

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF WESTCHESTER

3 -----x

4 ALLAN KASSENOFF,

5 Plaintiff(s), INDEX NO.
68217/2019

6 -against-

7 CATHERINE KASSENOFF,

8 Defendant(s). Proceedings

9 -----x

10 December 21, 2020
11 111 Martin Luther King Blvd.
12 White, Plains, New York 10601
13 (VIRTUAL)

12 B E F O R E:

13 THE HONORABLE NANCY QUINN KOBA,
14 Justice
15 IRENE RATNER,
16 Court Attorney Referee

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

17 For the Plaintiff:
18 DIMOPOULOS BRUGGEMANN, P.C.
19 73 Main Street
20 Tuckahoe, NY 10707
21 BY: GUS DIMOPOUSLOS, ESQ., and
22 MICHAEL CHIARAMONTE, ESQ.

20 For the Defendant:
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24 BY: MARCIA E. KUSNETZ, ESQ.

23 Co-counsel for Katherine Kassenoff:
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BY: LISA VARA and DIANE STEINER

1 A P P E A R A N C E S (Continued)

2 Attorney for Children:
3 MOST & SCHNEID, P.C.
4 222 Bloomingdale Road, Suite 302
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6 BY: CAROL MOST, ESQ.

7 SCOTT DeMARCO, EQUITABLE VALUE, LLC

8
9 EVA VERSACI
10 SENIOR COURT REPORTER

11 -----

12 REFEREE RATNER: Kassenoff v. Kassenoff,
13 58217/2019. A trial ready conference was held on Friday and
14 this is a continuation of said conference. Mr. DeMarco is
15 present and -- there were issues about his report, and he is
16 present today.

17 Why don't we get appearances starting with
18 Mr. Dimopoulos.

19 MR. DIMOPOULOS: Dimopoulos Bruggemann, by Gus
20 Dimopoulos and Michael Chiaramonte on behalf of the
21 plaintiff, Allan Kassenoff, who is also on the call.

22 MS. KUSNETZ: Marcia Kusnetz, Law Office of Marcia
23 E. Kusnetz, for Katherine Kassenoff, who I believe is on.

24 MS. VARA: Co-counsel for Katherine Kassenoff,
25 Sanctuary For Families, 30 Wall Street, 8th Floor, New York,
New York, 10005 by Lisa Vara and Diane Steiner, who is also
on this call.

REFEREE RATNER: I don't know if we have issues

1 regarding the children today. I understand today --

2 Mr. DeMARCO: Scott DeMarco, from Equitable Value
3 LLC, and I'm the jointly retained business appraiser.

4 MS. KUSNETZ: There was a whole issue raised with
5 regard to the Zoom calls today, so I don't know where
6 Ms. Most is today. She was supposed to be on the call.

7 REFEREE RATNER: I don't know where she is. I
8 don't know if the judge was able to see the calls. If not,
9 we'll have to try -- can someone try to contact her?
10 Someone want to call her? Why don't we have Mr. Chiaramonte
11 call her. Find out if she is planning to join us today.

12 So other than the issue of the zoom calls, and I
13 have not spoken to Judge Koba this morning, normally I do
14 speak to her before the conferences, I did not this morning
15 so I don't know if she was able to view those videos,
16 Mr. Dimopoulos, Ms. Kusnetz, I was not able to. My work
17 computer did not allow me to open them.

18 MS. KUSNETZ: We're permitted access to the zoom
19 calls, the director can permit the judge access to all the
20 zoom calls and the reports. So, we can certainly arrange
21 for the director to do that for you and for the judge. We
22 don't have the --

23 REFEREE RATNER: My understanding is, what happened
24 was both of these videos, from you and from Mr. Dimopoulos,
25 appeared to be -- I forgot the form they were sent in.

1 MS. KUSNETZ: What I'm trying to say is without
2 that link, you should be able to view the calls, listen to
3 the calls the same way that we can. It's on a link from the
4 director of the supervision services. Why don't we just try
5 and arrange that today, and then you can go into the same
6 portal and you can listen to the calls, you can see all the
7 reports. In fact, one report was just uploaded in the
8 middle of the night because it was omitted, the December 6th
9 report, which was very important, so I forwarded that to you
10 this morning.

11 MR. DIMOPOULOS: Referee, can you see if
12 Ms. Most is there -- she texted me that she needs to be let
13 in --

14 REFEREE RATNER: Yes, she is. I got her. She's
15 coming in. Good morning.

16 MS. MOST: Carol Most, Most and Schneid, 222
17 Bloomingdale Road, White Plains, New York, appearing on
18 behalf of the children.

19 REFEREE RATNER: I got both of those emails in the
20 form of a drop box, and I think Mr. Dimopoulos then sent it
21 so that I could either download it or view it. Neither
22 worked. I was not able -- I spent quite a lot of time on it
23 yesterday on the computer, on my phone, and I was not able
24 to open either of those up. Again, I don't know if Judge
25 Koba was able to. She should be joining us shortly. I

1 don't know if -- I did get that report this morning,
2 Ms. Kusnetz. Did everyone else get it?

3 MR. DIMOPOULOS: Yes. Cause it was sent to
4 everybody and Carlos uploaded it. Mr. Miller, he uploaded
5 it to everyone. I wanted to bring it to your attention.

6 REFEREE RATNER: Yes, I did see it this morning,
7 and I did read it this morning. That was December 6th.

8 What's doing with the psychoneurological report?

9 MS. MOST: The neuropsych is out. It is a very
10 complete report. Unfortunately Ally is a troubled little
11 girl with a lot of emotional issues. Her diagnoses include
12 reactive detachment disorder. It includes conduct disorder
13 which we knew from Doctor Ravitz. She is possibly a
14 borderline personality disorder, and at risk for a eating
15 disorder, a binge eating disorder.

16 MR. DIMOPOULOS: Can I time out for a second? I'm
17 not sure Mr. DeMarco needs to hear that. Do you think it
18 would be appropriate to have him stand by, Mr. -- can he
19 stand by, Mr. DeMarco?

20 It's a Brady bunch set up here.

21 MR. DeMARCO: Understood. Would you like me to
22 sign off and I can sign back in --

23 MR. DIMOPOULOS: Can you turn the volume off?

24 REFEREE RATNER: Not only mute yourself but mute
25 the entire meeting.

1 MR. DeMARCO: Wave at me when you need me back on.

2 REFEREE RATNER: Okay. So you were saying eating
3 disorder --

4 MS. MOST: Obviously the most serious is the
5 reactive detachment disorder which is believed to develop
6 when -- a reactive detachment disorder is believed to
7 develop when attachment between the child and the primary
8 caregiver doesn't occur due to failure to bond or negligent
9 care.

