

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

3 - - - - -x

4 ALLAN KASSENOFF,

5
6 Plaintiff,

7 - against -

Index No. 5821/2019

8 CATHERINE KASSENOFF,

9
10 Defendant.

11 - - - - -x

12 December 7, 2020

13 111 Dr. Martin Luther King Jr. Blvd
14 White Plains, New York 10601

15 HONORABLE NANCY QUINN-KOBA,

16 Justice

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

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By hand : Room 1432

1 THE COURT: Is everybody present?

2 It looks like it. Right?

3 Oh, hold on. Here comes somebody else.

4 All right. Am I reading this correctly, that
5 Ms. Kassenoff has four attorneys on this call?

6 MS. KUSNETZ: I am lead counsel, Judge,
7 Marcia Kusnetz.

8 And I believe Lisa is on. Rukoma [ph.] is on.
9 I'm not sure who else had come on the call.

10 She has co-counsel on this case.

11 THE COURT: I understand, but, four attorneys is a
12 bit --

13 MS. KUSNETZ: I'll be speaking, Judge.

14 THE COURT: Where is Ms. Kassenoff -- oh, there
15 she is. Okay.

16 All right, so, let's start by putting our
17 appearances on the record, please, starting with plaintiff's
18 counsel.

19 MR. DIMOPOULOS: Sorry. I was just un-muting.

20 Good morning, Your Honor.

21 Dimopoulos Bruggemann, by Gus Dimopoulos, and my
22 associate Michael Chiaramonte, for the plaintiff,
23 Allan Kassenoff, who's on the call today.

24 THE COURT: Okay. Ms. Kus -- I always say your
25 name wrong, and I'm sorry. Is it Kusnetz?

1 MS. KUSNETZ: Kusnetz.

2 THE COURT: Okay. Sorry.

3 Go ahead, Ms. Kusnetz.

4 MS. KUSNETZ: "Kus" and "nets."

5 THE COURT: I should do that, "Kuz" and nets."

6 MS. KUSNETZ: Marcia Kusnetz, The Law Office of
7 Marcia E. Kusnetz, for the defendant, Catherine Kassenoff,
8 who's on the call.

9 And co-counsel is also here.

10 LISA VALA: Also for the defendant,
11 Catherine Kassenoff, Sanctuary for Families, by Lisa Vala,
12 Uhama [ph.] Cowen, and Diane Steiner. We're all on the
13 call.

14 (Interruption by the court reporter.)

15 LISA VALA: Co-counsel for defendant,
16 Catherine Kassenoff, Sanctuary for Families, by Lisa Vala,
17 Uhama [ph.] Cowen, and Diana Steiner.

18 (Clarification requested by the court reporter.)

19 LISA VALA: Yes, my last name is Lisa -- my name
20 is Lisa Vala, last name, V-A-L-A.

21 The other last names are, C-O-H-E-N, and,
22 S-T-E-I-N-E-R.

23 MS. MOST: Good morning, Your Honor.

24 Carol Most, attorney for the children.

25 Good morning, Eric.

1 THE COURT REPORTER: Good morning.

2 THE COURT: All right. So since I issued my order
3 on Motion Sequence 15, an issue has arisen regarding
4 Mr. Kassenoff's diagnosis with COVID-19, and concerns
5 regarding how that impacts the children.

6 So let's start first with Mr. Dimopoulos.

7 Please provide -- advise the Court what's going on
8 with that issue.

9 MR. DIMOPOULOS: The -- I guess it was Friday, if
10 I'm not mistaken, my client woke up with symptoms of COVID.
11 He tried to get a test all day. Got a test at 6:00. The
12 rapid test indicated that he was positive for COVID. And,
13 there wasn't much to -- there's a follow-up PCR test.
14 I don't even know if he got that or not.

15 Allan, I never asked you.

16 But he's got symptoms of COVID; he's sick.

17 The following day, the nan -- (lost audio) -- the
18 nanny tested positive. And the three children had a rapid
19 test done up in Yorktown, and all three came back negative.

20 The doctor who treated them at Yorktown explained
21 to Mr. Kassenoff that, regardless of the test results, that
22 they are, I guess this a medical term, or term of art,
23 presumed positives regardless of the test results.

24 Because they had had close contact with both
25 Mr. Kassenoff and the nanny in the, you know, 72 hours prior

1 to the test, that, more likely than not, they're going to
2 wind up positive. But even if they're not positive, he's --
3 they are treated, effectively, as if they had tested
4 positive.

5 He told Mr. Kassenoff that there was no reason to
6 keep his distance from them because they were presumed
7 positive.

8 In any event, what he has been doing over the
9 weekend is, basically, quarantining himself in his room.

10 The nanny as well.

11 When he has forced out any contact in the same
12 room with them, they wear masks, he wears a mask.

13 Up until today, the children have no symptoms.

14 And I think, today, possibly tomorrow, they'll get
15 the results of the PCR -- the more accurate PCR test.

16 In the meantime, the kids are fine, completely
17 asymptomatic. And Mr. Kassenoff is -- is on the mend.

18 So, that's what's going on, Your Honor.

19 THE COURT: Does the nanny live in the house?

20 MR. DIMOPOULOS: Yes, she's a live-in nanny.

21 THE COURT: All right.

22 So the doctor says it's not necessary for the
23 father and nanny to stay in separate rooms, other than, you
24 know, self-quarantine in their own room?

25 MR. DIMOPOULOS: Actually, the doctor said there

1 was no need for him to keep his distance from the kids at
2 all. But Mr. Kassenoff has elected to, I guess, be a
3 little bit more precautionous than that.

4 THE COURT: Okay. Isn't this the second time the
5 kids have potentially been exposed to COVID?

6 MR. DIMOPOULOS: Uhm, not -- uhm --

7 THE COURT: I thought there was -- one had a
8 prior -- school, or something?

9 MS. MOST: It was through school.

10 MR. DIMOPOULOS: Oh, yeah, listen.

11 MS. MOST: Charlotte.

12 MR. DIMOPOULOS: My family's on quarantine right
13 now because of my kids' school. Everyone's had it.

14 Yeah, there was something at the school, yeah.

15 So the kid -- incidentally, with reason to the
16 schools, they're obviously all forced to quarantine at home.

17 Ally's school has indicated in an e-mail -- and
18 Mr. Kassenoff is going to follow up with school because it
19 doesn't sound right -- but, what they're saying about Ally
20 is that --

21 And this is just applicable to Ally. The two
22 other schools are not making this determination.

23 -- that from the date of Mr. Kassenoff's
24 diagnosis, they count 14 days. And then when those 14 days
25 are over, Ally has to stay out of school for another

1 14 days. She's not, according to them, going back to school
2 till January.

