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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER:

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ALLAN KASSENOFF,

Plaintiff,

v. Index No.
58217/2019

CATHERINE KASSENOFF, SKYPE PROCEEDINGS

Defendant.

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August 6, 2020
Westchester County Courthouse
111 Dr. M.L.K., Jr. Boulevard
White Plains, New York 10601

BEFORE: HON. NANCY QUINN KOBA
Supreme Court Justice

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

DIMOPOULOS & BRUGGERMANN, P.C.
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Tuckahoe, New York 10707
BY: GUS DIMOPOULOS, ESQ. and MICHAEL CHIARAMONTE, ESQ.

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81 Main Street, Suite 205
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BY: JILL SPIELBERG, ESQ. and ALYSON KURITZKY, ESQ.

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Guardian Ad Litem
222 Bloomingdale Road, Suite 302
White Plains, New York 10605
BY: CAROL MOST, ESQ.

Jennifer Gruseke, Senior Court Reporter

1 THE COURT: would everybody put their
2 appearances on the record starting with the Plaintiff.

3 MR. DIMOPOULOS: Good afternoon, Your Honor.
4 Dimopoulos & Bruggermann, Gus Dimopoulos and Michael
5 Chiaramonte, on behalf of the Plaintiff, Allan Kassenoff,
6 who is also present via Skype.

7 MS. SPIELBERG: Jill Spielberg, Harold, Salant,
8 Strassfield & Spielberg, with Alyson Kuritzky on behalf
9 of the Defendant who is here in my office. Good
10 afternoon, Judge.

11 MS. MOST: Good afternoon. Carol Most, attorney
12 for the children.

13 THE COURT: So Ms. Most, this conference was
14 scheduled as a result of your communications with The
15 Court regarding Mrs. Kassenoff's communications with Dr.
16 Adler.

17 Ms. Spielberg, would you like to be heard on
18 that subject since the order of The Court previously has
19 been very clear that no communications are to be had with
20 the child's treating therapist other than for scheduling
21 purposes without the other party being involved in the
22 communication.

23 MS. SPIELBERG: Judge, Dr. Adler asked my client
24 for the suicide e-mail which he transmitted to her. All
25 the e-mails had both parties on them, and they were --

1 the problem, Judge, is that my client following the
2 discussion about this issue during trial asked Dr. Adler
3 to schedule a call with both parties. Again,
4 Mr. Kassenoff did not want to participate, did not think
5 it was necessary, and so my client is left with no
6 ability to have a conversation with her.

7 Then Dr. Adler asked her to send the e-mail to
8 her, and from a review of the e-mail exchange sent by
9 Ms. Most, both parties are e-mailing Dr. Adler. Dr.
10 Adler wants to know "what's the update on the second
11 opinion? Where do we stand?" There are questions that
12 she asked. Certainly I presume that Your Honor wants the
13 parties to be responsive to those. My client would
14 prefer to have a conversation with Mr. Kassenoff and Dr.
15 Adler to discuss these things in a typical normal course
16 where you have parents meeting with the treating
17 physician of the child, but, again, Mr. Kassenoff will
18 not comply.

19 THE COURT: well, the problem that you have here
20 is at the present time Mr. Kassenoff is the final
21 decision-maker. It's not Mrs. Kassenoff. However, I do
22 believe during the hearing we had a discussion about
23 having a joint conversation with Dr. Adler,
24 Mr. Dimopoulos.

25 MR. DIMOPOULOS: My client said at the hearing

1 and will continue to say now if Dr. Adler requests a
2 meeting he will attend it. She has not. This is at
3 Mrs. Kassenoff's request to which Dr. Adler has not said,
4 "Yes, let's have a meeting." It's that simple. The
5 e-mail speaks for itself. The tone is horrendous. I
6 mean, why would she want to get on the phone with these
7 people? I mean, she knows what's coming. I mean, I'm
8 just going to speak bluntly. She's going to get yelled
9 at about this and that. That doesn't surprise me. But
10 to the extent she requests one, my client has said and
11 continues to say he's happy to participate.

12 MS. MOST: So, Judge, I think the e-mails are
13 threatening. The Most e-mail that Dr. Adler sent me I
14 think it was yesterday which I sent to The Court today
15 demands that she send proof that she saw the e-mail from
16 Charlotte on June 2nd. Well, we know on June 2nd nobody
17 saw that e-mail. Nobody saw that e-mail until June 4th.
18 So why Ms. Kassenoff is making that demand actually two
19 e-mails in a row, it just doesn't make sense, but it's
20 threatening. It's just not appropriate. And Dr.
21 Adler -- I'm sorry?

