

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

2 -----X  
3 ALLAN KASSENOFF, Plaintiff, Index No.  
58217/19

3 -against-

4 CATHERINE KASSENOFF,  
5 Defendant.

5 -----X  
6 Westchester County Courthouse  
7 111 Dr. Martin Luther King Blvd  
8 White Plains, New York 10601

8 NOVEMBER 10, 2020

9 B E F O R E:  
10 HON. NANCY QUINN KOBA  
Supreme Court Justice

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24 DEBRA L. RINALDI  
25 SENIOR COURT REPORTER

1           THE COURT: We're here in the matter of Kassenoff  
2 versus Kassenoff, for the very limited issue involving the  
3 FASNY school.

4           Counsel, please put your appearances on the record,  
5 starting with Plaintiff's counsel.

6           MR. DIMOPOULOS: Good afternoon. Dimopoulos &  
7 Bruggemann, for the Plaintiff, by Gus Dimopoulos and Michael  
8 Chiaramonte. And Mr. Kassenoff is also on the call.

9           MS. SPIELBERG: Jill Spielberg, with the law firm  
10 of Strassfield, Spielberg, with Alyson Kuritzky and  
11 Katherine Kassenoff in this room, Judge.

12          THE COURT: Good afternoon.

13          MS. VARA: Lisa Vara and Ruchama Cohen, also  
14 appearing on behalf of Katherine Kassenoff. Good afternoon,  
15 your Honor.

16          THE COURT: Good afternoon.

17          MS. MOST: Carol Most, attorney for the children.

18          THE COURT: As everybody is aware, I issued an  
19 ordered directing that Ms. Kassenoff not preside as the  
20 class parent for -- oh, we should have -- Deb, I should also  
21 note that Irene Ratner is here as well, Referee Ratner -- as  
22 class parent when she refused to voluntarily give up that  
23 position, and despite being reminded of this Court's order  
24 limiting her interactions with Charlotte except under  
25 supervised conditions. She insisted that the Court issue a

1 written order.

2           Despite receiving an order from the Plaintiff that  
3 contained provisions directing the defendant to disclose the  
4 order to the school, the Court took those provisions out and  
5 issued a very simple order that did not direct that the  
6 order be disclosed to the child's school in any way, shape  
7 or form but merely directed the Plaintiff -- excuse me --  
8 Ms. Kassenoff to resign her position that potentially  
9 violated this Court's order regarding her access to the  
10 child. Because the Court did not intend the order to be  
11 distributed widely and freely throughout FASNY, the Court  
12 included the child's name in the order as opposed to simply  
13 referring to the child by her initials.

14           So the Court also had previously discussed with Ms.  
15 Kassenoff, on June 26th of '20, and having reviewed the  
16 transcript about the harm caused to her child by discussing  
17 the divorce and revealing the contents or actions of the  
18 divorce in the child's school, particularly the parent. And  
19 the Court is specifically referring to the FASNY Facebook  
20 Parents' Group that was disseminated information about the  
21 divorce, and indicated they would take action, including  
22 potentially picketing in front of the child's house.

23           At that time this Court reiterated the concern of  
24 the harm to the child by engaging in such activity in the  
25 child's school because the child's school is the child's

1 environment, not the parents' environment. There is where  
2 the child goes, and should feel comfortable and safe. And  
3 because of what happened in June -- including the Facebook  
4 issue, as well as the note from Charlotte that raised  
5 concerns as to her emotional wellbeing and stress and over  
6 the objections of her parent that had been emotional, sole  
7 custody and decision-making temporarily, this Court directed  
8 that the child continue at FASNY, because I was concerned  
9 that removing her from the school may further traumatize her  
10 in this situation.

11 So you can imagine the Court's shock when it was  
12 discovered that the Court Order containing the child's name  
13 was disseminated to a lengthy list of teachers and parents  
14 at the school where the child is the supposed to feel safe  
15 and not deal with this divorce.

16 So the question is, what is the consequence for  
17 disseminating and acting contrary to the best interests of  
18 this child, who is emotionally fragile? Despite every  
19 effort by this Court to ensure that the mother's access --  
20 the mother has access to these children, that is balanced  
21 against the best interests of the children, I find it hard  
22 to believe that I received a letter today demanding more  
23 access with a mother who acted totally contrary to the best  
24 interests of this child Charlotte.

25 Ms. Most, have you had a chance to talk to the

1 therapist about whether there is any impact to this child  
2 about what transpired at this school?

3 MS. MOST: Yes, I have, your Honor. So I did --  
4 I'm going to tell you, honestly, I was shocked myself  
5 watching this video; I don't know if your Honor did. But  
6 what is evident from all the Zoom videos is that Charlotte  
7 is withdrawing from her mother and that there was -- she was  
8 actively embarrassed and afraid about being embarrassed by  
9 what was occurring. And instead of toning down the video  
10 she -- Mrs. Kassenoff almost attacked -- it was almost like  
11 an attack on the child. I did have the opportunity to speak  
12 to Dr. Adler about this. She was --

13 THE COURT: Wait. Wait. What video are we talking  
14 about? I haven't seen a video.

15 MS. MOST: So on 10/21 the Zoom video in which the  
16 mother Mrs. Kassenoff started to talk about -- to Charlotte  
17 about what was happening with the requirement that she have  
18 to leave the school, her position at the school. And, your  
19 Honor, if you saw that video I can tell you you would be  
20 horrified even more. Because it was just --

