from the beginning --

21 THE COURT: You're already getting paid today.

22 MS. MOST: I said from the beginning -- I'll lose
23 some weight, getting up and down.

24 I said from the beginning, I'm not in a position
25 to say whether there should be supervision or there should

1 not be supervision.

2 But if there is supervision, then -- and you said,
3 "not one minute alone with the children" --

4 THE COURT: Right.

5 MS. MOST: -- it has to be all the time.

6 And until, you know, we -- and I won't be in a
7 position to give you my opinion until I've read the forensic
8 report, which I'm sure he will weigh in on that issue.

9 So --

10 THE COURT: So what's the timeline on the
11 forensic?

12 MS. MOST: Well, as I said, I believe they're next
13 in line.

14 And I can call and just inquire of Dr. Abrams,
15 where they are on the timeline, because, when I had called
16 him on another matter to check the timeline, I asked him
17 where things were.

18 And there was one case that he was working on.
19 One case that he had started, I think, it was last week.
20 And I believe he said this case is next.

21 So, I'm assuming that it's going to happen
22 shortly.

23 THE COURT: All right.

24 I'm going --

25 MR. DIMOPOULOS: Your Honor --

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1 THE COURT: -- I'm -- go ahead.

2 MR. DIMOPOULOS: -- I just, in considering it,
3 this is coming up, because of -- this is coming up because,
4 on Saturday and Sunday, she attended their soccer
5 practices. Okay?

6 THE COURT: Hold on a second.

7 MR. DIMOPOULOS: I'm sorry. Of course.

8 (Off-the-record conference with court staff.)

9 (Back on the record.)

10 THE COURT: All right. One thing I just want to
11 point out, that's been brought to my attention.

12 The respective parties should not be at any events
13 on days that it is the other parent's.

14 So if it's Mr. Kassenoff's day, Mrs. Kassenoff
15 shouldn't be going to soccer game -- the soccer game.

16 And if it's Mrs. Kassenoff's day, Mr. Kassenoff
17 shouldn't be going to the recitals.

18 This is like a recurring theme in these cases.

19 Unless there is some kind of a prior agreement --

20 MR. NISSMAN: There is.

21 There's an order, Your Honor, that was so ordered,
22 that says that, "The parties shall be entitled to attend all
23 events for the children that are open to parents or the
24 public, in addition to the foregoing access."

25 It was specifically --

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1 MR. DIMOPOULOS: But it's problematic, Your Honor.

2 MR. NISSMAN: Have somebody there.

3 MR. DIMOPOULOS: Your Honor --

4 MR. NISSMAN: That's what we need.

5 MR. DIMOPOULOS: -- all right, let me put facts to
6 theories.

7 THE COURT: Let me ask you a question: If there
8 is a -- if it's supervised, do you still have a problem
9 with it?

10 In other words, if I say that all these visits
11 have to be -- all these attendances, public or otherwise,
12 have to be supervised --

13 MR. DIMOPOULOS: I'll tell you why I do.

14 I don't want sound unreasonable, nor does my
15 client, but I'll tell you why I do.

16 Based upon what just happened, okay, on Saturday.

17 It's his weekend, there's a soccer practice.

18 I mean, it's a practice.

19 I try my hardest to get out of going to my kids'
20 practices every weekend, okay, but I'm not in custody
21 litigation.

22 He's with the kids. They see mom. They run over
23 to mom. They stay with mom for a long period of time,
24 sitting on her lap, hanging out with her.

25 It's their mom. Okay?

1 My client calls me, he's angry, and says, she's --
2 she's here. I don't understand.

3 And I said, Do me a favor, snap a picture. Okay?

4 So he does, he took the picture.

5 Kids come back over to him, Why are you taking
6 pictures of us, daddy?

7 That's the problem. Okay?

8 Supervision is not going to stop this, because the
9 supervisor's going to be talking on the phone, or -- all
10 she, Go ask your father why he's taking pictures of us?