22 MS. SPIELBERG: The issue with respect to the
23 proof of the e-mail is that my client assumed that Dr.
24 Adler had seen the e-mail when Mr. Kassenoff called Dr.
25 Adler and brought her -- brought Charlotte to see her.

1 She only learned recently when Dr. Adler asked my client
2 to forward the e-mail to her that she had never seen it.

3 THE COURT: But I read her e-mail. She said she
4 did see it. She didn't know that -- she thought Mrs.
5 Kassenoff was talking about a different note. She did
6 see it.

7 This is the problem. I just had a 10-day
8 hearing. I got summations on Friday. I haven't even
9 issued my decision yet on the 10-day hearing. So all the
10 orders that are currently in effect remain in effect,
11 including the fact that Mr. Kassenoff is the final
12 decision-maker, including the order that says nobody is
13 to communicate with Dr. Adler without the other one
14 present other than for scheduling. Dr. Adler did, and
15 there was the e-mail in evidence, indicate that she would
16 recommend a second opinion. Now, she recommended
17 somebody for that. She's going to make a different
18 recommendation, although it appears that person may not
19 have the expertise.

20 So no communicating with Dr. Adler. I am not
21 going to have these children start a new therapist
22 because this therapist is getting harassed, period. At
23 the present time, Mr. Kassenoff is the final
24 decision-maker regarding the children's treatment until
25 such time as that changes.

1 So stop e-mailing the doctors. We do not want
2 these children to have to now go in to a new therapist,
3 period, which leads to the other question which is Dr.
4 McGuffog's report. I have to tell you I was quite
5 astounded when I read that Mr. Kassenoff had been
6 commenting to her of substance regarding the alleged
7 inability to bond with the mother. I thought I had made
8 it perfectly clear that I wanted the doctor to talk to
9 the children and ascertain from the children what are
10 their concerns and feelings and desires and issues.

11 Dr. McGuffog was supposed to be retained to deal
12 with Ally's diagnosed problems including ADHD,
13 oppositional behavioral issues, and an eating disorder.
14 So I want to make it clear on this record that both
15 parties are expected to act in the best interest of their
16 children and follow these court rules. These children
17 are not pawns in your litigation. They are human beings
18 who are being negatively impacted by the strife in this
19 litigation. The therapists are to help them, not for one
20 parent to get an advantage over the other parent in the
21 litigation.

22 MR. DIMOPOULOS: Your Honor, could I just
23 address that point because I saw that too and I spoke to
24 my client about it. When Dr. McGuffog's name was
25 recommended, both parties were told to speak with her or

1 to vet her and to see whether or not they would approve.
2 I don't believe I'm misspeaking when I say my client had
3 one conversation with her when he called her at the
4 beginning as he was told to do. And during that he said
5 four- to five-minute conversation "Dr. McGuffog then told
6 me, 'what's going on here?'" And he had a very brief
7 conversation with her and that's the last he's ever had
8 with her.

9 THE COURT: Really? So how come I didn't read
10 that "what's going on here is that we're in the middle of
11 a divorce. My daughter has behavioral issues. We've had
12 her evaluated by Dr. Ravitz. He's recommended certain
13 treatment"?

14 MR. DIMOPOULOUS: I don't know that he didn't
15 say that, Your Honor. She may just not have said that.
16 He may have said all of those things. I don't know. I'm
17 happy to have my client address it. But one thing he
18 certainly did not do was try to poison the well. He has
19 not had any subjective communications with her ever since
20 other than just scheduling or payment. So I'm happy to
21 let my client address it. It wasn't meant to do anything
22 other than answer the doctor's question.

23 MS. MOST: And, Judge, we did give her Dr.
24 Ravitz's report. The Court gave permission for that to
25 go.

1 MR. DIMOPOULOUS: And he's not going to have any
2 conversations with Dr. McGuffog or Dr. Adler other than
3 when is the session and how much do I owe you.

4 There is one other thing I would mention, Your
5 Honor, that my client intends on -- I wanted to bridge
6 the conversation before he did it. She discussed -- Dr.
7 McGuffog had discussed the neuropsych which we've had a
8 lot of talk about. He intends on writing an e-mail and
9 copying Catherine or with -- maybe Your Honor will say no
10 which is fine. But it doesn't discuss the timing of the
11 neuropsych.