10 Ms. KASSENOFF: That was not a diagnosis, that was
11 not --

12 REFEREE RATNER: Ms. Kusnetz, I'm going to set the
13 ground rules here. Ms. Kassenoff has three attorneys
14 appearing for her here. If she wants to say something,
15 she's going to have to text you, and one of you is going
16 to -- I'm not hearing from the parties also. We can't do
17 that. Sorry.

18 Ms. KUSNETZ: I'm going to ask, Referee, that we
19 schedule a different conference with the Judge concerning
20 the McGuffog report because it just came in, and I have not
21 had the opportunity to go through it -- it's a lengthy
22 report -- with my client. From what I have read I
23 understand why the attorney for the children picks out one
24 generalized comment out of an entire report where basically
25 McGuffog is saying that this child is intelligent, capable,

1 of superior intelligence and can think for herself, and
2 misses her mother. So I really don't want to --

3 MS. MOST: It wasn't --

4 MS. KUSNETZ: -- don't talk over me.

5 I'm asking the referee to postpone the conversation
6 to when the Judge is on the line and we have all had the
7 appropriate time to consider and review it. I have not had
8 the opportunity to review it. It just came in, I just got
9 it over the weekend.

10 REFEREE RATNER: First of all, I don't understand
11 why the parties and the attorneys got it without having
12 signed the form. That is not going to be released. I'm
13 going to request that --

14 MS. MOST: This is not a forensic. This is an
15 evaluation that the parties have done --

16 REFEREE RATNER: I will ask the Judge as soon as
17 she comes on if she wants everyone to sign that form.
18 Copies are not to be given to either of the clients. They
19 are not to be disseminated.

20 MS. KUSNETZ: It was --

21 MS. MOST: There's comment --

22 REFEREE RATNER: Everybody has to stop and one
23 person speaks at a time.

24 (Honorable Koba is now present)

25 MS. KUSNETZ: After McGuffog sent a draft report to

1 the parties and asked for their input, she asked the mother
2 to red line it because there were some factual inaccuracies
3 about the background with regard to Ally's schooling and
4 recommended assistance in schooling, and programs that the
5 mother had put her in, so that had to be corrected. So she
6 accepted red lined copies, and she accepted my client's
7 corrections to the factual background of her report.

8 Now it just came out, I have not had the
9 opportunity to go through it with my client. It is a
10 lengthy report, and I'm asking, your Honor, if you want to
11 discuss -- that wasn't on the agenda today -- but if you
12 want to discuss the McGuffog report I'm happy to do so
13 tomorrow, the next day. I need a chance to really read it
14 and discuss it with my client. I'm going to ask at this
15 point, I don't think it's appropriate to go through it, but
16 while we're on that topic --

17 THE COURT: I have other conferences so let's talk
18 about why I'm here. I wasn't aware that Doctor McGuffog had
19 issued a report.

20 REFEREE RATNER: It's next going to be for trial.
21 It's premature. Whatever it is, they can review it they can
22 do whatever they want, but I don't see at this point that --
23 it's just one report on one of the three children. So, it
24 will be reserved for trial.

25 MS. KUSNETZ: It's not about therapy, it's a

1 neuropsych report.

2 THE COURT: It's about the treatment protocol --

3 MS. KUSNETZ: Yeah, they may come to some accord on
4 that, I don't know.

5 THE COURT: I haven't read it. I want to talk
6 about is the zoom meetings.

7 MS. KUSNETZ: We have Mr. DeMarco here.

8 REFEREE RATNER: Is Mr. DeMarco still here? Can
9 someone text him to come back?

10 MS. KUSNETZ: I see his initials there. I think
11 you have to let him back in. I see SD.

12 THE COURT: Okay. There you are.

13 Good morning Mr. DeMarco.

14 MR. DeMARCO: Good morning.

15 THE COURT: We asked you to join us here today
16 because we had a question as to whether or not the documents
17 that were provided to you by Greenberg Traurig were
18 sufficient for you to render an opinion and evaluate the
19 business. So that's my question to you.

20 MR. DeMARCO: Yes. So I was able to issue a draft
21 report based upon the documents that they provided. And
22 really, I think it's sort of a legal question as to the
23 ultimate value of the practice for equitable distribution
24 purposes, only.

25 THE COURT: Can everybody mute who's not speaking

1 except for Mr. DeMarco, please.

2 Go ahead, Mr. DeMarco.

3 MR. DeMARCO: And so I think it is more of a legal
4 issue because in this particular law firm, Mr. Kassenoff has
5 purchased shares in a Florida corporation. That Florida
6 corporation owns a subsidiary at Greenberg Traurig and that
7 Greenberg Traurig pays compensation in the form of W-2
8 compensation to Mr. Kassenoff. And so he doesn't receive
9 schedule K-1.

10 He doesn't have an allocation of profit to him per
11 se, he receives a W-2 and upon leaving he receives his 100,
12 \$130,000 capital contribution back paid out over two years.

13 And in this particular case, what I did though, was
14 similar to other valuations of large law firm interests. In
15 addition to that capital, I also imputed good will, even
16 though he doesn't have entitlement to that, I imputed that
17 good will and included that as a scenario of value. So
18 there's the value of a capital account, value of imputed
19 good will if the Court would like to consider that, even
20 though he doesn't have entitlement to that in particular.

21 And then the last part that I think would be
22 outstanding in terms of scenario, would be allocating some
23 form of accounts receivable -- what I was basically saying
24 is that I included the value of Mr. Kassenoff's capital
25 contribution. I also imputed good will to his interest,

1 even though he doesn't have an entitlement to that, it could
2 be something for the Court to consider.

3 And then he -- the last part that Greenberg Traurig
4 would not provide was the accounts receivable work in
5 process that could also be incorporated as another scenario
6 for the Court to consider. Again he doesn't have an
7 entitlement to it but it's something the Court may want to
8 consider such as in the Rubino analysis. So I think that's
9 really the last part that is outstanding, however, I did
10 feel that I could issue a report with those caveats.

11 THE COURT: You had to use statistical evidence to
12 make that analysis as opposed to actual evidence from
13 Greenberg Traurig?

14 MR. DeMARCO: Yes. So in assessing what
15 Mr. Kassenoff's replacement compensation would be as a
16 non-owner, I utilized statistical compensation and tried to
17 make it specific to him, but another really good source that
18 I like to consider also is compensation paid to non-owners
19 in his department, or in the New York City office, and
20 again, it's not perfect, it's statistical analysis, it's not
21 perfect either, but generally what I do is I come up with
22 two or three different benchmarks and then ultimately have
23 to select a compensation figure based upon my experience in
24 valuing interests like this.

25 So that's one part that is outstanding, again

1 Greenberg Traurig did not want to provide, so I had to make
2 due with the statistical compensation that I had available.

3 THE COURT: Is the statistical compensation that
4 you determined, is that something that's ordinarily done in
5 your forensic analysis, it's not unusual?