21 THE COURT: I haven't seen the video.

22 MS. MOST: So it was a horrible example of a mother  
23 who was trying to actually, in my opinion, harm a child even  
24 more. And so she took no responsibilities for what was  
25 occurring but actually blamed you and told her that it was

1 your obligation to inform the school and that it was your  
2 fault basically, in sum and substance. Basically the  
3 child -- I have been looking at the videos and I can tell  
4 you that -- the Zoom video -- she's not paying attention.  
5 She's on her phone and there is very little interaction  
6 between her and her mother. And in this particular video  
7 that is what you witnessed. But then the child specifically  
8 said she was going to be embarrassed even more and the  
9 mother's reaction was the judge has caused it. So I felt  
10 that instead of the mother protecting her child from the  
11 scenario she, in fact, it was almost like an attack. I  
12 think that's very dangerous for Charlotte, because Charlotte  
13 is already showing signs of withdrawing from her mother, and  
14 I just thought it was terrible. And Susan Adler was very  
15 distressed, because Susan Adler has also seen the signs of  
16 Charlotte withdrawing from her relationship with her mother.  
17 She does not have any difficulty on her sessions with the  
18 child in connecting or especially when they have an  
19 in-person session Charlotte was very connected. So Dr.  
20 Adler was concerned, very concerned about the mother's  
21 actions.

22 THE COURT: Let me ask you this question -- because  
23 I haven't seen the videos, I'm doing it based upon the  
24 e-mail. In this video did she tell the child that she was  
25 going to be sending a Court Order to the entire parent body

1 and classmates and teachers at this child's school?

2 MR. DIMOPOULOS: No.

3 MS. MOST: That is not what she said. What she  
4 said was that --

5 THE COURT: Very simple. When you send a letter of  
6 resignation -- "I'm so sorry. Due to concerns, I was unable  
7 to continue as a class parent" -- which of course never  
8 should have been allowed -- that she held -- based upon the  
9 divorce order of August 17th.

10 MR. DIMOPOULOS: Your Honor, what she said when she  
11 got on the call, it was approximately five seconds into the  
12 phone call. She told Charlotte, "I have to tell you  
13 something." She said that the judge is making her quit as a  
14 class mom, she doesn't know why. She doesn't understand  
15 why. And I quote, "One day you're going to understand so  
16 much about what is going on." She said Charlotte asked her  
17 if the teachers knew and the mother responded, "No, I'm  
18 going to let the judge tell her."

19 Charlotte got really embarrassed, started to cry,  
20 said, "Mom, I'm so embarrassed." And the mother lost her  
21 temper on the child because she wouldn't respond to her and  
22 said, and I quote, "Try to get your life together. Come and  
23 listen to me." She continued with the child. She told her,  
24 "Ask your father about it." She told the child, "I tried  
25 fighting it and I fought it and I lost." And asked, "Does

1 this make sense to you, Charlotte? Because it doesn't make  
2 sense to me." She went on to say, "We haven't seen each  
3 other in seven months and it hurts my heart. We have all of  
4 these people who are watching what we're doing. When you  
5 get older you'll learn the truth. I know you have taken  
6 things away and I can't be with you." It was tough to  
7 watch.

8 MS. MOST: Judge, all she had to do was say, you  
9 know what? I'm so busy at work, I can't do it. So I'm  
10 sorry.

11 THE COURT: Of course that's all you do. That's  
12 what a parent who cares about the child does; that is why we  
13 ended up with a supervised visitation in the first place.

14 In really causes harm, because I'm not sure that  
15 putting this child back in FASNY now was in the best  
16 interests of the child, if the school can not adhere to the  
17 orders of the Court. I assume they were apprised that Mr.  
18 Kassenoff has sole legal custody of this child.

19 MR. DIMOPOULOS: They were, your Honor. The  
20 problem was that the Parent-Teachers Association is, it's an  
21 quasi arm of the school so it's actually run by the parents.  
22 And then to further complicate matters there is like a PTA  
23 for the Larchmont people. The people who sent that order to  
24 you, your Honor, upon information and belief are all the  
25 same people that were on the Facebook, all these moms from



1 Larchmont that know nothing about Mr. Kassenoff and only  
2 what she tells them. So I don't know that Mr. Kassenoff has  
3 an opinion on that right now. We do not -- Charlotte -- I  
4 had watched every single video. I'm not testifying. I'm  
5 not sure Dr. Abrams will watch them or you will, your Honor,  
6 she barely talks on these calls. She's reserved, sits on  
7 her phone. She may say three words. Her mother has to beg  
8 her to say something. She basically sits off on the side,  
9 and my client is very worried about her. He's very worried  
10 about Ally, who is going in the wrong direction right now.  
11 We believe it's because of what's going on; not necessarily  
12 just in the Zoom calls but on these supervised visits.

13 We have a lot of reservations. We understand the  
14 Court's balancing act here. We know and understand that  
15 there is some value to continuing some level of contact, but  
16 this is going from bad to worse.