12 As we all know from reading the report, Ally who
13 has previously been fairly not an open book in therapy is
14 starting to really open up and share with Dr. McGuffog.
15 So he just wants to know from her is it a good idea to
16 start the neuropsych right away or maybe wait a few more
17 sessions. The reason being, as explained to me, was if
18 you have a child who just recently within the last two or
19 three weeks started opening up, is it a good idea to
20 start putting them through testing right away and making
21 them feel like something is wrong or waiting two or three
22 weeks.

23 And you want to know what, if Ms. Most wants to
24 have that conversation and keep the communications
25 completely away from the parties, we're fine with that

1 too. I just want to have her guidance on that.

2 THE COURT: I think Ms. Most should be the one
3 to contact the doctor and ascertain whether this is the
4 appropriate time to do the testing, leave it to the
5 doctor's opinion.

6 MS. SPIELBERG: Judge, maybe Ms. Most could just
7 send an e-mail so that the parties could see the response
8 in writing and be able to understand what she's saying
9 rather than a relay. I just think in a case like this --

10 THE COURT: That's fine. I don't disagree with
11 that.

12 Ms. Most, do it via e-mail so everyone can see
13 the response.

14 MS. MOST: Okay. Okay.

15 THE COURT: That's fine. Then we have no
16 misunderstanding.

17 MS. MOST: That's fine.

18 THE COURT: Okay. But, again, I need to just
19 state to both parties here, you had a 10-day hearing.
20 The level of acrimony between the parties is still quite
21 evident and you just need to tone it down. It's
22 impacting your children and yourselves frankly.

23 All right. So you want to talk about
24 Josephina's birthday?

25 MS. SPIELBERG: Yes, Judge. My client would

1 like a call with the children specifically for JoJo's
2 birthday, and, you know, my client wants to see her kids.
3 The order requires her to have suitable housing. We're
4 working on getting her into that New Rochelle house, but
5 for the reasons detailed in the e-mails you obviously
6 saw, it's not possible at that this time.

7 THE COURT: Yeah. But I thought she had like a
8 friend's house that would allow her to -- at least allow
9 her to see the children for a two-hour period of time.

10 MS. SPIELBERG: Those two times it was two
11 different places she was staying. Right now where she's
12 staying would not be appropriate for that.

13 THE COURT: What about going to a park? I mean,
14 it's a two-hour visit. I mean, there's a way you could
15 arrange it with your supervisor to go to an activity
16 outside or in a park or something just so that she can
17 interact with the children. It doesn't have to be in a
18 home.

19 MR. DIMOPOULOS: Your Honor, might I say
20 something because I think there's some confusion here?

21 THE COURT: Okay.

22 MR. DIMOPOULOS: The e-mails that I'm getting
23 from Counsel and e-mails from Mrs. Kassenoff, I believe
24 that Mrs. Kassenoff is relying on a now moot order which
25 requires her to have suitable housing. There is an order

1 in this court which permits her to have two two-hour
2 sessions a week. It does not say anything about suitable
3 housing. It can be an apartment, it can be a Carvel, it
4 could be in a diner.

5 THE COURT: Right.

6 MR. DIMOPOULOS: Since prior to the trial, now
7 almost a month, she hasn't asked once to see the kids,
8 not once.

9 THE COURT: That's why I'm making it clear that,
10 Mrs. Kassenoff, at this point you don't need to have the
11 house to have those visits. You could go to a park or an
12 outside venue where people are allowed to congregate now
13 and at least see the children and talk to the children
14 with the supervisor. So you can go ahead and do that.
15 Okay?

16 MS. SPIELBERG: Judge, to say that that order is
17 moot is obviously not accurate. There are various
18 provisions in that order that are still in effect
19 unfortunately for my client. But also the fact that the
20 amount of time was changed would not, you know,
21 automatically suggest that the location be changed. I'm
22 hearing you now, Judge, and I understand.

23 THE COURT: The most recent order allows the
24 two-hour visitation and it's not tied to housing. So
25 Mrs. Kassenoff, when she has the supervisor can certainly

1 arrange to have those meetings with the children, and I
2 would encourage her to do that.