6 MR. DeMARCO: I use it in every case basically.
7 It's just part of the benchmarking that I do. It's
8 something that I use very often. I also often -- I would
9 say probably in more than half the cases I do obtain actual
10 compensation of associates, not equity partners, also, for
11 benchmarking purposes. But not in every case.

12 I was able to use statistical compensation, I feel
13 comfortable with the number that I came up with on the
14 compensation, although it would not hurt to have another
15 data point to consider if it was available.

16 THE COURT: Okay. Could you issue a final report
17 based upon the information you've been provided?

18 MR. DeMARCO: I can definitely issue a report based
19 upon the information provided. Again with just certain
20 caveats on that, in terms of the accounts receivable was not
21 provided, the work in process, internal compensation figures
22 were not provided.

23 THE COURT: If he's not a partner, what difference
24 does it make about the accounts receivable?

25 REFEREE RATNER: You said he's not entitled to them

1 anyway.

2 MR. DeMARCO: He's not, just that in other large
3 law firms that I valued also, particularly in the Second
4 Department with the Rubino analysis, sometimes the Court
5 will consider accounts receivable allocated to the partner,
6 but not in every case. In certain cases they're not. This
7 is sort of a unique situation. Again he doesn't have a
8 direct equity interest in the entity that owns the accounts
9 receivable. Again, he has shares in a Florida corporation
10 that owns a subsidiary, he gets a W-2 as a subsidiary and he
11 can't leave with the accounts receivable. But that's also
12 true in many other large law firms that I value where I add
13 entitlement to accounts receivable, they just leave with
14 their capital account.

15 So I can say that I value it with and without the
16 accounts -- allocated accounts receivable, and again it's
17 usually just for the Second Department that we would add in
18 the accounts receivable if it is done at all.

19 REFEREE RATNER: Why would you add it in the
20 accounts receivable if it's, as you say, he's not entitled
21 to it?

22 MR. DeMARCO: It's really a legal issue.
23 Economically all he's entitled to is his capital account.
24 He's not even entitled to the good will that we would impute
25 to his shares. So it's really just a legal issue if it was

1 equitable for the Court to include the accounts receivable
2 or not. It's really not for me to make that determination.
3 Really he's just entitled to his capital account, but we
4 entertain imputed good will, and in some cases, the addition
5 of accounts receivable if the Court wants to consider that.

6 THE COURT: Counsel -- I'm sorry --

7 MS. KUSNETZ: Can I speak?

8 THE COURT: Yes, go ahead.

9 MS. KUSNETZ: So even with regard to this, the
10 Courts had valued, this is now kind of like -- this is done
11 in a number of law firms, and partly to avoid valuations of
12 interest -- ownership interests in law firms --

13 THE COURT: Can you answer the specific question
14 without the colloquy?

15 MS. KUSNETZ: Yes, I can.

16 With regard to the good will, which is valuing a
17 person's interest in an ongoing concern, it has to do with
18 his value to the law firm. So, for example, when GT refuses
19 to produce --

20 THE COURT: I understand what good will is. Ask
21 him what documents he needs to complete his valuation.

22 MS. KUSNETZ: So those are the documents, sir, that
23 you had in your August 25th e-mail, you had two e-mails,
24 they also asked you to value, to give a Covid value. So if
25 you do a Covid value you have to do a 2020, a full 2019 and

1 2018 to compare 2020. So you don't have a full 2019 of
2 any -- of financial information, or in 2018. There's no
3 share of -- you asked for his share of the firm revenues,
4 you asked for receivable, work in progress, you asked for
5 the reasonable compensation, information for non-owner
6 senior associates at the firm. That's all I appended to the
7 updated non-party subpoena, Judge. I appended solely
8 Mr. DeMarco's request for -- pared down requests for all of
9 this information.

10 It has to do also with regard to the capitalization
11 rate. If he has a -- he's been with this law firm for a
12 really long time, and he deals with the top clients of the
13 firm. They wouldn't even release that. So if he has a firm
14 hold in his position in the law firm -- it has to do with
15 the capitalization rate.

16 THE COURT: I understand that, but we also have his
17 earning history which shows he made about 600,000 plus --

18 MS. KUSNETZ: He made 850,000 in 2019, Judge,
19 \$850,000.

20 THE COURT: I'm very familiar with that.

21 MR. DeMARCO: If I could clarify. In my draft
22 report I did issue -- make normalization adjustments to his
23 income because there was a matching issue where they would
24 pay a bonus in the subsequent year. So his 2019 income on a
25 normalized basis I added \$792,000, that was the

1 normalization rate for the 2019 income. I did have full
2 year 2019 income.

3 MS. KUSNETZ: You only used it up until May and
4 then in the Covid analysis you used statistical information,
5 you didn't use a full year of 2019. So I'm just saying --

6 MR. DeMARCO: I used 2019, I had a full year. It's
7 just, as of the date of commencement, since the date of
8 commencement occurred --

9 THE COURT: May, 2019.

10 MR. DeMARCO: Exactly, May 24th 2019, I just used
11 up to 2018 information for the date of commencement
12 evaluation.

13 When I did the August 2020 valuation date I was
14 able to use all of 2019 and some of 2020. It would be
15 really nice to look at a full year of 2020 to do a full
16 year, to understand his bonus would be paid shortly. And to
17 know what that looks like for 2020. But I was able to use
18 all of 2019.

19 THE COURT: So you have sufficient foundational
20 information to render opinion with a reasonable degree of
21 certainty regarding the value of Mr. Kassenoff's interest in
22 Greenberg Traurig, indirect interest?

23 MR. DeMARCO: I do. It's really just the last part
24 in terms of the accounts receivable. In terms of doing the
25 scenario analysis I don't have that particular piece of

1 information if the Rubino analysis was going to be
2 considered and added on to value.

3 In terms of his capital account, we know what that
4 is. I have the imputed good will calculated, and I'm
5 comfortable with that figure. It's really just that last
6 piece of accounts receivable if the Court would like to
7 consider that.

8 MR. DIMOPOULOS: I know your Honor --

9 THE COURT: Mr. Kusnetz, please mute your
10 microphone. Mr. Dimopoulos is talking.

11 MR. DIMOPOULOS: My argument is going to be the
12 same argument I've made in a lot of cases, which is, there
13 is a shareholder's agreement guiding exactly how
14 Mr. Kassenoff could monetize his shareholder interest in
15 Greenberg Traurig. Now it's not uncommon, as everyone
16 knows, for the Court, trier of fact, to fix other values,
17 but they're not a value my client could actually redeem. So
18 what Mr. DeMarco is saying is he would like to put forth
19 alternative valuation methodology before your Honor. One of
20 them being the excess earnings method, and the use of
21 statistical information in the excess earnings methodology
22 could actually benefit Mrs. Kassenoff, because depending on
23 the compensation that he used, if the person was being --
24 the statistical data is lower than Greenberg Traurig's comp,
25 then the delta between Mr. Kassenoff's comp and the

1 statistical data would yield a higher market value for
2 shares.