3 So we'll get further clarification on that. That
4 doesn't seem to be -- that doesn't seem to make sense and
5 comport with other things in other schools.

6 So -- but that is the current situation.

7 And, you know, I would imagine, I spoke to
8 Mr. Kassenoff this morning, you know, by tomorrow, probably,
9 he'll be, you know, up and at 'em, in terms of being able to
10 be free of all symptoms.

11 But, everything has been fine, contrary to what
12 you're going to hear. I'll respond to it when we hear it,
13 but everything's fine.

14 THE COURT: Okay. Ms. Kusnetz.

15 MS. KUSNETZ: Yes, well, everything is not fine.

16 Charlotte, on Saturday, reached out to a number of
17 her young friends, since she can't speak to her mom, saying
18 that she was very scared, that she was very sad.

19 The mothers reached out to my client with a grave
20 concern about what was going on in the house.

21 Of course, Mr. Kassenoff would not permit a Zoom
22 call on Saturday, the entire day, even though her in-person
23 visit was canceled due to the COVID diagnosis.

24 And, in fact, the supervisor requested very early
25 in the morning that a Zoom call proceed on Saturday.

1 He didn't even bother to respond to the supervisor
2 or my client, who then followed up and said, Please, may
3 I speak, you know, to the girls, with the supervisor?

4 So she had no call that day at all.

5 Ally and Jo Jo called her mother, their
6 grandmother, and said they were hungry, that they were
7 scared. There was no food in the house.

8 The father, they were not wearing masks in the
9 house. Nobody was wearing masks.

10 The nanny, at one point, came to try and cook
11 chicken nuggets for them. And Ally got really upset about
12 that and said, I don't want to get sick.

13 So no one is -- I -- the two sick adults in the
14 home are not isolating.

15 In fact, Mr. Dimopoulos's first e-mail, which was
16 4:30 on Saturday afternoon, we had gotten no information
17 before that, said, that they were advised by some doctor,
18 who he refused to produce the identity of, said that the --
19 that the parents -- that the parent and the nanny did not
20 have to isolate in the home; that they could be freely
21 walking around the home.

22 That is not CDC protocol, as Your Honor I am sure
23 is well aware.

24 It is right there in the CDC, that anyone who is
25 infected must isolate.

1 Isolate is different than quarantine.

2 "Isolate" means, when you're infected -- not
3 whether you're just exposed -- has to isolate in a sick
4 room, a segregated area in the home. Cannot be around the
5 children who tested negative.

6 My letter to the Court, the first thing I said is,
7 if those kids test negative, they should not go back to that
8 house. They cannot be in a house with two sick adults.

9 Ally and Jo Jo called their grandma, they said
10 they were hungry.

11 My client sent in food.

12 The next day, yesterday, "we're hungry."

13 My client sent in food.

14 Ally said no one is taking care of them.

15 Now, this is a situation, also, where Ally, I --
16 you know, also, I believe, reached out to her attorney,
17 because I believe my client was notified on a first e-mail
18 that Ally sent to her attorney.

19 My client is not answering e-mails or phones --
20 okay? -- but we did, because of the past experience in this
21 case.

22 When we found out that Charlotte was calling --
23 was texting her friends, and the parents were very upset, we
24 immediately sent -- my client called me and said, I'm
25 telling Allan.

1 And I said, Go right ahead.

2 We were afraid of retribution, again, and there
3 was.

4 She told him, what's going -- you know, asked him,
5 What's going on, Allan? You know, Charlotte is reading out
6 and saying she's scared.

7 And she said, like, I don't know what that's
8 about. You know, what's happening? You know, don't punish
9 her for reaching out, but tell me what's going on.

10 No response to that.

11 I believe that he did scream at her about it.

12 Charlotte is now, like, completely silent.

13 So during -- and the reason why we know is
14 because, during a Zoom called yesterday, in fact, when
15 Ally --

16 Yesterday there was one. Last night was the first
17 time my client got to speak to the kids.

18 -- Ally was saying, there's no one to take care --
19 you know, she started to say, we're afraid -- I'm scared to
20 get sick. You know, there's no one taking care of us.

21 And she had to leave the Zoom call because
22 Mr. Kassenoff then reprimanded her for telling people that
23 things weren't going well in the house.

24 Now, I have no idea whether or not Ms. Most spoke
25 to any of her clients this weekend, but, it was pretty clear

1 last night that they were not receiving help from anyone or
2 support from anyone.

3 No one was isolating, no one was cooking for them,
4 no one was taking care of them, because they shouldn't, and
5 they are in a house with two sick adults.

6 So what did we propose?

7 Like, Mr. Dimopoulos thinks this is some custody
8 strategy.

9 We didn't bring in order -- an order to show cause
10 to switch custody because of what's going on with COVID.

11 We send -- we said, if the kids test negative, do
12 not return them to the home. Bring them to the mother's
13 house. We'll put in whatever supervisor you want, whatever
14 supervision you want. Let's just think of the kids, and put
15 them in a safe environment where the mother's available to
16 take care of them.

17 And if, God forbid, they get sick, she'll take
18 care of them. She's willing to expose herself.

19 These kids, there is no requirement under the CDC,
20 or any executive order, or any mandate, that these children
21 have to quarantine with two infected adults in the same
22 home, when there is another home where the parent is not
23 infected.

24 And the fact that Mr. Dimopoulos and his client
25 feel, and have taken the position, that possessing these

1 children is more -- in their home, because of a custody
2 battle, is more important than ensuring that they don't get
3 infected, shows to me such an extreme perversion of
4 parenting that I can't even believe is going on.

5 (Simultaneous talking) --

6 THE COURT: Okay, Ms. Kusnetz, that's enough.

7 I have your argument.

8 Ms. Most.

9 MS. MOST: I did reach out when I first heard
10 about what was going on, and I spoke to the father. And he
11 told me he was taking care of the children.

12 I responded to my client by -- she did send me an
13 e-mail. I responded to her. I responded to her again
14 today.

15 I was actually supposed to meet with my clients
16 this week.

17 I think that, when the children are in quarantine,
18 the CDC would not say that they should go into another home
19 with someone who is not already sick. They have to be
20 quarantined where they are.

21 And -- and since I don't view the mother's home as
22 a safe home for them, with supervisors, what supervisors,
23 Judge? Who do we get as a supervisor?

24 Hava White [ph.], who's the current supervisor, is
25 not available to supervise 24/7.

1 Who's supposed to go and supervise?

2 There is no person that could supervise.

3 THE COURT: Okay.

4 (Simultaneous talking by multiple parties.)