3 MR. DIMOPOULOS: Your Honor, as would we. But
4 I'm sensing something here in what Counsel just said. I
5 don't think that Counsel is in agreement with me that the
6 most current order which provides for two two-hour
7 sessions a week supercedes the access schedule in the
8 prior order so that when she moves to New Rochelle, she's
9 not going to have every other weekend subject to --

10 THE COURT: All of these orders, both of these
11 orders, are the subject of the hearing.

12 MR. DIMOPOULOS: Correct. I didn't say that you
13 said that.

14 THE COURT: So the issue of the hearing is going
15 to resolve that motion as well as motion number 10.

16 MR. DIMOPOULOS: That's what I was saying.

17 MS. SPIELBERG: To be clear, you said that the
18 order was moot. My point is that the order is modified
19 only in the specific way that it's modified, but
20 everything else remains in effect which is why, you know,
21 when you change the timing, it doesn't specifically say,
22 "But the housing requirement abates." So I just presumed
23 that all the other requirements other than the scheduling
24 was in effect. Now I'm hearing that that's not true, and
25 I will now discuss that with my client and we will come

1 up with an idea.

2 But that is why, Judge, my client was not able
3 to have -- exercise, did not request the visits.

4 Also, she was being told that there was some
5 possibility that these people wouldn't supervise anymore.
6 I don't know whether there's been further feedback on
7 that issue.

8 To me, Judge, if I may, the concerns reported in
9 those reports don't even come close to presenting the
10 kind of issues that cause supervisors not to supervise.
11 So that whole thing was confusing to me. But we will
12 call them to see if there's still supervisors with these
13 new requirements.

14 Certainly my client wants to see the kids, but
15 also she would like to have the birthday phone call and
16 other phone calls, Judge, if possible, and I think that
17 after seeing what happened --

18 THE COURT: All phone calls will be addressed in
19 my order on the hearing. I mean, I only had the
20 hearing -- this is the second phone call I've had since
21 the hearing. You need to allow me to read the
22 information and make my decision and ruminate on it which
23 I started to do already. But the birthday telephone call
24 is permissible, but it needs to be supervised whether
25 that's be Carmen Candelaria or someone else. And we need

1 to make sure that it's scheduled at the time that there
2 isn't a prior scheduled event so that we don't have a
3 similar snafu that we had with Ally's birthday telephone
4 call.

5 MR. DIMOPOULOS: There's no -- I was going
6 to say before Your Honor directed it that we have no
7 problem with allowing the call. We'd like Ms. Candelaria
8 to supervise it.

9 THE COURT: Right. So pick a time that we know
10 that the children -- well, there's no school anymore. I
11 don't know. Make sure there's a time that there isn't a
12 therapist or something so that it starts on time and the
13 mother and the children have, you know, an adequate
14 amount of time to speak to each other so we don't have a
15 similar situation.

16 MS. SPIELBERG: Judge, I would like to ask that
17 it be a new supervisor. Obviously after the testimony by
18 Ms. Candelaria and the -- our position is a
19 mischaracterization of the last phone call, my client is
20 uncomfortable being supervised by her and I would ask
21 that we select a new supervisor.

22 She's made her testimony. This isn't some way
23 to get out of that. We know what Carmen thinks. But at
24 this time it puts additional pressure on an already
25 incredibly stressful situation, and I don't see why

1 somebody else cannot be supervising. It's not as if
2 she's going to be the long-term supervisor either. So to
3 me it doesn't seem like there's all that --

4 THE COURT: well, she's not the only one that
5 supervises. But you need to have her supervised by, you
6 know, someone -- either her or the other people, the
7 other -- I forget what the name of the organization from
8 Long Island is. They can do it.

9 But I have to tell you that, you know, Ms.
10 Candelaria's testimony didn't seem to differ from the
11 resuscitation of the call that was in the substantive
12 report from Dr. McGuffog. I mean, Ally was upset by it.
13 You know, I'm not saying that to place any attention on
14 Ms. Kassenoff. It was a situation that it was a short
15 time period. That's why you want to avoid this snafu.

16 MS. SPIELBERG: Judge, I tend to agree that Ms.
17 Candelaria's testimony was not in line with what was
18 purported that it would be. It was it different than
19 that. But that notwithstanding, all I can say, Judge, is
20 that the conversations that Ms. Candelaria had with my
21 client about the phone calls were substantially different
22 from how she testified. And whether there's a reason for
23 that or not, that's not for me to say. I presume she was
24 -- you know, she's under oath. She said what she thought
25 honestly at the hearing. But it creates a very

1 uncomfortable situation for my client. She thinks they
2 have some sort of a rapport and then all of the sudden
3 it's very different from what she's being told.

4 THE COURT: So that's fine if she wants to
5 change her supervisor. She just needs to go through the
6 process and get approval on that through Ms. Most and
7 make sure it's the correct -- you know, meets their
8 qualifications. That's all.

9 But I have to -- I have to say that we seem to
10 be having parsing of these decisions to try to figure out
11 ways to like sort of make sure it doesn't fit within the
12 boundaries of the decision. I'm reading these decisions
13 and they're clear to me and yet they're being interpreted
14 in ways to render them ambiguous.