3 So I want the Court to understand that
4 theoretically the use of statistical could actually hurt
5 Mrs. Kassenoff versus actual comp. But that methodology,
6 the excess earnings, is only another methodology that
7 Mr. DeMarco is putting forth for the Court to consider.
8 It's not one that my client could monetize.

9 So what I would like to synthesize Mr. DeMarco's
10 comments as being is it would be nice to have some of this
11 additional data so I could propose yet a third potential
12 valuation for his shares, which actually isn't something he
13 could ever receive. So I posit that we already have the
14 value that he could get vis-a-vis the agreement. We already
15 have a second methodology approach, which we posit increases
16 the value artificially. We don't need a third.

17 And I would also like to remind the Court that the
18 data that he said would be nice to get, and I respect that,
19 it's nice to have three different valuation methodologies to
20 look at, but that data is not going to be forthcoming, it's
21 not going to be forthcoming unless there's motion practice,
22 appellate practice.

23 Greenberg Traurig, as far as I know, does not give
24 up its data, and they're not going to here. So it's not a
25 question of they're withholding data that prohibits a

1 valuation pursuant to a fair market value pursuant to the
2 revenue rules, it's that the data that they're withholding
3 is prohibiting a third valuation methodology.

4 And the last point I'll make is on a Covid
5 analysis, I would think that Ms. Kusnetz would try to avoid
6 a Covid analysis because it would only potentially decrease
7 his interest as Covid doesn't increase anyone's interest in
8 anything.

9 So again, I think that he has said that he can
10 finalize the report how ever we twist his words is not going
11 to change that. This issue should be resolved respectfully.

12 MS. KUSNETZ: May I respond --

13 THE COURT: Ms. Kusnetz, you'll have an
14 opportunity. The referee has a question.

15 REFEREE RATNER: In approximately how many cases do
16 you get the information regarding how many -- how much --

17 THE COURT: Mr. DeMarco, how many analyses do you
18 do the entire three methodologies when you have a
19 shareholder?

20 REFEREE RATNER: Shareholder, not a partner.

21 MR. DeMARCO: So generally -- this is where you're
22 just an employee it's a unique situation with Greenberg
23 Traurig where they receive W-2. It's not very often at all
24 where you actually have an interest like this. Usually they
25 have a schedule A-1 that they receive.

1 I think I've only had maybe a couple of situations
2 like this. On almost every other case they're an equity
3 partner with a K-1 that they receive in terms of an
4 ownership interest or a partner in a firm.

5 REFEREE RATNER: If he's not a partner and only a
6 shareholder, what would be the relevance of the accounts
7 receivable to him?

8 MR. DeMARCO: It may just be form over substance to
9 some degree, because he does have an ownership interest in
10 the Florida corporation that owns a subsidiary that he gets
11 the W-2 from. So I think in that regard they do pay out I
12 think and Martin Kaminsky I think said this --

13 THE COURT: Everyone please mute their mics because
14 there's an echo. Thank you.

15 MR. DeMARCO: Martin Kaminsky represents -- he's
16 general counsel for Greenberg Traurig, and he said that even
17 though there isn't a K-1 the shareholders do receive likely
18 in some form, a payout as a bonus that's really profit. So
19 it comes through a W-2 instead of through a K-1 to some
20 degree.

21 So if he is an owner in the firm, and it's not
22 dissimilar from being a partner in another large law firm,
23 in both cases Mr. Kassenoff's case and these other cases
24 with large law firms, they don't have entitlement to
25 accounts receivable. It's really internally they just get

1 their capital -- they get some type of retirement benefit if
2 they're of an age to retire, and not a qualified pension.
3 In both cases they don't have an entitlement. It's really
4 in the Second Department that I would typically be adding on
5 accounts receivable if I would do it at all. In the First
6 Department I generally do not add on accounts receivable.

7 THE COURT: Okay. The Court is going to make a
8 determination that no further discovery is required with
9 respect to the valuation by Mr. DeMarco based upon what he
10 has indicated. He has made the valuation based upon the
11 shareholder agreement with Greenberg Traurig and the
12 plaintiff as well as imputed good will.

13 Based upon that, the Court finds that there's an
14 adequate foundation to conduct an evaluation. The next
15 issue is --

16 MS. KUSNETZ: Your Honor, I just want to be clear.
17 So Mr. DeMarco invited comment to the draft report, and so I
18 just want to be able to do that. He invited discussion,
19 this is a draft, and there are comments to the draft that he
20 invited, and I would like time to circulate that before he
21 issues a final report.

22 MR. DIMOPOULOS: Your Honor, I --

23 THE COURT: He's requesting comments on --

24 MS. KUSNETZ: Your Honor, there are other issues
25 with regard to the report, even if your Honor is shutting it

1 down with regard to even reasonable compensation information
2 from the firm, or accounts receivable would show the value
3 of this lawyer to the law firm, which is good will. It
4 doesn't matter that he doesn't take it with him. People
5 retire at law firms, and we value their interests. Doesn't
6 matter what they get to take. And, in fact, if he went to
7 another law firm, good will is that he could take that
8 business with him. That is also another Second Department
9 case --

10 THE COURT: My understanding is he did the
11 valuation of good will, did you not Mr. DeMarco?

12 MR. DeMARCO: Yes, I did.

13 MS. KUSNETZ: Statistical information.

14 THE COURT: Let's move on.

15 MS. KUSNETZ: Your Honor, I would like --
16 Mr. DeMarco invited comment, and I would like a week to do
17 that.

18 MR. DIMOPOULOS: I object. I don't think he needs
19 our comments. It's his opinion. How can I comment on his
20 opinion?

21 MS. KUSNETZ: Well, I --

22 THE COURT: Excuse me, Ms. Kusnetz. I don't know
23 how anybody would be commenting on my neutral forensic
24 evaluator's report.

25 MS. KUSNETZ: He asked for it. He asked for

1 discussion on it and questions, because he reached
2 conclusions that he said you cannot determine from the
3 charts, and he wanted to present his conclusions to the
4 parties. Maybe Mr. -- opposing counsel doesn't want to hear
5 that. I certainly want to hear it.

6 THE COURT: I thought he presented the report to
7 you already.

8 MS. KUSNETZ: It's a draft. And because there's so
9 many caveats in the draft he said he wanted the
10 opportunity, -- do you understand how many caveats there are
11 in here because he's only relying on statistical
12 information. He said he wanted to discuss how certain
13 numbers were reached and you can't understand it from the
14 chart. And frankly -- I'll give you one for instance.

15 THE COURT: I'm not going there. Okay? Just stop.
16 That's cross examination.

17 Mr. DeMarco, do you typically circulate a neutral
18 forensic report for comment by the parties?

19 MR. DeMARCO: I do typically issue a draft first to
20 make sure that -- I don't want to make any factual
21 misrepresentations, and if this is the first time they're
22 seeing an analysis like this, just to give them a little
23 time to present any questions or anything like that.
24 Usually I do for settlement purposes if they're able to
25 settle, and then if not, I issue a final report for trial.