5 THE COURT REPORTER: Wait, one at a time, please.

6 One at a time, please.

7 MS. MOST: Okay.

8 That -- I don't believe that the correct answer
9 was for the children to return into the mother's home. That
10 would not have been my choice.

11 THE COURT: Okay.

12 Mr. Dimopoulos, the allegation is that the
13 children are not being fed or tended to.

14 Please respond to that.

15 MR. DIMOPOULOS: Sure, Your Honor.

16 I watched the video from yesterday. Let me tell
17 you what happens, and I'm happy to provide it to the Court.

18 So what happens is, 11 seconds into the phone
19 call -- I might be exaggerating. It might have been 16, or
20 18 -- but very --

21 THE COURT: Let's stop the sarcasm, let's deal
22 with the facts, please. I have (simultaneous talking) --

23 MR. DIMOPOULOS: Well, Your Honor, I'm being --
24 I'm not -- that's not sarcastic.

25 -- immediately when the call started,

1 Ms. Kassenoff says, Do I need to send more food? Should
2 I order sushi?

3 She didn't ask the children, had they been fed?

4 She didn't ask the children if they were hungry.

5 She merely said, Do I need to send more food?

6 Should I order sushi?

7 Now, I also watch every single other call.

8 Sushi is their favorite food.

9 Every time she's going to have a visit with them,
10 she says, What do you guys want? I'll order sushi?

11 Charlotte, in particular, loves sushi, and she's
12 the pickiest eater of the three.

13 So she comes right out of the gate and said, Do
14 I need to send more food? Should I order sushi?

15 Charlotte then proceeds to say, Mommy, I want
16 sushi, I want sushi, I want sushi, I want sushi.

17 They're all excited about sushi.

18 Never do the kids say they're hungry. Never once
19 did they say they don't have food.

20 As a matter of fact, Mr. Kassenoff had made
21 arrangements for Ally to make pasta for the three girls and
22 for her dad. Everything was ready, and she was about to
23 start.

24 That was abandoned.

25 Interestingly enough, as it played out, the kids

1 got sushi, and Mr. Kassenoff ate nothing.

2 That's okay.

3 So the rest of the call was Ally taking the laptop
4 into another room.

5 I don't know how the supervisors continue to allow
6 this, but it is what it is.

7 She takes it into the other room and starts to
8 whisper, Mommy, I can't believe what I have to do. I had to
9 make pasta for everyone. And I'm cleaning the dishes.

10 And she's says, "I'm not a maid here," to her
11 mother, and her mother does not correct her by saying,
12 Honey, your father's sick. Do what you have to do.

13 She complains about Mr. Kassenoff the entire time.
14 Then she questions them repeatedly about what food, exactly,
15 is in the house.

16 And then, at some point, when it would have been
17 impossible for her to detach herself from the laptop, to go
18 upstairs, with enough time for her to return back, she says,
19 Daddy's at the top of the stairs, yelling at me.

20 It was never audible, ever, that her father was in
21 the call. It was never audible that he yelled at her.

22 They live in a big, old, wide-open Tudor, and,
23 allegedly, he was 20 feet away, yelling at her, when the
24 call was recording the whole time.

25 This child again said that she "sent an e-mail to

1 Ms. Most, mommy. I forwarded it to you."

2 And then she transcribed the -- a recording from
3 Jo Jo and sent it to her.

4 She's having consistent -- I haven't been able --
5 I will -- I will not make this representation that I know,
6 but I -- I do know that it's sporadic. We believe it's
7 consistent communication with the children. She's causing
8 them to reach out to Ms. Most. She's causing them --
9 I haven't listened to all the calls.

10 The kids, more likely than not, are the culprits
11 that gave everyone COVID. Okay?

12 They -- they will be tested, we will find out.

13 But it's -- they are safe, they are fine, and my
14 client is following medical advice.

15 Everybody -- and I'm sure Your Honor has heard it
16 a thousand times. I've heard it a hundred. -- everybody has
17 their own rendition of what the CDC recommendations are.

18 Well, guess what? The CDC itself doesn't say --
19 says that they don't control. They follow the states'
20 executive orders.

21 My client would be violating an executive order of
22 this state by allowing his children to go into their
23 mother's home, or anywhere else for that matter.

24 They are safe, they are cared for, and he's
25 following medical advice.

1 As for refusing to set up a Zoom call on Saturday,
2 my client was in the throes of COVID. He wasn't, you know,
3 responding to every single e-mail that day from
4 Ms. Kassenoff, who, incidentally, has e-mailed him probably
5 20 times over the weekend about, car insurance, health
6 insurance, she wants the E-Trade records, she e-mailed him
7 all sorts of things, none of which he's responded to because
8 he's very sick Saturday and Sunday.

9 Okay?

10 Ms. Kusnetz says that she believes that he did
11 scream at Charlotte about it in retribution.

12 We don't even know what she's talking about.

13 They -- they -- we, literally -- how does she
14 believe anything?

15 She's not in the house. She didn't hear anything.

16 And as for Charlotte's fear of COVID, my last
17 point, Your Honor, yeah, she's scared of COVID. All the
18 kids are scared of COVID. They don't want to get it because
19 they hear horrible things.

20 And when the Court sees the call, you'll see why
21 she's so scared about it.

22 Her mother sits them all down and says, Now,
23 listen to me. I want you to clean all the surfaces. I want
24 you to wear masks. I don't want you to do this. You do not
25 want to get COVID.

1 Repeatedly, and repeatedly.

2 Any 9-year-old kid is going to have a hyper-fear
3 of something when a parent drills it into them daily.

4 Now, this is all recorded, so I don't have to
5 prove it or not prove it. At trial I will show it.

6 But the kids are fine, Your Honor.

7 MS. KUSNETZ: May I respond?

8 So --

9 THE COURT: Briefly.

10 MS. KUSNETZ: So Ms. Most spoke to the father, and
11 not her clients.

12 She doesn't represent the father. She represents
13 the children. She should have spoken to her clients, and
14 not the father.

15 And second of all, how do I know?

16 Because it was in the e-mail, where Ally said,
17 Daddy was screaming at Charlotte yesterday for being scared.

18 You're right, I'm not in the home.

19 MR. DIMOPOULOS: What e-mail?

20 MS. KUSNETZ: And -- and -- and -- it's in the
21 e-mail that went to Ms. Most, that my -- that her daughter
22 forwarded to her.

23 And, yeah, you know what? My client doesn't
24 answer an e-mail, she doesn't respond.

25 That phone call was not ended by the supervisor.

1 She had the -- it was completely appropriate.

2 And -- and Ally did say the father was screaming
3 at her for saying what was going on in the house.

4 First Mr. Dimopoulos said that he's out and about
5 in the house. He doesn't even have to quarantine himself.

6 Have we heard the name of that wonderful medical
7 provider that made that recommendation?

8 It wasn't the children's pediatrician, I'll tell
9 you that, because my client called the pediatrician, Judge,
10 for guidance.