15 So maybe on the new supervisor, so that there is
16 no misunderstanding of the parameters of what can and
17 cannot be said or occur during the meetings, be in
18 writing, and that way Mrs. Kassenoff has a clear
19 understanding and the supervisor has a clear
20 understanding of what can and cannot transpire and we can
21 avoid, you know, any snafus so she can fully enjoy her
22 time that she has with the children.

23 MS. SPIELBERG: That's fine, Judge.

24 THE COURT: It might be easier that way so we
25 avoid any misunderstandings and her time can be spent as

1 it should be spent just interacting with her daughter.

2 MS. SPIELBERG: Understood, Judge. On that note
3 about the supervisors -- and I'm inclined now to ask for
4 permission first before doing anything -- my client had
5 requested that I forward her Ms. Candelaria's report.
6 I'm sort of now -- you know, I'm very clear on the
7 forensic report on what I can and cannot do, but the
8 testimony and now these supervisor reports because
9 they're requested by The Court, Dr. McGuffog's report, am
10 I permitted to forward those to my client?

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

13 MR. DIMOPOULOS: I think it's a different issue,
14 Judge. There is certainly no --

15 THE COURT: I think Dr. McGuffog's is fair to
16 send to your client. I think reports that have been
17 issued by The Court such as the supervisor's report
18 should stay confidential with the attorneys. But the
19 doctor's report, her medical report, can certainly go to
20 the parties.

21 MR. DIMOPOULOS: I was going to agree with you.

22 THE COURT: Ms. Most?

23 MS. MOST: I agree, Your Honor.

24 THE COURT: So you can definitely send her, you
25 know, a copy of Dr. McGuffog's report.

1 Now, in terms of Dr. Adler, I do just want to
2 say, and for Mr. Kassenoff to consider this, that I want
3 to know what is the status of getting a second opinion as
4 to whether he might be depressed or require medication or
5 some other, you know, treatment.

6 MS. MOST: Your Honor, she recommended Dr.
7 Gomberg, and I know Ms. Kassenoff followed up with that.
8 And Dr. Gomberg is not taking new clients one on one. I
9 think she's only doing like Zooms. But Mrs. Kassenoff
10 has been sort of demanding that the person that she wants
11 be contacted. But she's a therapist, she's not a
12 psychiatrist. And we discussed that the last time. We
13 do not need another therapist. We just want the
14 psychiatric second opinion.

15 THE COURT: So who was that person? Does Dr.
16 Adler have another child psychiatrist that they can
17 address this with who is --

18 MR. KASSENOFF: Your Honor, if I can speak.
19 This is Allan.

20 THE COURT: Yes.

21 MR. KASSENOFF: She gave three or four
22 additional names. I called two of them, left voicemails.
23 One of them has called me back but I missed the call.
24 It's actually on my to-do list to do that today. So I'm
25 doing my best to run those down.

1 THE COURT: Because, if possible, we would like
2 to, you know, get that done sooner rather than later,
3 especially with the new school year approaching.

4 All right. So continue to follow up on that,
5 Mr. Kassenoff, so we can get that in order.

6 And, Ms. Most, you'll e-mail Dr. McGuffog with
7 everyone, to all Counsel, so that everyone can see your
8 inquiry and her response. And I am working on the
9 decision and I hope to have it done next week because
10 I'll be on vacation the following week. So I want to get
11 it done before I leave.

12 MS. SPIELBERG: Judge, may I ask a question or
13 ask for your guidance? Maybe there's a way that
14 Mr. Kassenoff can be contacting these people by e-mail.
15 I mean, now both parties -- everybody knows what the
16 allegations against my client are with respect to
17 speaking to the therapists. But now with Dr. McGuffog's
18 report, there's now an allegation of that on
19 Mr. Kassenoff's side. Maybe there's a way that these
20 people can be contacted. Everybody has an e-mail now.
21 E-mail a copy to my client, "Are you taking new patients?
22 Are you available?" This way what's being reported is
23 known to everybody. The finger-pointing in this case
24 without having a record I think causes a lot of the
25 drama, and I think maybe if we can stick to whatever we

1 can in writing, my client too, then there's going to be
2 less ambiguity about what people are saying.