17 THE COURT: Can we report on the --

18 MS. SPIELBERG: Judge, can I be heard?

19 THE COURT: I haven't even a report from the  
20 supervisors recently, have you?

21 MS. MOST: Only in the Zooms, from the Zooms, we  
22 recently got a report for almost a month's worth of  
23 supervision services that are doing the Zoom visitations  
24 daily. But we have not gotten a report from the --

25 THE COURT: In-person people?

1 MR. DIMOPOLOUS: Ms. White, Kava White is her name.  
2 The last report that she filed with the Court, your Honor,  
3 I'll tell you right now --

4 MS. SPIELBERG: She said she will be giving an  
5 update by the end of the week, judge.

6 THE COURT: When was the last report?

7 MR. DIMOPOULOS: The last report was on October  
8 2nd, 10/2, the last one I have.

9 THE COURT: Go ahead, Ms. Spielberg.

10 MS. SPIELBERG: Judge, a couple of things with  
11 respect to the dissemination of the order. Ms. Kassenoff  
12 was aware that Mr. Kassenoff disseminated your Honor's 46  
13 page -- 45, 46 page decision to various people, including  
14 the schools.

15 THE COURT: I'm not talking about Mr. Kassenoff.  
16 Where in my order did it say to disseminate this order to  
17 all of the school where this child is going?

18 MR. DIMOPOULOS: Your Honor, to be clear, my client  
19 has never categorically never given that order to anyone on  
20 earth. Ever. And there is no proof.

21 MS. SPIELBERG: He said in a Court appearance that  
22 he gave it to the Court school.

23 MS. MOST: I believe -- what I believe to the  
24 school.

25 THE COURT: The school is supposed to be informed

1 that he has a Court Order giving him sole temporary custody.  
2 Again, Ms. Spielberg, under what provision of my order did I  
3 say disseminate it to all the teachers at FASNY? Under what  
4 scenario would that and in any way, shape or form be  
5 necessary?

6 MS. SPIELBERG: Judge, my understanding is that my  
7 client believed what she was to do to inform the people on  
8 the PTA that she was being ordered to resign.

9 THE COURT: Yes. That's called --

10 MS. SPIELBERG: I'm going to give focus to my  
11 client. I can't speak because she's talking and I can't  
12 hear you, so I'm just going to turn it over to her, I think  
13 is the best bet.

14 THE COURT: Thank you.

15 MS. KASSENOFF: I'd like to address the Court and  
16 if you can see me or --

17 THE COURT: I can see you, Ms. Kassenoff. I'd like  
18 the explanation of why you gave this order to FASNY.

19 MS. KASENOFF: Yes, Judge, I'm ready to say that.  
20 So your order made very clear that I was not voluntarily  
21 resigning and that I was being required to resign.

22 THE COURT: Despite the order you refused to  
23 resign, you never should have had that position in the first  
24 place.

25 MS. KASSENOFF: Your Honor, I disagree vehemently

1 with that. There is no connection whatsoever with my  
2 daughter to that position. I don't have any interaction  
3 with her whatsoever. And I understand -- in fact, I would  
4 think that the Court would want to foster my interaction  
5 with my daughter, who I have not seen in eight months for  
6 more than a two-hour period of time. I'm the primary,  
7 judge. This is outrageous.

8 And I would just like to mention that this order  
9 that you signed back in August that details my history of  
10 breast cancer -- I mean, two bouts of breast cancer, first  
11 diagnosing in February and March, diagnosed between about --  
12 it goes into my double mastectomy, my round of chemotherapy,  
13 debilitating chemotherapy, this order was circulated by my  
14 husband --

15 MS. MOST: I don't believe that's true, your Honor.

16 MS. KASSENOFF: -- to give to people, unredacted,  
17 under no order to do so. I, however, you ask for an  
18 explanation -- I give --

19 MR. DIMOPOULOS: To who?

20 MS. KASSENOFF: I had --

21 THE COURT: To who was the order?

22 MS. KASSENOFF: I think I'm reasonable. I hate --

23 THE COURT: Explanation.

24 MR. KASSENOFF: I don't want the lies. Your Honor,  
25 I have not provided that order to anyone. When the

1 school -- when I was told to inform the school about the  
2 custody situation, I spoke to Mr. Dimopoulos because I knew  
3 I can't share that order. I didn't know what to do. So  
4 what Mr. Dimopoulos said made the most sense -- and I can't  
5 remember if he ran it by Ms. Most as well -- was just to  
6 share the last two pages that showed that I have full  
7 custody.

8 MS. KASSENOFF: That was not done.

9 MR. KASSENOFF: Excuse me.

10 MS. KASSENOFF: That was not done.

11 THE COURT: Excuse me, Mrs. -- excuse me,  
12 Katherine. Mr. Kassenoff, you can stop talking. Everybody  
13 stop talking. Mr. Dimopoulos, I'm going to authorize you to  
14 make an order, make a motion for a temporary order  
15 precluding Ms. Kassenoff from going anywhere near the  
16 child's school.

17 MS. KASSENOFF: That is really outrageous, judge.  
18 I followed your directives. I would like to give the  
19 reasons, because my credibility as is at stake here. And  
20 had I simply written a resignation letter that said goodbye,  
21 I'm going somewhere, the people would have been like, what  
22 is going on here? There would have been all kinds of rumors  
23 and speculations. I wanted it to be very clear that this  
24 was the reason why. This was the reason why. And I don't  
25 care that Mr. Kassenoff --

1 THE COURT: It was very clear, without damaging  
2 your child.

3 MS. KASSENOFF: It doesn't damage our child.

4 THE COURT: Of course it does.

5 MS. KASSENOFF: She already was embarrassed by the  
6 fact that I was resigning. That's what was embarrassing.  
7 We told you that. We said to you, judge, don't make me  
8 resign; that's the real embarrassment here. That's the real  
9 embarrassment.