11 And guess what she was told by his office?

12 The pediatrician, who she knows for 10 years, who
13 she is the parent that took the kids to for 10 years, said,
14 We are not permitted to talk to you.

15 We were told by the --

16 THE COURT: Ms. Kusnetz, I said a brief reply to
17 what he said. You're on a different topic.

18 Here's my ruling on the COVID issue:

19 My understanding of the rules and regulations are,
20 that people need to shelter in place, which means the
21 children need to shelter in to their current residence, and
22 not go to yet another residence to, potentially, expose
23 another person.

24 So the children will shelter in place in their
25 house, in accordance with the applicable executive order.

1 I would state that they need to wear masks.

2 And the adults in the house need to wear masks
3 when they are in the same presence of the children, and
4 socially distance 6 feet.

5 That is my ruling on COVID.

6 Mr. Kassenoff does not need to disclose the name
7 of his medical treating physician.

8 With respect to the issue raised by Ms. Kusnetz
9 about the mother not being allowed to talk to the
10 pediatrician, I thought my order of August 17th was very
11 clear, and I can't believe that I have to continue to
12 revisit this issue.

13 Mr. Kassenoff has final decision-making authority
14 regarding medical issues.

15 However, that does not preclude the mother from
16 speaking with the children's medical providers and asking
17 them questions regarding her concerns.

18 I understand, as a concern by Mr. Kassenoff, that
19 if she's -- she calls the medical providers, she may ask so
20 many questions, that the medical providers may then decide
21 they can no longer treat the children.

22 However, she is entitled to call the pediatrician
23 to find out information regarding her child.

24 The only medical treaters that she's not allowed
25 to contact directly are the treating therapists, for reasons

1 that I have stated on the record during many, many
2 conferences.

3 So Mr. Kassenoff will notify the pediatrician that
4 Mrs. Kassenoff may speak with them regarding the medical
5 treatment of the children.

6 Mr. Kassenoff (simultaneous talking) --

7 MR. DIMOPOULOS: Your Honor, I can't believe --

8 (Simultaneous talking by multiple parties.)

9 MR. DIMOPOULOS: -- I can't believe that he --
10 Allan -- I don't believe for a second that he told his --

11 Allan, did you ever tell the pediatrician that?

12 THE PLAINTIFF: Your Honor, Gus, I never told the
13 pediatrician to not speak to Catherine.

14 In fact, I specifically told them they were
15 permitted to, probably about four months ago, or
16 three months ago.

17 The fact that they don't want to doesn't surprise
18 me.

19 But I'll call them again and say they're permitted
20 to. I don't really care one way or the other.

21 MR. DIMOPOULOS: Do it in write --

22 THE PLAINTIFF: I never said --

23 MR. DIMOPOULOS: Do it in writing, please, and
24 copy me.

25 THE COURT: Put it in writing and copy them, so

1 that if the pediatrician decides they don't want to speak
2 to Mrs. Kassenoff, then that's the pediatrician's decision
3 as opposed to yours.

4 So that's final.

5 MR. DIMOPOULOS: Mail a letter if they don't have
6 e-mail. Mail a letter to their address.

7 THE PLAINTIFF: That's fine.

8 THE COURT: Now --

9 MS. KUSNETZ: I would like the name of the doctor
10 who administered the tests to the children. It is not just
11 a doctor that treated the father. He is relying on a
12 recommendation of a doctor that he claims tested the
13 children at your --

14 THE PLAINTIFF: -- Ms. Kusnetz --

15 (Simultaneous talking by multiple parties.)

16 THE COURT: One person at a time.

17 THE PLAINTIFF: -- can I respond to that,
18 Your Honor?

19 THE COURT: Yes, you can. But my court reporter
20 can't take multiple people.

21 And if there's cross-talking, I will terminate
22 this conference, because I don't have a court officer here.

23 MS. KUSNETZ: I don't --

24 THE COURT: So -- and let me just state, which
25 I neglected to state ahead of time, which is, the issue of

1 no cross-talking.

2 And, also, I'm going to remind all the parties on
3 this call that these calls are not to be recorded or
4 streamed, as that would be contrary to OCA policy, as stated
5 in the link that was sent to all parties.

6 So, Mr. Kassenoff, you may respond.

7 But, again, one person at a time, or I will
8 terminate the call.

9 THE PLAINTIFF: Ms. Kusnetz and Mrs. Kassenoff can
10 accuse me all they want of lying. I'm used to it in this
11 case.

12 I brought the kids to the Yorktown Medical Center
13 on Saturday for COVID testing. It was the only place. It
14 was extremely difficult for me to do. It was a 40-minute
15 drive. I felt terrible. But I felt it was important to get
16 them tested. They were the only facility I could find that
17 had rapid testing available.

18 I don't know the doctor's name. It was the doctor
19 on duty at the Yorktown Medical Center. He was the one who
20 told me about the presumed positive. And that they -- that
21 because we live in the same house, they're presumed
22 positive. We don't need to self-isolate from each other.

23 And if Ms. Kusnetz wants to call Yorktown Medical
24 Center, find out who was on duty around 3:00 on Saturday,
25 that's fine. I don't recall his name.

1 THE COURT: Okay.

2 THE PLAINTIFF: That being said, as Mr. Dimopoulos
3 explained, I am staying apart from the kids as best as
4 I can, the kids are staying apart from me.

5 To the extent we ever are in the same room,
6 Your Honor, like you suggested, we're all wearing masks.

7 The fact that Ms. Kusnetz seems to imply that none
8 of that is true, she's not in my house, she doesn't know.

9 THE COURT: Okay.

10 So, Ms. Kusnetz, you can have your client call and
11 try to ascertain the identity of the individual who
12 administered the test.

13 Okay, so let's move on to the issues that
14 I scheduled this conference for, which is the second opinion
15 by a psychiatrist regarding Charlotte's mental-health
16 treatment.

17 So, Ms. Most.

18 MS. MOST: Yes, Your Honor, so this -- this
19 started to come up, I think it was in July.

20 In August we made phone calls.

21 Mr. Kassenoff made, I think, three phone calls,
22 and I made three phone calls. None of the doctors were
23 seeing -- none of doctors that we called were seeing
24 patients.

25 And, finally, I did speak to Dr. Lynn Brody [ph.],

1 who was a final recommendation by Dr. Adler. And she had no
2 e-mail.

3 And, by the way, a lot of doctors do not respond
4 by e-mail. You can't get their e-mail without speaking to
5 them first.