11 That's six seconds, that's all it takes.

12 MR. NISSMAN: That's not what happened.

13 THE COURT: Ms. Most, want to weigh in?

14 MS. MOST: I think in this case, on each days, the
15 other should not be involved.

16 THE COURT: All right, then that's what we're
17 doing.

18 MR. NISSMAN: Judge, this is what the parties had
19 already done. There's been no change in circumstances.

20 THE COURT: These are moving, kinetic, flexible
21 things. And I'm going to modify the order --

22 MR. NISSMAN: There are reasons, Judge. There's
23 the violin practices. She's been to one --

24 THE COURT: We're going to talk about that --
25 we'll talk about that, let me get to that.

1 But on days that it's one parent's day, the other
2 parent should not come to any activities.

3 That's -- you'll put that in too.

4 MR. DIMOPOULOS: Your Honor, I'm going to draft an
5 updated order.

6 THE COURT: And make sure you give counsel
7 adequate notice of what you're putting before the Court.

8 All right, let's talk about the more --

9 Hold on.

10 (Off-the-record conference with court staff.)

11 (Back on the record.)

12 THE COURT: Apparently, you were given a
13 conference date of November 8. Ms. Ratner's not available
14 that day.

15 MR. DIMOPOULOS: Your Honor, my client just wants
16 to point out that he thinks it's the intention -- he
17 thought it was the intention of the parties doing the
18 order, that if there's like a school play, or something
19 big, that the mom should be there even if it falls on his
20 day.

21 I think I'll have to come up with some language.
22 He's not trying to exclude her from important
23 things.

24 THE COURT: Well, you show it to your colleague.

25 MR. DIMOPOULOS: Yeah, I'm going to show it

1 Mr. Nissman.

2 THE COURT: That's usual --

3 If it's -- you know, let's put it this way:

4 If it's a one-of-a-kind event --

5 MR. DIMOPOULOS: Right.

6 THE COURT: -- like a recital --

7 MR. DIMOPOULOS: She should be there.

8 THE COURT: -- or a school play, then we can make
9 that.

10 But you can use terminology along those lines: If
11 it's a one-of-a-kind, one-off type event.

12 All right, but now we've got the issue of
13 Halloween and the Jewish holidays.

14 So let's get another date. We can't do
15 November 8th.

16 MR. DIMOPOULOS: Okay.

17 (Off-the-record discussion.)

18 (Back on the record.)

19 MR. NISSMAN: Your Honor, there was a
20 pendente lite --

21 THE COURT: Let's get a date first.

22 Looking at the schedule, November 8th is no good.
23 Can you get us another date, please?

24 (Off-the-record conference with court staff.)

25 (Back on the record.)

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1 THE COURT: All right. So the conference is going
2 to be on November 4th, at 9:30 a.m. That's a --

3 MR. DIMOPOULOS: Okay, Your Honor --

4 THE COURT: -- I think that's a Monday?
5 That's a Monday.

6 All right.

7 Let me just -- let's -- let's just -- we had some
8 issues as to the holidays.

9 Here's the bottom line:

10 My assistant -- my principal law clerk has
11 prepared a proposed holiday schedule which she will share
12 with you, and let's see if you can opt -- she'll speak with
13 you separately.

14 MR. DIMOPOULOS: Okay.

15 THE COURT: But in the short term, I think we'll
16 do Halloween with mom, and Rosh Hashanah with dad.

17 Can we do that, can everyone agree?

18 MR. DIMOPOULOS: Your Honor, just for everyone to
19 be cognizant of the fact that mom's had Memorial Day,
20 Father's Day, July 4th, and Labor Day.

21 THE COURT: So he's getting the three Jewish
22 holidays. And she can --

23 MR. DIMOPOULOS: Just wanted you to know.

24 THE COURT: -- she's going to get Halloween.

25 MR. NISSMAN: And then, of course, we have to deal

1 with Christmas.