1 It's generally part of my process.

2 THE COURT: Fine. Ms. Kusnetz you have one week to
3 address whatever comments you wish to address with respect
4 to the draft report. Okay? After that period of time I
5 would like a final report, Mr. DeMarco.

6 MR. DeMARCO: Sure.

7 REFEREE RATNER: Can you issue that final report
8 after the week that Ms. Kusnetz has to comment?

9 THE COURT: And Mr. Dimopoulos has a week to
10 comment. Go ahead.

11 REFEREE RATNER: How long will it take you to issue
12 the report, Mr. DeMarco?

13 MR. DeMARCO: If I had two weeks from the date I
14 received all comments. If I get it tomorrow, just a couple
15 of weeks since it's the holiday week.

16 THE COURT: Give us a date, please. Give me a
17 date, please.

18 MR. DeMARCO: Assume I get it by Thursday the 24th,
19 say by the 8th of January.

20 MS. KUSNETZ: I said I needed a week, it's the
21 holidays.

22 THE COURT: Ms. Kusnetz, you have until January 8th
23 to submit your comments. Mr. DeMarco you have two weeks
24 thereafter to issue your report, that puts you to the 22nd
25 of January.

1 REFEREE RATNER: And Mr. Dimopoulos also has until
2 the 8th.

3 THE COURT: Yes, of course.

4 MS. KUSNETZ: Can I just say, also, it was agreed
5 and reserved, I'm just saying, by the parties, that
6 Mr. Kassenoff be deposed with regard to the report. So the
7 question is before he issues the final report, maybe I
8 should depose Mr. Kassenoff before he issues a final report
9 before the end of January. So I'd like to do all that --

10 THE COURT: You have a right to question
11 Mr. Kassenoff regarding the report. If you want to do it
12 before the final report, that's fine.

13 MR. DIMOPOULOS: To be clear, what our position
14 was, we agreed to make Mr. Kassenoff available for
15 deposition limited on the report. I just would want a
16 stipulation or an order that questioning should not go
17 outside of that. He's already been deposed for a day and a
18 half. But whenever they want to do it is fine by us.

19 MS. KUSNETZ: Actually it was not limited to the
20 report, Judge, and, in fact, we do have outstanding
21 documents that your Honor ordered to be produced by opposing
22 counsel.

23 So, as soon as he does that I will schedule the
24 deposition when I get the documents.

25 THE COURT: My understanding is that it was

1 limited. So Mr. Dimopoulos, do you have a statement on the
2 on the record following his deposition as to when it would
3 continue and the basis which it will continue.

4 MR. DIMOPOULOS: I will read you exactly what the
5 deposition says --

6 THE COURT: Why don't you just send it to everybody
7 so we have the stipulation on the record between you and
8 Ms. Steelberg.

9 MR. DIMOPOULOS: I will send it to everyone. I
10 want to clarify one point. I said I hadn't received any
11 post deposition demands. That was a misstatement. I did
12 receive post deposition demands. Your Honor said I should
13 respond. My office labeled them as third DNI instead of
14 post deposition demands. When I went back to check I found
15 that not only was I served post deposition demands, but my
16 office actually responded to them already. So those --
17 there is no outstanding discovery request.

18 If Ms. Kusnetz wants to send me a yet unserved
19 discovery response for us to respond to, we're not going to.
20 Unless your Honor orders us to produce discovery for the
21 fourth time, my client is only going to -- she closed this
22 deposition, she had all this --

23 MS. KUSNETZ: No, she didn't close it.

24 THE COURT: I'm not going to argue this point. I
25 have other matters. Send the deposition transcript, the

1 concluding session, that outlines what the parties agreed
2 was remaining with respect to the deposition.

3 If you already responded to the discovery demands,
4 then you already responded to the discovery demands. I want
5 to talk about the zoom calls. Let's move on.

6 REFEREE RATNER: Let's get a date by which the
7 depositions will be held because I need to give them a final
8 trial ready date.

9 MS. KUSNETZ: I need to get his documents before I
10 can set the deposition --

11 THE COURT: He already sent you the documents.

12 MS. KUSNETZ: No, he didn't. We had outstanding
13 documents in the notice of deficiency. Your Honor already
14 said he has to produce certain documents. There are
15 documents in the -- I put in a notice of deficiency that
16 summarizes what he has not done including -- you know we
17 spent ten minutes on the fact that denied that there were
18 post EBT demands. There were. So we did look at that.
19 There are still outstanding requests from the post EBT
20 production. That's what my notice of deficiency did. It
21 wasn't a new request other than updating pursuant to 3101H
22 which I --

23 MR. DIMOPOULOS: Your Honor --

24 MS. KUSNETZ: Excuse me, it has not --

25 THE COURT: Enough. Enough. Enough.

1 REFEREE RATNER: The statement of net worth in this
2 court is provided after the trial ready order is in --

3 MS. KUSNETZ: Not in any other case --

4 THE COURT: I'm not doing an updated statement of
5 net worth right now. The rules are what the rules are.

6 Mr. Dimopoulos, please issue a formal response and
7 if you already responded to it, designate what notice you
8 responded to. Okay? I'm done with this. I want to go to
9 the zoom calls.

10 Thank you, Mr. DeMarco, you're excused.

11 Mr. Dimopoulos, can we talk about the zoom calls.
12 Ms. Kusnetz, mute your mic, please.

13 MR. DIMOPOULOS: Your Honor, I have watched every
14 single --

15 THE COURT: Actually, I don't want to start with
16 you.

17 Ms. Most, I want to hear your comments on the zoom
18 calls.

19 MS. MOST: So I haven't listened to every single
20 one, only the ones that I was requested to listen to, but I
21 could tell you that some of them are extremely troubling.
22 What troubles me is that there is ongoing gaslighting, and
23 we heard from -- at trial from Doctor Abrams about the mom's
24 gaslighting, and that continues. So there was gaslighting
25 about having Charlotte see another doctor to talk to that

1 would be private. Charlotte answers: I'm happy with Doctor
2 Adler, everything is private with Doctor Adler. And
3 Katherine Kassenoff continued.

4 We've had zoom videos where Charlotte has actually
5 terminated the call. And the video from -- I think it was
6 the 8th, the 10th, was extremely troubling. This is not the
7 first time that the mother falls apart on a video. It is
8 just not appropriate, it's completely inappropriate.

9 And I want to say first that I did not say this at
10 the time of trial because it wasn't necessary, but these
11 girls have not been telling me that they only want to live
12 with their mother, that is not what they've said. At this
13 point that has changed for a very long time.

14 Ally has specifically said that she only wants to
15 live with her father because that's where she feels safe.
16 She said that to me many times even though she tells her
17 mother what her mother wants to hear. She does not want to
18 live with her mother. And the other two girls want to live
19 with both their parents.