6 THE COURT: Uh-huh.

7 MS. MOST: And Dr. Brody did not believe -- given
8 that Dr. Adler was the one who no longer felt she needed to
9 have this evaluation, she did not believe it was necessary.

10 And I thought that was previously discussed with
11 the Court and put to bed.

12 Dr. Adler, to this moment, because I spoke to her
13 earlier today, does not believe that she needs to have a
14 further psychiatric evaluation.

15 And she's willing to come on a call with the
16 Court. She does not want to be testifying, or doing
17 anything else involved in litigation. But if the Court
18 wants to hear from her at some point, she would be willing
19 to get on a call with the Court.

20 Charlotte is having certain issues, but it's not
21 suicidality. She is withdrawing. Anybody who watches the
22 videotapes each week, or even reads the reports, she is
23 disconnecting from her mother.

24 Susan has -- Susan Adler has also seen some
25 disconnect, and she is a little bit distant.

1 But that is true for a lot of children today who
2 are struggling with this whole virtual world. And a lot of
3 children are having some problems.

4 She -- when -- when Dr. Adler sees her one-on-one,
5 which she tries to do --

6 I'm not sure it's going to continue in the very
7 cold weather, but she tries to do that.

8 -- she is talkative, she's expressive, and happy
9 to be seen.

10 She does talk a lot about her mother.

11 And if you read the reports, Charlotte almost
12 never gets on the videos with her mother. She sits in the
13 background and is disconnected.

14 I don't know if the Court had the opportunity to
15 see that video of November 20 -- I think it was
16 November 21st, where her mother spoke to the girls,
17 especially Charlotte, about the class parenting.

18 THE COURT: Well, actually, I read one -- I saw
19 one, but it was the audio tape.

20 I don't think I saw the one with the video.

21 I went to look at it before November 20th.

22 I'm sorry.

23 Okay, go ahead.

24 MS. MOST: And that tape was, in fact, sent to
25 Dr. Adler. And, frankly, Dr. Adler was very disturbed by

1 the tape.

2 And so, you know, I was hoping the Court would
3 have viewed that, because Dr. Adler feels, in some way --
4 the way that Mrs. Kassenoff talks to the children about
5 their therapy and the therapists, in some way, she herself
6 is sabotaging the therapy.

7 So because of some comments that I had from the
8 person who is actually doing the supervision, Hava White,
9 she expressed some concerns about Charlotte and her status.
10 No suicidality, but that she could be following in her
11 mother's footsteps toward the same kind of diagnosis. And
12 she felt that Charlotte needed more help.

13 That was reason why I then, after speaking to
14 Hava White, did speak to Susan Adler. And Susan Adler
15 thought a second visit every week, or every other week, when
16 it could be arranged, would be appropriate.

17 And, Judge, I would like to discuss one other
18 point.

19 I have gotten dozens of threatening e-mails from
20 Mrs. Kassenoff, that I have to acknowledge that I'm not
21 allowed to speak to the therapists.

22 And that, in fact, it was Ms. Kusnetz's letter to
23 the Court.

24 I'm the only one who is allowed to speak to the
25 children's therapists. I don't talk about the litigation.

1 I talk about the children and their status. And that is my
2 job.

3 And in no case that I have ever been on has that
4 been an issue.

5 So -- and there has never been a directive from
6 this Court about that.

7 What I believe Ms. Kusnetz and Ms. Kassenoff are
8 referring to was the one-time directive by Your Honor, that
9 when I reached out to Dr. McGuffog [ph.] about her ability
10 to do the neuropsychiatric evaluation, that she was
11 comfortable, and she thought the time was right.

12 And you directed that I do that as an e-mail.

13 There were no further directives that I cannot
14 talk to my clients' therapists.

15 THE DEFENDANT: May I respond?

16 MS. MOST: Not yet, because the judge is not
17 there, and I'm not finished.

18 (Pause in the proceeding.)

19 (Back on the record.)

20 THE COURT: Okay, I'm sorry. I'm back.

21 MS. MOST: Can you hear me?

22 THE COURT: Yes, yes.

23 My computer died. This computer doesn't give me a
24 warning when it's -- when I'm working remotely, it doesn't
25 give me a warning when it -- the battery dies.

1 So I apologize for my absence.

2 Okay, so where were we?

3 MS. MOST: So -- so I was just talking about the
4 fact that I am the only one who is allowed to speak with
5 the children's therapists.

6 And, most recently, on the request of
7 Dr. McGuffog, I asked Your Honor to extend that.

8 If either therapist wanted to talk to a parent,
9 that that therapist could reach out to the parent and speak
10 directly with the parent.

11 THE COURT: Right.

12 MS. MOST: And that's where we are.

13 THE COURT: All right.

14 Okay, Ms. Kusnetz, that is what my order states.

15 MS. KUSNETZ: I understand that, Judge.

16 But since the October 16th order, Dr. Adler has
17 not reached out to my client. In fact, the first time she
18 did was to send the bill on December 1st, and also to inform
19 her, that based on her conversations with Ms. Most, without
20 any prior input -- parents, which is unprecedented for
21 her --

22 (Clarification requested by the court reporter.)

23 (The record was read back by the court reporter.)

24 MS. KUSNETZ: -- the parents, without any prior,
25 she was making a unilateral decision to double Charlotte's

1 sessions, which shows that there is some issue with
2 Charlotte, from once, to twice, a week.

3 She had already, previously, recommended to both
4 parents that she shorten Jo Jo's time to 10 to 15 minutes,
5 and extend Charlotte's time, which both parents had
6 previously agreed to.

7 This time, what's different in the formula, is
8 that, solely based on her conversation with Ms. Most, who
9 seems to funnel only the information she wants, that she
10 decided to double Charlotte's visits, from once, to twice, a
11 week.

12 Now, all of the references by Ms. Most to ex-party
13 conversations with the Court-appointed supervisor,
14 Hava White, is completely improper.

15 We have reports to the Court from Ms. White.

16 In fact, Ms. --

17 THE COURT: I'm not talking about Ms. White.

18 I'm talking about the therapist.

19 So, Mr. Dimopoulos.

20 MS. KUSNETZ: No, what I'm saying is, Judge, that
21 the therapist did not contact my client. She was not asked
22 for an opinion about doubling the sessions.

23 And, with regard to the second opinion, which is
24 really the core issue, the rest of that is a distraction:

25 Your Honor had an order. It was issued in -- on

1 August 7th.

2 It was after conversations with Dr. Adler, after
3 Dr. Adler realized it was only one suicide note, she still
4 said that Charlotte needed a second opinion. And that's
5 when she recommended that other psychiatrist, who I gather
6 didn't have any time to do this.