10 THE COURT: Okay.

11 MS. KASSENOFF: I want my child to know.

12 THE COURT: Make that motion. Ms. Spielberg, once  
13 he gets filed the paper you can have an opportunity to reply  
14 to the motion.

15 Ms. Most, what has Dr. Adler recommended in terms  
16 of addressing Charlotte's issues and embarrassment?

17 MS. KASSENOFF: Can I say something on that? By  
18 the way, yet the chance --

19 THE COURT: No, you're done.

20 MS. KASSENOFF: I can't, judge? Why can't I  
21 represent myself, judge? I'm on calls. Ms. Spielberg is  
22 not on these calls. I know how they go. I know what's  
23 going on with my daughter. She's playing on a new cell  
24 phone non-stop. That is the reason why she's withdrawn; not  
25 because of something I'm doing. My daughter and I are very

1 close. We have been close forever. There is nothing I am  
2 doing that is causing distance. If anything she's on a  
3 phone the entire time playing around with it. She's  
4 distracted. Her sisters -- look at the one from yesterday.  
5 Her sisters are yelling and screaming in the background; she  
6 can't even engage with me they are so loud.

7 Thirdly, let's be clear here, the Plaintiff and his  
8 many are in the next room and she is intimidated by that;  
9 she's not comfortable speaking and she resorts to typing.  
10 That is what's causing withdrawal; not me, judge.

11 THE COURT: Okay, Ms. Most, what does the doctor --

12 MS. MOST: Dr. Adler is wondering why no one has  
13 sat down with Mrs. Kassenoff to explain to her about her  
14 illness and how her actions are affecting her children. Dr.  
15 Adler was wondering whether or not the actual access was a  
16 problem because the girls were doing better when they had  
17 almost no access. That's what Dr. Adler said.

18 THE COURT: So Dr. Adler is saying even this  
19 limited access is not even accessible at this point?

20 MS. MOST: Well, she doesn't know. Dr. Adler --

21 THE COURT: Excuse me. Ms. Most is talking right  
22 now. Go ahead.

23 MS. MOST: Ms. Adler, because when I discussed that  
24 tape with her she was just beyond horrified. Beyond  
25 horrified.

1 THE COURT: Has she seen the video?

2 MS. MOST: Yes, in fact --

3 THE COURT: Ms. Spielberg. I'm sorry, I said Ms.  
4 Spielberg.

5 MS. SPIELBERG: I'm sorry.

6 THE COURT: Is your phone working?

7 MS. SPIELBERG: Can you hear me?

8 THE COURT: Yes. Go ahead.

9 MS. SPIELBERG: It's important for the Court to  
10 know, judge, that as recently as a few weeks ago when Ms.  
11 Kassenoff was permitted to speak with Dr. Adler, that she  
12 didn't even know that the girls had the access, the limited  
13 access with their mother that they had, which to me is  
14 shocking that a therapist would be treating these two girls  
15 with the frequency that she does that she wouldn't know what  
16 the access schedule was of these kids with their mother. So  
17 it's hard for me to understand that she could make the  
18 comparison between when they saw her and when they didn't  
19 when she didn't even know that they were seeing her when  
20 they were, number one.

21 Number two, you know, with respect to Charlotte  
22 being withdrawn on these calls, these girls are sending as  
23 we attach to the -- as was attached to the letter submitted  
24 by FSS are sending text messages to their mother, calling  
25 out for her. The condition originally was mom was



1 manipulating them to try to spend more time with her; that  
2 she -- mom -- was sending secret codes to them to get them  
3 to want to be with her mother more. Now she's completely  
4 supervised on a very limited basis. The reports through  
5 October 2nd were excellent, without an issue, and we suspect  
6 that they will be the same in terms of the in-person  
7 visitation; specifically said she gave equal attention to  
8 each of the children and these kids want to be with their  
9 mother. And so I don't know why we're assuming that any  
10 issues with Ally withdrawing from Charlotte are related to  
11 the very limited access that they have with their mother and  
12 not related to the fact that they have very limited access  
13 with their mother. These are two independent issues.

14 THE COURT: Dr. Abrams can evaluate that issue in  
15 the updated report.

16 MS. MOST: Did we get that order?

17 THE COURT: The order -- Ms. Spielberg, you can't  
18 say, oh, no, the forensic expert neutral can't do a further  
19 evaluation but you should change my supervised access  
20 because the children are not withdrawn or having difficulty.

21 MS. SPIELBERG: I'm not --

22 THE COURT: Excuse me.

23 MS. SPIELBERG: I'm not saying there should be no  
24 further --

25 THE COURT: Ms. Spielberg, I'm speaking. So in

1 accordance with my prior statement there will be a  
2 supplemental evaluation by Dr. Abrams, and unless there be  
3 any misunderstanding for the reason for that under  
4 well-established Case Law if there is a significant gap in  
5 time and we're going to have another custody hearing the  
6 Court requires an updated neutral forensic evaluation  
7 report. That order is going out today, and we'll see what  
8 he has to say after he speaks and reviews all these  
9 additional materials.