20 The fact that they tell their mother on the video I
21 miss you, or I want to live with you, it doesn't mean that's
22 what they're saying all the time. And there's no
23 question --

24 THE COURT: Ms. Kassenoff do not interfere with her
25 statement. This is a court proceeding. I will not tell you

1 again. Stop.

2 REFEREE RATNER: I muted her.

3 THE COURT: Thank you.

4 I watched the video, I watched the December 3rd
5 video. I watched the December 10th video in their totality.
6 I was emailed a drop box from plaintiff -- Ms. Kassenoff's
7 counsel over the weekend. The Court does not have access to
8 drop box. So I was unable to review the additional videos.
9 This is what I can see on the videos. I see Mrs. Kassenoff
10 being frustrated. I see her having difficulty having the
11 children participate in the calls. It's ludicrous that one
12 child has to walk around the house carrying the computer in
13 order for the mother to talk to the three children.

14 So, Mrs. Kassenoff's reaction on December 10th was
15 understandable in terms of her frustration, it was
16 inappropriate as to how she handled that frustration.

17 That being said, the supervisor did intervene, and
18 Mrs. Kassenoff needs to -- when the supervisor gives you a
19 heads up and says you're going into a territory that is
20 inappropriate, you need to listen to her.

21 It was inappropriate to tell the children that the
22 Court would stop their in-person visit if they did not
23 participate in the zoom calls. Flat out inappropriate. One
24 has nothing to do with the other.

25 It was fine to tell them the judge directed that

1 this is how they would be communicating. That's fine. You
2 went over the line when you then used that as a implicit
3 threat that if they didn't cooperate on the calls they would
4 not see you in person. And when the supervisor tried to
5 intervene and redirect you, you didn't. You need to follow
6 the instructions of the supervisor.

7 With respect to her frustration level, the purpose
8 of the zoom calls is to give the mother and the children an
9 opportunity to communicate and to keep their bond in tact as
10 they go through this difficult process. It is not being
11 fostered by the children not being in a quiet area at the
12 time of the call. It is not being fostered by having the
13 children distracted by iPhones and iPads and an adorable
14 kitten. It is not being fostered by having Ally have to
15 traipse around the house carrying the computer to find out
16 where the other two children are.

17 So, it is part of Mr. Kassenoff's responsibility as
18 the custodial parent to foster the relationship with the
19 children and the mother. That means whatever time these
20 calls occur, and they are supervised so there's a finite
21 period of time, those children need to be in an agreed upon
22 location, all three of them, without iPhones, without iPads,
23 without kittens so that they can speak with their mother and
24 one child does not have to traipse around the house carrying
25 a computer to find the other children.

1 So the mother's frustration level is understandable
2 at that point in time. I watched the video from
3 December 3rd when there were no children present or you
4 couldn't see the children, or Ally was walking first
5 upstairs and JoJo took the computer upstairs, then they went
6 downstairs to look for Charlotte in the living room, and
7 then they carried the kitten, and then there were periods
8 when the mother was left alone when there was no child
9 there. Unacceptable.

10 So while her reaction went overboard -- and I don't
11 want to see that again, Mrs. Kassenoff -- her frustration
12 level was understandable. These children need to be in a
13 particular space at the time of the designated zoom calls
14 without distraction so they can communicate with their
15 mother for that limited period of time without interruption
16 and they could have a meaningful discussion.

17 Mrs. Kassenoff, I understand your concern as a
18 parent regarding the medical care of your child. Contrary
19 to what your counsel said you did not suggest that she would
20 only seek a second opinion. Your conversation with her
21 indicated that she would seek an additional physician,
22 perhaps alternating weeks. Unacceptable. The child is
23 happy with Doctor Adler, we're not disrupting her therapy
24 with Doctor Adler, we're not discussing with her changing
25 Doctor Adler. Ultimately the decision-making regarding her

1 medical care goes to Mr. Kassenoff. Do you want to mention
2 she might have to go for another -- one visit for a second
3 opinion? That's fine. But beyond that, trying to get her
4 away from Doctor Adler, unacceptable. And the supervisor
5 needs to go into that. I want these calls to occur, but you
6 have to act within the parameters of the supervisor. You
7 can talk about how your child's days are going, you can talk
8 about how she goes to session, but when Charlotte says she
9 wants to talk to Doctor Adler, you need to let it go because
10 she's comfortable with it.

11 I'm not going to stop the zoom calls it's important
12 that the mother have the zoom calls, but this conduct we
13 just discussed needs to stop.

14 MS. MOST: Just to give you an update, I've been in
15 contact with Doctor Ravitz. He's going to get back to me
16 about whether or not he can do an evaluation. I've spoken
17 to Doctor Brody who is not going to be available until the
18 spring. The two other doctors that we tried in June, none
19 of those are available, and we reached out to Josephine
20 Kuhl, who is a psychiatrist in -- I think she's in
21 Larchmont -- Harrison, waiting to hear back from her if
22 she's available. Doctor Kuhl came as a recommendation from
23 doctor Adler. The reason why I would like to go with a
24 recommendation from Doctor Adler is because we're probably
25 not dealing with a one session evaluation. This is a

1 situation where the doctors have to work together. We need
2 somebody who I believe is local, and who, if medication is
3 required, can continue to work on the case, and work in
4 conjunction with Doctor Adler. So that was why we were
5 trying to go with Doctor Brody and potentially Doctor Kuhl.

6 THE COURT: Ms. Kusnetz?

7 MS. KUSNETZ: I just want to say that with regard
8 to what you said about that zoom call, first of all I
9 appreciate that you didn't stop the zoom calls because
10 what's left of this parental relationship is thin at the
11 time, and the frustration is very real. So I want to thank
12 your Honor for recognizing that, but I also do want to say
13 that my client was only referring to the Court's order that
14 preceded the call with regard to a psychiatric evaluation.
15 She says it specifically, no, in addition to Doctor Adler
16 she is not disrupting Doctor Adler's therapeutic
17 relationship. That is not correct, Judge. The problem
18 really is that Doctor Adler is no longer, after your October
19 order, even contacting the mother whereas before she used to
20 get status updates or reports. We saw that she herself was
21 saying I'm doubling visits to firm up my bond with the
22 child. Why? Therapists don't normally double visit just to
23 expand a bond with a child. They don't usually do that
24 unless there's an issue. That wasn't shared with the
25 mother, it was a decision that was made without consultation

1 with the mother. She's entitled to consultation with regard
2 to her children's care and her child's care. So I don't
3 know what happened -- I don't know what happened with Doctor
4 Adler doubling visits because she wanted to firm up her bond
5 with the child, that's not a medical reason to do that.