7 But there are other psychiatrists that certainly
8 can render a second opinion.

9 Dr. Adler's a therapist. She's a -- she is not a
10 doctor. She has, really, no right to comment on her, on a
11 prior diagnosis from the prior therapists.

12 And, also, you know, she has no right to say,
13 well, there's no suicidal ideation.

14 She is a therapist.

15 But a psychiatrist should be rendering the second
16 opinion that Your Honor ordered.

17 What Ms. Most --

18 (Simultaneous talking by multiple parties.)

19 THE COURT REPORTER: Whoa, hold on.

20 THE COURT: -- Ms. Kusnetz, I ordered that based
21 upon the representation from Dr. Adler, that she thought it
22 was necessary.

23 Now we understand that that recommendation was
24 based upon her misunderstanding of the e-mails that she
25 received from Ms. Kassenoff.

1 MS. KUSNETZ: No.

2 THE COURT: That being said, however --

3 Please allow me to finish speaking.

4 That being said, however, since Charlotte seems to
5 be continuing feeling sad and scared, let us get a second
6 opinion, because I don't see how that would harm anything.

7 So, move ahead with the second opinion by a
8 psychiatrist, so that we can clearly establish Charlotte is
9 okay in terms of not feeling suicidal.

10 Whether she has depression, which is
11 understandable in this extraordinarily stressful time, with
12 her parents in the midst of an acrimonious divorce, on top
13 of the stress generating, generally, because of the COVID-19
14 pandemic that is occurring, and now someone in the house has
15 been diagnosed.

16 So, yes, I want to proceed with the psychiatric
17 second opinion, so that the Court can be assured the child
18 doesn't experience suicidal ideation.

19 Okay, the next issue on this is --

20 Let me see.

21 -- Christmas Eve.

22 Mr. Dimopoulos, what is your client's position --
23 first of all, are the children in school on the proposed
24 December 24 time the mother made?

25 MR. DIMOPOULOS: Your Honor, I don't know exactly

1 when the quarantines are going to end. I would have to
2 rely on Mr. Kassenoff for that.

3 I don't know.

4 THE COURT: 10 days from today would be the 17th,
5 I think.

6 Right, Mr. Kassenoff?

7 Mr. Kassenoff --

8 THE PLAINTIFF: Yes, I'm here.

9 It's a little confusing, because each school seems
10 to have different protocols.

11 THE COURT: Oh, okay.

12 THE PLAINTIFF: Mr. Dimopoulos was saying, you
13 know, at Alexandra's school, they want her to quarantine
14 until January 5th.

15 I haven't -- I sent then an e-mail back,
16 explaining why I think that's a little too long. So I'm
17 working on that.

18 THE COURT: Okay.

19 THE PLAINTIFF: The other ones, I don't remember
20 the dates, but I think it will be before December 25th.

21 THE COURT: Okay. So on the -- if --
22 Mrs. Kassenoff had indicated, in the last letter from
23 Ms. Kusnetz, that her supervisor would be available during
24 the day on December 24th.

25 So my question is:

1 Sometimes the schools have off that day, sometimes
2 they don't.

3 Yet, at this point, do you know -- I don't know if
4 you would know the schedule or not, but, do you know if
5 they're on school that day, or not on school that day?

6 Ms. Kassenoff, hold on one minute.

7 THE DEFENDANT: Oh, I was just answering your
8 question.

9 They're not on?

10 THE PLAINTIFF: I'm not sure, Your Honor. I'd
11 have to look at the school calendar.

12 THE COURT: Ms. Kassenoff, do you know if they're
13 on school that day, or not?

14 THE DEFENDANT: Yeah, Judge. They're not.

15 THE COURT: They're not in school?

16 THE DEFENDANT: Correct.

17 THE COURT: Okay.

18 So, assuming that the children are not in school
19 that day, can we agree that the children can see their
20 mother at some point that day for Christmas Eve?

21 MR. DIMOPOULOS: I don't think -- I haven't spoken
22 to my client about it, but I don't think he's going to
23 object to that, Your Honor.

24 THE COURT: Okay. So --

25 MS. KUSNETZ: We had asked -- was extended.

1 Your Honor only has two-hour visits with the kids.

2 We had asked from nine to two.

3 Ms. White said she's available from nine to two.

4 THE COURT: Right.

5 I'm not going to extend it for five hours, but

6 I will extend it beyond the two-hour period of time.

7 Mr. Kassenoff, your position on that, whether it's

8 three hours or four hours?

9 THE PLAINTIFF: It doesn't matter to me,

10 Your Honor. Whatever you think is appropriate.

11 THE COURT: Mr. Dimopoulos, any opinion on that?

12 MR. DIMOPOULOS: I -- I'd -- I don't -- I don't

13 think I -- I'll leave it to Your Honor as well --

14 THE COURT: Okay.

15 So based upon the -- and the availability of the

16 supervisor, and the holiday, I will agree to extend, for

17 that particular time, and let's see how the additional time

18 starts to work, going forward, anyway, 9 a.m. to 2 p.m. --

19 or, you can have four hours, whether it's ten to two, or

20 nine to one. I don't know which works best with the

21 household schedule.

22 But, assuming the quarantine is up and the girls

23 are -- don't suffer from COVID, Ms. Kassenoff can see the

24 children on Christmas Eve day, for that period of time,

25 depending on what you agree to: nine to one, or ten to two.

1 Okay?

2 The other issue that was raised in the order to
3 show cause -- oh, and just so we're clear on the COVID
4 protocols, obviously, under this current situation, anyone
5 coming into the house, we're going to adhere to that, and
6 make sure they wear a mask and socially distance.

7 FASNY tuition, has that been paid, Mr. Kassenoff?

8 THE PLAINTIFF: I'm working with the school,
9 Your Honor, to extend it, to pay the last payment right
10 after January 1st.

11 I'm still working with them on that.

12 THE COURT: All right, so you're addressing that
13 issue, and that will be paid, based upon whatever you agree
14 to?

15 THE PLAINTIFF: Yes.

16 THE COURT: Okay.

17 Now, there was an allegation made, that you had
18 brought a date into the house, and that the children may
19 have seen activity that was sexual in nature.

20 So could you please reply to that, Mr. Dimopoulos?

21 MR. DIMOPOULOS: Sure, Your Honor.

22 My client is dating someone.

23 He -- it's not dates, it's not multiple dates.

24 It's one person. He's in a relationship with her.

25 The kids have met her as a friend.

1 Under the circumstances, where you really can't
2 go anywhere, they have met her. They like her. She has
3 three kids of her own. She's lovely.

4 On one particular unfortunate occasion, she had
5 dinner with them. And after the kids went to bed -- Allan
6 put them to bed, and he -- and she went to the basement.