3 MR. DIMOPOULOS: I have no problem with that
4 except for the fact that if you tell me that you make a
5 recommendation for Dr. Goldberg and his number is this,
6 we don't have his e-mail. So to the extent --

7 MR. KASSENOFF: Just -- I was going to say I
8 have the list that Catherine had sent to Dr. Adler and
9 this is where Dr. Adler picked the therapist that she
10 recommended. None of these listings have e-mail
11 addresses.

12 MR. DIMOPOULOS: So maybe Carol calls them and
13 gets their e-mails. I mean, I have no problem with it.
14 We don't want any drama, but we just need to have the
15 information.

16 THE COURT: All right. So, Ms. Most, why don't
17 you get to be the one to call these people, get e-mail
18 addresses. A lot of them have websites where you can
19 just look it up and get their e-mail addresses and that
20 and way we can -- I know that trust is an issue here, but
21 we need to start trying to -- the parties need to start
22 trying to heal that, and I can tell from the hearing that
23 that is not happening. So we need to start working on
24 that.

25 So, Ms. Most, get the information from

1 Mr. Kassenoff so we have no misunderstanding about what's
2 being said. I mean, quite frankly, Charlotte should be
3 limited -- you know, limited to anxiety, depression, and
4 potential for self-harm and whatever other treatment they
5 might have based on their conversation with her. But we
6 definitely want to get this going so we don't have the
7 stress of a new year. What is she going into, fourth
8 grade now or fifth grade?

9 MR. DIMOPOULOS: Fourth grade.

10 THE COURT: So the expectations start to get a
11 little more intense at that age. Plus, she's dealing
12 with the other issues that she had earlier this year.

13 All right. Anything else?

14 MS. SPIELBERG: Judge, I'd just ask before we
15 end --

16 THE COURT: Mr. Kassenoff, what about the music
17 bill? Were you able to negotiate that for a lower --

18 MR. DIMOPOULOS: It's been paid, right, Allan?

19 MR. KASSENOFF: It's already been paid.

20 THE COURT: Okay. Great. It's been paid so the
21 kids can get their lessons.

22 MR. DIMOPOULOS: Judge, I have an issue that I
23 don't know that I have an answer to and I don't even know
24 specifically what I'm going to ask for, but it's a
25 concern. Your Honor directed that Charlotte be

1 reenrolled in FASNY, and there was a discussion about --
2 I don't have the transcript from the proceeding. There
3 was a discussion about a merit-based scholarship that
4 Ms. Kassenoff was able to secure.

5 Mr. Kassenoff called I don't know if it's the
6 bursar or whoever is involved in financial aid. What he
7 learned was that Ms. Kassenoff made an application for
8 financial aid not based on merit but based upon a
9 financial need. And we don't have any details, but he
10 was told that she listed only her own income in terms of
11 making that -- getting that financial aid. She also
12 represented to them that she was responsible to pay 50
13 percent of the bill.

14 Now, this isn't a FAFSA or some federal
15 financial aid application, but it is a financial aid
16 application. And my client has serious reservations that
17 that's not appropriate. I'm not going to use the word
18 "fraud" or something like that. But these people are
19 still married, and last I checked it should be combined
20 parental income.

21 When I went to FASNY's website just the other
22 day, actually a couple of weeks ago -- it's not there
23 anymore -- there is a chart of income, combined parental
24 income, and the thresholds to meet financial aid. And I
25 remember making the argument -- I don't remember whether

1 it was in court or anywhere else. I said, "How is she
2 going to get financial aid when," whatever it was
3 hypothetically, "\$250,000 is the max and these people
4 earn almost a million?" And I never got an answer.

5 So I think what happened here is she made an
6 application using only her income, and I think that's a
7 problem especially in light of the fact of Your Honor's
8 directive that he pay 80 percent and she told him it's 50
9 percent.

10 We communicated with Ms. Spielberg, and Ms.
11 Spielberg -- I'll let her speak. But it affects me in
12 that she said, "we spoke to them and they said everything
13 is fine." I'm not so sure that everything is fine, and
14 my client doesn't want to be in a position as an attorney
15 to take advantage of this financial aid and then come
16 back later that he misrepresented and we have problems.
17 So I think we ought to just discuss the issue.

18 THE COURT: I understood from that conversation
19 that Charlotte has received a merit scholarship and that
20 Mrs. Kassenoff was then on top of that going to try to
21 get some financial aid. Obviously any application for
22 financial aid to the school needs to be true and accurate
23 by the parties.