2 THE COURT CLERK: She's getting Christmas.

3 THE COURT: She's getting Christmas.

4 THE COURT CLERK: Christmas Eve. The eve's go
5 with the dad.

6 MR. DIMOPOULOS: Okay. So we'll discuss that.

7 THE COURT: The eves go with the day, just so
8 that's clear.

9 MR. DIMOPOULOS: Okay.

10 Your Honor, as you might imagine, the Kassenoffs
11 are bleeding money at an alarming rate.

12 My fees have been very high. I'm -- I know,
13 because my client's paid from marital funds, the wife's
14 legal fees; and there was over \$35,000 to Mr. Lieberman's
15 office; \$15,000 to Mr. Nissman's office; twenty two or
16 twenty-seven thousand dollars to the Miller Law Group, who,
17 as far as we know, has made one court appearance.

18 I now understand that she's been rep -- they've
19 been representing her in connection with the CPS
20 investigation, which is interesting, because I too have been
21 representing my client in connection with the CPS
22 investigation, and I have billed him for exactly 4.5 hours
23 of my time. And I've attended meetings and all this stuff.

24 I don't know what they're doing.

25 The point is, we're bleeding money. Marital cash

1 is down to next to nothing.

2 There's \$445,000?

3 MR. KASSENOFF: Probably five, yeah.

4 MR. DIMOPOULOS: About \$500,000 in an account that
5 is E-Trade, brokerage account, that is locked. Okay?

6 We need Ms. Kassenoff to sign that and unlock it.

7 And we need a Court order that those funds are
8 going to be used for marital expenses, the expenses of the
9 children, counsel fees, and nothing else.

10 I think that's pretty reasonable.

11 MR. NISSMAN: How is it reasonable?

12 He -- Mr. Kassenoff is the moneyed spouse. He
13 earns over \$600,000.

14 My client earns 160-something-thousand dollars.

15 We're not supposed to be burning through marital
16 assets that are subject to equitable distribution when the
17 plaintiff is the moneyed spouse and has an obligation.

18 THE COURT: Let me ask you this: Can we -- if we
19 can agree on a fixed amount, subject to reallocation upon
20 the conclusion of this case, would you go along with that?

21 MR. NISSMAN: What I would like to do, Your Honor,
22 is to be able to file a pendente lite motion.

23 There are going to be additional expenses --

24 THE COURT: Let's -- let's -- you know, let's
25 resolve this.

1 You know, those motions, they're overly
2 cumbersome, and they don't resolve --

3 MR. NISSMAN: I can't resolve it.

4 I'm more than happy to discuss this with Gus --

5 THE COURT: I think that's what --

6 MR. NISSMAN: -- figure it out.

7 MR. DIMOPOULOS: Your Honor, there's no more money
8 left. He can't pay the bills for next month.

9 THE COURT: So why don't we do this --

10 MR. DIMOPOULOS: There's a piece of paper here
11 that she can sign to unlock it.

12 MR. NISSMAN: He has millions of dollars in
13 assets.

14 MR. DIMOPOULOS: Whoa, whoa, whoa, hold it.

15 MR. NISSMAN: He just said to --

16 MR. DIMOPOULOS: You're complaining about my --

17 THE COURT: Gentlemen, please.

18 MR. NISSMAN: There's well over a million dollars
19 of assets. Even --

20 THE COURT: But --

21 MR. NISSMAN: -- opposing counsel said --

22 THE COURT: But does he have access to it?

23 MR. NISSMAN: He has access to it. It's in his
24 name. He has access to money.

25 MR. DIMOPOULOS: Until -- Until and unless there

1 is a pendente lite motion or agreement, my client is not
2 going to use any of the marital money, as the case law
3 provides.

4 He's maintaining the status quo.

5 Now, on top of that --

6 MR. NISSMAN: He's not maintaining the status quo.

7 MR. DIMOPOULOS: -- she has as \$114,000 in her
8 account, that she claims is her separates property, that
9 she won't use for anything.

10 THE COURT: Let me ask you this: Can we agree,
11 it's marital assets. There's no -- there doesn't seem to
12 be any real issue about that.