7 And, apparently, he didn't know about it, till we
8 received a letter.

9 But, apparently, the kids woke up, came down.
10 They didn't say anything to him. He had no idea, till
11 I told him the next day.

12 It happened. He's mortified by it.

13 It won't happen again.

14 I -- I -- I -- I don't understand why, you know,
15 it needs to be blown up into something that it's not.

16 It is 2020, and, unfortunately, we're all living
17 under very different circumstances.

18 He did nothing inappropriate.

19 He was in the basement of the house, while the
20 kids were up on the second floor, sleeping.

21 And it was unfortunate, and it won't happen again.

22 There's nothing more I can think to say about
23 that, Your Honor.

24 THE COURT: Okay.

25 MS. KUSNETZ: --

1 THE COURT: Well, no, there's no need to reply,
2 Ms. Kusnetz.

3 Here's the problem that I see:

4 We're in COVID-19. Somebody's coming into the
5 household from outside the household. They should be
6 observing the COVID and socially-distance protocols. That
7 includes this woman that Mr. Kassenoff is in a relationship
8 with.

9 And I expect that, going forward.

10 Mr. Kassenoff certainly is allowed to have a
11 relationship with someone else, but I would suggest that, in
12 the future, we -- if you are engaging in an intimate
13 relationship, you should make sure you are behind a locked
14 door, because children do wake up at night.

15 MR. DIMOPOULOS: Your Honor, I will say that this
16 person has since had a COVID test, and has tested negative
17 since Alan tested positive.

18 So --

19 THE COURT: But that doesn't mean anything to me,
20 because we well-documented that you can have a negative one
21 day and a positive test the next day.

22 I'm just saying, if you're bringing someone else
23 into this house, whoever that third person is, they need to
24 follow the COVID protocols to ensure the safety of all in
25 the house.

1 Okay?

2 So that issue is addressed.

3 In the future, just, you know, lock doors.

4 MR. DIMOPOULOS: Yes, Your Honor.

5 THE COURT: Okay, and let me see what else we

6 need.

7 Okay, I think I covered everything on my list.

8 MS. KUSNETZ: Name of the dermatologist?

9 THE COURT: Oh, yes. Thank you.

10 And, Mr. Kassenoff, please provide the name of the
11 dermatologist.

12 MR. DIMOPOULOS: Your Honor, can I say something
13 on this topic, very briefly?

14 THE COURT: Yes, make it very brief.

15 MR. DIMOPOULOS: On 11/24/2020, the day before the
16 appointment with the dermatologist, my client sent a
17 communication, as Your Honor's order says.

18 It says, "I made a dermatologist appointment for
19 Charlotte that is taking place tomorrow. Do you have any
20 questions or concern that you would like me to convey to the
21 doctor? Thank you."

22 There was never a response to this communication.

23 THE COURT: Here's the problem that you have:

24 In my order, because this was an issue that
25 happened on a prior occasion, I specifically noted that your

1 client had withheld the name of a prior doctor.

2 And I noted that that was unacceptable.

3 She's entitled to know the doctors who are seeing
4 the children. She can call the doctor directly and ask
5 questions.

6 Mr. Kassenoff has the final decision-making
7 authority, but the mother can call and ask questions,
8 because the mother may have insights that Mr. Kassenoff does
9 not.

10 If the doctor finds that Mrs. Kassenoff's
11 questions are intrusive, or -- as has been alleged in the
12 past, then that doctor can report that to Mr. Kassenoff, and
13 you can bring it to my attention, and I will address it
14 accordingly.

15 But, in the absence of that, I previously stated
16 that Mrs. Kassenoff is allowed to know the names of the
17 children's doctors, and can communicate with them with her
18 questions.

19 If she -- Mrs. Kassenoff, if you ask questions
20 that are deemed to be intrusive, or the doctor's office
21 finds that you are calling them too many times, just so that
22 you're clear, I will modify my order.

23 But at the present time, she's entitled to know
24 the names of the doctors, to call the doctors, ask questions
25 to address her concerns, and express her concerns.

1 MR. DIMOPOULOS: Your Honor, I'm -- I just
2 indicating that --

3 (Simultaneous talking by multiple parties.)

4 MR. DIMOPOULOS: -- had she responded to the
5 communication -- okay? -- there would have been a different
6 outcome.

7 I understand, my client understands.

8 But Your Honor should also know, because I know
9 you heard a lot of testimony on this, she saw the
10 dermatologist. The dermatologist diagnosed her with,
11 shockingly, acne. He gave her a face wash and a
12 prescription cream.

13 And guess what?

14 Charlotte's complexion has never looked better.

15 So the problem is solved, and it's not all the
16 other things that others had indicated.

17 But, yes --

18 THE COURT: I'm not saying that.

19 But what I'm saying is, she's the child's mother.
20 And sometimes you feel better if you can speak to the doctor
21 directly.

22 MR. DIMOPOULOS: Understood.

23 MS. KUSNETZ: I'm just saying, give her the name,
24 she can make the phone call, and be -- assure herself that
25 it is acne, as everyone has indicated. That the medication

1 is clearing up. That the -- and the concerns that she has
2 open sores are not what we -- Ms. Kassenoff believes they
3 may be.

4 Let her talk to the doctor, and let the doctor
5 answer her questions.

6 MR. DIMOPOULOS: Understood.

7 THE PLAINTIFF: Your Honor --

8 (Simultaneous talking by multiple parties.)

9 THE PLAINTIFF: -- I just want to say, for the
10 record, that I didn't even know she was asking for the
11 doctor's name. This is the first time I've heard of it.

12 So just for her, on this call, her name is
13 Dr. Karen Blether, B-L-E-T-H-E-R, last name, Paz, P-A-Z, of
14 the Scarsdale Medical Group.

15 I didn't see a request for the name. But had
16 someone asked me, I would have given the name.

17 THE COURT: All right. So, Mr. Kassenoff, let's
18 just do, in the future, make it real simple.

19 When you're sending an e-mail to advise her that
20 there is a medical appointment for the children, just put
21 the doctor's name in the medical appointment.

22 That way, you're covered, she's covered; everybody
23 knows. And then the burden becomes Mrs. Kassenoff to
24 contact the doctor with any questions.

25 Okay?

1 MS. KUSNETZ: Your Honor, I just want to say, we
2 still don't have the name of the doctor that treated
3 Charlotte once she started menstruating, and the mother was
4 excluded from that kind of landmark in her child's life.

5 THE COURT: But more importantly, we need to make
6 sure she gets that name, Mr. Kassenoff, because she does
7 have a medical history that I think is particularly
8 pertinent for the girls.

9 So --

10 MS. KUSNETZ: And I just want to say, that the
11 fact that the kid was diagnosed with acne doesn't mean that
12 she doesn't pick at the acne.