24 So Ms. Spielberg.

25 MS. SPIELBERG: Yes, Judge. I did write back to

1 Mr. Dimopoulos yesterday, so I'm surprised that he's
2 raising this. But my client called immediately after
3 receiving the e-mail from Mr. Dimopoulos to see what was
4 going on. She reported to my client that actually she
5 was upset because of how she had been spoken to by
6 Mr. Kassenoff but also that her belief about the 50/50
7 was based only on the fact that they had each paid half
8 of the deposit. So that's -- my client never had a
9 further discussion. And this woman said she's happy to
10 tell The Court all of this.

11 So don't take my word for it if you don't want,
12 Judge, but that's what her 50/50 expectation was based
13 upon, that they had paid 50/50 on the deposit and
14 nothing -- no further discussion with Ms. Kassenoff,
15 number one. Number two, she confirmed to my client that
16 it was fine that she use only her income and that they
17 know that there's in fact another income and they know
18 she didn't use it. So that's also not an issue.

19 The third thing, Judge, is that my client was
20 mistaken. Her understanding was that it was merit based
21 and there might be a further financial piece to it, but
22 she was wrong. This is the financial reduction. It was
23 a 30 percent reduction. So there's no real surprise
24 there. And with respect to any inaccuracy, my client was
25 very clear and she went through the application again

1 with the woman when she spoke to her who said that the
2 application was fine, that there was no
3 misrepresentation, she knew it was based on just one
4 income, and whether it had been 50/50 or not would't have
5 changed the school's position.

6 MR. DIMOPOULOS: Your Honor, I would ask to see
7 a copy of the application. I don't know what it says.
8 And quite frankly, Ms. Spielberg, nothing against you,
9 but as Your Honor noted, there's some mistrust between
10 the parties and this is a serious, serious thing. So
11 third party what she said to her that then she said to
12 you and what you say to me is not going to cut it. I
13 think it's fair for my client to ask that the school
14 write -- since she's willing to come to court, let her
15 write a letter that says, "We understand." If that's the
16 case, my client is not going to join in on this if it's
17 not completely lawful.

18 So I wanted to raise it. My client understands
19 Your Honor's order, but at the same time, complying with
20 the order and accepting the benefit of the financial aid
21 is being complicit with the underlying application which
22 we don't have a copy of to know if it's true and
23 accurate.

24 MS. SPIELBERG: Judge, I did say to
25 Mr. Dimopoulos in my e-mail that if Mr. Kassenoff was

1 uncomfortable that my client would take the full benefit
2 of the scholarship. She's also a lawyer and she's
3 comfortable enough that she would do that. That being
4 said, you know, part of me is concerned that this is --
5 and the way that Mr. Kassenoff spoke with this woman is a
6 part of a plan to alienate the school or interfere with
7 the relationship with FASNY. That notwithstanding, we
8 are happy to reach out to her and ask her to memorialize
9 the substance of the conversation.

10 THE COURT: Okay. Apparently I wasn't clear the
11 last conference as to the reason why I directed that the
12 child go to FASNY. So let me make it clear here. I
13 recognize that this is an expense on top of all the other
14 expenses both parties are incurring in this litigation
15 and it is a financial hardship for Mr. Kassenoff at this
16 time, but I directed it because I am concerned about the
17 child and the note that was issued in June and the impact
18 of the mother's restricted access to the children at this
19 time. And to change the child in this one area where she
20 has some stability and some friendship and some comfort I
21 felt was not in the best interest of the child. That is
22 why I directed that she go to school in this area, so we
23 don't change this relationship that is stable in her
24 life.

25 So Mr. Kassenoff has to come up with the funds,

1 and I understand his concern that he wants to make sure
2 that everything is above-board with the school which I
3 would expect him as an attorney to want to make sure that
4 that is clear. So, yes, get a letter from the school
5 detailing what you've told me so he can be comfortable
6 that the amount that he's paying is accurate.

7 If for some reason it doesn't come back from the
8 school or he's not comfortable with it, I still want this
9 child to go to the school. So then we're going to have
10 to have a conference about whether he doesn't have the
11 funds readily available. Then you might have to tap into
12 the eTrade account to make sure the child goes to the
13 school because my overarch -- paramount concern here is
14 this young child who is expressing anxiety and showing
15 signs of anxiety. And there's been instability,
16 especially the last few months in all the changes in her
17 interactions with her mother, that she's going to the
18 school where she has stability and she has success and
19 she has comfort. So get the letter and we'll have to
20 revisit.