10 MS. SPIELBERG: May I please be heard? First of  
11 all, I was not interrupting you. I think I was frozen. I  
12 just want to be clear, I would not have interrupted the  
13 Court, number one. So it may have been delivered  
14 interrupting you but it wasn't intentional.

15 THE COURT: All right.

16 MS. SPIELBERG: Number two, facts have come to  
17 light with respect to Dr. Abrams. I'm going to be sending a  
18 letter and I would respectfully request the Court read my  
19 letter prior to issuing that order.

20 THE COURT: The order is drafted so you need to  
21 send a letter by the close of business.

22 MS. SPIELBERG: I will definitely do that.

23 THE COURT: After that conference.

24 MS. SPIELBERG: I will.

25 THE COURT: I was preoccupied, as you know, in

1 another trial.

2 MS. SPIELBERG: Understood, judge. But the letter  
3 has been drafted. It needs to be revised and it will be --  
4 to Chambers by 4:00, judge.

5 THE COURT: I'm not going to read it until  
6 Thursday, because tomorrow the courts are closed. So wait  
7 until Thursday. Okay. And when you send it to me, send it  
8 to counsel, and then we'll see.

9 MS. SPIELBERG: We understand there needs to be an  
10 update. We do not believe it should be Dr. Abrams, and I  
11 will detail the reasons in the letter.

12 THE COURT: Okay.

13 MR. DIMOPOULOS: Briefly, the last point, if I may.  
14 Again I wish everybody would watch the videos.

15 MS. SPIELBERG: I'll send it to you.

16 THE COURT: I'm sorry, I haven't seen the video.  
17 So go ahead.

18 MR. DIMOPOULOS: Nor would I expect you to sit and  
19 watch if I sent you 20 videos.

20 THE COURT: I'm going to watch it from now.

21 MR. DIMOPOULOS: When what Ms. Kassenoff does is  
22 very subtle. I have been on this case since day one. She  
23 doesn't say to Ally, "Ally," or "Charlotte, do you like your  
24 therapist? I think she's bad. She doesn't do what she says  
25 to Charlotte or Ally, how do you like your therapist? And

1 then Charlotte does this thing where she does this shrug of  
2 her shoulder like a normal nine year-old kid and she goes,  
3 "Oh, you don't like her? Okay, I understand." She asks the  
4 children questions about their therapy repeatedly. She puts  
5 this subtle notion in her head, and that's what happens  
6 here. And when she questions them on the calls, you know,  
7 these are the types of things where I think -- and I don't  
8 know Ms. White, but I think she's failing. And I don't  
9 think she understands the subtleties the way that Ms.  
10 Candelario picked up on them. Because if I said to a person  
11 who has no history of this case into the room and say, when  
12 parent A does something inappropriate to a child make sure  
13 you throw up the flag, if they don't know what to look out  
14 for it's not going to be helpful. So, you know, this is the  
15 problem.

16 The second thing is that she can -- Ms. Kassenoff  
17 communicates with Ally via text message, she's done that.  
18 But more important than that -- it's not a question of if it  
19 happens. It's in the videos they talk about an application  
20 called Roblox (phonetic), which your Honor is familiar with.  
21 And what she does it communicates with the child through  
22 Roblox I believe because it's impossible -- the  
23 communications do not get stored like in text messages; they  
24 are real-time communications that disappear.

25 When we heard that she was communicating with the

1 children via Roblox, which they play almost every day,  
2 incidentally, I asked my client can you go take a look at  
3 the kids' phone and happen to see the communications in  
4 real-time and took pictures of them? Right. So we've sent  
5 a bunch --

6 THE COURT: Sorry. What is Roblox?

7 MR. DIMOPOULOS: It's a game.

8 MS. MOST: Video game.

9 MR. DIMOPOULOS: Where you can play with other  
10 people via the internet.

11 THE COURT: Okay. So that really falls within my  
12 order of August 17th, so is there a way to do a forensic  
13 evaluation of all of the electronics to see what's really  
14 going on here?

15 MR. DIMOPOULOS: You know, your Honor.

16 THE COURT: Since my order was pretty clear, there  
17 is no communications on video games or internet or HBO.

18 MR. DIMOPOULOS: I highly doubt that short of  
19 spending, you know, the third child's college tuition we'll  
20 be able to get at this, I think we have to wait for the  
21 trial and updated forensic. But, you know, this case is a  
22 game of Whack-A-Mole. I mean, unless I give up every other  
23 single client that I have and just spend my time policing  
24 Ms. Kassenoff's conduct nothing is going to happen here.

25 So, respectfully, I will make the motion that your

1 Honor has advised; I think it's wise that I do that. I  
2 think getting a final updated forensic and getting this  
3 matter resolved is the only way to help these kids get  
4 through this so that we can tell them, okay, this is what's  
5 going on for your future. Because everything changes all  
6 the time; there is no Zoom call on Wednesday because she  
7 didn't pay the person. Then there is no in-person visit  
8 this time because A, she is in New Jersey, B, she is in New  
9 Mexico, about she had money she owed Ms. White. The kids  
10 don't know what they are doing; they don't know how long  
11 this is going to last; they don't know why it's going on.