13 THE COURT: Ms. Kusnetz, I already ruled on that.

14 Stop.

15 I said your client can call her. You won that.

16 All right?

17 Stop.

18 Okay. I think I covered everything that was on
19 the list.

20 I need -- I have been another conference.

21 Ms. Kusnetz, I can tell you right now, that

22 I think you filed another order to show cause --

23 MS. KUSNETZ: --

24 THE COURT: -- to look at.

25 Doesn't sound to me to like it's an emergency,

1 just from what I skimmed it on.

2 So likely chances are that's going to be bounced.

3 You need to follow the protocol in the matrimonial
4 part.

5 How are we going forward with Mr. Kassenoff's
6 deposition on the financial issues?

7 MS. KUSNETZ: Your Honor, as you know, I'm new to
8 the case. And a draft report was just circulated.

9 THE COURT: Okay. No, I know --

10 MS. KUSNETZ: (Simultaneous talking.)

11 So I have to look at it. I have to get the
12 financial files from Ms. Spielberg [ph.].

13 And we will reschedule -- we will schedule a
14 deposition, but I have to have a chance to review that
15 report. My understanding, it's a low number, and we may
16 have to hire a forensic to review the report.

17 I need a little bit of time to catch up on the
18 financials in this case.

19 THE PLAINTIFF: Your Honor, let me respond.

20 THE COURT: Well, the financials are actually
21 pretty straight forward on this case.

22 It's the custody that's the issue.

23 I can tell you what the financials are just from
24 reading the attorney's --

25 But I was really -- about getting the report. So

1 I'm happy to hear that at least a draft report has been
2 received from the forensics.

3 Mr. Dimopoulos?

4 MR. DIMOPOULOS: Your Honor, I don't know why
5 Mr. DeMarco [ph.] does a draft report. I asked him. He
6 didn't seem to have an answer, other than that's the way he
7 does it.

8 The draft report indicates that my client's
9 shareholder interest in Greenberg -- is 621,000 --

10 MS. KUSNETZ: I would not -- that's not
11 appropriate to say to the judge. It is a draft just -- it
12 was circulated for a conversation with counsel.

13 And that is not appropriate to mention to the
14 judge. It is not a final report. That's absolutely
15 improper.

16 MR. DIMOPOULOS: Judge, if Mr. DeMarco --

17 (Simultaneous talking by multiple parties.)

18 THE COURT: Stop.

19 MR. DIMOPOULOS: -- did Mr. DeMarco --

20 THE COURT: No, because Mr. DeMarco has never been
21 appointed as the forensic evaluator in this case.

22 We reviewed the file. There was no order issued,
23 appointing him. And there appears to be a direct contract
24 between the parties and him, as opposed to something issued
25 by the Court.

1 MR. DIMOPOULOS: Our interest, Your Honor, is
2 moving this case to a final trial. It's been that since
3 the beginning of the summer.

4 THE COURT: Yes, but it's always been this issue,
5 regarding the lawyers, the value of his interest in the
6 firm.

7 MS. KUSNETZ: Right.

8 THE COURT: Because, all the other medical -- all
9 the other financial data, we all know what that is.

10 MR. DIMOPOULOS: But, Your Honor, the last piece
11 of discovery, as far as me, who I have been on the case
12 from the beginning, and --

13 THE COURT: Oh, I know.

14 MR. DIMOPOULOS: -- and I'm going to sincerely and
15 vehemently object to Ms. Kusnetz asking for more time for
16 anything.

17 It was her decision to take this case.

18 THE COURT: I'm not going to decide this issue.
19 I'm going to send -- Irene Ratner, who is your court
20 attorney-referee, who's handling discovery, can do that.

21 I just wanted a general idea of whether the report
22 had come in.

23 Okay.

24 MR. DIMOPOULOS: Can I raise one very brief
25 final --

1 THE COURT: I have another meeting I need to go.
2 Make it very quick.

3 MS. KUSNETZ: -- okay.

4 Ms. Kusnetz has filed an emergency application to
5 vacate Your Honor's order for the reduction --

6 THE COURT: Right, that's what I just said. It's
7 going to be bounced.

8 MR. DIMOPOULOS: -- okay.

9 The problem is, if it's bounced or not, we have a
10 further problem, which is, I spoke to counsel for
11 Houlihan Lawrence [ph.] the other day, who called me, and he
12 said that their listing agreement expires on December 17th.

13 There is -- he didn't say this outright, but he
14 says, we don't know whether or not they're going to
15 continue.

16 But, I'm comfortable enough to go on record and
17 say, there is no way that these people are going to accept
18 the reassignment or the relisting of this house under these
19 circumstances.

20 I don't know whether or not you want me to address
21 it with Ms. Ratner, or, what.

22 But, at this point, I would like to proceed with
23 submitting a motion to have my client appointed the
24 receiver.

25 There have been multiple mis-showings that have

1 been an outright refusal.

2 Even after Your Honor issued an order for the
3 reduction, Ms. Kassenoff -- actually, Ms. Kusnetz, on her
4 behalf, contacted counsel for Houlihan Lawrence and said, We
5 are not agreeing to that.

6 So despite your order, Ms. Kassenoff told these
7 people, We're not doing it.

8 And they told me that they need both parties'
9 approval because they're not subject to the order of the
10 Court.

11 So at this point --

12 THE COURT: Okay, well, I'm just going to direct
13 you back to Court Attorney-Referee Ratner, because I have
14 another conference, and that's a discovery issue.

15 But let me state on the record perfectly clear
16 here:

17 There was an order agreed to by the parties, that
18 specifically allows for the reduction of the sales price on
19 house, upon the recommendation of the broker.

20 Moreover, if the Court at some point determines
21 that Ms. Kassenoff, or anyone else, is interfering with the
22 sale of this house, then that will go to the issue of
23 marital waste, because Mr. Kassenoff continues to carry and
24 pay for the mortgage and other expenses for the house.

25 So, everyone needs to understand that if, in fact,

1 it turns out that this house isn't getting sold, and
2 somebody is engaging in behavior that is precluding the sale
3 of the house, that would go to the issue of marital waste,
4 and that will be taken into consideration, an issue that can
5 be proven at trial.

6 Okay?

7 I have another conference, I need to go.

8 MS. KUSNETZ: --

9 THE COURT: Thank you.

10 That's it, Ms. Kusnetz.

11 (AT 11:58 a.m., the record was closed.)

12 * * *

13 THIS IS TO CERTIFY THAT THE ABOVE TRANSCRIPT IS A TRUE
14 AND ACCURATE TRANSCRIPTION OF MY STENOGRAPHIC NOTES.

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ERIC M. SANDERS
Senior Court Reporter

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