21 MR. DIMOPOULOS: Your Honor, my client has paid
22 FASNY. That's not the issue.

23 THE COURT: Oh, he has paid. Good.

24 MR. DIMOPOULOS: He wanted to comply with your
25 order. This has nothing to do with that or delaying it.

1 But we would like to see a copy of the application and
2 the letter from the school. I think it's only fair in
3 light of the fact that it was a clear -- I understand it
4 was a mistake, but it was told to us it was merit based.
5 The only way we found out was by calling. So we would
6 like Your Honor to consider ordering them to produce the
7 application which affects a child that my client has
8 temporary sole custody of and has 80 percent
9 responsibility.

10 THE COURT: Right. Okay. So let's get a letter
11 from the school and the application so we have that
12 information.

13 MS. SPIELBERG: I just want it to be clear that
14 when I did write to The Court initially that the
15 financial aid had been received or granted, I did make
16 clear that my client had applied for financial aid.

17 THE COURT: Right. I know you did.

18 MS. SPIELBERG: If she thought that Catherine
19 was given it, they were still reviewing the financial
20 aid.

21 MR. DIMOPOULOS: I'm not faulting you, Ms.
22 Spielberg. That's not even the issue. The issue is is
23 it okay to use only her income as the basis. That's it.

24 THE COURT: Okay. All right. So let's get that
25 letter out so that Mr. Kassenoff can be reassured that

1 that's fine and Charlotte goes off to school, you know,
2 in a happy, peaceful, smooth transition to the fall
3 semester.

4 Okay. Anything else while you have my
5 attention?

6 MR. DIMOPOULOS: Yes, Judge. There is one last
7 thing.

8 Go ahead, Ms. Spielberg.

9 MS. SPIELBERG: I was just going to say before
10 we hop off, Gus, you and I, can we stay on and talk about
11 something on a different case?

12 MR. DIMOPOULOS: Yes, of course.

13 There's an issue, and I'm trying as best as I
14 can in this case to avoid it. Mrs. Kassenoff -- the
15 previous tenant apparently had a dog or two dogs or three
16 dogs or whatever and the house carpet is soiled. It's a
17 bit of a mess and the house needs to be professionally
18 cleaned. This is according to the brokers. I'm of the
19 opinion that this is an issue for which we have a
20 security deposit.

21 THE COURT: I was just going to ask that
22 question.

23 MR. DIMOPOULOS: And I just want to make it
24 clear because I believe that Ms. Kassenoff thinks it's
25 somehow my client's responsibility to get this work done.

1 She's the one that's going in there. She should
2 certainly facilitate the removal of the soiled carpets
3 and the workmen, and then the security deposit would pay
4 for it. And it's in both of their best interests to
5 detail all of that, but I don't think it is my client's
6 job to go and do this work for her.

7 So that's what seems to be requested of us right
8 now, and I just wanted to make that very clear.

9 THE COURT: I had said Ms. Kassenoff should pay
10 the fee, but now that we find out it's from the tenant's
11 damage to the property, then I would say you would
12 absolutely want to use the security deposit. And of
13 course save your bills in detail if you end up in small
14 claims court for not returning the entire deposit.

15 MS. SPIELBERG: Judge, I just want to be clear.
16 My client of course is fine to use the security deposit.
17 The problem -- and she will facilitate it. However, she
18 does not have access to the security deposit. It's only
19 Mr. Kassenoff has sit.

20 MR. DIMOPOULOS: He'll pay the bills immediately
21 upon rendition.

22 THE COURT: Yeah. Just give him the bills.

23 MS. SPIELBERG: No, no. I don't think there
24 should be any need to lay out any money. She'll get a
25 price, and then he'll -- can he please facilitate the

1 payment upfront if necessary from that money?

2 THE COURT: Of course. But sometimes they
3 require deposits before --

4 MR. DIMOPOULOS: No one is going to do any work.
5 No ticky, no shirty. Of course.

6 MS. SPIELBERG: Then that's fine, Judge. My
7 client agrees. The reason why she had presented the way
8 that she did is because your client said that he didn't
9 see anything wrong with the -- he was ready to give back
10 the full security deposit which is why she was directing
11 it to him because he hadn't I guess noticed the --

12 THE COURT: She noticed it because she was
13 there, and it's absolutely the tenant's responsibility, I
14 agree with you, if they've soiled the rugs with dog urine
15 smell.

16 MR. DIMOPOULOS: He just wanted to ask the
17 brokers, that's all. The brokers confirmed it and it's a
18 done deal.

19 THE COURT: Right. Okay. So it's a done deal.
20 Anything else?

21 All right. I'm going to hang up before you
22 think of something.

23 (Proceedings ended.)

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THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE
AND ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC
RECORD.



JENNIFER GRUSEKE, CSR
Senior Court Reporter