12 So the only thing I can say, your Honor, is to the  
13 extent it's within any of our control, you know, I  
14 understand Ms. Kassenoff has just hired appellate counsel,  
15 the Honorable Justice Spolzino, who comes at about a 20 K  
16 retainer. Incidentally, to file a reply to one of the  
17 appeals -- I know she's looking for appeal, the only way to  
18 help these children, your Honor, is to complete this matter  
19 for better or worse.

20 THE COURT: So they will make a decision on  
21 Thursday after Ms. Spielberg sends her letter, once the  
22 financial disclosure -- is that finished?

23 MR. DIMOPOULOS: We are done with -- well, Mr.  
24 DeMarco -- that's another thing. We had an hour long  
25 conference call with Ms. Kassenoff interrogating Mr.

1 DeMarco.

2 MS. SPIELBERG: Judge, that's not true. He's the  
3 neutral. She's entitled to ask him questions. That's as  
4 mischaracterization of the phone call. I was on it.

5 THE COURT: I don't really care what happened on  
6 the phone call other than the fact where the status of  
7 financial disclosure.

8 MR. DIMOPOULOS: He hasn't given us a firm date  
9 yet, but he did say that -- oh, actually, no. He did. He  
10 committed to December 3rd for a rendering his report. He  
11 said for one reason or the other, it's going to be a draft  
12 report. One of the things I asked him in my life, your  
13 Honor is, Mr. DeMarco has been great in all respects, if we  
14 had a deadline from the Court because there was never  
15 actually an appointment order in this case, your Honor,  
16 because when it transferred from Judge Everett there was  
17 some communication. I don't think there was an appointment  
18 order which would have had a firm deadline for the rendition  
19 of a report. So if your Honor feels it's wise to give him  
20 until 12/5.

21 THE COURT: How did he get hired if there is no  
22 order?

23 MS. SPIELBERG: I think it was an order from the  
24 bench. It was prior to me. He's been hired and he is  
25 working.

1 MR. DIMOPOULOS: If I could just actually answer  
2 the question because he was there. Judge Everett never  
3 issued an appointment order. He sent out a retainer. The  
4 parties agreed to him as a neutral in the Preliminary  
5 Conference Order; it wasn't by retainer. The only thing  
6 absent from that is the deadline. He has just said 12/3 for  
7 a draft report. But if we can do --

8 THE COURT: So who was hired? I will issue an  
9 order to --

10 MS. SPIELBERG: Matt DeMarco, judge.

11 THE COURT: On trial, I've heard his name. Who  
12 does he work for?

13 MS. SPIELBERG: Send us his contact information.

14 MR. DIMOPOULOS: Independently, he works for  
15 himself. We just need an order end. Jill, if I could just  
16 finish.

17 THE COURT: My court reporter can't take the two  
18 people at once. So Mr. Dimopoulos.

19 MR. DIMOPOULOS: There was a whole back and forth  
20 between Ms. Spielberg producing anything else, and if you  
21 want anything else you've got to go to motion practice. So  
22 what we have right now is a set of documents that Mr.  
23 DeMarco said at current time is enough for him to render his  
24 report. They I guess want to reserve their rights to get  
25 more documents, that's fine.



1           But he said on the call -- I'm more than willing  
2 to, you know, the Court can call him and find out -- he said  
3 on the call, "I have what I need I could do this final  
4 report." Once the final report is done Ms. Spielberg has  
5 asked to continue Ms. Kassenoff's deposition and then this  
6 thing is trial-ready.

7           THE COURT: Ms. Spielberg.

8           MS. SPIELBERG: Judge. Yes, Judge, I do basically  
9 agree with Mr. Dimopoulos -- Mr. Dimopoulos's recitation.  
10 We agreed for purposes of expediency to see what they were  
11 going to give to Mr. DeMarco and then to see if Mr. DeMarco  
12 felt it was sufficient for him to render an accurate  
13 valuation. I did hold open Mr. Kassenoff's deposition, but  
14 other than that and a few documents that may have come up in  
15 light of our conversation with Mr. DeMarco and some other  
16 issues since his last deposition, the financial issues  
17 discovery is mostly resolved.

18           Judge, I do want to bring up one thing, back to the  
19 recordings for one moment, because we have been having some  
20 debate. We would like to discuss these records with our  
21 client, the problem recordings. The problem was that in  
22 August -- August 6th -- in August I believe at some point  
23 there was a discussion with the Court where the Court said  
24 that the supervision of the report and everything related to  
25 supervision is confidential and should not be given to the

1 parties in the case. We took that to mean that the  
2 recordings too -- I understand that Mr. Kassenoff has  
3 them -- I would like to send to my client so she can -- I  
4 can ask her about them and go through them with her, she can  
5 understand what the objections are by your Honor and Ms.  
6 Most and whoever else.

7 THE COURT: That she participated?

8 MS. SPIELBERG: Yes, Judge, yes.

9 THE COURT: No. The recordings are not being  
10 released. Can you show them to her in your office under  
11 your supervision?

12 MS. SPIELBERG: But yes.

13 THE COURT: But they are not being released.

14 MS. SPIELBERG: Some of them are half and hour and  
15 then every other day, I think. And I believe -- Mr.  
16 Kassenoff has some of them. My client heard him say that on  
17 a phone call. I'm a little bit between a rock and hard  
18 place. My client is asking me for the recordings with which  
19 she's being accused of things and I can't give them to her.  
20 It's the same with the transcripts. You know, my hands are  
21 tied.