13 I mean, to give a sum, for the time being, until
14 we can address this more fully, so the bills can get paid?

15 That doesn't put anyone in -- position.

16 MR. NISSMAN: Well, I think the bills can get paid
17 on a \$600,000 income.

18 That said, I will discuss it with Gus. I don't
19 want to do it right now.

20 MR. DIMOPOULOS: Your Honor, I don't think I'm --

21 THE COURT: -- I don't -- I can't --

22 Talk about a fixed sum (Cross-talking) --

23 MR. DIMOPOULOS: How about splitting it?

24 MR. NISSMAN: And my understanding is, there's a
25 Bank of America account with about fifty-two hundred

1 thousand dollars (sic).

2 MR. DIMOPOULOS: That money is long gone.

3 MR. NISSMAN: Okay, mostly to probably Gus's
4 (Cross-talking)--

5 THE COURT: You don't want us (Cross-talking)--

6 MR. NISSMAN: -- \$200,000.

7 THE COURT: You don't --

8 MR. DIMOPOULOS: Really?

9 Who did you hear (Cross-talking)--

10 THE COURT CLERK: Guys --

11 THE COURT: Hold on.

12 THE COURT CLERK: -- gentlemen, gentlemen,
13 gentlemen -- Judge.

14 THE COURT: Hold on.

15 Do you not want to split it right now?

16 MR. NISSMAN: No.

17 THE COURT: Okay.

18 MR. NISSMAN: Absolutely not.

19 THE COURT: Gus, speak to Mr. Nissman, and see you
20 can arrive at a sum certain, that you will -- that will be
21 taken out of the account, to pay the bills, that will be
22 reallocated at the conclusion of the proceeding.

23 I think that's a reasonable way to do it for the
24 time being (Cross-talking)--

25 I have no way -- unless we have a hearing on this,

1 I don't know exactly --

2 The fact that he's making \$600,000 --

3 (Interruption by the court reporter.)

4 THE COURT: The fact that he's making \$600,000 a
5 year doesn't tell me...

6 All right. Ms. Schloss is going to meet with you
7 about the holidays. See if you can reach an accommodation,
8 and then I'll see you back here.

9 MR. DIMOPOULOS: Your Honor, because, like I said,
10 he can't pay the bills.

11 I'm sorry. I don't mean to be a pain, but...

12 THE COURT: You really don't want to split the
13 money?

14 MR. NISSMAN: I don't.

15 THE COURT: But it's going to be split at some
16 point, in any event.

17 Why don't you just do it now. (Cross-talking) --

18 MR. NISSMAN: Because what it's doing is, it's
19 draining the marital account.

20 MR. DIMOPOULOS: No, it's not. We're splitting
21 it. She can have half.

22 Let her do with it what she wants. She's going to
23 get --

24 THE COURT: We'll give her half right now.

25 MR. NISSMAN: She gets her half, then what does he

1 do with his half?

2 MR. DIMOPOULOS: Whatever he wants.

3 THE COURT: Hold it, hold it, hold it, hold it.

4 She's -- she will get half, he will get half

5 (Cross-talking)--

6 MR. NISSMAN: I believe 114,000 in that -- is it
7 in that E-Trade account, or a separate account?

8 So the E-Trade is just the 400,000?

9 And we also have to see whether or not there's
10 going to be any capital gains. I mean --

11 MR. KASSENOFF: Of course there is.

12 MR. NISSMAN: -- right, so I'm saying, it does --
13 it may not make sense -- doing it now.

14 MR. DIMOPOULOS: We'll do it --

15 THE COURT: All right. I've got to take this next
16 case.

17 See you --

18 MR. NISSMAN: Your Honor, could we talk about
19 activities with --

20 THE COURT: You're not coming Thursday.

21 MR. NISSMAN: Right.

22 THE COURT: Everything is resolved.

23 THE COURT OFFICER: Okay, step out, please.

24 (At 12:23 p.m., the record was closed.)

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2 THIS IS TO CERTIFY THAT THE ABOVE TRANSCRIPT IS A TRUE
3 AND ACCURATE TRANSCRIPTION OF MY STENOGRAPHIC NOTES.
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ERIC M. SANDERS
Senior Court Reporter
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