6 THE COURT: Hold on one second.

7 Why is it that Doctor Adler doubled the visits, and
8 was the mother consulted?

9 MS. MOST: So that was a discussion that I had had
10 with Doctor Adler, and also Hava White. Both of these
11 professionals feel that Charlotte is what is referred to as
12 a budding personality disorder. And that's very concerning
13 to both of those professionals and to myself as well. And I
14 had a discussion with Mr. Kassenoff about this, and Susan
15 thought that perhaps -- Susan Adler thought that perhaps by
16 increasing the access she would be able to work on that
17 particular issue.

18 THE COURT: I guess my concern is nowhere in that
19 decision did I hear that anybody consulted with the mother
20 despite my express directive in my order that the mother is
21 to be consulted with respect to the child's medical care.
22 Did I miss that?

23 MR. DIMOPOULOS: Could I speak to that?

24 THE COURT: Yes, you can because I'd like to know
25 the answer.

1 MR. DIMOPOULOS: My client is not even certain she
2 needs a doubled up visit either. By no means, the visits
3 were never doubled up. There's no double session. It never
4 actually occurred. That's the first point that's crucial.

5 On the issue of consultation specifically with
6 Doctor Adler. As this Court knows, as to why she doesn't
7 reach out -- she doesn't reach out to Allan either. They
8 don't talk at all. That's number one --

9 THE COURT: I'm not concerned about her reaching
10 out, I said that's the doctor's prerogative. But what I am
11 concerned about is a change in the child's treatment that
12 wasn't discussed with the mother.

13 MR. DIMOPOULOS: It never occurred. There was
14 never a change, Your Honor. It would have been discussed if
15 there was a decision to make that change going forward on a
16 permanent basis. As far as I know, and I'll let my client
17 speak to this, the visits have not been doubled.

18 THE COURT: But here's the problem, if the doctor
19 says that the visits should be -- Ms. Kusnetz mute your mic,
20 please.

21 If the doctor says that we think there's a concern
22 that the child may have whatever, and we recommend doubling
23 the visits, that's a discussion that has to be had with
24 Mrs. Kassenoff in addition to Mr. Kassenoff. He can't
25 unilaterally say we're not going to have double visits if

1 the doctor recommends it. He needs to talk to the mother.
2 And if they agree, she has to get opportunity to weigh in on
3 the issue. Ultimately he will decide that, but she needs to
4 be apprised of the recommendation and have some
5 consideration as to whether she thinks it's a good idea or a
6 bad idea, or to research the reasons for the recommendation,
7 and then voice her opinion, and then ultimately
8 Mr. Kassenoff will decide if, in fact, the child will have
9 double visits or not. But it is concerning to this Court
10 that there's a recommendation that the child visits be
11 doubled, that hasn't been discussed with the mother, whether
12 it occurred or not, she's still entitled to know that and to
13 weigh in on it, and then ultimately Mr. Kassenoff can decide
14 if, in fact, it is necessary or not.

15 MR. DIMOPOULOS: Before I say this with certainty,
16 the fact that they're raising it now means they all know
17 about it. I think this is all going around in an email but
18 I will verify that.

19 The problem with consultation especially with
20 Doctor Adler, and I'm just going to state this
21 affirmatively, Ms. Kassenoff hates Doctor Adler. She has
22 attacked her on countless occasions in emails that I have
23 not even put forth before this Court that I'm sure
24 Ms. Kusnetz does not even know about. Direct attacks on her
25 integrity, and on her expertise, and on her role as a

1 therapist. She's been attacked as being part of a cover up
2 with Ms. Most who was also corrupt, and Doctor Abrams was
3 corrupt --

4 THE COURT: Mr. Dimopoulos, this has to do with
5 consultation. Mr. Kassenoff is the decision-maker. She
6 needs to be consulted. Whether you do that through family
7 visits or some other mechanism, Mr. Kassenoff needs to
8 apprise the mother that there's an issue with their child,
9 whether it's medical, or it's educational. If they're
10 communicating through Family Wizard right now, then he can
11 posit it to her through Family Wizard and say this is what
12 the doctor recommended, this is the reason the doctor says
13 so, I think it's not necessary or is necessary, what do you
14 think?

15 MR. DIMOPOULOS: Duly noted, your Honor. I'll make
16 sure that happens in the future.

17 THE COURT: Apparently it wasn't because I wrote
18 the decision on this August 17th. I made it perfectly clear
19 that it was essential for communications and consultation
20 regarding the major decisions of the children.

21 MR. DIMOPOULOS: Your Honor, my client has
22 consulted with Ms. Kassenoff on countless decisions through
23 the Family Wizard and otherwise. The problem is this, and I
24 can give you one example, it's a minor example but it's
25 critical.

1 Ms. Kassenoff wants the children to start playing
2 tennis again. Mr. Kassenoff does not feel safe with Covid
3 going around. He told her this is the reason, she said I
4 want them to take tennis lessons. He said I don't feel
5 comfortable with this right now, let's look at this in a
6 couple of months when Covid decreases.

7 There was a final decision made, and he exercised
8 his final decision making. There have been, I think I
9 counted the key word search of tennis, 18 subsequent
10 e-mails, 18, on the issue of tennis alone. How dare you
11 take your kids and deprive them from this, how dare you're
12 so cheap you're willing to pay -- he follows the order, does
13 it to a tee, and he's attacked. That's an issue of tennis.
14 I can give you that same issue with French, with this, with
15 that. It's meaningful consultation --

16 THE COURT: It's simple to me. If he gave her the
17 opportunity to weigh in on tennis, and if he explained his
18 reasons why he did and considered her reasons, and if he
19 ultimately made a decision that in this area of Covid it's
20 not such a great idea to have the children play tennis, then
21 that decision is made. And Mrs. Kassenoff needs to accept
22 that. He emails afterward, he exercises that, if he's
23 consulted with you, that's it, period.

24 MR. DIMOPOULOS: I will counsel my client on
25 bringing that same level of compliance into the therapeutic

1 arena, your Honor. I'll make sure that happens.

2 MS. KUSNETZ: I just want to mention one thing
3 which is of great concern. First of all Doctor Adler
4 misrepresented the reason to my client for expanding those
5 therapeutics because she said she wanted to, like, broaden
6 her personal bond with Charlotte, that was number one. So
7 she never mentioned what Ms. Most just referred to, which is
8 these ex parte conversations about the health and welfare of
9 a child that completely excluded the mother but not only
10 that, Ms. Most mentioned for the second time her ex parte
11 conversations with Hava White, who is a CFS court appointed
12 supervisor for in-person visits.

13 Your Honor should know that every one of those
14 in-person visits she -- my client has been complimented.
15 The children want the in-person visits. They certainly
16 like the visits --

17 THE COURT: I'm not changing the in-person visits.
18 Let's move on.

19 MS. KUSNETZ: What I'm bringing to your attention
20 is another conversation that Ms. Most said that she's had on
21 an ex parte basis with the Court appointed supervisor who is
22 supposed to issue reports to your Honor. We have reports
23 for supervised visits. This type of enveloping a supervisor
24 into a therapeutic decision for therapy treatment with
25 Doctor Adler is completely improper. It has not been

1 ordered by the Court. We have no reports of any of
2 Ms. White's conversations with Ms. Most, which is a further
3 poisoning of the well.