22 THE COURT: Well, the transcripts she would have --  
23 her appellate counsel will get the transcripts because he  
24 needs them to perfect her appeal. My understanding is Ms.  
25 Kassenoff had a coordinator from the Appellate Division that

1 was assigned to her as a pro se to assist her in this  
2 matter. But if she's appealing those orders obviously Judge  
3 Spolzino is going to need the transcripts to perfect her  
4 appeal, they can't be disseminated.

5 MS. SPIELBERG: Under this Court's directive I have  
6 not given any to her, she obtained them in coordination with  
7 the coordinator, then there is a separate issue. But I'm  
8 just trying to be careful, judge, of, you know, directives  
9 from the bench that are not written and keep track of all of  
10 them.

11 THE COURT: Let me make myself perfectly clear  
12 here. In light of the fact that an order was disseminated  
13 to this child's school, teachers and disseminated to  
14 teachers and classmates' parents, I'm loathe to have any of  
15 these videos given to anybody, so they are not being  
16 released from your possession. If Ms. Kassenoff wants to  
17 watch them in your office, that's fine. If there is a  
18 particular video that people find particularly upsetting --  
19 which is the October 21 -- she should probably watch that  
20 and see what the concerns are. But she is -- I'm not  
21 releasing these videos under any circumstances. I'm not  
22 changing the supervision order at this point. Absolutely  
23 not.

24 MS. SPIELBERG: We also ask permission to make a  
25 motion for fees. We're directed to send them the 2019 W-2,

1 which the Court did, which we did by the deadline and we  
2 had --

3 THE COURT: Application to make another motion for  
4 fees is denied. There is no reason for additional fees in  
5 this case at this point.

6 MS. KASSENOFF: I want the Court to know I'm now  
7 pro se officially. I have no money left. There is nothing  
8 left to try this case. I don't understand how this Court  
9 does not understand that, but this is not a level playing  
10 field and I'm unable to pay counsel. You only --

11 THE COURT: Have you worked out a stipulation to  
12 split the E-Trade account?

13 MS. KASSENOFF: No, your Honor. That's not the  
14 law. The law is not that I should have to dip into the only  
15 liquid account I have. I should be able to maintain a level  
16 playing field with the Plaintiff in this case, and if the  
17 Court is not going to allow us to even just make the motion  
18 for fees, as of right this moment I am pro se.

19 THE COURT: Additional fees are reserved for trial,  
20 or, if there is a custody trial we can revisit the issue at  
21 that point, because, quite frankly, a significant sum of  
22 money has been expended to address you -- Ms. Kassenoff's --  
23 not complying with the orders of this Court.

24 MS. KASSENOFF: I have complied with the order of  
25 this Court.

1 THE COURT: Excuse me?

2 MS. KASSENOFF: Unfortunately I don't have any  
3 money left. My husband makes close to a million dollars a  
4 year; I earn \$170,000.

5 THE COURT: Your husband is paying all of the  
6 expenses and you are not. Your husband is paying.

7 MS. KASSENOFF: Your Honor, it's -- I'm sorry, but  
8 he has separate liquid assets worth \$2 million dollars.

9 THE COURT: The financial situation, I went through  
10 it with the Court when I gave \$100,000 in attorneys' fees to  
11 you.

12 MS. KASSENOFF: Well then you know that the  
13 \$100,000 is exhausted and the money is exhausted. It has to  
14 pay -- there are still outstanding bills from Ms.  
15 Spielberg's firm, Ms. Most has made a request.

16 THE COURT: You have also have Pro Bono counsel  
17 over here helping you out.

18 MS. KASSENOFF: Your Honor, you know, my Pro Bono  
19 counsel is not going to be stepping into the courtroom.  
20 They are not going to do the financial side of this case,  
21 which is now the focus of this case.

22 THE COURT: I don't know what side they are doing,  
23 quite frankly.

24 MS. KASSENOFF: Your Honor --

25 THE COURT: I'm done. I have another conference to

1 do.

2 MS. KASSENOFF: I'm pro se. Then I don't  
3 understand the ruling. I don't have any money now. I have  
4 nothing right now. I have credit card debt. That's what I  
5 have. I have nothing.

6 MR. DIMOPOULOS: I'm more than happy to work with  
7 Ms. Kassenoff pro se.

8 THE COURT: You can work it out and split the  
9 other --

10 MS. KASSENOFF: I don't understand what that means.

11 THE COURT: -- allocation. Okay. So Mr.  
12 Dimopoulos makes a motion regarding the protective order. I  
13 want -- the October 21st videotape is what you told me -- is  
14 what you told me about the financial discovery.

15 MS. KASSENOFF: I guess I'm pro se. Is that where  
16 we are?

17 THE COURT: Excuse me. Mr. Dimopoulos, can you  
18 send me the video, please, of October 23rd video, Zoom video  
19 conference?

20 MS. KASSENOFF: I guess my question, then, is if I'm  
21 pro se now for me to look at these videos. I need to see  
22 the videos; I can't use counsel's office for those so now  
23 what?

24 THE COURT: I think that you could look at videos  
25 with your pro se counsel.

1 MS. KASSENOFF: They are not authorized at this  
2 point to have the videos.

3 THE COURT: I don't know what the scope of your  
4 representation, Ms. Vara. Just to be clear, can you hear  
5 me?

6 MS. VARA: (No response.)

7 THE COURT: Can you hear me?

8 MS. VARA: Yes.

9 THE COURT: Your retainer agreement was not for  
10 direct representation of Ms. Kassenoff? Okay?

11 MS. VARA: It was to provide consulting and  
12 advocacy services with her in her divorce. We have been  
13 helping Ms. Spielberg where we can, and real estate taxes,  
14 we have been managing some of the communications as best we  
15 can with Ms. Kassenoff, but we certainly do not have the  
16 resources to be lead counsel on this case. We don't even  
17 typically practice in Westchester. We practice in New York  
18 City, but we made an exception in this case for various  
19 reasons. But the understanding was that we would not be  
20 appearing physically in court in Westchester, and it was  
21 only because of Covid that Court started having these remote  
22 conferences that we agreed to participate to a limited  
23 extent in some of them.

24 THE COURT: Hold on a second. Well, Ms. Kassenoff,  
25 until such time as Ms. Spielberg is relieved by the Court

1 she is your attorney of record, and she can review the video  
2 with you before she needs to make a motion and the Court  
3 needs to make a decision on it.

4 MS. KASSENOFF: I need to understand, your Honor.  
5 You're saying I'm -- on the legal fees question that you  
6 would not issue any award of legal fees up until the trial,  
7 but at the time of the trial you would then reserve your  
8 decision and potentially authorize an award at that time?

9 THE COURT: Yes. If in fact you have to have a  
10 custody trial then the Court would give you authority to  
11 move for a fee to allow you to prepare for a custody trial,  
12 or, you know, a financial trial. Right now this discovery  
13 is de minimis, that's left to be done. Yes. If this matter  
14 goes to trial on custody or finances then you would make a  
15 motion at that point and the Court will entertain it, if  
16 it's determined that case has to go to trial. So, yes, I'm  
17 not saying never ever ever can you make a motion; you just  
18 can't make it right now.

19 MS. KASSENOFF: Your trial calendar is looking like  
20 2021, correct?

21 THE COURT: Yes.

22 MS. KASSENOFF: So we're talking six months  
23 potentially?

24 THE COURT: Maybe not even that much, Ms.  
25 Kassenoff, frankly; because if you finish finish your



1 financial disclosure -- which should be done in December  
2 from what I'm hearing basically, right? You have DeMarco on  
3 12/3, let's assume you finish your financial disclosure in  
4 DeMarco in December, January tops, tops, then we should get  
5 the report by Dr. Abrams. I'm going to go ahead, put a  
6 deadline beginning of February period and then trial might  
7 be early spring. So I would say you might be ready to put  
8 this on the calendar by the end of February.

9 MS. KASSENOFF: So unfortunately several months --  
10 it's unfortunately several months of trial prep that I  
11 cannot afford. \$100,000 nowhere came close to what has the  
12 overall extent of this case. For that reason I'd also like  
13 to see the Plaintiff's legal invoices immediately so we can  
14 show he has spent far in excess

15 THE COURT: Discovery --

16 MRS. KASSENOFF: I'm sorry.

17 THE COURT: Ms. Kassenoff, it's a no right now.  
18 Again, once what the financial disclosures happen and you  
19 can renew your application to file for fees after the  
20 beginning of the year when we know for sure it's on the  
21 trial calendar, it's going to calendar, it's not something  
22 that can be worked out. Okay? All right.

23 So then if you want to look at those tapes, look at  
24 them with Ms. Spielberg. Okay? I'm leaving the supervised  
25 schedule as is now. Ms. Spielberg, get your letters to me

1 so I can make a decision by Thursday on Dr. Abrams. I want  
2 to move this to resolution for all parties.

3 MS. SPIELBERG: Judge.

4 MS. VARA: I'm sorry. We have been having some  
5 challenges on the sanctuary end from getting these  
6 recordings directly from supervision services. I'm not  
7 exactly sure where the disconnect is. Would it be okay if,  
8 for simplicity's sake, if Ms. Spielberg just sends us the  
9 recordings?

10 THE COURT: Yes. Your counsel. Ms. Spielberg.

11 MS. SPIELBERG: Yes, Judge.

12 THE COURT: Have you been sending the recordings to  
13 Ms. Vara and Mrs. Cohen?

14 MS. SPIELBERG: I think that what happened was Ms.  
15 Vara had contacted Supervision Services; we thought that  
16 they had provided them directly. We learned only yesterday  
17 that they had never gotten them. To the extent there is an  
18 issue of feeling like there is, no, they don't have, you  
19 know, the authority to do it, I'm happy to send them over.  
20 We just didn't realize that this issue was happening.

21 THE COURT: So that we're clear, on the record,  
22 that Ms. Vera and Mr. Cohen can receive copies of the videos  
23 and Zoom calls from you, Ms. Spielberg, as co-counsel for  
24 Ms. Kassenoff; but, again, I don't want them disclosed  
25 beyond, you know, your office.

1 MS. VARA: We are counsel. We're attorneys. We're  
2 officers of the Court; we would never do that.

3 THE COURT: Okay. Good. All right. Anything  
4 else? Because I have to go; I have another conference.

5 MR. DIMOPOULOS: No. Thank you, your Honor.

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C E R T I F I C A T I O N

9 This is to Certify That the Above Transcript is a True and  
10 Accurate Transcription of My Stenographic Notes.

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Debra L. Rinaldi  
Senior Court Reporter

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