4 When your Honor permitted CFS to do these
5 supervised visits, Mr. Dimopoulos sent the most horrendous
6 email to them that I was sent that was so disparaging of my
7 client, and so poisons the well, it is inappropriate to have
8 a conversation with a court appointed --

9 THE COURT: Ms. Kusnetz, I made the ruling actually
10 in favor of your client. We're continuing the zoom calls.
11 We're continuing the in-person access. And everybody has
12 been again told that Ms. Kassenoff needs to be consulted on
13 these decisions. Those are the two issues I had to discuss.

14 Referee Ratner, do you have anything else on the
15 agenda?

16 REFEREE RATNER: No, I don't.

17 THE COURT: Very good.

18 MS. MOST: Your Honor, I think that Mr. Kassenoff
19 might be running out of money from that initial order that
20 was allowed --

21 THE COURT: You don't need me for that issue.
22 Referee Ratner can handle that. I have another conference.
23 I'm leaving.

24 REFEREE RATNER: I'm going to give them a date,
25 beginning of February, final trial ready conference. If

1 there's going to be another deposition of Mr. Kassenoff
2 regarding the report it has to be done before then?

3 THE COURT: Yes.

4 MS. KUSNETZ: Could I please get the forensic
5 report? I still haven't gotten the forensic report. I
6 filled out the affirmation on November 20th.

7 REFEREE RATNER: Which forensic report?

8 MS. KUSNETZ: Doctor Abrams' forensic report.

9 (Judge Koba left the meeting.)

10 MS. KUSNETZ: I've asked you to assist because I
11 have on a number --

12 REFEREE RATNER: I'm not at the courthouse. You
13 have to contact the judge's clerk.

14 MS. KUSNETZ: I did. On November 20th I e-filed
15 that form and sent it to them.

16 REFEREE RATNER: Send me an email to that effect
17 and I'll forward it to Lucille.

18 MS. KUSNETZ: Thank you so much.

19 MS. MOST: Ms. Rattner, I do get the bills, and I
20 did see there's a \$7,000 bill coming up for Doctor McGuffog
21 and I know that there are several other outstanding bills,
22 and I asked Allan to make sure he gets them paid. And he
23 says the fund is out of money. So we need to have that fund
24 renewed.

25 MR. DIMOPOULOS: By stipulation the parties

1 MS. KUSNETZ: I don't have the number.

2 REFEREE RATNER: Send us proof of --

3 MS. KUSNETZ: She doesn't have any money now.

4 REFEREE RATNER: Has she received refunds of
5 deductibles being paid?

6 MS. KUSNETZ: We'll deal with it at the end of the
7 case. There's money --

8 REFEREE RATNER: The children need to have their
9 therapy.

10 MR. DIMOPOULOS: Your --

11 MS. KUSNETZ: But it --

12 REFEREE RATNER: Mr. Dimopoulos -- stop it.

13 Mr. Dimopoulos, you can add that issue to your ruling.

14 MS. KUSNETZ: I object to that, Referee. The judge
15 was very specific as to which ruling should be permitted and
16 I object to you issuing that ruling.

17 REFEREE RATNER: I'm very sorry, but they need the
18 money to pay your client --

19 MS. KUSNETZ: They have money in securities
20 accounts that they can release more money for this. And for
21 me to sit and analyze now all the deductibles and what was
22 paid is really ridiculous. It won't come out to the number
23 that Mr. Dimopoulos said at all.

24 MR. DIMOPOULOS: Here's the problem. Say we
25 withdraw another \$30,000 and I start paying the therapist.

1 She'll just do it again. She wants the money released
2 because the second we pay the 7,000 she submits and gets
3 back from the insurance company whatever they reimburse on
4 the 7,000. He's not doing that.

5 REFERENCE RATNER: Mr. Dimopoulos, raise the issue in
6 another motion.

7 MS. MOST: We were going to discuss Doctor Abrams
8 being paid again today.

9 MS. KUSNETZ: Where was that on the agenda,
10 counsel?

11 REFERENCE RATNER: Last week you said she would get
12 paid as soon as she issued the check. I assume your client
13 got paid on Thursday. She is to pay Doctor Abrams.

14 MS. KUSNETZ: I know when my client got paid --

15 REFERENCE RATNER: Ms. Kusnetz said at the conference
16 on Friday her client would pay Doctor Abrams as soon as she
17 got paid. We need to know when she gets paid.

18 MS. KUSNETZ: I will find out, but please don't say
19 tomorrow because Doctor Abrams said he's not even getting to
20 this until after the holiday anyway. She will get the money
21 together and she'll pay him by the end of the month. He's
22 not starting, -- his email to us -- she doesn't have any
23 money. She will get him paid and follow the court order.

24 MR. DIMOPOULOS: Your Honor, Abrams Fensterman by
25 Robert Spalzino is submitting a motion for a stay on seven

1 grounds by emergency application --

2 MS. KUSNETZ: That is not this Court's business
3 right now.

4 THE COURT: Do not interrupt. I will mute you.

5 MS. KUSNETZ: Put on the record that you are.

6 REFEREE RATNER: We are on the record.

7 MS. KUSNETZ: So mute me, go ahead, Referee.

8 MR. DIMOPOULOS: She has the money to file an
9 omnibus appeal which is the second appeal, and a motion for
10 temporary stay. She has the money to hire Ms. Kusnetz and
11 continue to pay her, but she doesn't have the money to
12 comply with an order? It's not up to her to decide when
13 Abrams gets paid.

14 There's an appointment order that says
15 November 30th. She doesn't then say but he's not starting
16 -- no she has to pay it. She's in contempt.

17 REFEREE RATNER: Ms. Kusnetz said it will be paid
18 when she got her check. So she got paid, she just got paid
19 or she gets paid this coming week. It's got to be paid,
20 okay? As soon as she gets paid.

21 The only other issue is another date. I'm going to
22 give you another date. I have another conference so I have
23 to leave.

24 I'm looking at February 3rd or the 8th.

25 MR. DIMOPOULOS: February 3rd is fine.

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MS. MOST: Fine for me.

MS. KUSNETZ: That's fine. At what time?

REFEREE RATNER: February 3rd, 10:30 or 3:00?

MS. KUSNETZ: 10:30 is fine for me.

MR. DIMOPOULOS: That's okay for me, too.

THE COURT: Okay. Have a nice day, folks.

(The proceeding was adjourned to February 3rd, 2021
at 10:30 a.m.)

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CERTIFIED to be a true and accurate transcription
of the stenographic notes.

Eva Versaci
Senior Court Reporter